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SENATE—*Tuesday, February 25, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. George D. McKinney, of Saint Stephens's Church of God in Christ in San Diego, CA.

PRAYER

The guest Chaplain offered the following prayer:

May we pray together.

Eternal God, Creator of the universe, the Source of life, order, and truth, we bow in reverence in Your presence. We thank You for divine favor and all the values and principles that continue to shape our national character and challenge us to greatness.

We pray for our Nation, our President, his family, Cabinet, and advisors. Grant wisdom and courage to the Senators as they fulfill their responsibility to our great Nation. Empower all who shoulder the responsibility of leadership and servanthood. May our duties become delightful because of Your gifts of joy, faith, and hope.

Lord, we are grateful for the privilege of working together with You for peace and justice for all people. We affirm with our Founding Fathers and Mothers that we are one Nation under God, with a common goal of liberty and justice for all. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader.

SCHEDULE

Mr. BENNETT. Mr. President, the Senate will spend the day in executive session deliberating, once again, and for the ninth day, the nomination of Miguel Estrada to be a circuit court judge for the DC Circuit. The Senate will recess from 12:15 to 2:30 for the weekly party lunches. Between now and the next recess we have a number of important issues that the majority leader would like to see addressed. Therefore, he hopes we can get passed this delay and let the Senate work its will on this nomination. Senators should be advised, therefore, that rollcall votes are possible during the day.

The PRESIDENT pro tempore. The deputy minority leader.

Mr. REID. Mr. President, I say to my friend—in fact, the two Senators from Utah—that, as I indicated to the majority leader last night, there are three ways we can move off Estrada. The nomination can be pulled. The decision can be made by this administration that he will supply the memos from the Solicitor's Office while he worked there that he wrote and allow more questioning of Estrada. Thirdly, the majority leader can file a motion to invoke cloture to see if there are the 60 votes to move ahead.

If that does not happen, we can stay on Estrada for a long time. If there are other things to do—and I mentioned yesterday I doubt that there are—if there are other things to do, then let's move to those. If not, then we can stay in this procedural quagmire, which is something that has been done in the past.

As I indicated yesterday, there have been, of course, filibusters of Presidential nominations in the past and Presidential nominations of judges. They usually are not as open and notorious as this, the reason being they come at a later time in the session where time is of the essence. Now time is not of the essence. There are other things that the leader has decided are not important enough to be on the floor at this stage.

So I would hope that everyone would understand that we are anxious to move on to other judicial nominations. We are anxious to move on to other legislative matters. But as long as Miguel Estrada refuses to answer the questions or to submit the memos that we have requested, this is going to be the procedural posture of the Senate.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to the distinguished Senator from Nevada, and I have a few things to say.

Mr. President, I rise today to address, once again, the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit.

Are we ready to go?

The PRESIDING OFFICER. Will the Senator suspend for the Senate to lay down the pending orders, please.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in favor of the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit.

We started the debate on this nomination during the week of February 3. We debated the entire week of February 10. And now here we are again in our third week of debate, all because

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

some of my Democratic colleagues refuse to allow an up-or-down vote on this nomination.

The renowned former Senator from Massachusetts, Henry Cabot Lodge, once said that "[t]o vote without debating is perilous, but to debate and never vote is imbecile." Yet that is precisely what is happening on Mr. Estrada's nomination. We are debating and debating and debating the same points again and again but never actually voting on the nomination. Enough is enough. It is time to vote.

My Republican colleagues and I have tried to get an agreement to vote on Mr. Estrada's nomination no fewer than three separate times. Each time, our Democratic colleagues blocked our efforts. I even suggested that we agree to debate on this nomination for 10 hours, then 20 hours, then up to 50 hours before voting. Fifty hours. That is 10 hours of solid debate every day for the entire week, and 2 ½ times the amount of time that we give for a reconciliation bill around here. But each time, our Democratic friends rejected our entreaties, without hesitation or even good explanation.

We have to ask ourselves why our colleagues across the aisle are so intent on preventing a vote on Mr. Estrada's nomination. I have heard all of their arguments. They allege he did not answer their questions, that he lacks judicial experience, and that he cannot be confirmed before they see confidential and privileged memos he authored at the Solicitor General's Office, just to name a few. And those memos were his recommendations to the Solicitor General with regard to appeal decisions, with regard to certiorari decisions, with regard to amicus curiae decisions—very specific information that, if compromised and forced to be given to the Congress of the United States, could chill any future honest recommendations.

But all of these arguments they have raised are reasons they believe Mr. Estrada should not be confirmed. As misguided and wrong as they are, these are reasons my Democratic friends believe they should vote against Mr. Estrada. None of those arguments justifies the continuation of this filibuster to prevent an up-or-down vote on Mr. Estrada's nomination.

So I say now to my Democratic friends: Vote for him or vote against him. That is what we should do. If you don't like Mr. Estrada, if you don't believe he has the capacity to be a circuit court of appeals judge, vote no. But if you do, as I think a majority does in this body, we would vote aye. Do as your conscience dictates you must, but do not prolong the obstruction of the Senate by denying a vote on this nomination. Do not continue to treat the third branch of our Federal Government—the one branch intended to be insulated from political pressures—with such disregard that we filibuster its nominees. Do not perpetuate this campaign of unfairness. Vote for him or vote against him but just vote.

Now, an editorial that appeared in the Washington Post last week summed it up well. This editorial, aptly entitled, "Just Vote" observed—let me read the one part I want to emphasize, though I would not mind reading the whole thing—

> The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed [by President Carter] and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee, they claim, by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a thinking conservative [Hispanic] on the court.

That is what it comes down to.

Continuing from the Post:

> It's long past time to stop these games and vote.

I will read the editorial from beginning to end because it is the Washington Post. A lot of my friends on the other side love the Washington Post. I have to say that I love it, too, but not for the same reasons. This is what it says:

> The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together too prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.
>
> Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.
>
> Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

I think the Washington Post has it just right. The fact is there hasn't been one good argument used against Mr. Estrada. They can't point to one reason he should not be confirmed to this circuit court of appeals. They can't give one logical, good, substantive reason to reject him. But I still grant them the right to vote against him if that is the way they feel. If they in their hearts feel that this man will not operate on the court the way he should, then, by gosh, they have a right to do that. Naturally, I do take opposition or issues with the Post's characterization of how we treated the Clinton nominees, but other than that, I think it is dead on.

Let me tell you why I take opposition. If you look at the facts, as I have said before, President Reagan was the all-time confirmation champion. He amazingly got 382 judges confirmed.

But he had 6 years of a Republican Senate, with control of the Judiciary Committee by Republicans, to help him to do that. I have heard so much whining from the other side about how badly President Clinton's nominees were treated. It is repeated in this editorial to a limited degree. But the fact is, President Clinton got virtually the same number as President Reagan. Three hundred seventy-seven Federal judges were confirmed during President Clinton's 8 years, and for 6 of those years the Republicans controlled the Senate and the Senate Judiciary Committee. He was treated very fairly.

If you go back in time, when President Bush was President, Bush 1, when he left his Presidency and the Democrats controlled the committee at that time, there were 97 vacancies and 54 left holding. In other words, 54 nominees did not get heard. By the way, one of them was John Roberts, who has been sitting here for 11 years, nominated three times by two different Presidents for this circuit court of appeals job. It isn't just 2 years, as the Post said; it is 11 years, going on 12. That is disgraceful. He is considered one of the two greatest appellate lawyers in the country, arguing 39 cases before the Supreme Court. Yet he was blocked last week in committee as well.

The fact is, when President Clinton left office and I was still chairman of the committee, there were 41 left holding. There were 67 vacancies, 30 fewer than when the Democrats last held the committee with a Republican President leaving office. And there were 41 left holding versus the 54 left by the Democrats. We didn't cry about that—at least I didn't. That is part of the process. There are always some left holding because it is a difficult process to get through. Could we have done better? I think we could have done better; I will acknowledge that. The fact is, we didn't cry when they left 54 hanging, and they shouldn't be crying because 41 of theirs were left hanging. By the way, of the 41, at least 9 were put up so late no committee chairman could have gotten them through, so it was really only 32. And if you go back through these, for many there was no consultation with the Republican Senators, an absolute must in order to confirm people.

I happen to know this administration is consulting with Democrat Senators. To the degree that Senators say they are not, that is because they interpret the consultation to mean doing what they want rather than what the President wants. That is not the definition of consulting.

There is a point here that bears repeating because I believe that in the debate over Mr. Estrada's nomination this point has been lost. My Democratic colleagues have articulated every reason under the Sun they believe they should vote against Mr. Estrada, yet they will not allow his nomination to proceed to a vote. Why is this? I will tell you what I think, plainly put, with no window dressing: I think it is because they are afraid Mr. Estrada will be confirmed if there is a vote on his nomination. I predict he will be. They believe a majority of the Members of this body will vote to confirm him.

The only way they can prevent this from happening is to filibuster his nomination. As I said last week, when a minority of Senators prevent a majority from voting on a judicial nomination, it is nothing but tyranny of the minority. It is unfair, and it has no place in the process we use to confirm judges.

Last week, I noted that some of my Democratic colleagues were not always so eager to use a filibuster to prevent a vote on judicial nominations.

I think it is important to note again what some of my colleagues had to say about filibustering judicial nominees when there was a Democrat in the White House. The ranking member of the Judiciary Committee, the Senator from Vermont, said in 1999:

> I . . . do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41.

The distinguished Senator from California, who also serves on the Judiciary Committee, likewise said in 1999:

> A nominee is entitled to a vote. Vote them up; vote them down.

She continued:

> It is our job to confirm these judges. If we don't like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that don't pass muster, vote no.

My colleague from Massachusetts, a former Judiciary Committee chairman, said in 1998:

> Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that is obstruction of justice.

I wonder why it was obstruction of justice then but it is not today. It does appear to be a double standard, as White House counsel said this week on television. There is a double standard being applied to this Hispanic nominee, without any legitimate, logical, good reason for holding him up.

I think I have made my point. When the shoe was on the other foot—when a Democratic President was the one nominating Federal judges—my Democratic colleagues stood firm against the idea that a judicial nominee should be denied a vote. But now that it is a Republican President nominating Federal judges, things are obviously different to them. They apparently no longer believe it is a problem to go down a path where a minority of the Senate is determining a judge's fate on votes of 41, or requiring a supermajority vote of 60 in order to have a nominee approved and confirmed—even though our obligation is to advise and consent. That means a vote up or down. They no longer believe that voting on a nominee—whether for or against—is the honest thing to do, and they no longer believe that denying nominees a vote is obstruction of justice—which is what they called it when they had the Presidency. And liberals were being nominated and confirmed by us then.

There is no question that we are in the middle of a full-blown filibuster of Mr. Estrada's nomination. The Senator from New York, Mr. SCHUMER, has said they are not filibustering. What the heck is it then? Preventing a vote up or down on the nominee is called a filibuster. They can prevent a vote, as long as they can require us to get 60 votes and as long as they have at least 41 votes against cloture. Never before has an appellate court nominee—or any lower court nominee, for that matter—been defeated through a filibuster.

If this filibuster is successful, if Mr. Estrada's nomination is denied a vote, we are entering into a sad new chapter in the confirmation of judicial nominees. It is a chapter where the will of a minority of the Members of this body can obstruct the confirmation of a lower court nominee. Simply put, it is tyranny of the minority, and it is unfair.

I have to admit there were some on our side during the Clinton years who wanted to filibuster some of his judges. In all honesty, I fought against that and helped to prevent it. We never had a true filibuster against a circuit court of appeals nominee. I thought it was unfair then, and I think it is unfair today.

It is significant that, in addition to the Washington Post, many other fine newspapers across the country, from California to Maine, have taken note of what is going on in the Senate and have spoken out against a filibuster. These are newspapers that generally do not, as a matter of regular practice, comment on the Senate's confirmation of Federal judges. The fact that these newspapers have chosen to speak out against a filibuster of Mr. Estrada—a nominee with no connection to their own State—says quite a lot about the blatant unfairness of what is going on here.

Take, for example, the Riverside, CA, Press-Enterprise. In a February 18 editorial, it said:

> The Democrats' tactic employed last week of filibustering the nomination of [Mr. Estrada] . . . is an anything-goes strategy that ought to be abandoned.

This is a newspaper that happens to agree with the Democrats' contention—which I think is absolutely baseless—that Mr. Estrada was not completely open during his testimony before the Judiciary Committee. It is also a newspaper that was pretty harsh on us Republicans in the same editorial—unjustly, in my view, but that is a different story. The point is that its anti-filibuster position is even more credible. The Press-Enterprise is saying that even if you did not like the way Mr. Estrada answered questions before the committee, that is no reason to filibuster his nomination.

As they concluded:

> [T]he process has to stop at some point. It's one of advice and consent, not advise and confront.

Let's look at what some of the other newspapers across the country have been saying since this filibuster started 3 weeks ago. Like the Riverside Press-Enterprise, many of these newspapers are quite harsh on us Republicans, too, but they are united on one point: The filibuster of Mr. Estrada's nomination is unfair and it should end.

Another California newspaper, the Redding Record Searchlight, had this to say:

> This filibuster comes at a time when there are all sorts of pressing issues before the nation. The tactic has no excuse. . . . If liberals

> in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. Keeping others from voting their consciences on this particular matter is more than slightly reprehensible.

The Bangor Daily News in Maine wrote that the Democrats:

> are mistreating a fellow citizen through the same means they fear an unqualified judge would employ: using their authority to harshly punish someone on ideological grounds. It is unfair no matter which party does it and it is harmful to the working of the Senate.

Well, amen to that.

The Providence Journal-Bulletin in Rhode Island said:

> The point about Miguel Estrada is not that he may or may not harbor conservative judicial opinions. The point is that he is an inspiring American success story, a brilliant scholar, a distinguished public servant, and an outstanding lawyer. For Senate Democrats to talk down his nomination is not just embarrassing, but outrageous.

The Grand Forks Herald in North Dakota wrote in an editorial entitled "Stop the Filibuster" that Senate Democrats "should back off and let the Senate vote."

The Chicago Sun-Times asked:

> [W]ho can look at the spectacle of the 108th Congress and not believe that both justice and the basic operation of the Nation is being sacrificed on the altar of ugly, obstructionist, partisan politics?

They continued:

> Our legal system cannot and must not be held hostage to political nitpicking.

The Rochester, NY, Democrat and Chronicle opined:

> Yet another fight over a judicial nominee should not descend to filibuster.

The Detroit News wrote:

> Estrada should have his nomination put up for an ordinary vote, as have all of his predecessors. If he loses, fair enough. But a filibuster would signal an unreasonable posture by Democratic Senators that could have long-term—and damaging—consequences for how business is conducted in the U.S. Senate.

Mr. President, I ask unanimous consent that these and other editorials from newspapers across the Nation condemning the filibuster of Mr. Estrada's nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Press-Enterprise, Feb. 18, 2003]

The process of filling a vacancy in the federal judiciary is a political one. The Founding Fathers placed it into a political area. The president nominates and the Senate confirms—or doesn't—but that doesn't mean anything goes.

The Democrats' tactic employed last week of filibustering the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the District of Columbia Circuit is an anything-goes strategy that ought to be abandoned. However, with 49 Democratic senators, they are likely to be able to muster the 41 votes needed to maintain a filibuster.

What makes the filibuster inappropriate is that it is rarely used to block a judicial nominee, and Mr. Estrada hardly qualifies as a target for such a big gun. Yes, he was not completely open with members of the Judiciary Committee when he appeared, and Democratic senators are frustrated by the White House's refusal to release to them memoranda he wrote as solicitor general.

But in the best of times, such a request would be out of line, and these are closer to the worst than to the best for the nomination process. If the memoranda were to be used as an honest beginning to a discussion of Ms. Estrada's legal views, there might be some justification for releasing the documents that would normally be considered privileged.

One suspects that's not the role the Democrats have in mind for the memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

The two parties have been allowing their political battles over judicial nominees to escalate since Robert H. Bork's nomination to the U.S. Supreme Court in 1987. One suspects that Republicans, if they were in the minority, would have done the same with the Estrada nomination. The parties need to de-escalate.

A first step would be to not filibuster nominations like this one of a well-qualified nominee. He's distinctly an American success story, having immigrated from Honduras, gone to Columbia and Harvard and served as a clerk to a Supreme Court justice.

Democrats, or Republicans when they are in the minority, may fairly make things tough on a nominee in committee or on the Senate floor, in order to fashion nominations more to their liking. But the process has to stop at some point. It's one of advice and consent, not advise and confront.

[From the Redding Record Searchlight, Feb. 15, 2003]

SENATE LIBERALS SHOULD NOT FEAR VOTE FOR JUDGE

Miguel Estrada is—oh no, oh no, can it be?—a conservative, and if that makes your heart pound with fear, you may very well be a Democrat serving in the Senate. You would then be among those trying to thwart majoritarian decision-making with a filibuster, there being no chance that an honest vote will go your way.

It's irresponsible and an outrage, this hysteria being acted out by the Democrats to keep Estrada from serving on the U.S. Court of Appeals for the District of Columbia. But the Democrats do have their excuses, each more petty and pathetic than the next.

One excuse is that they just don't know enough about this fellow, but there is a life history here, and a rather amazing one: Estrada immigrated to this country from Honduras, graduated with honors at Columbia College, was editor of the Law Review at Harvard Law School, was a clerk to a Supreme Court justice, has argued before the Supreme Court 15 times, has done pro bono work for a down-and-outer and has received the highest possible recommendation of the American Bar Association.

Well, but the administration won't hand over memos he wrote when he was in the solicitor general's office, say the Senate Democrats. It apparently does not matter to them that publicizing them could rob future memos of their candor and that every former solicitor general of either party has said the Democrats seek too much.

But listen, the Democrats continue, Estrada refused to blab his heart out when he appeared before a Senate committee, as if they did not know that it violates widely endorsed principles to indicate beforehand how you as a judge might decide cases that could come before you. Estrada did say he would be an impartial judge loyal to the law. On other topics—his broad political views—he was relatively quiet, which is fine.

This filibuster comes at a time when there are all sorts of pressing issues before the nation. The tactic has no excuse (although there are explanations, such as a Democratic fear that Estrada would be in line for a Supreme Court nomination if he gets this other judgeship first). If liberals in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. Keeping others from voting their consciences on this particular matter is more than slightly reprehensible.

[From the Bangor Daily News, Feb. 19, 2003]

VOTING ON ESTRADA

George Washington took office April 30, 1789, but the Senate waited until Aug. 5 of that year to reject one of his nominees—Banjamin Fishbourn of Georgia, one of 102 appointments submitted by President Washington to become collectors, naval officers and surveyors of seaports. The Senate thus established the use of its authority for advise and consent and simultaneously demonstrated that no appointment is too minor to fret over.

Just before they left for vacation last week, Senate Democrats had begun what they say will be an extended filibuster of the nomination of Miguel Estrada, nominated in May 2001 by President Bush to become U.S. circuit judge for the District of Columbia Circuit. The Democrats say they do not have enough information about the nominee and cannot persuade him to talk sufficiently about his judicial philosophy so cannot allow a vote.

This lack of information, however, has not stopped conservative groups from strongly supporting the nomination and liberal groups from strongly opposing it. They know enough to choose a position, as do the Democrats, who actually mean by insufficient information that they would like to reject a Bush nominee but were hoping to find a larger reason for doing so than the fact that Mr. Estrada apparently supports strong anti-loitering laws, to the detriment of migrant workers.

Democratic Sen. Harry Reid of Nevada a couple of weeks ago quoted comments his Republican colleagues offered during the Clinton administration on the requirement that the Senate "do what it can to ascertain the jurisprudential views a nominee will bring to the bench," to use an example from Republican Sen. Orrin Hatch of Utah. (Sen. Reid also offered numerous precedents in which memoranda of the sort Mr. Estrada wrote while advising the solicitor general have been made public, as they have not with this nomination.) Sen. Reid's point, of course, is that if this behavior was acceptable for Republicans it ought to be acceptable for Democrats. But for the public, it is not acceptable in either case.

The Senate has a long history of rejecting presidential nominations, from Cabinet appointments right down to surveyors of seaports. Democrats, having drawn out this nomination for maximum political effect, now face the questions of backlash for appearing to beat up a nominee. More importantly, they are mistreating a fellow citizen through the same means they fear an unqualified judge would employ: using their authority to harshly punish someone based on ideological grounds. It is unfair no matter which party does it and it is harmful to the working of the Senate.

The Democrats should consider that the information they have in hand is all they will get and allow, even encourage, a vote. If the information is insufficient, they should vote no and see if they can round up enough votes to block the nomination. If it is sufficient and they have no substantial questions about Mr. Estrada's abilities, they should vote yes even if they do not agree with all of his politics. But the filibuster should end this week with the congressional recess.

[From the Providence Journal-Bulletin, Feb. 14, 2003]

The Estrada Case

The decision of Senate Democrats to filibuster the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia is unfortunate, to say the least. Democrats are now in the position not only of turning away a nominee rated "highly qualified" by the American Bar Association, but of rejecting a onetime Supreme Court clerk and Honduran immigrant who graduated magna cum laude from Harvard Law School, for political reasons.

The Democratic complaint is that Mr. Estrada is a "stealth conservative," and that his responses in committee hearings were insufficient to reveal his political opinions. To that end, Minority Leader Tom Daschle (D.-S.D.) and his colleagues have demanded not only supplementary detailed responses to political inquiries, but also Mr. Estrada's confidential memoranda written while he was an assistant solicitor general. Every living solicitor general, Democratic and Republican, has gone on record to oppose this unwarranted intrusion into the deliberative process in the Justice Department. And the Bush administration has been correct to resist Democratic demands.

Make no mistake: Senate Democrats are worried that President Bush might nominate conservative lawyers and jurists to the federal bench. But that is no reason to reject a highly qualified nominee. Just as Bill Clinton appointed judicial liberals to the federal bench—including three Supreme Court justices—it stands to reason that Mr. Bush will nominate conservatives.

The process is called democracy. Democrats may not like the results of the 2000 presidential election, but their recourse is to win back the White House in 2004, not to subject distinguished nominees like Miguel Estrada to political torture.

And after all, judicial nominations are for life, and no president can be clairvoyant. When Franklin Roosevelt nominated Felix Frankfurter for the Supreme Court in 1939, he had no idea that Justice Frankfurter would evolve into one of the court's leading conservatives. And when the first George Bush nominated David Souter for the court in 1989, he might have changed his mind if he had known that Justice Souter would become one of the court's reliable liberals.

The point about Miguel Estrada is not that he may or may not harbor conservative judicial opinions. The point is that he is an inspiring American success story, a brilliant scholar, a distinguished public servant and an outstanding lawyer. For Senate Democrats to talk down his nomination is not just embarrassing, but outrageous.

[From the Grand Forks Herald, Feb. 15, 2003]

Editorial: Stop the Filibuster

Our View: Senate Democrats should let Miguel Estrada's name come up for a floor vote.

There are two responsible ways for Senate Democrats to keep conservative lawyers off of the federal bench.

The first is for Democrats to regain a majority in the Senate. The second is to convince a few Republicans to vote against those nominees on the floor. Both of those methods use politics' most-respected and time-honored technique: persuasion—persuading voters in the first case, colleagues in the second, of the strength and power of your argument.

In the U.S. Senate, however, there's also a coercive and borderline-irresponsible method for the minority party to have its way. That method is the filibuster. Senate Democrats are staging one now against Miguel Estrada, an appeals court nominee.

They should back off and let the Senate vote.

A filibuster is a delay that can't be broken without a supermajority's consent. Now, at times in a democracy, a "tyranny of the majority" may arise that principled senators feel they must resist. This isn't one of those times. Estrada is neither a criminal, nor a spy, nor a hack whose nomination sprang from backroom deals where money changed hands.

Just the opposite: He is, by every account, a living, breathing embodiment of the American dream. An immigrant from Honduras, Estrada spoke little English when he came to the United States at age 17. Yet, he graduated with honors from Harvard Law School, clerked for a Supreme Court justice and built an honorable and exemplary career.

He's also a judicial conservative. And if there's one thing that drives some Democrats berserk, it's a person from an ethnic minority background who strays from the party line.

That's why the Democrats are filibustering. That's why they're holding up matters of real-life war and peace. That's why they're thwarting the majority's will and asserting an anti-democratic veto power on a matter of congressional routine.

And that's why they ought to back off.

Because frankly, those reasons are politics, nor principle. And politics isn't enough.

[From the Chicago Sun-Times, Feb. 14, 2003]

Wheels of Justice Caught in Washington Gridlock, Again

"The time has come for the U.S. Senate to stop playing politics with the American judicial system. So bad has the situation become that some Americans wonder whether justice is being hindered . . ." So began an editorial on this page five years ago, during the now-distant days of the Clinton administration, when Senate Republicans were stonewalling judicial nominees from a Democratic president.

We mention it because the party in power tends to scream about efficient government, while the party out of power complains about failure to follow procedure. To quote Shakespeare, "A plague on both their houses." The only update we'd make in the opening quote is to change "some Americans" into "many Americans" or even "most Americans." For who can look at the spectacle of the 108th Congress and not believe that both justice and the basic operation of the nation is being sacrificed on the altar of ugly, obstructionist, partisan politics?

After dragging their feet on shifting committee chairmanships and the routine operations of the nation's business, Senate Democrats, though in a minority, are threatening to filibuster over the confirmation of Miguel Estrada, a Washington lawyer who seems eminently qualified for the federal appeals bench in every way except for his alacrity to answer questions about his opinions on legal matters that have not yet been presented to him, such as the issue of abortion.

The entire idea behind disabling the business of the nation is so that the blame for whatever bad situation we find ourselves in come election 2004 can be laid at the feet of the Republicans, since they are in power. But the Democrats forget that, if they manage to torpedo the Republican agenda, then the Republicans are not really fully in power, and whatever problems are certain to come are the fault of both parties. And obstructionism hurt Democrats in last November's voting.

President Bush called the Democratic approach "shameful politics." We are not revealing a bias when we agree—the nation needs good judges, from both parties, of both conservative and liberal outlooks. Our legal system cannot and must not be held hostage to political nitpicking. Estrada deserves to be the first Hispanic on the U.S. Court of Appeals for the District of Columbia, and if his nomination in some way helps to break the political deadlock keeping critical judgeships from being filled, that will be just another accomplishment to add to his record.

[From the Rochester Democrat and Chronicle, Feb. 7, 2003]

The Estrada Nomination

Yet another fight over a judicial nominee should not descend to filibuster.

The oft-heard scuttlebutt around Washington is that Congress is a far less congenial place now than 20 years ago. Partisanship, once a coin of the realm, is today the only currency that matters.

The truth of that troubling assessment shows most tellingly in the drag-out fights over judicial nominees. It used to be that the opposing party, once in power, would get its appointments. No longer.

Led by Sen. Chuck Schumer, Senate Democrats, who narrowly lost a Judiciary Committee vote on U.S. Court of Appeals nominee Miguel Estrada, are threatening a filibuster to prevent a floor vote on the nomination. Estrada's sin? He was unresponsive to the committee's questions regarding past causes and other issues.

It's a smokescreen. The Democrats know Estrada's legal record, and it's a good one.

To suggest that he needed to answer the questions to establish his credentials is disingenuous. There's more than enough known about Estrada for an up-or-down floor vote.

A filibuster could make partisanship history—never before has the Senate prevented a lower-court confirmation via filibuster. The Democrats have a duty to ask tough questions and to base their votes on the answers, or lack of them. But they also have a duty to live by the final tally—not delay its taking with divisive filibuster.

[From the Detroit News, Feb. 10, 2003]

U.S. Senate Should Forget Judicial Candidate Filibuster

IT'S TIME TO END VENDETTAS AND REVENGE IN JUDICIAL NOMINATIONS

U.S. Senate Democrats' threat to filibuster President George W. Bush's nomination of Miguel Estrada to the U.S. Court of Appeals in Washington, D.C. would further poison an already badly damaged judicial nomination process.

Both parties share the blame for the wrecked process. But Senate Democrats are now engaging in revenge for bad GOP behavior in the second term of former President

Clinton, when Republicans stalled votes on a number of his nominees, ultimately derailing them when Bush gained the presidency. Until the GOP regained the Senate last November, they tied up a number of Bush nominations in committee.

Now, the Democrats have a chance to rise above partisan political hackery and end this stupid game. Instead, they are seriously considering making the situation worse.

Miguel Estrada is a well-regarded native of Honduras who served in the office of U.S. solicitor general under both former Presidents Clinton and George H.W. Bush. The solicitor general represents the U.S. government before the Supreme Court.

Estrada has personally argued 15 cases before the nation's highest court. He has been unanimously rated "well-qualified" by the American Bar Association—which Senate Democrats declared would be the "gold standard" by which they would assess judicial nominees when they controlled the Senate.

Estrada's nomination was one of those bottled up in committee. With the GOP in control, his nomination has now been voted out to the Senate floor. The nomination is drawing more than the usual interest because Estrada, 42, is considered a strong possibility for eventual nomination to the U.S. Supreme Court by President Bush.

Senate Democrats are deciding just how much they want to obstruct the president's nominees. A filibuster can only be broken by 60 votes—9 votes more than is usually required for a nominee to be approved. Reportedly, a filibuster has never before been used to block an appointment to the U.S. Court of Appeals.

Democrats complained that Estrada, during his committee hearings, declined to tell them his positions on particular issues. It is a violation of the canons of judicial ethics for potential judges to do that.

Democrats also demanded that he produce his memos and recommendations while he was in the solicitor general's office—which had never been done for any other candidate who had been an assistant in that office. The demand was rejected not only by Estrada, but by every former solicitor general still living, including those who served Democratic presidents.

The level of obstruction his nomination has faced has been truly extraordinary. Michigan Sens. Carl Levin and Debbie Stabenow—who are running their own vendetta in blocking four Bush nominees to the Court of Appeals in Cincinnati—shouldn't be a part of it. That would be an insult to their Hispanic constituents.

Estrada should have his nomination put up for an ordinary vote, as have all his predecessors. If he loses, fair enough. But as filibuster would signal an unreasonable posture by Democratic senators that could have long-term—and damaging—consequences for how business is conducted in the U.S. Senate.

Mr. HATCH. I agree with these newspapers that the perpetuation of this filibuster against Mr. Estrada's nomination is extremely unfair. It is unfair to the majority of the Members of the Senate who stand prepared to vote on Mr. Estrada's nomination. It is certainly unfair to Mr. Estrada, whose life is in limbo while the Senate engages in its endless debate. It is unfair to the American people, who have a justified expectation that the Senate will vote on Mr. Estrada's nomination and move on to debate and consider other important business.

The solution is not to protract debate, upon which some of my Democratic colleagues insist. The solution is not to go on a fishing expedition for privileged, confidential memoranda Mr. Estrada once authored on appeal recommendations, certiorari recommendations, and amicus curiae recommendations. The solution is not to demand answers to questions that Mr. Estrada already addressed when the Senate was under Democratic control. The solution is for Senators to vote on Mr. Estrada's nomination. Vote for him or vote against him. Do what your conscience dictates. Just vote—exactly what the Washington Post has called upon us to do.

Mr. President, I have additional remarks, but I notice the distinguished Senator from Georgia is here. I note that he wants to give some remarks and I am happy to interrupt my remarks for that purpose. I know he has an important message he would like to give. I am happy to interrupt my remarks for him.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I ask unanimous consent to proceed in morning business as in legislative session for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HILLBILLIES

Mr. MILLER. Mr. President, I rise this morning—and I appreciate the generosity of the Senator from Utah and the Senator from Vermont in giving me this opportunity—to get something off my chest.

CBS Television is currently planning what that great company calls "a hillbilly reality show." I would like to say a few words about that as a Senator who happens to be a hillbilly.

I can call myself that, Mr. President, but please don't you call me that, for "hillbilly" is a term of derision that was first coined in April of 1900 when the New York Journal had an article on "Hill Billies" with this description:

> A free and untrammeled white citizen who lives in the hills, has no means to speak of, talks as he pleases, drinks whiskey when he gets it and fires off his revolver as his fancy strikes him.

The description has not improved very much over the past 100 years. White minstrel shows depicting these ignorant creatures played to laughing audiences in New York and Chicago in the 1920s and 1930s.

After a man named Al Capp saw one, he dreamed up the comic strip "Li'l Abner" who lived in a place called Dogpatch with a mama who smoked a pipe and a girlfriend named Daisy Mae who ran around barefooted and half naked. It was a riot, and it made Al Capp a fortune.

A short time later, Snuffy Smith, a wife abuser with his ever-present jug of moonshine, also appeared in comic strips around the Nation. Then came Ma and Pa Kettle in the movies and the Beverly Hillbillies on television. Even the contemporary poet and author James Dickey has contributed to this false image of mountain people by portraying them as depraved cretins in his popular book and movie "Deliverance."

My neighbors and I have lived with this ridicule and overdrawn stereotype all of our lives, as did our parents and their parents before them. My roots run very deep in the Appalachian Mountains of North Georgia where I was born and raised and always have made my home. It is where my children, grandchildren, and great grandchildren live today.

My ancestors were among the very first mountain settlers. They were descendants of the Scotch-Irish who were driven out of Northern Ireland by the Stuart Kings. They landed in Maryland and Virginia and migrated westward as far as the hostile Indians and French would allow, and then moved southward into the heart of a region of rugged mountains and beautiful valleys we now know as Appalachia.

They were accompanied and followed by the Huguenots, Pennsylvania Quakers, Palatine Germans, and various dissatisfied Protestant sects.

These mountain people were the very first Americans to fall back on their own resources as they settled in isolation from the remainder of the Nation and the world.

Their language, customs, character, possessions, knowledge, and tools were isolated with them and suspended in time, an unchanging microcosm of early American thought, culture, and mores.

These mountaineers possessed the qualities that formed the fundamental elements of pioneer American character: love of liberty, personal courage, a capacity to withstand and overcome hardship, unstinted hospitality, intense family loyalty, innate humor, and trust in God.

It could be said that if they had one overriding characteristic, it would have to be independence. They developed as extreme, rugged individualists who never closed their doors, had inherent self-respect, were honest and shrewd, knew no grades of society, and had unconscious and unspoiled dignity. They were utterly without pretension or hypocrisy.

When the Civil War came along, it was this area of the Mountain South that opposed secession, for there were no vast plantations in the mountains of the South and very few slave owners among those poor people. Some even fought on the side of the Union, with families sometimes divided over that terrible conflict.

Later, when the wars of the 20th century came along, it was the families in the mountains of the South who sent a disproportionate share of their young men who volunteered to fight in distant lands, far away from their peaceful valleys.

When this country was threatened to be torn apart over Watergate, it was two great Members of this Senate from opposite parties but the same part of the country who helped keep this Nation on an even keel: Democrat Sam Ervin from the mountains of North Carolina and Republican Howard Baker from the mountains of Tennessee.

I am very pleased and proud that these are my people, and I find that one of the great ironies of history is that while the cowboy, another type of frontiersman, has been glorified, the mountaineer—the first frontiersman—has been ridiculed and caricatured in the image of a Snuffy Smith.

Why am I going into all of this? Because now in the 21st century—the enlightened 21st century—there are plans underway for a new hillbilly minstrel show using the same old stereotype, denigrating, laughing at, and ridiculing this group of people.

CBS calls it a reality show—CBS, the once proud and honorable broadcasting company that brought us Edward R. Murrow and that unforgettable program of his, "The Harvest of Shame."

In the sixties, brave and courageous CBS reporters risked their lives to cover the civil rights struggles in the South, and for decades, CBS's "60 Minutes" has set the standard for all of television. But today in this money-grubbing world, CBS, it seems, has become just another money-grubber.

It is now part of the giant Viacom. CBS has a CEO named Mr. Les Moonves, the man who is pushing this program-to-be; a man who obviously believes that network television is an ethics-free zone and that it is acceptable for big profits to always come ahead of good taste.

I do not know Mr. Moonves, but from his actions, it seems he is a person who cares little about human dignity and believes television has no social responsibility. I suppose we should not be surprised, for his ilk have been around long before the creators of Li'l Abner and Snuffy Smith. Since the beginning of civilization, there have always been some Homo sapiens who, it seems, had to have someone to look down upon, some group to feel superior to. For this kind of person, it is as basic to their human nature as the drive to reproduce or the urge for food and water. They were there in the time of the Greeks. They were there in the time of the Romans. They can be found all through the Bible. That is what the parable of the Good Samaritan is all about.

Jesus was very concerned about how the rejects of society were looked down upon and warned us about "a haughty spirit" and an "unkind heart."

Shakespeare wrote about them as did Dickens and Steinbeck and Faulkner. And songwriter Merle Haggard, who knew personally how it felt, wrote that memorable line "another class of people put us somewhere just below, one more reason for my mama's Hungry Eyes."

This country was not meant to be this way. We are supposed to be better than that. More than two centuries ago, Moses Sexius was the warden of the Hebrew Congregation of Newport, RI.

He wrote hopefully to the President of this new Nation of his delight at the birth of a government "which to bigotry gives no sanction, to persecution no assistance, but generously affords to all liberty of conscience."

That new President, George Washington, wrote back.

Here is a copy if the letter affirming that the Government of the United States "would give to bigotry no sanction, to persecution no assistance." That was Washington's dream for this country.

What CBS and CEO Moonves proposed to do with this Cracker Comedy is "bigotry" pure and simple. Bigotry for big bucks. They will deny it. They will say it is just harmless humor. But they know better and they feel safe.

They know the only minority left in this country that you can make fun of, demean, humiliate, put down and hardly anyone will speak up in their defense are hillbillies in particular and poor rural people in general. You can ridicule them with impunity.

Can you imagine this kind of program being suggested that would disrespect an African American family or denigrate a Latino family? Years ago, the program Amos and Andy was removed from television—as it should have been—because it was in poor taste and made fun of a minority.

In this wonderful and diverse country today, one of every six Americans speaks some other language other than English in their homes. In my home State of Georgia, their number has more than doubled in the past decade. I believe that may be the largest increase in the Nation.

From the red clay hills of Georgia to the redwood forests of California, all of us are struggling to answer the simple question: Can't we all get along?

And that daunting challenge, can't we live our lives as if we are all created equal? All of us: we eat, we sleep, we have strengths and weaknesses; we have dreams and anxieties. A tear knows no race, no religion, no color. A tear has no accent. We all cry in the same language.

Many years ago, the rabbis were asked why was it that in the beginning God created just one man, Adam, and one woman, Sa-ba, or Eve. Surely, God could have created multitudes.

The rabbis answered that only one man and one woman were created to help us all remember that we all came from the same mother and father. So no one should ever say, "I'm better than you, "and no one should ever feel, "I'm less than you."

CBS, Viacom, Mr. Moonves: I plead with you to call off your hillbilly hunt. Make your big bucks some other way. Appeal to the best in America not the worst. Give bigotry no sanction.

For no one—not even a rich and powerful network like CBS—should ever use the airwaves of this Nation to say to one group of people in God's image, "We're better than you."

And no one, Mr. Moonves, no one should ever be made to feel, "they're less than you."

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Georgia for his comments.

The Senator from Utah has spoken and will be coming back, and so I am going to speak about the Estrada nomination, the matter at hand. I say what everybody knows, especially those of us like the distinguished Presiding Officer, who have practiced law, becoming a Federal judge for a lifetime is a privilege. It is not a right.

No nominee should be rewarded for stonewalling the Senate and the American people. The Constitution directs Senators to use its judgment in voting on judicial nominees. It does not direct them to rubberstamp. It says "advise and consent," not advise and rubberstamp.

During the 17 months that the Democrats were in control of the Senate, we confirmed a record 100 of President Bush's judicial nominees. Interestingly enough, no judicial nominees of President Bush's had been confirmed up to mid-July when I took over as chairman of the committee. Within 10 minutes of taking over as chairman of the committee, I called the first confirmation hearing, and in 17 months we set a record of moving nominations. We certainly acted faster, and I believe more fairly, than the Republicans did for President Clinton.

President Bush also has proposed several controversial nominees like Miguel Estrada. They divide the American people and the Senate. The President, of course, could easily end this impasse. I hope he will act to give Senators the answers they need to make informed judgments about this nomination. That was suggested by one of the most distinguished and senior Republican Members of this Senate. So far it has been rejected by the White House. I hope they will reconsider. The President can also help by choosing mainstream judicial nominees who can unite instead of divide the American people.

Unfortunately, the White House seems to have this attitude that they should divide and not unite, and I think that is a mistake. One of the unfortunate aspects of the President's determination to pack the Federal courts with extreme conservatives is a division that the nomination of Miguel Estrada has caused among Hispanics. Rather than nominate someone whom all Hispanic Americans would support, the President has chosen to divide rather than unite. The White House's ideological litmus test has motivated the President to select another highly controversial nominee rather than a consensus nominee.

Over the last several days, the division within the Hispanic community has been the subject of a number of news reports. On February 14, the Washington Times ran a front page story quoting a statement for the National Council of La Raza noting that since the Latino community is clearly divided on the Estrada nomination, we find the accusation that one side or another is anti-Latino to be particularly divisive and inappropriate.

The division was likewise noted in the Boston Globe on February 15, in a story by Wayne Washington. And on February 20, the Washington Post noted the division in a story by Darryl Fears.

I ask unanimous consent that some of the articles on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Feb. 15, 2003]

LATINOS BITTERLY DEBATE ESTRADA NOMINATION

(By Wayne Washington)

WASHINGTON.—President Bush's nomination of Miguel Estrada for a federal judgeship has exposed sharp divisions among Latinos, who are weighing the possibility of having one of their own on a fast track to the US Supreme Court against a fear that the minority group's interests could be harmed if the Senate confirms that the conservative lawyer of Honduran descent.

In the divisive intra-ethnic battle, some Latinos have challenged Estrada's allegiance to the Hispanic community, an accusation that others have sharply criticized. Each side has at times accused the other of being anti-Latino. The debate has gotten so nasty on Spanish-language television and over the Internet that this week the National Council of La Raza, a Latino group that says it is neutral on Estrada's nomination, called for both sides to tone down their language.

"We urge those who are engaging in name-calling and accusatory language to instead focus on the substantive issues and merits of this nomination," the group said in its statement. "Since the Latino community is clearly divided on the Estrada nomination, we find the accusation that one side or another is 'anti-Latino' to be particularly divisive and inappropriate."

Estrada's nomination to the Court of Appeals for the District of Columbia has been endorsed by the Hispanic Bar Association, US Hispanic Chamber of Commerce, the Latino Coalition, and the League of United Latin American Citizens, which is comparable to the NAACP. Opposed are the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, and the Congressional Hispanic Caucus, whose members are Democrats.

Bush nominated Estrada in May 2001, but Senate Democrats blocked his approval. This week, they stalled the nomination by threatening a filibuster. Estrada, 42, would be the first Latino on the D.C. Appeals Court, where six of the nine justices currently on the Supreme Court once served. Only 12 of the 154 judges on federal appeals courts are Latinos; one has never served on the nation's highest court.

Some observers have compared the volatile debate to dissension among African-Americans when President George H.W. Bush nominated Clarence Thomas—then a member of the D.C. Court of Appeals—to the Supreme Court.

"There are similar fault lines," said Lisa Navarrete, spokeswoman for the National Council of La Raza, a nonprofit Hispanic group that fights poverty and discrimination. "Some people said Clarence Thomas is African-American and would be the only one on the court. He deserves our support. Others felt that his views would be harmful to the community. That's exactly what's happening here."

Born in Honduras, Estrada immigrated to the United States with his family as a teenager, graduated magna cum laude from Columbia College, and earned a law degree from Harvard, where he was an editor of the Harvard Law Review. He went on to work as an assistant US attorney in New York and an assistant to the solicitor general during the Clinton administration. Currently, he is a partner in the Washington office of Gibson, Dunn & Crutcher.

His ethnicity and academic and legal record have been enough to win the support of some Latinos, while critics maintain that Estrada, a member of the conservative Federalist Society, has not clearly spelled out his judicial philosophy. He clerked for Justice Anthony M. Kennedy, a member of the conservative majority on the Supreme Court.

"That Miguel Estrada is of the Hispanic culture counts far more than the fact that he is a Republican or a Democrat," said Tina Romero-Goodson, a social service official in New Mexico. "What weighs heavily with me is that he is Hispanic and will have far more in common with me and mine than a Democratic Anglo or African-American candidate."

Representative Robert Menendez, Democrat of New Jersey, said Estrada "shares a surname" with Latinos but has done little to help them.

"Mr. Estrada said he is unfamiliar with cases that are important to our community," Menendez said. "He has said that his being Hispanic would be irrelevant to his role as a judge. I don't want it to be irrelevant, and neither does the community."

That stark call to ethnic solidarity outrages other Latinos.

"I think it's just shameful," said Robert G. de Posada, president of Latino Coalition, a nonprofit Washington-based policy group. "There is no other way to describe it."

De Posada said Menendez and other congressional Democrats are trying to portray Estrada as a well-off lawyer "who never had a problem in his life."

Of Menendez, de Posada added: "He's a Cuban-American who looks completely white. I wonder: Has he faced the racism and isolation that other Hispanics have faced? Can you challenge his Hispanic-ness? I would never do that. He's a success story. But so is Miguel Estrada."

Pierre M. LaRamee, acting president of the Puerto Rican Legal Defense and Education Fund, said Republicans have attempted to portray Estrada as "a Latino Horatio Alger." That portrayal, LaRamee argues, makes it proper to question just how representative he is of Latino communities.

"He didn't come from a poor, disadvantaged background," La Ramee said. "He came from a background of relative privilege. Of course, that's nothing negative about Miguel Estrada. He's been successful. . . . We'd rather have a non-Latino judge who we believe would be a better judge."

Supporters point out that Estrada did pro bono legal work on antiloitering laws that some Latino community group leaders believe led to the harassment of black and Latino men.

Latinos who are not of Mexican-American descent have said Estrada would get more support from Latinos if he were part of it. Mexican-Americans are the largest subgroup of Latinos in the United States.

"There's a dirty little secret in the Hispanic community," said Jennifer Braceras, a member of the U.S. Commission on Civil Rights. "There's a real intra-Hispanic community rivalry. There's a real feeling in the Mexican-American community that the first Latino Supreme Court nominee should be Mexican-American."

Not true, said Marisa Demeo, regional counsel for the Mexican American Legal Defense and Education Fund. "It has nothing to do with his ethnicity," she said. "It has to do with how he would be as a judge."

Democrats are expected to resume their filibuster of Estrada's confirmation when the Senate returns from a recess on Feb. 24.

[From the Washington Post, Feb. 20, 2003]

FOR HISPANIC GROUPS, A DIVIDE ON ESTRADA

POLITICAL, GEOGRAPHIC FAULT LINES EXPOSED

(By Darryl Fears)

When he spoke in support of federal judicial nominee Miguel Estrada at a recent news conference, Jacob Monty masked his harsh criticism of opponents in Spanish. He said Latinos who are fighting against the Bush administration's choice for a judgeship on the U.S. Court of Appeals for the District of Columbia Circuit "no tienen vergüenza"—have no shame.

That comment by Monty, a former chairman of the Texas-based Association for the Advancement of Mexican Americans, was just one shot in a bitter war of words that has divided Latino politicians and civil rights organizations in ways rarely seen.

It followed one fired by Rep. Robert Menendez (N.J.), a member of the Democratic Congressional Hispanic Caucus, which opposes the nominee. "Being Hispanic for us," Menendez said, "means much more than having a surname"—a statement his critics understood to imply that Estrada is not "Hispanic enough."

The name-calling has reminded some observers of the bitterness among African Americans during the Senate confirmation hearing for Supreme Court Justice Clarence Thomas—a hearing that Thomas, a conservative black man, likened to a lynching after liberal activists persuaded Anita Hill, a former assistant, to come forward with sexual harassment allegations against him.

Latino activists have differing perceptions of who Estrada is and what kind of judge he would be.

Estrada's supporters say is a Latino success story, immigrating as he did from Honduras at age 17 and going on to graduate from Columbia College at Columbia University and Harvard Law School, and clerking for Supreme Court Justice Anthony M. Kennedy. He is now a partner with the District law firm of Gibson, Dunn & Crutcher and a nominee for a judgeship on what is considered the nation's second most powerful court because it has jurisdiction over all appeals regarding federal regulatory agencies.

Opponents question whether Estrada appreciates the interests of poor people—his family came from the Honduran elite—and say his conservative politics would color his decisions on the bench. They say Estrada has a low regard for hard-won civil rights protections that benefit Latinos.

Ideological wars over federal judicial nominations are nothing new, but the fight among Latinos offers a small window on how what will soon be the nation's largest ethnic minority is divided by ideology and geography.

Of the Latino community's three most influential groups, each has taken a different position on Estrada's nomination. The League of United Latin American Citizens, based in Texas, supports it; the Mexican American Defense and Educational Fund, in California, opposes it, and the National Council of La Raza, in Washington, has remained neutral.

The fuse for the current debate was lit in June, when members of the Congressional Hispanic Caucus met with Estrada in the basement of the Capitol. Rep. Charlie Gonzalez (D–Tex.) said the nominee at first looked uncomfortable as he stared at the faces of 16 Democrats across the long boardroom table.

"We wanted to make sure the nominee . . . appreciates what the court system means for Latinos," Gonzalez said recently. Estrada was not available for comment.

"We wanted him to give us some idea of how the role of a judge impacts minority communities, and it just wasn't there."

Two weeks later, the caucus returned a recommendation opposing Estrada's nomination to the Senate Judiciary Committee, then controlled by Democrats. Latino civil rights groups read the recommendation, then met among themselves.

In October, the League of United Latin American Citizens (LULAC) voted to support Estrada.

"It was just very difficult for us not to support the guy, given his impeccable credentials," said Hector Flores, president of the Texas-based group. "It's the American dream, rising up from Honduras the way he has. The battle isn't whether he's conservative; it's that he represents Latinos, whether we like him or not."

Flores said the vote to support Estrada was overwhelming, but in recent days the California state delegation of LULAC broke away from the national group in opposing the nominee. In a Feb. 12 statement, a former president of LULAC, Mario Obledo, opposed the nominee because of his "sparse record" on civil and constitutional rights issues, and because he declined to answer questions about his record in Senate hearings.

LULAC's overall support was backed by Monty, the former chairman of AAMA. His assertion that Estrada's opponents were shameless was broadcast on C-SPAN and remembered by Flores, who was present. Monty did not return several calls seeking comment.

President Bush tried to keep up the pressure yesterday by giving an interview by the Spanish-language Telemundo network, and vigorously urged senators to confirm Estrada.

Sen. Orrin G. Hatch (R–Utah) recently said that Estrada's Democratic opponents were "anti-Latino," and brought howls from his liberal colleagues and from leaders of Latino organizations across the land.

Marisa Demeo, regional counsel for the Los Angeles-based Mexican American Legal Defense and Educational Fund, said Hatch failed to mention three Latinos nominated for judgeships by the Clinton administration whom Republican senators opposed. Those nominations—of Jorge Rangel, Enrique Moreno and Christine Arguello—were returned to President Bill Clinton without a hearing or vote.

Demeo said LULAC and AAMA back Estrada for cosmetic reasons. "Because he's Latino, they would support him," she said. "They've been very strong in thinking there should be a Latino sitting on the D.C. Circuit, and we say it is important, but not as such a cost."

The cost, she said, would be the weakening of civil rights laws. "The groups opposing have taken the analysis a step further," Demeo said. "We look at the record to determine what kind of judge Mr. Estrada would be."

MALDEF is supported by the Puerto Rican Legal Defense and Educational Fund, the Southwest Voter Registration Project and the Hispanic caucus, among other groups.

"I don't know why the administration put up Estrada," said Antonio Gonzalez, president of the Southwest Voter Registration Project. "He was marked as a right-wing ideologue some time ago. Clearly, that is a tactic by the Bush administration . . . not to really embrace issues that are important to Latinos, but to try symbolic measures."

Mr. LEAHY. Hispanic lawmakers and leaders, including Representative XAVIER BECERRA, Representative LUCILLE ROYBAL-ALLARD, Representative GRACE NAPOLITANO, Representative ROBERT MENENDEZ, Representative CHARLIE GONZALEZ, and Los Angeles County supervisor Gloria Molina have all spoken publicly about their opposition to this nomination.

I ask unanimous consent a recent news account of their statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LATINO POLITICIANS SPLIT ON ESTRADA

POLITICS: GROUPS APPLAUD, PAN BUSH'S NOMINATION TO SECOND-HIGHEST COURT IN U.S.

(By Mike Sprague)

LOS ANGELES.—President Bush's nomination of Miguel Estrada to the Washington, D.C., Court of Appeals is splitting this area's Latino politicians.

On Friday, Los Angeles County Supervisor Gloria Molina and U.S. Rep. Grace Napolitano, D–Santa Fe Springs, joined a news conference held by the Congressional Hispanic Caucus to denounce Estrada and oppose his Senate confirmation to the second-highest court in the United States.

"When this gentlemen came before us, we asked specific questions and he had very little offer," said Napolitano, vice chairwoman of the 20-member caucus. "He really was a blank page. This could be our Latino Clarence Thomas."

But Assemblyman Robert Pacheco, a Republican from the City of Industry, who was reached by telephone later in the day Friday, accused the caucus of taking a partisan stand.

"They don't represent the entire Latino community," he said. "I'm very upset with the way they're approaching it, because of the partisan nature.

"What an opportunity for the Latino community to have someone in that position who has earned his stripes, having risen from poverty."

The news conference was held at the Mexican-American Legal Defense and Educational Fund's office in Los Angeles. The organization also is opposing confirmation.

The Senate Judiciary Committee recently approved the nomination, but some Senate Democrats since then have launched a filibuster to prevent a vote.

Estrada has served as assistant U.S. solicitor and an assistant U.S. attorney.

Napolitano said that caucus members had interviewed Estrada, and he hadn't responded favorably to their questions on whether he had worked with any minority organizations or on behalf of minorities and if he had been involved as a volunteer.

Estrada said no to the questions, she said.

Rep. Lucille Roybal-Allard, D–Los Angeles, said that Estrada shouldn't be confirmed to the court just because of his ethnic origin.

"We have worked very hard to ensure that Latinos are nominated to high positions in the country," Roybal-Allard said. "Just because someone has a Hispanic surname doesn't automatically qualify him for any position."

Boyal-Allard also denied the caucus was acting for partisan reasons.

"Out of all the nominees, President Bush has appointed, this is the first time we have been opposed," she said. "We're opposed to Miguel Estrada based on his lack of qualifications."

HISPANIC LAWMAKERS FROM CALIFORNIA OPPOSE BUSH'S COURT NOMINEE

(By Paul Chavez)

LOS ANGELES.—Hispanic lawmakers from California stepped up their campaign Friday against the first Hispanic to be nominated for a spot on an important federal appellate court.

Three Democratic members of the Congressional Hispanic Caucus and representatives from two advocacy groups said lawyer Miguel Estrada, 41, has refused to answer key questions about his position on cases, his background and other key issues.

"Ethnic origin is no automatic pass to becoming a judge on the federal judiciary, you have to be qualified," said Rep. Xavier Becerra, D–Los Angeles.

Estrada's nomination by President Bush has been held up in the U.S. Senate Judiciary Committee, with Democrats launching a filibuster to stall a full Senate vote until Estrada answers more questions and provides documents from his work with the Department of Justice.

Estrada was nominated in May 2001 by Bush for a seat on the U.S. Court of Appeals for the District of Columbia, which has been a steppingstone for three current justices on the U.S. Supreme Court.

Estrada, a partner in the law firm that worked with Bush during the Florida election recount, came to the United States at age 17 from Honduras. He graduated from Harvard Law School in 1986 and has argued 15 cases before the Supreme Court.

Republicans have accused Democrats of treating Estrada unfairly because he is a conservative Hispanic.

Rep. Lucille Roybal-Allard, D–Los Angeles, said the decision to oppose Estrada's appointment was not easy.

"This was a particularly difficult and disappointing decision that had to be made given the fact that the Hispanic caucus actively works long and hard to promote the appointment of more Latino judges," she said.

The Hispanic caucus decided to oppose Estrada after interviewing him, Roybal-Allard said.

"Unfortunately, he did not satisfactorily answer any of our questions with regard to his experience or sensitivity or commitment to ensuring equal justice and opportunity for Latinos," she said.

Rep. Grace Napolitano, D–Norwalk, said Estrada told the caucus that he has not done any work on behalf of minority organizations. She said such work was important since Estrada "could be our Latino Clarence Thomas."

The Congressional Hispanic Caucus, which is made up exclusively of Democrats, along with the Mexican American Legal Defense and Educational Fund have previously stated their opposition to Estrada's appointment.

The California branch of the League of United Latin American Citizens also said Friday it was opposed to his nomination, although its national leadership has supported Estrada. His nomination also has been supported by the U.S. Hispanic Chamber of Commerce.

Democrats have sought documents written by Estrada when he worked in the Justice Department's Solicitor General's Office. But White House counsel Alberto Gonzales told senators in a letter Wednesday that the administration would not release the documents, which are normally not made available.

All of the living former solicitors general—four Democrats and three Republicans—have agreed with the White House position, Gonzales said.

Mr. LEAHY. The Congressional Hispanic Caucus, the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, the California Chapter of the League of United Latin American Citizens, Los Angeles County supervisor Gloria Molina, and Mario Obledo oppose this controversial nomination. I am sure they do so out of principle. I know they do not relish opposing this nomination. These are organizations, individuals who have devoted their lives to improving the lives of Hispanic members. They worked for decades to increase representation of Latinos on the courts of our country.

It is because of the history and dedicated efforts and deep-seated commitment to the cause of equality for Hispanics I take their views seriously. I understand the Congressional Hispanic Caucus and the Puerto Rican Legal Defense and Education Fund came to their conclusion after a thorough review of the nomination but also after interviewing and meeting with the nominee.

Yesterday, we received a letter from 15 former presidents in the Hispanic National Bar Association, 15 well-respected national leaders of this important bar association, leaders who date back to the founding of the organization in 1972 have written to the Senate leadership to oppose this nomination. Their weighty opposition is based on the criteria to evaluate judicial nominees this association has formally used since 1991. It has been their standard practice for the past 30 years.

In addition to the candidates' professional experience and temperament, the criteria for endorsement also includes, "one, the extent to which a candidate has been involved and supported and responsive to the issues, needs, and concerns of Hispanic Americans; and, two, the candidates' demonstration of the concept of equal opportunity and equal justice under law."

In the view of the overwhelming majority of the living past presidents of the HNBA, Mr. Estrada's record does not provide evidence he meets those criteria. His candidacy falls short in those respects, they say.

Now the Hispanic National Bar Association has been at the forefront of efforts to increase diversity on the Federal bench. They have been at the forefront of the effort to improve public confidence among Hispanics and others in the fairness of the Federal courts. The most important thing in the Federal courts is the fairness, their integrity, their independence.

Time and time again I have asked, both when we have had nominees of Democratic Presidents and Republican Presidents, is this nominee somebody I believe I could walk into the court and be treated fairly? As a Democrat or Republican, whether as plaintiff or defendant, whether rich or poor, white or person of color, no matter what my religion, no matter what my background, would I be treated fairly?

During Democratic leadership of the Senate, we confirmed 100 of President Bush's nominees, and I voted for the overwhelming majority of them. When I was chairman, I moved his nominees through far faster than Republicans ever did for President Clinton when they were in charge, when they averaged only 39 confirmations per year during their six and one-half years of control of the Senate. But I set the same test. Sometimes to satisfy myself of the test I had to go to a hearing that lasted sometimes a day long to be sure. You have a conservative, I want to be sure they will be fair and not too much of an ideologue; the same way I did when I believed someone was too liberal and could be too much of an ideologue. I had to satisfy myself they would be fair.

Now, the HNBA has done the same. They want to make sure the Federal courts are independent and fair. They have supported Republican nominees as well as Democratic nominees. These 15 individuals, all of whom are past presidents of the Hispanic National Bar Association, people who have devoted a great deal of time in their legal careers to advancing the interests of Hispanics in the legal community, have felt compelled to publicly oppose the Estrada nomination.

I regret very much that the White House, instead of seeking someone who would unite the community, has brought in somebody who would divide the community.

Yesterday, Delores Huerta, who cofounded the United Farm Workers with Caesar Chavez, wrote a column in the Oregonian opposing Mr. Estrada's confirmation. I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Oregonian, Feb. 24, 2003]

DOLORES C. HUERTA: ESTRADA WOULD DESTROY HARD-FOUGHT VICTORIES

(By Dolores C. Huerta)

As a co-founder of the United Farm Workers with Cesar Chavez, I know what progress looks like. Injustice and the fight against it take many forms—from boycotts and marches to contract negotiations and legislation. Over the years, we had to fight against brutal opponents, but the courts were often there to back us up. Where we moved forward, America's courts helped to establish important legal protections for all farm workers, all women, all Americans. Now, though, a dangerous shift in the courts could destroy the worker's rights, women's rights, and civil rights that our collective actions secured.

It is especially bitter for me that one of the most visible agents of the strategy to erase our legal victories is being called a great role model for Latinos. It is true that for Latinos to realize America's promise of equality and justice for all, we need to be represented in every sector of business and every branch of government. But it is also true that judges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children. And they are not the kind of judges we want on the federal Courts.

Miguel Estrada is a successful lawyer, and he has powerful friends who are trying to get him a lifetime job as a federal judge. Many of them talk about him being a future Supreme Court justice. Shouldn't we be proud of him?

I for one am not too proud of a man who is unconcerned about the discrimination that many Latinos live with every day. I am not especially proud of a man whose political friends—the ones fighting hardest to put him on the court—are also fighting to abolish affirmative action and to make it harder if not impossible for federal courts to protect the rights and safety of workers and women and anyone with little power and only the hope of the courts to protect their legal rights.

Just as we resist the injustice of racial profiling and the assumption that we are lesser individuals because of where we were born or the color of our skin, so too must we resist the urge to endorse a man on the basis of his ethnic background. Members of the Congressional Hispanic Caucus met with Miguel Estrada and came away convinced that he would harm our community as a federal judge. The Mexican American Legal Defense and Educational Fund and the Puerto Rican Defense and Education Fund reviewed his record and came to the same conclusion.

> Are these groups fighting Miguel Estrada because they are somehow anti-Hispanic? Are they saying that only people with certain political views are "true" Latinos? Of course not. They are saying that as a judge this man would do damage to the rights we have fought so hard to obtain, and that we cannot ignore that fact just because he is Latino. I think Cesar Chavez would be turning over in his grave if he knew that a candidate like this would be celebrated for supposedly representing the Hispanic community. He would also be dismayed that any civil rights organization would stay silent or back such a candidate.
>
> To my friends who think this is all about politicians fighting among themselves, I ask you to think what would have happened over the last 40 years if the federal courts were fighting against workers' rights and women's rights and civil rights. And then think about how quickly that could become the world we are living in.
>
> As MALDEF wrote in a detailed analysis, Estrada's record suggests that "he would not recognize the due process rights of Latinos," that he "would not fairly review Latino allegations of racial profiling by law enforcement," that he "would most likely always find that government affirmative action programs fail to meet" legal standards, and that he "could very well compromise the rights of Latino voters under the Voting Rights Act."
>
> Miguel Estrada is only one of the people nominated by President Bush who could destroy much of what we have built if they become judges. The far right is fighting for them just as it is fighting for Estrada. We must fight back against Estrada and against all of them. If the only way to stop this is a filibuster in the Senate, I say, Que viva la filibuster!
>
> Dolores C. Huerta is the co-founder of the United Farm Workers of America.

Mr. LEAHY. Here is what this Hispanic leader wrote:

> It is true that for Latinos to realize America's promise of equality and justice for all, we need to be represented in every sector of business and every branch of government. But it is also true that judges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children. And they are not the kind of judges we want on the federal courts.
>
> Miguel Estrada is a successful lawyer, and he has powerful friends who are trying to get him a lifetime job as a federal judge. Many of them talk about him being a future Supreme Court justice. Shouldn't we be proud of him?
>
> I for one am not too proud of a man who is unconcerned about the discrimination that many Latinos live with every day. I am not especially proud of a man whose political friends—the ones fighting hardest to put him on the court—are also fighting to abolish affirmative action and to make it harder if not impossible for federal courts to protect the rights and safety of workers and women and anyone with little power and only the hope of the courts to protect their legal rights.
>
> Just as we resist the injustice of racial profiling and the assumption that we are lesser individuals because of where we were born or the color of our skin, so too must we resist the urge to endorse a man on the basis of his ethnic background.

> Are these groups fighting Miguel Estrada because they are somehow anti-Hispanic? Are they saying that only people with certain political views are "true" Latinos? Of course not. They are saying that as a judge this man would do damage to the rights we have fought so hard to obtain, and that we cannot ignore that fact just because he is Latino. I think Cesar Chavez would be turning over in his grave if he knew that a candidate like this would be celebrated for supposedly representing the Hispanic community. He would also be dismayed that any civil rights organization would stay silent or back such a candidate.

I deeply resent the charges leveled by Republicans that those opposing this nomination are anti-Latino or anti-Hispanic. As we began this debate about 2 weeks ago, I urged Republicans who said such things to apologize for these baseless and divisive charges. They have yet to do so. Because they have not apologized for these baseless charges, it prompted the League of Latin American Citizens, an organization that has supported this nomination, to write to the Senate to protest the charges leveled without basis by Republicans. I emphasize the League of United Latin American Citizens, which supports Mr. Estrada's nomination, has written to the Senate to protest the charges of bias leveled without basis by some Republicans.

Hector Flares, the LULAC National President wrote on February 12:

> [W]e are alarmed by suggestions from some of the backers of Mr. Estrada that the Senate Democrats and the members of the Congressional Hispanic Caucus are opposing his nomination because of his race, ethnicity or an anti-Hispanic bias. We do not subscribe to this view at all and we do not wish to be associated with such accusations.
>
> LULAC has had a long and productive working relationship with many Senate Democrats and all of the members of the Congressional Hispanic Caucus and our experience is that they would never oppose any nominee because of his or her race or ethnicity. On the contrary, it is most often the Democratic members of the Senate who support LULAC's priority issues. . . .

I thank LULAC for disassociating itself with the base political efforts of Republicans to accuse those who oppose this nomination as doing so based on race or ethnicity. On the contrary, it is most often the Democratic Members of the Senate who support Hispanic priority issues.

I thank LULAC for disassociating itself with the base political efforts of some Republicans who accuse those who oppose this nomination of doing so based on race or ethnicity. I renew my request for an apology for all the statements made in connection with the Senate debate that suggest those opposed to this nomination are anti-Hispanic.

I think perhaps we should go back to a different time, a time when I first came to the Senate, when Republicans and Democrats assumed the best motives of patriotism and honesty on the part of each other; when you did not hear attacks made on people saying they are anti this race or that race or anti this religion or that religion. I am concerned.

I will speak only for myself, not for other Senators, but I look back at 29 years in the Senate, a record of one who I think has always stood for antidiscrimination, one who has a record where I have never questioned the race, ethnicity, or religion of anybody else. When I hear charges that opposition to a candidate, in this case opposition to a candidate that has divided the American people, is done on the basis of that person's race, I find that more than distasteful, I find it wrong. In the same way, I found wrong the attacks on my religion by some in the Republican Party because of opposition to 1 of this President's more than 100 nominees, especially since I made it very clear in my statements on this floor that I never once considered religion or the background of any nominee for anything—nominees from either Republican or Democratic administrations. Not in any of the thousands upon thousands of nominees of both Republican and Democratic Presidents that I voted for have I ever once considered their religious background. So I find it distasteful when my religion is attacked by members of the Republican caucus, and I find it distasteful when members of that caucus attack Democrats on the claim that their principled opposition to this nomination is anti-Hispanic. I think the largest Hispanic organization supporting Mr. Estrada made it very clear they resent it, too. I join with them on that.

We know Mr. Estrada's short legal career has been successful. By all accounts he is a good appellate lawyer and legal advocate. He has had a series of prestigious positions and is professionally and financially successful. In my case, as the grandson of immigrants, as a son, a father and grandfather, I know no matter the country of origin or economic background that a family takes pride in the success of its children. Mr. Estrada's family has much to be proud of in his accomplishments, no matter what happens to this nomination.

He is now 41 years old. He has a successful legal career in a prominent corporate law firm, which was the firm of President Reagan's first Attorney General, William French Smith, and that of President Bush's current Solicitor General, Ted Olson. I am told that Mr. Olson, along with Kenneth Starr, have been among Mr. Estrada's conservative mentors. At his relatively young age, Mr. Estrada has become a partner in the law firm of Gibson, Dunn & Crutcher, having previously worked with the Wall Street law firm of Wachtell, Lipton, Rosen & Katz.

While in private practice, his clients included major investment banks and health care providers. Mr. Estrada's financial statement, which Senator HATCH had printed in the CONGRESSIONAL RECORD, says he earned more than $½ million a year 2 years ago.

At his hearing, Mr. Estrada testified:

> I have never known what it is to be poor, and I am very thankful to my parents for that. And I have never known what it is to be incredibly rich either, or even very rich, or rich.

I will let his financial statement speak for itself on that point. Half a million dollars a year in my State does put you in the upper brackets.

So he is a well-compensated lawyer in a first-rate law firm. His family and friends take pride in his success, and rightfully so.

In his almost 6 years with Gibson, Dunn & Crutcher, with its thriving appellate court practice, developed by its senior partner, Ted Olson, who was confirmed to be Solicitor General in June 2001, Mr. Estrada has had one argument before the Supreme Court—just one. That was in connection with a habeas petition on which he worked pro bono when he first came to the firm. It is one of the only pro bono cases he has taken in his entire legal career, according to his testimony.

I am about to yield the floor. I note one thing, some of the speeches on the other side of the aisle make you think everyone opposes the efforts of Democrats to get answers to fair questions and review documents provided in past nominations. Especially in the case where a supervisor has called into question a nominee's ability to be fair, that is all the more reason we should see what he did. There is also ample precedent for the Senate Judiciary Committee examining memos written by Department of Justice attorneys, including Assistant Solicitor Generals—like Mr. Estrada was—in connection with nominations to either lifetime or short-term appointments, such as in the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Benjamin Civiletti.

There have been a number of papers and published editorials and op-eds supporting our efforts to know more about Mr. Estrada before we give him a lifetime seat, before we could never question him again, before we put him, for a lifetime, on one of the most powerful courts of the country.

On February 4, Senator HATCH said, and I will paraphrase: Mr. Estrada is not nominated to the Supreme Court—of course he is right—but his nomination may be even more important because the Supreme Court hears only about 90 cases per year while the DC Circuit issues nearly 1,500 decisions per year. These decisions affect the rights of working people and the environmental rights of all people. The Senate must not be a rubberstamp.

I ask unanimous consent to have printed in the RECORD some of the editorials in favor of the position the Democrats have taken here. Just to name a few, we have editorials from the New York Times, the Boston Globe, and the Rutland Daily Herald, among others, as well as op-ed from the Washington Post and Wall Street Journal, and letters to the editor of the Washington Post, disagreeing with their earlier editorial—touted by Republicans this morning—urging an immediate vote in spite of the precedent for requesting documents and getting answers to questions before giving someone such an important job.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 13, 2003]

KEEP TALKING ABOUT MIGUEL ESTRADA

The Bush administration is missing the point in the Senate battle over Miguel Estrada, its controversial nominee to the powerful D.C. Circuit Court of Appeals. Democrats who have vowed to filibuster the nomination are not engaging in "shameful politics," as the president has put it, nor are they anti-Latino, as Republicans have cynically charged. They are insisting that the White House respect the Senate's role in confirming judicial nominees.

The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and has dug in its heels on its most controversial choices. At their confirmation hearings, judicial nominees have refused to answer questions about their views on legal issues. And Senate Republicans have rushed through the procedures on controversial nominees.

Mr. Estrada embodies the White House's scorn for the Senate's role. Dubbed the "stealth candidate," he arrived with an extremely conservative reputation but almost no paper trail. He refused to answer questions, and although he had written many memorandums as a lawyer in the Justice Department, the White House refused to release them.

The Senate Democratic leader, Tom Daschle, insists that the Senate be given the information it needs to evaluate Mr. Estrada. He says there cannot be a vote until senators are given access to Mr. Estrada's memorandums and until they get answers to their questions. The White House can call this politics or obstruction. But in fact it is senators doing their jobs.

[From the Boston Globe, Feb. 15, 2003]

RUSH TO JUDGES

The Senate Judiciary Committee ought to come with a warning sign: Watch out for fast-moving judicial nominees. Controlled by Republicans, the committee is approving President Bush's federal court nominees at speeds that defy common sense.

One example is Miguel Estrada, nominated to the US Court of Appeals for the District of Columbia. Nominated in May 2001, Estrada had been on a slow track, his conservative views attracting concern and criticism.

Some Republicans called Democrats anti-Hispanic for challenging Estrada. He came to the United States from Honduras at the age of 17, improved his English, earned a college degree from Columbia, a law degree from Harvard, and served as a Supreme Court clerk for Justice Anthony Kennedy.

What has raised red flags is Estrada's refusal to answer committee members' questions about his legal views or to provide documents showing his legal work. This prompted the Senate minority leader, Thomas Daschle, to conclude that Estrada either "knows nothing or he feels he needs to hide something."

Nonetheless, Estrada's nomination won partisan committee approval last month. All 10 Republicans voted for him; all nine Democrats voted against. On Tuesday Senate Democrats began to filibuster Estrada's nomination, a dramatic move to block a full Senate vote that could trigger waves of political vendettas.

It's crucial to evaluate candidates based on their merits and the needs of the country.

Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.

Further, this is a nation that believes in protecting workers' rights, especially in the aftermath of Enron. It's an America that struggles with the moral arguments over abortion but largely accepts a woman's right to make a private choice. It's an America that believes in civil rights and its power to put a Colin Powell on the international stage.

Does Estrada meet these criteria? He isn't providing enough information to be sure. And the records of some other nominees fail to meet these standards.

Debating the merits of these nominees is also crucial because some, like Estrada, could become nominees for the Supreme Court.

The choir—Democrats, civil rights groups, labor groups, and women's groups—is already singing about how modern-day America should have modern-day judges. It's time for moderate Republicans and voters to join in so that the president can't ignore democracy's 21st-century judicial needs.

[From the Wall Street Journal, Feb. 20, 2003]

SYMMETRY IN JUDICIAL NOMINATIONS

The White House has a message for Democratic senators tying up its judicial nominations: we won the election, you're thwarting the people's will.

Not quite. Never mind it was an evenly divided electorate. The selection of judges was a non-issue. George W. Bush didn't even mention the topic in his speech at the GOP's Philadelphia convention or in his acceptance remarks when he finally emerged victorious—thanks to judges—after Florida.

In two of the three debates, judicial selections weren't mentioned. In the other, candidate Bush, while ducking the question of whether all his judicial appointments would be anti-abortion, insisted he wouldn't have any litmus tests. But he declared that, unlike Vice President Gore, he would not appoint judicial activists; judges, he declared, "ought not take the place" of Congress. As the president accuses Democrats of playing politics, however, he nominates almost nothing but pro-life judges and passionate activists of a conservative stripe.

For all the emotions judicial appointments arouse on both sides, the political implications for senators are wildly exaggerated. Over the past several decades the only one who lost an election because of a judicial vote was Illinois Democrat Alan Dixon, defeated in a primary after he voted to confirm Clarence Thomas for the Supreme Court. What these battles are about is energizing the base; that's why during presidential campaigns they are retail, not wholesale, issues.

Currently, Senate Democrats are staging a mini-filibuster over the nomination of movement conservative Miguel Estrada for the U.S. Court of Appeals to the dismay of not only Republicans but many editorial writers.

How dare they employ politics! In these matters there should be a simple test: symmetry. Or, as former Clinton Solicitor General Walter Dellinger declares, "Whatever factor a President may properly consider, senators should also consider." Since ideology clearly is the guiding force behind the slate of Bush circuit court nominees, it's perfectly appropriate for Senate Democrats to use the same standard.

That's certainly the criterion Republicans used in the Clinton years. Orrin Hatch is outraged at Democrats' insistence that nominee Miguel Estrada, who refuses to express an opinion on any Supreme Court decision, be more forthcoming. Yet it was only a few years ago that the same Utah Republican was insisting on the need "to review . . . nominees with great specificity."

In 1996 Sen. Hatch decried two Clinton, judicial nominees as "activists who would legislate from the bench." Later, the then Senate Republican leader, Trent Lott, left no doubt that it was ideology that prompted his objections to the "judicial philosophies and likely activism" of prospective judges.

Judicial activism used to be a term reserved for liberals. Now much activism on the bench comes from the right, often, in the words candidate Bush used to attack liberals, in the form of judges who "subvert" the legislature. In recent years, congressional measures such as the Americans with Disabilities Act, legislation to oppose violence against women and to increase gun control have been gutted by conservative judges.

As Indiana law professor and former Clinton Justice Department official Dawn Johnson chronicled in a Washington Monthly piece last year, the right-wing Federalist Society-agenda envisions an activist judiciary that would roll back many of the guarantees enacted by Congress under the Commerce Clause and the 14th Amendment.

A contemporary example is Jeffrey Sutton, a brainy legal scholar nominated for the Fourth Circuit Court of Appeals. Mr. Sutton clearly is qualified but just as clearly would turn back the clock on protecting people with disabilities. Should senators who care about disability rights simply ignore his ideology?

The right claims that central to the Democrats' opposition to these nominees is abortion. And it's true that, more than any other issue, abortion remains a litmus test for both sides. Almost all the Bush circuit-court nominees have been pro-life and a high percentage of the Clinton appointments were pro-choice. But, as Mr. Sutton's selection shows, the issues are much broader than the disproportionate influence placed on abortion.

In the Estrada fight, some Republicans also allege an anti-Hispanic motive. Opposition to his nominees sends "the wrong message to Hispanic communities," charges Georgia Sen. Saxby Chambliss. For the record, Mr. Bush has nominated one Hispanic judge to the circuit courts; President Clinton nominated 11. Three of the Clinton nominations were killed by Senate Republicans. Were they racially motivated? That makes as much sense as the Estrada charges.

To be sure, the Democrats play the same games, though the Clinton nominees, as a whole, were nowhere near as ideological as the Bush picks. But there is some overreach; the Democrats' efforts to get Mr. Estrada's private notes when he worked in the solicitor general's office would set a bad precedent.

Thoughtful people on both sides of the aisle worry about these perpetual battles. Mr. Dellinger, for one, notes that if the focus is only on "noncontroversial." selections, the result chiefly would be courts full of "relatively undistinguished lawyers lacking any substantial record of creative scholarship or advocacy." Instead, he proposes a more constructive solution. Opposition leaders in the Senate would develop a short list of distinguished scholars and practitioners for the president to submit for the courts of appeal. There is a precedent: President Bush last year renominated Clinton nominee, Roger Gregory, the first African American on the Fourth Circuit, in to win acceptance for his other nominees.

Currently, Mr. Dellinger says if Senate Democrats proposed a "distinguished" nominee like former Solicitor General Seth Waxman for the U.S. Circuit Court, a deal could be crafted whereby he and Bush nominees Mr. Estrada and John Roberts are promptly confirmed. Republicans still would hold the upper hand, but the rightward rush would be modified.

It makes a lot of sense and would result in a better judiciary. But the activists on both sides have little interest; it wouldn't energize their bases.

[From the Rutland Daily Herald, Feb. 24, 2003]

PARTISAN WARFARE

Senate Democrats are expected to continue their filibuster this week against the appointment of Miguel Estrada, a 41-year-old lawyer whom President Bush has named to the federal appeals court in Washington, D.C.

Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee, is in the middle of the fight over the Estrada appointment. He and his fellow Democrats should hold firm against the Estrada nomination.

Much is at stake in the Estrada case, most importantly the question of whether the Democrats have the resolve to resist the efforts of the Bush administration to pack the judiciary with extreme conservative judges.

The problem with the Estrada nomination is that Estrada has no record as a judge, and senators on the Judiciary Committee do not believe he has been sufficiently forthcoming about his views. It is their duty to advise and consent on judicial nominees, and Estrada has given them no basis for deciding whether to consent.

President Bush has called the Democrats' opposition to Estrada disgraceful, and his fellow Republicans have made the ludicrous charge that, in opposing Estrada, the Democrats are anti-Hispanic. For a party on record against affirmative action, the Republicans are guilty of cynical racial politics for nominating Estrada in the first place. He has little to qualify him for the position except that he is Hispanic.

Unless the Democrats are willing to stand firm against Bush's most extreme nominations, Bush will have the opportunity to push the judiciary far to the right of the American people. Leahy, for one, has often urged Bush to send to the Senate moderate nominees around whom Democrats and Republicans could form a consensus. In a nation and a Congress that is evenly divided politically, moderation makes sense.

But Bush's Justice Department is driven by conservative idealogues who see no reason for compromise. That being the case, the Senate Democrats have no choice but to hold the line against the most extreme nominees.

Leahy has drawn much heat for opposing Bush's nominees. But he has opposed only three. In his tenure as chairman of the committee, he sped through to confirmation far more nominees than his Republican predecessor had done. But for the Senate merely to rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.

The Republicans are accusing the Democrats of partisan politics. Of course, the Republicans are expert at the game, refusing even to consider numerous nominees sent to the Senate by President Clinton.

The impasse over Estrada is partisan politics of an important kind. The Republicans must not be allowed to shame the Democrats into acquiescence. For the Democrats to give in would be for them to surrender to the fierce partisanship of the Republicans.

The wars over judicial nominees are likely to continue as long as Bush, with the help of Attorney General John Ashcroft, believes it is important to fill the judiciary with extreme right-wing judges.

The Democrats, of course, would like nothing better than to approve the nomination of a Hispanic judge. But unless the nominee is qualified, doing so would be a form of racial pandering. That is the game in which the Republicans are engaged, and the Democrats must not allow it to succeed.

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to my distinguished colleague. I noted that he mentioned the Hispanic National Bar Association's past presidents' statement. I have seldom read a statement that is so absolutely bankrupt as this statement. I have seldom read anything that has disgusted me as much as these past presidents of this Hispanic Bar Association in this letter. I have never seen less backing for a letter than what these people have signed off on.

First, let me note for the record that the Hispanic National Bar Association supports Mr. Estrada's nomination. So these people have gone way off the reservation. They may have been past presidents, but they should never be allowed to be a president of this bar association again. They ought to throw them out of the bar association because they entered into politicization of this nominee, in contradiction to what their own bar association has done in endorsing him. The bar association speaks for its many members, not these 15 former presidents. We know why they have done this, because they are 15 partisans. It is disgraceful.

Let me read part of this letter—"Based upon our review and understanding. . . ."

What kind of review? They talked to their friends on the Democratic side? Is that where they got this stuff? Most of which is absolutely false and distorted:

> Based upon our review and understanding of the totality of Mr. Estrada's record and life's experiences, we believe that there are more than enough reasons to conclude that Mr. Estrada's candidacy falls short in these respects.

Listen to this:

> We believe for many reasons including his virtually nonexistent written record. . . .

Could I make a little point here that I think needs to be made? These are the appellate briefs in the 15 Supreme Court cases. There has not been a nominee before this Senate in recent years who has been able to have that type of illustration of what they do.

These inane people who have entered into partisan politics have disparaged a man who is 10 times better than they are. It is unbelievable the lengths and the depths to which they will stoop to betray one of their own fellow Hispanic people.

I hope the rest of the members of the Hispanic Bar Association will rise up and let them know how for off the mark they are.

Listen to this:

> We believe that for many reasons including: his virtually nonexistent written record, his . . . judicial and academic teaching experience—

This is the written stuff that they can't match—very few of them—or even come close to matching. I don't think any of them can. The reason I don't think so is because not many people in this world have that type of a record—a written, open record that anybody can read and find. There are not many attorneys living today who have argued 15 cases before the U.S. Supreme Court and have the record of winning 10 of them.

They say he doesn't have any academic teaching experience. You mean you can't be a judge?

Let us put it this way. Since there have been many academics who have gone on the Federal bench in circuit courts of appeals, the Supreme Court, and district courts, do you mean the Hispanics can't go on the bench unless they have academic and teaching records?

That is what this seems to say by 15 former presidents of the Hispanic Bar Association which has endorsed him. They have gone against their own organization. It is hard to believe.

Then they said:

> We believe that for many reasons including: his virtually nonexistent written record.

Look at that record. He has verbally expressed an unrebutted extreme view?

I haven't heard an extreme view throughout this whole process, and we have a transcript that thick of questions by our friends on the other side, and ourselves really. Extreme views? I haven't heard any extreme views. I don't think anybody has made a case that he has extreme views.

Then the letter says, "his lack of judicial or academic teaching experience—

OK. What they are saying—these Hispanic Bar Association presidents—is that hardly any Hispanics will ever qualify for the circuit court of appeals or even the district court because they haven't had any judicial experience or teaching experience. They are condemning their own people. What a ridiculous, dumb statement. I don't swear. But I'll be darned. I am having a tough time not swearing here.

Then it says in parentheses:

> (against which his fairness, reasoning skills and judicial philosophy could be properly tested)

What about the five of the eight on the current court who haven't any judicial experience? And I don't know many of them who have had any teaching experience. You can go through dozens of Clinton appointees who never had any either.

Why the double standard for Miguel Estrada? Why? I am having a rough time answering that question.

There are some answers which I hope aren't true. But I am starting to think they are true.

It says:

> . . . his poor judicial temperament.

Since he has never been a judge, how do they know what his judicial temperament is? The fact is that none of them—I don't believe any of them—even know Miguel Estrada. And if they do, they know he has a decent temperament.

Do you know where they get that? They get that from some of our friends on the other side who believe that Paul Bender, who we have discredited, I believe, fairly and honestly, who gave him the highest possible ratings when Miguel was his junior, when he was Miguel's supervisor in the Solicitor General's Office, and then off the cuff says he doesn't have a judicial temperament, in essence.

Who are you going to believe? The things that he put in writing at the time when they were really important and when they really made a difference or the off-the-cuff remarks that a partisan Democrat liberal—about as liberal as you can get—would say to try to scuttle a nomination? These guys buy it—lock, stock, and barrel. What kind of lawyers are they? Then they say:

> . . . his total lack of any connection whatsoever to, or lack of demonstrated interest in the Hispanic community.

How do they know that? They are prejudging this man without knowing all the people he has met with and worked with and for whom he has been an example. Every Hispanic young person can look up to Miguel Estrada because he is the embodiment of the American dream.

My gosh. This is the most biased, uninformed, stupid, dumb letter I have ever read, and it is done for purely partisan purposes against a fellow Hispanic. I can't believe it. I couldn't believe it when I saw this.

Then it says:

> . . . his refusals to answer even the most basic questions about civil rights and constitutional law.

Give me a break. He spent as much if not more time than almost any nominee we have had over the last 27 years to the circuit court of appeals. We simply did not treat people as this man is being treated by some on the other side—not everybody. What do they know about his knowledge of civil rights and constitutional law? I happen to believe Miguel Estrada will be one of the champions for civil rights, and he is certainly one of the tough lawyers with regard to constitutional law—something I doubt very many of these past presidents had much experience in. Maybe they do. I would like to hear from them if they do. But I am disgusted with them. If they do, that makes it even worse because they have misjudged him if they have the experience in these areas—and I doubt that they do.

Then they say:

> . . . his less than candid responses to other straightforward questions of Senate judiciary members.

Where did they get that? I bet none of them have read this transcript. I doubt that many of them saw the hearings. Where would they get that? It certainly wasn't from this side, I guarantee you, because we saw him answer the questions. He just didn't answer them the way our colleagues on the other side of the aisle wanted him to answer them. They couldn't lay a glove on him. That is why this is a phony request for confidential and privileged materials from the Solicitor General's Office—the attorney for our country and for the people in this country.

Let me tell you that when I practiced law, my files were confidential, too. There is no way I would have given them to anybody. There is no court in the land that would force me to give them to anyone. They are privileged; that is, since I am an attorney. Can you imagine the privilege the Solicitor General's Office can assert—and they have.

Like I said, seven former Solicitors General—four of whom were Democrats—have said this is ridiculous. Yet it keeps coming up. It is a red herring. It is a double standard. It is a standard applied to Miguel Estrada that has never in history been applied to anybody else.

The letter request was to give up his recommendations on appeals, certiorari matters and amicus curiae matters.

Then it says:

> . . . and because of the administration's refusal to provide the Judiciary Committee the additional information and cooperation it needs to address these concerns.

Give me a break. He has made himself available. Any Democrat who wants to talk to him he will talk to. A number of them refused to even talk to him. Why is that?

So they are trying to do justice here? Why is that so? Why is this Hispanic independent thinker being treated this way? I suggest that it is because he is

Hispanic and he is an independent thinker. He doesn't just toe the line.

I am disgusted. Some of these people I know. They should have done better by their fellow Hispanics. They should have thought twice before putting their names on this piece of garbage called a letter by past presidents. It is a disgrace to the Hispanic community. It is a disgrace to the Hispanic National Bar Association and the rest of the membership that is behind Miguel Estrada. And it is a disgrace to them personally to do this type of disgraceful thing in a miserably partisan way.

I don't want to spend any more time on it. It doesn't deserve it. I didn't mean to be so aggravated, but these types of things just aggravate me to death.

I fought very hard for Clinton's nominees. The other side knows it. I was very fair to their nominees. They know it. Was everyone fair to them? Not everybody, but I was. I expect fairness to be given to our nominee and to their President's nominees.

Finally, I didn't agree with President Clinton's nominees' ideology in probably none of the cases—none of the nominees. But that wasn't the issue. The issue was whether they were qualified. And there has very seldom been a person as qualified as Miguel Estrada. All you have to do is point to the ABA's unanimous well-qualified rating, the highest rating they could possibly give. They are tough.

Now, having said that, I am really disappointed in my colleagues on the other side because they have tried to say the standing committee of the American Bar Association was prejudiced and stacked in coming up with this rating. They do not have a good argument to make, so they make a phony argument.

I want to respond to statements by one of my Democratic colleagues yesterday, suggesting that Mr. Estrada's ABA rating was somehow rigged. I hate to say it, but this is stooping low, too, to make that kind of a statement.

Before I address these statements head on, I think it is first appropriate to lay the predicate, to lay the significance of Mr. Estrada's ABA rating.

Let me just look at this chart. This chart is entitled "Senate Democrats Praise the ABA."

> [The] ABA evaluation has been the gold standard by which judicial candidates have been judged.

That was Senator PATRICK LEAHY in March 2001.

> What ABA is simply telling us, and has historically, is whether or not a prospective judge is competent.

That was Senator TOM DASCHLE on March 22, 2001.

> [I] fear . . . that the Judiciary Committee will be less able than the ABA to discern a nominee's legal qualifications.

That was Senator DIANNE FEINSTEIN on March 31, 2001, the distinguished Senator from California. She is right.

> The ABA, with its extensive contacts in the legal community all across the country, is the best organization to evaluate the integrity, professional competence and judicial temperament of potential nominees.

That was Senator RUSSELL FEINGOLD in July 2001.

> [T]he ABA . . . has always been impartial. . . . [The ABA is] hardly partisan or ideological. . . . The ABA is the national organization of all lawyers: Democrats, Republicans, liberals, conservatives.

That was Senator CHARLES SCHUMER on May 9, 2001.

We have had our problems with the ABA when there were, it seemed to me, prejudicial decisions from time to time made. And I have had some real problems with them. But I have to say, they certainly have cleaned up their act, and I said this before the end of the Clinton administration, even though I have not been happy with any one single organization having a vetting responsibility, which is what some of my colleagues always wanted the ABA to have.

Now, let's consider Miguel Estrada. The ABA rated him "well qualified" unanimously—that is the highest possible score—at around the time my Democratic colleagues heaped praise on the ABA. But now, 2 years later, some of my friends across the aisle apparently want to adopt a new rule: ABA ratings are the gold standard—unless we don't like the nominee.

It is against this backdrop that one of my Democratic colleagues, the distinguished minority whip, now asserts that respected Washington lawyer Fred Fielding somehow tricked the ABA into rating Miguel Estrada unanimously well qualified.

Now, I have great respect and loving friendship for my friend from Nevada. Everybody knows that. I care for him deeply. But I could hardly believe my ears when I heard that one. I think it is important to set the record straight, and so here are the facts. I have to presume my colleague just did not know the facts and, therefore, went off on this tangent, and I hope he will withdraw that statement once he hears what the facts are.

Mr. Fielding was a member of the ABA standing committee that rates judicial nominees when Miguel Estrada was unanimously rated well qualified. Mr. Fielding left the ABA committee in November 2001. He did not become affiliated with Boyden Gray's Committee for Justice until August 2002. In fact, the Committee for Justice was not even founded until August 2002. There is no way the Committee for Justice could have influenced Mr. Fielding's duties at the ABA because the Committee for Justice did not even exist at the time.

From 1996 to 2002, when he was on the ABA committee, Fred Fielding consistently evaluated nominees fairly and with an open mind. He voted to rate many of President Clinton's circuit court nominees "well qualified," including the following:

Allan Snyder, the DC Circuit Court of Appeals; Robert Katzmann, the Second Circuit Court of Appeals; Marjorie Rendell, the Third Circuit Court of Appeals; Maryanne Barry, the Third Circuit Court of Appeals; Robert Cindrich, the Third Circuit Court of Appeals; Stephen Orlofsky, the Third Circuit Court of Appeals; Andrew Davis, the Fourth Circuit Court of Appeals; Alston Johnson, the Fifth Circuit Court of Appeals; Ronald Gilman, the Sixth Circuit Court of Appeals; Kathleen McCree Lewis, the Sixth Circuit Court of Appeals; Ann Claire Williams, the Seventh Circuit Court of Appeals; Susan Graber, the Ninth Circuit Court of Appeals; James Duffy, the Ninth Circuit Court of Appeals; Richard Tallman, the Ninth Circuit Court of Appeals; Raymond Fisher, the Ninth Circuit Court of Appeals; Stanley Marcus, the Eleventh Circuit Court of Appeals; Frank Hull, the Eleventh Circuit Court of Appeals—all of those rated by Mr. Fielding as unanimously well qualified.

You can hardly say this man was as was described yesterday; in fact, not at all. Anybody who knows Fred Fielding knows he is an honest man. It is offensive to have that type of characterization made, even in the height of a very political battle, which this appears to be—well, to be. I could have said 2 weeks ago: to be coming.

Now, as that list illustrates, Mr. Fielding voted to give numerous Clinton circuit nominees the highest rating possible. If he had been promoting a partisan agenda, he would not have voted to find a single Clinton nominee well qualified, or he certainly would have found a number of those, perhaps, not well qualified—even though they deserved the qualification they got—if he was partisan.

There is simply no reason to believe his vote to find Miguel Estrada well qualified reflected anything other than his unbiased, nonpartisan assessment of Mr. Estrada's fitness for the Federal bench.

Moreover, there is simply no way Mr. Fielding alone could have been responsible for the ABA's unanimous decision to rate Miguel Estrada "well qualified." The ABA's rules make clear that every member of the ratings committee must evaluate each nominee independently:

> After careful consideration of the formal report and its enclosures, each member submits his or her rating vote to the Chair.

Now, that is an insult to the other members of the standing committee for somebody to imply they would all pay attention to a "corrupt" Mr. Fielding, if that were even possible, which, of course, it is not.

Mr. Fielding's background as a Republican was more than offset by the committed Democrats who served on the ABA committee at the time and who joined in the unanimous decision to give Miguel Estrada a well-qualified rating.

For example, according to public records, the chairman of the ABA committee at the time Mr. Estrada was rated well qualified contributed to the election campaign of Senator SCHUMER. This individual agreed that Miguel Estrada is "well qualified," the highest rating possible.

Now, I am not going to accuse the chairman of the ABA committee at the time, because he donated to Senator SCHUMER's campaign—which he had every right to do—I am not going to accuse him of being improper, as I believe the implication was for Mr. Fielding.

Get this point. The ABA's Second Circuit representative contributed to Senator Robert Torricelli's reelection campaign and to the New Jersey Democratic State Committee. This individual agreed that Miguel Estrada should be given the highest rating: "well qualified," unanimously, the highest rating.

I am not going to say that person was biased because that person gave to Senator Torricelli. It is apparent he was not biased.

How about the ABA's Fourth Circuit representative? He made political contributions to Senator CHARLES SCHUMER, Senator TOM DASCHLE, Senator Jean Carnahan, former Vice President Al Gore, Representative JERROLD NADLER, Representative MARTIN FROST, Representative ANTHONY WEINER, Representative ELLEN TAUSCHER, and Representative CHARLES RANGEL. This individual agreed that Miguel Estrada is "well qualified." I do not think these people would be influenced by some Republican saying: Well, we ought to pull a fast one here and get this fellow well qualified when he was not worthy of being well qualified.

There is no question that Fred Fielding is a Republican. There is no question that he supports Republicans politically. But there is also no question he is a person of impeccable honor and integrity who has served as White House Counsel and that he would do what is right on this committee, just like these Democrats did what was right in rating Miguel Estrada as well qualified.

How about this: The ABA's Sixth Circuit representative—this is on the standing committee—contributed to the Democratic National Committee, Senator FRANK LAUTENBERG, Senator CHARLES SCHUMER, former Senator Bill Bradley, Senator EDWARD KENNEDY, Representative RICHARD GEPHARDT, and the Arizona State Democratic Central Executive Committee. Now, this individual agreed that Miguel Estrada is "well qualified," the highest rating the standing committee could give. He could not be a more partisan Democrat, but I believe he is doing the job fairly on the committee.

The fact that he supports Democrats, I wish he didn't as much as a Republican, but the fact that he supports Democrats I find no problem with.

How about this one: The ABA's Seventh Circuit representative contributed to Emily's List, the feminist political organization; Voters for Choice, one of the pro-abortion organizations; Senator PATTY MURRAY; former Representative Geraldine Ferraro, former Senator Carol Moseley-Braun; Senator MARY LANDRIEU; Senator Jean Carnahan; Senator BARBARA MIKULSKI, and Senator DICK DURBIN. Yet he voted "well qualified." So Fielding is out of line? Come on. That is phony.

How about the ABA's Eighth Circuit representative. He contributed to Senator JOSEPH BIDEN, Senator HILLARY CLINTON, Senator Paul Wellstone, Senator Jean Carnahan, and former Vice President Al Gore. This individual agreed that Miguel Estrada is "well qualified." I don't think he had any bias in that. I don't think Fred Fielding had all that influence with all these big-time Democrats. I really don't. I don't think anybody in their right mind does.

How about the ABA's Eleventh Circuit representative. He contributed to Senator Max Cleland. This individual agreed that Miguel Estrada is "well qualified." Did he have a bias? Do you think he was influenced by Fred Fielding?

How about the ABA's Federal circuit representative who contributed to Emily's List, the pro-feminist list; Senator Chuck Robb; the Democratic National Committee. This individual agreed that Miguel Estrada is "well qualified." That is just the beginning of the story.

At the start of the 108th Congress, the ABA then reaffirmed Mr. Estrada's unanimous well-qualified rating. It appears that the Democrats on this year's ABA committee are equally enthusiastic about Miguel Estrada's nomination.

The ABA's DC Circuit representative—Fred Fielding's successor—contributed to the Democratic National Committee and Emily's List. This individual agreed that Miguel Estrada is "well qualified."

The ABA's Federal circuit representative contributed to Senator HILLARY CLINTON, the Irish American Democrats, Representative NANCY PELOSI, the Democratic National Committee, Senator JOHN BREAUX, former Vice President Al Gore, and the Democratic Congressional Campaign Committee. This individual agreed that Miguel Estrada is "well qualified."

I wonder why all these Democrats on the ABA's standing committee find him well qualified while our friends on the floor are filibustering this well-qualified individual? I don't understand it. It seems to me to be a double standard.

The ABA's Fourth Circuit representative contributed to Senator JOHN EDWARDS in the North Carolina Democratic Victory Fund and Bill Bradley. This individual agreed that Miguel Estrada is "well qualified."

The ABA's Eighth Circuit representative contributed to the Missouri Democratic State Committee and Senator Jean Carnahan. This individual agreed that Miguel Estrada is "well qualified." There are a lot of Democrat leaders who contributed to a lot of Democrats running for office who all found Miguel Estrada well qualified, unanimously well qualified.

What is clear from this recitation of political contributions is that in Mr. Estrada's case, the attorneys on the ABA committee put aside their political views and provided the Senate with a neutral and dispassionate analysis of his qualifications.

Fred Fielding, of course, did not hijack the ABA process, nor was Mr. Fielding's participation in that process "unethical," as my Democratic colleagues suggested.

It is time to get rid of these phony arguments. In the case of Miguel Estrada, the process worked just as the ABA intended. It took a lot of very partisan Democrats acting in a nonpartisan way fulfilling their duties on the ABA standing committee to find him well qualified, not just when Mr. Fielding was on the committee but also the second time in this Congress.

That is pretty important stuff. I have to respond to Senator LEAHY's remarks that Miguel Estrada handled only one pro bono case. That is not accurate. I am sure my colleague must have overlooked the case of Campaneria v. Reid. Miguel Estrada represented pro bono, without fee, a criminal defendant seeking to vacate his conviction on grounds that the admission of his confession at trial violated the Miranda rule. The two judges on the Second Circuit panel hearing the case agreed with Miguel Estrada that his client's right to remain silent had been violated but ultimately ruled that the error was harmless. One judge dissented, arguing that the admission of Mr. Campaneria's confession was not harmless. Miguel Estrada spent countless pro bono hours on that case which further illustrates his commitment to equal access to justice for all.

Since Senator LEAHY brought up Mr. Estrada's pro bono work, let me remind him of Mr. Estrada's work in Strickler v. Green. This is an important case as well. It is important to bring it up in light of what has been said. Miguel Estrada represented, free of charge, Tommy David Strickler, who was convicted of abducting a college student from a shopping center and murdering her. Miguel Estrada devoted hundreds of hours to Mr. Strickler's appeal without being paid. Ultimately, the Supreme Court held that although a Brady violation had occurred when the prosecution withheld exculpatory evidence from the defense, the error was harmless. Mr. Strickler was accordingly executed, but it does not negate the fact that Miguel Estrada gave that kind of service free.

It was a legitimate question, too. The court did not rule for Miguel Estrada in the case, but he did do what he has been accused of not doing, and that is giving pro bono service for a person in need.

I would like to read a portion of a letter the committee received from Mr. Estrada's cocounsel in the case, Barbara Hartung:

> [Miguel Estrada] values highly the just and proper application of the law. . . . Miguel's respect for the Constitution and the law may explain why he took on Mr. Strickler's case, which at the bottom concerned the fundamental fairness of a capital trial and death sentence. I should note that Miguel and I have widely divergent political views and disagree strongly on important issues. However, I am confident that Miguel Estrada will be a distinguished, fair and honest member of the federal appellate bench.

Why do we have these arguments that are not right? Why are we doing that to this man? Why is it that this Hispanic man who is an independent thinker and who has an amazing record for a person of his age, who has the qualifications to be on the Circuit Court of Appeals for the District of Columbia, why are we doing this to him? Why the double standard? Nobody else has been treated this shabbily, especially by these past presidents of the Hispanic Bar Association. Keep in mind that Hispanic National Bar Association supports Miguel Estrada. Yet these people gratuitously signed this ridiculous letter. I hope they feel ashamed of themselves. They ought to be.

The Hispanic community ought to tell them to be ashamed of themselves. I believe they will. I think that is going on right now. The Hispanic people are starting to catch on on this and what is going on. It just plain isn't fair. It just plain isn't right. It just plain is not a good thing to do to filibuster a Federal judicial nominee. It just isn't. We have always had some who wanted to do it, but we on this side have always been able to stop them. This is the first true filibuster that we have had on a Federal judicial nominee.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Nevada.

Mr. REID. Mr. President, I know there are others who wish to speak, but I wanted to take a minute to talk about my friend's comments about Mr. Fielding.

I think that while my name was mentioned—and I have the greatest respect for my friend from Utah. We are close personal friends. Our families are friends. We have been in each other's homes. There is nothing personal about this. This is a partisan matter we are bringing before the Senate.

Mr. President, the political contributions that people make is certainly very different from being an inside political operative, as Mr. Fielding was. In fact, for lack of a better way to describe him, he was an inside guy for the Republicans and had been for many years. I will list in a minute the many things he had done.

Mr. President, the more I hear about the ABA, the more convinced I am the Republicans were right when they said let us not have the ABA involved in this. I think those people who said that were absolutely right. I didn't know as much about the ABA as I do now. I practiced law for a long time before I came here. I was a trial attorney. I didn't belong to the ABA. I thought it was a bad organization then, and the more I hear about it today, the worse I think it is. I think what they have done on these judicial nominations—Democratic and Republican—reeks, smells. There are thousands of lawyers in the country, thousands of members of the ABA. Couldn't they get people who are selecting nominees who could pass the smell test? In this one, this ABA qualification should be thrown right in the trash.

Mr. President, it is not the Senator from Nevada who feels Mr. Fielding was wrong in what he did. Here is an article out of a newspaper dated yesterday, by Tom Brune. The headline is "Estrada Endorser Had Partisan Role." It goes on to say—this is a news article, not an editorial:

> The lawyer who recommended the American Bar Association's highest rating for controversial appellate judge candidate Miguel Estrada took part in partisan Republican activities during his term as a nonpartisan judicial evaluator for the Bar, according to records and interviews.

The man who wrote this column said what I quoted. He says:

> While serving on the ABA's nonpartisan Standing Committee on the Federal Judiciary, veteran Washington lawyer Fred F. Fielding also worked for Bush-Cheney Transition Team, accepted an appointment from the Bush administration and helped found a group to promote and run ads supporting Bush judicial nominees, including Estrada.

An editorial comment here, Mr. President. That is only part of his political involvement. Let me read part of it. There are other things.

> Fielding cofounded the Committee for Justice, with Bush confidante and former White House counsel C. Boyden Gray. They founded this organization to help the White House with the public relations end of its effort to pack the bench and to run ads against Democrats. . . .

In addition, Fielding has a long career as a Republican insider. He served as Deputy Counsel to President Richard Nixon. He then served on the Reagan-Bush campaign in 1980, the Thursday Night Group. He served on the Lawyers for Reagan advisory group, the Bush-Reagan transition, 1980–1981. He served—this is a dandy—he was conflict of interest counsel. That is a laugher. He worked with the Office of Government Ethics, which is also a joke. He served on the White House transition team. He served in the Office of Counsel to the President, as deputy counsel to President Reagan. He served on the Bush-Quayle campaign in 1988; as Republican National Convention legal advisor; as campaign counsel to Senator Quayle; and as deputy director of the Bush-Quayle transition team. He served on the Bush-Quayle campaign, 1992, as the senior legal advisor conflict of interest counsel and the Republican National Committee advisor. He served as the legal advisor to the Dole-Kemp campaign, 1996.

Mr. President, in short, the Bush White House could not have handpicked somebody with better partisan credentials than Fielding to evaluate his DC Circuit Court nominees.

The ABA should be ashamed of themselves. Lawyers are trying to have a reputation that is good and does not have conflicts of interest, that is ethical. This thing reeks.

Estrada graduated with honors from Harvard. You cannot take that away from him. He is a fine lawyer, but this ABA thing, take it away because it means nothing. How can one have confidence that Mr. Fielding did not paint a very rosy picture for partisan reasons.

The article by Mr. Brune goes on to say:

> Fielding evaluated Estrada in the month after President George W. Bush nominated him on May 9, 2001, ABA officials said. That was just weeks after Fielding vetted executive appointments for Bush's transition team and a year before he helped start the partisan Committee for Justice, records show.
>
> Contrary to what was said a few minutes ago, Fielding did cofound this group while a member of the ABA evaluation committee.

The article continues:

> The overlap has thrust Fielding—and his evaluation . . .—into the heated political battle over Estrada's nomination. . . .
>
> . . . On February 12, Senator Harry Reid charged that Fielding had a conflict.

I said at that time, and there is a quote in the newspaper:

> Doesn't Mr. Fielding's dual role—purportedly "independent" evaluator and partisan foot soldier—violate ABA rules?

As the investigative reporter notes:

> Those rules say no Standing Committee member should participate in an evaluation if it would give rise to the appearance of impropriety or would otherwise be incompatible with the committee's purpose of a fair and nonpartisan process.

It goes on to say, "Former ABA President Robert Hirshon said he was concerned when in late July 2002 he read reports that Fielding had joined

Republican C. Boyden Gray to start the Committee for Justice."

> "That raised some concerns in my mind," said Hirshon, "given the fact that our committee has been tarred by both conservatives and liberals as poster boys for the other side. . . ."
>
> He called Roscoe Trimmier, Jr., then the Standing Committee chair, and asked him to talk with Fielding. "I don't see how you can do both," Hirshon said. If Fielding became involved in Gray's group, he couldn't serve as an ABA evaluator again, he said.
>
> . . . Fielding is still listed as a board member of the Committee for Justice.
>
> "I don't see the conflict," Gray said—

I bet he didn't. He helped form the Committee for Justice.

He added that

> Fielding didn't vet Estrada while on the transition team and left the ABA post soon after the group formed.
>
> But Nan Aron, executive director of the liberal Alliance for Justice, which opposes Estrada, charges that Fielding is too partisan to do a fair evaluation.

The article notes:

> Fielding was President Ronald Reagan's White House counsel—

And some of the things I have already put into the RECORD.

Listen to this fact uncovered by the reporter:

> In May, Bush appointed Fielding to an international center that settles trade disputes.

He gets $2,000 a day plus expenses for this.

The article also notes that:

> last fall, President Bush thanked Fielding publicly during a rally for his judicial nominees.

I bet he did.

The article also notes that Burbank, a Professor of ethics at the University of Pennsylvania says Fielding's activities raise questions of appearances, which would cause more damage to the ABA. Ironically, Bush removed the ABA from his long-held role prescreening judicial nominees because of the evaluators' perceived liberal bias.

> "In light of the controversy concerning the proper role of the ABA Standing Committee," Burbank said, "it seems to me to be a shame to structure the process in such a way that reasonable people might be concerned."

Mr. President, let me simply say that the evaluation by Fred Fielding is a scam, it is unfair, it is not right. There certainly is an appearance of unfairness and partisanship. If you want to debate Miguel Estrada based on this ABA qualification, I will do that all day long. There are many positive things Estrada has. This is not one of them. This was an evaluation done by a very partisan person, who has only recommended well qualified ratings for Bush nominees in D.C.

I repeat what I said a few minutes ago. The more I learn about the ABA, the less I feel inclined to support the ABA for anything they want. In this situation, if I ever have anything to do with it in the future, the ABA should be eliminated. It would be one less process we would have to go through to get people on this floor. The ABA's "gold standard", as far as I am concerned, is tarnished, and rightfully so.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am disappointed. I just read over all of the Democrats on the Standing Committee who have contributed to Democratic Party politics. I have never accused any of these people. Along with these are these judges on this chart. What does that mean? That he wasn't right when he found unanimously well qualified all of the Clinton judges, or nominees?—that is not right—when he voted for Miguel, along with all of these Democrats I have listed who have contributed?

All I can say is I think we have answered the points. I agree no outside body should be a voting instruction. I have always felt that. But I have to say the ABA has been part of the process, whether we like it or not, for a long time. There were plenty of Democrats who voted for Miguel Estrada as well qualified.

The PRESIDING OFFICER. The Democratic leader.

DEALING WITH ECONOMIC PROBLEMS

Mr. DASCHLE. Mr. President, I was home in South Dakota over the last week, and I had the opportunity to talk with farmers and ranchers, businesspeople, educators, and government leaders. What I bring back from those many discussions is the strong belief that if there is anything we do in the Senate over the course of the next several weeks, it ought to be addressing the economic problems that our country is facing.

I wish I had an accurate count of the number of times in various ways business men and women and farmers and ranchers asked the question: So why are you spending all of this time on a judge when our country is in such economic disarray?

This is an important issue, the Estrada nomination, but we have said from the beginning, and I think we will be able to continue to say with authority, that there will not be any resolution until the Solicitor General documents are released and until Mr. Estrada is more forthcoming with regard to his positions.

We can take up time on the Senate floor week after week, or we can put it aside, make some decision with regard to whether or not there will be some reconciliation on that issue and answer the question posed by so many South Dakotans to me last week: When will we address the economy? When will we recognize that there is a lot more productive use of the Senate's time than an unending debate about Miguel Estrada?

They do not understand why we are stymied and why we are unresponsive to the growing concern they have about the direction the economy is taking.

There is a growing credibility gap between what the President and the administration says and what they do, between their rhetoric and their reality. The President has taken occasion to go around the country to talk about his concern for the economy. On several occasions over the last couple of weeks, he has made his speeches about his concern for the economy and his approach through his tax cuts. I have to say, if he cared, if he was concerned, he would ask the Senate to take up this matter immediately. It will not be a day too soon.

A report was released this morning that said consumer confidence is now at a 10-year low. Consumer confidence, as registered and reported through its index, has plummeted to 64 from a revised 78 just last month. That is the lowest rating since 1993, 10 years. Unemployment is rising. We have seen an increase in the number of unemployed by 40 percent. We now have 8.3 million Americans out of work and 2.5 million private sector jobs have been lost just in the last 2 years. The unemployment spells are lengthening, wage growth is now stagnant, and the shortage of jobs has slowed wage growth so that only those at the very top are still experiencing wage increases that outpace inflation. We now have the worst job creation record in 58 years, while State budgets continue to be plagued with deficits of close to $70 billion. Some have reported even more than that.

We have an economic crisis that is not being addressed, and while that economic crisis grows, there is another concern expressed to me last week by scores of South Dakotans who are our first responders. Our fire departments, our police departments, those involved in crisis management all tell me they haven't a clue as to what they would be required to do should some emergency come about. There is no coordination. There is absolutely no training.

When I asked them last week, What would you suggest I go back and tell the President and my colleagues, they said: Understand that unless we have training, unless we have communications equipment, unless we have more of a coordinated effort to bring us into the infrastructure required for response, we will not be able to live up to the expectations of the people right here. Help us.

We have attempted to help those first responders over and over: last December, with $2.5 billion that the President said we could not afford; last month with $5 billion that the President, once again, said we could not afford. You tell those first responders that we cannot afford providing them the resources to do their job when we look at what has happened in just the last 48 hours in our basing arrangements with Turkey. According to press reports, we can afford up to $6 billion in grants and $20 billion in loan guarantees for Turkey, but for some reason we cannot afford providing homeland and hometown assistance—direct, coordinated help—to provide the training and communication and coordination required. That is a credibility gap that I think this President needs to address.

I hope we can set aside this issue of Mr. Estrada and deal with the issue about which our people, regardless of geography, are concerned. The President has a plan, Democrats have proposed a plan, and there is a significant difference between the two. There, too, we find a credibility gap.

An article was written in the New York Times that appeared this morning by David Rosenbaum entitled "The President's Tax Cut and Its Unspoken Numbers." I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 25, 2003]

THE PRESIDENT'S TAX CUT AND ITS UNSPOKEN NUMBERS

(By David E. Rosenbaum)

WASHINGTON, Feb. 24.—The statistics that President Bush and his allies use to promote his tax-cut plan are accurate, but many of them present only part of the picture.

For instance, in a speech in Georgia last week, the president asserted that under his proposal, 92 million Americans would receive an average tax reduction of $1,083 and that the economy would improve so much that 1.4 million new jobs would be created by the end of 2004.

No one disputes the size of the average tax reduction, and the jobs figure is based on the estimate of a prominent private economic forecasting firm.

But this is what the president did not say: Half of all income-tax payers would have their taxes cut by less than $100; 78 percent would get reductions of less than $1,000. And the firm that the White House relied on to predict the initial job growth also forecast that the plan could hurt the economy over the long run.

The average tax cut (the total amount of revenue lost divided by the total number of tax returns) is over $1,000 because a few rich taxpayers would get such large reductions. For households with incomes over $200,000, the average cut would be $12,496, and the average for those with incomes over $1 million would be $90,222.

But the cut for those with incomes of $40,000 to $50,000, according to calculations by the Brookings Institution and the Urban Institute, would typically be $380. For those with incomes of $50,000 to $75,000, it would be $553.

The president's jobs figure was based on a preliminary analysis by Macroeconomic Advisers, of St. Louis. The firm, to whose services the White House subscribes, issued projections in January concluding that by raising disposable income, bolstering stock values and reducing the cost of capital, the president's program would lead to 1.365 million new jobs by the end of next year.

But the White House has never mentioned the caution in the second paragraph of the firm's report. The forecasters predicted that if the tax cuts were not offset within a few years by reductions in government spending, interest rates would rise, private investment would be crowed out, and the economy would actually be worse than if there had been no tax changes.

The president has not proposed spending reductions that would offset the tax cuts. To the contrary, the administration has argued that the budget deficits resulting from the cuts would be too small to harm the economy.

Another argument that administration officials make regularly is that under the president's plan, the wealthy would bear a larger share of the nation's tax burden than they do now. A table released last month by the Treasury's office of tax analysis showed that people with incomes over $100,000 would see their share of all income taxes rise to 73.3 percent from the current 72.4 percent.

At the same time, the table showed, taxpayers with incomes of $30,000 to $40,000 would get a 20.1 percent reduction in income taxes, and those earning $40,000 to $50,000 would get a 14.1 percent cut.

The problem with figures like those is that a large percentage of a small amount of money may be less important to a low- middle-income family's lifestyle than a small percentage of a large amount of money would be to a rich family. For example, a $50 tax cut would be a 50 percent reduction for a household that owed only $100 in taxes to start with, but that small amount of money would not significantly improve the family's well-being.

A better measure may be the increase in after-tax income, or take-home pay, that would result from tax cuts. According to data from the Joint Congressional Committee on Taxation, the tax reduction of $380 for a family with an income of $45,000 would amount to less than 1 percent of the household's after-tax income. But the $12,496 tax cut received by a family with an income of $525,000 would mean a 3 percent increase in money left after taxes.

The president and his advisers also offer a variety of incomplete statistics to bolster their proposal to eliminate the taxes on most stock dividends.

Among the points they make are that more than half of all taxable dividends are paid to people 65 and older, that their average saving from eliminating the tax on dividends would be $936, that 60 percent of people receiving dividends have incomes of $75,000 or less and that up to 60 percent of corporate profits are lost to income taxes paid by either the companies or the stockholders.

All that is true, but here is a more complete picture:

Only slightly more than one-quarter of Americans 65 and older receive dividends. Two-thirds of the dividends the elderly receive are paid to the 9 percent of all elderly who have incomes over $100,000.

Tht Tax Policy Center at the Brookings Institution and the Urban Institute calculated that the average tax cut from the dividend exclusion would be $29 for those with incomes of $30,000 to $40,000 and $51 for taxpayers with incomes of $40,000 to $50,000.

On the other hand, the two-tenths of 1 percent of tax filers with incomes over $1 million (who have 13 percent of all income) receive 21 percent of all dividends, and the Tax Policy Center figured that their average tax reduction from the dividend exclusion would be $27,701. For taxpayers with incomes of $200,000 to $500,000, the typical tax cut from the exclusion was calculated at $1,766.

In instances where both the corporation and the shareholder are paying taxes at the maximum rate, it is possible, as the administration maintains, for 60 percent of the profits to be taxed away. But calculations based on I.R.S. data and performed by Robert S. McIntyre of the nonpartisan Citizens for Tax Justice show that on average, only 19 percent of corporate profits are paid in taxes by companies and shareholders combined.

Mr. DASCHLE. Mr. President, the President talks about his plan providing 92 million Americans with an average tax reduction of $1,083, and yet with closer scrutiny and attention, with a more careful review of the facts, we find that is not the case at all. That is like Bill Gates and TOM DASCHLE averaging their income. If he and I averaged our income, mine would be somewhere around $39 billion. I only wish I had $39 billion to average with Bill Gates, but I do not. But that is the method this President is using to provide these average numbers with regard to the beneficiaries of his tax cut.

Here are the facts: 78 percent of Americans are going to get less than $1,000, and over half of all taxpayers will get less than $100 under the President's plan. That is right, less than $100. That is all more than half of all taxpayers will receive under the President's plan. That is fact. That is a credibility gap. That is saying one thing and doing another. That is saying the average American gets $1,000 but actually, in fact, the average American is going to get under $100.

There is a credibility gap across the board. He said his plan will create 1.4 million jobs by the end of 2004.

According to the same report President Bush cites by macroeconomic advisers of St. Louis, his tax cuts actually have the potential to harm the economy in the long run, but the President did not mention any references to those parts of the report stated later on.

The President has said eliminating the double taxation of dividends is good for enhancing the lifestyle of millions of Americans all across the country. The reality is that only 22 percent of those with incomes under $100,000 reported any dividend income in the year 2000. The average tax cut from the dividend exclusion would be $29 for those with incomes below $40,000.

There is a lot to discuss. There is a great need in this country to do what the American people are hoping we will do, and that is take up issues they are concerned about, to address the issues they will rise and fall on over the course of the next several months.

I cannot tell my colleagues the emotion I feel in the room oftentimes as I talk to businessmen whose lips would quiver, whose eyes would moisten, who would tell me: TOM, I do not know if I can be in business a year or two from now if things do not change. I have not sold a piece of farm equipment in 2 years. I have seen my sales plummet more than 20 percent in the last 3 months. I have no confidence about how we are going to turn this around, they tell me, unless you in Washington understand that things have to be done to make this economy better.

What do we do? We come back to Washington and we are back in the same old trap, talking about the same old thing. That will not change until Mr. Estrada is more forthcoming. So we can spend time on the economy or we can spend time talking about issues that have no relevance to the daily lives of the people of South Dakota and the people all across this country.

Mr. CORZINE. Will the minority leader yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from New Jersey.

Mr. CORZINE. I truly appreciate the focus on issues that matter directly to the people who live in our States and who live across the country.

The Senator spoke about the individual business person who had not sold any farm equipment. We are closing the last two autoplants in New Jersey over the next 2 or 3 years. They have already cut down to one shift. Bell Labs, one of the great research institutions of America, has literally been a part of the reduction of 130,000 jobs at Lucent, a lot of them in New Jersey. A lot of the Bell Labs people are doing basic core research, and the people are very upset.

That is what that consumer confidence number is. It is incredible in the history of real measurements of what is going on in the minds of American consumers. By the way, it is going on in business, too.

I ask the minority leader whether he saw yesterday's survey from Manpower, Inc. They said only 20 percent of businesses in America think they will add any jobs in the next 6 months, an indication of the kind of depth of concern that actually exists in the business community in conjunction with consumer confidence.

I applaud the minority leader for making sure we are being focused to have a debate about something that matters to people's lives, and I hope we can bring forth a real debate about a stimulus program to get our economy going, put people back to work because that is where real concerns seem to be. I presume that is the kind of question the Senator is receiving in South Dakota.

Mr. DASCHLE. I appreciate very much the comments of the distinguished Senator from New Jersey because I think among us all no one knows these economic issues better than he does.

Again, I would say to the distinguished Senator, this is part of that credibility gap I was referring to. The President professes to be concerned, the President talks about his proposals to address the economy, and yet we are not planning to take up any economic stimulus for months, I am told. It may be May before it comes to the Senate. How can anybody with any truthfulness express concern about the economy and say, no, but we will just do it later? We will not do it this week, we will not even do it this month, we will do it sometime down the road but, yes, I am concerned.

When they look at consumer confidence, when they look at the numbers of jobs lost, when they see those plants close, when they see the consumer confidence drop as precipitously as it has, how in the world can anybody in the world confess to be supportive of economic recovery and economic stimulus with numbers like that and the inaction we see from the White House?

Mr. CORZINE. If the minority leader will yield for one other observation and question, has the Senator noticed the fact that we have lost almost another trillion dollars in market value? And by the way, that translates into 401(k)s and IRAs for individuals. Those are some very serious numbers, actually since this program with regard to dividend disclosure has been announced. There is a credibility gap between the reality of what is being suggested as an economic growth program and what is actually occurring out in the real world. Certainly my constituents and the people I hear from around the country and in the business community are saying much of the same thing. I presume that is what the Senator is hearing as well from the folks in South Dakota.

Mr. DASCHLE. I say to the Senator from New Jersey, that is exactly what I am hearing from the people of our State. As I have traveled around the country, I hear it in other parts of the country as well. This is a very serious issue that will not go away, and I think the more we face the uncertainty of war, the more we face the uncertainty of international circumstances, the more this domestic economic question is going to be exacerbated.

People want more certainty. They want more confidence. They want to at least believe we understand how serious it is out there and we are going to do something to address it. And what do we do? We come back after a week's break and not one word about the economy from the other side, not one word about the recognition of how serious this problem is. We are still talking about the Estrada nomination.

UNANIMOUS-CONSENT REQUEST—S. 414

I ask unanimous consent that the Senate proceed to legislative session and begin the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I believe I still have the floor privilege.

The PRESIDING OFFICER. The Democrat leader still has the floor.

Mr. DURBIN. Will the Senator from South Dakota yield?

Mr. DASCHLE. I yield to the Senator from Illinois.

Mr. DURBIN. I thank the minority leader for coming to the floor, and I hope those who are following the debate understand what just happened. The minority leader of the Senate has asked this Senate to move to the issue of the state of America's economy, that we take up immediately the question of what we can do to save businesses, create jobs, and I think foster some hope in America.

There was an objection immediately from the Republican side of the aisle. They do not want to discuss this issue.

I ask the minority leader the following: Since he has been home—and I have been in communication with the people of my State of Illinois—is it not a fact now that we have reached a point where our economy is dissembling, our foreign policy is in disarray, and this Congress is totally disingenuous, it ignores the reality of the challenges facing America today? I also ask the minority leader if he would tell me what he believes we should be debating at this point in time to do something about turning this economy around and bringing hope back to America.

Mr. DASCHLE. I thank the Senator from Illinois for his observation and his question. If we go home—and I know the Senator from Illinois was just home as well—there are two issues on the minds of virtually every American right now. I was asked questions everywhere I went pertaining to the Senator's first question, and that, of course, is what is going to happen in Iraq? We generally have an idea of what may evolve over the course of the next few weeks, and there is not much that South Dakotans can do about that.

The second question is, What is going to happen to my economic circumstance?

I talked to one businessman who had to lay off a couple of his employees, and it hurt him dearly. They had worked for him for a long period of time. He said: Tom, I have no choice.

I talked to people who had their health insurance dropped, in part because business was so bad their employer could no longer sustain the cost incurred of paying their health insurance. They said: We understand, but at least we got to keep our job.

But what are you going to do about it? That is the question. What are we going to do about it? What will the majority do about it? What message are we going to send to those people to whom we must show some empathy if, indeed, these conversations with our constituents mean anything at all? That is why it is imperative we are cognizant of the message we send today, tomorrow, the next day, and the next day.

As this economy worsens, we spend our Senate time totally consumed with one nomination having to do with a circuit court nominee for the District of Columbia. This is the third week we have been on it. We can resolve this matter if Mr. Estrada will come forth with the information. But if he will not, let's move to something else until he does.

Mr. DURBIN. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator.

Mr. DURBIN. I have followed this debate on a daily basis. If I am not mistaken, the Senator from Utah, Mr. BENNETT, came to the floor with a positive and constructive suggestion. He said that this nominee, Miguel Estrada, should produce the written documents from his experience working for the Department of Justice, working for the Supreme Court. In fact, he even suggested at one point they be produced so they can be reviewed carefully by both the Republican and Democratic leaders of the Senate Judiciary Committee and then a determination be made as to whether there should be followup hearings or questions and ultimately a vote so there would be disclosure. This suggestion did not come from a Democratic Senator; it came from a Republican Senator, Mr. BENNETT of Utah.

I thought it was a fair suggestion to break the logjam, to resolve this nomination up or down, and to move on to the people's business.

Can the Senator from South Dakota, our minority leader, tell me whether that suggestion of producing those documents really is consistent with what we are trying to achieve so we can once and for all give Mr. Estrada his fair hearing and final determination? Is that what this is about?

Mr. DASCHLE. That is exactly what this is about. I thank the Senator for asking the question. It is no more complicated than that.

On a bipartisan basis, Republican and Democrat Senators have said we need the best information that can be provided by any nominee before we are called upon to fulfill our constitutional obligation. That is what we are suggesting. We need that information to make the best judgment. That information is being withheld.

If I had an applicant for a job in my office and I said, I want you to fill out this application and I will be happy to consider your qualifications for employment in my office, and he or she said, I don't think I will fill out the second and third page, I will give you the front page, I will give you the name, address, and maybe my employment history, but that is it, you have to make a guess as to the rest of my qualifications because I am not telling you, I would say to that prospective employee, come back when you can fill out the full application. That is what I would say. That is what every employer in this country would say.

Remarkably, when I went home last week and explained the issue to my constituents, they said: That sounds fair. That sounds reasonable. If an applicant for a lifetime position on the second highest court of the land is not willing to fill out his job application, how in the world should we consider that nominee as a bona fide applicant for the position in the first place? That, again, is a diversion from what I think most people are concerned about. They are concerned about this, and they want fairness, but they are a whole lot more concerned about whether they will be giving job applications to anyone in their State in their circumstances because they are doing the opposite.

We do not have lifetime applications for jobs in South Dakota because the economy is very soft. If anything, we are losing jobs in South Dakota. So while we talk about 1 job for the circuit court, we have lost 2.5 million jobs in the last 2 years in this economy. That does not make sense. That is what the American people want us to address.

Mr. DURBIN. If the Senator will yield for a last question, many people on the other side suggested we are picking on Miguel Estrada, we have focused on this man, a Hispanic nominee, and this is somewhat personal in terms of what we are trying to achieve.

I ask the Senator minority leader, is it not our constitutional responsibility to establish a standard and process to apply to all judicial nominees so that there is full disclosure from them as to who they are, what they believe, their values, so if they are given a lifetime appointment on the court, we at least know, going in, who these people might be. Is it not also the fact, as the Senator from South Dakota has told us, that Miguel Estrada has consistently refused to do just that, consistently refused to answer the questions, consistently refused to disclose the documents, consistently refused to tell us who he is as he seeks one of the highest Federal judicial appointments in the land?

I ask the Senator from South Dakota, is this an issue which goes beyond Miguel Estrada and calls into question the constitutional responsibility of the Senate when it comes to judicial nominees? We have approved 103 Federal judges for this Republican President, and I have voted for the overwhelming majority of them. Are we not in this discussion trying to raise the fundamental issue of equity and process as to the responsibility of the Senate under the Constitution?

Mr. DASCHLE. The Senator from Illinois has said it very well. That is exactly what this is about. At one level, this is about fulfilling constitutional obligations. This is about following precedent. This is about making sure there is fairness as we consider these nominees for all courts, but especially for courts at that level.

This is also about something also, about the management of the Senate. While the Senate has been concerned about one job for the last 3 weeks, a lot of us are saying we ought to be concerned about the 8.3 million jobs we do not have in this country today as a result of disastrous economic policies on the part of this administration, 2.5 million of which have been lost in the last 2 years. We spend our time talking about one job; there is no talk on the other side about all of those millions of jobs lost in this country because there is no economic policy.

What we are suggesting this morning is that there ought to be some consideration for those jobs, too; that to be consumed by one job and not consumed, or at least willing to address those millions of other jobs, is something I cannot explain to the people of my State or to the people of our country. I hope our Republicans will do something along those lines in the not too distant future.

Mr. SCHUMER. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. SCHUMER. Two questions. I want to follow up again on what the Senator from South Dakota said in the dialog with my colleague from Illinois. First, I know the Estrada judge issue has gotten a lot of attention in the newspapers. When I go back to my State of New York, virtually no one asks me about it—very few people. I get lots of people asking about the war and also about the economy and jobs. Is that particular to New York because we had September 11 or is the same thing happening in South Dakota?

Mr. DASCHLE. I say to the Senator from New York, before he came to the floor, I began my comments by reporting conversations I had with people back home last week. I was moved by the comments, by the reports, by the emotion I felt as I talked to people whose businesses, whose jobs, are perhaps more precarious than they have been for years. All the statistics bear that out. Consumer confidence is the lowest in 10 years, the number of those unemployed going up by millions in the last 2 years; every economic indicator is pointing to the growing crisis we face in the economy.

Yet what do we do? We find ourselves once again most likely scheduled for the entire week, debating 1 job rather than the 2.5 million jobs lost just in the last 2 years alone.

Mr. SCHUMER. If my colleague will yield for another question, we have seen in the newspapers the talk that the Democrats are filibustering, that Democrats are preventing the Senate from going forward to other issues, whereas the Republicans are eager to go to other issues.

The real truth on this floor is, first of all, that we have asked just now to go to economic issues, that last week when the Republican leadership—they run the show—decided to bring up this omnibus budget, the Estrada nomination did not stand in the way. We did it. We voted in one fell swoop for the entire Federal budget, and, in fact, last week this floor, because the Republican leadership chose to do so, actually voted on three other judges who I believe passed unanimously, if not close to unanimously. And the filibuster, in a sense—in a very real sense—is not being conducted by the Democrats but rather, led by my capable and good friend from Utah, by the Republicans, and we would be happy to move on to other issues that are pressing, that are on people's minds, and maybe come back to this issue at some point when we get the requested material.

Just to rephrase my question, who is really preventing us from moving forward? Who is filibustering? Why are we staying on this issue? Is that the Senator's choice as the leader of the Democrats or is that the choice of our good friend from Tennessee as leader of the Republicans?

Mr. DASCHLE. I think the Senator from New York put his finger on exactly the question. We just attempted to move on to something else. We were prevented from doing so. It is not just something else but perhaps the single most important domestic issue facing our country today. Yesterday, the request was made and agreed to that we take up the Hatch-Leahy PROTECT Act, as we should have agreed. I am glad that we were able to take it up and pass it.

The Senate has demonstrated the ability to move off this legislation when it sees fit. We did it just yesterday. As the Senator from New York suggests, we did it again a few weeks ago with passage of the omnibus legislation. We are capable of moving off the bill and dealing with the other issues. I can't explain why we have chosen—why our Republican colleagues have chosen—to stay on this legislation even though we know there are so many more pressing issues that ought to be taken up. I can't explain their intransigence. I can't explain why they want to prolong this debate. I can't explain why they are unwilling to consider the 2.5 million jobs rather than the one job that we continue to debate on the Senate floor. That is inexplicable to me.

I just hope the American people understand. We have come back after listening to our people. They made it clear to us what they want us to take up. They want us to deal with the economy. They want us to deal with the real problems we have with homeland security and the lack of training, the lack of communication and the lack of good technology and equipment which they need so badly. They do not have that either. That, too, would be economic in many respects, if we can provide that assistance. But it is not being provided because it is not being given the attention. Therein lies the credibility gap. Something is said and nothing is done. There is a big difference between rhetoric and reality when it comes to this administration and many of our colleagues on the other side.

Mr. SCHUMER. If my colleague will yield for just one final question, might it not be fair to say that it is not the Democrats filibustering to prevent Estrada from coming forward for a vote but, rather, the Republicans are filibustering until they get the vote on Estrada, which they have so far refused to call for? Is that an unfair characterization?

Mr. DASCHLE. That is exactly what happened this morning. If we were filibustering we would not have suggested that we get off the issue. A filibuster is to prolong the debate. We want to end the debate. We want to move on to something far more pressing to the people of this country than the one job. We want to talk about those 2.5 million jobs that we have lost. Therein lies the issue.

I hope the Republicans will bring this debate to a close so long as it doesn't appear that Mr. Estrada is willing to cooperate. At such time as he is prepared to do so, we can take this matter up again. But in the meantime, we ought to be concerned about those millions of jobs that continue to be lost because of congressional inaction and because of a failed economic policy on the part of the administration.

Mr. SCHUMER. I thank the leader.

Mr. CORZINE. Mr. President, will the distinguished minority leader yield for one more question?

Mr. DASCHLE. I am happy to yield.

Mr. CORZINE. Mr. President, I asked questions earlier about the private sector. I think we have all 50 Governors from across this Nation now in the Nation's Capital. I know many of them come to visit their Senate representatives and their congressional representatives. I wonder if the minority leader has had one single Governor approach him with respect to the Estrada nomination or whether he has had one single or multiple Governors come and talk about the state of their fiscal affairs in their State governments and their unbelievable difficulty in trying to maintain employment and support in Medicaid and all the other issues. I was just wondering if the minority leader has had any discussions with them about Judge Estrada versus the sake of the economy—or homeland security for that matter.

Mr. DASCHLE. I think the Senator from New Jersey asked the question that makes the point. The answer is absolutely no. Our Governors, of course, are hearing from the same people we are hearing from. They are concerned about the status quo. Someone once told me the status quo was Latin for the "mess word." Their concern for the "mess word" and this mess continues to be compounded by a budget deficit that grows by the month. We are told now that we could exceed $70 billion. Some have suggested that the figure could be as high as $100 billion in debt. They are struggling with their own budgets in part because of the mess we created for them in Medicaid, in education, in homeland defense, unfunded mandates, and the sagging economy, and no real economic plan in place. Their message in coming to Washington is: Fix it; help us address this issue and be a full partner recognizing that you, too, have a full responsibility to engage with us in solving this issue.

I think if you took a poll of all 50 Governors, should we stay on the Estrada nomination or should we address the economy and these budgetary questions, it would be unanimous—Republican and Democrat—they would say no; fix the economy and help us solve our own financial and fiscal problems. Do not be as consumed as you are about one job until you solve the problem for those 2.5 million jobs that haven't been addressed.

Mr. CORZINE. I join with my colleagues on this side of the aisle in complimenting the leader and for rating this issue one job versus 2.5 million jobs. We have a major issue in this country with regard to our economy, and that is at the top of our agenda.

Mr. DASCHLE. I yield the floor.

Mr. HATCH. Mr. President, I have heard these crocodile tears on the other side. It is amazing to me because they know what a phony issue is—the request for confidential and privileged memorandum from the Solicitor General's Office—and they are building their whole case on that. All they have to do to go on to anything else in the Senate is to exercise the advice and consent that the Constitution talks about; that is, to vote up and down. If they feel as deeply as they do about these, I think, spurious arguments that have been made just in the last few minutes—by the way, made by people who had all of last year to come up with a budget, and for the first time in this country couldn't even do that. The reason they didn't is because they knew it was pretty tough. They criticized us all these years for coming up with these tough budgets because we had to make the decisions. Senator DOMENICI from New Mexico has had to make tough decisions as Budget Committee chairman. We always came up with a budget, as tough as it was. We are criticized all the time for not having enough money for the poor and this and that and everything else, every phony argument in the books. Yet when they had the opportunity and saw how tough it is to come up with a budget, my gosh, they did not do it, nor did they do all those appropriations bills that we had to do once we took over.

All they have to do to go on to these wonderful economic issues—and we all want to do it—is allow a vote up or down. They don't like Miguel Estrada for one reason or another. Some of them are perhaps sincere reasons. I think other reasons are that they think he is just an independent Hispanic. Frankly, they do not like him. Vote him down, if you want. They have that right. If they feel sincerely that they are right in voting him down, vote him down. But let us have a vote. I have heard the distinguished Senator from Illinois ask, Why doesn't Mr. Estrada produce those papers? He is not in the Solicitor General's Office. He is not the Attorney General of the United States. He is not the Chief Counsel of the White House. He hasn't controlled those papers. As far as he is concerned, he is proud of his work and they could be disclosed. The problem is seven former Solicitors General—four of them are Democrats—said you can't give those kinds of papers up because it would ruin the work of the Solicitor General's Office.

Look, if they are sincere and they really want to get on to the budget work they never did last year, the appropriations work they never did last year—we had to do it—then just vote. It is tough work. By gosh, it is tough to come up with a budget. I know the distinguished Senator from New Mexico has had to go through a lot of torment and criticism year after year to come up with a budget. But he always did, and we always did. We were maligned by the other side because we were never good enough, because we had to live within the budget constraints. When they found that they had to live within the budget constraints, they skipped a beat and missed doing the budget.

Here they are coming in here with crocodile tears saying a circuit court of appeals judge is not important enough. Well, if he is not, vote him down, let's have a vote, and let's vote him down. Now——

Mr. SCHUMER. Will my good friend yield for a question?

Mr. HATCH. If I could finish. I am wound up right now. I would like to unwind a little bit before I yield to my dear friend.

And to say that we are filibustering because we are trying to get a vote on this? Why don't we just do that? Why don't I just—I ask unanimous consent that we proceed to a vote on the Miguel Estrada nomination, so we can get to all these important budget matters. It would be a quick way of doing it. And those who do not like Miguel Estrada: vote him down. Those who do: vote him up. I ask unanimous consent that we proceed to a vote on Miguel Estrada.

The PRESIDING OFFICER (Mr. SESSIONS). Is there objection?

Mr. REID. I ask to amend the unanimous consent request, that after the Justice Department provides the requested documents relevant to Mr. Estrada's Government service, which were first requested in May 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and any additional questions that may arise from reviewing such documents.

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Can you amend a unanimous consent request? It is my understanding that you can't.

Mr. REID. Of course you can. Absolutely. We do it all the time.

Mr. HATCH. Not if we object.

The PRESIDING OFFICER. The Senator from Nevada can ask the Senator from Utah to modify his request.

Mr. HATCH. Well, I refuse to modify it. I think we ought to vote up or down.

Look, if you folks are sincere on this other side—and, my goodness, I have to believe you must be, although I think if you are not, it is the most brazen thing I have seen in a long time to come here and act like the whole world is being held up because we want to fill one of the most important judge seats in this country. And we want to do it with a person who has had this much of a transcript of record, who has this much of a paper trail that they have been able to examine, who has had 2 years sitting here waiting for a stinking solitary vote.

Mr. REID. Parliamentary inquiry.

Mr. HATCH. Why not give him a vote?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

Mr. REID. I object.

Mr. HATCH. Oh, my goodness.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Objection is heard.

Mr. HATCH. Mr. President, the distinguished minority leader said that half of the American people are only getting $100 out of this tax cut. I happen to know, the people who are at the $40,000 level are getting about a $1,000 tax cut. Just understand, the top 50 percent in our society pay 96-plus percent of the total income taxes in this country. So that is another phony argument.

I have to say, there are 52 million people in the stock market who have wanted dividends in spite of the representations that were made here. And in this downturn in the economy, perhaps they have not been able to get dividends because the companies have not done well. But this downturn started in the year 1999 or 2000. This President was not the President at the time. He has inherited these problems.

I just have to say that for people who never passed a budget last year, and did not pass hardly any of the appropriations bills, to come in here and use these crocodile tears, that this is somehow holding up our economic wherewithal in this country, when they refuse to allow a vote, as we just saw—I think there is something wrong here.

Just remember, even the Washington Post said, "Just Vote." Just vote, fellows and ladies. All you have to do is vote. If you don't like Miguel Estrada, vote him down.

The reason they don't want a vote, and the reason this is a filibuster, is that they know Miguel Estrada has the votes here on the floor to be confirmed.

And for those who think that the economy is everything, let me just make a point. The judiciary is one-third of these separated powers. If we don't have a strong judiciary in this country, we will never have a strong economy because the Constitution would not be maintained. I would have to say this body has not maintained it through the years, as I have seen unconstitutional legislation after unconstitutional legislation move through here. It isn't this body that has preserved the Constitution, nor has it been the executive branch. We have seen a lot of unconstitutional things over there over the years, although I believe people have tried to sincerely do what is right. But it has been the courts that have saved this country and the Constitution.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. HATCH. I will. Let me make one more statement.

It has been the courts. This is an important position, and if we are going to have to go through this on every circuit court of appeals nominee because the other side just doesn't like them—they don't have a good, valid reason for voting against Miguel Estrada, other than this phony red herring issue about the Solicitor General's Office, which I don't think anybody in their right mind would buy.

"Just Vote," the Washington Post said.

I will be happy to yield to my colleague.

Mr. SCHUMER. I thank my colleague. And I know he feels passionately about this. Many of us feel passionately about this.

Mr. HATCH. More than passionately.

Mr. SCHUMER. I would like to ask the Senator two questions.

The first question is this. My colleague said, in a very well done speech—I read it—before the University of Utah Federalist Society, in 1997:

> Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.

Now, in fairness to my friend——

Mr. HATCH. Does the Senator have a question?

Mr. SCHUMER. I have a question. I am coming to it. In fairness, the Senator just said how important the judiciary is.

Mr. HATCH. That is right.

Mr. SCHUMER. Now, in those papers, the books that my colleague has held up—I have read them. I read the whole transcript. I was there for much of it. I chaired that hearing.

Mr. HATCH. There is a lot more than a transcript here.

Mr. SCHUMER. I know. I ask my colleague, does Miguel Estrada talk about how he feels about the 1st amendment, or the 2nd amendment, or the 11th amendment, or the commerce clause, or the right to privacy, or all the major issues that he will rule on for the rest of his life if he becomes a judge? And if he does not, other than to say, "I will follow the law"—and we all know judges follow the law in different ways—then why isn't what is good for the goose good for the gander?

In other words, when it was a Democratic nominee—and this is not tit for tat. My colleague, who cares about the judiciary, said he needed extensive questions. We didn't get that opportunity because, as my colleague well knows, Mr. Estrada just said, on every issue asked, "I will follow the law."

Mr. HATCH. Ask a question.

Mr. SCHUMER. My question to my colleague is——

The PRESIDING OFFICER. The Senator from New York will place a question.

Mr. SCHUMER. Why shouldn't we be accorded the same right, as he espoused in his speech in 1997, to get all the details to this appointment to the second highest court of the land, which is going to have a lifetime—Mr. Estrada has a job now; but this is a different job—a lifetime appointment that will affect everybody? Why is the one different than the other?

Mr. HATCH. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Look, I don't withdraw that statement. That statement is an important statement. The distinguished Senator from New York and his colleagues had almost 2 years. The distinguished Senator from New York conducted this hearing. The distinguished Senator from New York said it was a fairly conducted hearing. The distinguished Senator from New York had a right to ask any questions he wanted. He did. The distinguished Senator from New York had a right to ask written questions. He did not.

He could have asked: What do you think about the 11th amendment? Listen, that is a question that is almost improper because you are saying——

Mr. SCHUMER. Could I ask my colleague to yield?

Mr. HATCH. Let me finish answering your question. He could have asked: What do you feel about the first amendment? Are you kidding? That is not a question that should be asked a judicial nominee. And any judicial nominee would answer: What I feel is irrelevant—which is the way he answered it. It is what the law says. Frankly, he answered that time after time after time on question after question after question.

Where were the written questions of the distinguished Senator from New York? They were not there. You had a chance to do it. You didn't do it. Now, after the fact, 2 years later, this man has been sitting there, waiting for fairness, being treated totally unfair, and he can't get—my gosh, he can't get a vote up or down, which is what the Washington Post says we should do.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. HATCH. I know Senator DOMENICI has been waiting a long time.

Mr. SCHUMER. Sir, I was waiting longer than Senator DOMENICI. If my colleague will yield?

Mr. HATCH. No. Senator DOMENICI has been waiting for well over an hour. And, well, I am not yielding the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. DOMENICI. Mr. President, might I ask the distinguished Senator from Utah how much longer he intends to speak on this round?

Mr. HATCH. Well, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

THE ECONOMY

Mr. DOMENICI. Mr. President, I would like to discuss for a few minutes with the Senate, and those who are interested in what we are doing here, first, the issue of the American economy and what we ought to be doing about it because the other side of the aisle—the Democratic leadership in the Senate—has decided that they are not going to permit us to vote on a most eminently qualified nominee, whose qualifications I will discuss shortly.

They come to the floor and discuss an issue—to wit, the American economy and the plight of the American worker—as if they can do something about that problem, as if they have a solution to the economic woes in this country, as if they could do something in the Senate that would help the working people.

They have no plan. The plans they have submitted are, according to most economists, far inferior to the only plan we have, and that is the plan of the President of the United States.

Nobody should be fooled by this discussion. We can take to the floor for the next 5 weeks and have speeches by the other side of the aisle claiming that they are concerned about the working people, that we have problems in the economy, but none of that will do anything to help the American people. If we know how to help them, we have to do something. And to do something, we have to act in the Senate and the House or the President has to act. As a matter of fact, the Budget Committee, which is currently chaired by the distinguished Senator from Oklahoma, Mr. NICKLES, which I used to chair, and which 3 years ago was chaired by a Democrat because they were in control, has to produce a budget before we can do anything.

So in response to all the rhetoric, we can take no action until we have a budget that lays forth what we will do, when we will do it, and how we will do it.

I submit that the chairman of the Budget Committee this year will produce a budget on time. It will come to the floor on time. I predict it will be passed on time, as compared with last year when the other side of the aisle was in charge of the budget. They produced no budget. They came to the floor and said: We can't produce it because it is too hard and we don't have the votes. So we did nothing. Isn't that spectacular, that the leadership on that side of the aisle, the last time they were charged with doing something for the American people with a budget, punted? They punted. They had no plan. They produced none.

Today, when we have a bona fide issue that we can do something about—that is, appoint a circuit court judge who is qualified—they have the effrontery to come to the floor and engage in a discussion as if a discussion about the plight of the American worker would solve the problems of the American worker. What will their discussions do for the American worker? Do they have some grand plan they want to come down here and talk about? They have been doing it in spite of whatever the debate is. They have been talking about whatever plan they had. I have not seen it foment any great enthusiasm on the part of those who are worried about the American economy, unless it is themselves talking to themselves. I have heard no great group of American economists saying: Boy, they have a great plan to help the American workers. Quite to the contrary.

There is only one plan around that has significant support. And if they want to change it, they will have their opportunity. But it will not get changed with speeches. It will get changed when the bills come to the floor. They will be here in due course. As a matter of fact, they will be here faster than they ever got here when the Democrats were in control.

We have a commitment from the chairman of the Budget Committee that it will be here on time and that it will be a plan that will be voted on by that committee and presented to us so we can vote on it on behalf of the American people. That side will have their chance to amend it, if they can. That is what we are going to do. We are going to start that and then move it right along. We will move it more expeditiously than it has ever been moved before because we have the will, we have the leadership in the White House, and we understand that we have to produce a budget resolution with the requisite mandates to the committees of the Senate to reduce taxes in whatever way we collectively want, be it the President's wishes or some other plan. But we have to do it—not speeches, not coming down here and creating something sort of a let's have another showdown here on the floor, let's talk about the economy because we don't want the Senate to vote on the issue that is justifiably before us—to wit, whether or not Miguel Estrada is entitled to have a vote.

I thought it might be interesting to look at a few comparisons. I took some of these judges who sit on the DC Circuit. Let's see how they compare with the nominee and what happened to them as they came before the Senate.

We have Karen Henderson, appointed by George Bush; we have Justice Rogers and David Tatel; then we have Miguel Estrada. Let's look at a comparison. These judges are there on the bench, they were appointed and confirmed. Here is one from Duke University. Judge Henderson, who attended the University of North Carolina Law School. It is interesting, as far as other things are concerned that those candidates did to prepare them to sit on the bench, such as Circuit Court clerkships, Supreme Court clerkships, and Federal Government service. Look, these others had none. Yet, they were deemed to have had adequate experience to go on the bench. And Miguel Estrada is not.

Look at what he has done compared to them. Just look at the list. Obviously, he graduated from a comparably good law school. His is Harvard. One of theirs was Chicago. One of theirs was Harvard. One was North Carolina. And then look at all the other things he has done. Yet they say he is unqualified. But these two—these three get appointed. They are serving, and they are apparently qualified.

Look at the really important issue. Look at how long it took this judge from the time her name was submitted to take her seat on the bench—51 days. No aspersions on this judge. She must be great. She got there in 51 days. But she had none of the experience Miguel Estrada had. She graduated from a good law school, certainly. And she went to an undergraduate school, got a degree at Duke, a great university.

But how about experience, the experience of being part of the Attorney General's Office of the United States, which this candidate did under a Democrat and a Republican, a circuit court clerkship, Supreme Court clerkship? They had none of that, and look at how quickly they got appointed: 51 days, 113 days, 108 days. Look at Miguel Estrada: 650 days and counting since he was recommended until today while they continue to say: No vote.

Again, we have a lot of time in the Senate. So the Democrats can come down here this afternoon, and nobody is going to keep them from debating the economy. If they want to equate a debate in the Chamber of the Senate about the economy and call it 2 million to 1, or whatever words they were using, let them have it. It doesn't do anything to help the American people and the working man. What it does is detract from the fact that they want to change the precedent of this institution.

I am hopeful that before we are finished, good leaders on that side of the aisle, including the distinguished minority leader, will exercise some common sense about the future of the Senate and the appointment of Federal judges. The future of this institution as an institution that is supposed to look at the Presidential nominees and work with Presidents and then indicate whether we want to approve them or not is in real jeopardy because they are about to say that from this day forward, because of their stubbornness about this nominee, they are going to change the rules so that judges will need 60 votes, not the majority rule that we thought existed.

I will not yield to my good friend. I see him standing out of the corner of my eye, and I will save his words. Please understand, I will yield soon.

So what they would like to do is to change from 51 votes being necessary to approve judges of the United States under our Constitution—because of what I perceive as nothing more than an unfounded fear—and you know, their fear is not the one that has been expressed. Their fear is that this young man will be a great judge and, besides that, he is Hispanic, whether you want to argue, as some would, that a Honduran who is Hispanic is not Hispanic, which is a most incredible argument. If we were to start that across America when we are talking about Hispanics, we are going to have to decide which one is Hispanic, and if a Honduran with his family name is not one, as some would say on that side of the aisle, that is pure, absolute lunacy.

So they are going to say we don't want him there, but it is not because they fear him as a circuit court judge. They fear him because he is then, if he sits on the circuit court, a legitimate, potential U.S. Supreme Court member. We have not had one who is Hispanic. They are frightened to death. While all of their fear is illegitimate, some of it is selfish fear because they think their party should be the one that nominates a Hispanic who would be on the U.S. Supreme Court. They think that because Hispanics are predominantly members of the Democratic Party, they should be the party that puts into position a Hispanic who might go to the highest bench in the country.

I believe that is a terrific burden to place on this young man, who at this early age has accomplished more, by way of experience, legal accomplishments, and academic accomplishments, than any of the members sitting on the circuit court today.

I finished talking about those judges who were far less experienced and how long it took them to become judges. Now I will take these judges who have comparable experience to Miguel Estrada. I find that by looking in the records and seeing what they did. In addition to the law schools and undergraduate, it looks like circuit court clerkships, looks like Supreme Court clerkship, looks like Federal Government service are pretty much equivalent to what Miguel Estrada has. Look here, it took only 15 days from the time of nomination to confirmation. Raymond Randolph, appointed by George Bush, attended Drexel University; graduated from Pennsylvania Law School, summa cum laude, much like Miguel Estrada; who was a circuit court clerk for a Second Circuit Judge; Assistant Solicitor General and Deputy Solicitor General. That is much like Miguel Estrada. It took 66 days from nomination to vote. A comparably equipped nominee, it took 66 days.

Another one is Merrick Garland, appointed by President Clinton, graduate of Harvard, summa cum laude; Harvard Law School, circuit court clerk, special assistant—very much the same as Miguel. That took only 71 days. Isn't that amazing? Very comparable credentials. This man has been waiting 650 days—Miguel Estrada—and it is continuing day by day.

I don't get a chance to come down here as frequently as some, although Senator NICKLES and I agreed many months ago that we would be special friends to Miguel Estrada and help him as he moved through here. He has so many helpers in a job that is very simple. Senator NICKLES spoke yesterday and he referred to that special kinship. I haven't been here as often as some but I have heard some very good speeches. I heard some very good efforts on the part of the other side of the aisle to justify the delays that are taking place. Some have wondered whether it does any good for Republicans to insist that this man be given an up-or-down vote, and that whatever is occurring on the other side of the aisle—I have given you four or five reasons it may be occurring—but I suggest our effort is doing some good.

I will tell you that in my State three newspapers over the weekend announced in open and bold editorials that the Democrats should stop the filibuster, retreat from it, and get on with the vote. One of them is a newspaper known as the Santa Fe New Mexican. Obviously, those who know our State know that this paper—a very old newspaper—is certainly not a conservative newspaper. They say in their editorial—the lead words are—Bingaman—meaning our Senator—"Bingaman should lead the Dems' filibuster retreat." They have a very lengthy discussion of why my colleague, the junior Senator from New Mexico, should lead the Democrat retreat from the filibuster that is working its way on the Democrat side. I ask that the editorial be printed in the RECORD.

[From the Santa Fe New Mexican, Feb. 24, 2003]

BINGAMAN SHOULD LEAD DEMS' FILIBUSTER RETREAT

As legendary prizefighter Joe Louis said of an upcoming opponent reputed to be fast on his feet: "He can run, but he can't hide."

Senate Democrats, along with the Republican majority, fled Washington last week as their way of honoring Presidents' Day. The annual recess suspended their filibuster against a federal judgeship vote. The Dems are making an unwarranted stand, and an unseemly fuss, over the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit.

The filibuster—protracted talking under senatorial privilege—had consumed a week of debate about Estrada before the senators left town. Now they're gravitating back to the Potomac, and the Dems can hide no longer. Resumption of their verbose balking will make them look ridiculous—at a time when the nation needs statesmen to stand up against the White House warmonger and his partisans commanding Capitol Hill.

The Democrats have chosen a particularly poor target: Estrada, who came from Honduras as a boy and went on to lead his law class at Harvard, is better qualified than many a Democratic appointee now holding life tenure on one federal bench or another.

But after confirming so many less-qualified judges while they held power, Estrada's senatorial tormentors now offer "reasons" why he shouldn't be confirmed: too young; too bashful about answering leading questions; appointed only because he's Hispanic—or, to some senators' way of thinking, not Hispanic enough.

What really rankles with the Democrats, though, is Estrada's politics. He's a conservative. Surprise, surprise; we've got a conservative president, and it's the president who makes the appointments to the federal judiciary.

As the party on the outs, the Dems had better get used to like-minded appointments from the president. If their game-playing goes on, a disgusted American public might keep George W. Bush in office for the next six years. The country certainly didn't see any reason to balance Bush against a Democratic Congress when it had a chance just a few months ago. With their spiteful behavior toward Bush appointees, the Dems aren't exactly gaining goodwill.

If they find the Republican so repugnant, let 'em vote against him; at least they'll be putting their ideals—or their party colors—on display. But this is no Mr. Smith against some diabolical establishment; it's a bunch of sore losers making themselves even more so.

To break a filibuster by cloture takes 60 senators. The Senate's 51 Republicans need nine of the 48 Democrats, or eight of them and ex-Republican Jim Jeffords of Vermont.

New Mexico's Jeff Bingaman should lead the Democratic blockade-runners. By all measures, Bingaman is a class act; a lawyer who knows that senators have no business obstructing appointments on purely political grounds. He also knows that Republicans aren't going to hold the White House forever; that sooner or later a Democratic president will be choosing judges. And he realizes that Republicans, like their mascot, have long memories.

The last thing our justice system needs is an ongoing feud over appointments to district and appellate judgeships. Let Judge Estrada's confirmation be a landmark of partisan politics' retreat from the courtroom.

Mr. DOMENICI. Mr. President, we have a rather active University of New Mexico newspaper. It is named the Daily Lobo, after the athletic team. They have a columnist there, Scott Darnell, who wrote:

> Miguel Estrada isn't probably someone with an immense amount of name recognition—yet.

That is this University of New Mexico editorial comment. Then they proceed to quote the distinguished Democratic Senators who have in the past stated that we should not filibuster Federal judge appointments. They cite TED KENNEDY, our distinguished Senate colleague, and PATRICK LEAHY, our distinguished colleague, and they quote from them as to why we should not use a filibuster when it comes to the appointment of judges.

Of course, the editorial asks, Why now? The editorial proceeds to talk about this young judge and his great qualifications. It indicates that we should not make this mistake in changing what we have been doing for so many years and create a 60-vote requirement for a judgeship.

Then the third article is from the largest newspaper in the State—the Albuquerque Journal. They have a very lengthy editorial piece. The headline is "End Filibuster, Put Court Nominee to Vote." That is the daily Albuquerque newspaper. They merely conclude that the time has come. That is from my home State. I suggest when you put the three together, they have gotten the message very well. They have heard both sides. They quote arguments made on the other side and find them without merit, and they proceed to indicate that, without question, the time has come to have a vote.

I ask unanimous consent that those two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Journal, Feb. 24, 2003]

END FILIBUSTER, PUT COURT NOMINEE TO VOTE

What the Colt revolver was on the dusty streets of the Old West, the filibuster is on the floor of the U.S. Senate: The great equalizer gives 41 senators the ability to bring the chamber's business to a halt.

The tactic should be unholstered only on issues of high principle or grave importance. Considering the issues currently confronting Washington, the judicial nomination of Miguel Estrada does not rise above partisan wrangling. To block a vote on his appointment to the U.S. Court of Appeals for the District of Columbia Circuit is an abuse of the filibuster.

Democrats say the filibuster is justified because too little is known about Estrada and he has not been forthcoming about his judicial philosophy.

New Mexico Sen. Jeff Bingaman said Friday he has not made up his mind about backing continuation of the delay tactic, and echoed the Democratic indictment of the Honduran immigrant as a stealth conservative.

"Obviously, you become suspicious of a person's point of view if he won't answer questions," Bingaman said.

Let's get on past mere suspicions of Democrats and declare guilt by association. Estrada is the choice of President Bush. His views doubtlessly come closer to mirroring Bush's than those of left-leaning Democrats or those of Clinton's judicial nominees.

Feminist Majority president Eleanor Smeal, for one, doesn't need any more information about Estrada to know that in blocking him, "the Democrat leadership is giving voice to its massive base of labor, civil rights, women's rights, disability rights, environmental, gay and lesbian rights groups."

Oh, then this is about constituent politics.

There's another constituent-oriented facet: Miguel Estrada is a successful immigrant, current front-runner to become the first Hispanic Supreme Court justice and an obvious role model—in short, a poster boy for Republican recruitment of minorities away from the one, true political faith.

This isn't about suspicions; Estrada is Democrats' worst nightmare from a partisan perspective.

From a personal perspective, Democrats who have worked with him in the Clinton administration have high praise. Seth Waxman, Clinton's solicitor general, called Estrada a "model of professionalism." Former Vice President Al Gore's top legal adviser, Ron Klain, said Estrada is "genuinely compassionate. Miguel is a person of outstanding character (and) tremendous intellect."

During Judiciary Committee hearings in September, Estrada said: "although we all have views on a number of subjects from A to Z, the first duty of a judge is to a put all that aside."

That's good advice for a judge, and it's good advice for senators sitting in judgment of a nominee. Put aside pure partisan considerations; weigh Estrada's qualifications, character and intellect; end the filibuster and put this nomination to a vote.

[From the Daily Lobo, Feb. 24, 2003]

ESTRADA NAYSAYERS HYPOCRITICAL

(By Scott Darnell)

Miguel Estrada isn't probably someone with an immense amount of name recognition—yet.

President Bush appointed him to an open seat on the U.S. Court of Appeals, District of Columbia Circuit on May 9, 2001: he immigrated to the United States from Honduras when he was 15 years old, graduated from Harvard Law School magna cum laude in 1986, has been a clerk for a Supreme Court justice, an assistant U.S. attorney and the assistant solicitor general, among other stints in private practice. He is supported by many national organizations, including the Hispanic Business Council, the Heritage Foundation, the Washington Legal Foundation and the Hispanic Business Roundtable.

Unfortunately, Estrada's confirmation has been delayed and prevented by many Democrats within the Senate, an action fueled by many leftist groups, organizations and lobbyists in America. Currently, Senate Democrats are planning to, or may actually be carrying out, an intense filibuster against Estrada's nomination; filibustering, or talking an issue to death, is definitely a method for lawmakers to prevent a policy or other initiative from ever coming to fruition—ending a filibuster is difficult, especially in our closely divided Senate, taking a whopping 60 votes.

The most unfortunate part of the Senate Democrats' obstruction on Capitol Hill lies in the fact that many high-ranking Senate Democrats have at one time condemned nomination filibusters quite harshly, leaving their intense efforts to carry out a filibuster today very hypocritical. For example, Patrick Leahy, the senior Democrat on the Judiciary Committee, said, from Congressional Record in 1998, that "I have stated over and over again . . . that I would object and fight any filibuster on a judge, whether it is somebody I opposed or supported."

Sen. Ted Kennedy said, from Congressional Record in 1995, that, "Senators who feel strongly about the issue of fairness should vote for cloture, even if they intend to vote against the nomination itself. It is wrong to filibuster this nomination, and Senators who believe in fairness will not let a minority of the Senate deny [the nominee] his vote by the entire Senate."

Finally, Sen. Barbara Boxer, from California said, from Congressional Record in 1995, that, "The nominee deserves his day, and filibustering this nomination is keeping him form his day."

It seems people can change quite a bit in only a matter of years.

But why are Senate Democrats and many leftist organizations so dead set against Estrada's nomination? The obvious answer lies in the fact that the court he is being nominated to is considered the second-highest court in the nation and often times thought of as a stepping stone to the Supreme Court.

Secondly, Senate Democrats and organizations such as the NAACP or the AFL-CIO recognize Estrada's ethnicity—they recognize his heritage and the future he is making for himself—but let's face it, he's just the wrong type of minority. He's Hispanic and these politicians and organizations are all for the pro-active advancement of Hispanics, just not his type of Hispanic. The National Association for the Advancement of Colored People is now going to read "The National Association for the Advancement of Colored People Who Believe in ONLY Leftist Principles and Ideology."

Miguel Estrada will not, while in whatever courtroom he may preside over, pander to the interests of those who wish to establish and ingrain a persistent racial inequality in America, those who do not now carry out the legacies of past civil rights leaders, but instead bastardize those past efforts by forcing racial tension upon Americans to keep society at their beck and call while gaining personal notoriety, prestige and wealth.

If the Senate Democrats try to filibuster Estrada's nomination, they will be holding back debate and action on the immediate national and foreign issues affecting this country, such as creating and passing the appropriate economic stimulus package, among other important topics.

If the Senate feels that Estrada has committed a criminal or moral transgression at some point in his life that would injure the integrity and standing of his service as justice of one of our nation's highest courts, they should provide sufficient evidence to that end and take whatever measures necessary to disallow a moral or actual criminal from taking the bench. But, in this case, no such criminal or moral transgression can be seen, and the argument against his nomination is purely idealogical; a filibuster would represent a blatant obstruction of our political system and a disservice to the American people. So, as Democratic Sen. Barbara Boxer put it so succinctly a few years ago, "Let the nominee have his day."

Mr. DOMENICI. Mr. President, I repeat, it is one thing to delay; it is another thing to talk a lot; and it is yet another thing to attempt to get the issue that is before us and find a way around it and cloud the issue. That is all that is happening this morning with the discussion by the Democratic leadership, joined by certain Democratic Senators, when they argue that Republicans, by insisting that we vote on this nominee, are in some way failing to do justice to the economic problems that exist in our country.

I hope it doesn't take a lot more discussion for people to understand that is absolutely an untruth. It is an absolutely irrelevant argument. They can talk all they like about the economy and quit talking about Miguel Estrada and not one single thing will happen to benefit the American workers, not one thing.

We need to do something, and what we must do is decide whether we want the President's plan or some modification of it. The only way we can do that is to move with dispatch on the issues before us, those issues, in the way prescribed under our rules. There is no one suggesting we should throw away our rules and pass a plan tomorrow morning. Nobody is suggesting we do that.

In due course, in the matter of only a few weeks, we will be voting on whose plan should be adopted to help the American economy move forward.

I submit that the facts are overwhelming that the arguments against Miguel Estrada are not justified. Those arguments do not justify these delays.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:30 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA—Continued

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, nearly 2 years ago, President George Bush nominated Miguel Estrada to serve on the U.S. Court of Appeals for the District of Columbia. When confirmed, he will be the first Hispanic member of this court. But the other side of the aisle has stalled. In fact, as I look back, we have been on this particular nomination since February 5. The other side has continued to stall this nomination, preventing something that is very simple, that I think the American people now understand, and that is a very simple up-or-down vote.

Every Senator in this body can decide either they support this nomination or they do not. Earlier today, attempts were made from the other side of the aisle to bring up other legislation with the call that it is time to move on, and I agree: it is time to move on. We have had hours and days and nights to debate and discuss the opportunity given to both sides of the aisle, and now it is time for us to vote on this nominee.

For nearly 2 years, the nomination of this man—now, remember, the American Bar Association has deemed him well qualified—has languished as some in this body have played politics with his future. They have consistently refused to give Miguel Estrada this very simple right, I would argue, and that is an up-or-down vote.

In fact, the tactic, which is a filibuster—and the American people understand it is a filibuster—is something my colleagues on the other side of the aisle have said they would not use, filibustering of such a nominee. They have said that in the past. Yet they are filibustering this nomination on the floor of the Senate. We feel that is wrong. We will continue to fight for this up-or-down vote for this qualified nominee.

We came back from a recess yesterday. It is fascinating as we look around the country, even the newspapers, if we look at the top 57 newspapers—I do not think one can say the top 57, but to read what 57 major newspapers in this country are seeing and saying in terms of their editorials, indeed, 50 newspapers from 25 States and the District of Columbia have editorialized either in favor of the Estrada nomination and/or, I should say, against this filibuster of a nominee, in essence saying, yes, please give him an up-or-down vote.

It seems, because we are demanding a supermajority to become the standard, that the other side of the aisle is holding this Hispanic nominee, Miguel Estrada, to a higher standard than any other nominee to this court has ever been held. I think this is wrong. It is unreasonable, using a filibuster and forcing a judicial nominee to effectively gather 60 votes rather than 50 votes for confirmation. It sets a new and unreasonable precedent.

In the sense of fairness, I once again appeal to my colleagues on the other side of the aisle to give us that vote. Clearly, Senators have had adequate time to debate this nominee. I myself have come to this floor on five separate occasions to attempt to reach an agreement with the other side of the aisle for a time certain for a vote on the confirmation and each time my Democratic colleagues object to giving him a simple up-or-down vote.

The two arguments I am hearing from the other side of the aisle are, one, they want unprecedented access to this confidential memoranda and, secondly, they need more information.

The first, to my mind, is a specious argument. It has been talked about again and again on the floor. It is almost a fig leaf because they know it cannot and should not be complied with.

I do want to address the second argument very briefly, not so much in substance but in terms of how we can bring this matter to a conclusion for the American people and for this nominee, so we can get to an up-or-down vote, and that is if they really feel there are specific questions that have not been answered, to reach out and figure some reasonable way to get the information to those questions. Again, outside of the rhetoric that flows back and forth and outside the heat of the argument, in the spirit of working together, I do want to suggest we work together on both sides of the aisle—and I would be happy to do it with the Democratic leader or his representative—toward putting together a reasonable list of questions that Members may wish to pose to Miguel Estrada. I would hope that once we agree upon the questions, submit them, and get the answers back, that process would allow us to come back to what I think we should be able to turn to immediately, but with the filibuster we are unable to, and that is to have a vote this week on the nomination.

I am really talking more process at this point, with an appeal to the other side for us to put together questions to submit and, once we receive those answers, be able to have a vote this week. Thus, I ask unanimous consent that the vote on the confirmation of the nomination of Miguel Estrada occur at 9:30 on Friday, February 28.

Before the Chair puts the question, I would add, and I want to stress, that I will work toward getting answers to any reasonable list of questions that could be worked out on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. I ask the majority leader to modify his proposal in the following manner: I ask unanimous consent that after the Justice Department complies with the request for documents we have sought, namely the memoranda from the Solicitor's Office which were first requested on May of 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and additional questions that may arise from receiving any such documents.

Mr. FRIST. Mr. President, I will not modify my unanimous consent request as spelled out.

Mr. REID. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, as we have just heard from our distinguished majority leader, the Senate has had the nomination of Miguel Estrada since May 9, 2001. This man has been waiting for confirmation for almost 2 years. This is the most qualified person who has never gotten a vote in the Senate. In fact, the American Bar Association rated Miguel Estrada unanimously well qualified, the highest possible rating. Never before have Senators filibustered such a nominee.

Mr. Estrada would be the first Hispanic to serve on the Nation's second most important Federal court, adding diversity to our judicial system. Miguel Estrada's nomination is supported by a number of Hispanic organizations, including the Hispanic National Bar Association, the League of United Latin American Citizens, and the U.S. Hispanic Chamber of Commerce. The Austin American Statesman wrote last Friday: If Democrats have something substantive to block Miguel Estrada's confirmation to the U.S. Court of Appeals for the District of Columbia, it is past time they share it.

Miguel Estrada's nomination was announced in May of 2001 and has been held hostage since by the Senate Democrats who have yet to clearly articulate their objections to him.

Mr. Estrada is widely regarded as one of the Nation's top appellate lawyers, having argued 15 cases before the Supreme Court of the United States. He is currently a partner in a Washington, DC, law firm and practices law. He is truly an American success story.

Miguel Estrada emigrated to the United States from Honduras at the age of 17, speaking very little English. He graduated magna cum laude from Harvard Law School and served as a law clerk to U.S. Supreme Court Justice Anthony Kennedy. He has been in the judicial system. He is an esteemed academic. He has a stellar record. Yet Miguel Estrada cannot get a vote on the floor of the Senate. He has been a highly respected Federal prosecutor in New York City. He served as Assistant Solicitor General under President George H.W. Bush for 1 year and under President Clinton for 4 years.

His nomination has broad bipartisan support, including support from high-ranking Clinton administration officials such as former Solicitor General Seth Waxman and Ron Klain, the former counselor to Vice President Al Gore.

Mr. Estrada has worked throughout his career while he has been in the public sector and the private sector to uphold our Constitution and preserve justice.

That we cannot get a vote on this qualified man is incredible. I am afraid it could be the beginning of a precedent that, in my opinion, is unconstitutional.

Our Founding Fathers understood the need to have three separate and equal branches of government so there would be checks and balances throughout our system. They gave to the President the right to appoint a Federal judiciary, a Federal judiciary that has lifelong appointments. They gave to the Senate the right of confirmation—advise and consent as it is called in the Constitution—that has always meant a majority vote. If a two-thirds vote has ever been required by the Constitution, it is specified. So we are talking a simple majority, a simple majority to confirm the nominees of the President. That is the check and the balance in the system.

What we see today is an amendment to the Constitution, but it has not gone through the process required under the Constitution where an amendment would get a two-thirds vote of both Houses of Congress and then it would go to the States to be passed. That is the requirement to change the Constitution of this country.

However, today we are changing the Constitution because we are, in essence, requiring 60 votes to break a filibuster in order to confirm this judge, Miguel Estrada. Why have we set a bar of 60 votes for this man? What is the thought process of the Democrats who are filibustering this appointment that they would substitute a 60-vote requirement for the constitutional provision that has always meant 51 votes or a majority of those present, a simple majority? And yet we are setting a new bar, a 60-vote bar, without going to the people, without going through the process of a constitutional amendment. This is not right. This man has been pending for 21 months.

We are now in the Chamber. He has come out of committee. We are in the Chamber trying to get a vote of a simple majority to put the first Hispanic on the DC Court of Appeals, a Hispanic who graduated with honors, magna cum laude, from Harvard Law School, with years of experience as one of the most highly esteemed appellate lawyers in America, and we cannot get a vote on Miguel Estrada.

Let me read some of the editorials that have been written about this nomination. On February 18, 2003, the Washington Post wrote:

> The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.
>
> Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.
>
> Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

Mr. President, the Washington Post has shown the fallacy of all the arguments that have been thrown out there against Mr. Estrada: Well, he did not answer questions; well, he is too young; well, he is not Hispanic enough.

Give me a break. This is ridiculous. This is a man who is one of the most highly qualified appellate lawyers in America, who has a stellar academic record, who has a stellar reputation in public life, who has strong bipartisan support, and who cannot get a vote in the Senate because he is being filibustered.

This just is not right. It is time we call this what it is. It is a filibuster. It is a change of the constitutional requirement for advice and consent from the Senate. It is a change of the Constitution without any procedure that is required to amend our Constitution. It is setting a new standard that Democrats and Republicans before have always agreed would never be done. When Democrats were in control, they did not filibuster nominees or they did not allow filibusters of nominees by Republicans, and Republicans are in control. And we are asking for the same courtesy, the same tradition, and, in fact, the same respect for the Constitution. The Constitution says advise and consent. When the Constitution requires more than a 51-vote margin or a simple majority, it so states. That is not the case in confirmation of judges, and it has not happened before on a partisan basis. There was one bipartisan filibuster. There has never been a partisan filibuster before.

There is no controversy about this nominee. There have been controversies before—controversies where you could legitimately see a difference in qualifications or in background issues or in experience issues. None of that applies to this nominee.

I think it is time the Democrats state if there are real objections. For instance, if there are more questions to be answered, have another hearing, or submit the questions in writing and let Miguel Estrada have a chance to answer these questions. Miguel Estrada has offered to go and visit with many Democrats who have not found the time to be able to see him. Yet we can't get a vote in the Senate on this distinguished nominee.

Let me read an article by Rick Martinez from the Raleigh News & Observer:

> Once again, a minority is being denied a vote. Democrats in the U.S. Senate have threatened a filibuster to block the confirmation of Hispanic Miguel Estrada, nominated by President Bush to the federal Court of Appeals for the D.C. circuit.
>
> If Estrada were applying to the University of Michigan law school, Democrats, it seems, would support giving him 20 points just for being Hispanic. Given the party's unqualified support of affirmative action, why shouldn't it ante up to 10 or 15 Senate votes for confirmation simply because of his ethnicity? Goodness knows that Hispanics, now the nation's largest ethnic group, are largely unrepresented in the federal judiciary.
>
> Democrats counter that their opposition is based on Estrada's views and qualifications. If so, at what point along the ladder from law student to the federal bench is race no longer relevant?
>
> For Democrats, it was when Estrada stepped on a rung they viewed as conservative. Once that ideological line was crossed, all the benefits of affirmative action—increased representation, diversity of social experience, providing an example for minority youth—no longer applied to the Honduran-born lawyer.

Mr. Martinez says:

> The whole Estrada tiff is the latest warning to Hispanics that racial politics is about power, not equality. Hispanics have been given fair warning that those who wander off their pre-assigned ideological plantation will pay a heavy price. Ethnic hit man, Rep. Bob Menendez, a New Jersey Democrat, unleashed an ugly personal attack on Estrada by questioning his Hispanic heritage. To date not one Democratic leader has taken Menendez to task for his unwarranted remarks. That they came from a man with a Latin surname doesn't make them any more legitimate or any less offensive than if they came from Sen. Trent Lott.
>
> Democrats, write this down. We Hispanics don't all look alike, we don't all think alike, and God has yet to appoint Menendez to pass judgment on our ethnicity. Ideology has never been an ethnic prerequisite, and it shouldn't be for one on the federal bench either.

There are approximately 50 editorials written throughout the country about the qualifications of this man. This one written by Rick Martinez in Raleigh, NC, basically says there is a different standard for Hispanics—that Hispanics are not a monolith and they shouldn't be judged as a monolith. In fact, Miguel Estrada is one of the most qualified people—not one of the most qualified Hispanics, one of the most qualified people who—have ever been nominated for an appellate court in our country. He has the experience. He has the background. He has the academic credentials. And he has a reputation that is sterling. Yet we can't get a vote on Miguel Estrada.

I hope those who are refusing to allow a vote on Miguel Estrada will listen to the League of United Latin American Citizens—LULAC—which has come out strongly for this qualified man and that does not really understand why there is a different standard being set for him than is being set for other appellate court nominees.

I urge my colleagues to listen to the Hispanic National Bar Association president, who represents 25,000 Hispanic American lawyers in the United States, endorsing Mr. Estrada, the National Association of Small Disadvantaged Businesses, which came out in strong support of Mr. Estrada, and a bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice who have come out foursquare for Miguel Estrada.

There is no legitimate reason being stated not to give Miguel Estrada a vote. To say that he didn't answer questions, if legitimate—if they would ask him questions and let him answer them, but they haven't. Saying he is too young is ridiculous; saying he is not Hispanic when he came to our country from Honduras at the age of 17 speaking little English—and he wanted a part of the American dream. But he didn't want it given to him; he wanted to earn it.

He worked his way into Columbia University and was a Phi Beta Kappa. He worked his way into Harvard Law School and graduated magna cum laude. He worked to get a partnership with a major law firm after being a Supreme Court Justice clerk which is reserved for only the best graduates of law schools in our country.

This man deserves a vote. He deserves the respect of the Constitution, and he is not getting it as we speak today. The Constitution says advise and consent. The Constitution says a majority—not 60 votes out of 100 but a simple majority. It is what has always been required for the President's nominees. That is the check and balance in our system.

I hope the Senate will do the right thing. If there are legitimate questions, raise them. Let Mr. Estrada answer them. But this man deserves a vote, and the Constitution deserves respect and adherence by this body.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask for permission to speak on behalf of Miguel Estrada.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHAMBLISS. Mr. President, I am still new to this body having been here less than 2 months at this point in my career in the Senate. After spending 8 years in the House of Representatives, I am still feeling my way through with respect to finding the microphone, and things like that.

I am somewhat at a loss when it comes to the process through which we are now going. It is totally unlike any type of process that I experienced in the House of Representatives because we don't confirm judges anywhere except in the Senate. I spent 26 years as a lawyer before being elected to the House of Representatives. In my 26 years as a lawyer, I tried hundreds of cases, and on appeals dozens and dozens of cases, and I had a number of opportunities to appear before both trial judges and appellate judges, on a variety of different issues.

At any one moment before an appellate court, you can pretty well look at a judge and tell whether or not that judge has done his homework on your issue. You have a sense of whether or not he has the intellect to interpret the issue and be very responsive to your argument. And if you ever find a judge who is not responsive, you can check his background, and you may find out that maybe he did not have the intellect to follow the course of your argument.

So when I look at the background of Miguel Estrada and try to decide whether or not, were I to appear as a lawyer before him, he would be the type of individual to whom I could make an argument and have him interpret that argument, even though it is on a very complex issue, I believe he would be. I have to tell you, his is one of the most unusual profiles I have ever seen of any member of the bar, much less any potential member of the bench.

It is unusual not just because his is a true American dream story. It is unusual because this man, as a practicing lawyer in public service and in the private sector, has distinguished himself above all other lawyers with whom he has ever been associated.

He is a man who has distinguished himself by coming to the United States, not speaking much, if any, English, and not only attending major universities, but graduating from those universities with high honors: from Columbia University with an undergraduate degree, and Harvard Law School with a law degree.

At Harvard Law School he was a member of the editorial board of the Law Review. And those of us who went to law school know there are only a few Law Review editorial board members. I can still remember in my law school class those who were members of the law review. Out of my class, of the 200 who started in law school, there were—I think about five of them—who were members of the Law Review. So it is a very distinct intellectual group of students who make the Law Review. And the editors of the Law Review are the elite of those very few who are designated with law review status.

The intellectual background of this man is unquestioned. He does have the capability of interpreting and deciphering any complex issue that might be presented to him as a member of the appellate court bench.

So when I think about, again, appearing before a man with his type of background, to argue a complex case, I think it would be wonderful to know you have somebody with the qualifications and the capability of Miguel Estrada to really listen to your argument and make the kind of decision every lawyer wants to have made on his or her particular case.

One thing that confuses me about Miguel Estrada's nomination is, I was told while I was in law school that I should join the American Bar Association as a student. And I did. I was a very active member of the American Bar Association in my small, rural community in Georgia for all of the 26 years I practiced law.

The American Bar Association is a very well respected, very highly recognized peer group within our profession. The American Bar Association was asked to review Mr. Estrada, as they review every other judicial nominee, and to make a recommendation to this body as to whether or not he is qualified to be confirmed by this body to the District of Columbia Circuit Court. They came back and said: Not only is he qualified, not only does he possess the academic and intellectual and legal background to serve on the Circuit Court for the District of Columbia, but he is well qualified. We are giving him the highest recommendation that lawyers can give to a lawyer who seeks confirmation to any court.

As a member of the Judiciary Committee, I have already seen that we have some judges who come through the committee who do not receive the highest recommendation from the American Bar Association, but nevertheless get confirmed by this body. And they should, because everybody is not going to get that highest qualification recommendation from the American Bar Association.

But Mr. Estrada got the highest qualification from his peers—those men and women who practice law with him, who talked to other lawyers who practiced law with him, who know how he functions day in and day out in the practice of law, who know his temperament and his capabilities as well as his ability to serve in the capacity of an appellate court judge. And for that body to come forward and say, we are going to give him the highest recommendation possible is just another one of the assets he brings to this body from the standpoint of confirming his nomination.

I was not here when Mr. Estrada had his hearing before the Judiciary Committee. That took place in September of last year when the committee was controlled by the Democrats. At that point in time, from what I read in the record, Mr. Estrada appeared before the Judiciary Committee for a full day's hearing. Every member of the Judiciary Committee had the opportunity to ask Mr. Estrada any question they wanted to. And they did.

There has been some question about whether or not he was totally forthcoming in his answers, whether he gave complete responses to the questions that were asked of him. Well, in addition to having the opportunity to ask Mr. Estrada questions at the time of his hearing, whether Mr. LEAHY was chairman or now with Mr. HATCH as chairman, the members of the Judiciary Committee always have the opportunity to submit written questions in addition to those questions that are asked at the hearing.

If a Judiciary Committee member is not satisfied with answers to questions he or she asked, he or she simply has the right to come back and say, I want you to go into further detail with respect to this particular issue, to tell me whatever it is I want to have answered. Only two members of the Judiciary Committee came forward and said: We have additional questions we want to ask. Those two were both Democrats. They had the right to do it. They did it. And I respect them for coming back with additional questions when they felt they did not get totally complete answers. The fact of the matter is, though, those questions were answered immediately by Mr. Estrada.

So for somebody to come forward now on the other side of the aisle and say, we do not think he fully answered our questions, where were they? Where were they at the time of the hearing? Why didn't they come forward after the hearing if they were not satisfied at the hearing and submit additional written questions?

To come to this body now and to say Mr. Estrada was not totally forthcoming at the time of the hearing just shows this particular nomination has dipped itself into the depths of political partisanship. And it is not right.

I am biased. I am a lawyer. I think I am a member of the greatest profession that exists in the United States of America. I think we have a great judicial system because even though a lot of people throw rocks at our system—and I myself even have criticized it from time to time—we have the best system in the world. We have the best system in the world because it works. And people of all walks and backgrounds have the opportunity to have their cases heard by a judge, whether it is Mr. Estrada or a magistrate court judge in Colquitt County, GA. People have the right to have their cases heard.

And now, for somebody to come forward and say, I asked this guy a question, and he did not really answer my question, therefore, I am going to vote against him, I think just throws another rock at our judicial system that should not be thrown.

Referring, again, to Mr. Estrada's qualifications being called into question, this is an issue that has been batted back and forth between political parties. I have listened to an extensive amount of the debate over the past 2 or 3 weeks, both as Presiding Officer as well as on and off the floor. I have listened to my colleagues on the other side of the aisle raise issues relative to Mr. Estrada. In talking about qualifications of anybody to go to the bench, particularly the circuit court versus the district court, you can look at an individual lawyer and say, this man or this woman has appeared before the highest court in the land, the Supreme Court, not once, not twice, not 3 times, but 15 times to argue cases, and he has distinguished himself very well in those 15 arguments. As we all know, sometimes you are on the winning side and sometimes you are on the losing side, but 10 out of the 15 times that Mr. Estrada has been to the U.S. Supreme Court, irrespective of whether he was on the appellate side, which is the losing side going in, or whether he was on the appellee's side, the winning side going in, he has prevailed at the end of the day. So for a guy to argue 15 times before the U.S. Supreme Court and to win 10 of them is a very distinguishable record.

The fact that he even argued cases before the Supreme Court very honestly puts him in a category of lawyers that is the most highly respected group of lawyers that exists in the United States today. There are just not many folks who have the opportunity to argue a case before the Supreme Court. Here we have a man who has argued 15 cases before them.

Another argument I have heard time and time again is that we should be able to see the memos that he submitted to his boss while he was assistant to the Solicitor General. Some believe we should be able to see what was in his mind from a legal perspective, and use those memos to try to determine whether or not he has the judicial qualifications and temperament to serve as a member of the DC Circuit Court of Appeals.

Let me tell you what that is like. As a practicing lawyer, if I have somebody come into my office and I interview them and take notes and I then take their case and go into my law library and do extensive research on the issue for my client to make sure that I am well prepared from a legal precedent standpoint and I then write a memorandum, which I have put in my file to make sure that at the appropriate time—when the case either comes to a hearing or I have an argument with opposing counsel—that memorandum is personal and privileged to me and my client.

What the Democrats have asked for is, to view the collateral memos that were prepared by Mr. Estrada for his boss, the Solicitor General, while he was working in the Clinton administration and while he was working in the Bush 41 administration. That is wrong. They should not ask for it in the first place, but the Justice Department is absolutely right in refusing to produce them. They should not produce those memos because those memos are personal. They are private. They are privileged.

Every lawyer in the country ought to be outraged that the Justice Department is even being asked for those memoranda to be presented to this body for review when they were prepared in a private setting, in a setting in which there was a lawyer-client relationship in existence. Those types of memos have never been allowed to be offered into court for proof of any issue, and they should not be required to be presented here in this body.

Speaking of politics being involved here, again, as a new Member of this body and a new member of the Judiciary Committee, I am having a little trouble understanding the politics of this issue. I could understand it if Mr. Estrada has been a lifelong Republican, had the tattoo of an elephant on him and was a known advocate or radical that held forth extreme positions. I could understand the politics involved in seeking to block this man by the folks on the other side of the aisle.

But that is not the case. Here we have a man who came to the United States speaking little or no English, a man who went to two of the finest schools in America not known for their conservative-leaning students or faculty, Columbia University and Harvard. I don't know where they lean, but they are certainly not conservative-leaning universities.

That is his background. He comes from an administration that was not a conservative-leaning administration, the Clinton administration. He worked for 4 years in that administration. He worked for the Solicitor General in the first Bush administration for a year and then the Clinton administration for 4 years. There is nothing to indicate that this man would have an off-the-wall conservative-leaning philosophy.

I do not understand the politics of somebody coming up and saying: Well, we think he may be too conservative or he may be radical.

Those kinds of statements were made within the Judiciary Committee, and there is simply no basis for them.

The fact is, every Solicitor General who lives today who has worked for any administration, whether it is Republican or Democratic, has come forward and signed a letter saying, No. 1, the privileged memoranda sought to be produced from the Justice Department should not be produced because they will compromise future administrations. They never should be produced. And No. 2, they recommend Mr. Estrada for confirmation by this body.

When somebody in that position makes a statement, it takes it totally out of the realm of politics and puts it in the realm of professionalism, which is where it ought to be. We ought to have good, quality, competent men and women going to the bench.

As a Member of the House of Representatives during the Clinton administration, I had a good friend who was nominated to the District Court for the Northern District of Georgia. She is a good lawyer. She was a really outstanding U.S. attorney. She is not a

Republican, but I thought she ought to be put on the district court. She was, in fact, appointed, and she was confirmed by this body because she was a good lawyer. She was the type of person who ought to be on the bench.

The same thing holds true for Mr. Estrada. All you have to do is look at his record. It is pretty easy to tell that he is a good lawyer. When you talk to other lawyers about him, I promise you, in the legal profession, you know very quickly whether or not somebody is well respected and well thought of.

Mr. Estrada has the respect of his colleagues. We have searched high and low. If anybody has anything negative to say about Mr. Estrada, it has come forward. Only one coworker who he worked with over the years has had anything negative to say about Mr. Estrada.

Do you know what is unusual about that? That same individual, who was his supervisor in the Office of Solicitor General during the Clinton years, gave him a rating on two different years. That review rating that was given to Mr. Estrada was "outstanding" by this particular individual who is now the only member of the Solicitor General's Office, or any other place where Mr. Estrada was employed, who has had anything whatsoever, to say in a negative capacity regarding Mr. Estrada.

So whether it is people he worked for, whether you look at his qualifications from an educational standpoint, vis-a-vis an intellectual standpoint, whether it is the Hispanic community that you look to for a recommendation on Mr. Estrada—everywhere you look, he gets nothing but the highest marks, the absolute highest marks.

One other area in which I think Mr. Estrada has really excelled is with respect to what we in the legal community refer to as pro bono work. Pro bono work is done different ways in different parts of the world. In my part of Georgia, a practicing lawyer does pro bono work when he or she takes appointed criminal cases usually. Occasionally, you will represent an individual in a civil matter and you don't get paid for it. That is what we talk about as a pro bono type case. Mr. Estrada has been very active in the world of pro bono service. In fact, he handled one case that was a death row inmate case, which is not the normal type of case that a lawyer of Mr. Estrada's background would handle. But he took the case and, obviously, he did the work necessary to fully, totally, and very professionally represent his client, because he spent almost 400 hours in research and preparation for representing this individual—a death row inmate's case.

For a man to spend 400 hours—I don't know what his billable rate is, but even at my billable rate in rural Georgia, that would have been an awful lot of money that Mr. Estrada sacrificed for the sake of making sure this death row inmate had more than adequate representation. In fact, with Mr. Estrada, the death row inmate was represented by an outstanding lawyer who had the capability—and I am absolutely certain he did—to do everything necessary to fully and totally represent his client.

Now, one final criticism of Mr. Estrada is that he has no judicial experience. Well, I don't buy this argument. In fact, I think, if anything, it may be to his advantage. Having judicial experience sometimes, I think, could be even a negative factor, although in a case where you had somebody as qualified as Mr. Estrada, it would not make any difference one way or the other. But you have an individual here who has legal experience. That is what is important. He has legal experience in being able to work on complex cases, and most of the time, cases that come before the circuit court are complex cases. Mr. Estrada has the ability to deal with those complex cases because he has handled them for years and years as a practicing attorney in the public and private sectors. He has the type of background that lends itself to being able to deal with those complex cases and make a rational, reasonable interpretation of the Constitution, which every judge is expected to do and which is exactly what Mr. Estrada said he would do at his hearing in September before the Judiciary Committee.

I close by saying there have been 57 newspaper editorials I have seen relative to the nomination of Mr. Estrada and the treatment of his nomination on the floor of the Senate. Of the 57 editorials that have appeared in newspapers all across America, 50 have been favorable toward Mr. Estrada. One of those editorials appeared in a newspaper in my home State, in Atlanta, GA. The Atlanta Journal-Constitution wrote an editorial—about 3 weeks ago now—that was complimentary to Mr. Estrada and critical of the Senate for not moving on his nomination.

Let me tell you, when it comes to politics, the Atlanta Journal-Constitution is not on one side most of the time; they are on one side all of the time. I have never received, in my political career, the endorsement of the Atlanta Journal-Constitution, except for the one time when I did not have an opponent and I guess they had to endorse me. To say that they are in any way leaning toward the conservative side on any issue would be outlandish. But even the Atlanta Journal-Constitution came out and said this is wrong.

This man is a good and decent man. He has the intellect and background to serve on the Circuit Court for the District of Columbia Court of Appeals, and he should be confirmed. That line has been repeated by newspapers in America day in and day out for the last several months.

The Augusta newspaper, also in my State, wrote a glowing editorial also recommending that this body confirm the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia.

I think, without question, that the right arguments have been made in support of Mr. Estrada. Just in winding down—I see my friend from Nevada here, and I don't know whether he wants time or not—I want to say that, from the standpoint of support from the Hispanic community, there has been overwhelming support from every aspect of the Hispanic community. When you look at the League of United Latin American Citizens—that is what we call LULAC—which is the Nation's oldest and largest Hispanic civil rights organization, the president of that organization, Mr. Rick Dovalina, wrote a letter, and this is what he said about Mr. Estrada:

> On behalf of the League of United Latin American Citizens, the nation's oldest and largest Hispanic civil rights organization, I write to express our strong support for the confirmation of Mr. Miguel A. Estrada. . . . Few Hispanic attorneys have as strong educational credentials as Mr. Estrada who graduated magna cum laude and Phi Beta Kappa from Columbia and magna cum laude from Harvard Law School, where he was editor of the Harvard Law Review. He also served as a law clerk to the Honorable Anthony M. Kennedy in the U.S. Supreme Court, making him one of a handful of Hispanic attorneys to have had this opportunity. He is truly one of the rising stars in the Hispanic community and a role model for our youth.

The Hispanic National Bar Association president, Rafael A. Santiago, stated as follows:

> The Hispanic National Bar Association, national voice of over 25,000 Hispanic lawyers in the United States, issues its endorsement. . . . Mr. Estrada's confirmation will break new ground for Hispanics in the judiciary. The time has come to move on Mr. Estrada's nomination. I urge the Senate Committee on the Judiciary to schedule a hearing on Mr. Estrada's nomination and the U.S. Senate to bring this highly qualified nominee to a vote, said Rafael A. Santiago, of Hartford, Connecticut, National President of the Hispanic National Bar Association.

So this man has the qualifications. He has the educational background. He has the legal background. He has the intellect. He has the support of Democrats. He has the support of Republicans. He has the support of liberals. He has the support of conservatives. He has the support of the Hispanic community. The only support he is lacking to bring this nomination to a vote on the floor of the Senate is the support from our colleagues on the other side of the aisle.

Not allowing this nomination to come to the floor for a vote is not fair, it is not judicially just. It is not just in any way from an ethical, moral, or judicial standpoint.

Mr. Estrada's nomination has been debated back and forth now for, gosh, going on 3 weeks. I guess 3 weeks starting tomorrow—a total of 4 weeks. We were here 2 weeks, we were out 1 week, and now we are back. So I guess it is a total of 4 weeks. We have a lot of business that needs to be brought before this body. We have a jobs growth package that needs to be debated and passed that the President has put forth. We have the impending conflict with Iraq and the continuing war on terrorism that needs to be dealt with on the floor of this body. We need to move to other business.

We need the folks on the other side of the aisle to come forward and say: OK, we will give you a vote. We do not think he is qualified, but we are willing to give Mr. Estrada a vote. That is the right thing to do, that is the just thing to do, and that is the judicial thing to do. If they want to vote against him, vote against him, but if we want to vote for him, we ought to have the opportunity to vote for him. We ought not require 60 votes. We ought to require 51 votes, as I think our Constitution requires, and we ought to bring the name of Miguel Estrada to the floor of the Senate and have a vote.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. REID. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. Yes, I will be glad to yield.

Mr. REID. Mr. President, the distinguished Senator from Georgia just stated that there is a lot of business this Senate has to do and that we should get off the Estrada nomination and get on to these other matters. The Senator from Massachusetts, I am sure, agrees with my friend from Georgia that we have a lot of business to do.

I know from having worked with the Senator from Massachusetts over the years—and I ask the Senator if he will acknowledge this—there is business we need to do that we have been prevented from doing. For example, something we have not heard a word about is the minimum wage. People in Nevada are desperate. We have a service industry. Sixty percent of the people in Nevada who receive the minimum wage are women; for 40 percent of those women, that is the only money they get for the families. That would be a good issue to take up—minimum wage—doesn't the Senator from Massachusetts agree?

Mr. KENNEDY. The Senator is entirely correct. I was listening to my new friend from Georgia talking about the business that needs to be done. As the Senator remembers very well, our leader, Senator DASCHLE, tried to bring before the Senate an economic stimulus program that would have provided assistance to working middle-income families. It would have provided assistance to small business. It would have provided funding for education and the programs for which the Governors, Republicans and Democrats alike, indicated support. It would have provided additional assistance to the States to meet their Medicaid challenges. I hope to get to that in a moment. And it would have permitted funding in transportation. This would have made an important difference in trying to restore our economy.

The Senator, as part of the leadership, is familiar with the fact that Senator DASCHLE was prepared to bring that up and start that debate, but there was objection from the other side.

The Senator brings up the issue of minimum wage, and he knows how strongly I feel about an increase in the minimum wage which Republicans have denied us the opportunity to have. As the Senator has pointed out, more than 60 percent of those who are minimum wage recipients are women. So this is a women's issue. Of the women who receive the minimum wage, a majority of them have children, so it is a children's issue. It is a women's issue and it is a children's issue. Since a great number of those who receive minimum wage are men and women of color, it is a civil rights issue. It is a women's issue, a children's issue, a civil rights issue, and, most of all, it is a fairness issue because most Americans think that if someone works 40 hours a week, 52 weeks of the year, they should not live in poverty.

The great majority of Americans feel that way. We want to put that before the Senate and Republicans refuse to let us have a vote on that issue. We have been battling that issue not just for 10 days, not just for 2 weeks, but we have been battling that issue for the last 5 years.

I agree with the Senator when he says we have been trying to get matters before the Senate. We could bring up minimum wage. I am quite prepared as the principal sponsor—it is not a complicated issue. We have debated that issue time in and time out, year in and year out. It is not a complicated issue. We ought to be able to have debate and an up-or-down vote on that issue.

I think of all these statements of let the majority have a ruling on this nomination. Does the Senator remember as I do when we voted on a prescription drug program and a majority in the Senate was for the proposal of Senator GRAHAM of Florida and Senator MILLER, of which I was proud to be a cosponsor? That would have provided a comprehensive prescription drug program for all who needed it in the United States. We had 52 Members, a clear majority, for a prescription drug program, the third leg of the Medicare stool on which our seniors rely: hospitalization, physician care, prescription drugs. We had the 52 votes, and do you think we were permitted to have a vote in the Senate? No, our Republicans objected to that. How short is their memory.

Mr. REID. Will the Senator yield for another question?

Mr. KENNEDY. I will be glad to yield.

Mr. REID. The Senator is aware that this extended debate deals with the job of one person, a man by the name of Miguel Estrada. It is not as if he is not working. Does the Senator agree he is partner in one of the most prestigious law firms in America and pulling down hundreds of thousands of dollars a year? I say to my friend from Massachusetts, should not the Senate be more concerned about the millions of people who are underemployed, the millions of people who are unemployed, the people who are lacking health care—44 million people with no health care—and many people who are underinsured? Should not the Senate be dealing with those people rather than one person who is employed making hundreds of thousands of dollars a year?

Mr. KENNEDY. Mr. President, I say to the Senator from Nevada, I think he makes the case. It is such a compelling, overwhelming, rational case he makes about what is happening across this country. I know it is true, when the Senator from Nevada speaks about those who are unemployed, those who are underemployed, he is speaking for the people of Massachusetts. That statement the Senator just made is of central concern to the families in my State who are seeing now the highest unemployment in some 10 years, and the prospects are difficult, as people look down the road.

It was not always this way. We have seen it was not. I ask my colleague and friend, so many on the other side throw up their hands and say: It is the economic cycles. Is it not true that the longest periods of economic growth and price stability have been under Democratic Presidents? We had it over the last 8 years under President Clinton. That was not an accident. The time before that was in the early 1960s under President Kennedy. The longest periods of economic growth, price stability, and full employment were under Democrats. That is the record. That is the history.

We want to get back to a sound economic policy. A sound economic policy means creating jobs and having price stability, and the Senator understands this very clearly. Our minority leader, Senator DASCHLE does, and that is what we hope to resume with an effective economic program that can make a difference to families across this country.

The Senator from Nevada being a leader in this body, I am interested in whether the Senator agrees with me that the people in his State, as well as mine—I know I speak for all of New

England on this. People are concerned, deeply concerned, about their economic future and they are concerned, obviously, about their security, the dangers which all of us are familiar with in terms of terrorist activities. In my State, they are concerned about their sons and daughters, especially if they are in the Reserve or the National Guard. We now have the highest calling up of the Reserves and the Guard since World War II. Communities are particularly concerned because more often than not, people who are being called up are those who have also been trained as auxiliary firefighters, police officers, or first responders in the medical professions.

What I hear the Senator from Nevada saying is we should try to respond to these kinds of anxieties. The leaders have provided a program which has galvanized many of our Members—all of the Members on our side—and his point is that as leaders in our party we should be focused on that program.

I was listening to my friend from Georgia talking about the attitude of some Hispanic leaders. I have a letter from 15 past presidents of the Hispanic National Bar: We, the undersigned past presidents, write in strong opposition to the nomination of Miguel Estrada for a judge on the Circuit Court of Appeals for the District of Columbia. I will later come back to the statement they made.

Despite the pressure from our Senate Republicans and the White House to abandon our principles and our obligations, the Senate Democrats intend to abide by our constitutional duty to provide advice and consent in the judicial confirmation process. The White House, however, continues to refuse to give us the information necessary for our consideration of the nomination of Miguel Estrada. The White House is asking the Senate to rubberstamp its judicial nominees when those nominees will have enormous power over the lives of the people we serve. If we confirm nominees to a lifetime appointment to the Federal bench without looking into their record, we would open the door for the White House to roll back civil rights, workers' rights, and important environmental protections, along with many other Federal rights we have worked so hard to develop.

The danger involving the DC Circuit is even greater, because that court has exclusive jurisdiction over so many issues that affect all Americans. Since the Supreme Court hears relatively few cases in these areas, the DC Circuit is often the court of last resort for individuals to obtain the justice they deserve. If Mr. Estrada is confirmed, he will be called upon to decide many of these cases. Often, individuals have been victimized unfairly and in a manner not envisioned by the Constitution. They have come to the Federal courts for protection and relief. In doing so, they have changed America. They have made this country a stronger, better, and fairer land. They helped America fulfill its promise of equal opportunity, equal rights, and equal justice under the law. They have given real meaning in people's lives to the great principles of the Constitution and the many laws Congress has enacted over the years to protect these basic rights.

When we consider the nomination of Mr. Estrada, we need to understand the crucial importance of these cases and how the rights of so many others can be decided by a single case. These cases would not necessarily have turned out the way they did if we did not have Federal judges who are acutely aware of the rights and the needs of the most vulnerable Americans, and how their rulings affect so many people's lives.

Would Mr. Estrada be such a judge? Would he have this strong sense of justice of the needs of people he would serve? We do not know because we have been prevented from learning about this nominee, and the White House is trying to keep it that way.

Our response is clear. We will not confirm Mr. Estrada unless we know what kind of jurist he would be. Our constitutional responsibility requires no less.

Let me describe a few of the landmark cases the judges of the DC Circuit have decided. In Barnes v. Costle in 1977, the DC Circuit was faced with a situation that was and still is far too common in the American workplace. Paulette Barnes had been hired by the Environmental Protection Agency, but she quickly discovered she would not be able to do her work effectively. Her male supervisor repeatedly asked her to join him after work for social activities. She politely declined. He then made repeated sexual remarks and propositions to her. She refused. But her supervisor would not be deterred. He kept harassing her and even tried to convince her his behavior was common. Ms. Barnes could not escape these overtures and the unfair pressure she faced, because her job required her to work with her boss.

After she repeatedly refused to have an affair, he started to retaliate against her. He belittled her work. He took away many of her responsibilities. He harassed her continuously. Finally, he had her fired because she refused to go along with his demands.

Ms. Barnes sued her employer under title VII of the Civil Rights Act of 1964. Congress passed this important legislation in order to end workplace discrimination and open the doors to equal employment for all Americans, but the EPA did not see it this way. Its lawyers argued when Congress enacted title VII, we did not intend sexual harassment to be included in the ban on sexual discrimination.

What Ms. Barnes faced was not discrimination, they said. She was not fired because she was a woman but because she refused to engage in sexual activities with her supervisor. Fortunately, the judges of the DC Circuit understood the importance of the case. They took time to look into the record. They found our intent in passing title VII was to give women and minorities equal rights in the workplace so everyone would have a truly equal opportunity to succeed.

The judges agreed that so long as harassment of this kind was allowed to continue, women could not have equal rights in the workplace. They ruled that allowing female workers to suffer harassment to keep their jobs is a type of discrimination that has long relegated women to lower-level jobs and made it more difficult for them to have equal rights in the workplace.

The DC Circuit held that harassment of the type suffered by Ms. Barnes was illegal sex discrimination. If not for the judges of the DC Circuit, her case could have turned out very differently. Thus, the importance of the DC Circuit.

In 2003, the outcome of Ms. Barnes' case would almost certainly be a foregone conclusion. We know today the kind of behavior she faced is unacceptable, but in Ms. Barnes' case the trial judge dismissed her suit because he thought such harassment was not prohibited by title VII. That behavior was not unacceptable until the DC Circuit said it was unacceptable.

Would Mr. Estrada be the type of judge to give the meaning we intended to our legislation? Would he protect the rights of women and minorities? Would he take the time to consider how his rulings will affect them? We do not know, because the White House does not want us to know.

In a second case in 1981, Bundy v. Jackson, the DC Circuit considered the plight of another woman who had suffered severe harassment at work. Sandra Bundy proved at trial that while she was employed by the District of Columbia, she was repeatedly propositioned by some of her supervisors and they made crude and offensive remarks to her. She complained to another supervisor, but he replied it was natural for the other men in the office to harass. He then began the same type of abuse and propositioned her several times. A coworker obtained her home phone number, which she had unlisted, and started calling to proposition her. The facts in this case were so extreme and Ms. Bundy's situation was so oppressive that the district judge in the case actually made a formal finding that making of improper sexual advances to female employees was standard operating procedure, a fact of life, a normal condition of employment in her job. Miss Bundy began to complain more forcefully and her performance ratings began to suffer. She was denied a promotion and continued to endure anguish on the job.

When she took her case to court, the company admitted the harassment and argued it was legal. Can you believe that? The company admitted the harassment and argued it was legal. The company contended because Miss Bundy had not been fired or demoted, she could not claim a violation of title VII. The DC Circuit rejected this argument, as it obviously should have. The court held that the terms and conditions of employment include the psychological work environment. The court agreed that an employer can oppress an employee with such offensive and damaging remarks that the oppression rises to the level of discrimination, even if the employer does not demote or fire the employee.

As in Barnes, the court in Bundy showed thoughtful and careful consideration of what Congress intended to do for the American workplace when it passed title VII.

The court also considered the precarious situation in which Miss Bundy found herself and in which too many women often find themselves today. The court held unless Miss Bundy's rights were protected, many other workplaces could oppress and harass women in similar ways without any fear of legal repercussions. The DC Circuit held that title VII protects all Americans from harassment at work, whether or not harassment includes a formal change in job description.

We cannot dismiss these examples merely as evidence that America has changed since the 1970s and early 1980s. It was the courts such as the DC Circuit and opinions such as Barnes and Bundy that made America change. The conclusion of these cases was not foregone. In both cases, the district judge had dismissed the claim, saying that what the women had alleged was not a violation of title VII. It took the judges on the DC Circuit, with genuine respect for the rule of law, to give effect to what Congress intended when it passed title VII. The DC Circuit did more than uphold the law. It gave practical effect to the right of women to be free from sexual harassment in the workplace.

We can now look back at the employers' arguments and in those cases say that they are preposterous. The sad truth, however, is that those arguments did not become preposterous until the DC Circuit said they were.

A third case to demonstrate the importance of this court is in Farmworker Justice Fund v. Brock. In 1987, the DC Circuit reviewed evidence developed over the course of many years that farm workers were being deprived of basic sanitation. The Department of Labor mandated the availability of drinking water, hand-washing facilities, and bathroom facilities in many other workplaces, but the Department said protections were not necessary for farm workers. The result was that many farm workers worked long hours in the heat and Sun without adequate drinking water. They worked under unacceptable hygiene conditions, without bathroom facilities, and with no place to wash their hands. Infectious diseases often spread quickly among farm workers.

Congress addressed this problem years before. The Occupational Safety and Health Act mandated that the Department issue rules on workplace conditions for farm workers but the Department disagreed. It thought that improving the working conditions of these laborers was a low priority, and for years the Department refused to say when it would even consider a rule to protect these workers. The Department also argued that although there was clear evidence of unacceptable risk to the health of farm workers, it would not promulgate a rule to end these conditions because the States were better able to do so. The DC Circuit correctly rejected that argument and brought safe and sanitary working conditions for farm workers across the country. The court held that the intent of Congress in passing OSHA was to limit the Department's discretion. The court ordered the Department to pass these regulations within a specific timeframe. The court said that workplace safety was precisely a matter for the U.S. Department of Labor to address to ensure safe conditions across the country. In deciding this case, the DC Circuit gave farm workers the protections they needed and ensured that a generation of workers would grow up healthier and safer.

A fourth excellent example of the importance of the DC Circuit is Laffey v. Northwest Airlines. In that case, decided in 1976, the DC Circuit considered the disparate pay that Northwest Airlines offered its male and female employees. Even before that case, it was clear that under the Equal Pay Act companies could not pay men and women different salaries for doing the same job. The airline thought it could avoid this requirement for its in-flight cabin attendants by creating two separate job categories for men and women. The two categories had essentially the same duties but different names and very different pay and promotion opportunities.

Both men and women would seat passengers and ensure their safety during the flight and both would deal with any medical problems that arose during the flight. They would both serve food and clean up the cabin. But the airline would only hire women to be stewardesses, a classification that meant being confined to domestic flights, while male persons were assigned to international flights. Even on domestic flights, stewardesses had to work in the more crowded sections of the plane while men worked in first class. In fact, if there was any real difference between the two jobs, it was that the women had the more difficult assignment. Yet the men received up to 55 percent more for doing essentially the same job.

The DC Circuit refused to allow the airline to design the jobs in a way that relegated women to low-paying positions with little chance of promotion. The court understood that when we passed the Equal Pay Act, Congress was not concerned with arbitrary technicalities. We were concerned with protecting the lives and livelihood of real people.

The DC Circuit gave effect to this intent. It held that where two individuals have jobs that are essentially identical because they have the same duties and responsibilities, an employer cannot discriminate against one of them by paying them less.

A fifth example of this indispensable role of the court is the Calvert Cliffs Coordinating Committee in which the DC Circuit in 1971 considered the National Environmental Protection Act which requires Federal agencies to balance their activities with their impact on the environment. In passing the act, Congress asks large agencies for the first time to consider ways to protect the environment.

In a challenge to this requirement, the Atomic Energy Commission was sued to stop activities that were adversely affecting the environment. The Commission said that it had taken environmental concerns into account and thought that these concerns were outweighed by the need for nuclear testing. The DC Circuit held that under the act, the Commission, as all other Federal agencies, must take environmental concerns seriously, must justify the burden that its activities would place on the environment.

Our duty, the court said, is to see that important legislative purposes prevailing in the Halls of Congress are not lost or misdirected in the vast hallways of the Federal bureaucracy. There is no better description of the unique demands on the DC Circuit. It has sole jurisdiction over many basic issues affecting the people of our country. The Senate needs to know that the judges of that court understand the enormous challenge of ensuring that the important policies we seek to achieve are actually implemented under the laws we pass.

In each of these examples, the DC Circuit has dealt with situations where real people face real problems in obtaining the justice they deserve. The court responded, as the Constitution says that it should, free from the pressures of politics. The DC Circuit respected the rule of law and applied it fairly.

Would Mr. Estrada continue this tradition? Or would he look for opportunities to limit or even roll back basic rights? We do not know because the

White House insists on keeping the Senate and the country in the dark about this nomination. The fundamental rights of the American people are too important to be entrusted to a person about whom we know so little. Until we learn what kind of jurist Mr. Estrada can be, the Senate should not confirm him.

MEDICARE AND MEDICAID

Mr. President, a front page article in yesterday's New York Times should be essential reading for every Member of the Senate and for every American. It describes the Bush administration's stealth attack on Medicare and Medicaid—an attack driven by an extreme right-wing agenda and by powerful special interests.

The administration is proposing unacceptable changes in the obligations of government to its citizens. Under the Bush plan, the Nation's long-standing commitment to guarantee affordable health care to senior citizens, the poor, and the disabled would be broken. Medicare is a promise to the Nation's senior citizens, but for the administration, it is just another profit center for HMOs and other private insurance plans. Medicaid is a health care safety net for poor children and their parents, the disabled, and low income elderly, but the administration would shred that safety net to pay for tax cuts for the rich and to push its right-wing agenda.

The promise of Medicare could not be clearer. It says, play by the rules, contribute to the system during your working years, and you will be guaranteed affordable health care during your retirement years. For almost half a century, Medicare has delivered on that promise. All of us want to improve Medicare, but the administration's version of improving Medicare is to force senior citizens to give up their doctors and join HMOs. That is unacceptable to senior citizens and it should be unacceptable to the Congress. There is nothing wrong with Medicare that the administration's policy can fix.

The administration has a variety of rationalizations for its assault on Medicare—and each of these rationalizations is wrong. Republicans have never liked Medicare. They opposed it from the beginning and have never stopped trying to undermine it. The Newt Gingrich Congress tried to destroy it a decade ago, but the American people rejected that strategy, and President Clinton vetoed it. Now that Republicans control both Houses of Congress and the Presidency, they are at it again. Their plan would say that no senior can get the Medicare prescription drug coverage they need without joining an HMO.

It is no accident that the administration's scheme hinges on forcing senior citizens into HMOs or other private insurance plans. Whether the issue is Medicare or the Patients' Bill of Rights, the administration stands with powerful special interests that seek higher profits and against patients who need medical care. If all senior citizens are forced to join an HMO, the revenues of that industry would increase more than $2.5 trillion over the next decade. Those are high stakes. There will be a big reward for HMOs and the insurance industry if the administration succeeds. But there is an even greater loss for senior citizens who have worked all their lives to earn their Medicare, and that loss should be unacceptable to all of us. Senior citizens should not be forced to give up the doctors they trust to get the prescription drugs they need.

The Bush administration cloaks this plan in the language of reasonableness. They say that they just want to reduce Medicare's cost, so that it will be affordable when the baby boom generation retires. But HMOs are a false prescription for saving money under Medicare.

Administrative costs under Medicare are just 2 percent. Ninety-eight cents of every Medicare dollar is spent on medical care for senior citizens. By contrast, profit and administrative costs for Medicare HMOs average eighteen percent, leaving far less for the medical care the plan is supposed to provide.

This chart is a pretty graphic reflection of this point. "Private insurance, a recipe for reduced benefits or higher premiums."

These are the administrative costs and profits: under Medicare, 2 percent; under private insurance, 18 percent.

I ask the administration, how is spending more money on administration and profit supposed to reduce Medicare costs?

In fact, Medicare has a better record of holding down costs than HMOs and private insurance. Since 1970, the cost per person of private insurance has increased 40 percent more than Medicare. Last year, the per person cost of Medicare went up 5.2 percent, but private insurance premiums went up more than twice as fast 12.7 percent. Across the country, families are seeing their health premiums soar and their health coverage cut back. If the administration really thinks this is the right prescription for Medicare, they should talk to working families in any community in America.

This chart indicates that private insurance will not reduce Medicare costs or improve its financial stability. It illustrates the increases in Medicare costs versus private insurance premiums: 5.2 percent under Medicare; 12.7 percent under private insurance.

The administration claims that drastic changes are needed because Medicare will become unaffordable as the ratio of active workers supporting the program to the number of retirees declines. But analyses from the Urban Institute, using the projections of the Medicare Trustees, show that Medicare will actually be less burdensome for the next generation of workers to support than it is for the current generation. Economic growth and productivity gains will raise incomes of workers by enough to more than offset both the change in the ratio of workers and the yearly increase in medical costs. In fact, the real product per worker—after Medicare is paid for—will increase from $66,000 to $101,000. The issue is priorities. For this administration, the priority is making the powerful and wealthy still more powerful and wealthy—not assuring affordable health care for senior citizens.

This administration also claims that the changes it is proposing are intended to help senior citizens by giving them more choices. The real choice that senior citizens want is the choice of the doctor and hospital that will give them the care they need—not the choice of an HMO that denies such care.

This chart, "Senior citizens choose Medicare, not private insurance, shows the proportion of senior citizens choosing Medicare versus Medicare HMOs": In 1999, 83 percent chose Medicare; 17 percent, HMOs; and in 2003, 89 percent, Medicare, while 11 percent, HMOs.

Seniors have a choice today and they choose Medicare. Even so, this administration's proposal will say to seniors: if you want to receive the prescription drug program, you will have to get it under an HMO.

Senior citizens who want it already have a choice of HMOs and private insurance plans that offer alternatives to Medicare. But by and large, senior citizens have rejected that choice. In 1999, 17 percent of senior citizens chose an HMO. By 2003, only eleven percent chose one.

Congress enacted Medicare in 1965, because private insurance could not and would not meet the needs of senior citizens. In 2003, private insurance still won't meet their needs. Vast areas of the country have no private insurance alternative to Medicare. Two hundred thousand seniors will be dropped by HMOs this year, because the HMOs are not making enough profit. Last year, HMOs dropped half a million seniors. In 2001, they dropped 900,000 seniors. Yet that is the system the administration wants to force on senior citizens.

This chart shows the number of senior citizens that have effectively been dumped from Medicare HMO coverage. We find that in 2001, 934,000 seniors were dropped; in 2002, 536,000 dumped; in 2003, 215,000; in the year 2000, 327,000; and 407,000 in 1999. HMOs have been dropping seniors who wanted voluntarily to be in the HMO system.

Under the Bush plan, states will have an incentive to cut back coverage for those in need and spend the money that should go for health care on other projects.

The Child Health Insurance Program, CHIP, which now gives more than five million children the chance for a healthy start in life will be abolished.

Millions of senior citizens will no longer be able to count on federal nursing home quality standards to protect them if they are unable to remain in their own homes.

Spouses of senior citizens who need nursing home care will no longer be guaranteed even a minimum amount of income and savings on which to live.

We know that state budgets are in trouble because of the faltering economy. The demands on Medicaid are greater than ever, as more families lose their job and their health care. Instead of the money that states need to maintain the Medicaid safety net, the Bush administration gives states a license to shred it. Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for senior citizens, and low income children, and the disabled. It's time for Congress and administration to stand up for the priorities of the American people—not the priorities of the wealthy and powerful.

Medicare and Medicaid are two of the most successful social programs ever enacted. It makes no sense for the administration to try to impose its harsh right wing agenda on programs that have done so much to bring good health care and genuine health security to vast numbers of senior citizens, low-income families and the disabled. The American people will reject this misguided program and so should the Congress.

The administration is not in favor of real choices for the elderly. They don't favor letting senior citizens choose their own doctor. They don't favor a fair and unbiased choice between and HMO and Medicare. Senior citizens already have that. What the Bush administration favors is a Hobson's choice, where senior citizens are forced to choose between the doctor they trust and the prescription drugs they need. And that is an unacceptable choice. The administration's plan for Medicare will victimize 40 million senior citizens and the disabled on Medicare. I want to just draw the attention of the Members to this chart I have in the Chamber. These are the Medicare HMOs. There are huge gaps for senior citizens, areas of the country with no Medicare+Choice plans. There are vast areas of the country, outlined in red, where they do not even have this program. And still, the administration wants to insist that seniors subscribe to it.

Under the Bush plan, long-term Federal spending for health care for the needy will be reduced under their new proposed block grant program for Medicaid. That idea was proposed under then-Congressman Gingrich almost a decade ago. Under the new program, long-term Federal funding for health care for the needy will be reduced so that more money will be available for tax cuts for the wealthy. Under the Bush plan, States will have an incentive to cut back coverage for those in need and spend the money that should go for health care on other projects.

The Child Health Insurance Program, the CHIP program, which now gives more than 5 million children the chance for a healthy start in life, will effectively be abolished.

Millions of senior citizens will no longer be able to count on the Federal nursing home quality standards to protect them if they are unable to remain in their own homes. I was here not many years ago when we took days to debate the kinds of protections that we were going to give to our seniors who were in nursing homes. The examples out there of the kinds of abuses that were taking place were shocking to all of us. So we passed rules and regulations. But under this particular proposal, the administration is recommending millions of seniors will no longer be able to count on Federal nursing home quality standards to protect them if they are unable to remain in their homes. Spouses of senior citizens who need nursing home care will no longer be guaranteed even a minimum amount of income or savings on which to live.

We know that State budgets are in trouble because of the faltering economy. The demands on Medicaid are greater than ever as more families lose their jobs and their health care. Instead of the money that States need to maintain the Medicaid safety net, the Bush administration gives States a license to shred it.

Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for our senior citizens and low-income children and the disabled. That is the bottom line: Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for our senior citizens and low-income children and the disabled.

It is time for Congress and the administration to stand up for the priorities of the American people, not the priorities of the wealthy and the powerful.

Medicare and Medicaid are two of the most successful social programs ever enacted. It makes no sense for the administration to try to impose its harsh right-wing agenda on programs that have done so much to bring good health care and genuine health security to vast numbers of senior citizens, low-income families, and the disabled.

The American people will reject this misguided program, and so should the Congress.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. I am glad to.

Mr. REID. I have listened on the floor and off the floor to the Senator's statement, and especially about Medicare and Medicaid.

I ask the Senator, we have heard now for 2 years from this administration that the answer to the problems of the country are tax cuts, tax cuts, tax cuts. I ask the Senator—and I am confident of the answer—if he is aware that the deficit this year will be the largest in the history of the world, about $500 billion if you do not mask it with the Social Security surpluses?

Now, I am asking the Senator from Massachusetts, will the proposals by this administration in their tax cut proposal do anything to help the people in Nevada and Massachusetts and the rest of the country who are desperate for help in regard to Medicare and Medicaid?

Mr. KENNEDY. Absolutely not. And your observation goes right to the heart of the central issue that we have in the Senate; that this is a question of choices. It is a question of priorities. It is a question of choices, whether we are going to allow this emasculation of Medicare and Medicaid—especially when Medicaid looks after so many needy children. About one-half of the coverage is actually for poor children, although more than two-thirds of the expenditures are for the elderly and the disabled. But it looks after an enormous number of the poorest of children, and also after the frail elderly.

And the Medicare system, we guaranteed in 1965—I was here at that time. I was here in 1964 when it was defeated. It was defeated in 1964, and then 8 months later it was proposed here on the floor of the Senate and it passed overwhelmingly. And 17 Senators who were against it in 1964 supported it in 1965. The only intervening act during that period of time was an election—an election. Finally, our colleagues had gone back home and listened to the needs of our elderly people, the men and women who had fought in the World Wars, who brought this country out of the Depression, who sacrificed for their children, who worked hard, played by the rules, and wanted some basic security during their senior years from the dangers of health care costs.

We made a commitment. The Senator remembers. I have heard him speak eloquently on it. And in that 1965 Medicare Act we guaranteed them hospitalization and we guaranteed them physician services, but we did not guarantee prescription drugs because only 3 percent of even the private insurance carriers were carrying it at that time.

I ask the Senator whether he would agree with me that now prescription drugs are as indispensable, are as essential to the seniors in Nevada as hospitalization and physician visits? They are in Massachusetts.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to answer the question of the Senator from Massachusetts without the Senator from Massachusetts losing the floor.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection?

Without objection, it is so ordered.

Mr. REID. I say to my friend from Massachusetts, while the Senator was serving in the Senate in those years, in the early 1960s and mid 1960s, I was serving on the hospital board of Southern Nevada Memorial Hospital, the largest hospital district in Nevada at that time. I was there when Medicaid came into being.

Now, does the Senator realize—and I think he has heard me say this before; and I ask this in the form of a question, although I don't need to; I have the floor to answer the Senator's question—prior to Medicaid coming into being, that for that hospital of ours, that public hospital, 40 percent of the senior citizens who came into that hospital had no health insurance?

And when we had people come into that hospital with, as I referred to them then, an old person—I don't quite look at it the same now—they would have to sign to be responsible for their mother, their father, their brother, their sister, whatever the case might be, that they would pay that hospital bill. And if they did not pay, do you know what we would do? We had a collection department. We would go out and sue them for the money.

Now, I say to my friend from Massachusetts, the distinguished Senator, for virtually every senior who comes to the hospital—it does not matter where they are in America—they have health insurance with Medicare.

Mr. KENNEDY. That is right.

Mr. REID. Medicare is an imperfect program, but it is a good program.

And I answer the question about pharmaceuticals, prescription drugs. When Medicare came into being, seniors did not need prescription drugs because we did not have the lifesaving drugs we have now. We did not have the drugs that made people feel better. We did not have the drugs that prevent disease. Now we have those.

I say to my friend from Massachusetts, rather than spending the time here, as we are dealing with a man who has a job, Miguel Estrada, making hundreds of thousands of dollars a year—rather than dealing with him, I would rather be dealing with people in Nevada who have no prescription drugs.

In America, the greatest power in the world, we have a medical program for senior citizens that does not have a prescription drug benefit. That is embarrassing to us as a country. And what are we doing here? We are debating whether a man should have a job.

We understand the rules. If they want to get off this, then let them file cloture. If they want to get out of this, let them give us the memos from the Solicitor's Office. Let him come and answer questions or let them pull the nomination.

The reason they are not doing that is, they don't want to debate this stuff. Look at the chart the Senator has. Tax cuts of $1.8 trillion, what does that do to Medicare and Medicaid? I hope I have answered the Senator's question. A prescription drug benefit is a priority, and it has to be a program more than just in name only.

Mr. KENNEDY. I thank the Senator for his usual eloquence and passion.

Just to sum up two items, as we discussed earlier, we passed a prescription drug program. Fifty-two Members of the Senate did so last year. I don't know why we couldn't debate it. I am sure our leader would support that effort.

Finally, let me point out something the Senator has mentioned. This chart summarizes it all. Under the administration's program for the States, over a 10-year period, Medicaid will be cut $2.4 billion, while there will be $1.8 trillion in tax cuts.

This is a question of priorities. I went through the various charts that reflected how this $2.4 billion Medicaid cut will be achieved versus the $1.8 trillion in tax cuts. This is a question of choice. This is a question of priorities when it comes to the Medicare and Medicaid Programs. The quicker we get the chance to debate these and get some votes on them, the better off our seniors will be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from Nevada has asked that we vote on Miguel Estrada. I ask unanimous consent that we proceed to a vote on Miguel Estrada now.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I ask that the Senator's request be modified in the following fashion: I ask unanimous consent that after the Justice Department finds the requested documents relevant to Mr. Estrada's government service, which were first requested in May of 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and any additional questions that may arise from reviewing such documents.

Mr. CRAIG. Mr. President, I object and restate my unanimous consent request.

Mr. REID. To which I object. I object.

Mr. CRAIG. Mr. President, I just heard the Democrat leader come to the floor to demand a vote on Miguel Estrada so we could move on to other important issues. He had the opportunity to have that vote, and he objected. He wants to raise the issue of moving judges to a supermajority vote, denying this man, Miguel Estrada, a vote on the floor of the Senate under the constitutional clause of advice and consent to the President.

Let me talk about that for a few moments. Before I talk about that, as the chairman of the Aging Committee who has spent countless hours, as has the Senator from Massachusetts, on the issue of Medicare, he and I would both agree that when Medicare was passed in 1965, some 33 years ago, medicine was practiced much differently than it is now. Yet he is saying we want Medicare just like it was, and we want to add a new program to it.

As the Senator from Massachusetts well knows, when he voted for Medicare in 1965, it was expected to be about a 10, 20-billion-dollar-plus program. Today it is verging on a quarter of a trillion dollars, at least by the end of the decade, and it will potentially, by 2030, consume a quarter of the U.S. Government's budget.

I know the Senator from Massachusetts knows as well as I that the world has changed and health care delivery has changed and that we are not going to practice 33-year-old medicine on 2003 seniors. They don't expect it. They don't want it. They demand change.

In that change comes prescription drugs as a reasonable and right approach. But as we offer that to America's seniors, let us offer them a modernized, contemporary health care delivery system. Let us not lurk in the concept of a 33-year-old system that is now close to pushing us to deny services simply because it has become so costly and so bureaucratic. To deny them anything more than a modern health care delivery system with prescription drugs in it is to deny them the obvious: that is, quality health care.

Those are the facts. Those are the statistics. We can certainly debate those today. But we ought to be debating Miguel Estrada. The Democrats want to debate him. They deny us the vote that he is entitled to have. So for a few moments today, I would like to visit about Miguel Estrada.

Before I do that, I found this most intriguing. This is a fascinating issue. We suggest that it is partisan, and it appears to be almost at times. Yet I noticed in the RECORD of today a few quotes from a Democrat Senator. He said:

> Mr. President, the court provides the foundation upon which the institutions of government and our free society are built. Their strength and legitimacy are derived from a long tradition of Federal judges whose knowledge, integrity, and impartiality are beyond reproach. The Senate is obligated, by the Constitution and the public interest, to protect the legitimacy and to ensure that the public's confidence in the court system is justified and continues for many years to come. As guardians of this trust, we must carefully scrutinize the credentials and qualifications of every man and woman nominated by the President to serve on the Federal bench. The men and women we approve

> for these lifetime appointments make important decisions each and every day which impact the American people. Once on the bench, they may be called upon to consider the extent of our rights to personal privacy, our rights to free speech, or even a criminal defendant's right to counsel. The importance of these positions and their influence must not be dismissed. We all have benefited from listening to the debate about Miguel Estrada's qualifications to serve on the district court. After reviewing Mr. Estrada's personal and professional credentials, including personally interviewing the nominee, I believe he is qualified to serve on the district court, and I will vote for him.

That is Senator NELSON of Nebraska. That Senator wants a vote. I want a vote. We owe Miguel Estrada a vote—not a supermajority vote, not an effort to change the rules of the Senate, not an effort to deny the constitutional responsibility of this body that the other side is now doing, tragically enough, for the politics of the business instead of the substance of the issue. That is a tragedy that ought not be laid upon the floor of this Senate nor ought to come before what has been a responsible process and very important procedure.

I have been out in my State for a week, as have many of my colleagues. I say oftentimes to Idahoans: We watch the President. We see him every night on television. We, Members of the Senate and the other body, make headlines and are often talked about in the press. But very seldom does the third and equally important branch of Government, the judicial branch, get the attention. There are no natural lobbyists in general. There is no influence out there urging and pushing that the courts be treated responsibly, that these vacant positions be filled so that courts can do their duty and responsibility under the Constitution and provide for fair judgment of those who might come before them.

That responsibility lies in the President of the United States and in the Senate. We are the ones responsible for assuring that the courts are filled when those positions are vacant by appropriate people who have great integrity, who have moral and ethical standards, and who believe in the Constitution of our country.

Miguel Estrada fails on none of those qualifications. Here today, for the first time, Mr. Estrada is a target for a much larger hit; that is to suggest that a minority of the Senate could ultimately control the Supreme Court of the United States. I believe that is the battleground, while a lot of subterfuge may go on, smoke and mirrors, or diversion of attention; and I think most people who are now watching this debate are beginning to understand there is something very strange about it.

There used to be an old advertisement on television asking, "where's the beef." Well, where's the issue here? Where is the substance of the issue, after the committee of jurisdiction, the Judiciary Committee, on which I serve, and on which the Senator from Massachusetts serves, very thoroughly went through the background of Miguel Estrada? He came out with high qualifications, having been reviewed by the ABA. Wherein lies the problem—the simple problem of allowing this name and nomination to come to the floor for a vote—a vote. I tendered that vote a few moments ago by unanimous consent, to see it denied on the other side of the aisle because they say you must have a super vote, a 60-plus vote. No, we suggest the Constitution doesn't say that. We suggest that threshold has never been required. So I think what is important here is the reality of the debate and how we have handled it.

I have the great privilege of serving from the West, from the State of Idaho. There are a lot of traditions out there. One of the great traditions is sitting around campfires, visiting, telling stories, and talking about the past. Probably one of the most popular stories to tell in the dark of night in only the glow of the campfire is a good ghost story. It scares the kids, and even the adults get a little nervous at times because their back side is dark and only their faces are illuminated. The imagination of the mind can go beyond what is really intended. So great stories get told at the campfire.

I have listened to this debate only to think that great stories are attempting to be told here—or should I suggest that ghost stories are being proposed here—about Miguel Estrada. Why would we want to be suggesting there is something about this man that is not known, that there is not full disclosure on all of the issues? I suggest there is full disclosure. The other side is deliberately obstructing a nomination that has been before the Senate for 21 months. In that 21 months, there were no ghost stories; nothing new was found, except the reality of the man himself—the reality of a really fascinating and valuable record for the American public to know.

Their argument is that because they cannot find anything wrong with him—no ghost stories—then there have to be bad things hidden. Somebody could not be quite as good as Miguel Estrada. Why not? There are a lot of people out there who achieve and are phenomenally successful, morally and ethically sound, and well based, and who believe in our Constitution and are willing to interpret it in relation to the law and not to the politics of something that might drive them personally.

I don't believe in activist judges on the courts. I don't believe they get to go beyond the law or attempt to take us where those of us who are lawmakers intend us not to go or where the Constitution itself would suggest we do not go. So search as they may, they cannot find. And when they cannot find, they will obstruct. They have obstructed. Week 1. We are now into week 2. My guess is we will be into week 3 or 4. Hopefully, the American people are listening and understanding something is wrong on the floor of the Senate; something is wrong in that there is an effort to change the Constitution of our country simply by process and procedure—or shall I say the denying of that. I think those are the issues at hand here. That is what is important.

Mr. President, there was nothing more in telling a ghost story than in the imagination that came to the mind. There is nothing wrong with Miguel Estrada, except in the imagination in the minds of the other side, who would like to find a story to tell. But they cannot find one, dig as they might. There have been 21 months of effort, 21 months of denial. Why? Are we playing out Presidential politics on the floor of the Senate this year? It is possible. I hope we don't have to go there, and we should not. These are issues that are much too important.

This President has done what he should do. It is his responsibility to find men and women of high quality and high integrity, who are well educated and well trained in the judicial process and system—search them out and recommend them, nominate them to fill these judgeships. That is what he has done. Now he is being denied that.

A difference of philosophy? Yes, sure. It is his right to choose those he feels can best serve. He has found and has offered to us men and women of extremely high quality. Yet, at these higher court levels, and here in the district court, they are being denied.

Miguel Estrada has been under the microscope and nobody has found the problem. On the contrary, we have found much to admire. At least let me speak for myself. I have found much to admire in Miguel Estrada. By now, I don't need to repeat his history. I don't need to repeat the story of a young man coming to this country at 17 years of age, hardly able to speak English, who changed himself and the world around him, so that he is now recognized by many as a phenomenal talent and a scholar. Let me just say I think he and his family should be very proud of his achievements. They should also be proud of his receiving the nomination. Of all the people, they surely do not deserve to have the judicial nomination process turned into some kind of gamut, in which you run a person through and you throw mud at them, or you allege, or you imply, or you search for the ultimate ghost story that doesn't exist, to damage their integrity, to damage the image and the value and quality of the person.

Senators are within their rights to oppose any judicial nominee on any basis they choose. In the last 8 years, when President Clinton was President, I voted for some of his judges; I voted against some of them because they didn't fit my criteria of what I thought would be a responsible judge for the court. But I never stood on the floor and denied a vote, obstructed a vote. I always thought it was important that they be brought to the floor for a vote. Then we could debate them and they would either be confirmed or denied on a simple vote by a majority of those present and voting. That is what our Constitution speaks to. That is what our Founding Fathers intended. They didn't believe we should allow a minority of the people serving to deny the majority the right to evaluate and confirm the nominations of a President to the judicial branch of our Government.

If they want to administer a particular litmus test, as one of our colleagues on the Judiciary Committee has been advocating, that is their choice. If they simply do not like the way a nominee answered the questions that were put to him, then they can vote against the nominee for all of the reasons and the responsibilities of a Senator. But to say they cannot vote because there is no information about the nominee, or because he has not answered their questions, or because critical information is being withheld, well, that is clearly a figment of their imagination. That is a ghost lurking somewhere in the mind of a Senator, because for 21 months, try as they might, that ghost, or that allegation, has not been found or fulfilled.

In the real world, there is an enormous record on this nominee, bigger than the records of most of the judiciary nominees who have been confirmed by the Senate. In the real world, Mr. Estrada has answered question after question, just not always the way his opponents wished he would answer them; not just exactly the way his opponents would wish he had answered them, but he did answer them. In the real world, there is no smoking gun in the privileged documents that the opposition is unreasonably and inappropriately requesting.

There is something very familiar about the tactic being used against Miguel Estrada, and I finally realized what it was. This is the same obstructionism we have seen again and again from our friends on the other side, the same process that denied us the right to a budget, the right to appropriations for 12 long months. They could not even produce a budget. So we brought it to the floor and in 4 weeks we finalized that process.

For the last year and a half, we have lived with that issue of obstructionism, and today we are with it again. Now we are in our second week of denying an up-or-down vote. What is wrong with having an up-or-down vote? That is our responsibility. That is what we are charged to do under the Constitution.

I believe that is the issue. Instead of fighting on policy grounds, they are simply wanting to deny this issue to death. In the last Congress, as I mentioned, we had no budget, we saw an Energy Committee shut down because they would not allow that Energy Committee to write an energy bill, and they would not allow authorizing committees to function in a bipartisan way when they controlled the majority. Denial and obstruction is not a way to run a system. It is certainly not the way to operate the Senate.

Now we have a personality. Now it is not an abstract concept. Now it is not a piece of a budget or a dollar and a cent, as important as those issues are. We are talking about an individual who has served our country well, who has achieved at the highest levels, who is a man of tremendous integrity, and because he does not fit their philosophic test, the litmus test of their philosophy as to those they want on the court, but he does achieve all of the recognition of all of those who judge those who go to the court on the standards by which we have always assessed nominees to the judiciary system, that is not good enough anymore. The reason it is not good enough is because it is President George Bush who has made that nomination.

In the current Congress, that is an issue with which we should not have to deal. We should be allowed to vote, and I hope that ultimately we can, and certainly we will work very hard to allow that to happen. That is what we ought to be allowed to offer: to come to the floor, have an up-or-down vote on Miguel Estrada, debating for 1 week, debating for 2 weeks, debating for 3 weeks, if we must, but ultimately a vote by Senators doing what they are charged to do.

That is the most important step and, of course, that is the issue. Or is the issue changing the name of the game, changing or raising the bar, in this instance, to a higher level of vote, not for Miguel Estrada but for future votes, possibly a Supreme Court Justice? I do not know what the strategy is, but there is a strategy.

It is undeniable because we have seen it day after day, time after time. We watched it when they chaired the Judiciary Committee last year. I now serve on the Judiciary Committee. I went there this year with the purpose of trying to move judges through, trying to get done what is our responsibility to do, trying to fill the phenomenal number of vacancies. When there are vacancies in the court and caseloads are building, that means somebody is being denied justice. We should not allow our judiciary system to become so politicized by the process that it cannot do what it is charged to do. Therein lies the issue. I believe it is an important issue for us, and it is one I hope we will deal with if we have to continue to debate it.

Let me close with this other argument because I found this one most interesting. They said: We are just rubberstamping George Bush's nominations. Have you ever used a rubberstamp? Have you ever picked up a stamp, tapped it to an ink pad, tapped it to a piece of paper? That is called rubberstamping. My guess is it takes less than a minute, less than a half a minute, less than a second to use a rubberstamp.

That is a false analogy. Twenty-one months does not a rubberstamp make; 21 months of thorough examination, hours of examination by the American Bar Association. I am not an attorney, but my colleague from Nevada is. It used to be the highest rating possible that the American Bar Association would give in rating the qualifications of a nominee. I used to say that rating was probably too liberal. Now I say it is a respectable rating. Why? Because the bar on the other side has been raised well beyond that rating. Now we are litmus testing all kinds of philosophical attitudes that the other side demands a nominee have, and if they say, We are simply going to enforce or carry out or interpret the law against the Constitution, that is no longer good enough. Rubberstamping? A 5-second process, a 2-second process, or a 21-month process? I suggest there is no rubberstamping here.

I suggest the Judiciary Committee, under the chairmanship of PAT LEAHY, now under the chairmanship of ORRIN HATCH, has done a thorough job of examining Miguel Estrada, who has a personal history that is inspiring, work achievement that is phenomenally impressive, a competence and a character that has won him testimonials from all of his coworkers and friends, Democrats and Republicans, liberal and conservative.

As I mentioned, I am a new member of the Judiciary Committee. It is the first time in 40 years that an Idahoan has served on that committee, and I am not a lawyer. So I look at these nominees differently than my colleagues who serve on that committee who are lawyers. But I understand records. I understand achievement. I understand integrity. I understand morals, ethics, and standards that are as high as Miguel Estrada's.

I am humbled in his presence that a man could achieve as much as he has in as short a time as he has. I am angered—no, I guess one does not get angry in this business. I am frustrated, extremely frustrated that my colleagues on the other side would decide to play the game with a human being of the quality of Miguel Estrada, to use him for a target for another purpose, to use him in their game plan for politics in this country, to rub themselves up against the Constitution, to have the Washington Post say: Time's up. Enough is enough. To have newspaper after newspaper across the country say: Democrats, you have gone too far this time. Many are now saying that, and that is too bad to allow that much partisan politics to enter the debate.

We all know that partisan politics will often enter debates, but it does not deny the process. It does not obstruct the process. It does not destroy the process. Ultimately, the responsibility is to vote, and it is not a supermajority. The Senator from Nevada knows that, and the Senator from Idaho knows that. I could ask unanimous consent again that we move to a vote on the nomination of Miguel Estrada, and the Senator would stand up and say: I object.

That is how one gets to the vote on the floor of the Senate. After the issue has been thoroughly considered, Senators ultimately move to a vote. That is my responsibility as a Senator. That is one that I will work for in the coming days. That is one that many of my colleagues are working for.

We will come to the floor, we will continue to debate the fine points of Miguel Estrada, but we will not raise the bar. We should not set a new standard. In this instance, we should not allow a minority of Senators to deny the process because there is now a substantial majority who would vote for Miguel Estrada because they, as I, have read his record, have listened to the debate, have thoroughly combed through all of the files to understand that we have a man of phenomenally high integrity who can serve this country well on the District Court of Appeals that he has been nominated by President Bush to serve on.

Our responsibility is but one: to listen, to understand, to make a judgment, and to vote up or down on Miguel Estrada. So I ask the question, Is that what the other side will allow? Or are they going to continue to deny that? Are they going to continue to demand that a new standard be set? The American people need to hear that. They need to understand what is going on on the floor of the Senate, and many are now beginning to grasp that.

As newspapers talk about it, some in the Hispanic community are now concerned that somehow this has become a racist issue. I do not think so. I hope not. It should not be. It must not be. Tragically, we are talking about a fine man who is ready to serve this country and who is being caught up in the politics of the day, and that should not happen on the floor of the Senate.

Before I got into politics, I was a rancher in Idaho, and I can vouch for the fact that a lot of cowboy traditions are still alive and well in the Intermountain West. One of those great traditions is storytelling—gathering around a campfire and telling ghost stories. Some of those stories can be pretty scary. But nobody really believes them—certainly not adults, and not in the light of day.

I am reminded of that storytelling tradition of the West when I look back on the debate surrounding Miguel Estrada to the U.S. Court of Appeals for the D.C. District. The reason this debate reminds me of those old ghost stories is that the opposition's arguments amount to just that: stories about imagined ghosts and monsters, told for the purpose of frightening people.

I have been serving in the Senate for better than a decade, and I have seen a lot of filibusters about a lot of things, but this is the first time I have seen a filibuster over nothing—that's right: nothing. The other side is deliberately obstructing the nomination of Miguel Estrada because after 21 months they can find nothing wrong with this nominee.

Their argument is that because they cannot find anything wrong with him, all the bad things must be hidden, and therefore they need more time for their fishing expedition on this nomination. Only now, that fishing expedition is going into documents that are privileged, and public policy itself would be violated by breaking that privilege. That's not just my opinion—as we have heard again and again, it is the opinion of the seven living former Solicitors General, both Democrat and Republican.

With nothing to complain about, the opposition is trying to get us all to believe that there must be some terrible disqualifying information that is being withheld from the Senate. What that terrible information is, they leave us to imagine: maybe some writings that will reveal a monster who is going to ascend to the bench where he can rip the Constitution to shreds and roll back civil liberties. Maybe something even worse.

These are nothing more than ghost stories, deliberately attempting to frighten the American people and this Senate. It is time to shine the light of day on this debate, time to realize there is no monster under the bed.

And it is high time that the Democrat leadership put a stop to the politics of character assassination that go along with all this storytelling. It is outrageous to suggest that Miguel Estrada is hiding something, or being less than forthcoming with this Senate. The Senate Judiciary Committee had plenty of time over the last 21 months to find some real problem with this nominee—but no such problem was found. The American Bar Association reviewed him, found nothing wrong with him, and even gave him its highest rating—“well qualified.” The Bush administration looked into his record before sending up the nomination. And let's not forget that he worked for the previous administration, too, which not only hired him but gave him good reviews.

So Miguel Estrada has been under the microscope, and nobody has found a problem with him. On the contrary, we have found much to admire—at least, let me speak for myself—I have found much to admire about Mr. Estrada. By now, his story is pretty well known to anyone who follows the daily news, let alone Senators who study the nominees who come before them, so I won't repeat it again. Let me just say that I think he and his family should be very proud of his achievements. They should also be proud of his receiving this nomination. And of all people, they surely do not deserve to have the judicial nomination process turned into some kind of grueling gauntlet through the mud being generated by the opposition.

Senators are within their rights to oppose any judicial nominee on any basis they choose. If they want to administer a particular litmus test, as one of our colleagues on the Judiciary Committee has been advocating, that is their choice. If they simply do not like the way a nominee answered the questions that were put to him, then they can vote against that nominee for that reason.

But to say they cannot vote because there is no information about this nominee, or because he has not answered their questions, or because critical information is being withheld—well, apparently they do not live in the same world the rest of us do. Because in the real world, there is an enormous record on this nominee—bigger than the records on most of the judicial nominees who have been confirmed by the Senate. In the real world, Mr. Estrada has answered question after question—just not always the way that his opponents wished he would have answered. And in the real world, there is no smoking gun in the privileged documents that the opposition is unreasonably and inappropriately requesting.

There is something very familiar about this tactic being used against Miguel Estrada, and I finally realized what it was: this is the same obstructionism that we have seen again and again from our friends on the other side. Instead of fighting on policy grounds, they just obstruct and delay the issue to death. In the last Congress, we never got a budget, we never got an energy bill—just more obstruction and delay. And in this current Congress, instead of having an honest up-or-down vote on this nominee, they filibuster about the past history of judicial nominees under former administrations.

Another of my colleagues revealed during this debate that obstructionism is a tactic out of a playbook for stopping President Bush from getting his nominees to the higher courts—maybe not every court, but certainly the circuit courts and maybe someday the Supreme Court. We have heard on this Senate floor about that playbook advising our Democrat colleagues to use the Senate rules to delay and obstruct nominees—first in committee and then on the Senate floor.

This is the first step in raising the bar for all of President Bush's nominees. That is the goal—to raise the bar, to impose new tests never envisioned in the Constitution, for anyone nominated by President Bush. Make no mistake about this: it is partisan politics at its most fundamental. Instead of the Senate performing its constitutional role of advise and consent, the Democrat leadership intends to put itself in a position to dictate to the President who his nominees can be. Instead of allowing the normal process to work—the process through which all judicial nominees have gone before—they are fashioning a new set of tests that will become the standard.

And while I am talking about raising the bar, let me anticipate the argument of the opposition. I have heard a lot from my Democrat colleagues about how they are offended at being expected to "rubberstamp" President Bush's nominees. Last I checked, it takes about two seconds to "rubberstamp" something; you just pound the stamp on an inkpad and then on a piece of paper, and you are done.

This nomination, on the other hand, has been in the works for 21 months, involved extensive hearings by a then-Democrat-led Judiciary Committee, included supplemental questions posed by Committee members, a non-unanimous vote of that Committee, and weeks of debate on this floor. For any Senator to say this amounts to being pushed into "rubberstamping" this nominee is hogwash.

Furthermore, anybody who wants to complain about "rubberstamping" ought to be out here standing side by side with Republicans, demanding an up-or-down vote on this nominee. I say to my colleagues, if you are not satisfied that this nominee will be a good judge on the Court of Appeals, then vote against him. If you are sincere about your objections, and not just playing political games, then you have nothing to lose by demanding a fair vote.

I do not see how anybody could read the record on this nominee and listen to the debate in this Senate and not conclude that Miguel Estrada will serve the United States with distinction on the Federal bench. His personal history is inspiring; his work achievements are impressive; his competence and character have won him testimonials from friends and coworkers of every political stripe.

I am a new member of the Judiciary Committee—the first Idahoan to serve on that committee in more than forty years—and I am proud to say that my first recorded vote on that committee was to confirm Mr. Estrada. I am now asking my colleagues to allow the full Senate to have the opportunity to vote on this nominee. Let us stop the storytelling, get back to the real world, and have a fair up-or-down vote on the confirmation of Miguel Estrada.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Democratic whip.

Mr. REID. Mr. President, the Democratic leader was on the floor this morning and spoke at some length about the problems facing this country. The problems facing this country are significant. It is untoward, as the Democratic leader stated, that we are not dealing with issues the people we represent, who are in our home States, want to talk about. They want us to do something about the health care delivery system in this country. That includes prescription drugs. It includes the Patients' Bill of Rights. It includes Medicare. It includes Medicaid.

The people at home want us to at least remember that we have environmental problems facing this country that we need to deal with. The people at home understand education is a significant issue. The people at home understand their State—there are only four States that do not have a budget deficit. All other States are spending in the red. They want some help. We, as a Senate, deserve to deal with those and other issues that the people of our States believe we should be talking about.

There have been a number of requests made: Why do we not vote on this in 6 hours, 4 hours, 2 hours, 10 hours, 2 days, Friday by 9:30? And we have said very simply—this is the ninth day of this debate covering a period of approximately 3 weeks—Miguel Estrada needs to be candid and forthright. And how is that going to be accomplished? It is going to be accomplished by his giving us information, answering questions, and giving us the memos he wrote when he was at the Solicitor General's Office.

We should be dealing with the issues I have outlined, and others, issues that people really care about at home. But, no, we are not going to take up S. 414 that Senator DASCHLE asked unanimous consent that we move to, the economic stimulus package the Democrats prefer. What it does is give immediate tax relief to the middle class and has no long-term impact on the deficit of this country.

If we brought that up and the majority did not like our bill, we could have a debate on what is the best thing to do to deal with the financial woes of this country. That is what we should be dealing with.

As I have said earlier today, and I repeat, the reason we are not dealing with those issues of immense importance to this country is the majority does not have a plan or a program.

The President's tax cut proposal, his own Republicans do not like it. The chairman of the Ways and Means Committee of the House does not like it. Individual Members of the Senate, who are Republicans, who do not like his program, have written to him and talked to him. So that is why they are not bringing that up.

Why are we not going to do something dealing with health care? Because they do not have their act together. They do not know what they want.

So without running through each issue we should be talking about, let me simply say Miguel Estrada needs to be resolved and can be resolved in three ways: The nomination be pulled and we can go to more important issues; No. 2, he can answer the questions people want to propound to him and have propounded to him; and thirdly, he submit the memos he wrote when he was in the Solicitor General's Office and answer questions.

There has been a lot said in righteous indignation: We cannot give these memos because it would set a precedent that has never been set in the history of this country. Senators DASCHLE and LEAHY, the Democratic leader and the ranking member of the Judiciary Committee, wrote to the White House and said: Give us the memos. Let him answer the questions.

We get a 15-page letter back from Gonzales, the counsel to the President, saying: We are not going to do that.

My staff just showed me a letter—I guess he did not have time, as counsel to the President did, to write a 15-page letter—in two or three sentences saying that Gonzales, if he wanted to talk to Senator DASCHLE and I, they would have him come forward and he could sit down and talk to us.

We are not going to do that. The Democrats in the Judiciary Committee unanimously voted against Miguel Estrada because he did not answer the questions and he did not submit the memos.

My case to the Senate, my case to the American people, is there is no precedent set by his giving this information, and I say that for a number of reasons.

I have a detailed letter from the Department of Justice describing their efforts to respond to the Senate's request for Chief Justice Rehnquist's Office of Legal Counsel memos during his nomination—he was a Supreme Court Justice at the time, but now he is the Chief Justice—and a legal letter from the Department of Legislative and Intergovernmental Affairs, John Bolton, on August 7, 1986, which states and I quote:

> We attach an index of those documents—

Rehnquist legal memorandum from when he was the Assistant Attorney General for the Office of Legal Counsel in the Solicitor's Office—

> and will provide the Committee with access in accordance with our existing agreement.

The letter also indicates that numerous other legal memoranda were provided to the committee prior to that date. The letter also contains an attachment, "Index to Supplemental Release to Senate Judiciary Committee," which lists three additional memos relating to legal constraints on possible use of troops to prevent movement of May Day demonstrators, possible limitations posed by the Posse Comitatus Act on the use of troops, authority of members of the Armed Forces on duty in civil disturbances to make arrests.

These are internal memos, obviously, written by attorneys containing legal analyses and deliberations about very sensitive issues. Again, it is obvious that legal memos similar to Mr. Estrada's were provided to the Senate Judiciary Committee, reviewed and returned to the Department. In fact, Senator BIDEN, still a member of this body, wrote to Attorney General Meese to thank him for his cooperation and then asked for additional memos that I assume were provided.

I ask unanimous consent that a letter dated July 23, 1986, written to the Honorable Strom Thurmond, chairman of the Senate Judiciary Committee, from JOE BIDEN asking that the Department of Justice supply certain information regarding the nomination of William B. Rehnquist to be Chief Justice. I ask simply that that matter be forwarded to the Senate and be printed in the RECORD.

As well, we have a request back—I am sorry. We have a letter written to JOE BIDEN from Senator EDWARD M. KENNEDY, Howard Metzenbaum, and Paul Simon, members of that Judiciary Committee, who asked for certain information dealing with memoranda that Rehnquist prepared. We have a letter written to Attorney General Meese from JOE BIDEN setting forth the materials that were requested, together with Rehnquist documents that are wanted. We have a letter dated August 7 to Chairman Thurmond from John Bolton that I referred to in more general terms. That lists in detail the material that was supplied.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 23, 1986.

Hon. STROM THURMOND,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR STROM: I have enclosed the request of the Department of Justice for documents concerning the nomination of William H. Rehnquist to be Chief Justice. Please forward the enclosed request for expedited consideration by the Department. I understand it may be necessary to develop mutually satisfying procedures should any of the requested documents be provided to the Committee on a restricted basis.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 23, 1986.

Hon. JOSEPH R. BIDEN, Jr.,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR JOE: In preparation for the Senate Judiciary Committee hearings on the nomination of William H. Rehnquist be to Chief Justice of the United States, please ask Chairman Thurmond to provide the following information and materials, as soon as possible:

1. For the period from 1969–1971; during which Mr. Rehnquist served as Assistant Attorney General for the Office of Legal Counsel, all memoranda, correspondence, and other materials on which Mr. Rehnquist is designated as a recipient, or materials prepared by Mr. Rehnquist or his staff, for his approval, or on which his mane or initials appears, related to the following:

—executive privilege;

—national security, including but not limited to domestic surveillance, anti-war demonstrators, wiretapping, reform of the classification system, the May Day demonstration, the Kent State killings, and the investigation of leaks;

—the nominations of Harry A. Blackmun and G. Harrold Carswell to be Associate Justices of the Supreme Court;

—civil rights;

—civil liberties.

2. The memo prepared by law clerk Donald Cronson for Justice Jackson concerning the school desegregation cases, entitled, "A Few Expressed Prejudices on the Segregation Cases".

3. The original of the Cronson cable to Mr. Rehnquist in 1971, which appears in the Congressional Record of December 9, 1971.

4. Financial disclosure statements for Justice Rehnquist for the period from his appointment to the Court until 1982.

5. Any book contracts to which Justice Rehnquist is a signatory and which were in effect for all or any part of the period from January 1984 to the present, or for which he was engaged in negotiations during the same period.

Sincerely,

EDWARD M. KENNEDY.
HOWARD M. METZENBAUM.
PAUL SIMON.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY
Washington, DC, August 6, 1986.

Hon. EDWIN MEESE III,
Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: First, I wish to express my appreciation for the manner in which we were able to resolve the issue of access to documents which we requested in connection with Justice Rehnquist's confirmation proceedings. I am delighted that we were able to work out a mutually acceptable accommodation of our respective responsibilities.

We have now had an opportunity to conduct a preliminary examination of the materials which were provided to us last evening, and we have noticed that several of the items refer to other materials, most of which appear to be incoming communications to which the nominee was responding while he headed the Office of Legal Counsel. Attached hereto is a list of those other materials, and I would appreciate your taking appropriate steps to see that those items are made available as soon as possible.

Finally, once you have provided us with access to these additional materials, I would appreciate your providing us with a written description of the steps which have been taken, and the files which have been searched, in your Department's effort to be responsive to our requests.

Once again, thanks for your continuing assistance.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Ranking Minority Member.

REHNQUIST DOCUMENTS

A. Letter from Lt. Gen. Exton, dated Dec. 2, 1970. (This item is referenced in the attachments to I.2.)

B. The "transmittal of June 5, 1969" from Herbert E. Hoffman, (This item is referenced in II.1.)

C. The "directive . . . sent out by General Haig on June 30." (This item is referenced on the first page of the first attachment to II.2.)

D. "Haig memorandum of June 30." (This item is referenced on the first page of the first attachment to II.2.)

E. "NSSM–113". (This item is referenced in II.4.)

F. The "request" of William H. Rehnquist. (This is referenced in the first paragraph of II.5.)

G. The "request" of William H. Rehnquist. (This item is referenced in the first paragraph of II.6.)

H. John Dean's "memorandum of Nov. 16, 1970." (This item is referenced in II.8.)

I. Robert Mardian's "memorandum of January 18, 1971." (This item is referenced in II.10.)

J. The "similar memorandum to Mr. Pellerzi and his response of January 21 concerning the above-captioned matter." (These *two* items are referenced in II.10.)

K. Kenneth E. BeLieu's "request of October 28, 1969 for rebuttal material." (This item is referenced in V.1.)

L. William D. Ruckelshaus' "memorandum of December 19, 1969." (This item is referenced in VI.2, and in VI.4.)

M. William D. Ruckelshaus' "memorandum of February 6, 1970." (This item is referenced in VI.5.)

N. Mr. Revercomb's request. (This item is referenced in I.1.)

DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, August 7, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN THURMOND: This letter responds to Senator Biden's August 6 request for certain additional materials referred to in the documents from the Office of Legal Counsel (OLC) that were made available for the Committee's review, and for an explanation of the procedures followed by the Office of Legal Counsel in locating and reviewing those materials. Because OLC went to extraordinary lengths in responding to the document requests in a very short time, I think it would be useful to describe those efforts first.

The files of the Office of Legal Counsel for the years 1969–1971 are maintained in two, duplicative sets: one in hard copy (on a chronological basis) and the other on a computerized system (which can be searched by words or phrases). The Office's normal procedure in response to any request for documents—be it from the public, another government agency, or from a member of Congress—is to conduct a search through the computer system to locate the potentially responsive document or documents. The documents thus identified are then reviewed in hard copy to determine whether they are responsive to the request and whether they may be released, consistent with preserving the integrity of the Office's role as confidential legal advisor to the Attorney General and to the President. The computer search and review is supervised directly by senior career personnel of the Office.

In this case, the Office went far beyond its routine process to ensure the comprehensiveness of its response. In keeping with established procedures, members of the career OLC staff, under the supervision of the senior career lawyer who usually handles such matters, performed extensive subject matter searches of the computer data base to identify all documents in the files that were conceivably responsive to the request. Those documents were then reviewed by a senior career staff lawyer to determine their responsiveness. In addition, OLC career staff performed an overlapping review, from the hard copy files maintained by OLC for 1969–1971, of all documents prepared by or under the direction and supervision of Mr. Rehnquist. Finally, a staff lawyer worked with the Records Management Division of the Department of Justice to try to identify and locate any files stored in the federal records center that might possibly contain responsive documents.

I note that review of the stored files in this manner is extraordinary and to our knowledge unprecedented. The OLC files from the relevant time period were consolidated with other Departmental files by the Records Management Division, and then processed and maintained by that Division based on a complicated and incomplete filing system. It is virtually impossible to determine whether documents from the Office of Legal Counsel may be in a particular stored file, or indeed to determine whether particular files were maintained.

Nonetheless, in an effort to be as complete as possible in responding to the request, OLC undertook to try to identify any stored files that could conceivably contain responsive documents. Although an initial review of the index maintained by the Records Management Division did not suggest that those files contained responsive material that OLC had not previously located, in an abundance of caution OLC requested access to any possibly relevant files. Those files were received from the records center in Suitland, Maryland, late yesterday afternoon. Based on a review of those files by OLC career staff, OLC located three additional memoranda relating to the May Day arrests, each of which was prepared by OLC staff. We attach an index of those documents, and will provide the Committee with access in accordance with our existing agreement.

In addition, the files received from the federal records center included a copy of the December 2, 1970, letter from Lt. Gen. Exton, which is requested as item A by Senator Biden in his August 6 letter. We will also furnish this letter to the Committee under the same terms. With the exception of item M on Senator Biden's list, which has already been made available to the Committee, OLC has been unable to locate any of the other requested materials in its files or in the stored files. Many of these documents may, in fact, no longer exist. The various "requests" listed as items F, G, and K, for example, were most likely oral requests that were never memorialized in writing.

In sum, the staff of the Office of Legal Counsel went to extraordinary lengths to ensure that all responsive materials were located, putting literally hundreds of hours into this project.

Please let me know if we can be of further assistance.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

INDEX TO SUPPLEMENTAL RELEASE TO SENATE JUDICIARY COMMITTEE

1. 5/71 memo to file from Eric Fygi: "Prevention by Use of Troops of Departure of Mayday Demonstrators from West Potomac Park for Demonstration Sites"

This memorandum discusses legal constraints on possible use of troops to prevent movement of May Day demonstrators.

2. 4/26/71 memo to WHR from Eric Fygi and Mary C. Lawton: "Legal and Practical Considerations Concerning Protective Actions by the United States to Ameliorate the 'Mayday Movement' Traffic Project"

This memorandum discusses possible limitations posed by the Posse Comitatus Act on the use of troops in connection with the planned May Day demonstrations.

3. 4/29/71 memo to file from Mary C. Lawton (copy provided to WHR): "Authority of members of the Armed Forces on duty in civil disturbances to make arrest"

This memorandum questions arising under federal and D.C. law and the Uniform Code of Military Justice with respect to arrests by members of the armed forces.

4. 12/3/70 letter from Lt. Gen. H.M. Exton to Attorney General Mitchell (as requested by Senator Biden's letter of August 6, 1986).

Mr. REID. Madam President, my friend from Idaho, the distinguished senior Senator—and he is my friend; I have the greatest respect for him; he is a fine man; he represents his State very well—I respectfully submit to this body my friend's statements regarding what the Senate did not do last year is a statement made through a pair of glasses that obviously are very foggy.

I say that because there is a lot of talk here about things that were not done. But the fact is the work that was left undone last year was left undone as a result of the President of the United States and the Republican-led House of Representatives not allowing us to move the appropriations bills. We passed 2 bills, leaving 11 undone. The House of Representatives simply refused to take votes on those very difficult bills. They knew if they took votes on those bills as they wanted them in the House of Representatives, it would create chaos among the people in the country because the people would know then that the Republicans simply were not meeting the demands of the American people.

As a result of that, even though we passed every bill out of the Senate Appropriations Committee—all 13—we were not allowed to take them up. So we have to understand that is basically the way it is.

The senior Senator from Idaho has talked about the need to have a vote on Estrada. It is within the total power of the majority to have a vote. How do they have a vote? The rules in this body have been the same for a long time: File a motion to invoke cloture. Why does the Senate have a rule such as this? The Senate of the United States, as our Founding Fathers said, is the saucer that cools the coffee. The Constitution of the United States is a document that is not to protect the majority; this Constitution protects minorities. The majority can always protect itself. The Constitution protects the minority. If the majority wants to vote, it can invoke cloture—try to. It takes 60 votes. No question about that. Then they can have the up-or-down vote that they want.

All the crocodile tears are being shed for this man who is fully employed downtown here with a big law firm, making hundreds of thousands of dollars a year. We are holding up the work of this country that deals with problems that people who do not make that kind of money have, people who are struggling to make sure they can pay their rent, make their house payment, pay their car payment, that they can find enough money to get to work on public transportation, people who need a minimum wage increase, people who have no health care; they cannot take their children to the hospital when they are sick, and if they do, they know they are going to be billed large sums. Some places do not have indigent hospital care. We know there are many people who are underinsured, as Senator KENNEDY and I talked about. There are 44 million who do not have health insurance. Those are the problems with which we should be dealing.

The Clark County School District in Las Vegas is the fifth or sixth largest school district in America. A quarter of a million children need help. The school district is in dire need of help. The Leave No Child Behind is leaving a lot of kids behind because there is no money to take care of the problems. We met with Governors today for lunch, and they were told when they met with the President yesterday for Leave No Child Behind they are supposed to do the testing, and if that does not work out, they are supposed to take care of the other problems. That is not the deal we made. The States were desperate before that was passed. We do not fund the IDEA act, children with disabilities. These are the issues we should be dealing with—not spending 3 weeks of our time on a man who is fully employed. Let's talk about some of the people who have no jobs or are underemployed.

Having said that, my friend, the distinguished senior Senator from Idaho, cannot understand why there is not a vote on Estrada the way he believes a vote should occur. My friend, the distinguished senior Senator from Idaho, voted against 13 Clinton nominees on the floor, including Rosemary Barkett, born in Mexico, who emigrated to the United States. She had a great rating from the ABA, before Fred Fielding was on the committee, and he does not write her evaluation report.

By the way, the one thing on which I agree with the Republicans: They were right in saying the ABA should be out of the process. I will join with anyone in the future to get the ABA out of the process. It is corrupt, unethical; there are absolute conflicts of interest. The Republicans were right; it has been unfair.

I cannot imagine that body having thousands of——

Mr. CRAIG. Will the Senator yield?

Mr. REID. In one second, I will yield—thousands of lawyers, and they cannot get people who would be fair and reasonable and do not appear to have conflicts of interest? It is ripe to get rid of it.

Mr. CRAIG. I would not deny the Senator the right to the floor. I am curious, for the 8 years of the Clinton administration, this was the gold plate. The American Bar Association quality test was a gold plate. I said wait a moment here and voted against some of them.

Mr. REID. I respond to my friend, I said on the Senate floor today in the presence of the chairman of the Judiciary Committee, they were right. I acknowledge that.

Mr. CRAIG. A year makes a lot of difference, in the opinion of the Senator?

Mr. REID. Knowledge makes a difference. I am not a member of the Judiciary Committee.

Mr. CRAIG. And I am a freshman there.

Mr. REID. I think the ABA should be ashamed of themselves.

I said this morning, I practiced law quite a few years before coming here. I was not a member of the ABA for a number of reasons. Had I known this, I would really not have been a member. Lawyers all over America—we have, going back to biblical times, had problems with lawyers.

Mr. CRAIG. That is why——

Mr. REID. The ABA, I cannot think of a better phrase than that they should be ashamed of themselves for what they have done.

This is off the subject, but I will get back on the subject. I believe all Presidents, Democrat and Republican, have had trouble getting nominees—whether it is Cabinet officers, sub-Cabinet officers, members of the military, whether it is judges—trying to get them before the Senate because of the length of time the FBI investigations take and all the hoops people have to jump through now.

I say let's eliminate the ABA from the judges. I don't know how many of my colleagues here agree, but I agree, and I will join with the Republicans anytime to get the ABA out of the process.

My friend, the distinguished Senator from Idaho, voted against Judge Sonia Sotomayor, the first Hispanic female appointed to the circuit, and Judge Richard Paez confirmed to the Ninth Circuit after 1,520 days following his nomination. In fact, the distinguished senior Senator from Idaho not only voted against Judge Paez's confirmation, before that vote on March 9, 2000, but also voted on that day to indefinitely postpone the nomination of Richard Paez.

I find it fascinating that someone who voted to indefinitely postpone a vote on Paez would now say that Estrada is entitled to an immediate vote on his nomination.

Mr. CRAIG. Will the Senator yield?

Mr. REID. I am happy to yield, although I do not lose my right to the floor.

Mr. CRAIG. Madam President, the Senator is absolutely right. I did vote against those judges, as I said on the floor a few moments ago. I voted for some of the Clinton judges and against some of them based on philosophy. The question I ask, though, is, Did I ever deny the Senate the right to go to a vote? Did I ever filibuster as the Senator's party is now doing on this issue?

Mr. REID. I say to my friend that we had to vote cloture on Paez. That is how we got a vote on Paez. That is how that came about. We had to invoke cloture, and we had enough people of goodwill on the other side of the aisle who joined with us to invoke cloture. So the debate stopped.

Mr. CRAIG. I see.

Mr. REID. Madam President, as I was saying before, the question was asked. Senator CRAIG voted against the motion to invoke cloture on the debate on Paez who was pending for more than 1,500 days.

I want everyone within the sound of my voice to hear this. As Senator DASCHLE and I said, when the Democrats took over control of the Senate, we said it is not payback time no matter how bad President Clinton was treated. And we could go into a long harangue about how unfair it was. I will not even mention a few of the judges. The record is replete with examples of how poorly they were treated and how unfairly they were treated. We did not have payback time when we were in the majority, and it is not payback time when we are in the minority.

We approved, during the short time that we had control of the Senate, 100 judges—exactly. Three judges have come before this body for a vote. They were approved unanimously.

The situation with Miguel Estrada is a little bit different. It is a little bit different. It is a lot different. It is tremendously different because this is a man about whom speeches have been given all over town. He is so good that he is going to go to the Supreme Court.

It triggered something in the mind of the members of the Judiciary Committee. If that is the case, maybe we should ask him some questions. My dear friend from Utah, from our sister State and neighboring State, had on his desk books—look at all the answers he has given. There are answers, and then there are answers. He didn't answer the questions. That was our concern. He responded to questions, but he didn't answer them.

We believe that what has gone on in the past is not something we want, so in this situation I am able to say here that 2 days ago everything has been said but not everyone has said it. We are in a new phase of this debate. Everything has been said and everybody has said it. So now it is just repeat time. I am going to do a little repeat time.

I know my friend from New York wishes to speak. I will be as quick as I can, but I do want to respond to some of the questions that have been raised in the last bit by my colleagues on the other side of the aisle.

In 1996, Republicans allowed no—zero percent, absolute number zero—circuit court nominees to be confirmed. In 1997, they allowed 7 of just 21 of President Clinton's 21 circuit court nominees, one-third. Only 5 of President Clinton's first 11 circuit nominees that same year were confirmed. In 1998, Republicans allowed 13 of the 23 pending circuit court nominees to be confirmed. That percentage was pretty good—the best year for circuit court nominations and 6.5 years in control of the Senate. In 1999, Republicans backed down to 28 percent and allowed 7 of the 25 circuit court nominees to be confirmed—about 1 of over 4.

Four of President Clinton's first 11 circuit court nominations that year were not confirmed. In 2000, Republicans allowed only 8 of 26, 31 percent. All but one of the circuit court candidates were initially nominated that year without confirmation.

Republicans simply have no standing to complain that 100 percent of President George W. Bush's circuit court nominees have not be confirmed. The recent issue makes it plain. Democrats have been far better to this President than they were to President Clinton.

Under Republicans, as a consequence, the number of vacancies on the circuit courts more than doubled—from 16 in January 1995 to 33 by the time the Senate was reorganized in the summer of 2001. Republicans allowed only 7 circuit court judges to be confirmed per year; on average, we confirmed 17 in just 17 months.

The other thing that I find so interesting is the majority is complaining about the District of Columbia Circuit Court being so understaffed. What they are saying now is that this DC Circuit is so understaffed that we have to do something about this.

As my friend from Utah said to me, make a difference. As I indicated to him about the ABA, I didn't know as much then as I know now about the ABA.

But what I wanted to talk about here is the DC Circuit Court problems. They talked about double standards on that side of the aisle today. Let me give you a couple of examples.

DC Circuit Court nominees Elena Kagan, Allan Snyder, and Merrick Garland. Senator CORNYN remarked that Judge Garland was confirmed in only a few months. Today the Senator repeated that claim using the chart that said Garland waited only 71 days from his nomination to confirmation.

If only that were the case, but all you have to do is talk to Judge Garland and look at the real record. Judge Garland was first nominated in 1995—the year the Republicans took over the Senate—and not allowed to be confirmed until 1997, hardly a few months.

The prior two Republican administrations under President Reagan and George W. Bush appointed 11 judges to the 12-member court. When President Reagan came to Washington, there was a concerted effort to pack this court in particular with activist judges in the hopes of limiting opportunity for citizens to challenge regulations and limiting constitutional power to enforce hard-fought constitutional and statutory rights to protect workers and to protect the environment.

President Reagan, with the help of the Senate, put activist Robert Bork on the DC Circuit. Like Miguel Estrada, Bork was one of the first judges nominated by that President. Shortly after winning Bork's confirmation to the circuit in 1982, President Reagan pushed through the Scalia nomination to the DC Circuit, and Ken Starr the following year.

That is a real lineup. Bork, Starr, Scalia—quite amazing. He named another five conservatives after that for a total of eight appointments to the court alone in his 8 years as President.

The first President Bush took a similarly special interest in the DC Circuit and chose Clarence Thomas to be one of his first dozen nominees. Thomas, who I had the pleasure of voting against when he came before the Senate, was one of two other nominees of the first President Bush. Four of the 11 judges put on the District of Columbia Circuit were later nominated by the Republican Presidents to the Supreme Court.

During the period when Republicans had nominations to that court—when Scalia and Thomas served there—the court, clearly any legal scholar can tell you, began to limit opportunities for individual citizens and judges to represent them. To have standing to challenge Government action.

At the same time, the DC Circuit became less deferential to agency regulations intended to protect consumers and workers. These decisions were praised by Republican activists.

With a Democratic Senate, President Clinton was able to name two moderate judges to this court in order to moderate this bench. However, once Republicans took over, they tried to prevent any more Democratic appointees from getting on this court.

So it is simply incorrect—and I hope not intentionally—to claim that Garland waited only 71 days between his nomination and his confirmation. It was a matter of years, not days—almost 2 years.

Why did he have to wait so long? Once Republicans took over the Senate, they decided to try to prevent President Clinton from filling circuit court vacancies, especially in the DC Circuit. In fact, during their time in the majority, vacancies on the appellate courts more than doubled, to 33, during their 6½ years in control of the Senate.

I believe Republicans decided to prevent President Clinton from bringing any balance to the DC Circuit. As you know, the Republicans had named 11 judges to this powerful 12-member court.

First, when Garland was nominated to the 12th seat, Republicans said the DC Circuit did not need a 12th judge. For example, the distinguished senior Senator from Iowa, Mr. GRASSLEY, said that this judgeship cost $1 million a year and did not need to be filled due to those costs.

Then Senator GRASSLEY said he was relying on the view of a Republican appointee to this court, Judge Silberman. Judge Silberman—you can read about him in a number of different places, including the book "Blinded by the Right," written by Mr. David Brock, where this man, who was an activist for the far right, would meet with this judge, while he was sitting on the bench, walking to his anteroom, and talk about political strategy on how to embarrass Democrats, talk about political strategy, what to do to embarrass the President of the United States and the First Lady of the United States. That is Judge Silberman.

Judge Silberman recently told the Federalist Society that judicial nominees should say nothing in their confirmation hearings—the same advice he gave Scalia when Silberman was in the Reagan White House. And, as you know with Scalia, a nominee's silence on an issue certainly does not guarantee that a nominee does not have deeply held views on an issue.

Yesterday, I went into some detail about my respect for the ability of Judge Scalia to reason. This is a logical man, a brilliant man. But we, for various reasons, knew quite a lot about Scalia. He had written opinions before he went to the Supreme Court. And even though some of us may not have agreed with his judicial philosophy, no one—no one—can dispute his legal attributes, his legal abilities, his ability to reason and think.

Scalia recently authored a majority opinion for the Supreme Court in favor of the Republican Party of Minnesota that ABA-modeled ethics rules could not prevent a judicial candidate from sharing his views on legal issues. That was Scalia, the person I just bragged about.

While there might have been some ambiguity about how much a judicial candidate could say before that Supreme Court decision last summer, after that decision there is none now, and Mr. Estrada has no ethical basis for refusing to answer the questions that we say he has not answered.

Let's talk about Silberman a little more.

He told Senator GRASSLEY that the addition of another judge on that court would make it "more difficult" "to maintain a coherent stream of decisions." Surely he did not mean that the addition of a Democrat appointee to that court filled with Republican appointees would make it more difficult to have unanimous decisions by mostly Republican panels.

My friend Senator GRASSLEY and other Republicans also relied on the views of another Republican appointee, Judge J. Harvie Wilkinson of the Fourth Circuit. I don't know much about Harvie Wilkinson. I don't know if he is giving advice about how to embarrass Democrats in his judicial capacity, which is unethical and against the canons of judicial ethics. But I don't know anything about Harvie Wilkinson, other than what I am going to tell you right now. He said:

> [W]hen there are too many judges . . . there are too many opportunities for Federal intervention.

So this makes me think that the opposition to Garland getting a vote was pretty political.

Well, then look at what happened. Another Republican appointee to the DC Circuit retired, and then the Republicans said the DC Circuit did not need an 11th judge on that court. Garland would have then been the 11th judge instead of the 12th.

So the Republicans came to the floor stating that the declining caseload of the DC Circuit did not warrant the appointment of a Clinton appointee. They argued that 10 judges could handle the 1,625 appeals filed in the then-most-recent year for which statistics were available.

I can only imagine what the Republicans would be saying now if Gore—who got more votes in the last election than did the President—if he had won the Supreme Court case in that election recount. Now, the number of cases filed in the DC Circuit has fallen by another 200 per year, down to 1,400 in 2001, the most recent year for which statistics are available. So under their analysis—that is, the analysis of Silberman and Wilkinson—the DC Circuit would need only 9 judges to handle these cases, not 10 or 11 or 12.

In fact, under their analysis, 8 DC Circuit judges could probably handle the 1,400 appeals if each judge took a few more cases on average—175 rather than 162. In fact, the First Circuit had 1,463 appeals that year, more than the DC Circuit, but they only have 6 judges.

So let me be as clear as I can. I am not saying that the DC Circuit needs only eight judges and that Estrada and Roberts are people for whom they should not have submitted their names. I am simply saying that these were the Republican arguments against confirming Merrick Garland and any other Clinton appointees to that court. Now they are strangely silent on the plummeting caseload of the DC Circuit and whether it is important we spend $1 million per year for each job.

These saviors of the budget—the majority—and they are responsible, along with the President, for the largest deficit in the history of the world, almost $500 billion this year—are not concerned, I guess, about $1 million per year. Because you are talking about four judges or so, and that is only $4 million. And when we have a deficit approaching $500 billion, I guess that is chump change.

After delaying Garland from 1995 to 1997, 23 Republicans still voted against the confirmation of this uncontroversial and well-liked nominee. I think it is important note that, despite Garland's unassailed reputation for fairness, Republicans forced him to wait on the floor all this time—even after he was voted out of committee—11 months on the floor.

Clinton's two other nominees to the DC Circuit were not nearly as fortunate. Elana Kagan and Allen Snyder were never allowed a committee vote or a floor vote. They were held up by anonymous Republicans.

That is worse than what we are doing—absolutely, totally worse. What we are doing is within the rules because you have rules that you can follow. If it is not put out of committee, you have no recourse. If they had brought it to the floor, we could have at least tried to invoke cloture. And that is what the majority can do now.

They did not even give these two qualified people—both of whom graduated first in their class, Harvard—they were never even allowed a committee vote, or certainly not a floor vote. They were held up by anonymous Republicans.

Now, we are not doing anything in the dark of the night. We do not have anonymous holds on Miguel Estrada. We are out here on the floor saying, we want information on him. Until we get it, we are going to vote against this man. And I assume these anonymous holds—I don't know how many it was—one, or two, or three, or four, or five Republicans in the dark of the night preventing a vote.

Now the Republicans want to say it is wrong and unconstitutional to need 60 votes. It is not quite worth a hearty laugh, but it is sure kind of funny for them to say it is unconstitutional. Unconstitutional that we are following the Constitution—article II, section 2, of the Constitution?

Now Republicans want to say it is wrong and unconstitutional to need 60 votes—more than a majority—to end a debate under longstanding Senate rules, but it is not antidemocratic and unfair for Republicans to allow just one member of their own party—maybe two or three—to prevent a vote up or down on a judicial nominee, or at least allow us to file a motion to invoke cloture; that is, when a Democrat was President.

Madam President, I know the Senator from New York is here to speak. Is that true? I will have plenty of opportunity at a subsequent time to speak. But there will be a time when I respond to the statement the junior Senator from Texas made yesterday regarding the Senate's role on confirmations. I look forward to doing that.

I apologize to my friend from New York. She had duty here at 5 o'clock, and I have taken far too much time.

I did want to respond to some statements made when the Senator from New York was not on the floor. I felt it was important that the record be made clear.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I understand that the Senator from New York wishes to speak. I don't wish to delay her, but in the spirit of going back and forth, I have sought to be recognized. I will not take a great deal of time because I want to be sure the Senator from New York is given the proper opportunity to speak.

Mr. REID. Madam President, because of the graciousness of the Senator from Utah, I ask unanimous consent that following the statement of the Senator from New York, the Senator from Utah be recognized.

Mr. BENNETT. Madam President, I would object because I have the floor.

Mr. REID. I am sorry. I thought you were going to let her speak.

Mr. BENNETT. I do intend to let her speak, but I would like to give my statement first.

Mr. REID. I didn't understand that. Then I ask unanimous consent that the Senator from New York be recognized following the Senator from Utah. I would say to the Senator from Utah, the Senator from New York has been waiting a long time, so in the matter of who has been here the longest, it has been her.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I thank my friend from Nevada. I sit behind him. He may not have noticed how long I was waiting.

I have been interested in this debate. It goes on. As the Senator from Nevada has said, just about everything that can be said has been said. But at the same time the country is beginning to discover this debate. While everything may have been said on the floor, it seems that not everything has been said out in the country. It is interesting to me that we are getting more and more editorial comment throughout the Nation on this issue.

One that came to my attention just this morning is in this morning's Washington Post. Those who get upset about what they believe is the liberal bias of the newspapers usually do not include the Washington Post among the list of those publications favorable to Republicans. There are columnists in the Washington Post that are considered favorable to Republicans. Mr. Novak comes to mind. But the Post itself is considered to be part of the leftwing media, according to those on talk radio.

So when someone who is part of the establishment of the Washington Post editorial page speaks out on this issue and says something contrary to that which is normally assumed to be the party line of the mainstream media, it is worth noting and commenting on.

In this morning's Washington Post, Benjamin Wittes, a member of the editorial page staff, has an op-ed piece entitled Silence is Honorable.

I would like to quote from it at some length. This is how Mr. Wittes begins:

> Asked whether the Constitution evolves over time, the nominee to the U.S. Court of Appeals for the District of Columbia Circuit told the Senate Judiciary Committee that, while such debates were interesting, "as an appellate judge, my obligation is to apply precedent." Asked whether he favored capital punishment, a nominee said only that the death penalty's constitutionality was "settled law now" and that he didn't "see any way in which [his] views would be inconsistent with the law in this area."
>
> Miguel Estrada, one of President Bush's nominees to the D.C. Circuit, is facing a filibuster by Democratic senators who claim that his refusal to address their questions at his hearing—combined with the White House's refusal to release his memos from his days at the solicitor general's office—makes him an unreadable sphinx. Yet the careful answers quoted above are not Estrada's. The first was given by Judge Judith Rogers at her hearing in 1994, the second by Judge Merrick Garland the following year. Both were named to the bench by President Clinton. Neither was ever accused of stonewalling the committee. And both were confirmed.
>
> But the rules they are a-changin', and answers barely distinguishable from these are no longer adequate. Asked whether he thought the Constitution contained a right to privacy, Estrada said that "the Supreme Court has so held and I have no view of any nature whatsoever . . . that would keep me from apply[ing] that case law faithfully." Asked whether he believed Roe v. Wade was correctly decided, he declined to answer. While he has personal views on abortion, he said, he had not done the work a judge would do before pronouncing on the subject. Roe "is there," he said. "It is the law . . . and I will follow it."

> The real difference between Estrada's questioning and that of Garland and Rogers is not that Estrada held back. It is that Garland and Rogers faced nothing like the inquest to which Estrada was subjected. Both, along with Judge David Tatel—the other Clinton appointee now on the court—faced only a brief and friendly hearing.

I would note, outside of the article, that that brief and friendly hearing was under Republican auspices because Republicans controlled the Senate. Back to the article:

> And none was pushed to give personal views on those matters on which his or her sense of propriety induced reticence. To be sure, there was no controversy surrounding the fitness of any of the Clinton nominees, so the situation is not quite parallel. When Garland, a moderate former prosecutor who had recommended the death penalty, said he could apply the law of capital punishment, there was no reason to suspect he might be shielding views that would make him difficult to confirm. By contrast, many Democrats suspect that Estrada's refusal to discuss Roe is intended to conceal his allegedly extremist views. But that only begs the question of why Estrada is controversial in the first place that Democrats think it appropriate to demand that he bare his judicial soul as a condition of even getting a vote.

This is the conclusion of this portion of the op-ed piece:

> Nothing about his record warrants abandoning the respect for a nominee's silence that has long governed lower court nominations.
>
> And silence is the only honorable response to certain questions. It is quite improper for nominees to commit or appear to commit themselves on cases that could come before them.

That is the end of that quote. This is the standard we followed in this body for many years. I will not pretend that members of the Judiciary Committee of both parties in Congress, controlled by both parties, would use the Judiciary Committee, the blue slip process and other patterns of senatorial courtesy to keep people from getting to the bench. That is part of our history. That has always been done. But once a hearing has been held and the committee has voted out a nominee, we have always allowed that nominee to go to a vote. That is the standard that has been established in this body. That is the standard that has been followed by Democrats and Republicans alike. And that is the standard that is being changed in this circumstance.

The Senator from Nevada talked a good bit about the Constitution and questions that have been raised about constitutionality by the Republicans. I would simply point out this obvious fact with respect to the Constitution on this question: The Founding Fathers gave the power to advise and consent in certain executive decisions to the Senate. The Founding Fathers recognized that the power to advise and consent was a very significant one, an unusual one held solely to the Senate. So they outlined those areas where the power to advise and consent would require a supermajority.

The Founding Fathers said: If you are advising and consenting on a treaty, which becomes law when it is ratified, equal to the Constitution, then you have to have a two-thirds majority. If you are amending the Constitution, you have to have a two-thirds majority. These are serious enough matters, with long-term impact, that they must have a two-thirds majority.

They could have said: The advise and consent power always requires a supermajority, but they did not. The Founding Fathers made it very clear those specific areas where a supermajority would be required and then left it to an ordinary majority on the advise and consent power with respect to Presidential nominations. And throughout the entire history of the Republic, we have followed the pattern of a simple majority for the advise and consent power to be exercised by the Senate.

Make no mistake, if the Senate sets the precedent in the Estrada case that the advise and consent power from this time forward requires a supermajority of 60 votes, they are changing forever the pattern of the Senate's relationship to the executive branch in this area. I am not one who says that is unconstitutional. I think it is within the power of the Senate. I disagree with those who are saying it violates the Constitution. I think it violates the intent of the Framers of the Constitution. I think that is very clear. But it is within the power of the Senate to do that if we want.

As I have said before, we on our side of the aisle discussed this when we were faced with those nominees from President Clinton whom we considered controversial. There were those in our conference who insisted that we must do that—change the pattern and require President Clinton's nominees to pass the 60 point bar. To his credit, my senior colleague from Utah argued firmly against that. Even though he was against the nominees in some cases, he said we must not change the historic pattern that says once a nominee is voted out of the committee, he or she gets a clear up-or-down vote by a majority. To his credit, the Republican leader at the time, the majority leader, Senator LOTT, said exactly the same thing: We must not go down that road. Those in our conference who said let's do it on that particular judge agreed and backed down, and no matter how strongly people on this side of the aisle felt about a particular judge, there was never an attempt to use the filibuster power to change what we considered to be the clear intent of the Founding Fathers and change the advise and consent situation, where there was an additional supermajority required, an additional supermajority added to that which the Founding Fathers themselves wrote into the Constitution.

Now the Democrats have decided they are going to do that. It is their right. To me, it signals a determination on their part that they expect to be in the minority for a long time. One of the reasons Senator HATCH gave for us not to do it was, we will have an opportunity in the future to be voting on nominees offered by a President of our own party, and if we do this to the other party, they will then feel comfortable in doing it to the nominees of our party; let's just not do that.

I think by deciding to do this on this nominee, the Democrats have virtually conceded the fact that they do not expect another Democratic President for long time. They believe they will be in the minority for a long time and, therefore, they must establish this weapon as one of the weapons they will use as part of the minority to obstruct the activities in the Senate for a long time to come.

I hope they decide ultimately to bet on the future. I hope they decide ultimately they do expect that there will be a Democratic President sometime in the future, that they do expect there will be a Democratic Senate sometime in the future and they want to save for the future the right that every President, Democrat or Republican, and every Senate, Democrat or Republican, has maintained since the founding of the Republic 2½ centuries ago.

Madam President, if I may go back to the article written by Benjamin Wittes in this morning's Washington Post that summarizes the implications of going in this direction and what it will do long term, he says:

> Not knowing what sort of judge someone will be is frustrating, but that is the price of judicial independence. While it would be nice to know how nominees think and what they believe and feel, the price of asking is too high. The question, rather, is whether a nominee will follow the law. Estrada has said that he will. Those who don't believe him are duty bound to vote against him, but they should not oblige nominees to break the silence that independence requires.

That is what our friends on the Democratic side are doing. They have never demanded it before. We did not demand it of their nominees. They are changing the rules—"the rules they are a'changing," as Mr. Wittes points out. I ask my friends on the Democratic side to think long and hard about the long-term consequences of changing the rules—changing the rules, as Mr. Wittes talks about it, in terms of what is demanded of nominees; changing the rules as we are talking about it here in terms of the supermajority that would be added to the existing constitutional requirement of the Senate as it performs its role in advising and consenting to executive nominations.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Madam President, I thank the Senator from Utah for his kindness and consideration with respect to the order. I was happy to have the opportunity to hear him, as I often am.

With respect to the arguments that have been made in the last hour or so, I think it is clear that there is a fundamental difference of opinion regarding the Senate's obligation and duty under the advise and consent clause of the U.S. Constitution.

Mr. DORGAN. Will the Senator yield for a unanimous consent request?

Mrs. CLINTON. Yes.

Mr. DORGAN. I ask unanimous consent that I may speak following the speech of the Senator from New York.

Mr. BENNETT. I object. There is a Republican speaker coming. I would amend the UC request to say that Senator TALENT, if he is on the floor, be recognized first, and then Senator DORGAN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, I have not followed the order on the floor of the Senate today. I don't know whether the Senator from Utah has. I was told I would be recognized at 5:30 and was prepared to do that. If there has been a process today in which Republicans and Democrats follow each other precisely, then I will understand what the Senator from Utah is trying to do. If not, I am here. The reason I am here is to present remarks following the Senator from New York. If others wish to be involved in the lineup, I will be happy to entertain that. I guess I don't understand the circumstance under which the Senator from Utah is opposing this.

Mr. BENNETT. I am not sure what the circumstance was prior to my coming to the floor either. I was told we were going back and forth. If I might inquire as to how much time the Senator would use, perhaps there would be no problem.

Mr. DORGAN. It was my intention to consume an hour, but I will not do that; it will be a half hour. I would certainly be accommodating to anybody else. I would like to speak, and others are not here. I don't intend to interrupt. If there is an order established, I do not want to interrupt that. I don't know that to be the case.

Mr. BENNETT. I don't know that to be the case all day long. I do know that was the case earlier. Reserving the right for my friend who is anticipating to be here at 6, and was told in advance he could be here at 6, I renew my unanimous consent request that following the Senator from New York, the Senator from Missouri, Mr. TALENT, would be recognized to speak, after which the Senator from North Dakota, Mr. DORGAN, would be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object—and I will now object—if the other side wishes to protect people who are not here in deference to those who are here, I expect the Senator from Utah would want us to do the same thing on this side of the aisle. If a Republican is waiting to speak, and a Democrat is not yet on the floor, but someone here says it is really the opportunity for the Democrats to speak even if the Republican is here, we will object. So I guess I understand the point the Senator from Utah is making. I will not object to his request as long as he understands that we will do that, I suppose. I don't think it is the most efficient way of handling things. Those who are on the floor and prepared to speak, I expect that is the way we ought to recognize people.

Mr. BENNETT. I thank my friend for his consideration. I say to him he caught me at somewhat of a disadvantage in that I am the only one on the floor and didn't know what was going on. I am trying to accommodate people on both sides, which is why I want to make sure the Senator from North Dakota is recognized to speak.

Mr. DORGAN. Madam President, continuing to reserve the right to object, if this is the process, I will simply at some appropriate point ask for a time certain to speak tomorrow and will be here promptly at that time. I am here now and those who the Senator from Utah is attempting to protect are not here. I will not object because I do not want to interrupt an order apparently they think on that side exists. If that, in fact, is the order, we will certainly make sure that is the case for people on both sides of the aisle as we proceed.

Mr. BENNETT. I would expect the Democratic leader to be sure of enforcing the same process on behalf of Senators on his side of the aisle.

Mr. DORGAN. Madam President, I do not think that is the most efficient use of time in the Senate. It seems to me those who are here want to be recognized to proceed. Recognizing it is not the most efficient use of time, I will not object to the request by the Senator from Utah.

Mr. BENNETT. I thank my friend.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mrs. CLINTON. I thank the Chair. Madam President, I have been, as I said, listening with great interest to the debate on this issue. It is a very significant and important debate. As I often do when I come to the Chamber, I imagine, instead of being a Senator with the great honor of representing the State of New York and speaking in this Chamber, that I am just another citizen, as I have been most of my life, watching the debate on C–SPAN or one of the other television networks that might cover parts of it, and I would be asking myself: What is this all about? Why has so much time been consumed in the Senate over this one nominee?

The bottom line answer is that this side of the aisle has a very deep concern about any candidate seeking a lifetime position who refuses to answer the most basic questions about his judicial philosophy. And that, in fact, to permit such a candidate to be confirmed without being required to answer those questions is, in our view, a fundamental denial and repudiation of our basic responsibilities under the advice and consent clause of article II, section 2, of the U.S. Constitution.

Earlier this afternoon, as I was waiting for my opportunity to speak, I heard the Senator from Idaho admit that he had, based on philosophy, voted against certain nominees who had been sent to the Senate by President Clinton. I happen to think that is a totally legitimate reason to vote for or against a nominee. I happened to agree with the Senator from Idaho when he said he voted against nominees by President Clinton based on philosophy. That is an integral part of the advise and consent obligation.

The problem that we have on this side of the aisle is we cannot exercise the advise and consent obligation because we do not get any answers to make a determination for or against this nominee based on philosophy. I could not have done a better job than the Senator from Idaho did in summing up what the problem is. I thank the Senator from Idaho for being candid, for saying he voted against President Clinton's nominees based on philosophy.

We could resolve this very easily if the nominee would actually answer some questions, legitimate questions that would permit those of us who have to make this important decision and are not just saluting and following orders from the other end of Pennsylvania Avenue, by being able to look into the philosophy and then deciding: Are we for this nominee or are we against this nominee?

This nomination would also be expedited if the President and his legal counsel would respond to the letter of February 11 sent to the President by the minority leader and the distinguished ranking member of the Judiciary Committee asking for additional information on which to make a decision concerning this nominee, and, in fact, both Senators Daschle and Leahy are very explicit about what information is required. I will reiterate the request. Specifically, they asked the President to instruct the Department of Justice to accommodate the request for documents immediately so that the hearing process can be completed and the Senate can have a more complete record on which to consider this nomination and, second, that Mr. Estrada answer the questions he refused to answer during the Judiciary Committee hearing to allow for a credible review of his judicial philosophy and legal views.

I would argue, we are not changing the rules. In fact, we are following the rules and the Constitution, and we are certainly doing what the Senator from Idaho said very candidly he did with respect to President Clinton's nominees. We are trying to determine the judicial philosophy of this nominee in order to exercise our advise and consent obligation.

I have also been interested in my friends on the other side of the aisle talking and reading from newspapers and asserting that we are somehow requesting more information from this nominee than from other nominees and that, in fact, it is honorable not to answer relevant questions from Judiciary Committee members. It may be honorable by someone's definition of honor, but it is not constitutional. It is fundamentally against the Constitution to refuse to answer the questions posed by a Judiciary Committee member.

If there were any doubt about this standard, all doubt was removed last year. How was it removed? It was removed in a Supreme Court opinion rendered by Justice Scalia arising out of a case brought by the Republican Party concerning the views of judges.

For the record, I think it is important we understand this because perhaps some of my colleagues have not been informed or guided by the latest Supreme Court decisions on this issue, but I think they are not only relevant, they are controlling, to a certain extent, when we consider how we are supposed to judge judges.

Republicans focus on the ABA model code that judicial candidates should not make pledges on how they will rule or make statements that appear to commit them on controversies or issues before the court. They are, understandably, using this as some kind of new threshold set by Mr. Estrada who refused to answer even the most basic questions about judicial philosophy or his view of legal decisions.

Some judicial candidates, it is true, go through with very little inquiry. They come before the Judiciary Committee. They are considered mainstream, noncontroversial judges. Frankly, the Senators do not have much to ask them. They go through the committee. They come to the floor. That is as it should be. Were it possible, that is the kind of judge that should be nominated—people whose credentials, background, experience, temperament, and philosophy is right smack in the center of where Americans are and where the Constitution is when it comes to important issues. When someone does not answer questions or when they are evasive, it takes longer and you keep asking and you ask again and again. That was, unfortunately, the case with this particular nominee.

The Republican Party sued the State of Minnesota to ensure their candidates for judicial office could give their views on legal issues without violating judicial ethics. Republicans took that case all the way to the Supreme Court. In an opinion by Justice Scalia, the Supreme Court ruled that the ethics code did not prevent candidates for judicial office from expressing their views on cases or legal issues. In fact, Justice Scalia said anyone coming to a judgeship is bound to have opinions about legal issues and the law, and there is nothing improper about expressing them.

Of course, we do not and should not expect a candidate to pledge that he is always going to rule a certain way. We would not expect a candidate, even if he agreed that the death penalty was constitutional, to say: I will always uphold it, no matter what. That would be an abuse of the judicial function and discretion.

Specifically, in Republican Party of Minnesota v. White, the Supreme Court overruled ABA model restrictions against candidates for elective judicial office from indicating their views. I think the reasoning is applicable to those who are nominated and confirmed by this body for important judicial positions within the Federal judiciary.

Justice Scalia explained in the majority opinion, even if it were possible to select judges who do not have preconceived views on legal issues it would hardly be desirable to do so.

I want my friends on the other side to hear the words of one of the two favorite Justices of the current President, Justice Scalia: Even if it were possible, it would not be desirable.

Why? Because, clearly, we need to know what the judicial philosophy is. Judges owe that to the electorate, if they are elected; to the Senate if they are appointed.

Justice Scalia goes on: Proof that a justice's mind at the time he joined the court was a complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias. And since avoiding judicial preconceptions on legal issues is neither possible nor desirable, pretending otherwise by attempting to preserve the appearance of that type of impartiality can hardly be a compelling State interest, either. In fact, that is Justice Scalia quoting Justice Rehnquist.

Before this decision, some judicial candidates may have thought—and some of my colleagues may have thought—that judicial candidates could not share their views on legal issues, and I think that might have been a fair assessment of the state of the law at that time. But that is no longer a fair assessment.

A judicial candidate cannot be compelled to share his views, but Justice Scalia tells us that a judicial candidate who does not share his views refuses to do so at his own peril, and that is exactly what this nominee has done. At his own peril, he has gotten his marching orders from the other end of Pennsylvania Avenue, from all those who advise judicial nominees, from the Federalist Society and all the rest of those organizations, not to answer any questions, to dodge all of the issues, to pretend not to have an opinion about any Supreme Court case going back to Marbury v. Madison.

Well, he does so, in Justice Scalia's words, at his peril. That is what has brought this nomination to this floor for all these days, because this nominee wants to be a stealth nominee. He wants to be a nominee who is not held accountable for his views so that we who are charged under the Constitution to make this important judgment cannot do so based on his judicial philosophy.

Justice Scalia has a lot to say to my friends on the other side. If it were possible to become a Federal judge, with lifetime tenure, on the second highest court of the land, without ever saying anything about your judicial philosophy, I think that would be astonishing. It would be troubling. It would run counter to the Constitution and to this opinion written by one of the most conservative members of the current Court.

Mr. Estrada basically has come before this Senate and claimed he cannot give his view of any Supreme Court case without reading the briefs, listening to the oral argument, conferring with colleagues, doing independent legal research, and on and on. That is just a dressed up way of saying: I am not going to tell you my views, under any circumstances.

One has to ask himself—and I do not want to be of a suspicious mindset—why will this nominee not share his views? Are they so radical, are they so outside the mainstream of American judicial thought, that if he were to share his views, even my friends on the other side would say wait a minute, that is a bridge too far; we cannot confirm someone who believes that?

How can I go home and tell my constituents that I voted for somebody who actually said what he said? I cannot think of any other explanation. Why would a person, who clearly is intelligent—we have heard that constantly from the other side—who has practiced law, not be familiar with the procedures of the Judiciary Committee, of the constitutional obligation of advise and consent or even of Justice Scalia and Justice Rehnquist's opinions about the importance of answering such questions?

So I have to ask myself: What is it the White House knows about this nominee they do not want us to know? And if they do not want us to know, they do not want the American people to know. I find that very troubling.

I do not agree with the judicial philosophy of many of the nominees sent up by this White House. I voted against a couple of them. I voted for the vast majority of them, somewhere up in the 90 percentile. At least I felt I could fulfill my obligation so when I went back to New York and saw my constituents and they asked why did I vote for X, I could say to them it was based on the record. He may not be my cup of judicial tea, but he seems like a pretty straightforward person. Here is what he said and that is why I voted for him. Or to the contrary, I could not vote for this nominee because of the record that was presented.

I cannot do that with this particular nominee. And you know what. The other end of Pennsylvania Avenue that is calling the shots on this nomination does not want me to have that information.

I think that is a denial of the basic bargain that exists under the Constitution when it comes to nominating and confirming judges to the Federal courts.

It could have been different. The Founders could have said let's put all of this into the jurisdiction of the Executive; let him name whoever he wants. Or they could have said: No, let's put it in the jurisdiction of the legislature; let them name whoever they want. Instead, as is the genius of our Founders and of our Constitution, there was a tremendous bargain that was struck, rooted in the balance of power that has kept this Nation going through all of our trials and tribulations, all of our progress, that balance of power which said we do not want this power to rest in any one branch of Government; we want it shared. We want people to respect each other across the executive and legislative lines when it comes to the third branch of Government.

So, OK, Mr. President, you nominate. OK, Senators, you advise and consent. That is what this is about.

Sometimes I wonder, as my friends on the other side talk about it, how they can so cavalierly give up that constitutional obligation. The unfortunate aspect of this is we could resolve this very easily. All the White House has to do is send up the information. Let Mr. Estrada answer the questions. He may still have a majority of Senators who would vote to put him on the DC Circuit. I do not know how it would turn out because I do not have the information.

While we are in this stalemate caused by the other end of Pennsylvania Avenue, which for reasons that escape me have dug in their heels and said, no, they will not tell us anything about this person, there is a lot of other business that is not being done, business about the economy, the environment, education and health care, business that really does affect the lives of a lot of Americans.

On that list of business that I consider important is what is happening in our foster care system. Tomorrow evening, I will have the great privilege of hosting the showing of a tremendous movie about the foster care system, along with Congressman Tom DeLay. I invite all of my colleagues from both Houses of Congress to come and see this movie that vividly illustrates what happens in our foster care system.

I have worked in the past with Congressman DeLay to try to improve the foster care system. I look forward to doing that in the future. He has a great commitment to the foster care system and the foster children who are trapped within it. I use that word with great meaning because, indeed, that is often what happens to them. And the stories of abuse and neglect that first lead children to go into the foster care system are compounded by the stories of abuse and neglect once they are in that system.

Mr. Fisher will be joining Congressman DeLay and me at the Motion Picture Association screening room for this important movie. This is a screening just for Members of Congress. I think it will illustrate better than certainly my words could why it is so important we join hands and work on this issue along with many others who affect the lives of children as well as men and women across America.

Occasionally, a movie comes to the screen that brings to life the stories that have become routine in the newspapers and that we too often ignore—the stories of children living with abuse and neglect, shuffled in and out of our foster care system, often with little guidance from or connection to any one adult. Too often these stories end in the most tragic way possible:

7-year-old Faheem Williams in Newark, NJ was recently found dead in a basement with his two brothers where they were chained for weeks at a time.

6-year-old Alma Manjarrez in Chicago was beaten by her mother's boyfriend and left to die outside in the snow and cold of the winter.

And despite 27 visits by law enforcement to investigate violence, 7-year-old Ray Ferguson from Los Angeles was recently killed in the crossfire of a gun battle in his neighborhood.

Antwone Fisher's story is different.

Mr. Fisher overcame tremendous odds: He was born in prison, handed over to the State, and lived to tell his story of heartbreaking abuse. At the age of 18, he left foster care for the streets. With nowhere to turn, he found the support, education, and structure in the U.S. Navy. In the Navy, Fisher received a mentor and professional counselor, which helped him turn his life around.

Mr. Fisher survived his childhood and has lived to inspire us all and send us a stern reminder that it is our duty to reform the foster care system so that no child languishes in the system, left to find his own survival or to die. Antwone's success story should be the rule not the exception.

Tomorrow night, House Majority Leader Tom DeLay and I will be cohosting a screening of the movie "Antwone Fisher" for Members of Congress. We decided to host this together because we both feel that it is imperative that we raise national awareness about foster care—through one child's own experience—and encourage our colleagues to tackle this tough issue with us.

Congressman DeLay and I had received an award together in the year 2000 from the Orphan Foundation of America for the work that we both have done in this area. Earlier this year, I asked my staff to reach out to his staff to find ways we might work together to focus on this issue. This movie was a natural fit for both of us and I look forward to continuing to work with Representative DeLay as we take a hard look at reforming our foster care system. Congressman DeLay and his wife, Christine, are strong advocates for foster children and are foster parents themselves.

I hope that many of my colleagues in the Senate will take us up on the invitation and join us for this important movie.

But, for those who can't join us, I wanted to share a little bit about Antwone's story in his own words from his book, "Finding Fish"—

> The first recorded mention of me and my life was [from the Ohio State child welfare records]: Ward No. 13544.
>
> Acceptance: Acceptance for the temporary care of Baby boy Fisher was signed by Dr. Nesi of the Ohio Revised Code.
>
> Cause: Referred by division of Child Welfare on 8-3-59. Child is illegitimate; paternity not established. The mother, a minor, is unable to plan for the child. The report went on to detail the otherwise uneventful matter of my birth in a prison hospital facility and my first week of life in a Cleveland orphanage before my placement in the foster care home of Mrs. Nellie Strange.
>
> According to the careful notes made by the second of what would be a total of thirteen caseworkers to document my childhood, the board rate for my feeding and care cost the state $2.20 per day.

Antwone went on to document that the child welfare caseworker felt that his first foster mother had become "too attached" to him and insisted that he be given up to another foster home. The caseworker documents this change:

> Foster mother's friend brought Antwone in from their car. Also her little adopted son came into the agency lobby with Antwone. . . . They arrived at the door to the lobby and the friend and the older child quickly slipped back out the door. When Antwone realized that he was alone with the caseworker, he let out a lust yell and attempted to follow them.
>
> Caseworker picked him up and brought him in. Child cried until completely exhausted and finally leaned back against caseworkers, because he was completely unable to cry anymore.

Later he describes when the caseworker brought him to his next foster home—she too slipped out the door when he was not looking. He says, "All through my case files, everybody always seemed to be slipping away in one sense or another."

When Antwone arrived at the next foster home and as he grew, at first he was not told of his troubled entry into the world:

> But for all that I didn't know and wasn't told about who I was, a feeling of being unwanted and not belonging had been planted in me from a time that came before my memory.
>
> And it wasn't long before I came to the absolute conclusion that I was an uninvited guest. It was my hardest, earliest truth that to be legitimate, you had to be invited to be on this earth by two people—a man and a woman who loved each other. Each had to agree to invite you. A mother and a father.

Antwone Fisher never knew a permanent home—never knew a loving mother and father. Instead, he was left to fend for himself when he was expelled from foster care at 18—a time when the state cuts off payments to foster parents. Antwone found himself on the streets and homeless.

Thanks to the work of many on both sides of the aisle in Congress we have begun important work to make sure that Antwone's story is not repeated. No child should have to grow up in foster care from birth and never be adopted and no child should ever have to leave the system at 18, with absolutely no support.

There are approximately 542,000 children in our Nation's foster care system—16,000 of these young people leave the system every year having never been adopted. They enter adulthood the way they lived their lives, alone.

In 1999, when I was First Lady, I advocated for and Congress took an important step to help these young adults by passing the Chafee Foster Care Independence Act. This program provides states with funds to give young people assistance with housing, health care, and education. It is funded at $410 million annually, and should be increased. But it was an important start to addressing the population of children who "age-out" of our foster care system.

This bill came after the important bipartisan Adoption and Safe Families Act of 1997. As First Lady, it was an honor to work on what's considered to be one of the most sweeping changes in federal child welfare law since 1980.

It ensured that a child's safety is paramount in all decisions about a child's placements. For those children who cannot return home to their parents, they may be adopted or placed into another permanent home quickly. Since the passage of this law, foster child adoptions have increased by 78 percent.

The next major hurdle that I believe we need to tackle in reforming our child welfare system is the financing system.

Currently, we spend approximately $7 billion annually to protect children from abuse and neglect, to place children in foster care, and to provide adoption assistance. The bulk of this funding, which was approximately $5 billion in fiscal year 2001, flows to States as reimbursements for low-income children taken into foster care when there is a judicial finding that continuation in their home is not safe.

This funding provides for payments to foster families to care for foster children, as well as training and administrative costs.

This funding provides a critical safety net for children, who through difficult and tragic circumstances end up in the care of the state. It ensures that children are placed in foster care only when it is necessary for their safety, it ensures that efforts are made to reunify children with their families as soon as it safe, it works to make sure that the foster care placement is close to their own home and school, and it requires that a permanency plan is put in place. All of these safeguards are critical.

The financing, however, is focused on the time the child is in foster care and it continues to provide funding for States the longer and longer a child is in the system. The funding is not flexible enough to allow for prevention or to help children as they exit the system—critical times when children fall through the cracks.

President Bush has put a proposal on the table to change the way foster care is financed in order to provide greater flexibility so that states can do more to prevent children form entering foster care, to shorten the time spent in care, and to provide more assistance to children and their families after leaving.

While I absolutely do not support block granting our child welfare system—I do think that it is important that President Bush has come to the table with an alternative financing system and I believe that it provides us with an opportunity to carefully consider how to restructure our child welfare system.

We must ask critical questions:

Will States be required to maintain child safety protection that we passed as part of the Adoption and Safe Families Act?

Will States be required to target funds to prevention and post-foster care services?

What happens if there is a crisis and more foster care children enter the system? Will States receive additional funds?

While I believe all of these questions deserve answers, I applaud President Bush and Representative DELAY for being willing to tackle this hard problem. I look forward to working with them to find solutions so that we do not allow any child to fall through the cracks.

This is just one of the many issues that are basically left on the back burner while we engage in this constitutional debate that could be resolved if information were provided.

As I said, I have to question the reasons why that information is not forthcoming. It gives me pause. This administration is compiling quite a record on secrecy. That bothers me. It concerns me. I think the American people are smart enough and mature enough to take whatever information there is about whatever is happening in the world—whether it is threats we may face or the judicial philosophy of a nominee. That is how a democracy is supposed to work. If we lose our openness, if we turn over our rights to have information, we are on a slippery slope to lose our democracy. Now, of course, in times of national crisis and threat like we face now, there are some things you cannot share with everyone. But you certainly can and should share them with the people's elected representatives. That is why we are here. I err on the side of trying to make sure we share as much information as possible.

For the life of me, I cannot understand why the White House will not share information about this nominee. Until it does, until Mr. Estrada is willing to answer these questions, I have to stand with my colleague from Idaho—I cannot cast a vote until I know a little bit more about the judicial philosophy. This is not a Republican or Democratic request. This is a senatorial request. This is what the Senate is supposed to be doing.

I urge our colleagues and friends on the other side of the aisle, do whatever you can to persuade the White House and the Justice Department to level with the Senate, to level with the American people, to provide the information that will enable us to make an informed decision and fulfill our constitutional responsibility.

It seems to me to be the very minimum we can ask. It certainly is what has been provided and asked for in the past. I hope it will be forthcoming, that the letter sent by Senators DASCHLE and LEAHY will get a favorable response, we will be able to get the information the Judiciary Committee has requested, that many Members feel we need, and we can move on. We can tend to the people's business, including the need to reform our foster care system to try to save the lives of so many children who would otherwise be left behind and left out of the great promise of America.

The PRESIDING OFFICER (Mr. ALEXANDER.) The Senator from Missouri.

Mr. TALENT. When I was growing up, there was a tradition in the Senate that I observed as an outsider, of course, about how the Senate handled its constitutional function of giving advice and consent for presidential nominees. The Senate pretty much understood on the basis of a bipartisan consensus that its role was secondary, that its power was a check rather than a primary power to appoint people, either to the executive branch or to the judicial branch. I observed that Senators pretty much voted to confirm Presidential nominees if they believed those nominees were competent and if they believed those nominees were honest, and they did not inquire too greatly of the nominees' philosophy for the executive or into the nominees' jurisprudence for the legislative. There would be flaps or personal problems, but basically that was the role the Senate played and the traditional understanding of its constitutional function.

Unfortunately, I think we will all agree, that consensus has broken down over the last few years. We will all agree that both sides have some responsibility for that consensus breaking down. What we are experiencing now from the Senators who are opposing and filibustering the Estrada nomination is so extreme given the past traditions of the Senate that it threatens the spirit and, I argue, even the letter of the Constitution, and it threatens the ability of the Senate and the integrity of the Senate to do the work of the people.

Let me go into that a little bit. First of all, I take it from my understanding of the debate that the Senators who are opposing Mr. Estrada are not questioning his abilities as a lawyer or his honesty or integrity as an individual. I appreciate that. This is not a personal attack on Mr. Estrada. No one is saying he is unqualified as a lawyer. No one is saying he is dishonest in terms of his professional dealings or dishonest as a man and, indeed, you could not say that based on his experience which is clearly well known after the hours of debate we have put into this nomination.

He arrived in this country knowing very little English. He worked his way up, if you will. He was a leader in his law school class. He was on the Law Review. An achievement he was able to get, as not all of us were able to get, he clerked for an outstanding judge, a Democratic appointee on the Second Circuit, and then on the Supreme Court, and did an outstanding job in the Solicitor General's Office, according to his supervisors of both parties.

No one is questioning his abilities or honesty, as I understand it. As I understand, no one is saying they think he is not competent or honest in the sense of the standard that traditionally had been applied. What they are saying is this. They are saying, first of all, they will vote against the nominee, even to an appellate court, because they disagree with that nominee's jurisprudence, which is, itself, a step beyond what the Senate ever did in the past. But they are going beyond that. They are saying they will vote against the nominee, even to an appellate court, not just because they disagree with his jurisprudence, but because they suspect they might disagree with his jurisprudence.

And if he answered questions no other nominee who worked for the Solicitor General's Office has ever been expected to answer, and which they should not have to answer, given the need for the integrity of the executive branch, but they are going beyond that.

The opponents on this floor of the Estrada nomination are not just saying they will vote against nominees if they disagree with their jurisprudence, or vote against them if they suspect they might disagree with their jurisprudence; they are saying they are not even going to allow a vote on a nominee even to an appellate court if they suspect they might disagree with that nominee's jurisprudence.

I ask my colleagues, I beg my colleagues who are opposing this nomination, to consider what this new standard, if it were to be adopted by the Senate as a whole, would mean for the Constitution, would mean for the Senate, and would mean for Estrada, as well.

As I said, the Constitution assigned, we can all agree, the primary power of appointment to the President. Yet the Constitution shares some of that power with the Senate and that is not unusual. Even though we have a separation of powers, there are a number of instances where the executive is given a little legislative power, or the legislative is given a little executive power. For example, when the President is given the power to negotiate treaties and conclude them with foreign countries but subject to the requirement that two-thirds of the Senate ratify those treaties. So the Senate is given, in effect, a little executive power.

The Framers of the Constitution knew how to provide for the Senate to exercise the executive power they gave it by a supermajority vote when they wanted to provide that.

When the Framers said, we want to actually take a little bit more power away from the President, they said, we are not only going to require that the Senate ratify treaties but we are going to require that they ratify them by a supermajority vote, a two-thirds vote. The Framers knew how do to that when they wanted to do it. The assumption is they didn't want to take that extra measure of power away from the executive. Yes, they wanted to share the power of appointments with the Senate, as several colleagues have said. They are correct in saying that. The Senate is a partner in this process. But according to its traditions, it has always been a junior partner. According to the spirit of the Constitution, it exercises this partnership by a majority vote and not a supermajority vote.

If we adopt the tradition in this body that we will filibuster nominees, if we suspect we might disagree with their jurisprudence, we are in effect saying it will require 60 votes for this body to confirm a judicial nomination. That, I submit to you, is a usurpation of the executive authority as granted under the Constitution. It is a shift in constitutional authority away from the executive and to the legislature—and not even to the Congress as a whole but to the Senate.

As much as I stand up for the Senator from New York in saying as much as we have to stand up for the prerogatives and the authority of the Senate under the Constitution, our first responsibility is to the Constitution and to the distribution of powers, as the letter of the Constitution indicates and as the traditions of this Senate have always confirmed.

I am deeply concerned. If we were to adopt the standards being applied here to Miguel Estrada across the board, we would be doing something which is unconstitutional and which violates the spirit and I believe the letter of the Constitution as well.

My second concern is that this kind of a filibuster under these circumstances will poison the operation of the Senate on other matters. The filibuster, whatever you think of it, is a power that should be reserved for issues of only the greatest seriousness. I am not saying an appellate court nomination isn't important, it is important, but it is an appellate court nomination. Mr. Estrada, if he is confirmed to this post, whatever my colleagues may suspect his jurisprudence might lead him to do, is not going to change settled interpretations of the Constitution of the United States that can only occur on the Supreme Court level. And to haul out the nuclear weapon, if you will, of a filibuster on an issue that, while important, is not of the first letter of importance undermines the integrity and the ability of this Senate to pull together on issues that are of the first importance.

I agree with the Senator from New York. We need to get on to issues of health care. We need to get on to issues of education. We need to get on to issues of defense and of tax relief to create jobs. All of these things are very important. That is why we should not filibuster an appellate court nomination. Allow a vote at least, I ask my colleagues.

Let me say finally that I am concerned about the effect of this on the justice that we as a body and as Americans owe to the man whose interests and whose career are at stake here. Miguel Estrada is, after all, a person. Sometimes the great forces of history, of cultural division, and focus on personal disputes involving broader issues come to focus on one man or one woman. We have seen that happen sometimes in our history. And it may be unavoidable. But we should always keep in mind that we are dealing with a human being, a person who has done his best by his life to keep his obligations to his colleagues and to his country—a person who has excelled by any standard. None is questioning that—a person who has conducted himself with integrity and has done so in a town where it is sometimes difficult to conduct yourself with integrity. And his professional future is hanging, if you will, on a thread. We ought to consider what is just to him. He deserves this post. He has worked hard for it. His qualifications qualify him for the post. We should at least give him a vote.

That is why the newspapers and the opinion of this country for the last week or so have been decidedly in favor, if not of Mr. Estrada and I think most of the opinion of the country has indeed be in favor of confirming him for the reasons I have indicated—but at least in favor of giving him a vote.

I am not going to read all of the editorials, certainly. I ask unanimous consent to have printed in the Record an editorial of February 7, 2003, from the St. Louis Post-Dispatch, one my hometown newspapers, and also a letter—they may already be in the Record—and one in the New York Daily News by Gov. George Pataki.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Daily News, Feb. 17, 2003]

The Senate Should Confirm Estrada

(By Gov. George E. Pataki)

Miguel Estrada, President Bush's nominee for the District of Columbia Circuit Court of Appeals, is a New York success story—the embodiment of all that has made our state a beacon of freedom and opportunity around the globe.

His life is an inspiration to us all, especially to the children of new immigrants. Yet his nomination has gotten caught up in the all-too-familiar Washington game of partisan politics. That's wrong. When the Senate returns from its break, it should act quickly to end this senseless bickering.

Born in Tegucigalpa, Honduras, Estrada came to the U.S. in 1978. Just 17, he could barely speak English. He proved to be a quick study. Just five years later, he graduated with honors from Columbia University.

After a three-year stint at Harvard Law School, where he served as editor of the prestigious Harvard Law Review, Estrada came home to New York to clerk for a federal appellate judge, Amalya Kearse, who was appointed by Democratic President Jimmy Carter.

After a clerkship with the Supreme Court—one of the highest honors a young lawyer can receive—Estrada spent three years as a federal prosecutor in New York City. He argued numerous cases before appellate courts and 15 cases before the Supreme Court. No wonder the American Bar Association gave him its highest rating: well-qualified.

Estrada's compelling life story and superlative qualifications explain why his nomination has elicited such broad support. No fewer than 18 Hispanic organizations and countless individuals have called on the Senate to confirm him. Herman Badillo, a former Democratic congressman from New York, calls him "a role model, not just for Hispanics, but for all immigrants and their children."

The League of United Latin American Citizens calls Estrada "one of the rising stars in the Hispanic community and a role model for our youth." And the U.S. Hispanic Chamber of Commerce calls his nomination a "historic event."

Estrada's nomination is equally popular among Democrats. Former vice President Al Gore's chief of staff testifies that he is "a person of outstanding character and tremendous intellect" with an "incredible record of achievement." Former President Bill Clinton's solicitor general describes Estrada as "a model of professionalism and competence."

The support for Estrada is as deep as it is wide. Yet some Democrats in the Senate are filibustering his nomination—talking it to death and refusing to let their colleagues vote. That's just wrong. In fact, in the two centuries since our nation was founded, that has never happened to a nominee for the federal appellate courts.

Simply put, the Senate should do its job, put aside partisan politics and vote on Estrada's nomination. It's just common sense—but unfortunately, common sense all too often gets shoved aside by party politics in Washington.

Here in New York, we know that now more than ever we must put aside partisan differences and work together for the best interests of all New Yorkers. We also know that the efforts of new immigrants or their children who, through hard work, achieved the American dream—New Yorkers like Badillo, Secretary of State Powell and Estrada—must be rewarded and emulated, not held hostage to party politics.

Estrada has reached the pinnacle of his profession and is a credit to the people of New York. When the Senate finally confirms him, I have every confidence he likewise will prove a credit to America's judicial system.

[From the Washington Post, Feb. 18, 2003]

Just Vote

The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such materials, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only *because* he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised to substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway-just for good measure. It's long past time to stop these games and vote.

[From the St. Louis Post-Dispatch, Feb. 7, 2003]

A Filibuster Is Not a Fix

The process for appointing federal judges is badly broken. A filibuster won't fix it.

Democrats are trying to decide whether to filibuster the nomination of Miguel Estrada to the powerful federal appeals court for the District of Columbia. They consider Mr. Estrada a stealth conservative who is being groomed for the U.S. Supreme Court as a Hispanic Clarence Thomas.

The Democrats' fear may turn out to be valid. But the filibuster is the parliamentary equivalent of declaring war. Instead of declaring war, the Democrats should sue for peace and try and to fix the process.

The Senate's confirmation process is not supposed to be a rubber stamp. Judicial nominees have been defeated for political reasons—often good political reasons. The Supreme Court is a better place without Clement Haynsworth, Harrold Carswell and Robert Bork. But ever since Mr. Bork, the process of advise and consent has become attack and delay.

During Bill Clinton's presidency, the GOP-controlled Senate held up highly qualified nominees for ideological reasons. Then, during the two years of Democratic control, the Senate held up highly qualified nominees from President George W. Bush. Now the Republicans are ramming through judges as fast as McDonald's sling burgers.

The only consistent principle in this recent Senate history is that turnabout is fair play. That's a poor way to choose judges.

Mr. Bush, like Ronald Reagan, considers conservative ideology a key qualification for judgeship. Unfortunately, Senate Democrats have set upon highly qualified nominees—such as Michael McConnell, a brilliant law professor, who was eventually confirmed—as wolfishly as they have upon weaker nominees, such as Charles Pickering.

In an ideal world, Mr. Bush would realize that the lackluster Mr. Pickering, a friend of

> Sen. Trent Lott, R–Miss., raises divisive racial questions. In an ideal world, the president would nominate the best-qualified legal minds, not ideologies.
>
> But in the real world, Mr. Pickering is acceptable and Mr. Estrada is well-qualified. Mr. Estrada is an immigrant from Honduras who went to Harvard Law School, clerked on the Supreme Court and worked in the Solicitor General's office. Democrats, frustrated by the absence of a paper trail, and Mr. Estrada's sometimes-evasive answers on issues such as abortion, tried to get legal memos that Mr. Estrada wrote while in the Solicitor General's office. But both Democratic and Republican solicitors general have urged that the memos be kept private so that future solicitors general receive candid views from their staff.
>
> In short, the Democratic position doesn't justify a filibuster. Instead, Democrats should reach out to Republicans and try to develop a bipartisan truce that gives judges prompt, but thorough, hearings that will speed the important process of filling the many vacancies on the federal bench.

Mr. TALENT. Mr. President, I want to read an editorial from the February 18 issue of the Washington Post. It sums up the case better than or as well as I can:

> The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting.

We all know a filibuster is underway here, an obstruction tactic.

That is not from the editorial. That was my editorial comment.

> The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.
>
> Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate . . .

I ask you to listen carefully to this.

> . . . being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.
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> Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

I ask my colleagues to consider carefully—and I know there have been abuses of this process on both sides of the aisle—but I ask my colleagues to consider carefully whether, in the name of the Constitution, in the name of the obligation of this Senate to go on to other things and resolve them, in the name of comity and the traditions of this body, the Washington Post isn't right, and whether it isn't long past time to stop these games and vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, first, let me respond to my colleague and friend from the State of Missouri which adjoins my home State of Illinois.

I say to him, I do not disagree with many of the things he said. This debate over Miguel Estrada should not be about the person. I have met him. I sat down in my office with him. He has a very impressive life story to tell having come to the United States as an immigrant when he was about 17 years old, with a limited command of English. The man had some extraordinary achievements. He went on to become the editor of the Law Review at Harvard, served as a member of the Department of Justice, worked at the Supreme Court as a clerk. He is with a major, prestigious law firm. You would really be hard pressed to find anything in his background that is anything short of impressive. That is not the issue.

The fact that he is Hispanic, I say to my friend from Missouri, in my mind, is a plus in many respects. It certainly is not a minus. I was honored to name a Hispanic to the district court in Chicago when I had that opportunity a few years ago. I believe our judiciary should reflect the diversity of the United States. And if this is an example of affirmative action by the White House to put a Hispanic on the DC Circuit court, I say: Three cheers. I think it is the right thing to do.

It has nothing to do with his Hispanic heritage. As I said, that is a plus. There is nothing negative about that in any respect. What is at issue, and the reason the Senate has been tied up with this nomination, is the fact that Mr. Estrada has not been forthright in explaining who he is in terms of what he believes. And that is a fair question.

If we are going to give someone a lifetime appointment to the DC Circuit court—which is not just another court for the District of Columbia, but a major court in our Federal judicial system—I think it is not only reasonable, it is imperative that the Senate ask basic questions of Mr. Estrada. And we did. Time and time again, he stopped short of answering because that is now the drill at the Department of Justice.

The nominees go through this very rigorous training about how to handle a Senate judicial hearing. I am told they have videotapes and play them back and they ask them the questions most often asked of nominees. They school them in the answers to give to not reveal, at any point, what they really think, trying to get away with saying as little as possible, trying to get through the hearing with a smile on their face and their family behind them, and trying to get through the Senate without any controversy.

There is nothing wrong with that if a person has a history that you can turn to and say, well, this man or this woman has been on the bench for so many years and has handed down so many opinions. And we have read them. We know what they believe. They have expressed themselves over and over again. Or if they have published law journal articles, for example, that explain their point of view, that is all there for the record. You could draw your own conclusions.

But in the case of Mr. Estrada, none of that is there. He has not done that much in terms of publications nor involvement in cases. We said to him: Help us understand you. If you will not answer the question directly, let us at least look at the legal documents you prepared so we can see how you analyzed the law.

That has been done before. Other nominees have offered that information. Mr. Estrada said: I would be happy to share it with you as well. But the Department of Justice stepped in and the White House stepped in and said: No, we will not let the Senate see what Mr. Estrada has written as an attorney.

Why? Why would they want to conceal this information, unless, in fact, there is something very controversial and worrisome.

So we come here today not with any personal animus against Miguel Estrada. To the contrary, on a personal basis, he is a very extraordinary individual personally, academically, and professionally. But we have a right to ask these questions. Let me restate that. We have a responsibility to ask those questions, to make certain that each man and woman headed for this awesome lifetime appointment, this awesome position of responsibility, really is the person we want in that position.

Now, make no mistake, with President Bush in the White House, the nominees are more than likely to be Republican, more than likely to be conservative, more than likely to be members—proud members—of the Federalist Society. I know that. That is the nature of this process, the nature of politics. Yet it is still our responsibility to make certain they are just conservative and not extreme in their positions. We cannot draw that conclusion on Miguel Estrada because he has carefully concealed what he really believes. And that is why we are here.

So as a result of focusing on this nomination for 3 straight weeks, we have ignored so many other issues that should be brought to the Senate. We could resolve this issue tomorrow morning easily.

Senator BENNETT, a Republican, of Utah has come to the floor and made a suggestion that I think is eminently reasonable. Let Miguel Estrada turn over his legal writings so they can be reviewed by Senator HATCH and Senator LEAHY. And if they find anything in there of moment, of consequence, or of controversy, let them follow through with the questions or, if necessary, a hearing, and let's be done with it, a vote up or down.

Senator DASCHLE came to the floor today, the Democratic leader, and said that would be perfectly acceptable. We would have the information, and then we could reach our conclusion. And in the process we could be protecting our responsibility as Members of the Senate.

It has nothing to do with Miguel Estrada personally, but it does have something to do with our constitutional authority and responsibility to review each nominee.

EPHEDRA

Mr. President, I would also like to address another issue that is totally unrelated.

On February 14, a Friday, I stood in this spot and spoke about an issue, one that has been on my mind for almost 6 months, an issue which worries me, concerns me, because it relates to the health and safety of American families.

On that day, I challenged the Secretary of Health and Human Services, Tommy Thompson, under his authority to protect American families, to protect them against a nutritional supplement known as ephedra. You will find this supplement in a lot of diet pills, pills that are being sold over the counter as a supplement or vitamin or food product. They are sold as a way to lose weight or increase your energy or performance.

People come in and buy them, with no restriction on how old you have to be or what your health is or what might interact with these supplements. And people buy those and find out, in many instances, that not only don't they work, they are dangerous.

I have challenged Secretary Thompson for 6 months—6 months—to take these dangerous products off the market, and he has not done so. That was February 14.

On February 16, a pitcher from the Baltimore Orioles dropped dead during training. He had cardiac arrest, and the coroner who examined his body afterwards—those who did the autopsy—disclosed the fact that he had used these supplements with ephedra. That was 2 days after I had given that speech.

Time has run out for Steve Bechler and for many like him when it comes to protection from the harm of dangerous dietary supplements containing ephedra. We cannot bring Steve Bechler or my own constituent in Lincoln, IL, Sean Riggins, back. But we can fight to make sure this dangerous product is taken off the market immediately.

Sean Riggins was a 16-year-old boy. And about 4 weeks after I held a hearing in Washington, he went into a convenience store in Lincoln, IL, a small town, and bought—off the counter, with no identification, no check—a pill that was supposed to help him to perform better as a football player. The pill had ephedra in it. As best we can determine, Sean Riggins—this healthy football player, 16 years old—washed down that pill with Mountain Dew or some other product with caffeine in it and went into cardiac arrest and died. This healthy young man died, after taking a pill sold over the counter that contained ephedra.

I cannot think of another product that has generated so many adverse events, so many bad results—some extremely serious, even fatal—and yet has failed to generate any response from this Government to protect families and individuals buying these products.

The Food and Drug Administration has received over 18,000 reports of adverse events, serious health consequences, from those using ephedra and within those 18,000 over 100 deaths. Yet the Food and Drug Administration and Secretary Thompson refuse to act. They want to study the issue. And as they study, innocent people die.

Last August, I wrote to Secretary Thompson and urged him to ban these products. At that time, Lee Smith, an airline pilot from Nevada, had not yet suffered the debilitating stroke that cost him his health and his job due to ephedra.

I again wrote to Secretary Thompson on August 22. At that time, when I sent him a letter begging him to do something about these products, my constituent, Sean Riggins—that healthy 16-year-old boy in Lincoln, IL, who played football and wrestled for his high school team—was still alive. He died September 3, after consuming an ephedra product called yellow jacket. You will find those by cash registers at gas stations and convenience stores across America—kids popping them because they think they make them better performers when it comes to sports or, even worse, taking these pills and drinking beer, craziness that leads to terrible health consequences. And those pills are sold over the counter, with no Government control.

I wrote again, and I spoke directly to Secretary Tommy Thompson in September and October. My Governmental Affairs Subcommittee had hearings on the dangers of ephedra in July and October.

I again urged the Secretary, in a letter sent to him less than 1 month before Steve Bechler of the Baltimore Orioles died. Incidentally, did you see the followup articles in the sports pages, as other athletes, professional baseball players such as David Wells came forward and told his story about how he wanted to lose some weight, and he took an ephedra product and his heart was racing at 200 beats a minute. He flat-lined. He was almost in cardiac arrest before they finally brought him back.

These are not sickly individuals. These are healthy athletes who are taking these products sold over the counter and risking their lives in the process.

Yet the most we can get from Secretary Thompson in response is a suggestion that maybe we need a warning label. When the reporters asked him this past weekend about Steve Bechler of the Baltimore Orioles, his death because of ephedra, the Secretary was quoted as saying: "I wouldn't use it, would you?"

Well, I must say to the Secretary, this is not a matter of his personal preference. It is not a matter of whether as a consumer he would buy the product. It is a matter of his personal responsibility, his responsibility as Secretary of Health and Human Services to get this dangerous product off the shelves of American stores today and to protect families.

I am not the only person calling for this ban on ephedra products. The American Medical Association, representing over 200,000 doctors, called on Secretary Thompson to ban ephedra products. They didn't do it last week after Steve Bechler died. No. They did it over a year ago after Canada had banned this product for sale in their country. They went to Secretary Thompson and said it is dangerous to sell in the United States. He has done nothing.

Let me tell you another thing you might not know. The U.S. Army has banned the sale of ephedra in their commissaries worldwide after 33 ephedra-related deaths occurred among American servicemen. Does this make any sense? We believe as a government that we need to protect the men and women in uniform and so we ban the sale of these products at commissaries across the world, and yet the Secretary of Health and Human Services and the Commissioner of the Food and Drug Administration will not ban the sale of these products in convenience stores and drugstores and gas stations across America.

When you ask him about it, the Secretary says: I am studying it. I have a group called the RAND Commission that is going to study it.

With all due respect, we don't need another study. The Food and Drug Administration has received over 18,000 adverse reports about ephedra. The FDA could do followup on the most serious ones. In fact, the FDA did commission a review of adverse reports several years ago. That review by Drs. Haller and Benowitz established that 31 percent of the reports were definitely or probably related to ephedra and an additional 31 were deemed to be possibly related.

We understand what we are up against. Ephedra is a danger. It is so dangerous that when it was used in its synthetic form with caffeine, that was banned over 15 years ago. They said you couldn't sell a drug in America, nor could you sell an over-the-counter drug product in America that contained ephedra and caffeine because, put together, it is a dangerous and sometimes lethal combination. But yet if you step back from the over-the-counter drugs and call it a nutrition supplement, a vitamin, a food, you are totally exempt from that prohibition. You can combine those two lethal substances, ephedra and caffeine, and sell them with impunity. Does that make any sense? Is that protecting consumers across America? Is that what you expect from your government?

Certainly it is not what I expect. Many of these companies say it is a natural product. Ephedra is naturally occurring. That is no defense. Arsenic is a natural product. Hemlock is a natural product. That doesn't mean that they are safe. In fact, they are dangerous.

We have seen a lot of studies that have come out about ephedra. We know what needs to be done. Many States have already taken action. Because the Federal Government has failed to act, over 20 States have enacted restrictions on the sale of ephedra-containing products.

Incidentally, if you think these products are something you have never heard of, the leading sales of ephedra products are under the brand name Metabolife 365. You have seen them advertised on television and in magazines. Every time you walk into a drugstore and convenience store, you find: Metabolife tablets help you lose weight. Look carefully. Many of them contain ephedra, this lethal drug which has killed so many people.

Suffolk County, a week or so ago in New York, decided to ban this product as well after a 20-year-old named Peter Schlendorf died in 1996, and others suffered serious consequences. They understood, as the U.S. Army, Canada, Britain, Australia, and Germany, that action had to be taken to protect the residents. The National Football League, the NCAA, and the International Olympic Commission have reached the same conclusion, banning the use of this product by athletes.

I wrote to the Baseball Commissioner, Bud Selig, last week and to the Baseball Players' Association urging them to follow suit. The question isn't whether these individual organizations will show responsibility. The question is whether this Government will accept its responsibility.

I don't know Secretary Thompson that well. I have met him a few times. He is a very likable person. He certainly has had a distinguished public career in the State of Wisconsin, serving as a legislator and Governor of the State for many years, one of the most popular elected officials in its history. Everyone tells me this man really understands public service. I believe it.

This really seems to be a blind spot. When I talked to Secretary Thompson on the phone about these products, he said: How are we going to stop these fellows from selling these products and endangering people? I said: Mr. Secretary, you can stop them. You have the authority to stop them.

Time passes and nothing happens. I understand this industry is powerful. I have heard from them. I have heard from my colleagues in the Senate and House who have said: Don't take on these folks in the vitamin and nutritional supplement industry. They really have a lot of political clout. They do. But for goodness' sakes, if you can't stand up to an industry that is selling a lethal product to protect American families, why in the world would you take the oath of office to serve in the Senate? I think every Member understands that responsibility. It goes beyond political fear. It goes right to the heart of your political responsibility, the oath of office we all take and one we all value so much.

In closing, I say to Secretary Thompson, you have another chance now. It is a chance which I pray you will take. The last time I made a speech on the floor of the Senate about this issue, Steve Bechler of the Baltimore Orioles, a man in his early twenties, a promising athlete with a great future ahead of him, was still alive. Sadly, he is not alive today. He took this product and he died as a result. Others will, too.

That story, that tragic story of Steve Bechler, Sean Riggins, and so many others will be repeated over and over again. This industry may have political clout, but it does not have a conscience. It is up to the Secretary, as head of the Health and Human Services Department, to accept his responsibility to protect American families. A warning label is not enough. You cannot get by with putting a label on this product, saying: Caution, use of this product may cause stroke, a coronary event, or death. Why in the world would you allow such a product to be sold over the counter, unregulated in terms of the age of the buyer, unregulated in terms of the dosage? How in the world can you justify that kind of a thing?

The Secretary needs to accept his responsibility, and if he does, I will be the first to applaud him. But until he does, stay tuned. You will continue to hear these speeches on the floor from me and others while helpless victims across America fall because of their consumption of this deadly product.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. REID. As the Senator knows, the Senate has been tied up in the matter of Miguel Estrada for 9 or 10 days. From what the Senator said, I don't know much about the product, but he has made a very persuasive argument. It seems to me if the administration and the Secretary, as part of the administration, refuses to do anything administratively, maybe we could well use some Senate time debating this issue. Maybe there should be a moratorium put on the sale of this until further information is obtained on it. I make that suggestion.

My direct question, if the Secretary refuses to do something forthwith, wouldn't we well use the time that is now being spent on this nomination talking about this product that has killed people as the Senator has related?

Mr. DURBIN. The Senator is absolutely right. In fact, we not only could, we should. We should accept that responsibility. We do have this Government which has three coequal branches. If the executive branch and Secretary Thompson refuses to use the authority he has under the law, frankly, I think we should ban the sale of this product in the U.S.

As the Senator knows, we have been tied up for 3 weeks because Miguel Estrada refuses to disclose legal writings he has made. Even Republican Senators have suggested that he should.

We have waited for Republicans to understand that with more information, we can put this behind us and move on to other important business—not just questions about health and safety, but questions about the economy of this Nation, issues on which we ought to be debating and acting.

In closing, I am just going to ask Secretary Thompson again to take this very seriously. I hope we don't have to read about more athletes and other unsuspecting individuals and children who lose their lives as a result of these dangerous products. I say to any citizens following this debate, please think twice before you use a product containing ephedra. There are too many cases of death and serious health consequences for people who thought they were taking an innocent little pill that can be sold over the counter at a convenience store. In fact, many have turned out to be lethal doses that have killed or caused a great deal of harm.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, the courts provide the foundation upon which the institutions of government in our free society are built. Their strength and legitimacy are derived from a long tradition of Federal judges whose knowledge, integrity and impartiality are beyond reproach.

The Senate is obligated by the Constitution—and the public interest—to protect this legacy and to ensure that the public's confidence in the court system is justified and continues for many years to come.

As guardians of this trust we must carefully scrutinize the credentials and qualifications of every man and woman nominated by the President to serve on the Federal bench.

The men and women we approve for these lifetime appointments make important decisions each and every day, which impact the American people. Once on the bench they may be called upon to consider the extent of our right to personal privacy, our right to free speech, or even a criminal defendant's right to counsel. The importance of these positions and their influence must not be dismissed.

We all have benefitted from listening to the debate about Miguel Estrada's qualifications to serve on the D.C. Circuit.

I very much respect those Senators who desire to have additional information about Mr. Estrada's personal beliefs. Their efforts reflect a sound commitment to the Senate's constitutional obligation to advise and consent.

At the same time, I am troubled by those who have suggested that some Senators are anti-Hispanic because they seek additional information about this nominee. Poisoning the debate with baseless accusations demeans the nomination process.

After reviewing Mr. Estrada's personal and professional credentials—including personally interviewing the nominee—I believe he is qualified to serve on the D.C. Circuit Court—and, I will vote in favor of his nomination.

A Federal appellate judge's power to decide and pronounce judgment and carry it into effect is immense and comes with a moral and legal obligation to conform to the highest standards of conduct.

Federal judges must possess a high degree of knowledge of established legal principles and procedures and must also be impartial, even tempered and have a well-defined sense of justice, compassion and fair play.

In addition, a judge must have the integrity to leave legislating to lawmakers. Judges must have the self-restraint to avoid injecting their own personal views or ideas that may be inconsistent with existing decisional or statutory law.

I believe Mr. Estrada possesses the knowledge and skills needed to be a successful court of appeals judge. Few would argue with his academic credentials, litigation experience or intelligence.

And based on my conversation with him, and those who know him well, I believe he respects—and will honor—his moral and legal obligation to uphold the law impartially.

However, should Mr. Estrada someday be considered for a position on the Supreme Court—as some have suggested he could be—I believe further inquiry not only will be justified, but necessary.

While appellate judges are constrained to a great degree by precedent, and by a check on their power by the Supreme Court, justices on the High Court have greater latitude to insert their own ideological viewpoints.

Mr. Estrada agreed wholeheartedly with this point when we discussed his nomination.

Make no mistake; I believe all judicial nominees should be completely forthcoming during the confirmation process.

Mr. Estrada has argued that he's satisfied a minimum threshold of disclosure, and that revealing additional information about his personal ideological beliefs may compromise his image of impartiality—if he eventually is seated on the federal bench.

I disagree with his approach, because it leads to the suspicion and mistrust—like that which now engulfs us.

Furthermore, I do not believe a similar argument reasonably can be made by a nominee to the Supreme Court. Ideology can be central to the High Court's decisions. As a result, absolute disclosure by Supreme Court nominees is necessary to protect the public interest.

In sum, while I believe Mr. Estrada could have been more forthcoming in order to avoid this controversy, my conclusion is that he is qualified to serve on the D.C. Circuit.

Should he come before the Senate as a nominee to the Supreme Court, he must be willing to provide additional information about his personal beliefs.

LEGISLATIVE SESSION

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING MAJOR GENERAL PHILIP G. KILLEY FOR 40 YEARS OF SERVICE

Mr. DASCHLE. Mr. President, today I salute a great American and South Dakotan, Major General Philip G. Killey.

General Killey, currently the Adjutant General of the South Dakota National Guard, retires at the end of this week, after 40 years of service. His service includes nearly a quarter-century with the South Dakota National Guard, including two separate appointments as Adjutant General covering more than 6 years.

Since September 11, 2001, General Killey's job has become more demanding and complex, but, as ever through his career, he has proven worthy of the challenge. Since September 11, his troops have been performing a broad variety of missions, from bolstering security at our State's airports to enforcing the no-fly zone over Iraq, from fighting forest fires to keeping the peace in Bosnia. All this, while also staying trained and ready for their next assignment.

Now, that next assignment is here. About 1,200 South Dakota Guard personnel have been called to active duty as part of our Nation's buildup on the borders of Iraq. Given the small population of our State, this is a major contribution. In fact, on a per capita basis, South Dakota is contributing more Guard personnel than all but five other States. This is a much larger commitment than the South Dakota Guard was asked to provide during Desert Storm, its other major call-up of the post-Cold War period, and it has come at a time when General Killey is already managing other high-priority commitments.

Managing these tasks and the Iraq call-up turns out to be the capstone event of General Killey's long military career, and it stands as a real testament to his skill and leadership. It is at critical moments like this, when your resources are stretched thin and you are asked to do even more, that gaps in training, leadership or equipment will reveal themselves. But in South Dakota, General Killey's troops have met the test. They are ready, and it shows.

Over the years, General Killey and I have worked together on many fronts to improve the equipment and facilities of the Guard. In the past 2 years, we have been able to secure nearly $35 million in construction funds to improve 7 Guard facilities at Camp Rapid, Fort Meade, Pierre, Watertown, Mitchell, and Sioux Falls. We were able to secure $97 million to upgrade 2 battalions of the multiple launch rocket system, one in South Dakota and one in Arkansas, making our artillery system one of the most modern and battle-ready in the National Guard.

In these and other endeavors, I have come to appreciate and respect General Killey for his vision, his energy and initiative, and his sophistication in dealing with both military and civilian authorities. It's been a valuable and productive partnership.

We clearly owe a debt of gratitude to General Killey for 40 years of patriotic service to our State and our Nation. I am proud to call him a fellow South Dakotan and wish all the best for him and his wife, Ellen.

RULES OF PROCEDURE OF THE SELECT COMMITTEE ON ETHICS

Mr. VOINOVICH. Mr. President, in accordance with Rule XXVI.2 of the Standing Rules of the Senate, I ask unanimous consent that the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and revised November 1999, be printed in the CONGRESSIONAL RECORD for the 108th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE SELECT COMMITTEE ON ETHICS

PART I: ORGANIC AUTHORITY

SUBPART A—S. RES. 338 AS AMENDED

S. Res. 338, 88th Cong., 2d Sess. (1964)

Resolved, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph I of Rule XXIV of the Standing Rules of the Senate at the beginning of each Congress. For purposes of paragraph 4 of Rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a member of the majority Party and one member of the quorum is a member of the minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(d)(1) A member of the Select Committee shall be ineligible to participate in—

(A) any preliminary inquiry, or adjudicatory review relating to—

(i) the conduct of—

(I) such member;

(II) any officer or employee the member supervises; or

(III) any employee of any officer the member supervises; or

(ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Select Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review. Notice of such disqualification shall be given in writing to the President of the Senate.

(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.

SEC. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2)(A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

(B) pursuant to subparagraph (A) recommend discipline, including—

(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(b) For the purposes of this resolution—

(1) the term "sworn complaint" means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

(2) the term "preliminary inquiry" means a proceeding undertaken by the Select Committee following the receipt of a complaint

or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial case for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred; and

(3) the term "adjudicatory review" means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(c)(1) No—

(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

(C) letter of admonition pursuant to subsection (d)(3) may be issued, unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.

(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the Members of the Select Committee voting.

(d)(1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether that is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

(4) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).

(e)(1) Any individual who is the subject to a reprimand or order of restitution, or both, pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or orter of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews.

(i) The Select Committee from time to time shall transmit to the Senate its recommendations as to any legislative measures which it may consider to be necessary for the effective discharges of its duties.

SEC. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners, and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.

(b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any compliant or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

(d)(1) Subpoenas may be authorized by—

(A) the Select Committee; or

(B) the chairman and vice chairman, acting jointly.

(2) any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

(3) The chairman or any member of the Select Committee may administer oaths to witnesses.

(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts

in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) and (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under paragraph 2(c) [Note: Now Paragraph 1] of Rule XXXIV or paragraph 1 of Rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a Member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

SUBPART B—PUBLIC LAW 92-191—FRANKED MAIL, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate [NOTE: Now the Select Committee on Ethics] shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons. (b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551-559 and 701-706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

SUBPART C—STANDING ORDERS OF THE SENATE REGARDING UNAUTHORIZED DISCLOSURE OF INTELLIGENCE INFORMATION, S. RES. 400, 94TH CONGRESS, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SUBPART D—RELATING TO RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS RECEIVED BY MEMBERS, OFFICES AND EMPLOYEES OF THE SENATE OR THEIR SPOUSES OR DEPENDENTS, PROVISIONS RELATING TO THE SELECT COMMITTEE ON ETHICS

Section 7342 of title 5, United States code, states as follows:

SEC. 7342. Receipt and disposition of foreign gifts and decorations.

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

"(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

"(D) a member of a uniformed service;

"(E) the President and the Vice President;

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

"(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

"(2) ‘foreign government’ means—

"(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

"(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

"(C) any agent or representative of any such unit or such organization, while acting as such;

"(3) ‘gift’ means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

"(4) ‘decoration’ means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

"(5) ‘minimal value’ means a retail value in the United States at the time of acceptance of $100 or less, except that—

"(A) on January 1, 1981, and at 3 year intervals thereafter, ‘minimal value’ shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

"(B) regulations of an employing agency may define ‘minimal value’ for its employees to be less than the value established under this paragraph; and

"(6) ‘employing agency’ means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with, the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

"(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency; or

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use. Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

"(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transfer such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purpose of this section.

"(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who files to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host government that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies."

PART II: SUPPLEMENTARY PROCEDURAL RULES

145 Cong. Rec. S1832 (daily ed. Feb. 23, 1999)

RULE 1: GENERAL PROCEDURES

(a) OFFICERS. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) PROCEDURAL RULES: The basic procedural rules of the Committee are stated as part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) MEETINGS:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman or the Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all member of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) QUORUM:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations, of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 5 and any deposition taken outside the presence of a Member under Rule 6, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) ORDER OF BUSINESS: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) HEARINGS ANNOUNCEMENTS: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish the announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) OPEN AND CLOSED COMMITTEE MEETINGS: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specific period or purpose.

(h) RECORD OF TESTIMONY AND COMMITTEE ACTION: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness's testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 5 on Procedures for Conducting Hearings.)

(i) SECRECY OF EXECUTIVE TESTIMONY AND ACTION AND OF COMPLAINT PROCEEDINGS:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a complaint or allegation shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) RELEASE OF REPORTS TO PUBLIC: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) INELIGIBILITY OR DISQUALIFICATION OF MEMBERS AND STAFF:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) a preliminary inquiry or adjudicatory review relating to (i) the conduct of (I) such member; (II) any officer or employee the member supervises; or (ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member

is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member of the Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Committee and the determination and recommendations of the Committee with respect to any such preliminary inquiry or adjudicatory review.

(4) Whenever any member of the Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review, or disqualifies himself or herself under paragraph (3) from participating in any preliminary inquiry or adjudicatory review, another Senator shall be appointed by the Senate to serve as a member of the Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Committee with respect to such preliminary inquiry or adjudicatory review. Any member of the Senate appointed for such purposes shall be of the same party as the member who is ineligible or disqualifies himself or herself.

(5) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any preliminary inquiry, adjudicatory review, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(4).

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of a preliminary inquiry or an adjudicatory review, or the issuance or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested of the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV.

(o) Committee Use of Services or Employees of Other Agencies and Departments:

With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR COMPLAINTS, ALLEGATIONS, OR INFORMATION

(a) Complaint, Allegation, or Information: Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, a sworn complaint or other allegation or information, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate. Such complaints or allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) Source of Complaint, Allegation, or Information: Complaint, allegations, and information to be reported to the Committee may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints, defined as a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate;

(2) anonymous or informal complaints;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Form and Content of Complaints: A complaint need not be sworn nor must it be in any particular form to receive Committee consideration, but the preferred complaint will:

(1) state, whenever possible, the name, address, and telephone number of the party filing the complaint;

(2) provide the name of each member, officer or employee of the Senate who is specifically alleged to have engaged in improper conduct or committed a violation;

(3) state the nature of the alleged improper conduct or violation;

(4) supply all documents in the possession of the party filing the complaint relevant to or in support of his or her allegations as an attachment to the complaint.

RULE 3: PROCEDURES FOR CONDUCTING A PRELIMINARY INQUIRY

(a) Definition of Preliminary Inquiry: A "preliminary inquiry" is a proceeding undertaken by the Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) Basis for Preliminary Inquiry: The Committee shall promptly commence a preliminary inquiry whenever it has received a sworn complaint, or other allegation of, or information about, alleged misconduct or violations pursuant to Rule 2.

(c) Scope of Preliminary Inquiry:

(1) The preliminary inquiry shall be of such duration and scope as is necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Chairman and Vice Chairman, acting jointly, on behalf of the Committee may supervise and determine the appropriate duration, scope, and conduct of a preliminary inquiry. Whether a preliminary inquiry is conducted jointly by the Chairman and Vice Chairman or by the Committee as a whole, the day to day supervision of a preliminary inquiry rests with the Chairman and Vice Chairman, acting jointly.

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, or subpoenas deemed appropriate to obtain information upon which to make any determination provided for by this Rule.

(d) Opportunity for Response: A preliminary inquiry may include an opportunity for any known respondent or his or her designated representative to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(e) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(f) Final Report: When the preliminary inquiry is completed, the staff or outside counsel shall make a confidential report, oral or written, to the Committee on findings and recommendations, as appropriate.

(g) Committee Action: As soon as practicable following submission of the report on the preliminary inquiry, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The committee may determine that there is not such substantial credible evidence and, in such case, the Committee shall dismiss the matter. The Committee, or Chairman and Vice Chairman acting jointly on behalf of the Committee, may dismiss any matter which, after a preliminary inquiry, is determined to lack substantial merit. The Committee shall inform the complainant of the dismissal.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In such case, the Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline and which shall not be subject to appeal to the Senate. The issuance of a letter of admonition must be approved by the affirmative recorded vote of no fewer than four members of the Committee voting.

(3) The Committee may determine that there is such substantial credible evidence and that the matter cannot be appropriately disposed of under paragraph (2). In such case, the Committee shall promptly initiate an adjudicatory review in accordance with Rule 4. No adjudicatory review of conduct of a Member, officer, or employee of the Senate may be initiated except by the affirmative recorded vote of not less than four members of the Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN ADJUDICATORY REVIEW

(a) Definition of Adjudicatory Review: An "adjudicatory review" is a proceeding undertaken by the Committee after a finding, on the basis of a preliminary inquiry, that there is substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) Scope of Adjudicatory Review: When the Committee decides to conduct an adjudicatory review, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. An adjudicatory review shall be conducted by outside counsel as authorized by section 3(b)(1) of Senate Resolution 338 unless the Committee determines not to use outside counsel. In the course of the adjudicatory review, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct any inquiries or interviews, take sworn statements, use compulsory process as described in Rule 6, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make a determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an adjudicatory review. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an adjudicatory review. The notice shall include a statement of the nature of the possible violation, and description of the evidence indicating that a possible violation occurred. The Committee may offer the respondent an opportunity to present a statement, orally or in writing, or to respond to questions from members of the Committee, the Committee Staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand (not requiring discipline by the full Senate).

(e) Progress Reports to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the adjudicatory review. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Final Report of Adjudicatory Review to Committee: Upon completion of an adjudicatory review, including any hearings held pursuant to Rule 5, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the adjudicatory review and which may recommend disciplinary action, if appropriate. Findings of fact of the adjudicatory review shall be detailed in this report whether or not disciplinary action is recommended.

(g) Committee Action:

(1) As soon as practicable following submission of the report of the staff or outside counsel on the adjudicatory review, the Committee shall prepare and submit a report to the Senate, including a recommendation or proposed resolution to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No adjudicatory review of conduct of a Member, officer or employee of the Senate may be conducted, or report or resolution or recommendation relating to such an adjudicatory review of conduct may be made, except by the affirmative recorded vote of not less than four members of the Committee.

(2) Pursuant to S. Res. 338, as amended, section 2(a), subsections (2), (3), and (4), after receipt of the report prescribed by paragraph (f) of this rule, the Committee may make any of the following recommendations for disciplinary action or issue an order for reprimand or restitution, as follows:

(i) In the case of a Member, a recommendation to the Senate for expulsion, censure, payment or restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these;

(ii) In the case of an officer or employee, a recommendation to the Senate of dismissal, suspension, payment of restitution, or a combination of these;

(iii) In the case where the Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate, and subject to the provisions of paragraph (h) of this rule relating to appeal, by a unanimous vote of six members order that a Member, officer or employee be reprimanded or pay restitution or both;

(iv) In the case where the Committee determines that misconduct is inadvertent, technical, or otherwise of a de minimis nature, issue a public or private letter of admonition to a Member, officer or employee, which shall not be subject to appeal to the Senate.

(3) In the case where the Committee determines, upon consideration of all the evidence, that the facts do not warrant a finding that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Committee may dismiss the matter.

(4) Promptly, after the conclusion of the adjudicatory review, the Committee's report and recommendation, if any, shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation, if any, shall be printed and made public, unless the Committee determines by the recorded vote of not less than four months of the Committee that it should remain confidential.

(h) Right of Appeal:

(1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (g)(2)(iii), may, within 30 days of the Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the appeal to the Committee and the presiding officer of the Senate. The presiding officer shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) S. Res. 338 provides that a motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

RULE 5: PROCEDURES FOR HEARINGS

(a) Right to Hearing: The Committee may hold a public or executive hearing in any preliminary inquiry, adjudicatory review, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand. (See Rule 4(d).)

(b) Non-Public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, be the recorded vote of not less than four members of the Committee, designate any public or executive hearing as an adjudicatory hearing; and any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) Subpoena Power: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 6.)

(e) Notice of Hearings: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) WITNESSES:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by recorded vote of not less than four members of the Committee, rule that no matter of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness's scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) RIGHT TO TESTIFY: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) CONDUCT OF WITNESSES AND OTHER ATTENDEES: the Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) ADJUDICATORY HEARING PROCEDURES:

(1) NOTICE OF HEARINGS: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) PREPARATION FOR ADJUDICATORY HEARINGS:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) SWEARING OF WITNESSES: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) RIGHT TO COUNSEL: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) RIGHT TO CROSS-EXAMINE AND CALL WITNESSES:

(A) In adjudicatory hearings, any respondent and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness's scheduled appearance, a witness or a witness's counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness's counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after testimony is received.

(6) ADMISSIBILITY OF EVIDENCE:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a recorded vote of not less than four members of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, b a Member, officer, or employee within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of not less than four members of the full Committee that the interests of justice require that such evidence be admitted.

(7) SUPPLEMENTARY HEARING PROCEDURES: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) TRANSCRIPTS:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness's testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 6: SUBPOENAS AND DEPOSITIONS

(a) SUBPOENAS:

(1) AUTHORIZATION FOR ISSUANCE: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time during a preliminary inquiry, adjudicatory review, or other proceeding.

(2) Signature and Service: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) Withdrawal of subpoena: The Committee, by recorded vote of not less than four members of the Committee, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) Depositions:

(1) Persons authorized to take depositions: Depositions may be taken by any member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) Deposition notices: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time during a preliminary inquiry, adjudicatory review or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) Counsel at Depositions: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) Deposition procedure: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) Filing of depositions: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, with a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 7: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; EDUCATIONAL MANDATE; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by the recorded vote of not less than four members of the full Committee that there is reason to believe that a violation of law, including the provision of false information to the Committee, may have occurred, it shall report such possible violation to the proper Federal and state authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in a preliminary inquiry, adjudicatory review, or other proceedings.

(d) Educational Mandate: The Committee shall develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(e) Applicable Rules and Standards of Conduct:

(1) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 8: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive Materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusations of such conduct; to any resulting preliminary inquiry, adjudicatory review or other proceeding by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) Procedures for Handling Classified Materials:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive documents materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for,

interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be hand delivered by a member of the Committee staff to the member of the Committee, or to a staff person(s) specifically designated by the member, for the Member's or designated staffer's examination. A member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the Member or his or her designated staffer.

(3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, adjudicatory review, or other proceeding, shall be hand delivered to the Member or to his or her specifically designated representative.

(4) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to the make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(5) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) NON-DISCLOSURE POLICY AND AGREEMENT:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the nondisclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 9: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by an other methods of coverage, unless the Committee decides by recorded vote of not less than four members of the Committee that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 10: PROCEDURES FOR ADVISORY OPINIONS

(a) WHEN ADVISORY OPINIONS ARE RENDERED:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) FORM OF REQUEST: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requester wishes the Committee to address.

(c) OPPORTUNITY FOR COMMENT:

(1) The committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) ISSUANCE OF AN ADVISORY OPINION:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) RELIANCE ON ADVISORY OPINIONS:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of

the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 11: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) BASIS FOR INTERPRETATIVE RULINGS: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) REQUEST FOR RULING: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) ADOPTION OF RULING:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) PUBLICATION OF RULINGS: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance of guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) RELIANCE ON RULINGS: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) RULINGS BY COMMITTEE STAFF: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 12: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) AUTHORITY TO RECEIVE COMPLAINTS: The Committee is directed by section 6(b) of Public Law 93–191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) DISPOSITION OF COMPLAINTS:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing, pursuant to the franking statute, if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an adjudicatory review, must be summarized, together with the disposition, in a report to the Senate, as appropriate.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) ADVISORY OPINIONS AND INTERPRETATIVE RULINGS: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 10 and 11.

RULE 13: PROCEDURES FOR WAIVERS

(a) AUTHORITY FOR WAIVERS: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) REQUESTS FOR WAIVERS: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules for the Senate) should be included with the waiver request.

(c) RULING: The Committee shall rule on a waiver request by recorded vote with a majority of those voting affirming the decision. With respect to any individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver.

(d) AVAILABILITY OF WAIVER DETERMINATIONS: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 14: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 15: COMMITTEE STAFF

(a) COMMITTEE POLICY:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, an Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) APPOINTMENT OF STAFF:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular preliminary inquiry, adjudicatory review, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, preliminary inquiry, adjudicatory review, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any adjudicatory review undertaken after a preliminary inquiry, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) DISMISSAL OF STAFF: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) STAFF WORKS FOR COMMITTEE AS WHOLE: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice

Chairman, and the immediate direction of the staff director or outside counsel.

(e) Notice of Summons to Testify: Each member of the Committee staff or outside counsel shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 16: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) Adoption of Changes in Supplementary Rules: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a recorded vote of not less than four members of the full Committee taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) Publication: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

PART III—SUBJECT MATTER JURISDICTION

Following are sources of the subject matter jurisdiction of the Select Committee:

(a) The Senate Code of Official Conduct approved by the Senate in Title I of S. Res. 110, 95th Congress, April 1, 1977, as amended, and stated in Rules 34 through 43 of the Standing Rules of the Senate;

(b) Senate Resolution 338, 88th Congress, as amended, which states, among others, the duties to receive complaints and investigate allegations of improper conduct which may reflect on the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate; recommend disciplinary action; and recommend additional Senate Rules or regulations to insure proper standards of conduct;

(c) Residual portions of Standing Rules 41, 42, 43 and 44 of the Senate as they existed on the day prior to the amendments made by Title I of S. Res. 110;

(d) Public Law 93–191 relating to the use of the mail franking privilege by Senators, officers of the Senate; and surviving spouses of Senators;

(e) Senate Resolution 400, 94th Congress, Section 8, relating to unauthorized disclosure of classified intelligence information in the possession of the Select Committee on Intelligence;

(f) Public Law 95–105, Section 515, relating to the receipt and disposition of foreign gifts and decorations received by Senate members, officers and employees and their spouses or dependents;

(g) Preamble to Senate Resolution 266, 90th Congress, 2d Session, March 22, 1968; and

(h) The Code of Ethics for Government Service, H. Con. Res. 175, 85th Congress, 2d Session, July 11, 1958 (72 Stat. B12). Except that S. Res. 338, as amended by Section 202 of S. Res. 110 (April 2, 1977), and as amended by Section 3 of S. Res. 222 (1999), provides:

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

APPENDIX A—OPEN AND CLOSED MEETINGS

Paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate reads as follows:

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in classes (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

APPENDIX B—"SUPERVISORS" DEFINED

Paragraph 12 of Rule XXXVII of the Standing Rules of the Senate reads as follows:

For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has it own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, and other assistants assigned to their respective offices;

(h) the majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

RULES OF THE COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

Ms. SNOWE. Mr. President, pursuant to Rule 26 of the Standing Rules of the Senate, I submit the rules for the Committee on Small Business and Entrepreneurship to be printed in the Congressional Record. The Committee rules for the 108th Congress are identical to the rules adopted by the Committee for the 107th Congress.

There being no objection, the material was ordered to be printed in the Record, as follows:

Rules of the Committee on Small Business and Entrepreneurship, 108th Congress

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee.

2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on 5 business days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, such member of the Committee as the Chairman shall designate shall preside.

(b)(1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Congressional Record Sec. 3231 (daily edition March 21, 1986)

(3) In hearings, whether in public or closed session a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote on the date of the meeting to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

(d) It shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the Offices of the Chairman and the Ranking Member at least 2 business days prior to the meeting. This subsection may be waived by the agreement of the Chairman and Ranking Member or by a majority vote of the members of the Committee.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. If such request is by the Ranking Member, a decision shall be communicated to the Ranking Member within 7 business days. Written notice of all hearings, including the title, a description of the hearing, and a tentative witness list shall be given at least 5 business days in advance, where practicable, to Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting, but must be in writing.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) The Chairman and Ranking Member shall be empowered to call an equal number of witnesses to a Committee hearing. Such number shall exclude an Administration witness unless such witness would be sole hearing witness, in which case the Ranking Member shall be entitled to invite one witness. Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 2 business days in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting but must be in writing. Subpoenas shall be issued by the Chairman or by the Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. SUBCOMMITTEES

The Committee shall not have standing subcommittees.

5. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended: provided, however, that not less than a majority of the entire Membership so determined at a regular meeting with due notice, or at a meeting specifically called for that purpose.

RULES OF THE SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, paragraph 2 of Senate Rule XXVI requires that not later than March 1 of the first year of each Congress, the rules of each Committee shall be published in the Record.

In compliance with this provision, I ask unanimous consent that the Rules of the Select Committee on Intelligence be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Rules of Procedure for the Select Committee on Intelligence, United States Senate

(Adopted June 23, 1976)

(Amended October 24, 1990

(Amended February 25, 1993)

(Amended February 22, 1995)

Rule 1. Convening of Meetings

1.1. The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be every other Wednesday of each month, unless otherwise directed by the Chairman.

1.2. The Chairman shall have authority, upon notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3. A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4. In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5. If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the committee in writing of the date and time of the meeting.

Rule 2. Meeting Procedures

2.1. Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2. It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3. The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4. Except as otherwise provided in these Rules, decisions of the Committee shall be by a majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of no less than one third of the Committee Members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5. A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6. Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

Rule 3. Subcommittees

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

Rule 4. Reporting of Measures or Recommendations

4.1. No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2. In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3. A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

4.4. Routine, non-legislative actions required of the Committee may be taken in accordance with procedures that have been approved by the Committee pursuant to these Committee Rules.

Rule 5. Nominations

5.1. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2. Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3. Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4. No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5. The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6. No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the committee.

Rule 6. Investigations

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or designated Committee staff members.

Rule 7. Subpoenas

Subpoenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman. Vice Chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2d Session and a copy of these rules.

Rule 8. Procedures Related to the Taking of Testimony

8.1. Notice.—Witnesses required to appear before the Committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2. Oath of Affirmation.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3. Interrogation.—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, Vice Chairman, or the presiding member.

8.4. Counsel for the Witness.—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his or her appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5. Statements by Witnesses.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his or her testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his or her appearance before the Committee.

8.6. Objections and Rulings.—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the chair.

8.7. Inspection and Correction.—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his or her expense.

8.8. Requests to Testify.—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence present at a public hearing, or any comment made by a Committee member or a member of the Committee staff may tend to affect adversely his or her reputation, may request to appear personally before the Committee to testify on his or her own behalf, or may file a sworn statement of acts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9. Contempt Procedures.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed by majority vote of the Committee, to forward such recommendation to the Senate.

8.10. Release of Name of Witness.—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his or her appearance before the Committee.

Rule 9. Procedures for Handling Classified or Sensitive Material

9.1. Committee staff offices shall operate under strict precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2. Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof. All documents or materials removed from the Committee offices for such authorized purposes must be returned to the Committee's secure storage area for overnight storage.

9.3. Each member of the Committee shall at all times, have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4. Whenever the Select Committee on Intelligence makes classified material available to any other Committee of the Senate or to any member of the Senate not a member of the Committee, such material shall be accompanied by a verbal or written notice to the recipients advising of their responsibility to protect such material pursuant to section 8 of S. Res. 400 of the 94th Congress. The Clerk of the Committee shall ensure that such notice is provided and shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5. Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and, under the Committee's direction, the Staff Director and minority Staff Director.

9.6. No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or materials or other information received by the Committee except as authorized herein, or otherwise as authorized by the Committee in accordance with section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate. For purposes of this paragraph, members and staff of the Committee may disclose classified information in the possession of the Committee only to persons with appropriate security clearances who have a need to know such information for an official governmental purpose related to the work of the Committee. Information discussed in executive sessions of the Committee and information contained in papers and materials which are not classified but which are controlled by the committee may be disclosed only to persons outside the Committee who have a need to know such information for an official governmental purpose related to the work of the Committee and only if such disclosure has been authorized by the Chairman and Vice Chairman of the Committee, or by the Staff Director and Minority Staff Director, acting on their behalf. Failure to abide by this provision shall constitute grounds for referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400.

9.7. Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff.

9.8. Attendance of persons outside the Committee at closed meetings of the Committee shall be kept at a minimum and shall be limited to persons with appropriate security clearance and a need-to-know the information under consideration for the execution of their official duties. Notes taken at such meetings by any person in attendance shall be returned to the secure storage area in the Committee's offices at the conclusion of such meetings, and may be made available to the department, agency, office, committee or entity concerned only in accordance with the security procedures of the Committee.

Rule 10. Staff

10.1. For purposes of these rules, Committee staff includes employees of the Committee, consultants to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the Committee. To the maximum extent practicable, the Committee shall rely on its full-time employees to perform all staff functions. No individual may be retained as staff of the Committee or to perform services for the Committee unless that individual holds appropriate security clearances.

10.2. The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing. No Committee staff shall be given access to any classified information or regular access to the Committee offices, until such Committee staff has received an appropriate security clearance as described in Section 6 of Senate Resolution 400 of the 94th Congress.

10.3. The Committee staff works for the Committee as a whole, under the supervision of the Chairman and Vice Chairman of the Committee. The duties of the Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, and shall be administered under the direct supervision and control of the Staff Director. The Minority Staff Director and the Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committees.

10.4. The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5. The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during their tenure as a member of the Committee staff at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6. No member of the Committee staff shall be employed by the Committee unless and until a member of the Committee staff agrees in writing, as a condition of employment to abide by the conditions of the nondisclosure agreement promulgated by the Senate Select Committee on Intelligence, pursuant to Section 6 of S. Res. 400 of the 94th Congress, 2d Session, and to abide by the Committee's code of conduct.

10.7. No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee or in the event of the Committee's termination the Senate of any request for his or her testimony, either during his tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his or her possession by virtue of his or her position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8. The Committee shall immediately consider action to be taken in the case of any member of the Committee staff who fails to conform to any of these Rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff.

10.9. Within the Committee staff shall be an element with the capability to perform audits of programs and activities undertaken by departments and agencies with intelligence functions. Such element shall be comprised of persons qualified by training and/or experience to carry out such functions in accordance with accepted auditing standards.

10.10. The workplace of the Committee shall be free from illegal use, possession, sale or distribution of controlled substances by its employees. Any violation of such policy by any member of the Committee staff shall be grounds for termination of employment. Further, any illegal use of controlled substances by a member of the Committee staff, within the workplace or otherwise, shall result in reconsideration of the security clearance of any such staff member and may constitute grounds for termination of employment with the Committee.

10.11. In accordance with title II of the Civil Rights Act of 1991 (P.L. 102-166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.

Rule 11. Preparation for Committee Meetings

11.1. Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2. The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

11.3. The Staff Director shall ensure that covert action programs of the U.S. Government receive appropriate consideration by the Committee no less frequently than once a quarter.

Rule 12. Legislative Calendar

12.1. The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2. Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1. No member of the Committee or Committee Staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2. When the Chairman and the Vice Chairman approve the foreign travel of a member of the committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3. No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

APPENDIX A.—94TH CONGRESS, 2D SESSION

S. Res. 400

[Report No. 94–675]

[Report No. 94–770]

IN THE SENATE OF THE UNITED STATES

March 1, 1976

Mr. Mansfield (for Mr. Ribicoff) (for himself, Mr. Church, Mr. Percy, Mr. Baker, Mr. Brock, Mr. Chiles, Mr. Glenn, Mr. Huddleston, Mr. Jackson, Mr. Javits, Mr. Mathias, Mr. Metcalf, Mr. Mondale, Mr. Morgan, Mr. Muskie, Mr. Nunn, Mr. Roth, Mr. Schweiker, and Mr. Weicker) submitted the following resolution; which was referred to the Committee on Government Operations.

May 19, 1976

Considered, amended, and agreed to resolution to establish a Standing Committee of the Senate on Intelligence, and for other purposes

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 4(e)(1) of rule XXV of the Standing Rules of the Senate.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred, to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such report, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the selection committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purpose of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoenas.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, by commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered to be disclosed.

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not public disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the information of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which the committee or which Members of the Senate received such information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct[1] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct[1] determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

Sec. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

Sec. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

Sec. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, presidential directives or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

Sec. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

Sec. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of the United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

Sec. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policy-making function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

Sec. 15. (This section authorized funds for the select committee for the period May 19, 1976, through Feb. 28, 1977.)

Sec. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

APPENDIX B.—94TH CONGRESS, 1ST SESSION

S. Res. 9

IN THE SENATE OF THE UNITED STATES

January 15, 1975

Mr. Chiles (for himself, Mr. Roth, Mr. Biden, Mr. Brock, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Hatfield, Mr. Hathaway, Mr. Humphrey, Mr. Javits, Mr. Johnston, Mr. McGovern, Mr. Metcalf, Mr. Mondale, Mr. Muskie, Mr. Packwood, Mr. Percy, Mr. Proxmire, Mr. Stafford, Mr. Stevenson, Mr. Taft, Mr. Weicker, Mr. Bumpers, Mr. Stone, Mr. Culver, Mr. Ford, Mr. Hart of Colorado, Mr. Laxalt, Mr. Nelson, and Mr. Haskell) introduced the following resolution; which was read twice and referred to the Committee on Rules and Administration.

Resolution amending the rules of the Senate relating to open committee meetings

Resolved, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt."

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and section 102(d) and (e) of the Congressional Budget Act of 1974 are repealed.

FIRST RESPONDERS PARTNERSHIP GRANT ACT OF 2003 INCLUDED IN THE ECONOMIC RECOVERY ACT OF 2003

Mr. LEAHY. Mr. President, I rise today in support of Democratic Leader DASCHLE's request to bring before the Senate the Economic Recovery Act of 2003, S. 414, which includes legislation I introduced last month: the First Responders Partnership Grant Act of 2003.

I thank the Democratic leader for authoring this important economic stimulus package. In seeking to improve homeland security, I am proud that he saw fit to include the First Responders Partnership Grant Act—on which he, Democratic Whip REID and Senator BREAUX join me as cosponsors. This legislation will supply our Nation's first responders with the support they so desperately need to protect homeland security and prevent and respond to acts of terrorism.

I want to begin by thanking each of our Nation's brave firefighters, emergency rescuers, law enforcement officers, and other first responder personnel for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers, and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our State and local public safety partners.

But while we ask our Nation's first responders to defend us as never before on the front lines against the dark menace of domestic terrorism, we have failed to supply them with the Federal support they need and deserve to protect us, as we expect and need them to protect us.

Since February 7, 2003, the Federal Homeland Security Advisory System has kept State and local first responders on Orange Alert, a "high" condition indicating a high probability of a terrorist attack and when additional precautions by first responders are necessary at public events.

Since then, counterterrorism officials have warned that the threat of terrorist attacks on U.S. soil is at a higher level than in previous months due to the possibility of impending military action against Iraq. This is the second time since September 11, 2001, that the national warning level has been at Orange Alert—from September 10 to September 24 last year, Attorney General Ashcroft declared our country at Orange Threat level.

From March 12, 2002, until this month, we were at Yellow Alert, an "elevated" threat level declared when there is a significant risk of terrorist attacks, requiring increased surveillance of critical locations.

Counties, cities, and towns in my home State of Vermont and across the United States find themselves overwhelmed by increasing homeland security costs required by the Federal Government. Indeed, the National Governors' Association estimates that States incurred around $7 billion in security costs over the past year alone.

As a result, the national threat alerts and other Federal homeland security requirements have become unfunded Federal mandates on our State and local governments. Rutland County Sheriff R.J. Elrick, president of the Vermont Sheriffs' Association, recently wrote to me:

> We are in dire need of financial support to keep our personnel trained and equipped to meet the challenges here at home as we continue our vigilant commitment to fight terrorism.

When terrorists strike, first responders are and will always be the first people we turn to for help. We place our lives and the lives of our families and friends in the hands of these officers, trusting that when called upon they will protect and save us.

Just how, without supplying them with the necessary resources, do we expect our Nation's first responders to realistically carry out their duties?

Our State and local law enforcement officers, firefighters and emergency personnel are full partners in preventing, investigating, and responding to terrorist acts. They need and deserve the full collaboration of the Federal Government to meet these new national responsibilities.

Washington is buzzing about the literally hundreds of billions of additional dollars the President plans to ask Congress to provide for our military services to fight the war on terrorism abroad. The same cannot be said for helping security here at home, which is shamefully overlooked.

For a year and a half I have been working hard to remedy that, with allies like our distinguished Democratic leader and assistant Democratic leader, and New York Senators SCHUMER and CLINTON. As former chair and now ranking member of the Judiciary Committee, I have made it a high priority to evaluate and meet the needs of our first responders.

For these reasons, I commend the Democratic leader for including in the homeland security section of his economic stimulus package the First Responders Partnership Grant Act, which will give our Nation's law enforcement officers, firefighters, and emergency personnel the resources they need to do their jobs. This legislation will establish a grant program at the Department of Homeland Security to provide $5 billion nationwide for current fiscal year to support State and local public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism.

Similar to the highly successful Department of Justice Community Oriented Policing Services—COPS—and the Bulletproof Vest Partnership Grant Programs, the First Responder Grants will be made directly to State and local government units for overtime, equipment, training, and facility expenses to support our law enforcement officers, firefighters, and emergency personnel.

The First Responder Grants may be used to pay up to 90 percent of the cost of the overtime, equipment, training, or facility. In cases of fiscal leadership, the Department of Homeland Security may waive the local match requirement of 10 percent to provide Federal funds for communities that cannot afford the local match.

In a world shaped by the violent events of September 11, day after day we call upon our public safety officers to remain vigilant. We not only ask them to put their lives at risk in the line of duty, but also, if need be, give their lives to protect us.

If we take time to listen to our Nation's State and local public safety partners, they will tell us that they welcome the challenge to join in our national mission to protect our homeland security. But we cannot ask our firefighters, emergency personnel, and law enforcement officers to assume these new national responsibilities without also providing new Federal support.

The First Responders Partnership Grant Act will provide the necessary Federal support for our State and public safety officers to serve as full partners in the fight to protect our homeland security. We need our first responders for the security and the lifesaving help they bring to our communities. All they ask is for the tools they need to do their jobs for us. And for the sake of our own security, that is not too much to ask.

I commend Senator DASCHLE for his leadership, and hope that the Senate will soon consider this desperately needed economic stimulus package.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 22, 2001 in Pleasanton, CA. Two men assaulted an Afghani cab driver in an incident that police labeled a hate crime. The two attackers, Kenny Loveless and Travis Gossage, both 21, yelled racial epithets at the cab driver during their ride. Upon getting out of the cab they struck the outside of the cab. When the driver got out to inspect the cab the two men attacked the driver and continued to yell racial slurs.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE MEASURE OF SUCCESS: CELEBRATING A LEGACY OF AFRICAN AMERICAN ACHIEVEMENT

Mrs. FEINSTEIN. Mr. President, "Success is to be measured not so much by the position one has reached in life, as by the obstacles which he has overcome while trying to succeed." This statement, made over 100 years ago by Booker T. Washington, rings true today.

Twenty-seven years ago, February was designated "Black History Month." Today, I am pleased to join in the celebration of the many achievements and contributions African Americans have made to our history. I encourage all of you to celebrate this rich history of achievement year-round.

America's history has been shaped by the courage, talent, and ingenuity of African-Americans. Each February we rediscover familiar stories of those who triumphed over bigotry and hatred to help move our Nation closer to living up to its greatest potential. In the lives of Frederick Douglass, Harriet Tubman, Sojourner Truth, Rosa Parks, and Thurgood Marshall we find heroes who dedicated their lives to liberty, freedom, and equality. During this month we also celebrate the achievements and vision of civil rights leaders such as Martin Luther King, Jr. and Medgar Evers and are reminded that we must continue the important work they started.

A look through our own State's history reveals a rich portrait of African American achievement in California.

In science, George Edward Alcorn, Jr. is a brilliant physicist and inventor who has made considerable contributions to semiconductor technology and other scientific fields. He graduated from Occidental College in Los Angeles with a B.A. in Physics, and received an M.S. and Ph.D. in Nuclear, Atomic and Molecular Physics from Howard University. He has been issued more than 25 patents for his groundbreaking work and is most well-known for inventing the Imaging X-ray Spectrometer used for detecting life on other planets.

Dr. Alcorn has also been extensively involved in community service. He was awarded a NASA-EEO medal for his contributions in recruiting minority and women scientists and engineers and for his assistance to minority businesses in establishing research programs. He is a founder of Saturday Academy, which is a weekend honors program designed to supplement and extend math-science training for inner-city students in grades 6 to 8.

Mae Jemison, an African American physician, scientist and engineer, was the first woman of color to go into space more than 10 years ago. Dr. Jemison was only 16 when she entered Stanford University; she graduated in 1977 at age 20 with degrees in both chemical engineering and African American studies. A few years later, she received a medical degree from Cornell University. Dr. Jemison was selected by NASA in 1988 for Astronaut training and in 1992 became a mission specialist aboard the space shuttle Endeavor.

Throughout her career, Dr. Jemison remained undaunted by the lack of role models in her area of expertise and instead paved the way as a hero for women and minorities interested in the science and technology fields. She once said, "I saw a world that was changing and I wanted to be a part of that."

Last year, she was honored by the Mentoring Center in Oakland during a ceremony where she stressed the need for caring adults to reach out for young people in these troubled times. Just recently, Dr. Jemison encouraged a young audience at the Modesto Community College to shoot for the stars and realize their capacity to dream. She said, "We have to have a vision of what we want the world to be in the future. We must combine lessons from the past with our responsibility for the present. It's the only way to have hope for the future."

Politics: African Americans in the political arena have worked tirelessly to advance the civil rights of all people in California. Largely as a result of their efforts, African Americans are well represented in California local, State and Federal Governments.

Below is a short list of other African-American Californians who have made similar contributions to our State and communities across the Nation:

Yvonne Brathwaite Burke was the first black woman to be elected to the California General Assembly and the first to be elected to represent California in the United States Congress.

Congressman Ronald V. Dellums was elected to Congress in 1970. He was the first African-American to serve on the Armed Services Committee and was its first black chairman.

Herb J. Wesson, Jr. is only the second African American in California history to be elected the 65th Speaker of the California State Assembly, one of the most powerful positions in the State. As a student at Lincoln University, a historically black college, Mr. Wesson was inspired to pursue a political career while listening to a speech by then Congressman Ron Dellums of California.

During his career, Mr. Wesson has introduced bills that protected labor rights for immigrant workers, ensured pay equity across gender lines, increased funding for low performing schools, and promoted job training for at-risk teens. He has earned a reputation as a natural born leader, mediator and bridge-builder, someone other Assembly members turned to when seeking to resolve a conflict.

Sports: African Americans have played an extremely influential role in the development of professional sports. Among the most prominent, Tony Gwynn has demonstrated excellence on and off the field. A native of Long Beach, Gwynn played baseball for the San Diego Padres for 20 years.

In addition to his incredible skill on the diamond, Gwynn became a sports hero for youth across the nation. Demonstrating sportsmanship, community service, and athleticism, Gwynn has won numerous community awards for his dedication and activism. He was inducted into the World Sports Humanitarian Hall of Fame in 1999.

California can also be very proud of its local African American heroes—those who often go unrecognized by the national community.

Improving the community relations in her native neighborhood of Watts, in Los Angeles, has been a lifelong commitment for "Sweet" Alice Harris.

"Sweet Alice," as she is affectionately called, is the founder of Parents of Watts, a program designed to encourage children to stay in school and away from drugs.

Today, Parents of Watts has grown into numerous organizations that provide emergency food and shelter for the homeless, offer health seminars, provide legal and drug counseling, and operate a program for unwed mothers.

Sweet Alice is truly one of the best known and most influential community leaders of her generation. Her lifetime of service and commitment to disadvantaged youth stems from her early years as a homeless teenage parent at age 16. In March of 2002, Lt. Governor Cruz Bustamante honored Sweet Alice with the Lt. Governor's Woman of the Year award for her tireless efforts for providing Los Angeles youth with a fighting chance in their community, a dedication that has spanned nearly 40 years.

This Black History Month, I would like to applaud all African American heroes who have overcome great adversity and risen to incredible heights of success. Many of these heroes have come from humble beginnings, making their successes and contributions to their communities all the more remarkable.

I look forward to the coming year in which we will, without a doubt, continue to see African Americans succeed and make a difference, both in their communities and in our country.

ADDITIONAL STATEMENTS

BLACK HISTORY MONTH

• Mr. NELSON of Florida. Mr. President, I rise today to commemorate and honor the achievements of African-Americans as the celebration of Black History Month draws to a close. I know my colleagues join me in remembering the sacrifices and contributions African-Americans have made to our country. From laying the foundation of the United States Capitol, to creating the design of the Nation's capital, a feat accomplished by noted scientist Benjamin Banneker, composing great music and writing classic literature, African-Americans' influence on our society and culture is immeasurable.

So many of our modern conveniences are due to the innovation and imagination of great African-American inventors like Garrett A. Morgan, creator of the modern stop light and the gas mask, which our Nation's forces may be utilizing in combat in Iraq. The great scientist, George Washington Carver, took tiny peanuts and engineered myriad uses for them. Pioneering astronauts like Guion Bluford, and most recently, Lieutenant Colonel Michael Anderson, whom we lost in the *Columbia* tragedy, undertook experiments in space that will advance our technological and scientific knowledge, expanding our horizons to space and beyond.

It is only fitting that we take time to remember these and other numerous accomplishments. Our Nation, and indeed the world, have benefited from the selfless sacrifices African-Americans have made in service to our country. We must continue to work to ensure that all African-Americans are afforded the opportunity to participate in, and realize, the American Dream. In the words, of Reverend Doctor Martin Luther King, Jr.: "We are not makers of history. We are made by history." Indeed, the history and experiences of African-Americans have helped shape America and will continue to do so for generations to come.•

CONCORD, NEW HAMPSHIRE CELEBRATES ITS 150TH BIRTHDAY

• Mr. GREGG. Mr. President, I rise today in honor of Concord, the Capital City of New Hampshire. As the United States prepares this year to observe the 227th anniversary of our independence, the citizens of Concord will be celebrating the City's 150th birthday. It is therefore timely and appropriate that we recognize this great American community.

Concord runs eight miles from north to south and covers almost 39,000 acres. However, this geographic description fails to illustrate its unique position in New Hampshire and U.S. history. First settled in the early 1700's as the Plantation of Penacook, an Indian word describing the serpentine but beautiful meanderings of the Merrimack River, the town was later renamed Rumford in 1734 and then Concord in 1765. In 1853, 150 years ago, the people living there incorporated Concord as a city. In 1788, the leaders of New Hampshire approved the new federal constitution in the Old North Meeting House in Concord and, thus, New Hampshire became the ninth and ratifying state of the original thirteen. Since 1809, Concord has served as the Capital of New Hampshire and, naturally, has been the heart of political life in our state. However, the City has a proud record for being the center of commerce and transportation as well. One of its best known industries was the Abbott-Downing Company which shipped thousands of its famous stagecoaches and wagons all over the world. In addition, the granite from Concord became the cornerstone for buildings throughout the United States. Furthermore, the City was the northern hub for the railroad industry in the first half of the 20th century.

Of course, we cannot talk about this city without praising its most distinctive feature: the people of Concord. In this community, the citizens value the importance of helping one's neighbor and, thus, have long been responsible for strengthening the New Hampshire way of life. They have never been restrained in lending their talents and energy to any noble cause. The experiences of two Concord residents in the Civil War exemplifies this ethical code. On April 15, 1861, President Lincoln issued a proclamation calling for 75,000 troops to fight to preserve the Union. Within hours of learning of this announcement, Concord Police Officer Edward Sturtevant enlisted in the Army. Because he was such a natural leader, he was eventually promoted to major and later gave his life at the Battle of Fredericksburg. Harriet Patience Dame also greatly contributed during this time. At the age of 46, she offered her services as an Army Nurse. From the time of her enlistment until well after the war ended, she cared for the injured, the sick and the dying without taking one day's furlough or one day's sick leave. An exhausting schedule to be sure but one that fits the character of Concord.

This spirit continues into modern times and may be best expressed by Concord school teacher Christa McAuliffe as she was preparing to become the first teacher in space: Her message "I touch the future, I teach" perfectly captures the dedication which characterizes the people of this community. With that, I am proud to honor and salute them as they celebrate the 150th birthday of Concord, New Hampshire, the Capital City of the Granite State.•

HONORING DOROTHY GONZALEZ

• Mr. JOHNSON. Mr. President, I rise today to honor the late Dorothy Gonzalez, of Rapid City, SD. On February 17, Oglala Lakota College's East Wakpamni District College Center in Batesland, SD, was renamed in Dorothy Gonzalez's honor. This is an honor she richly deserves.

Dorothy had a distinguished 28 year career as an educator and administrator at Oglala Lakota College. In 1975, she became East Wakpamni District College Center's first director. She served as East Wakpamni District College's director until 1990, before becoming He Sapa College Center's director. She was named Center Director of the Year in 1985 and 1987.

East Wakpamni District College Center being renamed in honor of Dorothy Gonzalez is wonderfully appropriate. Dorothy immensely enriched the life of countless young people in South Dakota. She was an extraordinary educator, mentor, and leader. It is an honor for me to share her accomplishments with my colleagues and to publicly commend the talent and commitment to education she always exhibited throughout her life. She was a woman of great scholarship and knowledge, and her positive influence will be felt for years to come.

Dorothy's dedication to high quality Native American education serves as her greatest legacy. Her work continues to inspire all those who knew her. Our Nation and South Dakota are far better places because of Dorothy Gonzalez's life, and while we miss her very much, the best way to honor her is to emulate the love and support she shared with others.•

RABBI MICHAEL BARENBAUM

• Mrs. BOXER. Mr. President, I rise today to honor Rabbi Michael Barenbaum on the occasion of his retirement after 27 years as senior rabbi at Congregation Rodef Sholom in San Rafael, California.

Rabbi Barenbaum is a man of great kindness and integrity who carries the Jewish values of caring and compassion with him in everything he does. With his wisdom and intelligence, he has changed thousands of lives for the better.

Under his leadership, Congregation Rodef Sholom has more than tripled in size, and its religious school has become one of the largest in Northern California. Rabbi Barenbaum has attracted thousands of worshipers, including members of other congregations and faiths, through the thoughtfulness of his sermons and the lively, informal spirit of his services.

At the same time, Rabbi Barenbaum has fostered a strong tradition of social action among his congregation. In the 1970s and 80s, he led local efforts to welcome and help settle Jewish emigres from the Soviet Union. He established a Mitzvah Day program that put nearly a thousand congregants to work on dozens of community-service programs throughout Marin County. He has been a leader in ecumenical housing, in aiding the homeless, and in bringing together clergy of all faiths to create services for people in need.

As he heads into a well-deserved retirement, Rabbi Barenbaum has said that he plans to work on establishing a Jewish hospice in the San Francisco Bay Area. After years of moving others to action, he is eager to serve as a volunteer.

Mr. President, here is a man—a real mensch. I am sure that even in retirement, Rabbi Barenbaum will continue to do wonders and inspire others for many years to come.•

TRIBUTE TO THE UNIVERSITY OF KENTUCKY BASKETBALL TEAM

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to our Nations's winningest college basketball program of all time, the University of Kentucky Wildcats. Earlier this month, on February 6, the UK Basketball Program celebrated its 100th anniversary.

One century later, Kentucky basketball fans in our great Commonwealth and across the country have celebrated 7 National Championships, 41 Southeastern Conference Championships, 36 All-Americans, 5 Hall of Famers, and more than 1,835 victories. UK Basketball has more wins and more NCAA Tournament appearances than any other university in the Nation. Since 1927, the UK Basketball team has had only one losing season.

To most UK Basketball fans, cheering for a Wildcat win in Rupp Arena is about much more than just basketball. The UK Basketball tradition is something all Kentuckians can be proud of. Over the past six years, Kentucky has led the Nation in average attendance even though some other schools with nationally-ranked teams have larger buildings. Many fans wait in lines for days in order to get the chance to see a game in legendary Rupp Arena.

The women and men of Kentucky are proud of the tradition of Kentucky Basketball. I am proud to represent our great Commonwealth and especially the University of Kentucky as it celebrates its basketball program's 100th anniversary.•

RECOGNIZING KLAUS WUST

• Mr. ALLEN. Mr. President, today I recognize Klaus Wust of Shenandoah County, VA, and the contribution he has made to the preservation of American history.

Mr. Wust was born in Bielefeld, Westphalia in Germany in 1925. In 1949, he received a scholarship to spend a year at Bridgewater College in Bridgewater, VA. Here he learned a great deal about the contribution German immigrants had made to the Shenandoah Valley of Virginia. He was so impressed by these achievements that he permanently settled in the Shenandoah Valley and devoted the rest of his life to researching and writing about the contributions German immigrants have made in this region of the Commonwealth.

Mr. Wust's extensive body of work serves as a primer for anyone focusing on the revolutionary period of the 1700s and early 1800s colonial era. He made a significant contribution in helping to restore American/German relations following World War II through his research and writings. He is the author of eight books, coauthor of seventeen books and dozens of articles on the history of German-Americans in the United States.

In 2002, Klaus Wust was recognized with the highest civic award authorized by the Federal Republic of Germany, the Federal Cross of Merit. He served as the Founding Director of the Museum of American Frontier Culture in Staunton, VA, and the Strasburg Museum in Strasburg, VA.

From 1957 until 1967, he served as Editor of the German language Washington Journal. Mr. Wust also served for seven years with the Leader Program of the U.S. Department of State and served as the personal interpreter for German governmental delegations visiting the United States, including the last four Chancellors.

I congratulate Mr. Wust on his impressive body of work and his commitment to preserving the history of our Nation for generations to come.•

DETROIT RANGER DISTRICT

• Mr. SMITH. Mr. President, I rise today on behalf of the residents of the City of Detroit, OR, to pay tribute and express by gratitude to the dedicated staff of the Detroit Ranger District of the United States Forest Service located in Detroit, OR—in particular the former District Ranger, Stephanie Phillips.

The City of Detroit is a small community located on one of Oregon's most popular recreational lakes, nestled in the Santiam Canyon. Surrounded on all sides by federally managed lands, Detroit is a community whose residents rely a great deal on the cooperation and effectiveness of the Forest Service for any type of economic success.

Despite a combination of natural and man-made disasters, the determined residents of Detroit and the dedicated public servants of the Detroit Ranger District, led by Ranger Phillips, mixed steely resolution with true grit to begin a process that will ensure the long-term sustainability of this small community.

The level of appreciation for the staff of Forest Service can be best characterized by a certificate recently presented to the Detroit Ranger District which read: "In appreciation and recognition of the Detroit Ranger District Staff for your contributions as a team of dedicated professionals in service to the general public, but especially to the local communities of Detroit and Idanha. We applaud your participation with the technical support for Detroit Lake area. We thank you for your advocacy in all of the Federal Lakes Recreation local projects."

Mr. President, I would like to add my words of appreciation for those in the Detroit Ranger District for their dedication to the public good. The City of Detroit still faces many challenges. But I am confident that they will succeed. While the public servants of our Federal agencies are often faceless and nameless to us in Congress, many are considered friends and partners in the communities they serve.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT REQUIRED BY THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT ON THE EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—PM 17

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 25, 2003.*

MESSAGE FROM THE HOUSE

At 2:46 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the pursuant to 22 U.S.C. 1928a, and the order of the House of January 8, 2003, the Speaker appoints the following members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. BEREUTER of Nebraska, Chairman Mr. REGULA of Ohio, Mr. HEFLEY of Colorado, Mr. GILLMOR of Ohio, Mr. GOSS of Florida, Mr. EHLERS of Michigan, Mr. MCINNIS of Colorado, Mr. BILIRAKIS of Florida.

MEASURES REFERRED

The Committee on Finance was discharged from further consideration of the following measure which was referred to the Committee on Health, Education, Labor, and Pensions:

S. 389. A bill to increase the supply of quality child care.

The Committee on the Judiciary was discharged from further consideration of the following measure which was referred to the Committee on Rules and Administration:

S. Res. 65. A resolution authorizing expenditures by the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1195. A communication from the Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Central Marketing Area (DA–01–07)" received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1196. A communication from the Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Northeast and Other Marketing Areas (DA–00–03)" received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1197. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Exemption for Shipments of Tree Run Citrus (Doc. No. FV02–905–4 FIR)" received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1198. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Modifications to the Raisins Diversion Program (Doc. No. FV03–989–11FR)" received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1199. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program (Doc. No. FV02–989–5FIR)" received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1200. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticides; Tolerance Exemption for Polymers (FRL 7291–7)" received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1201. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pelargonic Acid (Nonanoic Acid); Exemption from the Requirement of a Pesticide Tolerance (FRL 7278–7)" received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1202. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Decanoic Acid; Exemption from the Requirement of a Pesticide Tolerance (FRL 7278–6)" received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1203. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Abbreviation of Waiver of Training for State or Local Law Enforcement Officers Authorized to Enforce Immigration Law During a Mass Influx of Aliens (RIN 1115–AG84) (INS No. 2241–02)" received on February 24, 2003; to the Committee on the Judiciary.

EC–1204. A communication from the Deputy General Counsel, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Screening of Aliens and Other Designated Individuals Seeking flight Training (RIN 1105–AA80)" received on February 20, 2003; to the Committee on the Judiciary.

EC–1205. A communication from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, the report of the Proceedings of the Judicial Conference of the United States of September 24, 2002, received on February 24, 2003; to the Committee on the Judiciary.

EC–1206. A communication from the Regulations Coordinator, Office of Operations Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Health Insurance Reform: Modifications to Electronic Data Transactions and Code Sets (CMS–003–FC and CMS–0050FC) ((0938–AK64)(0938–AK96))" received on February 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1207. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on February 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1208. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Special Education and Rehabilitative Services, transmitting, pursuant to law, the report of a rule entitled "Experimental and Innovative Training (CFDA No. 84.263A)" received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1209. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Human Cells, Tissues, and Cellular and Tissue-Based Products Establishment Registration and Listing (Doc. No. 97N–484R)" received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1210. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures, Delay of Effective Date (RIN0905–AC81)(Doc. No. 92N–0297)" received on February 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1211. A communication from the Acting General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of a nomination for the position of Chairman, received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-1212. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Fifth Annual Report for the Temporary Assistance for Needy Families (TANF) Program, received on February 12, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-1213. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of a rule entitled "Subsistence Management Regulations for Public Lands in Alaska (Direct Final Rule) (1018-AI88)" received on February 11, 2003; to the Committee on Energy and Natural Resources.

EC-1214. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Abandoned Mine Land Reclamation Notices (1029-AB99)" received on February 24, 2003; to the Committee on Energy and Natural Resources.

EC-1215. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report of the Energy Information Administration's Performance Profiles of Major Energy Producers 2001 being released electronically on the World Wide Web at http://www.eia.doc.gov/emeu/perfpro/, received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC-1216. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Energy Information Administration's (EIA) report entitled "Emissions of Greenhouse Gases in the United States 2001"; to the Committee on Energy and Natural Resources.

EC-1217. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Mineral Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Oil and Gas Drilling Operations (1010-AC43)" received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC-1218. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Mineral Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Rule (NFR) Oil and Gas and Sulphur Operations in the Outer Continental Shelf- Document Incorporated by Reference—American Petroleum Institute's Specification 2C for Offshore Cranes (API Spec 2 C) (RIN1010-AC82)" received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC-1219. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-571 "Health Organizations RBC Amendment Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1220. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-572 "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1221. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-569 "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1222. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-570 "Exclusive Right Agreement Time Period Temporary Amendment Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1223. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-576 "Draft Master Plan for Public Reservation 13 Approval Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1224. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-573 "Investments of Insurers Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs .

EC-1225. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-575 "Surname Choice Amendment Act of 2002" received on February 14 , 2003; to the Committee on Governmental Affairs.

EC-1226. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-574 "Housing Production Trust Fund Affordability Period Temporary Amendment Act of 2002" received on February 14 , 2003; to the Committee on Governmental Affairs.

EC-1227. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-568 "Insurance Compliance Self-Evaluation Privilege Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1228. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-490 "Carl Wilson Basketball Court Designation Act of 2002" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1229. A communication from the Chief Financial Officer, Export-Import Bank of the United States, transmitting, pursuant to law, the Management Report required by the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC-1230. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, the report of the inventories of commercial positions in the Department of Transportation; to the Committee on Governmental Affairs.

EC-1231. A communication from the Deputy Director, Trade and Development Agency, transmitting, pursuant to law, the report of the United States Trade and Development Agency (USTDA) Annual Financial Audit to Congress; to the Committee on Governmental Affairs.

EC-1232. A communication from the Secretary of Labor, transmitting, pursuant to law, the 2002 Annual Report on Performance and Accountability; to the Committee on Governmental Affairs.

EC-1233. A communication from the Director, Office of Personnel Management, Workforce Compensation and Performance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Administratively Uncontrollable Overtime (3206-AJ57)" received on February 24, 2003; to the Committee on Governmental Affairs.

EC-1234. A communication from the Director, United States Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Retirement Coverage and Service Credit Elections Available to Current and Former Nonappropriated Fund Employees" received on February 14, 2003; to the Committee on Governmental Affairs.

EC-1235. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation: Federal Acquisition Circular 2001-12 (FAC 2001-12)" received on February 20, 2003; to the Committee on Governmental Affairs.

EC-1236. A communication from the Director , Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Post-Employment Conflict of Interest Restrictions: Revisions of Departmental Component Designations (3209-AA07)" received on February 24, 2003; to the Committee on Governmental Affairs.

EC-1237. A communication from the Director , Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary-Indian Affairs, received on February 24, 2003; to the Committee on Indian Affairs.

EC-1238. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Health Insurance Reform: Security Standards (CMS-0049-F) (0938-AI57)" received on February 14, 2003; to the Committee on Finance.

EC-1239. A communication from the Deputy General Counsel, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Recognition of Organizations and Accreditation of Representatives, Attorneys, and Agents (2900-AI93)" received on February 24, 2003; to the Committee on Veterans' Affairs.

EC-1240. A communication from the Deputy General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Fisher Houses and Other Temporary Lodging (2900-AL13)" received on February 24, 2003; to the Committee on Veterans' Affairs.

EC-1241. A communication from the Deputy General Counsel, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Loan Guaranty: Implementation of Public Law 107-103 (2900-AL23)" received on February 24, 2003; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, without amendment:

S. Res. 64. An original resolution authorizing expenditures by the Senate Committee on Indian Affairs.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was reported on February

20, 2003, during the recess of the Senate, pursuant to a unanimous consent agreement of February 13, 2003:

By Mr. LUGAR, from the Committee on Foreign Relations: Treaty Doc. 107-8—The Moscow Treaty (Exec. Rept. No. 108-1)

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

Resolved, (two thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND DECLARATIONS.—The Senate advises and consents to the ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (T. Doc. 107-8, in this resolution referred to as the "Moscow Treaty" or "Treaty"), subject to the conditions in section 2 and declarations in section 3.

SEC. 2. CONDITIONS.—The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following conditions, which shall be binding on the President:

(1) REPORT ON THE ROLE OF COOPERATIVE THREAT REDUCTION AND NONPROLIFERATION ASSISTANCE.—Recognizing that implementation of the Moscow Treaty is the sole responsibility of each party, not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on February 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material in the current year. The report shall be submitted in both unclassified and, as necessary, classified form.

(2) ANNUAL IMPLEMENTATION REPORT.—Not later than 60 days after exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on implementation of the Treaty by the United States and the Russian Federation. This report shall be submitted in both unclassified and, as necessary, classified form and shall include—

(A) a listing of strategic nuclear weapons force levels of the United States, and a best estimate of the strategic nuclear weapons force levels of the Russian Federation, as of December 31 of the preceding calendar year;

(B) a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year;

(C) to the extent possible, the plans of each party for achieving by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(D) measures, including any verification or transparency measures, that have been taken or have been proposed by a party to assure each party of the other party's continued intent and ability to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(E) information relevant to implementation of this Treaty that has been learned as a result of Strategic Arms Reduction Treaty (START) verification measures, and the status of consideration of extending the START verification regime beyond December 2009;

(F) any information, insufficiency of information, or other situation that may call into question the intent or the ability of either party to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty; and

(G) any actions that have been taken or have been proposed by a party to address concerns listed pursuant to subparagraph (F) or to improve the implementation and effectiveness of the Treaty.

SEC. 3. DECLARATIONS.—The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following declarations, which express the intent of the Senate:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997, relating to condition (1) of the resolution of ratification of the Intermediate-Range Nuclear Forces (INF) Treaty, approved by the Senate on May 27, 1988.

(2) FURTHER STRATEGIC ARMS REDUCTIONS.—The Senate encourages the President to continue strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States.

(3) BILATERAL IMPLEMENTATION ISSUES.—The Senate expects the executive branch of the Government to offer regular briefings, including consultations before meetings of the Bilateral Implementation Commission, to the Committee on Foreign Relations and the Committee on Armed Services of the Senate on any implementation issues related to the Moscow Treaty. Such briefings shall include a description of all efforts by the United States in bilateral forums and through diplomatic channels with the Russian Federation to resolve any such issues and shall include a description of—

(A) the issues raised at the Bilateral Implementation Commission, within 30 days after such meetings;

(B) any issues related to implementation of this Treaty that the United States is pursuing in other channels, including the Consultative Group for Strategic Security established pursuant to the Joint Declaration of May 24, 2002, by the Presidents of the United States and the Russian Federation; and

(C) any Presidential determination with respect to issues described in subparagraphs (A) and (B).

(4) NONSTRATEGIC NUCLEAR WEAPONS.—Recognizing the difficulty the United States has faced in ascertaining with confidence the number of nonstrategic nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(A) establishing cooperative measures to give each party to the Treaty improved confidence regarding the accurate accounting and security of nonstrategic nuclear weapons maintained by the other party; and

(B) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its nonstrategic nuclear weapons.

(5) ACHIEVING REDUCTIONS.—Recognizing the transformed relationship between the United States and the Russian Federation and the significantly decreased threat posed to the United States by the Russian Federation's strategic nuclear arsenal, the Senate encourages the President to accelerate United States strategic force reductions, to the extent feasible and consistent with United States national security requirements and alliance obligations, in order that the reductions required by Article I of the Treaty may be achieved prior to December 31, 2012.

(6) CONSULTATIONS.—Given the Senate's continuing interest in this Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article IV of the Treaty.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Col. Steven J. Hashem.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Richard M. * Norris.

Air Force nomination of Joseph P. Dibeneditto.

Air Force nomination of John C. Landreneau.

Navy nomination of Waymon J. Jackson.

Air Force nomination of Charles N. Davidson.

Air Force nomination of Thomas R. Unrath.

Army nominations beginning Thomas W. Shea and ending Thomas W. Yarborough, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Robert J. Kincaid and ending Rodney L. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nomination of Bradley J. Jorgensen.

Army nominations beginning Theresa S. Gonzales and ending Anthony S. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Ronald E. Ellyson and ending Sheldon Watson, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning David J Cohen and ending Michael J Zapor, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Brad A * Blankenship and ending Eugene K * Webster, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Sheila R * Adams and ending Ammon * Wynn III, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Mary C * Adamschallenger and ending David A * Wright, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Tedd S * Adair II and ending Rebecca A * Yurek, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning David W Garcia and ending Terry E Raines, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Donovan G Green and ending Daniel M Williams, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nomination of Karl G. Hartenstine.

Marine Corps nomination of Leland W. Suttee.

Marine Corps nomination of Carlos D. Sanabria.

Marine Corps nomination of John W. Bradway, Jr.

Marine Corps nomination of Kathleen A. Hoard.

Marine Corps nomination of Jeffrey A. Fultz.

Marine Corps nomination of Eric R. McBee.

Marine Corps nominations beginning Christopher J. Ambs and ending Douglas E. Weddle, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Robert E. Cote and ending Frank L. White, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Charles W. Anderson and ending Jerry B. Schmidt, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Douglas M. Finn and ending Ronald P. Heflin, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Calvin L. Hynes and ending Charles S. Morrow, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 433. A bill to provide for enhanced collaborative forest stewardship management within the Clearwater and Nez Perce National Forests in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 434. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER):

S. 436. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 438. A bill to withdraw Federal land in Finger Lakes National Forest, New York, from entry, appropriation, disposal, or disposition under certain Federal laws; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:

S. 439. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 440. A bill to designate a United States courthouse to be constructed in Fresno, California, as the 'Robert E. Coyle United States Courthouse'; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 442. A bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 443. A bill to authorize the Secretary of the Interior to establish a program to inventory, evaluate, document, and assist efforts to preserve surviving United States Life-Saving Service stations; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 444. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 445. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

By Mr. BOND:

S. 446. A bill to suspend the duty on triethyleneglycol bis(2-ethyl hexanoate); to the Committee on Finance.

By Ms. LANDRIEU:

S. 447. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 64. An original resolution authorizing expenditures by the Senate Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. HATCH (for himself and Mr. LEAHY):

S. Res. 65. A resolution authorizing expenditures by the Committee on the Judiciary; to the Committee on Rules and Administration.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. Con. Res. 8. A concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week"; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Con. Res. 9. A concurrent resolution recognizing and congratulating the State of Ohio and its residents on the occasion of the bicentennial of its founding; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

S. 50

At the request of Mr. JOHNSON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 50 , a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 54

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 54, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 59

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 59, a bill to amend title 10, United

States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 85

At the request of Mr. LUGAR, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 87

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 87, a bill to provide for homeland security block grants.

S. 104

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 104, a bill to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 152

At the request of Mr. BIDEN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 152, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 168

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 168, a bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint.

S. 244

At the request of Mr. ALLEN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 244, a bill to require the Secretary of the Treasury to redesign $1 Federal Reserve notes so as to incorporate the preamble to the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the Amendments to the Constitution, on the reverse of such notes.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 257

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 257, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for there purposes.

S. 271

At the request of Mr. SMITH, the names of the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. DAYTON), the Senator from California (Mrs. FEINSTEIN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Florida (Mr. GRAHAM) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 318

At the request of Mr. KERRY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 318, a bill to provide emergency assistance to nonfarm-related small business concerns that have suffered substantial economic harm from drought.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 346

At the request of Mr. LEVIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

S. 360

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 360, a bill to amend the Internal Revenue Code of 1986 to treat natural gas distribution lines as 10-year property for depreciation purposes.

S. 361

At the request of Mrs. LINCOLN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 361, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 363

At the request of Ms. MIKULSKI, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 369

At the request of Mr. THOMAS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 369, a bill to amend the Endangered Species Act of 1973 to improve the processes for listing, recovery planning, and delisting, and for other purposes.

S. 374

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 392

At the request of Mr. REID, the names of the Senator from Missouri (Mr. BOND) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 403

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 403, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 426

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 426, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Mr. BREAUX), the Senator from Colorado (Mr. CAMPBELL), the Senator from Idaho (Mr. CRAPO), the Senator from Illinois (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 434. A bill to authorize the Secretary of agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Panhandle National Forest Improvement Act of 2003. This bill is an opportunity to provide lands for local benefits and to meet the facility needs of the Forest Service in the Silver Valley of Idaho. This bill will offer for sale or exchange administrative parcels of land in the Idaho Panhandle National Forest that the Forest Service has identified as no longer in the interest of public ownership and that disposing of them will serve the public better. The proceeds from these sales will be used to improve or replace the Forest Service's Ranger Station in Idaho's Silver Valley.

The Forest Service administrative parcels identified for disposal include the land permitted by the Granite/Reeder Sewer District on Priest Lake, Shoshone Camp in Shoshone County, and the North-South Ski Bowl, south of St. Maries.

The bill also directs the Forest Service to improve or construct a new ranger station in the Silver Valley. The current ranger station is in dire need of repair or replacement, and this will ensure my commitment to a continued and increased presence of the Forest Service in the Silver Valley.

This is a win-win situation for the taxpayers, the Forest Service, the residents of the Silver Valley, and the permittees on the parcels of land to be disposed of.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the "Sandpoint Land and Facilities Act of 2003". This bill is a unique opportunity to meet the facility needs of the Forest Service in Sandpoint, ID and to provide facilities for the local county government. This bill will transfer ownership of the local General Service Administration building currently housing the Forest Service to that agency. The bill also provides authority for the Forest Service to work with Bonner County, ID to exchange the existing building to Bonner County in exchange for a new and more functional building to the Forest Service. This transfer of ownership will not only provide the opportunity for the local Forest Service office to obtain a facility that best meets their needs but also will meet the facility needs of Bonner County.

The transfer of this facility will allow the Forest Service to improve service to the public, improve public and employee safety, make the Idaho Panhandle National Forest more financially competitive, and allow increased spending on resource programs that contribute to healthier ecosystems. In turn, Bonner County will benefit by providing to them a building that consolidates county offices so that better services can be provided to the local public, including ADA compliant access to the county courtrooms.

Additionally, the GSA will dispose of a building that is only partially occupied and is remotely located from other GSA facilities.

This is a win-win situation for the Forest Service, Bonner County, GSA, and the taxpayers and an outstanding example of the Federal Government at the local level working with the county government to create common sense solutions that result in more efficient operations and better service to the public.

By Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER):

S. 436. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today, joined by my good friends, Senators GRASSLEY and SPECTER, to introduce the Domestic Surveillance Oversight Act of 2003. This bill does not change or diminish any power available to the government in the pursuit of homeland security, but it does create important mechanisms to allow the Congress and the public to assess how effectively and appropriately the government is using its domestic surveillance powers.

I also rise to speak about an important bipartisan report being released today by myself, Senator SPECTER, and Senator GRASSLEY entitled "FBI Oversight in the 107th Congress by the Senate Judiciary Committee: FISA Implementation Failures," "FIF Report". The report summarizes our joint conclusions based upon our bipartisan oversight of the FBI and DOJ's performance in using the Foreign Intelligence Surveillance Act, "FISA", an important tool in conducting domestic surveillance. The report distills our mutual findings and conclusions from numerous bipartisan hearings, classified briefings and other oversight activities. It concludes that the FBI continues to be in need of serious reform. The report also sets forth our bipartisan disappointment with the DOJ and FBI's non-responsiveness to our oversight efforts and the resulting necessity for better oversight tools, such as the bill we introduce today.

Our committee worked with the FBI and the Justice Department to achieve initial reforms both through administrative steps and also through legislation. Most notably, last fall we enacted a new Department of Justice charter that included some provisions of the FBI Reform Act. We need to enact the rest of that bipartisan bill.

Taken together, this bill and report represent a bipartisan statement about the importance of oversight and, where possible, sunshine on the government's domestic surveillance efforts. Only by fulfilling our constitutional responsibility to conduct such oversight, can we in Congress help to protect both the security and the liberty of the American people.

In times of national stress there is an understandable impulse for the government to ask for more power. Sometimes more power is needed, but many times it is not. After the September 11 attacks, we worked together in a bipartisan fashion and with unprecedented speed to craft and enact the USA PATRIOT Act which enhanced the government's powers.

Now, as word continues to circulate about a possible sequel to the USA PATRIOT Act that the Department of Justice is considering in secret and that supposedly would give government even more power, it is constructive for us to first examine and understand how Federal agencies are using the power they already have. We must answer two questions.

First, is that power being used effectively, so that our citizens not only feel safer, but are in fact safer?

Second, is that power being used appropriately, so that our liberties are not sacrificed?

In short, before we can craft and enact new laws, we must first make sure that the Department of Justice and FBI are properly using the laws that are already on the books. That is the purpose of enhanced Congressional oversight.

Domestic Surveillance Oversight Act:

Today, with the Senior Senator from Iowa and the Senior Senator from Pennsylvania, I am introducing the bipartisan Domestic Surveillance Oversight Act of 2003. This bill provides basic information to Congress and the American people about the FBI's use of FISA to conduct surveillance on Americans. Such domestic surveillance is certainly appropriate in some cases, and the bill does not intrude in any way upon law enforcement or diminish its ability to conduct FISA surveillance when necessary and appropriate. Nor does it require the Department of Justice to publicly release any sensitive or classified information. Rather, it seeks reporting only on the aggregate number of FISA wiretaps and other surveillance measures directed specifically against Americans each year. In this way, the public and Congress can assess over time whether the government has turned more of its powerful surveillance techniques on its own citizens, as opposed to non-U.S. persons. If necessary, we can ask it to explain its actions.

The amendment also clarifies that the Foreign Intelligence Surveillance Court, FISC, and FISA Court of Review have the authority to adopt rules and procedures, and it requires that those rules be shared with the Intelligence and Judiciary Committees of the Senate and House of Representatives as well as the Supreme Court. In the last year, and only after requests from Senators GRASSLEY, SPECTER and myself, the FISC shared its rules with Congress for the first time. One of those rules and one which was eventually rejected by the FISA Review Court embodied a controversial legal interpretation of a provision we crafted in the USA PATRIOT Act. The Congress ought to have been immediately informed of that court rule either by the FISC or the DOJ, but it was not. It is entirely appropriate that a court be enabled to promulgate its own rules. It is entirely inappropriate that those rules be kept secret from Congress.

Consistent with national security, the bill directs the Attorney General to include in an annual public report the portions of applications to and opinions of the FISC and FISA Court of Review that contain significant legal interpretations of FISA or the Constitution. These disclosures will not include the facts of any particular case, which this provision requires to be redacted in order to preserve national security. This type of disclosure, however, will prevent secret case law from developing which interprets both FISA and the Constitution in ways unknown to the Congress and the public.

The first annual report required under this provision is also to include the same type of legal information for the four years before the year of the first report.

Finally, the bill would require a report to appropriate committees of Congress on the use of National Security Letters to request information from public libraries or libraries affiliated with high schools or universities. Such letters are functionally equivalent to an administrative subpoena and require no court approval. We have heard from members of the library community that the FBI may be returning to a discredited practice from the Hoover days of monitoring public and college libraries to ascertain what books people are reading. In fact, a media report from Vermont, which I ask consent to place in the RECORD, indicates that bookstore owners there are scared to keep records for just this reason. Again, this provision would not in any way limit the use of National Security Letters, but would merely require an annual report of such activities to Congress, so that we can ascertain whether or not these administrative subpoenas are being used for improper purposes. This section would also ensure that reports on the use of such letters are provided to all appropriate oversight committees.

This enhanced reporting is exactly what was called for by the American Bar Association in a resolution adopted on February 10, and echoed in a Washington Post editorial on February 12, 2003. As the Post editorialized, the Department of Justice "needs to disclose how it is using the [powers] it already has. Yet the Justice Department has balked at reasonable oversight and public information requests . . . Congress should insist on a full understanding of what the [D]epartment is doing." I ask unanimous consent to print a copy both of the ABA resolution as well as the Washington Post editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Adopted February 10, 2003:

Section of Individual Rights and Responsibilities (lead sponsor); Section of Litigation; Section of Criminal Justice, Section of Administrative Law and Regulatory Practice; Section of International Law and Practice; Section of Science and Technology Law; Young Lawyers Division.

Resolved, That the American Bar Association urges the Congress to conduct regular and timely oversight, including public hearings (except when Congress determines that the requirements of national security make open proceedings inappropriate), to ensure that government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. ("FISA" or "the Act") do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the Act's purposes of accommodating and advancing both the government's interest in pursuing legitimate intelligence activity and the individual's interest in being free from improper government intrusion.

Further resolved, That the American Bar Association urges the Congress to consider amendments to the Act to

(1) Clarify that the procedures adopted by the Attorney General to protect United States persons, as required by the Act, should ensure that FISA is used when the government has a significant (i.e. not insubstantial) foreign intelligence purpose, as contemplated by the Act, and not to circumvent the Fourth Amendment; and

(2) Make available to the public an annual statistical report on FISA investigations, comparable to the reports prepared by the Administrative Office of the United States Courts, pursuant to 18 U.S.C. sec. 2519, regarding the use of Federal wiretap authority.

[From the Washington Post, Feb. 12, 2003]

PATRIOT ACT: THE SEQUEL

The Justice Department's draft of a second round of law enforcement and domestic security authorities—a kind of sequel to the USA Patriot Act of 2001—offers an unintended glimpse of additional powers that the Bush administration if coveting. The draft, labeled "CONFIDENTIAL—NOT FOR DISTRIBUTION" and dated Jan. 9, was obtained last week by the Center for Public Integrity, Washington-based nonprofit. Department officials quickly stressed that it is not a final version. But the document's proposals may become the next battlefield in the struggle to preserve American liberties while enabling the domestic war on terrorism. The proposals range from constructive to dangerous.

A government DNA database for terrorists and suspected terrorists could be useful, though it would need refinement to protect suspects who are proved innocent. Another useful proposal would allow the special appeals court that reviews government surveillance requests in national security cases to appoint lawyers to argue against the government. Under current law, it hears only from one side.. The draft would create a federal crime for terrorist hoaxes, which now must be prosecuted under provisions designed for other purposes.

But the draft contains many troubling provisions. It would further expand intelligence surveillance powers into the traditional realm of law enforcement. Like a Senate bill soon to be taken up by the Judiciary Committee, it would allow foreigners suspected of terrorism to be watched as intelligence targets—rather than subjects of law enforcement—even if they could not be linked to any foreign group or state. But it would go further. It would allow intelligence surveillance in certain circumstances even when the government could not produce any evidence of a crime. It also would allow certain snooping with no court authorization, not only—as now—when Congress declared war but when it authorized force or when the country was attacked. The result of such changes would be to magnify the government's discretion to pick the legal regime under which it investigates and prosecutes national security cases and to give it more power unilaterally to exempt people from the protections of the justice system and place them in a kind of alternative legal world. Congress should be pushing in the opposite direction.

Before the department asks Congress for more powers, it needs to disclose how it is using the ones it already has. Yet the Justice Department has balked at reasonable oversight and public information requests. In fact, the draft legislation would allow the department to withhold information concerning the identity of Sept. 11 detainees—a matter now before the courts. At the very least, Congress should insist on a full understanding of what the department is doing before granting the executive branch still more authority.

This bill does not in any way diminish the government's powers, but it does allow Congress and the public to monitor their use. We cannot fight terrorism effectively or safely with the lights turned out and with little or no accountability. It is time to harness the power of the sun to enable us to better win this fight.

FIF Report: The wisdom of this bill is also supported by our bipartisan report, which Senators SPECTER, GRASSLEY, and I also release today, based on a year of bipartisan effort.

Today's FBI oversight report focuses on the use of the immense powers granted under FISA. We expanded the government's FISA powers after September 11 in the USA PATRIOT Act, a law that all three of us had a hand in crafting.

Unfortunately our hearings, briefings and other oversight revealed that the FBI is ill-equipped to implement FISA. Nor are its problems amenable to legal "quick fixes." In fact, many of these problems are not unique to the FISA context, but echo broader and more systemic problems that have plagued the FBI for years.

Here are a few of the report's basic conclusions: *Poor training*: Key FBI agents and officials were inadequately trained in important aspects of not only FISA, but also in fundamental aspects of criminal law. *Excessive secrecy*: Secrecy regarding the most basic legal and procedural aspects of the FISA have hurt, not helped, implementation of FISA. *Headquarters Bureaucracy*: FBI headquarters often not only fails to support the work of many of its best street agents, but it actually sometimes hinders them in doing their important jobs. *Culture of Quashing Criticism*: The FBI has a deep rooted culture of punishing those who point out problems. Just yesterday, in fact, a DOJ Inspector General's Report was released substantiating claims of retaliation against FBI United Chief John Roberts for his approved appearance on 60 Minutes. More troubling, these allegations involved senior officials at the FBI, including the head of the division official charged with investigating claims of misconduct in the FBI. This culture has materially hurt the FBI's intelligence operations.

Unfortunately, as our report describes in detail, we have run into many roadblocks in conducting FBI oversight. Some obstacles were due to a lack of cooperation by the Department of Justice and FBI. The FIF Report outlines many prime examples supporting the necessity of the increased reporting called for in the bill that I introduce with Senators GRASSLEY and SPECTER today. For instance, the FIF Report describes how the FISC issued an unclassified opinion last May strongly criticizing the DOJ and FBI and containing important legal interpretations of FISA and the USA PATRIOT Act amendments to it. Even after repeated requests by myself, Senator SPECTER and Senator GRASSLEY for a copy of this unclassified legal opinion, the DOJ refused to provide us one. Eventually, the FISC, not DOJ, provided us with a copy of this unclassified document and, again only at our request, copies of the FISA Court of Review's argument and opinion were made public. I hope that this resistance towards legitimate oversight will not be shown in the future.

Sunlight is the best solvent for the sticky and ineffective machinery of government, and it is the best disinfectant to discourage the abuse of power. Our comprehensive FBI oversight has revealed that there is much work to be done.

Effective oversight of the powers given to the government for homeland security means fewer blank checks, and more checks and balances.

I ask unanimous consent, that the text of the bill I am introducing, a sectional analysis, and a letter of support be printed in the RECORD.

There being no objection, the additional materials were ordered to be printed in the RECORD, as follows:

S. 436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Surveillance Oversight Act of 2003".

SEC. 2. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

"(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

"(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

"(A) All of the judges on the court established pursuant to subsection (a).

"(B) All of the judges on the court of review established pursuant to subsection (b).

"(C) The Chief Justice of the United States.

"(D) The Committee on the Judiciary of the Senate.

"(E) The Select Committee on Intelligence of the Senate.

"(F) The Committee on the Judiciary of the House of Representatives.

"(G) The Permanent Select Committee on Intelligence of the House of Representatives.".

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

"TITLE VI—PUBLIC REPORTING REQUIREMENT

"PUBLIC REPORT OF THE ATTORNEY GENERAL

"SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

"(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

"(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted;

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

"(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.".

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

"TITLE VI—PUBLIC REPORTING REQUIREMENT

"Sec. 601. Public report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date.".

SEC. 3. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.

(a) TITLE 18, UNITED STATES CODE.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: "The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.".

(b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

"(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

"(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

"(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).".

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306), is further amended—

(1) by striking "and the Committee on Banking, Finance and Urban Affairs of the House of Representatives" and inserting ", the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives"; and

(2) by striking "and the Committee on Banking, Housing, and Urban Affairs of the Senate" and inserting ", the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate".

SECTIONAL ANALYSIS OF THE DOMESTIC SURVEILLANCE OVERSIGHT ACT OF 2003

Sec. 1. Short title. The short title of the bill is the "Domestic Surveillance Oversight Act of 2003."

Sec. 2. Additional Improvements to Foreign Intelligence Surveillance Act of 1978 (FISA). This section amends FISA to clarify the authority of the Intelligence Surveillance Court (FISC) and FISA Court of Review to establish such rules and procedures as are reasonably necessary for their operation.

In addition, the bill requires the FISC and FISA Court of Review to transmit such rules and procedures to the judges on the FISC and Court of Review, the Chief Justice of the U.S., and the Judiciary and Intelligence Committees of the Senate and House. Previously, these rules have not been provided to Congress as a matter of course.

This section also adds to the public reporting requirements in FISA. It directs the Attorney General (AG) to include in the annual public report the aggregate number of U.S. persons targeted for any type of order under the act.

The report will also include information about the aggregate number of times FISA is being used for criminal cases, to enhance oversight regarding the changes enacted in the USA PATRIOT Act. The report will list the number of times the AG authorized FISA information to be used in a criminal proceeding or for law enforcement purposes.

Finally, "in a manner consistent with the protection of national security," this section directs the report to include the portions of applications to and opinions of the FISC and FISA Court of Review that involve significant construction or interpretation of FISA or the Constitution. Such disclosures shall not include the facts of any particular case which are to be redacted. The first annual report is to include application and opinion information for the four years preceding the year of the first report to ensure that important legal interpretations, such as FISA Court of Review opinion that was almost not made public last summer, are publicly disseminated.

Sec. 3. Additional Improvements of Congressional Oversight of Surveillance Activities. This section adds to a reporting requirement to the House and Senate Judiciary and Intelligence Committees on the use of National Security Letters. The report will include a statement of requests for information directed to public libraries or libraries affiliated with high schools and universities. The section also would ensure that current reports on the use of such letters are provided to both the intelligence and judiciary committees as well as updating the names of certain pertinent committees that receive such reports. The section would allow Congress to assess the validity of public reports that a long discredited program of domestic library surveillance is being revived.

FEBRUARY 25, 2003.

Hon. PATRICK J. LEAHY,
Senate Judiciary Committee, Russell Senate Building, Washington, DC.

Hon. CHARLES E. GRASSLEY,
Senate Judiciary Committee, Hart Senate Building, Washington, DC.

Hon. ARLEN SPECTER,
Senate Judiciary Committee, Hart Senate Building, Washington, DC.

DEAR SENATORS LEAHY, GRASSLEY AND SPECTER: Wewrite in support of the Domestic Surveillance Oversight Act of 2003. The Foreign Intelligence Surveillance Act (FISA) authorizes secret wiretaps and secret searches of the homes and offices of Americans and other forms of data gathering for national security reasons. While the initial enactment of FISA was an appropriate accommodation of national security interests and individual rights to privacy and due process, since its initial enactment FISA has been expanded in ways that pose an increased threat to individual rights. Moreover, FISA surveillance authorities are now being used more and more; indeed, it appears that the federal government carries out more electronic surveillance under the authority of FISA than under criminal rules.

Given the absolute secrecy of FISA searches and seizures, mechanisms for public accountability are crucial to protect rights of privacy—as well as to insure effective and efficient use of this extraordinary authority. Your bill to require public accounting of the number of US persons subjected to surveillance under FISA, the number of times FISA information is used for law enforcement purposes, and to require disclosure of other information would be an important step in providing for oversight and public scrutiny of these extraordinary powers.

Disclosure of such information is important to informing the American public and will not be harmful to the national security, as it will not give any greater clues as to who is being targeted, or the scope of the anti-terrorism efforts than is already known from the Justice Department's own extensive public descriptions of those efforts.

We commend you on your leadership on this issue and look forward to working with you and your colleagues to achieve appropriate policies for responding to terrorism and other national security threats.

LAURA W. MURPHY,
Director, Washington National Office.
TIMOTHY H. EDGAR,
Legislative Counsel, American Civil Liberties Union.
JAMES X. DEMPSEY,
Executive Director, Center for Democracy and Technology.
KATE MARTIN,
Director, Center for National Security Studies.
MORTON H. HALPERIN,
Director, Open Society Policy Center.

[From the Burlington Free Press, Feb. 19, 2003]

BOOKSTORE OWNERS FIGHT DISCLOSURE ACT

(By Cadence Mertz)

The gears turned in Laurie Kettler's mind as she contemplated how the USA Patriot Act might affect the bookstore she co-owns in St. Albans.

At first, she thought The Kept Writer Bookshop & Cafe had no records that authorities could use to track what her customers are reading. Then it dawned on her. Records of online purchases stay in the system for a year. Authorities could demand those records under a provision of the USA Patriot Act passed in the wake of Sept. 11 to aid in tracking down possible terrorists.

"I guess I'm going to need to do something about that," Kettler said of the online records. She doesn't want that information to go to the federal government. "It just seems like a violation of privacy."

Efforts to prevent police from obtaining blueprints of their customers' reading habits are on other bookstore owners' minds. Michael Katzenberg, co-owner of Bear Pond Books in Montpelier, has purged lists of the books its customers buy.

Other local bookstores cheer Katzenberg's decision. They cite customer privacy and the

First Amendment protecting citizens' rights to free speech. The government is over-stepping its bounds, and bookstore owners will go to lengths to protect the very law that allows authors to publish without censor.

"I support what he did, and I'm right there with him," said Mike DeSanto, co-owner of the Book Rack and Children's Pages in Winooski, who declined to disclose whether he has a list of his customers' reading preferences. If he did have a list, he says, he would be considering getting rid of it.

"This is wrong what they're doing," DeSanto said of the USA Patriot Act.

Customers at Flying Pig Books in Charlotte participate in a readers' club—after buying $100 of books patrons receive $10 off their next purchase, co-owner Josie Leavitt said. It is unlikely the bookstore would purge that record, which has the titles of customers' past purchases, because of its usefulness, Leavitt said. Customers like to have a reminder of what they have bought in the past, she said.

Faced with a request from law enforcement, Leavitt said the bookstore would refuse to turn over the information. She belongs to the American Booksellers Foundation for Free Expression, the group that helped defend a Colorado bookstore last year against just such an intrusion by law enforcement.

"That's what books are all about. Books represent freedom and if people can't read they're not free," Leavitt said.

The Vermont Library Association agrees. The group sent a letter to Vermont's congressional delegation describing the provisions of the USA Patriot Act pertaining to libraries and book stores as unconstitutional.

"They are dangerous steps toward the erosion of our most fundamental civil liberties," the October letter reads in part.

Peter Hall, U.S. attorney for Vermont, said the measure would be used only in "very rare and limited and supervised circumstances," Hall said. Bookstore owners can do what they want with records of their customers' purchases, he said.

Borders Books & Music would review requests from authorities on a case-by-case basis, said Tod Gross, manager of the Burlington store. The national chain keeps no records of customer purchases, except for special orders, and those files are purged monthly, Gross said.

Two recent court cases have shown law enforcement's willingness to seek records from bookstores.

Independent counsel Kenneth Starr attempted to obtain a list of the books Monica Lewinsky had bought from a Washington, D.C. bookstore while investigating former President Bill Clinton. Law enforcement in Colorado subpoenaed a bookstore customers' purchases during a drug investigation. A Colorado Supreme Court blocked the subpoena.

Kettler, in St. Albans, said her first thoughts are for her customers' privacy. A woman seeking a book on ovarian cancer should not have to worry her illness might be disclosed by the shopkeeper, Kettler said.

"I guess I'm going to stop keeping such meticulous records," she said.

By Mr. KYL (for himself and Mr. McCAIN):

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, on behalf of Senator McCAIN and myself I am introducing legislation today that would codify the largest water claims settlement in the history of Arizona. This bill represents the tremendous efforts of literally hundreds of people in Arizona and here in Washington over a period of five years. Looking ahead, this bill could ultimately be nearly as important to Arizona's future as was the authorization of the Central Arizona Project, CAP, itself.

Since Arizona began receiving CAP water from the Colorado River, litigation has divided water users over how the CAP water should be allocated and exactly how much Arizona was required to repay the federal government. This bill will, among other things, codify the settlement reached between the United States and the Central Arizona Water Conservation District over the state's repayment obligation for costs incurred by the United States in constructing the Central Arizona Project. It will also resolve, once and for all, the allocation of all remaining CAP water. This final allocation will provide the stability necessary for State water authorities to plan for Arizona's future water needs. In addition, approximately 200,000 acre-feet of CAP water will be made available to settle various Indian water claims in the State. The bill would also authorize the use of the Lower Colorado River Basin Development Fund, which is funded solely from revenues paid by Arizona entities, to construct irrigation works necessary for tribes with congressionally approved water settlements to use CAP water.

Title II of this bill settles the water rights claims of the Gila River Indian Community. It allocates nearly 100,000 acre-feet of CAP water to the Community, and provides funds to subsidize the costs of delivering CAP water and to construct the facilities necessary to allow the Community to fully utilize the water allocated to it in this settlement. Title III provides for long-needed amendments to the 1982 Southern Arizona Water Settlement Act for the Tohono O'odham Nation, which has never been fully implemented.

This bill will allow Arizona cities to plan for the future, knowing how much water they can count on. The Indian tribes will finally get "wet" water, as opposed to the paper rights to water they have now, and projects to use the water. In addition, mining companies, farmers, and irrigation delivery districts can continue to receive water without the fear that they will be stopped by Indian litigation.

While some minor issues remain, we have every confidence that these issues will be resolved as the legislation progresses. In addition, we hope that negotiations with the San Carlos Apache Tribe, the only party not yet included in the settlement, will move forward so that all claims can be resolved by this bill.

In summary, this bill is vital to the citizens of Arizona and will provide the certainty needed to move forward with water use decisions. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribes. The parties have worked many years to reach consensus rather than litigate, and I believe this bill represents the best opportunity to achieve a fair result for all the people of Arizona.

Mr. McCAIN. Mr. President, I am pleased to join my colleague, Senator KYL, as a co-sponsor of this important legislation, the Arizona Water Settlements Act of 2003, which would ratify negotiated settlements for Central Arizona Project, CAP, water allocations to municipalities, agricultural districts and Indian tribes, state CAP repayment obligations, and final adjudication of long-standing Indian water rights claims.

These settlements reflect more than 5 years of intensive negotiations by state, Federal, tribal, municipal, and private parties. I commend all those involved in these negotiations for their extraordinary commitment and diligence to reach this final stage in the settlement process. I also praise my colleague, Senator JON KYL, and Interior Secretary Gail Norton, for their leadership in facilitating these settlements. From my experience in legislating past agreements, I recognize the enormous challenge of these negotiations, and I appreciate their personal dedication to this settlement process.

This legislation is vitally important to Arizona's future because these settlements will bring greater certainty and stability to Arizona's water supply by completing the allocation of CAP water supplies. Pending water rights claims by various Indian tribes and non-Indian users will be permanently settled as well as the repayment obligations of the State of Arizona for construction of the CAP.

I join with Senator KYL today to express support for the agreements embodied in this bill and to encourage conclusion of this settlement process in the near future. Significant progress has been made in resolving key issues since we last sponsored a bill to facilitate this agreement in the 107th Congress. Some of these key issues pertain to the final apportionment of CAP water supplies, cost-sharing of CAP construction and water delivery systems, amendment of the 1982 settlement agreement with the Tohono O'odham Nation, mitigation measures necessitated by sustained drought conditions, and equitable apportionment of drought shortages.

While this bill reflects agreements reached on a host of issues after an intensive and extended effort by the numerous parties involved, it is important to emphasize that this bill does not represent the final settlement. All parties recognize that a very limited number of the provisions of this bill may be modified as the negotiations continue. We fully expect that the legislative process will culminate with a final agreement early in the next congressional session.

Mr. President, we introduce this bill today as an expression of our strong support of the various parties to successfully achieve conclusion to this process. The Arizona Water Settlements Act will be a historic accomplishment that will benefit all citizens of Arizona, the tribal communities, and the United States.

By Mr. BUNNING:

S. 439. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

Mr. BUNNING. Mr. President, the Social Security system is one of this country's most important programs. Millions of older and disabled Americans rely on their Social Security checks each month as a reliable source of income.

We all know the long-term financial problems the Social Security system faces, and it is critical that Congress enact legislation to overhaul the system as soon as possible to ensure that our children and grandchildren can rely on a robust and healthy Social Security program.

Today, I am introducing a bill, the Social Security Protection Act, that will immediately begin protecting the integrity and finances of the Social Security system by combating fraud and abuse.

Fraud and abuse in the Social Security system not only threatens its long-term viability, but it also robs money from the millions of Americans who are contributing a portion of their hard-earned paychecks each month to the program.

The Social Security Protection Act makes several common-sense and much-needed changes, including denying Social Security benefits to individuals who are fugitive felons and parole violators, creating new civil monetary penalties to combat fraud, and providing additional protections to Social Security employees while on the job.

The bill also provides additional oversight of representative payees who are appointed by the Social Security Administration to manage the finances of beneficiaries who are unable to do so by themselves. Aside from additional oversight, the bill also imposes harsher penalties on representative payees who have misused their clients' funds, and even allows the Social Security Administration in certain circumstances to reissue misused funds to beneficiaries.

Finally, the bill makes some changes to Social Security's attorney-fee withholding process, and expands it to Supplemental Security Income claims, as well. The bill also makes some other minor and non-controversial changes to Social Security law and the Ticket to Work and Work Incentives Improvement Act of 1999.

Last year, a similar version of this legislation came close to passing Congress. I hope that we can work in a bipartisan fashion with the House of Representatives to get this legislation passed so that our Social Security system can be better protected against fraud and abuse.

By Mrs. BOXER:

S. 440. A bill to designate a United States courthouse to be constructed in Fresno, California, as the "Robert E. Coyle United States Courthouse"; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am pleased to introduce legislation to name the Federal courthouse building now under construction at Tulare and "O" Streets in downtown Fresno, CA the "Robert E. Coyle United States Courthouse."

It is fitting that the Federal courthouse in Fresno be named for Senior U.S. District Judge Robert E. Coyle, who is greatly respected and admired for his work as a judge and for his foresight and persistence which contributed so much to the Fresno Courthouse project. Judge Coyle has been a leader in the effort to build a new courthouse in Fresno for more than a decade.

In the course of his work, Judge Coyle, working with the Clerk of the United States District Court for the Eastern District, conceived and founded a program called "Managing a Capitol Construction Program" to help others understand the process of having a courthouse built. This Eastern District program was so well received by national court administrators that is now a nationwide program run by Judge Coyle.

In addition to meeting the needs of the court for additional space, the courthouse project has become a key element in the downtown revitalization of Fresno. Judge Coyle's efforts, and those in the community with whom he worked, produced a major milestone when the groundbreaking for the new courthouse took place.

Judge Coyle has had a distinguished career as an attorney and on the bench. Appointed to California's Eastern District bench by President Ronald Reagan in 1982, Judge Coyle has served as a judge for the Eastern District for 20 years, including 6 years as senior judge. Judge Coyle earned his law degree from University of California, Hastings College of the Law in 1956. He then worked for Fresno County as a Deputy District Attorney before going into private practice in 1958 with McCormick, Barstow, Sheppard, Coyle & Wayte, where he remained until his appointment by President Reagan.

Judge Coyle is very active in the community and has served in many judicial leadership positions, including: Chair of the Space and Security Committee; Chair of the Conference of the Chief District Judges of the Ninth Circuit; President of the Ninth Circuit District Judges Association; Member of the Board of Governors of the State Bar of California; and President of the Fresno County Bar.

My hope is that, in addition to serving the people of the Eastern District as a courthouse, this building will stand as a reminder to the community and people of California of the dedicated work of Judge Robert E. Coyle.

By Mrs. BOXER:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation to transfer the B.F. Sisk Federal Courthouse in Fresno, CA to the County of Fresno, when the new Federal courthouse is completed.

Fresno County is rapidly growing county in the heart of California's Great Central Valley. The County of Fresno's Superior Court has a serious need for new court space that will grow in the years ahead. The Sisk Building contains courthouses and related space that will help the people of Fresno County meet those needs. The Sisk Building's existing security measures are a perfect fit for Fresno County's justice system.

This legislation is a common sense measure that will allow appropriate utilization of the Sisk Building, while contributing to the ongoing revitalization of downtown Fresno. I am proud that it is yet another opportunity for the Federal Government to improve the lives of Fresno County's people.

By Ms. LANDRIEU:

S. 442. A bill to provide pay protection for member of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise today to offer legislation that will help our Nation's reservists and members of the National Guard who have been called to active duty.

Since 1991, the U.S. military has significantly scaled down its troop levels to reflect the end of the Cold War. With the reduction of active duty troops, the military has become increasingly dependent on the Reserves and National Guard to supplement troops who have been sent to deal with crises all over the world.

In addition to this, we have had to rely on an increasingly diverse group of people to fight our wars. The conflict in Afghanistan was heavily reliant on new technologies in the air and personnel intensive techniques on the ground. In order to properly execute the war on terror, we have relied on highly skilled individuals such as linguists and Civil Affairs personnel who have worked closely with the population of Afghanistan. We will have to rely on them again in Iraq. Many of these men and women have been reservists.

These two trends reflect a dramatic shift in the structure of our armed forces. Gone are the Cold War days when we had a massive military positioned all over the globe. We are now reliant on a much leaner force, which views the Reserves and National Guard as necessary components to any conflict, and not forces of last resort.

Between 1945 and 1989, a period which encompassed most of the Cold War, reservists and Guardsmen were called up four times: during the Korean War, the Berlin Crisis of 1961, the Cuban Missile Crisis, and the Vietnam War. A majority of those mobilized during this period were called up during the Korean War, when over 800,000 troops were activated to supplement the 900,000 active duty forces fighting in Korea.

Between 1990 and today, reservists and Guardsmen have been called up six separate times. Over 230,000 reservists and Guardsmen were mobilized for the Gulf War, forming nearly half of the force that drove Iraqi forces from Kuwait. Since then, reservists and Guardsmen have been activated for the Haiti Intervention, the ongoing Bosnian Peacekeeping mission, the ongoing patrol of the No Fly Zones in Iraq, the Kosovo conflict, and the War on Terrorism which has seen 151,348 reservists and Guardsmen activated in support of Operations Enduring Freedom and Noble Eagle. Many of them are in the Persian Gulf Region today.

Over the past ten years, the OPTEMPO of the Reserves has increased by fifty percent.

This OPTEMPO has had a significant strain on reservists and their families. In almost every instance, when a reservist or Guardsman is activated, their military salary is significantly smaller then their civilian salary. In many cases, service member's income is cut in half. This places a particular strain to reservists and Guardsmen as their household budget is structured by their civilian salary. The decrease in income that activation brings makes it increasingly difficult to pay the bills. Whether or not the Nation is at war, mortgages, rent, credit card debt, student loans, and other household expenses must be paid.

When we send our fighting men and women into harm's way, it is important that they concentrate on one thing: their mission. When Guardsmen and reservists are worried about having enough money for rent of the mortgage or whether their children have enough to see a doctor, they cannot concentrate on the mission, and this becomes a readiness issue.

Many corporations volunteer to make up the difference between the military and civilian salaries of their Guardsmen and reservists. Not only do these employers sacrifice important members of their companies for national defense, they hold their jobs for them and they voluntarily choose to continue paying them. In some instances, employers have continued to provide health insurance and other benefits. This represents a significant burden that the employer has undertaken, in order to ensure that their employees and their families are taken care of during times of national emergency.

In order to alleviate the burden that these employers face and to encourage more employers to pay the difference to Reserve and Guard employees, I have drafted legislation that would provide an incentive for employers to make up the difference between the military and civilian pay of activated reservists. The Reservists and Guardsmen Pay Protection Act of 2003 provides a tax credit to employers who continue paying their service members after they are activated. It also requires the Federal Government to make up the difference between civilian and military pay for Federal employees who are activated.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reservists and Guardsmen Pay Protection Act of 2003".

SEC. 2. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES.

(a) In General.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform service in the uniformed services shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service in the uniformed services.

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given in section 4303 of title 38;

"(2) the term 'service in the uniformed services' has the meaning given that term in section 4303 of title 38 and includes duty performed by a member of the National Guard under section 502(f) of title 32 at the direction of the Secretary of the Army or Secretary of the Air Force;

"(3) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(4) the term 'basic pay' includes any amount payable under section 5304.".

(b) Clerical Amendment.—The table of sections for chapter 55 of title 5, United

States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after September 11, 2001.

SEC. 3. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

"(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) LIMITATIONS.—

"(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

"(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

"(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

"(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).".

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following:

"Sec. 45G. Ready Reserve-National Guard employee credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 444. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing a bill to improve flood protection for Sacramento, CA. The flood control project authorized by this bill has been evaluated by the U.S. Army Corps of Engineers and will be conducted in accordance with the Report of the Chief of Engineers dated November 5, 2002. This is a companion bill to one that Representative MATSUI is introducing today in the House.

Currently, Sacramento has woefully inadequate flood protection. This bill would raise the existing walls of Folsom Dam by seven feet, which would substantially increase flood protection for the Sacramento region. Without this improvement, $40 billion of property, including the California State Capitol, 6 major hospitals, 26 nursing home facilities, over 100 schools, three major freeway systems, and approximately 160,000 homes and apartments, are at risk if there is a devastating flood.

For a city of its size, Sacramento falls shockingly below the flood protection that it deserves. The Folsom Mini-Raise is the critical next step in providing Sacramento necessary flood protection, enabling the system to handle storms far larger than any recorded event in the American River Watershed.

Previous plans to raise the level of the Folsom Dam called for the building of a temporary bridge to handle the traffic that would be disrupted while the Folsom Dam Road was closed during the construction project. Security concerns now warrant an indefinite closure of the Folsom Dam Road.

So, in addition to authorizing the Mini-Raise, this bill authorizes the U.S. Department of Transportation to work with the State of California to design and construct a permanent bridge west of and adjacent to Folsom Dam over the American River to replace the current two-lane road over the dam. It will alleviate security concerns by moving traffic away from the dam while still providing the thousands of area commuters with a reliable means of transportation across the river.

This bill would provide important safeguards to the people of one of the fastest growing areas in the Nation. By raising Folsom Dam and replacing the road across the dam, we can greatly increase public safety in the Sacramento area. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sacramento Public Safety Act of 2003".

SEC. 2. FLOOD DAMAGE REDUCTION AND ECOSYSTEM RESTORATION, AMERICAN RIVER, CALIFORNIA.

The Secretary of the Army is authorized to carry out the project for flood damage reduction and ecosystem restoration, American River, Sacramento, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers for the project dated November 5, 2002.

SEC. 3. CONSTRUCTION OF PERMANENT BRIDGE ADJACENT TO FOLSOM DAM.

(a) IN GENERAL.—As part of the project authorized by section 2, the Secretary of Transportation shall carry out a project to design and construct a bridge west of and adjacent to Folsom Dam, California. In carrying out the project, the Secretary shall also construct necessary linkages from the bridge to existing roadways.

(b) DESIGN AND CONSTRUCTION.—In designing and constructing the bridge, the Secretary shall—

(1) coordinate with the Secretary of the Army regarding the project authorized by section 2; and

(2) provide appropriate sizing and linkages to support present and future traffic flow requirements for the city of Folsom, California.

(c) GRANT ASSISTANCE.—The Secretary of Transportation shall make a grant to the State of California in an amount sufficient to pay not less than 80 percent of the cost of the project authorized by this section.

Mrs. FEINSTEIN. Mr. President, I rise in support of the legislation being introduced by my colleague from California the Sacramento Public Safety Act.

This Bill would authorize flood control protection and ecosystem restoration through a Mini-Raise of the Folsom Dam as well as authorize the design and construction of a permanent bridge to replace the road that currently runs on top of the Dam.

Providing Sacramento with flood protection is a critical public safety need. Further delays only serve to expand opportunities for a catastrophic flood.

No urban area in the United States is at higher risk of flooding than Sacramento, CA.

Located at the confluence of two major rivers, the American and Sacramento, the floodplain is home to half-a-million residents, $40 billion in property, 5,000 businesses and the necessary supporting infrastructure, all of which has less than 100-year flood protection.

With more than $30 billion in damageable property in the floodplain, the Corps of Engineers has estimated the damage from a flood would range from a minimum of $7 billion to as much as $15 billion.

As one of the largest economic engines in the world, a flood in California's capital city would effectively shut down the State's government and seriously disrupt regional commerce and transportation.

The Mini-Raise will provide Sacramento with a 213-year level of protection. It will allow the system to safely handle a storm 50 percent larger than anything ever recorded in the 3,000-year history of the American River Watershed; it will add 95,000 acre-feet of new emergency flood storage capacity to allow operators to control dam outflows in accordance to what the downstream levees can safely carry; it will bring Folsom Dam into compliance with Federal Dam safety standards; it will restore wildlife habitat along the Lower American River; and it will improve conditions for naturally spawning Steelhead and Salmon by mechanizing temperature control shutters.

The project has wide support at Federal, State, and local level. It is supported by the Army Corp of Engineers and funded in the Bush administration's budget request.

The project has bi-partisan support in Congress including Republican Congressman POMBO, as well as Democrats: ROBERT MATSUI, GEORGE MILLER, MIKE THOMPSON, and ELLEN TAUSCHER.

It has the local support of Heather Fargo, Mayor of Sacramento; Deborah Ortiz, California State Senator; Darrell Steinberg, California Assemblyman; Illa Collin, Chairman of the Sacramento County Board of Supervisors; Butch Hodkins, Executive Director of the Sacramento Area Flood Control Agency; Karolyn W. Simon, President of American River Flood Control Alliance; Donald Gerth, California State University, Sacramento; and Vicki Lee, Conservation Chair of the Sierra Club.

The bill also calls for a permanent bridge to replace the road that currently runs atop Folsom Dam. Given the recent announcement by the Bureau of Reclamation and the Department of the Interior to close the road over the Dam, the need for such a bridge has become doubly important. This bridge will serve the needs of nearly 20,000 commuters who use the Folsom Dam Road every day.

I want to thank my colleague from California for introducing this critical piece of legislation and I ask for support from the rest of the Senate.

By Ms. LANDRIEU:

S. 445. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

Ms. LANDRIEU. Mr. President, many bills were introduced in the last Congress that would lower the age at which Reservists can receive retirement benefits. Most of these bills were met with resistance from the Department of Defense, due to cost estimates over a 10-year period. It is my hope that this Bill, the Reserve Retirement and Retention Act of 2003, will serve as a compromise measure and deliver retirement benefits to Reservists and Guardsmen at an earlier age. This legislation would lower the retirement age of a Reservist by one year for every 2-year period that he or she serves past the requisite 20 years for retirement. For example, if a Reservist should serve for 22 years, he or she could receive retirement benefits at age 59. This legislation will serve as a critical tool in encouraging the most experienced Reservists and Guardsmen to stay past the 20-year mark. It is my hope that this measure will encourage our Reservists and Guardsmen to stay in their units longer, while making their retirement benefits more generous for them and their families.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reservists Retirement and Retention Act of 2003".

SEC. 2. ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) AGE AND SERVICE REQUIREMENTS.—Subsection (a) of section 12731 of title 10, United States Code, is amended to read as follows:

"(a)(1) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(A) satisfies one of the combinations of requirements for minimum age and minimum number of years of service (computed under section 12732 of this title) that are specified in the table in paragraph (2);

"(B) performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed 20 years of service computed under section 12732 of this title before October 5, 1994, the number of years of qualifying service under this subparagraph shall be eight; and

"(C) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(2) The combinations of minimum age and minimum years of service required of a person under subparagraph (A) of paragraph (1) for entitlement to retired pay as provided in such paragraph are as follows:

"Age, in years, is at least:	The minimum years of service required for that age is:
55	30
56	28
57	26
58	24
59	22
60	20.".

(b) 20-YEAR LETTER.—Subsection (d) of such section is amended by striking "the years of service required for eligibility for retired pay under this chapter" in the first sentence and inserting "20 years of service computed under section 12732 of this title.".

(c) EFFECTIVE DATE.—This section and the amendments made by this subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to retired pay payable for that month and subsequent months.

By Ms. LANDRIEU:

S. 447. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, When the President give the order to activate reservists and National Guardsmen, the lives of those men and women are put on hold. Businesses, careers, and families are left behind so that America's interests may be served. Students make up a substantial part of our National Guard and Reserve forces. When these students are activated, it jeopardizes their academic standing, as well as their scholarships and grants. This bill would preserve their academic standing for the duration of their service as well as a one year period that follows that service. It would also preserve their scholarships and grants, as well as entitle them to a refund of unused tuition and fees. Federal law already safeguards the employment status of activated reservists and Guardsmen. It is time that we extend the same guarantee to students.

This legislation would require colleges, universities, and community colleges to grant National Guardsmen and reservists a leave of military absence when they are called to active duty. This leave of absence would last while the student is serving on active duty and a one year period at the conclusion of active service. This bill would preserve the academic credits that the student had earned before being activated. It would also preserve the scholarships and grants awarded to the student before being activated. Under this legislation, students would be entitled to receive a refund of tuition and fees or credit the tuition and fees to the next period of enrollment after the student returns from military leave. If a student elects to receive a refund, it would allow them to receive a full refund, minus the percentage of time the student spent enrolled in classes.

The protections that are already afforded our reservists and Guardsmen are appropriate considering the hardships they endure on the nation's behalf. We need to acknowledge the many college students who are in the ranks of the Guard and Reserve and extend to them the protections they deserve. In this day of uncertainty on the world stage, our reservists must be prepared to be called up at a moments notice. Thousands have already been activated for Operation Enduring Freedom, and many thousands more are either in Kuwait or on their way there. Once they get to their duty station, they need to focus all of their attention on the mission. This legislation provides our student reservists with the proper safeguards on their academic career which will allow them to accomplish their mission.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reservist Opportunities and Protection of Education Act".

SEC. 2. LEAVE OF ABSENCE FOR MILITARY SERVICE.

(a) OBLIGATION AS PART OF PROGRAM PARTICIPATION REQUIREMENTS.—Section 487(a)(22) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amended by inserting "and with the policy on leave of absence for active duty military service established pursuant to section 484C" after "section 484B".

(b) LEAVE OF ABSENCE FOR MILITARY SERVICE.—Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 484B (20 U.S.C. 1091b) the following new section:

"SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.

"(a) LEAVE OF ABSENCE REQUIRED.—Whenever a student who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution while such student is serving on active duty, and for one year after the conclusion of such service.

"(b) CONSEQUENCES OF MILITARY LEAVE OF ABSENCE.—

"(1) PRESERVATION OF STATUS AND ACCOUNTS.—A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being ordered to such duty without loss of academic credits earned, scholarships or grants awarded, or, subject to paragraph (2), tuition and other fees paid prior to the commencement of the active duty.

"(2) REFUNDS.—

"(A) OPTION OF REFUND OR CREDIT.—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student. Notwithstanding the 180-day limitation referred to in section 484B(a)(2)(B), a student on a military leave of absence under this section shall not be treated as having withdrawn for purposes of section 484B unless the student fails to return at the end of the military leave of absence (as determined under subsection (a) of this section).

"(B) PROPORTIONATE REDUCTION OF REFUND FOR TIME COMPLETED.—If a student requests a refund during a period of enrollment, the percentage of the tuition and fees that shall be refunded shall be equal to 100 percent minus—

"(i) the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with section 484B(d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the period of enrollment; or

"(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the period of enrollment.

"(c) ACTIVE DUTY.—In this section, the term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term—

"(1) does not include active duty for training or attendance at a service school; but

"(2) includes, in the case of members of the National Guard, active State duty.".

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 64—AUTHORIZING EXPENDITURES BY THE SENATE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL submitted the following resolution; from the Committee on Indian Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 64

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed $1,051,310.00, of which amount (1) no funds may be expended for the procurement of the services or individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $1,848,350.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $787,173.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may, be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its finding, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2003.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of the salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through February 28, 2005, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 65—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Judiciary and the Committee on Rules and Administration:

S. RES. 65

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004, through February 28, 2005 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period of March 1, 2003, through September 30, 2003, under this resolution shall not exceed $4,605,727, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(B) for the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $8,110,222, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1936).

(C) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $3,458,551, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through September 30, 2003, October 1, 2003 through September 30, 2004; and October 1, 2004 through February 28, 2005, to be paid from the Appropriations account for "Expenses of Inquires and Investigations."

SENATE CONCURRENT RESOLUTION 8—DESIGNATING THE SECOND WEEK IN MAY EACH YEAR AS "NATIONAL VISITING NURSE ASSOCIATIONS WEEK"

Ms. COLLINS (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 8

Whereas visiting nurse associations (VNAs) are nonprofit home health agencies that, for over 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering over 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of an annual National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week in May is an appropriate week to establish as national Visiting Nurse Association Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates the second week in May each year as "National Visiting Nurse Association Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Wisconsin, Senator RUSS FEINGOLD, in submitting a resolution to establish an annual National Visiting Nurse Associations Week in honor of these health care heroes who are dedicated to service in the ultimate caring profession.

The Visiting Nurse Associations, VNAs, of today are founded on the principle that people who are sick, disabled and elderly benefit most from health care when it is offered in their own homes. Home care is an increasingly important part of our health care system today. The kinds of highly skilled—and often technically complex—services that the VNAs provide have enabled millions of our most frail and vulnerable patients to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes.

Visiting Nurse Associations are nonprofit home health agencies that provide cost-effective and compassionate home and community-based health care to individuals, regardless of their condition or ability to pay for services. VNAs literally created the profession and practice of home health care more than one hundred years ago, at a time when there were no hospitals in many communities and patients were cared for at home by families who did the best they could. VNAs made a critical difference to these families, bringing professional skills into the home to care for the patient and support the family. They made a critical difference in the late 19th century, and are making a critical difference now as we embark upon the 21st.

VNAs were pioneers in the public health movement, and, in the late 1800s, VNA responsiveness meant running milk banks, combating infectious diseases, and providing care for the poor during massive influenza epidemics. Today, that same responsiveness means caring for the dependent elderly, the chronically disabled, and the terminally ill—some of our most vulnerable citizens—and providing high-tech services previously provided in hospitals, such as ventilator care, blood transfusions, pain management and home chemotherapy.

Health care has gone full circle. Patients are spending less time in the hospital. More and more procedures are being done on an outpatient basis, and recovery and care for patients with chronic diseases and conditions has increasingly been taking place in the home. Moreover, the number of Americans who are chronically ill or disabled in some way continues to grow each year. Once again, VNAs are making a critical difference, providing comprehensive home health services and caring support to patients and their families across the country

There currently are approximately 500 VNAs nationwide. Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing health care into the homes of an estimated three million Americans every year. VNAs are truly the heart of home care in this country today, and it is time for Congress to recognize the vital services that visiting nurses provide to their patients and their families. I urge my colleagues to join Senator FEINGOLD and me in cosponsoring this resolution establishing an annual National Visiting Nurse Associations' Week.

SENATE CONCURRENT RESOLUTION 9—RECOGNIZING AND CONGRATULATING THE STATE OF OHIO AND ITS RESIDENTS ON THE OCCASION OF THE BICENTENNIAL OF ITS FOUNDING

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 9

Whereas Ohio was the 17th State to be admitted to the Union and was the first to be created from the Northwest Territory;

Whereas the name "Ohio" is derived from the Iroquois word meaning "great river", referring to the Ohio River which forms the southern and eastern boundaries;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free State, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, "The Mother of Presidents", has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon) created the basis for modern living as we know it;

Whereas Ohio, "The Birthplace of Aviation", has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnick;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers, including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the "knowledge economy" of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for people from all corners of the world, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio will begin celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio;

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State;

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's founding: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and congratulates Ohio and its residents for their important contributions to the economic, social, and cultural development of the United States on the occasion of the bicentennial of the founding of the State of Ohio; and

(2) directs the Secretary of the Senate to transmit a copy of this concurrent resolution to the Governor of Ohio.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 4th at 2:30 p.m. in Room SD–366.

The purpose of this hearing is to receive testimony on S. 164, a bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of César Estrada Chávez and the farm labor movement; S. 328 a bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; S. 347 a bill to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes; S. 425 a bill to revise the boundary of the Wind Cave National Park in the State of South Dakota.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, D.C. 20510–6150.

For further information, please contact: Tom Lillie (202–224–5161) or Pete Lucero (202–224–6293).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, at 9:30 a.m., in open and closed session, to receive testimony on the defense authorization request for fiscal year 2004 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 25 at 10:00 a.m. to consider the President's proposed FY 2004 budget for the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 25 at 2:00 p.m. to receive testimony regarding natural gas supply and prices.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, at 9:30 a.m., to hold a hearing on The State of the World Report on Hunger.

AGENDA

Witnesses:

Panel 1: Mr. James T. Morris, Executive Director, The World Food Program, United Nations, Rome, Italy; and The Honorable Andrew S. Natsios, Administrator, U.S. Agency for International Development, Department of State, Washington, DC.

Panel 2: Ms. Ellen S. Levinson, Government Relations Director, Cadwalader, Wickersham & Taft, Washington, DC; Mr. Ken Hackett, Executive Director, Catholic Relief Services, Baltimore, MD; and Dr. Joachim Von Braun, Director General, The International Food Policy Research Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, February 25, 2003, at 9:30 a.m., in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Disabled American Veterans.

The hearing will take place in room 216 of the Hart Senate Office Building at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 25, 2003 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Tuesday, February 25, 2003, at 9:30 a.m. on FAA reauthorization-airport financing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. TALENT. I ask unanimous consent that a member of my staff, Christopher Papagianis, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE AND REFERRAL—S. RES. 65 AND S. 389

Mr. TALENT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 65 and that the matter be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 389 and that the bill be referred to the Committee on Health, Education, Labor, and Pensions.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108-3

Mr. TALENT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on February 25, 2003, by the President of the United States: Second Additional Protocol Modifying Convention with Mexico Regarding Double Taxation and Prevention of Fiscal Evasion, Treaty Document No. 108-3. I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification, the Second Additional Protocol that Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002. I also transmit, for the information of the Senate, the report of the Department of State concerning the proposed Protocol.

The Convention, as amended by the proposed Protocol, would be similar to tax treaties between the United States and other developed nations. It would provide maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Protocol was concluded in recognition of the importance of the United States economic relations with Mexico.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

ORDERS FOR WEDNESDAY, FEBRUARY 26, 2003

Mr. TALENT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, February 26. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. TALENT. Mr. President, on behalf of the majority leader, and for the information of all Senators, tomorrow the Senate will begin its 10th day of consideration of the Estrada nomination. Unfortunately, my colleagues on the other side of the aisle continue to prevent us from proceeding to a final vote on this extremely talented and well-qualified nominee. The majority leader has said Members should prepare for full days and evenings as we hope to bring to a close debate on this nomination. Rollcall votes are, therefore, expected during tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. TALENT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Wednesday, February 26, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 25, 2003:

NATIONAL COUNCIL ON DISABILITY

ANNE RADER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE KATE PEW WOLTERS, TERM EXPIRED.

UNITED STATES TAX COURT

DIANE L. KROUPA, OF MINNESOTA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS, VICE ROBERT P. RUWE, TERM EXPIRED.

MARK VAN DYKE HOLMES, OF NEW YORK, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS, VICE JULIAN L. JACOBS, TERM EXPIRED.

DEPARTMENT OF STATE

GREGORY W. ENGLE, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE TOGOLESE REPUBLIC.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

FOREIGN SERVICE

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LOUISE BRANDT BIGOTT, OF ILLINOIS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JESSAMYN FAY ALLEN, OF TEXAS
ARNALDO ARBESU ARBESU JR., OF FLORIDA
DAVID ASHLEY BAGWELL JR., OF ALABAMA
GREGORY W. BAYER, OF CONNECTICUT
MITCHELL PETER BENEDICT, OF VIRGINIA
NICHOLAS RICHARD BERLINER, OF CONNECTICUT
AUDU MARK E. BESMER, OF CONNECTICUT
LEE RUST BROWN, OF UTAH
AMY CHRISTINE CARLON, OF TEXAS
ELIZABETH EMILY DETTER, OF MARYLAND
ROBERT ANDREW DICKSON III, OF VIRGINIA
MATTHEW S. DOLBOW, OF CONNECTICUT
J. BRIAN DUGGAN, OF TEXAS
JOHN LEE ESPINOZA, OF TEXAS
JAMES DOUGLAS FELLOWS, OF MARYLAND
ROBERT WILLIAM GERBER, OF NORTH CAROLINA
CYNTHIA F. GREGG, OF WASHINGTON
KEITH LEE HEFFERN, OF VIRGINIA
J. DENVER HERREN, OF OKLAHOMA
WILLIAM DENNIS HOWARD, OF CALIFORNIA
NATHANIEL GRAHAM JENSEN, OF NEW HAMPSHIRE
WILLIAM B. JOHNSON, OF FLORIDA
ROBERT E. KEMP, OF TEXAS
HELEN GRACE LAFAVE, OF NEW HAMPSHIRE
MICHAEL JOHN LAYNE, OF NEW YORK
THOMAS ERIC LERSTEN, OF VIRGINIA
AMY MARIE MASON, OF MAINE
MIKAEL C. MCCOWAN, OF NEW YORK
KIMBERLY A. MCDONALD, OF VIRGINIA
JONATHAN ROBERT MENNUTI, OF VIRGINIA
JOAQUIN MONSERRATE-PENAGARICANO, OF FLORIDA
GLENN CARLYLE NYE III, OF VIRGINIA
JENNIFER L. RASAMIMANANA, OF CALIFORNIA
ARLISS MERRITT REYNOLDS, OF ARIZONA
KAREN E. ROBBLEE, OF NEW YORK
ROBERT C. RUEHLE, OF NEW YORK
EUGENIA MARIA SIDEREAS, OF ILLINOIS
LONNIE REECE SMYTH JR., OF TEXAS
CAROL J. VOLK, OF NEW YORK
AMY HART VRAMPAS, OF FLORIDA
CHARLES A. WINTERMEYER JR., OF WASHINGTON
KAMI ANN WITMER, OF PENNSYLVANIA
JENNIFER FOREST YANG, OF CALIFORNIA
ZAID ABDULLAH ZAID, OF MARYLAND

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MARC SAMUEL ABRAMSON, OF MASSACHUSETTS
JOHN GRAHAM ALEXANDER, OF VIRGINIA
STEFANIE RAQUEL ALTMAN, OF VIRGINIA
BRIAN E. ANSELMAN, OF TEXAS
SARAH LABARRE ANTHES, OF VIRGINIA
MARY SUZANNE ARCHULETA, OF COLORADO
ROCHELLE MARIE BALOUGH, OF VIRGINIA
WILLIAM R. BARBER, OF MASSACHUSETTS
DAVID C. BARNES, OF VIRGINIA
CHRISTOPHER ALBERT BARON, OF HAWAII
GINA M. BEANE, OF VIRGINIA
CLIFF R. BETTS, OF VIRGINIA
CHRISTOPHER WATKINS BISHOP, OF MISSISSIPPI
MATTHEW ANDREW BOCKNER, OF THE DISTRICT OF COLUMBIA
SUZANNE L. BODOIN, OF MASSACHUSETTS
PATRICIA A. BONOCORA, OF VIRGINIA
WALTER BRAUNOHLER, OF MICHIGAN
LAURA J. BROWN, OF VIRGINIA
RACHEL BRUNETTE, OF CALIFORNIA
DOUGLAS CAREY, OF NEW MEXICO
VINAY CHAWLA, OF NEW JERSEY
LIZA K. CHING, OF CALIFORNIA
AMY L. CHRISTIANSON, OF VIRGINIA
MICHAEL A. CLASSICK, OF OREGON
MICHAEL CLAUSEN, OF NEW YORK
CAROLYN HOPE COBERLY, OF THE DISTRICT OF COLUMBIA
ANNE SOPHIE COLEMAN, OF ILLINOIS
CHRISTINA K. COLLINS, OF VIRGINIA
PATRICK DANIEL CONNELL, OF MASSACHUSETTS
ROSE CHUPKA COOKMAN, OF VIRGINIA
PAUL M. CUNNINGHAM, OF CONNECTICUT
DAVID J. DALY, OF VIRGINIA
SARAH R. DELL, OF VIRGINIA
LOREN DENT, OF VIRGINIA
MARSHALL CLARK DERKS, OF VIRGINIA
REBEKAH DRAME, OF CALIFORNIA
SUNNYE C. DURHAM, OF VIRGINIA
T. ALAN ELROD, OF WYOMING
SARAH R. ELSBERG, OF COLORADO
TIMOTHY EYDELNANT, OF NEW YORK
ERIC G. FLAXMAN, OF TEXAS
MORGAN LYNN FLO, OF VIRGINIA
PETER JAMES GANSER, OF VIRGINIA
THOMAS GARCIA, OF VIRGINIA
MATTHEW GARDNER, OF THE DISTRICT OF COLUMBIA
ERIC GEELAN, OF NEW YORK
KATHLEEN D. GIBILISCO, OF CALIFORNIA
JOHN H. GIMBEL IV, OF NEVADA
JENNIFER CORNEY GOFF, OF VIRGINIA
DIANE G. GORDON, OF MARYLAND
NIKOLAS E. GRANGER, OF WASHINGTON
CHRISTOPHER R. GREEN, OF TEXAS
TRAVER GUDIE, OF ARIZONA
JONATHAN ALEXANDER HABJAN, OF CALIFORNIA
JASON EDWARD HAHN, OF NEW YORK
CHARLES JEFFREY HAMILTON, OF UTAH
DARRIEN SCOTT HANEY, OF TEXAS
RICHARD F. HANRAHAN JR., OF ILLINOIS
GARY HARRINGTON, OF KENTUCKY
MICHAEL V. HAYDEN JR., OF VIRGINIA
LESLIE DIANE HEATH, OF TEXAS
INGA HEEMINK, OF TEXAS
LAWRENCE R. HENDERSON, OF VIRGINIA
ROBERT C. HOBACK, OF VIRGINIA
ELEANOR C. HODGES, OF VIRGINIA
ROBERT F. HOMMOWUN, OF CALIFORNIA
D. IAN HOPPER, OF VIRGINIA
AARON E. HUDSON, OF VIRGINIA
JOHN J. IBARRA, OF TEXAS
ROBERT M. JENKINS, OF VIRGINIA
JOHN E. JOHNSON, OF WASHINGTON
KAREN M. JOYCE, OF CALIFORNIA
DEBORAH J. KANAREK, OF CALIFORNIA
JAMES DAVID KAY, OF WASHINGTON
MARK EVANS KENDRICK, OF TEXAS
WENDY ANNE KENNEDY, OF WASHINGTON
BRIAN P. KLEIN, OF VIRGINIA
STEPHEN CHRISTIAN KOCHUBA, OF PENNSYLVANIA
ERIN ELIZABETH KOTHEIMER, OF NEW YORK
SANDRA ANNE LABARGE, OF WASHINGTON
SARAH LAGIER, OF VIRGINIA
MICHAEL LARRALDE, OF VIRGINIA
RACHEL LEATHAM, OF THE DISTRICT OF COLUMBIA
ROSABELLE T. LEGRAND, OF VIRGINIA
AMY CATHERINE LENK, OF MINNESOTA
JAMES V. LIDDLE, OF THE DISTRICT OF COLUMBIA
AARON LUSTER, OF ARKANSAS
KENNETH R. MAYER, OF VIRGINIA
TIFFANY LAVERN MCGRIFF, OF NEW JERSEY
PATRICIA ANN MEEKS, OF VIRGINIA
TETA MARIA MOEHS, OF VIRGINIA
DANIELLE MONOSSON, OF CALIFORNIA
MICHAEL J. MORELL, OF VIRGINIA
NINA MORRIS, OF THE DISTRICT OF COLUMBIA
MICHAEL A. MULIERI, OF MARYLAND
NICHOLAS S. NAMBA, OF CONNECTICUT
BRIANA LEIGH OLSEN, OF WASHINGTON
SUSAN M. ORR, OF MARYLAND
CLARE O'SULLIVAN, OF VIRGINIA
DANTE PARADISO, OF MASSACHUSETTS
CAROLINE G. PERKINS, OF VIRGINIA
LAURA SUZANNE PERKINS, OF THE DISTRICT OF COLUMBIA
AMANDA PILZ, OF CALIFORNIA
JOSEPH PORTO, OF VIRGINIA
LINDA J. POTOTSKY, OF VIRGINIA
JAMES H. POTTS, OF VIRGINIA
SUZANA PSENICNIK, OF CALIFORNIA
MICHELE RAFFINO, OF VIRGINIA
JAY R. RAMAN, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER RICHARD REYNOLDS, OF NEW JERSEY
JENNIFER THERESA ROBINSON, OF VIRGINIA
CARLOS G. SALAS, OF VIRGINIA
AARON BEERS SAMPSON, OF MINNESOTA
JOSEPH KEIJI SAUS, OF VIRGINIA
JULIE P. SEIBERT, OF THE DISTRICT OF COLUMBIA
TARYN L. SEYER, OF VIRGINIA
THEODORE J. SILVER, OF VIRGINIA
BARRY W. SLIWINSKI, OF MARYLAND
JEFFREY B. SMITH, OF TEXAS
ALEXANDRIA MAURY STABLER, OF NEW YORK
CHAD I. STEVENS, OF THE DISTRICT OF COLUMBIA
JACK D. SUGARMAN, OF VIRGINIA
DAVID S. SYRVALIN, OF VIRGINIA
NILS E. TALBOT, OF VIRGINIA
ERIC H. TRAUPE, OF VIRGINIA
NATHANIEL S. TURNER, OF MARYLAND
SONIA FRANCELA URBOM, OF WASHINGTON
CALVIN F. VAN OURKERK, OF WASHINGTON
NEAL VERMILLION, OF WISCONSIN
MICHAEL A. VIA, OF ARIZONA
ERIKA VILLEGAS, OF THE DISTRICT OF COLUMBIA
TANYA GANT WARD, OF WASHINGTON
JENNIFER D. WASHELESKI, OF THE DISTRICT OF COLUMBIA
DRAKE WEISERT, OF VIRGINIA
ADAM P. WEST, OF ILLINOIS
WILLIAM WARTHEN WHITAKER, OF ALASKA
DAVID SIDNEY WILLIAMS, OF CALIFORNIA
KENNETH E. WILLIAMS, OF VIRGINIA
DALE RICHARD WRIGHT, OF CALIFORNIA
NOELLE O. WRIGHT-YOUNG, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

WALTER B. DEERING, OF FLORIDA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DEPARTMENT OF STATE

KATHLEEN HATCH ALLEGRONE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER-MINISTER:

TONI CHRISTIANSEN-WAGNER, OF COLORADO

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ANNE H. AARNES, OF WASHINGTON
HILDA MARIE ARELLANO, OF TEXAS
LILIANA AYALDE, OF MARYLAND
JONATHAN M. CONLY, OF VIRGINIA
J. MICHAEL DEAL, OF CALIFORNIA
KENNETH C. ELLIS, OF VIRGINIA
DAWN M. LIBERI, OF FLORIDA
KIERTISAK TOH, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DAVID RUSSELL ADAMS, OF VIRGINIA
JONATHAN STUART ADDLETON, OF FLORIDA
DARRYL T. BURRIS, OF FLORIDA
LETITIA KELLY BUTLER, OF TEXAS
PAUL G. EHMER, OF WASHINGTON
PATRICK C. FLEURET, OF VIRGINIA
WILLIAM HAMMINK, OF FLORIDA
DAVID WILLIAMS HESS, OF CALIFORNIA
JAY KNOTT, OF OREGON
HARRY M. LIGHTFOOT SR., OF MARYLAND
ALEXANDRIA LEE PANEHAL, OF OHIO
RUDOLPH THOMAS, OF VIRGINIA
ANTHONY N. VANCE, OF VIRGINIA
PAUL E. WEISENFELD, OF THE DISTRICT OF COLUMBIA
PAMELA A. WHITE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDWARD W. BIRGELLS, OF TEXAS

IN THE COAST GUARD

UNDER SECTION 188, TITLE 14, U.S. CODE, THE FOLLOWING NAMED OFFICERS OF THE UNITED STATES COAST GUARD TO BE MEMBERS OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADES INDICATED:

To be commander

PAUL S. SZWED, 5792

To be lieutenant commander

MELINDA D. MCGURER, 1040
BRIGID M. PAVILONIS, 9670

To be lieutenant

DARELL SINGLETERRY, 3552

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JOYCE A. ADKINS, 3715
DOUGLAS A. APSEY, 4043
RICHARD A. ASHWORTH, 2872
JEFFREY L. BRYANT, 5682
MARIEJOCELYNE CHARLES, 1720
ALAN L. DOERMAN, 9652
HOWARD T. HAYES, 8463
KIRK C. MAYNARD, 9243
ANTHONY F. OKOREN JR., 8769
THOMAS M. RICE, 9136
PHIL L. SAMPLES, 8006
SEAN P. SCULLY, 5045
DANNY G. SEANGER, 9696
STEVEN A. WILSON, 5442

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

PAUL L. CANNON, 5349
CHARLES N. DAVIDSON, 8205
NORMAN DESROSIERS JR., 9850
IRA M. FLAX, 8076
ROBERT A. GALLAGHER, 3905
DANA E. GROVER, 2145
RICHARD M. HALL, 5337
GARY S. * LINSKY, 8799
MICHAEL J. LOVETT, 7991
STEVEN A. SCHAICK, 0260
CASSANDRA O. THOMAS, 3546
RONALD UNDERWOOD, 4739
CHERRI S. WHEELER, 4712
FRANK A. YERKES JR., 0141

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

MARTIN ALEXIS, 2208
RONNY G. ALFORD, 6116
DANIEL H. ATCHLEY, 8541
STEVEN E. BLACK, 1071
STEVEN J. BYRNES, 8372
PATRICK J. CLARK, 6243
JANELLE E. COSTA, 4922
STEVEN D. DAMANDA, 5061
ROBERT A. DAWSON, 8949
JAMES H. DIENST, 8215
TRACY G. DILLINGER, 2975
DEBORAH A. DOWNES, 0764
DAVID DUQUE, 3105
RICHARD W. FARNUM, 7964
JERRI L. FLETCHER, 0044
JOSE M. FONSECA RIVERA, 5448
PAUL R. GARDETTO, 2654
JEFFREY C. GILLEN, 5938
FRANK A. GLENN, 3067
FRANK J. GODSHALL, 0829
MARY K. * GOOD, 3746
LARRY D. GUDGEL, 4047
ROBERT C. HALL, 6684
DAVID A. HAMMIEL, 4625
JAMES T. HARCARIK, 4865
KAREN M. HOUSE, 8230
JEFFERY A. JOHNSON, 6018
WILLIAM A. KIEFFER, 8531
MICHAEL T. KINDT, 5220
ANDREA R. KRULL, 5730
RANDALL L. * LANGSTEN, 8537
WENDY M. LARSON, 4872
SUBRINA V. S. LINSCOMB, 7582
MEGAN MCCORMICK, 5119
NAOMI P. MCMILLAN, 3802
JAMES A. MULLINS, 3301
TIMOTHY D. * NELSON, 5061
HANS V. RITSCHARD, 5904
CHRISTOPHER S. ROBINSON, 3062
JOSEPH S. ROGERS, 5351
SHELIA P. SCOTT NEUMANN, 2739
SCOTT C. G. SHEPARD, 5025
LEE D. SHIBLEY, 2465
ROBERT L. TAYLOR JR., 8058
ANGELA V. THRASHER, 5667
JOSEPH G. WEAVER, 8109
PATRICIA K. WELCH, 3356
KRISTA K. WENZEL, 5777
KERSHAW L. WESTON, 3216
PAUL G. WILSON, 0789
JEROME E. WIZDA, 3720

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

JOHN J. ABBATIELLO, 8225
KENNETH F. ABEL, 0674
DAVID ABERCROMBIE, 0674
MARK A. ABRAMSON, 8198
DALE R. ADDINGTON, 4372
MICHAEL A. ADDISON JR., 6426
REX E. ADEE, 5682
KEVIN P. ADELSEN, 4917
ANDREW J. ADRIAN, 3957
ROY ALAN C. AGUSTIN, 0466
STEPHEN AHRENS, 7238
DERRICK A. AIKEN, 4950
ARCADIO ALANIZ JR., 8601
SUSAN R. ALANIZ, 1928
TERESA M. ALESCH, 2394
JAMES E. ALEXANDER, 5727
WILLIAM S. ALEXANDER, 1450
ALEE R. ALI, 1437
RODGER C. ALLEM, 5008
DIANE BREIVIK ALLEN, 9078
JAMES T. ALLEN, 5417
JONAS C. ALLMAN, 6370
MATTHEW G. ANDERER, 3730
WILLIAM D. ANDERSEN, 6076
ALBERT J. ANDERSON, 4830
BRUCE P. ANDERSON, 7895
DAVID J. ANDERSON, 8263
DAVID T. ANDERSON, 3292
DONALD R. ANDERSON, 5333
EUGENE S. ANDERSON, 5479
JEFFREY L. ANDERSON, 6545
JOHN H. ANDERSON, 3023
JON K. ANDERSON, 0573
THEODORE B. ANDERSON, 7054
THOMAS M. ANDERSON, 3960
TIMOTHY A. ANDERSON, 3824
TIMOTHY J. ANDERSON, 3951
TERENCE S. ANDRE, 0674
MICHAEL J. ANGWIN, 8819
RICHARD J. ANTOLIK JR., 0930
TIMOTHY M. APPLEGATE, 0266
BRENDA S. ARMSTRONG, 3249
DIANE M. ARNOLD, 1402
MICHAEL J. ARNOLD, 1781
MARVIN A. AROSTEGUI, 7022
WILLIAM C. ARTHUR, 8733
CHRISTINE H. ASHENFELTER, 2275
JOHN M. ASKEW, 8595
CHRISTOPHER L. ATTEBERRY, 8597
GREG H. AULD, 6386
KURT L. AUSTIN, 3640
MARK A. AUSTIN, 8968
MARK A. AVERY, 0232
DAVID S. BABYAK, 9999
STEVEN E. BACHELOR, 2074
DAVID M. BACHLER, 6547
KENNETH W. BACKES, 3849
THOMAS N. BAILEY, 1645
MARK A. BAIRD, 5319
MATTHEW C. BAKER, 4900
CHRISTOPHER P. BAKKE, 3318
REGIS J. BALDAUFF, 9632
DAVID D. BALDESSARI, 8826
RICHARD L. BALTES, 1306
MATTHEW W. BAMPTON, 3702
NEAL L. BANIK, 5611
DARWYN O. BANKS, 7016
GEORGE A. BARBER JR., 7233
DIETER E. BAREIHS, 2246
JAMES E. BARGER, 0826
DAVID R. BARKDULL, 8667
BARRY K. BARKER, 0812
KAREN L. BARLOW, 9878
THOMAS E. BARRETT III, 1494
WILLIAM M. BARRETT, 5624
GEORGE C. BARTH, 0791
ALEXANDER R. BARTHE, 8167
FRANCESCA BARTHOLOMEW, 2593
PHILIP J. BARTON, 8557
ALAN J. BARYS, 1945
EDWARD J. BASNETT, 7380
HARIDEV S. BASUDEV, 2917
RONALD J. BATTERSBY, 9093
KENNETH J. BAUER, 0347
MICHAEL J. BAUER, 5494
PAUL D. BAUER, 1252
JAMES R. BAUMGARDNER, 1700
PATRICK J. BAUMHOVER, 6091
EDWIN S. BAYBA, 3673
JOHN T. BAYNES JR., 0946
LONNY E. BEAL, 3854
ALAN K. BEATY, 6356
JOHN P. BEAUCHEMIN, 5282
THOMAS BECHT, 6310
ROBERT D. BECKEL JR., 0759
DAVID T. BECKWITH, 0728
MARK BEDNAR, 2393
MARY A. BEHNE, 9265
THOMAS W. BEHNKE, 0294
JON A. BELIVEAU, 9316
GARY W. BELL, 2514
DONALD F. BELLINGHAUSEN, 3434
BARRY D. BENNETT JR., 6570
CLAY BENTON, 4470
CHRISTOPHER A. BERES, 0276
BRETT E. BERG, 8290
CRAIG N. BERG, 2267
MITCH L. BERGER, 6014
WILLIE A. BERGES, 7718
WILLIAM S. BERNER, 8585
MICHAEL C. BERNERT, 9779
JAMES B. BERRY, 2961
LAURA W. BERRY, 2659
WILLIAM A. BERRY, 5660
JOSEPH J. BERTE III, 7681
DAVID ALLEN BETHANY, 9521
MICHAEL P. BETTNER, 8219
PAUL E. BIANCHI, 3195
JOHN D. BIEGGER, 9794
BRENT D. BIGGER, 6068
BRADFORD LEE BINGAMAN, 7089
DANIEL J. BIRRENKOTT, 6143
ROBERT J. BLAIR II, 4898
ROBERT B. BLANKE, 9598
DAVID P. BLANKS, 0592
DAVID W. BLIESNER, 1979
SONNY P. BLINKINSOP, 1432
PETER J. BLOOM, 4899
ROBERT S. BLUE, 7341
KENNETH G. BOCK, 6572
ERIC A. BOE, 7358
ROBERT BOLHA, 0497
JOHN A. BOLIN, 4754
BRADLEY J. BOLSTAD, 8940
CRAIG L. BOMBERG, 2040
MILDRED E. BONILLALUCIA, 4715
JOE B. BONORDEN, 1096
KEITH P. BOONE, 0718
DAVID M. BOOTS, 7372
STEVEN M. BORDEN, 3413
LINDSEY J. BORG, 7414
LAURENCE C. BOSTROM, 3207
ANDREW R. BOUCK, 8685
SCOTT J. BOURGEOIS, 5667
MARK A. BOVA, 1165
DAVID E. BOYER, 9757
KEITH M. BOYER, 7986
WILLIAM D. BRACKEN, 1531
MARK T. BRADLEY, 3666
MICHAEL H. BRADY, 7205
MICHAEL D. BRAMHALL, 0431
MATTHEW C. BRAND, 5061
RICHARD H. BRANNAN JR., 6628
JEFFREY G. BRANTING, 3863
DAVID SCOTT BREED, 7036
MACK L. BREELAND, 9801
JOHN M. BRIGHT, 0224
KENNETH W. BROCKMANN, 8850
SEAN C. BRODERICK, 6632
JOHN P. BROOKER, 1510
KEVIN B. BROOKER, 2473
GARY S. BROOKS, 3524
HAROLD E. BROSOFSKY, 2667
BYRON K. BROUSSARD, 9063
BENJAMIN B. BROWN, 4239
CYNTHIA ANN THON BROWN, 4266
EDWARD R. BROWN, 7223
ELIZABETH A. BROWN, 7099
ERIC D. BROWN, 7540
JEFFREY D. BROWN, 9093
JEFFREY G. BROWN, 8904
LAWRENCE E. BROWN, 4398
MARK W. BROWN, 1522
MICHAEL A. BROWN, 6929
STEPHEN E. BROWN, 6417
BRENTON L. BROWNING, 7998
STEPHEN M. BROWNING, 1185
JAY E. BRUHL, 5483
LAWRENCE A. BRUNDIDGE, 1448
ARCHIBALD E. BRUNS, 6030
JAMES W. BRUNS, 1215
ALAN R. BUCK, 6053
RONALD D. BUCKLEY, 0518
JOHN T. BUDD, 5745
ERIC N. BUECHELE, 1779
SHERRY M. BUNCH, 1447
SUZANNE C. BUONO, 8659
RANDALL D. BURKE, 7582
ALAN R. BURKET, 4885
ROLANDA BURNETT, 6100
JOHN P. BURNS, 0254
MICHAEL R. BURTON, 3363
JOHN M. BUSCH, 0983
WILLIAM C. BUSCH, 2512
RHETT L. BUTLER, 1945
ARTURO M. BUXO, 6108
DEBORAH A. CAFARELLI, 4929
DAVID A. CAFFEE, 4352
JOSEPH H. CAGLE, 2382
SCOTT E. CAINE, 8245
KATHLEEN D. CALLAHAN, 2337
PAUL M. CALTAGIRONE, 4757
DAWN M. CAMPBELL CURRIE, 9036
JOHN J. CAPOBIANCO, 1115
JOSEPH J. CAPPELLO JR., 8174
MANUEL A. CARDENAS, 5762
CARL C. CARHUFF, 3363
PAUL J. CARLIN, 0193
LEWIS H. CARLISLE, 2635
LISA A. CARNEY, 2327
RUSSELL G. CARRIKER, 2259
ORAN Y. CARROLL, 1910
DAVID M. CARTER, 2117
EDWARD V. CASSIDY, 2937
DOUGLAS C. CATO JR., 9895
MIKE S. CAUDLE, 1047
SEAN M. CAVANAUGH, 5694
PAUL E. CAVE, 7077
DANNY A. CECIL, 4765
JAMES M. CENEY, 9506
MARK D. CERROW, 6097
JACK M. CESSNA, 0671
WALTER S. D. CHAI, 9106
JAMES E. CHAPMAN, 8000
JOSEPH F. CHAPMAN, 6036
GEORGE G. CHAPPEL JR., 2232
BRADY C. CHEEK, 5633
EVANGELINE M. CHEEKS, 9139
JOHN T. CHENEY, 9898
JULIAN M. CHESNUTT, 1796
MICHAEL R. CHISHOLM, 3233

STANLEY F. CHMURA JR., 4947
TIMOTHY C. CHUSTZ, 3507
CHARLES A. CIUZIO, 8864
GREGORY W. CLARK, 9900
MURRAY R. CLARK, 8866
RANDALL J. CLARK, 8304
ROBERT W. CLARK, 0659
ROLAND D. CLARK, 8238
JON E. CLAUNCH, 5693
JOSEPH L. CLAVIN, 2703
GREGORY S. CLAWSON, 9737
TIMOTHY R. CLAYTON, 2957
PETER C. CLEMENT, 2669
JOSEPH G. * CLEMONS, 9817
ROBERT V. I. CLEWIS, 1371
NEAL A. CLINEHENS, 5141
STEPHEN D. CLUTTER, 2753
KENNETH E. COBURN, 4417
GEORGE A. COGGINS, 6088
MARK A. COLBERT, 4610
ROBERT M. COLEMAN, 9347
MICHAEL L. COLLAT, 0255
THOMAS J. CONNARE, 5297
MARK S. CONNOLLY, 5553
ROFTIEL CONSTANTINE, 6225
RICHARD H. CONVERSE, 4184
KATHLEEN A. COOK, 2735
DOUGLAS E. COOL, 7157
JACK R. COOLEY, 7171
MARY M. COOLEY, 5652
WILLIAM T. COOLEY, 6085
JAMES M. COON, 0686
TIMOTHY M. COONS, 0989
GARY L. COOPER II, 3710
THEODORE A. CORALLO, 5489
HERBERT L. CORK III, 4128
KAREN M. CORRENTE, 0861
ROBERT COSTA, 4348
DANIEL S. COSTELLO JR., 9646
JOHN E. COULAHAN JR., 9866
RONALD C. COURNOYER, 0340
SHANE P. COURVILLE, 5279
RICHARD A. COVENO, 0228
JEFFREY L. COWAN, 9826
STEVEN A. COWLES, 1957
DOUGLAS A. COX, 4782
JAMES H. CRAFT, 6770
KENNETH B. CRAIB JR., 1777
KEVIN L. CRAIG, 8151
GEORGE S. CRAWFORD, 7179
BRET A. CRENWELGE, 5577
RORY C. CREWS, 1443
ANDREW A. CROFT, 0024
YELLIXA Z. CRUZ, 0047
STEVEN R. CSABAI, 8814
EARL F. CULEK, 0668
JAMES P. CUMMINGS, 7325
CHARLES J. CUNNINGHAM, 2371
HARMON H. CURRY JR., 0173
HENRY L. CYR, 6097
MARK G. CZELUSTA, 2307
DAVID W. CZZOWITZ, 5789
DANNY P. DAGHER, 8261
DAVID H. DAHL, 7452
MILES D. DAHLBY, 0448
PETER J. DAHLIN, 0868
STEPHEN M. DALE, 3731
JOHN V. DALLIN III, 6767
MARK T. DAMIANO, 3893
PETER DAMICO, 2276
THOMAS E. DANEK JR., 6371
GARY R. DANIELSON, 2391
MARK S. DANIGOLE, 8983
ELISA L. DANTONIO, 5616
PHILIPPE R. DARCY, 4989
MICHAEL J. DARGENIO, 5983
CHARLES W. DARNELL JR., 5741
KEITH R. DASTUR, 9438
KELLIE L. DAVILA MARTINEZ, 3236
BRADFORD C. DAVIS, 0578
JAMES A. DAVIS, 5054
KATHY B. DAVIS, 8294
MICHEAL D. DAVIS, 7441
REGINALD F. DAVIS, 6397
RICKY A. DAVIS, 4326
ROBERT D. DAVIS, 9247
ROBERT R. DAVIS, 7233
STEPHEN L. DAVIS, 2413
MICHAEL T. DAVISON, 0811
AMY L. DAYTON, 2682
KEVIN G. DECKARD, 6026
DOUGLAS D. DECKER, 3279
SCOTT E. DECKER, 6977
FREDERICK DEFRANZA, 4449
BRADEN P. DELAUDER, 5209
JOHN C. DELBARGA, 9007
MARK D. DELONG, 6939
NICHOLAS J. DEMARCO, 0917
BYRON G. DEMBY, 9760
CHARLES E. DENMARK, 6548
JOSEPH B. DENNIS, 7684
RICHARD M. DENTON, 2010
WAYNE M. DESCHENEAU, 4528
ERNEST J. DESIMONE, 7055
ROBERT A. DESTASIO, 8666
DOUGLAS M. DEUITCH, 6826
MICHELE A. DEWERTH, 5253
DAVID L. DEY, 3749
ANGEL A. DIAZ, 0912
ROLANDO DIAZ JR., 5583
CRAIG ALAN DICUS, 1364
QUENTIN J. DIERKS, 0638
MARK S. DIERLAM, 3544
TODD A. DIERLAM, 3555
STEVEN D. DIESSNER, 7526
JAMES E. DILLARD, 3963
LEVENCHI L. DINGLE, 7104
DAVID C. DISIPIO, 8618
RHEA E. DOBSON, 3796
WAYNE S. DOCKERY, 2160
DAVID M. DOE, 0734
JOHN J. DOHERTY, 4495
PATRICK J. DOHERTY, 4726
PETER A. DONNELLY, 7360
RICHARD E. DONNELLY, 9031
JIMMY D. DONOHUE, 1757
PAMELA S. DONOVAN, 3457
THOMAS R. DOSTER, 2621
ANTONIO T. DOUGLAS, 9302
ROBERT A. DOUGLAS, 2152
JAMES K. DRAKE, 0493
WILLIAM D. DRIES JR., 7894
DANIEL A. DRISCOLL, 3997
MERVIN C. DRISKELL, 7124
JOHN F. DROHAN, 7700
KENNETH E. DUCK, 7263
JAMES R. DUDLEY, 0876
VALERIE LYNN DUFFY, 4865
STERLING K. DUGGER, 5904
ANDREW G. DUNNAM, 9124
ERIN B. DURHAM, 4544
STEVEN A. DUTKUS SR., 4681
DUNCAN A. DVERSDALL, 6888
MICHAEL J. DWYER, 4290
DAVID B. EASLEY, 1753
ROBERT M. EATMAN, 8402
JAMES DAVID EATON III, 1126
PAUL B. EBERHART, 7516
JUAN C. ECHEVERRY, 2173
JAMES R. ECHOLS, 5382
JAMES K. ECK, 4020
JAMES E. EDMONDS, 4217
GLORIA J. EDWARDS, 8387
TRENT H. EDWARDS, 7352
ROBERT S. EHLERS JR., 2788
DAVID G. EHRHARD, 2566
LAWRENCE A. EICHHORN, 5716
TIMOTHY A. EICHHORN, 3036
MARK H. EICHIN, 9124
JOHN T. EICHNER, 9899
LINDA L. EISEL, 9648
GOLDA T. ELDRIDGE JR., 2095
GEOFFREY S. ELLAZAR JR., 1138
RAYMOND A. ELLIOTT, 9422
PATRICK M. ELLIS, 0758
WILLIAM A. ELLIS, 8669
CARSON A. ELMORE, 5579
ALBERT M. ELTON II, 2481
KIRK E. EMIG, 2702
TODD W. ENDERSON, 5654
SCOTT A. ENOLD, 5730
JERI A. ERGINKARA, 9794
MARK A. ERICKSON, 1345
BLAINE E. ESCOE, 8633
ROBERT P. ESSAD, 5874
ROBERT E. EUBANKS, 4772
DAVID P. EVANS, 6780
MATTHEW E. EVANS, 4422
TODD R. EVANS, 0062
ROBERT S. FANEUFF, 8105
JOYCE D. FARAH, 4464
GEORGE R. FARFOUR, 8096
PAUL M. FARKAS, 6075
TIMOTHY A. FARRELL, 5541
WILLIAM E. FARRELL, 9497
JEFFREY E. FASON, 1181
ROBERT S. FAULK JR., 9700
SCOTT A. FAWAZ, 6503
RUSSELL D. FELLERS, 9502
JAMES A. FELLOWS, 4316
TIMOTHY J. FENNELL, 3887
SCOTT A. FENSTERMAKER, 0650
MICHAEL A. FERRIS, 1608
JOSEPH T. FETSCH, 9457
DIANE C. FICKE, 8652
CHRISTOPHER E. FINDALL, 1752
MERRILL P. FINK, 2535
CHARLES E. FIQUETT, 9443
BRADLEY J. FISHEL, 4124
TYRON FISHER, 2852
WILLIAM D. FISHER, 2696
PHILIP R. FITTANTE, 5947
ROBERT P. FLEISHAUER, 9180
KEITH W. FLETCHER, 4841
LEE A. FLINT III, 5884
THOMAS A. FLORING, 1809
JEFFREY J. FLORY, 9840
MARK E. FLUKER, 8302
MICHAEL J. FOLKERTS, 2016
NEAL D. FONTANA, 9125
CHRISTOPHER E. FORSETH, 1664
ROGER L. FORSYTHE, 0126
JOSEPH C. FORTNEY, 7726
MYRON K. FORTSON, 5086
HARRY A. FOSTER, 5579
JACKSON L. FOX, 3076
LAURENT J. FOX, 2833
SCOTT M. FOX, 1944
PAUL R. FRANCIS, 3636
CEPHAS L. FRANKLIN, 7748
ANTHONY C. FRANZEL, 7831
BERNADETTE I. FRASER, 5479
DARREN A. FRASER, 5294
GERALD A. FREDERICK JR., 8856
FRANK FREEMAN III, 3803
THOMAS H. FREEMAN, 7195
JONATHAN B. FRENCH, 5896
JOSEPH P. FRIERS, 5839
SEAN M. FRISBEE, 6407
CHRIS T. FROEHLICH, 4388
JAMES A. FROM, 7339
BRYAN A. KEA FUJIMOTO, 9085
WALTER J. FULDA, 3906
STACY A. K. FURCINI, 8540
DOUGLAS A. FURST, 2457
ARNOLD CHARLES FUST, 9913
MICHAEL W. GAAL, 4993
GREGORY S. GADDIS, 2646
JOHN D. GALLOWAY, 6069
RICHARD K. GANNON, 7614
KEVIN L. GARDNER, 9165
PETER M. GARDZINA, 0163
CHRISTOPHER A. GARRETT, 0690
DAVID S. GARRETT, 9405
JAMES A. GARRETT, 8694
STEPHEN A. GARSTKA, 5621
JAMES P. GATES, 8209
KENNETH E. GATES, 2563
WILLIAM B. GAUTIER, 3018
DAVID A. GEESEY, 0710
ANDREW J. GENCO, 9624
ADAM C. GEORGE, 6147
SCOT B. GERE, 2018
SCOTT C. GERICKE, 8901
DANIEL W. GERNERT, 5738
DARREN P. GIBBS, 4201
DAVID J. GIBSON, 3440
ALEXANDER V. GICZY, 5393
SHEILA M. GILLIARD, 1607
COLLEEN A. GILMOUR, 6015
ANDREW T. GILROY, 0641
JANET A. GIRTON, 9420
KEVIN B. GLENN, 1228
PAUL D. GLOYD, 5001
DONAVAN E. GODIER, 9898
JERRY C. GOFF, 2457
JAMES P. GOLDEN, 3734
MACE CLARK GOLDEN, 0007
DAVID B. GOLDSTEIN, 1185
GERALD V. GOODFELLOW, 9507
TERRY L. GOODRICH, 7447
JAMES A. GORDON, 7051
MITCHELL R. GORDON, 9325
JOHN R. GORDY II, 4036
JOHN C. GORLA JR., 8594
ANNE L. GORNEY, 6160
GREGORY S. GORSKI, 4150
GARY J. GOTTSCHALL, 8678
GLENN L. GRAHAM, 6542
KEITH A. GRAHAM, 3637
WILLIAM V. GRAHAM, 5233
DEBRA J. GRAVELLE, 6219
ROBERT S. GRAVES, 2399
PHILIP T. GRECO, 4120
FREDERICK D. GREGORY JR., 7405
SANDRA M. GREGORY, 5234
GORDON C. GRIFFIN, 5958
DANIEL T. GRILLONE, 3215
JAMES W. GRISWOLD, 2903
MARY E. GRISWOLD, 3604
STEVEN M. GRISWOLD, 1754
KAREN L. GROTH, 2954
RONALD L. GROVE, 1682
FUSUN S. K. GRUMBACH, 8493
DARYL W. GUILL, 0302
GREGORY M. GUILLOT, 6461
JON E. GULLETT, 9611
BRUCE F. GUNN, 7846
TONY D. GURNEY, 2945
GREGORY M. GUTTERMAN, 8864
MATTHEW E. HABER, 8731
MICHAEL J. HADY, 3902
MICHAEL W. HAFER, 8345
DONALD M. HALE JR., 3010
THOMAS W. HALE, 8857
STEPHEN R. HALL, 9653
TIMOTHY J. HALL, 3433
TIMOTHY J. HALLORAN, 9838
STEPHEN T. HAMILTON, 2545
DOUGLAS S. HAMMEN, 0446
JAMES R. HAMPSHIRE, 5222
DANIEL J. HAMPTON, 2960
DANIEL B. HANCOCK, 6071
WILLIAM P. HANCOCK, 7207
KERRY D. HANES, 4229
HUGH J. HANLON, 1428
JAMES F. HANLON, 5883
JAMES M. HANSCOM, 2375
ALLEN D. HANSEN, 7240
DARREN T. HANSEN, 4772
DAVID S. HANSEN, 5368
JOHN M. HANSEN, 6504
RALPH S. HANSEN, 2727
TIMOTHY A. HANSEN, 4740
DAVID F. HARDY, 9707
JAMES W. HARDY, 0567
LESLIE L. HARGETT, 5538
LORING C. HARKEY, 2531
DOUGLAS M. HARLOW, 1985
CHRISTOPHER D. HARNESS, 8039
CHRISTOPHER P. HARPER, 8215
SEAN P. HARRINGTON, 8757
ALLAN D. HARRIS, 3881
KEITH W. HARRIS, 2672
MARK W. HARRIS, 9393
PAUL D. HARRIS, 0242

RICHARD A. HARRIS JR., 0346
ROBERT H. HARRISON JR., 1942
DARREN E. HARTFORD, 9634
CURTIS J. HARVEY, 8038
JOSEPH M. HARVEY, 5616
MARK C. HARYSCH, 7869
DENNIS E. HASKIN, 0147
SCOTT A. HATFIELD, 7971
CLARENCE E. HAUCK, 2123
ANTHONY L. HAUGRUD, 3824
SCOTT M. * HAVERKATE, 2986
DANIEL F. HAWKINS, 8723
TIMOTHY P. HAYNIE, 8012
BRADLEY F. HAYWORTH, 1581
BRADLEY L. HEBING, 9354
ANDREW G. HECHT, 7375
BARBARA J. HEINLEIN, 4109
ROBERT D. HELGESON, 2010
JAY B. HELMING, 7683
JOSEPH W. HENDERSON, 7363
BRENT S. HENDRICKS, 7962
TIM V. HENKE, 7415
SUZANN HENSLEY, 7483
STEVEN W. HERMAN, 4667
BRIAN G. HERMANN, 0894
GREGORY A. HERMSMEYER, 6872
GUSTAVO A. HERNANDEZ, 6194
CARY A. HERRERA, 0302
MARGARET A. HERRING, 2732
TIMOTHY L. HERSHBERGER, 0762
JEFFREY M. HESS, 1511
ROBERT M. HESSIN, 6081
TERRY J. HESTERMAN, 6368
JAMES R. HETHERINGTON, 0256
TROY D. HEWGLEY, 3005
DAVID S. HIDINGER, 6338
JOHN M. HIGGINS, 8881
KEVIN R. HIGHFIELD, 1163
ERIC W. HITTMEIER, 1407
DEREK S. HO, 8270
ELLIE HO, 6022
DANIEL M. HODGKISS, 2049
LAWRENCE M. HOFFMAN, 2683
SCOTT B. HOFFMAN, 8258
DEREK R. HOFFNUNG, 7098
ERIK E. HOIHJELLE, 2335
JOHN J. HOKAJ, 2060
ALEXANDER L. HOLDER, 7537
JEFFREY K. HOLIFIELD, 7791
DALE A. HOLLAND, 9579
BLAINE S. HOLMAN, 9770
DANIEL F. HOLMES, 6894
CHRISTOPHER J. HOPE, 4924
STEVEN T. HORMEL, 7712
ALBERT B. HORNSBY III, 0075
RICHARD H. HOUGHTON, 8782
EDDIE R. HOWARD, 2232
RANDALL L. HOWARD, 3590
ROBERT M. HOWARD III, 1197
CHARLES C. HOWELL, 7924
LESLIE D. HOWELL, 9071
SCOTT A. HOWELL, 8759
DENNIS M. HOWRY, 3816
THOMAS J. HUDD, 5104
PETER G. HUDDLE, 4084
KENNETH W. HUDELSTON III, 0832
PETER J. HUGHES, 2820
RUSSELL R. HULA, 4888
SHAWN D. HULLIHEN, 3830
LISA J. HUMMLER, 0895
JENNIFER A. HUMMON, 9099
FREDERICK E. HUMPHREY, 1653
ROBERT L. HUNKELER II, 6645
ROBERT P. HUNT JR., 8894
TERRY E. HUNTER, 7179
THOMAS K. HUNTER JR., 4592
KENNETH F. HUTCHISON, 2238
HIROSHI N. IKEDA, 8755
MICHAEL T. IMBUS, 7732
GARY K. INGHAM, 1939
ALLEN B. INGLE, 4055
PETER J. IVERSEN, 0311
JACQUELINE R. JACKSON, 2612
THOMAS E. JACKSON, 7071
TRACY E. JACKSON, 1553
YOLANDA JACKSON, 2892
SCOTT E. JAMES, 3497
MARC S. JAMISON, 4677
STEVEN J. JANECZKO, 8571
CLARENCE E. JANSON, 3051
DOUGLAS L. JANTZEN, 4904
JOSEPH MICHAEL JANUKATYS, 4505
DOUGLAS W. JAQUISH, 0439
CHARLENE D. JEFFERSON, 5373
DEREK A. JEFFRIES, 5806
DANIEL K. JENKINS, 4512
DAVID L. JENSEN, 3305
CURTIS E. JOHANSON, 1695
BARRY K. JOHNSON, 9225
BRIAN D. JOHNSON, 6265
GREGORY C. JOHNSON, 6103
JAMES S. JOHNSON, 2403
KIRK P. JOHNSON, 0542
ORESTE M. JOHNSON, 3339
TATE A. JOHNSON, 3586
TODD S. JOHNSTON, 5375
ALAIN L. M. JONES, 3383
JACQUELINE H. JONES, 9771
TONISH E. JONES, 5775
TRACY A. JONES, 7156
RICHARD J. JORGENSEN, 8888
KEVIN D. JOST, 2568
MICHAEL S. JOYAL, 8312
DAVID J. JULAZADEH, 5732
SHANNON D. JURRENS, 5125
EMIL B. KABBAN, 5686
STEVEN T. KAEGI, 8145
EDWIN W. KALER III, 4970
PHYLLIS L. KAMPMEYER, 3726
DAVID H. KANESHIRO, 4861
SAMUEL S. KANG, 6871
RUSTAM KARMALI, 8439
MICHAEL B. KATKA, 9365
JOSEPH C. KATUZIENSKI, 3636
THOMAS J. KAUTH, 5714
CHARLES B. KEARNEY III, 0607
SUSAN B. KEFFER, 7435
KIRK L. KEHRLEY, 5324
STANFORD K. KEKAUOHA, 2800
LORETTA A. KELEMEN, 2573
ROBERT B. KELLAS, 9251
STEPHEN L. KELLER, 2353
JOHN J. KELLEY, 6373
JEFFREY W. KELLY, 3140
ANTOINETTE T. KEMPER, 0380
DAVID C. KENNEDY, 4199
JONATHAN P. KENNEDY, 5875
THOMAS J. KENNEY, 2564
JEFFREY D. KERSTEN, 4275
DOUGLAS J. KIESER, 7372
JOHN F. JOS KIESLER, 0861
JACK E. KING JR., 2052
JAMES R. KING JR., 7613
NEDIM KIRIMCA, 2052
BRIAN W. KIRKWOOD, 3039
KENNETH S. KLEIN, 7323
JENNIFER M. KLEINSCHMIDT, 8410
MARK R. KLING, 3955
FREDERICK M. KMIECIK, 8749
MATTHEW A. KMON, 8260
KEVIN J. KNECHT, 2633
ANTONE A. KNETTER, 7274
TAMMY M. KNIERIM, 6386
JACK T. KNIGHT JR., 7538
MALLORY P. KNIGHT, 3177
JEFFRY D. KNIPPEL, 3035
JOEL E. KNISELY, 7912
MICHAEL R. KOBOLD, 7550
TAMI L. KOBOLD, 3001
THOMAS J. KOBYLARZ, 3528
STEVEN M. KOKORA, 2283
ROBERT E. KOLES, 7371
ALAN L. KOLLIEN, 4634
ANNE M. KONNATH, 9625
MONICA KOPF, 7160
JAMES M. KORMANIK, 4744
HOWARD N. KOSHT, 7431
DANIEL A. KOSIN, 4785
JOHN F. KOSMAN, 5716
RICHARD D. KOSOBUCKI, 8816
PATRICK J. KOSTRZEWA, 9263
JAMES F. KOTT, 7171
WILLIAM J. KRALIK, 4169
EDWARD R. KRAMER, 3190
KEVIN C. KRAUSE, 5686
SCOTT A. KRAUSE, 2681
PETER A. KRAWCZYK, 5363
DENNIS L. KREPP, 3051
ERIC J. KREUL, 6621
JEFFREY B. KROMER, 9646
DAVID A. KRUMM, 3626
PAUL M. KUCHAREK, 7615
STEVEN T. KUENNEN, 0248
DIANA L. KUHN, 1511
CHRISTOPHER T. KUKLINSKI, 2921
PATRICK T. KUMASHIRO, 6814
SUZANNE S. KUMASHIRO, 0491
LYNDEN C. KUNZ, 4953
SHIAONUNG D. KUO, 9970
FRANK J. KUSKA, 9097
EDGAR J. LABENNE, 2645
BURNETT F. LACHANCE, 1721
BRUCE A. LACHARITE, 2579
DEO A. LACHMAN, 6846
KENNETH E. LACY, 4047
MARK D. LAFOND, 9156
JOEL T. LAGASSE, 0313
JEFFREY A. LAMB, 3366
SCOTT A. LAMB, 1133
STEPHEN C. LAMB, 1090
BRUCE A. LAMBERT, 3523
HENRI C. LAMBERT, 5268
PETER J. LAMBERT, 5850
GERALD F. LANAGAN, 3136
TODD R. LANCASTER, 5542
JAMES A. LANCE, 9140
ROBIN H. LANDERS, 6117
ANDREW J. LANDOCH, 2830
CHERYL L. LANKE, 0216
JOSEPH LANZETTA, 3687
DALE B. LARKIN, 0099
PATIENCE C. LARKIN, 7886
MARK H. LARSEN, 1281
JOSEPH M. LASK, 4618
ALAN P. LAURSEN, 8270
ALAN J. LAVERSON, 0709
JUDITH A. LAW, 2279
RICHARD E. LAWRENCE JR., 9137
GLEN K. LAWSON, 3357
KELLY A. LAWSON, 1269
RANDOLPH S. LAWSON, 8899
RICHARD C. LEATHERMAN, 2796
RICHARD D. LEBLANC, 6149
MICHAEL A. LECLAIR, 7431
CHRIS P. LEE, 9420
STEVEN W. LEGRAND, 4503
WILLIAM S. LEISTER, 6588
BODEN J. LEMAY, 2166
HELEN M. LENTO, 0792
BRENDA K. LEONG, 3987
JOSEPH A. LESS, 4938
CHRISTOPHER N. LEWIS, 7439
MICHAEL A. LEWIS, 1176
PETER A. LEWIS, 6856
ROBERT C. LIGHTNER, 7394
ROBERT P. LINARES, 1782
LAWRENCE LIND, 4190
WALTER J. LINDSLEY, 0406
TIMOTHY G. LITTLE, 6978
JACK R. LOCKHART, 7164
JEFFREY L. LONG, 9604
SCOTT C. LONG, 6902
PATRICK J. LORZING, 0252
SARA L. LOUGHRAN, 3852
MARK R. LOVEJOY, 5256
WAYNE R. LOVELESS, 5709
TODD A. LOVELL, 0898
MICHAEL G. LOWRY, 4713
MARK C. LUCHS, 4632
CHRISTOPHER J. LUEDTKE, 2182
STUART A. LUM, 0642
TAMMY K. LUNDBORG, 9687
EDWARD R. LYLE, 5852
MICHAEL P. MAAG, 3119
ROBERT P. MACDONALD, 6790
JEFFREY MACEACHRON, 9686
DAVID R. MACKENZIE, 1789
MARY E. MACLEOD, 8286
STEVEN A. MACUT, 6640
VINCENT MADRID, 5736
DAVID L. MAHER, 9121
JEFFREY MALCOLM, 2336
ANGEL M. MALDONADO, 0443
VICTOR L. MALLOY, 6922
MICHAEL N. MALOY, 8556
BRYAN S. MANES, 2093
BRENDA P. MANGENTE, 3207
HOLLY R. MANGUM, 4576
ROBERT W. MANN, 2024
TIMOTHY J. MANNING, 0753
GEORGE W. MARCHESSEAULT, 9786
FRED H. MARHEINE JR., 8885
LISA M. T. MARKGRAF, 8456
THOMAS A. MARKLAND, 8287
BRENT P. MARKOWSKI, 5978
TIMOTHY M. MARKS, 7569
THOMAS ANTHONY MAROCCHINI, 7386
ALLEN M. MARSHALL JR., 0115
JAMES A. MARSHALL, 2055
CHRISTOPHER S. MARTIN, 4887
JOSEPH D. MARTIN, 1116
STEVEN G. MARTIN, 4953
RAMIRO MARTINEZ, 9493
DAVID A. MARTINSON, 5968
DAVID W. MARTTALA, 2020
MARK S. MARYAK, 7264
MICHAEL A. MARZEC, 1796
SCOTT M. MASER, 3110
MICHAEL L. MASON, 3108
RODNEY M. MASON, 5837
GRIFFITH S. MASSEY, 1370
KEVIN P. MASTIN, 5619
LIA MASTRONARDI, 7945
BYRON P. MATHEWSON, 5532
TIMOTHY J. MATSON, 7298
MARK J. MATSUSHIMA, 5628
RICHARD W. MATTON JR., 6969
RANDY A. MAULDIN, 1078
HAROLD J. MCALDUFF, 2020
PAUL J. MCANENY, 4568
JOHN D. MCCAULEY, 1119
RICHARD D. MCCOMB, 5837
RICHARD I. MCCOOL, 8275
TODD G. MCCREADY, 1206
JANI L. MCCREARY, 1011
ROBERT A. MCCRORY JR., 1885
ERICK D. MCCROSKEY, 2094
MARK C. MCCULLOHS, 7028
MICHAEL B. MCDANIEL, 8126
CHRISTOPHER C. MCDONALD, 9763
DANIEL J. MCDONALD, 4065
JOHN P. MCDONNELL, 6652
JOSEPH P. MCDONNELL, 0188
DAVID V. MCELVEEN, 9288
EUGENE L. MCFEELY, 3943
JAMES A. MCGANN, 7079
JENNY A. MCGEE, 1185
GAY M. MCGILLIS, 9636
JAMES R. MCGINN, 5015
MILES L. MCGINNIS, 4621
THOMAS R. MCGRAW, 8383
SCOTT E. MCKINNEY, 7655
MARTIN G. MCKINNON, 7931
PATRICK K. MCLEOD, 5772
CATHERINE G. MCLOUD, 2137
LOUIS E. MCNAMARA JR., 1336
STEVEN D. MCNEELY, 3746
ROSS T. MCNUTT, 4830
STACY S. MCNUTT, 9300
ANNE C. MCPHARLIN, 4210
TIMOTHY E. MCPHARLIN, 4435
SHANNON P. MEADE, 9432
TRACEY M. MECK, 3967
THOMAS C. MEDARA, 5949
RONALD S. MEDLEY, 0946
RACHEL M. MEEK, 0239

DONALD S. MEEKER, 4096
PABLO F. MELENDEZ, 9723
EDWARD C. MELTON III, 1212
ROBERT C. MENARD, 8402
TERRY L. MENELEY, 0819
DAVID S. MERRIFIELD, 8136
MICHAEL S. METRUCK, 4707
JEFFREY D. METZ, 8579
TAL W. METZGAR, 1630
MARK A. MEYER, 9557
MICHAEL B. MEYER, 0598
RUSSELL W. MEYER, 7819
THOMAS L. MICK, 2596
RAYMONE G. MIJARES, 4928
GALEN W. MILLARD, 2788
MICHAEL A. MILLER, 6428
RICHARD R. MILLER, 0484
STEPHEN R. MILLER, 5205
TERRY R. MILLER, 5729
RICKY L. MILLIGAN, 1784
MICHAEL A. MINIHAN, 3251
BRIAN K. MISIAK, 1488
MICHELE RM MITCHELL, 7967
THOMAS L. MITCHELL JR., 6001
ADAM M. MLOT, 3907
JEFFREY L. MOLER, 6687
ROBERT M. MONARCH, 7086
RAFFAELE A. MONETTI, 9036
ANTHONY D. MONINSKI, 6557
WAYNE R. MONTEITH, 5629
RICHARD A. MOON, 9770
CAROLYN A. MOORE, 4561
KENNETH R. MOORE, 3442
HIRAM A. MORALES JR., 9148
HUMBERTO E. MORALES, 7228
ERIC MORGAN, 3158
CHRISTINA M. MORRIS, 3305
MARK R. MORRIS, 1178
GREGORY J. MORRISON, 7436
PATRICK L. MORROW, 0799
CHARLES C. MORSE, 2583
SAMUEL P. MORTHLAND, 4139
SCOTT E. MOSER, 2593
LISA C. MOSHIER, 8784
EUGENE B. MOTY JR., 3011
SEAN MOULTON, 1534
RICHARD S. MOUNTAIN, 5735
ANDRE J. MOUTON, 0556
PAMELA A. MOXLEY, 9940
MARY E. MOYNIHAN, 0870
WALTER C. MOYNIHAN, 4344
MAUREEN C. * MURPHY, 3230
MICHAEL L. MURPHY, 2496
THOMAS E. MURPHY, 6679
JUDIANNA MURRAY, 7831
KEVIN R. MURRAY, 0152
ROGER S. MURRAY, 7148
SCOTT F. MURRAY, 1454
SCOTT L. MUSSER, 8853
CHARLES H. MYERS, 1302
GREGORY A. MYERS, 7627
LYNDA D. MYERS, 3073
NICHOLAS S. MYERS JR., 2654
RUSSELL S. MYERS, 8707
WILLIAM A. NACE, 9591
DAVID S. NAHOM, 5839
MICHAEL F. NAHORNIAK, 5890
DOUGLAS R. NARMOUR, 0479
ERIC S. NELSON, 7884
KIM M. NELSON, 3499
LOWELL A. NELSON, 3279
MARTIN H. NELSON, 9055
RICHARD G. NELSON, 6504
RICHARD S. NELSON, 2620
SAMUEL F. NELSON, 4868
WILLIAM J. NELSON, 4654
WILLIAM D. NEUENSWANDER, 5527
BRIAN D. NEUMANN, 2903
TIMOTHY P. NEWMAN, 3044
WILLIAM S. NICHOLS, 1828
GLENN W. NICHOLSON, 1486
DANIEL M. NICKERSON, 8415
GREGORY W. NICODEMUS, 3718
STEVEN R. NIELSEN, 0862
LUCIAN L. NIEMEYER II, 4404
CRAIG W. NORDLIE, 3034
DIAN L. NORRIS, 0877
WESLEY S. NORRIS, 8690
MICHAEL J. NOVOTNY, 0392
MICHAEL A. NOWACZYK, 8808
MICHAEL J. NUTTER, 9934
RICHARD L. OARR, 4516
BRUCE E. OCAIN, 2063
DANIEL J. OCONNOR, 4119
STEPHEN D. OCONNOR, 4385
JOHN S. OECHSLE, 1128
PETER R. OERTEL, 7807
KENNETH M. OLSEN, 7023
RICHARD C. OLSON, 5914
RAYMOND P. OMARA, 0893
BARBARA M. OMSTEAD, 6742
DAVID L. ONAN, 3520
JIMMIE L. ONEAL JR., 4937
BRIAN A. OUELLETTE, 5979
ALISON L. OVERBAY, 0492
BRETT L. OWENS, 1517
LAYNE B. PACKER, 0351
ELIZABETH A. PANGRAC, 6793
TROY W. PANNEBECKER, 9818
ANN MARIE PARKER, 8806
JAMES T. PARKER, 8068
JEFFREY A. * PARKER, 1849
JOHN L. PARKER, 9911
DALE P. PARTRIDGE, 4737
JOHN C. PASCHALL, 7285
PHILLIP G. PATE, 2994
RONALD J. PATRICK, 7213
ERIC J. PAYNE, 5044
JOHN G. PAYNE, 4110
VALERIE S. PAYNE, 4787
RICHARD E. PEARCY, 6166
JOHN W. PEARSE, 6170
JUDITH H. PEER, 9502
MICHAEL E. PEET, 0708
CHRISTOPHER J. PEHRSON, 1752
MICHAEL W. PENLAND, 3146
CLAYTON B. PERCE, 3106
JOHN J. PERNOT, 3228
RONALD L. PERRILLOUX, 7573
PATRICK J. PETERS, 5361
JON J. PETRUZZI, 2482
STEPHEN D. PETTERS, 7447
TIMOTHY J. PFEIFER, 0074
ALTON P. PHILLIPS, 4980
DAVID L. PHILLIPS JR., 5414
MARK R. PHILLIPS, 9580
MATTHEW T. PHILLIPS, 1162
BRYANT D. PHILP, 1040
RICHARD G. PIERCE, 5173
SCOTT D. PIERCE, 3595
CHARLENE A. PIERSONLASSITER, 5824
WILLIAM E. PINTER, 7316
MICHAEL S. PITTS, 7760
DANIEL J. PIXLEY, 7844
CHRISTOPHER E. PLAMP, 2277
MATTHEW L. PLASS, 0629
FRANZ M. PLESCHA, 0289
JOHN EDWARD POAST III, 3465
DANIEL J. POLAHAR JR., 3537
BRENT G. POLGLASE, 0916
SUSAN L. POLLMAN, 6835
ADRIAN C. PONE, 5205
LAURA R. POPE, 8974
TODD J. POSPISIL, 9801
GARY L. POTTER JR., 8629
CARLOS M. POVEDA III, 7729
GLENN E. POWELL JR., 7141
OM PRAKASH II, 9657
JOHN C. PRATER, 1630
MICHAEL D. PRAZAK, 6302
JOHN B. PRECHTEL, 1839
TIMOTHY P. PRESS, 1666
DAVID L. PRESTON, 6587
LESTER E. PRESTON, 1418
DONALD G. PRIAULX, 4864
ARTHUR C. PRICE, 9761
JEFFREY K. PRICE, 3543
LARRY G. PRICE, 6356
MYLAND E. PRIDE, 9095
ROBERT J. PROVOST, 0842
SHARON K. PRUITT, 8809
JAMES A. PRYOR, 4693
JEANNA L. PRYOR, 4312
CLIFFORD T. PUCKETT, 7394
MICHAEL W. PUFFENBARGER, 8939
GEORGE R. PULLIAM, 2500
JOHN R. QUATTRONE, 8428
ROGER ARLANTICO QUINTO, 8412
RAYMOND S. SM RABANO, 8980
DAVID J. RAGGIO, 8270
GEORGE R. RAIHALA, 8182
STEVEN A. RANALLI, 4519
PAMELA J. RANDALL, 4873
WESLEY S. RANDALL, 4898
THOMAS F. RATHBUN, 7124
JAMES A. RAULERSON, 8503
LINDA M. RAY, 3300
STEPHEN A. RAY, 1087
RICHARD M. REDDECLIFF, 5222
BRADLEY S. REED, 9450
MICHAEL D. REED, 8073
TIMOTHY S. REED, 0756
DONALD REESE, 6330
MARC E. REESE, 4925
DANIEL S. REIFSCHNEIDER, 8996
DANIEL L. REILLY, 8218
ROBERT W. REIMAN, 1539
PAUL E. REIMERS, 5949
GREGORY M. REITER, 7178
CHRISTOPHER E. RENNER, 5546
ROBERT A. RENNER, 5527
ROBERT L. RHYNE, 2960
LANCE G. RIBORDY, 4632
CARLOS F. RICE, 8408
TIMOTHY S. RICE, 5997
LISA D. RICHTER, 6468
VICTOR L. RICK, 2063
TIMOTHY L. RILEY, 1664
EDWARD J. RIMBACK, 3119
LLOYD E. RINGGOLD JR., 8850
CHRISTOPHE F. ROACH, 8912
JOHN D. ROACH, 7189
KEVIN J. ROBBINS, 2879
GREGORY D. ROBERTS, 4996
JEFFREY W. ROBERTS, 5834
RICHARD G. ROBERTS, 9035
DOUGLAS A. ROBERTSON, 0052
RANDY K. ROBERTSON, 3991
WILLIAM B. ROBEY, 6201
AARON N. ROBINSON, 4336
BRIAN S. ROBINSON, 2656
KYLE W. ROBINSON, 7239
TIMOTHY J. ROCKWELL, 1403
RAYMOND E. ROESSLER, 7109
GEORGE M. ROGERS, 9303
PAUL J. ROGERSON, 4625
PETER C. ROLLER, 7318
KRIS G. RONGONE, 6622
JENNIFER L. ROOKE, 3411
DARLENE M. ROQUEMORE, 5138
JOHN J. ROSCOE, 9209
DEAN E. ROSENQUIST, 1774
DAVID A. ROSS, 8807
JAMES P. ROSS, 1747
WILLIAM G. ROSS, 3357
JOSEPH W. ROTH, 9135
ROBERT W. ROTH, 0116
JAMES A. ROTHENFLUE, 5343
STEPHEN D. ROTTA, 0293
RANDALL S. ROWE, 7972
WILLIAM H. RUDD III, 1123
DON A. RUFFIN, 9461
JEFFREY N. RUMRILL, 0661
BRADFORD L. RUPERT, 6106
RICKY N. RUPP, 2587
WILLIAM Y. RUPP, 9166
MARK A. RUSE, 4188
BARBARA J. RUSNAK, 8197
MICHAEL J. RUSSEL, 6778
DAVID L. RUSSELL II, 0658
JOHN T. RUSSELL, 0297
GRANT G. RUTLIN, 1167
RONALD G. RYDER, 7604
DAVID M. RYER, 5679
PER I. SAELID, 9811
DAVID G. SALOMON, 4588
ROBERT J. SALSBERRY, 9020
MICHAEL J. SALYARDS, 5359
JOHN R. SAMMARTINO, 5126
DARLENE M. SANDERS, 3028
THOMAS R. SANDS, 2564
DERREK D. SANKS, 0715
DEXTER M. SAPINOSO, 0017
CATHERINE J. SAUCHUK, 4294
SCOTT H. SAUL, 2208
DAVID E. SAVILLE, 4928
SCOTT A. SAVOIE, 6112
FRANK W. SCHADDELEE, 3825
THOMAS P. SCHADEGG, 6404
GREGORY SCHAELLING, 8530
DONALD M. SCHAUBER JR., 9046
LYNN I. SCHEEL, 8435
JON SCHILDER, 6935
ANDREW J. SCHLACHTER, 6663
SCOTT H. SCHLIEPER, 2143
DANIEL M. SCHMIDT, 1473
KIRK A. SCHNEIDER, 5984
RICHARD L. SCHOONMAKER, 6074
DAVID M. SCHROEDER, 4364
PHIL J. SCHROEDER, 0830
PAUL F. SCHULTZ, 0400
TIMOTHY P. SCHULTZ, 8086
WILLIAM F. SCHUPP JR., 4018
JAMES B. SCHUSTER, 6180
STEPHEN R. SCHWARTZ, 7528
MARK F. SCHWARZ, 1534
DAVID A. SCHWARZE, 7738
CHRIS H. SCHWEINSBERG, 8219
LELAND G. SCIFERS, 2474
SHANE P. SCOGGINS, 7911
BRYON L. SCOTT, 1835
JEFFERY C. SCOTT, 2083
BRETT H. SCUDDER, 1382
KURT A. SEARFOSS, 7798
JOEL SEIDBAND, 2283
TODD J. SERRES, 8104
KENNETH C. SERSUN, 6992
DOUGLAS S. SEWALL, 7517
ALAN L. SHAFER, 5015
SHAWN P. SHANLEY, 1885
SCOTT D. SHAPIRO, 7033
MARC S. SHAVER, 5573
ANTHONY C. SHAW, 4425
WAYNE K. SHAW, 0105
WILLIAM K. SHEDD, 6154
GLEN A. SHEPHERD, 4908
MICHAEL D. SHEPHERD, 2805
JEFFREY A. SHEPPARD, 1018
DANIEL J. SHERIDAN, 0907
JEFFREY E. SHERWOOD, 5295
CYNTHIA A. SHEWELL, 5431
JOHN R. SHIELDS, 7614
DAVID K. SHINTAKU, 5954
ARNETHA R. SHIPMAN, 3402
HOWARD A. SHRUM III, 0632
ERIC SILKOWSKI, 3295
RICHARD J. SILONG, 5989
FRANK W. SIMCOX IV, 7992
KEVIN HUGH SIMMONS, 0161
NIGEL J. SIMPSON, 4210
WILSON T. SIMS JR., 5804
PAUL L. J. SINOPOLI, 8880
TIMOTHY J. SIPES, 8711
ROBERT D. SKELTON, 5611
LYNDEN P. SKINNER, 1318
THOMAS J. SKROCKI, 6767
STEVEN R. SLATTER, 9667
TIMOTHY A. SLAUENWHITE, 0019
ANDREW T. SLAWSON, 7382
DENETTE L. SLEETH, 6036
RICHARD E. SLOOP JR., 7767
STEVEN E. SMILEY, 1973
DIANE M. SMITH, 0579
DIRK D. SMITH, 4850
JEFFREY D. SMITH, 3042
JEFFREY J. SMITH, 0651

KELVIN B. SMITH, 0752
KENNETH P. SMITH, 2396
MATTHEW N. SMITH, 7751
MICHAEL J. SMITH, 7483
PEIMIN M. SMITH, 9984
RANDOLPH G. SMITH, 8538
ROBERT J. SMITH JR., 6626
RUDOLPH A. SMITH JR., 8366
RUSSELL E. SMITH, 5202
RYAN J. SMITH, 3018
STEPHEN A. SMITH, 5740
THOMAS L. SMITH, 4067
WESLEY E. SMITH, 7916
DAVID M. SNOW, 4581
DONALD A. SNYDER, 7664
STEVEN P. SNYDER, 3524
PATRICE A. SOLORZANO, 0384
DWIGHT C. SONES, 9945
INEZ A. SOOKMA, 3871
CRAIG A. SOUZA, 6350
CHRISTOPHER F. SPAGNUOLO, 6414
KAY L. SPANNUTH, 5536
KEVIN L. SPARKS, 7590
JENNIFER L. SPEARS, 8106
JOSEPH M. SPIESS, 2291
KURT M. SPILGER, 6530
CHRISTOPHER STAFFORD, 6330
STANLEY STAFIRA, 1311
DANIEL J. STAGGENBORG, 2356
DAVID G. STAMOS, 7656
DARRYL L. STANKEVITZ, 9134
NANCY NAOMI STANLEY, 0619
DAVID M. STANTON, 2027
VALISE A. STANTON, 3352
SCOTT A. STARK, 1988
JAMES M. STARLING, 4610
ROBERT B. STARNES, 8117
DONALD C. STARR, 6468
CHARLES F. J. STEBBINS, 3195
KEVIN B. STEELE, 8439
THOMAS M. STEELE, 7085
ALLEN M. STEENHOEK, 9097
CHARLES A. STEEVES, 9199
DOUGLAS K. STENGER, 8561
MARK T. STEPHENS, 8824
KEVIN J. STEVENS, 6342
CHAD M. STEVENSON, 3795
RAYMOND S. STEVENSON, 7504
ALBERT K. STEWART, 4074
DAVID T. STEWART, 0070
ERIC C. STEWART, 2507
MICHAEL A. STEWART, 9617
BARRY W. STGERMAIN, 6394
BRUCE C. STINAR, 7937
KEVIN L. STONE, 0050
TROY R. STONE, 5626
CHARLES R. STONER, 8548
RONALD K. STORY, 3333
MICHAEL K. STOWERS, 1369
JESSE L. STRICKLAND III, 5574
LEWIS H. STROUGH, 2739
MICHAEL SULEK, 5492
DAVID M. SULLIVAN, 9677
EDWARD J. SULLIVAN, 9638
SEAN M. SULLIVAN, 9013
DONALD H. SUMMERLIN, 4791
BRANDON E. SWEAT, 2507
MARK J. SWEENEY, 3717
GERALD A. SWIFT, 5068
RAYMOND A. SWOGGER, 7613
MICHAEL T. SYMOCK, 0535
JOHN A. TALARICO, 3302
MICHAEL L. TALBERT, 4179
JEFFREY B. TALIAFERRO, 5342
WILLIAM M. TART, 8351
KENNETH R. TATUM JR., 1395
RICHARD D. TAVENNER, 2696
ANDREW M. TAYLOR, 1491
PATRICK W. TAYLOR, 0160
RODNEY L. TAYLOR, 6125
DAVID B. TEAL, 6089
BRETT P. TELFORD, 1011
SCOTT J. TEW, 2459
SHARON C. THOMAS, 1501
WALTER D. THOMAS, 7231
DEBORAH E. THOMPSON, 2959
HENRY C. THOMPSON, 5355
JEFFREY A. THOMPSON, 8872
STEPHEN R. THOMPSON, 3095
ROBERT C. THOMSON, 2703
MICHAEL D. THURBER, 5559
GREGORY S. THURGOOD, 0605
ANDREW J. THURLING, 5916
PAUL W. TIBBETS IV, 3595
MICHAEL A. TICHENOR, 0607
MICHAEL J. TILLEMA, 2071
JOHN L. TILLMAN, 5901
BRIAN J. TINGSTAD, 7955
JAMES M. TITTINGER, 9590
RICHARD G. TOBASCO, 8111
JULIAN H. TOLBERT, 8791
WADE G. TOLLIVER, 7195
JOHN S. TOMJACK, 9745
GARY A. TOPPERT, 0822
TIMOTHY M. * TORRES, 1186
JOHN H. TOUCHTON III, 6716
TIMOTHY P. TOWNES, 9547
NHAT D. TRAN, 6646
TIMOTHY J. TRAUB JR., 8436
KEVIN T. TRISSELL, 7939
GERALD J. TROMBLEY, 6694
EDSON C. TUNG JR., 6237
KIP B. TURAIN, 6153
MARK J. TURCOTTE, 4363
GREGORY L. TURES, 6278
STEPHEN E. TURNER JR., 1323
RICHARD E. UNIS, 4876
MICHAEL J. VACCARO, 9679
SCOTT R. VADNAIS, 5938
VICTOR J. VALDEZ, 7742
DAVID D. VALLIERE, 2048
CURT A. VAN DE WALLE, 6609
LJ VANBELKUM, 7619
ALVIN M. VANN JR., 1043
JUAN R. VASQUEZ, 1204
GLENN M. VAUGHAN, 5655
BRIAN T. VAUGHN, 7893
OSCAR R. VAUGHN, 8702
AGUSTIN E. VELEZ, 5284
THOMAS A. VENTRIGLIA, 0419
LASZLO A. VERES, 2917
SCOTT A. VESPER, 0246
EDWARD J. VEST, 6976
RICHARD A. VETSCH, 8998
PATRICK H. VETTER, 0246
GEORGE VICARI JR., 3509
JOSEPH H. VIERECKL, 8338
TERRY W. VIRTS, 0355
STEVEN A. VLASAK, 4081
ROBERT A. VOEGTLY, 4474
RANDALL L. VOGEL, 3228
GEORGE S. VOGEN, 5098
JESSIE H. VOISIN JR., 1832
PAUL C. VONOSTERHELDT, 6004
PAUL E. WADE, 6313
DONALD R. WAHONICK JR., 5737
BARRY C. WAITE, 9922
DAVID M. WAITE, 3765
MARK K. WAITE, 9496
SCOTT E. WALCHLI, 9480
FEDERICO G. WALDROND, 6425
CHRISTOPHER P. WALKER, 4012
JON W. WALKER, 2318
JULIE E. WALKER, 6919
MICHAEL J. WALKER, 7457
THOMAS M. WALKER, 1832
WARD A. WALKER, 4475
TODD T. WALKOWICZ, 3362
DAVID E. WALLACE, 4020
DARRELL E. WALLIS JR., 5546
STEPHEN D. WALTERS, 3518
MICHAEL G. WAN, 2586
MARK A. WARACK, 3208
MICHAEL R. WARD, 4455
WILLIAM R. WARD, 2907
MICHAEL S. WASSON, 7321
WILLIAM R. * WATKINS III, 3627
DOUGLAS A. WATKINS, 2352
ERIC E. WATKINS, 8226
PHILIP R. WATSON, 7069
BRYAN C. WATT, 3755
CHRISTIAN G. WATT, 2675
SHANNON D. WEATHERMAN, 4804
WILLIAM M. WEAVER, 2018
JEFFERY D. WEBBER, 9847
SCOTT D. WEBER, 9122
THOMAS J. WEBER, 5834
TIMOTHY F. WEBER, 7908
JEFFREY R. WEED, 6009
JAMES C. WEIGLE, 3393
JAMES L. WEINGARTNER, 6160
RICHARD A. WEIR, 5212
CLYDE A. WEIRICK, 5963
DOUGLAS P. WEITZEL, 3354
STEVEN M. WELD, 2258
DOUGLAS H. WELLS, 9637
SCOTT R. WELLS, 5274
RUSSELL P. WELSCH, 4332
DERON L. WENDT, 2437
GARY F. WESSELMANN, 7183
JOHN E. WEST JR., 4097
JOHN W. WEST, 9730
ROBERT A. WEST, 0999
JAMES E. WEYER, 1778
ELISE M. WHEELER, 2658
NATHAN T. WHITE, 7208
RANDALL G. WHITE, 7684
TODD D. WHITE, 0762
WILLIAM G. WHITE, 9547
JAMIE S. WHITLEY, 7165
JAMES T. WHITLOW, 6477
JIM R. WIEDE, 0613
JEFFREY J. WIEGAND, 8262
MARSHA W. WIERSCHKE, 9319
PAUL A. WIESE, 8953
SANDRA L. WILKERSONLEAF, 2250
JOHN W. WILKINSON, 4596
JOHN A. WILLCOCKSON, 4672
GARY W. WILLETS, 8323
CHRISTOPHER R. WILLIAMS, 7477
DARRYL R. WILLIAMS, 6326
JOHN A. WILLIAMS, 6285
JOHN A. WILLIAMS II, 6615
MARK C. WILLIAMS, 3584
MATTHEW R. WILLIAMS, 8339
STEPHEN H. WILLIAMS, 9278
TIMOTHY N. WILLIAMS, 3431
WILLIE J. WILLIAMS JR., 3949
STEVEN E. WILLIS, 1726
TRAVIS A. WILLIS JR., 3605
ROBERT W. WILLOUGHBY, 1361
EVA C. WILSON, 3978
HAROLD L. WILSON, 0632
KENNEDY B. WILSON JR., 3111
ROBERT D. WILSON, 6433
DONALD W. WINGATE JR., 2351
JAMES D. WINGO JR., 9263
MARK S. WINGREEN, 0749
ANNE M. WINKLER, 5312
JOHN S. WINSTEAD, 4370
ROHINI T. S. WINTERS, 1592
JON K. WISHAM, 4467
JAMES W. WISNOWSKI, 8866
KENNETH J. WITTE, 6852
DANNY R. WOLF, 7657
JULIA A. WOLF, 2935
ENOCH K. WONG, 5706
JOHN M. WOOD, 9928
KENTON T. WOOD, 4691
PAUL R. WOOD, 2645
WILLIAM A. WOODCOCK, 7470
THIERRY C. WOODS, 5185
TIMOTHY A. WOODS, 1536
LARRY D. WORLEY JR., 7746
COLIN J. WRIGHT, 0647
DAVID C. WRIGHT, 9999
DEAN N. WRIGHT, 3447
CHRISTOPHER J. WYMAN, 9572
JOSEPH M. YAKUBIK, 5269
BRIAN E. YATES, 0739
ROBERT E. YATES, 0218
ROBERT B. YOUNG JR., 7626
DAVID R. YOUTSEY, 0647
JAMES RICHARD ZAGATA, 8345
PAUL ALBERT ZAVISLAK JR., 6419
CATHERINE M. ZEITLER, 5416
BRIAN P. * ZEMBRASKI, 0045
ARTHUR E. ZEMKE, 9961
TIMOTHY A. ZOERLEIN, 3956
DAVID R. ZORZI, 2719
JEFFREY R. ZOUBEK, 3710
MICHEL P. ZUMWALT, 3616

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CATHERINE M. AMITRANO, 1489
LESLIE R. ANN, 8544
DENISE G. AUGUSTINE, 7558
TAMARA A. AVERETTBRAUER, 1288
SUSAN E. BASSETT, 7216
JENNIFER D. BAUER, 5569
DAVID A. BEAVERS, 5588
MARIE L. BERRY, 0353
DIANE L. BILBRAY, 4534
MICHELLE L. BISHOP, 1517
MICHAEL W. BOUCHARD, 9587
LEE S. BRYANT, 3620
NONA F. BUCHANAN, 0724
DANIEL J. BUSHEME, 4894
SHELLY D. BUTLER, 2882
LOLA R. B. CASBY, 8340
LINDA J. CASHION, 2937
ROBERT K. CLAY, 3544
KELLY A. COLEMAN, 2834
ANNE M. CONWELL, 2032
LENORA L. COOK, 3831
ANKA COSIC, 1986
DAWN B. DANIEL, 0605
WANDA L. DAVIES, 5507
LISA D. DEDECKER, 7000
JANE G. DENTON, 9896
PATRICIA L. DYKSTRA, 1073
BARBARA A. EISENSTEIN, 1501
EDWARD F. FARLEY, 3623
MARGARET E. FOLTZ, 7048
ELEANOR T. FOREMAN, 3458
REBECCA L. GOBER, 2641
ANNETTE GOMEZ, 9528
ANNA M. GREEN, 4823
SANDRA D. HAGEDORN, 7853
JUDITH A. HUGHES, 2208
ROBIE V. HUGHES, 4585
ROBIN E. HUNT, 9885
BRENDA K. IRWIN, 6662
ALETA P. JEFFERSON, 3143
CYNTHIA F. JEFFREY, 9938
LINDA M. JENNINGS, 2826
BEVERLY J. JOHNSON, 3263
MARTHA J. JOHNSTON, 3131
BARBARA A. JONES, 6546
BARBARA A. KALMEN, 2781
JERILYN L. KEITH, 4082
TRACEY M. KEITH, 5986
JOANN M. KELSCH, 0708
JACK L. KENNEDY, 8266
PHILLIP G. KLEINMAN, 8004
NANCY M. LACHAPELLE, 5568
ELIZABETH A. LARINO, 1168
CAROL M. LARSEN, 3149
DIANE F. LENTTUCKER, 9961
ELIZABETH K. LOVE, 6500
LYNN M. MALONE, 7196
IRMA L. MCNAMEE, 1135
SUSAN M. MCNITT, 3347
ANN M. MCQUADE, 8774
JUDITH A. MEEK, 4208
ALTHEA B. B. MILLER, 2391
TERESA L. MILLWATER, 9152
KELLEY C. MOORE, 2142
KAY H. NIMS, 0289
CAROLE A. NUSSEL, 9131
NANCY A. OPHEIM, 8667
JULIE P. PACK, 7946

PENNIE G. PAVLISIN, 8200
ALLISON W. PLUNK, 9668
JONATHAN N. PORTIS, 7429
TERRY L. PRIZER, 8155
MARINA C. RAY, 2933
RICHARD J. REUSCH JR., 1676
CAROLE S. ROBBINS, 9857
SUK HI ROSS, 2617
KATHLEEN SAMUEL, 6532
JOHN G. SANFORD, 0235
DELIA M. SANTIAGO, 4477
CLAIR M. SHEFFIELD, 6486
DONNA R. SMITH, 4088
JEAN E. SPRINGER, 9120
DIANA L. STARKEY, 8069
KEVIN V. STEVENS, 4021
HILDEGARDE P. STEWART, 1207
FRANCIS J. STOECKER III, 9821
JULIE M. STOLA, 0390
NAOMI E. STRANO, 0726
ANNATA RAE SULLIVAN, 1395
PATRICIA J. SWEENEY, 3099
MYRON J. TASSIN JR., 0060
SHARON L. TAYLOR, 4897
RACHEL VLK, 7309
KARLA J. VOY, 1197
MARY C. WAHL, 7690
MARGARET M. WALSH, 9159
ELIZABETH M. WILCOX, 2644
CYNTHIA K. WRIGHT, 6847

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MARK T. ALLISON, 9355
BARBARA B. ALTERA, 6318
ARLEN E. BEE, 2159
JOSEPH PAUL BIALKE, 8592
JAMES G. BITZES, 4750
WILLIAM B. BOYCE, 1002
SCOTT K. BRADSHAW, 9707
JAMES R. BYRNE, 7352
TODI S. CARNES, 2292
WENDY S. CARROLL, 6551
FERDINANDO P. CAVESE, 9069
DAVID P. CHARITAT, 6096
JOSEPH E. COLE, 8733
DEBORAH L. COLLINS, 1728
JAMES H. DAPPER, 7122
KIRK L. DAVIES, 6675
MELINDA L. DAVIS PERRITANO, 6944
ERIC L. DILLOW, 8416
THOMAS F. DOYON, 3879
JAMES M. DURANT III, 0022
THOMAS L. FARMER, 3690
MARK C. GARNEY, 9029
TIMOTHY A. HICKS, 0999
STEPHEN P. KELLY, 9667
LESLIE D. LONG, 4593
JAMES W. MEINDERS, 0891
BLAKE C. NIELSEN, 5189
TERRY A. OBRIEN, 3421
MICHAEL J. OCONNOR, 6360
MICHAEL J. OSULLIVAN, 6390
FERAH OZBEK, 4727
CHRISTOPHER M. PETRAS, 1967
LINDA L. RICHARDSON, 3473
FLOYD S. RISLEY, 2790
ERIC J. ROTH, 3599
MATTHEW J. RUANE, 5775
KENNETH R. SHARRETT, 8960
DOUGLAS M. STEVENSON, 6937
EDWARD H. THOMPSON, 1671
CHRISTOPHER C. VANNATTA, 9168
VICKI K. WEEKES, 4266
KAREN S. WHITE, 7214
PHILIP T. WOLD, 4335
FREDERICK M. WOLFE, 0979

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRIAN K. BALFE, 3674
NORBERTO R. CASTRO JR., 5886
GLENN H. CURTIS, 5080
ROBERT P. NYRE, 8704
RENWICK L. PAYNE, 9700
JAMES H. TROGDON III

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

BRIAN T ALEXANDER, 2600
KELLY P ALEXANDER, 7264
JULIAN D ALFORD, 4324
RICHARD E ANDERS, 6604
BRIAN P ANNICHIARICO, 6103
CHRISTOPHER A ARANTZ, 8880
JAMES L ARMSTRONG, 3670
FRANK S ARNOLD, 8816
THOMAS E ARNOLD JR., 5739
JOHN D AUGSBURGER, 2969
BRIAN F BAKER, 3998
GRANT C BAKLEY, 9310
FRANCISCO M BALL, 7314
EDWARD L BARBOUR III, 5549
ROBERT S BARR, 9335
PETER B BAUMGARTEN, 1534
BRIAN T BECKWITH, 7840
STEVEN F BELSER, 7143
MICHAEL J BERGERUD, 9310
MICHAEL C BERRYMAN, 8377
DEBRA A BEUTEL, 6993
ANDREW D BIANCA, 8416
JAMES W BIERMAN JR., 9091
DOUGLAS H. BIGGS, 4740
MICHAEL A. BLACKWOOD, 7297
JEFFREY L. BLAU, 2450
SEAN C. BLOCHBERGER, 1471
KERRY J. BLOCK, 3049
GARY G. BLOESL, 6148
PHILLIP W. BOGGS, 4659
COREY K. BONNELL, 5855
CARMINE J. BORRELLI, 4952
EDMUND J. BOWEN, 9635
MICHAEL L. BRAMBLE, 6597
GREGORY A. BRANIGAN, 7347
ROBERT M. BRASSAW, 0633
GREGORY T. BREAZILE, 5252
JAMES C. BRENNAN, 4613
MARK C. BREWSTER, 3004
JAMES M. BRIGHT, 8702
BRADLEY W. BROWN, 6844
MICHAEL H. BROWN, 4053
RAPHAEL P. BROWN, 3350
WILLIAM R. BROWN, 0753
KURT J. BRUBAKER, 1496
STEVEN L. BUCKLEY, 6590
WILLIAM S. BUDD, 4841
ERIC F. BUER, 6835
CRAIG M. BURRIS, 2486
MARK A. BUTLER, 1269
RAYMOND D. BUTLER, 1861
TIMOTHY G. CALLAHAN, 5712
WILLIAM E. CALLAHAN, 3751
SCOTT D. CAMPBELL, 5125
RICHARD L. CAPUTO JR., 6786
JAMES K. CARBERRY, 1862
CHRISTOPHER C. CAROLAN, 4233
WINFIELD S. CARSON JR., 2827
JEFFREY S. CARUSONE, 7492
AUGUSTO G. CATA, 2909
CURTIS E. CATENCAMP, 0847
ROBERT A. CECCHINI, 4239
STEVEN E. CEDRUN, 8055
JOHN H. CELIGOY, 3777
JOHN M. CHADWICK, 0683
DAVID G. CHANDLER, 5692
PHILLIP W. CHANDLER, 3900
IRA M. CHEATHAM, 3013
GREGORY L. CHESTERTON, 1490
STEPHEN S. CHOATE, 7739
THOMAS M. CLASEN, 0719
DAVID L. COGGINS, 9152
BIAGIO COLANDREO JR., 0500
MICHAEL G. COLEMAN, 7093
ANTONIO COLMENARES, 7411
DANIEL B. CONLEY, 1269
SEAN P. CONLEY, 4639
WILLIAM J. CONLEY JR., 0129
SHAWN P. CONLON, 4174
JAMES S. CONNELLY, 4644
JEFFREY T. CONNER, 6032
KEVIN B. CONROY, 3356
JONATHAN P. COOK, 7504
MICHAEL A. COOLICAN, 0393
ROBERT L. COULOMBE, 0208
ROBERT A. COUSER, 9057
JAMES L. COX, 0715
PATRICK F. COX, 1978
DENNIS A. CRALL, 5579
JOHN M. CURATOLA, 4718
PAUL G. CURRAN, 8782
PETER W. CUSHING, 2295
MICHAEL D. DAHL, 0303
THOMAS A. DAMISCH, 7494
ROBERT J. DARLING, 5976
JEFFREY P. DAVIS, 1781
JOEL J. DAVIS, 2488
MARK C. DELUNA, 8354
MARSHALL DENNEY III, 0537
DARRIN DENNY, 2511
KENNETH M. DETREUX, 3433
PETER J. DEVINE, 1556
ANTHONY P. DIBENEDETTO JR., 0437
DAVID G. DIEUGENIO JR., 0805
MICHAEL W. DINARDO, 8985
HENRY J. DOMINGUE JR., 5726
JAMES E. DONNELLAN, 3271
FRANCIS L. DONOVAN, 7769
THOMAS A. DOUGHERTY III, 1777
JONATHAN F. DOUGLAS, 3820
STEPHEN E. DUKE, 5234
WILLIAM R. DUNN II, 6620
ROBERT M. EHNOW, 6822
NORMAN R. ELIASEN, 7613
TODD R. EMO, 7546
RUSSELL W. EMONS JR., 8108
TERRI E. ERDAG, 6755
DANIEL P. ERMER, 2171
JOHN A. ESQUIVEL, 0380
RUSSELL E. ETHERIDGE JR., 7147
DAMON E. FIELDS, 2673
RONALD R. FINELLI, 5674
MICHAEL J. FINLEY, 3291
CLAYTON J. FISHER, 9060
JOHN M. FITTS, 5814
DAVID A. FLYNN, 4822
PAUL J. FONTANEZ, 1045
ANDREW W. FORTUNATO, 5271
PAUL A. FORTUNATO, 6568
KEVIN R. FOSTER, 4491
MICHAEL V. FRANZAK, 9588
CHRISTOPHER L. FRENCH, 7320
RICHARD W. FULLERTON, 0830
JONATHAN O. GACKLE, 6853
MAX A. GALEAI, 5366
JOHN R. GAMBRINO, 1407
DOUGLAS K. GELBACH, 0995
MICHAEL W. GEORGE, 0802
JAMES P. GFRERER, 1217
ANDREW J. GILLAN, 0953
DAVID S. GLASSMAN, 0624
CHRISTOPHER W. GOEDEKE, 2449
PATRICK A. GRAMUGLIA, 8929
DOMINIC A. GRASSO, 7717
ALAN S. GREENE, 0368
ALAN M. GREENWOOD, 0816
RONALD A. GRIDLEY, 3602
GREGORY J GRINAKER, 0515
CHRIS M GROOMS, 4564
DANIEL J HAAS, 2575
KARL J HACKBARTH, 7438
RICHARD D HALL, 9857
WILLIAM J HARKINS JR., 1970
GERALD F HARPER JR., 9371
DAWN L HARRISON, 9166
JAMES D HAWKINS II, 4751
KEVIN A HAWLEY, 3502
SHAWN D HEALY, 5730
KARSTEN S HECKL, 9198
ANDREW J HEINO, 0370
MARK A HENSEN, 0085
JAMES H HERRERA, 2796
HARRY J HEWSON III, 4963
DAVID M HITCHCOCK, 0059
WILLIAM R HITTINGER, 9065
MARK R HOLLAHAN, 9694
CHARLES M HOLLER, 4062
JEFFREY Q HOOKS, 9391
MATTHEW C HOWARD, 2089
DAVID S HOWE, 9058
STEPHEN M HOYLE, 6270
DONALD E HUMPERT, 2891
MICHAEL A HUNTER, 4861
NANCY E HURLESS, 2557
DOUGLAS G HURLEY, 7182
JAMES H HUTCHINS, 9188
HENRY M HYAMS III, 0820
THOMAS D IGNELZI, 1239
CHRISTIAN A ISHAM, 2901
ANNETTE R JACOBSEN, 4063
RUDOLPH M JANICZEK, 1414
JEFFREY A JEWELL, 4550
BRANDON F JOHNSON, 4944
CHARLES H JOHNSON III, 8638
JAMES C JOHNSON JR., 9363
MARK D JOHNSON, 8992
MARK T JOHNSON, 4641
THOMAS V JOHNSON, 8404
GARY S JOHNSTON, 2889
DAVID R JONESE, 4703
WILLIAM M JURNEY, 9136
JEFFREY A KARNES, 5285
DAVIN M KEITH, 3264
PATRICK N KELLEHER, 4307
MICHAEL W KELLY, 3560
ANDREW R KENNEDY, 6265
MICHAEL W KETNER, 0866
KEVIN J KILLEA, 3340
MICHAEL P KILLION, 6708
TRACY W KING, 2843
BRIAN T KLINE, 6239
MARK D KNUTH, 5226
VINCENT C KUCALA, 4322
MICHAEL L KUHN, 8619
DOUGLAS S KURTH, 4880
CHRIS D LANDRY, 2500
MICHAEL J LEE, 6561
FREDERICK H LENGERKE, 1091
JOSEPH A LETOILE, 4740
FRANK LUSTER III, 0456
PAUL G MACK, 4227
KEVIN W MADDOX, 2668
THOMAS P MAINS III, 6121
KATHY J MALONEY, 6628
DAREN K MARGOLIN, 9677
GREGORY L MASIELLO, 2820
REY Q MASINSIN, 2276
DAVID W MAXWELL, 0506
TIMOTHY A MAXWELL, 9759
MICHAEL A MCCARTHY, 8397
MITCHELL J MCCARTHY, 4966
THOMAS R MCCARTHY JR., 6449
DARIN J MCCLOY, 6933
BRIAN K MCCRARY, 6859
KEVIN F MCCRAY, 6480
LANCE A MCDANIEL, 6211
JAMES F MCGRATH, 9859
DAVID W MCMORRIES, 6942
BRAD J MCNAMARA, 2152
BRENT E MEEKER, 1230
JACQUELINE R MELTON, 1798
LUIS A MERCADO, 7835
GLEN MILES, 2338
SCOTT T MINALDI, 1097

JAMES J MINICK, 3095
DENNY A MIRELES, 0309
FRANK G MITTAG, 0224
JACK P MONROE IV, 4584
EDWARD M MONTGOMERY, 0929
LOUIS J MORSE JR., 5702
FRANK R MOTLEY JR., 4899
PAUL L MULLER, 0052
MICHAEL J MURPHY, 0697
ANDREW J MURRAY, 8586
RICHARD J MUSSER, 6884
STEPHEN M NEARY, 1829
SAMUEL C NELSON III, 6844
RANDALL P NEWMAN, 8572
STEPHEN C NEWMAN, 7217
TERRENCE A OCONNELL, 7241
PATRICK ODONNELL, 6098
MICHAEL R ORR, 0885
DAVID A OTTIGNON, 4443
JOSEPH T PARDUE, 4228
DOUGLAS W PASNIK, 9842
PAUL D PATTERSON JR., 3756
ROY D PAUL, 6764
CURTIS M PERMITO, 9565
ROBERT A PESCATORE, 9432
ROBERT R PIATT, 4136
CHARLES D PINNEY, 2448
PAUL A POND, 9924
PETER D PONTE, 9483
SERGIO POSADAS, 2040
ROBERT D PRIDGEN, 7711
CHARLES E PROTZMANN, 6287
JOHN M PUSKAR, 4141
WARD V QUINN III, 5165
JEFFREY M REAGAN, 4652
DAVID L REEVES, 1554
GERALD R REID, 2600
PHILLIP J REIMAN, 8986
JOHN C REIMER, 1321
AUSTIN E RENFORTH, 2157
STEPHEN E REYNOLDS, 5941
LARRY D RICHARDS II, 7715
MICHAEL B RICHARDSON, 2308
JOSEPH R RIZZO, 5516
EUGENE H ROBINSON JR., 2442
ROD D ROBISON, 5536
PAUL J ROCK JR., 3432
STEVEN A ROSS, 2744
GARY P RUSSELL, 9335
LAWRENCE S RYDER, 3234
BRYAN F SALAS, 4588
MICHAEL SALEH, 6034
TIMOTHY M SALMON, 1106
NOEL B SANDLIN, 7674
JAMES B SCHAFER, 3274
DAVID A SCHLICHTING, 8357
DOUGLAS R SCHUELER, 2950
MARC A SEHRT, 2989
CHRISTOPHER C SEYMOUR, 7673
ROSEANN L SGRIGNOLI, 0062
ANDREW G SHORTER, 3092
JOSEPH F SHRADER, 9948
SCOTT C SHUSTER, 2908
PAUL G SICHENZIA, 3079
JAMES L SIGMON III, 4756
CHRISTOPHER J SILL, 4868
JOHN A SISSON, 0331
SCOTT R SIZEMORE, 6041
STEPHEN D SKLENKA, 2688
WILLIAM N SLAVIK, 9747
ANDREW H SMITH, 5993
ANTONIO B SMITH, 4224
LARRY E SMITH II, 8525
RICHARD C SMITH, 2471
RUSSELL E SMITH, 9304
STEPHANIE C SMITH, 9559
CHRISTOPHER B SNYDER, 0725
BRUCE W SODERBERG, 8966
NANCY A SPRINGER, 6658
CHRISTOPHER C STARLING, 4299
JOHN B STARNES, 5190
DENNIS R STEPHENS, 3702
JAMES C STEWART, 9115
RICHARDO C STEWART, 1029
MICHAEL R STROBL, 2634
SAMUEL T STUDDARD, 0140
EUGENE L SUMMERS, 3162
FRANK J SVET, 3570
MICHAEL M SWEENEY, 5398
STEPHEN P SWEENEY, 9239
TRACY J TAFOLLA, 6684
TROY D TAYLOR, 1604
TRAVIS A TEBBE, 5452
STEPHEN R TERRELL, 7335
HUGH V TILLMAN, 1819
PAUL TIMONEY, 2743
WILLIAM A TOSICK II, 1490
VAN K TRAN, 1197
JOHN D TROUTMAN, 5990
DAVID L TURNER, 9756
DARIO W VALLI, 5950
KRISTI L VANGORDER, 6341
DALE S VESELY, 0379
WILLIAM A VISTED, 6144
JAMES A VOHR, 6333
COLBY C VOKEY, 0110
CHRISTOPHER J WAGNER, 0360
THOMAS F WALSH III, 1985
HOWARD S WALTON, 7130
JOHN J WANAT, 5929
ANDREW J WAREHAM, 1997
VINCENT P WAWRZYNSKI, 8681
JOHN S WEDEMEYER, 7686
THOMAS D WEIDLEY, 3900
BRADLEY E WEISZ, 4091
DAVID P WELLS, 1789
STEPHEN A WENRICH, 4906
JAMES F WERTH, 6756
JAMES W WESTERN, 8105
JOSEPH S WHITAKER, 4658
JAMES W WIECKING, 4269
ANDREW G WILCOX, 4396
PATRICK R WILKS, 8241
KIRK C WILLE, 3494
EUSEEKERS WILLIAMS JR., 1942
GEORGE S WILLIAMS, 1169
BRENT S WILLSON, 8488
GARY A WINTERSTEIN, 0619
WILLIAM P WITZIG, 3380
KENNETH P WOLF JR., 1166
JEFFREY A WOLFF, 9249
DAKOTA L WOOD, 1831
JOHN R WOODWORTH, 9260
HUGH A WORDEN, 0542
MARK A WORKMAN, 4496
ANTHONE R WRIGHT, 3971
JOHN T YANVARY, 4993
MARK E YAPP, 6180
SCOTT E YOST, 2018
MICHAEL W YOUNG, 6430
ROBERT C YOUNG, 1874
KENNETH ZIELECK, 3659
PHILLIP J ZIMMERMAN, 4930

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROSEMARIE H. O CARROLL, 2034

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JOHN M. HAKANSON, 5428

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

DANIEL P ARTHUR, 5688
JOSEPH J BIONDI, 3188
MARK E COOPER, 6633
ROBERT V DANIELS, 3432
CHRISTOPHER S DIGNAN, 3333
JAMES S DYE, 5660
TIMOTHY T EARL, 7040
JASON C EATON, 8264
THOMAS J FITZGERALD, 3520
TIMOTHY J HERALD, 8917
CHARLES B JACKEL, 1286
GARY L JACOBSEN, 6553
RICHARD LEBRON, 0101
HANS E LYNCH, 0605
MATTHEW S MEMMELAAR, 6156
MATTHEW J MULCAHY, 7584
CHASE D PATRICK, 2565
STEPHEN J PAYSEUR, 3625
EDWARD J ROBLEDO, 8452
STACY L SCHWARTZ, 7572
JOHN J SEIFERT, 7656
CALVIN F SWANSON, 2005
BRIAN L TOTHERO, 9272
RICHARD K VERHAAGEN, 7623
ALEXIS T WALKER, 6156
JOHN A WARDEAN, 7056
JAMES A WIEST, 6108
WALTER C WRYE IV, 2175

HOUSE OF REPRESENTATIVES—*Tuesday, February 25, 2003*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mrs. CAPITO).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 25, 2003.

I hereby appoint the Honorable SHELLY MOORE CAPITO to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal God, Divine Providence has guided this Nation throughout its history.

You have brought us through times of war and times of peace, days of hardship and days of plenty.

Through all of our struggles You have brought to light great falsehoods and led us to embrace greater truths.

Be with the Members of the 108th Congress and guide them in these unsettling times.

Keep our Nation strong and, in Your loving care, keep us safe.

Be close to those who are in most need of Your consolation and help.

Listen to all who call upon Your holy name in prayer as they struggle to understand the signs of the times.

We beg to know Your holy will now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 151. An act to amend title 18, United States Code, with respect to the sexual exploitation of children.

The message also announced that pursuant to section 8002 of title 26, United States Code, the Chair, on behalf of the Committee on Finance, announces the designation of the following Senators as members of the Joint Committee on Taxation:

The Senator from Iowa (Mr. GRASSLEY).

The Senator from Utah (Mr. HATCH).

The Senator from Oklahoma (Mr. NICKLES).

The Senator from Montana (Mr. BAUCUS).

The Senator from West Virginia (Mr. ROCKEFELLER).

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 14, 2003.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 14, 2003, at 10:38 a.m.

That the Senate passed S. Con. Res. 4.

That the Senate passed without amendment H.R. 395.

That the Senate passed without amendment H. Con. Res. 1.

That the Senate passed without amendment H. Con. Res. 35.

That the Senate passed without amendment H. Con. Res. 41.

That the Senate passed without amendment H.J. Res. 19.

That the Senate agreed to conference report H.J. Res. 2.

Appointment: Harry S Truman Scholarship Foundation.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker pro tempore BARTLETT signed the following enrolled joint resolution on Tuesday, February 18, 2003:

H.J. Res. 2, making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

REJECT EXPLOITATION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Madam Speaker, the coming debate on cloning raises a fundamental issue: Is it ethical to turn human reproduction into a scientific manufacturing process? To me, Madam Speaker, the answer is an unequivocal no. There is no moral justification for human cloning.

Some people claim that, in this case, the ends justify the means and we should just ignore the ethical connotations of creating cloned human embryos, for whatever purpose. But let us establish the first principle here: every life is precious and every life is unique.

The procedures contemplated by opponents of a full cloning ban are no better than medical strip-mining, and they would trample the dignity of life. This we cannot and will not allow.

HONORING JUSTICE ERNEST A. FINNEY, JR.

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, I rise today to celebrate the extraordinary achievements of Earnest A. Finney, Jr.

Raised by his father after his mother died following his birth, Earnest Finney went on to graduate from Claflin College and from South Carolina State University School of Law. Finding it difficult to earn a living as an attorney, Finney became a teacher and waited tables to make ends meet.

Finney then settled in Sumter, South Carolina, with his family and became South Carolina's leading defender of civil rights, representing more than 6,000 clients. In 1963 Finney served as chairman of the South Carolina Commission on Civil Rights and in 1972 was elected to the South Carolina House of Representatives. He was then elected as judge of the Third Judicial Circuit in 1976.

Later, in 1994, Ernest Finney, who was once denied membership in South

Carolina's lawyers association because of his race, became the first African American chief justice of South Carolina's Supreme Court since Reconstruction. I am extremely honored to have been Justice Finney's first Republican supporter in the State Senate. Since then, Justice Finney has retired and was named interim president of South Carolina State University in 2002.

Justice Finney remains a bright and shining star; and I thank him for his service, integrity, and commitment to making South Carolina and America a better place.

GERMANY AND FRANCE MUST DECIDE WHERE THEY STAND

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, nearly a century ago, George Santayana wrote, "Those who cannot remember the past are condemned to repeat it."

This is a big world we live in, but if there are two countries in this world that should remember the consequences of coddling tyrants, they are France and Germany.

But these two countries seem to have forgotten.

The world is watching as Saddam Hussein amasses weapons so powerful they could wipe out whole armies, whole cities and, given time, perhaps even whole nations; and we know he will use them because he has done so before. But France and Germany seem to be doing everything in their power to foil our plans to stop him before it is too late.

Is it because these two countries have seen so much blood that they just cannot stand the thought of another war? Or is it because so much of Saddam's technology has come from Germany? Perhaps it is because France is Saddam's third largest trading partner. France and Germany's recklessness has even risked the safety of an ally and threatened the cohesiveness of NATO itself, although I am glad to say they have come to their senses there.

It is time for Germany and France to decide where they stand. Are they on the side of tyrants, or are they on the side of freedom? There is no other choice.

HOUR OF MEETING ON WEDNESDAY, FEBRUARY 26, 2003, AND THURSDAY, FEBRUARY 27, 2003

Mr. WILSON of South Carolina. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. on Wednesday, February 26; and that when the House adjourns on Wednesday, it adjourn to meet at 1 p.m. on Thursday, February 27, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4 p.m. today.

Accordingly (at 2 o'clock and 10 minutes p.m.), the House stood in recess until approximately 4 p.m.

□ 1615

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. CAPITO) at 4 o'clock and 15 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

HONORING THE LIFE OF AL HIRSCHFELD AND HIS LEGACY

Mrs. BLACKBURN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 46) honoring the life of Al Hirschfeld and his legacy.

The Clerk read as follows:

H. RES. 46

Whereas Al (Albert) Hirschfeld was born June 21, 1903, in St. Louis, Missouri;

Whereas Hirschfeld moved to New York City with his family at age 12;

Whereas, by age 18, Hirschfeld was already the art director for Selznick Pictures;

Whereas Hirschfeld went on to study painting, sculpture, and drawing in Paris;

Whereas on a trip in Bali, Hirschfeld first became "enchanted with line" and developed his signature style of caricature;

Whereas, in 1926, Hirschfeld attended the theater with press agent Richard Maney, who noticed the sketch Hirschfeld had doodled on his program and convinced him to submit it to the New York Herald Tribune, which printed it on its front page;

Whereas Hirschfeld began receiving periodic drawing assignments for the drama pages of the New York Times;

Whereas Hirschfeld became a close friend of legendary New York Times theater critic Brooks Atkinson and developed a relationship with the newspaper that would last nearly 75 years;

Whereas Hirschfeld went on to draw nearly every important figure of the American theater for the New York Times;

Whereas searching for the name of Hirschfeld's daughter, Nina, sometimes hidden as many as a dozen times within his drawings, became a favorite pastime for readers;

Whereas Hirschfeld's work has appeared in numerous books and is hung in many museums including the Metropolitan Museum of Art, the Museum of Modern Art, the Whitney Museum of American Art, and the St. Louis Art Museum;

Whereas Hirschfeld received 2 special Antoinette Perry (Tony) Awards for excellence in the theater;

Whereas Hirschfeld was elected to the American Academy of Arts and Letters;

Whereas Hirschfeld was selected to receive the National Medal of Arts in 2003;

Whereas in 1996 Hirschfeld was named a Living New York City Landmark by the New York Landmarks Conservancy;

Whereas audiences for years to come will be reminded of Hirschfeld's life and work through a Broadway theater named after him;

Whereas success on Broadway was measured, in part, by whether one had been caricatured by Hirschfeld;

Whereas Hirschfeld's drawings helped to communicate to millions of people the excitement of live theater;

Whereas Hirschfeld continued working until the day he passed away, January 20, 2003, at the age of 99; and

Whereas Hirschfeld's unique contribution to American culture will be sorely missed: Now, therefore, be it

Resolved, That the House of Representatives honors the life of Al Hirschfeld and his legacy, and extends its condolences to his family, friends, and loved ones.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Tennessee (Mrs. BLACKBURN) and the gentleman from Tennessee (Mr. COOPER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Tennessee (Mrs. BLACKBURN).

GENERAL LEAVE

Mrs. BLACKBURN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

Mrs. BLACKBURN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 46, introduced by my distinguished colleague, the gentleman from New York (Mr. NADLER), honors the life of legendary illustrator Al Hirschfeld.

Madam Speaker, Al Hirschfeld passed away at his home in New York City on January 20 at the age of 99. During his remarkable career that spanned three-quarters of a century, Al Hirschfeld drew caricatures of giants of the performing arts world that appeared primarily in the New York Times, but also in a variety of books and periodicals. An A-list of museums and galleries feature his works, including the Metropolitan Museum of Art in New York and the St. Louis Art Museum, which is in his hometown.

His drawings, easily recognized by their distinctive flowing lines and the hidden word "Nina," the name of his daughter that appeared in each of his works, turned generations of his own fans into connoisseurs of all art and theater. Indeed, in June of 1990, I had the opportunity to meet some of his family members to observe and admire his work firsthand and even to go on a search for some of those Ninas that were hidden in his caricatures when his exhibit was at the Tennessee Botanical Gardens and Fine Arts Center in Nashville.

By passing this resolution, this House can express the sadness of the City of New York, and indeed all of America, from Al Hirschfeld's passing last month. Therefore, I urge all Members to support the adoption of House Resolution 46.

Madam Speaker, I reserve the balance of my time.

Mr. COOPER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today we honor the life and legacy of Al Hirschfeld, the pen and ink illustrator who chronicled some 75 years of American theater and entertainment history who died on January 20 in Manhattan at the age of 99.

Hirschfeld, who was born June 21, 1903 in St. Louis, earned a special Tony award for his drawing of theater people. As my colleague, the gentlewoman from Tennessee (Mrs. BLACKBURN), has mentioned, he often featured the word Nina for his daughter in thousands and thousands of his drawings. In fact, it is kind of fun to find the Ninas in a particular drawing and Hirschfeld made more than 10,000 caricatures in his career.

At the tender age of 11, Hirschfeld's art teacher in St. Louis told his mother, "There is nothing more that we can teach him here in St. Louis."

The family promptly moved to New York where he enrolled in the Art Students' League. At age 17, Hirschfeld became an art director at Selznick Pictures. He held that position for about 4 years; and then in 1924 he moved to Paris to work, led a Bohemian life, grew a beard, which he retained until his death.

Although Hirschfeld is best known for his illustrations on the New York Times's theater pages, he also turned out posters for Broadway shows and drew for "TV Guide," "The Washingtonian," "Play Bill," "Rolling Stone" and many, many other publications.

In 1991, Al Hirschfeld became the first artist in history to have his name on a U.S. postage stamp booklet when the United States Postal Service released five stamps they commissioned Hirschfeld to design. The stamps portray Laurel and Hardy, Jack Benny, Edgar Bergen and Charlie McCarthy, Abbot and Costello, and Fanny Brice.

The Hirschfeld postage stamps were so successful that in 1994 the U.S. Postal Service again commissioned Hirschfeld to portray Hollywood's celebrated stars of the silent screen era. This series of commemorative Hirschfeld stamps honors Rudolf Valentino, Charlie Chaplin, Buster Keaton, and the Keystone Cops.

In a 1999 interview with Reuters, Hirschfeld is quoted as saying, "After 70 years of drawing you have to improve, otherwise you are a dolt. It is a question of elimination and understanding, of trial and error, and suddenly something happens, an epiphany."

Madam Speaker, I urge my colleagues to support H. Res. 46, honoring the life and legacy of Al Hirschfeld.

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, I rise in support of this resolution, and I would like to thank the leadership of both sides for bringing it to the floor today.

As a sponsor of the resolution and as the Member of Congress representing the Broadway community, I appreciate the bipartisan support this resolution has received.

Madam Speaker, this resolution is in honor of a beloved member of the American theater community who passed away in his sleep this past January 20.

Throughout his long and extraordinary career, Al Hirschfeld's drawings conveyed to millions of people the excitement and glamour of live theater. Al Hirschfeld was born on June 21, 1903, in St. Louis, Missouri, and moved to New York City with his family at the age of 12. He discovered his artistic talents early on; and by age 18, he had already been hired as art director for Selznick Pictures, drawing the posters for such important movies as the Marx Brothers' "A Night at the Opera."

It was a night at the theater, however, that was the turning point in his life. In 1926 Hirschfeld attended a Broadway show with press agent Richard Maney, who was impressed by the sketch Hirschfeld had doodled on his program. Maney convinced him to submit the sketch to the New York Herald Tribune, which printed it on its front page. Periodic drawing assignments from the Herald Tribune led to an invitation from the New York Times to contribute a drawing for its drama pages. Thus began one of the most fruitful partnerships in history as Al Hirschfeld's drawings became a critical element of the New York Times' drama coverage for the next 75 years.

Hirschfeld drew nearly every important figure in the American theater and popular culture from Charlie Chaplin to Jerry Seinfeld. His drawings were caricatures. They captured the essence of a performer in just a few lines. They were never mean-spirited and never meant to hurt a subject. In fact, it was a mark of respect and an honor to be captured in a Hirschfeld. Many a performer reticent to give an interview to the New York Times could be convinced when a Hirschfeld drawing was promised if he would give the interview.

No tribute to Al Hirschfeld could be complete without mention of his daughter, Nina, whose name has appeared in nearly every Hirshfeld drawing since her birth in 1945. It became a popular activity for regular readers of the Times to locate the one or many Ninas hidden throughout in his drawings.

In this Hirschfeld, for example, you will observe that the Nina is throughout the tie and that next to his signature the number 23 is put in, which is the number of times Nina's name is in the caricature.

Throughout his life, Hirschfeld gained wide recognition for his work which appeared in numerous books and museums, including the Metropolitan Museum of Art, the Museum of Modern Art, the Whitney Museum, and the St. Louis Art Museum. He also earned countless honors such as receiving two special Tony awards for excellence in the theater and for being named a living New York City landmark.

Shortly before his passing he learned that he had been elected to the American Academy of Arts and Letters and was to have been presented with the National Medal of Arts by President Bush at the White House later this year. And as an ultimate tribute from the theater community to which he contributed so much, on June 21st of this year, which would have been his 100th birthday, he will have a theater named after him.

But while all of this recognition is well deserved, Al Hirschfeld was most at home at his drawing board, sitting on the barber's chair he liked to use. He was still working until the day he died, drawing a picture of his good friends, the Marx Brothers.

We will never forget Al Hirschfeld. His work will endure for many, many generations. But there is a big hole in the Sunday Times these days with no Hirschfeld drawings to liven up the drama pages and no Ninas to search for.

Madam Speaker, I urge my colleagues to vote for this resolution. I hope we pass it unanimously.

Mrs. BLACKBURN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the distinguished gentleman from New York (Mr. NADLER). I simply urge adoption of this measure.

Ms. SLAUGHTER. Madam Speaker, I rise today to remember the much-beloved New York artist, Al Hirschfeld, who brought the vibrant world of Broadway alive for 75 years—longer than most of us live.

This singular talent drew the actors, composers, choreographers, directors who made it all work—the talented people who are responsible for what we collectively call "the theater," but what we also recognize is one of the unique contributions of American culture. For a mild-mannered and gentle soul, he was a veritable force of nature.

Hirschfeld's curvy, single line drawings that appeared to be so spare, so simple, held within them all the awe with which he—and we the audience—felt for this original and talented artistic community—and he did it over the generations. His work, his memory, and the theatre he loved will live on, and we will appreciate it more because of a prolific ability to share his vision of it with us.

I urge all my colleagues to support the resolution that remembers and commemorates Al Hirschfeld—a giant in the business of making magic happen before your very eyes, on the New York stage.

Mrs. BLACKBURN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COOPER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Tennessee (Mrs. BLACKBURN) that the House suspend the rules and agree to the resolution, H. Res. 46.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. BLACKBURN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMITTING OFFICIAL PHOTOGRAPHS TO BE TAKEN WHILE THE HOUSE IS IN ACTUAL SESSION

Mr. MICA. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 67) permitting official photographs of the House of Representatives to be taken while the House is in actual session on March 12, 2003.

The Clerk read as follows:

H. RES. 67

Resolved, That on March 12, 2003, official photographs of the House may be taken while the House is in actual session. Payment for the costs associated with taking, preparing, and distributing such photographs may be made from the applicable accounts of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise here today for some mundane business, but important as far as the history of the House is concerned, and that is consideration of House Resolution 67, which would authorize the use of the Chambers of the House for a photograph, official photograph of the House of Representatives for the 108th Congress while we are in session.

I am pleased to do this today on behalf of the gentleman from Ohio (Chairman NEY) of the Committee on House Administration who is not able to be with us; but as a Member I am pleased that the official photograph of the House will be taken, and I will announce this on March 12, 2003.

Payments associated with the taking, preparing, and distributing of the photo may be made from the applicable accounts of the House. The official photo of the House of Representatives, as we all know, has become a tradition for each of our Congresses. I believe this photograph is not only an appropriate moment to the Members serving in the 108th Congress but also a valuable historical record. I urge full support of this bipartisan request for this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this resolution and wish to associate myself with the remarks of my esteemed colleague from Florida (Mr. MICA) on what has become a quintessential Kodak moment for the Members of this august body. And I look forward to that photo opportunity because I agree with the gentleman that this clearly is a historic moment for the House as well.

Madam Speaker, I yield back the balance of my time.

☐ 1630

Mr. MICA. Madam Speaker, I yield myself the balance of my time.

Again, this is a bipartisan request. It is too bad that the picture is not taken today when we all look relaxed, refreshed, coming back from our districts, but it will be taken, as I said, March 12.

Madam Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the resolution, H. Res. 67.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of House Resolution 67, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

Mr. MICA. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 40) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The Clerk read as follows:

H. CON. RES. 40

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used on April 30, 2003, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Connecticut (Mr. LARSON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to rise here today for consideration of House Concurrent Resolution 40, which is necessary to permit the House and the Congress to use the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The United States Holocaust Memorial Museum was charged with providing appropriate ways for the Nation to commemorate the days of remembrance as an annual national and civic commemoration of the Holocaust. As a result of this legislation, the very first ceremony of remembrance was held in the rotunda in 1979. It has been held there every year since that time except for periods when the rotunda has been closed for renovations.

House Concurrent Resolution 40, the resolution before us, will provide this year's national ceremony which will be conducted on April 30, 2003, in the rotunda of the United States Capitol Building. The purpose of the days of remembrance, again, is to ask all citizens, all Americans, to reflect on the Holocaust, to remember the victims and to strengthen our sense of democracy, our demand for human rights.

This ceremony will be the centerpiece of similar remembrance ceremonies to be held throughout the Nation. Members of the Congress, government officials, foreign dignitaries, Holocaust survivors, and citizens from all walks of life have attended previous ceremonies. At last year's days of remembrance commemoration in the rotunda of our Capitol, Assistant to the President for National Security Affairs, Condoleeza Rice, was the keynote speaker. Two years ago, President George W. Bush gave the keynote address.

The theme for this particular day of remembrance is "For Your Freedom and Ours." How fitting and how proper that it be in honor and remembrance of those courageous individuals in the Warsaw ghetto who valiantly rose up against their Nazi oppressors some 60 years ago.

In remembering those who took a determined stand against Nazism, we honor the memory of those who perished, and of course we are reminded that individuals do have the power, and the choice, to make a difference in the fight against oppression and murderous hatred. And we are so much reminded of that today as we make choices here in this Congress and as our President makes choices, not only for our Nation but the world, against similar oppression and potential Holocaust.

Madam Speaker, I urge that we support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Concurrent Resolution 40, authorizing the use of the Capitol rotunda on April 30, 2003, for a ceremony sponsored by the United States Holocaust Memorial Council, pursuant to Public Law 106–292, to observe the days of remembrance for the victims of the Holocaust.

I am pleased to be an original cosponsor of this resolution, and I want to congratulate the distinguished gentleman from Florida (Mr. MICA) for bringing it before us today, and the gentleman from Virginia (Mr. CANTOR), the new chief deputy majority whip, for introducing it.

Congress provides for this ceremony every year during the spring. Related events will be occurring all over the country. I am proud to acknowledge that it has set a precedent in the State of Connecticut. I presided over that chamber's Holocaust memorial services for 8 years.

These related events provide Americans of all faiths and ethnic backgrounds to reflect on the Holocaust, to remember its victims and to strengthen our commitment to democracy and human rights. It is appropriate that we use the Capitol rotunda, the citadel for the rule of law and the location of so many historic ceremonies, to again draw attention to one of the greatest tragedies in human history. It reminds us that such events must never be permitted to occur.

Each year the ceremony has a theme geared to specific events which occurred during the Holocaust, as the gentleman from Florida (Mr. MICA) has pointed out. This year's theme for the days of remembrance is "For Your Freedom and Ours," to honor the courageous armed resistance of the Jews in the Warsaw ghetto to deportation and slaughter in the Nazi death camps.

Between July and September of 1942 the Germans deported nearly 300,000 Jews from the Warsaw ghetto for execution. Cut off from assistance from the outside world, poorly armed resistance forces fought the German military for a month, in April and May of 1943, until the ghetto was finally destroyed. This resistance served as a symbolic victory and protest in the fight against oppression and helped raise the consciousness about the atrocities Hitler was perpetrating in Europe.

While the days of remembrance commemorates historic events in the 1930s and 1940s in Europe, the issues raised by the Holocaust remain fresh in our memories as we survey the political scene in the world today. The nature and tactics of war and the identity of an enemy may change, but what remains is the terror, the cruelty, and the madness of it.

It is especially timely now to encourage public reflection on the faith of Holocaust victims and to remember that there was then and there is still today evil in the world. The ceremony we are authorizing today reminds us that individuals, as well as Nations, can strike a blow to preserve the balance on which human civilization rests.

I urge the passage of this concurrent resolution. I have no additional speakers, but I would just like to thank Matt Pinkus from our staff for his very thorough job and assistance in the comments that I used to address the body today.

Madam Speaker, I yield back the balance of my time.

Mr. MICA. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I am pleased again to bring before the House, House Concurrent Resolution 40 which would permit the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance for the victims of the Holocaust. I urge my colleagues to pass this concurrent resolution and also for them to reflect upon the time in history that we face, the potential for another Holocaust and the easy route of ignoring the world situation and the potential for human disaster. Difficult choices in our times, but we cannot afford to ever experience what we will commemorate and remember, victims of the Holocaust from World War II, on this occasion and use of our rotunda.

Ms. ROS-LEHTINEN. Madam Speaker, I want to rise in support of H. Con. Res. 40, authorizing the rotunda of the Capitol to be used on April 30, 2003, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust, and commend the gentleman from Virginia (Mr. CANTOR) for bringing this important measure to the floor at this time.

When we talk of the Holocaust, we speak of a unique atrocity, distinct from any other.

The mass murder that was inflicted upon millions of innocent men, women, and children must be viewed both as crimes against humanity and acts of genocide in their own right, and should be remembered as such.

Yet, while the Holocaust is unique in history, anti-Semitism continues to haunt European society.

Initially, Jews returning home after their liberation from the death camps often were met by their neighbors who had taken their houses, refused to return them, and in many places murdered these survivors of the Nazis.

More recently, the continued violence in Israel, the West Bank and Gaza has released pent-up anti-Semitism throughout Europe.

In my capacity as the Chair of the Subcommittee on International Operations and Human Rights in the 107th Congress, I held several hearings and briefings on the rise of religious persecution in Europe, engaged in Western European nations in combating the rise of anti-Semitism within their counties and in international fora, where anti-Semitic and anti-Israel bias prevails.

However, this most recent outbreak of anti-Semitism is not limited to Europe by any means.

Many of the ancient canards and lies about Jews are being resurrected in the Arab media.

This includes the revival of the "blood libel" and pervasive Holocaust denial by the government-controlled press in Egypt and Saudi Arabia.

This cannot be tolerated.

We must demand that these governments, recipients of significant U.S. foreign assistance and other U.S. support, take immediate action to publicly repudiate both the message of hate and violence, as well as the purveyors of such filth.

Today, as we consider this measure to provide a forum for honoring the courage and indomitable will of the victims of the Holocaust, let us be guided by the lessons of the past and commit ourselves to eradicating the intolerance and extremism which led to this grim period in history.

Accordingly, I urge my colleagues to support this important resolution, so that the lessons of the Holocaust may not be forgotten.

Mr. CROWLEY. Madam Speaker, I am honored to rise today in support of H. Con. Res. 40, permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Remembrance of victims of the Holocaust is an indispensable and enduring task. We all must honor and identify with the victims. I therefore strongly support the use of the rotunda of the Capitol for a ceremony remembering the victims of the Holocaust.

The most horrifying extent of anti-Semitism took place during the Nazi and Fascist reign in Europe. Jewish people were beaten, discriminated, and deported to concentration camps where they had to suffer from hard labor and medical experiments or were executed in gas chambers. This most horrible form of anti-Semitism took the lives of more than six million people, and the Jewish fate must never be forgotten. Indeed, we must ensure that the seeds of anti-Semitism are never sown again in Europe or elsewhere in the world.

And although we are currently in the sixth decade after the end of the Holocaust, the fight against anti-Semitism is far from over. Quite the contrary, new hatred against Jews can be witnessed in Europe, the Caucasus, and Central Asia. Nazi slogans are shouted in the streets of Germany, synagogues are burnt, and Jews are beaten up. This kind of hatred has already brought catastrophe to the Jewish people. Remembrance of the past is therefore essential as it helps focus attention on current and future threats to the Jewish people

Remembrance must, however, go beyond intellectual insight and historical facts and should also include an emotional understanding, as far as this is possible. Only then are people ready to develop an attitude of zero-tolerance against anti-Semitism and discrimination in general.

Mr. CANTOR. Madam Speaker, I rise today in support of this important resolution, H. Con. Res. 40, permitting the use of the United States Capitol rotunda to observe, Yom Hashoah, the Day of Remembrance for Victims of the Holocaust.

Madam Speaker, seventy years ago a tyrant as evil as any known in the history of man, rose to power preaching an agenda of hate and racial superiority. His shadow caused darkness to fall upon the earth. He slew the innocent and pure, men and women and children, with vapors of poison and burned them with fire. And when the light of freedom shined again, tens of millions lay dead, cities and nations lay in ruin and a world stood awe struck at the horrors that had occurred.

Sadly today, even in our time, we face again totalitarian regimes led by maniacal dictators who threaten the peace and stability of the world. The rotunda of the United States Capitol represents the seat of free and open discourse, the foundation of our democracy, and is an anathema to those tyrannical leaders and their regimes.

We in the United States, the birthplace of Thomas Jefferson and Martin Luther King, enjoy a great deal of freedom. We must not take these freedoms for granted. We must not forget that genocide and human rights abuses continue to occur around the world. We must not remain silent when such atrocities occur, and we must dedicate ourselves to continue to educate people around the globe about the horrors of the Holocaust. We must be forever mindful of the danger of such intolerance and ensure that it never happens again.

Madam Speaker, that is why there can be no place more fitting than the rotunda of our Capitol, where freedom shines, to remember those innocent who suffered from a tyrant past, and to speak to the hope of those oppressed people who suffer from the tyrants of today.

Mr. MICA. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 40.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MICA. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MICA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H. Con. Res. 40.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

REPORT ON NATIONAL EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–41)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 25, 2003.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 4 o'clock and 43 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WHITFIELD) at 6 o'clock and 30 minutes p.m.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. BURTON of Indiana. Mr. Speaker, I offer a resolution (H. Res. 98), and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 98

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Small Business: Mr. King of Iowa.

Veterans' Affairs: Mr. Murphy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 46, by the yeas and yeas;

H. Con. Res. 40, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

HONORING THE LIFE OF AL HIRSCHFELD AND HIS LEGACY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 46.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Tennessee (Mrs. BLACKBURN) that the House suspend the rules and agree to the resolution, H. Res. 46, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 31, as follows:

[Roll No. 33]

YEAS—403

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—31

Bass
Carson (IN)
Carter
Clyburn
Combest
Conyers
Cox
Davis (IL)
Feeney
Gallegly
Gephardt
Gordon
Gutierrez
Hastings (WA)
Hinchey
Hoeffel
Hooley (OR)
Johnson (CT)
Jones (OH)
Kennedy (RI)
Lewis (CA)
Lipinski
McDermott
Millender-McDonald
Otter
Peterson (MN)
Rogers (AL)
Rush
Ryun (KS)
Snyder
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. (Mr. WHITFIELD) (during the vote). The Chair will remind Members there are less than 2 minutes remaining on this vote.

□ 1850

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FEENEY. Mr. Speaker, on rollcall No. 33 I was unavoidably detained. Had I been present, I would have voted "Yea."

Mr. ROGERS of Alabama. Mr. Speaker, on rollcall No. 33 I was unavoidably detained. Had I been present, I would have voted "Yea."

Mr. CARTER. Mr. Speaker, due to weather related factors, I was unavoidably detained and missed H. Res. 46 rollcall vote No. 33. If I were present, I would have voted in favor of H. Res. 46.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the next vote will be a 5-minute vote.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 40.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 40, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 26, as follows:

[Roll No. 34]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Green (WI)

Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—26

Bass
Brown (OH)
Carson (IN)
Clyburn
Combest
Davis (IL)
Fattah
Gallegly
Gephardt
Gordon
Gutierrez
Hastings (WA)
Hinchey
Hoeffel
Hooley (OR)
Jones (OH)
Kennedy (RI)
Lewis (CA)
Lipinski
McDermott
Millender-McDonald
Peterson (MN)
Rush
Ryun (KS)
Snyder
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind the Members there are less than 2 minutes remaining in this vote.

☐ 1857

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. JONES of Ohio. Mr. Speaker, on rollcall Nos. 33 and 34, H. Res. 46 and H. Con. Res. 40, I was on the hill but my pager was inoperable. I would have voted "yes" on both resolutions.

☐ 1900

IN SUPPORT OF THE PRESIDENT'S ECONOMIC PLAN

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, I speak out today in support of the President's economic plan. This plan is about three things: number one, jobs; number two, jobs; number three, jobs.

If you do not have a job and you want a job, the President's plan is for you. If you do have a job and you want a better job, the President's plan is for you.

Some have said that this plan is only for the rich because it will eliminate double taxation on dividends. They say that because they are stuck in an economic time warp and they refuse to understand the economic realities of today. Double taxation is un-American, and our seniors need this tax break so that that their retirement income can provide them with security and stability.

The President's plan provides an economic stimulus for every American. It enacts tax policy that is pro-growth, pro-opportunity, and, most importantly, pro-family, and I am talking about the American family, every single one of them.

I urge my colleagues not to give in to the hand-wringers and to support this bold plan for America's future.

TAX FAIRNESS

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I do not normally give 1 minutes any more, but after hearing my colleague from the Republican side talk about it, I shall.

I was home most of last week and talked with my constituents about the President's proposed tax cut. One of the things that I think bothers a lot of folks is if we eliminate the so-called double taxation, we have double taxation in lots of areas in our country, but if we eliminate double taxation, the double taxation is a good issue, but it is just patently wrong for a person in my district who makes $60,000 a year working at a chemical plant or refinery, because they work 40 hours a week and maybe overtime to pay their tax rates. For somebody to sit home and clip coupons because maybe they inherited that and they make $60,000 a year, to say I am sorry, you do not have to páy taxes on that is wrong. Income is income.

Now, I agree that I would like to increase the dividend deduction so we can help smaller investors, but, again, abolishing the dividend tax, which is half the President's plan, is just patently wrong for the American people.

BALANCING THE COST OF WAR AGAINST THE COST OF TAX REDUCTION

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, the biggest problem with the tax cut that President Bush has proposed is not that it is going to require over $4 trillion in lost Federal revenue over the next decade, it is not that it is going to create more than a $2 trillion deficit, and it is not that the majority of it is going to go to those who need it the least, the biggest problem is that we do not know what the cost of the war is.

We have gone down this road before and we wound up quadrupling the public debt. The responsible thing to do is to hold off on tax cuts until we know what the cost of this conflict in Iraq will amount to, until we have some sense of how long we are going to have to stay there, until we have some sense of what it will cost to reconstruct that country, until we have some sense of what it will cost to establish a stable democracy before we get out of there and allow it to return to the kind of despotic leadership that it is subject to today.

So let us be prudent. Let us hold off on tax cuts. If we must, we should proceed with a prudent foreign policy with regard to the Middle East. Let us rid the world of weapons of mass destruction to the extent we can do so, but let us not break the bank in the United States and pass the bill on to our children.

Let us be prudent and fiscally responsible. Let us put off tax cuts until we know what kind of expense we are undertaking with regard to the war in Iraq.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WHITFIELD). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PUBLICATION OF THE RULES OF THE COMMITTEE ON GOVERNMENT REFORM 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TOM DAVIS) is recognized for 5 minutes.

Mr. TOM DAVIS of Virginia. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI of the Rules of the House of Representatives, I hereby submit the rules of the Committee on Government Reform for the 108th Congress for publication in the Congressional Record. These rules were adopted by the Committee on February 13, 2003, in a meeting that was open to the public.

1. RULES OF THE COMMITTEE ON GOVERNMENT REFORM

U.S. House of Representatives

108th Congress

Rule XI, clause 1(a)(1)(A) of the House of Representatives provides:

Except as provided in subdivision (B), the Rules of the House are the rules of its committees and subcommittees so far as applicable.

(B) A motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, each shall be privileged in committees and subcommittees and shall be decided without debate.

Rule XI, clause 2(a)(1) of the House of Representatives provides, in part:

Each standing committee shall adopt written rules governing its procedure. * * *

In accordance with this, the Committee on Government Reform, on February 13, 2003, adopted the rules of the committee:

Rule 1.—Application of Rules

Except where the terms "full committee" and "subcommittee" are specifically referred to, the following rules shall apply to the Committee on Government Reform and its subcommittees as well as to the respective chairmen.

[See House Rule XI, 1.]

Rule 2.—Meetings

The regular meetings of the full committee shall be held on the second Tuesday of each month at 10 a.m., when the House is in session. The chairman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the committee may be requested by members of the committee following the provisions of House Rule XI, clause 2(c)(2). Subcommittees shall meet at the call of the subcommittee chairmen. Every member of the committee or the appropriate subcommittee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days before each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses. The ranking minority member shall be responsible for providing the same information on witnesses whom the minority may request.

[See House Rule XI, 2 (b) and (c).]

Rule 3.—Quorums

A majority of the members of the committee shall form a quorum, except that two members shall constitute a quorum for taking testimony and receiving evidence, and one-third of the members shall form a quorum for taking any action other than the reporting of a measure or recommendation. If the chairman is not present at any meeting of the committee or subcommittee, the ranking member of the majority party on the committee or subcommittee who is present shall preside at that meeting.

[See House Rule XI, 2(h).]

Rule 4.—Committee Reports

Bills and resolutions approved by the committee shall be reported by the chairman following House Rule XIII, clauses 2–4.

A proposed report shall not be considered in subcommittee or full committee unless the proposed report has been available to the members of such subcommittee or full committee for at least three calendar days (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such days) before consideration of such proposed report in subcommittee or full committee. Any report will be considered as read if available to the members at least 24 hours before consideration, excluding Saturdays, Sundays, and legal holidays unless the House is in session on such days. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the subcommittee or full committee before the consideration of the proposed report in such subcommittee or full committee. Every investigative report shall be approved by a majority vote of the committee at a meeting at which a quorum is present.

Supplemental, minority, or additional views may be filed following House Rule XI, clause 2(l) and Rule XIII, clause 3(a)(1). The time allowed for filing such views shall be three calendar days, beginning on the day of notice, but excluding Saturdays, Sundays, and legal holidays (unless the House is in session on such a day), unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views.

An investigative or oversight report may be filed after sine die adjournment of the last regular session of Congress, provided that if a member gives timely notice of intention to file supplemental, minority or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.

Only those reports approved by a majority vote of the committee may be ordered printed, unless otherwise required by the Rules of the House of Representatives.

Rule 5.—Proxy Votes

In accordance with the Rules of the House of Representatives, members may not vote by proxy on any measure or matter before the committee or any subcommittee.

[See House Rule XI, 2(f).]

Rule 6.—Record Votes

A record vote of the members may be had upon the request of any member upon approval of a one-fifth vote of the members present.

Rule 7.—Record of Committee Actions

The committee staff shall maintain in the committee offices a complete record of committee actions from the current Congress including a record of the rollcall votes taken at committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alteration, additions, or defacement.

[See House Rule XI, 2(e).]

Rule 8.—Subcommittees; Referrals

There shall be seven subcommittees with appropriate party ratios that shall have fixed jurisdictions. Bills, resolutions, and other matters shall be referred by the chairman to subcommittees within two weeks for consideration or investigation in accordance with their fixed jurisdictions. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdiction, the chairman shall refer the matter as he may deem advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the chairman when, in his judgement, the subcommittee is not able to complete its work or cannot reach agreement therein. In a subcommittee having an even number of members, if there is a tie vote with all members voting on any measure, the measure shall be placed on the agenda for full committee consideration as if it had been ordered reported by the subcommittee without recommendation. This provision shall not preclude further action on the measure by the subcommittee.

Rule 9.—Ex Officio Members

The chairman and the ranking minority member of the committee shall be ex officio members of all subcommittees. They are authorized to vote on subcommittee matters; but, unless they are regular members of the subcommittee, they shall not be counted in determining a subcommittee quorum other than a quorum for taking testimony.

Rule 10.—Staff

Except as otherwise provided by House Rule X, clauses 6, 7 and 9, the chairman of the full committee shall have the authority to hire and discharge employees of the professional and clerical staff of the full committee and of subcommittees.

Rule 11.—Staff Direction

Except as otherwise provided by House Rule X, clauses 6, 7 and 9, the staff of the committee shall be subject to the direction of the chairman of the full committee and shall perform such duties as he may assign.

Rule 12.—Hearing Dates and Witnesses

The chairman of the full committee will announce the date, place, and subject matter of all hearings at least one week before the commencement of any hearings, unless he determines, with the concurrence of the ranking minority member, or the committee determines by a vote, that there is good cause to begin such hearings sooner. So that the chairman of the full committee may coordinate the committee facilities and hearings plans, each subcommittee chairman shall notify him of any hearing plans at least two weeks before the date of commencement of hearings, including the date, place, subject matter, and the names of witnesses, willing and unwilling, who would be called to testify, including, to the extent he is advised thereof, witnesses whom the minority members may request. The minority members shall supply the names of witnesses they intend to call to the chairman of the full committee or subcommittee at the earliest possible date. Witnesses appearing before the committee shall so far as practicable, submit written statements at least 24 hours before their appearance and, when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year.

[See House Rules XI, 2 (g)(3), (g)(4),(j) and (k).]

Rule 13.—Open Meetings

Meetings for the transaction of business and hearings of the committee shall be open to the public or closed in accordance with Rule XI of the House of Representatives.

[See House Rules XI, 2 (g) and (k).]

Rule 14.—Five-Minute Rule

(1) A committee member may question a witness only when recognized by the chairman for that purpose. In accordance with House Rule XI, clause 2(j)(2), each committee member may request up to five minutes to question a witness until each member who so desires has had such opportunity. Until all such requests have been satisfied, the chairman shall, so far as practicable, recognize alternately based on seniority of those majority and minority members present at the time the hearing was called to order and others based on their arrival at the hearing. After that, additional time may be extended at the direction of the chairman.

(2) The chairman, with the concurrence of the ranking minority member, or the committee by motion, may permit an equal number of majority and minority members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

(3) The chairman, with the concurrence of the ranking minority member, or the committee by motion, may permit committee staff of the majority and minority to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

(4) Nothing in paragraph (2) or (3) affects the rights of a Member (other than a Member designated under paragraph (2)) to question a witness for 5 minutes in accordance with paragraph (1) after the questioning permitted under paragraph (2) or (3). In any extended questioning permitted under paragraph (2) or (3), the chairman shall determine how to allocate the time permitted for extended questioning by majority members or majority committee staff and the ranking minority member shall determine how to allocate the time permitted for extended questioning by minority members or minority committee staff. The chairman or the ranking minority member, as applicable, may allocate the time for any extended questioning permitted to staff under paragraph (3) to members.

Rule 15.—Investigative Hearing Procedures

Investigative hearings shall be conducted according to the procedures in House Rule XI, clause 2(k). All questions put to witnesses before the committee shall be relevant to the subject matter before the committee for consideration, and the chairman shall rule on the relevance of any questions put to the witnesses.

Rule 16.—Stenographic Record

A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

Rule 17.—Audio and Visual Coverage of Committee Proceedings

(1) An open meeting or hearing of the committee or a subcommittee may be covered, in whole or in part, by television broadcast, radio broadcast, Internet broadcast, and still photography, unless closed subject to the provisions of House Rule XI, clause 2(g). Any such coverage shall conform with the provisions of House Rule XI, clause 4.

(2) Use of the Committee Broadcast System shall be fair and nonpartisan, and in accordance with House Rule XI, clause 4(b), and all other applicable rules of the House of Representatives and the Committee on Government Reform. Members of the committee shall have prompt access to a copy of coverage by the Committee Broadcast System, to the extent that such coverage is maintained.

(3) Personnel providing coverage of an open meeting or hearing of the committee or a subcommittee by Internet broadcast, other than through the Committee Broadcast System, shall be currently accredited to the Radio and Television Correspondents' Galleries.

Rule 18.—Additional Duties of Chairman

The chairman of the full committee shall:

(a) Make available to other committees the findings and recommendations resulting from the investigations of the committee or its subcommittees as required by House Rule X, clause 4(c)(2);

(b) Direct such review and studies on the impact or probable impact of tax policies affecting subjects within the committee's jurisdiction as required by House Rule X, clause 2(c);

(c) Submit to the Committee on the Budget views and estimates required by House Rule X, clause 4(f), and to file reports with the House as required by the Congressional Budget Act;

(d) Authorize and issue subpoenas as provided in House Rule XI, clause 2(m), in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the committee;

(e) Prepare, after consultation with subcommittee chairmen and the minority, a budget for the committee which shall include an adequate budget for the subcommittees to discharge their responsibilities;

(f) Make any necessary technical and conforming changes to legislation reported by the committee upon unanimous consent; and

(g) Designate a vice chairman from the majority party.

Rule 19.—Commemorative Stamps

The committee has adopted the policy that the determination of the subject matter of commemorative stamps properly is for consideration by the Postmaster General and that the committee will not give consideration to legislative proposals for the issuance of commemorative stamps. It is suggested that recommendations for the issuance of commemorative stamps be submitted to the Postmaster General.

Rule 20.—Panels and Task Forces

(a) The chairman of the committee is authorized to appoint panels or task forces to carry out the duties and functions of the committee.

(b) The chairman and ranking minority member of the committee may serve as ex-officio members of each panel or task force.

(c) The chairman of any panel or task force shall be appointed by the chairman of the committee. The ranking minority member shall select a ranking minority member for each panel or task force.

(d) The House and committee rules applicable to subcommittee meetings, hearings, recommendations and reports shall apply to the meetings, hearings, recommendations and reports of panels and task forces.

(e) No panel or task force so appointed shall continue in existence for more than six months. A panel or task force so appointed may, upon the expiration of six months, be reappointed by the chairman.

II. SELECTED RULES OF THE HOUSE OF REPRESENTATIVES

A. 1. Powers and Duties of the Committee—Rule X of the House

House Rule X provides for the organization of standing committees. The first paragraph of clause 1 of Rule X and subdivision (h) thereof reads as follows:

ORGANIZATION OF COMMITTEES

Committees and their legislative jurisdictions

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

* * * * *

(h) Committee on Government Reform.

(1) Federal civil service, including intergovernmental personnel; and the status of officers and employees of the United States, including their compensation, classification, and retirement.

(2) Municipal affairs of the District of Columbia in general (other than appropriations).

(3) Federal paperwork reduction.

(4) Government management and accounting measures generally.

(5) Holidays and celebrations.

(6) Overall economy, efficiency, and management of government operations and activities, including Federal procurement.

(7) National archives.

(8) Population and demography generally, including the Census.

(9) Postal service generally, including transportation of the mails.

(10) Public information and records.

(11) Relationship of the Federal Government to the States and municipalities generally.

(12) Reorganizations in the executive branch of the Government.

2. General Oversight Responsibilities—Rule X, Clauses 2 and 3 of the House

Clause 2 of Rule X relates to general oversight responsibilities. Paragraphs (a), (b), (c), (d), and (e) of clause 2 read as follows:

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in—

(1) its analysis, appraisal, and evaluation of—

(A) the application, administration, execution, and effectiveness of Federal laws; and

(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.

(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis—

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.

(c) Each standing committee shall review and study on a continuing basis the impact or probable impact tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible—

(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) review specific problems with Federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;

(C) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(D) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.

(2) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the Majority Leader, and the Minority Leader, the Committee on Government Reform shall report to the House the oversight plans submitted by committees together with any recommendations that it, or the House leadership group described above, may make to ensure the most effective coordination of oversight plans and otherwise to achieve the objectives of this clause.

(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.

Special oversight functions

Clause 3 of Rule X also relates to oversight functions. Paragraph (e) reads as follows:

* * * * *

(e) The Committee on Government Reform shall review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.

3. Additional Functions of Committees—Rule X, Clauses 4, 6, 7, 8 and 9 of the House

Clause 4 of Rule X relates to additional functions of committees and committee budgets. Paragraphs (a)(2), (c) and (f) of clause 4 and clauses 6, 7, 8 and 9 read as follows:

4. (a)

* * * * *

(2) Pursuant to section 401(b)(2) of the Congressional Budget Act of 1974, when a committee reports a bill or joint resolution that provides new entitlement authority as defined in section 3(9) of that Act, and enactment of the bill or joint resolution, as reported, would cause a breach of the committee's pertinent allocation of new budget authority under section 302(a) of that Act, the bill or joint resolution may be referred to the Committee on Appropriations with instructions to report it with recommendations (which may include an amendment limiting the total amount of new entitlement authority provided in the bill or joint resolution). If the Committee on Appropriations fails to report a bill or joint resolution so referred within 15 calendar days (not counting any day on which the House is not in session), the committee automatically shall be discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

* * * * *

(c)(1) The Committee on Government Reform shall—

(A) receive and examine reports of the Comptroller General of the United States and submit to the House such recommendations as it considers necessary or desirable in connection with the subject matter of the reports;

(B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) study intergovernmental relationships between the United States and the States and municipalities and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Reform may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause conferring jurisdiction over the matter to another standing committee. The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved.

* * * * *

Budget Act responsibilities

(f)(1) Each standing committee shall submit to the Committee on the Budget not later than six weeks after the President submits his budget, or at such time as the Committee on the Budget may request—

(A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year that are within its jurisdiction or functions; and

(B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(2) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.

Expense resolutions

6. (a) Whenever a committee, commission, or other entity (other than the Committee on Appropriations) is granted authorization for the payment of its expenses (including staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Administration. A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Administration. A primary expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

(1) state the total amount of the funds to be provided to the committee, commission, or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission, or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission, or other entity as may be appropriate to provide the House with basic estimates of the expenditures contemplated by the primary expense resolution.

(b) After the date of adoption by the House of a primary expense resolution for a committee, commission, or other entity for a Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Administration, as necessary. A supplemental expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

(1) state the total amount of additional funds to be provided to the committee, commission, or other entity under the supplemental expense resolution and the purposes for which those additional funds are available; and

(2) state the reasons for the failure to procure the additional funds for the committee, commission, or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

(1) a resolution providing for the payment from committee salary and expense accounts

of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, a committee, commission, or other entity at any time after the beginning of an odd-numbered year and before the date of adoption by the House of the primary expense resolution described in paragraph (a) for that year; or (2) a resolution providing each of the standing committees in a Congress additional office equipment, airmail and special-delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds made available for the appointment of committee staff by a primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee and that the minority party is treated fairly in the appointment of such staff.

(e) Funds authorized for a committee under this clause and clauses 7 and 8 are for expenses incurred in the activities of the committee.

Interim funding

7. (a) For the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year, such sums as may be necessary shall be paid out of the committee salary and expense accounts of the House for continuance of necessary investigations and studies by—

(1) each standing and select committee established by these rules; and

(2) except as specified in paragraph (b), each select committee established by resolution.

(b) In the case of the first session of a Congress, amounts shall be made available for a select committee established by resolution in the preceding Congress only if—

(1) a resolution proposing to reestablish such select committee is introduced in the present Congress; and

(2) the House has not adopted a resolution of the preceding Congress providing for termination of funding for investigations and studies by such select committee.

(c) Each committee described in paragraph (a) shall be entitled for each month during the period specified in paragraph (a) to 9 percent (or such lesser percentage as may be determined by the Committee on House Administration) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(d) Payments under this clause shall be made on vouchers authorized by the committee involved, signed by the chairman of the committee, except as provided in paragraph (e), and approved by the Committee on House Administration.

(e) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress until the election by the House of the committee concerned in that Congress, payments under this clause shall be made on vouchers signed by—

(1) the member of the committee who served as chairman of the committee at the expiration of the preceding Congress; or

(2) if the chairman is not a Member, Delegate, or Resident Commissioner in the present Congress, then the ranking member of the committee as it was constituted at the expiration of the preceding Congress who is a member of the majority party in the present Congress.

(f)(1) The authority of a committee to incur expenses under this clause shall expire upon adoption by the House of a primary expense resolution for the committee.

(2) Amounts made available under this clause shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(3) This clause shall be effective only insofar as it is not inconsistent with a resolution reported by the Committee on House Administration and adopted by the House after the adoption of these rules.

Travel

8. (a) Local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States or its territories or possessions. Appropriated funds, including those authorized under this clause and clauses 6 and 8, may not be expended for the purpose of defraying expenses of members of a committee or its employees in a country where local currencies are available for this purpose.

(b) The following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(1) A member or employee of a committee may not receive or expend local currencies for subsistence in a country for a day at a rate in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual, unreimbursed expenses (other than for transportation) he incurred during that day.

(3) Each member or employee of a committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and funds expended for any other official purpose and shall summarize in these categories the total foreign currencies or appropriated funds expended. Each report shall be filed with the chairman of the committee not later than 60 days following the completion of travel for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(c)(1) In carrying out the activities of a committee outside the United States in a country where local currencies are unavailable, a member or employee of a committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day, at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual unreimbursed expenses (other than for transportation) he incurred during that day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside the United States unless the member or employee actually paid for the transportation.

(d) The restrictions respecting travel outside the United States set forth in paragraph (c) also shall apply to travel outside the United States by a Member, Delegate, Resident Commissioner, officer, or employee of the House authorized under any standing rule.

Committee staffs

9. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote, not more than 30 professional staff members to be compensated from the funds provided for the appointment of committee staff by primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority member of the committee, as the committee considers advisable.

(2) Subject to paragraph (f) whenever a majority of the minority party members of a standing committee (other than the Committee on Standards of Official Conduct or the Permanent Select Committee on Intelligence) so request, not more than 10 persons (or one-third of the total professional committee staff appointed under this clause, whichever is fewer) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members under subparagraph (1). The committee shall appoint persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of a person so selected are unacceptable, a majority of the minority party members may select another person for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

(b)(1) The professional staff members of each standing committee—

(A) may not engage in any work other than committee business during congressional working hours; and

(B) may not be assigned a duty other than one pertaining to committee business.

(2)(A) Subparagraph (1) does not apply to staff designated by a committee as "associate" or "shared" staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such staff is commensurate with the work performed for the committee in accordance with clause 8 of rule X–XIII.

(B) The use of any "associate" or "shared" staff by a committee other than the Committee on Appropriations shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Administration in connection with the reporting of any primary or additional expense resolution.

(c) Each employee on the professional or investigative staff of a standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman and that does not exceed the maximum rate of pay as in effect from time to time under applicable provisions of law.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint by majority vote such staff as it determines to be necessary (in addition to the clerk of the committee and assistants for the minority). The staff appointed under this paragraph, other than minority assistants, shall possess such qualifications as the committee may prescribe.

(e) A committee may not appoint to its staff an expert or other personnel detailed or assigned from a department or agency of the Government except with the written permission of the Committee on House Administration.

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists for such an appointment, the committee nevertheless may appoint under paragraph (a) a person selected by the minority and acceptable to the committee. A person so appointed shall serve as an additional member of the professional staff of the committee until such a vacancy occurs (other than a vacancy in the position of head of the professional staff, by whatever title designated), at which time that person is considered as appointed to that vacancy. Such a person shall be paid from the applicable accounts of the House described in clause 1(i)(1) of rule X. If such a vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill the vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a), and each staff member appointed to assist minority members of a committee pursuant to an expense resolution described in clause 6(a), shall be accorded equitable treatment with respect to the fixing of the rate of pay, the assignment of work facilities, and the accessibility of committee records.

(h) Paragraph (a) may not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under paragraph (a) by the minority party members of that committee if 10 or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of the minority party members are otherwise assigned to assist the minority party members.

(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, by an affirmative vote of a majority of the members of the majority party and of a majority of the members of the minority party.

B. Procedure for Committees and Unfinished Business—Rule XI of the House

Clauses 1, 2, 4, 5 and 6 of Rule XI are set out below.

In general

1. (a)(1)(A) Except as provided in subdivision (B), the Rules of the House are the rules of its committees and subcommittees so far as applicable.

(B) A motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, each shall be privileged in committees and subcommittees and shall be decided without debate.

(2) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.

(b)(1) Each committee may conduct at any time such investigations and studies as it considers necessary or appropriate in the exercise of its responsibilities under rule X. Subject to the adoption of expense resolutions as required by clause 6 of rule X, each committee may incur expenses, including travel expenses, in connection with such investigations and studies.

(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

(4) After an adjournment sine die of the last regular session of a Congress, an investigative or oversight report may be filed with the Clerk at any time, provided that a member who gives timely notice of intention to file supplemental, minority, or additional views shall be entitled to not less than seven calendar days in which to submit such views for inclusion in the report.

(c) Each committee may have printed and bound such testimony and other data as may be presented at hearings held by the committee or its subcommittees. All costs of stenographic services and transcripts in connection with a meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(i)(1) of rule X.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that—

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.

Adoption of written rules

2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—

(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;

(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.

Regular meeting days

(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he considers necessary, additional and special meetings of the committee for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.

(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.

Temporary absence of chairman

(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.

Committee records

(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include—

(i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(ii) a record of the votes on any question on which a record vote is demanded.

(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

(ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.

(2)(A) Except as provided in subdivision (B), all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.

Prohibition against proxy voting

(f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.

Open meetings and hearings

(g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittee) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).

(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.

(B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—

(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or

(ii) agree to close the hearing as provided in clause 2(k)(5).

(C) A Member, Delegate, or Resident Commissioner may not be excluded from nonparticipatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public.

(D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.

(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the Daily Digest and made available in electronic form.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the ground that hearings on such measure were not conducted in accordance with this clause.

(B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.

Quorum requirements

(h)(1) A measure or recommendation may not be reported by a committee unless a majority of the committee is actually present.

(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.

(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than for which the presence of a majority of the committee is otherwise required, which may not be less than one-third of the members.

(4)(A) Each committee may adopt a rule authorizing the chairman of a committee or subcommittee—

(i) to postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment; and

(ii) to resume proceedings on a postponed question at any time after reasonable notice.

(B) A rule adopted pursuant to this subparagraph shall provide that when proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

Limitation on committee sittings

(i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

Calling and questioning of witnesses

(j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting a specified number of its members to question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

Hearing procedures

(k)(1) The chairman at a hearing shall announce in an opening statement the subject of the hearing.

(2) A copy of the committee rules and of this clause shall be made available to each witness on request.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

Supplemental, minority, or additional views

(l) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

Power to sit and act, subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (3)(A))—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(C) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

* * * * *

Audio and visual coverage of committee proceedings

4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or

meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Pay of witnesses

5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.

Unfinished business of the session

6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

C. Filing and Printing of Reports—Rule XIII, Clauses 2, 3 and 4 of the House

2. (a)(1) Except as provided in subparagraph (2), all reports of committees (other than those filed from the floor as privileged) shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker in accordance with clause 1. The title or subject of each report shall be entered on the Journal and printed in the Congressional Record.

(2) A bill or resolution reported adversely shall be laid on the table unless a committee to which the bill or resolution was referred requests at the time of the report its referral to an appropriate calendar under clause 1 or unless, within three days thereafter, a Member, Delegate, or Resident Commissioner makes such a request.

(b)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House a measure or matter approved by the committee and to take or cause to be taken steps necessary to bring the measure or matter to a vote.

(2) In any event, the report of a committee on a measure that has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which a written request for the filing of the report, signed by a majority of the members of the committee, has been filed with the clerk of the committee. The clerk of the committee shall immediately notify the chairman of the filing of such a request. This subparagraph does not apply to a report of the Committee on Rules with respect to a rule, joint rule, or order of business of the House, or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(c) All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.

Content of reports

3. (a)(1) Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that—

(A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and

(B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3)) are included as part of the report.

(2) A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter. A supplemental report only correcting errors in the depiction of record votes under paragraph (b) may be filed under this subparagraph and shall not be subject to the requirement in clause 4 concerning the availability of reports.

(b) With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to votes taken in executive session by the Committee on Standards of Official Conduct.

(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) Oversight findings and recommendations under clause 2(b)(1) of rule X.

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.

(4) A statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

(d) Each report of a committee on a public bill or public joint resolution shall contain the following:

(1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);

(B) A comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) When practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

(e)(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document—

(A) the text of a statute or part thereof that is proposed to be repealed; and

(B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.

* * * * *

Availability of reports

4. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider in the House a measure or matter reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which each report of a committee on that measure or matter has been available to Members, Delegates, and the Resident Commissioner.

(2) Subparagraph (1) does not apply to—

(A) a resolution providing a rule, joint rule, or order of business reported by the Committee on Rules considered under clause 6;

(B) a resolution providing amounts from the applicable accounts described in clause 1(i)(1) of rule X reported by the Committee on House Administration considered under clause 6 of rule X;

(C) a bill called from the Corrections Calendar under clause 6 of rule XV;

(D) a resolution presenting a question of the privileges of the House reported by any committee;

(E) a measure for the declaration of war, or the declaration of a national emergency, by Congress; and

(F) a measure providing for the disapproval of a decision, determination, or action by a Government agency that would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. In this subdivision the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(b) A committee that reports a measure or matter shall make every reasonable effort to have its hearings thereon (if any) printed and available for distribution to Members, Delegates, and the Resident Commissioner before the consideration of the measure or matter in the House.

(c) A general appropriation bill reported by the Committee on Appropriations may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) on which printed hearings of the Committee on Appropriations thereon have been available to Members, Delegates, and the Resident Commissioner.

III. SELECTED MATTERS OF INTEREST

A. 5 U.S.C. See. 2954. Information to Committees of Congress on Request

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

B. 18 U.S.C. Sec. 1505. Obstruction of Proceedings Before Departments, Agencies, and Committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impedes the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power or inquiry under which any inquiry or investigation is being had by either House, or any committee or either House or any joint committee of the Congress—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

C. 31 U.S.C. Sec. 712. Investigating the Use of Public Money

The Comptroller General shall—

* * * * *

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

D. 31 U.S.C. See. 719. Comptroller General Reports

* * * * *

(e) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Operations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.[1]

* * * * *

(i) On request of a committee of Congress, the Comptroller General shall explain to discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

E. 31 U.S.C. See. 717. Evaluating Programs and Activities of the United States Government

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

F. 31 U.S.C. Sec. 1113. Congressional Information

(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information of the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and the extent practicable, to members of Congress in evaluating the information from the sources in the directory; and

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs:

(C) monitor recurring reporting requirements of Congress and committees: and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

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[1] For other requirements which relate to General Accounting Office reports to Congress and which affect the committee, see secs. 232 and 236 of the Legislative Reorganization Act of 1970 (Public Law 91-150).

(Public Law 97-258, Sept. 13, 1982, 96 Stat. 914; Public Law 97452, § 1(3), Jan. 12, 1983, 96 Stat. 2467.)

PUBLICATION OF THE RULES OF THE COMMITTEE ON FINANCIAL SERVICES 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. OXLEY) is recognized for 5 minutes.

Mr. OXLEY. Mr. Speaker, Pursuant to clause 2(a)(2) of Rule XI of the Rules of the House of Representatives, I am reporting that the Committee on Financial Services adopted the following rules for the 108th Congress on February 5, 2003 in open session, a quorum being present, and submit those rules for publication in the Congressional Record:

RULES OF THE COMMITTEE ON FINANCIAL SERVICES

U.S. House of Representatives

108th Congress

First Session

Rule 1

General Provisions

(a) The rules of the House are the rules of the Committee on Financial Services (hereinafter in these rules referred to as the "Committee") and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are privileged motions in the Committee and shall be considered without debate. A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day).

(b) Each subcommittee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

(c) The provisions of clause 2 of rule XI of the Rules of the House are incorporated by reference as the rules of the Committee to the extent applicable.

Rule 2

Meetings

Calling of Meetings

(a)(1) The Committee shall regularly meet on the first Tuesday of each month when the House is in session.

(2) A regular meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereinafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair, in accordance with clause 2(g)(3) of rule XI of the rules of the House.

(4) Special meetings shall be called and convened by the Chair as provided in clause 2(c)(2) of rule XI of the Rules of the House.

Notice for Meetings

(b)(1) The Chair shall notify each member of the Committee of the agenda of each regular meeting of the Committee at least two calendar days before the time of the meeting.

(2) The Chair shall provide to each member of the Committee, at least two calendar days before the time of each regular meeting for each measure or matter on the agenda a copy of—

(A) the measure or materials relating to the matter in question; and

(B) an explanation of the measure or matter to be considered, which, in the case of an explanation of a bill, resolution, or similar measure, shall include a summary of the major provisions of the legislation, an explanation of the relationship of the measure to present law, and a summary of the need for the legislation.

(3) The agenda and materials required under this subsection shall be provided to each member of the Committee at least three calendar days before the time of the meeting where the measure or matter to be considered was not approved for full Committee consideration by a subcommittee of jurisdiction.

(4) The provisions of this subsection may be waived by a two-thirds vote of the Committee, or by the Chair with the concurrence of the ranking minority member.

Rule 3

Meeting and Hearing Procedures

In General

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the member designated by the Chair as the Vice Chair of the Committee, or by the ranking majority member of the Committee present as Acting Chair.

(2) Meetings and hearings of the committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House.

(3) Any meeting or hearing of the Committee that is open to the public shall be open to coverage by television broadcast, radio broadcast, and still photography in accordance with the provisions of clause 4 of rule XI of the Rules of the House (which are incorporated by reference as part of these rules). Operation and use of any Committee operated broadcast system shall be fair and nonpartisan and in accordance with clause 4(b) of rule XI and all other applicable rules of the Committee and the House.

(4) Opening statements by members at the beginning of any hearing or meeting of the Committee shall be limited to 5 minutes each for the Chair or ranking minority member, or their respective designee, and 3 minutes each for all other members.

(5) No person, other than a Member of Congress, Committee staff, or an employee of a Member when that Member has an amendment under consideration, may stand in or be seated at the rostrum area of the Committee rooms unless the Chair determines otherwise.

Quorum

(b)(1) For the purpose of taking testimony and receiving evidence, two members of the Committee shall constitute a quorum.

(2) A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, of closing a meeting or hearing pursuant to clause 2(g) of rule XI of the rules of the House (except as provided in clause 2(g)(2)(A) and (B)) or of releasing executive session material pursuant to clause 2(k)(7) of rule XI of the rules of the House.

(3) For the purpose of taking any action other than those specified in paragraph (2) one-third of the members of the Committee shall constitute a quorum.

Voting

(c)(1) No vote may be conducted on any measure or matter pending before the Committee unless the requisite number of members of the Committee is actually present for such purpose.

(2) A record vote of the Committee shall be provided on any question before the Committee upon the request of one-fifth of the members present.

(3) No vote by any member of the Committee on any measure or matter may be cast by proxy.

(4) In accordance with clause 2(e)(1)(B) of rule XI, a record of the vote of each member of the Committee on each record vote on any measure or matter before the Committee shall be available for public inspection at the offices of the Committee, and, with respect to any record vote on any motion to report or on any amendment, shall be included in the report of the Committee showing the total number of votes cast for and against and the names of those members voting for and against.

(5) Postponed record votes.—(A) Subject to subparagraph (B), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time, but no later than the next meeting day.

(B) In exercising postponement authority under subparagraph (A), the Chairman shall take all reasonable steps necessary to notify members on the resumption of proceedings on any postponed record vote;

(C) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

Hearing Procedures

(d)(1)(A) The Chair shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing, unless the Chair, with the concurrence of the ranking minority member, or the Committee by majority vote with a quorum present for the transaction of business, determines there is good cause to begin the hearing sooner, in which case the Chair shall make the announcement at the earliest possible date.

(B) Not less than three days before the commencement of a hearing announced under this paragraph, the Chair shall provide to the members of the Committee a concise summary of the subject of the hearing, or, in the case of a hearing on a measure or matter, a copy of the measure or materials relating to the matter in question and a concise explanation of the measure or matter to be considered. (2) To the greatest extent practicable—

(A) each witness who is to appear before the Committee shall file with the Committee two business days in advance of the appearance sufficient copies (including a copy in electronic form), as determined by the Chair, of a written statement of proposed testimony and shall limit the oral presentation to the Committee to brief summary thereof; and

(B) each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(3) The requirements of paragraph (2)(A) may be modified or waived by the Chair when the Chair determines it to be in the best interest of the Committee.

(4) The five-minute rule shall be observed in the interrogation of witnesses before the Committee until each member of the Committee has had an opportunity to question the witnesses. No member shall be recognized for a second period of 5 minutes to interrogate witnesses until each member of the Committee present has been recognized once for that purpose.

(5) Whenever any hearing is conducted by the Committee on any measure or matter, the minority party members of the Committee shall be entitled, upon the request of a majority of them before the completion of the hearing, to call witnesses with respect to that measure or matter during at least one day of hearing thereon.

Subpoenas and Oaths

(e)(1) Pursuant to clause 2(m) of rule XI of the Rules of the House, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, or pursuant to paragraph (2).

(2) The Chair, with the concurrence of the ranking minority member, may authorize and issue subpoenas under such clause during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the Chair, authorization and issuance of the subpoena is necessary to obtain the material or testimony set forth in the subpoena. The Chair shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable, but in no event later than one week after service of such subpoena.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee designated by the Chair, may administer oaths to witnesses before the Committee.

Special Procedures

(f)(1)(A) COMMEMORATIVE MEDALS AND COINS.—It shall not be in order for the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology to hold a hearing on any commemorative medal or commemorative coin legislation unless the legislation is cosponsored by at least two-thirds of the members of the House and has been recommended by the U.S. Mint's Citizens Commemorative Coin Advisory Committee in the case of a commemorative coin.

(B) It shall not be in order for the subcommittee to approve a bill or measure authorizing commemorative coins for consideration by the full Committee which does not conform with the mintage restrictions established by section 5112 of title 31, United States Code.

(C) In considering legislation authorizing Congressional gold medals, the subcommittee shall apply the following standards—

(i) the recipient shall be a natural person;

(ii) the recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement;

(iii) the recipient shall not have received a medal previously for the same or substantially the same achievement;

(iv) the recipient shall be living or, if deceased, shall have been deceased for not less than 5 years and not more than 25 years;

(v) the achievements were performed in the recipient's field of endeavor, and represent either a lifetime of continuous superior achievements or a single achievement so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

(2) TESTIMONY OF CERTAIN OFFICIALS.—

(A) Notwithstanding subsection (a)(4), when the Chair announces a hearing of the Committee for the purpose of receiving—

(i) testimony from the Chairman of the Federal Reserve Board pursuant to section 2B of the Federal Reserve Act (12 U.S.C. 221 et seq.), or

(ii) testimony from the Chairman of the Federal Reserve Board or a member of the President's cabinet at the invitation of the Chair, the Chair may, in consultation with the ranking minority member, limit the number and duration of opening statements to be delivered at such hearing. The limitation shall be included in the announcement made pursuant to subsection (d)(1)(A), and shall provide that the opening statements of all members of the Committee shall be made a part of the hearing record.

RULE 4

PROCEDURES FOR REPORTING MEASURES OR MATTERS

(a) No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present.

(b) The Chair of the Committee shall report or cause to be reported promptly to the House any measure approved by the Committee and take necessary steps to bring a matter to a vote.

(c) The report of the Committee on a measure which has been approved by the Committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure pursuant to the provisions of clause 2(b)(2) of rule XIII of the Rules of the House.

(d) All reports printed by the Committee pursuant to a legislative study or investigation and not approved by a majority vote of the Committee shall contain the following disclaimer on the cover of such report: "This report has not been officially adopted by the Committee on Financial Services and may not necessarily reflect the views of its Members."

RULE 5

SUBCOMMITTEES

Establishment and Responsibilities of Subcommittees

(a)(1) There shall be 5 subcommittees of the Committee as follows:

(A) SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES.—The jurisdiction of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises includes—

(i) securities, exchanges, and finance;

(ii) capital markets activities;

(iii) activities involving futures, forwards, options, and other types of derivative instruments;

(iv) secondary market organizations for home mortgages including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation;

(v) the Office of Federal Housing Enterprise Oversight;

(vi) the Federal Home Loan Banks; and

(vii) insurance generally.

(B) SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE, AND TECHNOLOGY.—The jurisdiction of the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology includes—

(i) financial aid to all sectors and elements within the economy;

(ii) economic growth and stabilization;

(iii) defense production matters as contained in the Defense Production Act of 1950, as amended;

(iv) domestic monetary policy, and agencies which directly or indirectly affect domestic monetary policy, including the effect of such policy and other financial actions on interest rates, the allocation of credit, and the structure and functioning of domestic financial institutions;

(v) coins, coinage, currency, and medals, including commemorative coins and medals, proof and mint sets and other special coins, the Coinage Act of 1965, gold and silver, including the coinage thereof (but not the par value of gold), gold medals, counterfeiting, currency denominations and design, the distribution of coins, and the operations of the Bureau of the Mint and the Bureau of Engraving and Printing;

(vi) development of new or alternative forms of currency;

(vii) multilateral development lending institutions, including activities of the National Advisory Council on International Monetary and Financial Policies as related thereto, and monetary and financial developments as they relate to the activities and objectives of such institutions;

(viii) international trade, including but not limited to the activities of the Export-Import Bank;

(ix) the International Monetary Fund, its permanent and temporary agencies, and all matters related thereto; and

(x) international investment policies, both as they relate to United States investments for trade purposes by citizens of the United States and investments made by all foreign entities in the United States.

(C) SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT.—The jurisdiction of the Subcommittee on Financial Institutions and Consumer Credit includes—

(i) all agencies, including the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System and the Federal Reserve System, the Office of Thrift Supervision, and the National Credit Union Administration, which directly or indirectly exercise supervisory or regulatory authority in connection with, or provide deposit insurance for, financial institutions, and the establishment of interest rate ceilings on deposits;

(ii) the chartering, branching, merger, acquisition, consolidation, or conversion of financial institutions;

(iii) consumer credit, including the provision of consumer credit by insurance companies, and further including those matters in the Consumer Credit Protection Act dealing with truth in lending, extortionate credit transactions, restrictions on garnishments, fair credit reporting and the use of credit information by credit bureaus and credit providers, equal credit opportunity, debt collection practices, and electronic funds transfers;

(iv) creditor remedies and debtor defenses, Federal aspects of the Uniform Consumer Credit Code, credit and debit cards, and the preemption of State usury laws;

(v) consumer access to financial services, including the Home Mortgage Disclosure Act and the Community Reinvestment Act;

(vi) the terms and rules of disclosure of financial services, including the advertisement, promotion and pricing of financial services, and availability of government check cashing services;

(vii) deposit insurance; and

(viii) consumer access to savings accounts and checking accounts in financial institutions, including lifeline banking and other consumer accounts.

(D) SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY.—The jurisdiction of the Subcommittee on Housing and Community Opportunity includes—

(i) housing (except programs administered by the Department of Veterans Affairs), including mortgage and loan insurance pursuant to the National Housing Act; rural housing; housing and homeless assistance programs; all activities of the Government National Mortgage Association; private mortgage insurance; housing construction and design and safety standards; housing-related energy conservation; housing research and demonstration programs; financial and technical assistance for nonprofit housing sponsors; housing counseling and technical assistance; regulation of the housing industry (including landlord/tenant relations); and real estate lending including regulation of settlement procedures;

(ii) community development and community and neighborhood planning, training and research; national urban growth policies; urban/rural research and technologies; and regulation of interstate land sales;

(iii) government sponsored insurance programs, including those offering protection against crime, fire, flood (and related land use controls), earthquake and other natural hazards; and

(iv) the qualifications for and designation of Empowerment Zones and Enterprise Communities (other than matters relating to tax benefits).

(E) SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS.—The jurisdiction of the Subcommittee on Oversight and Investigations includes—

(i) the oversight of all agencies, departments, programs, and matters within the jurisdiction of the Committee, including the development of recommendations with regard to the necessity or desirability of enacting, changing, or repealing any legislation within the jurisdiction of the Committee, and for conducting investigations within such jurisdiction; and

(ii) research and analysis regarding matters within the jurisdiction of the Committee, including the impact or probable impact of tax policies affecting matters within the jurisdiction of the Committee.

(2) In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(3) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Referral of Measures and Matters to Subcommittees

(b)(1) The Chair shall regularly refer to one or more subcommittees such measures and matters as the Chair deems appropriate given its jurisdiction and responsibilities. In making such a referral, the Chair may designate a subcommittee of primary jurisdiction and subcommittees of additional or sequential jurisdiction.

(2) All other measures or matters shall be subject to consideration by the full Committee.

(3) In referring any measure or matter to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(4) The Committee by motion may discharge a subcommittee from consideration of any measure or matter referred to a subcommittee of the Committee.

Composition of Subcommittees

(c)(1) Members shall be elected to each subcommittee and to the positions of chair and ranking minority member thereof, in accordance with the rules of the respective party caucuses. The Chair of the Committee shall designate a member of the majority party on each subcommittee as its vice chair.

(2) The Chair and ranking minority member of the Committee shall be ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees.

(3) The subcommittees shall be comprised as follows:

(A) The Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises shall be comprised of 49 members, 26 elected by the majority caucus and 23 elected by the minority caucus.

(B) The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology shall be comprised of 26 members, 14 elected by the majority caucus and 12 elected by the minority caucus.

(C) The Subcommittee on Financial Institutions and Commercial Credit shall be comprised of 47 members, 25 elected by the majority caucus and 22 elected by the minority caucus.

(D) The Subcommittee on Housing and Community Opportunity shall be comprised of 26 members, 14 elected by the majority caucus and 12 elected by the minority caucus.

(E) The Subcommittee on Oversight and Investigations shall be comprised of 20 members, 11 elected by the majority caucus and 9 elected by the minority caucus.

Subcommittee Meetings and Hearings

(d)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it, consistent with subsection (a).

(2) No subcommittee of the Committee may meet or hold a hearing at the same time as a meeting or hearing of the Committee.

(3) The chair of each subcommittee shall set hearing and meeting dates only with the approval of the Chair with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings.

Effect of a Vacancy

(e) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of the subcommittee as long as the required quorum is present.

Records

(f) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the Chair deems necessary for the Committee to comply with all rules and regulations of the House.

RULE 6

STAFF

In General

(a)(1) Except as provided in paragraph (2), the professional and other staff of the Committee shall be appointed, and may be removed by the Chair, and shall work under the general supervision and direction of the Chair.

(2) All professional and other staff provided to the minority party members of the Committee shall be appointed, and may be removed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member.

(3) It is intended that the skills and experience of all members of the Committee staff be available to all members of the Committee.

Subcommittee Staff

(b) From funds made available for the appointment of staff, the Chair of the Committee shall, pursuant to clause 6(d) of rule X of the Rules of the House, ensure that sufficient staff is made available so that each subcommittee can carry out its responsibilities under the rules of the Committee and that the minority party is treated fairly in the appointment of such staff.

Compensation of Staff

(c)(1) Except as provided in paragraph (2), the Chair shall fix the compensation of all professional and other staff of the Committee.

(2) The ranking minority member shall fix the compensation of all professional and other staff provided to the minority party members of the Committee.

RULE 7

BUDGET AND TRAVEL

Budget

(a)(1) The Chair, in consultation with other members of the Committee, shall prepare for each Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

(2) From the amount provided to the Committee in the primary expense resolution adopted by the House of Representatives, the Chair, after consultation with the ranking minority member, shall designate an amount to be under the direction of the ranking minority member for the compensation of the minority staff, travel expenses of minority members and staff, and minority office expenses. All expenses of minority members and staff shall be paid for out of the amount so set aside.

Travel

(b)(1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

RULE 8

COMMITTEE ADMINISTRATION

Records

(a)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the members of the Committee requests such printing. Any such transcripts shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks. Nothing in this paragraph shall be construed to require that all such transcripts be subject to correction and publication.

(2) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the Rules of the House and shall be available for public inspection at reasonable times in the offices of the Committee.

(3) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Chair, shall be the property of the House, and all Members of the House shall have access thereto as provided in clause 2(e)(2) of rule XI of the Rules of the House.

(4) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule VII of the Rules of the House of Representatives. The Chair shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

Committee Publications on the Internet

(b) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

SUPPORT H.R. 837 TO REDUCE AMERICAN DEPENDENCE ON FOREIGN ENERGY

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, many of us have noticed that fuel prices are approaching $2 per gallon. We have doubled petroleum imports from Iraq in the last couple of months. This has been due largely to the Venezuelan crisis. We are currently averaging 6 billion barrels a year of imported fuel from Iraq. As anyone might suppose, we may eventually lose that supply. Nearly 60 percent of all oil is from foreign sources, and this should grow to roughly 70 percent by the year 2020.

Recently the gentleman from Minnesota (Mr. PETERSON) and I have introduced H.R. 837 which would, partially at least, address this problem.

H.R. 837 amends section 211 of the Clean Air Act. It requires the use of at least 2.3 billion gallons of renewable fuels during the year 2004, and that would increase to 5 billion gallons by the year 2012.

Renewable fuels are fuels produced from grain, sewage, feedlot waste, or other decaying organic materials. Ethanol and biodiesel are the two primary sources of renewable fuels.

Ethanol contains 34 percent more energy than is required to produce it. This combats the myth that many people think it takes more energy to produce ethanol than ethanol actually produces. That is not true.

Ethanol improves octane level in fuels. It improves air quality and allows us to meet EPA clean air requirements. And, possibly as important as anything, it replaces the additive MTBE, which has been proven to pollute groundwater and is being phased out throughout the Nation. Of course, our legislation requires MTBE to be phased out over the next 4 years. Ethanol results in by-products of animal feed and biodegradable plastics, which certainly adds value to the agricultural community.

This legislation, H.R. 837, would replace nearly all of the oil that we currently import from Iraq by the year 2012, which is roughly 6 billion gallons per year. It would also reduce foreign oil purchases by $34 billion a year. Currently, roughly 25 percent of the trade imbalance that we have is caused by the purchase of foreign petroleum. So this is an important thing.

Also this legislation would create 200,000 new jobs in the United States, it would increase farm income by roughly $6 billion annually and lessen our dependence on farm program payments. Ethanol currently comprises 1 percent of U.S. fuel supply. H.R. 837 would increase the use of ethanol to at least 3 percent by the year 2012. Currently, by contrast, Brazil has 22 percent of its fuel supply from ethanol.

Most automobiles can burn ethanol fuel at an 85 percent level. Currently there are over 200 State and Federal automobile fleets that use a biodiesel blend of 20 percent. So a 3 percent usage of ethanol is just the tip of the iceberg. We certainly can go much further with this particular technology.

Ethanol production is expanding rapidly. We had 12 new plants come into production last year. We have 10 new plants under construction this year, and many plants that are expanding. Eighty percent of California's reformulated gasoline contains ethanol at the present time. Many people thought at one time that the ethanol production was not such that California could be satisfied, so supply is really not a problem at the present time.

Mr. Speaker, this legislation provides flexibility in compliance with oxygenated fuel standards at the State and local level. This is not a mandate that is going to restrict anybody unnecessarily. This should cut refinery costs when compared to current fuel regulations.

Mr. Speaker, I urge my colleagues to support H.R. 837, because it decreases dependence on foreign oil while improving air quality, lessening groundwater pollution, improving farm income and providing hundreds of thousands of jobs for American citizens.

CONCERNS ABOUT AMERICA'S GLOBAL ALLIANCES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, tonight I wish to place on the record my deepening concerns about America's global alliances. A few weeks ago, it was with shock and dismay that I observed our President purposely fail to extend congratulations to German Chancellor Gerhard Schroeder on his reelection. The President's behavior was inappropriate and damaging. Germany has stood as our Nation's most cooperative ally for over 50 years as our nations rebuilt Europe, weathered the Cold War and linked our economies with shared democratic values and a rule of law.

NATO has stood as the bulwark against the most awful forms of tyranny and repression. NATO is not the "Old Europe," in Secretary Rumsfeld's poorly chosen words. It is the democratic, dependable Europe that has withstood the test of time. It is the modern Europe that has always stood at America's side.

I have been blessed to live through an era when President John F. Kennedy stood at the Brandenburg Gate, when Berlin was a divided city between the forces of freedom and repression, to proclaim for freedom-loving people everywhere, "Ich bin ein Berliner."

For the vast majority of Americans of this post-World War II period, we express to the German people and their government profound gratitude for your alliance with America, your sister Republic.

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Never before in my 20 years in Congress have I felt compelled to place a call to the German Embassy to offer my congratulations to the German Chancellor, as well as the congratulations of all Americans of goodwill to the Chancellor. Indeed, it is no secret that Germany has dispatched its own peacekeeping forces to Afghanistan to help secure the first bloody tranche of peace, a most dangerous and difficult assignment.

So, tonight, I want again to formally thank the Chancellor, the members of the Bundestag, and the German people for their resolve and enduring friendship with America. I thank the Bundestag, as well, for their ongoing exchange with our Congress.

Despite reckless White House rhetoric, Germany's ties to America are deep and growing. Then this past month, we witnessed the Bush administration publicly humiliate France. France too has suffered and suffers as a result of terrorism. They know a great deal about terrorism.

Mr. Speaker, let me remind the American people how essential France was to the establishment of our own independent Nation. During the Revolutionary War, the French forces allied with our Continental revolutionaries, and they were indispensable to our victory over the British crown. French General Marquis de Lafayette was dispatched by General George Washington to rout out the British forces. About 5,500 French soldiers, led by Lieutenant Jean Rochambeau, drove the British from New York; and ultimately, the French and American forces were victorious at Yorktown. Mr. Speaker, 5,500 French troops in those days was a huge commitment by the nation of France. Our Republic owes much to France and the people of France, and I wish to thank them tonight in their own words.

Donc, ce soir je voudrais exprimer mon gratitude profonde envers le President Chirac et envers le parlement français de leur alliance durable avec notre pays et avec l'OTAN. Je voudrais aussi offrir de respect au ministre de l'Etranger de la France, Dominique de Villipin—je ne veux absolument pas le châtier. Le monde civilisé ne peut pas encore savoir la meilleure méthode pour endiguer le terrorisme grandissant qui est engendré par la ferveur révolutionnaire trouvée au Moyen-Orient et à l'Asie Centrale. Mais je suis certaine d'une chose: nous ne réussirons pas sans nos alliés historiques et valables en l'Europe—ni face à leur opposition. La guerre doit être la dernière ressource, après que les inspections raisonnables exécutées par les agents de l'ONU auront épuisé.

Je veu parler des rapports entre les gouvernements de la France et des Etats-Unis et entre les citoyens de nos pays. Notre amitié est importante et historique, et date des jours où le général Lafayette nous aidait pendant notre guerre de l'indépendance. Même notre capitale, la ville de Washington, a été dessiné par un français, Pierre L'Enfant, et a pris modèle sur la ville de Paris. Les mots de la révolution française—liberté, égalité, fraternité—restent vrais aujourd'hui et dans notre congrès, ils sont vraiment gravés pour toujours.

So tonight I wish to express my profound gratitude toward President Chirac and toward the French Parliament for their enduring alliance with our country and with NATO. I would also like to offer my respect to French Foreign Minister Dominique de Villipin—I absolutely do not want to castigate her. The civilized world cannot yet know the best method for stemming the growing terrorism that is engendered by the revolutionary fervor found in the Middle East and Central Asia. But I am certain of one thing: we will not succeed without our historic and valuable allies in Europe—faced with their opposition. War must be the last resort—after reasonable inspections performed by UN agents have been exhausted.

I would like to speak of relations between the governments of France and the United States and between the citizens of our countries. Our friendship is important and historic, and dates from the days when General Lafayette helped us during our war for independence. Even our capital, the city of Washington, was designed by a Frenchman, Pierre L'Enfant, and was modeled after Paris. The words of the French revolution—liberty, equality, brotherhood—remain true today and in our Congress, they are truly carved for all time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEAUPREZ). The Chair understands the gentlewoman will supply the Clerk with the English translation for the RECORD.

Ms. KAPTUR. Yes, Mr. Speaker.

ANOTHER UNITED NATIONS WAR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, President Bush, Sr., proudly spoke of "The New World Order," a term used by those who promote one-world government under the United Nations. In going to war in 1991, he sought and received U.N. authority to push Iraqi forces out of Kuwait. He forcefully stated that this U.N. authority was adequate and that although a congressional resolution was acceptable, it was entirely unnecessary and he would proceed regardless. At that time, there was no discussion regarding a congressional declaration of war. The first Persian Gulf War, therefore, was clearly a U.N. political war fought within U.N. guidelines, not for U.S. security; and it was not fought through to victory. The bombings, sanctions, and harassment of the Iraqi people have never stopped. We are now about to resume the act of fighting. Although this is referred to as the Second Persian Gulf War, it is merely a continuation of a war started long ago and is likely to continue for a long time, even after Saddam Hussein is removed from power.

Our attitude toward the United Nations is quite different today compared to 1991. I have argued for years against our membership in the United Nations because it compromises our sovereignty. The U.S. has always been expected to pay an unfair percentage of U.N. expenses. I contend that membership in the United Nations has led to impractical military conflicts that were highly costly, both in lives and dollars, and that were rarely resolved.

Our 58 years in Korea have seen 33,000 lives lost, 100,000 casualties and over $1 trillion in today's dollars spent. Korea is the most outrageous example of our fighting a U.N. war without a declaration from the U.S. Congress. And where are we today? On the verge of a nuclear confrontation with a North Korean regime nearly out of control. And to compound the irony, the South Koreans are intervening in hopes of diminishing the tensions that exist between the United States and North Korea.

As bad as the Vietnam nightmare was, at least we left and the U.N. was not involved. We left in defeat and Vietnam remained a unified, Communist country. The results have been much more salutary. Vietnam is now essentially non-Communist and trade with the West is routine. We did not disarm Vietnam; we never counted their weapons; and so far, no one cares. Peaceful relations have developed between our two countries not by force of arms, but through trade and friendship. No United Nations, no war, and no inspections served us well, even after many decades of war and a million deaths inflicted on the Vietnamese in an effort by both the French and the United States to force them into compliance with Western demands.

In this new battle with Iraq, our relationship with the United Nations and our allies is drawing a lot of attention. The administration now says it would be nice to have U.N. support, but it is not necessary. The President argues that a unilateralist approach is permissible with his understanding of national sovereignty, but no mention is made of the fact that the authority to go to war is not a U.N. prerogative and that such authority can only come from the U.S. Congress.

Although the argument that the United Nations cannot dictate to us what is in our best interests is correct, and we do have a right to pursue foreign policy unilaterally, it is ironic that we are making this declaration in order to pursue an unpopular war that very few people or governments throughout the world support.

But the argument for unilateralism and national sovereignty cannot be made for the purpose of enforcing U.N. security resolutions. That does not make any sense. If one wants to enforce U.N. Security Council resolutions, that authority can only come from the United Nations itself. We end up with the worst of both worlds, hated for our unilateralism, but still lending credibility to the United Nations.

The Constitution makes it clear that if we must counter a threat to our security, that authority must come from the U.S. Congress.

Those who believe, and many sincerely do, that the United Nations serves a useful function, argue that ignoring the United Nations at this juncture will surely make it irrelevant. Even with my opposition to the United Nations, I can hardly be pleased that its irrelevancy might come about because of our rush to war against a nation that has not aggressed against us nor poses any threat to us.

From my viewpoint, the worst scenario would be for the United Nations to sanction this war, which may well occur if we offer enough U.S. taxpayer money and Iraqi oil to the reluctant countries. If that happens, we could be looking at another 58-year occupation, expanded Middle East chaos, or a dangerous spread of hostility to all of Asia or even further.

With regard to foreign affairs, the best advice comes from our Founders and the Constitution. It is better to promote peace and commerce with all nations and exclude ourselves from the entangling alliances and complex, unworkable alliances that comes from our membership in the United Nations.

REMEMBERING THE VICTIMS OF THE STATION NIGHTCLUB FIRE IN RHODE ISLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I rise tonight with great sorrow and a heavy heart to honor the victims of last week's horrific night club fire at the Station Night Club in West Warwick, Rhode Island, that claimed 97 lives and left 187 injured.

In any community, that tragedy would have been overwhelming; but in a small State like Rhode Island, when a close-knit town in the center of our State falls victim to one of the worst nightclub fires in the Nation's history, the impact is simply incomprehensible. It is said that in our world today, only 6 degrees separates each one of us from any other person. As our Attorney General remarked, in Rhode Island, that distance is more like 1½ degrees. Everyone here has a connection to one of the victims and, indeed, connections are being made by people all across New England and the country.

As Rhode Islanders begin the healing process, I want to express my deepest condolences to those friends and family members who lost loved ones in this horrible fire. There are no words to adequately express our profound sadness. Please know that you are in the thoughts and prayers of all Americans, and we will not let the lives of those 97 sons, daughters, sisters, brothers, mothers, and fathers be forgotten.

As of this afternoon, 64 people remain hospitalized, 46 of them in critical condition. Mr. Speaker, I know my colleagues join me in offering our prayers for their quick and full recovery. They are fighting every hour, and they need our strength now more than ever. Our best wishes go out to them and their families as they weather the tough days ahead.

I would also like to express my immense gratitude to the incredible and heroic efforts of the multitude of people and agencies throughout Rhode Island and Massachusetts who have helped respond to this disaster.

The firefighters, police, and emergency responders who were first on the scene made a Herculean effort under unimaginable circumstances, and we surely have them to thank that even more lives were not lost. In addition, over a dozen hospitals in Rhode Island and Massachusetts have been caring for the patients since this tragedy, many of whom have made amazing progress. The doctors and nurses and the support staff of these hospitals have worked tirelessly to help nearly 200 injured victims, and we are grateful for their service.

As usual, when tragedy strikes Rhode Island, our community has proven strong, resilient, and boundlessly generous. I want to recognize the work of countless volunteers who have put their own lives on hold to offer time, financial resources, and the many other kinds of assistance and who helped in any way that they could. Likewise, many members of our State's business community have come forward to provide everything from food and shelter to transportation to those affected by this event. I would particularly like to thank the Red Cross and its scores of volunteers and for all that they have done to give comfort and assistance to those whose loved ones were lost or injured.

I would also like to commend the excellent response by Rhode Island's elected officials and State and local agencies. Our governor, Governor Carcieri, has provided outstanding leadership throughout this tragedy and shown extraordinary sensitivity to the families involved, and I have personally heard from many of them how much they appreciate his efforts. Lieutenant Governor Charles Fogarty and Major General Reginald Centracchio, as cochairs of the Management Advisory Council, have also played a crucial role in this crisis, and the Rhode Island Emergency Management Agency has impressively and effectively coordinated a myriad of State and local activities.

I would also like to thank my colleague, the gentleman from Rhode Island (Mr. PATRICK KENNEDY), for his assistance, his friendship, and his support over the past several days, and Rhode Island's senior Senator, JACK REED, and Senator LINCOLN CHAFEE for their tremendous efforts and leadership.

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Finally, I want to express my great appreciation for the assistance of several Federal agencies, including FEMA, Social Security, the Small Business Administration, the Department of Health and Human Services, and the Bureau of Alcohol, Tobacco, and Firearms. Their involvement has been critical, and I look forward to working with them further in the days and weeks to come.

Mr. Speaker, in closing, allow me to offer these final thoughts.

For those that have lost their lives, we can only take comfort that they are now in a better place. For those that fight hour to hour, we pray for their recovery. For the families and friends who have lost loved ones, we offer our shoulders to lean on in their time of need. For all Rhode Islanders and our fellow citizens across the country, it is our time to provide strength, comfort, and assistance to those who need it, and do whatever it takes to ensure that such a tragedy never befalls any community such as this again.

IN SUPPORT OF THE EATING DISORDERS AWARENESS, PREVENTION AND EDUCATION ACT OF 2003

The SPEAKER pro tempore (Mr. BEAUPREZ). Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, food is one of life's greatest pleasures. Food is also one of life's greatest necessities. Yet, for many, food is an enemy and the act of eating is torture.

An estimated 5 million to 10 million Americans suffer from eating-related diseases, including anorexia, bulimia, and binge-eating disorders. As many as 50,000 of those affected will die as a direct result of these disorders.

Young women are the most common victims of these deadly diseases, but a significant number of males also experience eating-related disorders. We are all aware of the medical complications that result from anorexia and bulimia: malnutrition, liver damage, gum erosion, and even death. However, an often-overlooked consequence of eating disorders is the negative impact they have on a child's educational achievement. Students with eating disorders often see their school performance decline due to lapses in concentration, loss of self-esteem, depression, and engaging in self-destructive behaviors.

Listen to how one young woman in our district describes the destruction done to her life by an eating disorder: "I am a 16-year-old with anorexia. Having this disease has been the most horrible experience of my life. It completely takes control of your life. It breaks up your family, friends, and your actual thinking decisions. I have had this disorder for over a year and a half. Over that year and a half I have been slowly killing myself."

Despite the social and physical devastation that these diseases inflict on young people such as this girl, very few States or school districts have adequate programs or services to help children suffering from weight-related disorders. It is not that educators or parents do not realize the problems caused by bulimia or binge-eating or are unable to identify affected students; in many cases, they either do not know how to respond to the problem or are without the resources to help educate our youth about the dangers of eating disorders.

It is for this reason that I am introducing the Eating Disorders Awareness, Prevention and Education Act of 2003. This legislation has three parts which together are designed to raise awareness nationally of the problems caused by eating disorders, and to expand opportunities for parents and educators to address them at the school level. This last goal is particularly important as 86 percent of the affected individuals develop their eating disorders before the age 20.

Here is a quick summary of what the Eating Disorders Awareness, Prevention and Education Act will do:

First, the legislation provides States and local school districts with the option of using title V funds to set up eating disorder prevention, awareness and education programs. Under the No Child Left Behind Act, title V funds can be used for nine specific activities to improve the academic outcome of students. This legislation would make eating disorders awareness, education and prevention the tenth allowable use.

Because this legislation expands what States and school districts can do with funds they already receive, it allows us to help vulnerable students without increasing the Federal Government's involvement in local education matters or creating a new Federal program.

The second major provision of this bill ties in with the first. It requires the National Center for Education Statistics at the Department of Education and the National Center for Health Statistics at the Department of Health and Human Services to conduct a joint study and report to Congress on the impact eating disorders have on educational advancement and achievement.

The study will evaluate the extent to which students with eating disorders are more likely to miss school, have delayed rates of development, or reduce cognitive skills. The study will also outline current State and local programs to educate youth about the dangers of eating disorders, as well as evaluate the value of such programs.

The third and final piece of this legislation calls for the Department of Education and Health and Human Services to carry out a national eating disorders public awareness campaign. This campaign will be similar to the antidrug campaign now being run by the Office of National Drug Control Policy.

Mr. Speaker, there is no easy solution to the problem of eating disorders. They present a serious threat to the health and educational advancement of our Nation's children. They must be addressed.

The Eating Disorders Awareness, Prevention and Education Act gives States, local school districts, and parents the tools needed to address this problem at its root: in schools and classrooms across America. At the same time, it continues the principle of local control of education, makes good use of limited Federal resources, and increases educational opportunities for this group of at-risk children.

Let me close by quoting another young woman from my district struggling with an eating disorder. After describing her tragic battle with anorexia, she closed her letter by saying this: "I really hope that you now realize how important it is to have some awareness and programs in schools about eating disorders."

I do understand, Mr. Speaker, and hope my colleagues will join me in supporting this much needed legislation.

PUBLICATION OF THE RULES OF THE COMMITTEE ON INTERNATIONAL RELATIONS 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HYDE) is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, the Committee on International Relations has adopted written rules governing its procedure. Pursuant to Rule XI, clause 2, I am hereby submitting them for publication in the CONGRESSIONAL RECORD.

RULES OF THE COMMITTEE ON INTERNATIONAL RELATIONS 108TH CONGRESS

RULE 1. GENERAL PROVISIONS

The Rules of the House of Representatives, and in particular, the committee rules enumerated in clause 2 of Rule XI, are the rules of the Committee on International Relations (hereafter referred to as the "Committee"), to the extent applicable. A motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, is a privileged non-debatable motion in Committee.

The Chairman of the Committee on International Relations (hereinafter referred to as the "Chairman") shall consult the Ranking Minority Member to the extent possible with respect to the business of the Committee. Each subcommittee of the Committee is a part of the Committee and is subject to the authority and direction of the Committee and to its rules, to the extent applicable.

RULE 2. DATE OF MEETING

The regular meeting date of the Committee shall be the first Tuesday of every month when the House of Representatives is in session pursuant to clause 2(b) of Rule XI of the House of Representatives. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the Members of the Committee in accordance with clause 2(c) of Rule XI of the House of Representatives.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to clause 2(c) of Rule XI of the House of Representatives.

A regularly scheduled meeting need not be held if, in the judgment of the Chairman, there is no business to be considered.

RULE 3. QUORUM

For purposes of taking testimony and receiving evidence, two Members shall constitute a quorum.

One-third of the Members of the Committee shall constitute a quorum for taking any action, except: (1) reporting a measure or recommendation; (2) closing Committee meetings and hearings to the public; (3) authorizing the issuance of subpoenas; and (4) any other action for which an actual majority quorum is required by any rule of the House of Representatives or by law.

No measure or recommendation shall be reported to the House of Representatives unless a majority of the Committee is actually present.

A record vote may be demanded by one-fifth of the Members present or, in the apparent absence of a quorum, by any one Member.

RULE 4. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(a) MEETINGS

(1) Each meeting for the transaction of business, including the markup of legislation, of the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be closed to the public, because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise violate any law or rule of the House of Representatives. No person other than Members of the Committee and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This subsection does not apply to open Committee hearings which are provided for by subsection (b) of this rule.

(2) The chairman may postpone further proceedings when a record vote is ordered on

the question of approving any measure or matter, or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time. When exercising postponement authority, the Chairman shall take all reasonable steps necessary to notify Members on the resumption of proceedings on any postponed record vote. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(b) HEARINGS

(1) Each hearing conducted by the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day should be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or otherwise would violate any law or rule of the House of Representatives. Notwithstanding the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony—

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate paragraph (2) of this subsection; or

(B) may vote to close the hearing, as provided in paragraph (2) of this subsection.

(2) Whenever it is asserted by a member of the Committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness—

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (1) of this subsection, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the Committee or subcommittee shall proceed to receive such testimony in open session only if the Committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

(3) No Member of the House of Representatives may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee unless the House of Representatives has by majority vote authorized the Committee or subcommittee, for purposes of a particular series of hearings, on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public.

(4) The Committee or a subcommittee may by the procedure designated in this subsection vote to close one (1) subsequent day of hearing.

(5) No congressional staff shall be present at any meeting or hearing of the Committee or a subcommittee that has been closed to the public, and at which classified information will be involved, unless such person is authorized access to such classified information in accordance with Rule 20.

RULE 5. ANNOUNCEMENT OF HEARINGS AND MARKUPS

Public announcement shall be made of the date, place, and subject matter of any hearing or markup to be conducted by the Committee or a subcommittee at the earliest possible date, and in any event at least one (1) week before the commencement of that hearing or markup unless the Committee or subcommittee determines that there is good cause to begin that meeting at an earlier date, in consultation with the Ranking Minority Member of the Committee or subcommittee, as the case may be. Such determination may be made with respect to any markup by the Chairman or subcommittee chairman, as appropriate. Such determination may be made with respect to any hearing of the Committee or of a subcommittee by its Chairman, with the concurrence of its Ranking Minority Member, or by the Committee or subcommittee by majority vote, a quorum being present for the transaction of business.

Public announcement of all hearings and markups shall be published in the Daily Digest portion of the Congressional Record. Members shall be notified by the Chief of Staff of all meetings (including markups and hearings) and briefings of subcommittees and of the full Committee.

The agenda for each Committee and subcommittee meeting, setting out all items of business to be considered, including whenever possible a copy of any bill or other document scheduled for markup, shall be furnished to each Committee or subcommittee Member by delivery to the Member's office at least 24 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. Bills or subjects not listed on such agenda shall be subject to a point of order unless their consideration is agreed to by a two-thirds vote of the Committee or subcommittee or by the Chairman and Ranking Minority Member of the Committee or subcommittee.

RULE 6. WITNESSES

(a) Interrogation of Witnesses

(1) Insofar as practicable, witnesses shall be permitted to present their oral statements without interruption subject to reasonable time constraints imposed by the Chairman, with questioning by the Committee Members taking place afterward. Members should refrain from questions until such statements are completed.

(2) In recognizing Members, the Chairman shall, to the extent practicable, give preference to the Members on the basis of their arrival at the hearing, taking into consideration the majority and minority ratio of the Members actually present. A Member desiring to speak or ask a question shall address the Chairman and not the witness.

(3) Subject to paragraph (4), each Member may interrogate the witness for 5 minutes, the reply of the witness being included in the 5-minute period. After all Members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

(4) Notwithstanding paragraph (3), the Chairman, with the concurrence of the Ranking Minority Member, may permit one (1) or more majority members of the Committee designated by the Chairman to question a witness for a specified period of not longer than 30 minutes. On such occasions, an equal number of minority Members of the Committee designated by the Ranking Minority Member shall be permitted to question the same witness for the same period of time. Committee staff may be permitted to question a witness for equal specified periods either with the concurrence of the Chairman and Ranking Minority Member or by motion. However, in no case may questioning by Committee staff proceed before each Member of the Committee who wishes to speak under the 5-minute rule has had one opportunity to do so.

(b) Statements of Witnesses

Each witness who is to appear before the Committee or a subcommittee is required to file with the clerk of the Committee, at least two (2) working days in advance of his or her appearance, sufficient copies, as determined by the Chairman of the Committee or subcommittee, of his or her proposed testimony to provide to Members and staff of the Committee or subcommittee, the news media, and the general public. The witness shall limit his or her oral presentation to a brief summary of his or her testimony. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall, to the extent practicable, include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness, to the extent that such information is relevant to the subject matter of, and the witness' representational capacity at, the hearing.

To the extent practicable, each witness should provide the text of his or her proposed testimony in machine-readable form, along with any attachments and appendix materials.

The Committee or subcommittee shall notify Members at least two working days in advance of a hearing of the availability of testimony submitted by witnesses.

The requirements of this subsection or any part thereof may be waived by the Chairman or Ranking Minority Member of the Committee or subcommittee, or the presiding Member, provided that the witness or the Chairman or Ranking Minority Member has submitted, prior to the witness's appearance, a written explanation as to the reasons testimony has not been made available to the Committee or subcommittee. In the event a witness submits neither his or her testimony at least two working days in advance of his or her appearance nor has a written explanation been submitted as to prior availability, the witness shall be released from testifying unless a majority of the Committee or subcommittee votes to accept his or her testimony.

(c) Oaths

The Chairman, or any Member of the Committee designated by the Chairman, may administer oaths to witnesses before the Committee.

RULE 7. PREPARATION AND MAINTENANCE OF COMMITTEE RECORDS

An accurate stenographic record shall be made of all hearings and markup sessions. Members of the Committee and any witness may examine the transcript of his or her own remarks and may make any grammatical or technical changes that do not substantively alter the record. Any such Member or witness shall return the transcript to the Committee offices within five (5) calendar days (not including Saturdays, Sundays, and legal holidays) after receipt of the transcript, or as soon thereafter as is practicable.

Any information supplied for the record at the request of a Member of the Committee shall be provided to the Member when received by the Committee.

Transcripts of hearings and markup sessions (except for the record of a meeting or hearing which is closed to the public) shall be printed as soon as is practicable after receipt of the corrected versions, except that the Chairman may order the transcript of a hearing to be printed without the corrections of a Member or witness if the Chairman determines that such Member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

The Committee shall, to the maximum extent feasible, make its publications available in electronic form.

RULE 8. EXTRANEOUS MATERIAL IN COMMITTEE HEARINGS

No extraneous material shall be printed in either the body or appendices of any Committee or subcommittee hearing, except matter which has been accepted for inclusion in the record during the hearing or by agreement of the Chairman and Ranking Minority Member of the Committee or subcommittee within five calendar days of the hearing. Copies of bills and other legislation under consideration and responses to written questions submitted by Members shall not be considered extraneous material.

Extraneous material in either the body or appendices of any hearing to be printed which would be in excess of eight (8) printed pages (for any one submission) shall be accompanied by a written request to the Chairman, such written request to contain an estimate in writing from the Public Printer of the probable cost of publishing such material.

RULE 9. PUBLIC AVAILABILITY OF COMMITTEE VOTES

The result of each record vote in any meeting of the Committee shall be made available for inspection by the public at reasonable times at the Committee offices. Such result shall include a description of the amendment, motion, order, or other proposition, the name of each Member voting for and against, and the Members present but not voting.

RULE 10. PROXIES

Proxy voting is not permitted in the Committee or in subcommittees.

RULE 11. REPORTS

(a) Reports on bills and resolutions

To the extent practicable, not later than 24 hours before a report is to be filed with the Clerk of the House on a measure that has been ordered reported by the Committee, the Chairman shall make available for inspection by all Members of the Committee a copy of the draft committee report in order to afford Members adequate information and the opportunity to draft and file any supplemental, minority or additional views which they may deem appropriate.

With respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in any Committee report on the measure or matter.

(b) Prior approval of certain reports

No Committee, subcommittee, or staff report, study, or other document which purports to express publicly the views, findings, conclusions, or recommendations of the Committee or a subcommittee may be released to the public or filed with the Clerk of the House unless approved by a majority of the Committee or subcommittee, as appropriate. A proposed investigative or oversight report shall be considered as read if it has been available to members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day). In any case in which clause 2(l) of Rule XI and clause 3(a)(1) of Rule XIII of the House of Representatives does not apply, each Member of the Committee or subcommittee shall be given an opportunity to have views or a disclaimer included as part of the material filed or released, as the case may be.

(c) Foreign travel reports

At the same time that the report required by clause 8(b)(3) of Rule X of the House of Representatives, regarding foreign travel reports, is submitted to the Chairman, Members and employees of the committee shall provide a report to the Chairman listing all official meetings, interviews, inspection tours and other official functions in which the individual participated, by country and date. Under extraordinary circumstances, the Chairman may waive the listing in such report of an official meeting, interview, inspection tour, or other official function. The report shall be maintained in the full committee offices and shall be available for public inspection during normal business hours.

RULE 12. REPORTING BILLS AND RESOLUTIONS

Except in unusual circumstances, bills and resolutions will not be considered by the Committee unless and until the appropriate subcommittee has recommended the bill or resolution for Committee action, and will not be taken to the House of Representatives for action unless and until the Committee has ordered reported such bill or resolution, a quorum being present.

Except in unusual circumstances, a bill or resolution originating in the House of Representatives that contains exclusively findings and policy declarations or expressions of the sense of the House of Representatives or the sense of the Congress shall not be considered by the Committee or a subcommittee unless such bill or resolution has at least 25 House co-sponsors, at least ten of whom are members of the Committee.

For purposes of this Rule, unusual circumstances will be determined by the Chairman, after consultation with the Ranking Minority Member and such other Members of the Committee as the Chairman deems appropriate.

RULE 13. STAFF SERVICES

(a) The Committee staff shall be selected and organized so that it can provide a comprehensive range of professional services in the field of foreign affairs to the Committee, the subcommittees, and all its Members. The staff shall include persons with training and experience in international relations, making available to the Committee individuals with knowledge of major countries, areas, and U.S. overseas programs and operations.

(b) Subject to clause 9 of Rule X of the House of Representatives, the staff of the Committee, except as provided in paragraph (c), shall be appointed, and may be removed, by the Chairman with the approval of the majority of the majority Members of the Committee. Their remuneration shall be fixed by the Chairman, and they shall work under the general supervision and direction of the Chairman. Staff assignments are to be authorized by the Chairman or by the Chief of Staff under the direction of the Chairman.

(c) Subject to clause 9 of Rule X of the House of Representatives, the staff of the Committee assigned to the minority shall be appointed, their remuneration determined, and may be removed, by the Ranking Minority Member with the approval of the majority of the minority party Members of the Committee. No minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart. Such staff shall work under the general supervision and direction of the Ranking Minority Member with the approval or consultation of the minority Members of the committee.

(d) The Chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee. The Chairman shall ensure that the minority party is fairly treated in the appointment of such staff.

RULE 14. NUMBER AND JURISDICTION OF SUBCOMMITTEES

(a) Full committee

The full Committee will be responsible for oversight and legislation relating to: foreign assistance (including development assistance, security assistance, and Public Law 480 programs abroad) or relating to the Peace Corps; national security developments affecting foreign policy; strategic planning and agreements; war powers, treaties, executive agreements, and the deployment and use of United States Armed Forces; peacekeeping, peace enforcement, and enforcement of United Nations or other international sanctions; arms control and disarmament issues; the Agency for International Development; activities and policies of the State, Commerce and Defense Departments and other agencies related to the Arms Export Control Act, the Export Administration Act, and the Foreign Assistance Act including export and licensing policy for munitions items and technology and dual-use equipment and technology, and other matters related to international economic policy and trade; international law; promotion of democracy; international law enforcement issues, including terrorism and narcotics control programs and activities; Department of State, Broadcasting Board of Governors, Overseas Private Investment Corporation, Trade and Development Agency, and related agency operations; the diplomatic service; international education and cultural affairs; embassy security and foreign buildings; the United Nations, its affiliated agencies, and other international organizations; parliamentary conferences and exchanges; protection of American citizens abroad; international broadcasting; international communication and information policy; the American Red Cross; international population planning and child survival activities; and all other matters not specifically assigned to a subcommittee. The full Committee may conduct oversight with respect to any matter within the jurisdiction of the Committee as defined in the Rules of the House of Representatives.

(b) Subcommittees

There shall be six (6) standing subcommittees. The names and jurisdiction of those subcommittees shall be as follows:

1. Functional Subcommittee

There shall be one subcommittee with functional jurisdiction:

Subcommittee on International Terrorism, Nonproliferation and Human Rights.—Oversight and legislative responsibilities over the United States' efforts to manage and coordinate international programs to combat terrorism as coordinated by the Department of State and other agencies, including diplomatic, economic, and military assistance programs in areas designed to prevent terrorism, and efforts intended to identify, arrest, and bring international terrorists to justice. Oversight of, and (to the degree applicable to matters outside the Foreign Assistance Act, the Arms Export Control Act, the Export Administration Act, sanctions laws pertaining to individual countries and the provision of foreign assistance) legislation pertaining to: nonproliferation including matters relating to arms transfer policy; export control policy including the transfer of dual use equipment and technology; matters involving nuclear, chemical, biological and other weapons of mass destruction; legislation aimed at the promotion of sanctions and other nonproliferation matters generally. Oversight of, and (to the degree applicable to matters outside the Foreign Assistance Act, the Arms Export Control Act, the Export Administration Act, and the provision of foreign assistance) legislation pertaining to, implementation of the Universal Declaration of Human Rights, and other matters relating to internationally-recognized human rights, including sanctions legislation aimed at the promotion of human rights and democracy generally.

2. Regional Subcommittees

There shall be five subcommittees with regional jurisdiction: the Subcommittee on Europe; the Subcommittee on the Middle East and Central Asia; the Subcommittee on the Western Hemisphere; the Subcommittee on Africa; and the Subcommittee on Asia and the Pacific.

The regional subcommittees shall have jurisdiction over the following within their respective regions:

(1) Matters affecting the political relations between the United States and other countries and regions, including resolutions or other legislative measures directed to such relations.

(2) Legislation with respect to disaster assistance outside the Foreign Assistance Act, boundary issues, and international claims.

(3) Legislation with respect to region- or country-specific loans or other financial relations outside the Foreign Assistance Act.

(4) Resolutions of disapproval under section 36(b) of the Arms Export Control Act, with respect to foreign military sales.

(5) Legislation and oversight regarding human rights practices in particular countries.

(6) Oversight of regional lending institutions.

(7) Oversight of matters related to the regional activities of the United Nations, of its affiliated agencies, and of other multilateral institutions.

(8) Identification and development of options for meeting future problems and issues relating to U.S. interests in the region.

(9) Base rights and other facilities access agreements and regional security pacts.

(10) Oversight of matters relating to parliamentary conferences and exchanges involving the region.

(11) Concurrent oversight jurisdiction with respect to matters assigned to the functional subcommittees insofar as they may affect the region.

(12) Oversight of all foreign assistance activities affecting the region.

(13) Such other matters as the Chairman of the full Committee may determine.

RULE 15. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen shall set meeting dates after consultation with the Chairman, other subcommittee chairmen, and other appropriate Members, with a view towards minimizing scheduling conflicts. It shall be the practice of the Committee that meetings of subcommittees not be scheduled to occur simultaneously with meetings of the full Committee.

In order to ensure orderly administration and fair assignment of hearing and meeting rooms, the subject, time, and location of hearings and meetings shall be arranged in advance with the Chairman through the Chief of Staff of the Committee.

The Chairman of the full Committee shall designate a Member of the majority party on each subcommittee as its vice chairman.

The Chairman and the Ranking Minority Member may attend the meetings and participate in the activities of all subcommittees of which they are not members, except that they may not vote or be counted for a quorum in such subcommittees.

RULE 16. REFERRAL OF BILLS BY CHAIRMAN

In accordance with Rule 14 of the Committee and to the extent practicable, all legislation and other matters referred to the Committee shall be referred by the Chairman to a subcommittee of primary jurisdiction within two (2) weeks. In accordance with Rule 14 of the Committee, legislation may also be concurrently referred to additional subcommittees for consideration. Unless otherwise directed by the Chairman, such subcommittees shall act on or be discharged from consideration of legislation that has been approved by the subcommittee of primary jurisdiction within two (2) weeks of such action. In referring any legislation to a subcommittee, the Chairman may specify a date by which the subcommittee shall report thereon to the full Committee.

Subcommittees with regional jurisdiction shall have primary jurisdiction over legislation regarding human rights practices in particular countries within the region. The Subcommittee on International Terrorism, Nonproliferation and Human Rights shall have additional jurisdiction over such legislation.

The Chairman may designate a subcommittee chairman or other Member to take responsibility as manager of a bill or resolution during its consideration in the House of Representatives.

RULE 17. PARTY RATIOS ON SUBCOMMITTEES AND CONFERENCE COMMITTEES

The majority party caucus of the Committee shall determine an appropriate ratio of majority to minority party Members for each subcommittee. Party representation on each subcommittee or conference committee shall be no less favorable to the majority party than the ratio for the full Committee. The Chairman and the Ranking Minority Member are authorized to negotiate matters affecting such ratios including the size of subcommittees and conference committees.

RULE 18. SUBCOMMITTEE FUNDING AND RECORDS

(a) Each subcommittee shall have adequate funds to discharge its responsibility for legislation and oversight.

(b) In order to facilitate Committee compliance with clause 2(e)(1) of Rule XI of the House of Representatives, each subcommittee shall keep a complete record of all subcommittee actions which shall include a record of the votes on any question on which a record vote is demanded. The result of each record vote shall be promptly made available to the full Committee for inspection by the public in accordance with Rule 9 of the Committee.

(c) All subcommittee hearings, records, data, charts, and files shall be kept distinct from the congressional office records of the Member serving as chairman of the subcommittee. Subcommittee records shall be coordinated with the records of the full Committee, shall be the property of the House, and all Members of the House shall have access thereto.

RULE 19. MEETINGS OF SUBCOMMITTEE CHAIRMEN

The Chairman shall call a meeting of the subcommittee chairmen on a regular basis not less frequently than once a month. Such a meeting need not be held if there is no business to conduct. It shall be the practice at such meetings to review the current agenda and activities of each of the subcommittees.

RULE 20. ACCESS TO CLASSIFIED INFORMATION

Authorized persons.—In accordance with the stipulations of the Rules of the House of Representatives, all Members of the House who have executed the oath required by clause 13 of Rule XXIII of the House of Representatives shall be authorized to have access to classified information within the possession of the Committee.

Members of the Committee staff shall be considered authorized to have access to classified information within the possession of the Committee when they have the proper security clearances, when they have executed the oath required by clause 13 of Rule XXIII of the House of Representatives, and when they have a demonstrable need to know. The decision on whether a given staff member has a need to know will be made on the following basis:

(a) In the case of the full Committee majority staff, by the Chairman, acting through the Chief of Staff;

(b) In the case of the full Committee minority staff, by the Ranking Minority Member of the committee, acting through the Minority Chief of Staff;

(c) In the case of subcommittee majority staff, by the Chairman of the subcommittee;

(d) In the case of the subcommittee minority staff, by the Ranking Minority Member of the subcommittee.

No other individuals shall be considered authorized persons, unless so designated by the Chairman.

Designated persons.—Each Committee Member is permitted to designate one member of his or her staff as having the right of access to information classified confidential. Such designated persons must have the proper security clearance, have executed the oath required by clause 13 of Rule XXIII of the House of Representatives, and have a need to know as determined by his or her principal. Upon request of a Committee Member in specific instances, a designated person also shall be permitted access to information classified secret which has been furnished to the Committee pursuant to section 36 of the Arms Export Control Act, as amended. Upon the written request of a Committee Member and with the approval of the Chairman in specific instances, a designated person may be permitted access to other classified materials. Designation of a staff person shall be by letter from the Committee Member to the Chairman.

Location.—Classified information will be stored in secure safes in the Committee rooms. All materials classified top secret must be stored in a Secure Compartmentalized Information Facility (SCIF).

Handling.—Materials classified confidential or secret may be taken from Committee offices to other Committee offices and hearing rooms by Members of the Committee and authorized Committee staff in connection with hearings and briefings of the Committee or its Subcommittees for which such information is deemed to be essential. Removal of such information from the Committee offices shall be only with the permission of the Chairman under procedures designed to ensure the safe handling and storage of such information at all times. Except as provided in this paragraph, top secret materials may not be taken from the SCIF for any purpose, except that such materials may be taken to hearings and other meetings that are being conducted at the top secret level when necessary. Top secret materials may otherwise be used under conditions approved by the Chairman after consultation with the Ranking Minority Member.

Notice.—Appropriate notice of the receipt of classified documents received by the Committee from the executive branch will be sent promptly to Committee Members through the Survey of Activities or by other means.

Access.—Except as provided for above, access to materials classified top secret or otherwise restricted held by the Committee will be in the SCIF. The following procedures will be observed:

(a) Authorized or designated persons will be admitted to the SCIF after inquiring of the Chief of Staff or an assigned staff member. Access to the SCIF will be afforded during regular Committee hours.

(b) Authorized or designated persons will be required to identify themselves, to identify the documents or information they wish to view, and to sign the Classified Materials Log, which is kept with the classified information.

(c) The assigned staff member will be responsible for maintaining a log which identifies (1) authorized and designated persons seeking access, (2) the classified information requested, and (3) the time of arrival and departure of such persons. The assigned staff member will also assure that the classified materials are returned to the proper location.

(d) The Classified Materials log will contain a statement acknowledged by the signature of the authorized or designated person that he or she has read the Committee rules and will abide by them.

Divulgence.—Classified information provided to the Committee by the executive branch shall be handled in accordance with the procedures that apply within the executive branch for the protection of such information. Any classified information to which access has been gained through the Committee may not be divulged to any unauthorized person. Classified material shall not be photocopied or otherwise reproduced without the authorization of the Chief of Staff. In no event shall classified information be discussed over a non-secure telephone. Apparent violations of this rule should be reported as promptly as possible to the Chairman for appropriate action.

Other regulations.—The Chairman, after consultation with the Ranking Minority Member, may establish such additional regulations and procedures as in his judgment may be necessary to safeguard classified information under the control of the Committee. Members of the Committee will be given notice of any such regulations and procedures promptly. They may be modified or waived in any or all particulars by a majority vote of the full Committee.

RULE 21. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

All Committee and subcommittee meetings or hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage in accordance with the provisions of clause 3 of House rule XI.

The Chairman or subcommittee chairman shall determine, in his or her discretion, the number of television and still cameras permitted in a hearing or meeting room, but shall not limit the number of television or still cameras to fewer than two (2) representatives from each medium.

Such coverage shall be in accordance with the following requirements contained in Section 116(b) of the Legislative Reorganization Act of 1970, and clause 4 of Rule XI of the Rules of the House of Representatives:

(a) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(b) No witness served with a subpoena by the Committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) The allocation among cameras permitted by the Chairman or subcommittee chairman in a hearing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(d) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and Member of the Committee or its subcommittees or the visibility of that witness and that Member to each other.

(e) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(f) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the Committee or subcommittee is in session.

(g) Floodlights, spotlights, strobe lights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the current state-of-the-art level of television coverage.

(h) In the allocation of the number of still photographers permitted by the Chairman or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos, United Press International News pictures, and Reuters. If requests are made by more of the media than will be permitted by the Chairman or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(i) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the Committee or its subcommittees.

(j) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(k) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(l) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(m) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

RULE 22. SUBPOENA POWERS

A subpoena may be authorized and issued by the Chairman, in accordance with clause 2(m) of Rule XI of the House of Representatives, in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the Committee, following consultation with the Ranking Minority Member.

In addition, a subpoena may be authorized and issued by the Committee or its subcommittees in accordance with clause 2(m) of Rule XI of the House of the Representatives, in the conduct of any investigation or activity or series of investigations or activities, when authorized by a majority of the Members voting, a majority of the committee or subcommittee being present.

Authorized subpoenas shall be signed by the Chairman or by any Member designated by the Committee.

RULE 23. RECOMMENDATION FOR APPOINTMENT OF CONFEREES

Whenever the Speaker is to appoint a conference committee, the Chairman shall recommend to the Speaker as conferees those Members of the Committee who are primarily responsible for the legislation (including to the full extent practicable the principal proponents of the major provisions of the bill as it passed the House), who have actively participated in the Committee or subcommittee consideration of the legislation, and who agree to attend the meetings of the conference. With regard to the appointment of minority Members, the Chairman shall consult with the Ranking Minority Member.

RULE 24. GENERAL OVERSIGHT

Not later than February 15th of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

RULE 25. OTHER PROCEDURES AND REGULATIONS

The Chairman, in consultation with the Ranking Minority Member, may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Any additional procedures or regulations may be modified or rescinded in any or all particulars by a majority vote of the full Committee.

HONORING SUSAN B. ANTHONY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized for 5 minutes.

Mrs. MUSGRAVE. Mr. Speaker, today I rise to recognize the debt that all of us owe to the pioneering work of Susan B. Anthony. Susan B. Anthony is celebrated for her indispensable role in securing for women the right to vote and setting our Nation on the course towards recognizing the full equality and the dignity of women.

For Susan B. Anthony and her colleagues in the 19th century, promoting women's rights and promoting the dignity of women also meant opposing the evil of abortion. Out of respect for women recovering from abortion, I will refrain from using the term that Susan B. Anthony used to describe this procedure.

Susan B. Anthony was very insightful. She was one of our pioneering feminists, and she was also a strong pro-life advocate. It is instructive, Mr. Speaker, that Susan B. Anthony's opposition to abortion arose from her fight for equal rights for women, and that she saw no reason to separate the two.

Mr. Speaker, as we commemorate the 183rd anniversary of Susan B. Anthony's birthday and her human rights legacy, let us not separate the fight for equal rights for women from the fight for rights for all women, born and unborn.

Mr. Speaker, abortion is one of the greatest human rights issues that face us in our time. In honoring Susan B. Anthony, let us agree that being pro-life is inseparable from being pro-woman.

IN SUPPORT OF PRESIDENT BUSH AND WORLD LEADERS IN CONFRONTING SADDAM HUSSEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, we will confront many issues in the 108th Congress. They will have to do with the economy; our own budget; a debate over cloning, which will come to the House floor this week and to this very Chamber moments from now; reforming Medicare; but nothing can be compared to the issues of war and peace.

In the midst of an incessant barrage of media alerts, Mr. Speaker, and new resolutions being debated before the United Nations, as a member of the Committee on International Relations I rise tonight to stand with the President of the United States and the strong and unwavering leadership in confronting tyranny which he and the Prime Minister of England and the leaders of some 43 other nations have consistently and courageously provided to the world.

Mr. Speaker, I am not a combat veteran; it was not part of my generation. But my father was, having seen conflict and bloodshed in the Korean War. I do not welcome war. I do not hope for it. As near as I can tell, from my late father and veterans with whom I have close enough relationships to hear the truth, war is a wicked and a violent enterprise that can consume our children in a conflagration, unthinkable in ordinary life.

But nevertheless it has come from time to time upon the free nations of the world, and it seems most especially on the United States of America, to be willing to employ the arsenal of democracy to confront force with force as a last resort. We may well be come upon such a time again, Mr. Speaker.

We are hearing a great deal in the national media about what the facts are or are not, what has been proven and what has not been proven. Mr. Speaker, I felt compelled tonight simply to rise and talk about the facts for what they are, for what we as policymakers in the 107th Congress knew them to be, and for what every member of the Security Council of the United Nations knows them to be today.

Mr. Speaker, it is said that facts are stubborn things. I offer tonight a few stubborn things.

For instance, this Congress on this floor and our colleagues in the Senate overwhelmingly gave this President the authority to use America's military power to disarm Iraq. The national legislature of the United States spoke in overwhelming fashion that the need was real and urgent and the President should be empowered under our constitutional authority.

The United States Security Council adopted Resolution 1441. We hear a great deal about new resolutions. I applaud the President's effort to try and exhaust all diplomatic means this week.

But let us be clear what 1441 said. Mr. Speaker, number one, it said that Iraq is guilty. No objective observer doubts that Iraq has violated 17 U.N. resolutions.

Number two, it said that Iraq could remedy its guilt through disarmament and disclosure.

Number 3, if it refused to remedy, it would be a material breach, and serious consequences should flow.

Mr. Speaker, Baghdad is guilty. Baghdad refuses to remedy. Serious consequences are in order. I stand with the President of the United States. I pray with millions of Americans as we will ask, perhaps within the week, our finest to go forward on behalf of liberty again.

Let us focus on the facts and on the true challenges before us.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL RECOGNITION FOR EXCELLENCE IN ARTS EDUCATION AWARDS BOARD

The SPEAKER pro tempore. Pursuant to section 815(a)(1) of the Congressional Recognition for Excellence in Arts Education Act (2 U.S.C. 815) and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional Recognition for Excellence in Arts Education Awards Board:

Mr. MCKEON of California.
Mrs. BIGGERT of Illinois.

APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF GALLAUDET UNIVERSITY

The SPEAKER pro tempore. Pursuant to 20 United States Code 4303, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Trustees of Gallaudet University:

Mr. LAHOOD of Illinois.

APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The SPEAKER pro tempore. Pursuant to 20 United States Code 4412, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development:

Mr. YOUNG of Alaska.

APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER pro tempore. Pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), amended by Public Law 107-117, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of

Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. KOLBE of Arizona.

Ms. PRYCE of Ohio.

APPOINTMENT OF MEMBERS TO HOUSE OF REPRESENTATIVES PAGE BOARD

The SPEAKER pro tempore. Pursuant to 2 United States Code 88(b)(3), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the House of Representatives Page Board:

Mr. SHIMKUS of Illinois.

Mrs. WILSON of New Mexico.

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APPOINTMENT OF MEMBERS TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER pro tempore (Mr. BEAUPREZ). Pursuant to sections 5580 and 5581 of the revised statutes (20 U.S.C. 42–43), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Regents of the Smithsonian Institution:

Mr. REGULA of Ohio.

Mr. SAM JOHNSON of Texas.

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO THE UNITED STATES AIR FORCE ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C. 9355(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Air Force Academy:

Mr. YOUNG of Florida.

Mr. HEFLEY of Colorado.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO THE UNITED STATES COAST GUARD ACADEMY

The SPEAKER pro tempore. Pursuant to 14 U.S.C. 194(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Coast Guard Academy:

Mr. SIMMONS of Connecticut.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO THE UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER pro tempore. Pursuant to 46 U.S.C. 1295b(h), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Merchant Marine Academy:

Mr. KING of New York.

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C. 4355(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Military Academy:

Mr. TAYLOR of North Carolina.

Mrs. KELLY of New York.

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO THE UNITED STATES NAVAL ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C. 6968(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Naval Academy:

Mr. CUNNINGHAM of California.

Mr. GILCHREST of Maryland.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEACH of Iowa, chairman.

Mr. BEREUTER of Nebraska.

Mr. DREIER of California.

Mr. WOLF of Virginia.

Mr. PITTS of Pennsylvania.

APPOINTMENT OF MEMBER TO BENJAMIN FRANKLIN TERCENTENARY COMMISSION

The SPEAKER pro tempore. Pursuant to section 5(a)(2) of the Benjamin Franklin Tercentenary Commission Act (36 U.S.C. 101 Note), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Benjamin Franklin Tercentenary Commission:

Mr. CASTLE of Delaware.

APPOINTMENT OF MEMBER TO THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

The SPEAKER pro tempore. Pursuant to 44 U.S.C. 2501, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the National Historical Publications and Record Commission:

Mr. COLE of Oklahoma.

APPOINTMENT OF MEMBER TO ABRAHAM LINCOLN BICENTENNIAL COMMISSION

The SPEAKER pro tempore. Pursuant to section 5(a) of the Abraham Lincoln Bicentennial Commission Act (36 U.S.C. 101 Note), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Abraham Lincoln Bicentennial Commission:

Mr. LAHOOD of Illinois.

APPOINTMENT OF MEMBERS TO THE JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore. Pursuant to 15 U.S.C. 1024(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Joint Economic Committee:

Mr. RYAN of Wisconsin.

Ms. DUNN of Washington.

Mr. ENGLISH of Pennsylvania.

Mr. PUTNAM of Florida.

Mr. PAUL of Texas.

APPOINTMENT OF MEMBERS TO NATIONAL COUNCIL ON THE ARTS

The SPEAKER pro tempore. Pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b) Note), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the National Council on the Arts:

Mr. BALLENGER of North Carolina.

Mr. MCKEON of California.

APPOINTMENT OF MEMBERS TO THE UNITED STATES HOLOCAUST MEMORIAL COUNCIL

The SPEAKER pro tempore. Pursuant to 36 U.S.C. 2301, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the United States Holocaust Memorial Council:

Mr. LATOURETTE of Ohio.

Mr. CANNON of Utah.

Mr. CANTOR of Virginia.

APPOINTMENT OF MEMBERS TO PRESIDENT'S EXPORT COUNCIL

The SPEAKER pro tempore. Pursuant to Executive Order 12131, and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the President's Export Council:

Mr. ENGLISH of Pennsylvania.
Mr. PICKERING of Mississippi.
Mr. HAYES of North Carolina.

PUBLICATION OF THE RULES OF THE COMMITTEE ON THE JUDICIARY 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 2(a)(2) of Rule XI of the Rules of the House of Representatives, I hereby submit the rules of the Committee on the Judiciary for the 108th Congress for publication in the CONGRESSIONAL RECORD. These rules were adopted by the Committee on February 12, 2003, in a meeting that was open to the public.

COMMITTEE ON THE JUDICIARY RULES OF PROCEDURE, ADOPTED FEBRUARY 12, 2003

RULE I.

The Rules of the House of Representatives are the rules of the Committee on the Judiciary and its Subcommittees with the following specific additions thereto.

RULE II. COMMITTEE MEETINGS

(a) The regular meeting day of the Committee on the Judiciary for the conduct of its business shall be on Tuesday of each week while the House is in session.

(b) Additional meetings may be called by the Chairman and a regular meeting of the Committee may be dispensed with when, in the judgment of the Chairman, there is no need therefor.

(c) At least 24 hours (excluding Saturdays, Sundays and legal holidays when the House is not in session) before each scheduled Committee or Subcommittee meeting, each Member of the Committee or Subcommittee shall be furnished a list of the bill(s) and subject(s) to be considered and/or acted upon at the meeting. Bills or subjects not listed shall be subject to a point of order unless their consideration is agreed to by a two-thirds vote of the Committee or Subcommittee.

(d) The Chairman, with such notice to the ranking Minority Member as is practicable, may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(e) Committee and Subcommittee meetings for the transaction of business, i.e. meetings other than those held for the purpose of taking testimony, shall be open to the public except when the Committee or Subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(f) Every motion made to the Committee and entertained by the Chairman shall be reduced to writing upon demand of any Member, and a copy made available to each Member present.

(g) For purposes of taking any action at a meeting of the full Committee or any Subcommittee thereof, a quorum shall be constituted by the presence of not less than one-third of the Members of the Committee or subcommittee, except that a full majority of the Members of the Committee or Subcommittee shall constitute a quorum for purposes of reporting a measure or recommendation from the Committee or Subcommittee, closing a meeting to the public, or authorizing the issuance of a subpoena.

(h)(1) Subject to subparagraph (2), the Chairman may postpone further proceedings when a record vote is ordered on the question of approving any measure or matter or adopting an amendment. The Chairman may resume proceedings on a postponed request at any time.

(2) In exercising postponement authority under subparagraph (1), the Chairman shall take all reasonable steps necessary to notify Members on the resumption of proceedings on any postponed record vote.

(3) When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(i) Transcripts of markups shall be recorded and may be published in the same manner as hearings before the Committee and shall be included as part of the legislative report unless waived by the Chairman.

RULE III. HEARINGS

(a) The Committee Chairman or any Subcommittee chairman shall make public announcement of the date, place, and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing. If the Chairman of the Committee, or Subcommittee, with the concurrence of the ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee or Subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or Subcommittee chairman shall make the announcement at the earliest possible date.

(b) Committee and Subcommittee hearings shall be open to the public except when the Committee or Subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(c) For purposes of taking testimony and receiving evidence before the Committee or any Subcommittee, a quorum shall be constituted by the presence of two Members.

(d) In the course of any hearing each Member shall be allowed five minutes for the interrogation of a witness until such time as each Member who so desires has had an opportunity to question the witness.

(e) The transcripts of those hearings conducted by the Committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at the place requested, or at the end of the record, as appropriate. Individuals, including Members of Congress, whose comments are to be published as part of a Committee document shall be given the opportunity to verify the accuracy of the transcription in advance of publication. Any requests by those Members, staff or witnesses to correct any errors other than errors in the transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional Committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript.

RULE IV. BROADCASTING

Whenever a hearing or meeting conducted by the Committee or any Subcommittee is open to the public, these proceedings shall be open to coverage by television, radio and still photography except when the hearing or meeting is closed pursuant to the Committee Rules of Procedure.

RULE V. STANDING SUBCOMMITTEES

(a) The full Committee shall have jurisdiction over the following subject matters: antitrust law, tort liability, including medical malpractice and product liability, legal reform generally, and such other matters as determined by the Chairman.

(b) There shall be five standing Subcommittees of the Committee on the Judiciary, with jurisdictions as follows:

(1) Subcommittee on Courts, the Internet, and Intellectual Property: copyright, patent and trademark law, information technology, administration of U.S. courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, other appropriate matters as referred by the Chairman, and relevant oversight.

(2) Subcommittee on the Constitution: constitutional amendments, constitutional rights, federal civil rights laws, ethics in government, other appropriate matters as referred by the Chairman, and relevant oversight.

(3) Subcommittee on Commercial and Administrative Law: bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

(4) Subcommittee on Crime, Terrorism, and Homeland Security: Federal Criminal Code, drug enforcement, sentencing, parole and pardons, terrorism, internal and homeland security, Federal Rules of Criminal Procedure, prisons, other appropriate matters as referred by the Chairman, and relevant oversight.

(5) Subcommittee on Immigration, Border Security, and Claims: immigration and naturalization, border security, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, other appropriate matters as referred by the Chairman, and relevant oversight.

(c) The Chairman of the Committee and ranking Minority Member thereof shall be ex officio Members, but not voting Members, of each Subcommittee to which such Chairman or ranking Minority Member has not been assigned by resolution of the Committee. Ex officio Members shall not be counted as present for purposes of constituting a quorum at any hearing or meeting of such Subcommittee.

RULE VI. POWERS AND DUTIES OF SUBCOMMITTEES

Each Subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective Subcommittees after consultation with the Chairman and other Subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and Subcommittee meetings or hearings whenever possible.

RULE VII. NON-LEGISLATIVE REPORTS

No report of the Committee or Subcommittee which does not accompany a measure or matter for consideration by the House shall be published unless all Members of the Committee or Subcommittee issuing the report shall have been apprised of such report and given the opportunity to give notice of intention to file supplemental, additional, or dissenting views as part of the report. In no case shall the time in which to file such views be less than three calendar days (excluding Saturdays, Sundays and legal holidays when the House is not in session).

RULE VIII. COMMITTEE RECORDS

The records of the Committee at the National Archives and Records Administration shall be made available for public use according to the rules of the House. The Chairman shall notify the ranking Minority Member of any decision to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

HUMAN CLONING PROHIBITION ACT OF 2003

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. WELDON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELDON of Florida. Mr. Speaker, I rise tonight to address the House regarding the very important issue of human cloning.

The question before our Nation is are we going to allow human cloning in the United States of America or are we going to ban human cloning?

In the 107th Congress, I introduced legislation, the Human Cloning Prohibition Act of 2001. This legislation ultimately was reviewed and passed approvingly after hearings by the Committee on the Judiciary and was brought to the floor of the House and received a favorable vote in the House of Representatives passing by a margin of 265 for, 162 against.

Of note in that vote there were some 63 Democrats who voted in support of this legislation to ban all forms of human cloning. And I would point out that many of the Democrats who voted in support of banning human cloning were pro-choice.

There are many people who have tried to define this debate about human cloning as liberal/conservative. They have tried to define it as a pro-life/pro-abortion rights kind of debate; but in reality the debate on human cloning transcends some of those traditional divisions that separate the political parties and factions within the House of Representatives and within our Nation.

Unfortunately, the legislation to ban all forms of human cloning that passed overwhelmingly in the House of Representatives 2 years ago, almost 2 years ago now, it was never taken up by the Senate. The Senate never held a vote on the issue. Therefore, the issue was essentially left open; and, indeed, many Americans are shocked and surprised to learn today that there is no law on the books in the United States of America to ban human cloning. Indeed, many foreign countries have already moved, they have already acted to ban human cloning. Several European countries have banned it outright, like Germany, for example. Norway has banned it completely. The European Parliament has called for a complete ban on human cloning. The French Senate very recently voted to ban all forms of human cloning. So clearly there is a tide sweeping the globe that says, no, we are not going to move away from human pro-creation to baby manufacturing, which is really what this debate is all about in its essence.

Due to the failure of the Senate, or the other body, to act on this issue, I reintroduced my legislation along with my colleague from Michigan (Mr. STUPAK). Our bill is H.R. 534, the Human Cloning Prohibition Act of 2003. And I would like to talk a little bit about what the legislation is and what it does, and I have a few visuals to help with this debate.

First of all, I would like to start out with what is human cloning. In normal sexual reproduction, the sperm and the egg unite to form a single-cell embryo, and that single-cell embryo rapidly begins a process of dividing to form this multicell embryo. And, of course, from there it develops further into the fetal stage of development forming a baby and ultimately a human being like you and I.

In human cloning we have a procedure called somatic cell nuclear transfer, and what happens here is you take a human egg and you either deactivate the nucleus in the egg or you remove it, and there are two different approaches to that. And you essentially end up with an egg that has no nuclear material in it. In a normal human egg, the normal cells in our bodies have 46 chromosomes; but in the egg there are 23 chromosomes and in the sperm there are 23, and they come together to form a new unique human being with 46 chromosomes.

So in the process of cloning, you either deactivate this nucleus or you eject it out. So you end up with an enucleated egg. And then you take a cell from somebody's body, and in this depiction this has the appearance of a skin cell and you extract the nucleus out of that cell, and you place it inside the egg. And this is why it is called nuclear transfer. It is called somatic cell nuclear transfer because the cells in our bodies are called somatic cells or body cells. Somatic means body. And then what happens next is typically they zap this egg with a little bit of electricity, and lo and behold it begins to divide and form an embryo.

This, of course, is the first mammal that was ever cloned. The first species that was cloned, I believe, it occurred in the 1950s. It was a carrot. But this creation of Dolly the sheep was the first example of a mammal being cloned. Prior to cloning Dolly, there had been some other vertebrates that were cloned, but Dolly was the first mammal. And, of course, we as humans are mammals. And the reason this created so much news is because Dolly a sheep, a mammal very similar to us, and what they did there was they took an udder, cell which is essentially a mammary duct cell, and they took the nucleus out of it from the donor sheep, and then they took another sheep and they took an egg from that sheep and removed the nucleus. And so they did the nuclear transfer technology, and so they had the DNA of this sheep in the egg from this sheep. They zapped it with electricity. They got it to grow in culture, and then they transplanted it into another female sheep. And this is, of course, the surrogate mother and Dolly was created.

And here is Dolly depicted here. This sheep is a genetic duplicate of this sheep, the one that you took the nucleus out of. This sheep can be construed as the twin or this one can be construed as the twin of this sheep.

Now, it is worth noting that Dolly was born on July 5, 1996. Almost immediately Dolly began to show signs of premature aging. Indeed, the researchers who have studied all the cloned mammals that have been cloned so far, pigs, goats, mice, they all show genetic defects in all of them.

Dolly manifested early arthritis; and, of course, she had to be euthanized, or put to sleep, recently because of the development of further medical conditions. She essentially experienced half the normal life expectancy of a normal sheep. And this is one of the principle issues why many people feel that to do cloning in humans, as some people are proposing, is morally and ethically reprehensible.

It took 237 attempts to create Dolly with many miscarriages, many sheep being born with very, very severe birth defects. So if we try to do this with humans, the question, of course, becomes how many humans will be born, how many babies will be born with birth defects? How will we take care of them? Who will be responsible for them?

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One of the most disturbing things about all this is if we were able to overcome those immediate birth-related problems, what would the life of a person who was cloned be like? Would they manifest premature aging? Would they ultimately succumb to diseases at an early age? This is clearly experimentation of the absolute worst and most reprehensible kind, and there is general agreement that we should outlaw cloning specifically of this type, referred to as reproductive cloning.

What this House will engage in a tremendous amount of debate on over the next few days is the issue of whether or not we should allow something called therapeutic cloning or the creation of cloned embryos in the lab. I anticipate that there will be a substitute for my legislation being offered by the gentleman from Pennsylvania (Mr. GREENWOOD). His legislation contends that it is best to simply outlaw the creation of a human being but to allow the unfettered creation of human embryos in the lab to be exploited for research purposes because of the supposed great potential of these to lead to cures to many diseases.

I know there are a lot of people who have some questions about this issue, and I would be very happy to yield to the gentleman from Arizona (Mr. RENZI), a distinguished freshman from the Flagstaff area. I understand he had some questions for me about this issue.

Mr. RENZI. Mr. Speaker, I would like to engage the gentleman from Florida in a colloquy if he would not mind, please.

Mr. WELDON of Florida. I would be happy to do that.

Mr. RENZI. Mr. Speaker, I have seen and heard a lot of rhetoric, and recently we had a letter that was sent around by one of our colleagues that favors the research, if we can call it that, on behalf of the Coalition for the Advancement of Medical Research. And I have got some serious questions and doubts as to the truth.

One of our colleagues says that their position is reasonable, and his letter goes on to state that somatic cell nuclear transfer is not the science fiction you see in movies but, rather, a reasonable and appropriate way to alleviate the horror faced by patients suffering from deadly and painful disease. Pain and disease is something that all Americans are passionate about, and I would ask my colleague, then, what cures, in light of this great new technology, have occurred using somatic cell nuclear transfer, if he does not mind.

Mr. WELDON of Florida. Mr. Speaker, I would be happy to respond to his question. This is a very, very important issue, and it gets essentially to the crux of the debate we are going to have here on the floor of this body on Thursday when H.R. 534 comes up for discussion, debate, and consideration and vote, and I want to just point out one very very important thing about this.

They are trying to call embryo cloning somatic cell nuclear transfer, and the reason they are trying to do that, scientifically that is what it is, but the overwhelming majority of Americans are opposed to all forms of human cloning. It is something like 65, 70, 80 percent of the American people are against all forms of human cloning, and so they are trying to put a pretty face on it so they are calling it somatic cell nuclear transfer.

The important point I want to raise I think was stated very nicely by the President's National Bioethics Advisory Commission back in 1997, and they said the commission began its discussion fully recognizing that any efforts in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo with the apparent potential to be planted in utero and developed to term.

So what they are saying here is this is cloning. So they may want to call it somatic cell nuclear transfer but it is definitely cloning.

They go on to say this is not science fiction you see in movies, but rather a reasonable and appropriate way to alleviate the horrors faced by patients suffering from deadly painful diseases. This kind of language in my opinion is reprehensible. There is no basis in science to make a claim like this, and I have been saying this over and over again. I would be very, very happy to debate these people who go around making these claims.

Therapeutic cloning has never been done. It is going to be debated here as though it is a scientific fact. It is a scientific fiction. It has never been demonstrated in humans. What is more, it has never even been demonstrated in an animal model. We purchase from research labs these animals that are genetically programmed to develop diabetes. We cannot take this technology and use it to even cure an animal. The advocates for embryo cloning do not have even one, one, example of where in an animal model they can cure disease; and for them to go so far as to say this has the potential to alleviate the horrors faced by patients suffering from deadly diseases, I think it is a horror that they would make such a grossly exaggerated and false statement, because it raises the false hopes of millions of Americans who suffer from these diseases. There is no scientific evidence that this has the potential to be effective at this time.

I apologize, this is a very, very long answer to the gentleman's question. But my legislation to ban cloning does not prohibit animal cloning, and it does not prohibit animal embryo cloning, and so the advocates for this will have unfettered ability to demonstrate that this works in animal models, and if they can demonstrate that it works in animal models, they can come back to the Congress and say we really feel very strongly that you need to allow this to move forward in human models, the Congress has the ability to reverse the law. But that is a grossly exaggerated claim.

I understand the gentleman wanted to ask me some more questions in a colloquy.

Mr. RENZI. Mr. Speaker, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from Arizona.

Mr. RENZI. Mr. Speaker, I take it then from the gentleman's answer that we have no proof that any cures to human beings, never mind even animals, exist; and by the chart the gentleman showed, it actually accelerates the aging of an animal and actually leads to faster death, then. So rather than cure life, it leads to a faster death.

Could I respond also to a portion of the gentleman's statement as it relates to some of the break-throughs that have been claimed, and could I ask that the gentleman look at a piece from a letter that was also recently sent around, and I quote: Cloning is widely used. It is widely used. It is a vital medical tool that has allowed scientists and researchers to develop powerful new drugs, produce insulin, useful bacteria in the lab, track the origins of biological weapons, catch criminals, and free innocent people. It even produces new plants and livestock to help feed and nourish the poor of our world.

In addition to wanting to alleviate pain and suffering, I consider myself a compassionate American who wants to help save our world, and it sounds like cloning is going to do just that. The gentleman's bill, of course, would not ban this type of cloning that was going to save our world, would it?

Mr. WELDON of Florida. This is a very confusing quote because it really mixes two issues. It starts out saying cloning is a widely used, vital medical tool that has allowed scientists and researchers to develop powerful new drugs. What they are talking about is we have been cloning tissues in the labs for years, we have been cloning animals in the labs for years, we have been cloning DNA in the lab, and some of these cloning technologies are finding their way into the research and development arenas that are used for development of new drugs, produce insulin, useful bacteria in the lab. And so those statements are true.

But my bill does not ban those things. This group, CAMR, or the Coalition for the Advancement of Medical Research, they are against my bill; but in that response they fail to point out that my bill does not ban all of that animal cloning and all of that DNA cloning, all that stuff that is going on.

What it specifically only bans is human cloning, an attempt to create a human embryo in the lab, and they seem to imply in the first sentence of that quote the gentleman just read that it is a vital medical tool. Those applications that would be permissible under my legislation are certainly vital, and they will proceed unfettered, but human cloning is not a vital medical tool. There is not one research article where human cloning has been used to treat anybody of anything.

Might I also add, the crux of this debate is the whole issue of regenerative medicine and if a person gets sick, the traditional tools used by physicians are surgery and medications to make a person well; and of course there is therapy and there are lots of other modalities to make people well. But an additional tool is this concept of regenerative medicine where we take cells and put cells in a person's body and those cells make a person better, and adults themselves have actually been used in 45 human clinical trials to make people well.

Embryonic stem cells have never been used in a single clinical trial to ever make anybody well. Embryo stem cells have never been used in an animal model to heal an animal. There have been a couple of studies that seem to suggest that embryo stem cells might have some potential at some point in the future, but they do not have a model where we can take an animal with disease and make it well, and that is what they are trying to imply by this response.

Again, it is a very deceptive response, and I apologize for these lengthy responses to the gentleman's inquiries. These issues are just very, very complicated science, and it is very hard to do them justice by just giving 8-second sound-bite responses to the questions.

Mr. RENZI. The letter that the gentleman and I are discussing and the portions of the letter and the quotes that we have gone over together, this letter from the Coalition for the Advancement of Medical Research; has the gentleman seen the quote which addresses the leading scientists and even two prestigious committees on the National Academy of Sciences that have agreed that cloning to reproduce humans should be illegal but that somatic cell nuclear transfer or therapeutic cloning should be permitted?

My question is that it is my understanding that these panels included no bioethics experts and even that they considered the ethical debate, the morality in question, to be something that should be left up for others to debate.

Mr. WELDON of Florida. That is absolutely correct. The National Academy of Sciences panel made that recommendation, but then they acknowledged there were no bioethicists on the panel, and then they went on further to state that others should debate the ethics of this. There were no bioethicists. There were no theologians. There were no elected representatives from the people, no representatives from the community. And they wisely said that others should debate the morality and the ethics of this issue; and frankly, they wisely said that because the path that they are recommending that we allow the creation of human life in the lab for research purposes and then those human embryos are to be destroyed is an entirely new path for us to walk down.

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Historically in our Nation we have always stood up for protecting life. The recent historical departure from that, Roe v. Wade, that decision was rendered in the context, at least my understanding of the interpretation of the decision of the court was not that the baby developing inside the woman is not alive and not that it is not human and not that it is a commodity that can just be manipulated and discarded, but that the right of reproductive freedom or privacy of the mother trumped the right to life of the baby, a decision I do not particularly agree with.

But now we are talking about going in a whole new direction. We are talking about creating life expressly for the purpose of exploiting it and destroying it. A parallel would be for a woman to deliberately try to get pregnant so she could have an abortion. Clearly this is a moral and ethical quagmire that I do not think we should walk down as a Nation.

I will just cite for you one example of where this would lead us if we allow therapeutic cloning or embryo cloning. The artificial womb is available to us today. You can take a mammalian embryo and drop it in the artificial womb, and it will pass from the embryonic stage into the fetal stage of development and can survive up to 30 days of development. That will be the next place these researchers will want to go to. Who on Earth would want to extract stem cells from an embryo and try to grow those embryo stem cells into, let us say you want heart tissue. Why would you want to go through the ordeal of in a petri dish trying to grow those cells into heart tissue when you could just much more cheaply and easily place that embryo into an artificial womb and then come back 2 weeks or 3 weeks later and get the tissue you want out of it? That is the slippery slope we are going down. So it is a moral and ethical minefield that I think we as a Nation should not enter into, and we should ban all forms of human cloning.

Mr. RENZI. I wanted to ask, we have got a good colleague within our own party who has addressed also this subject matter. Could I ask if you are aware or do you know if the Greenwood bill would ban human reproductive cloning?

Mr. WELDON of Florida. Actually, I do not know if the gentleman from Pennsylvania (Mr. GREENWOOD) is going to change his language before it comes to the floor, but the language as I last saw it, it is not actually a ban. It is a moratorium. It is a 10-year moratorium on reproductive cloning, taking the cloned embryo and putting it in the uterus of a surrogate mother for the purpose of creating a child. It is a 10-year moratorium. It essentially is saying we do not think this is something we want to allow for the next 10 years, but in 10 years we may want to allow reproductive cloning. So I do not think it is a true ban.

The other point I want to mention, and I have debated my good friend, the gentleman from Pennsylvania, on this issue many times in the past, a reproductive-only ban is very, very difficult to enforce. Indeed, I have a quote from the Justice Department I am going to put up on the easel here in a minute where they state categorically it is going to be very, very hard to enforce. If you allow research cloning to proliferate all over the country, you are going to have dozens of labs producing human embryos for experimental research purposes. It would be very, very easy for an unscrupulous, dishonest physician to do this. I am a physician and I know as a fact that not every physician is an honest person. The medical profession draws its ranks from the human race and there are people who do bad things even within the medical profession.

It will be very easy for an unscrupulous physician to implant one of those human embryos into a woman in the privacy of the doctor-patient relationship, and it would be impossible for our Justice Department to police such a thing and prevent it from happening. Indeed, if a physician did that and a baby were to develop, what could the government do at that point? They certainly would not mandate an abortion on a woman like that. And so I feel very, very strongly that the Feinstein-Hatch-type approach in the other body or the Greenwood approach would actually help usher in reproductive cloning, the very thing that they say they want to prohibit.

Mr. RENZI. I would like to go back to the letter that the Coalition for Medical Research has put out. There is an interesting quote also in the body of that letter that addresses somatic cell nuclear transfer as being, quote, "a research technique to develop cells that can be used to treat or cure chronic and degenerative diseases and disorders." They claim the process has nothing to do with sexual reproduction and that its sole purpose is research to meet unmet medical needs.

The way I read this, sir, it sounds to me like we are not creating human embryos. Where are we? Are we creating human embryos, or are we not creating human embryos?

Mr. WELDON of Florida. Here again what they are trying to do is change the terminology. They have been losing the debate on this issue with the hearts and minds of the American people, so they are now trying to call it somatic cell nuclear transfer rather than embryo cloning or therapeutic cloning. When they called it those things, people understood exactly what it is. But when they say somatic cell nuclear transfer, suddenly people do not know what they are talking about and they may be able to get this thing through. Clearly as a scientist, as a physician, I can tell you that you are talking about creating human embryos, there is no two ways around it, with the potential to develop into a human being. That is not only my opinion; it is the opinion of the Bioethics Advisory Commission. The same commission has a number of members who feel that therapeutic cloning or embryo cloning should be permissible, but they readily recognize that as soon as you take a somatic cell nucleus and put it in an enucleated egg, it involves the creation of an embryo with the apparent potential to be implanted in a uterus and developed to term. It is the procedure used to create Dolly. So to try to say it is not, I think, is misleading. The facts are the facts.

Mr. RENZI. The fact being, then, that they are creating human life, they are exploiting a human embryo, and that they are using this term "somatic cell nuclear transfer" as a new terminology to come back in and try and legalize or try and establish human cloning as being something that should be legal in America.

Could I ask, please, the Coalition for Medical Research that we are discussing talks about moving stem cell research forward and that somatic cell nuclear transfer could bring new hope to nearly 1 million Americans suffering from, and now we move to the type of diseases which really tug at the heart strings of America. They are citing cancer would be cured, Alzheimer's, diabetes, hepatitis, Parkinson's disease. The only thing left off here is AIDS. And so I would ask you, is this not similar to the type of promises that we saw 10 years ago when we were debating fetal tissue research, the idea that that would bring us all the type of breakthroughs that would cure what ails our human population? Are we not seeing the same sort of propaganda? Are we not seeing the same sort of promises where in over 10 years since fetal tissue research, we really have seen very little, if at all, any kind of great scientific breakthroughs?

Mr. WELDON of Florida. The gentleman raises an absolutely important point. That is, the debates that they are bringing up here were the same exact debates 10 years ago on fetal tissue research. One of the amazing aspects of all this is Senator HATCH was one of the people who led the charge against fetal tissue research in the other body 10 years ago, and now today he is leading the charge to allow embryo cloning, which is a great irony for me. As I mentioned to you before, there is no basis in science to make a claim like that. I find it very reprehensible for them to hold out hopes to millions and millions of Americans that this is going to be the cure for their condition. I will simply just point out, if that were the case, if this statement were true, you would go into the research labs at Harvard and Yale and UCLA and all the prestigious medical schools throughout the Nation and I would expect all the research scientists to be working on cloning, but in point of fact they are not. The reason they are not is because this is a bogus, absurd statement. There is no evidence in science that substantiates a claim like this, that you are going to be able to cure all these millions of Americans of all of these diseases.

I will just simply point out a very important point that they fail to mention. If that were the case, where would you get all the eggs to do all this? It took dozens and dozens of eggs to create Dolly. If you come down with one of these diseases they describe here, we cannot necessarily cure you with one egg. We might need a dozen eggs to get one good clone of you that might develop into an embryo. By the way, this is all science fiction, this is not real; but this is what they are claiming. You would literally need billions of eggs. Who is going to donate all these eggs? To get the eggs, to get a woman's egg, you have to give a woman powerful drugs that cause a phenomenon called superovulation, so instead of one egg developing you get a dozen eggs developing. The drugs have side effects. Thirty percent of women who take those drugs develop depression. You have to give them these powerful drugs, and then you have to give them a general anesthetic and do a surgical procedure to harvest the eggs. This is not some simple, minor procedure that you can have done in a medical office in 30 seconds. You are talking about an ordeal for a woman to donate her eggs. And for them to make the absurd notion that you are going to cure 100 million Americans with this, you would literally need 1 billion eggs.

Mind you, they do not have one, one example where they can do one of these things in an animal model. Not one. I have challenged some of the most prestigious scientists in the world with this question. Show me one, one article where you can do this in a human. None. I say show me one article, one research article, a peer-reviewed journal article where you can do this in an animal model. None. They have absolutely none. But they make these baldfaced, absurd assertions that they are going to cure 100 million people with all these conditions. I think it is shameful that they would seriously consider this.

I very much appreciate the opportunity to engage in this colloquy with the gentleman.

Mr. RENZI. I am grateful, sir. I want to congratulate and applaud the gentleman from Florida for his substantive argument tonight based on fact. There is not a lot of emotional rhetoric there. It is truly your research that contains the truth and not their research which contains false hopes and, I believe, propaganda.

I would like to mention that the lobbyists who cloak themselves in the guise of medical research do an injustice and mislead our American public. It is you who play upon our American compassion to help those in pain and relieve those in suffering in order that you may promote an immoral agenda. The morality argument has been made much tonight, but it is you who want to create human life in a petri dish only to genetically engineer it to die 14 days later. This is not medical research. This is you scientists creating defective human American life and that is mutant life. I abhor your objectives in order that you might bring prestige to yourself. I urge my colleagues to reject those scientists who lack the wisdom to recognize human life in favor of garnering international acclaim among their peers for their morbid scientific breakthroughs.

Mr. WELDON of Florida. I thank the gentleman. It has certainly been a pleasure to engage in this colloquy. I would be very happy to recognize the gentlewoman from Colorado and yield to her if she would like to say a few words about this very important issue.

Mrs. MUSGRAVE. I thank the gentleman. I certainly yield to the gentleman in regard to the clinical objections that you have raised and with all of your knowledge of medical issues raised in regard to human cloning. However, I would like to rise to speak to the profound moral issues raised when we consider permitting medical science to create human life for the exclusive purpose of experimentation and destruction. I think that we need to look to human history. It is a truth of history that governments and mankind, if given the opportunity under the law, will trample on human life.

□ 2030

History is strewn with such examples. By legalizing human cloning for any reason, and many of them can sound altruistic even if they are false, we open a Pandora's box which could set our civilization on a similar course. It is morally wrong to create human life, even nascent human life, for the purpose of experimentation and destruction.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman, and those were very well taken points. This is clearly a line in the sand. It is a demarcation point; and if we go across that line, if we say we are going to start creating human lives for the purpose of exploiting them for scientific research and then discarding them, where does that take us next? What comes around the corner? I have been arguing for years that it will usher in reproductive cloning.

Indeed, in testimony that we received in my committee, we had a Dr. Cohen, Brian Cohen, who represented the American Society of Reproductive Medicine; and in his testimony he repeatedly said "We are opposed to reproductive cloning at this time," and he said it twice. Finally I asked him, "Why did you say 'We are opposed to reproductive cloning at this time'?" And this fellow represents the Association of Fertility Experts in the United States, and essentially his response to me was that once all the science is worked out on this where it can be done safely, they want to be able to do it. They want to be able to clone human beings. And this is the brave new world, no longer confined to fiction literature, but it has essentially arrived because the follow-ons to this will be genetic manipulation, genetic enhancements. Eugenetics is what it is called, an attempt to try to eliminate undesirable traits in our culture and our society. So people will begin to not only select the gender of their desired offspring, but they may actually want to manipulate the genetic code of their offspring so they can get a specific height or size or physical appearance or IQ. I would imagine athletic performance will be one of the things that they will go after.

And this is the Pandora's box of issues that we are opening up if we allow human cloning to occur in the United States. Therapeutic cloning, embryo cloning or reproductive cloning, it is the path we are going down. And I just want to underscore the importance of us banning all forms of human cloning, which is what we are able to do in the Human Cloning Prohibition Act of 2003, and I just want to again underscore that there are people who are going to try to put lipstick on the pig. They are going to try to say that this is not cloning; and they are going to call it somatic cell nuclear transfer, or they are going to try to call it nuclear transfer technologies; and we are going to hear this kind of language being used both in this body and the other body. It is cloning. It is creating human embryos through the process of cloning. And people need to remember that no matter what they call it, that is what it is.

I just want to underscore additionally that this is not purely a pro-life issue. Cloning of all types, therapeutic, embryonic, and reproductive cloning, has been made illegal in Germany by the leadership of the Green Party, which is pro-choice. Indeed, in the vote that we had passing my bill in the 107th Congress, I had seven or eight people voting for the legislation who had a 100 percent voting record with the National Abortion Rights Action League.

And so clearly this is not an abortion debate. It is different from that. There are a lot of people who are pro-life like myself who have a very strong moral and ethical objection to cloning on the basis of simply creating human life in the lab to be exploited and destroyed, a so-called utilitarian approach. But there are many people on the left who are strongly opposed to cloning because of their concern about eugenics, because of their concern about the impact this could have on the disability community, and very importantly there are a lot of people who are very concerned about the exploitation of women. If we are going to have in this country dozens of labs creating hundreds of human embryos every year for the purpose of doing research, where are we going to get those eggs from? Who is going to donate their eggs? Who will submit themselves to this kind of research? I will say who I think it will be. It will probably be poor women. It will probably be predominantly women of color.

Indeed, I want to read this quote from Judy Norsigian. She is the co-author of "Our Bodies, Ourselves for the New Century," the Boston Women's Health Collective book, hardly a right wing group. What does she say? "Because embryo cloning will compromise women's health, turn their eggs and wombs into commodities, compromise their reproductive autonomy, and with virtual certainty lead to the production of experimental human beings, we are convinced that the line must be drawn here." And I was very encouraged by this latter part of her quote. She is not only concerned about women being exploited, but she has a concern about the dignity, the human dignity, and the indignity of this to be creating human beings for experimental research purposes and then to be discarded.

If research cloning is allowed to proceed in this country, or therapeutic cloning unfettered, in my opinion what ultimately will happen, because it will be so expensive to get these eggs from women in the United States because they will have to pay women thousands of dollars to undergo the procedure, because of the fairly high incidence of depression in women who take these superovulatory drugs, we may have women requiring hospitalization following the egg donation procedure or maybe even going so far as attempting suicide, what I think they will end up doing is they will end up going to third world countries. They will end up going to Central America, South America, away from the trial attorneys in the United States that can lead to lawsuits, away from the prying eyes of the American press and where they can pay women peanuts in order to get their eggs; and that I think is one of the concerns of people like Judy Norsigian. She knows that ultimately the potential exists for women to be exploited, and that is just shameful that it would happen when there is no evidence that this could even work in animals. Indeed, the evidence, there was just recently an article in the mouse model where they tried to do therapeutic cloning and it did not work.

The other thing I want to just share is this quote from Daniel Bryant, who is the Assistant Attorney General, Office of Legislative Affairs. He says "enforcing a modified cloning ban would be problematic and pose certain law enforcement challenges that would be lessened with an outright ban on human cloning. Anything short of an outright ban would present other difficulties to law enforcement. And what he is talking about here is if we take the approach advocated by the form of the legislation being promoted by the gentleman from Pennsylvania (Mr. GREENWOOD) in the House and Senators HATCH and FEINSTEIN in the other body, just a reproductive ban, how will we enforce that? It will be impossible to enforce that. We will have all of these embryos in all of these labs. The Justice Department, police officers cannot monitor these labs regularly to make sure the embryos have been discarded rather than implanted in women. There will be no way to know whether or not reproductive cloning has occurred. So I feel very, very strongly that this is the best way for us to go.

I will also point out that the President has indicated that he wants a complete ban on all forms of human cloning, reproductive and so-called therapeutic cloning. So clearly, the time has arrived. It is critical that we as a Nation do the right thing. I believe the House of Representatives will do the right thing and ban human cloning in all of its forms, both embryonic cloning and so-called reproductive cloning, that all attempts at creating human embryos in the lab will be prohibited. This is an enforceable ban and a lasting ban. The advocates who say that we must allow embryo cloning in the lab because of its great potential to lead to cures of all these diseases, I again issue my challenge, show me the evidence.

Traditionally in this country we always have demonstrated that it works in animals before we attempt it in humans. Show us the evidence in the scientific literature that this works in animals. They cannot. They will not be able to. The reason they cannot is because it cannot be done. It has not been done in human models. Clearly this takes us down a very dangerous and precarious path, creating human life for the purpose of exploiting it and then destroying it. A very dangerous road for us to walk as a Nation. So I would encourage all of my colleagues to vote in support of the ban on human cloning that we will be debating in the House of Representatives.

THE PRESIDENT'S BUDGET

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, this evening I wanted to talk about the President's budget, but I also want to point out, using something very specific examples of how the President's rhetoric, if you will, with regard to what he wants to accomplish in this session of Congress, whether it be turn the economy around, create more jobs, reform Medicare, create a prescription drug benefit, the various things that he talked about in his State of the Union Address are not essentially backed up with the budget that he has presented to Congress and that we first had unveiled here a few weeks ago.

And it is disturbing to me because I think it creates what many have called a credibility gap between what the President promises versus what he delivers. He creates the illusion that he will create new jobs, reverse our Nation's current economic woes, ensure all Americans have access to healthcare, and provide seniors a prescription drug benefit; but then when we look at his budget for the year 2004, for the next fiscal year, we see that essentially what it does is mire the Nation's future in record deficits, undermine the future of the social security and the Medicare system at the time that they should be strengthened in anticipation of the baby boom generation which will at some point in the near future become 65 years of age, and we only have to look at the promises the President made in the State of the Union Address that he gave a year ago to see how ineffective he is at following up on his rhetoric once he leaves the Capitol.

Last year, the President assured the Nation that "our budget will run a deficit that will be small and short lived." But 1 year later, according to President's budget message, annual deficits will run close to $300 billion a year for the next 2 years. Even more troubling under the President's watch, the red ink does not appear to go dry any time in the near future, with deficits reaching over a trillion dollars by 2007.

Just last week during the President's Week recess, there was an article in the New York Times that said that the Federal debt was near a ceiling for a second time in 9 months, and I would just read the first couple paragraphs of that article, which was dated February 20, last Thursday, Mr. Speaker. It says "With budget deficits climbing rapidly, the Bush administration acknowledged today that the government had reached its legal limit on borrowing and would run short of cash by early April unless Congress once again raised the debt ceiling.

"Because Congress inevitably does raise the ceiling after intense jousting, the announcement will have little, if any, effect on operations. But it highlights the new era of red ink that the government faces even before President Bush's latest proposals for more than $1 trillion in tax cuts over 10 years . . . the White House now projects a deficit of more than $300 billion this year and next, as well as deficits at least for the next decade."

□ 2045

If you talk about the deficit, Mr. Speaker, if you think about what the President has been saying versus reality, he really has no credibility.

When he took office in 2001, the Federal budget had a surplus of $5.6 billion. Not only has he reversed those fortunes, but on this President's watch the red ink does not appear to go dry anytime in the near future, with deficits reaching $2.1 trillion over the next 10 years. There again, I just use that as one example. There are so many examples of it.

I guess one of the things that is so obvious in this regard is what the President says about the tax cuts. He implemented some tax cuts about a year ago. He now proposes additional tax cuts and is talking about maybe a third set of tax cuts in another 6 months or so.

There was an article in today's New York Times that, once again, talks about the President's credibility gap in the context of the tax cuts. I just wanted to go to some of those statistics, because I think they are so important in terms of what the President says these tax cuts are going to do, who is going to benefit from them, how they are going to impact the economy, versus what the reality is. This was an article in today's New York Times, and it is entitled "The President's Tax Cut and its Unspoken Numbers."

It starts out by saying, "The statistics that President Bush and his allies use to promote his tax cut plan are accurate, but many of them present only part of the picture. For instance, in a speech in Georgia last week, the President asserted that under his proposal, 92 million Americans would receive an average tax reduction of $1,083 and that the economy would improve so much that 1.4 million new jobs would be created by the end of 2004."

Now, no one disputes the size of the average tax reduction. But what the President did not say is that half of all income taxpayers would have their taxes cut by less than $100, 78 percent would receive reductions of less than $1,000, and the firm that the White House relied on to predict the initial job growth also forecast the plan could hurt the economy over the long run.

You say, how does the President talk about an average tax reduction of $1,083 and then you find out that most Americans do not benefit in a significant way? The reason is because only a few rich taxpayers, in a sense, get the largest reduction. So if you take the number of taxpayers and you put it into the total reduction, you get an average of $1,083, but most of the money is going to a very few wealthy taxpayers at the high end of the spectrum.

The cut for those with incomes of $40,000 to $50,000, according to calculations by the Brookings Institution and the Urban Institute, would typically be $380. For those with incomes of $50,000 to $75,000 it would be $553. But if you are someone at the high end, then you are getting tens of thousands of dollars back in tax cuts.

The President primarily when he talks about this tax reduction package talks about the stock dividends and how that is going to help not only turn the economy around, but help the average person, because there are so many people, particularly seniors, he claims, that are going to benefit from eliminating the tax on stock dividends.

But this article in the New York Times today addresses that and basically explains again the President has a credibility gap in how he is spinning it, because among the points that he makes is that more than half of all taxable dividends are paid to people 65 and older and that their average saving from eliminating the tax on dividends would be $936, and that 60 percent of people receiving dividends have incomes of $75,000 and less, and he goes on.

But what we find is only slightly more than one-quarter of Americans 65 and older receive dividends and that two-thirds of the dividends the elderly receive are paid to the 9 percent of all elderly who have incomes of over $100,000.

Essentially what you are having, again, is that most of the money, even with the stock dividend elimination, the tax on that, is going to very few senior citizens who have incomes over $100,000. The average senior citizen is not benefiting from it in any significant way.

I mention this because, again, I think it is important that we all understand that the President says something, and he spins it and makes it sound like it is going to benefit everyone and turn the economy around, but then the reality is that it is not. It does not accomplish that goal at all.

Let me just give you some information, if I can, about job creation. Last month during his State of the Union address, the President said we must have an economy that grows fast enough to employ every man and woman who seeks a job.

Of course, obviously, I agree with that statement. Who would not? But, unfortunately, a huge gap again exists between his rhetoric of employing all Americans and the economic stimulus plan that even the White House says is only going to create about 190,000 jobs this year.

He says everyone should have a job. He talks about an economic stimulus plan that will theoretically create 190,000 jobs. But you have 8.6 million Americans now actively looking for a job. He does not have any credibility because——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RENZI). The Chair would like to remind the gentleman from New Jersey that it is out of order to question the credibility of the President.

Mr. PALLONE. Mr. Speaker, I accept your ruling. I did not realize you could not talk about the credibility, but I certainly will not use that term again.

I just want to point out that when the President took office in January 2001, unemployment had reached a 40-year low. Two years later, 1.7 million jobs have been lost. That gives President Bush the dubious distinction of having the worst job creation record of any administration in the last 58 years.

So when we talk about job creation and how his economic package is somehow going to create more jobs, it may create a few more, but it is not doing anything significant in terms of job creation as opposed to the amount of jobs that we have seen lost in this economic downturn.

Now I want to talk a little bit in the same vein about some of the health care initiatives that the President has put forward, because the bottom line is that over the next few weeks we are probably going to hear more specifics about what he wants to do with Medicare, with Medicaid, with access to health insurance, and also with some of the money that is going back to the States, other than through Medicare and Medicaid, to pay for some health care programs.

Again, if you listen to what the President said during his State of the Union address, basically he said that he wanted to not only strengthen Medicaid and Medicare, but also provide a prescription drug benefit in the context of Medicare for senior citizens.

Again, I would like to point out the fact that most of what has been proposed with regard to Medicare and Medicaid, in my opinion, will not only not strengthen the programs but weaken the programs, and that when he talks about providing a prescription drug benefit under Medicare, it is not a prescription drug benefit that most seniors will be able to avail themselves of.

In fact, again, in yesterday's New York Times, Monday, February 24, there was an article on the front page entitled "Bush Proposes Major Changes in Health Plans. Critics See Less Security and Fewer Benefits."

I would stress that critics see less security and fewer benefits because, the gist of this article says, essentially what the President is proposing with regard to not only Medicare and Medicaid, but also with regard to Social Security, are radical changes in the programs and the way these programs are essentially set up.

What I would like to do, if I could, is just highlight some of the major changes in the programs that I call radical or fundamental changes that are being proposed in these three very important programs that are relating to the health care of not only seniors, but poor people of all ages.

I start out by highlighting the first paragraph of this article in the New York Times. It says, "President Bush has begun one of the most ambitious efforts to reinvent Medicare and Medicaid since the programs were created 38 years ago. Combined with his earlier plan for Social Security, the proposals offer a fundamentally different vision of social welfare policy, many experts say.

"Several architects of those programs, the people that put the Medicare, the Medicaid and the Social Security programs together years ago, argue that the Bush administration is retreating from the goals of the Great Society and the New Deal and the promises that government made across the generations.

"The Bush plans," they say, "are essentially an effort to limit the Federal Government's financial responsibilities and to cap what is now an open-ended guarantee of specific benefits, in an effort to move from a defined benefit to a defined contribution."

Essentially what the critics are saying, and this is brought out in this New York Times article, is that these were programs, you talk about Medicare, you talk about Social Security, these were retirement security programs, in the case of Medicare for health care for seniors, in the case of Social Security retirement benefits for seniors, that were basically guaranteed. You paid into this system and you worked over the years, and then when you reached the age of 65, you knew that you had certain benefits that were defined and guaranteed.

What the President is proposing now and the reason it is so radical is because he is basically saying they are not going to be defined or guaranteed anymore. He is saying in the case of Medicare that essentially what you will get is a voucher. You will get a certain amount of money, and you can go out in the private sector and see if you can buy health insurance with that voucher, if you will. But you may or may not be able to find it, and you do not know exactly what it is going to provide you with in terms of the benefit package.

With regard to Social Security, of course, he is talking about privatizing, and your being able to take the money out and invest it in the stock market or other types of things, so that there is a certain amount of risk, if you will, that the money will not be there because of those kinds of decisions that you made when you took the money away.

Let me just get a little more into some of the specifics, because I think it is interesting to see how the New York Times has analyzed this, and also talk a little bit about what the Democrats would like to do differently with regard to the Medicare prescription drug proposal and how the Democratic proposal is consistent with the guarantees and the tradition and the history of the Medicare program, as opposed to the President's proposal, which is not.

What it says in this New York Times article, again from Monday, is that Mr. Bush's Medicare proposal, being revised after an earlier draft drew fire on Capitol Hill, would encourage many beneficiaries to leave traditional Medicare and get their benefits through private health insurance associated with the program.

Now, some of the Congressional Republicans, some of my colleagues on the Republican side of the aisle, have specifically been opposed or have expressed reservations about the President's Medicare proposal, because what he seems to be saying is if you want the benefit of a prescription drug plan, that you have to go outside of Medicare. In other words, you have to choose a private plan, an HMO or something like an HMO, in order to get the benefits of a prescription drug plan.

It says in the New York Times, "Criticism has come from even influential Congressional Republicans, alarmed at the possibility that the administration might be overreaching. They have been particularly scathing about the possibility that the Bush plan would require the elderly to leave traditional Medicare and join a private plan to get drug benefits discussed in the earlier draft."

Now, the problem with this, again, is a fundamental change in the way we operate the Medicare program, because those who are in Medicare now know it is a guaranteed plan, it is a defined benefit: if you stay in the traditional plan, you can go to any doctor or any hospital and you get your health care covered. But what the New York Times says is that the architects of Medicare said the program was created with some fundamental precepts that the Bush proposal would undermine: that all working Americans pay into the same Medicare system, that the healthy and the sick, the rich and poor, end up in the same program and all have the same core benefits when they retire.

The idea that the elderly would be better served by a private nonprofit insurance market is anathema to those veterans of the Great Society. They say before Medicare, the private health insurance market was a failure for the elderly, nearly half of whom have no hospital coverage, and they fear that private health plans would be attempted to recruit the healthiest of the elderly, leaving sick or more costly patients in the original fee-for-service Medicare program.

So basically the problem with what the President is proposing for Medicare is not only a practical problem, in the sense that we are not really sure and we really have no reason to believe based on past performance that the elderly would be able to take this voucher and buy a good health insurance program, but the real danger is it undermines the traditional fee-for-service Medicare program for those who stay behind, because they are going to be the sicker and the more expensive people to take care of. So the problems, if you will, and the costs of Medicare, are aggravated by the fact that now the Federal Government is paying for an older population, if you will.

□ 2100

So it is almost a prescription, if you will, to destroy the traditional Medicare program.

Now, what does the President do or propose with regard to Medicaid? Medicare, as we know, is the program for seniors, those over 65, primarily. Medicaid is a health insurance program for poor people who fall below a certain income.

Well, again, I am going back to the New York Times article from yesterday: "The issues raised in the Medicaid debate revolve largely around the role of the Federal Government. The administration proposal would offer States advanced new power to reduce, eliminate, or expand health benefits for low-income people, including many who are elderly or disabled. In return for the flexibility and a temporary increase in Federal assistance, States would eventually have to accept a limit on the Federal contribution to the program."

Now, critics assert it would replace the poors' entitlement to health care with a block grant to the States just when the number of uninsured is rising. Again, Medicaid a program for poor people, is partially funded by the States, partially by the Federal Government. What the President is saying is, we will give you, the States, the flexibility to determine what kind of benefits and who is covered, if you will, by Medicaid. In return for that, though, in the long run, we are going to give you less money. So it is really a cost-saving device. But what it does is undermine the guarantee that if you are poor and you are below a certain income that you are going to have your health benefits.

It is the same thing in a different way that the President is proposing with Medicare in the sense that a program that is provided with a guarantee, an entitlement, now ceases to be and the person is not sure whether they were going to get their health care or how they are going to get their health care or what kind of benefits they are going to receive.

Now, the last thing that is mentioned in The New York Times article yesterday is: "Mr. Bush's proposal for Social Security, first offered in the 2000 campaign, would also break sharply with the past by allowing workers to divert some of their payroll taxes to individual accounts that would be invested in stocks. While its political prospects have been dampened by the declining stock market, Mr. Bush reiterated his support for the idea last month in his State of the Union address. Both sides agree that the coming debate over these proposals," that is all of them, Medicare, Medicaid, Social Security, "will be a fundamental clash of political philosophies over the obligations of government, the rights of the individual, and the role of the private sector."

Again, I am not an ideologue, Mr. Speaker, and I am not talking about this in the context of the ideology, whether it is a conservative or a liberal idealogy or whatever; I am just very concerned, and I think we all need to be, about the practical implications of what the President has proposed. When we have programs like Medicare and Social Security that are so fundamental to so many people in this country and we talk about radical restructuring of those programs in a way that may save the Federal Government money, but also risks the types of guarantees that are provided traditionally to seniors, I think it is something that we better watch very closely. I fear, Mr. Speaker, that with so many other things going on, that it may be possible somehow to pass significant changes here without us focusing sufficiently on what they really mean and what the impact is going to be.

Now, before I finish, I did want to say that in all of this argument, if you will, about health care, I think that there are two things that are crucial. One is that the number of uninsured in the country not continue to go up, which it has in the last couple of years; and, secondly, that we do, in fact, find some way to provide a prescription drug benefit for seniors. Because when I am home, when I am in the district, I hear primarily those two concerns when it comes to health care, which is: I was working, I lost my job, I do not have health insurance anymore. Or, I have my job, but the employer decided to drop health insurance. Or, my employer still offers health insurance, but now he is providing a package that costs me so much out-of-pocket that I cannot afford to buy it anymore or to take that option.

The other thing I hear, of course, very frequently is from seniors who complain about the fact that Medicare does not provide a prescription drug benefit and that they have tried maybe, in some cases in New Jersey, to join an HMO that would give them a prescription drug benefit; but they signed up for it, and then later they were dropped because the HMO decided it really was not profitable to provide a drug benefit to seniors, or now the copay, what it costs them out-of-pocket to pay for the prescription drug coverage, again is so high that it does not make sense for them to continue to stay in the HMO because the benefit is so limited and the cost out-of-pocket is so high.

So I think we have to understand that for Democrats, we feel that these two issues must be addressed: the fact that more and more people have no health insurance and the fact that we need a prescription drug benefit for seniors. But I would venture to say that with regard to that prescription drug benefit, to go the way the President is proposing, which is to say that one has to go out into the private sector and join an HMO or a PPO or something like that to get one's drug coverage, is not the answer.

In fact, the week before the recess, I actually participated in a press conference with Public Citizen; and they did a report on Medicare privatization. Basically, the report showed dramatically that HMOs and private insurance for seniors does not work; that the experience that we have had in the last few years where seniors tried to opt for HMOs in many parts of the country were not available, and where they were available, maybe they lasted for a few years and then they either dropped the seniors or it became unaffordable.

In my own State of New Jersey, in the last 2 years alone, nearly 80,000 seniors who had contracted with private HMOs lost their health coverage. In other words, the HMOs simply dropped them. So I just do not think, if we look at this Public Citizen report, we can come to any conclusion other than the fact that saying to seniors that in order to get your drug benefits you have to go into an HMO or something like that, some kind of private insurance is the answer. It is not. We know it is not. It does not work; it has not worked.

So what the Democrats have proposed and what makes the most sense is simply expanding our traditional Medicare fee-for-service program to include a prescription drug benefit that would be guaranteed for anyone who wanted it. We use the example of part

B. As many people know, Medicare part A is hospitalization and Medicare part B pays for doctor bills, and under Medicare part B, you pay a certain amount of premium per month and the Federal Government pays for a certain percentage of the doctor bills. We have come up with a plan that would essentially do the same thing with a drug benefit. You would pay a premium of $25 a month, a $100 deductible, so that would be out-of-pocket and then after that, 80 percent of the prescription drugs would be paid for by the Federal Government and you would have a copay of 20 percent. Because of high bills, if one ends up spending as much as $2,000 out-of-pocket, then the Federal Government would pay 100 percent of your costs.

The last thing and the most important thing, I think, in many respects of what the Democrats propose is that we have a clause in our proposal that was introduced and voted on last session that says that the Secretary of Health and Human Services who administers the Medicare program has to negotiate for lower prices for drugs, because now he has 40 million seniors and he can negotiate for lower prices.

So basically, what the Democrats are saying is, yes, we want to expand Medicare to include prescription drugs; but we want to do it in the traditional way, so everyone has it, no one has to go to a private insurance or opt for an HMO to get it, you just get it; and the system is very similar to what we do with part B under Medicare now for doctor bills.

Mr. Speaker, I see one of my colleagues and I yield to him.

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman, first of all, for coming out here tonight and talking a little bit about some of those issues that concern us. I know that as the gentleman talks about health, one of the things that really bothers me is now, the President's proposal, as it deals with the issue of health, one of the things that he has done is that he has begun to look at Medicaid, which is the monies that go to the most indigent of this country, and he has also looked at what we call the disproportionate share. That is the money that goes to those hospitals out there that are providing that indigent care that have no reimbursement except what we provide them. So these are two areas of serious concern because it deals with the most indigent, the most needy in our country.

In addition, he has also looked at what we call the CHIP program. The CHIP program for Americans out there is the program that addresses the needs of those youngsters, of those parents that are hard-working, they are working, they are making $20,000, $30,000, $40,000; but they do not qualify for Medicaid because they are not poor enough and they are hard-working. When they go to the hospitals, they do not get reimbursed on the disproportionate share. So here we have three programs: the Medicaid for the most indigent, the disproportionate share for those hospitals to help them out, for providing that care, and the CHIP program that addresses the needs of those youngsters of those parents.

He is proposing to lump them all up. Here is a program that is a direct attack on the most needy of this country, the ones that are hurting the most in health care; and instead of responding and providing the needed resources that are needed out there, he is looking at providing a block grant and, at the same time, providing those resources to the States. But as the gentleman well knows, those States are in need right now. Those States are hurting when it comes to health care. These are programs that have worked and have somewhat been responsive to some of those needs. What is he doing? He is attacking the most needy of our population. So that really concerns me. It really bothers me. I wanted to share that, because I know the gentleman has talked about health care and the importance of health care, and I know the gentleman has also been touching on the budget.

What also bothers me is that as he looks at the budget, he is also doing the same thing when it comes to the most needy of our children. Under the Department of Health, we have a program that is called Head Start, one of the most beautiful programs that we have had for a long time. It has been very good. Statistics indicate, it has been shown that it has been the program that has responded and has been real good for those kids that are out there and has been meeting the needs of our youngsters. Yet we know it only represents 40 percent of the kids that qualify for Head Start that we are funding at the present time, and it only has 2 percent of the early childhood, those kids that are 2 and 3 years old.

Yet the President is choosing to destroy this program because his proposal is to block grant those monies and give it to the States, when right now those programs are being run locally, they are locally controlled, and he is going to create, by moving that money from the Department of Health to the Department of Education, it is a very serious move because right now the Department of Health also with Head Start, they work with our parents, they work with our kids; and they provide not only cognitive skills and educational skills, but also reach out to them in terms of services and needs. So what he is choosing to do is he sees these dollars out there, and he is choosing to put them in a block grant and throw them at the States.

Well, I can attest to my colleagues, if they come to Texas where I am from, Texas has had a history of not funding full-day kindergarten. We only fund half; the rest of the day is funded only by the taxpayer through local school districts. So if that occurs, I can attest that we will have a real problem, and they are going to destroy a program that has been there providing for those needs. By doing this, they are going to use that money to supplant because of the fact that they do not have the resources to provide the existing services that they have throughout this country. So I am real disappointed, after what has happened in his efforts that when it comes to education, he has not been there.

I also want to share, and I do not mean to take too much of the gentleman's time, but I want to share a couple of other things, because there is a pattern here. He decided to attack Head Start and try to put it into a block grant; he has attacked the most needy of this country with Medicaid, CHIP, and disproportionate share in terms of health; and he is also now attacking our veterans. These are the individuals that have fought for this country. At a time that we have declared war, he is asking Priority 7 and Priority 8 veterans, those veterans that are making just about $30,000 or so, for them to begin to pay more than what they already do for the services. And at the same time, not only is he attacking the resources for our veterans, but he is also attacking their kids. Not the kids of the veterans, but kids of the servicemen who now we are asking, or who are out there in Afghanistan, we are asking them to go to the Middle East, we are asking them to go to the Philippines, we are asking them to be in Colombia.

□ 2115

So those are the same soldiers of those kids that now we are saying we do not plan to help fund their education through the assistance. So those are the types of proposals that we have before us. At the same time, he brings to us a tax cut when we do not have sufficient resources.

If we do have a war, if we do have one, who is going to pay for that war? At some point in time every war, and I asked for a CRS study from the Congressional Research Office, I have found that for every single war we have had, with very few exceptions, we have always had a tax to pay for that war. In this case, we do not. It is being paid out of the deficit, which means we are asking our soldiers to go out and fight, and then we are asking them and their kids in the future to pay for it because of the debt.

So, Mr. Speaker, I am hoping that as we move forward we will have an opportunity to talk about these issues and concerns that confront us.

I want to touch base just a minute on education, because here we have a bill that is basically the President's bill. It is the Leave No Child Behind Act. Well, for 2003 we are already going to leave some children behind, because he has cut $7 billion from that. As the proposal comes out for 2004, it is a $9 billion cut.

So when we talk about a promise, and then we come back on that promise of leave no child behind and we cut $9 billion from the 2004 proposal, and this is at the same time that our States are having a rough time, I have difficulty comprehending what the rationale is. I have difficulty understanding, when he has verbalized his concerns for education, but at the same time he does not display that through the form of a good budget.

The budget basically determines everything. If he cuts taxes and we do not have the resources, I do not care what we say about anything else, it is not going to be there. So it becomes really important that we are forthright about that.

Now we hear that he is willing to come up with about $50 billion on foreign aid to try to pull off this war, not to mention that the war might cost us from $100 billion to $200 billion additional. These are issues that we really need to go and talk about before the American people.

I want to thank the gentleman for coming up tonight and allowing us an opportunity to talk a little about the budget and the issues that concern us. I know that the gentleman has been a constant worker, especially in the area of health care. I want to personally thank the gentleman, and I know we have another colleague that might want to say a few words.

Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's coming down. I know he has been a leader on the health care issue as well. Let me just make a couple of comments about the things that he said. I think we have about 20 minutes or so left.

The thing the gentleman mentioned when he talked about education, that is so important. I do not want to talk about credibility gaps, I will not use that word again; but the idea that one makes a promise with no child left behind, which means very obviously that no child is going to be left behind, when we know that in many parts of this country in the public school system children are being left behind either because they do not have the money or because they cannot locally get the teachers, or whatever the reason.

So the President gets up with much fanfare a couple of years ago and says no child is going to be left behind. But when we get a budget with a $9.7 billion shortfall from what would be necessary to authorize and carry forth that act, that no-child-left-behind program, it is essentially hypocritical to continue to talk about no child left behind. So I think this is a perfect example of the kinds of things that I have been trying to point out tonight.

Going back to the health care issue again, the other thing that I think is so important is that this week the National Governors Conference is taking place. I think it is here in Washington. I am not exactly sure. What the President has been trying to do is to sell this Medicaid proposal to the Governors by saying, look, we are going to give you a lot more flexibility with this program, but you may get less money. We may cap the amount of money that you get.

The Governors have already been coming back on a bipartisan basis, some of them, saying this is not such a great idea because we do not have the resources. We know that, as the gentleman mentioned, in the States because of the economic downturn, most of the States do not have the money to continue to pay for these health care programs for poor people; or even for those who are working, like in the CHIP program, we call it kid care in New Jersey, providing health insurance for kids.

So what we are seeing is with what the President is proposing and the fewer dollars that he is giving out, with the number of uninsured, the number of kids that are going to be covered by CHIP are going to be reduced. The problem is if we implement this Medicaid program, the States are going to have the ability to basically cut back on that as well, so we will see more and more people that have no health insurance.

I am not talking pie in the sky here to my colleague. It has already happened in my home State of New Jersey. Some States have already expanded the CHIP program to cover the parents of the kids, or single adults who are working but do not get health care on the job. In New Jersey, the Governor has already announced that he has to get rid of those. There is even a question now about whether all the kids are going to be covered. So this is not something that is abstract.

The President would have to make sure that he provided significantly more resources to programs like S-CHIP or to Medicaid in order to guarantee that the programs continue to exist at the current levels, or to take in the people now that, because of the economic downturn, are not covered by health insurance.

What the Democrats propose, the gentleman remembers, in our economic stimulus package is that we would give more money to the States for Medicaid. We would up it by another 2 percent so they would not have to put out as much State dollars, which they do not have to cover everyone eligible for Medicaid.

We are saying in these hard economic times the Federal Government should do more to guarantee that working people that cannot get health insurance are covered. The President is doing the opposite at the very time when there are more and more people who have the need. It really is a wrong thing to do.

Let me just indicate, the gentleman from Texas (Mr. RODRIGUEZ) said it, we have a problem in health care out there. We would think that as a way of responding with the stimulus package, that we would not only answer a problem that exists out there such as health care, but we could also address the problems that our States are having.

One of the biggest problems and one of the biggest budget problems they have is health. So not only do we help the States in addressing the problem of the issue of health care and the deficits, but we would also be stimulating the economy by doing just that, and solving a problem and doing a good deed in terms of making sure that people have access to good quality health care.

So Mr. Speaker, if I can, I have seen the President in terms of his pattern. In Texas, he did exactly the same thing. He reached out to the Democratic side, and he was very open about reaching out and trying to help in education; but he also did a tax cut.

In Texas right now they have about a $12 billion deficit also. Now, yes, they have a great education bill, but they have no money to fund it, very similar to what he did over here. He came out here and reached out to Senator KENNEDY and the liberals and the Democrats and talked about education, did his tax cut and did the education. Now we do not have the resources, or we do not have the priority of the resources, to fund that same education bill that he has authored, and that same bill that he ought to be proud enough to put in the $9 billion that he agreed to when he cut that agreement. So we are hoping that he does not go back on his word, and that he fulfills that promise of leaving no child behind.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman. I thank him for coming down.

I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting to have two Members of the House from the State of Texas. It is a pleasure to join my distinguished colleague, the gentleman from New Jersey (Mr. PALLONE), because he has been a leader on focusing us on the choices that have to be made.

Certainly, my good friend, the gentleman from Texas (Mr. RODRIGUEZ), chairman of the Hispanic Caucus, in his prior life was such an advocate for health care issues in our own State. I know that the State legislature misses him and his leadership. He spoke eloquently of so many important issues.

It concerns me to bring Texas to the forefront again, but as we do so, we use it as somewhat of a model. It is symbolic, if you will, of the plight of States around the Nation, which is one of the reasons why I support the Democratic economic stimulus package and our approach to the budget, which is to make the choices but make the choices as it relates to the domestic agenda, if you will, and, as well, be very cognizant that we cannot have it all.

Whatever side of the war question we happen to be on, and many of us have expressed our opposition, but whatever side Members are on, we have to realize that this war, if we enter into it, is going to cost at least $9 billion to $13 billion a month. That means that we will have to make choices as to how we design the budget; whether or not we take the leadership of our colleague, the gentleman from South Carolina, who has raised a very important question of making sure that we respect or show concern for the deficit and make choices for helping people climb out of poverty and climb out of a state of economic, if you will, deterioration.

But, unfortunately, I come to the floor to share the laundry list of concerns that I have that are not being considered by the present administration, that are now the fallout because of the proposed tax cut of the present stimulus package, but really the impact of the tax cut of just the last fiscal year that is now trickling down to the States.

I left Houston under the very terrible shadow of my community coming together to reach out, with community leaders pleading to prevent cuts in mental health services. We are at a point now where we are actually closing down services, closing offices that serve outpatients in our community for mental health, mental illness, because we do not have the funding.

We have policemen, firefighters, counselors, academicians, city council persons, mayors, coming together to plead with our State legislature. Let me say that the State legislators are certainly struggling with the $10 billion to $12 billion deficit in the State itself, trying to be responsive; but frankly, the counties and cities are feeling the brunt. We are literally closing facilities in Houston as we speak. We are literally not responding to the needs of our constituents for services dealing with mental illnesses.

Just yesterday I spoke to a constituent who had a family member living with them who truly needed to have outpatient services, truly was suffering; one who was in denial and needed services for the mental illness that they had but could not get it.

This is part of the laundry list. If we do not look at a budget that is able to be grounded not in a huge $600 billion-plus tax cut to the top 1 percent of the Nation, leaving those in the working middle class economic level without any remedy whatsoever, this is the real face of the huge deficit that this administration is building, people who are now being closed out of services.

Let me mention something that only gets mentioned, I guess, when we go to town hall meetings. I think we frankly, and this is to the Speaker, need to address this, and this is what we call the notch babies, or the question of making fair that unequal pension program where teachers are not able to access the Social Security system because of a certain pension system that they are in in particular States. That hits Texas a lot and several other States. Those are some of our senior citizens who are in a program that now cannot be funded, or they cannot move out of that program to access Social Security, and they are barely making ends meet.

The gentleman has been a leader on the guaranteed prescription drug benefit through Medicare. One of the issues that Democrats, I believe, to a person, have made a commitment to see through, and frankly I believe we have made a very strong and valiant commitment to see it through in this session; but that, of course, is a choice that would have to be made in a budget designed to make choices for social needs and needs of individuals' domestic agendas as opposed to the agenda that may lead us into war.

That is a concern that I have: Are we going to be able to tell those seniors who are today making choices of rent, making choices of utilities, and making choices of cutting their drug prescriptions in half? Of course, what they do is, they do that themselves. Therefore, they cause detriment to their health because of the fact that we are not able to build into our budget or be able to fund a guaranteed Medicare prescription drug benefit.

I just came from a reception honoring a group that deals with world hunger. I was told at this meeting that we are not able, or that we have some of the highest percentages of malnutrition in the United States, that our children are malnourished.

I will say to the gentleman that Texas is again at the top of the list for malnourished children and children living in poverty. The key is that many people complain about the school breakfast and lunch program. We are being told that some children in America are not even able to match the 40 percent amount that they need to be able to pay for lunch and pay for breakfast.

□ 2130

I have heard a lot of complaints. I remember 2 years, 4 terms ago, I am trying to remember, 1995, I guess, when we had a valiant fight to preserve school lunches or to make sure that people knew, this Congress knew, in fact, some of our colleagues knew that school lunches or the cuts in school lunches were just unacceptable. I think we prevailed upon that. But here we are now, full circle, where the funding for school lunches, where the States are suffering, and the children of families cannot afford the matching amount. This is a question of making choices, of living in poverty or accepting the fact that our children live in poverty and are malnourished.

I heard my good friend from Texas talking about Medicaid, but I hope it was mentioned that we have a trickle-down effect from that because we have HHS regulations loosening the, if you will, the sort of guidelines that the State may utilize. What is the reason? Not to make it easy on the State to be able to serve its constituency but to make it easy on the State to cut people off of Medicaid.

I think in this day and time, some of those very families on Medicaid have young men and women now facing harm's way in the United States military. Some of those very same families are families that are in need of Medicaid. And now because of loosening guidelines, the State may pick and choose who will be able to access health care in our community. We just passed a welfare bill, and you heard the debate on the floor of the House. We had a bill that would provide a safety net for those who are trying to move themselves out of welfare who may be coming to a point of reaching sort of a cap on Medicaid and child care. And now we have passed a bill that did not provide a safety net in child care. In fact, there were not enough dollars for those mothers who want to be able to move or those parents, single parents, whoever it might be, to step out of welfare and have children that need child care. Here is a safety net that is going by the wayside.

So I believe the budget approach that we want to take is reasonably adjusting to and addressing a domestic agenda that this Nation can be proud of; a domestic agenda that would include a guaranteed Medicare prescription drug benefit, that would include recognizing the needs of the individuals suffering from mental illness. We have always had a problem with that. We have yet to pass in this Congress the issue of parity. And I say that I always have to bring up my dear friend and all of our friend, Senator Paul Wellstone, who was a vocal fighter for parity in mental illness. We have not reached that. And the reason why we could not complete that deal, if you will, was on the question of the budget and finances and choices. Why should we, this Congress, year after year and session after session deny people who rightly deserve the consideration of the people's house and their representatives in Washington to be able to provide funding or at least matching funds to their State governments?

Frankly, I believe that it is a shame on us, shame on our House and shame on all of us that we are not able to address these questions. We will not be able to do this if we do not sit down in a reasonable manner and put forward a budget that does not spend all of its time carving out the needs of others just in order to respond to a $600 billion permanent tax cut or more. And I want to put the word in there "permanent," and I think my good friend who is on the floor said in times of need we always made sacrifice.

I am not a supporter of the war but if, for example, that occurred, that is time for sacrifice. A sacrifice does not entail a $600 billion-plus permanent tax cut to individuals at the 1 percent tax bracket. But let me add this as I close. Not only the 1 percent tax bracket but the, I believe, nonsensical explanation of giving relief on dividend income suggesting that it has been taxed twice. It has not been taxed twice. It is taxed as income to the corporation. They then give the dividend to the recipients of the dividend. It is income and the income of the individuals. So you are taxing the dividend. The dividend should not have a life of its own. It is taxing the individuals who, I believe, would be willing to sacrifice while we are in a state or a condition that requires sacrifice of all individuals. That is ridiculous.

And let me close on a personal note, because it is very near and dear to us in my community and that is NASA. And, of course, there is a great debate and will be a great debate on the human space shuttle, but I am very gratified that over the years we have gained friends in this House realizing that the human space shuttle generates research in HIV/AIDS and stroke, heart disease and cancer. And all of us have offered our deepest sympathies to the *Columbia* 7 families and to the NASA family, people who are committed to expanding our horizons. Well, that is something that we considered a part of America's culture and achievement.

Now, I hear discussions of budget cuts that may be looking at cutting human space flight before we even find the answers of the *Columbia* tragedy and not looking at it for what it has done for Americans and America and the world, giving us the opportunity to push the intellectual research, scientific and medical envelope to provide new discoveries that would help create better lives not only for Americans, for people around the world.

We have to make those kinds of choices if we continue along these lines of deficit building, huge tax cuts and a budget that does not focus itself on the needs of people in this Nation, and of course the pending winds of war that may cause us to spend enormous amounts of money, and not only at this time but in the rebuilding of the nations that may be impacted as we are already doing in Afghanistan.

So I want to thank the distinguished gentleman for coming to the floor and bringing these very vital issues up. It pains me to have to be able to say to constituents over and over that we are trying to work on your issues and we are seeking relief when they are suffering on a daily basis. I think we need to get to work and focus on a budget that focuses on a domestic agenda that makes sense to Americans, but most importantly addresses the pain that many Americans are suffering right now today.

Mr. PALLONE. Mr. Speaker, I think we have just a few more minutes, but I am really pleased that the gentlewoman raised the issue, first of all, of the cost of war and some of the aid packages like to Turkey that has been in the paper the last few days and also to NASA. Again, my point this evening when we started this Special Order was to discuss the President's rhetoric versus what he is actually doing with the budget and all of promises, if you will, that are made about turning the economy around, creating more jobs, providing health care, providing prescription drugs, not raising the deficit. And then what we find is that these tax cuts do not really help the average guy, do not do anything really to stimulate the economy and are creating these huge deficits.

But what the gentlewoman is pointing out is that in addition to that is we do not have a true budget at all because we are not including the cost of the war which, as the gentlewoman said, is estimated at something like $100 to $200 billion. And that does not include the AID package. Of course, I point to Turkey because that has been in the paper. I do not know how many other countries will be asking for money. I think that was in the tens of billions, what is being discussed.

None of this is in the budget. And so the reality is we may wind up with a situation that by the time this budget is adopted in the appropriation bills by the end of the fiscal year where there have to be even more cuts if you are going to implement, more cuts in health care, more cuts in the things that we were discussing, education, if you are still going to have these tax cuts and pay for the cost of the war or perhaps bigger deficits.

Again, it is just a very sad situation because I think that the President has to be forthright with what he is really doing and not say that we are going to be able to turn the economy around and do all of these things and give tax cuts and fight a war and not increase the deficit. It does not add up. It just does not add up. And it is really incumbent upon us over the next few weeks as we move forward and adopt some sort of budget to make the points that the two of you have been making tonight because we are not, I do not think we are being honest with what is really going on around here and we are trying to be honest. And we have to call the President and the Republican leadership to task about what they are really going to be able to accomplish. So I want to thank my colleagues.

Ms. JACKSON-LEE of Texas. Mr. Speaker, just for a moment, I want to make sure the gentleman emphasizes that they are promises made, but they are promises not kept.

The one point I want to make on a prescription drug benefit, while we have such a disagreement, if you will, is because the one that has been promised that has not yet been consummated, if you will, still requires seniors to take money out of their pocket, still is sort of a managed-care-type proposal. And my only fear, as I mentioned by starting out by saying that I have doors closed on those suffering from mental illness, is that I have experienced 2 or 3 years ago HMOs just closed up shop on my seniors and left. So I just do not want to see that happen again, and that is why I think this is an important challenge.

Mr. PALLONE. Mr. Speaker, the notion that we will be able to rely on the HMOs in the private sector to provide the drug coverage or any kind of coverage is totally belied by the reality of what has happened in the last few years. In New Jersey alone in the last 2 years 80,000 seniors taken off, HMOs dropped them.

If we do not provide across-the-board prescription drug plans the way the Democrats have devised, we have no guarantee that the seniors will get their drug coverage. I cannot believe after the experience we have had the last few years that has dramatically shown that HMOs will not provide the seniors with the drug coverage, that anyone, including the President, could suggest that somehow that is not the answer. It is, again, the suggestion or the promise that you will do something. The reality will be very different because they will not be able to find that kind of coverage. It will not exist.

NO SUPPORT FOR MIGUEL ESTRADA NOMINATION

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 60 minutes.

Mr. RODRIGUEZ. Mr. Speaker, I thank the Speaker for allowing us the opportunity to be here tonight.

I wanted to come out tonight to talk a little bit about the issue that the Senate is having to deal with and that is the issue of the nomination of Miguel Estrada. And I want to personally, first of all, thank the Senators that are choosing not to support the nomination. And I want to personally thank them because I know that as a caucus we had appointed the gentleman from Texas (Mr. GONZALEZ) and the gentleman from California (Mr. BECERRA) and the gentleman from New Jersey (Mr. MENENDEZ) and several others to look at the nomination process. And we have had a process where we have asked Members to come forward, and my understanding is that we have always, every single Hispanic that has ever come before us we have approved. This is the first nominee that we have chosen not to approve.

And the reason we have done this, and it was not an easy decision, it was a hard decision because of the fact that, after all, he is a Hispanic and we recognize that it would be very difficult for us to go against him. But the reality was and what we were all unanimously in agreement that we could not endorse this nominee and, in fact, that he did not deserve our nomination, our recommendation. And the reason we came to those conclusions was after we had had the opportunity to interview him, after we had an opportunity to look at the documentation, and, first of all, we found that Mr. Estrada has no judicial experience. And when we have looked at the fact that we are going to be nominating this person for life to a court that will be the second most powerful court next to the Supreme Court, we really need to take note that he has to be a little bit more responsive about answering the questions that come before him. He has to be a little more truthful about coming forward because either he is naive about some of the questions or the fact is that he chooses not to respond on the questions that were asked of him. And that really disturbed us.

One might ask, well, let us give him a shot. Well, the reality is that that might be the case for elected officials, individuals that might be here who get elected. But here is a person that we are going to be appointing for life. Here is a person that we recognize that we do not, if we do not ask those questions will be there for rest of his life.

It is not a typical appointment of someone like ourselves that we run for office that you might say, well, let us give this candidate an opportunity to serve. If he does not make it, then we will not vote for him the next time. That is not the case when it comes to Federal appointments. They are in there for life. So it becomes really important that the Senate have the opportunity to have the documentation that is needed, to have the documentation that is asked of them, and it is something that is fair.

□ 2145

As elected officials, one of the things that we are told from the very beginning, at least the advice I was given some time back, was that be very careful as an elected official about writing letters of endorsements, and so I take that very seriously. I never write letters of endorsement unless I know the person, and even then, in certain cases, if I know the family, but we have to be very cautious because we do not know.

In this case, the Senate has an obligation, a constitutional obligation, a responsibility, to make sure that if they nominate someone, that they have had a chance, because it is kind of giving a letter of recommendation, and this is a letter of recommendation as a form of a nominee and accepting the nominee for life. So they have to make sure that, if nothing else, the person is able to respond to some of the questions that are up there and to be able to respond in a way that allows an opportunity for us to learn a little bit about the candidate.

One of the things that I know he has been asked time and time again about, for example, simple questions about which court cases does he think have been wrong or have been decided or have been harmful, which court cases have not. I am not an attorney but I could tell my colleagues that there have definitely been some court cases out there, some of the cases that allowed for slavery, Plessey versus Ferguson, and a lot of those cases that allowed us not to treat African Americans as full human beings. Those could be easily responded to, but he chose not to do that. He chose not to open up and talk about his concerns.

We asked the Senate to continue this effort until we get a response from the candidate. And one of the things that I want to share is I know there is a lot of dialogue about the fact that we are Hispanics and we ought to be supportive. The reality is it is because he is Hispanic. We also want to hold that anyone accountable, but more so anyone who is Hispanic; and before we would ever go against it, we would make sure that it would be for the right reasons. One of the concerns that we have is that he is just not responsive. He has not, and the reality is that he does not have the experience that a lot of other attorneys have had.

Once again my colleagues say, well, he is well qualified. But we have a lot of municipal judges out there, we have district judges out there, we have had some of our own Members, the gentleman from Texas (Mr. GONZALES), has been a judge and has had some experience in that area. There is a great number of other people that are well qualified that could basically serve, but the administration chose to bring one of the most difficult candidates. At the same time, I know that the Senate has confirmed more than a hundred other candidates. So this is one candidate that we have a problem with.

The other side talks about the fact that, well, he is a Hispanic and that we ought to push forward because of the fact he is a Hispanic. Well, someone has to stand up and say the king has no clothing, and in this case, there is nothing there. Maybe there is. Maybe after he opens up and addresses the questions that are out there, we might decide that, yes, he ought to be nominated; but at this point, we stand on the fact that we are not endorsing the candidate and we are hoping that the Senate stays with that.

Let me talk about a couple of other nominees. I know we have had Richard Paez on the Federal district court in Los Angeles. On June 16, 1994, the Senate unanimously confirmed Richard Paez to the Federal district court. That was after he had waited for a long time before that ever occurred, and he was one of the ones that I think waited the longest, with difficulty. So we have had a lot of nominees that have waited a long time, and I would ask the Senate to take this nomination extremely serious and would ask them to really look at those issues that are before us.

I want to ask my colleague the gentleman from California (Mr. BECERRA) who is here with me to say a few words because I know he participated on the committee, and I want to ask if he would come forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEAUPREZ). If I might remind Members to be very cautious in their reference to the Senate. Members should not urge action by the Senate.

Mr. RODRIGUEZ. Mr. Speaker, I thank the Chair. I will be.

I yield to the gentleman from California (Mr. BECERRA), and I want to thank him because I know that in California LULAC has also decided to go in opposition to the nomination. So I know, coming from California, I want to thank him personally for that.

Mr. BECERRA. Mr. Speaker, let me begin first by thanking the gentleman from Texas (Mr. RODRIGUEZ) for yielding me some time and for taking this opportunity to speak on a very important issue which oftentimes, given the crush of the agenda here in Washington, D.C., potential war with Iraq, potential war with North Korea, with a growing budget deficit that is now surpassing $200 billion for this year and we thought we were going to be looking at budget surpluses, the fact that more and more Americans are losing their jobs, the fact that we have more than 42 million Americans today that are without health insurance, the fact that in almost every State in the Union, Governors are talking about having to cut back on what they will do for schools, and as a father with three little girls, all of those things have to concern us. They certainly concern me.

So without putting aside those very important issues, I believe that it is important this evening to talk a little bit about another very important role that Congress plays with regard to the Nation's life: and, that is, helping select the lifetime appointees to our Federal courts. And I believe it is very important to point out that we are talking about a lifetime appointment. Once this individual who must be nominated by the President, then confirmed by the Senate, is so confirmed, that person is entitled to remain in that position until he or she expires. And so that person will be setting the course of this Nation's future, not just for us but for our kids and well beyond that with his or her actions and words.

For that reason, the Founding Fathers of this great Nation decided that while the President has the right to nominate, it is the obligation, the duty under the Constitution of our country for the U.S. Senate to confirm, to provide, as the words of the Constitution say, its role is to advise and consent the President of the United States.

It is very interesting in this particular case, as my colleague and friend from Texas has pointed out, that we have a nominee who has been nominated by the President, Mr. Miguel Estrada from the Washington, D.C. area, to serve on the Second Circuit Court of Appeals. Some consider the Second Circuit Court of Appeals the second most important court in the land after the U.S. Supreme Court.

This individual who has been nominated by the President is in many respects a blank page. He has never served as a judge. He has not, as far as I know, written any legal articles, certainly not since his law school days. He has not provided any writings that are essential to determine what his philosophy is, what his background has been in the law. He is a question mark. Some would consider him a phantom candidate. And to believe that the U.S. Senate would just vote to confirm an individual, without going into the qualifications of an individual, is not only unconscionable but it is downright scary, and yet that is where we are today.

The worst part about this whole situation with this confirmation process is that it seems that some are trying to toy with this nomination and play this as a battle on ethnicity; that because Mr. Miguel Estrada, a U.S. citizen, is not being confirmed automatically because the President has nominated him, that it must be because people are anti-Hispanic.

I thought quite some time ago, the most important court of the land, the U.S. Supreme Court, decided that we do not operate in this country based on quotas and that a person does not get in because they have a particular ethnicity or they are a particular race or because they are a particular gender; that they must prove themselves. Certainly we can consider everything that makes a person an American, their background, all those factors, but that one factor alone does not grant a person the right to such an important position, certainly one where a person would serve for a lifetime.

But yet this controversial nominee, and across the Nation everyone is calling this a controversial nominee, is before the U.S. Senate. The President is asking for a vote on this gentleman, and this is an individual who has refused to answer some of the most basic, most fundamental questions that have been asked of previous nominees in the past, and it makes it very difficult to understand why we would want to go down the route of ever, ever confirming any individual who is not willing, who refuses to disclose information about himself or herself, that would lend to the Senate the ability to cast an informed judgment on whom should serve in the courts of this country to dispense justice for all of us as American citizens.

That constitutional duty that the Senators have should not and never has, as far as I know, been taken lightly. But in this particular case, when we have someone who has refused or failed to answer simple questions, who is your role model on issues of judicial philosophy, what cases have you seen as important in driving the legal agenda and the direction of our judicial process in this country, simple questions are still unresolved.

Basic information in document form, at a time when we have a nominee who is such an unknown, open question, basic documents that relate to his work when he worked for the Solicitor General's Office for the Federal Government have not been disclosed, and the White House refuses to provide those documents.

It almost seems as if we are being told in this country that because Miguel Estrada happens to have a last name that is Hispanic, because he is of immigrant background, and I applaud all those things, what he has succeeded in doing in getting himself educated and hopefully becoming a successful citizen for the rest of his life, but because of that, does he receive a free pass to a lifetime appointment as a judge on the Federal bench?

I know that most of us here are very proud to be Members of an institution that has reflected a democracy older than any in the world's history, and I believe each and every one of us would say that we are proud that we have earned the right to be here because Americans helped us, through their vote, to get here. But we had to earn the opportunity to be here. No one granted us, as a result of some quota, an opportunity to serve in this House, and there is no difference in the importance of that other branch of government, the judiciary, than there is in the legislative branch, to prove your mettle, to show your qualifications, to indicate that you are prepared to demonstrate you have the disposition to be a judge.

It boggles the imagination to believe that in the Senate we may see a vote on an individual who is still an unknown commodity to the American public, someone who will be dispensing justice on the most important issues of the day: war, abortion, the right to education, health care, the rights of seniors. It seems incredible to believe that we have to stand here today to talk about this, but this controversial nominee has put us in this position.

I applaud those Senators, all of those Senators who are standing up not just for what they believe is right, but for the history of this country and standing up for the Constitution of the United States of America that says the Senate must, must perform its obligation to advise and give consent to the President of the United States on judicial nominees. I hope that they will continue to insist that anyone wishing to serve in a lifetime capacity dispensing justice in this country as a judge in the Federal courts will provide that information.

□ 2200

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEAUPREZ). Members are reminded to be very cautious about urging action by the Senate.

Mr. BECERRA. I thank the Speaker for that admonition.

I believe it is very important as we move forward that Congress fulfill its obligations, and they are obligations that none of us here voted on to make it the law. It is something that was done more than 200 years ago by our Founding Fathers who believed when the Constitution of the United States was written back in 1787 that it was important to make sure that that coequal branch of government, the legislature, participated in decisions that would be made by the executive branch, the President, to fill the third coequal branch of government, the judiciary.

I am very pleased that the gentleman from Texas (Mr. RODRIGUEZ) has taken the time to call for this special order to give us an opportunity to talk about this particular controversial nominee and what it means to the American public and to the American future when it comes to dispensing of justice. I hope that we can engage in further conversation.

Mr. RODRIGUEZ. I want to thank the gentleman from California (Mr. BECERRA) for being here tonight because I know that he worked diligently on that committee established by the Congressional Hispanic Caucus of which we, over 20 Congressmen throughout this country, represent a good number of the Hispanic population throughout this country. I know that as you well know how difficult it was for us to make this decision but we felt an obligation and responsibility.

I want to share with the gentleman, we had the LULAC group, the State group out of California, come forward.

Mr. BECERRA. For those who may not know what LULAC is, it is the

League of United Latin American Citizens. It is the oldest civil rights organization representing Hispanics nationwide in the country.

Mr. RODRIGUEZ. I want to thank you because I know the State LULAC group out of California went forward in opposing the nomination. I have two letters here that I want to talk briefly about. They are both past Presidents of LULAC, they are all leaders in our community; President Robles, Belen Robles, in opposition to the confirmation of Miguel Estrada.

President Robles, President, National President of LULAC, past President, writes, I write to join other Latino leaders and organizations in opposing the confirmation of Miguel Estrada to the D.C. Circuit Court of Appeals. As a native Texan, she writes, I have a very long and active involvement in the Latino civil rights community and have worked hard to ensure that Latinos have real choices about their lives. I am a past President of the League of United Latin American Citizens, LULAC.

I am deeply troubled with the nomination of Miguel Estrada. I am very troubled with the positions he seems to have taken about our youth being subjected to racial profiling. As I understand his position, he does not believe that racial profiling exists, and has many times argued that the Constitution gives police officers unbridled authority and power. In our community, she writes, racial profiling does exist and our children have been subjected to it. This is an issue that Latino organizations, including LULAC, have long cared about. In all of the years that I was involved with civil rights, LULAC always stood to protect our community, including our youth, when law enforcement exceeds their authority.

I am also concerned, writes President Robles, that Mr. Estrada did not allow the Senate to fully evaluate his record. He was not open in his responses, but instead was evasive. Yet anyone appointed to a lifelong position has to be willing to answer questions fully. The American people have a right to know who sits in our seats of justice and to demand that person be fair.

Mr. Estrada has also taken actions against organizations that make me believe that he would not be fair. For example, she writes, as an attorney, he argued that the NAACP did not have legal standing to put forward the claims of African Americans who have been arrested under a particular ordinance. As a former National President of LULAC, she indicates, I know very well that on many occasions LULAC has been a champion of the rights of its membership in civil rights cases. We asserted those rights on behalf of voters in voting cases in Texas and in many other civil rights cases. Under his view, Mr. Estrada could decide that a civil rights organization such as LULAC would not be able to sue on behalf of its members. No supporter of civil rights could agree with Mr. Estrada's confirmation. For that, she writes, I oppose the confirmation of Miguel Estrada.

I know the gentleman has had the pleasure of meeting Mrs. Robles, a great leader in this country, and has been there working in behalf of our constituency and continues to do that, and so I was very pleased to also have received her letter. I know the gentleman from California has had the pleasure of knowing her.

I also have before me, I wanted to share with you, because I was also pleased to hear from another past President of LULAC, and this is President Ruben Bonilla, in opposition to the confirmation of Miguel Estrada.

President Bonilla, as he expressed his concerns, talks about, and I will read just part of that. He says, it is particularly troubling that some of the Senators have accused Democrats or other Latinos of being anti-Hispanic, or holding the American dream hostage, he writes. Yet these same Senators in fact prevented Latinos appointed by the Clinton administration from ever being given a hearing. Notably, Corpus Christi lawyer Jorge Rangel, he recalls—President Bonilla is from Corpus—and also El Paso attorney Enrique Moreno and Denver attorney Christine Arguello never received hearings before the Judiciary Committee. Yet these individuals who came from the top of their profession, were schooled in the Ivy League, were raised from modest means in the Southwest and in fact truly embodied the American dream. He further says, these highly qualified Mexican Americans never had the opportunity to introduce themselves and their views to the Senate as Mr. Estrada did.

In addition to my concerns regarding this double standard, and he talks about a double standard in his letter, I am also concerned that Mr. Estrada showed himself unwilling to allow the Senate to fully look at his record. He was not candid in his responses, as anyone who saw the interview would have come to that conclusion. Yet Mr. Estrada, as every other nominee who is a candidate for a lifelong appointment, must be prepared to fully answer basic questions, particularly where there is no prior judicial record.

In this case he has no record because he has never been a judge, so it is difficult, and you being an attorney can understand that, in terms of looking at how we can scrutinize or whether he is scholarly or not.

This is a comment by Ruben Bonilla, the past President of LULAC, also: By declining to give full and candid responses, he frustrated the process. Individuals with values should be called to explain those values honestly and forthrightly, he adds. He also indicated, we can demand no less from those who would hold a lifelong appointment in our system of justice.

Finally, I am also concerned, writes President Bonilla, with some of the answers that Mr. Estrada did give when he was pressed. For example, I understood that as an attorney, he argued that the NAACP did not have legal standing to press the claims of African Americans who had been arrested under a particular ordinance.

And he writes, as a former National President of LULAC, I know that on many occasions LULAC has represented the rights of its membership in voting cases and in other civil rights matters. I would be troubled that if he were confirmed, Mr. Estrada would not find a civil rights organization to be an appropriate plaintiff, and would uphold closing the courthouse door on them.

As we see these letters of these leaders, two Presidents of LULAC, we see the concerns that they have expressed, and mainly because of the lack of information that we have received and the fact that he has been unwilling to come forward. I am hoping that as we move forward, he might come back and respond to some of those questions.

I know that the gentleman from California wanted to make a few more comments.

Mr. BECERRA. I cannot agree with what the gentleman has said more. I believe the gentleman from Texas is helping to set the record straight. It is fascinating that as we are here discussing a very important subject of who will serve for a lifetime on our judicial courts, that we have to discuss this in terms of brown versus white, Republican versus Democrat. I think it is unfortunate because, quite honestly, Miguel Estrada has been his own worst enemy, because he has refused to provide information that would give people sufficient ability to discuss and then entertain his nomination and vote on a confirmation. I think at the end of the day, if Mr. Estrada does not move farther through this confirmation process, he has only himself to blame.

Certainly I do not believe the administration, the White House, has done him any favors in refusing to produce the documents that would give the Senate a better sense of who this person, who has never served as a judge, who has never taught a class in law, who has not published an article on the law since law school days, is not willing to provide any additional information.

Because this has become a very intense debate by those wishing to make this into more than what it is, I think it is important to address those issues. Some people are saying, well, Democrats don't want this gentleman because he is Republican and he is conservative. You don't want a conservative Republican Hispanic. That goes contrary to the fact.

Last Congress when the Senate, in majority, was Democrat, you saw the Senate Democrats swiftly confirm six Hispanic judicial nominees who were chosen by President Bush: Christina Armijo of New Mexico, Judge Phillip Martinez of Texas, Randy Crane of Texas, Judge Jose Martinez of Florida, Magistrate Judge Alia Ludlum of Texas, and Jose Linares of New Jersey, all Republican, all Hispanic, all swiftly confirmed by Senate Democrats.

Then we have heard the charge made that, well, you don't want him simply because he is Hispanic, that Senate Democrats are anti-Hispanic; which would be farthest from the truth, because if you look back at the record, most of our appellate court judges, most of our district court judges, have been appointed by Democratic Presidents. I should only remind those who keep saying that of the 10 Hispanic appellate judges currently seated in the Federal courts, 8 were appointed by President Clinton. Three other Hispanic nominees of President Clinton's to the appellate courts, I should mention, were blocked by Republicans, as well as other district courts, the trial court level nominees by President Clinton, also blocked by Republicans when they controlled the Senate.

Some will say, well, what we are really finding is that you are just trying to get your kind of judge. The problem here is we do not know what kind of judge Mr. Estrada might be. We have no concept of it. He has been unwilling to volunteer information on that. So, first, that is an unfounded accusation because no one knows enough to say what kind of judge he would be, and, secondly, everything that has been uttered or provided seems to indicate that he is far from the mainstream. But again it is tough to say. Maybe he is close to the mainstream. It would help if he would disclose some of that information so we could make a decision on this very controversial nomination.

It is interesting when you think that if the President really wanted to make a point about appointing an Hispanic as a judge, and I hope what they were looking for was an American who was extremely well qualified and prepared and happened to be Hispanic to be judge, but it seems like it was just the reverse, he was Hispanic and put him out there to be the judge, that the President would have taken the time, and others would have taken the time to recognize that if you want to get qualified individuals, there are over 1,000 sitting judges today in America, over 1,000 judges, State, Federal, local level judges throughout America who are American and happen to be Hispanic. But, no, instead of that, it looks like the White House picked someone who has very little record, very unwilling to disclose, and the White House is unwilling to provide documents to help us understand.

It is unfortunate but there is a constitutional obligation here and we must recognize that the Senate must do its job. As much as I want to see a diverse America prosper with a diverse judiciary. I will stand here and say that I am first and foremost an American, and I am very proud of it, and I am very proud of what I have been able to accomplish in life, having grown up in a home, was the first born in a place where we had about 580 square feet of house in a one-bedroom home for my three sisters and I, with parents who did not have much of an education. But we were very fortunate. We had great parents. They to this day continue to be great parents. That will drive others to greatness as well. But let it be that we prove ourselves. Let it be that we are willing to show who we are.

Is there something that Mr. Estrada is hiding? Is there any reason why the American public should wait until after the fact instead of before the fact to know about this gentleman that wishes to have a lifetime appointment?

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Let us know now so we can make informed decisions on who will serve us on the bench, and I believe Congress that when we stand here and say that we find it very difficult to support a process to move forward on confirmation of Miguel Estrada, it does pain us. It pains us quite a bit because we know that on the judiciary we do not have the kind of diversity that we see today in America; but we want to see it filled with the most qualified, the most prepared individuals, those who have shown the temperament, the disposition to dispense justice for all Americans, whatever their color, whatever their background; and that is why we have an obligation to insist as Americans and as Members of Congress that the Senate abide by the Constitution and its role to advise and consent and make sure that when the decision is made, they have made it for the right reasons for the entire American public.

And I cannot say at this stage that any of us can believe that this controversial nominee has gone anywhere near the point where anyone can feel comfortable voting to confirm him to a lifetime position. It is difficult to say; and I wish we did not have to stand here when there are other issues like potential war, poverty, unemployment, lack of health care, failing schools. Yet we must discuss this because we know the courts and these individuals who wish to be judges will be making decisions for all of our kids, all of our grandparents, our parents, our brothers and our sisters, our military men and women. They will be making decisions that affect their lives, and we have to make sure that the Senate does the right thing. So at this stage what can we say but continue, Senate, to fulfill the obligation, to receive the information they need, to be able to advise the President and then give consent if it is merited to any nominee that the President wishes to put before the Senate for confirmation as a lifetime judicial appointment.

I think it is great that the gentleman from Texas (Mr. RODRIGUEZ) has taken the time to have this Special Order here, and I hope we will continue to have this discussion. We are not debating. It is hard to debate someone we know little about. But it is great to discuss it because that is what America is all about.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank the gentleman from California (Mr. BECERRA) personally, but also maybe he can correct me if I am wrong, but I have been here 6 years and in the whole process this is one of the first nominees, I think, that we have opposed and the gentleman would correct me if I am wrong, and I know that we took it very seriously. We did not take it lightly. We recognized the importance of the nomination process, but as Latinos in this country, we also felt an obligation and responsibility to make sure that if there is anyone who is nominated up there that we feel that maybe they have not been forthcoming in their answers that that needs to happen, and so one of the things I think it is important is that here we have a Latino Hispanic who is not being responsive and for them I think the gentleman mentioned the issue of being anti-Hispanic. We are asking the person just to respond to the questions. Just as there would be an Anglo or anyone else, we would expect them to do the same.

Mr. BECERRA. Mr. Speaker, could I stop the gentleman from Texas (Mr. RODRIGUEZ) on that point?

Mr. RODRIGUEZ. Mr. Speaker, I yield to the gentleman.

Mr. BECERRA. That is a crucial point because people are saying, you would not do this to anyone else and we have never done it to anyone else in the Senate. That is not true. What is being asked of the White House to produce memoranda that were prepared by Mr. Estrada during his time with the Solicitor General's office is no different than what was asked for of Judge Bork when he was before the Senate for confirmation to become a Supreme Court Justice. It is no different than what was asked of Mr. William Bradford Reynolds, who was nominated to be the Associate Attorney General for the Department of Justice. It is no different from what was asked of Benjamin Civiletti, who was nominated to be the Attorney General. It is no different than what was asked of Steven Trott, who was nominated to the Ninth Circuit Court of Appeals, and it is no different than what was asked of today's Supreme Court Justice, Chief Justice William Rehnquist, when he was nominated to be the Supreme Court Chief Justice. No different.

People say we have never seen a process where Senators are on the floor preventing a vote on this through a cloture motion trying to prevent a filibuster. There is no filibuster. Business can take place in the Senate. That is something that is occurring not as a result of those objecting to this process on Mr. Estrada; and it should be mentioned that since 1980 there have been, I believe, some 15 to 18 occasions where this process which we are seeing played out in the Senate has occurred where in order to have a nominee before the full Senate for a vote, we would have had to have the 60-vote majority in order to get there. So when people get out there and say this is unprecedented, it has never happened before, that is just not the fact; and we should know that there is history to prove that we need Senators who will stand up for the American people and the Constitution to make sure that that person, once lifetime appointment is granted, will do the right job because he or she is qualified.

Mr. RODRIGUEZ. Mr. Speaker, I want to reinforce the importance that people understand because I know we have heard some people say he is well educated, let us give him a chance. You might say to someone who is going to be elected for 2 years, let us give him a chance. That would be fine. But here is a person we are going to appoint for the rest of his life. It is not a chance. We do not have a chance to come back and take him down, if they are not qualified, if we find something else that they might have responded to or done or whatever. This is the time to do the right thing. These people get appointed for life. They do not have a second chance on this. So as an attorney, I know the gentleman recognizes that fully.

I also wanted to share that I got a letter that is signed by about 15 presidents of the Hispanic National Bar Association.

Mr. BECERRA. Hispanic presidents. Correct.

Mr. RODRIGUEZ. Fifteen members. Not just one, 15 past presidents of the Hispanic National Bar Association; and in their letter, if I can, let me just read a couple of quotes. It says: "We the undersigned past presidents of the Hispanic National Bar Association write in strong opposition to the nomination of Miguel A. Estrada for the judgeship on the Court of Appeals in the District of Columbia.

"Since the Hispanic National Bar Association, establishment in 1972, promoting civil rights and advocating for judicial appointments of qualified Hispanic Americans throughout our Nation have been our fundamental concerns. Over the years we have had a proven and respected record of endorsing," and I say again, "of endorsing" and also "not endorsing or rejecting nominees on a nonpartisan basis of both Republican and Democratic Presidents."

This is a group that has been both Democrat and Republican; and they go on to talk about their criteria, and they do a very good job of how they evaluate the nominee. And the gentleman's being an attorney, he probably understands some of this. Then they finally at the end say: "Based upon our review and understanding of the totality of Mr. Estrada's record and life's experiences, we believe that there are more than enough reasons to conclude that Mr. Estrada's candidacy falls short in these respect. We believe that for many reasons including his virtually nonexistent written record, his verbally expressed and 'nonreputed' extreme views, his lack of judicial or academic teaching experience (against which his fairness, reasoning skills and judicial philosophy could be properly tested), his poor judicial temperament," of which we experienced personally, "his total lack of any connection whatsoever to, or lack of demonstrated interest in the Hispanic community, his refusals to answer even the most basic questions about civil rights and constitutional law," and they go on, "his less than candid responses to other straightforward questions of Senate Judiciary Committee members, and because of the administration's refusal to provide the Judiciary Committee the additional information and cooperation . . ."

So it seems like the administration is kind of deliberately putting him on the front, knowing full well that there were concerns with this candidate; yet they chose to bring him forward, and we wonder why when my understanding is that the Senate has looked at over 100 candidates and they have all been approved. This is the first one that we have decided we are not going to approve because we do not have the right information.

Mr. BECERRA. Mr. Speaker, what the gentleman from Texas (Mr. RODRIGUEZ) is pointing out, I think, so very well is that no one wants to get up and speak out against a nomination of an individual whom the President puts forward if we do not have to because we want to give respect to the decisions of the executive to move forward, but we have to do something. We have to speak up for what the Constitution stood for. And as someone who, as I said before, would love to see a diverse America reflected in its judiciary as well, it pains me, but we are acting now not as Hispanics. We are acting now not as Latinos. We are acting now not as minorities. We are acting as Members of Congress, the 435 of us in the House and 100 in the Senate, with the responsibility to act for the entire American public of some 280 million people.

Those 280 million people depend on us to make the right decisions, and it is not just for the 37 million Latinos in this country. It is not just for those who are immigrants. It is for everyone. And I would hate to see the day come when we believe that simply because the person is nominated by the President or the person looks or sounds a particular way that we will act a certain way. We have to be prepared on issues that require constitutional confirmation, that we move forward deliberatively, that we have all the information that the public would want to have. No one back home, whether in the gentleman's district in Texas, my district in California, or any other district in this Nation, no one would go and look for an attorney or a doctor or a dentist or an accountant not knowing anything about the person's background. One would not have surgery by some doctor one has never met and know nothing about. One would not give an important case to an attorney that one knew nothing about, that one met on the street. One would not go to a dentist to pull out his wisdom teeth if they had no way of knowing that this person would do a decent job, and someone is not going to send their kids to any school without having some idea of what kind of education their child can receive.

And the same applies in the case of the courts of the United States for lifetime appointments. This controversial nominee should not expect that the American public will let his name move forward without knowing something about him; and when we have that information, then we can make some decisions. And I believe that there must be something he is hiding because for him not to come forward with it, if he is so qualified, he is so prepared, then he is holding himself up. As we say in Spanish, es una hoja en blanco, he is a blank page. Es su pior enemigo, he is his worst enemy, because it is he and the White House who have placed him in this predicament; and it is only he and the White House who can remove him from this predicament, and by goodness I hope that sooner or later they recognize that there are Senators who determined to fulfill their obligation to make sure that we have the most qualified people serving on our judicial bench, and I hope they will continue that; and we are going to stand here day after day in vigil to make sure that we get across to the American public what is at stake here, not as Hispanics, not as minorities, but as Americans who are fighting to make sure that the best people are going to make those decision on those courts for all of us.

Mr. RODRIGUEZ. Mr. Speaker, I know the gentleman from California (Mr. BECERRA) is also from L.A., and I wanted to also mention to him that one of the leading organizations that is stationed there as an office in Los Angeles is MALDEF, the Mexican American Legal Defense and Education

Fund, and they have openly come out in opposition also of the nomination of Miguel Estrada, and I know the president and general counsel of MALDEF, the Mexican American Legal Defense and Education Fund, Antonia Hernandez, has strongly opposed the nomination; and I know that she has written letters on their behalf, and this is a well-respected organization within the Hispanic community throughout this country that when it comes to the legal area, the gentleman's being an attorney understands that they have been there on the forefront for our issues that confront us, and one of the things that I know concerned us when we did the evaluation was that here we had a candidate who was not willing to come forward and respond to the questions, and in some cases I kind of felt whether the person was either naive about our history as a community, as a Latino community in this country.

There is a history that has been out there, a history that depicted the struggle of Latinos in this country as we have confronted the issues of bilingual education, for example, that has been so important in our schools, and when we asked him whether he was aware or not of the Lau v. Nichols, I am not an attorney, but I know about Lau v. Nichols because it is a decision that has had a tremendous impact on the Hispanic community in this country because it is about bilingual education.

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He was either naive about the law or chose not to respond in reference to the law.

So that really kind of concerned me, that he was not willing to come forward on that basic law that has meant so much to us. If someone, whether they be Anglo or Hispanic or whoever, if they have no history in terms of the importance of the struggles of African Americans in this country, the struggles of Hispanics in this country, the struggles of women in this country, what kind of judge are we going to be having?

So I think it is important, if nothing else, in terms of hearing whether there is even an understanding that there has been a struggle out there, whether he has any history or understanding of what has occurred in the past, that has bothered me when we asked those questions.

Mr. BECERRA. In pointing out that the Mexican American Legal Defense and Educational Fund has taken an explicit position against him, the gentleman from Texas (Mr. RODRIGUEZ) is absolutely right, that MALDEF has been at the forefront of issues affecting Latinos, and if anyone understands what the courts have meant to minorities and to the Hispanic community specifically, it is MALDEF; and having, I assume, tried to piece together whatever information they could get about this controversial nominee, the Mexican American Legal Defense and Educational Fund has taken a position opposed to this controversial nominee.

I, with great respect, listened to what MALDEF says because they have been at the forefront. The gentleman mentioned Lau v. Nichols; Plyler v. Doe, which dealt with education, the basic right of education; Bakke v. U.C. Board of Reagents, which dealt with diversity in our universities and colleges; MALDEF, they are at each one of those cases.

We need to know. What will happen when we have a court that is very divided on choice for women, where one vote could turn the situation in America on the Supreme Court, where we are right now debating whether there will be diversity in our institutions of higher learning before the United States Supreme Court? All of these things matter. The decisions made by the Senate to confirm or not an individual matter, because they will have an impact.

So before the decision is made, before the vote is cast, before the confirmation occurs, the Senate and the American public are entitled to know who this phantom nominee is.

Controversial nominees go the way of controversy, and in America I hope that means that they will not prevail. Controversy is not the way this democracy has operated. We try to come together as a people.

I believe that we have an opportunity to come together as a people and have the President put before the Senate individuals of full qualification who have the preparation to serve on our courts, the highest courts of the land.

I believe that we still can resolve this in a way that will be constructive for all. But let there be no mistake; there should be no give on this issue by any Senator, there should be no give by any American in this country, to the standards set forth by the Constitution more than 200 years ago. Those standards have served us well and we should continue in that vein.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEAUPREZ). Members are reminded to be very cautious, once again, about urging action by the Senate.

Mr. BECERRA. Mr. Speaker, I want to thank the gentleman from Texas (Mr. RODRIGUEZ) for having yielded me so much time. I believe this is an important issue.

Perhaps it is cloaked by the many issues that are before us today that are of great importance to the American public. This is one of those issues that in the future would surface if it were a bad decision, and hopefully, if we can deal with this in a good way and make sure that we vote only on those who are forthright and forthcoming in information, that this will be something that in 10 years, in 20 years, in 100 years will not come back and bite us anywhere on our body, because what we do not want to see is that we diminish the standards that we use to place people in lifetime positions on the courts of the Federal Government. That is an important task.

I appreciate that the gentleman has taken the time to call for this special order.

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman very much. Nothing would be worse than to set a very negative precedent, where a person would be confirmed without having to respond to the questions that have come before them. Nothing would be more harmful to the Constitution, that allows the opportunity for the Senate to review nominees, than for them to go without asking for those questions to be asked.

Tonight I want to thank everyone for allowing us this opportunity, and I want to thank the Senate and those organizations throughout this country, the past presidents of LULAC who have also gone in opposition, as well as many other organizations throughout.

GENERAL LEAVE

Mr. RODRIGUEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE NEED FOR FURTHER UNITED NATIONS ACTION ON IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening to lay on the record information that needs to be brought to the attention of this body and every American as we struggle with the current crisis involving our relationship with Iraq.

We have seen a lot of information, in the media, a lot of public protests, both against and for action that this country might need to take, but there has been one major part of the debate that has been missing.

As we talk about Saddam Hussein and the need for him to abide by the agreement that he reached with the U.N. And the U.N. Security Council 12 years ago, as we discuss the fact that the U.N. inspectors have not yet been able to determine that he in fact has taken apart his weapons of mass destruction, there is in fact one set of facts, Mr. Speaker, that are obvious, that are documented, and that need action.

It is for this reason that I rise this evening to present to this body, our colleagues, our country and the world, the facts that will support a resolution that I will introduce in this body on Thursday of this week, a bipartisan resolution, with the gentleman from Maryland (Mr. CARDIN) and the gentleman from Maryland (Mr. HOYER), and a whole host of other Democrats and Republicans, that calls for the President to require and request the U.N. to convene a special war crimes tribunal to hold Saddam Hussein accountable for the egregious acts against human beings that he has perpetrated over the past 20 years.

Mr. Speaker, it is certainly time that the world holds Saddam Hussein accountable.

Mr. Speaker, the facts are all over the place. They have been documented by human rights groups, by Amnesty International, by agencies of the U.N. and the U.S. Government, and by other nations around the world. In fact, there have been specific actions taken by the U.N. The United States budget in fiscal year 2001 and 2002 contributed $4 million to a special U.N. Iraqi War Crimes Commission to document the evidence, some of which I am going to put out this evening.

The United Nations Security Council and the Commission on Human Rights have repeatedly condemned Iraq's human rights record. On April 19, 2002, the United Nations Commission on Human Rights passed a resolution drawing attention to "the systematic widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror."

In fact, the United Nations Security Council Resolution 674 called on all states to provide information on Iraq's war-related activities and atrocities to the U.N.

Mr. Speaker, it is amazing to me as we heard Americans, especially those coming from Hollywood, recently on our national media outlets, praising and defending Saddam Hussein as a man who can be trusted, as someone who will do the right thing if just given the right amount of time.

It is amazing to me that this country went to war just a few short years ago, pushed very aggressively by France and Germany, to remove Milosevic from power in Yugoslavia because he was allegedly committing war crimes.

Now, Mr. Speaker, I am no fan of Milosevic. In fact, I think he is where he belongs, in the Hague before a war crimes tribunal. But, Mr. Speaker, tonight I am going to lay out the evidence that will make the case that Saddam Hussein makes Milosevic look like a common street criminal. In fact, I am not the only one that feels this way, Mr. Speaker.

Let me quote from a recent op-ed that ran this past Sunday, written by Richard Holbrooke. Now, Richard Holbrooke was the U.S. Ambassador to the United Nations under President Bill Clinton. Let me quote from Mr. Holbrooke's op-ed that ran nationwide this past weekend.

"When one considers that Saddam Hussein is far worse than Slobodan Milosevic and that Iraq has left a long trail of violated Security Council resolutions while there were none in Kosovo." So Richard Holbrooke, the U.N. Ambassador under President Clinton, has publicly acknowledged as recently as this past week that, in his opinion, Saddam Hussein is far worse than Slobodan Milosevic.

This country went to war to oust Slobodan Milosevic. This country murdered innocent Serbs with bombs to oust Slobodan Milosevic. And who pushed this country? France and Germany, because the French and Germans were concerned that Milosevic was in their neighborhood.

In fact, Mr. Speaker, in a quote from a book just recently released, The Threatening Storm, by the expert on Iraq during the Clinton administration in both the CIA and the Security Council, Ken Pollack, one section documents the Saddam Hussein regime in Iraq, and I want to quote from this book, which I think every Member of this body should read. It is page 122, discussing the Iraqi state and security. Again, this individual, Ken Pollack, is an acknowledged intelligence expert on Iraq. This is what he said:

"Max Van der Stoel, the former United Nations Special Rapporteur for Human Rights in Iraq, told the United Nations that the brutality of the Iraqi regime was of an exceptionally grave character, so grave that it has few parallels in the years that have passed since the Second World War."

In other words, Mr. Speaker, that the Saddam Hussein regime has not been equaled since Adolf Hitler. Not Slobodan Milosevic, who the Germans and French supported militarily to remove, but not since Adolph Hitler.

Let me continue. "Indeed, it is to comparisons with the obscenity of the Holocaust and Stalin's mass murders that observers are inevitably drawn when confronted with the horrors of Saddam's Iraq. Saddam's Iraq is a state that employs arbitrary execution, imprisonment and torture on a comprehensive and routine basis."

A full catalogue is not yet totally available, but tonight we are going to put on the record, Mr. Speaker, the examples that are available.

Let me read again some from Ken Pollack's account, and these are not the most pleasant facts, but they are facts, Mr. Speaker.

"This is a regime that will gouge out the eyes of children to force confessions from their parents and grandparents. This is a regime that will crush all the bones in the feet of a 2-year-old girl to force her mother to divulge her father's whereabouts. This is a regime that will hold a nursing baby at arm's length from its mother and allow the child to starve to death to force the mother to confess. This is a regime that will burn a person's limbs off to force him to confess or comply, a regime that will slowly lower its victims into huge vats of acid, either to break their will or simply as a means of execution. This is a regime that applies electric shocks to the bodies of its victims, particularly their genitals, with great regularity. This a regime that in 2000 decreed that the crime of criticizing the regime, which can be as harmless as suggesting that Saddam's clothing did not match, would be punished by cutting out the offender's tongue.

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A regime that practices systematic rape against its female victims. A regime that dragged in a man's wife, daughter, and female relative and repeatedly raped her in front of him. A regime that forced a white-hot metal rod into a person's anus or other orifices. A regime that employs thallium poisoning, widely considered one of the most excruciating ways to die. A regime that beheaded a young mother in the street in front of her house and children because her husband was suspected of opposing the regime. A regime that used chemical warfare on its own Kurdish citizens, not just on the 15,000 that were killed and maimed at Halabja, but on scores of other villages all across Kurdistan. A regime that tested chemical and biological warfare agents on Iranian prisoners of war and used the POWs in controlled experiments to determine the best ways to disperse these agents to inflict the greatest damage.

All of this, Mr. Speaker, I quote, and is from the documentation by Ken Pollack, the intelligence expert on Iraq during the Clinton administration in the book available to everyone in America entitled "The Threatening Storm."

But, Mr. Speaker, it is not just Ken Pollack. In fact, the citations and documentations of the violations of human rights by Saddam Hussein are overwhelming and comprehensive. As a member of the Human Rights Caucus in this Congress, I am outraged that there has been no solid vocal outcry, not just from this body and America, but from those countries in Europe, especially Germany and France, who claim to be for the human rights of innocent people.

Let me summarize. The methods of torture, the human rights abuses documented by our special military commission looking into our own POWs that Saddam held against the Geneva Convention that controls the treatment of prisoners. Let me read the documentation in summary.

Americans experienced the following: 21 service members captured during Desert Storm were all covered by the Geneva protections. They were beaten to the rhythm of songs. The beatings were done by led pipes, by clubs, by rifle butts, by rubber hoses, by black jacks and batons, by kicks and punches to the face, neck, ears, prior injuries, genitals and kidneys. Malice to their knees, cat-o'-nine tails, burning of individuals with cigarettes, including the butts being placed into open wounds. Urination on POWs. Genital investigations and harassment to determine if POWs were circumcised as Jews. Mock executions, threatened dismemberment, threatened castration, cattle prod shocking, talkman shocking, electrocuted wires run around a person's head attached to the ears, causing massive convulsions in the jaw, knocking out teeth, sexual abuse, fingernail extraction, person hung by their feet with barbed wire.

Mr. Speaker, these were American citizens, and this is how they were treated by Saddam Hussein in direct violation of the international agreements on caring for prisoners of war. This was not made up, Mr. Speaker. These are documented cases involving America's sons and daughters.

Where is the outcry in America? Where is the outcry in Hollywood and from those experts on TV and the movies who claim to know all about how Americans were treated by this madman in Baghdad? And what about the actions that have been documented by Amnesty International, by all of the major groups that monitor human rights of what Saddam did against the Kuwaitis and the Kurds?

Let me again run through some of those cases that have been documented, including knifings, boring holes in bodies with drills, tongue and ear removal, hammering nails into hands, eye-gouging, inserting broken bottlenecks into rectums, pumping air and gasoline through people through their rectums and other orifices and then igniting the gasoline until the bodies exploded. Pouring acid on skin, forcing detainees to watch the torture, rape and execution of others and relatives, random and unjustified killings, electric shocks to the mouth, forcing women to eat flesh cut from their own body, removal of eye balls, placement of people into rotating washing machines, execution by electric drill, cutting with razors, rubbing salt into wounds, castrations, blow torches, suspension from ceiling fans.

Mr. Speaker, all of these actions are documented and conducted and ordered by Saddam Hussein and those people currently in control in Baghdad.

Where is the outrage, Mr. Speaker? France and Germany, pushing America to go in to remove Milosevic who committed ethnic cleansing; none of the charges against Milosevic at the Hague at this point in time come anywhere near the atrocities that Saddam Hussein has been documented as having committed on a regular and routine basis. There is no shame in those countries, Mr. Speaker, because it is unbelievably a double standard and total hypocrisy.

Let us talk about some of the documented human rights violations within Iraq. Again, these are all documented, Mr. Speaker, documented through extensive files, portions of which I will lay into the RECORD this evening for our colleagues to review. In Iraq, this is what Saddam has done: killing of prison inmates to account for overcrowding. Loss of freedoms of speech, press, assembly, association, religion, movement and due process; arbitrary punishment of death for suspected violations of laws, political disagreements and social actions; beheading of prostitutes and displaying of heads. Iraq is the country with the highest number of disappearances reported to the working group on enforced and involuntary disappearances established by the Commission on Human Rights. Beating of Iraqi soccer players because they lost a game. Refusal to permit visits by human rights monitors. Campaign of murder, summary execution and protracted arbitrary arrests against religious followers of the Shia Muslim population, the Kurds. Harassment and intimidation of relief workers and U.N. personnel, removal of children of unwanted minority groups to get them from cities and regions, and only 48 percent of the supplied medicines and equipment to clinics and hospitals. The rest were in government warehouses overflowing.

This is a man who challenged our President to a debate. What an absolute joke, Mr. Speaker. This man deserves to debate no one. This man deserves to be taken to the Hague and deserves to have a war crimes tribunal convened to lay out all of the charges that have been brought forward against him in a formal way by the U.N., and this resolution we will put into place on Thursday will have this body go on record in asking that that be done.

Let us talk about the chronology of murder of Saddam Hussein, Mr. Speaker, again, all documented. Not documented by the U.S. Government; documented by international groups that monitor human rights, documented by the U.N. special rapporteur for human rights. Let us go through them in a chronological order.

In 1979, the purge of the Baath Party leadership, members were forced to confess to invented crimes and then arbitrarily executed. Family members were held hostage. In 1980, Saddam led the attacks on the Fayli Kurds, removal of the Kurds in Baghdad and the southern cities of Kut, Basra and Hilla. Forced expulsions from homes to Iran. Execution of most captured young males; there was an unknown amount of these young males that were executed. Fourteen tons of captured Iraqi secret police documents, videotapes and pictures provided a character of Iraqi rule over the Kurds that has been matched by no one since the great Holocaust of World War II. In fact, there is enough paperwork to document over 200,000 murders.

Mr. Speaker, where are the French and the Germans who cried to America to get Milosevic out of power for his ethnic cleansing, when we have documentation through the U.N. and these NGOs that Saddam Hussein has been responsible for the murder of 200,000 people? In 1980, Mr. Speaker, the invasion of Iran, a clear violation of article 2, section 4 of the U.N. charter. Launch of indiscriminate attacks on civilian targets. Use of human shields, physical and mental torture of captives, all documented, on-file offenses. Eight military offensives in 1988. Systematic campaign of extermination and genocide waged against the Kurdish population of northern Iraq. Code name Anfal comes from a Koranic verse that legitimizes the right to plunder women and the property of infidels. During this time there were mass executions and indiscriminate killings of fighters and civilians. There was an order very similar to the Nazi order of "sturm and nebel" to proclaim thousands of square kilometers of Kurdistan to be a free-fire zone in which neither human nor animal life was to remain.

Saddam during that time used chemical weapons and poison gas. He forced resettlement. He destroyed between 1,000 and 2,000 villages. The estimated killings during that period was between 50,000 and 100,000; but it may be as high as 182,000 people. There were 16,496 reported disappearances in 1988.

Mr. Speaker, I cannot hear the French and the Germans. Where is their outrage, Mr. Speaker? Are the French so blinded by oil that their principles have gone down the cesspool? Was Slobodan Milosevic so bad that he is in the Hague being tried, but Saddam Hussein who has committed these crimes is not worthy of action by the U.N.?

Let us go on, Mr. Speaker. In 1990, the invasion of Kuwait, Saddam orders to kill any civilian found after curfew or bearing anti-Iraqi slogans on homes. A violation of the clear contravention of article 2, section 4 of the U.N. charter. Systematic torture as a method of extracting information. Holding thousands of foreign hostages to dissuade their countries from joining the coalition and used as human shields, including Americans.

In 1991, the invasion in March, attacks on civilians following a cease-fire in the cities of Basra, Najaf, Karbala; massive executions, bombarding residential areas, destroying religious shrines. And how about other actions before 2000, Mr. Speaker? Mass executions in a grave in Burjesiyya, a district near Zubair south of Basra, torturing and extended detentions preceding the deaths due to suspicion of political demonstrations. In April 14, 1999, 56 detainees charged with treason who were executed at Abu Ghraib on August 10 of 1999; 26 prisoners were executed at Abu Gharaib prison. March of 1999, the bombarding of residential areas of tribes by an armored division number 6 in Basra, Al-Ghameigh, Bail Wafi and Bait Sayed Noor. January, February, 1999, destruction of 52 houses of political opponents with bulldozers in Basra, nine in Jamhuriyah, five in Al-Zubier, seven in Al-Karmah, 12 in Abo Al-Khaseib, and five in Al-Tanumah. July 20, 1999, demolished six houses in Thawra after the detention of their entire families.

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But here is a man, Mr. Speaker, who has a family of human rights abusers of the worst possible kind. It is not just Saddam.

His son, Udai Hussein, created the Saddam's martyrs, who go around, 30,000, dressed in black, and they are known for executing and doing gruesome public spectacles of killing the President's critics. In fact, he is known, when there is a sporting loss, for torturing and in some cases killing the athletes because they have not been successful. His group has also been known to abduct women from the streets.

Qusai Hussein, the deputy for his father's military security and intelligence, heads Amn al-Khass, and they have also conducted outrages against innocent people.

Finally, Lieutenant General Hussein Kamal Hassan al-Majid, is known as "Chemical Ali" for his brutality against the Kurds, especially for his use of weapons procurement and weapons of mass destruction, and being able to sneak in those supplies that the U.N. has prohibited.

This individual defected. He returned to Iraq after having received a pardon. What happened? Saddam murdered him and he murdered his family, his own blood relatives.

Mr. Speaker, we have people in this country and we have people in France, we have Jacques Chirac, saying we should trust Saddam Hussein, just give him time. Mr. Speaker, it is time to lay the facts on the table. It is time to hold Saddam Hussein accountable.

Whether one is for military action or against it, this resolution does not discuss that. Whether one supports Iraq, whether one disagrees and does not support Iraq, whether one thinks there should be more time, 2 months, 5 months, 12 years, it does not apply to this resolution. This resolution simply says that we must hold this regime responsible for the crimes they have committed against humanity.

Mr. Speaker, I call upon my colleagues to hold this man accountable, at least equal to the way we are holding Slobodan Milosevic accountable.

Mr. Speaker, just a few short years ago there were claims from the administration that there would be mass graves that we would find in Serbia containing perhaps millions of bodies. Well, several years after the fact, the truth did not quite bear that out. That is not to lessen the atrocities of Milosevic; he is a war criminal, make no mistake about it. But there was a gross exaggeration of what he had done, even though the crimes he committed were outrageous. He is being held accountable for those crimes right now at the Hague, in a trial that has been going on for almost a year.

Mr. Speaker, the French and the Germans, where were they in this case? They were pushing America: Get your troops over here, America. Get this man out of power. He is a brutal dictator. He has committed ethnic cleansing. Help us rid Europe of him because of the crimes he has committed against humanity. In the words of Richard Holbrooke, who was our U.N. Ambassador during the nineties under Bill Clinton, Slobodan Milosevic does not come anywhere near Saddam Hussein in terms of committing war crimes.

Mr. Speaker, do I detect a double standard here? Do the French think that Milosevic is worse than Saddam? The U.N. does not think so. Are the French denying the facts of the U.N. special rapporteur? Are the French and Germans not realizing the gross atrocities that have occurred against human beings, or do they not want to admit to what occurred?

Let me go through some more evidence, Mr. Speaker. I take this information from the Report on Iraqi War Crimes prepared under the auspices of the U.S. Army. This was released on March 19, 1993, as a result of an intense investigation of our own citizens who were captured by Saddam. These are specific cases. Americans and members of this body can ask for the documentation of these cases and they can get them.

POW number 1, file number 176.1. Our own Americans were exhibited as war prizes. They were urinated on. They were beaten constantly, including to the rhythm of a song on a radio.

POW number 2, file number 176.2. He was abandoned by his captors in spite of having a broken leg. In fact, they put an Arab headdress on him.

POW number 3, file number 176.3. Saddam's troops beat and kicked him while being transported; punched him in the face; hit him in the head with a rifle; kicked him in a circle, and injured his leg; beaten severely with a lead pipe; and from the guards' boots smeared on the face. He had multiple cigarette burns all over his body from Saddam's leaders.

POW number 4, file number 176.4, American POW. Dragged by the hair, kicked by the captors, sexually molested during transport, slapped and spat upon, threatened with death. That was a female, Mr. Speaker.

Where are those in America expressing outrage at what this man ordered to be done to our citizens?

POW number 7, file number 176.7. Karate-chopped, forced to make a videotape.

POW number 9, beaten with fists, batons, rifle butts; kicked in the head and legs broken; beaten to the rhythm of a song; knocked unconscious many times; forced to make a videotape; beaten in the stomach and back with club, resulting in long-term pain to his kidneys; eye injuries from his beatings.

Mr. Speaker, these are actions documented by Saddam Hussein against American citizens. We have Saddam Hussein now on international TV proclaiming he is for peace, he is against war. Mr. Speaker, cut me a break. Are we that naive? Are we that short of our memory that we do not understand what this man has done over the past 20 years?

Let me go through some more examples, Mr. Speaker.

As we know, in capturing a prisoner-of-war, the only thing a prisoner has to do is to state their surname, first and last name and rank, their date of birth, and their army or unit that they are involved with. That is all they have to give under the special protections under the Geneva Convention. That is it.

In the case of our POWs, Saddam consistently, along with his military, grossly abused their rights and tortured them. In fact, he forced them to do things that are absolutely sickening to read.

POW number 12, assaulted twice with a cattle prod; beaten with a hard rubber stick while being interrogated by the voice; assaulted with a stun gun; an AK–47 placed against his head and threatened with execution as a war criminal; threatened with dismemberment; shocked with a Talkman; multiple beatings.

POW 13, struck with hands, fists, a wooden club, blackjack, and sticks; punctured his eardrums; loosened his teeth from the beatings; beaten so severely he could not walk and could not stand.

Mr. Speaker, there is a lawsuit that has been filed in the courts of the District of Columbia. The lawyer represents these brave American POWs who are suing Saddam and Iraq because of what he did to them. Is America going to stand behind these brave young people? Are we going to stand up and hold Saddam accountable for what he did, or can they only sue civilly in a court, as documented by this lawsuit?

Mr. Speaker, I am going to ask special permission to have texts of this lawsuit entered into the RECORD, even though it will cost extra money, because I want every one of our colleagues and every American to understand the facts of what was done to our citizens by Saddam Hussein and by his evil subordinates in his military.

Let us go on to Article 32, documented by the Army also back in 1993, the specifics of some of which I mentioned already.

Iraq's violation and Saddam's violations of Article 27 and 32, which were absolutely outrageous: torturing Kuwaiti nationals. Widespread and barbaric actions, such as beatings on all parts of the body with various implements; beating people while they were suspended in air; hanging with cables; breaking appendages; knifings; extracting their finger- and toenails; boring holes in their body with drills; cutting off their tongues and ears; cutting off their body parts with saws; gouging out their eyes; castrations; hammering nails into their hands; shootings; rapes; inserting broken bottlenecks into their rectums; pumping air or gasoline into their orifices; pouring acid on their skin; Asian and Kuwaiti women routinely raped by Iraqi soldiers; all of this documented by the official commission of our Army and sent to the U.N. for further action.

How about some specific cases, Mr. Speaker, that were also filed with the U.N. that took place in Kuwait City?

□ 2310

This Kuwaiti citizen file number 66.01015 was arrested by the Iraqis at his home on the 23rd of December 1990 and held until mid-December. During his captivity he received repeated beatings and electric shocks to his mouth, nose and genitalia. He was suspended from the ceiling and subjected to mock executions. He witnessed the torture of other Kuwaitis by techniques which included forced ingestion of gas causing abdominal pains, forcing a woman to eat flesh cut from her own body, an execution by ax, removal of eyeballs, dismemberment, burning with a hot iron, execution by electric drill, and placement of a person into a large rotating washing machine.

Mr. Speaker, we are not dealing with a human being. We are dealing with an animal. We are not dealing with a person that we can have some feeling of a moral authority. This man is the lowest of the low, Mr. Speaker. It has all been documented through thousands of pieces of information assembled by nonprofit organizations, organizations concerned with human rights violations by governments around the world and by the U.N. itself. It has been documented. It is time to hold him accountable.

Mr. Speaker, here is a man, with all the documentation we have, who some people say we should trust. If you listen to Jacques Chirac, whose country has millions of dollars of oil contracts with Saddam Hussein and who himself is a personal friend of Saddam's, we should trust this man. Shame on Jacques Chirac. Mr. Speaker, shame on Jacques Chirac. By defending someone like Saddam Hussein, by not having his government take action to hold this man accountable, he has no moral authority. In fact, in my opinion he has no credibility.

Our government, Mr. Speaker, can do the right thing. Members on both sides of the aisle have introduced resolutions in the past 10 years. The Senate has voted on a resolution in the past 10 years. One of my Democrat colleagues offered a resolution, has an amendment in the Committee on International Relations just recently holding Saddam accountable.

This body has repeatedly publicly called on the U.N. to hold Saddam accountable, and I think we should do it again, Mr. Speaker. And so, therefore, this Thursday I will introduce along with colleagues from both sides of the aisle, there are already over 25 co-sponsors, and I urge all of my colleagues to sign on to a resolution to ask our President to appeal to the U.N. to convene a special war crimes tribunal against Saddam Hussein.

Mr. Speaker, we did that for Milosevic, and he is today being tried for those crimes he committed against innocent people in the former Yugoslavia. Innocent Kosovars, innocent Serbs, innocent Montenegroans, innocent people that Milosevic thought he could abuse. He deserves the full weight of the punishment meted out by that special tribunal.

Is Saddam Hussein any less deserving of a tribunal? Are all of these cases documented by the U.N., by these NGOs, by other governments, should we just discard them and pretend that they do not exist and let Saddam go on as if nothing has happened?

Mr. Speaker, we have not done right by the American people. We talk about the need to deal with Saddam because he has chemical precursors for his weapons of mass destruction, because he has missiles that will go longer than what the U.N. said he could. They are all violations, and they are all material breaches of the agreements that were reached by Saddam and the U.N. 12 years ago. But why, Mr. Speaker, is there not more discussion about this man for the evil person that he is?

The U.N. special rapporteur said, No one has come close to this kind of activity since World War II, since the great Holocaust. No one, Mr. Speaker, including Milosevic. Is the world going to ignore the activities of Saddam Hussein? Are we going to ignore the atrocities he committed against our own people when they were captured? If that is the case, then international agreements mean nothing. The Geneva Convention has no basis. The Helsinki Final Act has no meaning. If we are not going to hold leaders who commit such outrageous acts accountable, then we might as well not have those acts, those agreements existing in the first place.

Mr. Speaker, this body, our body can take action soon, to lay out to the world those who support military action and those who oppose military action, that regardless of whether or not you think war is inevitable, there is one thing that we all can agree on: Saddam Hussein is a war criminal. There is no doubt about that.

Those who understand the facts, those who look at the documents, those who see the evidence understand that this man comes as close to Adolf Hitler and Joseph Stalin as anyone that we have seen in the last several decades.

And so, Mr. Speaker, I appeal to our colleagues to co-sponsor this legislation before I drop it. Our colleagues have that opportunity. Democrats and Republicans are already on. We have over 25 Members and that was in the first day. I would hope that we would end up with over 300 co-sponsors and send a signal to the world that Saddam Hussein is an unacceptable leader because of his war crimes.

Again, Mr. Speaker, and I know I have said this before, but it really irks me because initially I opposed the Kosovo war, not because I support Milosevic, he is a war criminal, but because I felt that we had not brought Russia in to use their influence to get Milosevic out of power. In fact, Mr. Speaker, I led a delegation to Vienna with five of our Democrat colleagues and five of our Republican colleagues. We took a State Department official. And with the support of our State Department, we flew to Vienna; and for 2 days around the clock working with the leaders of the Russian political factions, we fashioned a statement that called Milosevic a war criminal for his ethnic cleansing. We laid the groundwork with the help of the Russians that became the basis of the G–8 document to end the war 10 days later.

Mr. Speaker, we were prodded into war against Milosevic by the French and the Germans. They were bold back then. They did not want to put their own troops in harm's way without America being there. So we went into Kosovo. America was the number one supplier of the military. There were more American planes than there were any other nation, even though Yugoslavia is not far away from France and Germany. The French and Germans came in after us, but they pushed us the whole way. And why? Because they said Milosevic was a war criminal who had abused people. And they were right. But, Mr. Speaker, so is Saddam Hussein, only a far worse war criminal than Milosevic ever was. Those are not my words. Those are the words of Richard Holbrook, U.N. Ambassador for the United States under President Clinton in an op-ed he wrote this past week. Those are the words of the special rapporteur of the U.N. who said that Saddam Hussein's regime has no equal since World War II.

□ 2320

Mr. Speaker, I would hope that every one of our colleagues would cosponsor the resolution to hold Saddam Hussein accountable for war crimes. It is a very simple resolution and I at this point in time enter that resolution into the RECORD so that all of our citizens, all of our colleagues can see the text, the documents, the actions, that we now request of the United Nations against Saddam Hussein.

H. RES. —

Whereas in 2001 and 2002, the Department of State contributed $4,000,000 to a United Nations Iraq War Crimes Commission, to be used if a United Nations tribunal for Iraqi war crimes is created;

Whereas the United Nations Security Council and the United Nations Commission on Human Rights have repeatedly condemned Iraq's human rights record;

Whereas Iraq continues to ignore United Nations resolutions and its international human rights commitments;

Whereas on April 19, 2002, the United Nations Commission on Human Rights passed a resolution drawing attention to "the systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror";

Whereas United Nations Security Council Resolution 674 calls on all states or organizations to provide information on Iraq's war-related atrocities to the United Nations;

Whereas Iraq's aggressive pursuit of nuclear, chemical, and biological weapons, and its past use of weapons of mass destruction against its own people and Iraq's neighbors illustrates the danger of allowing Saddam Hussein to go unchallenged;

Whereas torture is used systematically against political detainees in Iraqi prisons and detention centers;

Whereas this regime gouges out the eyes of the victims, crushes all of the bones in their feet, and burns a person's limbs off to force him to confess or comply; and

Whereas citizens of Iraq live in constant fear of being tortured, kidnapped, or killed: Now, therefore, be it

Resolved, That consistent with Section 301 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), House Concurrent Resolution 137, 105th Congress (approved by the House of Representatives on November 13, 1997), and Senate Concurrent Resolution 78, 105th Congress (approved by the Senate on March 13, 1998), the Congress urges the President to call upon the United Nations to establish an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

Mr. Speaker, in fact, the resolution which does not have yet a number, lays out the fact that we spent, as I said earlier, $4 million in each of the past 2 years for a special U.N. Iraqi War Crimes Commission. It is already in place, continuing from the 1990s. American tax dollars are being used to support this U.N. effort.

This war crimes commission has, in fact, seen resolutions passed by the Security Council and the Commission on Human Rights as recently as April 19 of 2002, U.N. Security Council Resolution 674, all of which deal with Saddam Hussein's abuses of human rights. This resolution says, and resolves, that consistent with section 301 of the Foreign Relations Authorization Act, the House concurrent resolution and the Senate concurrent resolution, that the Congress urges the President to call upon the United Nations to establish an International Criminal Tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

Mr. Speaker, we can do no less.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today and February 26 on account of official business.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and the balance of the week on account of personal business.

Mr. PETERSON of Minnesota (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. SNYDER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUPPERSBERGER) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

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Mr. DUNCAN, for 5 minutes, February 26.

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S. Con. Res. 4. Concurrent Resolution welcoming the expression of support of 18 European nations for the enforcement of United Nations Security Counsel Resolution 1441; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 2. Joint resolution making consolidated approbations for the fiscal year ending September 30, 2003, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on February 19, 2003 he presented to the President of the United States, for his approval, the following bill.

H.J. Res. 2. Making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, February 26, 2003, at 1:00 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

706. A communication from the President of the United States, transmitting a report listing the aggregate number, locations, activities, and lengths of assignments for all temporary and permanent U.S. military and civilians involved in Plan Colombia, pursuant to Public Law 106—246, section 3204 (f) (114 Stat. 577); to the Committee on Armed Services.

707. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's semiannual Monetary Report pursuant to Pub. L. 106-569; to the Committee on Financial Services.

708. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Belgium (Transmittal No. DTC 004-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

709. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the United Arab Emirates (Transmittal No. DTC 213-02), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

710. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question covering the period December 1, 2002 through January 31, 2003, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

711. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's Affirmative Employment Program Accomplishments Report for the period of September 30, 2001 to September 30, 2002, pursuant to 22 U.S.C. 3905(d)(2); to the Committee on Government Reform.

712. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-570, "Exclusive Right Agreement Time Period Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

713. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-569, "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

714. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-568, "Insurance Compliance Self-Evaluation Privilege Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

715. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-490, "Carl Wilson Basketball Court Designation Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

716. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-571, "Health Organizations RBC Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

717. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-572, "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

718. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-573, "Investments of Insurers Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

719. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-575, "Surname Choice Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

720. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-574, "Housing Production Trust Fund Affordability Period Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

721. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-576, "Draft Master Plan for Public Reservation 13 Approval Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

722. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting copies of the inventories of commercial positions in the Department of Transportation; to the Committee on Government Reform.

723. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the "EPA's Inventory of Commercial Activities"; to the Committee on Government Reform.

724. A letter from the Chair, United States Sentencing Commission, transmitting a report entitled, "Increased Penalties Under The Sarbanes-Oxley Act of 2002," pursuant to Public Law 107—204, section 1104(a)(3); to the Committee on the Judiciary.

725. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A-1, 205B, 212, 412, 412EP, and 412CF Helicopters [Docket No. 2001-SW-37-AD; Amendment 39-12737; AD 2002-09-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

726. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727, 727c, 727-100, 727-100C, 727-200, and 727-200F Series Airplanes [Docket No. 99-NM-105-AD; Amendment 39-12703; AD 2002-07-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

727. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A Helicopters; Correction [Docket No. 2000-SW-46-AD; Amendment 39-12674; AD 2002-05-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

728. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 and 701) Series Airplanes [Docket No. 2002-NM-99-AD; Amendment 39-12731; AD 2002-08-19] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

729. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters; Correction [Docket No. 2001-SW-20-AD; Amendment 39-12680; AD 2002-06-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

730. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A Helicopters; Correction [Docket No. 2000-SW-46-AD; Amendment 39-12674; AD 2002-05-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

731. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332L2 Helicopters [Docket No. 2002-SW-04-AD; Amendment 39-12736; AD 2002-09-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

732. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Enstrom Helicopter Corporation Model F-28, F-28A, F-28C, F28F, 280, 280C, 280F, and 280FX Helicopters [Docket No. 2001-SW-67-AD; Amendment 39-12710; AD 2002-08-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

733. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 2002-SW-08-AD; Amendment 39-12711; AD 2002-06-52] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

734. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA341G, SA342J, and SA-360C Helicopters [Docket No. 2001-SW-72-AD; Amendment 39-12725; AD 2002-08-16] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

735. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A-1, 269B, 269C, and TH-55A Helicopters [Docket No. 2001-SW-58-AD; Amendment 39-12726; AD 2001-25-52] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

736. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines [Docket No. 98-ANE-43-AD; Amendment 39-12797; AD 2002-13-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

□ 2320

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710. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question covering the period December 1, 2002 through January 31, 2003, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

711. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's Affirmative Employment Program Accomplishments Report for the period of September 30, 2001 to September 30, 2002, pursuant to 22 U.S.C. 3905(d)(2); to the Committee on Government Reform.

712. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-570, "Exclusive Right Agreement Time Period Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

713. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-569, "Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

714. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-568, "Insurance Compliance Self-Evaluation Privilege Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

715. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-490, "Carl Wilson Basketball Court Designation Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

716. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-571, "Health Organizations RBC Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

717. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-572, "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

718. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-573, "Investments of Insurers Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

719. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-575, "Surname Choice Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

720. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-574, "Housing Production Trust Fund Affordability Period Temporary Amendment Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

721. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-576, "Draft Master Plan for Public Reservation 13 Approval Act of 2002" received February 25, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

722. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting copies of the inventories of commercial positions in the Department of Transportation; to the Committee on Government Reform.

723. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the "EPA's Inventory of Commercial Activities"; to the Committee on Government Reform.

724. A letter from the Chair, United States Sentencing Commission, transmitting a report entitled, "Increased Penalties Under The Sarbanes-Oxley Act of 2002," pursuant to Public Law 107—204, section 1104(a)(3); to the Committee on the Judiciary.

725. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A-1, 205B, 212, 412, 412EP, and 412CF Helicopters [Docket No. 2001-SW-37-AD; Amendment 39-12737; AD 2002-09-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

726. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727, 727c, 727-100, 727-100C, 727-200, and 727-200F Series Airplanes [Docket No. 99-NM-105-AD; Amendment 39-12703; AD 2002-07-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

727. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A Helicopters; Correction [Docket No. 2000-SW-46-AD; Amendment 39-12674; AD 2002-05-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

728. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 and 701) Series Airplanes [Docket No. 2002-NM-99-AD; Amendment 39-12731; AD 2002-08-19] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

729. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters; Correction [Docket No. 2001-SW-20-AD; Amendment 39-12680; AD 2002-06-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

730. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A Helicopters; Correction [Docket No. 2000-SW-46-AD; Amendment 39-12674; AD 2002-05-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

731. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332L2 Helicopters [Docket No. 2002-SW-04-AD; Amendment 39-12736; AD 2002-09-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

732. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Enstrom Helicopter Corporation Model F-28, F-28A, F-28C, F28F, 280, 280C, 280F, and 280FX Helicopters [Docket No. 2001-SW-67-AD; Amendment 39-12710; AD 2002-08-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

733. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 2002-SW-08-AD; Amendment 39-12711; AD 2002-06-52] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

734. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA341G, SA342J, and SA-360C Helicopters [Docket No. 2001-SW-72-AD; Amendment 39-12725; AD 2002-08-16] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

735. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A-1, 269B, 269C, and TH-55A Helicopters [Docket No. 2001-SW-58-AD; Amendment 39-12726; AD 2001-25-52] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

736. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines [Docket No. 98-ANE-43-AD; Amendment 39-12797; AD 2002-13-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

737. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. [Docket No. 2002-NM-129-AD; Amendment39-12823; AD 2002-14-23] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

738. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2002-NM-33-AD; Amendment 39-12815; AD 2002-14-15] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

739. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Teledyne Continental Motors; Correction [Docket No. 2000-NE-19-AD; Amendment 39-12792; AD 2002-13-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

740. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines; Correction [Docket No. 98-ANE-43-AD; Amendment 39-12797; AD 2002-13-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

741. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines [Docket No. 2002-NE-08-AD; Amendment 39-12865; AD 2002-16-26] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

742. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH 912 F and 912 S Series Reciprocating Engines [Docket No. 2002-NE-18-AD; Amendment 39-12889; AD 2002-19-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

743. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. TPE331 Series Turboprop and TSE331-3U Series Turboshaft Engines [Docket No. 99-NE-53-AD; Amendment 39-12922; AD 2002-21-15] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

744. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, -200CB, and -300 Series Airplanes [Docket No. 2000-NM-392-AD; Amendment 39-12921; AD 2002-21-14] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

745. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610-14-28 Turbojet Engines [Docket No. 2002-NE-30-AD; Amendment 39-12981; AD 2002-25-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

746. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) Series Airplanes [Docket No. 2002-NM-269-AD; Amendment 39-12995; AD 2002-26-07] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

747. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes [Docket No. 2002-CE-31-AD; Amendment 39-12973; AD 2002-24-08] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

748. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Britten-Norman Limited BN2T and BN2T-4R Series Airplanes [Docket No. 2002-CE-34-AD; Amendment 39-12974; AD 2002-24-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

749. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters [Docket No. 2002-SW-50-AD; Amendment 39-12975; AD 2002-22-51] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

750. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MT-Propeller Entwicklung GMBH Models MTV-9-B-C and MTV-3-B-C Propellers; Correction [Docket No. 99-NE-35-AD; Amendment 39-12953; AD 2002-23-09] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

751. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 Series Airplanes; and C-9 (Military) Airplanes [Docket No. 99-NM-287-AD; Amendment 39-12979; AD 2002-25-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

752. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. 2002-NM-293-AD; Amendment 39-12994; AD 2002-26-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

753. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Series Airplanes [Docket No. 2002-NM-271-AD; Amendment 39-12970; AD 2002-24-05] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

754. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Britten-Norman Limited BN-2 and BN2A Mk. III Series Airplanes [Docket No. 2002-CE-35-AD; Amendment 39-12980; AD 2002-25-05] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

755. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, 700C, -800, and -900 Series Airplanes; Model 747 Series Airplanes; and Model 757 Series Airplanes [Docket No. 2002-NM-309-AD; Amendment 39-12992; AD 2002-24-51] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

756. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400, -400, -400D, and -400F Series Airplanes [Docket No. 2002-NM-314-AD; Amendment 39-12993; AD 2002-24-52] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

757. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-502A, AT-502B, and AT-503A Airplanes [Docket No. 2002-CE-54-AD; Amendment 39-12991; AD 2002-26-05] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

758. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), (DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 2002-NM-216-AD; Amendment 39-12912; AD 2002-21-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

759. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610-14-28 Turbojet Engines [Docket No. 2002-NE-28-AD; Amendment 39-12956; AD 2002-23-12] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

760. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Limited., Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610-14-28 Turbojet Engines [Docket No. 2002-NE-29-AD; Amendment 39-12990; AD 2002-26-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

761. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-348-AD; Amendment 39-13008; AD 2002-26-51] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

762. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines, Correction [Docket No. 2000-NE-47-AD; Amendment 39-12916' AD 2002-21-10] RIN: 2120-AA64 received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

763. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-8C1 Turbofan Engines, Correction [Docket No. 2002-NE-13-AD; Amendment 39-12946; AD 2002-23-02] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

764. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters [Docket No. 2002-SW-48-AD; Amendment 39-12982; AD 2002-21-51] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

765. A letter from the Secretary, Department of Health and Human Services, transmitting the fifth annual report on the Temporary Assistance for Needy Families (TANF) program; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 13. A bill to reauthorize the Museum and Library Services Act, and for other purposes (Rept. 108–16). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 254. A bill to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes (Rept. 108–17). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 534. A bill to amend title 18, United States Code, to prohibit human cloning (Rept. 108–18). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 657. A bill to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission (Rept. 108–19). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BALLENGER (for himself and Mr. DELAHUNT):

H.R. 868. A bill to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 869. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for host families of foreign exchange and other students from $50 per month to $200 per month; to the Committee on Ways and Means.

By Mr. CAMP (for himself, Mr. LEVIN, Mr. MCCRERY, Mr. NEAL of Massachusetts, Mr. ROGERS of Michigan, Mr. BECERRA, Mr. ENGLISH, Mr. DOGGETT, Mr. LEWIS of Kentucky, Mr. PALLONE, and Mr. HAYWORTH):

H.R. 870. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain motor vehicle dealer transitional assistance; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself and Mr. MORAN of Kansas):

H.R. 871. A bill to amend the National Highway System Designation Act of 1995 concerning the applicability of hours of service requirements to drivers operating commercial motor vehicles transporting agricultural commodities and farm supplies; to the Committee on Transportation and Infrastructure.

By Mr. CAMP (for himself, Mr. KENNEDY of Minnesota, Mr. PITTS, Mr. SCHROCK, Mr. BARTLETT of Maryland, Mr. ENGLISH, Mr. ISAKSON, and Mr. GOODE):

H.R. 872. A bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations; to the Committee on Ways and Means.

By Mrs. BIGGERT (for herself and Mr. STRICKLAND):

H.R. 873. A bill to amend title V of the Elementary and Secondary Education Act of 1965 to raise awareness of eating disorders and to create educational programs concerning the same, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. QUINN, Ms. CORRINE BROWN of Florida, Mr. GARY G. MILLER of California, and Mr. BURGESS):

H.R. 874. A bill to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska (for himself, Mr. BURGESS, Mr. ISAKSON, Mr. GRAVES, Mr. OBERSTAR, Mr. LIPINSKI, Mr. PASCRELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SIMMONS, Mr. GARY G. MILLER of California, and Mr. PETRI):

H.R. 875. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Kansas (for himself, Mr. CAMP, and Mr. RAMSTAD):

H.R. 876. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. STARK, Mr. THOMAS, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. MCINNIS, Mr. HOUGHTON, Mr. HERGER, Mr. WELLER, Mr. SMITH of New Jersey, Mr. ENGLISH, and Mr. PETERSON of Pennsylvania):

H.R. 877. A bill to amend title XI of the Social Security Act to improve patient safety; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself, Mr. HOUGHTON, Mr. CAMP, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. RAMSTAD, Mr. CANTOR, Mr. ENGLISH, and Mr. CRANE):

H.R. 878. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 879. A bill to amend title 38, United States Code, to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS (for herself, Mr. FARR, Mr. ALLEN, Ms. SOLIS, Mr. BLUMENAUER, Mrs. DAVIS of California, Mr. BROWN of Ohio, Ms. WOOLSEY, Mr. SCHIFF, Mr. TOWNS, Mr. ENGEL, Mr. THOMPSON of California, Ms. NORTON, Ms. MCCARTHY of Missouri, Mr. SANDERS, Ms. LEE, Mr. STARK, and Mr. GRIJALVA):

H.R. 880. A bill to amend title 46, United States Code, to accelerate to 2007 the application of the requirement that a tanker that carries oil in bulk as cargo must be equipped with a double hull, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE (for himself, Mr. SENSENBRENNER, Mr. HYDE, Mr. SMITH of Texas, Mr. GALLEGLY, Mr. GOODLATTE, Mr. CHABOT, Mr. JENKINS, Mr. CANNON, Mr. BACHUS, Mr. HOSTETTLER, Mr. GREEN of Wisconsin, Mr. KELLER, Ms. HART, Mr. FLAKE, Mr. PENCE, Mr. FORBES, Mr. KING of Iowa, Mr. CARTER, Mr. FEENEY, and Mrs. BLACKBURN):

H.R. 881. A bill to disapprove certain sentencing guideline amendments; to the Committee on the Judiciary.

By Mr. ENGLISH:

H.R. 882. A bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself and Mr. Deutsch):

H.R. 883. A bill to amend title XVIII of the Social Security Act to adjust the fee for collecting specimens for clinical diagnostic laboratory tests under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS:

H.R. 884. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, and 326-K, and for other purposes; to the Committee on Resources.

By Mr. HAYWORTH (for himself, Mr. Kolbe, Mr. Franks of Arizona, Mr. Grijalva, and Mr. Pastor):

H.R. 885. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Resources.

By Mr. HOLDEN (for himself, Mr. Evans, Ms. Kaptur, Mr. Towns, Mr. Sanders, Mrs. McCarthy of New York, Mr. Brady of Pennsylvania, Ms. Norton, Mr. Carson of Oklahoma, Mr. Frost, Ms. Woolsey, Mr. Paul, Mr. Strickland, Mrs. Maloney, Ms. Ros-Lehtinen, Mr. Hefley, Ms. Schakowsky, Mr. Rangel, Mrs. Jones of Ohio, and Mr. McGovern):

H.R. 886. A bill to amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date; to the Committee on Veterans' Affairs.

By Mr. JEFFERSON (for himself, Mr. Paul, Mr. Kanjorski, Mr. Tauzin, Ms. Schakowsky, Mr. Wexler, Mr. Davis of Illinois, Mr. Crowley, Mr. Frank of Massachusetts, Ms. Roybal-Allard, Mr. Hinchey, Mr. Neal of Massachusetts, Mr. Gordon, Mr. McHugh, Mr. Oberstar, Mr. Vitter, Mr. Pomeroy, Mr. Serrano, Mr. Wynn, Mr. Delahunt, Mr. Kind, Mr. Farr, Mr. Moore, Mr. Nadler, Mr. Waxman, Mr. Smith of Washington, Mr. Snyder, Mr. Cramer, Mr. Brady of Pennsylvania, Mr. John, Mr. Israel, Mr. Meehan, Ms. Slaughter, Mr. McNulty, Mr. Holden, Mr. Udall of New Mexico, Mr. Rush, Mr. McGovern, Mr. Capuano, Mr. McDermott, Mr. Berman, Ms. Carson of Indiana, Ms. Baldwin, Ms. Woolsey, Mrs. McCarthy of New York, Mr. Blumenauer, Mr. Grijalva, Mr. Kennedy of Rhode Island, Mr. Holt, Mr. Sandlin, Mr. Evans, Mr. Rodriguez, Mr. Boyd, Mr. Deutsch, Mr. Sanders, Ms. Linda T. Sánchez of California, Mr. Ford, Mrs. Capps, Mr. Abercrombie, Mr. Boswell, Ms. Eddie Bernice Johnson of Texas, Mr. Hall, Mr. Lantos, Mr. Alexander, Mrs. Maloney, Mr. Allen, Mr. Baker, Mrs. Christensen, Mr. Menendez, Mr. Pallone, Mr. Dooley of California, Mr. McIntyre, Mr. Kildee, Mr. Reyes, Mr. Kleczka, Mr. Ortiz, Mrs. Wilson of New Mexico, Mr. Rothman, Mr. Foley, Mr. Michaud, Mr. Costello, Mr. Strickland, Mr. Markey, Mr. Towns, Mr. Turner of Texas, Mr. Ackerman, Mr. Weiner, Mr. Wilson of South Carolina, Mr. Toomey, Mr. Doyle, Mr. Rahall, Mr. Rangel, Mrs. Jones of Ohio, Mr. Pickering, Mr. Price of North Carolina, and Ms. Kaptur):

H.R. 887. A bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $2,000; to the Committee on Ways and Means.

By Mr. JOHNSON of Illinois:

H.R. 888. A bill to authorize the disinterment from the Luxembourg American Cemetery and Memorial in Luxembourg of the remains of Private Ray A. Morgan, who died in combat in January 1945 in the Battle of the Bulge, and to authorize the transfer of his remains to the custody of his next of kin; to the Committee on Veterans' Affairs.

By Mr. KING of New York:

H.R. 889. A bill to eliminate the backlog in performing DNA analyses of DNA samples collected from convicted child sex offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut (for himself, Mr. Pallone, Mr. Hefley, Ms. Norton, Mrs. Jones of Ohio, Mr. LaTourette, Mr. Grijalva, Mr. Carson of Oklahoma, Mrs. Musgrave, Mr. Ryan of Ohio, Ms. Ginny Brown-Waite of Florida, Mr. Abercrombie, Mr. Brown of Ohio, Mr. Rahall, Ms. Kilpatrick, Ms. DeLauro, and Mr. Frank of Massachusetts):

H.R. 890. A bill to amend title 38, United States Code, to provide for a more equitable geographic allocation of funds appropriated to the Department of Veterans Affairs for medical care; to the Committee on Veterans' Affairs.

By Mr. MARKEY (for himself, Mr. Israel, and Ms. Lee): I90[H25FE3-638]{H1332{891.

H.R. 891. A bill to establish a task force to evaluate and make recommendations with respect to the security of sealed sources of radioactive materials, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MATSUI (for himself, Mrs. Tauscher, Mr. George Miller of California, and Mr. Thompson of California):

H.R. 892. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. McCARTHY of New York:

H.R. 893. A bill to provide student loan forgiveness to the surviving spouses of the victims of the September 11, 2001, tragedies; to the Committee on Education and the Workforce.

By Mrs. McCARTHY of New York:

H.R. 894. A bill to amend the Public Health Service Act to require the Director of the National Institutes of Health to expand and intensify research regarding Diamond-Blackfan Anemia; to the Committee on Energy and Commerce.

By Mrs. McCARTHY of New York:

H.R. 895. A bill to provide for the construction and renovation of child care facilities, and for other purposes; to the Committee on Financial Services.

By Mrs. McCARTHY of New York:

H.R. 896. A bill to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries and for women diagnosed with breast cancer; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. McCOLLUM (for herself, Ms. Baldwin, Mr. Berry, Ms. Bordallo, Mr. Boswell, Ms. Corrine Brown of Florida, Mr. Gutknecht, Mr. Kind, Mrs. Napolitano, Mr. Sabo, and Mr. Grijalva):

H.R. 897. A bill to amend the National Trails System Act to designate the route of the Mississippi River from its headwaters in the State of Minnesota to the Gulf of Mexico for study for potential addition to the National Trails System as a national scenic trail, national historic trail, or both, and for other purposes; to the Committee on Resources.

By Mr. McINTYRE (for himself and Mr. Hayes):

H.R. 898. A bill to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes; to the Committee on Resources.

By Mr. NADLER:

H.R. 899. A bill to amend title 18, United States Code, to require persons to obtain a State license before receiving a handgun or handgun ammunition; to the Committee on the Judiciary.

By Mr. NADLER:

H.R. 900. A bill to provide incentive funds to States that have in effect a certain law; to the Committee on the Judiciary.

By Mr. OSE (for himself and Mr. Doolittle):

H.R. 901. A bill to authorize the Secretary of the Interior to construct a bridge on Federal land west of and adjacent to Folsom Dam in California, and for other purposes; to the Committee on Resources.

By Mr. OTTER:

H.R. 902. A bill to authorize the Secretary of Agriculture to convey certain parcels of National Forest System land in the State of Idaho, to use the proceeds for the acquisition, construction, or rehabilitation of facilities in the Panhandle National Forest in the State of Idaho, and for other purposes; to the Committee on Resources.

By Mr. OTTER:

H.R. 903. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Mr. LoBiondo):

H.R. 904. A bill to authorize the Secretary of the Interior to establish a program to inventory, evaluate, document, and assist efforts to preserve surviving United States Life-Saving Service stations; to the Committee on Resources.

By Mr. POMEROY (for himself and Mr. HOUGHTON):

H.R. 905. A bill to amend the Internal Revenue Code of 1986 to simplify the application of self-employment tax in the case of family farming businesses; to the Committee on Ways and Means.

By Mr. QUINN (for himself and Mr. RAHALL):

H.R. 906. A bill to amend title 23, United States Code, to improve roadway safety for motor vehicles, bicycles, and pedestrians and workers in proximity to vehicle traffic; to the Committee on Transportation and Infrastructure.

By Mr. RADANOVICH:

H.R. 907. A bill to direct the Secretary of the Interior to complete a special resource study of the national significance, suitability, and feasibility of establishing Highway 49 in California, known as the "Golden Chain Highway", as a National Heritage Corridor; to the Committee on Resources.

By Mr. ROHRABACHER:

H.R. 908. A bill to amend the Immigration and Nationality Act to specify that imprisonment for reentering the United States after removal subsequent to a conviction for a felony shall be under circumstances that stress strenuous work and sparse living conditions, if the alien is convicted of another felony after the reentry; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H.R. 909. A bill to amend title 35, United States Code, to direct the Director of the Patent and Trademark Office to adjust fees charged by the Office so that the fees collected in any fiscal year will equal, to the greatest extent practicable, the amount appropriated to the Office for that fiscal year; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H.R. 910. A bill to provide for the distribution to coastal States and counties of revenues collected under the Outer Continental Shelf Lands Act; to the Committee on Resources.

By Mr. TURNER of Texas:

H.R. 911. A bill to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad; to the Committee on Resources.

By Mr. ROHRABACHER:

H.R. 912. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Science.

By Mr. ROHRABACHER:

H.R. 913. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the ownership and control of corporations by employees; to the Committee on Ways and Means.

By Mr. ROHRABACHER:

H.R. 914. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for investing in companies involved in space-related activities; to the Committee on Ways and Means.

By Mr. STEARNS:

H.R. 915. A bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry certain concealed firearms in the State, and to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. STEARNS:

H.R. 916. A bill to prohibit the expenditure of Federal funds to conduct or support research on the cloning of humans, and to express the sense of the Congress that other countries should establish substantially equivalent restrictions; to the Committee on Energy and Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WILSON of South Carolina (for himself, Mr. BROWN of South Carolina, Mr. DEMINT, Mr. BARRETT of South Carolina, Mr. SPRATT, and Mr. CLYBURN):

H.R. 917. A bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; to the Committee on Government Reform.

By Mr. BROWN of Ohio (for himself, Mrs. TAUSCHER, and Mr. HOEFFEL):

H.J. Res. 24. A joint resolution requiring the President to report to Congress specific information relating to certain possible consequences of the use of United States Armed Forces against Iraq; to the Committee on International Relations.

By Mr. HOYER (for himself, Mr. HYDE, Mr. FRANK of Massachusetts, Mr. SENSENBRENNER, Mr. BERMAN, Mr. SABO, and Mr. PALLONE):

H.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States to repeal the 22nd amendment to the Constitution; to the Committee on the Judiciary.

By Ms. HOOLEY of Oregon (for herself and Mr. HAYWORTH):

H. Con. Res. 52. Concurrent resolution expressing the sense of Congress that all major sports organizations should ban the use of ephedra and dietary supplements containing ephedrine; to the Committee on Energy and Commerce.

By Mr. HOYER (for himself, Mr. WOLF, Ms. NORTON, Mr. WYNN, Mr. MORAN of Virginia, and Mr. VAN HOLLEN):

H. Con. Res. 53. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. MARKEY (for himself, Mr. PETERSON of Pennsylvania, Ms. NORTON, Mr. WALSH, Mr. FROST, Ms. BORDALLO, Ms. MCCOLLUM, Mr. DINGELL, Mr. HOLDEN, Mr. MATSUI, Mr. CAPUANO, Mr. KENNEDY of Rhode Island, Mr. WAXMAN, Mr. BRADY of Pennsylvania, Mr. SCHIFF, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Mrs. MALONEY, Ms. SLAUGHTER, Mr. SHERWOOD, Mr. MCNULTY, Mr. MCKEON, Mr. FRANK of Massachusetts, Mr. RANGEL, Mr. MCHUGH, Mr. STARK, Mr. SERRANO, and Mr. SANDERS):

H. Con. Res. 54. Concurrent resolution expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week; to the Committee on Government Reform.

By Mr. STEARNS:

H. Con. Res. 55. Concurrent resolution honoring General Bernard A. Schriever, United States Air Force (retired), for his dedication and service to the United States Air Force, for his essential service in the development of the United States ballistic missile program, and for his lifetime of work to enhance the security of the United States; to the Committee on Armed Services.

By Mr. TOM DAVIS of Virginia:

H. Res. 87. A resolution providing amounts for the expenses of the Committee on Government Reform in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. OXLEY:

H. Res. 88. A resolution providing amounts for the expenses of the Committee on Financial Services in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. BOEHLERT:

H. Res. 89. A resolution providing amounts for the expenses of the Committee on Science in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H. Res. 90. A resolution providing amounts for the expenses of the Committee on Veterans' Affairs in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. THOMAS:

H. Res. 91. A resolution providing amounts for the expenses of the Committee on Ways and Means in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. YOUNG of Alaska:

H. Res. 92. A resolution providing amounts for the expenses of the Committee on Transportation and Infrastructure in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. GOODLATTE:

H. Res. 93. A resolution providing amounts for the expenses of the Committee on Agriculture in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H. Res. 94. A resolution providing amounts for the expenses of the Committee on the Judiciary in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. NUSSLE:

H. Res. 95. A resolution providing amounts for the expenses of the Committee on the Budget in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. HYDE:

H. Res. 96. A resolution providing amounts for the expenses of the Committee on International Relations in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. GOSS:

H. Res. 97. A resolution providing amounts for the expenses of the House Permanent Select Committee on Intelligence in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. BURTON of Indiana:

H. Res. 98. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. HUNTER:

H. Res. 99. A resolution providing amounts for the expenses of the Committee on Armed Services in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. BEREUTER (for himself, Mr. Shimkus, Mr. Nussle, and Mr. Peterson of Minnesota):

H. Res. 100. A resolution congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. HASTINGS of Florida:

H. Res. 101. A resolution urging the President to present posthumously a Presidential Citizens Medal to Frederick Douglass in recognition of his achievements in civil rights and service to the nation; to the Committee on Government Reform.

By Mr. JOHNSON of Illinois (for himself, Mr. Shimkus, Mr. Evans, Ms. Schakowsky, Mr. Crane, Mr. Weller, Mr. Jackson of Illinois, Mr. Davis of Illinois, Mr. Hastert, Mr. Emanuel, Mr. Lipinski, Mr. Costello, Mr. Kirk, Mr. LaHood, Mr. Manzullo, Mrs. Biggert, Mr. Gutierrez, Mr. Hyde, and Mr. Rush):

H. Res. 102. A resolution honoring Erika Harold, Miss America 2003; to the Committee on Government Reform.

By Mr. KING of New York:

H. Res. 103. A resolution establishing a Select Committee on POW and MIA Affairs; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. Gallegly, Mr. Gary G. Miller of California, Mr. Ney, Mr. Radanovich, Mr. Fossella, Mr. Wamp, Mr. Weller, Mr. Kingston, Mr. Whitfield, Mr. Thornberry, Mr. Wolf, Mr. Pitts, Mr. Kennedy of Minnesota, Mrs. Myrick, and Mr. Cole.

H.R. 13: Mr. Kennedy of Rhode Island, Mr. Lynch, Mrs. Jones of Ohio, Mrs. Lowey, Mr. Issa, Ms. Berkley, Mr. Sanders, Ms. Jackson-Lee of Texas, Mr. McGovern, Mr. Neal of Massachusetts, Mr. Dreier, Mr. Cramer, Ms. Hooley of Oregon, Ms. Schakowsky, and Ms. McCarthy of Missouri.

H.R. 20: Mr. Sanders and Mr. Van Hollen.

H.R. 21: Mr. Souder.

H.R. 25: Mr. Collins, Mr. Hall, Mr. Culberson, Mr. King of Iowa, and Mr. Flake.

H.R. 33: Mrs. Emerson, Mr. Souder, Mr. Oberstar, and Mrs. Musgrave.

H.R. 34: Mr. Sabo, Mr. Simmons, Mr. Van Hollen, Mr. Berry, Mr. Davis of Illinois, Mr. Boucher, Mr. Costello, and Mr. Olver.

H.R. 58: Mr. Otter, Mr. Rahall, Mr. Udall of New Mexico, Mr. Vitter, Ms. Norton, Mr. Faleomavaega, Mr. Platts, Mr. Smith of Washington, Mr. Rogers of Michigan, Mr. Wexler, Mr. Sandlin, Mrs. Jones of Ohio, Ms. DeLauro, Mr. Taylor of Mississippi, Mr. Brown of Ohio, Mr. Hefley, Mr. Hastings of Florida, Ms. Schakowsky, Mr. Evans, Mr. LoBiondo, Ms. Baldwin, Mr. Tancredo, Mr. Lynch, Mr. Berry, Mr. Wamp, Mr. Lewis of Kentucky, Mr. Cramer, Mr. Schiff, Mrs. McCarthy of New York, Mr. Bell, Mr. Boyd, Mr. Kildee, Mr. Fossella, Mr. Moore, Mr. Strickland, Mr. Calvert, Mr. Gingrey, and Mr. Moran of Virginia.

H.R. 105: Mr. Faleomavaega.

H.R. 119: Mr. Matheson.

H.R. 138: Mr. Simmons.

H.R. 151: Mr. Rangel, Mr. Honda, Mr. Bereuter, and Mrs. Maloney.

H.R. 153: Mr. Miller of Florida.

H.R. 168: Mr. Wilson of South Carolina, Mr. Walsh, Mrs. Jones of Ohio, Mr. Dingell, Mr. McGovern, Mr. Isakson, and Mr. Frost.

H.R. 192: Mr. Wamp, Mr. Larsen of Washington, Ms. Norton, and Mr. Green of Texas.

H.R. 207: Mr. Sessions.

H.R. 217: Mr. Allen, Mr. Abercrombie, Mr. Pascrell, Ms. DeLauro, Mr. Clay, Mr. Lucas of Kentucky, Mr. Fattah, Mr. Fossella, Ms. Hart, Mr. Peterson of Minnesota, Mr. John, Mr. Moore, Mr. Porter, and Mr. Otter.

H.R. 218: Mr. Menendez, Mr. Larsen of Washington, Mr. Simpson, Mr. LaTourette, Mr. Bishop of New York, Mr. Matheson, Mr. Taylor of Mississippi, Mr. Ford, Mr. Udall of New Mexico, Mr. Toomey, and Mr. Porter.

H.R. 219: Mr. Mica.

H.R. 224: Mr. Hastings of Washington.

H.R. 237: Mr. Owens.

H.R. 250: Ms. Lofgren and Mr. Sanders.

H.R. 278: Mr. Stearns.

H.R. 284: Mr. Lynch, Mr. Tierney, Mr. Boyd, Mr. Davis of Alabama, Mr. Kennedy of Rhode Island, Mr. Dingell, Mr. Mollahan, Mr. Cramer, Mr. Goss, Mr. Bradley of New Hampshire, Mr. Putnam, Mr. Brady of Pennsylvania, Mr. Davis of Tennessee, Mr. Rogers of Alabama, Mr. Honda, and Mrs. Jo Ann Davis of Virginia.

H.R. 290: Mr. Frelinghuysen, Ms. Hooley of Oregon, Ms. Schakowsky, Mr. Miller of North Carolina, Mr. Frank of Massachusetts, and Mr. Sullivan.

H.R. 296: Mr. Frank of Massachusetts, Mr. English, Mr. Frost, Ms. Norton, Mr. McHugh, Mr. Schiff, Mr. McDermott, Mr. Walsh, Mr. LaTourette, Mr. Oxley, Mr. LaHood, Mr. Kildee, Mr. Souder, Ms. Schakowsky, Mr. Foley, Mr. Meehan, and Mrs. Maloney.

H.R. 303: Mr. Gary G. Miller of California, Mrs. Capps, Mr. Platts, Mr. Moran of Kansas, Mr. Bereuter, Mrs. Christensen, Ms. Hooley of Oregon, Mr. Norwood, Mr. Deutsch, Mr. Van Hollen, Mr. Sullivan, Mr. Meehan, Mr. Goss, Mr. Kanjorski, Mr. Crowley, Mr. Manzullo, Mrs. Blackburn, Mr. Chocola, Mr. Bass, Mr. Olver, Mr. Isakson, Mr. Rogers of Michigan, Mrs. McCarthy of New York, Mr. Saxton, Mrs. Jo Ann Davis of Virginia, Mr. Ginny Brown-Waite of Florida, Mr. Foley, Mr. Peterson of Minnesota, Mr. Upton, Mr. Davis of Tennessee, Mr. Renzi, and Ms. DeLauro.

H.R. 308: Mr. Pombo, Mr. Sweeney, Mr. Dicks, Mr. Frank of Massachusetts, Mr. Pastor, Mr. Crowley, and Mr. Visclosky.

H.R. 315: Mr. Kolbe.

H.R. 331: Mr. Pickering.

H.R. 343: Mr. Conyers, Mr. Holden, Mrs. Jones of Ohio, Mr. Sanders, and Mr. Frost.

H.R. 365: Ms. Carson of Indiana and Mr. Waxman.

H.R. 378: Ms. Ginny Brown-Waite of Florida and Mr. Souder.

H.R. 381: Mr. Shays.

H.R. 382: Mr. Simmons.

H.R. 391: Mr. Manzullo.

H.R. 394: Mr. Olver, Ms. Corrine Brown of Florida, Mr. Van Hollen, and Mr. Deutsch.

H.R. 396: Ms. Schakowsky.

H.R. 412: Mr. Hoeffel, Mr. Combest, Mr. Gallegly, Mr. Hall, Ms. Millender-McDonald, and Mr. McDermott.

H.R. 424: Mr. Cannon.

H.R. 441: Ms. Berkley, Mr. Calvert, Mrs. Jo Ann Davis of Virginia, Mr. Kirk, Mr. Rothman, Mr. Schiff, Mr. Schrock, and Mr. Souder.

H.R. 445: Mr. Crowley, Mr. McGovern, and Mrs. Lowey.

H.R. 446: Mr. Crowley, Mr. Pascrell, Mr. Clay, Mr. Grijalva, Mrs. Christensen, and Ms. Lee.

H.R. 447: Mr. Crowley, Mr. Pascrell, Mr. Clay, Mr. Grijalva, Mrs. Christensen, and Ms. Lee.

H.R. 448: Mr. Crowley, Mr. Pascrell, Mr. Clay, Mr. Grijalva, Mrs. Christensen, Ms. Lee, Mr. Brown of Ohio, and Mr. Kucinich.

H.R. 466: Mr. Berman, Ms. Berkley, Mr. Gonzalez, Mr. Langevin, Mr. Bishop of New York, Mr. Gallegly, Mrs. Jones of Ohio, Mr. Bishop of Georgia, Ms. Harman, Mr. Baird, Mr. Nadler, Mrs. Lowey, Mr. Isakson, Mr. Abercrombie, Mrs. Jo Ann Davis of Virginia, Mr. Pascrell, Mr. Kucinich, Mr. Deutsch, Mr. Frost, Mr. LoBiondo, Mr. Porter, Ms. Hooley of Oregon Mr. Hinchey, Mr. Lampson, Ms. Velázquez, and Mr. Holden.

H.R. 488: Mr. Miller of Florida, Mr. Platts, and Mr. Everett.

H.R. 489: Mr. Ballenger.

H.R. 490: Ms. Berkley, Mr. McGovern, Ms. Schakowsky, Mr. LoBiondo, Mr. Peterson of Minnesota, Mr. Udall of New Mexico, Mr. Menendez, Mr. Etheridge, Mr. Neal of Massachusetts, Mr. Brown of Ohio, and Ms. McCarthy of Missouri.

H.R. 496: Mr. Garrett of New Jersey.

H.R. 502: Mr. Paul and Mr. Wamp.

H.R. 503: Mr. Pearce.

H.R. 504: Mrs. Napolitano and Mr. Grijalva.

H.R. 517: Mr. Rogers of Michigan, Mr. Camp, Mr. Hoekstra, Mr. Smith of Michigan, Mr. McCotter, and Mr. Ehlers.

H.R. 528: Ms. Berkley, Mr. Radanovich, Mr. Van Hollen, Mr. McCotter, Mr. Filner, Mr. Olver, Ms. Lofgren, Mr. Andrews, Mr. Paul, and Mr. Upton.

H.R. 533: Mr. Strickland.

H.R. 534: Mr. McIntyre, Mrs. Cubin, Mr. Rahall, Mr. Turner of Ohio, Mr. Culberson, Mr. Walsh, Mr. Bilirakis, Mr. Flake, Mr. Garrett of New Jersey, Mr. Gingrey, Mr. Sessions, Mr. Burr, Mrs. Blackburn, Mr. Sanders, and Mr. Beauprez.

H.R. 569: Mr. Sessions, Mrs. Emerson, Mr. Green of Wisconsin, and Mr. Kleczka.

H.R. 577: Mr. Allen, Mr. Watt, Mr. Kelczka, Ms. Schakowsky, and Mr. Hastings of Florida.

H.R. 583: Mr. Rehberg, Mr. Boyd, Mr. Rogers of Michigan, Mr. Cannon, and Mr. Feeney.

H.R. 584: Mrs. Biggert, Mr. Snyder, and Mr. Miller of Florida.

H.R. 588: Mr. McHugh, Mr. Nethercutt, Mrs. Napolitano, Mr. Strickland, and Mr. Honda.

H.R. 589: Ms. Schakowsky, Mr. Bass, Mr. Latham, Mr. Nussle, Mr. Ryan of Wisconsin, Mr. Sessions, Mr. Snyder, Mr. Boswell, Mr. Baird, and Mr. Boehlert.

H.R. 594: Ms. Waters, Mrs. Bono, Mr. Leach, Mr. Porter, Mr. Van Hollen, Mr. Goode, Mr. Udall of New Mexico, Mr. Doggett, Mrs. Northup, Mr. Matsui, Mrs. Tauscher, Ms. DeLauro, Mr. Pastor, Mr. Emanuel, Mr. Evans, Mr. Johnson of Illinois, and Mr. Hyde.

H.R. 613: Mr. Clay.

H.R. 618: Mr. Souder, Mr. McHugh, and Mr. Sensenbrenner.

H.R. 623: Mr. Frost.

H.R. 660: Mr. Hostettler, Mrs. Napolitano, Mr. Crane, Mr. Chocola, Mr. Foley, Mr. Rogers of Michigan, Mr. Carson of Oklahoma, and Mr. Cole.

H.R. 669: Mr. Matheson, Mr. Lynch, Mr. Acevedo-Vilá, Mr. McDermott, Mr. Osborne, Mr. McInnis, Ms. Bordallo, Mr. Price of North Carolina, Mr. Spratt, Mrs. Napolitano, Mr. Ortiz, and Mr. Menendez.

H.R. 672: Mr. Thompson of Mississippi, Mrs. Jones of Ohio, Mr. Shimkus, Mr. Rohrabacher, Mr. McDermott, Mrs.

CHRISTENSEN, Mr. LARSEN of Washington, Mr. FROST, Mr. FALEOMAVAEGA, Ms. LEE, Mr. WALSH, Mr. EVANS, Mr. BONNER, Mr. GIBBONS, Mr. ISAKSON, Mr. CASE, Mrs. TAUSCHER, Mr. SCHROCK, Mr. LAMPSON, and Mr. HONDA.

H.R. 677: Mr. LIPINSKI.

H.R. 683: Mr. TERRY, Mr. GILLMOR, Mrs. JOHNSON of Connecticut, and Mr. SOUDER.

H.R. 684: Mrs. JONES of Ohio and Mr. SOUDER.

H.R. 685: Mr. BOUCHER and Mr. WATT.

H.R. 690: Mr. RODRIGUEZ.

H.R. 693: Ms. HART, Mr. PLATTS, Mrs. CHRISTENSEN, and Mr. GUTKNECHT.

H.R. 703: Mr. ISAKSON.

H.R. 720: Mr. LAMPSON and Ms. JACKSON-LEE of Texas.

H.R. 735: Mr. ISRAEL, Mr. TOWNS, and Mrs. MALONEY.

H.R. 736: Mr. WATT, Ms. CORRINE BROWN of Florida, and Mrs. LOWEY.

H.R. 752: Mr. BISHOP of New York, Mr. GRIJALVA, and Mr. SANDERS.

H.R. 756: Mrs. MUSGRAVE and Mr. WILSON of South Carolina.

H.R. 757: Ms. JACKSON-LEE of Texas, Mr. BISHOP of New York, Ms. LEE, Mr. ISRAEL, Ms. SCHAKOWSKY, and Mr. KUCINICH.

H.R. 761: Mrs. JONES of Ohio, Mr. STRICKLAND, and Mr. GUTIERREZ.

H.R. 765: Mr. LATOURETTE and Mr. BAKER.

H.R. 767: Mr. SMITH of Texas.

H.R. 768: Mr. LATHAM, Mr. AKIN, Mr. ISRAEL, and Mr. HERGER.

H.R. 770: Mr. MOORE and Mr. CASE.

H.R. 778: Mr. PETRI, Mr. WOLF, Mr. STEARNS.

H.R. 779: Mr. FALEOMAVAEGA and Mr. GUTIERREZ.

H.R. 790: Mr. SULLIVAN.

H.R. 798: Mr. WILSON of South Carolina, Mr. ROGERS of Michigan, Ms. JACKSON-LEE of Texas, Ms. WATSON, Ms. NORTON, and Mr. SENSENBRENNER.

H.R. 801: Mr. CROWLEY and Mr. CAPUANO.

H.R. 806: Mr. GUTKNECHT.

H.R. 808: Mr. ENGLISH.

H.R. 811: Mr. LINDER.

H.R. 812: Mr. MCHUGH and Mrs. CHRISTENSEN.

H.R. 813: Mrs. JONES of Ohio, Mr. NEAL of Massachusetts, Mr. WYNN, Mr. ANDREWS, Mrs. NAPOLITANO, and Mr. ORTIZ.

H.R. 814: Mr. TOM DAVIS of Virginia, Mr. UDALL of New Mexico, Mr. SHAYS, Mr. PASTOR, Mr. UPTON, and Mr. LOBIONDO.

H.R. 817: Mrs. MYRICK.

H.R. 821: Mr. EVANS and Mr. CLAY.

H.R. 828: Mr. RAHALL.

H.R. 832: Mr. FATTAH, Mr. EVANS, and Mr. BAIRD.

H.R. 853: Mr. KILDEE.

H.R. 857: Ms. SCHAKOWSKY, Mr. SHERMAN, Mr. ISRAEL, Ms. WOOLSEY, and Mr. FEENEY.

H.J. Res. 4: Mr. BURTON of Indiana, Mr. BARRETT of South Carolina, and Mr. EVERETT.

H.J. Res. 20: Mr. HONDA.

H.J. Res. 22: Mr. MOORE and Mr. BISHOP of Georgia.

H. Con. Res. 2: Ms. NORTON.

H. Con. Res. 19: Mr. STARK, Mrs. NAPOLITANO, Ms. CORRINE BROWN of Florida, Mr. EVANS, and Mr. RYAN of Ohio.

H. Con. Res. 26: Mr. CASE, Mrs. JOHNSON of Connecticut, Mr. KUCINICH, and Mr. KIND.

H. Con. Res. 30: Mr. SANDERS and Mrs. MALONEY.

H. Con. Res. 36: Mr. BISHOP of Georgia, Mr. GREEN of Wisconsin, Ms. LINDA T. SÁNCHEZ of California, Mr. COOPER, Mr. LAHOOD, Ms. SOLIS, Mr. SPRATT, Mr. ROHRABACHER, Mr. FALEOMAVAEGA, and Mrs. BIGGERT.

H. Con. Res. 37: Mr. PORTER

H. Con. Res. 40: Ms. ROS-LEHTINEN.

H. Con. Res. 47: Ms. WATSON, Mr. HASTINGS of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. JACKSON-LEE of Texas, Mr. CASE, Mr. SNYDER, Mr. SERRANO, Mr. MCDERMOTT, Mr. THOMPSON of Mississippi, Ms. NORTON, Mr. OWENS, Mr. DAVIS of Illinois, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. REYES, Mr. BECERRA, Mr. CUMMINGS, Mr. RODRIGUEZ, Ms. KILPATRICK, and Mr. GRIJALVA.

H. Res. 55: Mr. UDALL of New Mexico.

H. Res. 58: Mr. LIPINSKI and Mr. CROWLEY.

H. Res. 72: Ms. BORDALLO, Mr. DELAHUNT, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HOEFFEL, Ms. MILLENDER-MCDONALD, Mr. POMEROY, Mr. SCHIFF, and Mr. WEXLER.

H. Res. 81: Mr. HOUGHTON.

EXTENSIONS OF REMARKS

HONORING THE JAVITS-WAGNER-O'DAY PROGRAM

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the Javits-Wagner-O'Day (JWOD) Program for their strong portrayal of public service and dedication to the blind and severely disabled.

For the past 64 years JWOD has provided 38,000 disabled Americans with opportunity, incentive, and employment. Through this program, dedicated employees provide federal and military consumers with a wide array of SKILCRAFT and other high JWOD products and services.

In addition, JWOD provides a plethora of product categories that include office supplies, military specific, safety, maintenance, repair, medical-surgical, janitorial-sanitation, and customization. JWOD also provides many services to the federal and military customers that include call center and switchboard operations, military base and federal office building supply centers, CD-Rom duplication-replication, data entry, document imaging, and grounds care.

I commend Javits-Wagner-O'Day Program and the opportunities it provides for an underemployed category of deserving citizens. Furthermore, due to the exceptional quality and socioeconomic benefits of the program I urge my colleagues to purchase SKILLCRAFT and JWOD products from the Capitol Hill Office Supply Store.

The JWOD Program is administered by the president-appointed Committee For Purchase From People Who are Blind and Disabled, assisted by National Industries for the Blind (NIB) and NISH, who work in co-operation with more than 650 non-profit agencies to ensure disabled persons receive quality employment.

Mr. Speaker, I extend my warmest gratitude to the Javits-Wagner-O'Day Program for their admirable contributions to Fairfax County, Virginia. The program is distinguished through their devotion on disabled citizens and community service. I call upon my colleagues to join me in applauding their achievements and supporting their cause.

RECOGNITION OF ANDREW MICHAEL PEPPER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Andrew Michael Pepper, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 121, and in earning the most prestigious award of Eagle Scout.

Andrew has been very active with his troop, participating in such scout activities as camp Geiger. Over the 11 years he has been involved in scouting, he has held numerous leadership positions, serving as librarian, scribe, instructor, patrol leader and senior patrol leader. Andrew also has been honored for his numerous scouting achievements with such awards as Junior Leader Training Award and the Bronze Eagle Palm Award.

For his Eagle Scout project, Andrew constructed an ornamental flower garden at the main entrance of Simpson park in Chillicothe, MO.

Mr. Speaker, I proudly ask you to join me in commending Andrew Michael Pepper for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING MR. JOHN ISSAC LEE OF HICKOX, GA

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. KINGSTON. Mr. Speaker, it is with great pleasure that I rise to honor Mr. John Isaac Lee today. Mr. Lee is a champion of education as well as a devoted husband and father. John is the longest serving member of the Brantley County Board of Education and will be retiring after 36 years of service at the end of this term. It is for his service to the State of Georgia and the people of Brantley County that I wish to thank him, and I can think of no better place to honor him, than within these great walls of the U.S. House of Representatives.

John Lee was first nominated to be on the Brantley County Board of Education by Mrs. Mabel Moody and elected by grand jury on October 1, 1968. From that time until now, he has served in this capacity continuously, with not one break in service. In fact, during his 34 year tenure, he has missed only one regularly scheduled meeting; which was when he decided that he would attend his son's graduation from the University of Georgia. Mr. Lee has believed in his commitment to the students that he served. It is only fitting that when John decided to have hip replacement surgery on both of his hips, he made sure that the surgery and recovery would not conflict with any of his duties as a board member.

The students and teachers that live in Brantley County all know how wonderful Mr. Lee is, Mr. Speaker. But probably none know as well as his family that loves him so dearly. In addition to being a county school board member, John Lee was married to Mrs. Eula Mae Herrin for 58 years before she passed away, unfortunately, on October 16, 1998. Together they raised 3 sons and 3 daughters, and John is the proud grandfather of 15 grandchildren and 3 great-grandchildren. They can all be proud of John and join with me in celebrating his life and thanking him for his tireless service.

It is hard to imagine that someone could commit 36 years of their life to one cause and do it so well. But John Lee has done that as a member of the Brantley County education board, and he has done it with great humility. I am glad that Mr. Lee will now be able to relax and enjoy his life as a simple farmer, which is his natural profession, having farmed all of his life. He is a deacon and member of Hickox Baptist Church, and it is high time that he be able to enjoy the days in Hickox, GA. He has earned his time to rest, and the entire State of Georgia is indebted to him and his service. Thank you John Lee, you have meant more to the people of Brantley County than you could know, and you will never be forgotten.

TRIBUTE TO SAM H. BOYCE

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan and an outstanding citizen. I am proud to recognize Sam Boyce in the U.S. Congress for his invaluable contributions and service to his community, his state and his nation.

Sam showed signs of the talent, determination and achievement that have been the hallmarks of his career at an early age, when he graduated valedictorian from Tuckerman High School in 1949. After receiving a bachelor of science in journalism from the University of Arkansas, Sam served his country in the Armed Forces, rising to the rank of Second Lieutenant in the Army Signal Corps.

In 1958, Sam graduated with his law degree from the University of Arkansas. Since then, Sam used his legal acumen to champion the rights of Arkansans in the legal system and to assume a leading role on two issues of particular importance to the people of Arkansas: worker's compensation and Social Security. During his career, he co-chaired United Labor of Arkansas, chaired the Arkansas Trial Lawyers Worker's Compensation section and served on the Legislative Ad Hoc committee on Worker's Compensation Reform. His work on Social Security issues includes chairing the Social Security Committee of the Arkansas Bar Association and his continuing service on

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Executive Committee of the National Organization of Social Security Claimants Representatives.

Above all, Sam's career has centered on service and leadership. In the 1960's, Sam twice ran for statewide office, including a gubernatorial bid in 1966. Later, Sam was a member of the Arkansas Bar Association House of Delegates and continues to serve on the Board of Governors of the Arkansas Trial Lawyers.

He's a man who has truly used his talents and abilities, particularly his legal expertise, to benefit the people in his community and across Arkansas. He has made life better and richer for all—like me—who were lucky enough to call him a friend. On behalf of Congress, I pay tribute to Sam Boyce for his tireless service to the people of Arkansas and the United States.

HONORING INOVA MOUNT VERNON HOSPITAL, THE MOUNT VERNON-LEE CHAMBER OF COMMERCE LARGE BUSINESS OF THE YEAR, 2002

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Inova Mount Vernon Hospital, which was named the 2002 Large Business of the Year from the Mount Vernon-Lee Chamber of Commerce.

Having served its community with steadfast dedication for over 25 years, Inova Mount Vernon Hospital is well deserving of this recognition. Since 1977, Inova Mount Vernon Hospital has been devoted to providing quality health care services in the most customer-friendly service environment possible.

In 2002 the hospital implemented its "Service Excellence—Straight From the Heart" focus to provide all staff, volunteers, and physicians additional tools to meet and exceed the service expectations of their patients. This new service campaign produced fantastic results, with impatient and outpatient satisfaction increasing substantially.

In the interest of promoting health and wellness, the hospital regularly offers free blood pressure screenings and each fall provides an opportunity for community members to receive flu shots. Health fairs and free health screenings are frequently offered as well. Through these activities, Inova Mount Vernon Hospital has clearly established itself as a prominent and vital member of the Northern Virginia business and health care communities.

Mr. Speaker, in closing, I call upon my colleagues to join me in congratulating Inova Mount Vernon Hospital and its staff for their many achievements, and wish them continued success in the future.

NAGORNO KARABAKH 15TH ANNIVERSARY

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise to speak today to extend my congratulations to the people of the Nagorno Karabakh Republic, who are celebrating the 15th anniversary of the Karabakh Movement for Independence. On February 20, 1988, the Legislature of Nagorno Karabakh, officially petitioned the then-Soviet Union to reunite with their ethnic compatriots in Armenia. The people of Nagorno Karabakh struggled bravely and selfessly in the face of tremendous institutionalized violence and oppression orchestrated by succeeding totalitarian governments. Despite years of ethnic cleansing, forced economic discrimination and state-sponsored violence and intimidation, residents of Nagorno Karabakh, 96 percent of whom are Armenian, never strayed in their struggle for independence. It wasn't until the collapse of the Soviet Union and the end of the cold war that they were to get their wish, but not without cost. Armed conflict engulfed the region in the early 1990s, but a fragile peace has not taken hold.

It is for these reasons that I urge my colleagues to take this historic opportunity, inspired by the anniversary of their most recent struggle to live in freedom and the free and transparent elections they have held since 1996, to support this fledgling democracy. The people of Nagorno Karabakh are to be congratulated for their perseverance and resolve in their struggle for self-determination on this 15th anniversary. I hope that this Congress will continue to assist them in the continued development of their new democracy, which serves as a beacon of hope to oppressed people seeking democracy around the globe.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

HON. JOHN E. PETERSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. PETERSON of Pennsylvania. Mr. Speaker, it is my honor to introduce to my colleagues a resolution establishing a National Visiting Nurse Associations Week. Serving communities around the country for over 120 years, congressional recognition and gratitude for these nonprofit home health agencies is long over due. Currently, they are composed of 500 different associations and care for over 4,000,000 patients each year, many of whom are chronically ill and unable to pay medical expenses.

In a country crippled with staggering health care and medical costs, the Visiting Nurse Association continually and successfully works to achieve its mission of cost-effective and compassionate home and community-based health care to individuals regardless of the individuals' condition or ability to pay for services. They are a leading provider of mass immunizations in the Medicare program and constitute over 50 percent of all Medicaid home health admissions. The association relies heavily upon volunteer nurses and reinvests any budget surplus into charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs.

This resolution would designate the second full week in February as National Visiting Nurse Associations Week in order to increase public awareness of the charity-based organization. They unquestionably deserve recognition for their noble services and by establishing this resolution Congress would support the continuation of their mission.

I am proud to recognize these invaluable contributions of our VNA's by cosponsoring this legislation.

RECOGNITION OF THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES, CHAPTER 307, ST. JOSEPH, MISSOURI

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the National Association of Retired Federal Employees, Chapter 307 of St. Joseph, Missouri on this, their 50th Anniversary.

The National Association of Retired Federal Employees is dedicated to protecting the earned retirement benefits of Federal employees, retirees and their survivors. The organization was founded in 1921 by fourteen Federal employees and has grown over the years to more than 400,000 Federal and Postal employees, retirees, spouses and survivors.

Mr. Speaker, I proudly ask you to join me in commending Chapter 307 for their accomplishments with the National Association of Retired Federal Employees and in congratulating them on their 50th anniversary.

HONORING THE MOUNT VERNON VOICE, THE MOUNT VERNON-LEE CHAMBER OF COMMERCE NEW BUSINESS OF THE YEAR, 2002

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the Mount Vernon Voice, which has recently been named the 2002 New Business of the Year by the Mount Vernon-Lee Chamber of Commerce.

The Voice, founded by Marlene Miller and Steve Hunt, is a weekly newspaper dedicated to providing complete community coverage of the Mount Vernon and Lee Districts and the City of Alexandria. Having celebrated its one-year anniversary in January 2003, the Mount Vernon Voice has already proven to be a good neighbor and an invaluable member of its community.

Being the only newspaper located in the community, it serves and is staffed by residents of the area. Additionally, the Voice is proud to sponsor numerous community events and organizations, including Mount Vernon Community Day, the Mount Vernon Orchestra, Lee District Nights, educational forums on local public schools, the Alexandria Red Cross Waterfront Festival, the Animal Welfare League's Canine games, and many more community functions.

Located in the heart of the 11th District of Virginia, the Mount Vernon Voice has established itself as a vital member of the Northern Virginia community.

Mr. Speaker, in closing, I call upon my colleagues to join me in congratulating the Mount Vernon Voice and its staff for their many achievements, and wish them continued success in their future endeavors.

A RESOLUTION TO URGE THE PRESIDENT TO PRESENT A PRESIDENTIAL CITIZENS MEDAL TO FREDERICK DOUGLASS

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to urge the President to present posthumously a Presidential Citizens Medal to Frederick Douglass, in recognition of his achievements in civil rights and service to the nation.

Abolitionist, editor, orator, reformer, and civil rights activist, Frederick Douglass was one of the most influential African-American leaders of the 19th century. The fourth of seven children born to a field hand in Talbot County, MD, Frederick Douglass escaped slavery with great adversity to become a forefather in civil and women's rights.

Throughout his extraordinary life, Frederick Douglass gained international prominence for his lecturing and autobiographical writings, in which he detailed the callousness of slavery. However, his notoriety was largely attributed to the founding of the North Star, a weekly newspaper that not only spoke out against slavery and oppression, but also served as a station on the Underground Railroad.

Douglass' civil rights achievements were also highlighted by a successful political career. As a staunch Republican, Douglass served as an advisor to Presidents Abraham Lincoln and Andrew Johnson. He was appointed as Assistant Secretary of the Commission of Inquiry to Santo Domingo by President Ulysses S. Grant, was appointed U.S. Marshal of the District of Columbia by President Rutherford B. Hayes, and was named Recorder of Deeds for the District of Columbia in 1881 by President James L. Garfield, all of which were firsts for African Americans.

My Speaker, for these achievements and many others, which are too numerous to name, I urge my colleagues to support this legislation and the subsequent letter to the President urging him to posthumously present a President Citizens Medal in honor of Frederick Douglass.

FEBRUARY SCHOOL OF THE MONTH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mrs. McCARTHY of New York. Mr. Speaker, I have named Meadow Elementary in the Baldwin Union Free School District as School of the Month in the Fourth Congressional District for February 2003. Mrs. Joan M. Flatley is the Principal at Meadow School, Ms. Cora Ianuario is Assistant Principal, and Dr. Kathy Weise is the Superintendent of Schools in the Baldwin Union Free School District. The school has 750 students in grades Kindergarten through 5.

The Meadow Elementary School Community is a close-knit body of parents, teachers, students, and administrators. Their goal is to ensure each child a stable early education through an enriched curriculum that keeps the children excited, and unique programs that appeal to a wide variety of younger children.

The new Character Education Program and the school's determination to create a caring environment for everyone shows the strong commitment Meadow Elementary has to developing student character. Each month Meadow students and staff focus on different character traits, and are rewarded for efforts to achieving the month's traits. The Program emphasizes traits that students should strive for, such as: responsibility, cooperation, respect, generosity, perseverance, acceptance/tolerance, honesty, compassion, fairness, and self-discipline.

The Meadow School has many wonderful programs designed to ensure each child receives individual attention. The special education program is unique to the school. All students in the district, in grades Kindergarten through 5, requiring special education go to Meadow. Currently, there are 80 students in the program. Also, the English as a Second Language program helps 30 students every day conquer their fears and language barriers.

Long Island students receive a better education thanks to the faculty and teachers of Meadow Elementary School and I am proud to name them school of the month for February.

CONGRATULATING COACH ROBERT CAPELLO ON HIS 800TH CAREER VICTORY

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. HINOJOSA. Mr. Speaker, I would like to call to the attention of my colleagues the remarkably successful coaching career of Robert Capello, the long-time coach for Edcouch-Elsa High School in my congressional district.

Coach Capello recently celebrated his 800th career victory, making him the only Hispanic high school basketball coach in the Nation with 800 victories. Even more remarkable, Coach Capello boasts a 69 percent victory percentage over his 36-year career at the helm of the Edcouch-Elsa Yellowjackets. His great success over the years is evidenced not only by that career victory milestone but by the many championships his teams have won. The Edcouch-Elsa Basketball Team has been District Champions for 11 of the past 19 years. They have played in the Texas State playoffs in 19 of the past 21 years. They are the first school in the Rio Grande Valley to send four players to the Texas High School Coaches Association South All Star games.

Robert Capello is not only an excellent basketball coach, he has also been an extraordinary role model and mentor to hundreds of boys and girls who have graduated from Edcouch-Elsa High School over the years. He inspires his athletes to excel both on the court and in the classroom, and has encouraged all students at Edcouch-Elsa to reach their fullest potential by pursuing a college education.

Mr. Speaker, I ask all Members of Congress to join me in congratulating Coach Robert Capello for his 800th career basketball victory, and for his 36 years of inspirational leadership and caring commitment to the students of Edcouch-Elsa High School.

HONORING FRANK MEEKS AS THE MOUNT VERNON-LEE CHAMBER OF COMMERCE CHAMBER CITIZEN OF THE YEAR, 2002

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mr. Frank Meeks, who has recently been named the Chamber Citizen of the Year by the Mount Vernon-Lee Chamber of Commerce.

Mr. Meeks earned a degree in political science and English from the University of Southern Mississippi, with the goal of attending law school. In order to help defray the cost of continuing his education, he became a delivery boy for Domino's Pizza in 1979. Within a short amount of time, Mr. Meeks became manager of the store, and decided to stay with Domino's.

In December 1980, Mr. Meeks took 2 years off from Domino's Pizza and served as a congressional aide for Senator TRENT LOTT, then a Member of the House of Representatives. Mr. Meeks continued to earn extra money by assisting Domino's Pizza in opening up new stores in the Virginia area. After 2 years with Mr. LOTT, Mr. Meeks decided to return to Domino's and was awarded the franchise for Northern Virginia and Washington, DC. Mr. Meeks opened his first store in July 1983 in Alexandria, Virginia. Today, Frank Meeks oversees the operation of fifty-nine Domino's Pizza stores in Washington, DC, Maryland, and Northern Virginia. Mr. Meek's franchise, Domino's Pizza Team Washington, continues to be one of the top franchises in Domino's Pizza, Inc.

Under Mr. Meek's leadership, Team Washington has been active in supporting area schools. Team Washington has generously contributed to the post prom and after graduation parties in Fairfax County, Virginia, and

Montgomery County, Maryland. In addition, Team Washington has also contributed to the Washington's Children's National Medical Center, Food and Friends, Mount Vernon High School, and numerous other organizations.

Mr. Speaker, in closing, it gives me great pleasure to extend my warmest congratulations to Mr. Frank Meeks. I call upon my colleagues to join me in honoring him for all of his success and dedication to his work and the community.

TRIBUTE TO DELOISE JONES

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Deloise Jones. Mrs. Jones is a native of Jackson, Mississippi. She earned a bachelor's degree in Economics from Tougaloo College. She then went on to earn a master's degree in Early childhood Education from Jackson State University.

Mrs. Jones began her career as an economist with the Labor Department in Washington, DC. In 1981, she became an elementary teacher in the Jackson Public School (JPS) District in Jackson, Mississippi, where she has served since. In 1994, she served a 4-year tenure as president of the Jackson Association of Educators.

Mrs. Jones has received numerous awards and recognitions for her commitment and service in the interest of public education and the teaching profession. These acknowledgments include the Silver Apple Award, which she was presented by JPS Board of Directors in 1983. In 1988, she was appointed as a teacher representative to the Paperwork Reduction Task Force by then Governor Ray Mabus. And, most recently was selected as teacher of the year by her colleagues at the elementary school where she currently works.

Mrs. Jones is a valued member of the community and her contributions are greatly appreciated.

INTRODUCTION OF NATIONAL VISITING NURSE ASSOCIATION WEEK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. MARKEY. Mr. Speaker, today Representative JOHN PETERSON and I are introducing a bill to establish an annual National Visiting Nurse Association Week during the second week of May in honor of the army of health care heroes who, every day, comfort, care for, and assist our loved ones. Modern society takes for granted the need for nursing as an indispensable component of our public health system, but this was not always the case. The very concept of a visiting nurse can be traced to the pioneering work of Florence Nightingale. She reformed British military hospitals in the Crimean War through an expose in the British press, she professionalized nursing and made it an acceptable profession for educated women, devoted the rest of her life to building on her experiences, setting standards and writing books, until the mission of nursing had gained the respect of the world.

When Henry Wadsworth Longfellow read of the work of Florence Nightingale, he penned a poem, Santa Filomena, that spoke of the deep appreciation owed by all of us to those dedicated to service in the ultimate caring profession. He wrote:

Whene'er a noble deed is wrought,
Whene'er is spoken a noble thought,
Our hearts, in glad surprise,
To higher levels rise.

The tidal wave of deeper souls
Into our inmost being rolls,
And lifts us unawares
Out of all meaner cares.

The Visiting Nurse Associations of today are founded on the principle that the sick, the disabled, and the elderly benefit most from healthcare when it is offered in their own homes. They are non-profit home health agencies that provide cost-effective and compassionate home and community-based health care to individuals, regardless of their condition or ability to pay for services. Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing healthcare into the homes of over 4 million Americans every year. In the face of rising costs and drastic changes in our health care system, visiting nurse associations have continue to deliver high quality health services for over 120 years.

It is time for Congress to recognize the vital services that visiting nurses provide their patients. Moreover, visiting nurses also are an indispensable lifeline for families. The comfort and quality care that visiting nurses provide can help family members cope with the difficulties of a loved one's illness.

I am proud to be introducing this important legislation with my colleague Representative PETERSON and urge my colleagues to join us in supporting National Visiting Nurse Association Week.

PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROMOTION ACT OF 2003

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 13, 2003

Mr. EMANUEL. Mr. Chairman, I rise today in opposition to H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003, and in support of the Democratic substitute amendment.

For twenty years, a complicit agreement regarding welfare existed between conservatives and liberals in this country. Conservatives refused to devote more money to the program, and liberals refused to demand anything of recipients. We lost two generations of Americans to this failed system of dependency.

I am a long-time believer in welfare reform. I worked in the White House and with the Congress to help enact the welfare reform legislation of 1996—and I was proud to be a part of the strong, bipartisan reform that legislation created. I applaud my colleagues in the House on both sides of the aisle who helped to pass what has been a landmark of successful reform. The 1996 reforms broke from the past with a new approach that grounded the welfare system in the values of work and responsibility. It was a bold and daring experiment that worked.

Instead of simply handing needy families a check, we created new opportunities for families on welfare. By providing access to education and training, we helped welfare recipients to get better and more lucrative jobs. Recognizing recipients' need to care for their young children, we helped them to get child care, and allowed mothers of young children modified work requirements. Realizing that many low-paying jobs do not provide health insurance, we instituted transitional medical assistance for families coming off welfare.

Since enactment of the 1996 reforms, enrollment has plunged more than 50 percent. The percentage of welfare recipients who work has increased five-fold over the past decade, and states now spend more on work support than on cash benefits. Thanks in large part to welfare reform, 8 million people left poverty in the 90s, teen pregnancy dropped by more than 20 percent, and child support collections doubled. We are moving in the right direction because we were true to our common values.

The most important thing we've accomplished with welfare reform has been to connect a generation of children with the culture of work. Most of us grew up watching our parents go to work. We internalized the value of work and now are passing these values onto our own children. Today, millions of children who would otherwise have grown up in a home where work was alien, now are being raised in a home where they are learning the routine of work.

In my state of Illinois, caseloads dropped 74.9 percent between 1996 and 2001, and, despite the recession, continued to fall an additional 23.7 percent in 2002. Many credit our strong success in caseload reduction to the state's innovative use of the flexibility in the original legislation, allowing Illinois to provide appropriate support for families making the transition from welfare to work. The proposed reauthorization will have a particularly disastrous effect on states like Illinois that have taken advantage of family support provisions to make notable progress. By removing the support system that has allowed many to get off and stay off welfare, this legislation is likely to create major setbacks in the progress of reform.

The Democratic substitute amendment builds on the success of the 1996 reforms. It retains the strong work incentives that not only help individuals go back to work, but provide then with greater job security by helping them become better educated, and train for better jobs. It recognizes the importance of giving mothers with young children the flexibility to take care of their children. It eliminates the current exclusion of legal immigrants from the system.

The Republican legislation represents a return to the failed ideologies of the past. It is not realistic to count the number of new hours of work mandated by this bill, and call reform a success. In voting for this legislation, you are voting against education and training to help current welfare recipients get out of dead-end jobs. You are voting for standards that will create hardships for working mothers, and add thousands to waiting lists for child care. You are voting to continue to exclude legal immigrants from participating in a program that would help them to contribute to this country rather than being simply a drain on the system.

In fact, I find the title of this legislation ironic: The Personal Responsibility, Work, and Family Promotion Act in fact stifles personal responsibility, discourages work, and creates hardship for families. Inherent in the concept of personal responsibility is making the choice to work towards self-improvement. By mandating more hours of work while limiting the training and education options are available to workers, this bill removes all incentive for personal responsibility.

Promoting work is not as simple as increasing work hours. There are likely to be countless individuals who, because they do not have the time, health, or child care resources to work forty hours each week, or simply cannot find a job where they are permitted to work forty hours, will choose instead not to work at all. If this legislation aims to promote work, it must do so by making work more realistic for workers and their families, not by imposing mandates that make working more difficult.

Lastly, the legislation creates untold hardship for families. By increasing mandated work hours, while eliminating the current accommodation for women with young children, the bill will vastly increase the need for child care, without providing resources to the states to pay for it. Beyond this, the fact that the legislation limits opportunities for education and vocational training will keep many individuals in dead-end, low-paying jobs, with limited possibility to create better opportunities for their families.

Creating bipartisan compromise on welfare reform is never easy. It took us three tries to find a bill that worked in 1996. However, in this time of economic hardship for our nation, and our states in particular, it is even more essential that the Congress works in a bipartisan fashion to forge compromise on a welfare reform reauthorization that works. Welfare reform succeeded in 1996 when we stopped making it a political issue, and devoted our selves to passing meaningful legislation.

I have no illusions about what is going to happen today. However, I am disappointed that this Congress has chosen to take an enormous step backwards, prioritizing politics over pragmatism on an issue on which we have allowed good principles to rule in the past. I know that there are good people on both sides of the aisle, with good values, who have seen reforms we created improve the lives of people back home. To those in this Congress with whom I worked in 1996, let us not walk away from that we have accomplished. We have a mutual obligation not to let bad politics undo our good work.

I am confident that there will be no shortage of politics and partisan fights this session—about their tax cut, the deficit, Medicare reform, prescription drugs. To give up on proven success on welfare reform to engage in another unnecessary partisan fight is wrong.

Welfare reform is about demanding responsibility, encouraging work, and making work pay. Over the past six years, we as a nation—and millions of individuals—have benefited from our willingness to move beyond the old politics. This legislation represents a return to the failed politics and policies of the past. It is not compassionate nor is it conservative. It does a disservice to millions of families who have moved from welfare to work, and to the millions still struggling to do so. And it does wrong by our value as Americans.

HONORING RENT-ALL CENTER, THE MOUNT VERNON-LEE CHAMBER OF COMMERCE SMALL BUSINESS OF THE YEAR

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor Rent-All Center which was named the 2002 Small Business of the Year by the Mount Vernon-Lee Chamber of Commerce.

Located in the heart of the 11th District of Virginia, the Rent-All Center was opened by Freeman and Lois Jones in 1970. It was created to serve the Mt. Vernon community as a source for home improvement and light contracting equipment. Today, the company has grown from a local tool rental shop into a full service party rental company, servicing the entire metro Washington, DC, area.

The Rent-All Center can best be described as a family-operated business. While currently managed by Douglas Jones and Judith Beyer, the children of Freeman and Lois Jones, on any given day three generations of family members can be found working there.

In addition to its outstanding business ethic, the Rent-All Center has distinguished itself through its commitment to serving the local community through participation in numerous community organizations, such as the Southeast Fairfax Development Corporation. Rent-All Center also supports youth sports, and is a member of the Board of Directors of the Woodlawn Little League.

Mr. Speaker, in closing, I call upon my colleagues to join me in congratulating Douglas Jones, Judith Beyer, and all those associated with the Rent-All Center for their many achievements, and wish them continued success in their future endeavors.

EXPRESSING CONDOLENCES OF THE HOUSE TO THE FAMILIES OF THE CREW OF THE SPACE SHUTTLE "COLUMBIA"

SPEECH OF

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 2003

Mr. MCHUGH. Mr. Speaker, today I rise with a heavy heart, joining with the rest of the Nation in sorrow for the loss of the *Columbia* Shuttle and its seven heroic crew members. This tragedy, felt so deeply by all Americans, holds particular poignancy throughout my district. Both Payload Commander Michael Anderson and Pilot William McCool leave friends and family behind in New York's North Country.

Michael Anderson was born along the Canadian border in Plattsburgh, NY, in 1959, as his father served at the former Plattsburgh Air Force Base. Less than 40 years later he would return as an Air Force officer himself, working to the rank of lieutenant colonel before joining the NASA astronaut program in 1995. Today, many men and women in Plattsburgh remember Michael fondly. Ricky Jenkins, a 71-year-old Vietnam War veteran who worked with Michael at the former Plattsburgh Air Force Base, said in the local newspaper soon after the shuttle's loss "I was so very proud of him for doing what he was doing. He was a role model . . . I will never forget Michael." Hours after President Bush helped the astronauts' families celebrate their loved ones at a national service in Houston several weeks ago, the Plattsburgh community celebrated Michael's life in particular with their own candlelight vigil. A youth choir, Boy Scouts honor guard and presentation by Gov. George Pataki marked the celebration. Plattsburgh Mayor Dan Stewart spoke for the community earlier in the day. I share their sentiments here: "This is our opportunity as the birthplace of a national hero to send our condolences. It's for them to know we are with heavy hearts in Plattsburgh."

Less than 200 miles west of Plattsburgh, at the Army's Fort Drum base in Watertown, Warrant Officer Shawn McCool grieves for his brother, *Columbia* Pilot William McCool. Shawn McCool said his brother was one of his favorite people in the world, one of his greatest heroes. To the McCool family, and the families of all the astronauts we lost, I pledge that their loved ones' deaths are not in vain. Their enthusiasm and passion to explore the skies beyond us in the interest of mankind will always hold our deepest gratitude. And the space program their husbands, wives, mothers, fathers, sons and daughters died for will live on in their honor.

As we begin to understand the circumstances surrounding *Columbia*'s loss that Saturday morning over Texas, we must remember what NASA embodies. It was founded in 1958 to explore a new frontier, discover new heights and wonders in science. It is responsible for cutting-edge aeronautics research in a aerodynamics, wind shear, wind tunnels, flight testing and computer simulations. It has performed invaluable research on ways to dampen the effect of shock waves on transsonic aircraft. It has also launched a number of significant scientific probes that have explored the moon, the planets and other areas of our solar system. NASA has been responsible for the Hubble Space Telescope and other revolutionary space science spacecraft that enabled scientists to make a number of significant astronomical discoveries in our universe.

I truly believe the lives the men and women of *Columbia* led, like the lives of those astronauts who went before them, exemplify the commitment that lies behind our nation's space program. In an e-mail transmission hours before the *Columbia* crew attempted to return home, Michael Anderson illustrated their passion with these words: "It's kind of with mixed emotions that we get ready to come home. But we have enough fond memories to last us a lifetime."

As the House Science Committee, led by my colleague and New York neighbor, SHERWOOD BOEHLERT, initiates its investigation, Congress pledges to focus on which policies may have contributed to this tragedy. We owe nothing less to those we now mourn, Michael Anderson, William McCool, Rick Husband, Laurel Clark, Kalphana Chawla, David Brown, and Illan Ramon.

HONORING ROSA AND JACK KELLEY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Rosa and Jack Kelley's contributions to the African American Historical and Cultural Museum of California's San Joaquin Valley. On Saturday, February 15, the retirement of Jack Kelley, the memory of his wife Rosa, and the beginning of the Kelley Endowment Fund for the African American Museum was celebrated in Fresno, California.

Jack Kelley has been an active member in the community throughout his life. Mr. Kelley served his country bravely in World War II. Jack continued his brave and honorable service to America as one of the first African American policemen for the Fresno Police Department, and later as the first African American to be promoted to Sergeant within the Department. Showing his range of diversity, Jack was drafted as a professional football player after graduating from Fresno State University.

The late Rosa Kelley served the public as a Licensed Vocational Nurse and elementary school teacher. She was an active member in her church and many other civic activities in the community. She was known as a devoted wife, mother, aunt, grandmother, and great-grandmother whose love, kindness, and encouragement touched the lives of many people throughout her life and allowed the Museum to be at the status it is today.

Mr. Kelley began his 12-year dream of creating an African American Historical museum of the pioneers of the San Joaquin Valley out of the trunk of his car. His perseverance to display the photos and artifacts from early African American pioneers to the public has lead to his vision becoming a reality.

The African American Historical & Cultural Museum has promoted an understanding, appreciation, and awareness of African Americans historically and culturally throughout the San Joaquin Valley who have been pioneers and role models in their community. The Museum serves as a permanent home to remember the work of African Americans of the Valley.

Mr. Speaker, I am pleased to honor Jack and Rosa Kelley for their outreach in the community and their dedication to the African American Historical and Cultural Museum. I urge my colleagues to join me in wishing Jack Kelley and the Museum many more years of success.

TRIBUTE TO KATIE AND JIM KEEGAN

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to Katie and Jim Keegan, Catholic Charities 2003 recipients of the Monsignor Thomas J. Reese award.

The award is named for the late Monsignor Thomas J. Reese, the long-time Director of Catholic Social Services (now Catholic Charities), for his commitment to serving those in need throughout our community. As a tribute to Monsignor Reese, each year an honoree is selected who is a leader in his/her field and in the community and who possesses outstanding integrity worth emulating. This year Catholic Charities has selected the Keegans in recognition of their service to others in the community both as individuals and together.

I rise today to praise Katie and Jim Keegan for their contributions to the State of Delaware and its citizens through years of helping the community and serving as advocates for community service in the State.

In addition to graduating from Chestnut Hill College and raising five children, Katie Keegan has been a tireless advocate for the young people and those less fortunate. Katie had demonstrated her faith by serving in various positions, including: Youth Encounter Leader, Confraternity of Christian Doctrine (CCD) teacher and Board member of the Bayard House, a facility that assists single young women as they prepare for motherhood. Over the years, Katie Keegan has also served as a committee member for the TEE-Off for Kids Golf Tournament benefiting Catholic Charities. She is in her own right a dedicated leader in the community, as she has touched the lives of so many in Delaware.

Jim Keegan is a graduate of Notre Dame. Following graduation, Jim spent two years in the U.S. Navy prior to joining the DuPont Company. In addition to his dedication at DuPont, Jim has been active and held leadership positions in a wide variety of church and educational efforts ranging from Chairman of the Diocesan Annual Catholic Appeal and membership on the leadership team for Bringing the Vision to Life Diocesan Campaign to various volunteer commitments in surrounding schools and parish councils.

On Thursday, February 20, 2003, at 6 p.m., Catholic Charities Inc. of the Diocese of Wilmington honored Katie and Jim Keegan at its Annual Tribute Dinner in Wilmington, Delaware.

Mr. Speaker, I salute Katie and Jim Keegan for the time they spend giving back to the community in Delaware. They are fine examples of the generosity and compassion that is common in the Catholic faith and American spirit. Their selflessness, sacrifice of time and commitment to service, has already given them a permanent place in Delaware's history.

THE MONTGOMERY GI BILL ENHANCEMENT ACT

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. CAMP. Mr. Speaker, today I am introducing legislation to correct an unfair restriction that is preventing some of our career military service members from using the Montgomery GI Bill.

Education assistance has been a cornerstone of military benefits for over 50 years. congress recognized that military service often prevented young people from attending school and attaining higher levels of education. In 1944, Congress passed the original education bill for service members, the Serviceman's Readjustment Act. This World War II era legislation provided billions of dollars in education and training incentives for veterans and active duty personnel. The nation has reaped many times that amount in return investment from a well-trained work force and a more productive society.

Building on the success of the original GI Bill, Congress has passed several other pieces of legislation expanding veterans' educational benefits. The Veterans' Educational Assistance Program (VEAP) was enacted in 1976 as a recruitment and retention tool for the post-Vietnam era. This was the first program requiring payment contributions from military personnel while they were on active duty and was available to people who entered active duty between December 31, 1976 and July 1, 1985.

In 1984, Congress passed the All volunteer Force Educational Assistance program; more commonly call the Montgomery GI Bill (MGIB). This expanded program provided better benefits that offered under VEAP and last year Congress passed legislation to boost MGIB by a record 46 percent over two years. With the enactment of this legislation, an estimated 409,000 veterans and service members will receive assistance under MGIB for education and training in 2003.

In 1996, Congress passed Public Law 104–275, allowing VEAP participants to transfer their education accounts to MGIB and 41,041 veterans and servicepersons took advantage of the opportunity. The opportunity to convert to MGIB is very important because the benefits available are much greater. Unfortunately, those individuals who were on active duty before 1985 and did not participate in VEAP were not eligible to sign-up for MGIB, leaving a gap in available coverage for certain career military personnel. Congress has voted several times in the last decade to allow VEAP participants opportunities to transfer to MGIB, but there has not been an opportunity for those who did not have VEAP accounts to sign up for the new program, excluding them from taking advantage of great educational benefits.

This unjust situation can easily be remedied. My legislation provides a one-year open enrollment period for individuals falling into the gap to attain the benefits that they deserve. This is a matter of equity. We cannot neglect our career military personnel; they have served bravely and honorably for decades and their experiences are crucial to the security of our nation. Now is the opportunity to ensure that they are provided for and have the same benefits that are available to other members of the Armed Forces.

HONORING THE NATIONAL BASS GUIDE SERVICE AS THE MOUNT VERNON-LEE CHAMBER OF COMMERCE HOME-BASED BUSINESS OF THE YEAR, 2002

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to congratulate National Bass Guide Service on their recognition by the Mount Vernon-Lee Chamber of Commerce as the Home-Based Business of 2002.

Founded by Steve Chaconas, National Bass Guide Service is a fishing charter operation on the Potomac River that specializes in largemouth bass. Since its foundation two years ago, National Bass Guide Service has tripled the number of fishing charters it provides. In addition, Mr. Chaconas has expanded into outdoor writing for four publications, giving more exposure to the sport of fishing.

In addition to the numerous services they provide along the Potomac River, National Bass Guide Service is dedicated to contributing to the community. Mr. Chaconas has served as chairman and Master of Ceremonies for the St. Jude Children's Hospital Annual Bass Fishing Tournament, raising nearly $100,000 for the hospital. National Bass Guide Service has also donated fishing trips to the Hollin Hall Senior Center, the Recreation Boating and Fishing Foundation, as well as to churches and organizations for fundraising auctions.

Mr. Speaker, in closing, it is an honor to extend my warm congratulations to National Bass Guide Service for all of their achievements. The recognition by the Mount Vernon-Lee Chamber of Commerce is well deserved. I call upon my colleagues to join me in wishing the National Bass Guide Service future success.

TRIBUTE TO THE 144TH MILITARY POLICE COMPANY

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. ROGERS of Michigan. Mr. Speaker, Congressman DAVE CAMP and I rise today to honor the service of the men and women of the 144th Military Police Company from Owosso, MI, who spent the past year defending the Pentagon.

The 144th has a proud history of service in time of need. In 1990–91, the unit was activated and sent to Saudi Arabia during Operation Desert Shield/Desert Storm, where it operated a holding camp for Iraqi prisoners of war. Numerous members of the unit have volunteered to serve at Michigan airports, border crossings, the Bioport facility in Lansing.

In the aftermath of September 11, 2001, the effort of these soldiers has kept safe the command center for America's fighting men and women, and the heart of our national defense operations. These soldiers have sacrificed much for their country, putting their lives on hold to serve America.

Today, as our Nation engages in a war on terrorism, these men and women are role models for their fellow citizens as they stand in defense of our nation and the free world. Their devotion and commitment to their country and to the state of Michigan have earned them great respect.

Mr. Speaker, we ask our colleagues to join us in extending our gratitude to the fine men and women of the 144th Military Police Company. We are honored to recognize their service.

INTRODUCTION OF THE UNITED STATES LIFE-SAVING SERVICE HERITAGE ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. PALLONE. Mr. Speaker, today I introduce the United States Life-Saving Service Heritage Act, legislation to celebrate one of the most inspiring periods in America's maritime history. This legislation would establish a comprehensive program to inventory, evaluate, document, and assist efforts to restore and preserve surviving historic lifesaving stations. I am pleased that my Jersey Shore colleague Representative FRANK LOBIONDO has joined me in this effort.

The history of lifesaving in the United States dates back to 1785, when the Massachusetts Humane Society began building huts along the Massachusetts coast to aid shipwreck victims. These huts were later fitted with surfboats, beach-carts, and other lifesaving equipment. Beginning in 1847, the Federal government recognized the importance and necessity of lifesaving efforts when Congress provided a series of appropriations to establish lifesaving stations equipped to render assistance to shipwrecked mariners and their passengers. These stations were first established along the Atlantic coast with the assistance of Representative William Newell, who during the 31st and 39th Congresses represented some of the same areas of New Jersey that I represent today. Representative Newell's efforts contributed to the establishment of a network of lifesaving stations along the Jersey Shore from Sandy Hook to Cape May. In 1871, Congress approved the first appropriation for the Federal government to employ crews of lifesavers. On June 18, 1878, the "Act to Organize the Life-Saving Service" was enacted. In 1915 the Life-Saving Service merged with the Revenue Cutter Service to form the Coast Guard. At that time, there were over 275 lifesaving stations to aid shipwreck victims on the Atlantic, Pacific, Gulf, and Great Lakes coasts.

The volunteer and professional lifesaving personnel who staffed these stations risked their lives to prevent shipwreck casualties. Winslow Homer immortalized these great heroes of the American coast in his painting The Life Line. Walt Whitman celebrated their inspiring actions in the following excerpt of his poem Patrolling Barnegat:

Through cutting swirl and spray watchful and firm advancing,
(That in the distance! Is that a wreck? Is the red signal flaring?)
Slush and sand of the beach tireless till daylight wending,
Steadily. slowly. through hoarse roar never remitting,
Along the midnight edge by those milk-white combs careering,
A group of dim. weird forms, struggling, the night confronting,
That savage trinity warily watching.

An outstanding example of this period survives today in my district. The historic Monmouth Beach lifesaving station, established in 1895, is a Duluth style station designed by the architect George Tolman. On one occasion, every member of the station's crew was awarded a gold lifesaving medal for rescuing victims of two shipwrecks on the same evening. This historic structure had been slated for demolition to make way for a new parking lot for beachgoers. Fortunately, the entire community came together to save this important structure but work still needs to be done to preserve the station's history and the inspiring stories of those who served there.

It is not certain exactly how many stations like the one in Monmouth Beach remain. Many surviving historic lifesaving stations are of rare architectural significance, but harsh coastal environments threaten them, rapid economic development in the coastal zone, neglect, and lack of resources for their preservation. The heroic actions of America's lifesavers deserve greater recognition, and their contributions to America's maritime and architectural history should be celebrated.

That is why I have proposed the United States Life-Saving Service Heritage Act. This legislation would provide the resources necessary to inventory, document, and evaluate surviving lifesaving stations. It would also provide grant funding to assist efforts to protect and preserve these maritime treasures.

The United States Life-Saving Service Heritage Act would authorize the National Park

Service, through its National Maritime Initiative, to inventory, document, and evaluate surviving historic lifesaving stations. These activities would be conducted in cooperation with the U.S. Life-Saving Service Heritage Association, a Massachusetts based nonprofit educational organization that works to protect and preserve America's lifesaving heritage. This inventory, documentation, and evaluation would be similar in nature to a study completed by the Park Service in 1994, on historic lighthouses. Under this legislation, the Park Service would serve as a clearinghouse of information on lifesaving station preservation efforts, which would greatly assist public and private efforts to protect these historic structures and the maritime heritage that they embody.

Mr. Speaker, I urge my colleagues to support this legislation to celebrate one of the most heroic and inspiring periods in America's maritime history.

HONORING THE RESPONSIBLE SOCIAL INVOLVEMENT PROGRAM AT IOWA WESLEYAN COLLEGE

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. LEACH. Mr. Speaker, I rise today to invite the attention of my colleagues to a remarkable program at Iowa Wesleyan College, a 161-year-old, Methodist-affiliated liberal arts college in Mr. Pleasant, IA.

In conjunction with National Volunteer Month, this week the college is celebrating the achievement of 1 million hours of service to society by its graduates through participation in its Responsible Social Involvement (RSI) program.

In the 35 years since its inception, RSI—with its requirement of a minimum of 160 hours of work with a nonprofit organization, as well as the keeping of a journal, the writing of an essay and the making of an oral presentation—has become a national paradigm for public service.

More than simply a requirement that must be met for graduation, participation in RSI has proven a life-transforming experience for thousands of Iowa Wesleyan students.

In 1739, John Wesley, the founder of the Methodist church, confided to his journal that "I look upon the world as my parish." The young men and women Iowa Wesleyan sends from its campus through RSI discover a world in which too often the so-called "me-generation" succumbs to the temptation to decouple freedom from responsibility.

Today it is tempting to seek freedom by abjuring personal responsibility for addressing the needs of those less well off in our communities. This renunciation of individual accountability is too easily justified by the assumption that the role of meeting societal needs is exclusively that of impersonal bureaucracies. Participants in RSI come to understand that a moral society demands that individuals not duck responsibility for improving the lot of others, that personal fulfillment comes through action rooted, not in "I", but "we."

The Responsible Social Involvement program at Iowa Wesleyan appropriately epitomizes John Wesley's Rule:

Do all the good you can,
By all the means you can,
In all the ways you can,
In all the places you can,
At all the times you can,
To all the people you can,
As long as ever you can

I am sure my colleagues will join me in congratulating the faculty, staff, students, alumni and friends of Iowa Wesleyan College on reaching the milestone of providing one million hours of service through RSI. They will also want to join me in wishing them Godspeed as they embark on their second million.

ON THE RECOGNITION OF THE SERVICE OF MR. JOHN PORTER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. HOYER. Mr. Speaker, I rise today to recognize John Porter who bravely served as a private in the Maryland Militia during the War of 1812 and was killed in the line of duty.

The War of 1812 should be remembered and revered for its final and permanent confirmation of American Independence.

Mr. Porter served in the Maryland Militia as a member of the 33rd Regiment and served under Captain Benjamin Massey in the Battle of Bladensburg, also known as "the battle to protect the heart of America." The Maryland Militia served at a moment's notice with great enthusiasm, demonstrating the honor and dignity with which they believed came from defending their country and serving this patriotic duty.

The British had three reasons for attacking the Chesapeake Region during the Battle of Bladensburg: to burn Washington, D.C. in order to avenge America's burning of York in Canada; to destroy Baltimore to prevent future naval attacks; and to draw American troops away from the Canadian front. Despite these interests, the Maryland Militia was able to aid their country by defending both Washington and Baltimore and allowed troops to remain on the Canadian front.

John Porter fought valiantly during this battle, and was one of many members of the Maryland Militia who gave their lives in defense of their country.

Mr. Speaker, and colleagues, please join me in recognizing the sacrifice and service of Mr. Porter to both the state of Maryland and to our great nation.

RECOGNIZING JESSICA LITTLE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jessica Little, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1230, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award Project, Jessica cleaned up and organized a Casa House.

Mr. Speaker, I proudly ask you to join me in commending Jessica Little for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

HONORING MR. RICHARD P'POOL

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WHITFIELD. Mr. Speaker, I rise today to honor Mr. Richard P'Pool of Princeton, Kentucky for his hard work and dedication on behalf of our nation's veterans.

Mr. P'Pool has spent countless hours and resources documenting and recognizing veterans who have been interred without proper ceremony or marker. When discovering a grave without a proper marker, Mr. P'Pool begins to research the veteran. It is necessary to fully document the service member's military career so that the Department of Veterans Affairs can provide a military marker for the grave. Mr. P'Pool helped apply for and received over 300 markers from the Department of Veterans Affairs at his own expense. This process requires hours of tedious and detailed research because the documentation required, including the muster rolls and the extracts from State files or land warrants, is not often not readily available.

Whenever possible, Mr. P'Pool organizes a memorial ceremony to honor the veteran with the assistance of re-enactment soldiers from the 5th Tennessee Infantry Regiment, members of the Sons of Confederate Veterans and members of the United Daughters of the Confederacy. They have memorialized soldiers of the Civil War, Korean War and World War II.

Mr. P'Pool served our country in the United States Army. He worked at the White House Communications Agency under Presidents Nixon, Ford and Carter from 1973 until 1977, and he is currently employed as a millwright in

Calvert City, Kentucky in my Congressional District. He is a member of the Caldwell County Historical Society, the Sons of Confederate Veterans, the Kentucky Historical Society, the Kentucky Genealogical Society and the Friends of the National Park at Gettysburg. He is assisting in making application for military monuments to be certified under the Kentucky Military Heritage Act.

Mr. Speaker, I am proud to call attention to the selfless acts of Richard P'Pool. I extend my thanks to him for all his efforts on behalf of so many deserving veterans, and I am honored to bring his accomplishments to the attention of this House.

TRIBUTE TO MR. DONALD S. POWERS AND MAYOR ROBERT PASTRICK

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and enthusiasm that I wish to commend two distinguished members of the Northwest Indiana community for their dedicated service and compassion for their fellow citizens. St. Catherine Hospital honored Mr. Donald S. Powers and Mayor Robert Pastrick with the Pillar of the Community Award on Saturday, February 22, 2003 for their outstanding service on behalf of the hospital and the surrounding community.

Donald Powers has demonstrated tremendous vision and leadership in his on-going relationship with Community Health Care System and its affiliates, Community Hospital, St. Catherine Hospital, and St. Mary Medical Center. As President of the Board, Mr. Powers oversaw the creation and construction of Community Hospital, and assisted the staff and administration in developing the first freestanding hospital in Lake County that is ranked in the top two percent of hospitals surveyed nationally for standard of care.

Mr. Power's planning and foresight with respect to the hospital's investment program led to the construction of the Center for Visual and Performing Arts in Munster, Indiana. This center has served as a cultural epicenter, as it is the home for the Northwest Indiana Symphony Society and the Northern Indiana Arts Association.

Mr. Powers has donated much of his time and expertise to his community. He has served on many boards, including the American Red Cross, Calumet Council of Boy Scouts, and the YMCA. Additionally, Mr. Powers was appointed to the Board of Trustees of Purdue University by former Governor Otis Bowen, and was elected President of the Board in 1981.

Mayor Robert Pastrick has been a fixture of the East Chicago community since his election to the City Council in 1955. He has served the citizens of East Chicago as their mayor since 1973. During that time, he has shown a commitment to ensuring effective health care for his constituents by initiating a joint venture between the City of East Chicago and St. Catherine Hospital. Through this program, East Chicago residents have an opportunity to obtain affordable, quality health care for themselves and their children.

Mayor Pastrick has also shown a commitment to his community through his volunteer work, serving on the Indiana Association of Cities and Towns, the United States Conference of Mayors, the Northwest Indiana Regional Planning Commission, and the Northwest Indiana Forum Foundation. Through his service in these organizations, Mayor Pastrick has worked to improve the lives of the residents of East Chicago, as well as the lives of all Northwest Indiana residents.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating Mr. Donald S. Powers and Mayor Robert Pastrick as they receive the Pillar of the Community Award for their work on behalf of St. Catherine Hospital. Through their dedication and hard work, the citizens of Northwest Indiana have access to the best medical facilities and services possible. I am proud to represent them in Congress.

RECOGNIZING KIMBERLY MARLIN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kimberly Marlin, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award Project that has a positive lasting impact on the community.

For her Gold Award Project, Kimberly organized a lending library at Colbern Road Baptist Church.

Mr. Speaker, I proudly ask you to join me in commending Kimberly Marlin for her accomplishments with the Girl Scouts of American and for her efforts put forth in achieving the highest distinction of the Gold Award.

FOR THE LOVE OF TEACHING—A TRIBUTE TO REMARKABLE DORIS DUNLAP DARDEN

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Doris Dunlap Darden, an educator who has devoted 50 years of service to the St. Louis Public School District. She has dedicated her life to enabling children to attain quality education and providing opportunities that help students realize their abilities and achieve their highest goals.

She began her commendable teaching career in 1953 and has worked diligently to level the educational playing field for at-risk youth in low-income neighborhoods throughout the city of St. Louis. Darden has encouraged hundreds of children by setting high expectations and implementing programs for students to gain leadership and communications skills necessary to succeed in life. She has been committed to reaching both the students and their parents with her educational outreach. Darden impressively took the initiative to create "Home, School and Community," a program which introduced students to local and national newsmakers and celebrities. This innovative program allows famous guest speakers to encourage students to achieve academic excellence, while their parents attended informative workshops and seminars.

Darden solidly believes that all children deserve a high quality education regardless of their socioeconomic status. As a tutor, early in her career, she took note of the way wealthy parents trained their children and introduced those same learning techniques to inner city students. Darden found that her efforts helped raise both the productivity level and esteem of children who would otherwise might have been cast off by society.

In addition to her unwavering commitment to teaching, Darden has selflessly allotted time for community service. She had dedicated numerous hours to working with the Colored Women's Association, National Association of University Women, Tot's N' Teens, various city-wide committees and Leadership for Teachers.

Mr. Speaker, it is with great privilege that I recognize Doris Dunlap Darden to today before Congress. This extraordinary women strongly believes that every child has the capacity to learn and deserves a chance to express that capacity through life goals. In 50 years, Darden has influentially touched the lives of thousands of young people in classrooms and throughout the St. Louis community. She has a stellar record of demonstrating compassion in the classroom. I ask that my colleagues join me in honoring a treasured member of the St. Louis community, Doris Dunlap Darden.

HONORING MR. LARRY WALSTON

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WHITFIELD. Mr. Speaker, I rise today to honor Mr. Larry Walston of Hopkinsville, KY, for his hard work and dedication on behalf of our Nation's veterans.

Mr. Walston has worked tirelessly to document the service of veterans who were interred without proper ceremony or marker. In conjunction with officials from the Commonwealth of Kentucky, he has obtained the military service records of nearly 300 civil war veterans buried in Riverside Cemetery in Hopkinsville. These soldiers were interred without stones. The documentation he helped collect was used to order individual markers from the Department of Veterans Affairs. With the assistance of member of the Sons of the Confederate Veterans and others, these markers were then placed in the cemetery.

Mr. Walston served our country as a member of the United States Navy and a veterans of the Vietnam War. He is a professor as Hopkinsville Community College and a member of the Sons of Confederate Veterans, Military Order of the Stars and Bars, Sons of Union Veterans of the Civil War, the Veterans of Foreign Wars and many other community service organizations. He is assisting in making application for military monuments to be certified under the Kentucky Military Heritage Act.

Mr. Speaker, I am proud to represent Larry Walston in my district. I extend my thanks to him for all efforts on behalf of so many deserving veterans, and I am proud to bring his accomplishments to the attention of this House.

TRIBUTE TO THE CP FEDERAL CREDIT UNION OF JACKSON, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to recognize Michigan's Federal Credit Unions for their efforts to improve financial services for their members. I would like to especially commend CP Federal Credit Union for their efforts to improve literacy among young people in Jackson, MI.

Today they will receive the 2002 National Desjardins Youth Financial Education Award for their good work. The award is named for the founder of the North American credit union movement, a man who promoted the idea of educating youth and providing them with in-school savings accounts.

For the last 10 years the CP Federal Credit Union, under the leadership of President and CEO John Crist, put Desjardins' words into action and worked with schools throughout Jackson County to help our youth understand how to spend, save, and budget money. Each week presenters travel to area schools to teach students from Kindergarten to High School about money. In addition to their informative and entertaining presentations they also connect schools with local business people who talk to the students about finances.

Their education did not stop there. The CP Federal Credit Union also operates 31 student-run credit unions. Students have an opportunity to volunteer and learn to post transactions and balance a cash drawer. Currently, 320 student volunteers participate in the program. In addition, the program employs five youth representatives who give presentations and meet with teachers and principals to discuss youth financial literacy. Thanks to their efforts 31 schools will include personal finance as part of their curriculums next year.

Finally, the CP Federal Credit Union offers the "Great Expectations" savings account for students. They encourage students to save for college, their first car, or their first house. Students are required to make a deposit of at least $10 per month into their savings account to be eligible for savings incentives such as cash bonuses or loan discounts. Rather than just educate students about saving money, the CP Federal Credit Union takes it a step further and provides students the means to do so.

The impact of this program on the lives of young people in Jackson is immeasurable. More schools have committed to teaching personal finance in their classrooms than ever before; 674 presentations were given during the 2001–2002 school year and 15,000 students were reached. Due to the efforts of these good people and others around the state, Michigan rates No. 1 out of all the States where credit unions are working with youth. Michigan also tops the list in the number of presentations given nearly half of which were given by the CP Federal Credit Union.

I commend John Crist and all the employees of the CP Federal Credit Union for their commitment to youth and their efforts to prepare our students for the future. I hope that you will all join me in congratulating them for earning the 2002 National Desjardins Youth Financial Education Award.

TRIBUTE TO MR. AND MRS. HUTCHINS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. PAYNE. Mr. Speaker, I rise today to recognize Winnie Hollis Hutchins and John Lee Hutchins on the occasion of their 50th wedding anniversary.

Married on March 18, 1953 in Newark, New Jersey, Mr. and Mrs. Hutchins have made New Jersey their home. During their marriage they have striven to promote strong ideals of family, education, and community service to their five daughters, seven grandchildren, and four great-grandchildren.

Through both their church and independent community activism, Mr. and Mrs. Hutchins have devoted time to strengthening our community and to enriching the lives of all of those with whom they have come into contact. As they gather on March 14, 2003, to celebrate this wonderful occasion with family and friends, they set an example to those around them to the wonderful gifts that life has to offer.

Mr. Speaker, I am sure that my colleagues here in the U.S. House of Representatives join me today as I congratulate Mr. and Mrs. Hutchins on this joyous occasion and wish them health and happiness as they continue their journey together.

RECOGNIZING ELIZABETH RAINE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Elizabeth Raine, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1444, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To ear the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) earning the senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Elizabeth taught science classes to younger children.

Mr. Speaker, I proudly ask you to join me in commending Elizabeth Raine for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO TOM HIGGINS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great sincerity and enthusiasm that I wish to congratulate a distinguished member of the First Congressional District of Indiana. Mr. Tom Higgins has been a fixture of the Northwest Indiana community since his radio career began in 1955. The Communicators of Northwest Indiana will deservedly honor him on Thursday, February 20, 2003 as a salute to his dedicated service, and to congratulate him on his retirement. Proceeds from the event will benefit the Scholarship Fund of the Communicators of Northwest Indiana.

Mr. Speaker, Tom Higgins carried a passion for broadcasting throughout his educational career at Indiana University, where he earned a degree in Radio Journalism in 1955. During this tine in Bloomington, Tom worked at WFIU as a news and scriptwriter, on-air personality, and news director. He also found an outlet for his talents at WTTS, where he hosted a weekly program. It was at Indiana University where Tom began to pursue his interest in radio and television journalism, and he was able to hone and perfect his talents while at this prestigious university.

After graduating from Indiana University, Tom began his broadcasting career at WLOI radio station in LaPorte, Indiana. After a tour in the military, he returned to Northwest Indiana in 1957 and began working at WWCA in Gary. Tom not only blessed the citizens of Gary with his talents, but he also worked part time at WAKE in Valparaiso, Indiana, eventually calling football games for Valparaiso University. He later returned full time to WWCA, where he used his talents in various positions, including announcer, air personality, producer, and station manager, until July 1983. During his tenure at WWCA, Tom developed a four station network to expand an existing live radio show named "Third Tuesday", which aired with a live audience, orchestra, and notable guests, for two years.

Mr. Speaker, station managers in Northwest Indiana recognized the talent that Tom possessed for broadcasting in radio and, because of this strong background, provided him an opportunity to pursue a television career in 1967. He served as the play-by-play announcer for the regional telecast of the Indiana State High School Basketball Tourney for six years. During his work for the Senior Little League World Series, Tom was given the opportunity to broadcast games that were featured in Delaware, California, Aruba, and Taiwan, as well as locally. He also worked as the play-by-play announcer for the Indiana All-Star football game in 1982.

In search of a new challenge, Tom joined the staff at Indiana University Northwest in Gary as the Director of Community Relations and Development in 1984. He was eventually named the Director of Alumni Relations, a position he successfully held for sixteen years. During that time, Tom was quickly asked to return to the broadcasting business. He worked part time at WWJY–FM in Crown Point, and later tackled the additional responsibility of co-anchor of a new television news hour at WYIN. Tom recalls an extensive period of time where he would work the morning shift at WWJY, direct the Alumni Affairs office during the workday, and co-host the Indiana Nightly Report each day. It is this work ethic and dedication on which the people of Northwest Indiana pride themselves, and it allowed Tom to achieve the success that he has enjoyed.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring and congratulating Mr. Tom Higgins for an outstanding career, not only in broadcast journalism, but in service to his community. Tom's leadership and passion for his career are to be commended, and his professional absence from the Northwest Indiana community will surely be missed.

HONORING THE CONTRIBUTIONS OF LUTHERAN SCHOOLS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BEREUTER. Mr. Speaker, as a graduate of a Lutheran elementary school and an individual well-acquainted with the many first-rate Lutheran educational institutions in his congressional district, today this Member introduced a resolution congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the nation for their ongoing contributions to education.

This Member is proud of the Lutheran schools in the First Congressional District of Nebraska and those throughout the nation which deliver high-quality educational opportunities and challenge students to reach their full academic and spiritual potential.

Not only are Lutheran schools known for their academic quality, but for their ability to aid moral development. These institutions provide spiritual guidance to students, instilling fundamental values that are crucial to personal development. Through their education, Lutheran school children gain an appreciation of the importance of family values, community service, and faith in their lives. This, in turn, has helped shape students of Lutheran schools into good leaders of tomorrow.

Mr. Speaker, in closing, I urge my colleagues to cosponsor and support this resolution, honoring the contributions of Lutheran schools in American education.

HOUSE OF REPRESENTATIVES—*Wednesday, February 26, 2003*

The House met at 1 p.m. and was called to order by the Speaker pro tempore (Mr. TERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 26, 2003.

I hereby appoint the Honorable LEE TERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Come Holy Spirit, enlighten the hearts of those who are faithful and tireless in securing equal justice under the law. Fulfill the hopes of those who long for peace and security for their children. Guide and protect all elected officials and all who choose to serve this Nation and local communities through public service.

May Your will be done in and through those who pray for Divine Guidance and who trust in Divine Providence; even in the midst of conflicting opinions, philosophical differences, and the threat of violence.

Unite Your people and keep them focused on essentials that reflect Your kingdom. May the fire of Divine Love and human freedom renew the face of the Earth, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESIGNATION AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Standards of Official Conduct:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 2003.

Hon. DENNIS HASTERT,
Office of the Speaker, U.S. Capitol,
Washington, DC.

DEAR MR. SPEAKER: I respectfully resign from the Committee on Standards of Official Conduct, having completed three terms as ranking member of the Committee.

Sincerely,

HOWARD L. BERMAN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 104) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 104

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE: Mr. Lucas of Kentucky (to rank immediately after Mr. Boswell).

(2) COMMITTEE ON THE BUDGET: Mr. Kind.

(3) COMMITTEE ON GOVERNMENT REFORM: Ms. Norton (to rank immediately after Mr. Ruppersberger).

(4) COMMITTEE ON SMALL BUSINESS: Mrs. Christensen (to rank immediately after Mr. Ryan of Ohio), Mr. Davis of Illinois (to rank immediately after Mrs. Christensen), Mr. Gonzalez (to rank immediately after Mr. Davis of Illinois), Ms. Majette (to rank immediately after Ms. Bordallo).

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Requests for 1 minutes are delayed until the end of business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6, rule XX.

Any record vote on a postponed question will be taken later today.

CELEBRATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 36) encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery.

The Clerk read as follows:

H. CON. RES. 36

Whereas Abraham Lincoln, the sixteenth President of the United States, issued a proclamation on September 22, 1862, declaring that on the first day of January, 1863, "all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free";

Whereas the proclamation declared "all persons held slaves within the insurgent States"—with the exception of Tennessee, southern Louisiana, and parts of Virginia, then within Union lines—"are free";

Whereas, for two and half years, Texas slaves were held in bondage after the Emancipation Proclamation became official and only after Major General Gordon Granger and his soldiers arrived in Galveston, Texas, on June 19, 1865, were African-American slaves in that State set free;

Whereas slavery was a horrendous practice and trade in human trafficking that continued until the passage of the Thirteenth Amendment to the United States Constitution ending slavery on December 18, 1865;

Whereas the Emancipation Proclamation is historically significant and history is regarded as a means of understanding the past and solving the challenges of the future;

Whereas one hundred and forty years after President Lincoln's Emancipation Proclamation, African Americans have integrated into various levels of society; and

Whereas commemorating the 140th anniversary of the Emancipation Proclamation highlights and reflects the suffering and progress of the faith and strength of character shown by slaves and their descendants as an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the historical significance of the 140th anniversary of the Emancipation Proclamation as an important period in the Nation's history; and

(2) encourages its celebration in accordance with the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Illinois (Mr. DAVIS), the ranking member on the Subcommittee on Civil Service, Census and Agency Organization of the Committee on Government Reform, introduced H. Con. Res. 36 on February 12, 2003. I am honored to be an original cosponsor of this legislation.

Abraham Lincoln, our 16th President, issued a preliminary proclamation on September 22, 1862, granting freedom to slaves in territories that were in rebellion. The official Emancipation Proclamation was issued on January 1, 1863. It was a straightforward document, much like the President himself, and was based on his right as the Commander in Chief during the Civil War.

Though the Emancipation Proclamation was limited in scope, acclaimed by some, and denounced and condemned by others, ultimately it was a landmark as expressed in the 13th amendment: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Historians report several revisions and compromises of the proclamation, but Lincoln's personal wish, as expressed in his letter to Horace Greeley, editor of the New York Tribune, had always been that all men everywhere could be free.

Much has been accomplished in our Nation since 1863 by freed men and women and their descendents in every sphere of our national life; this, in spite of great adversity, but with utmost determination of spirit and soul. History has shown us that to surge to greatness, as a Nation or as an individual, humans must be free.

We must never forget our history, we must never forget the steadfastness of the President who was rightly called the Great Emancipator. We must never tolerate mental or physical slavery in our Nation or any nation.

Mr. Speaker, H. Con. Res. 36 has been cosponsored by 115 cosponsors from both sides of the aisle. I believe this bill, introduced by our colleague, the gentleman from Illinois, the Land of Lincoln, to be representative of the conviction of this body and I, therefore, urge our colleagues to support H. Con. Res. 36. Again, I thank the distinguished gentleman from Illinois for his work on bringing this meaningful resolution to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking member of the Subcommittee on Civil Service, Census and Agency Organization, I want to first of all thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), the chairman of the subcommittee, for her cosponsorship of this resolution and for helping to quickly move it to the House floor for action.

House Concurrent Resolution 36 encourages the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commends President Abraham Lincoln's efforts to end slavery.

Though a man of humble beginnings, Abraham Lincoln rose to become the 16th President of the United States of America and became the man who attempted to end the heinous act of slavery while preserving the Union.

On January 1, 1863, Abraham Lincoln signed the Emancipation Proclamation. It was an historic act, because it freed many slaves and made a statement about the cruelty of slavery. The premise of the Emancipation Proclamation can be linked to a speech Lincoln made at Gettysburg in which he stated, "Four score and 7 years ago our fathers brought forth upon this continent a new Nation, conceived in liberty and dedicated to the proposition that all men are created equal."

President Lincoln's proclamation did not end slavery. The 13th amendment to the United States Constitution did that on December 18, 1865. The 14th amendment established Negroes citizens of the United States, and the 15th amendment granted Negroes the right to vote. It was the Emancipation Proclamation, however, that paved the way for these amendments to the Constitution.

Our citizenship and privileges of blacks were always questioned and, in many situations, denied until passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. This was 39 years ago that Jim Crow laws were subjugating and denying Negroes the right to vote in certain southern States, the imposition of poll taxes, the segregation of schools, housing, bus and train transportation, restrooms, and other public accommodations. Since the struggle of the civil rights movement in the 1950s and 1960s, many African Americans are still seeking economic emancipation, equality in education, employment, business, housing, health care, and access to capital. Although African Americans as a people have made great strides in America, we still have a long way to go to achieve and live up to the creed of America's Founding Fathers that all men are indeed created equal.

When it comes to equality in homeownership, the rate among white households is about 74.2 percent, compared to 47.1 percent for African Americans. This huge gap between white and black homeowners will continue to be the primary factor that will undermine the growth of African Americans and their family structure to obtain wealth, capital assets, and better neighborhoods.

When it comes to equality in education, the number of whites who possess bachelor's or higher degree is about 34 million compared to 2.6 million for blacks.

For post-secondary education, whites are about 72 percent compared to 11 percent for blacks who are attending degree-granting colleges and universities.

As for poverty, there are 32.9 million poor people in America. The poverty rate is about 22.7 percent for blacks compared to 9.9 percent for whites. The unemployment rate for whites is 3.3 percent compared to 6.3 percent for blacks who are continuing to seek employment.

When it comes to crime and justice, America is 5 percent of the world's population, but 25 percent of the world's prison population is in U.S. jails and prisons. The United States incarcerates 2,100,146 persons. Whites are about 36 percent compared to 46 percent for blacks in prisons. As some of us know, about 70 percent of the prison population is attributed to drug convictions. The law is not equally applied when it comes to drug offenses involving crack and powder cocaine. Five grams of crack cocaine brings a mandatory sentence of 5 years, compared to 5 grams of powder cocaine which has no sentencing requirements, and the possessor of powder cocaine may get probation. Mr. Speaker, 89 percent of the blacks are sentenced for crack cocaine possession, compared to 75 percent for whites who possess powder cocaine. Yet, 59 percent of the users of crack cocaine are white.

Equality is the principle and spirit of the Constitution where all men and women are seen as God's children created in His image. And if this was accomplished, then African Americans would have 2 million more high school diplomas, 2 million more college degrees, nearly 2 million more professional and managerial jobs, and nearly $200 billion more in income. And if America practices equality in housing, then African Americans would own 3 million more homes. If America had equality in access to capital and wealth, then African Americans would have $1 trillion more in wealth.

Mr. Speaker, although we passed the Emancipation Proclamation and although we have come a great distance, there are still some roads to travel. So I encourage all of my colleagues to embrace and support this resolution as a tool to reflect the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and know how we can build a better future.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Illinois, the Land of Lincoln, (Mr. LAHOOD), my distinguished colleague.

□ 1315

Mr. LAHOOD. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for this important concurrent resolution.

Mr. Speaker, it is with great enthusiasm that I rise in support of House Concurrent Resolution 36 offered by my friend and colleague, the gentleman from Illinois (Mr. DAVIS). The Emancipation Proclamation transformed the Civil War into a war of liberation, and changed American history forever.

140 years ago last month the United States took the first bold step towards a new birth of freedom. Abraham Lincoln was well aware of the epic importance of the Emancipation Proclamation. Before signing it in his office in the White House on January 1, 1863, he looked at those around him and remarked: "I never in my life felt more certain that I was doing right than I do in signing this paper."

His hand was sore from greeting thousands of guests at the annual New Year's reception; and he took a moment to steady his hand, unwilling to have his signature appear wavering or hesitant. Finally, he signed the document with his full name, as he very rarely did.

Lincoln's issuance of the Emancipation Proclamation was a remarkable act of political courage. After the preliminary proclamation was released on September 22, 1862, reaction in the North was harshly critical. The Republican Party lost seats in the congressional elections that year, and New York City later erupted into riots, partly as a result of the outrage over the proclamation. The year after the proclamation was issued, President Lincoln wrote: "I am naturally antislavery. If slavery is not wrong, nothing is wrong."

It was this core principle, combined with enormous courage, that led the President to draft and sign the historic document we celebrate today. One of Lincoln's most distinguished biographers has called the proclamation the single most revolutionary document in our history after the Declaration of Independence.

Yet Lincoln clearly defined the Emancipation Proclamation as a war measure justified by military necessity. He knew that the permanent destruction of slavery would require more than a proclamation signed by the President. Therefore, he labored mightily to ensure the passage of the 13th amendment abolishing slavery forever. Lincoln had so identified himself with the cause of freedom by the end of the war that he signed the 13th amendment, though not constitutionally required to do so.

The legacy of Lincoln as the emancipator will be among the subjects addressed by the Abraham Lincoln Bicentennial Commission, on which I am honored to serve as co-chair. Created by the Congress, comprised of scholars, collectors, political leaders, and jurists, the commission is charged with planning the annual celebration of Lincoln's 250th birthday.

Therefore, as a representative of the same district that sent Abraham Lincoln to Congress for one term, and as the co-chair of the Abraham Lincoln Bicentennial Commission, I urge all of my colleagues to support this important continuing resolution.

Again, I thank both the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Mr. DAVIS) for this important concurrent resolution brought to the House floor today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe that I have any other requests for time, but I would indicate that I am again pleased and proud to live in the State of Illinois, the home of Lincoln, the man who signed the Emancipation Proclamation and made a great movement towards freeing the slaves in this country.

I also want to thank my colleague, the gentleman from Illinois (Mr. LAHOOD), for his comments, and again thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), the chairman of the subcommittee, for her co-sponsorship and swift action on moving this resolution to the floor; and I urge all of my colleagues to support this concurrent resolution.

Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield 5 minutes to my colleague, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 36, which encourages the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation, and commend President Abraham Lincoln's efforts to end slavery in the United States.

140 years ago a bloody war still raged across our land, a war that cost the lives of more Americans than all other wars in our history combined. This summer will mark the turning point of that war as we celebrate the 140th anniversary of the Battle of Gettysburg.

Earlier, on September 22, 1862, President Abraham Lincoln took the first step toward establishing as the object of the Civil War the total abolition of slavery. He and his political party, the Republican Party, had made as their first goal the restriction of the expansion of slavery. Now he would make the Nation's goal the abolition of slavery itself.

Boldly, Lincoln declared free all those persons held as slaves within the insurgent States as of January 1, 1863. This was a daring political move which was strongly opposed by the Democratic Party of that day. After the end of the Civil War and Lincoln's assassination in 1865, his fellow Republicans in Congress and in State legislatures got passed and ratified the 13th amendment to the Constitution, totally abolishing slavery in the United States.

Our Civil War was turned by President Abraham Lincoln, it was turned from just a civil war between States into a moral crusade against the abomination of human slavery. President Lincoln knew that all war brings suffering, and he knew that we had to make sure that the ends of any war must justify the suffering that war entails. As a Republican, I am proud to claim Lincoln's legacy for the Republican Party and the principles of liberty for all Americans, regardless of race and color.

Recently, I had the opportunity to appear in the Civil War movie "Gods and Generals." I portrayed an officer in the Union Army staff of Colonel Joshua Chamberlain, and I was proud to wear that blue Union uniform that fought for the noble cause of ending slavery and freeing those held in human bondage.

Today our Nation stands on the brink of another war, a war that will also bring suffering, like all wars do, but will, like our Civil War, have noble ends. The liberation of people and destruction of evil are indeed noble ends.

In the movie "Gods and Generals," Colonel Joshua Chamberlain understood that principle, and understood that these principles are worth fighting for and dying for. In one scene, he turns to his brother and observes: "I will admit it, Tom, war is a scourge, but so is slavery. It is the systematic coercion of one group of men over another. It is as old as the Book of Genesis, and has existed in every corner of the globe, but that is no excuse for us to tolerate it here when we find it before our eyes and in our own country."

The Civil War still has the power to stir modern-day controversy. Nevertheless, I hope that 140 years after the issuance of the Emancipation Proclamation that all Americans will join us in celebrating President Lincoln's efforts to end slavery; and this legacy, this legacy should unite all Americans as we strive to make this a country, even though we still have faults, though we have many things to overcome, to try our best to correct those faults that we have; but we can be united to try to make this a country with liberty and justice for all.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would again like to thank my distinguished colleague, the ranking member on the Subcommittee on Civil Service and Agency Organization, for introducing this important piece of legislation.

Mr. TIAHRT. Mr. Speaker, I rise today to voice my support for H. Con. Res. 36, a resolution encouraging the people of this nation to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending President Abraham Lincoln's effort to end slavery. In issuing the Emancipation Proclamation on September 22, 1862, President Lincoln performed one of the most important and far-reaching acts that our nation has ever undertaken.

Following the Union's costly victory at the Battle of Antietam, President Lincoln concluded that the emancipation of slaves was not only a military necessity, but more importantly, a moral imperative. Thus, President Lincoln issued his landmark decree. He was aware of the historical significance of this action, but with victory in the war still very much in doubt, was unsure of its ultimate consequences. In closing the Proclamation, Lincoln wrote, "And upon this Act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God."

By issuing the Emancipation Proclamation, President Lincoln made it clear to Americans and the rest of the world that the Civil War was not about simply preserving the Union; in fact, the Civil War was now being fought to bring an end to the evil of slavery. Further, the Proclamation reconciled one of the fundamental dichotomies of the early American experience; the self-evident truths outlined in the Declaration of Independence and the existence of the institution of slavery.

In closing, it is fitting that we pause to remember this watershed moment in our nation's history. We shouldn't, and I don't believe we ever will, forget the horror of slavery. On the same note, I doubt we will ever forget the lessons of the years that have followed the Emancipation Proclamation and the end of the Civil War—the struggle for equal rights, equal opportunities, and equal treatment under the law for all women and men, regardless of religion, race, or political beliefs.

I am grateful for this opportunity to honor President Abraham Lincoln and the brave men who fought to ensure that the Emancipation Proclamation applied to the whole nation. May God continue to bless America and help us spread worldwide the knowledge that all men are created equal and should be treated as such.

Mr. PAUL. Mr. Speaker, I am pleased to support H. Con. Res. 36. Friends of human liberty should celebrate the end of slavery in any country. The end of American slavery is particularly worthy of recognition since there are few more blatant violations of America's founding principles, as expressed in the Constitution and the Declaration of Independence, than slavery. In order to give my colleagues, and all Americans, the opportunity to see what President Lincoln did and did not do, I am inserting the Emancipation Proclamation into the RECORD.

While all Americans should be grateful that this country finally extinguished slavery following the Civil War, many scholars believe that the main issue in the Civil War was the proper balance of power between the states and the federal government. President Lincoln himself made it clear that his primary motivation was to preserve a strong central government. For example, in a letter to New York Tribune editor Horace Greeley in 1862, Lincoln said: "My paramount object in this struggle is to save the Union, and it is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing some and leaving others alone I would also do that. What I do about slavery, and the colored race, I do because I believe it helps to save the Union."

In conclusion, Mr. Speaker, I encourage all freedom-loving Americans to join me in celebrating the end of slavery.

THE EMANCIPATION PROCLAMATION

By the President of the United States of America:

A PROCLAMATION

Whereas on the 22nd day of September, A.D. 1862, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

"That on the 1st day of January, A.D. 1863, all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free; and the executive government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

"That the executive will on the 1st day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State or the people thereof shall on that day be in good faith represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such States shall have participated shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State and the people thereof are not then in rebellion against the United States."

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-In-Chief of the Army and Navy of the United States in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this 1st day of January, A.D. 1863, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the first day above mentioned, order and designate as the States and parts of States wherein the people thereof, respectively, are this day in rebellion against the United States the following, to wit:

Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Palquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terrebone, Lafourche, St. Mary, St. Martin, and Orleans, including the city of New Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northhampton, Elizabeth City, York, Princess Anne, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts are for the present left precisely as if this proclamation were not issued.

And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States are, and henceforward shall be, free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all case when allowed, they labor faithfully for reasonable wages.

And I further declare and make known that such persons of suitable condition will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.

Mr. WELLER. Mr. Speaker, I rise today to honor the 140th Anniversary of the Emancipation Proclamation.

On January 1, 1863, as the nation approached its third year of the Civil War, President Abraham Lincoln issued the Emancipation Proclamation to grant freedom to all slaves. The proclamation declared "that all persons held as slaves . . . shall be then, thenceforward, and forever free".

Not only did the Proclamation liberate the slaves, but it announced the acceptance of black men into the Union Army and Navy. By the end of the war, almost 200,000 black soldiers and sailors had fought for the Union and freedom.

Mr. Speaker, the Emancipation Proclamation can be considered one of the greatest documents of human freedom. I am honored to speak on the House floor today with my highest regards to President Lincoln's actions and accomplishments.

I am proud to say that Abraham Lincoln was elected to the state legislature in my home state of Illinois in 1834. He served the wonderful people for four successive terms until he was later elected in Congress in 1846.

Mr. Speaker, I applaud and commend Abraham Lincoln's efforts to abolish slavery and I would like to encourage the citizens of the United States to celebrate the 140th Anniversary of the Emancipation Proclamation. Thank you.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 36.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EMERGENCY SECURITIES RESPONSE ACT OF 2003

Mr. GARRETT of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 657) to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission, as amended.

The Clerk read as follows:

H.R. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Securities Response Act of 2003".

SEC. 2. EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES EXCHANGE COMMISSION.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)(2)) is amended to read as follows:

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

"(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of (I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets, or (II) the transmission or processing of securities transactions (other than transactions in exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), the Commission's action may not continue in effect for more than 30 business days, including extensions.

"(C) An order of the Commission under this paragraph (2) may be extended to continue in effect for more than 30 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 30 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph (2) continue in effect for more than 90 calendar days.

"(D) If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(E) Notwithstanding the exclusion of exempted securities (and markets therein) from the Commission's authority under subparagraph (A), the Commission may use such authority to take action to alter, supplement, suspend, or impose requirements or restrictions with respect to clearing agencies for transactions in such exempted securities. In taking any action under this subparagraph, the Commission shall consult with and consider the views of the Secretary of the Treasury.".

(b) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)) is further amended by striking paragraph (6) and inserting the following:

"(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

"(7) DEFINITIONS.—

"(A) EMERGENCY.—For purposes of this subsection, the term 'emergency' means—

"(i) a major market disturbance characterized by or constituting—

"(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

"(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

"(i) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

"(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

"(II) the transmission or processing of securities transactions.

"(B) SECURITIES LAWS.—Notwithstanding section 3(a)(47), for purposes of this subsection, the term 'securities laws' does not include the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.).".

SEC. 3. PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–5) is amended by adding at the end the following new subsection:

"(h) EMERGENCY AUTHORITY.—The Secretary may by order take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary thereunder, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) of this title with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. GARRETT) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

GENERAL LEAVE

Mr. GARRETT of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 657.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARRETT of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise now in support of adoption of H.R. 657. This is a bill that would amend the Securities and Exchange Act of 1934, and it will augment the emergency authority of the Securities and Exchange Commission.

The SEC played a crucial role in the recovery of our financial markets from the devastating effects of the terrorist attacks back on September 11. This legislation now extends that emergency authority and also the flexibility of the SEC from 10 business days to 30 business days, with the possibility of an additional 90 days thereafter, to respond to emergency situations such as 9-11. By extending this emergency authority, this bill will ensure that the SEC has the ability to immediately provide stability and liquidity to our markets following such an emergency as that.

After the damage to Lower Manhattan on September 11, which, as we know, Mr. Speaker, is the home of the world's stock market, the New York Stock Exchange, they suspended the operations of the U.S. equities market for the longest time since World War I.

To facilitate the planned reopening of our markets, the SEC used for the first time ever its emergency powers to temporarily ease regulatory restrictions. All of the security markets were open, amazingly, for trading by September 17, 2001. The actions of the SEC ensured an orderly reopening of the markets, something that was in the interests of everyone, the economy and investors alike.

H.R. 657, what it does further is to eliminate any question that anyone may have of the SEC's abilities to increase liquidity and extend the duration of the relief to our marketplace. Should, unfortunately, another financial crisis occur, I am confident that by us giving them this emergency authority, they will be able to restore fair and orderly markets and prevent substantial disruption to our marketplace.

Mr. Speaker, I would also point out that the manager's amendment that we have that I am offering today amends this legislation to clarify a couple of points: first of all, the exclusion for exempted securities from the new emergency authority that the bill grants to the SEC. What this does is it preserves the regulation of government securities as it stands under the current law with respect to the Secretary of the Treasury.

It also extends the SEC's emergency authority to clearing organizations for exempted securities, so the commission will be able to take actions regarding clearing of the government securities. In addition to this, the Commission is required now under these amendments to consult with the Treasury prior to using their authority.

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It requires a commission to consult with the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission to, of course, the extent practical under the circumstances prior to its using its national emergency authority to suspend trading in our national marketplace.

When you think about it, this is really simply good government. The commission did consult with its fellow financial regulators during the aftermath of September 11 in order to determine what steps were necessary at that time. And so what we are doing with this legislation now is it will ensure that this commonsense practice that they did in the past, that they will do in the future as well.

Finally, this amendment grants to the Secretary of the Treasury new emergency authority similar to what the bill granted to the Commission. This new authority will enable the Treasurer to take action by order as opposed to rulemaking. Now this new authority, it should be clearly pointed out here, is specifically limited to apply only to matters under the Treasurer's existing regulatory position that affects government securities. So it does not, for example, grant the Treasurer the authority to close down the government securities market.

I would also like to point out, Mr. Speaker, that this amendment does not specifically require the commission to consult with its sister regulators prior to using the emergency authority that this bill sets out under 12(k)(2), the section that does not address trading suspension. And there is a reason for this. This is because there are instances in which the commission would be using its emergency authority to address issues that do not have to have an impact on areas within other financial regulatory authority. For example, lifting the requirement that mutual fund directors meet in person, in the event travel is rendered difficult or impossible because of such an emergency as that.

However, it is my expectation that the commission will consult with the Secretary of the Treasury and the other regulators at the time, as I mentioned previously, prior to using their new authority, where such use would have a broad financial market impact and would affect areas within those entities, their particular entities' jurisdiction. And this is exactly what the commission did back on 9/11 when the emergency occurred.

I would also expect the commission to apply this cooperative and, as I said earlier, commonsense approach to this new emergency authority by ensuring that all affected regulators are consulted whenever necessary.

When we think back now, back to September 11, 2001 and the terrorist attacks and how much they inflicted great human and physical loss in New Jersey and upon the constituents in New Jersey's Fifth Congressional District, my district, in the event of another large-scale disaster, the Emergency Response Security Act here before us gives the SEC the additional emergency authority to protect the operational resilience of our financial markets. This legislation ensures the health and future of America's economy which relies heavily upon the future of America's economy and upon the access to our markets.

This is an impact that we saw after 9/11 that impacted the constituents, as I indicated previously, the constituents in the Fifth Congressional District. As the Speaker is aware my district is made up of four counties: Sussex, Warren, Passaic, and Bergen Counties. Many of the people are involved with the securities markets just over the Hudson River in New York City where the New York Stock Exchange is located. Not only did these individuals have relatives and loved ones who were lost in the terrorist attack on 9/11, but many of them were directly impacted by the financial consequences that followed thereafter. The SEC was able to, due to the emergency authority that they had at that time, had within their purview the powers to address the situation and get the marketplace up and running within a week's period of time.

The bill that we have before us now allows us to ensure that that will occur in the future.

Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for their support and swift action on this legislation. I thank the gentleman from Illinois (Mr. EMANUEL) for his support across the aisle.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume rise.

Mr. Speaker, I rise in support of the adoption of H.R. 657, a bill to provide the Securities and Exchange Commission with additional emergency powers.

As my colleagues know, the SEC played a crucial role in the recovery of our financial markets from the devastating effects of September 11, 2001 terrorist attacks. In addition to the important role the commission played in coordinating market participants throughout the crisis, the emergency orders issued by the SEC helped to provide needed liquidity and stability to the stock markets. The actions of the SEC also helped to ensure an orderly reopening of our capital markets, something that was in the interest of our economy and all investors.

Under our current law the SEC has the authority to issue emergency orders up to 10 business days in order to preserve orderly securities trading, clearance, and settlement. Following the terrorist attacks, the SEC used this authority for the first time to ease a variety of securities regulations including broker-dealer capital rules related to uncleared trades and restrictions on public companies' repurchase of their own securities. The SEC later used its general exemptive authority to extend some of the emergency provisions beyond the initial 10 business days in order to address continued lags in clearance and other areas, as well as to temporarily suspend certain investment company requirements.

While the SEC very effectively used its existing emergency powers after the 2001 terrorist strikes, I believe this authority could be further strengthened. At congressional hearings shortly after the attacks, the SEC expressed similar views about the adequacy of its emergency power. The formal legislative request later submitted by the SEC asked that we provide the agency with additional emergency authority to respond to any further crises both by extending the potential length of the emergency orders and by extending the authority to clearly cover all of the Federal securities laws.

In 2001 the Committee on Financial Services worked with the commission and other interested parties to craft an appropriate framework for any future emergency actions that the SEC may need to take. The Emergency Securities Response Act subsequently passed the House by a voice vote but it did not become law during the 107th Congress. As a result, we must consider this matter anew in the 108th Congress.

The bill before us today makes a number of improvements to current law. For example, it expands the SEC's emergency authority to cover all of the Federal securities laws. The bill further permits the SEC to issue emergency orders for 30 business days, which I believe will give the SEC the flexibility needed to ensure they can respond in a timely and effective manner to any future emergency. The legislation also provides the commission with the authority in limited circumstances to extend emergency orders for an additional 90 days upon the finding that the emergency continues to exist and that an extension of the orders continues to be necessary and in the public interest.

As it became clear after the 2001 terrorist attacks, serious disruptions in communications, computer systems, transportation, and many other systems, as well as the physical damage to facilities, can have profound effects on the securities markets and market participants. This bill will give the SEC an expanded set of tools to address such emergencies throughout the securities markets, no matter what the underlying cause of the emergency may be.

Mr. Speaker, this bill also is a tribute to the leadership of Harvey Pitt when he was chairman of the SEC Commission. And although Mr. Pitt has now left the commission and probably has been criticized for many people for many things, I think the record should reflect that in regard to handling the crises during 2001 and working with the Congress thereafter to provide for orderly markets, no other chairman of the SEC expressed greater powers and controls with greater responsibility than Harvey Pitt.

Mr. Speaker, I urge the adoption of H.R. 657, the Emergency Securities Response Act.

Mr. Speaker, I reserve the balance of my time.

Mr. GARRETT. Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. KANJORSKI) for his leadership on this important legislation and I thank him for yielding me time.

Mr. Speaker, I rise in strong support of the Emergency Securities Response Act, legislation intended to assist the recovery of the securities markets in the event of another major terrorist attack or emergency.

The terrorist attacks of September 11, 2001 wreaked a tremendous toll on my city of New York, the center of the world financial markets. As we all know, the loss of life, buildings, property, and communications equipment prevented the reopening of the financial markets until September 17. While the stock market went down the day it opened, the most important thing was that it was opened and functioning. This was a major boost in confidence for the economy, for New York City, and for the entire Nation.

For their roles in reopening the markets, the SEC and the other regulators deserve much credit. Without their work, the economic fallout of the attack would have been even more serious and harmed more people. The legislation we are voting on today is intended to give the SEC additional flexibility to deal with just such a situation should we face another terrorist attack, disaster or emergency.

The Emergency Securities Response Act extends the commission's emergency authority from 10 to 30 days and up to 90 days in certain circumstances. This legislation is necessary because we know that our Nation's financial infrastructure is a frontline target in the war against terrorism. The World Trade Center was a symbol of the United States' economy.

I truly want to compliment the leaders of other such symbols of our economy in New York. The New York Stock Exchange and the New York Mercantile Exchange have done an extremely good job not only during that emergency, but since, in their efforts to upgrade security to almost fortress-like levels. I would like to thank the gentleman from Ohio (Mr. OXLEY), the gentleman from Massachusetts (Mr. FRANK), the ranking member, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from New Jersey (Mr. GARRETT) for their work on this issue. And I truly hope we never have to use the powers this legislation grants the SEC. I truly hope we will never have such an emergency again. But I strongly support this legislation.

Mr. KANJORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GARRETT of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 657, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING PRESIDENT TO AGREE TO CERTAIN AMENDMENTS TO AGREEMENT ESTABLISHING A BORDER ENVIRONMENT COOPERATION COMMISSION AND A NORTH AMERICAN DEVELOPMENT BANK

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 254) to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

The Clerk read as follows:

H.R. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

(a) IN GENERAL.—Part 2 of subtitle D of title V of Public Law 103–182 (22 U.S.C. 290m—290m-3) is amended by adding at the end the following:

"SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

"The President may agree to amendments to the Cooperation Agreement that—

"(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

"(2) amend the definition of 'border region' to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States and Mexico.".

(b) CLERICAL AMENDMENT.—Section 1(b) of such public law is amended in the table of contents by inserting after the item relating to section 544 the following:

"Sec. 545. Authority to agree to certain amendments to the Border Environment Cooperation Agreement.".

SEC. 2. ANNUAL REPORT.

The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report on the North American Development Bank, which addresses the following issues:

(1) The number and description of the projects that the North American Development Bank has approved. The description shall include the level of market-rate loans, non-market-rate loans, and grants used in an approved project, and a description of whether an approved project is located within 100 kilometers of the international boundary between the United States and Mexico or within 300 kilometers of the international boundary between the United States and Mexico.

(2) The number and description of the approved projects in which money has been dispersed.

(3) The number and description of the projects which have been certified by the Border Environment Cooperation Commission, but yet not financed by the North American Development Bank, and the reasons that the projects have not yet been financed.

(4) The total of the paid-in capital, callable capital, and retained earnings of the North American Development Bank, and the uses of such amounts.

(5) A description of any efforts and discussions between the United States and Mexican governments to expand the type of projects which the North American Development Bank finances beyond environmental projects.

(6) A description of any efforts and discussions between the United States and Mexican governments to improve the effectiveness of the North American Development Bank.

(7) The number and description of projects authorized under the Water Conservation Investment Fund of the North American Development Bank.

SEC. 3. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION FOR TEXAS IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE LOWER RIO GRANDE RIVER VALLEY.

(a) FINDINGS.—The Congress finds that—

(1) Texas irrigators and agricultural producers are suffering enormous hardships in the lower Rio Grande River valley because of Mexico's failure to abide by the 1944 Water Treaty entered into by the United States and Mexico;

(2) over the last 10 years, Mexico has accumulated a 1,500,000-acre fee water debt to the United States which has resulted in a very minimal and inadequate irrigation water supply in Texas;

(3) recent studies by Texas A&M University show that water savings of 30 percent or more can be achieved by improvements in irrigation system infrastructure such as canal lining and metering;

(4) on August 20, 2002, the Board of the North American Development Bank agreed to the creation in the Bank of a Water Conservation Investment Fund, as required by Minute 308 to the 1944 Water Treaty, which was an agreement signed by the United States and Mexico on June 28, 2002; and

(5) the Water Conservation Investment Fund of the North American Development Bank stated that up to $80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; and

(2) the Board of the North American Development Bank should support qualified water conservation projects which can assist Texas irrigators and agricultural producers in the lower Rio Grande River Valley.

SEC. 4. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION IN THE SOUTHERN CALIFORNIA AREA.

It is the sense of the Congress that the Board of the North American Development Bank should support—

(1) the development of qualified water conservation projects in southern California and other eligible areas in the 4 United States border States, including the conjunctive use and storage of surface and ground water, delivery system conservation, the re-regulation of reservoirs, improved irrigation practices, wastewater reclamation, regional water management modeling, operational and optimization studies to improve water conservation, and cross-border water exchanges consistent with treaties; and

(2) new water supply research and projects along the Mexico border in southern California and other eligible areas in the 4 United States border States to desalinate ocean seawater and brackish surface and groundwater, and dispose of or manage the brines resulting from desalination.

SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS FOR WHICH FINANCE WATER CONSERVATION FOR IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE SOUTHWEST UNITED STATES.

(a) FINDINGS.—The Congress finds as follows:

(1) Irrigators and agricultural producers are suffering enormous hardships in the southwest United States. The border States of California, Arizona, New Mexico, and Texas are suffering from one of the worst droughts in history. In Arizona, this is the second driest period in recorded history and the worst since 1904.

(2) In spite of decades of water conservation in the southwest United States, irrigated agriculture uses more than 60 percent of surface and ground water.

(3) The most inadequate water supplies in the United States are in the Southwest, including the lower Colorado River basin and the Great Plains River basins south of the Platte River. In these areas, 70 percent of the water taken from the stream is not returned.

(4) The amount of water being pumped out of groundwater sources in many areas is greater than the amount being replenished, thus depleting the groundwater supply.

(5) On August 20, 2002, the Board of the North American Development Bank agreed to the creation in the bank of a Water Conservation Investment Fund.

(6) The Water Conservation Investment Fund of the North American Development Bank stated that up to $80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank;

(2) the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers; and

(3) the Board of the North American Development Bank should take into consideration the needs of all of the border states before approving funding for water projects, and strive to fund water conservation projects in each of the border states.

SEC. 6. ADDITIONAL SENSES OF THE CONGRESS.

(a) It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, which address coastal issues and the problem of pollution in both countries having an environmental impact along the Pacific Ocean and Gulf of Mexico shores of the United States and Mexico.

(b) It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, which address air pollution.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Texas (Mr. GONZALEZ) each will control 20 minutes.

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Ms. KAPTUR. Mr. Speaker, I would like to claim time in opposition, please.

The SPEAKER pro tempore (Mr. TERRY). Is the gentleman from Texas opposed to the motion?

Mr. GONZALEZ. Mr. Speaker, I am not opposed to H.R. 254. So it is my understanding that my colleague from Ohio would then be controlling the entire 20 minutes in opposition.

The SPEAKER pro tempore. The gentlewoman from Ohio does qualify for the time in opposition.

The gentlewoman from Illinois (Mrs. BIGGERT) is recognized.

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 254, a bill that makes critical changes to the operation of the North American Development Bank. I would like to thank the gentleman from Nebraska (Mr. BEREUTER) for his hard work on this piece of legislation and for building broad bipartisan support for the bill.

H.R. 254 was approved by voice vote in the Committee on Financial Services and is identical to legislation approved by the body in the 107th Congress. This bill is supported by the administration and is part of the President's priorities to improve conditions along our border with Mexico.

The NADBank was created through the North American Free Trade Agreement, or NAFTA Accord, of 1994 and was funded equally by the United States and Mexico. The purpose of the NADBank is to respond to concerns that the increase in commerce along the border region would result in a rise in pollution.

This is a commendable goal and the NADBank is well funded to reach this goal. It has over $450 million in paid-in capital and a total lending capacity of $2.7 billion; yet over the past several years, the NADBank has only approved the disbursement of $59 million in funds.

The changes we make today in the NADBank will allow this institution to fulfill its mission of financing environmental infrastructure projects along the U.S.-Mexico border without resulting in any additional cost to the American taxpayer.

H.R. 254 will allow the NADBank to make below-market-rate loans for qualified projects. This is an important change and will permit this institution to truly assist this region by offering its products to the largest number of qualified environmental infrastructure projects.

In addition, H.R. 254 extends the area of operation to 300 kilometers from the border into Mexico. This expansion of the operating area will allow the NADBank to approve more worthy projects.

This bill also contains several important senses of the Congress which were crafted with the input of Members from several border States affected by the NADBank. This section calls for the NADBank to play close attention to water conservation, coastal pollution and air pollution projects. Finally, H.R. 254 will require the Treasury Department to report to Congress annually on the operations of the bank.

This bill will go a long way to help build upon the close relationship between the U.S. and Mexico and will improve the environmental conditions along the border.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 26, 2003.

STATEMENT OF ADMINISTRATION POLICY ON H.R. 254—NORTH AMERICAN DEVELOPMENT BANK AND BORDER ENVIRONMENT COOPERATION COMMISSION AUTHORIZATION

The Administration strongly supports passage of H.R. 254, which authorizes key reforms of the North American Development Bank (NADB) and the Border Environment Cooperation Commission (BECC). Since taking office, President Bush has worked closely with Mexico's President Fox to make these institutions more effective in addressing the critical environmental needs of the communities of the U.S.-Mexico border region and, thus, improve the quality of life for the region's 12 million residents. To achieve these goals, the two Presidents agreed on a package of NADB/BECC reforms in March 2002.

H.R. 254 will enable the United States to move forward to implement two of the most important NADB/BECC reforms. The bill would allow the NADB to make its financing more affordable by allowing it to make grants and non-market rate loans out if its paid-in capital. H.R. 254 also would authorize the geographic expansion of NADB/BECC activity in Mexico, which would allow the institutions to address important environmental issues that may affect communities on both sides of the border, but whose origin may lie outside their currently defined region of operation.

Passage of H.R. 254 will demonstrate the United States' strong bilateral cooperation with Mexico and commitment to environmental protection, and would strengthen the ability of the NADB and the BECC to perform their important environmental mission. The Administration urges its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this legislation with mixed feelings, because the need for environmental remediation along the border is extraordinary; and I wish to express my deepest respect for my colleagues, the gentlewoman from Illinois (Mrs. BIGGERT), the gentleman from Nebraska (Mr. BEREUTER), the gentleman from Texas (Mr. GONZALEZ), the gentleman from Texas (Mr. HINOJOSA), and those who have worked to bring this matter to the floor.

I rise in opposition because I really do not believe this should come to us under a suspension. I think that the issues concerning us all out of NAFTA, and NADBank in particular, deserve the full engagement of this Congress. And I think Members should pay attention to this legislation that was brought up very quickly and out of a single committee, a committee on which I do not serve, and this is my only way of informing the membership of issues at stake relating to NADBank and adjustment to NAFTA.

As an appropriator in this Congress, I have to express the view that NADBank in and of itself deserves a very, very close look by Congress because if we look back to NADBank's establishment, it had a very curious beginning. It existed only as a side agreement that was tacked on to the original NAFTA trade agreement that was passed by a narrow margin here in Congress in 1993.

NADBank was sort of an afterthought. I can remember the gentleman from California who helped negotiate it, but it never had a separate debate in this Congress. Its functions, its operations have never been separately debated here, and now we are asking for amendments to something we have never had a full debate on in this Congress.

NADBank's shortcomings are vast, and it operates in a most unusual and atypical fashion, outside the normal jurisdictions of our Committee on Appropriations. The gentlewoman from Illinois (Mrs. BIGGERT) mentioned it has a half a billion dollars of capitalization. Some of it came from the general revenues of the United States, the people of our country, and the remainder from the people of Mexico; but even though it has a half a billion dollars of capitalization, it comes in the form of several pieces that wash through various appropriations subcommittees. It has no real home. Some might say its jurisdiction is segmented. Others might say it truly is haphazard and hard to get your arms around. The American people deserve better.

Indeed, NADBank operationally as a bank is a moving target, looking for a home in the Federal Government. It technically resides in the Department of Treasury. Yet its loan and grant authorities float mysteriously between the U.S. Department of Agriculture, the Small Business Administration, and a growing role for the Environmental Protection Agency, EPA, which all manage to somehow, in ways unknown to Congress, subsidize the activities of NADBank.

What we do not know about NADBank far surpasses what, in fact, any individual Member of Congress might know. I know that Members who live along the border have a horrible environmental problem that they are dealing with. I have seen the cesspools being created by industrial production and agricultural production with no funds for environmental remediation.

We tried to build environmental provisions into the original NAFTA. They were rejected. They were rejected and now, with the billions of dollars of commerce occurring across the border, who is being asked to pay for the environmental remediation? Not the companies creating the damage, but the taxpayers of the United States of America.

This is a chart showing the trade deficit with Mexico. Before NAFTA's signing, we had a positive balance with Mexico, both ways. Since NAFTA's passage, every single year we have moved as a Nation into deeper and deeper trade deficit with the nation of Mexico, as well as Canada. We have lost over three million jobs in this country due to NAFTA; and the people of Mexico have had their wages cut in half, and now 250 million jobs in northern Mexico and those maquiladoras are moving to China where the wages are even cheaper.

We ought to revisit NAFTA. It is 10 years since its passage and millions and millions of people are being harmed. Indeed, the most harmed, in my opinion, are the peasants coming off the ejido system in Mexico who have no voice and no representation, and they deserve it in this highest Chamber of our government.

NADBank should realistically deal with these adjustments and it does not. We should not just have a suspension bill that deals with two or three small provisions. We should deal with the fundamentals of this agreement and the giant holes that are in it.

In the United States, in a State like my own—and here is a current chart of this showing our unemployment—the dark green covers counties in our State with the highest rates of unemployment. One of the five top States in the Union to lose jobs because of NAFTA, most recently Dixon Ticondaroga Pencil and Crayon Company in Sandusky, Ohio, and also Phillips Electronics, in Ottawa, Ohio, over 2000 more jobs have relocated to Mexico.

We know a lot about NAFTA and its impact, and yet we look at the NADBank regulations and which counties have they helped with all the job loss in Ohio? Well, they picked one here and they picked one here and they picked one here to try to give a minimal amount of assistance. But there is no regularity, frankly no real help. NAFTA's NADBank has no regularity with which it deals with the huge job loss that these trade deficits represent.

The bill that is before us expands the area of eligibility for NADBank, as my colleagues rightly wish to do, by about 200 additional kilometers down into Mexico. But it does absolutely nothing to provide support to the thousands of communities across our Nation that have also lost jobs to Mexico.

My problem is NADBank's reach is not great enough. In fact, the part of the bank with the least staff and support, called CAIP, C-A-I-P, the Community Adjustment and Investment Program, has just experienced the resignation of its director and the Bush Administration has proposed no funding for future grants.

As an appropriator, I want to help the NADBank for all of America. NADBank will not let me help it, and this debate will not let me find an appropriate way in which to pay for the adjustment that is so essential not just in Ohio but in California, in Tennessee, Oregon, south Florida and so many other places that have lost jobs because of NAFTA.

So the problem with NADBank is not the limited area of Mexico where more of our tax dollars will be used to remediate environmental disasters, because NAFTA is silent on the environment, but the fact that NADBank's reach is too limited. It ought to reach to places like Detroit and Sandusky, Ohio, and east Tennessee's and South Carolina's textile belts, in south Florida, in Galesburg, Illinois, where Maytag just announced it is shutting down and moving to Mexico, and south Chicago's loss of Brach's candy and Buffalo, New York, with the loss of Trico corporation.

Indeed, NADBank in the last 2 fiscal years has issued only six direct loans: three in the border area, two in North Carolina, and one in Virginia. Imagine, six loans and thousands of lost companies in this country and millions of lost jobs after 10 years. NADBank has far too little to show for its existence. With half a billion dollars, what has it been doing?

So I would say to my colleagues who have absolutely wholesome and extraordinarily important concerns here today in trying to extend NAFTA's environmental provisions through NADBank to cover a larger proportion of Mexico's to our border countries problems, look at the fundamentals. I think the administration wants to piecemeal with this suspension bill and find ways to try to fix an agreement that fundamentally needs a broader look.

I would urge my colleagues to vote "no" on this suspension bill today in order that we can have that broader debate. We need so many adjustments in NADBank and NAFTA.

First, we need an agricultural adjustment provision. Part of the illegal immigration coming into our country is because there are no agricultural provisions under NAFTA, and NADBank is absolutely unrealistic in the manner in which it deals with the exodus in the Mexican countryside. NAFTA is a huge continental disaster for them. Indeed, people's lives are being lost every day because we choose to ignore their pain. Let us be voices for the most powerless people on this continent.

We need a continental labor registration system for agricultural labor. It is wrong what happened to those 14 people in that truck in Omaha dying because they were brought up here as bonded workers. We need a continental solution to that travesty.

In terms of the environment, why should the taxpayers of our country be asked to pay for the damage these corporations are doing? The corporations involved in this border trade, they ought to pay, because they are the ones creating the mess. We have done the very same kind of program here in our own country to let those responsible pay for the environmental damage that they are doing.

In terms of NADBank, to help our communities readjust whether they are Illinois, whether they are Ohio, whether they are California, let us look at a NADBank that can function to meet the reality of the job loss across this Nation and harm across our continent.

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Today we are being asked with this suspension to just take the tail on the dog. I am asking the Congress to embrace the dog. This is my only opportunity to do it. On the 10th anniversary of NAFTA, can we not finally be adults and recognize the continental situation that we, as elected officials at the highest levels of our government, have a responsibility to remediate? It is time. It is time.

I realize that the bill that is before us technically is much more narrowly cast, but it is our only vehicle. Give a few more weeks, a few more opportunities for Members to weigh in. I think we could create a measure that truly, on NAFTA's 10th anniversary, would help our continent deal with the pain and suffering of workers in our Nation and continent.

And by the way, the Department of Labor has made the decision not to count the workers in our country who are losing their jobs because of NAFTA today. That has now been stopped. What kind of a system is this? What kind of government is this? We have a responsibility to displaced workers to certify their communities for eligibility for programs like NADBank we must know where those jobs are being lost. So many pieces of this continental puzzle need to be put together in a tidy package. We are not presented with that package today.

So I would just for the purposes of colloquy end my formal remarks now, in the event some of my colleagues, such as the gentleman from Texas (Mr. GONZALEZ) or the gentleman from Texas (Mr. HINOJOSA) or the gentleman from California (Mr. FILNER) wish to comment at this point. This is just an awfully important question for our continent. We are the people who can make life better. It is our time. It is our watch. We ought to make it better for people who do not have voice in this Chamber.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. GONZALEZ), and I ask unanimous consent that he be permitted to control that time.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. GONZALEZ) is recognized.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

and I thank my colleague from Illinois for this opportunity.

Of course, I rise in strong support for passage of H.R. 254. I have great admiration for my colleague from Ohio who stands in opposition to 254 today, but we do have a fundamental difference of opinion. This piece of legislation was not intended in any way to revisit, reopen, recast, or rescind the North American Free Trade Agreement, the treaty itself; rather, it is to improve an institution that was created to assist in any problems that would be encountered as a result of the treaty itself. And that is where we stand today.

This is a bill to authorize the President to agree to certain amendments to the binational agreement establishing the North American Development Bank. H.R. 254 was passed by the House Committee on Financial Services on February 13 by voice vote. Last October, H.R. 5400, a bill exactly like 254, passed the House by unanimous consent. So I will remind my colleagues, Members of this House, that we are revisiting a piece of legislation that was passed by unanimous consent in the 107th Congress. Unfortunately, the Senate failed to take up H.R. 5400, necessitating its resubmission in this Congress.

This bill is cosponsored by a bipartisan group of 11 Members of Congress, almost all representing districts along the United States/Mexican border. I do wish to express my sincere thanks to the gentleman from Ohio (Mr. OXLEY), chairman of the Committee on Financial Services; chairman of the Subcommittee on International Monetary Policy and Trade, the gentleman from Nebraska (Mr. BEREUTER); the ranking member, the gentleman from Vermont (Mr. SANDERS); and the gentleman from Massachusetts (Mr. FRANK) on the Subcommittee on Housing and Community Opportunity; as well as to the former ranking member of the full committee, Mr. LaFalce, who retired last session, for their cooperation and hard work in making today a reality and, hopefully, finally, in passing this bill once more and allowing the Senate the opportunity to pass it.

Mr. Speaker, NADBank was created pursuant to NAFTA. It is an investment in water, wastewater, and other public infrastructure along the United States/Mexican border. The bank is headquartered in my district, the 20th Congressional District of Texas, and provides conventional loan financing, below market-rate financing, and grants for communities located near the United States/Mexican border to help fund their water, wastewater, and other infrastructure needs. Additionally, NADBank manages an institutional development program that provides training to local officials on both sides of the border on how to effectively manage public utilities.

Since I arrived in Congress, I have heard so many Members use the phrase "not letting perfect be the enemy of the good." I never thought I would resort to that, but today I will because that is what is happening here. NADBank is the only development bank specifically dedicated to the infrastructure needs of the United States/Mexican border. It meets a specific public financing need that has long been neglected by both Washington and Mexico City. Whether or not one is a supporter of the NAFTA treaty it is hard to argue with the purpose of NADBank, which is to provide critical financing and training for infrastructure improvements in disadvantaged United States and Mexican border communities.

Mr. Speaker, in a minute I will be yielding to my colleague, the gentleman from Texas (Mr. HINOJOSA), whose district borders Mexico. I will agree with my colleague from Ohio that NADBank has not fulfilled its true mission due to certain restrictions that Congress has neglected, or by not having the authority to really have any say with Treasury. Treasury has been in charge. This is the answer. This is the fix. This is the fine-tuning we have been seeking for so long. Never has this been meant to be an instrument to reopen the debate on NAFTA. This is an essential piece of legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I thank the gentleman from Texas (Mr. GONZALEZ) for yielding me this time.

Mr. Speaker, I like and respect my friend and colleague from Ohio. I heard the gentlewoman from Ohio say that NADBank has too little to show, and my response to her is that those of us who live on the southwest border want to correct what is wrong with the NADBank in the way that it has operated and done so poorly in these last few years.

Mr. Speaker, I rise today in strong support of H.R. 254, the North American Development Bank reauthorization bill. I want to thank the gentleman from Nebraska (Mr. BEREUTER) for all his hard work in shepherding this bill through the legislative process. I also want to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for their assistance in bringing this bill to the floor for consideration.

As the Congressman from the 15th District of Texas, which includes the U.S./Mexico border region, my constituents are directly affected by the work of the North American Development Bank and are vitally interested in reforms badly needed that will improve the NADBank.

I was born and raised in south Texas between Brownsville and Laredo. This region is the front door to Mexico. I have seen the skyrocketing 48 percent population increase from just 1990 to 2000. I have witnessed the huge export business between Texas and Mexico increase 202 percent from 1993 to 2000, and that increase has reached $68 million of exports in the year 2000.

NADBank was originally passed in 1994 and enacted in 1995. It was created to gain congressional passage of the North American Free Trade Agreement. The bank was to be a working partner in helping border communities deal with water treatment facilities and environmental problems that would result from the increased trade that was expected. The bank's purpose was to help the border communities cope with the problems created by NAFTA.

Unfortunately, despite large amounts of available capital, the bank has funded only a small number of infrastructure projects along the U.S./Mexico border because it was limited to offering only market-rate loans. The need along this southwest border is too great for the bank to have money sitting idle. H.R. 254 fixes the problem by allowing NADBank to offer low-interest loans and grants to border communities like the ones I represent to fund critical infrastructure projects so that we can have the quantity of water and quality of water that we need for the sustainable growth of our area.

This authorization bill is not perfect. I assure my colleagues that if it improves the NADBank with the corrections that we make here, everyone will be very happy.

In closing, I want to say that the bank has not worked well up until now; but I know that with these reforms it can live up to the promise. I urge my colleagues to support H.R. 254.

Mrs. BIGGERT. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER), the sponsor of this legislation.

Mr. BEREUTER. Mr. Speaker, the gentleman from Texas (Mr. GONZALEZ) has explained very well why this legislation is before us. In fact, we passed it last October in the previous Congress in the same form. He mentioned the cosponsorship of practically everybody whose district is along the border, and I appreciate very much the support of my colleagues on the committee.

Actually, the comments of the gentlewoman from Ohio about NAFTA are not a surprise to us, but practically nothing related to NAFTA is within the jurisdiction of the Committee on Banking and Financial Services, now the Committee on Financial Services. The only thing really that is, is the NADBank, and it was created to take into account some of the concerns with the passage of NAFTA.

During that debate, some Members were concerned about perceived lax enforcement of environmental laws by Mexico that could create a competitive advantage and give U.S. businesses incentive to relocate to Mexico. In fact, the support of some Members of Congress for NAFTA was partially contingent upon identification of a structure to finance border projects.

Now, in order to address the inadequacies of the NADBank, which the other gentleman from Texas has alluded to and given some details on, Presidents Bush and Fox formed a binational working group that held a series of discussions with States, communities, and other stakeholders in the border region with the purpose of generating plans to reform and strengthen the performance of the NADBank and the BECC. As a result of that working group, Presidents Bush and Fox came forth with a joint agreement announced in Monterrey, Mexico, in March of 2002. The recommendations and requirements of agreement are in this legislation.

With respect to the first legislative change, the administrations's rationale about the bank's current financial framework is having a limited impact in regions with high poverty rates, so adjustments were made in that respect. The change in jurisdiction was at the request of the Mexican President, but agreed to as appropriate by President Bush. So what we are doing here is to try to take the reforms that everyone in the region seems to agree are necessary for the NADBank to adequately address the infrastructure problems, particularly environmental infrastructure problems that are created by increased industrialization and population growth in the region.

So, my colleagues, I think, can feel very comfortable in supporting this legislation. It makes the changes the two Presidents requested. It does nothing to disadvantage American firms. In fact, it addresses some of the concerns that the opponents of NAFTA had in the first place.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentlewoman from Ohio briefly.

Ms. KAPTUR. Mr. Speaker, I really appreciate very much appreciate the gentleman yielding just for a question.

It is my understanding that the Community Adjustment and Investment Fund, CAF, which is within NADBank, is basically zeroed out in this proposal, which means that it will have no money. And this is the portion of the bank that deals with loans and grants to the nonborder regions.

Could someone please clarify for me whether my understanding is correct? And I thank the gentleman for yielding.

Mr. BEREUTER. Reclaiming my time, Mr. Speaker, I believe the gentlewoman's understanding is incorrect as with respect to this legislation. This legislation makes no reductions in that area. If there are reductions, it would be by executive budget, and I am not familiar if that is the case or not.

Mr. Speaker, I would just say that we have passed this legislation before. It is appropriate. It puts in place the agreements of the two Presidents. It has the support of all the border region persons in this room, with the exception of two, and I do not know how they stand, but I have heard no opposition from them to this point. So I urge support and approval of the legislation.

□ 1415

Ms. KAPTUR. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. FILNER).

Mr. FILNER. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I do represent the entire California-Mexico border, so I am a border Congressman; and I must say, we have some difficulties with the proposed legislation. The gentlewoman from Ohio, and I am sorry that it had to take someone from the hinterlands to explain to us that this whole issue of NAFTA and NADBank need to be discussed by this body in a far more important way than a bill on suspension that gives us 10 minutes to debate. The gentlewoman is entirely correct. And just because it is only the NADBank that falls within the jurisdiction of the Banking Committee is no reason to limit this House from a fuller discussion. The Banking Committee can in fact go in with other committees and have that discussion. The gentlewoman was absolutely right: jobs have been lost, millions, because of NAFTA.

I live in San Diego, California, a community impacted by NAFTA. Did the community adjustment investment fund or NADBank do anything for our community? No. Is it going to do anything with the proposed reforms? I do not know. But I am very wary.

When NAFTA was passed, there was no infrastructure put in place to realize some of its benefits. For example, in San Diego, California, 3,000 trucks a day now cross the border from Mexico to the United States. There is no highway that takes those 3,000 trucks from the border crossing to the interstate highway system. I have been trying to get it built for the last 10 years. We have a city street that takes those trucks; it is one of the most dangerous roads in America. Has NADBank helped that? No. The environment which NADBank was limited to before these reforms, the maquiladoras which NAFTA brought to the border, hundreds of them, employing thousands of Mexican workers, do not have to abide by any of the environmental rules that we establish. So they end up dumping their toxic materials in the gullies and ravines in Mexico. You know where that ends up? I got 50 million gallons, now millions of gallons in the last few years of raw sewage floating through my district in the Tijuana River to the Pacific Ocean. In Imperial County to the east of San Diego, there are millions of gallons of raw sewage flowing through the New River, then the Alamo River, to the Salton Sea. Did NADBank take care of anything there? Nothing.

Those same maquiladoras brought Mexican workers to the border. What did it pay them? No increase in wages. In fact, wages fell. And do you know what happened when the folks who came to the Maquilas who thought they were going to get high wages and did not? What happened? Illegal immigration to America. Did NADBank do anything to help us with that? Nothing.

Two power plants have just opened up in Mexicali, Mexico, to service the needs of California, power needs. Did they have to follow the environmental rules of our community? No. Can the border patrol stop air pollution? No. Did NADBank help us solve any of that? No.

I agree that the folks who have worked on this, this is a step forward. I do not have any doubts about that. The lower-than-market interest rates which prevented really any loans from being made is absolutely necessary. The expansion of the definition of what projects would be accepted is obviously a very important step forward. But there is a backwards step that you ought to have maybe said something about in your legislation.

As I understand it, the Border Environmental Cooperation Commission, the board of that and the board of NADBank are being merged. BECC was one of the few places where you had any community input, and now we are not going to have any. San Diego and Tijuana had virtually no input. Mexicali and Calexico in Imperial County had no input. El Paso, no input. Brownsville, no input. Where is the community input for the reform bank that you are putting in? We at the border communities, and I will tell you even more the inland communities, if I may say so, need to have input into what is going on with the NADBank. It is not serving our communities. I do not see any step forward that will change that.

Mr. Speaker, the Secretary of Treasury when I asked him a few years ago, and this was in a previous administration, how was NADBank doing, he had no idea. It has been put in a corner somewhere because of an attempt to get a few votes for NAFTA. It was set up to do nothing, and it fulfilled those expectations. I do not see any reforms really that will make NADBank work for America and American workers. I thank the gentlewoman for allowing us to have this debate.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Many of the shortcomings that both my dear friends from Ohio and California have pointed out are actually remedied by this bill. The answer is before us. Is it a complete answer? We never have a complete answer in any one piece of legislation; but this is definitely a start, and it is a meaningful one. My colleague from California poses the question, Where is the input? The input is in H.R. 254 because we as Members of the House of Representatives will finally have a voice. It will not simply be Treasury in the executive branch determining the parameters and the programs and the activities of NADBank. We will finally have something to say about it, so that my colleague from Ohio and my colleague from California will have a voice. That is what this piece of legislation is all about.

If someone sees this as an opportunity to relegislate NAFTA, I cannot do anything about that; but that is not what it does. It does not attempt to do that in any shape or form. But this is the answer that those that speak today in opposition are seeking. We all are in agreement. If this bill does not pass, it is only the House of Representatives that remains irrelevant to NAFTA and to the NADBank. That will be the end result.

I ask again, please consider this piece of legislation carefully, understand its merits, and you will vote for it. I ask each and every one of my colleagues to join us, all of us along the border, all of us from the border States that are so heavily impacted, to do something about the consequences of NAFTA but in a positive and constructive manner.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding. I just wanted to assure the gentlewoman from Ohio, there is nothing that deauthorizes a program in our legislation and nothing that specifically authorizes additional funds. And to the gentleman from California, this legislation does not merge the two entities that concerns him.

Mr. GONZALEZ. Mr. Speaker, I yield back the balance of my time.

Mrs. BIGGERT. Mr. Speaker, may I inquire how much time remains for the majority and the party in opposition.

The SPEAKER pro tempore (Mr. FLAKE). The gentlewoman from Illinois (Mrs. BIGGERT) has 3½ minutes remaining and the gentlewoman from Ohio (Ms. KAPTUR) has 3 minutes remaining.

Mrs. BIGGERT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. I thank the gentlewoman for yielding me this time.

Mr. Speaker, this is a well-crafted bill that helps the North American Development Bank to accomplish its stated goal of improving the wastewater treatment, solid waste management and potable water supply in America's Mexico border region more efficiently. In California over the last 2 decades, the population has grown by more than 30 percent while the water supply has increased by only 2 percent. But as California's thirst for water increases, the number of available sources for drinking water is shrinking. This is why I support the North American Development Bank's mission of providing clean and safe water to all of America's southern border areas, particularly to the already overtaxed southern California area.

I was able to contribute to this legislation by adding a provision that directs the North American Development Bank's support for qualified water conservation projects in southern California which will help to reduce the overall burden on a State whose water resources are already stretched dangerously thin. California currently leads the country in desalination, conjunctive use, recycling and water conservation efforts so the money invested in our part of the country gets an excellent return on investment.

I urge support for this broad, nonpartisan initiative to recognize that qualified water conservation and supply projects are important to southern California and deserve the support of the North American Development Bank.

Ms. KAPTUR. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from California (Mr. FILNER), who is such an expert on this.

Mr. FILNER. I thank the gentlewoman for yielding time.

Mr. Speaker, just quickly, the fact that this legislation does not say anything about the merged boards of BECC and NADBank, you could have said something about it. Just because you did not, do not criticize the fact that this is a backwards step. If you want to move forward, then change that, too. And we need to have the support of the Chair and those who are supporting this bill for some money for the community adjustment investment fund. It has been zeroed out by the administration.

So, yes, there are some reforms here. The question is how much money are we going to give it and how much community input are we going to allow. A report to Congress on a yearly basis does not allow the community input that this board needs.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleagues, particularly those along the border, for engaging in this debate today. I would just like to place on the RECORD information from the Community Adjustment and Investment Program headed in San Antonio, Texas, from NADBank that says Congress has zeroed out future funding for the Community Adjustment and Investment Program. The Bush budget contains no money, no appropriated dollars for the program to help in the nonborder areas of the United States.

I would beg my colleagues who are supporting this, please look beyond just the border and even for the border, recognize who is making the pollution and who should pay for it. But please do not disenfranchise communities across our country that are losing jobs.

I will end with this story. One of the companies that has just left my district in Sandusky, Ohio, Dixon Ticonderoga, one of the workers just committed suicide. The head of that company called me and said, Congresswoman, we're going to leave you a building, an empty hulk. I said, well, sir, all I've got is NADBank. So I called NADBank about 2 weeks ago and I said, they're leaving us an empty hulk. What can we do with a loan or grant program to create something, some type of economic activity inside that building? And the answer was, We have no funds. So we are talking here about only one square on a very large board.

I urge my colleagues to please withdraw this bill today. Let us work together and put language in there that helps all of the United States and all of North America, all of North America that has been so badly harmed by NAFTA, including agricultural adjustment provisions, so that no Mexican worker will die in this country because there is not a labor registration system across this continent that gives them the dignity of a work card where they cannot be bonded and sold by those coyotes all across this continent. There are huge problems that NADBank could be the vehicle to solve. Please vote "no," or withdraw this bill today in order that we bring something back to this Congress that can help us perfect an agreement that is badly flawed.

Mrs. BIGGERT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. OSE), another member of the Committee on Financial Services.

Mr. OSE. I thank the gentlewoman for yielding me this time, and I rise in support of the bill. In California, as in many of the other border States, we are working with our friends to the south to try and address many things. One of the things in this bill that I was so pleased to be part of with the gentleman from Texas (Mr. GONZALEZ), the gentleman from Texas (Mr. HINOJOSA), and the gentleman from Nebraska (Mr. BEREUTER) was trying to give some direction to NADBank about expanding the things that they could invest in.

Specifically, we have a problem in California where discharge of wastewater and the like from some of the facilities south of the border flows into the Pacific Ocean, then by virtue of currents and tides goes north on the beach and eventually gets to the point where it spoils our beaches. There are many in this body who would argue that we need to delay and defer and not take action on this. However, frankly, one of our greatest assets in California is our beaches. It is my intention, and I am grateful for the support from other parts of the country, to try and do something to frankly address the issue of pollution hitting the beach in California. The language that we proposed and that my colleagues supported and that is now in the bill directs the NADBank to take this issue seriously and to address it when considering future projects.

Secondly, my friend, the gentleman from California (Mr. ROYCE), talked about water issues being a key element for California's success. The provision that he has placed in the bill directs NADBank to incorporate water development issues in their deliberations. I am pleased by that because, as he said, we have had population growth there of around 30 percent, but water supply growth of only about 2. I ask support of the bill.

□ 1430

Mrs. BIGGERT. Mr. Speaker, I urge my colleagues to support these changes to the NADBank and join me in voting to approve H.R. 254.

Mr. ORTIZ. Mr. Speaker, I rise to offer some context for our debate today surrounding the NADBank as it relates to my district in South Texas.

I support NADBank and believe it is an important part of border development, particularly the small rural communities like San Benito and La Feria in South Texas. Hopefully, NADBank will continue to work with these municipalities to maximize their infrastructure.

But NADBank's recent decision to offer grants and resources in terms that are twice as favorable to Mexico, over injured South Texas farmers, is very troubling to me. Very briefly, it was Mexico's non-compliance—for over a decade—with a 1944 treaty that apportions the waters of the Rio Grande that bankrupted hundreds of South Texas farmers and precipitated the need for NADBank to offer assistance—however late—to those injured by Mexico's action.

Here's what has troubled me about this; there are 2 primary reasons:

First, NADBank is offering up to 50 percent of the cost of irrigation projects to South Texas farmers in grants and the balance in low-interest loans, while making the same assistance available to Mexican agricultural interests at 100 percent grants. Since the actions of Mexico were the instigation of the injury to South Texas farmers, it is galling that NADBank is giving Mexican farmers 100 percent of the cost of their projects in grant funding, while South Texans are getting half that.

Secondly, the entire reason NADBank has a package offering relief to farmers for irrigation needs is the enormous, permanent injury to South Texas farmers directly due to Mexico's violation of the 1944 treaty. I have been perplexed as to the reason that all four border states have access to the relief package. If the injury was to South Texas farmers, then that is who should be the target of the relief.

Of note, this bill does recognize several important things for the first time: Mexico is in default of the 1944 Water Treaty; Mexico has accumulated 1.5 million acre feet of water debt to the U.S.; and the NADBank Board should support projects in the lower Rio Grande Valley.

While NADBank is an important part of border development, the decision to give South Texas farmers—injured by Mexico's deliberate action—half what they are offering to Mexican farmers is a step in the wrong direction. Part of the problem with this policy is that it was formulated in Washington and dictated to San Antonio by officials in the Departments of Treasury, State, and the Environmental Protection Agency. When Washington dictates decisions to states and local governments without their input, those decisions are more likely to inspire anger and resentment than gratitude.

I ask my colleagues to remember this action and to encourage NADBank to re-think the wisdom of how they are distributing funds under this program.

Mr. REYES. Mr. Speaker, I am proud to join my colleagues in support of H.R. 254, which will amend the law that established the North American Development Bank. The needs along the U.S.-Mexico border are ever increasing. Population growth is rapid, estimated at more than 100 percent in the next 20 years. Today about 11 to 12 million people live along the border. By 2020, 22 million people will reside in the region. On the U.S. side of the border, the per capita income is 79 percent of the national average. Four of the ten poorest counties in the United States are along the U.S.-Mexico border.

In October of 1993, the United States and Mexico agreed to a new institutional structure to promote border environmental cleanup. The North American Free Trade Agreement (NAFTA) authorized the establishment of the North American Development Bank (NADBank) and the Border Environment Cooperation Commission (BECC) which work jointly to address some of the many environmental problems caused by free trade between Mexico and the United States. The primary focus of these two organizations has been to address the water and waste water needs of communities in the border region. And appropriately so: it is estimated that $8 billion would be required to address needs for sewage treatment, drinking water, and municipal solid waste infrastructure projects along the border over the next decade. The BECC is directed to help border states and communities coordinate and design environmental infrastructure projects, and to certify projects for financing, while the NADBank evaluates the financial feasibility of projects certified by the BECC and provides financing as appropriate.

Despite the creation of the NADBank to provide loans to finance border environmental infrastructure projects, grants from the Environmental Protection Agency (EPA) have accounted for the vast majority of funding provided through the NADBank thus far.

As I expressed to the House Financial Services Committee last May, the financing provided by NADBank is often at too high of an interest rate to be affordable by many impoverished communities. I am pleased that enough of my colleagues recognized this problem, which led to the introduction of this legislation in the 107th Congress and its reintroduction this year.

This bill will allow for the NADBank to come closer towards reaching its full potential by allowing for non-market rate loans and grants to be made towards water and waste management infrastructure.

In order to expand the capacity of both institutions to address important binational environmental needs, this bill will expand the geographic scope for BECC and NADBank operations in Mexico from 100 kilometers to 300 km from the border. The geographic limit in the United States will remain unchanged at 100 km from the border. There is no doubt that the area encompassed within 100 km from the border is the area with the most dire needs. However, infusing additional funds within 300 km of the border on the Mexican side makes sense in helping build infrastructure and expanding the economy on Mexico's northern border. Assisting Mexico with infrastructure development needs in its northern border region will eventually relieve some of the pressure on the U.S. side of the border by providing opportunities for Mexican residents in Mexico.

The welcome changes this bill brings to the NADBank are a first step towards expanding the NADBank's role in financing infrastructure improvements along the U.S.-Mexico Border. In the future, I hope that the NADBank will be further authorized to finance any public infrastructure need along the border that can not be financed by conventional means. For example, in addition to needing water and sewage infrastructure, colonias are in desperate need of paved roads and a reliable energy supply. These communities suffer from a host of dire living conditions which should not be tolerated in our country.

I would like to thank my colleagues in the House Financial Services Committee for their work in moving this important piece of legislation to the floor so quickly in this Congress and look forward to working with them in the future to bring additional needed assistance to the U.S.-Mexico border region. I urge all my colleagues to vote in favor of H.R. 254.

Mr. OXLEY. Mr. Speaker, I rise today in support of H.R. 254, an important piece of legislation which makes changes to the operation of the North American Development Bank. These changes were negotiated by the United States and Mexico after President Bush and Mexican President Fox met to discuss ways to improve border conditions between our countries. The NADBank has been in operation for nearly 10 years, and is equally capitalized by both the U.S. and Mexico. However, in this time period the NADBank has made only a few loans while having over $450 million in paid-in capital and a total lending capacity of $2.7 billion.

I would like to commend my colleague, Mr. BEREUTER, for crafting this bill with input from both sides of the aisle and from Members representing each of the Border States. H.R. 254 contains the key changes requested by the Administration which will result in more NADBank programs without any increased costs to the taxpayers. The changes will allow the NADBank to finance projects further into Mexico from the U.S. border and will permit below-market rate loans and grants to be used for projects on either side of the border. Additionally, the bill contains a requirement for the Treasury Department to report annually to

Congress on the operations and disbursements of the NADBank. Several sections express the sense of Congress as to what types of projects the NADBank should pursue. These include water conservation, coastal conservation and air pollution projects. This bill is identical to H.R. 5400 which was approved by the House in the 107th Congress.

The NADBank is an important tool for financing environmental infrastructure projects on the border between the U.S. and Mexico. The changes we consider today will increase the ability of the NADBank to fulfill its mission and improve the environmental conditions along the border region while making it a stronger and more effective institution.

It is critical that the U.S. and Mexico work in close cooperation to improve environmental conditions along the border region. This institution and the changes we consider today will do just that. This bill has been requested by the President, negotiated by the Administration, and approved by voice vote in the Financial Services Committee. I strongly urge my colleagues to support these changes to the NADBank and join me in voting to approve H.R. 524.

Mr. BONILLA. Mr. Speaker, I rise in support of H.R. 254. This legislation will reauthorize the North American Development Bank (NADBank) and allow NADBank to make grants and loans to improve water supplies and the environment along the border at more flexible rates. As I travel my district, which includes approximately 800 miles of the U.S-Mexico border, I am repeatedly reminded of the tremendous need for potable water, wastewater treatment, and municipal solid waste management.

Many towns in my district have directly benefitted from the investment brought by NADBank over the years. In Del Rio, the construction of a potable water treatment plant, the replacement of water pumping facilities and a potable water ground storage tank was recently completed with the help of NADBank financing. In Eagle Pass, NADBank is currently financing the replacement of two water treatment plants and the construction of a new wastewater treatment plant. Thanks to NADBank investment, water distribution lines and wastewater collection lines will be installed and water storage facilities built to serve 15 colonias surrounding Laredo in the near future. Uvalde recently benefitted from NADBank financing of landfill expansion and equipment purchases for efficient operation.

Many of these important projects would not have been possible were it not for NADBank investment. Thanks to this investment, environmental conditions and living standards along the border have been dramatically improved.

I urge the House to pass this legislation so that these communities and other like them may continue to reap the benefits of NADBank investment.

Mrs. BIGGERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLAKE). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 254.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 258) to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes, as amended.

The Clerk read as follows:

H.R. 258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American 5-Cent Coin Design Continuity Act of 2003".

TITLE I—U.S. 5-CENT COIN DESIGN CONTINUITY

SEC. 101. DESIGNS ON THE 5-CENT COIN.

(a) IN GENERAL.—Subject to subsection (b) and after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts, the Secretary of the Treasury may change the design on the obverse and the reverse of the 5-cent coin for coins issued in 2003, 2004, and 2005 in recognition of the bicentennial of the Louisiana Purchase and the expedition of Meriwether Lewis and William Clark.

(b) DESIGN SPECIFICATIONS.—

(1) OBVERSE.—If the Secretary of the Treasury elects to change the obverse of 5-cent coins issued during 2003, 2004, and 2005, the design shall depict a likeness of President Thomas Jefferson, different from the likeness that appeared on the obverse of the 5-cent coins issued during 2002, in recognition of his role with respect to the Louisiana Purchase and the commissioning of the Lewis and Clark expedition.

(2) REVERSE.—If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2003, 2004, and 2005, the design selected shall depict images that are emblematic of the Louisiana Purchase or the expedition of Meriwether Lewis and William Clark.

(3) OTHER INSCRIPTIONS.—5-cent coins issued during 2003, 2004, and 2005 shall continue to meet all other requirements for inscriptions and designations applicable to circulating coins under section 5112(d)(1) of title 31, United States Code.

SEC. 102. DESIGNS ON THE 5-CENT COIN SUBSEQUENT TO THE RECOGNITION OF THE BICENTENNIAL OF THE LOUISIANA PURCHASE AND THE LEWIS AND CLARK EXPEDITION.

(a) IN GENERAL.—Section 5112(d)(1) of title 31, United States Code, is amended by inserting after the 4th sentence the following new sentence: "Subject to other provisions of this subsection, the obverse of any 5-cent coin issued after December 31, 2005, shall bear the likeness of Thomas Jefferson and the reverse of any such 5-cent coin shall bear an image of the home of Thomas Jefferson at Monticello.".

(b) DESIGN CONSULTATION.— The 2d sentence of section 5112(d)(2) of title 31, United States Code, is amended by inserting ", after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts," after "The Secretary may".

SEC. 103. CITIZENS COINAGE ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 5135 of title 31, United States Code, is amended to read as follows:

"§ 5135. Citizens Coinage Advisory Committee

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established the Citizens Coinage Advisory Committee (in this section referred to as the 'Advisory Committee') to advise the Secretary of the Treasury on the selection of themes and designs for coins.

"(2) OVERSIGHT OF ADVISORY COMMITTEE.—The Advisory Committee shall be subject to the authority of the Secretary of the Treasury (hereafter in this section referred to as the 'Secretary').

"(b) MEMBERSHIP.—

"(1) APPOINTMENT.—The Advisory Committee shall consist of 11 members appointed by the Secretary as follows:

"(A) 7 persons appointed by the Secretary—

"(i) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

"(ii) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their experience in the medallic arts or sculpture;

"(iii) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in American history;

"(iv) 1 of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in numismatics; and

"(v) 3 of whom shall be appointed from among individuals who can represent the interests of the general public in the coinage of the United States.

"(B) 4 persons appointed by the Secretary on the basis of the recommendations of the following officials who shall make the selection for such recommendation from among citizens who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience:

"(i) 1 person recommended by the Speaker of the House of Representatives.

"(ii) 1 person recommended by the minority leader of the House of Representatives.

"(iii) 1 person recommended by the majority leader of the Senate.

"(iv) 1 person recommended by the minority leader of the Senate.

"(2) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Committee shall be appointed for a term of 4 years.

"(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed—

"(i) 4 of the members appointed under paragraph (1)(A) shall be appointed for a term of 4 years;

"(ii) the 4 members appointed under paragraph (1)(B) shall be appointed for a term of 3 years; and

"(ii) 3 of the members appointed under paragraph (1)(A) shall be appointed for a term of 2 years.

"(3) PRESERVATION OF PUBLIC ADVISORY STATUS.—No individual may be appointed to the Advisory Committee while serving as an officer or employee of the Federal Government.

"(4) Continuation of service.—Each appointed member may continue to serve for up to 6 months after the expiration of the term of office to which such member was appointed until a successor has been appointed.

"(5) Vacancy and removal.—

"(A) In general.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

"(B) Removal.—Advisory Committee members shall serve at the discretion of the Secretary and may be removed at any time for good cause.

"(6) Chairperson.—The Chairperson of the Advisory Committee shall be appointed for a term of 1 year by the Secretary from among the members of the Advisory Committee.

"(7) Pay and expenses.—Members of the Advisory Committee shall serve without pay for such service but each member of the Advisory Committee shall be reimbursed from the United States Mint Public Enterprise Fund for travel, lodging, meals, and incidental expenses incurred in connection with attendance of such members at meetings of the Advisory Committee in the same amounts and under the same conditions as employees of the United States Mint who engage in official travel, as determined by the Secretary.

"(8) Meetings.—

"(A) In general.—The Advisory Committee shall meet at the call of the Secretary, the chairperson, or a majority of the members, but not less frequently than twice annually.

"(B) Open meetings.—Each meeting of the Advisory Committee shall be open to the public.

"(C) Prior notice of meetings.—Timely notice of each meeting of the Advisory Committee shall be published in the Federal Register, and timely notice of each meeting shall be made to trade publications and publications of general circulation.

"(9) Quorum.—7 members of the Advisory Committee shall constitute a quorum.

"(c) Duties of the Advisory Committee.—The duties of the Advisory Committee are as follows:

"(1) Advising the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, congressional gold medals and national and other medals produced by the Secretary of the Treasury in accordance with section 5111 of title 31, United States Code.

"(2) Advising the Secretary of the Treasury with regard to—

"(A) the events, persons, or places that the Advisory Committee recommends be commemorated by the issuance of commemorative coins in each of the 5 calendar years succeeding the year in which a commemorative coin designation is made;

"(B) the mintage level for any commemorative coin recommended under subparagraph (A); and

"(C) the proposed designs for commemorative coins.

"(d) Expenses.—The expenses of the Advisory Committee that the Secretary of the Treasury determines to be reasonable and appropriate shall be paid by the Secretary from the United States Mint Public Enterprise Fund.

"(e) Administrative Support, Technical Services, and Advice.—Upon the request of the Advisory Committee, or as necessary for the Advisory Committee to carry out the responsibilities of the Advisory Committee under this section, the Director of the United States Mint shall provide to the Advisory Committee the administrative support, technical services, and advice that the Secretary of the Treasury determines to be reasonable and appropriate.

"(f) Consultation Authority.—In carrying out the duties of the Advisory Committee under this section, the Advisory Committee may consult with the Commission of Fine Arts.

"(g) Annual Report.—

"(1) Required.—Not later than September 30 of each year, the Advisory Committee shall submit a report to the Secretary, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. Should circumstances arise in which the Advisory Committee cannot meet the September 30 deadline in any year, the Secretary shall advise the Chairpersons of the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the reasons for such delay and the date on which the submission of the report is anticipated.

"(2) Contents.—The report required by paragraph (1) shall describe the activities of the Advisory Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

"(h) Federal Advisory Committee Act Does Not Apply.—Subject to the requirements of subsection (b)(8), the Federal Advisory Committee Act shall not apply with respect to the Committee.".

(b) Abolishment of Citizens Commemorative Coin Advisory Committee.—Effective on the date of the enactment of this Act, the Citizens Commemorative Coin Advisory Committee (established by section 5135 of title 31, United States Code, as in effect before the amendment made by subsection (a)) is hereby abolished.

(c) Continuity of Members of Citizens Commemorative Coin Advisory Committee.—Subject to paragraphs (1) and (2) of section 5135(b) of title 31, United States Code, any person who is a member of the Citizens Commemorative Coin Advisory Committee on the date of the enactment of this Act, other than the member of such committee who is appointed from among the officers or employees of the United States Mint, may continue to serve the remainder of the term to which such member was appointed as a member of the Citizens Coinage Advisory Committee in one of the positions as determined by the Secretary.

(d) Technical and Conforming Amendments.—

(1) Section 5112(l)(4)(A)(ii) of title 31, United States Code, is amended by striking "Citizens Commemorative Coin Advisory Committee" and inserting "Citizens Coinage Advisory Committee".

(2) Section 5134(c) of title 31, United States Code, is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

TITLE II—TECHNICAL AND CLARIFYING PROVISIONS

SEC. 201. CLARIFICATION OF EXISTING LAW.

(a) In General.—Section 5134(f)(1) of title 31, United States Code, is amended to read as follows:

"(1) Payment of surcharges.—

"(A) In general.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

"(i) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

"(ii) the designated recipient organization submits an audited financial statement that demonstrates, to the satisfaction of the Secretary, that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the total amount of the proceeds of such surcharge derived from the sale of such numismatic item.

"(B) Unpaid amounts.—If any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item that may otherwise be paid from the fund, under any provision of law relating to such numismatic item, to any designated recipient organization remains unpaid to such organization solely by reason of the matching fund requirement contained in subparagraph (A)(ii) after the end of the 2-year period beginning on the later of—

"(i) the last day any such numismatic item is issued by the Secretary; or

"(ii) the date of the enactment of the American 5-Cent Coin Design Continuity Act of 2003,

such unpaid amount shall be deposited in the Treasury as miscellaneous receipts.".

(b) Effective Date.—The amendment made by subsection (a) shall apply as of the date of the enactment of Public Law 104–208.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. Biggert) and the gentlewoman from New York (Mrs. Maloney) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. Biggert).

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I rise in support today of H.R. 258.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. Cantor), the sponsor of this bill.

Mr. CANTOR. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today to speak in favor of the American 5–Cent Coin Design Continuity Act which is almost identical to H.R. 4903 that passed the House unanimously on July 22, 2002. This legislation will allow the U.S. Mint to remove Monticello from the nickel for the next 3 years to recognize the Louisiana Purchase and historic Lewis and Clark expedition, two great accomplishments of Jefferson's Presidency. After 3 years Monticello, the

Virginia home of President Thomas Jefferson, will be returned to the reverse side of the nickel. Additionally, the bill would establish a Citizens Coin Design Advisory Committee that reports directly to the Secretary of the Treasury. The purpose of the committee would be to advise the Secretary on the design or redesign of coins and medals, providing a broad range of input from professional and citizen representatives. I believe that the Treasury Secretary needs a second independent opinion on proposals to redesign circulating coinage and on other mint products, and this committee will provide that opinion.

Finally, Mr. Speaker, this bill will clarify congressional intent regarding the disbursement of surcharges raised through the sale of Mint-produced commemorative coins. Mr. Speaker, this bill represents the bipartisan work of the entire Virginia delegation. I want to thank them because it will result in honoring the courageous Lewis and Clark expedition and its benefactor, Thomas Jefferson. I urge my colleagues to support H.R. 258 today.

Mr. Speaker, I rise today to speak in favor of the American 5-Cent Coin Design Continuity Act (H.R. 258), which is almost identical to H.R. 4903 that passed the House unanimously on July 22, 2002.

This legislation will allow the U.S. Mint to remove Monticello from the nickel for the next 3 years to recognize the Louisiana purchase and historic Lewis and Clark expedition, two great accomplishments of Jefferson's presidency. After 3 years Monticello, the Virginia home of Thomas Jefferson, will be returned to the reverse side of the nickel.

Additionally, H.R. 258 would establish a Citizens Coin Design Advisory Committee that reports directly to the Secretary of the Treasury. The purpose of the committee would be to advise the Secretary on the design or redesign of coins and medals, providing a broad range of input from professional and citizen representatives. I believe the Treasury Secretary needs a second, independent, opinion on proposals to redesign circulating coinage, and on other Mint products and this committee will provide that opinion.

Finally, H.R. 258 will clarify Congressional intent regarding the disbursement of surcharges raised through the sale of Mint-produced commemorative coins.

This correction will allow the University of Virginia and several other organizations access to funds from pre-existing commemorative coins at no cost to the American taxpayer.

I originally introduced this legislation after representatives from the mint came to my office last summer and informed me that the image of Thomas Jefferson's Monticello would be removed from the reverse of the nickel and would be replaced by a questionable image to recognize the 200th anniversary of the Lewis and Clark expedition. Although I fully support celebrating the great achievements of the Corps of Discovery, I was surprised by the way the Mint made its decision on this issue.

The Treasury Department has the authority to change the nickel once every 25 years, and this new design was presented as the replacement for Monticello. I learned from the Mint representatives that this new design was chosen internally without input from the American people or Congress. Even more disturbing, I also learned the Mint planned to announce its redesign shortly after our meeting.

I was concerned about the Mint's plan because Jefferson's beloved Monticello represents so much to the people of the Commonwealth of Virginia and to all Americans. But, I also feared that the new design being proposed was reminiscent of the Sacagawea experience that has been extremely unpopular with the American public.

Monticello is the autobiographical masterpiece of Thomas Jefferson or as he called it, his "essay in architecture" and is recognized as an international treasure. It is the only home in America on the World Heritage List of sites that must be protected at all costs. At his beloved Monticello, Jefferson assumed his place in history as one of the greatest public servants of all time, shaping, debating, and honing his beliefs in liberty, democracy, and equality for all.

H.R. 258 authorized the Mint to implement a four-year plan that will change the design on the reverse side of the nickel for 2003, 2004, and 2005 in order to recognize the 200th anniversary of the Louisiana Purchase and the Lewis and Clark expedition. In 2006, Monticello will return to the reverse of the nickel and this coin will become the new circulating 5 cent piece.

Additionally, so that we don't experience another Sacagwea type failure, my bill provides a mechanism to ensure public input is considered during the redesign of our coinage.

The bill creates an independent Coin Design Advisory Committee which will make recommendations to the Secretary of the Treasury as to the appropriate designs for the Lewis and Clark series and all future coin redesigns.

I emphasize the word independent. Mr. Speaker, this panel is not intended to merely ratify proposals, but is intended to be able to speak with its own voice.

It will review all designs or redesigns of circulating and commemorative coins and of Congressional Gold Medals ideas that the Mint puts forward. This committee will be made up of a coin collector, an internationally recognized coin museum curator, an expert in American history, and either a sculptor or a medallic artist—all appointed by the Treasury Secretary—as well as four persons named by the leadership in the House and Senate. It will be able to provide the Secretary with a broad range of expertise and input to ensure that any redesign of circulating coinage, as well as the designs for commemorative coins and Congressional Gold Medals, be artistically appropriate and consistent with broad American themes and values.

Finally, Mr. Speaker, unlike a predecessor design review panel that reported to the Mint and considered only commemorative coin designs, this panel will meet in public.

Additionally, Title II of my legislation clarifies language in the Commemorative Coin Reform Act of 1995 regarding the distribution of surcharge money raised by this sale of commemorative coins. That legislation specified that no surcharges were to be paid out until taxpayers had been repaid for the cost of the program, reforming a commemorative coins program that had cost taxpayers tens of millions of dollars in the past.

After taxpayer costs were recovered, it specified that beneficiary organizations enumerated in the enabling legislation can benefit from these surcharges.

H.R. 258 clarifies the intent of the specified disbursement procedure. Two programs have not received any surcharge disbursement despite having raised substantial private funds: the Black Revolutionary War Patriots coin program and the Leif Ericson coin program.

The University of Virginia will benefit from this change and be able to fund a student exchange program with Iceland, that will help foster Jeffersonian ideals between these two long standing democracies.

Mr. Speaker, this bill represents the bipartisan work of the entire Virginia delegation and will result in honoring the courageous Lewis and Clark expedition and its benefactor, Thomas Jefferson. I urge my colleagues to support H.R. 258 today.

Mrs. MALONEY. Mr. Speaker, I yield myself as much time as I may consume.

I rise in support of legislation that will preserve Monticello on the United States nickel. All Americans are familiar with the role Thomas Jefferson played in our Nation's founding. Jefferson was the third President of the United States, author of the Declaration of Independence, and the founder of the University of Virginia. Thomas Jefferson's beautiful home, Monticello, was where one of America's foremost thinkers produced many of his finest writings and great work. Monticello still stands outside of Charlottesville, Virginia, and it is appropriate that we preserve its place in our national heritage upon our national coinage.

This year marks the 200th year celebration of the Louisiana Purchase and the voyage of Lewis and Clark into the western frontier. In an effort to recognize this important journey, the United States Mint has proposed celebrating this anniversary by commemorating the voyage and discoveries of Lewis and Clark on the nickel. The intent of the legislation we are considering today is to allow this anniversary to be celebrated while mandating that Monticello will return to the nickel after the celebration of Lewis and Clark.

The gentleman from Virginia (Mr. CANTOR), whose district contains Monticello, has put forth a plan to allow the U.S. Mint to commemorate the journey of Lewis and Clark on the nickel for 3 years, after which the nickel will revert to the Monticello portrait in 2006.

The likeness of Thomas Jefferson and Monticello is a fixture on our national coinage. This legislation ensures that the memory and importance we hold for the author of our Declaration of Independence will be preserved while we celebrate the achievements of Lewis and Clark. Additionally, title II of this legislation makes technical changes to the Commemorative Coin Reform Act enacted in 1995. These changes are intended to make coin programs operate more smoothly.

I thank the gentleman from Virginia (Mr. CANTOR) for his leadership on this bill. I know he has worked with the Mint and Treasury to resolve the issues that were raised, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I too want to solute the Congressman from Virginia's Seventh District for crafting this bipartisan measure covering in a fine way the interest of all the stakeholders. The original Mint proposal was to remove both the current Thomas Jefferson and Monticello from the nickel. Needless to say, that proposal created an uproar in central Virginia, which is home to Thomas Jefferson and Monticello, the dwelling of our Nation's third President.

Under this proposal the nickel will feature scenes from the discovery of Lewis and Clark and the Louisiana Purchase. That journey of Lewis and Clark which left St. Louis in 1804 had its beginnings in Charlottesville on January 18, 1803, when Jefferson requested funding from Congress for the Lewis and Clark expedition. In 2006 the nickel will return to its original front of Thomas Jefferson and the reverse of Monticello in a design similar to that which has been in place since 1938. I hope it will be the pleasure of this body to overwhelmingly pass this measure and lay the foundation for its enaction this year

Mrs. MALONEY. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Washington (Mr. BAIRD) where Lewis and Clark reached their final destination.

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank my good friend from the State of Virginia. It is appropriate that I follow him because, whereas the journey of Lewis and Clark began in his great district, it ended in mine, at least the first half of it. They went back home afterwards. But it is a great privilege and honor to represent the great State of Washington where Lewis and Clark, almost 200 years ago now, arrived at the coast, looked out across that ocean, hoping they would find a ship. They saw none, and they had to winter over across the river in the gentleman from Oregon's (Mr. WU) district.

But this commemoration is a chance not only to celebrate the accomplishments of Lewis and Clark but also the contributions of the Native Americans who helped them along their way to reinvigorate this Nation's spirit of adventure at a time when we sorely need it. By changing the nickel temporarily in this fashion, we can honor Lewis and Clark and also honor that great man, Thomas Jefferson, who sent them on the way.

I rise in strong support of this, thank my colleagues for their leadership on it, and hope the American people will find new inspiration when they use this nickel with the new design.

Mrs. MALONEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the legislation. I am a co-chairman of the Lewis and Clark Caucus here in Congress. There is an equivalent effort in the Senate. We have been functioning for several years. The Members that have just spoken, from Virginia and Washington State, are certainly members of that. I think it is an outstanding item of legislation we have before us.

Just this January the celebration of the Corps of Exploration, which will continue through 2006, began at Monticello. I know the gentleman undoubtedly was very proud of that event, and now I think we will have many celebrations and commemorations for the next several years to celebrate the bicentennial of the Corps of Exploration. This gives additional attention to this dramatic involvement of American history, and I rise in support and ask the Members of the body to support it.

Mrs. BIGGERT. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I also rise in support of the legislation, for all the underlying reasons that we have here.

I would like to just mention one other aspect, and I will submit a statement in full with respect to this. But the commemorative coin reform language, which required the beneficiary organization to raise private funds matching the surcharge they receive, has been misinterpreted by the Mint in a well-intentioned but unfortunate mix-up that has resulted in two coin program beneficiaries not receiving any surcharge distribution despite their coins having sold respectable numbers and having raised respectable amounts of private matching funds. They interpret the legislation that one had to sell to the maximum amount; and we believe one should have to sell to the minimum amount, to make a long story short.

This is something which we think should be corrected for these groups and long term. We spent a lot of time working with the subcommittee when I headed it, trying to make sure that we did not lean on public funding for these programs, but groups could benefit from it as they made proper sales. To make a long story short, that is essentially what is included in this legislation along with the Lewis and Clark, and I will submit a fuller explanation.

Mr. Speaker, I would like to take a few minutes to explain why I believe Mr. CANTOR's "American 5-Cent Coin Continuity Act" is important.

When I served as chairman of the old House Banking Committee's Domestic and International Monetary Policy subcommittee from 1995–98, a central portion of the subcommittee's business dealing with the United States Mint focused on increasing the usefulness of circulating coins and on reforming the nation's commemorative coin program, which had begun to cost taxpayers fairly large sums of money.

When reform of the commemorative coin program, we eliminated the costs to the taxpayer, limited the number of coin programs each year to enhance their importance and desirability, and established the important principle that a group that is the beneficiary of the surcharges from the sale of commemorative coins should not view that as "free money," but should have to raise matching funds from the private sector before receiving the surcharge money.

The second title of this bill clarifies the surcharge-distribution section of any commemorative-coin reform language. That language, requiring the beneficiary organization to raise private funds matching the surcharges they receive, has been misinterpreted by the Mint in a well-intentioned, but unfortunate mixup that has resulted in two coin program beneficiaries not receiving any surcharge distribution despite their coins having sold respectable numbers and having raised respectable amounts of private matching funds. Both the Black Revolutionary War Patriots program and the Leif Ericson program would likely be eligible for surcharge distribution. As before, this involves no taxpayer funds whatsoever.

To make sure there is no further confusion about how the matching is supposed to work, I want to take a moment to illustrate it with an example. In a case where the maximum possible surcharges that could be collected for the commemorative coin was $5 million, but the Mint only managed to sell enough coins to collect $3 million in surcharges, the private matching funds that would have to be raised to collect any portion of the $3 million in surcharges must be $3 million, nothing less. The intent is to set a high bar for matching funds so those programs with the most public support, as demonstrated through their ability to raise private matching funds, receive the surcharges. If the bar for matching funds were set too low, the commemorative coin program would be flooded with programs in search of "free" federal dollars.

Mr. Speaker, there is no cost involved in this bill at all. In fact, if our experience with the 50-state quarters is any guide, there may even be a modest gain to the Treasury, as some coins are taken out of circulation permanently as collectibles. So Mr. Speaker, I see this as one of the rare pieces of legislation we handle around here that has bipartisan support and for which there are no losers, only winners. I urge its immediate, unanimous passage.

Mr. GOODLATTE. Mr. Speaker, I am proud to be a cosponsor of this important legislation and am pleased to join the other members of the Virginia Delegation in supporting The American 5-Cent Coin Design Continuity Act of 2003.

The strong support this bill has received from the Virginia Delegation is evidence of how important this bill is to preserving important symbols of American History.

As you all know, the Nickel currently displays a likeness of Thomas Jefferson on its face in addition to view of Monticello, Jefferson's home, on the reverse.

Thomas Jefferson, author of the Declaration of Independence and the Fourth President of the United States, is one of eight great men who rose to become President from Virginia, and is a source of great pride for not only Virginians, but for all Americans.

H.R. 258 was introduced to commemorate the 200th Anniversary of the Lewis and Clark Expedition, commissioned by President Thomas Jefferson to explore the new territory acquired through the Louisiana Purchase.

Earlier this year I was honored to attend the Commencement Ceremony of the Lewis and Clark Bicentennial at Monticello, the home of Thomas Jefferson outside of Charlottesville, Virginia, where the expedition began in 1803.

From 2003 through 2006 our nation will observe the bicentennial of this incredible journey, this will also serve as the 200-year anniversary as the complete nation Jefferson envisioned.

H.R. 258 would authorize the Secretary of the Treasury to redesign the Nickel over a four-year period to commemorate the Louisiana Purchase and the Lewis and Clark Expedition. At the end of this period the nickel would revert to being a permanent tribute to Thomas Jefferson and Monticello, which are of invaluable historical importance to our great nation.

A similar bill was passed in the 107th Congress by the House on July 22, 2002. The bill was referred to the Senate where unfortunately no action was taken during the 107th Congress.

I urge all members to support this important piece of legislation that not only commemorates two brave explorers, but also ensures that a great symbol of American history is preserved.

Ms. HOOLEY of Oregon. Mr. Speaker, thank you for the opportunity to speak to you today about the bicentennial of the Voyage of Meriweather Lewis and William Clark. As you know, Lewis and Clark were true pioneers who are integral to the history of my home state of Oregon. The final destination of their journey, was, after all, the Pacific Coast of Oregon. In fact, they spent a winter, and discovered a beached whale, just a few short miles north of my district. One might say that, if they were not so courageous and brave to make the difficult journey that they did, neither I nor the other representatives from the Pacific Northwest would be here in Congress today! Well, I for one am very thankful that they completed that journey!

I'm excited and encouraged by the legislation before our committee today to honor the bicentennial of the Voyage of Lewis and Clark. In these troubling times, when fear seems all too commonplace, I believe it is important for all of us to look to those great adventurers that helped make this country what it is, and to take heart in the courage, perseverance, and dedication with which they overcame their own obstacles.

Thank you again Mr. Speaker for the opportunity to offer my support for this legislation.

Mrs. BIGGERT. Mr. Speaker, I urge support of the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 258, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. BIGGERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RENAMING GUAM SOUTH ELEMENTARY/MIDDLE SCHOOL IN HONOR OF NAVY COMMANDER WILLIAM "WILLIE" McCOOL

Mr. HEFLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 672) to rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William "Willie" McCool, who was the pilot of the Space Shuttle *Columbia* when it was tragically lost on February 1, 2003, as amended.

The Clerk read as follows:

H.R. 672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF COMMANDER WILLIAM C. MCCOOL ELEMENTARY/MIDDLE SCHOOL, APRA HEIGHTS, GUAM.

(a) FINDINGS.—Congress finds the following:

(1) Commander William C. McCool of the United States Navy, pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003, attended Dededo Middle School and John F. Kennedy High School on Guam.

(2) Commander McCool carried a flag commemorating the liberation of Guam on NASA mission STS–107 of the Space Shuttle Columbia.

(3) Commander McCool pursued his dream of space flight with vigor and passion and, by his life and accomplishments, is an inspiration for school children everywhere to dare to dream big things, to believe in themselves, and to reach for the stars.

(b) DESIGNATION.—The Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in Apra Heights, Guam, shall be known and designated as the "Commander William C. McCool Elementary/Middle School", in honor of William C. McCool, who was a commander in the United States Navy and pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Guam South Elementary/Middle School shall be deemed to be a reference to the "Commander William C. McCool Elementary/Middle School".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. HEFLEY) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

GENERAL LEAVE

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 672, the act to rename the Guam South Elementary/Middle School in honor of Navy Commander William "Willie" McCool, who was pilot of the Space Shuttle *Columbia* when it was tragically lost on February 1, 2003.

This bill recognizes the intrepid spirit, commitment to public service, and the ultimate sacrifice made by Commander McCool. The United States space program and our entire Nation lost a highly skilled and courageous member of our superb Armed Forces when Commander McCool and his fellow astronauts were lost earlier this month. It is entirely fitting that as a former student of the Guam South Elementary and Secondary Schools System, Commander McCool be remembered by naming the Guam South Elementary/Middle School in his honor.

This measure is a small step in recognizing Commander McCool's brilliant career and his selfless dedication to our Nation as well as memorializing his spirit at a place where he spent a formative period in his youth.

We can all be proud to support this bill, secure in the knowledge that future generations of students can draw inspirations from his example. Commander McCool's service represents the very best evidence of the long-term commitment to this country to space exploration and it reminds us why those who represent us all in space represent the very best in America.

□ 1445

Mr. Speaker, I ask my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced H.R. 672 to rename the Guam South Elementary/Middle School as the Commander William C. McCool Elementary/Middle

School in memory of the pilot of Space Shuttle *Columbia* on its final mission.

I would like to thank the gentleman from Colorado (Mr. HEFLEY), the 26 bipartisan cosponsors of this legislation, as well as the leadership of the Committee on Armed Services for their assistance in bringing this legislation to the floor to coincide with the memorial service for Commander McCool being held this week at the U.S. Naval Academy.

With this act of Congress, I hope that Commander McCool's bravery and academic excellence will be permanently affixed in the hearts and minds of the children of Guam. Commander McCool lived on Guam while his father served as a Navy pilot, and he attended Dededo Middle School and John F. Kennedy High School. He was an exceptional student and a talented long distance runner.

He studied hard and earned the opportunity to attend the United States Naval Academy, where he graduated second in his class in 1983. He went on to receive his Masters of Science in computer science at the University of Maryland in 1985. After completing several deployments with Tactical Electronic Warfare Squadrons 129 and 133, Commander McCool was accepted into the Naval Postgraduate School/Test Pilot School, TPS, in 1989.

After graduating from TPS in 1992, Commander McCool managed a wide range of projects, often coordinating studies and tests of aviation vessels with the United States Navy. His distinguished record of service led to his selection in NASA's astronaut program in April of 1996.

Commander McCool pursued his dream of space flight with vigor and passion. He lived his dream, and we on Guam are amazed that someone we knew, who was part of our island community, was the pilot of a space shuttle. Teachers on Guam point to his remarkable life to inspire school children to dare to dream big things, to believe in themselves, and to reach for the stars. Today, we are reminded of his dream. We are inspired by his strength of character, and we are called to do our part to keep his dream alive.

Guam South is part of the Department of Defense Domestic Dependence Elementary and Secondary School System. Commander McCool would be proud to be associated with it. The school was established in 1997 and now has 750 students. The elementary school is 550 students strong, with blue and white as its colors and the Jaguar as its mascot. The middle school is 200 students strong, with the Guam South Stingrays as their mascot. Guam South is ably run by Principal William Hall and 75 outstanding teachers.

The clients of the school are primarily Navy families, just like Commander McCool's. Willie McCool was a dedicated husband and father. He leaves behind his lovely wife, Lani, and their three sons, Sean, 22; Christopher, 20; and Cameron, 15. He is survived by his parents, Barry and Audrey McCool, as well as Lani's parents, Atilana and Albert Vellejos, who live in Dededo, Guam. They join the families of Rick Husband, David Brown, Ilan Ramon, Kalpana Chawla, Michael Anderson, and Laurel Clark in bearing the burden and the glory of this Nation's space aspirations.

So for all of them and for the future participants of our space program studying on Guam, I commend this legislation to my colleagues and urge its swift passage.

I would like to end my remarks by calling for a moment of silence to remember the crew of Space Shuttle *Columbia* on Mission STS-107.

As we say good-bye to Willie McCool, I would like to point out that here he is standing before the shuttle just before leaving with our island flag. Pues adios, Willie; in guaiya hao. In our Chamorro language this means good-bye, Willie; we love you.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLAKE). The question is on the motion offered by the gentleman from Colorado (Mr. HEFLEY) that the House suspend the rules and pass the bill, H.R. 672, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Concurrent Resolution 36, by the yeas and nays; and

H.R. 258, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

CELEBRATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 36.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 36, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 19, as follows:

[Roll No. 35]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Combest
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo

Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul

Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster

Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—19

Burr
Carson (IN)
Clyburn
Conyers
Cox
Gephardt
Hoeffel

Hyde
Kennedy (RI)
Linder
McCrery
Millender-McDonald
Nadler

Peterson (MN)
Snyder
Tiahrt
Waxman
Weldon (PA)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

□ 1511

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). Pursuant to clause 8 of rule XX, the next vote will be conducted as a 5-minute vote.

AMERICAN 5-CENT COIN DESIGN CONTINUITY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 258, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 258, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 5, not voting 17, as follows:

[Roll No. 36]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon

Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Combest
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo

Etheridge
Evans
Farr
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer

Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez

Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta

Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—5

Capuano
Everett

Lucas (OK)
Pascrell

Tierney

NOT VOTING—17

Carson (IN)
Clyburn
Collins
Conyers
Cox
Fattah
Gephardt

Hart
Hoeffel
Hyde
Kennedy (RI)
Millender-McDonald
Peterson (MN)

Snyder
Tiahrt
Waxman
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

□ 1520

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 22 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1730

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PORTER) at 5 o'clock and 30 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 534, HUMAN CLONING PROHIBITION ACT OF 2003

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 108–21) on the resolution (H. Res. 105) providing for consideration of the bill (H.R. 534), to amend title 18, United States Code, to prohibit human cloning, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1-minute speeches.

HONORING AIR FORCE STAFF SERGEANT STEPHEN M. ACHEY

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, each day we ask the members of our armed services to perform their jobs with bravery and courage. Air Force Staff Sergeant Stephen M. Achey of Summerville, South Carolina is a shining example of an airman who rose above and beyond the call of duty.

Sergeant Achey, a command and control specialist with the 20th Air Operations Support Squadron, earned a Silver Star for his heroism in Afghanistan last March.

While surviving a mortar round explosion and crippled with a disabled radio, Sergeant Achey endured heavy enemy fire while coordinating and directing an air strike that saved the lives of many American soldiers. Pinned down for 18 hours, he managed to divert American aircraft, saving them from destruction and sparing many lives. He also provided cover fire for the rescue of all wounded soldiers.

This man exhibited the virtues of a true Lowcountry hero. If it were not for the courageous actions of Sergeant Achey, many of his comrades may not have survived and returned home. His gallantry is truly amazing and I am proud that he calls the First District of South Carolina his home.

CUTTING IMPACT AID FUNDING HURTS CHILDREN

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, the weekend before last, I attended the deployment at the 8th Hospital Unit, some proud sailors from Bremerton, Washington. We wanted to show our support for our troops and our sailors. And that is why I was so chagrined to return home to find out that the President wants to cut funding for these sailors' children.

That is right. The President has proposed cutting $10 million from Federal assistance to the Central Kitsap School District. Why would the President, at the very time we are deploying our soldiers and our sailors to the Mideast, want to cut the educational funding for these proud American servicemen's and women's own education? It is flat wrong.

This $10 million hit on the budget of my local school district is going to adversely affect the children whose mothers and fathers are now flying to the Mideast for service to their country. We will do everything we can to stop the President of the United States from cutting educational funding at the very time that our people are deploying in the Mideast in order to finance the tax cuts for the rich that he wants to push through this Congress.

Mr. Speaker, I hope that we will develop a bipartisan consensus that this is a very bad idea to cut the impact aid funding that is going to so many heavily service-dependent economies in our region. If we do so, it will strike a blow for the men and women and their children who ought to have their schools protected at the time we are in the Mideast.

SUPPORTING THE PRESIDENTIAL STIMULUS PACKAGE

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, 2 years ago the Americans got a taste of tax relief with a promise that one day they might see an end to the marriage penalty, an end to death tax, a reduction of tax rates, and an increase in child tax credits.

With today's economy struggling and with the price of gasoline and heating oil going through the roof, Americans need more than promises, more than a mere taste of tax relief. Americans are looking for Congress to transform the temporary tax relief of 2001 into something permanent.

Mr. Speaker, I have always believed that the best way to stimulate the economy is not with more government spending but with more people spending. You cannot improve the well-being of families by spending more on government programs and bureaucracies. You can by ending the marriage penalty, killing the death tax, increasing child credits and reducing burdensome tax rates. It is time to put tax dollars back into the hands of the people who need it most.

Join me in supporting the President's economic stimulus package.

MIGUEL ESTRADA FOR FEDERAL JUDGE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in support of Miguel Estrada who has been nominated by President Bush to the Circuit Court of Appeals.

Mr. Estrada has an outstanding record. He graduated magna cum laude in 1986 from Harvard Law School where he was editor of the Harvard Law Review. He has clerked for the U.S. Supreme Court and served in a high position for the Manhattan U.S. Attorney's Office. He has practiced constitutional law and argued 15 cases before the Supreme Court.

Miguel Estrada's credentials prove that he is ready to be a Federal judge.

As the Washington Post said in a February 17 editorial, "The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive." Some say he is too young or lacks judicial experience, and some have even disgracefully inferred that he is not a real Hispanic.

It is time for these shameful antics against Miguel Estrada to end, as he is well-qualified to be a Federal judge. I stand beside the President in support of Mr. Estrada.

CONDEMNING THE OSCAR NOMINATION OF ROMAN POLANSKI

(Mr. PUTNAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUTNAM. Mr. Speaker, just about every day the media glorifies and offers a platform for actors and actresses who speak out on the great issues of the day: war, environment, human rights. These social icons usually stress that they are taking these stands for our children; and rightfully so, cause we should all strive to be models for future generations.

That is why I was puzzled to learn that the Academy of Motion Pictures Arts and Sciences has nominated Roman Polanski for an Oscar as best director. Mr. Speaker, he fled the United States a quarter of a century ago to escape sentencing after having pled guilty to the rape of a 13-year-old girl. In fact, if he returns to the United States to receive his Oscar, he will be apprehended by the LAPD.

The Academy, however, is in good company with their nomination. The French have also nominated Mr. Polanski and are recognizing him by bestowing their Cesar Award for his work.

Mr. Speaker, there is something fundamentally wrong with the value system present in Hollywood today when the Academy would honor a pedophile who fled the country rather than face sentencing. It is times like these when it becomes brutally apparent just how out of touch Hollywood is with mainstream American values.

HELPING WOMEN COMBAT HEART DISEASE

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, as many of us know, February has been designated American Heart Month. Too many Americans are suffering from heart disease, especially women. It is a little known fact that heart disease is a leading cause of deaths among women, with over 370,000 deaths every year. In fact, heart disease kills more women than all forms of cancer combined.

Sadly, 1 in 25 women will die from breast cancer but 1 in 2 will die from heart disease. In my home State of West Virginia, heart disease statistics are staggering. Thirty-one percent of all deaths were from heart disease in the year 2000.

This month the United States Department of Health and Human Services and the National Institutes of Health, and the National Heart, Lung, and Blood Institute have made it their mission to educate women about heart disease, because regardless of their age, it is never too late to combat heart disease.

A woman's risk of heart disease starts to rise gradually between the age of 40 to 60, but heart disease develops gradually and can start at a very young age. Older women need to take action to prevent and control the risk factors for heart disease. Regardless of our ages, it is never too late for women to combat heart disease. We should be spreading that message today and every day.

SPECIAL ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

HUMAN CLONING BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RENZI) is recognized for 5 minutes.

Mr. RENZI. Mr. Speaker, I rise today to support the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Michigan (Mr. STUPAK) for reintroducing H.R. 534, the Human Cloning Prohibition Act of 2003.

The American public needs to be made aware of the political spin and propaganda that the so-called medical research community is using to deceive us. The cloned sheep, Dolly, was created by the cloning procedure called somatic cell nuclear transfer.

Some want to use this procedure for research on humans which they now call "therapeutic cloning." As the debate has intensified, what was called human cloning is now referred to as "nuclear transplantation." I ask my fellow Americans not to be deceived by their words which are designed to be politically correct.

Those who want to perform therapeutic cloning claim that the future holds cures to many of the diseases that ail our human society. This argument plays to the hearts and minds of compassionate Americans. It hits all the political hot buttons and it makes it seem as though human cloning is a great discovery in our day and age that will cure cancer, diabetes, Parkinson's disease and even keep our country safe from the terrorists by identifying the origins of germ and biological weapons.

However, creating cloned human embryos raises the real possibility that one day they will be implanted into a woman's uterus to create a human cloned baby. Over 95 percent of all animal clonings attempted end in failure; and, like Dolly the sheep, cloned animals have genetic abnormalities.

Most scientists agree that human cloning poses a serious risk of producing babies that are stillborn, unhealthy, and have severe malformations.

Let us not forget the ethical problems associated with human cloning. Cloning is entirely unsafe to practice on human beings because it poses serious risks to the developing cloned baby and to pregnant women due to genetic abnormalities. The attempts to perfect human cloning despite the high risk of injury would constitute a violation of the fundamental principles of all medical research to do no harm.

Research cloning will not only make reproductive cloning more likely, it is unethical. Regardless of what you think about the moral status of human embryos, human beings should not be created solely for research. Human cloning for research involves the creation of a human cloned embryo to be bought, sold and stripped, and exploited for its many parts.

□ 1745

Such proponents have crossed the ethical line universally adopted even by supporters of embryo stem cell research.

As always, in simplicity we find the truth. Human cloning, whether for research or reproduction, involves the creation of a new human life. We have reached a point in our Nation's history where arrogant scientists and medical researchers have become so emboldened with the race to become the first to genetically manipulate human life that they have set aside all standards of human decency, morality, and ethics. They rush to usher in a new era in which genetic alteration of human life is common place; and, therefore, they become the creators of human life. They become the idols of their peers.

I urge my colleagues to not allow such a gross violation of human dignity.

CONFIRMATION OF MIGUEL ESTRADA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, as of today there has not been a vote on the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia. Article II, section 2 of the U.S. Constitution states that the President has the power to appoint judges with the advice and consent of the Senate, advice and consent. Those two little words represent the difference between an organized process of judicial nomination and sheer chaos.

President Bush first nominated Miguel Estrada on May 9, 2001, 18 months ago. For 18 long months, we have waited for the confirmation of Mr. Estrada. Time is running out. For the sake of the integrity of the nomination process, for the sake of decency and simple fairness, the process must move forward.

The American people sent us to Washington to get a job done, not to waste time. It is time to vote on

Miguel Estrada. The American people do not want obstructionism.

CONSERVATIVES AGAINST A WAR WITH IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, most people do not realize how many conservatives are against going to war in Iraq.

A strong majority of nationally syndicated conservative columnists have come out against this war. Just three of the many, many examples I could give include the following:

Charlie Reese, a staunch conservative, who was elected a couple of years ago as the favorite columnist of C-SPAN viewers, wrote that a U.S. attack on Iraq "is a prescription for the decline and fall of the American empire."

Paul Craig Roberts, who was one of the highest-ranking Treasury Department officials under President Reagan and now a nationally syndicated conservative columnist, wrote: "An invasion of Iraq is likely the most thoughtless action in modern history."

James Webb, a hero of Vietnam and President Reagan's Secretary of the Navy, wrote: "The issue before us is not whether the United States should end the regime of Saddam Hussein, but whether we as a Nation are prepared to occupy territory in the Middle East for the next 30 to 50 years."

It is a traditional conservative position, Mr. Speaker, to be against huge deficit spending.

The Congressional Budget Office estimated that a very short war, followed by a 5-year occupation of Iraq, would cost the U.S. $272 billion, this on top of an estimated $350 billion deficit for the coming fiscal year.

It is a traditional conservative position to be against the U.S. being the policeman of the world. That is exactly what we will be doing if we go to war in Iraq.

It is a traditional conservative position to be against world government, because conservatives believe that government is less wasteful and arrogant when it is small and closer to the people.

It is a traditional conservative position to be critical of, skeptical about, or even opposed to the very wasteful, corrupt United Nations; yet the primary justification for this war, what we hear over and over again, is that Iraq has violated 16 U.N. resolutions. Well, other nations have violated U.N. resolutions; yet we have not threatened war against them.

It is a traditional conservative position to believe it is unfair to U.S. taxpayers and our military to put almost the entire burden of enforcing U.N. resolutions on the U.S.; yet that is exactly what will happen in a war against Iraq. In fact, it is already happening, because even if Hussein backs down now, it will have cost us billions of dollars in war preparations and moving so many of our troops, planes, ships and equipment to the Middle East.

It is a traditional conservative position to be against huge foreign aid, which has been almost a complete failure for many years now. Talk about huge foreign aid, Turkey, according to reports, is demanding 26 to $32 billion; Israel wants 12 to $15 billion; Egypt, Jordan, Saudi Arabia want additional aid in unspecified amounts.

Almost every country that is supporting the U.S. in this war wants something in return. The cost of all these requests have not been added in to most of the war costs calculations. All this to fight a bad man who has a total military budget of about $1.4 billion, less than three-tenths of 1 percent of ours.

The White House said Hussein has less than 40 percent of the weaponry and manpower that he had at the time of the first Gulf War. One analyst estimated only about 20 percent.

His troops surrendered then to camera crews or even in one case to an empty tank. Hussein has been weakened further by years of bombing and economic sanctions and embargoes. He is an evil man, but he is no threat to us; and if this war comes about, it will probably be one of the shortest and certainly one of the most lopsided wars in history.

Our own CIA put out a report just a few days before our war resolution vote saying that Hussein was so weak economically and militarily he was really not capable of attacking anyone unless forced into it. He really controls very little outside the city of Baghdad.

The Washington Post 2 days ago had a column which said, "The war in Iraq, likely in the next few weeks, is not expected to last long, given the overwhelming U.S. fire power to be arrayed against the Iraqis. But the trickier job may be in the aftermath."

Fortune Magazine said, "Iraq, we win. What then? A military victory could turn into a strategic defeat . . . a prolonged, expensive, American-led occupation . . . could turn U.S. troops into sitting ducks for Islamic terrorists . . . All of that could have immediate and negative consequences for the global economy."

Not only have most conservative columnists come out strongly against this war, but also at least four conservative magazines and two conservative think tanks.

One conservative Republican member of the other body said last week that the "rush to war in Iraq could backfire" and asked, "We are wrecking coalitions, relationships and alliances so we can get a 2-week start on going to war alone?"

The Atlantic Monthly magazine said we would spend so much money in Iraq we might as well make it the 51st State. I believe most conservatives would rather that money be spent here.

It is a traditional conservative position to be in favor of a strong national defense, not one that turns our soldiers into international social workers, and to believe in a noninterventionist foreign policy, rather than in globalism or internationalism. We should be friends with all nations, but we will weaken our own Nation, maybe irreversibly, unless we follow the more humble foreign policy the President advocated in his campaign.

Finally, Mr. Speaker, it is very much against every conservative tradition to support preemptive war. Another member of the other body, the Senator from West Virginia, not a conservative but certainly one with great knowledge of and respect for history and tradition, said recently, "This is no simple attempt to defang a villain. No. This upcoming battle, if it materializes, represents a turning point in U.S. foreign policy and possibly a turning point in the recent history of the world."

This nation is about to embark upon the first test of the revolutionary doctrine applied in an extraordinary way at an unfortunate time. The doctrine of preemption—the idea that the United States or any other nation can legitimately attack a nation that is not imminently threatening but may be threatening in the future—is a radical new twist on the traditional idea of self-defense."

The columnist William Raspberry, again not a conservative but one who sometimes takes conservative positions, wrote this week these works: "Why so fast. Because Hussein will stall the same way he's been stalling for a dozen years. A dozen years, by the way, during which he has attacked no one, gassed no one, launched terror attacks on no one. Tell me its because of American pressure that he has stayed his hand, and I say great. Isn't that better than a U.S.-launched war guaranteed to engender massive slaughter and spread terrorism?"

Throughout these remarks, I have said not one word critical of the President or any of his advisors or anyone on the other side of this issue.

I especially have not and will not criticize the fine men and women in our Nation's armed forces. They are simply following orders and attempting to serve this country in an honorable way.

Conservatives are generally not the types who participate in street demonstrations, especially ones led by people who say mean-spirited things about our President. But I do sincerely believe the true conservative position, the traditional conservative position is against this war.

FOUR KEYS TO CONTEXTUALIZE THE BUSH BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BAIRD) is recognized for 5 minutes.

Mr. BAIRD. Mr. Speaker, it is time for this body and for our President to level with the people of the United States of America. Just a couple of years ago when people ran for office, we were all talking about the Social Security and Medicare lockbox. We need to be honest with the American people and say that that lockbox has been opened up. It has been turned upside down and every penny's been shaken out of it.

When we hear talk these days about the budget deficits, those deficits are masked and artificially lowered because we are unfortunately, once again, borrowing from Social Security and Medicare.

My colleagues will hear various talks about what the deficit is. Often times they will hear that the unified deficit is, let us say, for example, $304 billion for next year or $307 billion for the following year. The only way we arrive at those figures, which are admittedly very substantial, is by borrowing from Social Security and Medicare.

Were it not for that borrowing, what would the real deficits be? The real deficits for next year or for this year would be $468 billion. For next year, they would be $482 billion; and that is without budgeting for the cost of occupation of Iraq, nor is it for budgeting for the cost of fixing the alternative minimum tax, which this body should do.

We need to be honest. We cannot run for office 1 year and say we are going to establish a lockbox and the next year pretend that we have not opened it as we have.

Our friends on the other side are going to try to say that it is not so much deficits that matter. These, by the way, are the folks who have previously talked about a balanced budget amendment in which I think we need to balance the budget. They will say it is not deficits. It is deficits as a percentage of GDP.

The trouble with that is our own Treasury Secretary Mr. John Snow in 1995 said, and here is the quote, that a credible sustained reduction in Federal deficits will bring about major economic benefits. He was right, and he suggested that if the government spends less and borrows less from investors to cover the climbing deficits, more capital will be available for investment in the private sector of the economy. Inflationary pressure would ease and interest rates would respond by declining as much as 2 percentage points.

Today, Mr. Snow and many of his colleagues are saying it is a matter of deficits as a percentage of GDP; but when he said this in 1995, the budget deficits at that time were about where they are now as a percentage of GDP. In other words, deficits mattered in 1995. Deficits matter in the year 2003, and deficits are going to matter in the year 2013 when our kids have to pay off the debt we are creating today, and those kids are going to have to pay the debt tax.

We have heard a lot about the debt tax. The death tax is the tax on estates that are passed on to people, and it affects about two percent of the population. The debt tax, D-E-B-T, debt tax affects every member of this population from the day they are born. It is over $4,000 a year for an average family of four and it is rising.

We need to return to fiscal responsibility. That was a concept once embraced by conservatives. I still believe it is a conservative concept. Unfortunately, it is not a concept that is shared by many erstwhile conservatives.

So what is the take-home message? The take-home message is if we are going to put Social Security and Medicare in a lockbox, we should do so and we should be honest with the American people.

Let us look again at what the deficit really is. The projection for 2004 is $482 billion.

One final note. People will say we could solve the problem of deficits if only the Democrats or the Congress would hold down spending. There is some truth to that, but the combined nondefense discretionary spending projection for 2004 is $429 billion. The deficit is $482 billion. If the nondefense discretionary spending is only $429 billion, this means we could eliminate every nondefense discretionary program,. and that includes Head Start, environmental protection, agriculture, transportation, many veterans benefits, the National Institutes of Health, not hold the line on inflation, eliminate these programs and countless others entirely, eliminate law enforcement from the Federal Government to support, et cetera.

We would still then have a deficit. This deficit is not caused solely by any means by spending. It is caused to a significant degree by the exorbitant tax cuts that have been passed and the increasing tax cuts that are proposed; and if we are going to pass those, we need to at least level with the American people and tell them what the true costs are today and the true costs are in the future.

FOUR KEYS TO CONTEXTUALIZE THE BUSH BUDGET

The "On-Budget" Deficit projections for the next five years are listed below along with the corresponding figures for the Projected Non-defense Discretionary Outlays.

	2003	2004	2005	2006	2007
On-budget deficit	−468	−482	−407	−412	−406
Non-defense discretionary spending	416	429	440	447	455
Net if all non-defense outlays were eliminated	−52	−53	+33	+35	+49

Numbers in $billions, not including any projections for costs of Iraq war and occupation or adjustments to fix the AMT

Source: Table S–2, page 312 OMB Budget.

KEY POINTS

1. Democrats should only refer to "On-Budget Deficits" and not let Republicans mask the true deficit by borrowing from Social Security and Medicare. The President, most Republicans in Congress, and many members of our own caucus were elected based on the "lockbox" pledge. If those pledges were honored, the deficits, as shown above, are far higher than the Administration or Republican Members of Congress acknowledge.

2. When Republicans say we could achieve balance if only Democrats would limit spending, they are lying. As the chart shows, even if all non-defense spending were completely eliminated, not simply reduced slightly, we would still face on budget deficits. Furthermore, the on-budget deficits in the chart above are based on Republican revenue and spending proposals. If the Republicans truly wanted to reduce deficits, they could make the cuts or increase revenues, but they have refused to do so and instead prefer to borrow from Social Security and Medicare to mask their policies.

3. The Republican dodge of expressing deficits as a percentage of GDP is clearly a ruse because the newly appointed Secretary of the Treasury, John Snow, vigorously called for deficit reductions in 1995, a time when deficits as a percentage of GDP were almost identical to levels projected for 2003. Republicans may counter this argument by saying the projections at that time showed a widening deficit problem over the projected 5 years and the Administration's current deficit projections are shrinking. However, the Administration's present budget forecast includes no cost for a war in Iraq, no AMT fix and rosy growth forecasts. These costs will certainly add significantly to the growing deficit over the next 5 years.

4. The consequence of such borrowing to pay for the Republican tax cuts for the wealthy is an increase in the "Debt Tax". Simply put, the "Debt Tax" is the average amount every American must pay each year simply to service the interest on the national Debt. The difference between the "Death Tax" which the Republicans want to repeal, and the "Debt Tax" which they are covertly increasing, is that the former only affects the wealthiest two percent of our citizens when they die. By comparison, the "Debt Tax" confronts every single American from the moment they are born and for the rest of their lives until we pay down the debt.

* * *

SUPPORT IMPACT AID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to express my support for the Impact Aid program. Earlier today, along with 30 bipartisan cosponsors, we introduced my Government Reservation Accelerated Development for Education, or GRADE–A, bill from the 107th Congress.

This bill was intended to fulfill an obligation of the Federal Government made in 1950 when Congress passed, and President Truman signed into law, the Impact Aid program.

□ 1800

Impact aid was created by Congress recognizing the obligation of the Federal Government to assist school districts and communities that experience a loss in their local property tax due to the presence of the Federal Government. Between 1950 and 1969, the impact aid program was fully funded by the Congress. But since that time, the funding level has not kept pace with the amount required to cover the Federal Government's obligation.

As we prepare for war and deploy troops overseas, I can think of no better time to support our military personnel and their families. This support should begin with ensuring our soldiers that their children are receiving a quality education. There are 15 million school children in this Nation who are eligible for impact aid. Enrolled in one of 1,331 eligible school districts, these schoolchildren depend on their schools to provide them with an education, and their parents depend on the schools to act as a community of support when they are deployed in our Nation's defense.

In my congressional district, 36 percent of all students attending North Chicago's School District 187 are impact aid military children. School District 187 spends an average of $6,500 per pupil on education. And herein lies the problem. The North Chicago School District receives only $3,250 per pupil from the Federal Government for their military impact aid children. With over 1,400 impact aid students, District 187 finds itself over $4.5 million short in funding levels. This shortfall creates a huge financial strain on the school district overall, decreasing the quality of education for every child in that school district.

Mr. Speaker, the quickest way to take a soldier or sailor's mind off their mission is to have them worrying about their children's education back home. Kids from military families come from some of the hardest working, most patriotic families, but the schools they attend sometimes face bankruptcy because they lack the tax revenues from the military housing where the kids come from. We need to fund our Nation's schools. Impact aid honors our commitment to military families and families of Native American Indians. It guarantees those families who serve to protect our freedom that they are in turn protected by the Federal Government.

Our Constitution commands that the first job of the Federal Government is to "provide for the common defense." As we improve the pay and benefits of our men and women in uniform, we must also support their kids and the local schools they attend. This may take many years to accomplish, but the time is now, especially now, to support schools that educate the children whose parents wear our Nation's uniform. Let us recognize our duty to America's children and to our military and support the GRADE-A bill.

BLUE DOG COALITION ON THE FEDERAL DEBT

The SPEAKER pro tempore (Mr. PORTER). Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, this week the Blue Dog Coalition expressed our deep concern over the announcement that the Federal Government had reached the debt limit just 9 months after increasing it by $450 billion.

The Federal Government hitting the debt limit so soon after raising it by so much merely validates our concern of the fiscal policies we are now following. Due to the debt limit being reached, the Department of the Treasury announced it will dip into Federal retirement programs to circumvent the debt limit, an action for which House Republicans severely criticized Secretary of Treasury Bob Rubin for taking in 1996. Less than 6 years ago, 225 of my Republican friends voted to soundly reprimand and prohibit then-Secretary Rubin from taking precisely the actions announced this week by Secretary Snow. The silence of the Republicans in Congress about the announcement made by the Bush administration stands in stark contrast to the reaction from many of my same Republican colleagues to Secretary Rubin's action.

A 1995 resolution, authored by a then anti-deficit Republican majority, insisted that a balanced budget would ensure lower interest rates, a faster rate of economic growth, increased national wealth, increased rates of savings and investment, faster growth in the capital stock, higher productivity, and improved trade balances. I agreed with my Republican colleagues 6 years. I wish they agreed with me today.

Now, we can disagree about what has put us in the deficit hole today, but we should be able to agree that digging the hole deeper is ill-advised. Yet the President's budget proposes policies that would increase the deficit by more than $2 trillion over the next 8 years. According to the White House Office of Management and Budget, the tax cut signed by the President and new proposals in his budget are responsible for 45 percent of the $7.9 trillion deterioration in our budget outlook. Now, that is 45 percent. Fifty-five percent is the recession and the war and other things that are occurring today. Not the upcoming war.

The suggestion that we will be able to grow our way out of the deficit was contradicted in testimony by Federal Reserve Chairman Alan Greenspan earlier this month. Even under the most optimistic, dynamic estimates of the President's tax cut, large deficits will continue as far the eye can see. And the projections of the economic benefits of tax cuts ignore the economic harm caused by government borrowing to finance deficits, higher interest rates, and lower investments in American businesses.

Now, contrary to some suggestions, my concern about the budget deficit has always applied to spending, increased spending, as well as unfinanced tax cuts. Even before many of my House Republican colleagues, I volunteered to help hold the line on spending at the level last year requested by the President. I hope the President, Mr. President, that you will send to Congress a list of pork-barrel items that you believe should be eliminated from the funding bill endorsed by the House leadership and recently signed into law. If you do, I will support those spending cuts. But the reality is that under the President's budget the deficit hole will be dug deeper.

Now, the rhetoric from my Republican friends about controlling spending just does not hold up to factual examination. In the 8 years since Republicans took control of the Congress, discretionary spending has increased by an average of 6.5 percent per year, compared to the previous 8 years of 1.6 percent. Those are the facts, not the rhetoric we hear on this floor every time someone stands up and questions the economic direction that we are going.

Now, some days, some of us ignore the most wasteful spending in the Federal budget, the $332 billion collected from taxpayers simply to cover our national interest payments. This debt tax consumed a whopping 18 percent of all Federal tax dollars last year. Under the budget, the economic game plan that I hear we are going to have on the floor in 2 or 3 weeks, the debt tax will increase 50 percent in the next 5 years. A 50 percent increase in taxes, the debt tax, is what is being advocated.

Now, I do not understand the logic of that. I agreed with the President, and I do agree with the President, and I believe him to be sincere when he says this Congress should not pass on to our children and future generations our debt. That is what we are doing under the proposal that is before us today.

To my friends on this side of the aisle, there are many on this side of the aisle that are ready to reach out and accept the hand and are beginning to work and to recognize that we need a change in direction. Yes, we need to restrain spending. And, yes, we need to restrain our desire to give tax cuts to the current generation, just as we anticipate sending our youngest and finest over to fight a war. It is not fair to them. It is not fair to our children and grandchildren.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members to address their remarks to the Chair and not to the President.

SUPPORT TRUTH IN DOMAIN NAMES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, tonight I rise more as a father than as a Member of Congress. I am, proudly, the father of three small children, all under the age of 11. And today when I introduced the Truth in Domain Names Act, I did it very much with Michael and Charlotte and Audrey in mind.

This legislation, which we first conceived of in the 107th Congress, would punish those who use misleading domain names to attract children to sexually explicit Internet sites. There would be fines of up to a quarter of a million dollars, and even imprisonment of up to 2 years.

As a member of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary, I know well, Mr. Speaker, that the Internet can be a force for good, but it can also be a force for evil. At its best, the Web is used to disseminate information and provide educational materials to children. Teachers and parents often encourage children to turn to the Internet for research, school projects, and homework, just as I did with my 8-year-old daughter this last Tuesday night, sitting with her on my knee, doing her homework and searching the Web.

The reality is that there is also the worst of the Internet, equally accessible to our children. The Internet can actually be used to deceive children into viewing inappropriate material. According to a survey conducted in the year 2000 by the Crimes Against Children Research Center, they found that 71 percent of teenagers had accidentally come across inappropriate sexual material on the Internet. An FBI spokesman told the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary in 1999 that pedophiles often lure children into viewing pornography to "encourage their victims to engage in sex."

Even in my own experience this Tuesday night, Mr. Speaker, I found that even though we were entering words in a search engine to help my second grade daughter do her homework, nevertheless the sites we were accessing, I had to cover her little eyes and see first what popped up because of the type of prurient materials that would come with the most innocuous word search.

So I ask my colleagues to join me today in this very simple proposal to provide criminal penalties to those who would name Web sites in a way to deceive children into being exposed to prurient material. The Truth in Domain Names Act is all about protecting the innocent from those who would prey upon them.

The Good Book tells us it would be better to have a millstone tied around their neck and have them thrown into the sea that would mislead and lead astray these little ones. Not a lot of millstones around this city, Mr. Speaker, but we can tie the seriousness of the law to those who would prey upon our children with prurient intent by this session of Congress adopting the Truth in Domain Names Act.

EXPRESSION OF GRATITUDE TOWARDS FRANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, tonight I wish to express my profound gratitude toward President Jacques Chirac and toward the French Parliament for their enduring alliance with our country and with NATO. I would also like to offer my respect to French Foreign Minister Dominique de Villipin. The civilized world cannot know yet the best method for stemming the growing terrorism that is engendered by the revolutionary fervor found in the Middle East and Central Asia, but I am certain of one thing: We will not succeed without our historic and valuable allies in Europe. They are priceless. War must be the last resort, only after tough and thorough inspections performed by U.N. agents have been exhausted.

I would like to speak of relations between the Governments of France and the United States and between the citizens of our countries. Our friendship is important and historic and dates from the days when General Marquis de Lafayette helped us win our own revolution for independence. Our very capital city, the city of Washington, was designed by a Frenchman, Pierre L'Enfant, and was modeled after Paris. The words of the French Revolution, "liberty, equality, fraternity," remain true today, and in our Congress they are truly carved for all time.

Just this week, I opened a medal for our Uncle Stanley Rogowski, who had fought in Normandy. Three Bronze stars. Bloodied for 3 years across the northern plains of France. As I visited the cemeteries there, I thought about the close alliance between the American people and the people of France and the struggle for freedom over tyranny in the 20th century.

U.S. President and U.S. Ambassador to France Thomas Jefferson wrote, "I do not believe war the most certain means of enforcing principles. Those peaceable coercions which are in the power of every nation, if undertaken in concert and in time of peace, are more likely to produce the desired effect." He wrote that in 1801. He loved France. He traveled there, he learned much, and he helped weave that into the fabric of American life in our earliest years.

□ 1815

As Archbishop Desmond Tutu of South Africa urged from a continent torn by terrorism in Sudan, in the Ivory Coast, in Egypt, in Nigeria, "Peace. Peace. Peace. Shouldn't America listen to the rest of the world?," he said. "Give the inspectors time."

Note what is happening throughout the world. The largest antiwar turnouts in U.S. history. In London, 750,000 citizens marched against the war, that city's largest demonstration ever. In Rome, 1 million people. In Spain, millions marched in Madrid and Barcelona. In Berlin, half a million. People marching in nations whose homelands have been ripped apart by past wars and who are victims of terrorism as well. Surely they know the price of suffering.

Imagine the message these demonstrations are sending across the caves of terrorism. America is being isolated in world opinion. This is neither wise nor politically sustainable for our Nation to go it alone. The war on terrorism can only be won with a broad and committed international coalition starting with America's most historic allies.

In this new struggle of righteousness, moral force is more important than bombs. The war on terrorism is actually a political insurgency halfway around the world, first against the corrupt regimes in the world of Islam, much like a civil war. Lacking any experience with democracy, desperate and politically motivated masses grasp Islam as a metaphor for political change and reform. The United States should not become the beleaguered referee caught between warring factions who also happen to sit atop the world's largest oil wells on which we have become dependent. Rather, America must unhook ourselves from that oil addiction; and as important, America must work with a broad international coalition to support the forces of popular reform and rising hopes for a better and more just way of life.

In some of the most undemocratic places in the world, in places like Pakistan and Afghanistan, two-thirds of the population is younger than 20, uneducated and often hungry. A major international commitment to feeding hungry children while educating them would serve the world much more durably in the years ahead.

In embracing the future, America must hold to its deepest ideals in this sea of political discontent and ally with rising aspirations of the dispossessed and forgotten. America should not, as happened in Iran, be caught on the wrong side of an unsustainable dictatorship or propping up weak regimes. Only broad and committed international coalitions can triumph in this struggle. Of three facts we are certain: we need our friends; America cannot win this battle alone; and only with justice will peace come.

THE DEBT LIMIT

The SPEAKER pro tempore (Mr. PORTER). Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, there is a phrase that famously set atop President Truman's desk stating, "The buck stops here." Mr. Speaker, looking at the administration's fiscal year 2004 budget, nothing could be further from the truth.

President Truman's phrase implies that real leaders have to make tough choices. Real leaders do not assure the American people that our country can afford a war of indeterminate length and massive new tax cuts simultaneously. In fact, the budget is nothing more than smoke and mirrors. Did you know that in spite of an imminent war, not one single dime, not one penny, not anything is budgeted for the looming war? That means the entire budget is nothing but a farce.

Though our country's anticipated effort to disarm Saddam Hussein and his weapons of mass destruction is necessary, and certainly we support our military 100 percent in their efforts, any future action in Iraq which is likely to come will by necessity increase our Federal spending and expand our deficit and the national debt for years and years and years to come. In addition to war with Iraq, which appears nowhere in the budget, the White House is pushing full steam ahead with its $388 billion plan to exempt dividend income from individual taxation. That may be good long-term planning and certainly no one supports taxing anything twice; that is poor policy. But the question is, can we afford it right now today at this time in the face of record deficits? The only realistic outcome of the revenue losses and increased government spending included in the President's budget is massive increases in the national debt. In the interest of bipartisanship, to quote another popular former Republican President, Mr. Reagan, "There you go again."

Just 8 months ago, the House passed an increase in the statutory debt limit by a single vote. Now, here we go again, having to raise the debt limit for the second time in 12 months. Last June, Congress had to raise the debt limit by $450 billion, to $6.4 trillion. Amazingly, this increase in the debt limit was $300 billion less than Treasury requested. Our debt is currently over $6 trillion and we are spending over $1 billion a day in interest. In fact, 180 of every $1,000 that east Texans send in to the government goes to interest payments alone. That is outrageous. It is unacceptable.

Treasury and the majority party in the House will not even specify, will not tell us what their desired increase in the debt limit is. It is feasible it will be over $7 trillion. At what point? When will the majority realize its fiscal irresponsibility in burying this Nation under a mountain of debt? John Adams said, "Facts are stubborn things."

What are the facts? Just 2 years ago, we had a projected budget surplus of $5.6 trillion. Those predictions of surpluses are long gone, and they have been replaced with projections of deficits and higher debt levels for as far as the eye can see. In fact, our financial condition changed to the worst, $8 trillion in 24 months. Equally amazing is the fact that as a direct result of the President's fiscal year 2004 budget, total spending in interest alone to finance the debt will increase from $332 billion in 2002 to nearly $500 billion in 2008. Further, the higher debt levels embedded in the President's budget will result in $1.1 trillion more in spending on interest payments on the debt than the government projected just last year. That is simply a waste of money.

It seems all fiscal discipline has blown out the window with this budget and any hope for our children and grandchildren to live in fiscally prosperous times. Instead, we are saddling future generations with accumulating debt payments. Just how much will a family have in net cash savings if this administration's tax cut and budget is passed? If the President's current tax cuts and spending plans are enacted, the average American family of four will pay approximately $6,500 a year in higher interest payments, far outstripping any negligible tax savings. In addition to the higher long-term interest rates Americans will face as a result of government borrowing in the capital markets, national priorities like health care, Social Security, and homeland security needs will be underfunded as the Federal Government pays more and more and more money to finance our national debt. An exponentially rising debt has consequences and is financed by sacrificing our seniors and our children, sacrificing Social Security, sacrificing Medicare, and sacrificing education.

Congress needs to hold increases in the debt limit to no more than $100 billion at a time until Congress and the White House have worked together to balance the unified budget by the end of the decade and to include PAYGO rules and discretionary spending caps.

PUBLICATION OF THE RULES OF THE COMMITTEE ON AGRICULTURE 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, I am pleased to submit for printing in the CONGRESSIONAL RECORD, pursuant to Rule XI, clause 2(a) of the Rules of the House, a copy of the Rules of the Committee on Agriculture, which were adopted at the organizational meeting of the Committee on February 12, 2003, and modified on this date, February 26, 2003.

Appendix A of the Committee Rules will include excerpts from the Rules of the House relevant to the operation of the Committee. Appendix B will include relevant excerpts from the Congressional Budget Act of 1974. In the interests of minimizing printing costs, Appendices A and B are omitted from this submission.

RULES OF THE COMMITTEE ON AGRICULTURE—108TH CONGRESS

RULE I.—GENERAL PROVISIONS

(a) *Applicability of House Rules.*—(1) The Rules of the House shall govern the procedure of the Committee and its subcommittees, and the rules of the Committee on Agriculture so far as applicable shall be interpreted in accordance with the Rules of the House, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable privileged motions in the Committee and its subcommittees. (See Appendix A for the applicable Rules of the U.S. House of Representatives.)

(2) As provided in clause 1(a)(2) of House Rule XI, each subcommittee is part of the Committee and is subject to the authority and direction of the Committee and its rules so far as applicable. (See also Committee rules III, IV, V, VI, VII and X, *infra.*)

(b) *Authority to Conduct Investigations.*—The Committee and its subcommittees, after consultation with the Chairman of the Committee, may conduct such investigations and studies as they may consider necessary or appropriate in the exercise of their responsibilities under Rule X of the Rules of the House and in accordance with clause 2(m) of House Rule XI.

(c) *Authority to Print.*—The Committee is authorized by the Rules of the House to have printed and bound testimony and other data presented at hearings held by the Committee and its subcommittees. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee and its subcommittees shall be paid from applicable accounts of the House described in clause 1(i)(1) of House Rule X in accordance with clause 1(c) of House Rule XI. (See also paragraphs (d), (e) and (f) of Committee rule VIII.)

(d) *Vice Chairman.*—The Member of the majority party on the Committee or subcommittee designated by the Chairman of the full Committee shall be the vice chairman of the Committee or subcommittee in accordance with clause 2(d) of House Rule XI.

(e) *Presiding Member.*—If the Chairman of the Committee or subcommittee is not present at any Committee or subcommittee meeting or hearing, the vice chairman shall preside. If the Chairman and vice chairman of the Committee or subcommittee are not present at a Committee or subcommittee meeting or hearing the ranking Member of the majority party who is present shall preside in accordance with clause 2(d), House Rule XI.

(f) *Activities Report.*—(1) The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending on January 3 of such year. (See also Committee rule VIII (h)(2).)

(2) Such report shall include separate sections summarizing the legislative and oversight activities of the Committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the Committee pursuant to clause 2(d) of House Rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by the Committee, and any recommendations made or actions taken with respect thereto.

(g) *Publication of Rules.*—The Committee's rules shall be published in the Congressional Record not later than thirty days after the Committee is elected in each odd-numbered year as provided in clause 2(a) of House Rule XI.

(h) *Joint Committee Reports of Investigation or Study.*—A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

RULE II.—COMMITTEE BUSINESS MEETINGS—REGULAR, ADDITIONAL AND SPECIAL

(a) *Regular Meetings.*—(1) Regular meetings of the Committee, in accordance with clause 2(b) of House Rule XI, shall be held on the first Wednesday of every month to transact its business unless such day is a holiday, or Congress is in recess or is adjourned, in which case the Chairman shall determine the regular meeting day of the Committee, if any, for that month. The Chairman shall provide each member of the Committee, as far in advance of the day of the regular meeting as practicable, a written agenda of such meeting. Items may be placed on the agenda by the Chairman or a majority of the Committee. If the Chairman believes that there will not be any bill, resolution or other matter considered before the full Committee and there is no other business to be transacted at a regular meeting, the meeting may be cancelled or it may be deferred until such time as, in the judgment of the Chairman, there may be matters which require the Committee's consideration. This paragraph shall not apply to meetings of any subcommittee. (See paragraph (f) of Committee rule X for provisions that apply to meetings of subcommittees.)

(b) *Additional Meetings.*—The Chairman may call and convene, as he or she considers necessary, after consultation with the Ranking Minority Member of the Committee, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such additional meetings pursuant to a notice from the Chairman.

(c) *Special Meetings.*—If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for such special meeting. Such request shall specify the measure or matters to be considered. Immediately upon the filing of the request, the Majority Staff Director (serving as the clerk of the Committee for such purpose) shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within 7 calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour thereof, and the measures or matter to be considered at that special meeting in accordance with clause 2(c)(2) of House Rule XI. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Majority Staff Director (serving as the clerk) of the Committee shall notify all members of the Committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered, and only the measure or matter specified in that notice may be considered at that special meeting.

RULE III.—OPEN MEETINGS AND HEARINGS; BROADCASTING

(a) *Open Meetings and Hearings.*—Each meeting for the transaction of business, including the markup of legislation, and each hearing by the Committee or a subcommittee shall be open to the public unless closed in accordance with clause 2(g) of House Rule XI. (See Appendix A.)

(b) *Broadcasting and Photography.*—Whenever a Committee or subcommittee meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of House Rule XI (See Appendix A). When such radio coverage is conducted in the Committee or subcommittee, written notice to that effect shall be placed on the desk of each Member. The Chairman of the Committee or subcommittee, shall not limit the number of television or still cameras permitted in a hearing or meeting room to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(c) *Closed Meetings—Attendees.*—No person other than Members of the Committee or subcommittee and such congressional staff and departmental representatives as the Committee or subcommittee may authorize shall be present at any business or markup session that has been closed to the public as provided in clause 2(g)(1) of House Rule XI.

(d) *Addressing the Committee.*—A Committee member may address the Committee or a subcommittee on any bill, motion, or other matter under consideration (See Committee rule VII (e) relating to questioning a witness at a hearing). The time a member may address the Committee or subcommittee for any such purpose shall be limited to five minutes, except that this time limit may be waived by unanimous consent. A member shall also be limited in his or her remarks to the subject matter under consideration, unless the Member receives unanimous consent to extend his or her remarks beyond such subject.

(e) *Meetings to Begin Promptly.*—Subject to the presence of a quorum, each meeting or hearing of the Committee and its subcommittees shall begin promptly at the time so stipulated in the public announcement of the meeting or hearing.

(f) *Prohibition on Proxy Voting.*—No vote by any Member of the Committee or subcommittee with respect to any measure or matter may be cast by proxy.

(g) *Location of Persons at Meetings.*—No person other than the Committee or subcommittee Members and Committee or subcommittee staff may be seated in the rostrum area during a meeting of the Committee or subcommittee unless by unanimous consent of Committee or subcommittee.

(h) *Consideration of Amendments and Motions.*—A Member, upon request, shall be recognized by the Chairman to address the Committee or subcommittee at a meeting for a period limited to five minutes on behalf of an amendment or motion offered by the Member or another Member, or upon any other matter under consideration, unless the Member receives unanimous consent to extend the time limit. Every amendment or motion made in Committee or subcommittee shall, upon the demand of any Member present, be reduced to writing, and a copy thereof shall be made available to all Members present. Such amendment or motion shall not be pending before the Committee or subcommittee or voted on until the requirements of this paragraph have been met.

(i) *Demanding Record Vote.*—

(1) A record vote of the Committee or subcommittee on a question or action shall be ordered on a demand by one-fifth of the Members present.

(2) The Chairman of the Committee or Subcommittee may postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment. If the Chairman postpones further proceedings:

(A) the Chairman may resume such postponed proceedings, after giving Members adequate notice, at a time chosen in consultation with the Ranking Minority Member; and

(B) notwithstanding any intervening order for the previous question, the underlying proposition on which proceedings were postponed shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(j) *Submission of Motions or Amendments In Advance of Business Meetings.*—The Committee and subcommittee-Chairman may request and Committee and subcommittee Members should, insofar as practicable, cooperate in providing copies of proposed amendments or motions to the Chairman and the Ranking Minority Member of the Committee or the subcommittee twenty-four hours before a Committee or subcommittee business meeting.

(k) *Points of Order.*—No point of order against the hearing or meeting procedures of the Committee or subcommittee shall be entertained unless it is made in a timely fashion.

(l) *Limitation on Committee Sittings.*—The Committee or subcommittees may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

(m) Prohibition of Wireless Telephones.—Use of wireless phones during a committee or subcommittee hearing or meeting is prohibited.

RULE IV.—QUORUMS

(a) *Working Quorum.*—One-third of the members of the Committee or a subcommittee shall constitute a quorum for taking any action, other than as noted in paragraphs (b) and (c).

(b) *Majority Quorum.*—A majority of the members of the Committee or subcommittee shall constitute a quorum for:

(1) the reporting of a bill, resolution or other measure (See clause 2(h)(1) of House Rules XI, and Committee rule VIII);

(2) the closing of a meeting or hearing to the public pursuant to clauses 2(g) and 2(k)(5) of the Rule XI of the Rules of the House; and

(3) the authorizing of a subpoena as provided in clause 2(m)(3), of House Rule XI. (See also Committee rule VI.)

(c) *Quorum for Taking Testimony.*—Two members of the Committee or subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

RULE V.—RECORDS

(a) *Maintenance of Records.*—The Committee shall keep a complete record of all Committee and subcommittee action which shall include—

(1) in the case of any meeting or hearing transcripts, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical and typographical corrections authorized by the person making the remarks involved, and

(2) written minutes shall include a record of all Committee and subcommittee action and a record of all votes on any question and a tally on all record votes.

The result of each such record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee and by telephone request. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(b) *Access to and Correction of Records.*—Any public witness, or person authorized by such witness, during Committee office hours in the Committee offices and within two weeks of the close of hearings, may obtain a transcript copy of that public witness's testimony and make such technical, grammatical and typographical corrections as authorized by the person making the remarks involved as will not alter the nature of testimony given. There shall be prompt return of such corrected copy of the transcript to the Committee. Members of the Committee or subcommittee shall receive copies of transcripts for their prompt review and correction and prompt return to the Committee. The Committee or subcommittee may order the printing of a hearing record without the corrections of any Member or witness if it determines that such Member or witness has been afforded a reasonable time in which to make such corrections and further delay would seriously impede the consideration of the legislative action that is subject of the hearing. The record of a hearing shall be closed ten calendar days after the last oral testimony, unless the Committee or subcommittee determines otherwise. Any person requesting to file a statement for the record of a hearing must so request before the hearing concludes and must file the statement before the record is closed unless the Committee or subcommittee determines otherwise. The Committee or subcommittee may reject any statement in light of its length or its tendency to defame, degrade, or incriminate any person.

(c) *Property of the House.*—All Committee and subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Members serving as Chairman and such records shall be the property of the House and all Members of the House shall have access thereto. The Majority Staff Director shall promptly notify the Chairman and the Ranking Minority Member of any request for access to such records.

(d) *Availability of Archived Records.*—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with House Rule VII. The Chairman shall notify the Ranking Minority Member of the Committee of the need for a Committee order pursuant to clause 3(b)(3) or clause 4(b) of such House Rule, to withhold a record otherwise available.

(e) *Special Rules for Certain Records and Proceedings.*—A stenographic record of a business meeting of the Committee or subcommittee may be kept and thereafter may be published if the Chairman of the Committee, after consultation with the Ranking Minority Member, determines there is need for such a record. The proceedings of the Committee or subcommittee in a closed meeting, evidence or testimony in such meeting, shall not be divulged unless otherwise determined by a majority of the Committee or subcommittee.

(f) *Electronic Availability of Committee Publications.*—To the maximum extent feasible, the Committee shall make its publications available in electronic form.

RULE VI.—POWER TO SIT AND ACT; SUBPOENA POWER

(a) *Authority to Sit and Act.*—For the purpose of carrying out any of its function and duties under House Rules X and XI, the Committee and each of its subcommittees is authorized (subject to paragraph (b)(1) of this rule)—

(1) to sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned and to hold such hearings, and (2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents, as it deems necessary. The Chairman of the Committee or subcommittee, or any member designated by the Chairman, may administer oaths to any witness.

(b) *Issuance of Subpoenas.*—(1) A subpoena may be authorized and issued by the Committee or subcommittee under paragraph (a)(2) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, as provided in clause 2(m)(3)(A) of House Rule XI. Such authorized subpoenas shall be signed by the Chairman of the Committee or by any member designated by the Committee. As soon as practicable after a subpoena is issued under this rule, the Chairman shall notify all members of the Committee of such action.

(2) Notice of a meeting to consider a motion to authorize and issue a subpoena should be given to all Members of the Committee by 5 p.m. of the day preceding such meeting.

(3) Compliance with any subpoena issued by the Committee or subcommittee under paragraph (a)(2) may be enforced only as authorized or directed by the House.

(4) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(c) *Expenses of Subpoenaed Witnesses.*—Each witness who has been subpoenaed, upon the completion of his or her testimony before the Committee or any subcommittee, may report to the offices of the Committee, and there sign appropriate vouchers for travel allowances and attendance fees to which he or she is entitled. If hearings are held in cities other than Washington, D.C., the subpoenaed witness may contact the Majority Staff Director of the Committee, or his or her representative, before leaving the hearing room.

RULE VII.—HEARING PROCEDURES

(a) *Power to Hear.*—For the purpose of carrying out any of its functions and duties under House Rule X and XI, the Committee and its subcommittees are authorized to sit and hold hearings at any time or place within the United States whether the House is in session, has recessed, or has adjourned. (See paragraph (a) of Committee rule VI and paragraph (f) of Committee rule X for provisions relating to subcommittee hearings and meetings.)

(b) *Announcement.*—The Chairman of the Committee shall after consultation with the Ranking Minority Member of the Committee, make a public announcement of the date, place and subject matter of any Committee hearing at least one week before the commencement of the hearing. The Chairman of a subcommittee shall schedule a hearing only after consultation with the Chairman of the Committee and after consultation with the Ranking Minority Member of the subcommittee, and the Chairmen of the other subcommittees after such consultation with the Committee Chairman, and shall request the Majority Staff Director to make a public announcement of the date, place, and subject matter of such hearing at least one week before the hearing. If the Chairman of the Committee or the subcommittee, with concurrence of the Ranking Minority Member of the Committee or subcommittee, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman of the Committee or subcommittee, as appropriate, shall request the Majority Staff Director to make such public announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record, and shall promptly enter the appropriate information into the Committee scheduling service of the House Information Systems as soon as possible after such public announcement is made.

(c) *Scheduling of Witnesses.*—Except as otherwise provided in this rule, the scheduling of witnesses and determination of the time allowed for the presentation of testimony at hearings shall be at the discretion of the Chairman of the Committee or subcommittee, unless a majority of the Committee or subcommittee determines otherwise.

(d) *Written Statement; Oral Testimony.*—(1) Each witness who is to appear before the Committee or a subcommittee, shall insofar as practicable file with the Majority Staff Director of the Committee, at least two working days before day of his or her appearance, a written statement of proposed testimony. Witnesses shall provide sufficient copies of their statement for distribution to Committee or subcommittee Members, staff, and the news media. Insofar as practicable, the Committee or subcommittee staff shall distribute such written statements to all Members of the Committee or subcommittee as soon as they are received as well as any official reports from departments and agencies on such subject matter. All witnesses may be limited in their oral presentations to brief summaries of their statements within the time allotted to them, at the discretion of the Chairman of the Committee or subcommittee, in light of the nature of the testimony and the length of time available.

(2) As noted in paragraph (a) of Committee rule VI, the Chairman of the Committee or one of its subcommittees, or any Member designated by the Chairman, may administer an oath to any witness.

(3) To the greatest extent practicable, each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a curriculum vitae and disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(e) *Questioning of Witnesses.*—Committee or subcommittee Members may question witnesses only when they have been recognized by the Chairman of the Committee or subcommittee for that purpose. Each Member so recognized shall be limited to questioning a witness for five minutes until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness for five minutes; and thereafter the Chairman of the Committee or subcommittee may limit the time of a further round of questioning after giving due consideration to the importance of the subject matter and the length of time available. All questions put to witnesses shall be germane to the measure or matter under consideration. Unless a majority of the Committee or subcommittee determines otherwise, no committee or subcommittee staff shall interrogate witnesses.

(f) *Extended Questioning for Designated Members.*—Notwithstanding paragraph (e), the Chairman and Ranking Minority member may designate an equal number of Members from each party to question a witness for a period not longer than 60 minutes.

(g) *Witnesses for the Minority.*—When any hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon as provided in clause 2(j)(1) of House Rule XI.

(h) *Summary of Subject Matter.*—Upon announcement of a hearing, to the extent practicable, the Committee shall make available immediately to all members of the Committee a concise summary of the subject matter (including legislative reports and other material) under consideration. In addition, upon announcement of a hearing and subsequently as they are received, the Chairman of the Committee or subcommittee shall, to the extent practicable, make available to the members of the Committee any official reports from departments and agencies on such matter. (See Committee rule X(f).)

(i) *Open Hearings.*—Each hearing conducted by the Committee or subcommittee shall be open to the public, including radio, television and still photography coverage, except as provided in clause 4 of House Rule XI (see also Committee rule III (b).). In any event, no Member of the House may be excluded from nonparticipatory attendance at any hearing unless the House by majority vote shall authorize the Committee or subcommittee, for purposes of a particular series of hearings on a particular bill or resolution or on a particular subject of investigation, to close its hearings to Members by means of the above procedure.

(j) *Hearings and Reports.*—(1)(i) The Chairman of the Committee or subcommittee at a hearing shall announce in an opening statement the subject of the investigation. A copy of the Committee rules (and the applicable provisions of clause 2 of House Rule XI, regarding hearing procedures, an excerpt of which appears in Appendix A thereto) shall be made available to each witness upon request. Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman of the Committee or subcommittee may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; but only the full Committee may cite the offender to the House for contempt.

(ii) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness, such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (j) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person. The Committee or subcommittee shall afford a person an opportunity voluntarily to appear as a witness; and the Committee or subcommittee shall receive and shall dispose of requests from such person to subpoena additional witnesses.

(iii) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee or subcommittee. In the discretion of the Committee or subcommittee, witnesses may submit brief and pertinent statements in writing for inclusion in the record. The Committee or subcommittee is the sole judge of the pertinency of testimony and evidence adduced at its hearings. A witness may obtain a transcript copy of his or her testimony given at a public session or, if given at an executive session, when authorized by the Committee or subcommittee. (See paragraph (c) of Committee rule V.)

(2) A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day) in advance of their consideration.

RULE VIII.—THE REPORTING OF BILLS AND RESOLUTIONS

(a) *Filing of Reports.*—The Chairman shall report or cause to be reported promptly to the House any bill, resolution, or other measure approved by the Committee and shall take or cause to be taken all necessary steps to bring such bill, resolution, or other measure to a vote. No bill, resolution, or measure shall be reported from the Committee unless a majority of Committee is actually present. A Committee report on any bill, resolution, or other measure approved by the Committee shall be filed within seven calendar days (not counting days on which the House is not in session) after the day on which there has been filed with the Majority Staff Director of the Committee a written request, signed by a majority of the Committee, for the reporting of that bill or resolution. The Majority Staff Director of the Committee shall notify the Chairman immediately when such a request is filed.

(b) *Content of Reports.*—Each Committee report on any bill or resolution approved by the Committee shall include as separately identified sections:

(1) a statement of the intent or purpose of the bill or resolution;

(2) a statement describing the need for such bill or resolution;

(3) a statement of Committee and subcommittee consideration of the measure including a summary of amendments and motions offered and the actions taken thereon;

(4) the results of each record vote on any amendment in the Committee and subcommittee and on the motion to report the measure or matter, including the names of those Members and the total voting for and the names of those Members and the total voting against such amendment or motion (See clause 3(b) of House Rule XIII);

(5) the oversight findings and recommendations of the Committee with respect to the subject matter of the bill or resolution as required pursuant to clause 3(c)(1) of House Rule XIII and clause 2(b)(1) of House Rule X;

(6) the detailed statement described in section 308(a) of the Congressional Budget Act of 1974 if the bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law;

(7) the estimate of costs and comparison of such estimates, if any, prepared by the Director of the Congressional Budget Office in connection with such bill or resolution pursuant to section 402 of the Congressional Budget Act of 1974 if submitted in timely fashion to the Committee;

(8) a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding;

(9) a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution;

(10) an estimate by the committee of the costs that would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and for its authorized duration or for each of the five fiscal years following the fiscal year of reporting, whichever period is less (see Rule XIII, clause 3(d)(2), (3) and (h)(2), (3)), together with—(i) a comparison of these estimates with those made and submitted to the Committee by any Government agency when practicable, and (ii) a comparison of the total estimated funding level for the relevant program (or programs) with appropriate levels under current law (The provisions of this clause do not apply if a cost estimate and comparison prepared by the Director of the Congressional

Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report);

(11) the changes in existing law (if any) shown in accordance with clause 3 of House Rule XIII;

(12) the determination required pursuant to section 5(b) of Public Law 92-463, if the legislation reported establishes or authorizes the establishment of an advisory committee; and

(13) the information on Federal and intergovernmental mandates required by section 423(c) and (d) of the Congressional Budget Act of 1974, as added by the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

(14) a statement regarding the applicability of section 102(b)(3) of the Congressional Accountability Act, Public Law 104-1.

(c) *Supplemental, Minority, or Additional Views.*—If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than two subsequent calendar days (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such date) in which to file such views, in writing and signed by that Member, with the Majority Staff Director of the Committee. When time guaranteed by this paragraph has expired (or if sooner, when all separate views have been received), the Committee may arrange to file its report with the Clerk of the House not later than one hour after the expiration of such time. All such views (in accordance with House Rule XI, clause 2(1) and House Rule XIII, clause 3(a)(1)), as filed by one or more Members of the Committee, shall be included within and made a part of the report filed by the Committee with respect to that bill or resolution.

(d) *Printing of Reports.*—The report of the Committee on the measure or matter noted in paragraph (a) above shall be printed in a single volume, which shall:

(1) include all supplemental, minority or additional views that have been submitted by the time of the filing of the report; and

(2) bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under House Rule XII, clause 3(a)(1)) are included as part of the report.

(e) *Immediate Printing; Supplemental Reports.*—Nothing in this rule shall preclude (1) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c), or (2) the filing by the Committee of any supplemental report on any bill or resolution that may be required for the correction of any technical error in a previous report made by the Committee on that bill or resolution.

(f) *Availability of Printed Hearing Records.*—If hearings have been held on any reported bill or resolution, the Committee shall make every reasonable effort to have the record of such hearings printed and available for distribution to the Members of the House prior to the consideration of such bill or resolution by the House. Each printed hearing of the Committee or any of its subcommittees shall include a record of the attendance of the Members.

(g) *Committee Prints.*—All Committee or subcommittee prints or other Committee or subcommittee documents, other than reports or prints of bills, that are prepared for public distribution shall be approved by the Chairman of the Committee or the Committee prior to public distribution.

(h) *Post Adjournment Filing of Committee Reports.*—(1) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report approved by the Committee may be filed with the Clerk at any time, provided that if a member gives notice at the time of approval of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.

(2) After an adjournment of the last regular session of a Congress sine die, the Chairman of the Committee may file at any time with the Clerk the Committee's activity report for that Congress pursuant to clause 1(d)(1) of Rule XI of the Rules of the House without the approval of the Committee, provided that a copy of the report has been available to each member of the Committee for at least seven calendar days and the report includes any supplemental, minority, or additional views submitted by a member of the Committee.

RULE IX.—OTHER COMMITTEE ACTIVITIES

(a) *Oversight Plan.*—Not later than February 15 of the first session of a Congress, the Chairman shall convene the Committee in a meeting that is open to the public and with a quorum present to adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing such plans the Committee shall, to the maximum extent feasible—

(1) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

(2) review specific problems with federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals; and

(3) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(4) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review at least once every ten years.

The Committee and its appropriate subcommittees shall review and study, on a continuing basis, the impact or probable impact of tax policies affecting subjects within its jurisdiction as provided in clause 2(d) of House Rule X. The Committee shall include in the report filed pursuant to clause 1(d) of House Rule XI a summary of the oversight plans submitted by the Committee under clause 2(d) of House Rule X, a summary of actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by the Committee and any recommendations made or actions taken thereon.

(b) *Annual Appropriations.*—The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(c) *Budget Act Compliance: Views and Estimates* (See Appendix B).—Not later than six weeks after the President submits his budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the Committee shall, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year (under section 301 of the Congressional Budget Act of 1974—see Appendix B) that are within its jurisdiction or functions; and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(d) *Budget Act Compliance: Recommended Changes.*—Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process, it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974 (See Appendix B).

(e) *Conference Committees.*—Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall, after consultation with the Ranking Minority Member, determine the number of conferees the Chairman deems most suitable and then recommend to the Speaker as conferees, in keeping with the number to be appointed by the Speaker as provided in House Rule I, clause 11, the names of those Members of the Committee of not less than a majority who generally supported the House position and who were primarily responsible for the legislation. The Chairman shall, to the fullest extent feasible, include those Members of the Committee who were the principal proponents of the major provisions of the bill as it passed the House and such other Committee Members of the majority party as the Chairman may designate in consultation with the Members of the majority party. Such recommendations shall provide a ratio of majority party Members to minority party Members no less favorable to the majority party than the ratio of majority party Members to minority party Members on the Committee. In making recommendations of Minority Party Members as conferees, the Chairman shall consult with the Ranking Minority Member of the Committee.

RULE X.—SUBCOMMITTEES

(a) *Number and Composition.*—There shall be such subcommittees as specified in paragraph (c) of this rule. Each of such subcommittees shall be composed of the number of members set forth in paragraph (c) of this rule, including ex officio members. The

Chairman may create additional subcommittees of an ad hoc nature as the Chairman determines to be appropriate subject to any limitations provided for in the House Rules.

(b) *Ratios.*—On each subcommittee, there shall be a ratio of majority party members to minority party members which shall be consistent with the ratio on the full Committee. In calculating the ratio of majority party members to minority party members, there shall be included the ex officio members of the subcommittees and ratios below reflect that fact.

(c) *Jurisdiction.*—Each subcommittee shall have the following general jurisdiction and number of members:

Department Operations, Oversight, Nutrition and Forestry (21 Members, 11 majority and 10 minority).—Agency oversight; review and analysis; special investigations; food stamps, nutrition and consumer programs; forestry in general, forest reserves other than those created from the public domain; energy and biobased energy production; and dairy.

Livestock and Horticulture (23 Members, 12 majority and 11 minority).—Livestock; poultry; meat; seafood and seafood products; inspection, marketing, and promotion of such commodities; aquaculture; animal welfare; grazing; fruits and vegetables; marketing and promotion orders.

General Farm Commodities and Risk Management (31 Members, 16 majority, 15 minority).—Program and markets related to cotton, cottonseed, wheat, feed grains, soybeans, oilseeds, rice, dry beans, peas, lentils; Commodity Credit Corporation; crop insurance; and commodity exchanges.

Specialty Crops and Foreign Agriculture Programs (17 Members, 9 majority and 8 minority)—Peanuts; sugar; tobacco; honey and bees; marketing orders relating to such commodities; foreign agricultural assistance and trade promotion programs, generally.

Conservation, Credit, Rural Development and Research (21 Members, 11 majority and 10 minority)—Soil, water, and resource conservation; small watershed program; agricultural credit; rural development; rural electrification; farm security and family farming matters; agricultural research, education and extension services; plant pesticides, quarantine, adulteration of seeds, and insect pests; and biotechnology.

(d) Referral of Legislation.—

(1)(*a*) *In General.*—All bills, resolutions, and other matters referred to the Committee shall be referred to all subcommittees of appropriate jurisdiction within 2 weeks after being referred to the Committee. After consultation with the Ranking Minority Member, the Chairman may determine that the Committee will consider certain bills, resolutions, or other matters.

(b) Trade Matters.--Unless action is otherwise taken under subparagraph (3), bills, resolutions, and other matters referred to the Committee relating to foreign agriculture, foreign food or commodity assistance, and foreign trade and marketing issues will be considered by the Committee.

(2) The Chairman, by a majority vote of the Committee, may discharge a subcommittee from further consideration of any bill, resolution, or other matter referred to the subcommittee and have such bill, resolution or other matter considered by the Committee. The Committee having referred a bill, resolution, or other matter to a subcommittee in accordance with this rule may discharge such subcommittee from further consideration thereof at any time by a vote of the majority members of the Committee for the Committee's direct consideration or for reference to another subcommittee.

(3) Unless the Committee, a quorum being present, decides otherwise by a majority vote, the Chairman may refer bills, resolutions, legislation or other matters not specifically within the jurisdiction of a subcommittee, or that is within the jurisdiction of more than one subcommittee, jointly or exclusively as the Chairman deems appropriate, including concurrently to the subcommittees with jurisdiction, sequentially to the subcommittees with jurisdiction (subject to any time limits deemed appropriate), divided by subject matter among the subcommittees with jurisdiction, or to an ad hoc subcommittee appointed by the Chairman for the purpose of considering the matter and reporting to the Committee thereon, or make such other provisions deemed appropriate.

(e) *Participation and Service of Committee Members on Subcommittees.*—(1) The Chairman and the Ranking Minority Member shall serve as ex officio members of all subcommittees and shall have the right to vote on all matters before the subcommittees. The Chairman and the Ranking Minority Member may not be counted for the purpose of establishing a quorum.

(2) Any member of the Committee who is not a member of the subcommittee may have the privilege of sitting and nonparticipatory attendance at subcommittee hearings or meetings in accordance with clause 2(g)(2) of House Rule XI. Such member may not:

(i) vote on any matter;

(ii) be counted for the purpose of a establishing a quorum;

(iii) participate in questioning a witness under the five minute rule, unless permitted to do so by the subcommittee Chairman in consultation with the Ranking Minority Member or a majority of the subcommittee, a quorum being present;

(iv) raise points of order; or

(v) offer amendments or motions.

(f) *Subcommittee Hearings and Meetings.*—(1) Each subcommittee is authorized to meet, hold hearings, receive evidence, and make recommendations to the Committee on all matters referred to it or under its jurisdiction after consultation by the subcommittee Chairmen with the Committee Chairman. (See Committee rule VII.)

(2) After consultation with the Committee Chairman, subcommittee Chairmen shall set dates for hearings and meetings of their subcommittees and shall request the Majority Staff Director to make any announcement relating thereto. (See Committee rule VII(b).) In setting the dates, the Committee Chairman and subcommittee Chairman shall consult with other subcommittee Chairmen and relevant Committee and Subcommittee Ranking Minority Members in an effort to avoid simultaneously scheduling Committee and subcommittee meetings or hearings to the extent practicable.

(3) Notice of all subcommittee meetings shall be provided to the Chairman and the Ranking Minority Member of the Committee by the Majority Staff Director.

(4) Subcommittees may hold meetings or hearings outside of the House if the Chairman of the Committee and other subcommittee Chairmen and the Ranking Minority Member of the subcommittee is consulted in advance to ensure that there is no scheduling problem. However, the majority of the Committee may authorize such meeting or hearing.

(5) The provisions regarding notice and the agenda of Committee meetings under Committee rule II(a) and special or additional meetings under Committee rule II(b) shall apply to subcommittee meetings.

(6) If a vacancy occurs in a subcommittee chairmanship, the Chairman may set the dates for hearings and meetings of the subcommittee during the period of vacancy. The Chairman may also appoint an acting subcommittee Chairman until the vacancy is filled.

(g) *Subcommittee Action.*—(1) Any bill, resolution, recommendation, or other matter forwarded to the Committee by a subcommittee shall be promptly forwarded by the subcommittee Chairman or any subcommittee member authorized to do so by the subcommittee. (2) Upon receipt of such recommendation, the Majority Staff Director of the Committee shall promptly advise all members of the Committee of the subcommittee action.

(3) The Committee shall not consider any matters recommended by subcommittees until two calendar days have elapsed from the date of action, unless the Chairman or a majority of the Committee determines otherwise.

(h) *Subcommittee Investigations.*—No investigation shall be initiated by a subcommittee without the prior consultation with the Chairman of the Committee or a majority of the Committee.

RULE XI.—COMMITTEE BUDGET, STAFF, AND TRAVEL

(a) *Committee Budget.*—The Chairman, in consultation with the majority members of the Committee, and the minority members of the Committee, shall prepare a preliminary budget for each session of the Congress. Such budget shall include necessary amounts for staff personnel, travel, investigation, and other expenses of the Committee and subcommittees. After consultation with the Ranking Minority Member, the Chairman shall include an amount budgeted to minority members for staff under their direction and supervision. Thereafter, the Chairman shall combine such proposals into a consolidated Committee budget, and shall take whatever action is necessary to have such budget duly authorized by the House.

(b) *Committee Staff.*—(1) The Chairman shall appoint and determine the remuneration of, and may remove, the professional and clerical employees of the Committee not assigned to the minority. The professional and clerical staff of the Committee not assigned to the minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he or she determines appropriate. (See House Rule X, clause 9)

(2) The Ranking Minority member of the Committee shall appoint and determine the remuneration of, and may remove, the professional and clerical staff assigned to the minority within the budget approved for such purposes. The professional and clerical staff assigned to the minority shall be under the general supervision and direction of the Ranking Minority Member of the Committee who may delegate such authority as he or she determines appropriate.

(3) From the funds made available for the appointment of Committee staff pursuant to any primary or additional expense resolution, the Chairman shall ensure that each subcommittee is adequately funded and staffed to discharged its responsibilities and that the minority party is fairly treated in the appointment of such staff (See House Rule X, clause 6(d)).

(c) *Committee Travel.*—(1) Consistent with the primary expense resolution and such additional expense resolution as may have been approved, the provisions of this rule shall govern official travel of Committee members and Committee staff regarding domestic and foreign travel (See House rule XI, clause 2(n) and House Rule X, clause 8 (reprinted in Appendix A)). Official travel for any member or any Committee staff member shall be paid only upon the prior authorization of the Chairman. Official travel may be authorized by the Chairman for any Committee Member and any Committee staff member in connection with the attendance of hearings conducted by the Committee and its subcommittees and meetings, conferences, facility inspections, and investigations which involve activities or subject matter relevant to the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(i) The purpose of the official travel;

(ii) The dates during which the official travel is to be made and the date or dates of the event for which the official travel is being made;

(iii) The location of the event for which the official travel is to be made; and

(iv) The names of members and Committee staff seeking authorization.

(2) In the case of official travel of members and staff of a subcommittee to hearings, meetings, conferences, facility inspections and investigations involving activities or subject matter under the jurisdiction of such subcommittee to be paid for out of funds allocated to the Committee, prior authorization must be obtained from the subcommittee Chairman and the full Committee Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the applicable subcommittee Chairman in writing setting forth those items enumerated in clause (1).

(3) Within 60 days of the conclusion of any official travel authorized under this rule, there shall be submitted to the Committee Chairman a written report covering the information gained as a result of the hearing, meeting, conference, facility inspection or investigation attended pursuant to such official travel.

(4) Local currencies owned by the United States shall be made available to the Committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds shall be expended for the purpose of defraying expenses of Members of the Committee or is employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to their use of such currencies:

(i) No Member or employee of the Committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law; and

(ii) Each Member or employee of the Committee shall make an itemized report to the Chairman within 60 days following the completion of travel showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose, and shall summarize in these categories the total foreign currencies and appropriated funds expended. All such individual reports shall be filed by the Chairman with the Committee on House Administration and shall be open to public inspection.

RULE XII.—AMENDMENT OF RULES

These rules may be amended by a majority vote of the Committee. A proposed change in these rules shall not be considered by the Committee as provided in clause 2 of House Rule XI, unless written notice of the proposed change has been provided to each Committee member two legislative days in advance of the date on which the matter is to be considered. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after its approval.

THE FEDERAL BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from North Carolina (Mr. PRICE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PRICE of North Carolina. Mr. Speaker, I and a number of colleagues wish to address this body and the American people this evening on our country's fiscal situation and the decisions facing Congress as we propose a budget for the 2004 fiscal year. We speak with some urgency, and I think colleagues will sense that, because our situation has worsened drastically, and we are convinced that the President's 2004 budget would move our country dramatically in the wrong direction. In the minutes to follow, we will elaborate on our concerns and explain on the alternative course that we should be taking.

Mr. Speaker, just 3 years ago, the Federal budget achieved its first surplus that did not rely on either the Social Security trust fund surplus or the Medicare surplus in many, many years. In fact, in the last years of the Clinton administration, we actually paid down $400 billion of the publicly held debt. This first chart tells the story: the deepening deficits in the 1980s, the climb out of deficit spending that occurred after the historic 1993 budget vote, and then, in the last years of the Clinton administration, a surplus, almost unheard of in this postwar period. This surplus enabled us to pay down a portion of the publicly held debt and to look forward to being able to meet the obligations of Social Security and Medicare as the baby boomers retire.

This situation, unfortunately, has now drastically reversed. As this chart indicates, we have in this second Bush administration a plunge into deficit spending that breaks the record set in the first Bush administration and promises red ink as far as the eye can see. After just 2 years in office, the Bush administration would spend the entire Medicare surplus, the entire Social Security surplus, and would pile up trillions in the debt we once set out to retire. Never in our country's history have we had a fiscal reversal of this magnitude. The next charts will make that especially clear.

We had, at the start of this administration, a projected $5.6 trillion surplus over the next 10 years. That surplus now is not only gone—and you see here the successive projections as our fiscal situation worsened. Now we are looking at no surplus and, in fact, at a $2.1 trillion deficit for that same 10-year period. That is a fiscal reversal of almost $8 trillion, unprecedented in our country's history. The deficit for 2003 is projected to be over $300 billion and for 2004 around $307 billion. The next chart shows those same figures with the Social Security and Medicare surpluses removed. Of course, that makes the situation even more alarming, because when you remove the cushion of the Social Security and Medicare surpluses which the Bush budgets would spend in their entirety over the next 10 years, the hole is even deeper. Where we were formerly looking at a $3 trillion on-budget surplus over the next 10 years, we are now looking at a $4.4 trillion deficit.

This chart indicates what happens to trust fund revenues. The red bars are the Social Security surplus. The yellow bars are the Medicare surplus. The olive bars are the deficit beyond these surpluses. The Bush budget plans to spend those surpluses entirely and to borrow considerably beyond that. All this is going to add to the national debt. We are going to add some $2 trillion to the national debt in the next 5 years.

Some Members will recall that at the end of the Clinton administration, we were talking about actually retiring the publicly held debt by 2008. There was even some debate about whether we could fully pay it down. Well, you can forget about that debate, because now we have a $5 trillion publicly held debt predicted for 2008. As many speakers have already said this evening, that will not only be a huge burden on future generations but it will also sap our annual budgets, because we are going to have to pay an additional $1.5 trillion in money down the rat hole in interest on that publicly held debt.

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This will amount to a debt tax, d-e-b-t tax of more than $200 billion a year for the forseeable future. That comes to about $4,500 per year for the average family, and it is rising. This chart indicates how that debt tax, the accumulated debt taxes, will grow by $1.5 trillion by virtue of these projected Federal deficits and the piling up of debt.

Unfortunately, in the face of the worst fiscal reversal in the Nation's history, what is the response of the Bush administration? The response is actually to propose more of the same failed policies. The budget proposes $1.5 trillion in new tax cuts, every penny of which is funded by increased government debt, and when we add the interest costs, those new tax proposals, on top of the old ones, come to almost $2 trillion. These tax cuts mainly benefit the wealthiest taxpayers in this country. They will not only increase the deficit, but they will restrict the money available for education, for the environment, and for transportation, health care, and law enforcement.

In fact, Mr. Speaker, this Bush budget gives us the worst of both worlds. It take us over the cliff fiscally, but then it actually underfunds critical domestic priorities.

We know, for example, that our States are flat on their back fiscally. Our next speaker will elaborate on that.

The No Child Left Behind Act passed with great bipartisan enthusiasm. But it is not funded in the President's budget proposal, leaving the states to their own devices. Homeland Security has been underfunded in the 2003 budget. The President promised $3.5 billion in additional funding for first responders, but then taking the money away from conventional law enforcement grants, leaving the states with less than a billion dollars in new money.

The most obvious way to help the States from the federal level would be to increase the cost sharing percentage temporarily on Medicaid. But just this week the President reiterated that he has no intention of doing that. So the States can forget it when it comes to any relief from their fiscal distress. We may be faced with a situation of cutting taxes here at the Federal level and having like amounts reimposed by the States to meet their obligations, and that of course would mean that the net stimulative effect was zero.

So, Mr. Speaker, by proposing a budget that mandates enormous deficits into the indefinite future while cutting important domestic priorities, this administration utterly fails to meet the fiscal challenges facing our Nation, and I and my colleagues participating in this special order wish to elaborate on where the Bush budget would take us.

First we will hear from a new Member of this body who has significant experience in politics and in government and is already making his mark, the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentleman from North Carolina for yielding.

Mr. Speaker, President Kennedy once said, "To govern is to choose." I think it is very interesting, in the very week that the President was telling the Governors that we had no more money for their health care, Medicaid plans, their education, college, every State is raising tuition on middle-class families who are affording college and higher ed, the Leave No Child Behind. The very week that the President of the United States said to our Governors, I am sorry, there is not another penny for them, is the very week that we upped and sweetened our bid to Turkey; so we have now given Turkey $24 billion.

I want to meet the person that was negotiating for Turkey. They have done themselves a wonderful job. We finally got ourselves a job plan and economic growth package. The problem is it is for Turkey, not for the United States. And we have done ourselves, I think, a world of damage here. And I believe personally that we need a northern front in our fight if we are going to war in Iraq and I do not think we should spare anything to save our lives; so clearly having a northern front in this war is going to be important. But I want my colleagues to think about the fact that in the very week that we told our Governors and, most importantly, the citizens of our States that there would not be another penny for higher ed, there would not be another penny in assistance on health care, that we could not fully fund the Leave No Child Behind on the education program, is the very week that we sweetened our offer to the nation of Turkey.

To all the police departments that need money for fire, for all the cities that need assistance for police departments and fire for training on terrorism, I want them to now know Istanbul has their money. So I have come to the conclusion that maybe our States need to apply to Turkey for foreign aid. They have our money.

When it comes to making sure that all our police departments and fire departments are fully trained for dealing with terrorism, they do not have the resources to deal with that. We do not have all the money that they need. They are not going to get all the training they need to deal with terrorism. And when we have an act here at home, which everybody knows that this war will instigate as further terrorism here in the United States, our police and fire departments do not have all the resources they need to act on that.

I want my colleagues to think about the choices here, because as I have said early on, that President Kennedy once said there are choices. The amount of money that we have now guaranteed for Turkey, $24 billion, is twice the money we spend on Pell grants. We spend $11 to $12 billion a year. It is twice the money for Pell grants. The loan guarantees for Turkey, the same amount of money that we have now given Turkey, we could make two thirds of the existing tuition free at public universities.

These are choices we are making. So as we make this assistance, as we tell our Governors we do not have money for them and there is not another penny for them and yet we tell Turkey here is another $2 billion, the same week we did that, I would like the left hand of the administration to meet the right hand of the administration, because somebody has not got a clear plan; and we are giving money away to Turkey while we are telling our own people here at home we do not have enough money for them.

How did we get there? I have a chart here that shows the last 50 years of fiscal and economic management by Presidents. It goes back to the second term under Truman, and it goes through all the Presidents and tells how they did in managing the economy. And our present President, our President, has the most anemic economic growth of any President in the last 50 years. And since we are in the mood of quoting former Presidents, Ronald Reagan once said, "Facts are a stubborn thing." And since the 2000 election, we have lost 2½ million jobs in this economy: 925,000 manufacturing jobs in the years 2001, 2002; 4 more million Americans are without health insurance; nearly a trillion dollars' worth of corporate assets have been foreclosed on, and 2 million more Americans have left the middle class for poverty.

Facts are a stubborn thing. That is the record of this present President and the economic management at this time. And what has he chosen to do and what has the administration chosen to do? Having argued for a tax cut 14 months ago to get the economy moving, the net result has been the worst anemic growth of any President in 50 years: More people unemployed, more people without health insurance, more businesses closed, and more people joining the ranks of poverty. He has decided to put his foot on the accelerator and pushed further for more tax cuts. He is the only President in history, in a time of war, who has decided to have tax cuts. So we will ask our men and women to sacrifice, that those in the wealthiest corridors of our country will not be sacrificing and joining the rest of us as we do sacrifice.

This is the wrong way to economic management. We can have a bipartisan approach that puts our fiscal house in order, invests in our future, and defends our interests overseas. As a person and individual Member of this Chamber who does support in some capacity military action, I think the notion of the last 2 weeks in Turkey where it was let us make a deal, unfortunately Turkey has walked away with the resources that our kids need, our police departments need, and our doctors and nurses need to provide health care.

Mr. PRICE of North Carolina. Mr. Speaker, I especially appreciate the gentleman's pointing out the plight of the States and the tongue-in-cheek advice to how the States might improve their situation. Of course we had the Governors here in Washington this week, the Governors from both parties. Is there any indication they got any satisfaction at all from the President?

Mr. EMANUEL. Mr. Speaker, no. But I am thinking of recommending to the Governors Association that they hire the person who was negotiating for Turkey and maybe he could do them a good job. So there is no indication of that. In fact, what has happened is if the gentleman will read the Wall Street Journal report out of the meeting that the President had with the Governors, in fact he told them there will be no more assistance in that area. And mind you, this is not a partisan issue. It is the worst fiscal condition of all 50 States since World War II.

Mr. PRICE of North Carolina. Mr. Speaker, I ask the gentleman, is it not true that a number of the items under discussion were things that the Federal Government has mandated?

Mr. EMANUEL. Correct.

Mr. PRICE of North Carolina. Mr. Speaker, for example, the education reforms under No Child Left Behind.

Mr. EMANUEL. Right.

Mr. PRICE of North Carolina. Mr. Speaker, of course there has been a good deal of help promised in the homeland security area, particularly for upfitting and getting better equipment, better communications capacity for first responders, for fire and emergency medical and police. The Republican Governors went to the White House and apparently came away empty-handed. It seemed even they had a hard time putting a good face on this.

Mr. EMANUEL. Mr. Speaker, what we have decided is we just do not have the same sense of urgency. And let me add one other point that I lost in here is that today there was a story, I think in the Wall Street Journal again, that States have borrowed more money this year than at any time in the last 50 years for the States, greater I think in times by a magnitude of 3 in borrowing more money, and again they are making cuts again at the same time, the most severe cuts in the areas of health care and education; and we are basically mandating they have to meet certain obligations, not giving them the assistance and resources they need to meet those obligations.

What are those obligations? They are in the area of health care where we have a health care crisis; 42 million Americans who work full time without healthcare. We do not have an agenda or plan to help them meet that obligation.

We have not had a raise in the Federal level in the Pell grant to help people go to college. In over 4 years, the tuitions on average are going up 9, 10 percent this year. So we have put not only a burden on our States and our Governors, our State legislatures, to fund requirements that we pass here, most importantly we are putting demands and further burdens on middle-class, hard-working families who are trying to raise their kids right, with the right sense of values and get on to college so that they can succeed in life, and yet we are not giving them the resources they need.

And that is why I brought up this point about both the Pell grant or public universities and the choices we make. We make choices. We have said that Turkey in that effort over there is more important. We have given Turkey now, in one year, twice the money we have given in Pell grants in this country to help middle-class and lower-middle-class children go to college. If we took the same type of resources, we could make free two thirds of public university education to kids. These are American children. We have a commitment to do right when we win this war, if we are going to go to war. I want our troops to succeed, but we have an obligation over here, and the truth is if we had a balanced deal we would not have to make a choice. These are not either/or choices.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman.

Now I am happy to recognize the gentleman from Virginia (Mr. SCOTT), a Member who has long studied Federal budgets and understands very well the dire situation that we are facing.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding. I think it is helpful just to use the charts because the charts tell the story better than anything else. I mean, we have all this rhetoric about how good the economy is, how good this is, and whether or not there is going to be a deficit. But one does not produce numbers and charts like this by accident.

If we look at when President Reagan came in, my colleagues will remember that his budget passed pretty much as he introduced it. He had enough support in Congress to get his budget passed. And we see what happened to the deficit after Johnson, Nixon, Ford, Carter, what happened to the deficit under Reagan and Bush. It was essentially their budgets that passed.

When President Clinton came in, it was his budget that passed. Very narrowly without a single Republican vote in the House or the Senate, his budget passed, and we saw the deficit declining year after year. When the Republicans took over, it was still President Clinton's budget, because he vetoed the budgets passed by Congress several times. My colleagues will remember that the Republicans shut down the government because they would not accept President Clinton's budget. They sent him a budget. He vetoed it. They closed the government down, he kept vetoing the bills. Finally, the budget kept going with continuing resolutions and otherwise, but essentially it was President Clinton in charge of the budget.

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He had enough support in Congress to sustain his vetoes, and it was essentially his budget that created the situation where there were smaller and smaller deficits, up to the point where there was, in fact, a surplus. This is the nontrust fund, so this is the surplus after you secure Social Security and Medicare, save them for Social Security and Medicare; and we still had a surplus.

President Bush comes in, and it is his budget that is adopted; and we see what happens to the deficit this first year. September 11 is within 3 weeks of the end of the fiscal year, so most of this happened before September 11, and we see as far as the eye can see what is happening to the budget.

When we look at the President's proposal, we see that, according to his budget, we started out 2000 with the surplus; the first year, 2001, we spent all of Medicare and some of Social Security; 2002, all of Medicare, all of Social Security, and about $160 billion more in debt. The budget year we are in now looks to be worse than that. The budget projection for as far as the President's budget goes, according to his budget, he is recommending all of these deficits.

Now, I think you have to put those numbers in some kind of context. This is the President's budget out to 2008. The on-budget deficit for this year is going to be $468 billion. In the 2004 budget, the one he is recommending, it is going to be $482 billion. It is offset somewhat by Social Security, so it is not quite as bad as it looks. But the on-budget, after you have taken just the on-budget part, before you offset it by spending the Social Security and Medicare, it is $468 billion and $482 billion.

Now, the President says if we just would not spend as much, maybe the budget would go into balance. It has already been pointed out that the entire non-Social Security/Medicare/defense part of the budget, nondefense discretionary budget, is about $425 billion. In other words, we would have to eliminate all of education, all of transportation and roads, all of the Department of Justice, FBI, prisons, all of NASA, all of foreign aid, all the veterans benefits, eliminate all of government outside of Social Security, Medicare and defense, and we still would not have the budget in balance. So when he says just cut a little spending, look at the numbers.

The next chart is when you run up deficits, it is not free. This bottom line is what the Federal payment on the national debt would be and what it was supposed to be when the President came in. We would have paid off almost the entire national debt by 2011 to 2015. Instead, we are running up debt. So we have to pay more in the debt tax.

Mr. PRICE of North Carolina. If the gentleman will yield, the debt tax was on the way down because the interest payments on the national debt naturally go down as the debt itself is paid off. We had begun paying the debt off. But as that chart seems to indicate, those are on the way right back up, over $200 billion a year in money that I think all of us could think of more productive ways to spend than paying interest on the debt.

Mr. SCOTT of Virginia. We were about to pay off the entire national debt, so there would have been no interest on the national debt. Even if you do not pay off any of the debt, you still have to pay the interest. These are big numbers. Let us divide it and see what it means to a family of four.

For a family of four, dividing the population into the interest on the national debt, we have gotten it down to $4,500. As you saw, it would have gone down to virtually zero. It was $4,500 for a family of four, headed toward zero. But instead, it is going to be $6,500 by 2008, and going up at a rate of about $500 a year as far as you can see. By 2008 it will be $6,500 just interest on the debt before you have got any government at all.

Now, as it gets worse and worse and the debt tax gets worse and worse, we are trying to prepare for the baby boomers and Social Security. This is the chart of the Social Security surplus. Social Security, we are bringing in more than we are sending out; and we have a surplus, temporarily. In 2017 it will be about even, and then it gets worse and worse, and we will have almost $1 trillion in deficit out here in 2037.

Now, if we had banked all this money and invested it, we would be able to pay this. In fact, we could have covered all of the Social Security deficit out 75 years with one-half of the tax cut that has already been implemented. In other words, if they had cut taxes only in half and allocated the other half to the Social Security problem, we would have had a solvent Social Security system for 75 years. But instead, they spent all of the Social Security surplus.

Now, people ask, what is our plan? They have ruined the budget. What is our plan? I remind them that our plan is right here in green. When Democrats controlled the budget, the deficit was less and less, into surplus, going towards the end of the national debt. That was our plan.

This is President Bush's plan. Now, when we were leading, this is how we led. I do not think you can escape this chart. You do not create a chart like this by accident.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for a very convincing demonstration of where we have been and where, unfortunately, it appears we are going, unless we take corrective action.

The gentleman from Maryland (Mr. VAN HOLLEN) is one of our new Members, who is already actively participating in the work of this body. We are happy to have him as part of this Special Order here tonight.

I yield to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I thank the gentleman from North Carolina for yielding.

Mr. Speaker, this is actually the first time I have made remarks on this floor; and I deliberated, as I am sure many new Members do, over what subject I should address first, and I can think of no more important matter facing this Congress than the future economic health of our Nation and what investments we decide to make for the common good.

The actions we take here this session will affect the well-being of Americans for generations to come. We need to adopt an economic plan that will put America back to work and a budget that reflects the priorities of the American people.

The budget plan submitted by the President a few weeks ago, it is a long document filled with thousands of numbers. Like most budgets, it is not exciting reading unless you like to put on the green eye shades. But it is probably the most important document we will work with this year as Members of Congress, because just as each family has to make many tough decisions about their household budgets, so must we make the tough decisions for our entire American family. And how we decide to invest our collective resources should tell us a lot about what we care about as a people and who we are as a people. The budgets and economic plans we adopt here this session I hope will reflect the priorities of the American people.

Mr. Speaker, I have listened carefully to the people in my district, and I think that their priorities are the same as priorities of Americans around this country. They want a country where every child has the opportunity to get a great start in life with a first-rate education. They want a country where every American has access to quality health care. They want an America where every American and every individual who is ready to roll up his or her sleeves and go to work can find a job. And they want to know that their government is taking all reasonable steps to protect our homeland and be prepared to respond to national emergencies.

These are simple things that we all want for our families. We want them for our neighbors; we want them for our fellow Americans. We are a great Nation, and we can do these things. But to do so we are going to have to work with the President to change the course that he has charted with the economic plan he has submitted and the budget that he has proposed to Congress.

Just a few weeks ago I had the privilege to attend and sit in this Chamber when the President delivered his State of the Union address. I was sitting right over there. I was very eager to hear what he had to say.

Very early in his speech, he made the following statement: "We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, to other generations."

I must say, when I heard that statement I nearly fell out of my chair, because the budget and the economic plan proposed by the President does exactly what he says he does not want to do. It does ignore our problems; and, if we do not fix those problems, we will simply be passing the buck to future Congresses, to future Presidents, and to future generations.

Let us look at education. Last year with great fanfare the President signed the Leave No Child Behind Act. But the ink was barely dry before the administration submitted a budget that fell well short of the promised funding. When you leave the funding behind, you also leave millions of children behind, and leave them with nothing but broken promises. The President's budget for the coming fiscal year promise falls $9 billion short of what had been authorized, and it is a terrible message to send to our school children and to our teachers.

Let us look at health care. The President has made no meaningful proposal to address the problem of the 41 million Americans who have no health insurance. Apparently, the Bush administration proposes to leave this problem to future Congresses, to future Presidents and future generations.

And how about domestic security? The President's proposed budget ignores the needs outlined by the heads of his own agencies. The U.S. Customs Service, the Coast Guard, the Department of Energy, they have all said that they need more resources to meet the threat than the President has proposed in his budget.

So what has the President proposed? What is the President's top domestic priority? We have heard tonight, another huge tax cut that overwhelmingly benefits the superwealthy. Apparently the administration has decided that the most pressing domestic problem, the one issue that cannot wait, is that the superwealthy are paying too much in taxes. And this comes on the heels of the $1.4 trillion tax cut in 2001 that disproportionately benefits already the very wealthy.

And don't be fooled by averages. Sure, when you combine the estimated tax break of $325,000 that Bloomberg News says Vice President Cheney will receive, and others with very high incomes with the small tax breaks that most will receive, you get an average refund of over $1,000. That's like saying if Bill Gates were elected to the House of Representatives, on average, all 435 members in this chamber would be multi-millionaires. It's a great statistic, but nobody is really any better off.

What is the result? What is the result of the President's tax plan? Even the administration officials have conceded it will do virtually nothing to help get the economy going right now, to help stimulate our economy, to get people back to work; and the real result, as we have seen, will be rivers of red ink and rising interest rates.

The President's plan would result in a $304 billion deficit this year, and his plans will lead to the sharpest reversal in America's fiscal fortunes in history. We have gone from a projected $5.6 trillion surplus over 10 years to a projected $2.1 trillion deficit, and that does not even include the cost of war in Iraq and the aftermath.

As our colleague from Illinois stated, just this week we have promised Turkey $24 billion, and that before the conflict has even begun. This administration has not begun to come clean on the costs of war.

So who is going to pick up this mountain of debt? In the end, it is the American people who will always be left holding the bag. And there are only two ways to deal with the debt in the long term. We all know that. Either you raise taxes on our children in the next generation, or you deeply cut expenditures. And as our colleague from Virginia just pointed out, where you have to go to cut expenditures to make up these deficits are Medicare and Social Security. There is no other way to do it.

The President is already using the funds from the Social Security trust funds to pay for his tax cuts. The lockbox we all heard so much about, well, it was picked so long ago, and the raid is on. The President's plan is a guided missile aimed at Social Security and Medicare, and it is not just the money in the trust fund that will be lost; we are also going to lose the trust of the American people.

So, Mr. Speaker, I am very concerned with the reckless economic course that the President has set. It does exactly what he said he did not want to do. It ignores our very real needs and passes on the burdens of tax cuts to Social Security, Medicare, future congresses and future generations.

I believe his plan is out of touch with the true hopes and aspirations of the American people. We have an obligation to confront these issues squarely, as we are talking about tonight. We need to talk straight to the American people; and I hope this Congress, before we get out, will adopt an economic plan and a budget that reflects the true priorities of the American people and does not pass the buck to future generations.

□ 1900

Mr. PRICE of North Carolina. Mr. Speaker, I appreciate the recollection of the President's quote about not passing along problems to future generations. We had a little more candid quote from the director of OMB the other day, Mr. Daniels, who said, "We have returned to an era of deficits, but we ought not hyperventilate about this issue."

Well, I do not see anybody hyperventilating here tonight, but what I have heard tonight from the gentleman from Maryland is a passionate and persuasive case for confronting this budget issue and getting our fiscal house in order, getting back on the right track, so I appreciate very much his contribution to our discussion.

I am happy to yield to the gentlewoman from Santa Barbara, California (Mrs. CAPPS), a treasured colleague, for her remarks on this situation that we are facing.

Mrs. CAPPS. Mr. Speaker, I thank the gentleman from North Carolina, and it is a pleasure to be here with my colleagues. I could be no place else. We are really at a crossroads in this country, facing a budget such as we have received from the President to deal with.

I want to echo what my esteemed colleagues are talking about with respect to the budget, and I have asked that this chart be left here. It has been referred to already, but it points out clearly the huge deficits, as far as the eye can see is the way we phrase it, and this, after we finally did bring our Federal budget into line in the late 1990s.

Maybe this is a good time to mention a quote by the Fed Chairman, Alan Greenspan, last fall. "History suggests that an abandonment of fiscal discipline will eventually push up interest rates, crowd out capital spending, lower productivity growth, and force harder choices upon us in the future."

The administration has no plans to address this budget deficit and, in fact, in this latest budget is proposing to make it much worse. The reckless tax cut that we cannot afford that will not help to restart the economy and, for the most part, goes to precisely the people who do not need it, is what they are proposing.

I must be up front and admit that a couple of years ago I did vote for the tax cut, the big one. I believed then and I continue to believe now that it had some good provisions: increasing the child care tax credit, getting rid of the marriage penalty, dealing with estate taxes. At that time we were told we had a $5.6 trillion surplus and that we could afford a tax cut. Clearly, things have changed. Everything, that is, except the administration's approach.

I believe it is so irresponsible to propose these kinds of tax cuts to a Nation at war. We are at war in Afghanistan and in other parts of the world against terrorism. We are asking all Americans to sacrifice, and yet this tax cut will fatten the wallets of a few. This is not shared sacrifice. The tax cut that the President is proposing will cripple our ability to deal with an important part of the war on terrorism: our homeland security. We are facing a possible war with Iraq for which there is no mention in the President's budget, and we have ongoing needs such as some I will address in my time today: health care needs of our senior citizens, and others. These are some real problems that we are facing of economic security in our land, of health security, environmental security.

I want to talk about just one small example, and I brought it up today with our Secretary of Health and Human Services, Tommy Thompson. Our country has a huge shortage of nurses, all kinds of nurses. They are the backbone of our health care system. They are critical to our efforts to provide everyday health care to millions of Americans, and they are on the front lines of our efforts to fight bioterrorism. They will be the ones to identify victims, to vaccinate the healthy, to assist doctors in treatment. We have 19,000 nurses in Armed Forces Reserves. We are going to face a continued crisis as they are called up.

So last year, Congress passed my Nurse Reinvestment Act. It was a bipartisan effort by my committee chairman, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. BILIRAKIS), and lots of Members worked hard on it, the President signed it into law, Tommy Thompson raved about it and was glowing about it. I want to just read two sentences from his "Budget in Brief: Fiscal Year 2004" from the Department of Health and Human Services addressing the national nursing shortage:

"The Nation continues to face a nursing shortage. In 2000, the estimated national demand for registered nurses was over 100,000, 6 percent more than the supply. Demand for nurses is rapidly increasing as a result of a growing and aging population that needs more health care as well as continued medical advances that heighten the need for nurses. The nursing supply is not keeping pace with demand due to a decline in nursing school graduates and an aging of the work force."

At the time that the bill was signed into law, the omnibus bill of last year, the amount of the budget was increased to a nice size; but then, in this year's budget, it is again reduced. So these are empty words, empty rhetoric, that have come from the administration, just one piece of our complex but very important health care delivery system.

This budget request that we are facing this year has a 13 percent cut in the nurses' education and training fund. It slashes funding for advanced practice nursing in half, and it defunds programs to train nurse faculty and geriatric nurses. I talked with Secretary

Thompson about this today. I like him; I think he is an innovative thinker and committed to the issues. I asked him about these cuts and his response was, "Well, yes. We will be sticking with this proposal to cut funding for these programs," despite their assessment that the nurse supply is not keeping pace with the demand. They are just not going to do anything about it.

I believe, I say to my colleagues, that this is plainly irresponsible. We need to provide the funds to train new nurses, which we desperately need both for our ongoing medical needs and health needs, but also in the event of a bioterrorist attack. We should not be cutting this important program. I urge my colleagues who worked with me to get this Nurse Reinvestment Act to step up where the administration has not.

I told Secretary Thompson that we were going to adjust the budget to include sufficient funds for the nurse program. I apologize for making this sidebar. It is part of an overall budget that is way out of kilter, but I think it speaks in a precise way to a matter of great concern to the health and security, really, of our Nation at this time in our history.

Mr. PRICE of North Carolina. Mr. Speaker, there is no Member better qualified than the gentlewoman from California to speak to the nursing shortage and to the deficiencies in this budget with respect to nursing education. So she has done all of us a service in pointing this out, and we appreciate very much her contribution.

It is now my pleasure to yield to the gentleman from Virginia (Mr. MORAN), a member of the Committee on Appropriations and the Committee on the Budget.

Mr. MORAN of Virginia. Mr. Speaker, there are so many reasons why these tax cuts that have been proposed in the President's budget are irresponsible. One of them, obviously, is the fact that just as the budget deficits and the public debt balloons in 2008 and thereafter is when the baby boom generation, our generation, starts to retire. So we are no longer making money, helping to solve the problem; we become the problem. When I say "we," I refer to the fact that most of the Members of Congress are members of the baby boom generation. We are going to double the retirement numbers, and yet what we would be doing with this tax cut is to use every last dime of the Social Security and Medicare Trust Funds to pay for these tax cuts. Mr. Speaker, $4.4 trillion over the next decade. That is the first element of irresponsibility.

Second, of course, is that we do not know what the costs are really going to be from other parts of the budget. We had an analysis in The New York Times yesterday. They consulted the Congressional Budget Office, any number of distinguished economists, all of the best sources, to figure out what might be the cost of war in Iraq and of fulfilling the responsibilities that the President said that he would make us responsible for once we go in. They estimated the costs would be between $100 billion and roughly $569 billion. The point is, we do not know what the cost is, yet we are going to go ahead with these tax cuts when we do not know how much money we are going to have available. So we have no idea how much we are going to be borrowing from the next generation.

The third that has been aptly discussed is the fact that the money is going to the very wealthiest people in this country, the people who needed the tax cut the least and who are the least likely to spend it immediately to stimulate the economy. So it does not make a whole lot of economic sense when what we are really trying to do is to pull this country out of a lingering recession.

The last issue that I would like to address is some of the foregone alternatives that are caused as a result of the tax cut. Today we heard from the Secretary of Health and Human Services. The administration has a prescription drug plan. They are touting it. They should be ashamed of it, because the fact is that it is woefully inadequate. Medicare beneficiaries are going to spend more than $1.8 trillion on prescription drugs over the next 10 years, and even if every dollar of the President's proposal went to our prescription drug coverage, which it will not, there is really only about $300 billion that actually goes to covering prescription drugs, the plan would only cover 22 percent of beneficiaries' medication needs. Seniors who spend more than $5,500 of their own money would get only 20 percent reimbursement for their drug costs.

But it seems to me that when we look at a plan like this, we really ought to consider what we get as Members of Congress, and there is where the deficiency is most pronounced. The President wants seniors to pay a $275 deductible each year. Most Members of Congress pay no deductible. The President wants seniors to pay 50 percent coinsurance for the first $3,000. Members of Congress only pay 25 percent. The President wants seniors to have a gap in coverage where they pay 100 percent of the cost when their need is between $3,000 and roughly $7,000. Most Members of Congress have no gaps in prescription drug coverage, and yet the administration says that they want it modeled after the Federal Employees Health Benefits Plan.

Mr. Speaker, it is not just the prescription drug coverage that is going to be necessarily inadequate. The Medicaid program is going to be capped with block grants. We look at programs like housing programs, HOPE 6 that the President has touted and, in fact, HOPE 6 is eliminated in this budget. This budget cuts education, it cuts 36,000 seniors from Meals-on-Wheels, not to mention No Child Left Behind which was the President's principal domestic initiative, and it is $619 million less than what is needed just to offset inflation. I could go down a long list. I am not going to do that.

Mr. Speaker, the fact is that the President's budget and the President's economic plan does the American people an injustice. It needs to be defeated.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman from Virginia for a very useful look at a number of critical items in the President's 2004 budget.

I yield to the gentleman from Massachusetts (Mr. TIERNEY), our esteemed colleague.

Mr. TIERNEY. Mr. Speaker, I thank the gentleman for his hard work in putting this time together.

Mr. Speaker, I rise today to discuss President Bush's 2004 budget which, unfortunately, and I think disturbingly, at a time of continued economic insecurity and global instability, fails to put America's priorities ahead of politics and idealogy. The President continues to pursue an irresponsible economic policy that focuses solely on multiyear tax cuts for our wealthiest citizens, while offering little assistance to countless working individuals and families that need it the most. One of my colleagues said it best earlier today: This is the most irresponsible fiscal situation of an administration since the days of Nero.

□ 1915

All this is going on while the same wealthy individuals and corporations that have already pocketed the lion's share, the disproportionate share of $1.6 trillion in tax cuts for 2001 and 2002, are out there, while the number of unemployed workers, white-collar and blue-collar, are higher than they have ever been in decades.

Further, although the President says he supports education, homeland security, prescription drugs for seniors, and a myriad of other responsible needs, his budget reflects otherwise. There is a clear disconnect between what the President promises and what he produces. His rhetorical support for many critical domestic processes is simply not reflected in the budget's numbers and figures. The reality is that children will be left behind. Our first responders, those that protect our borders and ports, will not be adequately funded; and our senior citizens will be short-changed.

On top of all of this, we are having the biggest defense buildup in the past 20 years. The costs of disarmament or a potential war with Iraq are not even included within the President's budget or within those Department of Defense numbers. While the White House speaks of little else besides Iraq these days, the one place they are conspicuously silent is in the budget.

Today's report in the Washington Post says the President is going to request a supplemental spending bill of as much as $95 billion to pay for any military action in Iraq. Why is that not in the 2004 budget? Why is it not being talked about with the American people today as the cost of what we are looking at here?

They have already offered $26 billion to Turkey for the use of our bases on their northern front against Iraq. All of this, the $95 billion, the $26 billion to Turkey, God knows how much else to other countries whose silence or participation is being bought with respect to the invasion of Iraq, is in addition to the $400 billion in the fiscal year 2004 budget already proposed for the Department of Defense for our military, and there is no end in sight.

Estimates for the cost of war, even if it is successful in military terms, and Iraq's reconstruction are between $50 billion to $200 billion. At the same time, we are continuing to spend 650 to $750 million a month in Afghanistan to try to rebuild that country. We are going to continue to do that for the foreseeable future.

We have to put this budget in perspective. When we add all of that up, without the cost of Iraq, this $5.6 trillion budget surplus we looked at at the beginning of this Presidential term has already been replaced by a $2.1 trillion deficit. This is close to an $8 trillion turnaround in just 2 years, and the numbers are staggering.

At the same time, there are record job losses and poor economic growth. Two million jobs have been lost since January of 2001. The stock market has gone down while the unemployment rate has gone up. Consumer confidence is at its lowest level in nearly 10 years.

Meanwhile, in response to all of this, all this administration can do is to continue to promote and advance the narrow economic plan of tax cuts for the few without regard to the plight of the many.

There are consequences for this flawed fiscal policy, and our vital domestic programs on which many people depend are what are going to suffer. They were underfunded even before we started talking about what is going to happen in Iraq, and they are going to be even more severely underfunded after that.

No Child Left Behind will leave many children behind. It is $9 billion beneath the amount that the President promised.

After-school programs, a cut. Two million children will be left without the benefit of those programs. In April of 2002, the President went to New Mexico and told us all about his support for Even Start, but he cuts that program; and he cuts the Head Start program, as well.

The President cuts vocational and technical funding. Even though 34 percent of our children are all that go on to higher education for 4 years, he is cutting money from vocational and technical programs that might give other children the chance to go on and have a well-prepared background for a life that gets them ready for the future.

I could go on and on, but I know other Members want to speak. I would simply say this budget is totally irresponsible, and it has yet to put in the amount of money we are going to be spending in Iraq and in occupying Iraq.

I think the President owes the American people an explanation of just what that amount is and what are the costs, not only in terms of human life of Iraqis and United States individuals, and others, but what is the cost in treasure, and what are we giving up for his decision not to go ahead and contain this country, and not to go through the United States Security Council to bring that matter to a resolution, but rather to go in unilaterally and peremptorily invade at a significant cost. That is what the American people have to know and debate.

Mr. PRICE of North Carolina. Mr. Speaker, I am pleased to yield to my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), who served as our superintendent for instruction and therefore knows our education budget very, very well, but also has been a very strong spokesman in this body for fiscal responsibility.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding to me, and I thank him and the gentleman from South Carolina for pulling this Special Order together.

Mr. Speaker, I have been working hard to get Federal support for our schools. Although this White House talks a good game about education, when it comes to the budget, the devil is always in the details; and the details of the Bush budget certainly provide tremendous cuts to vital education aid in my military communities.

I want to talk about just one area tonight: those communities. Mr. Speaker, President Truman established Federal support known as Impact Aid for school districts that are impacted by heavy Federal presence because they do not pay property taxes. In my district, Forts Bragg and Pope are two major bases; and other people can talk about theirs, where thousands of soldiers, airmen, and their families are based. Because these Federal entities do not pay taxes, we provide for something called Impact Aid to help with books, teachers' salaries, buildings and the like. Impact Aid was designed to compensate for the revenue losses.

Well, in these areas across the country, they have seen devastating cuts this year because of State budgets being put in trouble because of this administration's policies. In this budget they are proposing to cut $173 million from Impact Aid, a 14.5 percent cut, at the very time when we are asking our men and women to deploy and go overseas, and leave their children back home for an education. This is just terrible.

By not allowing federally connected school districts to count children where parents reside off base, this is what they said in Cumberland County, the President is ignoring 240,000 children who attend the schools in the areas around these bases. Abandoning these children is not only a mistake; it is absolutely immoral.

Last week the Fayetteville Observer reported that under the Bush budget, funding for 14,600 children living off the post there would be eliminated for funding. Mr. Speaker, my State's economy is hurting because of this administration's economic policies. Other States are seeing the same. State budgets are being slashed.

We cannot allow, in one of the largest deployments, at a time when impending war is here, allow these men and women to be concerned about their children being educated at home. Rather than being compassionate, these cuts in Impact Aid are absolutely cold cruelty, and I urge my colleagues to restore these devastating cuts.

Mr. Speaker, I rise tonight to join my colleague from South Carolina, Mr. SPRATT, and Mr. PRICE of North Carolina to talk about the serious consequences of President Bush's misguided budget proposals. I want to thank my friend for his unsurpassed leadership in this vital area.

As the former Superintendent of North Carolina's public schools, I have made federal support for education my top legislative priority as a member of the U.S. House. Although this White House talks a good game about education, when it comes to budgets the devil's in the details. And the details of the Bush budget contain an inexcusable cut to vital education aid for our military communities.

Mr. Speaker, President Truman established federal support known as "Impact Aid" for school districts that are impacted by a heavy federal presence. For example, in my Congressional District, we have Fort Bragg and Pope Air Force Base where thousands of soldiers, airmen and their families are based. Because these federal entities do not pay local property taxes, the school districts are deprived on their normal source of revenue for books, teacher salaries, school buildings and the like.

Impact Aid was designed to compensate for some of that revenue loss. In areas like Cumberland County, NC, Impact Aid is a crucial component of the annual budget, and if it's not there, that community will face massive property tax increases, devastating cuts to schools, police and fire and other vital services.

Under its proposed budget for next year, the Bush Administration has proposed cutting $173 million for Impact Aid. That's a 14.5 percent cut.

In addition, the Administration proposes to end Impact Aid for children of military families who live off base. Earlier this month, the head of the National Association of Federally Impacted Schools said, "By not allowing federally connected school districts to count children whose parents reside off-base . . . , the President is totally ignoring over 240,000 children who must attend these schools." Abandoning these children is not only a mistake, it's immoral.

Last week, the Fayetteville Observer reported that under the Bush budget, funding for 14,600 children living off the post would be eliminated.

Mr. Speaker, my state's economy is hurting because of this Administration's terrible economic policies. The state government has been forced to slash funding. At the same time, military families are dealing with large-scale deployments for the looming was against Saddam Hussein. And the communities that support these military facilities already face devastating losses of commerce and tax base.

Rather than being compassionate, these cuts in Impact Aid are cold cruelty. I urge my colleagues to restore these devastating cuts, and I thank my colleague Mr. PRICE for his leadership on budget issues and for organizing this Special Order.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for his contribution with respect to Impact Aid, a subject we have heard about tonight. That certainly is a deficiency in the President's budget.

I am happy to yield the remainder of our time to the gentleman from South Carolina (Mr. SPRATT), the chairman of our Committee on the Budget, for whom I am substituting tonight. He has been tied up in a meeting. We are glad to have him here on the floor to wrap up this Special Order with his own insights.

Mr. SPRATT. Mr. Speaker, I thank my friend and colleague, the gentleman from North Carolina (Mr. PRICE), for taking charge of this Special Order and making this information available. It is awfully difficult to get all of this detail and all of its complexity out so that everybody can understand why we are so concerned. This is not just political rhetoric we are going through tonight.

I have one chart here which runs the risk of being a little complex, but it tells a great deal about where we are. First of all, it shows the surplus that we thought we had that OMB estimated in January of 2001 as $5.637 trillion. A few weeks ago, OMB came back to us, the Office of Management and Budget, and says, whoops, we were wrong. We have to make economic adjustments to that surplus of $3.174 trillion. What that means is that the adjusted surplus, the real surplus in economic reality now is $2.463, not $5.63 trillion.

Then if we look at these enacted policies, and these are things done today, legislated, which have committed the available surplus, we will find they add up to mostly the tax cuts, $2.6 trillion. As a consequence, we have already committed all of the available surplus still remaining after economic adjustments from the $5.6 trillion surplus last January. In fact, we are $19 billion over and above that surplus if we do not do another thing, just sit still and do not increase any policies.

However, the administration, knowing that, is proposing nearly $2 trillion in additional action, the lion's share of which goes to additional tax cuts, two tax cuts that come to about $1.4 trillion. As a consequence, they are adding $2.1 trillion to the national debt, which, with cumulative deficits between 2002 and 2011, will come to $2.1 trillion.

Here in one chart, very graphic, is why we are concerned. Now we are living in this sweet spot. Those are the peak years of the baby boomers when they are doing better and paying into the Social Security and building up a surplus, for now. As this chart shows graphically with these red bars here below the line, in 2017 that gravy train comes to a halt. Social Security goes cash negative, and it is that that we should be getting ready for right now. We are doing just the contrary of what we should be doing to prepare for those years when the baby boomers will be retiring.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for contributing to the Special Order.

UNFAIR DELAY IN CONFIRMING APPOINTMENT FOR MR. MIGUEL ESTRADA

The SPEAKER pro tempore (Mr. PORTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 60 minutes as the designee of the majority leader.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, it is an honor to be here in this wonderful Chamber to discuss what I think is a rather puzzling situation that has taken over our government, our legislative branch of the government, and in particular, the legislative branch on the other side of the Rotunda.

We have seen that a number of people have tried to do anything and everything to avoid, to stop a brilliant young attorney who has been nominated by the President of the United States to be on the Appellate Court for the District of Columbia.

I say he is a brilliant young attorney because everybody has had to recognize his brilliance. Those that have worked with him have had to recognize his brilliance. He has worked not only as a prosecutor from the great State of New York; he has also worked in the office of the Solicitor General with two administrations, a Republican administration and also a Democrat administration.

All the people who have worked with him from both parties in both administrations have publicly recognized the brilliance, the decency, the integrity of this brilliant young attorney; a man who got here to the United States at age 17, Mr. Speaker, barely speaking English, and he got here and worked and studied, and was able to graduate with honors just a few years later from that most prestigious university, Columbia University; with honors, I repeat.

Then he went on to study law, but not just in any law school, in Harvard Law School, probably, I guess, among the most prestigious law schools in the entire country; I would rather say in the entire world.

He also graduated from that university, that law school, with honors. While he was studying, he was also the editor of the law journal there, the law review in that prestigious law school. He graduated with honors and went on to become a prosecutor in the State of New York. That was after he was prosecutor, I am sorry. He went on to work with the Solicitor General's office under President George Bush, Senior; and then he also worked for President Clinton's administration in the Office of the Solicitor General; an incredible, impeccable record.

I am trying to see if I can get some of my colleagues here to maybe try to explain to me what is going on here. Why is it that this brilliant young man, this brilliant Hispanic lawyer, is being treated differently than others who have had similar records, similar experiences, who have gone on to become judges and have not received the obstacles, have not been attacked the way Mr. Miguel Estrada is being attacked today? And this attack has been going on now for a long, long time.

I brought just a calendar to kind of let us know how long it has been. It has been almost 2 years, 2 years since this young brilliant, talented, effective man of integrity has been held hostage. As we see here, not only has Miguel Estrada been held hostage, but diversity in our court system has been held hostage.

□ 1930

I just do not get it. I see here the gentleman from Florida (Mr. FEENEY).

I do not know if the gentleman has an explanation as to why it is that the minority party in the other Chamber insists on not letting this man even come up for a vote, to the point where they are using all sorts of procedural matters to not permit this man to even have the opportunity for his nomination to be voted up or down.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would request Members refrain from improper references to the Senate.

Mr. FEENEY. Mr. Speaker, I thank my dear friend from South Florida and, indeed, a colleague in the Florida legislature, a mentor, advisor, and a dear friend of mine for many years. And I want to congratulate the gentleman for his leadership, because as long as I have known the gentleman from South Florida (Mr. MARIO DIAZ-BALART) when he sees wrongdoing going on, he speaks out and he does so with a passion and a fervor.

The gentleman understands the difference between freedom and oppression because of his background on the Communist state of Cuba and the freedom he enjoys and fights for every day and hour of his waking life here in America. And I want to thank the gentleman for being such a great friend not just of mine but, more importantly, to freedom.

The gentleman has asked me to explain the inexplicable: why a man like this would be held hostage; why diversity would be held hostage by his critics; he has asked me to explain why somebody with incredible merits, impeccable academic background, incredible moral background, a hard-working gentleman who came to America as a 17-year-old and has led and proven the American dream.

The gentleman has asked me to explain why enormous integrity is actually held against an applicant for the United States Federal bench, and I cannot explain the inexplicable even though I am a politician, while there will be some politicians that will try. Being punished for having all the enormous merit that Miguel Estrada has is something that I find very personally offensive. I think it is offensive to the American way. I think it is offensive to the entire notion of an independent judiciary.

And I will state for those of the American public that are watching tonight, maybe they do not understand all the details of what it takes to succeed and get to the Federal bench. I want to boil it down.

I am a former practicing attorney in business in the real estate field. I want to boil it down so I think that normal people, people that really are not politicians or lawyers, can understand. There are really two basic qualifications, I think every American would agree with this, in order to get appointed to and succeed on the Federal bench:

Number one, you need to be fit. You need to be fit morally. You need to be fit intelligently. You need to be fit academically.

Number two, you need to adhere to the United States Constitution and to the rules of law.

I would suggest to my great friend that the sin that Miguel Estrada is being accused of is that he is enormously well fit and he is enormously dedicated to adherence to the Constitution and the rule of law. And that bothers some people because they want to pull it aside. They want to twist the Constitution. They want to rewrite the Constitution.

I will tell you that one of the things that the gentleman is being held up for is because when he was asked specifically how he would rule on specific cases that might come before him as a United States Supreme Court Justice, he said that he would have to decline to say specifically, because the entire notion of an independent bench is not to make promises.

It is not like the political world that we live here in the Congress. It is not like the executive branch. In the executive branch and the legislative branches we share our biases with the voting public. We say we are for this and we are against that. People get to vote in a representative democracy in favor of one candidate against another because of their political biases. But on the bench you are supposed to put your political biases away and you are supposed to adhere to the Constitution and adhere to the rule of law. That is what offended political activists who want to take over the judiciary and use it in a way to take over the representative government. In my view, that is the fundamental reason why Miguel Estrada has been torpedoed.

But he has another sin. The fact that he is, as the gentleman understands, a great colleague of mine, he represents a great district in south Florida, both east and west coast. The notion that this is a gentleman with an ethnic background that is not white, Caucasian like me, but that comes from a wonderful part of our American society, but he does not adhere to the liberal big-government notion of rewriting the Constitution in some people's minds disqualifies him from serving on a bench that they want to turn into a political operation.

And by the way, the wonderful thing about the arguments that we are able to make, and our colleagues on behalf of the Miguel Estrada nomination, is that no individual critic of his has come forward with a specific sin. They admit that he was one of the brightest students, actually the brightest student, magna cum laude, editor of the Law Review at Harvard Law School, as the gentleman pointed out. He has the intellectual IQ. They have admitted that he has incredible integrity. There is no question about the gentleman's integrity. He has fantastic integrity.

They have admitted that he has got a great background, that he has worked hard, that he has lived the American dream. Their problem is that they cannot point to one flaw in this man's character, his capability, his academic career, his working career. And so as a sort of camouflage for why they are really opposed to Miguel Estrada's nomination to the Federal bench they say this; and, by the way, as the gentleman knows, he would be the first Hispanic American ever on this appeals court that he has been nominated to. They say little things like he has not disclosed secret advice in a legal memorandum to his client.

Now, I can state that while I was a business and real estate lawyer, that if we are going to force every applicant to the Federal bench to disclose secret memorandums and advice to their clients, a couple things will happen: Number one, nobody who has ever written candid advice to their clients in the public or private sector will ever apply to the bench. We will disqualify all the best lawyers in the country, because the truth of the matter is that the obligation of an attorney is to zealously advocate for their client and give them candid, secret, private advice. The attorney/client privilege is critical because if you do not have it, your lawyer will not tell you the truth about what you need to do to protect yourself.

There is a second application here in terms of undermining the attorney/client privilege, and that is that people in government will not get the best advice that is available. If lawyers who work for the government know that everything they say to their clients one day will remain public, then the President, individual Members of Congress, and others will know every day that their lawyers are not going to tell the truth to them. What their lawyers are going to prepare is documents prepared later for a publishment so that the whole world will see exactly what their advice to their clients was. This will undermine the entire legal system in my view, and, in all candor, anybody who has ever been subject to a traffic ticket, some sort of criminal problem; who has had a civil litigation matter, if they can imagine; a divorce, for example, as my colleague may know some people, we dealt with some divorce law in Florida.

Imagine going through a divorce and as a spouse fighting over a child's custody, fighting over issues of whether or not you will be able to get enough alimony to support your children. Imagine if everything your lawyer tells you or writes to you is going to be published in the New York Times and the rest of the journals throughout the world tomorrow, imagine how candid and honest and decent your lawyer is going to be with you. He is not.

Mr. MARIO DIAZ-BALART. Mr. Speaker, may I ask a question on that note? If I may, there is a letter that has been, that we have all seen, that is signed by every living former Solicitor General, some of them are Republicans, some of them are Democrats, stating exactly what the gentleman has just said; how that would be devastating for the country in that office's ability to represent the U.S. before the United States Supreme Court.

So, again, the gentleman is stating some pretty obvious, I think, commonsense reasons as to why that should not be released.

Number two is that every Solicitor General, former Solicitor General of both parties, so this is bipartisan, this is a bipartisan statement, in writing have said exactly what the gentleman has just said: that that information cannot be released.

But I have to admit to the honorable gentleman from Florida that the part that has me more preoccupied, more worried, is that if that is the standards that some people want to use as to why certain nominees for judge should be disqualified, then it may be wrong. It clearly is because every living Solicitor General of both parties has stated it in writing. If that is the standard, there is an argument. What really worries me is the double standard that is being applied to Mr. Estrada.

There have been seven judges that have come out of the Office of Solicitor General. Seven judges. And not once have those documents been requested of those individuals. Not once was that deemed to be necessary. Not once was that deemed to be essential. And clearly never was that used as a something to block the nomination of seven other people who have come from the same office. So why the double standard? Why the double standard on this brilliant Hispanic lawyer who, as the gentleman stated so eloquently, there is nothing in his record other than talents, discipline, hard work, decency, integrity. Why the double standard when there are seven other people who have passed this process and those documents were never asked of them, and now that is being used as an excuse for this one individual. That is what really worries me.

And I do not know if the honorable distinguished gentleman from Florida (Mr. FEENEY) has any comments on that, because I really am worried about that.

Mr. FEENEY. Well, I have some sure thought, and then I know the gentleman has some other Members here that are really passionate about how offensive it is about what is happening to Miguel Estrada. But I will tell you this: There is a double standard. Miguel Estrada would be the first Hispanic ever on this bench. He is a Solicitor General not in just the Republican administration, but he worked for President Clinton's administration. He got high marks everywhere he worked.

The problem is this. The critics of Miguel Estrada do not want a vote. They do not want a debate over his talents, his capabilities, his integrity, his morals, his academic achievements; and they especially do not want to discuss the fact that this wonderful gentleman came here as a 17-year-old, lived the American dream, and now is an outstanding American statesman. They cannot vote against a man if they have to live with a description of his incredible achievements.

So what the critics are using is all sorts of excuses. And as the gentleman points out, they have never ever once demanded that any of the nominees in the past live up to the technical requirements that they are trying to place on him. The double standard the gentleman speaks about, in my view, is because Mr. Estrada is a lesson to Americans that you do not have to think, just because you are a Hispanic American, in a one-little-box mentality. You do not have to be a liberal activist. You do not have to promise to undermine and rewrite the original intents of the United States Constitution. And the lesson that the liberal critics want to teach not just Mr. Estrada, but everybody else, that they are going to crush you if you believe that the Founding Fathers wrote what they meant, meant what they said. And we are especially going to crush you if you come from some minority background or if you are a woman, for example, because they never, never want to have a day in America where people, regardless of their ethnic background or their gender or their race or their religion, can actually think outside a small liberal box.

And I want to tell the gentleman once again that for as long as I have known him, he has been a freedom fighter. When he sees wrong going on, he leads the fight to basically stand up for decency, for values, for the American way. I am a huge fan of the gentleman from south Florida and I believe, as I know he does, that if we just let the American people know that there is a crime being committed in public against Miguel Estrada, that two things will happen: Number one, he eventually, despite, despite this ugly episode led by his opponents attacking him in a surreptitious way because they cannot do it directly, he has no flaws in his background; despite that, he will end up on the Federal bench.

□ 1945

Secondly, the wonderful news is that free thinkers throughout America, regardless of whether they are women or what their religion is or what their ethnic background is, will be sent the message they do not have to pander to the liberal left wing special interest groups; they can be true to the United States Constitution; they can still make it as a Federal judge. That is a great message.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from Florida for that very clear explanation, crystal clear explanation as to what some of the problems that we are seeing with this move to use all sorts of procedural maneuvers to try to block, torpedo the nomination of Mr. Miguel Estrada; and again, it is hard to believe that this is actually happening in this day and age.

We have talked about, as the honorable gentleman from Florida talked about, the double standard; and it is not just one double standard that is being applied to Mr. Estrada. It is multiple double standards; and it is multiple double standards, and some of the people that are actually speaking these words and opposing Mr. Estrada's nomination are on record in the past saying just the opposite. Why? Why all of the sudden, when it is this person, again, the first Hispanic American ever to be nominated to this most prestigious court, why is it that now there is this double standard?

There are people who have said, for example, that the gold seal to determine if one is so qualified or not is the ABA's rating; and yet Mr. Estrada has been rated as the highest-qualified person that that organization rates anybody. And yet all of the sudden, for Miguel Estrada, that is not good enough, and it seems to me a very sad day when people who just a few months ago said something totally different are now backtracking on their own words, reversing what they said. Were they not saying what they meant then, or are they not saying what they mean now? Were they deceiving the people then or are they deceiving the people now? It is a very, very sad state of affairs.

I am honored to have the gentleman from the State of Colorado here join us today; and I would, Mr. Speaker, like to yield some of my time to the honorable gentleman from Colorado.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman from Florida; and Mr. Speaker, I would like to address this subject very directly.

The gentleman from Florida just mentioned moments ago the rating from the American Bar Association, the American Bar Association, as well qualified for Miguel Estrada to serve on the Federal bench. That rating, I might remind the Speaker, and I doubt that I need to remind the gentleman from Florida, they not only granted that rating of well qualified, the highest rating, they unanimously granted a well-qualified rating for Miguel Estrada to serve on the Federal bench.

I would like to tell a very personal story that I just last week experienced about Miguel Estrada. Many of us were back in our districts last week. Many of us had neighborhood meetings, town meetings, meetings with constituents. I did the same; and at every meeting I went to, every meeting, certainly questions came up about the possibility of war in the Middle East and people are concerned about that and about the economy. Amazing to me, amazing to me was that people, average people, normal folks that are concerned about their everyday living know who Miguel Estrada is; and they understand clearly that an injustice is being done, Mr. Speaker. An injustice is being done to this fine American.

How fine of an American is he? The gentleman from Florida explained very well. He comes here as an immigrant, barely speaks the language. He not only graduates from the university, he graduates with honors, magna cum laude from Columbia College in New York, from Harvard Law School, edits the Harvard Law Review, not exactly your average fraternity newsletter. He is not only well qualified. He is eminently qualified.

He served on the U.S. court of appeals as a law clerk. He served as a clerk in the Supreme Court for Justice Kennedy. He served as the Assistant U.S. Attorney and deputy chief of the appellate section of the U.S. Attorney's office of the Southern District of New York where he argued appeals cases before the second circuit court. He served as the Assistant Solicitor General of the United States, as the gentleman from Florida already pointed out, for two Presidents' administrations, President Clinton and President Bush 41. Still he has opponents. Why?

In my town meetings, again, my constituents, average Americans, they had it figured out. I asked them what do they think this is about. They said it is about politics. It is about politics. I understand that if they are talking about me. I expect the gentleman from Florida (Mr. MARIO DIAZ-BALART) understands that if they were talking about him. We are, after all, politicians.

Mr. Estrada aspires to be a judge, a judge; and in the very definition of judge, the word "judgment," that is what we expect him to do is exercise good, balanced, educated, unbiased judgment over the laws that our colleagues will pass in this Chamber, that have been passed in this Chamber by politicians, legislators before us.

The folks back home understand that Mr. Estrada, who wants to be a judge, is being subjected to the judgment that is typically reserved for politicians. That is the injustice. That is the injustice that is being perpetrated on a good American, an American that has achieved the American dream; that has passed all standards; that has been nominated by a President; that deserves a fair hearing and is not getting one.

Mr. Estrada, some of his opponents say he has never been a judge. How can one who has never been a judge be a judge? Well, to the average observer, perhaps that makes sense. Should he not be a judge first? Amazingly enough, I find that five of eight judges currently serving on this current D.C. circuit court, five of the eight had no previous experience as judges before they were nominated and confirmed, including two of President Clinton's appointees.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, let me, if I may interrupt the gentleman from Colorado. Let me see if I understand what the gentleman just said because that is a key point there.

Some of them who are objecting to him are saying that because he has not been a judge before, that alone disqualifies him? Just that fact alone disqualifies Mr. Miguel Estrada?

Mr. BEAUPREZ. Correct.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, but what the gentleman has just expressed right now, and I want to make sure this is clear because this almost sounds funny, the gentleman is saying that in the same court where Mr. Miguel Estrada has been nominated to sit, right now there are five judges that, before they were there, they had never been judges before, and is the gentleman telling me that there was no objection on that basis to those judges?

Mr. BEAUPREZ. They were nominated, they were confirmed, they serve on the court. It gets better.

Mr. MARIO DIAZ-BALART of Florida. Please proceed.

Mr. BEAUPREZ. Mr. Speaker, it gets better. On the Supreme Court of the United States, two recent Supreme Court Justices, names that are certainly familiar to me, I expect familiar to most Americans, Byron White, Wizard White from my State, Colorado. Byron White was nominated by President Kennedy, confirmed by the Senate, served with distinction on the Supreme Court, never was a judge prior to being nominated to the highest court in the land, not just a Federal judgeship, the highest court in the land, the Supreme Court.

William Rehnquist, currently the Chief Justice, of course, no prior judicial experience before being appointed to the Supreme Court.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from Colorado for his comments.

Those are disturbing facts. Those are very disturbing facts because if the litmus test, as some are saying for Mr. Estrada, is that he has never been a judge, how is it possible that there are others on that same court, today, right now, as we speak, and of course, as you just mentioned, sir, the Chief Justice of the Supreme Court of the United States right now, they had never been judges, and yet those same individuals that are now saying that that is the reason why Mr. Estrada cannot be a judge, those same individuals did not object to these other fine public servants on the court?

Mr. BEAUPREZ. Mr. Speaker, if the gentleman would yield.

Mr. MARIO DIAZ-BALART of Florida. Please. I am having a very difficult time understanding this.

Mr. BEAUPREZ. Mr. Speaker, I shared some of this same information again with my constituents back home. They said, are his opponents grasping for straws? I said, well, one might conclude. Allow me, allow me to pursue the possibility, I think a reasonable possibility, that this is really about politics.

What we are looking for is a judge, someone who can exercise judgment; again, one who is fair and balanced; one who can be praised and acknowledged and accepted by both people of a more liberal as well as a more conservative political bias, people who are still going to accept one who carries the title of judge, the distinguished title of judge, carries that title, carries it well and that people of all different perspectives are going to recognize their skill, their talent, their fairness, such as Ron Clay, former Vice President Gore's chief of staff.

A Democrat, Vice President's former chief of staff, said this about the same Miguel Estrada: "Miguel is a person of outstanding character, tremendous intellect and with a deep commitment to the faithful application of precedent." That is what judges do. "Miguel will rule justly toward all without showing favor to any group or individual."

I cannot think of a stronger mission statement, a stronger definition, a stronger statement about the credentials that I would hope all judges could pass before being appointed, nominated, confirmed to a judgeship as important as the U.S. Court of Appeals for the District of Columbia; and I certainly hope, it is my belief, it is my prayer, that a true American hero, these are the kind of stories, these are the kind of individuals we in this body ought to be about raising up as a standard of excellence, something for our young people, for all Americans, for all citizens of the world to look at and say that is what is America. That is the best of America. That is what America is for. And yet this poor man is being persecuted, not praised and not elevated.

I thank the gentleman from Florida for the time, and I thank him for what he is doing to advance the cause of this fine American.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I want to thank the gentleman from Colorado for really shedding some light, and I had a friend who used to say do not let the facts confuse the issue, and there are some people that do not want to let the facts confuse the issue.

The honorable gentleman from Colorado just brought some impressive facts. He talked about Miguel Estrada's qualifications. Yes, he would be the first Hispanic to sit on this court; but let me tell my colleagues, I am of Hispanic descent, and I am very proud of that, but I am not supporting Miguel Estrada merely because he is Hispanic.

I am supporting him because of his talents, because of his integrity, because of his record, because of his life of achievements; and we heard from the gentleman from Colorado what some of those achievements are: graduated Phi Beta Kappa from Columbia College, magna cum laude from Harvard Law School, unanimously stated to be well qualified, the highest rating from the American Bar Association, and then, yes, he worked at the Department of Justice for both Republican and Democrat Presidents and has been called "an extraordinary legal talent and generally compassionate," by President Clinton's Solicitor General.

□ 2000

What, then, is the real reason? What is the true reason that the body across the hall is using procedural measures to stop a vote? They do not even want him to have a vote. They do not want this gentleman to have the possibility to receive a vote, a public vote in front of the entire country, to let people decide in an open fashion whether they should vote up or down. Why is it then, if he is so qualified, why is it then, if the reasons du jour, the excuses du jour, are proven to be false, like the ones we just heard before, that the reason he cannot be a judge is because he has never been a judge before, yet there are five members of that same court that had never been a judge? That was never a problem for them. Why is it only a problem for this man?

They say, well, some documents have not been released. But there are seven individuals that have also come out of that same office who have become judges, and those documents were never asked of them. And in a bipartisan fashion, all living ex-Solicitors General have said, both Republicans and Democrats, that those papers cannot be released, and they have never been requested. Why is it then, that only for this man, for this individual, these things are requested? And why is it then, that they are going to the most extraordinary means to use procedural measures to not even permit a vote, to not even permit a vote on one who would be the first Hispanic, the first Hispanic in the history of this noble country to reach that position?

I am honored tonight to also have the distinguished gentlewoman from the State of Michigan, and who comes here with an extensive public record from her State, who I will yield to at this time, Mr. Speaker.

Mrs. MILLER of Michigan. Mr. Speaker, I certainly thank and appreciate the gentleman from south Florida for yielding to me.

Mr. Speaker, I am a new Member of Congress, as I know my colleague is as well, and when I thought about what I wanted to do with the rest of my career, I thought about the idea of running for Congress; because I have watched, as I think so many Americans have watched, the political partisanship and the gridlock that has happened in our Nation's Capital. I am sure it has always been there, but it seems to have gotten worse over time. And what is happening to Miguel Estrada is a very vivid demonstration of political gridlock and it must be stopped. It has to be spoken out against, and I am here tonight to try to do so; at least to lend my voice to that as well.

How can we stop the political posturing, how can we break the gridlock? I think one of the charts that my good colleague from south Florida held up here tonight, he titled it "Diversity Held Hostage," has a very vivid demonstration of how long this nomination has been held up. The chart, with just a simple calendar, has the X's as the days and the days go by. The months are going by. Years now are going by on the Miguel Estrada nomination. In fact, President Bush nominated Miguel Estrada to the D.C. Circuit Court of Appeals in May of 2001. 2001. In May of 2001. Nearly 2 years later, Miguel Estrada has yet to be confirmed. I would say that this, by any reasonable standard, is quite outrageous. I believe that to be quite outrageous.

Miguel Estrada, as has been mentioned here tonight by many of my other colleagues, quite frankly is the American dream. We are a Nation of immigrants. I am first generation here, from Scotland. We are all immigrants. We are a Nation of immigrants. We are a Nation that reflects how to build the American dream, and he certainly represents the mainstream American values as well as mainstream American law. If we think about it, from his roots in Honduras, certainly his struggle as an immigrant who came here speaking very little English, Mr. Estrada has literally risen to the very top of the legal profession, of his chosen field, and now he is on the brink of making history in our Nation. If confirmed, Mr. Estrada would be the very first Hispanic ever, ever to serve on the D.C. Circuit. Many consider this actually to be the second most important Federal court in America. Unfortunately, regrettably, his appointment has been held up, as we say, by the very smallest of causes. And that, I truly believe, sincerely believe, is simply political posturing.

Mr. Estrada should be confirmed because he is highly qualified to serve on the Federal bench, period. He has every possible qualification that would meet any reasonable standard. And let me just reiterate some many have been spoken about previously, but I think it bears speaking again. This is an individual who actually earned his law degree magna cum laud from Harvard Law School, and he did so at the same time he was serving as the editor of the Harvard Law Review. Five years after his graduation, he was clerking for the United States Supreme Court. He served as a clerk for the U.S. Supreme Court. He served as an assistant United States Solicitor General under both President Clinton as well as President George Bush. He has had experience in the Manhattan United States Attorney's office. He has practiced constitutional law extensively. He actually argued, and I find this fact really quite fascinating, he actually argued 15 cases before the Supreme Court before the age of 40. That is really quite remarkable. The American Bar Association has unanimously, unanimously being the operative phrase here, rated Mr. Estrada as well qualified, which is the very highest rating that anyone can possibly achieve. Some Senators actually refer to this as the gold standard. He has very strong bipartisan support. And, again, when we speak about how we break political gridlock, political posturing, he has very high bipartisan support.

Mr. Estrada, as I say, would be the first Hispanic judge on the U.S. Court of Appeals for the D.C. Court. So, of course, I am here speaking out in support of him. I do support the President's choice. But, fortunately, it is not just me or the President or the vast majority of Americans who support Mr. Estrada. In fact, there are a number of organizations who have spoken out very publicly in support of Mr. Estrada. And let me just read a couple of quotes, because I think they speak volumes to the background of this individual and why this nomination must proceed and proceed successfully.

These, again, are bipartisan, some of them through the media. This is what the President of the Latino Coalition said about Mr. Estrada. "To deny Latinos, the Nation's largest minority, the opportunity to have one of our own serve on this court in our Nation's Capital is unforgivable" .

The chief of staff of former Vice President Al Gore had this to say about Mr. Estrada. "Miguel is a person of outstanding character, tremendous intellect, and with a deep commitment to the faithful application of precedent. Miguel will rule justly toward all, without showing favor to any group or any individual."

And this from Seth Waxman, who was a former Solicitor General to President Clinton. "I have respect both for Mr. Estrada's intellect and for his integrity. In no way did I ever discern that the recommendations Mr. Estrada made or the views that he propounded were colored in any way by his personal views, or indeed that they reflected anything other than the long-term interests of the United States."

And one other quote as well. The president of the Hispanic National Bar Association said, "Mr. Estrada's confirmation will break new ground for Hispanics in the Judiciary."

Clearly, the support for Mr. Estrada lies on both sides of the aisle. He is a role model, and not only for Latinos; all Americans can look to this individual certainly as a role model. I believe holding up this confirmation process is completely unnecessary. I think we need to allow Mr. Estrada to make history. He is well deserving of it. I am not an attorney, never served as a judge, but I am married to a judge, and I am well familiar with the exhaustive background check that goes on before someone is selected to serve on the bench, whatever that bench is. And I also know what is fair. And what is happening here to Mr. Estrada is unfair. In fact, I believe it to be un-American, and I wanted to come here tonight to speak out about this.

As many of my colleagues did, I spent last week, while we were in recess, going around my district and holding town hall meetings, talking to people, and I was amazed on this particular issue how well versed people are. It has really, I believe, caught the attention of the average American because they see the unfairness of this. They see the persecution of this individual, and for no good reason. For absolutely no good reason.

Mr. MARIO DIAZ-BALART of Florida. If I may reclaim my time, Mr. Speaker, for just a moment. Let me ask the gentlewoman from the State of Michigan a question. Because one of the things I get back home a lot, and like my colleague mentioned, I am new to this process here in Washington, D.C., but one of the things I get a lot and I have heard for years is, well, people are just fed up with the double talk. They say, all that double talk up there in Washington. And certainly some people say one thing one day and something else a different day, and so they are fed up. That is one of the things that we all, I guess, and I am going to ask the gentlewoman if she has heard a lot of that in her years of public service also, during her campaign, and now that she is having public hearings.

I have seen some really interesting examples of that, which I have to admit have shocked me. Even having heard that all these years, upon arriving here I have seen some examples that have frankly shocked me. They have been so blatant, frankly, it is to the point of being shocking. When, as the gentlewoman mentions, certain people say the standard, the ABA rating, is the gold standard, and then all of a sudden, oops, just kidding, never mind, not for Mr. Estrada. For everybody else, yes, but not for Mr. Estrada.

Then we have certain people, distinguished people, very well-respected people, people we see in the news all the time, and people that we see interviewed all the time who have stated that, for example, that they would fight tooth and nail against filibustering of any judicial nominee, any judicial nominee. And I have read this from the Senate record, that they have said I am opposed to any filibustering of any judicial nominee, whether I like the person or not, because they have the right to have a vote. And then, all of a sudden, that same individual is one of those leading the fight to do what, to filibuster Mr. Estrada's nomination. Not vote against him, but filibustering. Just a while ago he said that he would go to the extreme to stop a filibuster for any nomination, for any judicial nomination.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY). The Chair would caution the gentleman to refrain from any improper references to the Senate or to individual Senators.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I apologize. I do not think I mentioned it was a Senator, but I guess it is pretty well known.

But that double talk is really shocking to me. And we have heard it now, frankly, more than I really expected. I do not know if that is something that the gentlewoman has gotten back home as well, as to how extreme the double talk and double standards have been in the case of Mr. Miguel Estrada.

Mrs. MILLER of Michigan. Well, if I might comment on that, the gentleman used the term double, double standard, a double standard. It actually is no longer a double standard. It is not as though there is one standard here and there is another standard here. I think what is happening in this particular case is that they are raising the standard. They are raising the bar so that it could never be achieved by Mr. Estrada. They are going to raise the bar to make sure that there is under no set of circumstances that he will ever be able to rise up to the level that they are setting for this individual.

This is a question of basic fairness. And the American public, if they understand anything, they know what is fair. And they know what is happening to this individual, to this good man, with his background, is unfair.

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This whole concept of filibustering, we are here in Washington, again we are new Members, we are trying to understand what all this filibustering means and what is the relevance of it and those kinds of things. What the American people are saying at home is, give the man a vote. Vote up or vote no on his nomination. Vote yes or vote nay. But they are saying, give the man a vote. That is not happening. That is the kind of comment that I heard back in my town hall meetings.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY). The Chair would ask the gentlewoman to be careful about characterizing Senate action or urging Senate action.

Mrs. MILLER of Michigan. I appreciate that. I will try to exercise the proper decorum here. I am getting a little carried away with it.

Let me just close with one final comment. In one of my town hall meetings, I have five counties in my district, and in one of my counties there are seven county commissioners. One of the commissioners, I will not name his name, but he is a Hispanic gentleman, very well known, well respected in the community, has had an outstanding military background, well thought of by everyone. He and I spoke about this for quite a long time. He is of the opposite party of myself. But he did express his consternation. Again it came to an issue of basic fairness. Basically that is what he expressed to me. He said, if you have anything to say about this nomination at all, let the vote happen. Just let it happen. Let them vote yes or let them vote no. But it is a question of basic fairness.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair again reminds the gentlewoman.

Mr. MARIO DIAZ-BALART of Florida. That is a very interesting point, because there is bipartisan support for Mr. Estrada. In the Senate we keep hearing that he has more than enough votes, that if in fact these procedural steps are just not done and they allow an up or down vote, that the votes are there. But they just do not even want to allow for a vote. I want to get back to the gentlewoman from Michigan; but before I do so, we are also joined by the gentleman from Oklahoma. We just heard the passion from our dear friend from Michigan. She is passionate about it because of the injustice of what is happening to this fine individual. Again, he would be the first Hispanic in the history of this country, the first Hispanic American in the history of this country to reach that position, to be on such a prestigious court. His record is impeccable. Democrats and Republicans have stated that his record is impeccable. Those that worked for him have stated just about the quality and the talent and the integrity, the immense integrity of this human being. There has been nothing that they have been able to find negative in his record. Nothing. Absolutely nothing. Yet the bar, or the goal posts are continuously being moved by those that would oppose him.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. I am trying to give the gentleman some latitude, but to review this. Please refrain from remarks that characterize the Senate or call for action.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I will try to do so. I thank the Speaker for letting me know about that.

It is hard to believe why this is happening. It is hard to believe why this gentleman is being treated differently than others who have come before him. It is hard to understand why others who are equally qualified or less qualified have not had the problems in the process that Mr. Estrada has had. He has answered more questions than just about anybody. Because I have heard that one of the reasons is that, well, he has not answered enough questions. But he has answered over 125 questions from the esteemed Members of the other body. Other judges have answered many less.

One judge recently, of President Clinton's two nominees to the court, one answered three questions; the other answered, I believe, 20. Mr. Estrada answered 125 questions. Yet some will say, that is not enough. It was enough for others, but not for Mr. Estrada. I would like to know if the honorable Member from Oklahoma is as dismayed to see what is happening as are many of us who are watching this going on and are wondering what is the real reason, what is really behind this. It is not the reasons that they are stating, so what are the real reasons?

I yield, Mr. Speaker, to the gentleman from Oklahoma.

Mr. COLE. Mr. Speaker, I thank the gentleman for yielding. It is a great pleasure to be with my good friend, the distinguished Member from Florida. I did not come here with prepared remarks and certainly I do not pretend to be able to match the eloquence of my good friend, the gentlewoman from Michigan, or the gentleman from Colorado; but I came because I was compelled, listening to the debate and having watched the debate over many days, to express my solidarity and my sentiments about the great injustice that I feel is being done here.

This is the ultimate expression of politics over principle. And what kind of principles are at stake? The principle first of merit. There is no question about Miguel Estrada's merit. He is a jurist of outstanding quality and a lawyer of distinguished accomplishment, someone who Members of both parties have recognized for his individual brilliance. This is a triumph over the principle of diversity. It is a good thing in a diverse country to have a diverse bench, to have people of different backgrounds, with a common faith and belief in this country but representing different cultural and different racial and different ethnic traditions to occupy important positions.

It is the triumph of politics over the principle ultimately of fair play, the most fundamental American principle of all, the right to have a vote, the right to be heard, the right for a decision to be made. It is unfortunate. And it is the triumph of politics over the principle of bipartisanship, as my good friend from Florida has pointed out. There are Democrats and Republicans of good will, of differing philosophies, of differing points of view but united in their belief that Miguel Estrada is a person of outstanding integrity, of great ability and as deserving of the position to which the President has nominated him.

I reflect back, Mr. Speaker, on what might have happened had similar things occurred when Colin Powell was nominated for his position as a member of the Joint Chiefs of Staff, an action which takes approval, of what might have happened when our distinguished national security adviser was chosen for her respective position. Questions were not raised then about them, what their political philosophy might be, because they were people of outstanding character and outstanding ability. Their appointment to the posts which they both currently hold is an indication of respect on both sides of the aisle for their ability.

I think in this case again we are seeing an individual punished not on the basis of merit, not on the basis even of philosophy directly but on the off chance that he might be a conservative. Certainly he is not being punished simply because he is a Hispanic. I would hope not, and I would certainly expect not. I would not attribute that motive to any of those who oppose him. But there is a sort of subtle double standard here in terms of you have to be the right kind of Hispanic. You have to believe in the right set of principles in order to occupy a position of trust and responsibility in the United States. That is simply inappropriate.

As you know, Mr. Speaker, I have a Native American heritage. Many of the people in the tribe to which I belong are historically Democrat. But frankly they supported me because they thought I had the ability to represent their views and their point of view. That is in essence what is at stake here, whether or not we will discriminate or stand idly by and watch someone discriminated against simply because they hold a view which a minority of people think might be unpopular but which the majority in this country clearly support.

I want to thank the gentleman from Florida again for taking on this fight, for waging it so diligently and for mobilizing so much support on behalf of not just an individual but on behalf of the defense of fundamental American principles.

Mr. MARIO DIAZ-BALART of Florida. I want to thank the distinguished gentleman from Oklahoma. As always, he has a way of really speaking with a lot of common sense. I want to thank the gentleman for that, for bringing some sense of reality to what sometimes can be a pretty crazy process.

Mr. Speaker, in my remaining time, I just want to really thank and commend Senator HATCH, Senator SANTORUM, and many others on that side for standing up for the Constitution of the United States, for standing up for fairness.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is admonished to not mention individual Senators.

Mr. MARIO DIAZ-BALART of Florida. There are many who are standing up for the Constitution.

RECOGNIZING A NATIONAL DAY OF REMEMBRANCE TO INCREASE PUBLIC AWARENESS OF EVENTS SURROUNDING INTERNMENTS OF JAPANESE AMERICANS DURING WORLD WAR II

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. HONDA) is recognized for 60 minutes.

Mr. HONDA. Before I get started, let me just compliment the gentleman from Pennsylvania for his patience in being here this evening. I appreciate your presence, Mr. Speaker.

Mr. Speaker, I rise today to discuss House Resolution 56, a resolution I introduced earlier this month. This is a resolution supporting the goals of the Japanese American community and recognizing a national day of remembrance to increase the public awareness of the events surrounding the restriction, exclusion, and the internments of individuals and families during World War II.

Let us be clear about this. In 1942, more than 120,000 people were rounded up in this country, primarily from the west coast, and incarcerated. Families were torn apart. Hardworking people had to sell their businesses for pennies on the dollar. Everything these people worked so hard for evaporated overnight. I spent part of my childhood in a camp in southeast Colorado, an internment camp called Amache. House Resolution 56 also recognizes that some in the German and the Italian communities experienced deprivation during this period as well.

This resolution has been referred to the Committee on the Judiciary and has currently over 60 cosponsors. This year marks the 61st anniversary of President Franklin D. Roosevelt's signing of executive order 9066 on February 19, 1942; and it is the 15th anniversary of the Civil Liberties Act of 1988 signed by President Reagan.

The day of remembrance is as important now as it has ever been. We are again living in perilous times. Our country is at war against terrorism. We may soon be at war with Iraq. The history of World War II demonstrated that our Constitution is tested in times of trauma, tension, and turmoil. In 1942, our political leaders failed. Therefore, today we must work to educate the public about the internment of Americans today in order to prevent similar injustices to be forced upon other Americans. Our civil liberties have not been in as much risk since

World War II, and this time we as political leaders cannot fail.

Many might be aware of the comments made by one of our colleagues earlier this month on a live radio call-in show. Our colleague said that he agreed that President Roosevelt's decision to sign executive order 9066 was appropriate. He said, with the information the President had at the time, he made the best decision he could. He also stated that the incarceration of Japanese Americans was for their own safety. In addition, statements were further made that some Japanese Americans during World War II were probably intent on doing us harm just as some Arab Americans are probably intent on doing harm to us today. Such statements are inaccurate and simply wrong. As my father always said to me when I was a child, if we were put in camps for our own protection, then why were we the ones behind barbed wires and why were the machine guns pointed inwards toward us?

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Furthermore, such statements from a government official are disturbing and dangerous, as they appear to endorse a policy of racial and ethnic profiling that has long been discredited. Saying that the internment of Japanese Americans was appropriate is simply unacceptable and factually inseparable.

One of the most concise rebuttals that I have read to the notion that Japanese Americans were placed in camps because they either posed a threat to national security or for their own safety comes from a law professor, Eric Muller, of the University of North Carolina at Chapel Hill in a letter dated February 7, 2003. And I would like to, Mr. Speaker, submit this letter into the record at this point without reading its full content. However, most importantly though, we must remember that the Commission on Wartime Relocation found that it was not a military necessity that the Japanese American community be rounded up from the west coast, but it was rather based upon race prejudice, war hysteria, and a failure, and I will repeat, a failure of political leadership. This was probably the largest single act of racial and ethnic profiling conducted by our government in modern times.

True to the democratic process, however, our Nation has been able to look back and admit errors from its past. I can think of no greater evidence to show why the United States, with all its flaws, still is looked to worldwide as the Nation with the strongest and fairest form of government. By admitting that the government did wrong in its treatment of its citizens and legal residents who were aliens during World War II, Congress and the President reaffirmed our Nation's commitment to the principles founded in the Constitution. However, we must always be vigilant in the protection of our civil liberties, and in this time of tension as we wage a war against terrorism, we must again reaffirm our commitment to the principles in the Constitution. While national security is always a paramount concern for those of us making the laws as well as executing and interpreting the laws, we see that there are those in government who continue to pursue policies once again that target our civil liberties.

I find it disturbing that none of my colleagues on the other side of the aisle have come out against the statements of this gentleman from North Carolina. But now more than ever, we must strive to balance our cherished civil liberties with the need to protect our homeland. Finding this balance is the enduring lesson that the Day of Remembrance resolution teaches and the lesson that cannot be lost on our Nation's policy makers and our citizens.

Mr. Speaker, I yield to the gentleman from Hawaii (Mr. CASE) who represents probably a good portion of the population not only in the mainland, the U.S., but also in Hawaii.

Mr. CASE. Mr. Speaker, I thank the gentleman from California for yielding, and I bid him and my colleagues here in the House a very fond aloha from my home State of Hawaii.

As the gentleman has noted, my home State of Hawaii is a State that has a tremendous representation of people of Asian descent. Pacific islanders and Asians make up more than 50 percent of the composition of my State. So in areas of ethnic issues, we are particularly sensitive for both our history and for our modern day; and my State is a State that is very proud of many things, many things about it, from our fantastic environment which so many people have enjoyed, to our native Hawaiian culture which has brought really to the world a spirit of aloha, a spirit of how to live together in harmony with both nature and with each other.

But I think the one thing that we are the most proud of in Hawaii and certainly that I am the most proud of in Hawaii, as somebody whose family goes back for four generations there, is our multiethnic tradition. We are again easily the most diverse ethnic composition of any State in the entire country. No ethnic group of the many that we have in Hawaii has a majority. The highest ethnic group in Hawaii has only about 26, 27 percent; the second highest, 24, 25 percent. So we are very conscious of our relationships with each other from an ethnic perspective, a State where over 50 percent now of all marriages are multiethnic marriages; over 50 percent of all births are multiethnic births, including my own children who carry the blood of eight separate ethnic groups in their own veins and carry it without anybody giving any thought to it whatsoever; and where Americans of Japanese ancestry have long been a very significant minority in our history.

So for all of us in Hawaii, all of us, whether we are of Japanese ancestry or Caucasian ancestry or Portuguese ancestry or Chinese ancestry or Korean or some of the more recent immigrant groups such as Marshallese, Laotian, Vietnamese, Thai, when we read of comments by one of my colleagues on the internment of Japanese Americans during World War II, the Chair of the Judiciary Subcommittee on Homeland Security, the very subcommittee that is being called upon to make judgments on behalf of all of us in this country on matters of internal security, how we treat our citizens during a time of war, our reactions range from puzzlement, frankly, in some cases to outrage. And, Mr. Speaker, I must confess I do not really know myself what to make of those comments, because those thoughts expressed are so foreign to my own thinking and to the thinking of those in my State.

And as I went back to my district over the district work period and talked to my constituents, they brought up these comments. It was not really always a matter of outrage, although some were outraged. It was more a matter of puzzlement. What was it that was occurring? What was it that this colleague was thinking? What exactly was it? Was it just a slip of the tongue? We all make slips of the tongue, and we all are willing to forgive a slip of the tongue. Was it ignorance of the facts, or was it a reflection of more deliberate thinking? And unfortunately we do not know which one it is because, to this day, there has been no good explanation offered.

Personally I am willing to accept, and I think most of the people in my State and perhaps in the country are willing to accept, that it was ignorance; willing to accept, as my State legislature right now is resolving, that what is needed here is not any kind of accusations, not any kind of harsh words. What is really needed is education and sensitization to the fact, and that while we need to get beyond this specific incident, nonetheless it again tells us that we must remember that sometimes well-intentioned people can act inexcusably, out of simple ignorance, and that by constant remembrance we can avoid repeats.

So I want to remember today what happened in my own State during the time of the Second World War, during the time when 100-some-odd thousand-plus Americans of Japanese ancestry were rounded up and interned in internment camps on the U.S. mainland. I want to remember what happened in Hawaii because that is a part of this story that is not often told. What happened in a State where 37 percent of the population on December 7, 1941, 37 percent were Americans of Japanese ancestry? What happened in a State which was the very site of the attack that put us into World War II? Again 37 percent, and this was not just an isolated population on the mainland. There were a number of Americans of Japanese ancestry mostly living in the smaller communities, not always but mostly. They were not quite as integrated into the society. In Hawaii it was a full integration. We had lived there. They had lived there for over 100 years. For decades they had been fully integrated into the society. In 1941 many were already serving in our U.S. Armed Forces. They had already been drafted. They were already serving in the famous 100th battalion, which was formed out of draftees prior to World War II, including my own former boss right here in this Chamber, my political mentor, the former U.S. Congressman and U.S. Senator from Hawaii, Spark Matsunaga. They were the vanguard of what became a legend in U.S. military history in the second world war because the 100th battalion and later the 442nd regimental combat team, which later merged, in which 3,000 Americans of Japanese ancestry from Hawaii volunteered, a unit which went on throughout the Second World War to become the most decorated unit for its size in the entire history of the United States military; a number of medals of honor including my colleague, the senior Senator from Hawaii, DANIEL K. INOUYE; a number of Distinguished Services Crosses, Silver Stars, Bronze Stars, French Croz de Guerres; 649 killed in action, 67 missing, 9,486 Purple Hearts.

These were people obviously that were dedicated to their country, and yet on December 8, 1941, 1,500 of them were rounded up, Japanese ancestry Americans living in Hawaii were rounded up and interned in Hawaii on Sand Island and interrogated. Some were released; but some, over half of them, were sent to the mainland and interned for the duration of the war. And not only did it affect them, it affected their families. In many cases they went to the mainland to become interned. Why? They were American citizens. Their families had lived in the United States in Hawaii. They were interned because they were educators, because they were Buddhist priests, because they were business leaders. If they were in positions of leadership in the Japanese community in Hawaii, they were suspect just because of that. And there was more than one case in which a son would serve his country in World War II on Anzio and other locations up and down Italy and France while his own father was interned in an internment camp in the United States. Imagine a son, imagine the dedication to a country of a son going into battle when his own father was interned. Yes, it was not as serious as the mainland Americans of Japanese ancestry.

And there were heroes in this story, and one of the heroes was the FBI agent in charge in Hawaii during this period, a gentleman by the name of Robert Shivers. It is a little known fact that Robert Shivers arrived in Hawaii in 1939, probably, we would suspect, with perhaps the same sentiments as others that had come from the mainland to a strange place where Americans of Japanese ancestry were 38 percent of the population, at a time when the United States knew it was going to war with Japan and all Americans of Japanese ancestry really were suspect in some people's eyes, and yet only 1,500 were rounded up. Why was that? Because Agent Shivers spent 2 years trying to understand the community, because he went out into the community. He said that after conferring with people in Hawaii, citizens that had lived in this multiethnic society, he said this: "It was not until I conferred with you that I began to understand the complex racial conditions in Hawaii. You gave me a group of loyal citizens of Japanese ancestry who proved invaluable in helping me shape my course." And it is obvious to all of us now in retrospect, after the action of this Congress in issuing an apology and in the actions to evaluate the work of our government during the Second World War in cases such as Koramatsu, it is obvious that had Agent Shivers not been the person that he was, no doubt Americans of Japanese ancestry in Hawaii would have met the same basic conditions as occurred to their colleagues and their family members on the mainland.

So, Mr. Speaker, I give these words. I give these words because again I say that what we can all take out of the occurrence of the remarks by our colleague is not to drag him over the coals. I think we are way beyond that. That is not what this is about. This is simply an opportunity again for us to remember, all of us to remember, that good people can sometimes have thoughts that are just not right, and it is simply a matter of not knowing.

So we can look to history in this case. We can look to the history of the Americans of Japanese ancestry. They were not unique. The same thing happened to Americans of German ancestry, Americans of Italian ancestry. And we can say to ourselves that there is absolutely no reason in the whole world why the same thing could not happen again under similar circumstances to ethnic groups in our country other than those three.

So as we consider this resolution which I have been very proud to cosponsor, as we consider the motivation behind the resolution, and I commend the gentleman from California (Mr. HONDA) for introducing this resolution, let us consider again that this is a time simply for us to all pause, let us take a deep breath, and let us just remember what happened and think to ourselves is there any reason whatsoever to assume that without constant vigilance, constant caution, and constant remembrance could it not happen again? That is the lesson for us to carry outside of this unfortunate occurrence, and that is the lesson that my own home State of Hawaii can offer to our country and the rest of the world.

I thank the gentleman for yielding.

Mr. HONDA. Mr. Speaker, I thank the gentleman from Hawaii (Mr. CASE) for his words and the experiences that he has shared with us because I think that at times the lesson is sometimes missed, that Members from Hawaii who are of Japanese ancestry volunteered for the service with the 101st battalion and joining forces with the 442 here in the mainland.

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One of the things that they learned, the Japanese Americans from Hawaii, was that when they became part of the 442 with the mainland Japanese Americans, they often wondered why they were different from the Japanese Americans from Hawaii, because they grew up on a pretty predominant and highly populated island with a lot of Japanese Americans, whereas the Americans of Japanese descent on the mainland were a little different. Their attitude and view of life was different.

It was not until some of the Members from Hawaii visited the camps, along with their colleagues whose parents were incarcerated, that they truly understood the unfairness and injustice of executive order 9066.

So we say we did not know, and so it is that House Resolution 56 is to educate and to further educate our communities in this country and also other members of this globe.

Mr. Speaker, if I may ask the gentleman from Washington (Mr. INSLEE) if he would mind sharing some of his thoughts.

Mr. INSLEE. Mr. Speaker, I thank the gentleman for his leadership on this issue, bringing this to our Nation's attention with this resolution. The reason I have come to join the gentleman this evening to talk about this important national matter is I represent the first district in the State of Washington, in the Seattle area; and I live in a place called Bainbridge Island, a little island directly across Puget Sound from Seattle.

Back in the 1940s, pursuant to an order of the American President, the United States Army marched 277 Americans of Japanese American descent down to the Taylor Landing dock and at bayonet point essentially sent them to camps for the duration of the war.

These were our neighbors on Bainbridge Island, good people, great people, some of whom still live on Bainbridge Island; and we think it is appropriate and important for the Nation to remember that injustice, that mistake, where an America did succumb to fear, and this day of remembrance is one way to do that.

The reason I think it is important for America to do that is two-fold: first to honor those individuals who went through this experience, but had their sons and daughters serving in the military during World War II, and then returned, a lot of them, to Bainbridge Island to become important parts and leaders of the community, and we want to honor their commitment and contributions to our national and local communities.

But I also think it is very important for us in the future for us to learn from this experience, because we are undergoing some similar strains right now. We understand what fear is again like, like we experienced in the 1940s; and it is very important for us to realize what can happen if you succumb to fear, what can happen to civil liberties, what can happen to civil rights, what can happen to your basic freedoms. So learning from that experience is important that we not replicate it and we not again give in to our sense of fear that the Nation may hold.

I should alert the gentleman, as you know, we are doing some things on Bainbridge Island. We are starting a national park, a national memorial, we hope, in a bill the gentleman helped pass the last session of Congress that the President has now signed, which will memorialize this event at the very site where the very first Japanese Americans were interned. These were the first Americans who were subjected to this, the very first detainees.

Some great people on Bainbridge Island, a fellow named Clarence Moriwaki is doing tremendous work, Frank Kinamoto, to memorialize this event and to teach Americans for future generations about what can happen when we succumb to fear. So this is one part of telling this story, and I am happy to be able to.

I will tell you just one good story, if I can, about Bainbridge Island, though. There was a lot of sorrow and sadness, and I have always been so impressed with people who went through this experience but came home willing to be good Americans and leaders in their local community and got over, maybe did not get over, but surmounted the sense of bitterness that certainly must have been there. I have just been so admiring of that sense of courage and true commitment to America.

But another little spirit that I saw, we dedicated a county park to a place where a radio interception facility was on Bainbridge that actually intercepted the December 7 radio transmission to the Japanese ambassador in Washington D.C.

One of the fellows intercepting those messages on the day that my neighbors were interned, he took a day of furlough and went down to one of his buddies to get his refrigerator and his pickup truck to make sure he protected them all during the war for his pal. He took a day's furlough to do it. That is part of the American spirit too.

I want to thank the gentleman for his leadership to make sure that America knows this story.

Mr. HONDA. I thank the gentleman from Washington, especially for his leadership and having set aside Bainbridge Island as an educational activity and also in memory and commemorating the folks who were interned from that community.

Also I think it is appropriate to mention that there have been many stories that come to light when we talk about the day of remembrance, one of which is the story of a young man by the name of Ralph Laso from East L.A. whose friends were Japanese Americans, and when they were being incarcerated he argued this is not right; they are not enemies. He himself decided to join a family and to be incarcerated himself along with the family.

But there are many other stories that can be told if we move forward with the resolution on the Day of Remembrance.

I would like to ask the gentlewoman from the gem of the Pacific, the great territory of the Island of Guam (Ms. BORDALLO), to share her thoughts.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman for his very, very wonderful description of my island home.

I am pleased to join my colleagues this evening in this most important dialogue. I want to thank our colleague, the gentleman from California (Mr. HONDA), for his leadership on these issues, and in particular for his sponsorship of House Resolution 56, which seeks to increase our awareness and further public understanding of the internment of American citizens during World War II.

The internment of the Japanese Americans, German Americans, and Italian Americans was a grave injustice and a violation of their civil rights. There are lessons to be learned from this experience, and these lessons cannot be learned without discussing and understanding the circumstances surrounding the enactment of executive order 9066.

We must be cognizant of the fragile nature of our civil rights, which have been won on the battlefield and in the halls of Congress. We must always be mindful of the threats to our freedom and security, and likewise we must be mindful of how our own perceptions of our fellow Americans and our own prejudices affect our very freedom.

These are not academic issues in a history book. These are experiences that must be understood in the context of the current debate on homeland security. It is now more important than ever because of the many issues that have arisen concerning security in the aftermath of September 11.

As we reflect on these events of World War II, we are appalled at our actions toward fellow citizens. We must be mindful that our actions today will be subjected to the same hindsight. As we wage the war on terrorism and face the possibility of war with Iraq, the need for awareness and education is especially important. We must ensure that we have an understanding of who among us is the threat, not based on race, color or religion, but based on facts that will withstand the scrutiny of history. As we fight for our freedom and security, let us not cast aside our own humanity.

Mr. Speaker, as difficult as it is, we must come to terms with our national mistakes, just as we celebrate our national achievements. We must acknowledge our misgivings in the past if we are to strengthen our ability to avoid mistakes in the future.

As President Ford said in 1976 when he formally rescinded executive order 9066, learning from our mistakes is not pleasant, but we must do so if we want to avoid repeating them.

Mr. Speaker, I thank the gentleman for this opportunity to be here tonight to support this resolution.

Mr. HONDA. I thank the gentlewoman. The gentlewoman from Guam (Ms. BORDALLO) continues the great legacy of Guam, of social justice and constitutional protection.

Mr. Speaker, if I may yield to a colleague of mine from Santa Clara County, a very personable person, someone who always does not mind speaking up when things need to be addressed, a long time friend and colleague, the gentlewoman from Santa Clara County, California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I thank the gentleman from California (Mr. HONDA) for organizing this Special Order.

Mr. Speaker, on February 19, 1942, then President Franklin D. Roosevelt issued executive order 9066 authorizing the Secretary of War to define military areas in which "the right of any person to enter, remain in or leave shall be subject to whatever restrictions are deemed necessary or desirable."

By the spring of 1942, California, Oregon, Washington, and Arizona were designated as military areas. In May of 1942, Santa Clara Valley Japanese Americans were ordered to "close their affairs promptly and make their own arrangements for disposal of personal and real property."

Official government fliers were posted around parts of California instructing families to report to the area's assembly center, the Santa Anita Racetrack, with just the bare necessities, leaving behind their homes, their lives and most personal belongings. Because permanent camps were yet to be built, the Santa Anita Racetrack was home to Santa Clara Valley's internees for at least 3 months. Santa Clara Valley Japanese Americans were forced to live in horse stables until a permanent camp was built for them.

In America, 110,000 Japanese Americans and others, not aliens, people of German and Italian descent who were Americans, were evacuated from their homes and incarcerated throughout the duration of the war. Three thousand of those interned were Japanese Americans from Santa Clara Valley.

By the fall of 1942, most Santa Anita internees were transported to a camp far away from home, the Heart Mountain Internment Camp in northern Wyoming. Most remained there until the end of the war, 3 long years later.

The horror for Santa Clara County Japanese Americans did not end there. Upon release, approximately 7,000 people moved back to Santa Clara County. Most had no shelter, food, money, much less a job. Some returned to find their homes looted and destroyed. The San Jose Buddhist Church offered what it could, shelter and hot meals for most families. In Santa Clara County, the family of Bob Peckham, later to become Federal District Court Judge Bob Peckham, took title to the property of some Japanese American neighbors and was able to preserve that property and return it at the end of the internment so some people in our area did not lose their homes and businesses.

All of this happened before I was born, but I remember very well learning about it even before it was added to the history books. My mother was a young woman in 1942. My dad was in the Army, and she was building airplanes at the Douglas aircraft factory for the war effort.

She told me when I was young about driving past the race track and how ashamed and guilty she felt. There were people locked up at the race track living in horse stables who she knew had done nothing wrong. People who had been her neighbors had been rounded up suddenly and taken away.

My mother told me how helpless she felt. She knew what her government was doing was wrong, but she did not know how to change it. She felt powerless, but she also felt guilty and ashamed because of what the United States Government had done. She was a life-long Democrat and cast her first Presidential vote for FDR, but she never agreed about what he did to her neighbors.

There was no apology, no financial support, no help from the Federal Government until many years later. On February 19, 1976, President Gerald Ford formally rescinded executive order 9066.

□ 2100

And in 1980 Congress funded the adopted legislation, establishing the Commission on Wartime Relocation and Internment. August 10, 1988, the Civil Liberties Act was signed into law, authorizing payments of $20,000 to each person that suffered from internment and established the Office of Redress to identify, locate, and pay these individuals. Most importantly, an apology was finally given.

By then, my neighbors and my parents' neighbors who had been unjustly incarcerated, our friend, Ed, Jimmy, dad's neighbors, Ted, Raiko, Sam, and many others, received at long last an apology. Some lived long enough to receive the compensation provided for in the law.

These efforts were celebrated in the community of Japanese Americans. But they were also celebrated in the broader community, because Americans who were not incarcerated, like my mother, felt the shame and the guilt. And while an apology could not undo the injustice and the compensation did not fully cover the loss, it helped that our country admitted the mistake and tried to make amends.

I am proud to say that on February 5 of this year, my colleague from Santa Clara County (Mr. HONDA) introduced H. Res. 56, a resolution supporting the goals of the Japanese, German, and Italian American communities in recognizing a national day of remembrance and to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II. This resolution has been referred to the House Committee on the Judiciary on which I serve and currently has over 60 cosponsors.

Today, I support the resolution of the gentleman from California (Mr. HONDA) to recognize February 19 as a Day of Remembrance. It is the least we can do, spend one day per year reflecting on the horrors of internment, remember those who suffered, and work to find ways never to repeat that page in history. I would urge the chairman of the Committee on the Judiciary, my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), to quickly schedule action for this important resolution so that the country can, once again, engage in healing, and I honor my colleague, the gentleman from California (Mr. HONDA) for his efforts in helping all Americans to heal.

Mr. HONDA. Mr. Speaker, I thank the gentlewoman from Santa Clara County for especially sharing the experience of her interactions with her mom and the way her mom felt when the Japanese were taken away, and then the sense that this country can make amends for the wrongs that have occurred. The signing and the final recognition of wrongdoing by this government through the Civil Liberties Act of 1988, signed by President Reagan when he said, upon signing he said, "This is a great day for America." And when President Ford rescinded 9066, he indicated, as the gentlewoman from Santa Clara said, that it was an ordinance that should have never been there.

The whole point of the Day of Remembrance resolution is about learning, is about being persistent about the lessons that we have learned from the Japanese American experience that is really an American lesson on the Constitution and is also a lesson of the American character, where, upon reconciliation, there is a healing. There is a healing among not only those who were incarcerated, but also healing among those who were affected but maybe not necessarily incarcerated. So victims are both those who were directly victimized and those who were indirectly victimized by a bad action of our government.

Also, the further learning, when we talk about the Day of Remembrance, is that other communities get to reflect upon their own experience at that time and project into the future whether this kind of thing should happen again.

For example, a few years ago when we did this in the State of California, there was also a movement and discussion among the Italian communities and there was a reawakening of the experiences that they experienced in World War II when Executive Order 9066 was applied, was applied to Italian Americans and German Americans. And upon reflection, they found out that they too were subjected to embarrassment, to ridicule. One of the stories that came out, because of the order by General DeWitt that no persons who are aliens in the United States may live west of highway 1, which is along the coast, forced families to separate themselves, Italian American families who were engaged in the fishing industry whose parents and grandparents had to live in tents across the road while the children lived in the homes. It was things like this they started to remember and started to chronicle among themselves and to teach their children that these kinds of actions by government is not acceptable. Upon the receipt of the apology, we found that there was healing and there was teaching going on among, not only among themselves, but among the greater population of this country.

As a teacher, I want to reemphasize the necessity for this resolution, that it continues to teach us the old maxim that those of us who do not learn from the mistakes of our past are doomed to repeat them.

So in today's current light, I just want to personally reemphasize that national security is my highest priority, is our highest priority, and I support efforts to fight our war against terrorism. But we also understand that in doing so, we must not have a failure among our political leadership. we must not fall back on more hysteria, we must not fall back to racial prejudice and discrimination and profiling.

So today, it is critically important, more than ever, to speak up against possible unjust policies that may come before this body, and we must also be able to speak to it. And it is even more important than ever to educate Americans of the Japanese American experience during World War II, as well as the experience of other groups like the Japanese Latin Americans who were extricated from Latin America, brought over here, had their documents taken away from them, and becoming individuals without a country to be used as pawns in exchange for POWs. And then the German and Italian Americans who were also victimized.

In order to learn the important lessons from our own history, I did introduce H.R. 56, the Day of Remembrance resolution here in this body. Teaching the lessons of those dark days is more important today than it ever was, remembering Executive Order 9066, signed on February 19, 1942 and then rescinded on August 10 of 1988, there are many events that flowed from those two orders and that we must continue to learn from our history.

There is a maturity in this country that I am very proud of. That maturity says we can learn from our mistakes of the past and we can also teach others of our lessons that we have learned from our past. We have learned that the Executive Order 9066 was not signed out of military necessity, was not signed out of national security, was not signed out of personal safety and security of the Japanese American, but the Commission on Wartime Internment and Relocation of Civilians said, and they concluded, that it was a result of racial prejudice, war hysteria, and the failure of political leadership.

Today, as we heard from our colleagues today, Mr. Speaker, that this leadership must not fail again, and to that end, we must continuously teach ourselves and reteach ourselves and remember the lessons of the past so that we do not repeat them again. It is a country like the United States, it is a country like this country that my father, although he was interned with the rest of his family, and although he even volunteered for the military intelligence service to teach language to the naval intelligence officers, that he held this sense of loyalty to this country, even though the families were incarcerated. And he taught us that in spite of these experiences, that we, his children, must be a good reflection of his loyalty and that we, as we grow up, must become more American than anybody else that we could run into, and that we must be 110 percent American. Part of that Americanism is to never, ever make the same mistakes again.

We learned from that experience in 1942, and we learned from the experience of 9/11, that this Constitution of this country is never tested in times of tranquility, that our Constitution is always tested in times of trauma, tragedy, terrorism, and tension, and that the very principles of our Constitution need to be, continuously need to be taught until it is ingrained in our own character, so that every decision we make as a citizen, as adults, as children, as students and as policymakers, that we will always be true to the principles of our Constitution. For it is for those reasons why people around this world fight to come to this country and be part of this country, struggle to be a part of this democracy, because they know that the protection of this Constitution is the American dream. The protection of our Constitution is that which our forefathers and our veterans have shed their blood and sacrificed their limbs and lives so that our Constitution may live and really be reflected in every action that we have, not only in this body, but by every action of every citizen of this country.

So, Mr. Speaker, I thank my colleagues for this opportunity to bring Resolution 56, the Day of Remembrance, before this body.

Mr. LANTOS. Mr. Speaker, I rise to join my dear friend and fellow Californian Congressman MIKE HONDA in support of H. Res. 56, commemorating the suffering of the Japanese-American, German-American, and Italian-American communities during World War II by recognizing February 19 as a National Day of Remembrance. It is my sincere hope and belief that by establishing a National Day of Remembrance, Congress will increase public awareness of the wholesale exclusion and internment of individuals and entire families in this country during World War II.

Following the issuance of Presidential Executive Order No. 9066 on February 19, 1942, tens of thousands of Americans were evicted from their homes, rounded up, and sent to internment camps across the western United States. In San Francisco, this program began in earnest on April 1, 1942, when all persons of Japanese ancestry—whether they were American citizens or not—were notified to report for "relocation." In my own district, 7,800 people were assembled against their will in the San Bruno Tanforan Racetrack. Seven-thousand eight hundred human beings were confined there for months, living in horse stables. Today, we realize that such a policy was outrageous.

But Mr. Speaker, I submit that it is not only in retrospect that the internment of the Japanese appears absurd and unacceptable. As early as 1946, Harold Ickes, President Roosevelt's own Secretary of the Interior, characterized the mass detention of Japanese Americans as "mass hysteria over the Japanese"; he noted that "we gave the fancy name of 'relocation centers' to these dust bowls, but they were concentration camps." Mr. Speaker, the way we treated Japanese Americans was inexcusable. Moreover, any purported national security benefit derived from the government's internment policy was vastly outweighed by the enormous human suffering and the violation of civil liberties that policy caused and the hatred it sowed.

Mr. Speaker, I submit to you that the internment of Japanese Americans during World War II is one of the most ignominious and repugnant acts our nation has committed. Our government has taken cautious and gradual steps toward recognizing the insidiousness of its World War II internment policy, but it is not enough to apologize or to pay reparations for the wrongs committed by the United States government during that period. The internment was so evil that its commemoration merits more than the customary apologies and financial compensation. Indeed, we ought to be reminded on a regular basis of the dangers of fanaticism, and that is what this resolution is about.

In addition to making amends for our country's inhumane treatment of Japanese Americans, Mr. Speaker, we must acknowledge the anti-democratic policies adopted by our government against Italian Americans and German Americans. Though their communities were not rounded up en masse as the Japanese Americans were, in many cases property owned by Italian Americans and German Americans was expropriated, and Italian- and German-American citizens were unlawfully detained and questioned, their patriotism ignored and their civil rights denied. While the Wartime Violation of Italian Americans Civil Liberties Act of 2000 represents an important measure of progress on this issue, it is my heartfelt belief that more needs to be done.

And that, Mr. Speaker, is why it is my privilege to proclaim my support for my dear friend Mr. Honda's bill, which would make room for a day of mourning, reflection, and remembrance of the chain of egregious injustices against Japanese Americans, Italian Americans, and German Americans that was officially begun by our government on February 19, 1942.

Mr. Speaker, this bill takes a day that is already a day of mourning in the Japanese-American community and reconsecrates it as a day of American remembrance. It also acknowledges the real and acute suffering of the Italian- and German-American communities during the war. I urge my colleagues to follow their conscience and join in commemorating this American tragedy.

GENERAL LEAVE

Mr. HONDA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

POSSIBLE WAR WARRANTS RESPONSIBLE PRESS

The SPEAKER pro tempore (Mr. MURPHY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, we have had a number of discussions in the House over the last several days dealing with the issue of the possibility of a conflict in the Middle East and the efficacy thereof, and whether or not it is in the national interests of the United States to embark upon this venture, whether a preemptive strike by the United States is justified, whether or not our sending men and women into harm's way is appropriate. And this is the place, of course, where that debate should be carried on. Throughout the United States, of course, around water coolers and in offices and around dinner tables, the debate continues. It is certainly appropriate that it goes on here.

I just want to reflect upon something that happened not too long ago in Denver, Colorado when I was asked to speak at a rally, and the rally was organized by people who wanted to show the armed forces, especially the Armed Forces of the United States, that the American people believe in them, that the American people trust them, that the American people admire and respect them, and that we know we place our safety in their hands. We know that we place this great Nation in their hands, and we know that, in fact, we place the western civilization, in fact, in their hands. Its survival will be determined by the actions of people like those that we are sending off to the Middle East.

So it was billed in the newspapers as a pro-war rally. And I was asked to speak at this rally, and I indicated to the people in the audience that I thought that it had been misidentified by the press. And that in fact I knew no one, I really cannot tell my colleagues that I have ever met anyone who was, in fact, pro-war, just pro-war.

□ 2115

I do not know anybody like that. There may be people out there who live for the idea of risking life and limb or taking someone else's in the act of war, but I just do not know them; and I do not know that anybody at that rally could have been so classified or identified. Nonetheless, that is the way the press billed it, a pro-war rally.

As I said, I think it has been mischaracterized. I know why the organizers asked me to speak and why I am here, because it is a pro-America rally. I am here, as I said, to lend my voice to those that have already spoken who have indicated their strong support for the actions of our government and for the people who are going to serve and are serving in the military.

But I said that also it was interesting to me because there were many other rallies that had been held up to that point in time, certainly many here in Washington, many on the Mall, and they were organized for the most part by the Workers' Party and similar groups. The people who spoke at these rallies were people who said little about the issue of the advisability of peace in the Middle East, but they did say a lot about what was wrong, in their minds, anyway, with America.

I quoted from some of the speeches that had been made right here in Washington on the Mall at these rallies. The quotes were those that reflected the sort of atmosphere that prevailed at these "pro-peace rallies." I suggested that they were also misidentified by the press as pro-peace rallies, just as we were misidentified by the press as a pro-war rally; and that most of the discussions and most of the people exhorting the crowd were not really interested in just the concept of peace and the need for it, but they talked mostly about the problems with America: that America needed "regime change"; that America needed a "revolution"; that President Bush was, well, I will not go into the kind of epithets that they tossed out against the President and against our system. Also, they led chants of Allah Akbar, Allah Akbar, at these rallies.

When we read what they said, when we read this, we came to the conclusion that there was something a little bit different; that maybe it was not just a pro-peace rally, but that perhaps their real concern was America itself, this Nation and everything it stands for. I indicated that I believed that those rallies could be more accurately identified as anti-America rallies.

Now, not everyone, of course, who attends such a rally could be identified as anti-American. Many people went there, I am sure, because they just simply wanted peace and believed that the foreign policy of the United States vis-a-vis Iraq was inaccurate, was incorrect.

But the organizers of the rally and the people who spoke at these rallies were for the most part unconcerned with the actual issues that we are confronting here with regard to Iraq, and they were much more concerned with what they considered to be the problems with the United States, with our system of government, and essentially with who we are.

Now, shortly thereafter the newspapers in my State carried several stories about the rally, and about what I said. I was characterized as someone who said, if you are not supporting the war effort, you are un-American. Of course, that was not accurate; but it is certainly not the first time that my statements or anyone's, especially those of us here in this body, have been mischaracterized in the press.

But it made me think about the way in which so many Americans have been inclined over the last several decades, really, to look first at what America's warts are, America's problems, America's shortcomings, without being even the slightest bit interested in what America's values are and what America represents for the world.

I was intrigued by a number of things in this particular debate, not the least of which is the attention we pay to people like movie stars and entertainment, people in the entertainment business. We focus on them.

As I was coming over here, I was listening to something that was referencing an actor. He was on the radio, and I think it was simulcast on television. I got to see just part of it, actually, before I came over. This actor was talking about what his opinions were with regard to the war. He was, of course, very critical about the United States and our actions.

Now, this particular actor has every right to, of course, express his opinions, as does the postman, as does the waitress, as does any other citizen of this country. What is intriguing to me is the attention that we pay to that particular point of view by these people, who admittedly have no particular expertise that differentiates them from any of the people that I just mentioned in their walks of life: the waitress, the postman, the cab driver.

As a matter of fact, I remember reading something a little bit ago about a cab driver here in Washington, D.C. when ex-President Clinton was addressing a group at Georgetown University right after 9–11. Mr. Clinton suggested in this particular speech that the reason the United States had suffered such a blow from these terrorists was because of the way we had treated Native Americans in the past and because of the history of slavery in the United States. That is why we essentially deserved what we got. This is from an ex-President.

Now, it is understandable that the media would cover his interpretation of the events. He was, as a matter of fact, of course, an ex-President of the United States, emphasizing here, to my great relief, the prefix "ex" before the word "President."

In Washington there was a cab driver, and by the way, this was reported in the press, of course. I read this story about a gentleman getting into a cab. He saw on the front seat of the cab the newspaper, and it was turned to this particular article about the President's speech, about the ex-President's speech.

The person getting into the cab said to the cab driver, I see you read about President Clinton's speech. The cab driver said, yes. He said, what did you think of it? The cab driver said, I thought it was baloney. He said, these people do not hate us for what we have done wrong; they hate us for what we do right.

Now, I heard that, this particular little vignette, I heard it in a speech that was given not too long ago by the individual who was actually the person getting into the cab. I thought to myself at the time what an interesting and, I thought, profound observation. That was my opinion of that cab driver's observation. He said, you know, we do stuff right. We help people. We have such freedoms in the United States, freedom of speech and the press and freedom of religion, especially freedom of religion, and freedom of the sexes to vote and to share the rights afforded to all citizens: which is not, of course, the case with people in other parts of the world, people in other civilizations, who do not allow that kind of thing to exist in their societies.

This cab driver was observing that our system was better and that we do it right. That is why they hate us. That is why we got attacked. I thought, what a very profound observation.

Now, I will tell the Members that that little story, of course, appeared nowhere that I know of in the press, in the national media. Perhaps there was no reason for it to be reported, because, after all, this was a cab driver in Washington, D.C. What was his expertise? He talks to a lot of people, that is true, but not really a person that we would say, well, yes, gee, whiz, that is the guy we should listen to because of his great acumen, great experience, or whatever.

Yet, interestingly, the press pays a great deal of attention to people in the media, people in the entertainment world, I should say, who come forward with their pronouncements about what is right in terms of our foreign policy and what is wrong, actors like Sean Penn and actress, although she does not want to be called an actress because that distinguishes a gender difference, actresses like Susan Sarandon, actors like George Clooney, and this guy, Mike Farrell. The closest he has come, I think, to being involved in any sort of conflict was his portraying a doctor on the TV series called "M*A*S*H."

These people are given a lot of attention and great air time. People listen to them and say, gee, whiz, that is how they feel. I know I am intrigued by it, because of course they are all, without exception, everybody I mentioned, and far more than that in the entertainment industry, being extremely liberal, they are, of course, opposed to our actions in Iraq.

Now, I do not remember any of them saying a thing about our going into Yugoslavia. I do not remember anybody condemning President Clinton, ex-President Clinton, for tossing missiles around when he felt it appropriate, and actually pursuing a war in Yugoslavia that was against a country that posed absolutely no threat to the United States whatsoever.

No one ever suggested in their wildest dreams that Milosevic was a threat to the United States. He was a bad guy, no doubt, but what was his threat to the United States? Yet we in fact carried out a war against him. All of these people stayed silent, if I remember correctly. I do not remember them being quite so vocal, or vocal at all during that period of time.

But this war against a madman in Iraq, against a person that I have never heard anyone, even these people, suggest is a reasonable individual with whom we can "do business," these people rail against the United States and we pay attention. The media pays attention.

But I suggest that they have absolutely no more cache on this issue than the cab driver here in Washington, D.C. I happen to, of course, agree with his interpretation, but I do not think I ever saw him on television talking about it. He has exactly the same, or in fact one might say, because of the many people that he sees during the course of the day, and here in Washington, D.C. he may be transporting people in various capacities that discuss world issues, so he may be more politically astute than anyone in Hollywood. Yet, of course, we will never be talking about him because he is not a national figure, and because he happens to actually take a different point of view than the liberal left-wing anti-American sentiment that is expressed by the folks I just mentioned who are actors and actresses, noble profession that it may be.

Certainly, I am not capable, not qualified, to make any sort of comment that anyone would take seriously about their acting abilities, or about the movies in which they appear. I do not know. I must admit, I had to ask somebody in the Cloakroom for some of these names, because I remembered some of the movies, but I could not remember the names of the individuals.

□ 2130

And so if I were to go out and talk about what their movies were like, I mean I have that right to express my opinion and to either pay for the tickets or not, but I do not expect that the press would surround me and say, What do you think about the qualities of the movies these people make? Because, of course, it is of no consequence to the world what I think about their abilities. Why would it be of consequence to the world what they think about whether or not the United States should go to war? They are entitled to their opinion, absolutely, but why does anyone pay attention to it is the question I guess I raise.

And it gets me to a point, you know, as I sat here listening to the discussion from the gentleman earlier about his resolution that I sort of recognize some of the fault of the United States in terms of the way they treated Japanese Americans or my ancestors, Italian Americans or German Americans who were, in fact, interred just like Japanese Americans were, and what a bad decision it was at the time. Certainly I will not argue that it was a good decision. But I remember I just started thinking to myself how interesting it would be if one were to run a resolution saying is it not great that the United States of America, this great republic, this great system, unique really in the world, is such a place in which the children of people who were interred can become Members of the Congress of the United States, and how wonderful it is that we can reflect upon our past and take the actions that are appropriate in terms of apologies and that sort of thing. But again, few, if any other country, would ever, ever think about that. And I wonder why we should not celebrate that aspect of America as much as we condemn and dwell upon the warts.

But there is a philosophy in this land that has permeated our society, certainly permeated the media, the entertainment industry, the textbooks in our schools, the academic communities in the United States. It is sometimes referred to as multiculturalism, cultural relativism, and it has achieved a stature far, far higher than it deserves from my point of view. It does permeate American society and it is reflected by the kind of things that we see and hear all of the time, from people who are not just looking at the United States with some degree of objectivity and making determinations as to the good things we do as opposed to the bad things we do and what is good about America as opposed to what is bad.

They only focus on what is bad not just on America, but about western civilization, of which we are, of course, the leader. And they dwell upon and they are obsessed with the problems, the mistakes, the inadequacies of western civilization and of American society in particular. And we teach our children that there is really nothing unique about America, that it is just one of those places people happen to be, nothing special. In fact, in fact, if it is different at all, it is different because of how bad it is, how ugly is its history; slavery, mistreatment of Native Americans, mistreatment of immigrant groups, all of which of course have some degree of truth, but pale in comparison to what we have given in this world, pale in comparison to the wonderful things western society, civilization, and America in particular have given to this world. Certainly the rule of law, certainly the idea of the value of the individual, certainly the idea of the freedom of worship.

But these things are never discussed as values. They are never taught to our children. Certainly in the last 20 or 30 years anyway, they are not taught to children as being values worthy of their allegiance. It is surprising to me sometimes that there are still those people, and thank God for it, who are willing to risk their lives for what so many of our forefathers gave theirs. And so it is this peculiar obsession that so many have with the negative side of America and of western civilization in general that propels them, I think, to the street; even to the point of taking the side of someone like Saddam Hussein who has exhibited the most, the same characteristics, the same traits and has committed the same atrocities as some of the greatest devils that have ever beset the world in human form, including Stalin and Hitler.

But people are so wrapped up in this anti-American, anti-western civilization, multiculturalist concept that they can not bring themselves to think about the possibility that action, even to the point of taking violent action in the form of a war, may be necessary to rid this world of an evil so great that it threatens the very existence of our own society; because, of course, to many of those people, evil is not something that really exists in the world; that everything is relative and the other forms of government, the other systems of governments, are all equally good or equally bad, but certainly nothing is worth fighting for or risking one's life for.

Now, the reason why I address that issue tonight is because it does play a role in what I think is another huge problem that we have face in this Nation. And that is the need for our society, for western civilization to be coherent in the way in which it identifies itself and the way in which it projects its philosophy to the rest of the world. Put simply, Mr. Speaker, Americans have to know who we are, what we are all about, what are the principles that hold us together, that binds us together, and dwell on those and think about those as opposed to dwelling upon and thinking of only those things that tear us apart as a Nation and, again, as a civilization.

Because I do believe, Mr. Speaker, that it is a clash of civilization with which we are involved. I believe that western civilization is at risk. It is at risk from what we might call fundamentalist Islam, perhaps more appropriately, extremist elements in the Islamic community. And I believe that it is a war that is fought both with arms, with the force of arms in places like Afghanistan, in the Philippines and Iraq, but it is also fought with the force of ideas. And that to be successful in this battle we not only have to field the best Army which, of course, I believe we have, with the best equipment, which I believe we can provide them; we also have to field individuals capable of defending western civilization in an intellectual arena.

It is a war of arms. It is a war of ideas. And our civilization is threatened. Our ability to actually be successful in this clash will be determined not just by the valor exhibited on the battlefield in Afghanistan or Iraq or anywhere else that we determine these brave young men and women need to be deployed, but our success will be determined by the way in which we project the ideas of western civilization and defend them. And we need to understand as a society, as a civilization, as a Nation, we need to understand who we are, what it is we are all about, where we want to go, what our history is, a common history. I think it is imperative for us to be successful.

And that is why oftentimes I take the floor of the House, evenings like this, on special orders to exhort my colleagues to think about another aspect of this problem, and that is the degree to which massive immigration into the country combined with this philosophy of multiculturalism can be and, in my estimation, is a dangerous, dangerous phenomenon.

Massive immigration into the country unchecked, massive immigration that is combined with this, that is combined with this philosophy I describe as multiculturalism does not help us develop a coherent society. It does not help us develop a strong intellectual base of support for the ideals of western civilization. It pulls people apart rather than pulls them together. We have a tendency to vulcanize our society rather than bring it together as one United States of America, both geographically and intellectually and emotionally.

Immigration is a very, very significant problem. And it goes far beyond the issues of jobs that may be being taken by people from outside the country, although that is a significant issue. And believe me, if your job has been taken by someone from another country, then it is the most important issue to you. And I understand that. But the problems that arise as a result of this kind of massive immigration combined with this bizarre and rabid multiculturalism that pervades our society are such that I think that they actually pose a great and significant threat to the United States of America and, in fact, to western civilization.

I think that the need is great for at least the debate of this topic. It is a topic that we eschewed, that we have avoided, that we have attempted to move aside because it is uncomfortable. That is true. The debate over immigration and its effect on our country at this point in its history needs to be undertaken, but is very, very uncomfortable for many Members of this body and certainly many people throughout the country. But I believe with all of my heart that debate needs to be undertaken.

There are these more esoteric aspects of it that I have tried to address here, and then there are some very practical and very dramatic effects of massive immigration that need to be explored also.

Mr. Speaker, last week a couple of the Members of this body and several members of the Arizona State legislature accompanied me on a trip I took down to Cochise County, Arizona, which is on the border, of course, of Mexico, to observe firsthand what was happening there and to try to bring back to the people that serve in this body and to the rest of the United States a picture, perhaps a little bit different than the picture of illegal immigration that is portrayed by the local media in the various cities and States of the people of the people here in the Congress of the United States.

□ 2145

I know that in my own city, Denver, Colorado, the media enjoys the presentation of the concept of or the reality I should say of illegal immigration. It always presents the picture of illegal immigration as one of a very benign sort of concept and that the people here, those people who are identified as illegal immigrants into this country are just folks looking for a job and willing to do a job that "other Americans will not do," and that they are, generally speaking, beneficial to the country from the standpoint of our economy and from just the standpoint of the type of individuals that make up the Nation.

That is the picture of illegal immigration that is portrayed by the media in many of our districts; but if we go to the border, almost any point of the border, southern or northern border, of the United States, we will find a completely different picture, one that is hardly ever portrayed in the press. We will find a very ugly picture, a picture of violence, a picture of criminal activity revolving around the importation of illegal narcotics, a picture of threat to the national security of the United States as a result of having porous borders across which people are coming, some of them with the intent to do great harm.

That is a different picture entirely and one, as I say, we hardly ever see; but it is absolutely as real as the one that is presented in the local media of many of the newspapers and television stations and radio stations of the folks of the hometown of the folks who actually serve in this body; and so I wanted to go there and show people a different picture, another picture that I think they should see.

We went to the Coronado National Forest for the first day, and we looked at the environmental degradation in that forest, brought about by the fact that thousands and thousands and thousands of people coming into the country illegally every single week come across that national forest and do enormous damage to it from an environmental standpoint. They drive across in vehicles creating roads, "roads," of course, where there should not be roads. They walk across, and the impact of thousands and thousands and thousands of feet on pathways that are created does enormous damage to the environment, very pristine environment, a very delicate environment in the southwest part of the United States, a desert environment.

They start warming fires. These people, undocumented illegal immigrants, start warming fires in the night, walk away from them in the morning; and they, of course, during this draught are devastating. When I was there last, when I was in the Coronado National Forest little over a year ago, I left on a Sunday morning. By the time I returned back to Denver, Colorado, a fire that had started that morning by an illegal alien had consumed 35,000 acres of the Coronado.

The trash that is distributed throughout the forest is enormous, are enormous, monumental. It is hundreds of thousands of pounds of trash discarded by the people coming through there, so much so that one would think that the Coronado National Forest should be renamed the Coronado National Dump because that is what it looks like. Yet, of course, and interestingly we have never seen or ever heard the Sierra Club or any other environmental organization in America take issue with this problem.

One can talk to the forest supervisor. One can talk to anybody who works there, the parks people, the forest service people, and they will tell my colleagues what is happening to that forest as a result of porous borders, as a result of people being shoved out of Mexico by their own government, across the borders by the thousands and into the United States.

We went the next day to Organ Pipe Cactus National Park, just adjacent to the Coronado, also a scene of environmental degradation that is truly disturbing. All of the same problems of the Coronado but it is also the site of the death of a park ranger by the name of Chris Eggle, E-G-G-L-E, Chris Eggle, 28 years old, killed by two Mexicans coming across the border escaping from the crimes they have committed in Mexico, several other murders that they had just committed in relationship to some sort of drug deal, drug situation.

Chris was ambushed by them and killed. His life ended at 28 years old in Organ Pipe Cactus National Park, and we went there to that site with his father, Robert Eggle. Mr. Eggle has relived this event now three or four times. He has gone down to the national park to see where his son was killed and to relive that event, and he does so because he believes that his son's death cannot be forgotten nor should it be in vain, and it should not in either case. It should not be forgotten, and it certainly should not be in vain.

He talks about the need to secure our own borders. He talks about the need to prepare and train the people who have to deal with the invasion that is occurring on our southern border so that the next person confronting someone coming across the border armed with AK-47s will be a little more able to defend themselves than poor Chris was.

Then we went the next day to a ranch house, a ranch owned by the Kuykendall family, B.J. and Tom Kuykendall, wonderful people who have lived there for generations, and they brought their neighbors in from all over the county, people who had also lived there for generations and who for generations had dealt with the issue of some degree of illegal immigration, peopling coming across the border periodically. They would seek them out for food. These ranchers would give them food, would sometimes give them jobs; but it was never an issue, never a problem, no big deal.

In the last 4 or 5 years something has changed they say. It has become not just an annoyance; it has become a threat to their very existence. Their ranches are being destroyed. Their cattle are being killed. Their homes are being broken into. Their families are being intimidated. Their entire way of life is being threatened, and they ask, where is my government? Who is here to protect us? What is happening to our life?

Thousands of people we have on videotape, thousands of people crossing those borders, tearing down the fences, breaking the water wells, destroying the property, bringing with them tons of trash, depositing human waste in amounts that are certainly dangerous in terms of the health issues that they represent, bringing with them diseases that we cannot even treat, we do not have means to treat. We do not have the antibiotics to treat some of the most virulent forms of tuberculosis and something called Shakas disease, all these things being brought across by people into the United States.

We are witnessing an invasion. It is an invasion that is being prompted by the Mexican Government to satisfy some of their needs, as was told to me by a Mexican official by the name of Juan Hernandez who was the head of something called the Ministry for Mexicans Living in the United States. And I asked him what is the purpose of such a ministry. It was just created about a year and a half ago, and there were two other Congressmen with me, two other Members of the House who were with me, in Mexico when we visited him.

By the way, Mr. Hernandez is a very, very sophisticated gentleman, very urbane, very competent and articulate and a dual citizen of the United States and Mexico and interestingly serves or served on the cabinet of Vicente Fox, an American citizen serving in Mexico on the cabinet of the Mexican President, an interesting situation. He said, the purpose of my agency is to increase the flow of people into the United States, of Mexican nationals into the United States. I said what do you want to do that for, knowing in my heart of course exactly why.

Because he had been so forthcoming, so candid, I thought this is great. I have hardly ever heard anybody be so candid about the designs of the Mexican Government vis-a-vis immigration policy; and he said the reason is simple, the more people we have in the United States, the more possibilities there are for us to influence your policy vis-a-vis Mexico, and he said there is the issue of remittances.

"Remittances," for those Members who do not know, Mr. Speaker, is just a term that applies to the money that is sent back home to Mexico from people living outside of Mexico, working outside of Mexico, and it actually amounts to a huge amount of money. Some 30-some percent of the Mexican GDP is a result of these remittances. Mexico has also experienced an enormous population growth, almost doubling in 25 years; and they have a stagnant economy because they are stuck with a socialistic economy which is combined with a completely corrupt system from the cop on the beat to the highest levels of government, and that combination makes for a lousy economy, and always will, regardless of NAFTA or free trade arrangements of any kind. Because of that, of course, they need to get some of those people out of there because they are very young, they are unemployed. That is a destabilizing factor and why not send them north.

We, on the other hand, have chosen to accept this policy on the part of our southern neighbor and "friend," that "friend" by the way who is threatening a "no" vote in the security council against the resolution that we are presenting to bring Saddam Hussein to bay. They are threatening a "no" vote until we agree to some sort of attempt to provide amnesty for all the Mexican nationals living in the United States illegally. That is their quid pro quo. That is what they want.

These are our friends in the south. Now whether they are going to stick, whether we are going to be able to get them to vote "yes" or not soon in the security council remains to be seen, but this is what they are presenting to us as being their demands, like Turkey asking for several billion dollars for the right to provide American troops some air space and flyover opportunities.

He said that, and he went on to say, Mr. Speaker, another fascinating thing as far as I was concerned, an immensely incredible statement. He said it is not two countries we are talking about. It is just a region. It is not two countries he said. It is just a region. That may be his true opinion. It is the opinion I think of some of the colleagues with whom I serve here, that the borders are really not significant.

They are not of importance, they are anachronisms, and that they should be erased for the purposes of allowing for the free flow of goods and services and people. It is a libertarian point of view that is expressed on this floor and by several Members of this body.

Mr. Speaker, I want to engender that debate with those folks. I do not want them just talking about it in the halls or with me individually. I want that debate here on this floor in front of the American people. I want to know whether this government, whether this government believes that, in fact, borders are necessary or not. I want to know the opinion of this government because I think I know the opinion of the people of this country, but I may be wrong. I may be in the minority. Maybe it will turn out that, in fact, borders are determined to be by a majority of the people in this body and the President of the United States, they are determined to be irrelevant and that we should allow for the, again, free flow of people, goods, and services.

If that is a decision that is reached through the process that we have established for making policy in this country, so be it. I am a "no" vote, but so be it.

□ 2200

What I am telling you, Mr. Speaker, and my colleagues, that what is happening is that that is the direction we are moving. That is the de facto sort of arrangement we are going to achieve, an open borders policy. But it will never be as a result of a debate or a particular piece of legislation where people have to vote yes or no. It will always be done in an incremental fashion. And the people in Cochese County will suffer the consequences. Their lives will be ruined. Their ranches will be destroyed.

But they will just be the tip of the iceberg in terms of the sacrifice that this country will make as a result of our commitment to open borders. Because, of course, the people coming across those borders are not just people who are strewing trash all over the land, breaking fences, poisoning wells, breaking the pipes on wells and allowing all the water to drain out, invading ranch houses, threatening and in fact assaulting ranchers, pulling up these rock barriers on the highway to stop the cars to then carjack the people. It will not be just those people coming across to do "jobs no one else will do."

And, by the way, along those lines, about a month ago in the Rocky Mountain News in Denver, a Denver newspaper, there was a very large article about a restaurant, a Mexican restaurant that I have been to several times, called Luna Restaurant. It is in my old stomping grounds in north Denver, and I know it well. There was an article, a strange article, because it was talking about the fact that this restaurant put an ad in the paper for a waiter, a $3-an-hour waiter position. Three dollars an hour. Of course, with tips, you get more. That first day that the ad went in the paper there were 600 applicants for the job. One day, 600 applicants.

Now, do you believe, Mr. Speaker, that every one of those 600 applicants were illegal immigrants wanting to do a job that no American would do? I do not think so. I think there were plenty of American citizens looking for that job. But nonetheless, nonetheless this is what we hear all the time; that that is the only thing we have going on; that these are just people coming to do jobs that no American will do and, therefore, we should not be concerned about what is happening on the border, and we should not be concerned by the Kuykendalls or the Barnetts, or any of the other people who have lived there for generations and who are trying to sustain themselves on that border. We should not be concerned about them. We are going to sacrifice them for cheap labor for the Republicans and for potential votes for the Democrats.

That is why we refuse to secure our borders. It is a political decision of this body to not secure the borders because of the fact that it will harm what we believe to be a political base, a power base that we either want to get or that we have at the present time, and all the time these people are coming across those borders, yes, mostly with no ill intent, most with the same purpose of my grandparents and perhaps yours, who came to seek a better life. But across those porous borders also come other people, people with much more dangerous motives. And you see, Mr. Speaker, we have not figured out a way to create a sieve on the border that effectively siphons out those people who are coming across with no ill intent and keeps out those who have other purposes in mind. We do not know how to do that.

So, therefore, the border is open and we are fearful of closing it. Because if you close the border, if you seal your borders and only allow people to come in legally, then you stop the flow of illegal immigration. And the country of Mexico becomes disturbed by that, because now they have to deal with the problem of unemployment, the problem of their own sinking economy, and the fact that the United States Government may not be quite as sympathetic to their particular concerns. So they do not like the idea of closing those borders and they, in fact, make demands upon the United States to keep those borders open and let their people come through. They even provide buses for them, observed on our side of the border through binoculars; buses that come up to the border and unload people who walk across into the United States. These buses are part of a governmental project, a governmental agency.

We do nothing about it because we are fearful of the response. We do not like the possibility that the political ramifications in the United States to either party might be detrimental. So we put this Nation at risk, we put our very lives at risk, and we damage not only our national security apparatus and we place upon those agencies given the responsibility for internal security issues, finding out who is here to do us harm, we place upon them enormous burdens of trying to identify people in a sea of people who are here as immigrants. This is not good for the United States.

Beyond that, I go back to the original part of my discussion here this evening. It does something to us, Mr. Speaker, in our inability to create a society that has a singleness of purpose and an understanding of exactly who and what we are. I had the opportunity to have lunch not too long ago with a Catholic bishop in Denver by the name of Bishop Gomez, a very fine gentleman who happens to disagree with me entirely on this issue. And he said to me at lunch, Congressman, I do not know why you get so exercised about this. He said, you know, for the most part, these people coming here from Mexico today, they do not want to be Americans. They do not want to be Americans. He was thinking that would alleviate my concerns. I said, well, of course, Bishop, that is the problem.

The other thing is, the agency I mentioned earlier, the Ministry for Mexicans Living in the United States, the other thing that was stated by Mr. Hernandez in that very candid conversation that we had was that part of his responsibility was to work with the Mexican nationals who had come to the United States to make sure that they retained, as he said, a connection to Mexico, a political, cultural, linguistic connection to Mexico. Because they want them, he said, to continue to have that loyalty to Mexico. Otherwise, pretty soon they are not sending home the kind of money that they are today, and also they are not agitating for any sort of change in American policy to Mexico if they essentially go native. That is really what he was concerned about, that the Mexicans would come here and essentially become part of the American mainstream, integrate into the American culture, become Americans.

But as Bishop Gomez says, that is not their intent. That is not their desire. They are here to get a job, make some money, send it back, perhaps go home later. Well, you see, many people could have come here over the centuries for that same purpose, without any strong desire to become American, but in fact this country forced them into it. There was no such thing as a multiculturalist philosophy that permeated American culture. We did not allow for people to remain segregated for all that long. We required, in order for them to, as my grandfather had to do, in order to achieve anything in this country, he had to do a couple of things. One was to learn English. And my grandfather, and perhaps yours, and certainly most people that I know, their grandparents came here with a strong desire to separate themselves from the past and from the countries from which they came. No desire to hang on to that. A desire to become American.

And there were obstacles put up sometimes in this country. You know, we were antagonistic to immigrants many times. But over the course of time, and with a strong desire to integrate, what we saw was this infusion of people into the American mainstream that made us a great Nation. Diversity, in fact, can be a good thing. But unity is also a good thing. E pluribus unum, out of many, one. Not out of many, many, which is today's concept, today's admonition.

So I think this issue of immigration has many implications, far far greater than, as I say, are discussed most of the time with regard to issues like jobs and other things. This will determine, Mr. Speaker, I believe, not just what kind of country we will be, that is divided or united, but this issue will determine whether we will be a country at all; whether we will be a Nation at all. That is why it is worthy of our debate on this floor and in this House.

We are challenged by a variety of things in this world, and our ability to succeed will be based almost entirely upon our ability to defend, understand and, therefore, defend the principles of western civilization. And I think it is something worth thinking about. And as I say, Mr. Speaker, I may be wrong. I may be totally wrong; completely, 100 percent, wrong. I want the debate, however. Is that too much to ask, I wonder? And let us determine the course of our Nation. Let it not happen in a way that does not allow for the intelligent analysis of the events and their implications. Let us think about who we are, what we are, where we are going, and what we have to do to get there.

We can certainly allow people into this country from all over the world, from Mexico and Africa and Asia and Europe. We can allow them from all over the world, but we have to determine how this will happen and it has to be a process that we determine to be governed by the rule of law. How you come into this country should be a factor of the laws that we pass in this body, and that is all I ask. That is the plea I make tonight. It is for the United States, it is for Western Civilization, and for the threats that I see that are aligned and arrayed against it.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 395. An act to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry, and for other purposes.

H.J. Res. 19. Joint resolution recognizing the 92d birthday of Ronald Reagan.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLYBURN (at the request of Ms. PELOSI) for February 25 and today on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANDLIN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. TURNER of Texas, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mr. BOSWELL, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

(The following Members (at the request of Mr. RENZI) to revise and extend their remarks and include extraneous material:)

Mr. BURNS, for 5 minutes, February 27.

Mr. KIRK, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 27, 2003, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

766. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting Agency's final rule—Lambda-cyhalothrin; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0335; FRL-7285-2] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

767. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Mesotrione; Pesticide Tolerance [OPP-2002-0303; FRL-7282-4] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

768. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—S-metolachor; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0331; FRL-7283-2] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

769. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Italy, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

770. A letter from the Assistant Secretary for Housing—Federal Housing Commissioner, Federal Housing Administration, transmitting the Administration's Annual Report On Initiatives To Address Management Deficiencies Identified In The Audit of FHA's FY 2001 Financial Statements; to the Committee on Financial Services.

771. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Interim Approval of the Alternate Permit Program; Territory of Guam [GU02-01; FRL-7433-5] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

772. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion [SW-FRL-7432-8] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

773. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Applications of Methyl Bromide [FRL-7434-1] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

774. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—TSCA Inventory Update Rule Amendments [OPPT-2002-0054; FRL-6767-4] (RIN: 2070-AC61) received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

775. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FR-7430-6] (RIN: 2060-AE77) received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

776. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia; Control of Emmissions

from Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units [DC051-7002a: FRL-7434-7] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

777. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia, and the City of Philadelphia, Pennsylvania; Control of Emissions from Existing Municipal Solid Waste Landfills [DC051-7001a; PA186-7001a; FRL-7434-9] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

778. A letter from the Deputy Assistant for Regulatory Programs, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations [Docket 020626160-2309-03; I.D. 061902C] (RIN: 0648-AQ13) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

779. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 021212306-2306-01; I.D. 011402B] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

780. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543 [Docket No. 021212307-2307-01; I.D. 011403C] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

781. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands [Docket No. 021212307-2307-01; I.D. 011303D] received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

782. A letter from the Secretary, Department of Education, transmitting Final Regulations—Administrative Wage Garnishment, pursuant to 20 U.S.C. 1232(f); to the Committee on the Judiciary.

783. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Mississippi River, Dubuque, IA [CGD08-02-042] (RIN: 2115-AE47) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

784. A letter from the Secretary, Department of the Treasury, transmitting notification of the Secretary's determination that by reason of the public debt limit, the Secretary will be unable to fully invest the Government Securities Investment Fund of the Federal Employees Retirement System in special interest-bearing Treasury securities beginning on February 20, 2003, pursuant to 5 U.S.C. 8348(l)(2); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 258. A bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes; with an amendment (Rept. 108-20). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 105. Resolution providing for consideration of the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning (Rept. 108-21). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

[Submitted on February 25, 2003]

By Mr. BEREUTER (for himself, Mr. Shimkus, Mr. Nussle, and Mr. Peterson of Minnesota):

H. Res. 106. A resolution congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes; to the Committee on Education and the Workforce.

[Submitted February 26, 2003]

By Mr. MENENDEZ (for himself, Ms. Pryce of Ohio, Mr. Green of Texas, Ms. Ros-Lehtinen, Mr. Thompson of Mississippi, Mr. Lincoln Diaz-Balart of Florida, Mr. Rodriguez, Mrs. Wilson of New Mexico, Mrs. Christensen, Mr. Quinn, Mr. Serrano, Mr. McCotter, Mr. Pallone, Mr. Pearce, Mr. Udall of New Mexico, and Mr. Mario Diaz-Balart of Florida):

H.R. 918. A bill to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services; to the Committee on Energy and Commerce.

By Mr. ETHERIDGE (for himself, Mr. Weldon of Pennsylvania, Mr. Hoyer, Mr. Oxley, Mr. McHugh, Mr. Spratt, Mr. Deutsch, Mrs. McCarthy of New York, Mr. Smith of Michigan, Mr. Emanuel, Mr. Walsh, Ms. Watson, Mr. McIntyre, Mr. Quinn, Ms. Carson of Indiana, Mr. Wilson of South Carolina, Mr. Kind, Mr. Acevedo-Vilá, Mr. Serrano, Ms. Kilpatrick, Mr. Hinchey, Mr. Markey, Ms. Norton, Ms. Kaptur, Mr. Sandlin, Mr. Shimkus, Mr. Frank of Massachusetts, Mr. Watt, Mrs. Maloney, Mr. LoBiondo, Mr. Jefferson, Mr. Green of Texas, Mr. Frost, Mr. Price of North Carolina, Mr. DeFazio, Mr. Lucas of Kentucky, Mr. Boswell, Mr. Crane, Mr. Allen, Mr. Wexler, Mr. Bell, Mr. Udall of Colorado, Mr. McNulty, Mr. Ackerman, Mr. Lampson, Ms. Hooley of Oregon, Ms. Baldwin, Mr. Wu, Mr. Pallone, Mr. Ballance, and Mr. Miller of North Carolina):

H.R. 919. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

By Mr. BACA (for himself, Ms. Woolsey, and Mr. McNulty):

H.R. 920. A bill to amend the Public Health Service Act to promote careers in nursing and diversity in the nursing workforce; to the Committee on Energy and Commerce.

By Mr. CAMP (for himself, Mr. Upton, and Mr. Smith of Michigan):

H.R. 921. A bill to require amounts remaining in Members' representational allowances at the end of a fiscal year to be used for deficit reduction or to reduce the Federal debt, and for other purposes; to the Committee on House Administration.

By Mr. CAMP:

H.R. 922. A bill to amend the September 11th Victim Compensation Fund of 2001 to provide for the liquidation of blocked assets of terrorists and terrorist organizations in order to reimburse the Treasury for the compensation of claimants; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOOLITTLE:

H.R. 923. A bill to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve; to the Committee on Small Business.

By Mr. DUNCAN:

H.R. 924. A bill to direct the Secretary of the Interior to replace the U.S. Fish and Wildlife Service as the Federal agency responsible for the administration, protection, and preservation of Midway Atoll, and for other purposes; to the Committee on Resources.

By Mr. GUTIERREZ (for himself, Mr. Rush, Mr. Lipinski, Ms. Schakowsky, Mr. Weller, Mr. Shimkus, Mr. Evans, Mr. Emanuel, Mr. Jackson of Illinois, Mr. Costello, Mr. Johnson of Illinois, Mr. Davis of Illinois, Mr. Crane, Mr. LaHood, Mrs. Biggert, and Mr. Manzullo):

H.R. 925. A bill to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the "Cesar Chavez Post Office"; to the Committee on Government Reform.

By Ms. HART (for herself, Mr. Pitts, Mr. Hayes, Mr. Pickering, Mr. Terry, Mr. Doolittle, Mr. Wilson of South Carolina, Mr. Sensenbrenner, Mr. Lewis of Kentucky, Mr. Shimkus, Mr. Aderholt, Mr. Pence, Mr. Akin, Mr. Kennedy of Minnesota, Mr. Rogers of Michigan, Mr. Bartlett of Maryland, Mr. Forbes, Mr. Ryun of Kansas, Mr. DeMint, Mrs. Myrick, Mr. Paul, Mr. Burton of Indiana, Mr. Schrock, Mr. Renzi, Mr. Rogers of Alabama, Mr. King of Iowa, Mrs. Jo Ann Davis of Virginia, Mr. Beauprez, Mr. Sam Johnson of Texas, Mr. Kline, Mr. Weldon of Florida, Mr. Hoekstra, Mrs. Northup, Mr. Ryan of Wisconsin, Mr. Shadegg, Mr. Souder, Mr. Pearce, Mr. Hostettler, Mr. Chabot, Mr.

Flake, Mr. Brady of Texas, Mr. Vitter, Mr. Toomey, Mr. LaHood, Mr. Stearns, and Mr. Norwood):

H.R. 926. A bill to amend the General Education Provisions Act to prohibit Federal education funding for elementary or secondary schools that provide access to emergency postcoital contraception; to the Committee on Education and the Workforce.

By Mr. HULSHOF (for himself and Mr. Sandlin):

H.R. 927. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. ISAKSON:

H.R. 928. A bill to suspend temporarily the duty on Cerium Sulfide; to the Committee on Ways and Means.

By Mr. ISAKSON:

H.R. 929. A bill to suspend temporarily the duty on 1,8 Dichloroanthraquinone; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut:

H.R. 930. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself, Mr. Paul, Mr. Goode, Mr. Crane, Mr. Duncan, Mr. Forbes, Mr. Akin, Mr. Everett, Mr. Coble, Mr. Burr, Mr. Baker, Mr. Ney, Mr. King of Iowa, and Mr. Doolittle):

H.R. 931. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK (for himself, Mr. Larsen of Washington, Mrs. Davis of California, Mr. Thompson of California, Mr. Blumenauer, Mr. McIntyre, Mr. Costello, Mr. Filner, Mr. Schrock, Mr. Rush, Mr. Davis of Illinois, Mr. Rodriguez, Mr. Green of Wisconsin, Mrs. Kelly, Mr. Bell, Mr. Renzi, Mrs. Tauscher, Mrs. Jo Ann Davis of Virginia, Mr. Honda, Mr. Stenholm, Mr. Udall of New Mexico, Mr. Simmons, Mr. Herger, Mr. Taylor of Mississippi, Mrs. McCarthy of New York, Mr. Payne, Mr. Peterson of Minnesota, Mr. Hinchey, Mr. Carson of Oklahoma, Mr. Inslee, and Mr. Evans):

H.R. 932. A bill to amend the impact aid program under the Elementary and Secondary Education Act of 1965 to improve the delivery of payments under the program to local educational agencies; to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. Pastor, Mr. Shadegg, Mr. Hinojosa, Mr. Reyes, Mr. Flake, Mr. Berman, Mr. Filner, Mrs. Davis of California, Mr. Hayworth, Mr. Hunter, Mr. Rodriguez, Mr. Ortiz, and Mr. Grijalva):

H.R. 933. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

By Mrs. McCARTHY of New York:

H.R. 934. A bill to amend the Higher Education Act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Education and the Workforce.

By Mr. McDERMOTT (for himself, Mr. Abercrombie, Mr. Matsui, Ms. Norton, Ms. Lee, Mr. Filner, Mr. Nadler, Mr. George Miller of California, Ms. Carson of Indiana, Ms. Lofgren, Mr. Lantos, Mr. Waxman, Mr. Kolbe, Ms. Woolsey, Mr. Blumenauer, and Mr. Berman):

H.R. 935. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. Wexler, Mr. Hoeffel, Mrs. Napolitano, Mr. Payne, Mr. Owens, Mr. Serrano, Mr. Kennedy of Rhode Island, Mr. Kildee, Mr. Andrews, Mr. Udall of New Mexico, Mr. Brown of Ohio, Mr. Abercrombie, Mrs. Davis of California, Ms. Lee, Ms. Woolsey, Ms. Solis, Mr. Kucinich, Ms. Millender-McDonald, Mr. Scott of Virginia, Mr. Moran of Virginia, Mr. Tierney, Ms. Pelosi, Mr. Stark, Ms. Watson, Mr. Farr, and Ms. Lofgren):

H.R. 936. A bill to leave no child behind; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Agriculture, the Judiciary, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself, Mr. Turner of Texas, Mr. Berry, Mr. Otter, Ms. Baldwin, Mr. Pickering, Mr. Osborne, Mr. Hastings of Washington, Mr. Paul, Mr. McIntyre, Mr. Sandlin, Mr. Kind, Mr. Tiahrt, Mr. Murtha, Mr. Whitfield, Mr. Stenholm, and Mr. Frost):

H.R. 937. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 938. A bill to prohibit Federal payments to any individual, business, institution, or organization that engages in human cloning; to the Committee on Energy and Commerce.

By Mr. PENCE:

H.R. 939. A bill to amend title 18, United States Code, to punish persons who use false or misleading domain names to attract children to Internet sites not appropriate for children; to the Committee on the Judiciary.

By Mr. RAMSTAD:

H.R. 940. A bill to amend the Internal Revenue Code of 1986 to provide that the foreign tax credit not be redetermined with respect to refunds of unlawful foreign taxes to taxpayers who successfully challenge those taxes; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself, Ms. Eshoo, Mr. Pitts, Mr. Crane, Mr. Camp, and Ms. Dunn):

H.R. 941. A bill to amend title XVIII of the Social Security Act to provide for the expeditious coverage of new medical technology under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REGULA (for himself, Ms. Baldwin, Mr. Cunningham, Mr. Goodlatte, Mr. Hayes, Mr. Otter, Mr. Pickering, Mr. Rogers of Michigan, Mr. Schrock, Mr. Simmons, Mr. Tancredo, Mr. Wamp, Mr. Wicker, Mr. Wilson of South Carolina, Mrs. Jo Ann Davis of Virginia, and Mr. Hoekstra):

H.R. 942. A bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. Walsh, Mr. Payne, and Mrs. McCarthy of New York):

H.R. 943. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. McCarthy of New York, Mr. Paul, Mr. McGovern, Mr. Bereuter, Mr. Oberstar, Mr. Flake, Mrs. Johnson of Connecticut, Mr. Abercrombie, Mr. Ackerman, Mr. Frank of Massachusetts, Mr. Tierney, Mr. McHugh, Ms. Carson of Indiana, Mr. Case, Mr. Green of Wisconsin, Mr. Kildee, Mr. Baker, Mr. Etheridge, Mr. Meehan, Mr. Michaud, Mr. Shimkus, Ms. Lofgren, Mr. Rothman, Mr. Jones of North Carolina, Mr. Gerlach, Mr. Matheson, Mr. Shays, Ms. Eddie Bernice Johnson of Texas, Mr. Manzullo, Mr. Holden, Ms. Hart, Ms. Norton, and Ms. Woolsey):

H.R. 944. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Mr. Towns, Mr. Bass, Mr. Deal of Georgia, and Mr. Walden of Oregon):

H.R. 945. A bill to exercise authority under article I, section 8, clause 3 of the Constitution of the United States to clearly establish jurisdictional boundaries over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. Sam Johnson of Texas, Mr. Deal of Georgia, Mr. King of Iowa, Mr. Norwood, Mr. Duncan, and Mr. Goode):

H.R. 946. A bill to effect a moratorium on immigration; to the Committee on the Judiciary.

By Mr. WEINER:

H.R. 947. A bill to authorize local educational agencies to prohibit the transfer of students under section 1116 of the Elementary and Secondary Education Act of 1965 to schools that are at or above capacity, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WICKER (for himself and Mr. Pickering):

H.R. 948. A bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WYNN:

H.R. 949. A bill to prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 950. A bill to expand Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal Government within the State of Alaska, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 951. A bill to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of lands to Alaska Native veterans; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 952. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain expenses incurred by whaling captains in support of Native Alaskan subsistence whaling; to the Committee on Ways and Means.

By Mr. EVANS:

H. Con. Res. 56. Concurrent resolution expressing the sense of the Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual; to the Committee on Transportation and Infrastructure.

By McCOTTER (for himself, Mr. Dingell, Mr. Upton, Mr. Stupak, Mr. Rogers of Michigan, Mr. Camp, Mr. Conyers, Mr. Knollenberg, Mr. Kildee, Mr. Smith of Michigan, Mr. Levin, Mr. Ehlers, Ms. Kilpatrick, Mr. Hoekstra, Ms. Miller of Michigan, Mr. Bass, Mr. Graves, Mr. Jackson of Illinois, Mr. Schrock, Mr. Quinn, Mr. Oxley, Mrs. Northup, Ms. Kaptur, Mr. Fletcher, Mr. Portman, and Mrs. Emerson):

H. Res. 100. A resolution recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations, and a revolutionary industrial and global institution.

By Mr. MENENDEZ:

H. Res. 104. A resolution electing Members and Delegates to certain standing committees of the House of Representatives; considered and agreed to.

By Mrs. MYRICK:

H. Res. 105. A resolution providing for consideration of the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning.

By Mr. BOOZMAN (for himself and Mr. Blunt):

H. Res. 107. A resolution commending and supporting the efforts of Students in Free Enterprise (SIFE), the world's preeminent collegiate free enterprise organization, and its president, Alvin Rohrs; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H. Res. 108. A resolution expressing the sense of the House of Representatives that India should be a permanent member of the United Nations Security Council; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. Beauprez, Mrs. Cubin, Mrs. Bono, Mr. Issa, and Mr. Saxton.

H.R. 40: Mr. Olver, Ms. Lee, and Mr. Bishop of Georgia.

H.R. 57: Mr. Chocola, Mr. Smith of Texas, Ms. Gerlach, Mr. Tauzin, Ms. Ginny Brown-Waite of Florida, Mr. Gutknecht, Mrs. Musgrave, Mr. Forbes, and Mr. Bishop of Utah.

H.R. 97: Mr. Stupak, Mr. Goode, and Mr. Jefferson.

H.R. 111: Mr. Culberson Mr. Kucinich, Mr. Pallone, Mr. Bishop of Georgia, and Mr. Clay.

H.R. 133: Mr. Goode.

H.R. 168: Ms. Ros-Lehtinen and Mr. Green of Wisconsin.

H.R. 200: Mr. Rodriguez.

H.R. 218: Ms. McCarthy of Missouri, Mr. Chabot, Mr. Gallegly, Mr. Weiner, and Mr. Langevin.

H.R. 258: Mr. Hill.

H.R. 279: Mr. McIntyre.

H.R. 300: Mrs. Jo Ann Davis of Virginia.

H.R. 302: Mr. Stupak and Mr. Burr.

H.R. 303: Mr. Pomeroy, Mr. Shays, Mr. Bonner, Mr. Inslee, Mr. Flake, Ms. Lofgren, Mr. Rogers of Kentucky, Mr. Cardoza, Mr. Sanders, and Mrs. Kelly.

H.R. 313: Mr. Matheson.

H.R. 339: Mr. Isakson, Mr. Barrett of South Carolina, Mr. Oxley, Mr. Souder, Mr. Wamp, Mr. Foley, and Mr. Cannon.

H.R. 343: Mr. Green of Wisconsin and Mr. Grijalva.

H.R. 348: Mr. Evans.

H.R. 377: Mr. Simmons and Mr. Hostettler.

H.R. 430: Mr. Wicker.

H.R. 440: Ms. Velázquez, Mr. Rangel, and Mr. Owens.

H.R. 442: Mr. Green of Texas, Mr. McDermott, Mr. Paul, Mr. Shimkus, Mr. Pastor, Mr. Menendez, Ms. Millender-McDonald, Mr. Holden, Mr. Terry, Mr. Brown of Ohio, Mr. Upton, Mr. Murphy, and Mr. Frost.

H.R. 457: Mr. Hostettler.

H.R. 466: Mr. Schiff, Ms. Woolsey, Mr. Lipinski, Mr. Cardoza, and Mr. Stark.

H.R. 483: Mr. Hostettler.

H.R. 485: Mr. McDermott and Ms. Schakowsky.

H.R. 498: Mr. Sessions and Mrs. Musgrave.

H.R. 501: Mr. McHugh, Mr. Faleomavaega, and Mr. Forbes.

H.R. 502: Mr. Barrett of South Carolina.

H.R. 504: Ms. Lee and Mr. Acevedo-Vilá.

H.R. 515: Mr. Abercrombie, Mr. Baird, Mr. Brady of Pennsylvania, Mr. Berman, Mr. Kucinich, and Mr. Ryan of Ohio.

H.R. 528: Mr. Lipinski.

H.R. 588: Mr. Hoeffel, Mr. Owens, and Mr. Brown of Ohio.

H.R. 627: Mr. Bishop of Georgia, Mr. Conyers, Mr. Davis of Illinois, Mr. Goode, Ms. Hart, Ms. Kaptur, Mr. Lampson, Mrs. Napolitano, Mr. Payne, Mr. Rahall, Mr. Schrock, Mr. Shuster, and Mr. Thompson of Mississippi.

H.R. 662: Mr. Stenholm, Mr. Paul, Mr. Towns, Mr. Frank of Massachusetts, Mr. Gillmor, Mr. Marshall, Mr. Frost, Mr. Reyes, Mr. Kolbe, Mr. Snyder, Mr. Foley, Mr. Wilson of South Carolina, Mr. Ney, Mrs. Jones of Ohio, Mr. Case, Mr. Ford, Mr. Simmons, Mr. Udall of Colorado, and Mr. Owens.

H.R. 672: Mr. Ortiz, Mr. Owens, Ms. Jackson-Lee of Texas, Mr. Porter, Ms. Linda T. Sánchez of California, and Mr. Grijalva.

H.R. 695: Mrs. Musgrave and Mr. Matheson.

H.R. 709: Mr. Stupak and Mr. Bereuter.

H.R. 714: Mr. Simpson and Mr. Cantor.

H.R. 721: Mr. Kildee and Mr. Sanders.

H.R. 735: Mr. Kolbe.

H.R. 737: Ms. Kilpatrick, Mrs. McCarthy of New York, Mr. Emanuel, Mr. Cardin, and Mr. Lipinski.

H.R. 740: Mr. Gutierrez, Ms. Jackson-Lee of Texas, Mr. Dicks, and Mr. Case.

H.R. 741: Ms. Lee.

H.R. 742: Mr. Kildee, Mr. Moran of Kansas, Mr. Fletcher, Mr. Andrews, Mr. Goode, and Mr. Boyd.

H.R. 743: Mr. Hulshof, Mr. Hayworth, Mr. McNulty, Mr. Andrews, Mr. Ross, and Mr. Marshall.

H.R. 751: Mr. Grijalva.

H.R. 756: Mr. Lipinski.

H.R. 760: Mr. Shimkus, Mr. Tauzin, Mr. Bartlett of Maryland, Mr. King of New York, Mr. Weller, Mr. Alexander, Mr. Skelton, Mr. Buyer, Mr. Nussle, Mr. Flake, and Mr. Peterson of Minnesota.

H.R. 765: Mr. Wilson of South Carolina and Mr. Renzi.

H.R. 768: Mr. Wexler, Mr. Matheson, and Mr. Owens.

H.R. 773: Mr. Becerra.

H.R. 784: Mrs. Christensen, Mr. LaTourette, and Mr. Upton.

H.R. 785: Mr. Frost, Mr. Souder, Mr. Deutsch, and Mr. Pomeroy.

H.R. 794: Mr. Cannon and Mr. Bishop of Utah.

H.R. 801: Mr. Conyers and Ms. Lofgren.

H.R. 813: Ms. Woolsey.

H.R. 841: Mr. Pastor.

H.R. 847: Mr. Case, Ms. Slaughter, Mr. Bishop of New York, Mr. Rahall, Mrs. Napolitano, Mr. Weiner, Mr. Allen, Mr. Bell, Mr. Wexler, Mr. Kleczka, Mr. Michaud, and Mrs. Jones of Ohio.

H.R. 865: Ms. Harman and Mr. Wexler.

H.R. 866: Mr. Burgess.

H.R. 874: Mr. Simmons.

H.R. 876: Mr. Graves and Mr. Isakson.

H.R. 878: Mr. Portman, Mr. McInnis, Mr. McCrery, Mr. Jones of North Carolina, Mr. Cole, and Mr. Simmons.

H.R. 887: Mr. Green of Texas, Mr. Udall of Colorado, Mr. Ross, Mr. Frost, Ms. Millender-McDonald, and Mr. Cardoza.

H.R. 893: Ms. Woolsey and Mr. Wynn.

H.R. 894: Mr. McNulty.

H.R. 896: Ms. Kilpatrick, Mr. Payne, and Mr. McNulty.

H.J. Res. 3: Mr. POMBO.

H.J. Res. 10: Mr. COX.

H. Con. Res. 18: Mr. CONYERS.

H. Con. Res. 36: Mr. HILL.

H. Con. Res. 38: Mr. FROST.

H. Con. Res. 39: Ms. SCHAKOWSKY and Mr. BRADY of Pennsylvania.

H. Res. 42: Mr. HOSTETTLER.

H. Res. 53: Mr. RANGEL, Ms. CORRINE BROWN of Florida, Mr. EMANUEL, Ms. LOFGREN, Ms. JACKSON-LEE of Texas, and Mr. STARK.

H. Res. 72: Mr. BROWN of Ohio, Mr. MCNULTY, Mr. MOORE, and Mr. MORAN of Virginia.

H. Res. 76: Mr. KING of New York, Mr. SOUDER, Mr. WEINER, and Ms. LOFGREN.

SENATE—*Wednesday, February 26, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Majestic God, Creator of many different races and colors in the human family, we ask for love as inclusive as Your love and attitudes as free of prejudice as You have shown in Your care for all people.

This month as we gratefully recognize the importance of African Americans in our history, remind us of the truth that Dr. Martin Luther King expressed that "the content of our character" is the highest goal we can achieve. So many outstanding black Americans have risen to prominence in our Nation's history because of the content of their character.

We thank You for Phillis Wheatley, who, in the 18th century at a very young age, achieved international fame as the first black woman poet. We remember women's rights activist and abolitionist Sojourner Truth and civil rights heroine Rosa Parks. We also remember Richard Allen, who, at the dawning of the 19th century, mobilized the black community in Philadelphia and formed the first independent black denomination. We praise You for distinguished athletes like Jackie Robinson and educators like George Washington Carver.

As we work today, may these principled Americans be our examples. Let our words, thoughts, and actions reflect the content of Your character. Thank You for being our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. BROWNBACK). The majority leader.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will spend the day in executive session deliberating, once again and for the 10th day, the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. Indeed, today will be a very full day. I envision a protracted session extending late into the evening. Rollcall votes are expected in an effort to make progress toward confirming this nominee in order to fill this judicial vacancy.

There is an empty courtroom and a backed up docket awaiting this judge. I hope my colleagues will cooperate so that this ready, willing, and able nominee can report for work at the DC Circuit courthouse.

I ask unanimous consent that a letter to the President dated February 25, 2003, signed by 52 Senators, stating that they "express the strong, majority support in the United States Senate for Miguel Estrada," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, February 25, 2003.

The Hon. GEORGE W. BUSH,
The White House, 1600 Pennsylvania Avenue, N.W., Washington, DC

DEAR MR. PRESIDENT: We write to express the strong, majority support in the United States Senate for Miguel Estrada, your nominee to the United States Court of Appeals to the District of Columbia Circuit.

Mr. Estrada's professional accomplishments and personal achievement are truly impressive. He graduated magna cum laude from both Columbia College, where he was elected to Phi Beta Kappa, and Harvard Law School, where he served as an editor of the Harvard Law Review. He clerked on the Second Circuit Court of Appeals and the Supreme Court of the United States. Miguel Estrada served with distinction as an assistant U.S. Attorney in the prestigious Southern District of New York, rising to Deputy Chief of the Appellate section, and in the Solicitor General's office during both Republican and Democrat Administrations where he argued fifteen cases before the Supreme Court.

It is no wonder Mr. Estrada received a rare, unanimous rating of "well qualified" from the American Bar Association, what many of our colleagues call the coveted "Gold Standard."

Mr. Estrada's professional successes are even more remarkable in light of his compelling personal story. After emigrating from Honduras at the age of seventeen, he reached the pinnacle of his profession by overcoming a speech impediment and mastering a second language. These are daunting challenges for anyone; they are particularly impressive when one's profession is the practice of oral advocacy before the nation's highest court.

Despite his obvious qualifications and remarkable personal story, we have been unable to obtain fair consideration on the Senate floor for Mr. Estrada's nomination. Nevertheless, we, the undersigned majority in the United States Senate, commend you for your outstanding choice, and will continue to work diligently to ensure Mr. Estrada receives a simple up or down vote on the Senate floor.

Sincerely,

Mitch McConnel, Zell Miller, Bill Frist, Conrad Burns, Norm Coleman, Lisa Murkowski, Pete Domenici, Joe Kyl, John Cornyn, Jim Bunning, Judd Gregg, Arlen Specter, Orrin Hatch, Robert Bennett, Mike Crapo, Jim Talent, Michael B. Enzi, Lindsey Graham, George Allen, Susan Collins, Ben Nighthorse Campbell, Ted Stevens, Lamar Alexander, Wayne Allard, Richard Shelby, Mike Dewine, Craig Thomas, George V. Voinovich, Richard G. Lugar, Jeff Sessions, John Ensign, Rick Santorum, John E. Sununu, Elizabeth Dole, Don Nickles, Pat Roberts, James Inhofe, Saxby Chambliss, Peter Fitzgerald, Trent Lott, Thad Cochran, Kay Bailey Hutchison, Chuck Hagel, Larry E. Craig, Gordon Smith, John McCain, Sam Brownback, Kit Bond, John Warner, Chuck Grassley, Lincoln Chafee, Olmypia Snowe.

Mr. FRIST. I will be very brief, but I will quote four paragraphs from this letter which does demonstrate the majority support of Senators for this nominee. The letter itself is dated February 25, 2003. The letter is to the President of the United States.

First paragraph:

> Dear Mr. President, we write to express the strong, majority support in the United States Senate for Miguel Estrada, your nominee to the United States Court of Appeals to the District of Columbia Circuit.

The second paragraph reads:

> Mr. Estrada's professional accomplishments and personal achievement are truly impressive. He graduated magna cum laude from both Columbia College, where he was elected to Phi Beta Kappa, and Harvard Law School, where he served as an editor of the Harvard Law Review. He clerked on the Second Circuit Court of Appeals and the Supreme Court of the United States. Miguel Estrada served with distinction as an assistant U.S. attorney in the prestigious Southern District of New York, rising to Deputy Chief of the Appellate section, and in the Solicitor General's Office during both Republican and Democrat Administrations, where he argued fifteen cases before the Supreme Court.
>
> It is no wonder Mr. Estrada received a rare, unanimous rating of "well qualified" from the American Bar Association, what many of our colleagues called the coveted "Gold Standard."
>
> Mr. Estrada's professional successes are even more remarkable in light of his compelling personal story. After emigrating from Honduras at the age of seventeen, he reached the pinnacle of his profession by overcoming a speech impediment and mastering a second language. These are daunting challenges for anyone; they are particularly impressive when one's profession is the practice of oral advocacy before the nation's highest Court.

Mr. President, the last paragraph before the pages of the signators of a majority of people in this body, 52 Senators, reads:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

> Despite his obvious qualifications and remarkable personal story, we have been unable to obtain fair consideration on the Senate floor for Mr. Estrada's nomination. Nevertheless, we, the undersigned majority in the United States Senate, commend you for your outstanding choice, and will continue to work diligently to ensure Mr. Estrada receives a simple up or down vote on the Senate floor.

Again, there are 4 pages of signatures. The first page is signed by Senators MITCH MCCONNELL and ZELL MILLER, followed by 50 signatures, which is now in the RECORD.

We will have a full day today. I look forward to continuing the discussions as we go forward.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar Order No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER FOR RECESS

Mr. REID. Before the majority leader leaves the floor on a matter regarding what we are going to do this afternoon, at 2:30 today it is my understanding the Secretary of Defense will be here to brief Senators. I think it would be in everyone's interest if we had at least an hour recess during the time the Secretary is here.

Mr. FRIST. Mr. President, given the circumstances surrounding and leading to the discussion today at 2:30, that would be satisfactory on our part.

We will likely be in session late this afternoon, into the evening, because there are a number of issues we do want to address. It is appropriate to be in recess from 2:30 to 3:30 today.

Mr. REID. I ask unanimous consent that that be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, Senator HATCH is in the Chamber, as well as Senator DORGAN, who has been trying to speak for 2 days now. It is obvious there are not enough votes, as indicated by the letter sent to the President. The fact is that there are three ways to dispose of Estrada: No. 1, pull the nomination so we can go to other issues that affect this country, such as the economy, such as have a discussion relating to the global warming document that came out today indicating there certainly needs to be a lot more done regarding global warming. It certainly is time we should be talking about the education of our children. Yesterday, the Democratic leader offered an economic stimulus plan. We wanted to bring that to the floor. So the nomination should be pulled for those other reasons.

If that is not the case, then there is another way of disposing of this matter perhaps—by having the majority file a cloture motion. That failing, it seems to me they should meet our request to have him honestly—I should not say honestly—thoroughly answer questions that have been propounded to him; and, secondly, submit the memos to this body, at least to the Judiciary Committee, so they can review the memos he wrote while he was Solicitor General.

That failing, we can stay in tonight and tomorrow night, whatever the leader decides to do, but as I have indicated before, now that the majority has changed, the majority has to preside and we will have people to protect our interests on the floor, so that is certainly no punishment to us.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been interested in the approach by the other side. Yesterday, they came on the floor and said, oh, my goodness, we should get rid of this because we have so many important issues to take care of. There is one way to get it rid of it, and that is to let the people's representatives in the Senate vote. That is what the Washington Post said: Just vote. Vote up or down.

The real reason they are not allowing a vote—because, as we can see from the letter, we have at least 52 votes and there have been at least 3 other Senators on the minority side who have said they are going to vote for Mr. Estrada. So there are at least 55 votes for Mr. Estrada, and I believe there will be others votes as well.

It is one thing to support your party and to stand in an intractable way against the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia. It is another thing to come on the floor and say we are not going about the people's business because we are dealing with this incidental judicial nomination. Well, it is not incidental. It is one of the most important nominations in the country.

This is a man who really deserves to be on the Circuit Court of Appeals for the District of Columbia. This is a man who has every credential and has not had a glove laid on him. That is why the fishing expedition request into privileged matters. They want to get his recommendations, or I suppose in the future anybody's recommendations, especially Republicans who might have worked in the Solicitor General's Office, on appeals, on certiorari petitions, and on amicus curiae matters. Those have never been given to anybody. Those are the crucial documents upon which the Solicitor General, the people's attorney, makes decisions as to where to go and what to do. There is only one reason they would like to get these privileged documents, and that is they are on a fishing expedition because they have not been able to find anything to hang on Miguel Estrada yet, other than these phony accusations that he has not answered the questions.

My gosh, the hearing transcript is that thick; the briefs he has filed and the answers in the testimony before the Supreme Court, two volumes, that thick. They have more materials on Mr. Estrada to know what he is and what he is about than almost any judicial nominee, other than the Supreme Court, who has been nominated in the whole 27 years I have been in the Senate. I think my colleagues can take it from me because I have been involved in every one of these nominations. As chairman, now twice, I can say there has very seldom been anybody as scrutinized as Mr. Estrada. And since there is still nothing they can point to that is a good reason for keeping him out of this position, what one has to conclude is the reason they are doing this—well, I will leave that up to the American people, and I will leave it up to the people in the Hispanic community. My personal conclusion is that they do not like having a Republican, Hispanic, conservative who thinks for himself as an independent thinker.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. Not yet. I will make a statement first before I yield for a question. I will do that later, however. I have been very good about yielding, so I hope my colleague does not feel badly about my decision to make my statement first.

I cannot believe the arguments that have been used in this matter, and I cannot believe my colleagues on the other side, with their feet in concrete, cannot understand why this is such an important nomination.

The fact is this fellow is immensely qualified. I have had countless people tell me that, in addition to my own studies, and I have had a lot of Democrats say he is really qualified—but.

"But" what? These phony accusations that he has not answered questions? Come on. The Democrats conducted the hearings. They controlled the process. They could have kept the hearings going for days. It would have been very unusual for them to do that, but they could have. The hearings were conducted by Senator SCHUMER. Every Democrat had a chance to come and ask questions. After the hearings were over, they had an opportunity to present written questions to him. Guess how many of those nine Democrats offered written questions. Only two of them.

I will say, the distinguished Senator from Illinois has tried to get to the bottom of what he is concerned about in Federal judgeships. I commend him for it. He wrote questions, and he got answers. Senator KENNEDY, who takes a very active role on the committee, wrote questions, and he got answers. Where were the rest of them? Why all the complaining now, 2 years later? Are we going to make every circuit court of appeals judge wait 2 years?

Actually, we are finding a slowdown in the Federal judiciary like I have never seen before, except for district court nominees about whom they do not seem to worry too much. If they are qualified, district court nominees are the trial court nominees. Circuit court nominees should be qualified, too, and this one—I would not say overly qualified, but not many people can match his qualifications in this whole society today—here, in the 10th or 11th day of debate, he is being treated very shabbily.

We are in the middle of a filibuster, no matter what anyone says. That is exactly what it is. I noted my friend from New York, Senator SCHUMER, said on Sunday this is not a filibuster. If it is not, I don't know what it is. And, frankly, I know a lot about filibusters, having led one of the most important filibusters in history on labor law reform in 1978 that lasted at least a month. It was very tough, mean, miserable, and in some ways tremendously difficult.

My colleague, the distinguished ranking member on the committee, on June 18, 1998, said: "I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported."

So I suppose the distinguished Senator from Vermont will be another vote for Mr. Estrada, if he really meant what he said. Knowing him, I am sure he did mean what he said. So that would get us up to 56 votes right there. He also said: "I do not want to get to having to invoke cloture on judicial nominations. I think it is a bad precedent."

Boy, I sure agree with that. I spent 6 years during the Clinton years when a lot of liberal judges were put up, who were qualified, arguing with some on our side, a relative few, but some who believed we should filibuster those judges. I said: No way. We can't get into filibustering of judges. It diminishes the power of the administration, the executive office, the executive branch of Government, which is supposed to be coequal with the legislative branch. But in addition to diminishing the power of the executive branch, it diminishes the power of the judiciary with regard to its coequality with the executive branch, so both would be diminished while the executive branch was augmented and made superior over both of those branches.

Why? Because a filibuster means that from here on in, with every nominee who may be "controversial," you are going to have to have a supermajority of 60 votes. Or will you? If the Democrats have their way, that is how it will be. And it will be both ways. There will not be any more well-known liberals or well-known conservatives, as great as many in the past have been, on the courts of this country; there will be people who do not have a paper trail, do not have any opinions, on whom you do not know what is going on in their minds. They will be the only ones who can get through for the circuit court of appeals positions or the Supreme Court. That would be indeed a tragedy for this country.

What we get when we elect a President is a person who picks the judges in this country. The Senate's obligation is to vote on those judges. If you do not like what you see, you vote no. If you like what you see, you vote aye. But they get a vote on the Senate floor. That is not what is happening here.

If press reports are to be believed, some Senators are contemplating a dramatic change to the Senate's treatment of the President's judicial nominees. A new requirement: The nominees to the Nation's courts must receive at least 60 votes in order to be confirmed. Since our friends on the other side are filibustering Mr. Estrada's nomination to the Circuit Court of Appeals for the District of Columbia, and if the filibuster results in the nomination being rejected, Democrats will have forced a permanent change in the political and constitutional landscape, a very dangerous and bad change.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. I am happy to.

Mr. DURBIN. I will only ask one question and would like the Senator's response.

I think there has been a very constructive and valuable suggestion by one of your colleagues, Senator BENNETT of Utah, who came to the floor last week and suggested, to end this impasse, that we can finally bring this matter to a vote on Mr. Estrada simply by producing the controversial documents to be reviewed by you and Senator LEAHY, and if a decision is made by either of you that there is something worth pursuing by way of written questions or further hearing, then we can bring this to closure.

I asked Senator DASCHLE on the floor yesterday, would this be a good end game for the Estrada issue? He said it was acceptable to him. So I ask the Senator from Utah if he would entertain the suggestion of his colleague, Senator BENNETT, to produce these work documents that reflect on Mr. Estrada's philosophy, for you, personally, for Senator LEAHY personally, and followup, if necessary, so that we can finally move on to important issues that we should be considering on the Senate floor?

Mr. HATCH. That is a good question. I have to say, no administration worth their salt, no executive branch of government worth any constitutional knowledge, would give up those papers, even to people they trust, such as Senator LEAHY and myself. The reason is they have to maintain the dignity of that Solicitor General's Office. They have to maintain the discipline of that office. They have to maintain the privileged nature of those documents. If those documents are disclosed, that means they will have to be disclosed henceforth forever in every case where a person has worked in the Solicitor General's office. It would demean the office and diminish the ability to get forthright and accurate information, and it would impinge upon the work of the Solicitor General.

The only reason those letters were written requesting those documents is that they knew this would constitute a red herring. The only thing they have to argue against Miguel Estrada is a red herring, so they can say: We cannot vote for him because we cannot get these documents. Which is right, they cannot get them. No self-respecting administration would give them.

Mr. DURBIN. One last question. The chairman suggested it would be unprecedented to produce these documents. But is the chairman not aware of the fact that similar documents were produced when William Rehnquist was being nominated to the Chief Justice of the Supreme Court, when Robert Bork's nomination came before the Senate, Benjamin Civiletti, and several other cases?

This is not unprecedented and has happened before. To suggest this administration would be breaking new ground—would the Senator from Utah concede that other administrations, Republican administrations, and Democrat, have disclosed this kind of information? We are suggesting, through Senator BENNETT, a limited disclosure to you and Senator LEAHY——

Mr. HATCH. The Senator is again mistaken. He is absolutely wrong, totally inaccurate.

The fact is the request was for his recommendation on his appeal recommendations, his certiorari recommendations, his amicus curiae recommendations. Those have never ever been given to anybody up here on Capitol Hill. And they shouldn't be given to anybody. Those are the most crucial recommendations the Solicitor General gets and relies upon.

There are some cases where documents for appeal, certiorari, amicus curiae documents, were leaked to Democrat Senators in the past, and there were one or two cases where there were allegations of criminal behavior, or potential criminal behavior, where very selected documents were produced. But there has never, ever been a production of internal, privileged recommendations for appeals, certiorari, and amicus curiae. Again, the Senator is mistaken. I hesitate to point that out, but it is something that has to be pointed out.

I believe with all my heart that my friends on the other side know that. So this is a phony issue they have raised. Here is a man who has the highest rating of the American Bar Association, given by a majority of Democrats who have supported financially other Democrats, and yet they found him worthy of the highest rating of the American Bar Association. I know my colleagues do not like that, even though many of them said he deserves it, he is that good, but we are going to vote against cloture anyway—because we are Democrats, I guess.

Is that really the reason? What is the reason there is a double standard with regard to Miguel Estrada? Is it because we are Democrats? I hope not. Is it because we are liberals? You got that one right. Is it because he is an independent thinker? You have that one right. Is it because he just does not toe the line of the Democratic Party? You got that right. Is it because he is a Republican Hispanic? You got that right. Is it because he is a Republican Hispanic who may be conservative? You bet. Is it because he is a Republican Hispanic who may be conservative who might even be pro-life? I don't know what he is that way, but that is surely part of it.

In other words, it is a double standard, even though we did not take that standard on our side. There were some who wanted to, I admit that. But I didn't take that standard in approving 377 Clinton judges, the second all-time record of judicial confirmations in the history of the Presidency, second only to Ronald Reagan, who had 6 years of a Republican Senate to help him, where President Clinton had only 2 years of a Democrat Senate to help him.

Think about it. What do you conclude is the reason they are fighting this? Because they found something wrong with Miguel Estrada? Show me what it is. Because of this red herring issue—and they know it is a red herring issue—that they know is improper to even ask for?

But counting on their friends in the media to ignore the seven former Solicitors General, four of whom are Democrat, leading liberal Democrat Solicitors General who say those papers should never be given to the legislative branch—it would upset and ruin the work of the Solicitor General of the United States; he is the people's attorney. That is the only thing they have. Yet they are filibustering this man, this Hispanic, this first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia, and one of the few ever nominated to the circuit courts of appeals in this country. It is amazing to me.

What really louses this up for them, as far as I am concerned, is their claim that he does not have any judicial experience; therefore, he should not have this position. That is condemning every Hispanic lawyer to never be a Federal court judge, by and large, because hardly any of them have judicial experience. The only way they get it is by rising in the profession, like Miguel Estrada, reaching the top of the profession, and getting nominated by a President of the United States.

It is a tough road for Hispanics. Here is one who has made it, and my colleagues on the other side are standing in his way, blocking his path, taking away his future. He is the embodiment of the American dream, and they are taking away his future as a judge. I suppose part of it also is to discourage conservative Hispanics, conservatives of other minorities, from wanting to be judges if they are Republicans because it is not worth going through this kind of a battle.

I chatted with Miguel Estrada yesterday. Miguel Estrada said it is worth going through this battle. He will do a great job on that court. He will do it in the best interests of the American people, regardless of ideology. That is basically what he said in answers to these questions that were raised by Democrats. He basically said he would follow the law as he always has as a top-flight attorney.

Now, are we going to have to have 60 votes to confirm "controversial" nominees? If his nomination is rejected by a filibuster, then Democrats will have forced a permanent change in the political and constitutional landscape.

Never again could any future President—or even this President—fairly expect a judicial nominee, whose nomination reaches the Senate floor, to receive an up-or-down vote. And never again would the Senate minority party fear that blocking of a judicial nominee by partisan filibuster, or 41 votes, was unprecedented.

If the Estrada nomination is permanently blocked by filibuster, the political baseline shifts forever. What is sauce for the goose is going to be sauce for the gander. And I think it is terrible. I am doing everything in my power to fight against that. It is even bigger than this nomination, as important as this nomination is, because it could taint the Federal judiciary henceforth and forever because of partisan politics on the Democrat side.

To understand just how stunningly extraordinary this state of affairs is, one needs to examine the Senate's record of confirming judicial nominations.

The first filibuster of a judicial nominee that resulted in a cloture vote was in 1968. In other words, in all the history of this country, that was the first filibuster, in 1968. Since then, the Senate has confirmed approximately 1,600 judicial nominations—since 1968. That filibuster was on the Fortas nomination. Since then, they have confirmed approximately 1,600 judicial nominations, and the vast majority—nearly 1,500—of them without even a rollcall vote, as most are confirmed by unanimous consent.

Indeed, of those some 1,600 judicial nominations confirmed by the Senate since 1968, only 14 even underwent a cloture vote. And with the exception of the bipartisan 1968 filibuster of Abe Fortas's nomination to be Chief Justice of the United States, the Senate has never—let me repeat that—has never blocked by filibuster a judicial nominee to any court in this land—never; never—until this, I think, ill-fated, hopefully, attempt on the part of some of our colleagues on the other side.

I am just wondering why some of my strong colleagues are being led like lambs to the slaughter in this matter without standing up and saying: Hey, enough is enough. We have made our point. We have roughed this guy up. We made it clear to him that, "you had better behave yourself on the court or you will never be on the Supreme Court." That is part of this, I know. That may be a legitimate part as far as I am concerned. They have a right to rough anybody up, I suppose, although I question the propriety of it from time to time.

What follows is an account of all past debates over judicial nominees which required cloture votes. The history establishes a consistent, bipartisan resistance to taking the step that some Democrats are really doing right now.

Let me talk about the bipartisan Fortas filibuster because, indeed, that was a bipartisan filibuster. It was not just one side, as it is here. But I decry that. That filibuster should not have occurred either.

Judicial nominations have been especially contentious since the days of the Warren Court. That was from 1954 to 1969. Nowhere has that controversy been more pronounced than for nominees to the Nation's highest court. In particular, Supreme Court nominees such as Abe Fortas, William Rehnquist, and Clarence Thomas all faced considerable opposition in the Senate during their confirmations. Yet despite this controversy, only one nomination, Justice Fortas's nomination to be Chief Justice in the tumultuous summer of 1668, caused the Senate to filibuster and block confirmation.

President Lyndon Johnson nominated Associate Justice Abe Fortas to be Chief Justice in June of 1968. A bipartisan coalition of Senators soon formed to oppose Justice Fortas's elevation. The reasons were varied. Some opposed the nomination because Justice Fortas often joined the "progressive" Earl Warren wing of the activist Supreme Court. Other Senators opposed Fortas because of his admissions before the Judiciary Committee that he remained involved in White House political affairs even while serving on the Supreme Court, including advising the President during the Vietnam war and the then-recent race riots in Detroit. When it was discovered that Justice Fortas accepted $15,000—more than $75,000 in 2001 dollars—from controversial sources to teach a 9-week academic course, his support further deteriorated. Yet as the heated 1968 election season continued, some Democrats were wary of defeating Fortas if that meant leaving the nomination to soon-to-be-President-elect Richard Nixon.

Nevertheless, bipartisan opposition to Fortas's elevation was substantial and the filibuster did ensue. The filibuster itself was controversial, as some Republicans, such as Nixon himself, believed that Fortas should receive an up-or-down vote as a matter of principle. That would have been my position at the time. And it is my position now. Senators persisted, and on October 1, a cloture vote failed by a margin of 45 to 43. Twenty-four Republicans and nineteen Democrats voted against the cloture motion, with 10 Republicans and 35 Democrats in favor of cutting off debate. President Johnson then withdrew the nomination.

Now let me chat a little bit about the effect of the Fortas filibuster on future Supreme Court battles.

After the Fortas filibuster, the Senate rejected outright two of President Nixon's nominees to the Supreme Court, Clement Haynsworth—that was on a vote of 45 to 55—and G. Harold Carswell—on a vote of 48 to 51. But neither nominee faced a filibuster attempt despite the close votes. The Fortas affair is, therefore, especially important for what it did not lead to: a pattern of blocking by filibuster controversial judicial nominees.

That refusal to block nominees by filibuster is most dramatic and important in the context of the Supreme Court. The Supreme Court nominations that most divided the Senate since the Haynsworth and Carswell defeats were those of William Rehnquist—in 1972 to the Court, and in 1986 to be Chief Justice—and Clarence Thomas in 1991.

Rehnquist's nomination to be Associate Justice provoked considerable controversy and division within the Senate, but he nonetheless received a full Senate vote after but a few days' debate. The same was true in 1986, when he was nominated to become Chief Justice.

During Clarence Thomas's hard-fought nomination battle of 1991, outside activist groups urged Justice Thomas's Senate opponents to filibuster his nomination, but Senate Democrats, such as then-Judiciary Chairman JOSEPH BIDEN, and leading Thomas opponent Senator Howard Metzenbaum, balked. Former Judiciary Committee Chairman PATRICK LEAHY publicly declared himself "totally opposed to a filibuster," adding, "We should vote for or against [Thomas]." I commend my colleague for that. He was right then, and he would be right today to do the same. No filibuster was attempted, and Justice Thomas was confirmed 52 to 48.

As is well known, President Clinton's nominations of both Ruth Bader Ginsburg and Stephen Breyer sailed through the Senate with minimal debate and no filibusters. Justice Ginsburg was confirmed 96 to 3, and Justice Breyer was confirmed 87 to 9.

Now I want to make the point that lower court nominees have never been blocked by filibusters.

Given the Senate's general unwillingness to filibuster nominees—even Supreme Court nominees—it is surprising that the Senate has never blocked by filibuster a nominee to any lower court. Furthermore, the Senate has never blocked—by a partisan filibuster—any judicial nominee, including Justice Fortas. The only successful rejection by filibuster was the aforementioned case of Justice Fortas, which was clearly bipartisan. Thus, there is no historical example of a filibuster conducted solely by one party that denied the President his judicial nominee—until now. This is the first time in the history of this country. It is amazing to me that my colleagues on the other side are so blatant about it.

Now, there have been recent, what some people have called, quasi-filibusters of President Bush's judicial nominees.

During the Democratic control of the Senate during 2001 to 2002, only 17 Bush circuit court nominees reached the floor for votes. In three of the cases where they did—the nominations of Julia Smith Gibbons, Richard B. Clifton, and Lavenski R. Smith—cloture motions were filed, and the motions easily carried. However, none of those cloture votes was responding to a genuine effort to filibuster a nominee. Rather, cloture motions were filed as a Senate time-management device—certainly in the Clifton and Gibbons matters—or in response to a small number of Senators who wished to force the cloture vote to draw attention to another issue unrelated to the nominee—such as in the case of nominee Smith.

Now, despite a Republican majority during 6 years of President Clinton's term, no judicial nominee was ever deprived of a vote on the Senate floor because of a floor filibuster of the nomination.

Many Senators may recall the controversy over President Clinton's nominations of Marsha Berzon and Richard Paez to the U.S. Court of Appeals for the Ninth Circuit. Although most Republican Senators opposed their confirmations, the majority of Republican Senators also opposed any effort to prevent the full Senate from voting on their nominations. Debate on each nomination lasted only 1 day. These were very liberal, some thought activist, nominees, and yet the debate lasted 1 day. We are now on our 11th, I think—10th or 11th—day on this debate.

So debate on each nomination lasted only 1 day, and a majority of Republicans joined all Democrats in supporting cloture motions for debate on each nomination, including over 20 Republicans who would eventually vote against confirmation and a majority of the Republican members of the Judiciary Committee.

In neither case did Republicans mount a party-line filibuster effort to prevent voting on any nominee. Indeed, Majority Leader LOTT filed the cloture motions for the above debates.

The situation was similar in 1994, when some Republicans voiced objections to President Clinton's nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. A majority of Republicans supported a cloture motion after a relatively brief period of debate, and cloture was invoked by a vote of 85 to 12. It was clear it was a time-management device. It was not a filibuster. Judge Sarokin was then confirmed by a vote of only 63 to 35.

The only judge nominated by President Clinton who faced a partisan filibuster was Brian Theadore Stewart, a nominee to the Federal District Court in Utah. However, it was the Senate Democrats—not Republicans—who filibustered this Clinton nominee in protest over purported delays in bringing other judicial nominees to the floor. A cloture motion was voted upon on September 21, 1999, and it failed—by falling short of 60 votes—by a vote of 55 to 44, with all Democrats except Senator Moynihan opposing cloture. But once again, the Democrats' objection was not to Judge Stewart himself, who has since proven to be an excellent judge on the bench, and on October 5, 1999, the Senate confirmed him by a vote of 93 to 5. So it clearly was not a serious filibuster, even though the Democrats used that for various reasons, none of which related to Judge Stewart.

For all the hand wringing about the "treatment" of President Clinton's nominees, one thing is clear: Every nomination taken up for debate on the floor received an up-or-down vote.

Even when Democrats attempted to filibuster Republican Presidents' judicial nominees, those efforts were still unsuccessful, as a substantial majority of Senators resisted using the partisan filibuster as a means to block judicial nominations.

When President Bush nominated Edward Carnes to be a judge on the U.S. Court of Appeals for the Eleventh Circuit, in 1992, many Democrats opposed the nomination on the merits, in particular because of his past prosecution of death penalty cases.

Aware of this opposition, the Senate agreed by unanimous consent to 2 days of debate, with a cloture vote to follow. The debate proceeded, and the cloture motion carried by a vote of 66 to 30, with 24 Democrats joining 42 Republicans to close the debate. The Senate proceeded immediately to confirm Judge Carnes by a vote of 62 to 36.

I hope my friends on the other side will realize that they have raised a big fuss here. They certainly got their points across—whatever those points are—whether valid or invalid. It is time to vote on the nomination.

A similarly close cloture vote occurred in March 1986 when the Senate considered President Reagan's nomination of Sidney Fitzwater to be a Federal district court judge in Texas. Many Democrats opposed Judge Fitzwater on the merits and after a few days' debate, Majority Leader Dole filed a cloture motion which, by unanimous consent, was to be voted on the next day the Senate was in session. That cloture motion prevailed, 64–33, with the support of 12 Democrats. The Senate proceeded immediately to confirm Judge Fitzwater by a vote of 52–42.

The only other judicial nominee of President Reagan's to face a cloture vote was J. Harvie Wilkinson to the U.S. Court of Appeals for the Fourth Circuit. Many Democrats opposed the nominee and filibustered the nomination. An initial cloture motion failed on July 31, 1984, 57–39, because some Senators argued that additional information had arisen since Judge Wilkinson's original Judiciary Committee hearings and that further investigation was necessary. Judge Wilkinson returned to the Judiciary Committee on August 7, his nomination was returned to the floor of the Senate, and a second cloture motion prevailed on August 9 by a vote of 65–32. The Senate then proceeded immediately to confirm Judge Wilkinson by a vote of 58–39.

It is apparent that Democrats historically have been more willing than Republicans to vote against cloture motions and to attempt to prevent votes on Republican judicial nominees. In other words, they have been more than willing on occasion to filibuster Republican nominees. Apparently not in true filibusters, however. However, it is important to note that even in the cases above, many Democrats found the filibuster process inappropriate in the judicial nominee context and insisted upon full Senate votes.

Senators, Led by Republican Gordon Humphrey and Democrat Robert Morgan of North Carolina, Filibustered the nomination of Justice Stephen Breyer to be a judge on the U.S. Court of Appeals for the First Circuit in late 1980. Their objection was not to Mr. Breyer's qualifications—indeed, this is the same Stephen Breyer currently serving as a Supreme Court Justice—but to the process by which he was nominated and reported to the full Senate. The Senators argued that the Judiciary Committee had improperly reported out Mr. Breyer's nomination without proper committee approval and without regard to many other earlier-nominated persons waiting for hearings. After forcing the Judiciary Committee to reconvene and approve the nominee through proper procedures, the Senate invoked cloture, 68–28, and confirmed Mr. Breyer, 80–10.

So it clearly was not a filibuster, a real filibuster.

This history demonstrates that while some nominees have been filibustered and cloture petitions filed in those and other situations, the only nominee ever to have been defeated or withdrawn after a filibuster was Abe Fortas in 1968. Even key Democrats who opposed Republican nominees voted for cloture. So, if a partisan filibuster of Miguel Estrada resulted in his nomination being defeated, it would be unprecedented.

A partisan attempt to block Mr. Estrada's nomination by filibuster would contradict the repeated and emphatic statements of Democrats who have served for a long time in positions of special responsibility in these matters. I am calling on those Democrats to continue to be responsible, not irresponsible. To vote against cloture in this case I think would be irresponsible because they know how serious this is. Consider the past comments by Senators regarding judicial and executive nominees:

Senator LEAHY, past Judiciary Chairman and current Ranking Member said:

> If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee. . . . I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

That was on June 18, 1998, right in the CONGRESSIONAL RECORD.

The distinguished Senator from Vermont again:

> I have said on the floor, although we are different parties, I have agreed with Gov. George Bush, who has said that in the Senate a nominee ought to get a [floor] vote, up or down, within 60 days.

That was on October 11, 2000.

The distinguished minority leader, Senator DASCHLE, had this to say:

> As Chief Justice Rehnquist has recognized: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." An up-or-down vote, that is all we ask for [Clinton judicial nominees] Berzon and Paez.

That was on October 5, 1999.

The distinguished Senator from Delaware, a past Judiciary Committee Chairman said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam president, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote. . . .

That was on March 19, 1997.

The distinguished Senator from Massachusetts, also a past Judiciary Committee Chairman:

> The Chief Justice of the United States Supreme Court said: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." Which is exactly what I would like.

That was on March 7, 2000.

Again, Senator KENNEDY, the distinguished Senator from Massachusetts said on February 3, 1998:

> We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote.

That is exactly what I would like.

The Senator from California, Ms. FEINSTEIN, a distinguished member of our Judiciary Committee on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down.

There are others but I will leave it at that. Absent from any of the current debate over Miguel Estrada is any explanation as to why he should be denied the floor vote that every one of President Clinton's judicial nominees who reached the floor received.

The rejection of Abe Fortas to serve as chief Justice of the United States marked the first and only time the Senate has rejected a President's judicial nominee by way of a filibuster. Yet, Miguel Estrada presents none of the concerns that caused a bipartisan coalition of Senators to block Justice Fortas's elevation to Chief Justice. Mr. Estrada is an outstanding nominee, fully qualified for this judgeship, who has committed to enforce the Constitution as interpreted by the Supreme Court, not to interpose his personal political views into his jurisprudence. The American Bar Association unanimously gave him its highest rating of "well-qualified"; and Democrats such as President Clinton's Solicitor General, Seth Waxman, and Vice President Gore's attorney, Ron Klain, have praised his intellect, judgment, and integrity.

But the stakes here are much greater than the fate of a single judicial nominee. At issue is whether the Senate should reinterpret its constitutional advise and consent obligation to require 60 rather than 51 votes to confirm a judicial nominee. This is a position that the Senate has never taken in the context of lower court nominees, and Republicans especially have eschewed. To adopt this new standard would fundamentally alter the balance of power between the Executive and the Senate in the judicial confirmation process and would seriously erode the comity that generally has existed between the two branches in the past.

For the life of me, I don't understand why my colleagues on the other side are delaying this explosive issue like they are. They are just asking for it. I think our side is far more capable of conducting filibusters than they are. I think the past proves it. And we have won on them. I think they are totally capable of conducting this filibuster if they ignore all the precedents, if they ignore all the history, if they ignore the Constitution, and the unconstitutionality of what they are doing, they ignore the future and what is going to happen when Democrat nominees become President. I think they are making a tremendous mistake to even go this far. I call upon my colleagues, at least I call upon the reasonable people on the other side, I call upon the people who have good faith in the Senate, who believe in the process, who really want to have a fair deal in judicial nominations, who really don't want to have this whole system break down, although it has been called broken by no less than a former Solicitor General, Walter Dellinger, one of the four who basically have said Miguel Estrada is a good man, and who basically has said these documents should never be given to the legislative branch because they are privileged executive documents—Democrats said that. I think it is very important my colleagues, the ones who are clear thinkers on the other side, the ones who really believe in this institution, the ones who really believe in the judicial nominations process, the ones who really can see the future and not just the instant, that they stop this filibuster and give an up-or-down vote, voting whichever way they want, on Miguel Estrada.

Mr. President, I ask unanimous consent that the distinguished Senator from North Dakota, Mr. DORGAN, be permitted to speak, and then immediately following Senator DORGAN, Senator SPECTER from Pennsylvania be recognized to speak.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I hope I perhaps am one of those clear thinkers and "reasonable" people the Senator from Utah was referring to. I suspect there are a good many in this Chamber who are self-proclaimed clear thinkers and reasonable people.

I am not out here as a member of the Judiciary Committee. I do not spend a lot of time on judicial issues, on a point of nomination. And on judicial nominations, I want to work with President Bush.

We have had two Republican nominees for judges in the east and west districts of North Dakota in the last year and a half. I have been pleased to work with President Bush on their nominations. We now have investiture of a Republican judge in the western district of North Dakota, someone I supported—a Republican but someone I strongly supported. He will be a fine Federal judge. I know I am going to be proud of him.

There is a nominee before the Judiciary Committee for the east district in Fargo. I likewise have strong support for that nominee of President Bush. I think he will be a fine Federal judge. He is a Republican. But the fact is he will, I think, make us proud of the Federal bench. I am very pleased to say that the President chose well. He consulted with us. And I was very supportive of the two judges who will now assume the bench in the Federal districts of North Dakota.

So I am not someone who comes to this saying I am a Democrat with respect to this process and the process should be political. That is not the way I come to this.

But I do believe this Congress has a responsibility to advise and consent, and it is not a responsibility to have a huge rubberstamp, where the President sends us a nomination and we say, yes, sir; yes, sir, count us in. That is not the responsibility of advise and consent.

The constitutional responsibility for Congress is equal to the President's. He proposes and we make a judgment on his proposal. He sends us a nomination. We make a judgment.

Now this is not some ordinary decision on the floor of the Senate. This is a lifetime appointment. When we decide to confirm a nominee sent to us by the White House, this is not for 2 years or 5 years or 15 years or 25 years; it is for a lifetime. And we ought to take that seriously. I know most Members of the Senate do. So if we are going to be passing judgment on a nominee who is going to be there for a lifetime, let's know a little about the nominee.

I was proud to support Dan Hovland, who is now the confirmed Federal judge in the west district of North Dakota. President Bush nominated him, and I was proud to support him. But unlike Miguel Estrada, Mr. Hovland cooperated with the Judiciary Committee. He was asked during his confirmation process. "Can you list three Supreme Court cases that you disagree with?" And unlike Mr. Estrada, Mr. Hovland had no difficulty answering that simple question.

Why would one ask a nominee that question? To get a sense of how they think and reason. Mr. Hovland didn't object to that. Judge Hovland readily identified a couple of recent cases—Thompson v. Western States Medical Center, Behrens v. Peltier. He cited a case that most would cite, Korematsu v. the United States, the case in which the Supreme Court affirmed the conviction of a person of Japanese ancestry for the violation of a curfew order solely because of the individual's ancestry. So Mr. Hovelnd was asked a simple question and was happy to give us a glimpse of how he was thinking about things, and how he viewed some of these decisions. He didn't object to answering that question. He was asked a simple question, and he gave a straightforward answer that was helpful to my colleagues and me.

Other nominees have been asked the same kinds of questions. Mr. Estrada, however, has not been willing to answer those questions. He apparently thinks there is some inherent right to be confirmed by the Senate.

There is no inherent right for a confirmation. We have a responsibility to understand who these nominees are and then to pass judgment on them as to whether or not we think they deserve a lifetime appointment to the bench. As I have indicated, on at least two Federal judgeships in North Dakota, I was proud to support Republicans. I think President Bush chose well.

I don't have the information about Mr. Estrada with which to make that judgment. Some say, well, look, you don't need the information, you don't deserve the information, and we don't want you to get the information. So belly up here and vote. If you don't like it, it doesn't matter, just vote.

Really, how would you vote if you don't have basic information? We have sent Mr. Estrada a letter saying you have not answered basic questions; you have not allowed to have released the basic information. Provide all of that and let's have a vote.

I am for that. For me, this isn't about a filibuster. It is about saying we ought to have nominees provide the basic information to Members of the Senate before there is a vote. Mr. Estrada has not done that. It is simple. He hasn't done that. Perhaps when he does it, he will get a big vote in the Senate. I don't know. But I think it is a terrible precedent for the Senate to allow a nominee to say, I am not going to answer your questions; I will show up and give you my name and tell you where I went to school, but I don't intend to talk about much else at all.

Mr. Estrada has never been a judge. We don't have judicial record to examine. We don't have any information about that. That is the reason we have asked him the same kinds of questions we have asked others. The difference is he has not responded. I don't understand that.

Let me also say something else. I have listened to my colleague from Utah, and he is one of the more capable Members of the Senate. He talked about delay and how terrible it was to delay this, that, and the other thing. Let me tell you something. We understand what it feels like to be faced with delay on judicial nominations. We have been on the receiving end of it for a long time. Notwithstanding that fact, I don't believe we ought to delay anybody just for the sake of delay. I think we get the information and we move forward. If we don't get the information requested of a nominee, there is no inherent right for a nominee to go to a vote, to receive a lifetime appointment.

We know a little about facing delay. I find it interesting that those who were the architects of delay for so long now come to the floor—many of them—and say it is terrible what has happened here.

I will give you examples of what has happened. James Beatty was nominated by President Clinton to the Fourth Circuit, rated well qualified by the ABA. He had no hearing and no vote. Do you know how long his nomination languished up here? Three years. Do you suppose he knows a little something about delay?

Robert Cindrich, nominated to the Third Circuit, found well qualified by the ABA; he didn't get a hearing and certainly no vote. Not a hearing and not a vote. He would know something about delay, I guess.

H. Alston Johnson, nominated to the Fifth Circuit by the previous administration, was rated well qualified by the ABA. He never got a hearing or a vote. His nomination was up here 696 days. He never got a hearing, never got a vote.

The question is, Why? It was the previous administration that sent them up, and those who controlled the Judiciary Committee at that point didn't want to provide a hearing or a vote. I suppose that is a filibuster in its effect, isn't it?

James Duffy, a Ninth Circuit Court nominee, was up here for 640 days. Well qualified by the ABA, no hearing, no vote.

The list is fairly lengthy. I shall not go through it all. Kathleen Lewis, nominated by the Sixth Circuit, found well qualified by the ABA; no hearing, no vote.

These are just a few nominations that came from the President, the previous administration. Those on the other side who want to push Mr. Estrada through without our getting the information we have asked of him, those are the same Senators who blocked all of these other nominees. They didn't get to the floor or get a hearing, let alone a vote in the committee. Not even a hearing, for gosh sakes. So we understand a little about facing delay.

Some of these delays, as you know, stretched to 4 full years, with not even a hearing. I find it interesting that people here who talk about delay are those who took nominations from the previous administration and said: They are irrelevant as far as we are concerned. We don't even intend to hold a hearing.

Well, Mr. Estrada got a hearing. I think Mr. Estrada would get a vote on the floor of the Senate, as soon as he provided the information he has been requested to provide. The ranking member of the Judiciary Committee and the minority leader have sent a letter and said here is what he has not provided. It is a lifetime appointment. Provide the information and let us move forward. I think that is what we ought to do.

I am not part of a filibuster. I have only spoken one time previously on the floor about Mr. Estrada. It is not a filibuster, as far as I am concerned.

I just don't think the Senate ought to vote on a nominee for a lifetime appointment to the Federal bench—whether it is a circuit court or any court—if the nominee says: I am sorry, I don't intend to answer your questions.

Here is a question posed to Miguel Estrada: What are several Supreme Court rulings over a good many years with which you disagree, and why?

Is that a reasonable thing to ask somebody who aspires to serve on the Federal bench? I think so, and most other nominees have answered that question. The nominee I was proud to support for the western district judgeship in North Dakota didn't object to that. I thought he answered that question easily and with good judgment, which gave me some comfort about that nominee.

Mr. Estrada won't answer that question. I just don't think there is an inherent right—certainly there is no inherent requirement in the Constitution—that we move forward and cast a vote on a nominee that has not yet provided the information that has been requested of him.

This nomination should not yet be on the floor of the Senate. It ought to be in the Judiciary Committee, and the nominee ought to not have his name brought to the floor until he has satisfied the members of the Judiciary Committee with respect to the information they are requesting. The information they are requesting is not unusual, not extraordinary. It is information that has been requested of others and provided by others. And with respect to this lifetime appointment, my feeling is the country will be best served if we decide as a Senate not to treat lifetime appointments to the Federal bench in a trifling way.

It is a trifling way if we say to people, by the way, if your nomination comes before this Senate, you can just get by with saying: I don't intend to answer your questions. I don't have answers to your questions. We don't need to have that dialogue. You have a responsibility to vote because the President sent the nomination down to the Senate.

Well, as I have described, those who ran the Judiciary Committee during the last administration felt no such obligation. They created a special "jail" for nominees, and nominations went into that jail and the door was locked forever. A good many of them were very well-qualified men and women, and they didn't even get a hearing, let alone a vote. So I don't think we ought to be lectured by anybody about delays and about tactics that somehow injure a nominee.

Plenty of nominees have been derailed unjustifiably, in my judgment. It is not my intention in any way to derail the nomination of Mr. Estrada. It is my intention as one Member of the Senate to insist—yes, to demand—that a nominee who expects a Senate to consider his or her nomination provide the information requested by the Senate.

The minute this nominee complies with the request of the ranking member of the Judiciary Committee, the former chairman of the committee, for information that was requested on behalf of the members of the minority on the committee and on behalf of dozens of Members in the Senate, I think that nomination should be on the floor of the Senate, and we should have a vote. Until then, I do not think we ought to.

I have voted now for, I believe, well over 100 Federal judges submitted to this Senate by President Bush. I believe I have voted against only one. With respect to the two Republicans nominated in North Dakota, I have been a strong supporter. I have spoken in the committee and on the floor in support of their nominations.

I do not think anyone can take a look at me and say I am trying to obstruct anything. I am not. I think I am pretty clear-headed on these matters. But I do not feel an obligation to vote on anybody until we get the information requested of them, especially for a lifetime appointment. That is clear-headed. That is common sense. And the Senate will rue the day it decides it is all right for nominees to come to the Senate and simply say: I am going to stonewall; I do not provide information; I do not answer questions. That will not, and should not, be the rule of the day with respect to considering lifetime appointments.

HYDROGEN ECONOMY AND FUEL CELLS

Mr. President, one of the problems with having the Estrada nomination on the floor for a great length of time is that there are so many other matters we ought to be working on.

President Bush, in his State of the Union speech and his subsequent appearance a week later in Washington, DC, talked about the need to move to a hydrogen economy and fuel cells as a way of extending America's energy independence, making us less dependent on foreign energy. I support this idea, and I would much rather we all discuss that issue on the floor of the Senate, rather than being at parade rest on the Estrada nomination.

We import over one-half of the oil that we use—20 million barrels a day. Here are our top sources of imported oil: No. 1 is Saudi Arabia; Venezuela is No. 4; Iraq is No. 6. These and other of our top suppliers are beset by turmoil.

The fact is, it makes no sense for our economy to be this dependent on foreign sources of energy, and yet we will always be that dependent unless we do something about transportation. Let me describe why, using this chart.

In this country today, the transportation sector is the sector for the great majority of our imported oil. And as one can see, the total demand for oil is increasing. This line is moving steadily upward. As one can see, the transportation demand is what is driving it; that is, putting gasoline through our carburetors. And we have done that for a century. Nothing has changed. With the Model T Ford, they pulled up to a pump and pumped gas. With a 2003 Ford, you pull up to a pump and pump gas. Nothing has changed in almost a century.

If we do not do something about this demand, this line will continue to go up. We will dramatically increase our dependence on foreign oil, and our economy will be held hostage to things we cannot control.

As you can see from this press release that the White House issued, we import 55 percent of our oil, and that is expected to grow to 68 percent by 2025. Nearly all of our cars and trucks run on gasoline. Two-thirds of the 20 million barrels of oil we use each day is used for transportation, and one-third of it comes from a troubled part of the world. Does this make any sense to anybody?

What the President said—and I fully agree—is we ought to move to a hydrogen economy and fuel cells. He proposed a $1.2 billion program, though only $700 million of that is new money. I think that is too timid, not bold enough, but it is definitely a step in the right direction.

What is that right path? The right path, it seems to me, is to see if we can find a way to power America's transportation fleet in a different manner.

There is a new book written by Jeremy Rifkin called "The Hydrogen Economy," that discusses the possibility of using hydrogen as a fuel, to radically transform our economy. The fact is, hydrogen is ubiquitous. Hydrogen is everywhere. It is in water. Electrolysis can separate hydrogen and oxygen from water, and you can use that hydrogen in a fuel cell to power an electric engine, an electric motor, power a vehicle.

When we use hydrogen fuel cells to power a vehicle, we put only water vapor out the tailpipe. What a wonderful thing.

Now the hydrogen has to be obtained using other energy sources, but we can use every source available to us. We can use fossil fuels, coal, natural gas, but also renewable sources, like wind and solar. By using hydrogen as a fuel, we make the most efficient use of every domestically available fuel source, and what comes out of the tailpipe of a fuel cell vehicle is water vapor. Boy, that makes a lot of sense. The quicker we get to that point, the better.

That does not mean abandoning oil, natural gas, and coal for some long while. But if digging and drilling is our only strategy with respect to our future energy supply, then our energy program is something I call yesterday forever, and it is not an energy program that makes this country secure, that does what we need to do to be reasonably independent with respect to energy sources.

When President Bush moves us in this direction, I say absolutely: I am with you; let's do this. I say let's be bolder than he suggests. Let's be less timid. Let's develop an Apollo-type project, a real project, a big project. With the Apollo project, we said we were going to put a man on the Moon at the end of a decade. Let's do an Apollo-type project where we agree that in the next 5, 10, 15 years we are going to convert America's vehicle fleet to hydrogen economy and fuel cells. We can do that. We cannot do that if we are timid, but we can set goals, and commit the necessary resources.

The goal we ought to set for this country is to have a period, whether it is 10, 15, or 20 years out, in which we have a large number of vehicles that are hydrogen vehicles and fuel cell vehicles.

I am going to introduce a piece of legislation that is a robust Apollo-type project, with $6.5 billion invested over 10 years, and with specific goals. I would like 2.5 million vehicles on the roads by the year 2020 that use fuel cells and hydrogen.

Last year when we wrote the energy bill in the Senate, we passed a provision that I authored, which said that we should have 2.5 million fuel-cell vehicles on the road in this country by the year 2020.

The fact is we already have some cars running on fuel cells. We had a demonstration car go from Los Angeles to New York. I have driven demonstration fuel-cell cars.

Mr. SCHUMER. Mr. President, will my colleague yield for a unanimous consent request?

Mr. DORGAN. Certainly, I will yield for a question.

Mr. SCHUMER. I understand, Mr. President, that there has already been a request that Senator SPECTER immediately follow Senator DORGAN. I haven't had a chance to speak in the last few days. I ask unanimous consent that I be allowed to follow Senator SPECTER when he finishes his remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. I thank the Chair.

I thank my colleague. I think what he is doing on these fuel-cell cars is great and the way to the future. I commend him for his bill.

Mr. DORGAN. Mr. President, I began talking about the Estrada nomination, about how we wish we could resolve that, and turn to other important issues.

I think this issue of fuel-cell vehicles and a hydrogen economy is something we will deal with in an energy bill. I visited with Senator DOMENICI, who is now chairman of the Energy Committee, and my colleague Senator BINGAMAN as well, the ranking member, about this issue.

Now, I want to show my colleagues that this fuel cell technology is not pie in the sky. Here is a fuel-cell vehicle—a Ford Focus production-ready prototype introduced in the autumn of 2002. And this is a fuel-cell vehicle at the hydrogen fueling station. PowerTech Laboratories created this infrastructure for fueling, which, of course, you have to have if you are going to have these kinds of vehicles.

This next chart shows a Nissan X-Terra fueled by compressed hydrogen and tested on public roads in California in the year 2001.

Finally, this is the General Motors Hy-Wire Fuel Concept Car unveiled in August 2002.

The fact is we can do this and should do this as a country, but it won't happen unless we make it happen. That is the point of my legislation.

The Director of Environmental Affairs at Daimler Chrysler has said that political support is vital for the car industry to make inroads in fuel cell technology. They can do a lot themselves, but at a certain point they need legislative and financial support to stimulate this important sector. For that, they need the Government. The European Union has already earmarked 2 billion euros for research over the next 5 years. The central focus will be hydrogen fuel cells.

This is a big idea. This is something our country needs to do. It is the equivalent of going to the Moon by the end of the decade, as John F. Kennedy proposed.

President Bush is right to propose an initiative in this area. I was pleased to support him. I was working with him a year ago. We had in the energy bill goals that I had set. I am convinced we will make much more progress this year.

At a recent hearing, I asked officials from the Department of Energy what kind of vision we have for the year 2025 or 2050 about the type of fuel we are going to use in American vehicles. The answer was they didn't have a guess. I said: That is interesting. We project out 25 to 50 years and talk about what kind of financial circumstances will exist for Social Security or Medicare. But we have no such goals with respect to the energy? The answer was: No, we don't really have that kind of planning.

It is long past time to start that kind of planning. This country needs a big idea. The President has proposed an approach that I support. It is something I have worked on for the last couple of years. I think by working together—Republicans and Democrats—we can embrace a big idea and move in a very significant way to improve America's energy future to make our country less dependent—less dangerously dependent—on foreign sources of energy. That is my goal.

It is not my goal to turn my back on coal, oil, and natural gas. The fact is the leaders in this effort in this hydrogen economy and in the move to this hydrogen economy will be many of the utility companies and the energy companies of today.

They are the ones in the forefront—United Technologies, Shell, BP. I could go on and name at great length the companies that are involved in this right now at the front end. They are going to be the leaders.

I just think this is the right thing to do. It is important for our country to establish goals. If ever we needed to think about the fragile nature of this American economy, it is now. With the threat of terrorism, with the problems in the Middle East, and with the potential war against Iraq, we ought to be thinking: do we want to depend for over half of our oil from areas of the world that are troubled areas? If not, let us do something about it, and do it now, and let us do it together.

That is why I am introducing my bill, setting forth $6.5 billion over a 10-year period, so that we will establish and reach ambitious goals, in partnership with the private sector, and with the support, I hope, of the President of the United States. I think we can do this, and I think if we do it, it will be extraordinarily helpful to this country.

THE TRADE DEFICIT

Mr. President, one of the other issues I wanted to come to the floor and talk about is the issue of the trade deficit. I think this is a vitally important issue, and I wish my colleagues and I were debating this at length, rather than continuing to dwell on the Estrada matter.

On Thursday last, the Commerce Department announced that our trade deficit was at a record for the year 2002. Our country's deficit in goods last year was $470 billion. That means we sold $470 billion less to other countries than we purchased from other countries. What does all that mean?

This chart shows that our trade deficit has exploded since 1991, a little over a decade ago—and our merchandise trade deficit is now $470 billion. When the Washington Post reported that on the day it was announced, they finally said, it will put a significant damper on U.S. economic growth. Now, the Washington Post is not in the habit of sounding the alarm about the trade deficit. You cannot get them to print an op-ed on that subject. They have a rosy view of trade, and view everyone who raises these questions as some sort of isolationist xenophobes. But here is the Washington Post, in its report last week, saying that the record deficit will put a significant damper on economic growth. They noted that a combination of increasing imports and falling exports clipped a half of a percentage point off the increase in GDP last year.

The Post further reported that nearly one-fourth of the year's trade deficit was with China, which sold $103 billion more in goods to the United States than we were able to sell there. I will speak about China in a couple of moments, but China is by no means the only country with which we have a trade deficit.

This chart shows we have a trade deficit with nearly every country with whom we do business. One notable exception is Australia, but I think that is going to get remedied because our trade negotiators are now negotiating a free trade agreement with Australia, and our trade negotiators are able to lose almost immediately when they negotiate trade agreements.

Will Rogers once said the United States of America has never lost a war and has never won a conference. He surely must have been talking about our trade negotiators.

So every time we have a new trade agreement, it ends up hurting us and helping those with whom we reach the agreement. I guess we are fixing to do an agreement with Australia so perhaps our positive trade balance with Australia will be gone soon.

This chart, sourced from the Department of Commerce, shows that with virtually every major trading partner we have a very large trade deficit. Our deficit with Canada now is $50 billion; deficits with Mexico, $37 billion. Before our negotiators went to negotiate with Canada and Mexico and created this trade agreement, which I thought was a terrible agreement and sold out certain American interests in exchange for other benefits, we had a reasonably modest trade deficit with Canada and a small trade surplus with Mexico. We have managed to turn that into a huge deficit with Canada and a very large deficit with Mexico.

We have deficits with every major Asian country except Singapore. We have deficits with the major economies of Latin America.

Not only do we have deficits with virtually all of our major trading partners, we also have deficits in about every major sector of goods trade. A $110 billion deficit in vehicle trade—vehicles, mind you—a $47 billion deficit in consumer electronics; a $58 billion deficit in clothing, for example.

Some might say agriculture is a bright spot, isn't it, because we are a net exporter of agricultural goods? But even our modest surplus on agricultural products has now been reduced by 30 percent, just over the last year, from $14.2 billion to $10.9 billion in 2002. Our surplus in meats declined by $1 billion. Our deficit in livestock trade reached $1.5 billion. Our deficit in vegetables and fruits reached $2.5 billion.

I mentioned trade with China. We have a deficit with China of $103 billion.

One innocent sounding sector in which we have a trade deficit with China is toys. We have a trade deficit of $14 billion with China in the area of toys. Now, let me describe a news report that I read last year, about conditions in a Chinese toy factory.

The story is entitled "Worked Till They Drop. Few Protections For China's New Laborers."

> On the night she died, Li Chunmei must have been exhausted. Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the toy factory, carrying toy parts from machine to machine.

This was the busy season before Christmas.

> The factory food was so bad, she said, she felt as if she had not eaten at all. Long hours were mandatory, and at least 2 months had passed since Li and other workers had enjoyed even a Sunday off. "I want to quit," one of her roommates remembered her saying. "I want to go home." Her roommates had fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth.

She died before she could arrive at a hospital. The exact cause of her death remains unknown, they say.

What happened to her last November is described by family and friends and coworkers as an example of what China's more daring newspapers have actually given a name. They call it "guolaosi." The phrase means "overwork death." They actually have a name for it in China. It usually applies to young workers who suddenly collapse and die after working exceedingly long hours day after day.

Think of it. Think of working 16-hour days with no day off, inadequate food, in unsafe factories, working children to death in a country where they do it often enough so there is actually a name for it.

Is this the sort of playing field that our manufacturers should be competing in? With children working long hours, for months on end, for virtually no money?

There is another reason, of course, for our trade deficit with China, and that is our markets are open to virtually all of their products, and their markets are not open to ours. The Washington Times ran an article documenting many of the trade barriers that China puts up to our products, particularly the agricultural products. It quotes the American Farm Bureau, which says the Chinese market is no more open today than it was when China entered the WTO.

At the end of the WTO negotiations, China was a $2 billion market. We expected substantial growth, the Farm Bureau says, but we have not seen that growth because China has not done what it was supposed to do.

Trade barriers are as numerous as they are creative. Import regulations are nearly impossible to figure out. Health inspection standards have changed one month to the next, and it goes on and on.

The bottom line is our agricultural products are not getting into China. China is a country of 1.3 billion people, and they have a $103 billion trade surplus with us, or we a deficit with them. That story in the Washington Times tells us another reason why.

One does not have to travel as far as China to find closed markets for U.S. products. We have a $50 billion trade deficit with Canada. In 2002, for example, our deficit with Canada was $90 million in durum wheat, $160 million in spring wheat. It is pretty easy to calculate that. Do you want to know why? Because our exports to Canada in these areas in wheat are zero. You cannot get it in. I know that personally because I have been on a truck trying to get through the border into Canada with 200 bushels of durum wheat, watching all the Canadian durum ship south on the trip north, and we were stopped at the border.

On February 15 of last year, the USTR found that Canada was guilty of unfair trade, but they said: We will not impose tariff rate quotas. In the absence of tariff rate quotas, one recent study says, U.S. wheat producers lost $124 million in sales in the last crop year.

On April 19, I held a hearing in the Commerce subcommittee I then chaired and talked to agriculture negotiator Ambassador Allen Johnson and said: We need to take action now. I showed him an article in the Bismarck Tribune where the Canadian Wheat Board president was gloating saying USTR had not imposed tariff rate quotas on Canadian wheat. Therefore, they have won. Since the USTR's decision on February 15, last year, enough wheat has come in from Canada to fill 50,000 18-wheel trucks, and the Canadians have not changed their practices at all.

Are farmers upset about that? You are darn right they are. They do not think anybody stands up for them or speaks out for them, and they are sick and tired of it.

We also have a trade deficit with the European Union of $82 billion. One area that is a chronic problem is beef. They will not allow American beef into the European Union. They claim that our beef is made with dangerous growth hormones, even though there is no evidence that such beef is bad for people.

So they have decided that this is what livestock in America looks like: a two-headed cow. Therefore, $100 million in U.S. beef is banned from the EU each year.

Now, we go to the WTO and we get a ruling against the Europeans. What does that mean? Nothing. It does not mean a thing. So then our country takes action against the Europeans. Do you know what we do to the Europeans? We take action against European truffles, goose liver, and Roquefort cheese. Now, my God, that is enough to scare the devil out of any country. Truffles, goose liver, and Roquefort cheese.

Let's talk about Korea. The year 2001, the last year for which I have figures, Korea sent 618,000 automobiles into our country; we were able to get 2,800 cars into Korea. I repeat that because people think that cannot be right. Korea shipped us 618,000 automobiles made in Korea and we were able to get 2,800 U.S. vehicles into the Korean marketplace. Why? Because Korea does not want American vehicles in their marketplace. End of story. We have a $13 billion trade deficit with Korea. If you do not like to talk automobiles, let's talk about potato flakes, the ingredient they use for snack food, and on which they impose a 300-percent tariff.

The list goes on and on. I have not even talked about Japan. We have had a deficit with them forever. It has gone on and on and on. We had a deficit with them when the dollar was strong, when the dollar was weak, when we were growing, when we were in recession, it does not matter.

All of these countries have decided they will use the American marketplace for their benefit and keep American goods out of their marketplace for their benefit. The result is the American consumers pay the price. Some say it is good for consumers that we have all of this trade deficit because this means cheap foreign goods coming in. But our consumers are also people who work. And when you lose your job, which is the result of a trade deficit that is $470 billion, when you lose your job, your time as a consumer is just about over.

One can make a case, I suppose, that the Federal budget deficit is money we owe to ourselves. Some economists make that case. You cannot make that case with respect to the trade deficit. That is money we owe to others outside of this country and will be repaid, inevitably will be repaid, with a lower standard of living someday in this country.

Just once I want our trade negotiators and want this administration and future administrations to stand up for this country's interests. No, not to put a wall around this country. But I would like for this country to believe that its trade policies are in this country's best interests. And they have not been. NAFTA has not been. The United States-Canada FTA was not. The WTO is not.

Just look at the bilateral we did with China—do you know what our negotiators did with China 2 years ago? They sat down, always in secret, and then the door opened, and they trumpeted this new agreement. Do you know what they agreed to with the Chinese? After a phase-in period, we will agree that we will have a tariff on Chinese automobiles that come to the United States that is only one-tenth of the tariff we allow the Chinese to allow on U.S. vehicles that go to China. Our negotiators agreed that we would allow the Chinese to have ten times larger tariffs against U.S. automobiles going to China.

I don't know who agreed to that. I would love to get a name. But these are amorphous groups of people who go over and meet in secret and they lose a trade agreement the minute they sit down with another country.

Harry Truman used to say, I want a one-armed economist because they always say on the one hand this, on the other hand that. I want one economist who supported all the trade agreements we have had to come forward and make a case that this has worked.

It is not working. It is hurting this country. No country will long remain a world power without a strong manufacturing sector. And our manufacturing sector is being sucked out of the middle of this country.

When they talked about NAFTA, with U.S. and Mexican trade, they said U.S.-Mexican trade will all be the product of low-skilled labor coming from Mexico to the United States. That is what we will get from Mexico. Not true. Not true at all. The three largest imports from Mexico, including the maquiladora area, are automobiles, automobile parts, and electronics, the product of high-skilled labor. You can see what is happening in this country as a result of these trade agreements.

Just once I would like to see somebody stand up for this country's producers and its interests. I know a lot of companies that you think of as American companies like these trade agreements. And the chambers of commerce and others that support them support these agreements. Why? Because they are really multinational, international companies. They think this is just fine. Take a jet, fly around the world, look down on the ground and see where you can produce for 14 cents, hire 14-year-olds and work them 14 hours a day. Where can you do that? And then ship the product back to Toledo, Bismarck, Los Angeles, or Denver? Where can you do that? It is about profit, not about strengthening our country. It is about international profit.

I care about this country's long-term economic interests. A $470 billion trade deficit, especially given the circumstances that exist with those with whom we have that deficit—Japan, Europe, Korea, China, Canada, Mexico—shame on us for deciding this is acceptable. It is not acceptable. In the long term it will hurt every child in this country who grows up and experiences a lower standard of living because we did not have the guts to decide we would demand fair trade with other countries.

Fair trade means if we cannot compete, that is our fault. But fair trade insists that the rules be fair. And no American worker and no American company ought to have to compete against someone that wants to hire 14-year-olds and work them 14 hours a day.

You say it does not happen? I will give you names. Of course it happens. It happens all the time, all over the world. No American should have to compete against a company that decided to renounce its citizenship, moved its headquarters on paper to Bermuda to avoid paying U.S. corporate income tax, and then moved its production to yet a third country, somewhere where they can dump chemicals into the water and chemicals into the area and run a factory that is unsafe, where they hire kids. No American should have to compete against that. It is not fair competition, and at some point, in some way, some day, someone will say this is not in our interest.

It is in our interest to encourage expanded trade: that clearly is in our interest. On behalf of those who produce in this country and who work in production in this country, it is in our interest to demand fair trade rules. Globalization has galloped far ahead of the rules of trade and no one is willing to admit it or do anything about it. And it is injuring this country, inevitably injuring this country.

The question is, When will we have a real debate about it? You can put on a blindfold and listen. You can listen to Democratic Presidents and Republican Presidents and you will not hear a bit of difference on international trade. For 20 years, we have had the same mindless mantra about this trade. And when I finish this speech, some will say that I am a protectionist, a xenophobic isolationist protectionist, someone who just does not get it.

Well, I get it. What I get is I have seen the unfairness that is undermining American farmers, American manufacturers, American businesses, and it ought to stop. The only way it will stop is if we have someone, someplace, somewhere who has the guts to stand up and stop it.

We had a vote in this Chamber recently on something called fast track. They called it trade promotion authority, which is just a goofy way of putting some new clothing on a old, bad deal—fast track. I voted against it. I would not give it to President Clinton. I would not give it to President George H.W. Bush. I did not think either of them should have it.

President George W. Bush now has fast-track authority. What does that mean? That trade agreements are being negotiated in secret somewhere around the world, and when they are done negotiating, they will be brought back to this Chamber for a straight up-or-down vote. Fast track means that no one in this Chamber, under any circumstances, at any time, will ever be able to offer an amendment to strike out an offending provision, to strike out something we think inherently injures this country. Nobody will be able to offer the amendment. Why? Because we decided to handcuff ourselves. I have no idea why Members of the Senate think we ought to be doing that. And it is exactly what we have done.

So this, unfortunately, is not going to get better. It is going to get worse, unless enough of us decide in this country that American jobs are important, that yes, globalism is here, but the rules of globalism must keep pace, and we must insist and demand fair trade. We must demand that other countries open their markets in exchange for an admission to the American marketplace. All of these things are conditions that are inherent to the well-being and stability of this country's future.

I am obviously frustrated, from time to time, about trade issues because no one seems to care. There is a sense that there are only two sides: There are the expansionists and the protectionists. That is fundamentally wrong. There are people like me who believe in expanded trade, but believe, on behalf of the things we fought for for a century in this country, that such expanded trade needs to be done with fair rules.

We fought for a century, I would say, for people to have the right to go into a factory that is safe, to have a safe workplace. We fought for a long while about preventing people from dumping chemicals into streams and the air. People lost their lives demonstrating on the streets for the right to be able to collectively bargain.

And now we decide that did not matter much, just skip all that, and pole-vault over it all and move your plant, in fact, renounce your citizenship while you are at it, become a Bermuda paper company so you do not even pay your taxes.

Bermuda has a navy that has 26 people. Maybe the next time a U.S. company that decides to become a Bermuda paper company, and they are in trouble, and someone wants to expropriate their assets, maybe they ought to call on the Bermudan Navy. Maybe that is where they ought to get their protection.

I am going to come back and speak at some greater length on trade. This is such an important issue.

I represent a State that produces agricultural products, for which we must find a foreign home for a sizable portion of it. I am not anti-trade. I very strongly support expanded trade. But I am sick and tired of this country being taken advantage of. I am sick and tired of seeing wheat farmers being injured by bad agreements and by bad practices that you can't stop. And the same is true with the textile workers. And the same is true for those who manufacture aircraft. It just goes on and on. We have a responsibility to stop it.

We should be a world leader and say we support globalization and world trade, providing the rules are fair. The rules are not fair. We ought to say, we, by God, are going to change them. We have to be the leader that changes those rules to make sure we have a fair chance at a world trade regime that is beneficial not just to those with whom we trade, but beneficial to this country as well.

So I will continue this at a later time. I did tell my colleague that I would be finished at about this time. I thank him for his patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to support the confirmation of Miguel Estrada to be a judge for the Court of Appeals for the District of Columbia Circuit.

We are seeing a Democratic filibuster, which essentially constitutes a revolution on the advice and consent process. It is unprecedented. What we are seeing is the culmination of 41 opposition Senators holding the judicial confirmation process hostage.

The advice and consent function has traditionally been structured where the President makes the nomination and, unless there is some reason to oppose, some objection, some basis for opposition, the confirmation follows.

In this situation there is no reason not to confirm Mr. Estrada. He has an extraordinary academic background. Phi Beta Kappa, magna cum laude from Columbia; magna cum laude from Harvard Law School. He was on the Harvard Law Review. He argued 15 cases before the Supreme Court of the United States. He is the member of a distinguished law practice. He has had service as an Assistant Solicitor General. This is a great American success story of a man coming from a very humble background and achieving real success, with real credentials for the court of appeals.

The opponents to Mr. Estrada have contended that he has not answered questions to their satisfaction in the Judiciary Committee hearing. I suggest that a fair reading of the record shows the contrary.

Nominees are not supposed to give their opinions or judgments on hypothetical cases or in matters which may come before the court. The judicial process works so that cases in controversy depend upon the specific facts. Then briefs are submitted to the court. Then there is oral argument before the court. Then the judges deliberate, talk among themselves, reflect on the case, ultimately come to a judgment, write an opinion, and express themselves as to their conclusions.

That is a very different matter from someone being asked: What is your judgment on issue A? What is your judgment on issue B? How would you find on issue C? The judicial process does not function that way.

Traditionally, nominees have been accorded an understanding that they do not have to answer such questions.

It is commonplace for questions to be asked. And I refer now to the confirmation hearings of Merrick Garland, where I asked now-Judge Garland:

> Do you favor, as a personal matter, capital punishment?

Mr. Garland:

> That is really a matter of settled law now. The Court has held that capital punishment is constitutional, and lower courts are required to follow that rule.

There was an extended discussion which followed, but the upshot of the matter was that Mr. Garland—now Judge Garland—did not give his views. And I accepted that. He said that it was a matter of established law, and as a lower court judge he would be obliged to follow the law.

There was a very controversial nominee, now Judge Marsha Berzon. She was asked about her view on Roe v. Wade and her thoughts about the abortion issue. And Marsha Berzon responded:

> I'm bound by Casey in that regard.

That is referring to the case of Casey v. Planned Parenthood. And Marsha Berzon was a nominee by President Clinton, as was Judge Garland a nominee by President Clinton.

When the shoe was on the other foot, these nominees did not give answers to these questions, but responded in the traditional way. And they were confirmed.

Judge Rogers was questioned by Senator Cohen and asked about constitutional interpretation, where Senator Bill Cohen said:

> This is an evolutionary interpretation of what was originally defined at least in the Constitution. Would you agree with that general statement?

Judge Rogers responded, "My job as an appellate judge is to apply precedent."

And so it goes with the tradition being established that nominees do not answer specific questions.

Mr. Estrada has agreed to make himself available to talk to any Senator who wishes to talk to him and to respond to inquiries and to have a discussion as to his judicial qualifications and answer questions consistent with appropriate practice. I think that is sufficient, certainly in the context where Mr. Estrada has already had his hearing by the Judiciary Committee and has been reported out.

There has been an effort to obtain the legal papers of Miguel Estrada when he worked as an Assistant Solicitor General. I say with all due respect that that kind of contention is a red herring. Seven former Solicitors General wrote to the then chairman of the Judiciary Committee, Senator LEAHY, outlining this issue in a succinct way. Reading the letter would express it as briefly as it can be expressed. Solicitors General Seth Waxman, a Democrat, Walter Dellinger, a Democrat, Drew Days, a Democrat, Kenneth Starr, a Republican, Charles Fried, a Republican, Robert H. Bork, a Republican, Archibald Cox, a Democrat—a four to three balance for Democrats—wrote as follows:

> We write to express our concern about your recent request that the Department of Justice turn over "appeal recommendations, certiorari recommendations and amicus recommendations" that Miguel Estrada worked on while in the Office of Solicitor General. As former heads of the Office of Solicitor General, we can attest to the vital importance of candor and confidentiality in the Solicitor General's decision-making process. The Solicitor General is charged with weighing responsibility, of deciding whether to appeal adverse decisions in cases where the United States is a party, whether to seek Supreme Court review of adverse appellate decisions, and whether to participate as amicus curiae and other high-profile cases that implicate an important Federal interest. The Solicitor General has the responsibility of representing the interests not just of the Justice Department nor just of the executive branch but of the entire Federal Government, including Congress. It goes without saying that when we make these and other critical decisions we rely on frank, honest, and thorough advice from our staff attorneys, such as Mr. Estrada. Our decision-making process requires the unbridled, open exchange of ideas, and exchange simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all but vulnerable to public disclosures. Attorneys inevitably will hesitate before giving their honest, independent analysis if their opinions are not safeguarded from future disclosures. High-level decisionmaking requires candor, and candor in turn requires confidentiality. Any attempt to intrude into the office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the U.S. litigation interests, a cost that would also be borne by Congress itself. Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the Federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process.

It is signed by four former Democratic Solicitors General for Democratic Presidents who were Democrats, and three former Solicitors General who served in that capacity for Republican Presidents.

What is really happening here is that the advise and consent function is being turned into an advise and dissent function. Beyond the qualifications of Mr. Estrada to be on the Court of Appeals for the District of Columbia Circuit, this is obviously a preliminary battle for the next nominee to the Supreme Court of the United States.

I emphasize the issue of the unprecedented nature of this challenge and this procedure where 41 Senators can hold the confirmation process hostage. In order to cut off debate—to get what we call cloture—60 votes are required. So as long as 41 Senators of the opposition party vote against cloture, the nomination process cannot go forward, and there cannot be an up-or-down vote on a nominee.

It has been said many times that if the opponents of Mr. Estrada seek to vote him down, let them do so. But it is plain that there are more than 51 Senators who are ready to vote to confirm Miguel Estrada. It is reported that some 55 Senators are prepared to vote for cloture. If this process goes on long enough, I think it is true that 60 votes would be obtained, cloture would be invoked, debate would be cut off, and there would be a vote on Miguel Estrada and he would be confirmed.

But this lengthy process comes at the expense of very important other business of the Senate. The minority leader appeared in the Chamber earlier this week and asked to proceed to a discussion of the economy, which is a very important subject. That was obviously a tactic to make a point of trying to get off of Estrada and going to something else. But we should conclude Estrada not by way of removing the nomination from the floor but by way of voting on Miguel Estrada and then moving on to other very important items.

There are very important issues which this Senate has to consider—an economic stimulus package, the prospects of a war in Iraq, and the issue of terrorism, which I am going to speak about in a few minutes. But right now, there is a stranglehold on the Senate with both sides having dug in.

I will concede that when President Clinton was in the White House and we Republicans controlled the Senate that we did not give due deference to Presidential nominees. The record is also plain that I was willing to and did support Democratic nominees who were qualified. Other Republicans did as well. When we had a majority in the Judiciary Committee, we voted out nominees who were Democrats.

It is my hope that one day we will find a resolution to this issue by establishing a protocol where the practice is established that so many days after a nomination is submitted there is a hearing in the Judiciary Committee; some days later, there is a vote by the committee; so many days after that, there is a floor debate and a vote by the Senate could be extended.

On the most controversial nomination we have had during my tenure, the nomination of Justice Clarence Thomas, which was decided on the 52-to-48 vote with a lot of acrimonious debate remembered well in this Chamber although it was back in October of 1991, the opposition party did not resort to a filibuster. In 1991, the Senate was controlled by the Democrats. They had a majority of the Senators. Justice Thomas was confirmed 52 to 48 in a very hotly contested, very partisan, very controversial nomination.

Now to move to Miguel Estrada to be on the lower court, the District of Columbia Circuit Court, and with a matter of his qualifications, is sending the confirmation process into turmoil from which it may never recover, or if it does recover it is going to be a very long time. The fallout on this issue goes beyond the nomination process but to the essence of collegiality and the workings of the Senate, which is very much to the detriment of this body and very much to the detriment of the American people whom we are supposed to serve.

It is my hope that we yet might be able to come to some accommodation—not on Miguel Estrada but on the broader issues where we can have a protocol and establish a procedure that is not partisan, not political.

We ought to take the judicial nominating process out of politics so that when you have a Republican President and a Senate controlled by the Democrats, or a President who is a Democrat with a Senate controlled by the Republicans, we do not get into a logjam. And now we have a President who is a Republican and a Senate controlled by the Republicans, but as long as there are 41 who will stand up and oppose and filibuster, then the entire process breaks down.

TERRORISM

Mr. President, I intend to talk on another subject. I have gotten the acquiescence of the chairman of the committee, Senator HATCH. This is not about the Estrada nomination that we are generally talking about, although Senators have talked about other subjects. The subject I am now going to discuss is a matter of great national importance. It relates to a report that was issued yesterday by Senator LEAHY, Senator GRASSLEY, and myself. It is in reference to the issue of terrorism.

The Judiciary Committee is scheduled to have a hearing next Tuesday, and there are matters that require discussion so that we are in a position to get responses from the Director of the FBI and move ahead with the Judiciary Committee hearings scheduled, as I said, for next Tuesday.

Yesterday, as a matter of senatorial oversight, Senator LEAHY, Senator GRASSLEY, and I released a 37-page report that deals with the issue of the FBI's activities under the Foreign Intelligence Surveillance Act ("FISA") and the ability of the Federal Bureau of Investigation and the Department of Justice to handle counterterrorism. The report can be found on my office's internet website at specter.senate.gov.

It is my view that there is a critical issue of the FBI's competence to handle terrorism, in light of the clear-cut failures of the FBI prior to 9/11, and the FBI's failure to answer important questions about what the FBI has done to correct the current failures.

The report we released yesterday refers to the FBI's handling of the famous Phoenix memorandum, where there was a suspicious person who was taking flight training in the Phoenix area, and he had a big picture of Osama bin Laden on his wall. A detailed FBI report was submitted to Washington and was lost in the shuffle at FBI headquarters.

At pages 31–32 of the report that we filed yesterday, there is a reference to the Phoenix memo. Had it been forwarded to the right personnel and understood at FBI headquarters, the Foreign Intelligence Surveillance Act request in the Moussaoui case from the Justice Department's Office of Intelligence Policy and Review would have been handled in a different manner. With that Phoenix report, coupled with the information from Zacarias Moussaoui's computer, and coupled with other information, 9/11 might well have been prevented.

There was information in the hands of the Central Intelligence Agency about individuals in Kuala Lumpur, Malaysia, who later turned out to be among the hijackers on 9/11—information that was not turned over to the Immigration and Naturalization Service. Had it been turned over, those individuals would have been kept out of the United States and would not have been hijackers on 9/11.

There had been information as early as 1996 from a Pakistani named Abdul Hakim Murad, an al-Qaida member, who had plans to fly an airplane into the White House or CIA headquarters.

Had the information on Zacarias Moussaoui been properly handled, it could have led to a FISA search authorization for Moussaoui's computer and the information contained on that computer, and might well have prevented 9/11.

The Zacarias Moussaoui case received national prominence when a conscientious FBI agent named Coleen Rowley wrote a 13-page, single-spaced letter to the FBI Director, which the Judiciary Committee ultimately saw and was the subject of a very important Judiciary Committee hearing last June 6. FBI Agent Rowley was honored on the cover of Time Magazine as one of the persons of the year—three so-called whistleblowers, which is a categorization that doesn't sound too complimentary on its face, but it is very important when somebody knows what is going on within the Government that is wrong and has the courage to stand up and expose it and subject himself or herself to retaliation.

But in the course of what Agent Rowley wrote to FBI Director Mueller, it was apparent the FBI was applying the wrong standard for a warrant under the Foreign Intelligence Surveillance Act.

The letter from Agent Rowley pointed out that they were being held to a standard of preponderance of the evidence—meaning more likely or more probable than not—meaning 51 percent or more. In the course of that hearing, I raised with Director Mueller and with Agent Rowley the case of Illinois v. Gates, 462 U.S. 213, 1983, which appears at pages 23–24 of the report that Senators LEAHY, GRASSLEY, and I released yesterday, which defined probable cause as "circumstances which warrant suspicion" under the "totality of the circumstances analysis."

This case was decided in 1983 and it referred back to an opinion of Chief Justice Marshall in 1813. So this had been the law for a long time. But at the hearing, Agent Rowley testified that was not the standard that was used, and there is a real question which has yet to be answered as to whether FBI Director Mueller knew what the right standard was.

In light of the fact that a warrant was not obtained under the Foreign Intelligence Surveillance Act, Moussaoui, a key participant in the 9/11 planning, developed into a burgeoning, very major case in the United States in the intervening months. We then proceeded to have a closed-door session, where we brought in attorneys and personnel from the FBI who were in charge of handling warrants under the Foreign Intelligence Surveillance Act. This appears at page 27.

My questioning:

> What is the legal standard for probable cause for a warrant?

FBI attorney:

> A reasonable belief that the facts you are trying to prove are accurate.

Question by me:

> Reason to believe?

Answer by the attorney:

> Reasonable belief.

Question by me:

> Reasonable belief?

Answer by the attorney:

> More probable than not.

My question:

> More probable than not?

Mr. President, that is not the standard. The standard is suspicion under the totality of the circumstances. Here is the key attorney who is supposed to pass on applications for warrants under the Foreign Intelligence Surveillance Act, and he doesn't know the standard.

My question was:

> Are you familiar with Gates v. Illinois?

Answer:

> No, sir.

He doesn't know the baseline case for deciding what the standard is for probable cause, and he is the man who is supposed to approve warrants under the Foreign Intelligence Surveillance Act so that we can find out what men like Zacarias Moussaoui are doing and protect the American people.

I was absolutely astounded at what I heard. I was astounded because the June 6 hearings, more than a month before we had this closed-door session on July 9, were widely publicized. They were on C–SPAN. Maybe nobody watches C–SPAN. Maybe nobody is watching C–SPAN now. Maybe nobody ever watches C–SPAN. But beyond being publicized on C–SPAN, there was extensive newspaper coverage about it. One would have expected that the agents who deal with the Foreign Intelligence Surveillance Act would be looking at a hearing which was squarely on their subject. Or one would also expect that the Director of the FBI, who was at the hearing, and found that key FBI personnel had applied the wrong standard in the Zacarias Moussaoui case—causing them not to apply for a search warrant—that the FBI Director would take specific steps to see to it that the people in charge of handling those warrant applications would have known what was going on.

From June 6 to July 9 is 33 days. The world could turn in 33 days. People could be doing highly suspicious things, people could be planning terrorist attacks, and no action was taken by the Director of the FBI to see to it that the people who were charged with the responsibility of applying for these warrants did so.

The very next day, I wrote to the Director of the FBI:

> Dear Bob, In a hearing before the Judiciary Committee on June 6 . . . I called your attention to the standard on probable cause in the opinion of then-Associate Justice Rehnquist in Illinois v. Gates. . . .

I go through the business about suspicion and totality of the circumstances. My letter continues:

> In a closed door hearing yesterday, seven FBI personnel handling FISA warrant applications were questioned, including four attorneys.
>
> A fair summary of their testimony demonstrated that no one was familiar with Justice Rehnquist's definition from Gates and no one articulated an accurate standard for probable cause.
>
> I would have thought that the FBI personnel handling FISA applications would have noted this issue from the June 6th hearing: or, in the alternative, that you or other supervisory personnel would have called it to their attention.
>
> It is obvious that these applications, which are frequently made, are of the utmost importance to our national security and your personnel should not be applying such a high standard that precludes submission of FISA applications to the Foreign Intelligence Surveillance Court.
>
> I believe the Judiciary Committee will have more to say on this subject but I wanted to call this to your attention immediately so that you could personally take appropriate corrective action.

Days followed, weeks followed, and no response from Director Mueller.

Then on September 10, I again raised these issues with a representative of the Department of Justice who appeared before the Judiciary Committee. On September 12, I received an undated letter signed by the Assistant Director for the Office of Public and Congressional Affairs. It is very unusual to get undated letters. The representation has been made that the letter was sent on July 25, but it was received in my office on September 12.

Mr. President, I ask unanimous consent that my letter to Director Mueller dated July 10 and the undated response from John E. Collingwood be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Mr. SCHUMER. Reserving the right to object—and I am not going to object—I want to get a time line. My friend has important things to say. How much longer does my colleague from Pennsylvania—if he will yield for a question—expect to hold the floor?

Mr. SPECTER. I will not say regular order, but there is no basis for the inquiry, but I will respond. I expect to be about 15 minutes more.

Mr. SCHUMER. I thank my colleague. I am trying to work out our schedule. I have no objection, of course. I am very interested in what my colleague has to say.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, the FBI then put out a memorandum dated September 16. That was in response to my questioning the Department of Justice representative at the Judiciary Committee hearings on September 10. Again, Mr. President, I ask unanimous consent that this memorandum be printed in the CONGRESSIONAL RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. Mr. President, I will not read the memo or analyze it in detail, but I invite readers of the CONGRESSIONAL RECORD to do so. This is a virtually unintelligible memorandum, if agents are supposed to read this and know what to do about applications for warrants under the Foreign Intelligence Surveillance Act.

In paragraph 3, it talks about "which deal with probabilities." It makes a reference to "it requires more than unfounded suspicion," but it is not probabilities that involve the standards, it is suspicion. Obviously, not unfounded suspicion, but suspicion based on a totality of the circumstances.

At that stage, I again wrote to Director Mueller noting the questions which I had propounded to him and Special Agent Coleen Rowley on June 6 and the July 10 letter which I wrote to him which had still not been answered. This undated letter from John E. Collingwood provides no answer at all. I will not read it in detail, but it will be in the RECORD.

The closest the letter from John E. Collingwood, the Assistant Director for the Office of Public and Congressional Affairs, comes is:

> This guidance will also address the concerns raised in your letter in your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation.

That is as close as they come to an answer which, obviously, on its face is no answer at all.

So I again wrote Director Mueller on September 24, 2002. I referenced the July 10 letter, and I referenced the fact that on September 12, my office received an undated letter from Assistant Director Collingwood which was totally unresponsive. I referenced the September 16 FBI memo, and concluded by saying I would like an explanation from him as to why it took the FBI so long to disseminate information on the standard for probable cause under Illinois v. Gates for a Foreign Intelligence Surveillance Act warrant. As yet, I have not received an answer from FBI Director Mueller to that important question as to why it took so long.

Then I supplemented that letter on October 1, inquiring what were the specifics on the standard of probable cause used by the FBI for warrants under the Foreign Intelligence Surveillance Act from June 6, the date of our Judiciary Committee hearing, until September 16, when the memorandum went out. As yet, I have not gotten an answer to that letter.

I ask unanimous consent that both of those letters be printed at the conclusion of my remarks.

In the sequence of events, we next sent over to the FBI the report which we issued yesterday to give them an opportunity to review it and an opportunity to make comments. Finally, last Friday, February 21, 2003, we received another letter dated February 20 from the Department of Justice which referenced the outstanding questions—not sent to me, the person who had raised the questions, but sent to Senator HATCH, with a copy to me—and ending with the statement of what standard had been applied. The letter is signed by Acting Assistant Attorney General Jamie E. Brown:

> The standard they employed was consistent with "Illinois v. Gates" both before and after they received the memorandum.

That is patently false. The standard which had been employed before the memorandum was more probable than not, 51 percent, as testified by Special Agent Coleen Rowley, and it is undetermined as to what standard was used thereafter.

The issues under the Foreign Intelligence Surveillance Act have been raised in other oversight hearings relating to Wen Ho Lee, when the Department of Justice, on a matter handled by Attorney General Janet Reno personally, declined to request a warrant under the Foreign Intelligence Surveillance Act where there was ample probable cause, a matter which was reviewed in depth by the subcommittee which I chaired on Department of Justice oversight.

The Attorney General designated Assistant U.S. Attorney Randy Bellows to review the Wen Ho Lee case. Mister Bellows filed an extensive report on May 12, 2000, saying that Attorney General Reno was wrong and the subcommittee of the Judiciary Committee was correct that a warrant should have been issued.

Just in the last few weeks, an indictment has been returned, charging Mr. Sami Al-Arian for gathering funds for terrorist organizations since the early 1990s, an indictment based on extensive evidence collected pursuant to the Foreign Intelligence Surveillance Act, raising a real question as to the interpretation by the FBI and the Department of Justice of the Foreign Intelligence Surveillance Act, going back to Wen Ho Lee, going back to the 1990s, and surviving up until very recently, when they failed to utilize the provisions of the Foreign Intelligence Surveillance Act for criminal prosecutions.

Prior to the enactment of the PATRIOT Act in the fall of 2001, the standard for Foreign Intelligence Surveillance Act surveillance had been interpreted by the courts to be that the primary purpose for the surveillance had to be for intelligence gathering, but saying "primary purpose" left latitude for some law enforcement purpose.

Then the PATRIOT Act amended the Foreign Intelligence Surveillance Act standards to say "significant purpose," broadening to some extent the issue of using Foreign Intelligence Surveillance Act warrants for law enforcement purposes. So in that substance, there is a persistent question as to the activities of the Department of Justice in implementing the Foreign Intelligence Surveillance Act, passed in 1978, at a time when gathering information and evidence against terrorists is of the utmost importance for the security of the American people.

In our oversight hearing which we conducted last July 9, and in subsequent hearings and correspondence, we asked the Department of Justice for an opinion written by the Foreign Intelligence Surveillance Court, which the Department of Justice declined to give us. We finally had to get it from the court itself. In that matter, the Foreign Intelligence Surveillance Court criticized the Department of Justice and the FBI for some 75 cases where, as the court put it, the applications for search warrants had contained substantial inaccuracies. Then there was an appeal taken, the first such appeal, where the Court of Appeals for the Foreign Intelligence Surveillance Act found that there was broader discretion for law enforcement, which was very important in the war against terrorism.

All of this is very complicated, and I have gone to some length to put this into the RECORD.

I ask unanimous consent, on behalf of Senator LEAHY, Senator GRASSLEY, and myself, that the full text of the report issued yesterday be printed in the RECORD. As I noted earlier, the report can also be found on my office's website at specter.senate.gov.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERIM REPORT ON FBI OVERSIGHT: FISA IMPLEMENTATION FAILURES

I. EXECUTIVE SUMMARY AND CONCLUSIONS

Working in a bipartisan manner in the 107th Congress, the Senate Judiciary Committee conducted the first comprehensive oversight of the FBI in nearly two decades. That oversight was aimed not at tearing down the FBI but at identifying any problem areas as a necessary first step to finding constructive solutions and marshaling the attention and resources to implement improvements. The overarching goal of this oversight was to restore confidence in the FBI and make the FBI as strong and as great as it must be to fulfill this agency's multiple and critical missions of protecting the United States against crime, international terrorism, and foreign clandestine intelligence activity, within constitutional and statutory boundaries.

Shortly after the Committee initiated oversight hearings and had confirmed the new Director of the FBI, the Nation suffered the terrorist attacks of September 11, 2001, the most serious attacks on these shores since Pearl Harbor. While it is impossible to say what could have been done to stop these attacks from occurring, it is certainly possible in hindsight to say that the FBI, and therefore the Nation, would have benefitted from earlier close scrutiny by this Committee of the problems the agency faced, particularly as those problems affected the Foreign Intelligence Surveillance Act ("FISA") process. Such oversight might have led to corrective actions, as that is an important purpose of oversight.

In the immediate aftermath of the attacks, the Congress and, in particular, the Senate Judiciary Committee responded to demands by the Department of Justice (DOJ) and the FBI for greater powers to meet the security challenges posed by international terrorism. We worked together to craft the USA PATRIOT Act to provide such powers. With those enhanced powers comes an increased potential for abuse and the necessity of enhanced congressional oversight.

Our oversight has been multi-faceted. We have held public hearings, conducted informal briefings, convened closed hearings on matters of a classified nature, and posed written questions in letters in connection with hearings to the DOJ and FBI. Although our oversight has focused primarily on the FBI, the Attorney General and the DOJ have ultimate responsibility for the performance of the FBI. Without both accountability and support on the part of the Attorney General and senior officials of the DOJ, the FBI cannot make necessary improvements or garner the resources to implement reforms.

At times, the DOJ and FBI have been cooperative in our oversight efforts. Unfortunately, however, at times the DOJ and FBI have either delayed answering or refused to answer fully legitimate oversight questions. Such reticence only further underscores the need for continued aggressive congressional oversight. Our constitutional system of checks and balances and our vital national security concerns demand no less. In the future, we urge the DOJ and FBI to embrace, rather than resist, the healthy scrutiny that legitimate congressional oversight brings.

One particular focus of our oversight efforts has been the Foreign Intelligence Surveillance Act (FISA). This report is focused on our FISA oversight for three reasons. First, the FISA is the law governing the exercise of the DOJ's and FBI's surveillance powers inside the United States to collect foreign intelligence information in the fight against terrorism and, as such, is vitally important to our national security. Second, the concerns revealed by our FISA oversight highlight the more systemic problems facing the FBI and the importance of close congressional oversight and scrutiny in helping to provide the resources and attention to correct such problems before they worsen. Third, members of this Committee led the effort to amend key provisions of the FISA in the USA PATRIOT Act, and the sunset or termination of those amendments in four years makes it imperative that the Committee carefully monitor how the FISA changes are being implemented.

This report is in no way intended to be a comprehensive study of what did, or did not, "go wrong" before the 9/11 attacks. That important work was commenced by the Joint Intelligence Committee in the 107th Congress and will be continued by the National Commission on Terrorist Attacks (the "9/11 Commission") established by an act of Congress at the end of the last session. The focus of this report is different than these other important inquiries. We have not attempted to analyze each and every piece of intelligence or the performance of each and every member of the Intelligence Community prior to the 9/11 attacks. Nor have we limited our inquiry to matters relating only to the 9/11 attacks. Rather, we have attempted, based upon an array of oversight activities related to the performance of the FBI over an extended period of time, to highlight broader and more systemic problems within the DOJ and FBI and to ascertain whether these systemic shortcomings played a role in the implementation of the FISA prior to the 9/11 attacks.

The FISA provides a statutory framework for electronic and other forms of surveillance in the context of foreign intelligence gathering. These types of investigations give rise to a tension between the government's legitimate national security interests, on the one hand, and, on the other hand, constitutional safeguards against unreasonable government searches and seizures and excessive government intrusion into the exercise of free speech, associational, and privacy rights. Congress, through legislation, has sought to strike a delicate balance between national security and constitutionally protected interests in this sensitive arena.

The oversight review this Committee has conducted during the 107th Congress has uncovered a number of problems in the FISA process: a misunderstanding of the rules governing the application procedure, varying interpretations of the law among key participants, and a break-down of communication among all those involved in the FISA application process. Most disturbing is the lack of accountability that has permeated the entire application procedure.

Our FISA oversight—especially oversight dealing with the time leading up to the 9/11 attacks—has reinforced the conclusion that the FBI must improve in the most basic aspects of its operations. Following is a list of our most important conclusions:

FBI Headquarters did not properly support the efforts of its field offices in foreign intelligence matters. The role of FBI Headquarters in national security investigations is to "add value" in two ways: by applying legal and practical expertise in the processing of FISA surveillance applications and by integrating relevant information from all available intelligence sources to evaluate the significance of particular information and to supplement information from the field. In short, Headquarters' role is to know the law and "connect the dots" from multiple sources both inside and outside the FBI. The FBI failed in this role before the 9/11 attacks. In fact, the bureaucratic hurdles erected by Headquarters (and DOJ) not only hindered investigations but contributed to inaccurate information being presented to the FISA Court, eroding the trust in the FBI of the special court that is key to the government's enforcement efforts in national security investigations.

Key FBI agents and officials were inadequately trained in important aspects of not only FISA, but also fundamental aspects of criminal law.

In the time leading up to the 9/11 attacks, the FBI and DOJ had not devoted sufficient resources to implementing the FISA, so that long delays both crippled enforcement efforts and demoralized line agents.

The secrecy of individual FISA cases is certainly necessary, but this secrecy has been extended to the most basic legal and procedural aspects of the FISA, which should not be secret. This unnecessary secrecy contributed to the deficiencies that have hamstrung the implementation of the FISA. Much more information, including all unclassified opinions and operating rules of the FISA Court and Court of Review, should be made public and/or provided to the Congress.

The FBI's failure to analyze and disseminate properly the intelligence data in the agency's possession rendered useless important work of some of its best field agents. In short, the FBI did not know what it knew. While we are encouraged by the steps commenced by Director Mueller to address this problem, there is more work to be done.

The FBI's information technology was, and remains, inadequate to meet the challenges facing the FBI, and FBI personnel are not adequately trained to use the technology that they do possess. We appreciate that Director Mueller is trying to address this endemic problem, but past performance indicates that close congressional scrutiny is necessary to ensure that improvements continue to be made swiftly and effectively.

A deep-rooted culture of ignoring problems and discouraging employees from criticizing the FBI contributes to the FBI's repetition of its past mistakes in the foreign intelligence field. There has been little or no progress at the FBI in addressing this culture.

It is important to note that our oversight and conclusions in no way reflect on the fine and important work being done by the vast majority of line agents in the FBI. We want to commend the hard-working special agents and supervisory agents in the Phoenix and Minneapolis field offices for their dedication, professionalism, and initiative in serving the American people in the finest traditions of the FBI and law enforcement. Indeed, one of our most basic conclusions, both with respect to FISA and the FBI generally, is that institutional and management flaws prevent the FBI's field agents from operating to their full potential.

Although the DOJ and FBI have acknowledged shortcomings in some of these areas and begun efforts to reform, we cannot stress strongly enough the urgency of this situation. The pace of improvement and reform must quicken.

We are issuing this interim public report now so that this information is available to the American people and Members of Congress as we evaluate the implementation of the USA PATRIOT Act amendments to the FISA and additional pending legislation, including the FBI Reform Act. We also note that many of the same concerns set forth in this report have already led to legislative reforms. Included in these was the bipartisan proposal, first made in the Senate, to establish a cabinet level Department of Homeland Security, a proposal that is already a legislative reality. Our oversight also helped us to craft and pass, for the first time in 20 years, the 21st Century Department of Justice Appropriations Authorization Act, P.L. 107–296, designed to support important reforms at the Department of Justice and the FBI. In addition, concerns raised by this Committee about the need for training on basic legal concepts, such as probable cause, spurred the FBI to issue an electronic communication on September 16, 2002, from the FBI's Office of the General Counsel to all field offices explaining this critical legal standard.

Additionally, this report may assist the senior leadership of the DOJ and FBI, and other persons responsible for ensuring that FISA is used properly in defending against international terrorists.

II. OVERVIEW OF FBI OVERSIGHT IN THE 107TH CONGRESS

A. The Purposes of FBI Oversight: Enhancing Both Security and Liberty

Beginning in the summer of 2001 and continuing through the remainder of the 107th Congress, the Senate Judiciary Committee conducted intensive, bipartisan oversight of the FBI. The purpose of this comprehensive oversight effort was to reverse the trend of the prior decades, during which the FBI operated with only sporadic congressional oversight focused on its handling of specific incidents, such as the standoffs at Ruby Ridge, Idaho, or Waco, Texas, and the handling of the Peter Lee and Wen Ho Lee espionage cases. It was the view of both Democrats and Republicans on the Judiciary Committee that the FBI would benefit from a more hands-on approach and that congressional oversight would help identify problems within the FBI as a first step to ensuring that appropriate resources and attention were focused on constructive solutions. In short, the goal of this oversight was to ensure that the FBI would perform at its full potential. Strong and bipartisan oversight, while at times potentially embarrassing to any law enforcement agency, strengthens an agency in the long run. It helps inform the crafting of legislation to improve an agency's performance, and it casts light on both successes and problems in order to spur agencies to institute administrative reforms of their own accord. In short, the primary goal of FBI oversight is to help the FBI be as great and effective as it can be.

So, too, is oversight important in order to protect the basic liberties upon which our country is founded. Past oversight efforts, such as the Church Committee in the 1970s, have exposed abuses by law enforcement agencies such as the FBI. It is no coincidence that these abuses have come after extended periods when the public and the Congress did not diligently monitor the FBI's activities. Even when agencies such as the FBI operate with the best of intentions (such as protecting our nation from foreign threats such as Communism in the 1950s and 1960s and fighting terrorism now), if left unchecked, the immense power wielded by such government agencies can lead them astray. Public scrutiny and debate regarding the actions of government agencies as powerful as the DOJ and the FBI are critical to explaining actions to the citizens to whom these agencies are ultimately accountable. In this way, congressional oversight plays a critical role in our democracy.

The importance of the dual goals of congressional oversight—improving FBI performance and protecting liberty—have been driven home since the 9/11 attacks. Even prior to the terrorist attacks, the Judiciary Committee had begun oversight and held hearings that had exposed several longstanding problems at the FBI, such as the double standard in discipline between line agents and senior executive officials. The 9/11 attacks on our country have forever redefined the stakes riding upon the FBI's success in fulfilling its mission to fight terrorism. It is no luxury that the FBI perform at its peak level—it is now a necessity.

At the same time, the increased powers granted to the FBI and other law enforcement agencies after the 9/11 attacks, in the USA PATRIOT Act, which Members of this Committee helped to craft, and through the actions of the Attorney General and the President, have made it more important than ever that Congress fulfills its role in protecting the liberty of our nation. Everyone would agree that winning the war on terrorism would be a hollow victory indeed if it came only at the cost of the very liberties we are fighting to preserve. By carefully overseeing the DOJ's and FBI's use of its broad powers, Congress can help to ensure that the false choice between fundamental liberty and basic security is one that our government never takes upon itself to make. For these reasons, in the post-9/11 world, FBI oversight has been, and will continue to be, more important than ever.

B. Judiciary Committee FBI Oversight Activities in the 107th Congress

1. Full Committee FBI Oversight Hearings

Beginning in July 2001, after Senator Leahy became chairman, the Senate Judiciary Committee held hearings that focused on certain longstanding and systemic problems at the FBI. These included hearings concerning: (1) the FBI's antiquated computer systems and its belated upgrade program; (2) the FBI's "circle the wagons" mentality, wherein those who report flaws in the FBI are punished for their frankness; and (3) the FBI's flawed internal disciplinary procedures and "double standard" in discipline, in which line FBI agents can be seriously punished for the same misconduct that only earns senior FBI executives a slap on the wrist. Such flaws were exemplified by the disciplinary actions taken (and not taken) by the FBI and DOJ after the incidents at Waco, Texas, and Ruby Ridge, Idaho, and the apparent adverse career effects experienced by FBI agents participating in those investigations who answered the duty call to police their own.

The Committee's pre-9/11 FBI oversight efforts culminated with the confirmation hearings of the new FBI Director, Robert S. Mueller, III. Beginning on July 30, 2001, the Committee held two days of extensive hearings on Director Mueller's confirmation and closely questioned Director Mueller about the need to correct the information technology and other problems within the FBI. In conducting these hearings, Committee Members understood the critical role of the FBI Director in protecting our country from criminal, terrorist, and clandestine intelligence activities and recognized the many challenges facing the new Director.

Director Mueller was questioned very closely on the issue of congressional oversight, engaging in four rounds of questioning over two days. In response to one of Senator Specter's early questions, Director Mueller stated "I understand, firmly believe in the right and the power of Congress to engage in its oversight function. It is not only a right, but it is a duty."

In response to a later question, Director Mueller stated:

"I absolutely agree that Congress is entitled to oversight of the ongoing responsibilities of the FBI and the Department of Justice. You mentioned at the outset the problems that you have had over a period of getting documents in ongoing investigations. And as I stated before and I'll state again, I think it is incumbent upon the FBI and the Department of Justice to attempt to accommodate every request from Congress swiftly and, where it cannot accommodate or believes that there are confidential issues that have to be raised, to bring to your attention and articulate with some specificity, not just the fact that there's ongoing investigation, not just the fact that there is an ongoing or an upcoming trial, but with specificity why producing the documents would interfere with either that trial or for some other reason or we believed covered by some issue of confidentiality."

Incoming Director Mueller, at that time, frankly acknowledged that there was room for improvement in these areas at the FBI and vowed to cooperate with efforts to conduct congressional oversight of the FBI in the future.

Director Mueller assumed his duties on September 4, 2001, just one week before the terrorist attacks. After the terrorist attacks, there was a brief break from FBI oversight, as the Members of the Judiciary Committee worked with the White House to craft and pass the USA PATRIOT Act. In that new law, the Congress responded to the DOJ's and FBI's demands for increased powers but granted many of those powers only on a temporary basis, making them subject to termination at the end of 2005. The "sunset" of the increased FISA surveillance powers reflected the promise that the Congress would conduct vigilant oversight to evaluate the FBI's performance both before and after 9/11. Only in that way could Congress and the public be assured that the DOJ and FBI needed the increased powers in the first place, and were effectively and properly using these new powers to warrant extension of the sunset.

Passage of the USA PATRIOT Act did not solve the longstanding and acknowledged problems at the FBI. Rather, the 9/11 attacks created a new imperative to remedy systemic shortcomings at the FBI. Review of the FBI's pre-9/11 performance is not conducted to assess blame. The blame lies with the terrorists. Rather, such review is conducted to help the FBI prevent future attacks by not repeating the mistakes of the past. Thus, the enactment of the USA PATRIOT Act did not obviate the need to oversee the FBI: it augmented that need.

Within weeks of passage of the USA PATRIOT Act, the Senate Judiciary Committee held hearings with senior DOJ officials on implementation of the new law and other steps that were being taken by the Administration to combat terrorism. The Committee heard testimony on November 28, 2001, from Assistant Attorney General Michael Chertoff and, on December 6, 2001, from Attorney General Ashcroft. In response to written questions submitted in connection with the latter hearing, DOJ confirmed that shortly after the USA PATRIOT Act had been signed by the President on October 26, 2001, DOJ began to press the Congress for additional changes to relax FISA requirements, including expansion of the definition of "foreign power" to include individual, non-U.S. persons engaged in international terrorism. DOJ explained that this proposal was to address the threat posed by a single foreign terrorist without an obvious tie to another person, group, or state overseas. Yet, when asked to "provide this Committee with information about specific cases that support your claim to need such broad new powers," DOJ was silent in its response and named no specific cases showing such a need, nor did it say that it could provide such specificity even in a classified setting. In short, DOJ sought more power but was either unwilling or unable to provide an example as to why.

Beginning in March 2002, the Committee convened another series of hearings monitoring the FBI's performance and its efforts to reform itself. On March 21, 2002, the Judiciary Committee held a hearing on the DOJ Inspector General's report on the belated production of documents in the Oklahoma City bombing case. That hearing highlighted longstanding problems in the FBI's information technology and training regarding the use of, and access to, records. It also highlighted the persistence of a "head-in-the-sand" approach to problems, where shortcomings are ignored rather than addressed and the reporting of problems is discouraged rather than encouraged.

On April 9, 2002, the Committee held a hearing on the Webster Commission's report regarding former FBI Agent and Russian spy Robert Hanssen's activities. That hearing exposed a deep-seated cultural bias against the importance of security at the FBI. One important finding brought to light at that hearing was the highly inappropriate handling of sensitive FISA materials in the time after the 9/11 attacks. In short, massive amounts of the most sensitive and highly classified materials in the FBI's possession were made available on an unrestricted basis to nearly all FBI employees. Even more disturbing, this action was taken without proper consultation with the FBI's own security officials.

On May 8, 2002, the Judiciary Committee held an oversight hearing at which FBI Director Mueller and Deputy Attorney General Thompson testified regarding their efforts to reshape the FBI and the DOJ to address the threat of terrorism. It was at this hearing that the so-called "Phoenix Memorandum" was publicly discussed for the first time. Director Mueller explained in response to one question:

"[T]he Phoenix electronic communication contains suggestions from the agent as to steps that should be taken, or he suggested taking to look at other flight schools . . . . He made a recommendation that we initiate a program to look at flight schools. That was received at Headquarters. It was not acted on by September 11. I should say in passing that even if we had followed those suggestions at that time, it would not, given what we know since September 11, have enabled us to prevent the attacks of September 11. But in the same breath I should say that what we learned from instances such as that is much about the weaknesses of our approach to counterterrorism prior to September 11."

In addition, Director Mueller first discussed at this hearing that FBI agents in Minnesota had been frustrated by Headquarters officials in obtaining a FISA warrant in the Zacharias Moussaoui investigation before the 9/11 attacks, and that one agent seeking the warrant had said that he was worried that Moussaoui would hijack an airplane and fly it into the World Trade Center.

On June 6, 2002, the Committee held another hearing at which Director Mueller testified further regarding the restructuring underway at the FBI. Significantly, that hearing also provided the first public forum for FBI Chief Division Counsel Coleen Rowley of the Minneapolis Division to voice constructive criticism about the FBI. Her criticisms, the subject of a lengthy letter sent to Director Mueller on May 21, 2002, which was also sent to Members of Congress, echoed many of the issues raised in this Committee's oversight hearings. Special Agent Rowley testified about "careerism" at the FBI and a mentality at FBI Headquarters that led Headquarters agents to more often stand in the way of field agents than to support them. She cited the Moussaoui case as only the most high profile instance of such an attitude. Special Agent Rowley also described a FBI computer system that prevented agents from accessing their own records and conducting even the most basic types of searches. In short, Special Agent Rowley's testimony reemphasized the importance of addressing the FBI's longstanding problems, not hiding from them, in the post-9/11 era.

As the head of the Department of Justice as a whole, the Attorney General has ultimate responsibility for the performance of the FBI. On July 25, 2002, the Judiciary Committee held an oversight hearing at which Attorney General Ashcroft testified. The

Committee and the Attorney General engaged in a dialogue regarding the performance of the DOJ on many areas of interest, including the fight against terrorism. Among other things discussed at this hearing were the Attorney General's plans to implement the Terrorism Information and Prevention System (TIPS), which would have enlisted private citizens to monitor "suspicious" activities of other Americans. After questioning on the subject, Attorney General Ashcroft testified that he would seek restrictions on whether and how information generated through TIPS would be retained. Later, as part of the Homeland Security legislation, TIPS was prohibited altogether.

On September 10, 2002, the Committee held an oversight hearing specifically focusing on issues related to the FISA. Leading experts from the DOJ, from academia, and from the civil liberties and national security legal communities participated in a rare public debate on the FISA. That hearing brought before the public an important discussion about the reaches of domestic surveillance using FISA and the meaning of the USA PATRIOT Act. In addition, through the efforts of the Judiciary Committee, the public learned that this same debate was already raging in private. The FISA Court (FISC) had rejected the DOJ's proposed procedure for implementing the USA PATRIOT Act, and the FISA Court of Review was hearing its first appeal in its 20-year-plus existence to address important issues regarding these USA PATRIOT Act amendments to the FISA. The Committee requested that the FISA Court of Review publicly release an unclassified version of the transcript of the oral argument and its opinion, which the Court agreed to do and furnished to the Committee. Thus, only through the bipartisan oversight work of the Judiciary Committee was the public first informed of the landmark legal opinion interpreting the FISA and the USA PATRIOT Act amendments overruling the FISC's position, accepting some of the DOJ's legal arguments, but rejecting others.

These are only the full Judiciary Committee hearings related to FBI oversight issues in the 107th Congress. The Judiciary Committee's subcommittees also convened numerous, bipartisan oversight hearings relating to the FBI's performance both before and after 9/11.

2. Other oversight activities: classified hearings, written requests, and informal briefings

The Judiciary Committee and its Members have fulfilled their oversight responsibilities through methods other than public hearings as well. Particularly with respect to FISA oversight, Members of the Judiciary Committee and its staff conducted a series of closed hearings and briefings, and made numerous written inquiries on the issues surrounding both the application for a FISA search warrant of accused international terrorist Zacharias Moussaoui's personal property before the 9/11 attacks and the post-9/11 implementation of the USA PATRIOT Act. As with all of our FBI oversight, these inquiries were intended to review the performance of the FBI and DOJ in order to improve that performance in the future.

The Judiciary Committee and its Members also exercised their oversight responsibilities over the DOJ and the FBI implementation of the FISA through written inquiries, written hearing questions, and other informal requests. These efforts included letters to the Attorney General and the FBI Director from Senator Leahy on November 1, 2001, and May 23, 2002, and from Senators Leahy, Specter, and Grassley on June 4, June 13, July 3, and July 31, 2002. In addition, these Members sent letters requesting information from the FISA Court and FISA Court of Review on July 16, July 31, and September 9, 2002. Such oversight efforts are important on a day-to-day basis because they are often the most efficient means of monitoring the activities of the FBI and DOJ.

3. DOJ and FBI non-responsiveness

Particularly with respect to our FISA oversight efforts, we are disappointed with the non-responsiveness of the DOJ and FBI. Although the FBI and the DOJ have sometimes cooperated with our oversight efforts, often, legitimate requests went unanswered or the DOJ answers were delayed for so long or were so incomplete that they were of minimal use in the oversight efforts of this Committee. The difficulty in obtaining responses from DOJ prompted Senator Specter to ask the Attorney General directly, "how do we communicate with you and are you really too busy to respond?"

Two clear examples of such reticence on the part of the DOJ and the FBI relate directly to our FISA oversight efforts. First, Chairman Sensenbrenner and Ranking Member Conyers of the House Judiciary Committee issued a set of 50 questions on June 13, 2002, in order to fulfill the House Judiciary Committee's oversight responsibilities to monitor the implementation of the USA PATRIOT Act, including its amendments to FISA. In connection with the July 25, 2002, oversight hearing with the Attorney General, Chairman Leahy posed the same questions to the Department on behalf of the Senate Judiciary Committee. Unfortunately, the Department refused to respond to the Judiciary Committee with answers to many of these legitimate questions. Indeed, it was only after Chairman Sensenbrenner publicly stated that he would subpoena the material that the Department provided any response at all to many of the questions posed, and to date some questions remain unanswered. Senator Leahy posed a total of 93 questions, including the 50 questions posed by the leadership of the House Judiciary Committee. While the DOJ responded to 56 of those questions in a series of letters on July 29, August 26, and December 23, 2002, thirty-seven questions remain unanswered. In addition, the DOJ attempted to respond to some of these requests by providing information not to the Judiciary Committees, which had made the request, but to the Intelligence Committees. Such attempts at forum shopping by the Executive Branch are not a productive means of facilitating legitimate oversight.

Second, the FBI and DOJ repeatedly refused to provide Members of the Judiciary Committee with a copy of the FISA Court's May 17, 2002, opinion rejecting the DOJ's proposed implementation of the USA PATRIOT Act's FISA amendments. This refusal was made despite the fact that the opinion, which was highly critical of aspects of the FBI's past performance on FISA warrants, was not classified and bore directly upon the meaning of provisions in the USA PATRIOT Act authored by Members of the Judiciary Committee. Indeed, the Committee eventually had to obtain the opinion not from the DOJ but directly from the FISA Court, and it was only through these efforts that the public was first made aware of the important appeal being pursued by the DOJ and the legal positions being taken by the Department on the FISA Amendments.

In both of these instances, and in others, the DOJ and FBI have made exercise of our oversight responsibilities difficult.

It is our sincere hope that the FBI and DOJ will reconsider their approach to congressional oversight in the future. The Congress and the American people deserve to know what their government is doing. Certainly, the Department should not expect Congress to be a "rubber stamp" on its requests for new or expanded powers if requests for information about how the Department has handled its existing powers have been either ignored or summarily paid lip service.

III. FISA OVERSIGHT: A CASE STUDY OF THE SYSTEMIC PROBLEMS PLAGUING THE FBI

A. Overview and Conclusions

The Judiciary Committee held a series of classified briefings for the purpose of reviewing the processing of FISA applications before the terrorist attacks on September 11, 2001. The Judiciary Committee sought to determine whether any problems at the FBI in the processing of FISA applications contributed to intelligence failures before September 11th; to evaluate the implementation of the changes to FISA enacted pursuant to the USA PATRIOT Act; and to determine whether additional legislation is necessary to improve this process and facilitate congressional oversight and public confidence in the FISA and the FBI.

We specifically sought to determine whether the systemic problems uncovered in our FBI oversight hearings commenced in the summer of 2001 contributed to any shortcomings that may have affected the FBI counterterrorism efforts prior to the 9/11 attacks. Not surprisingly, we conclude that they did. Indeed, in many ways the DOJ and FBI's shortcomings in implementing the FISA—including but not limited to the time period before the 9/11 attacks—present a compelling case for both comprehensive FBI reform and close congressional oversight and scrutiny of the justification for any further relaxation of FISA requirements. FISA applications are of the utmost importance to our national security. Our review suggests that the same fundamental problems within the FBI that have plagued the agency in other contexts also prevented both the FBI and DOJ from aggressively pursuing FISA applications in the period before the 9/11 attacks. Such problems caused the submission of key FISA applications to the FISA Court to have been significantly delayed or not made. More specifically, our concerns that the FBI and DOJ did not make effective use of FISA before making demands on the Congress for expanded FISA powers in the USA PATRIOT Act are bolstered by the following findings:

(1) The FBI and Justice Department were setting too high a standard to establish that there is "probable cause" that a person may be an "agent of a foreign power" and, therefore, may be subject to surveillance pursuant to FISA;

(2) FBI agents and key Headquarters officials were not sufficiently trained to understand the meanings of crucial legal terms and standards in the FISA process;

(3) Prior problems between the FBI and the FISA Court that resulted in the Court barring one FBI agent from appearing before it for allegedly filing inaccurate affidavits may have "chilled" the FBI and DOJ from aggressively seeking FISA warrants (although there is some contradictory information on this matter, we will seek to do additional oversight on this question);

(4) FBI Headquarters fostered a culture that stifled rather than supported aggressive and creative investigative initiatives from agents in the field; and

(5) The FBI's difficulties in properly analyzing and disseminating information in its

possession caused it not to seek FISA warrants that it should have sought. These difficulties are due to:

(a) a lack of proper resources dedicated to intelligence analysis;

(b) a "stove pipe" mentality where crucial intelligence is pigeonholed into a particular unit and may not be shared with other units;

(c) High turnover of senior agents at FBI Headquarters within critical counter-terrorism and foreign intelligence units;

(d) Outmoded information technology that hinders access to, and dissemination of, important intelligence; and

(e) A lack of training for FBI agents to know how to use, and a lack of requirements that they do use, the technology available to search for and access relevant information.

We have found that, in combination, all of these factors contributed to the intelligence failures at the FBI prior to the 9/11 attacks.

We are also conscious of the extraordinary power FISA confers on the Executive branch. FISA contains safeguards, including judicial review by the FISA Court and certain limited reporting requirements to congressional intelligence committees, to ensure that this power is not abused. Such safeguards are no substitute, however, for the watchful eye of the public and the Judiciary Committees, which have broader oversight responsibilities for DOJ and the FBI. In addition to reviewing the effectiveness of the FBI's use of its FISA power, this Committee carries the important responsibility of checking that the FBI does not abuse its power to conduct surveillance within our borders. Increased congressional oversight is important in achieving that goal.

From the outset, we note that our discussion will not address any of the specific facts of the case against Zacharias Moussaoui that we have reviewed in our closed inquiries. That case is still pending trial, and, no matter how it is resolved, this Committee is not the appropriate forum for adjudicating the allegations in that case. Any of the facts recited in this report that bear on the substance of the Moussaoui case are already in the public record. To the extent that this report contains information we received in closed sessions, that information bears on abstract, procedural issues, and not any substantive issues relating to any criminal or national security investigation or proceeding. This is an interim report of what we have discovered to date. We hope to and should continue this important oversight in the 108th Congress.

B. Allegations Raised by Special Agent Rowley's Letter

The Judiciary Committee had initiated its FISA oversight inquiry several months before the revelations in the dramatic letter sent on May 21, 2002, to FBI Director Mueller by Special Agent Coleen Rowley. Indeed, it was this Committee's oversight about the FBI's counterintelligence operations before the 9/11 attacks that in part helped motivate SA Rowley to write this letter to the Director.

The observations and critiques of the FBI's FISA process in this letter only corroborated problems that the Judiciary Committee was uncovering. In her letter, SA Rowley detailed the problems the Minneapolis agents had in dealing with FBI Headquarters in their unsuccessful attempts to seek a FISA warrant for the search of Moussaoui's lap top computer and other personal belongings. These attempts proved fruitless, and Moussaoui's computer and personal belongings were not searched until September 11th, 2001, when the Minneapolis agents were able to obtain a criminal search warrant after the attacks of that date. According to SA Rowley, with the exception of the fact of those attacks, the information presented in the warrant application establishing probable cause for the criminal search warrant was exactly the same as the facts that FBI Headquarters earlier had deemed inadequate to obtain a FISA search warrant.

In her letter, SA Rowley raised many issues concerning the efforts by the agents assigned to the Minneapolis Field Office to obtain a FISA search warrant for Moussaoui's personal belongings. Two of the issues she raised were notable. First, SA Rowley corroborated that many of the cultural and management problems within the FBI (including what she referred to as "careerism") have significant effects on the FBI's law enforcement and intelligence gathering activities. This led to a perception among the Minneapolis agents that FBI Headquarters personnel had frustrated their efforts to obtain a FISA warrant by raising unnecessary objections to the information submitted by Minneapolis, modifying and removing that information, and limiting the efforts by the Minneapolis Field Office to contact other agencies for relevant information to bolster the probable cause for the warrant. These concerns echoed criticisms that this Committee has heard in other contexts about the culture of FBI management and the effect of the bureaucracy in stifling initiative by FBI agents in the field.

In making this point, SA Rowley provided specific examples of the frustrating delays and roadblocks erected by Headquarters agents in the Moussaoui investigation:

"For example at one point, the Supervisory Special Agent at FBIHQ posited that the French information could be worthless because it only identified Zacharias Moussaoui by name and he, the SSA, didn't know how many people by that name existed in France. A Minneapolis agent attempted to surmount that problem by quickly phoning the FBI's Legal Attache (Legat) in Paris, France, so that a check could be made of the French telephone directories. Although the Legat in France did not have access to all of the French telephone directories, he was able to quickly ascertain that there was only one listed in the Paris directory. It is not known if this sufficiently answered the question, for the SSA continued to find new reasons to stall.

"Eventually, on August 28, 2001, after a series of e-mails between Minneapolis and FBIHQ, which suggest that the FBIHQ SSA deliberately further undercut the FISA effort by not adding the further intelligence information which he had promised to add that supported Moussaoui's foreign power connection and making several changes in the wording of the information that had been provided by the Minneapolis agent, the Minneapolis agents were notified that the NSLU Unit Chief did not think there was sufficient evidence of Moussaoui's connection to a foreign power. Minneapolis personnel are, to this date, unaware of the specifics of the verbal presentations by the FBIHQ SSA to NSLU or whether anyone in NSLU ever was afforded the opportunity to actually read for him/herself all of the information on Moussaoui that had been gathered by the Minneapolis Division and [redacted: classified]. Obviously[,] verbal presentations are far more susceptible to mis-characterization and error."

Even after the attacks had commenced, FBI Headquarters discouraged Minneapolis from securing a criminal search warrant to examine Moussaoui's belongings, dismissing the coordinated attack on the World Trade Center and Pentagon as a coincidence.

Second, SA Rowley's letter highlighted the issue of the apparent lack of understanding of the applicable legal standards for establishing "probable cause" and the requisite statutory FISA requirements by FBI personnel in the Minneapolis Division and at FBI Headquarters. This issue will be discussed in more detail below.

C. Results of Investigation

1. The Mishandling of the Moussaoui FISA Application

Apart from SA Rowley's letter and her public testimony, the Judiciary Committee and its staff found additional corroboration that many of her concerns about the handling of the Moussaoui FISA application for a search warrant were justified.

At the outset, it is helpful to review how Headquarters "adds value" to field offices in national security investigations using FISA surveillance tools. Headquarters has three functions in such investigations. The first function is the ministerial function of actually assembling the FISA application in the proper format for review by the DOJ's Office of Intelligence Policy and Review OIPR and the FISA Court. The other two functions are more substantive and add "value" to the FISA application. The first substantive function is to assist the field by being experts on the legal aspects of FISA, and to provide guidance to the field as to the information needed to meet the statutory requirements of FISA. The second function is to supplement the information from the field in order to establish or strengthen the showing that there is "probable cause" that the FISA target was an "agent of a foreign power," by integrating additional relevant intelligence information both from within the FBI and from other intelligence or law enforcement organizations outside the FBI. It is with respect to the latter, substantive functions that Headquarters fell short in the Moussaoui FISA application and, as a consequence, never got to the first, more ministerial, function.

Our investigation revealed that the following events occurred in connection with this FISA application. We discovered that the Supervisory Special Agent (SSA) involved in reviewing the Moussaoui FISA request was assigned to the Radical Fundamentalist Unit (RFU) of the International Terrorism Operations Section of the FBI's Counterterrorism Division. The Unit Chief of the RFU was the SSA's immediate supervisor. When the Minneapolis Division submitted its application for the FISA search warrant for Moussaoui's laptop computer and other property, the SSA was assigned the responsibility of processing the application for approval. Minneapolis submitted its application for the FISA warrant in the form of a 26-page Electronic Communication (EC), which contained all of the information that the Minneapolis agents had collected to establish that Moussaoui was an agent of a foreign power at the time. The SSA's responsibilities included integrating this information submitted by the Minneapolis division with information from other sources that the Minneapolis agents were not privy to, in order to establish there was probable cause that Moussaoui was an agent of a foreign power. In performing this fairly straightforward task, FBI Headquarters personnel failed miserably in at least two ways.

First, most surprisingly, the SSA never presented the information submitted by Minneapolis and from other sources in its written, original format to any of the FBI's attorneys in the National Security Law Unit (NSLU). The Minneapolis agents had submitted their information in the 26-page EC and a subsequent letterhead memorandum (LHM), but neither was shown to the attorneys. Instead, the SSA relied on short, verbal briefings to the attorneys, who opined that based on the information provided verbally by the SSA they could not establish that there was probable cause that Moussaoui was an agent of a foreign power. Each of the attorneys in the NSLU stated they did not receive documents on the Moussaoui FISA, but instead only received a short, verbal briefing from the SSA. As SA Rowley noted, however, "verbal presentations are far more susceptible to mis-characterization and error."

The failure of the SSA to provide the 26-page Minneapolis EC and the LHM to the attorneys, and the failure of the attorneys to review those documents, meant that the consideration by Headquarters officials of the evidence developed by the Minneapolis agents was truncated. The Committee has requested, but not yet received, the full 26–page Minneapolis EC (even, inexplicably, in a classified setting).

Second, the SSA's task was to help bolster the work of the Minneapolis agents and collect information that would establish probable cause that a "foreign power" existed, and that Moussaoui was its "agent." Indeed, sitting in the FBI computer system was the Phoenix memorandum, which senior FBI officials have conceded would have provided sufficient additional context to Moussaoui's conduct to have established probable cause. (Joint Inquiry Hearing, Testimony of Eleanor Hill, Staff Director, September 24, 2002, p. 19: "The [FBI] attorneys also told the Staff that, if they had been aware of the Phoenix memo, they would have forwarded the FISA request to the Justice Department's Office of Intelligence Policy Review (OIPR). They reasoned that the particulars of the Phoenix memo changed the context of the Moussaoui investigation and made a stronger case for the FISA warrant. None of them saw the Phoenix memo before September 11.") Yet, neither the SSA nor anyone else at Headquarters consulted about the Moussaoui application ever conducted any computer searches for electronic or other information relevant to the application. Even the much touted "Woods Procedures" governing the procedures to be followed by FBI personnel in preparing FISA applications do not require Headquarters personnel to conduct even the most basic subject matter computer searches or checks as part of the preparation and review of FISA applications.

2. General Findings.

We found that key FBI personnel involved in the FISA process were not properly trained to carry out their important duties. In addition, we found that the structural, management, and resource problems plaguing the FBI in general contributed to the intelligence failures prior to the 9/11 attacks. (The Joint Inquiry by the Senate and House Select Committee on Intelligence similarly concluded that the FBI needs to "establish and sustain independent career tracks within the FBI that recognize and provide incentives for demonstrated skills and performance of counterterrorism agents and analysts; . . . implement training for agents in the effective use of analysts and analysis in their work; improve national security law training of FBI personnel;?and finally solve the FBI's persistent and incapacitating information technology problems." (Final Report, Recommendations, p. 6).) Following are some of the most salient facts supporting these conclusions.

First, key FBI personnel responsible for protecting our country against terrorism did not understand the law. The SSA at FBI Headquarters responsible for assembling the facts in support of the Moussaoui FISA application testified before the Committee in a closed hearing that he did not know that "probable cause" was the applicable legal standard for obtaining a FISA warrant. In addition, he did not have a clear understanding of what the probable cause standard meant. The SSA was not a lawyer, and he was relying on FBI lawyers for their expertise on what constituted probable cause. In addition to not understanding the probable cause standard, the SSA's supervisor (the Unit Chief) responsible for reviewing FISA applications did not have a proper understanding of the legal definition of the "agent of a foreign power" requirement. Specifically, he was under the incorrect impression that the statute required a link to an already identified or "recognized" terrorist organization, an interpretation that the FBI and the supervisor himself admitted was incorrect. Thus, key FBI officials did not have a proper understanding of either the relevant burden of proof (probable cause) or the substantive element of proof (agent of a foreign power). This fundamental breakdown in training on an important intelligence matter is of serious concern to this Committee.

Second, the complaints contained in the Rowley letter about problems in the working relationship between field offices and FBI Headquarters are more widespread. There must be a dynamic relationship between Headquarters and field offices with Headquarters providing direction to the efforts of agents in the field when required. At the same time, Headquarters personnel should serve to support field agents, not to stifle initiative by field agents and hinder the progress of significant cases. The FBI's Minneapolis office was not alone in this complaint. Our oversight also confirmed that agents from the FBI's Phoenix office, whose investigation and initiative resulted in the so-called "Phoenix Memorandum," warning about suspicious activity in U.S. aviation schools, also found their initiative dampened by a non-responsive FBI Headquarters.

So deficient was the FISA process that, according to at least one FBI supervisor, not only were new applications not acted upon in a timely manner, but the surveillance of existing targets of interest was often terminated, not because the facts no longer warranted surveillance, but because the application for extending FISA surveillance could not be completed in a timely manner. Thus, targets that represented a sufficient threat to national security that the Department had sought, and a FISA Court judge had approved, a FISA warrant were allowed to break free of surveillance for no reason other than the FBI and DOJ's failure to complete and submit the proper paper work. This failure is inexcusable.

Third, systemic management problems at FBI Headquarters led to a lack of accountability among senior FBI officials. A revolving door at FBI Headquarters resulted in agents who held key supervisory positions not having the required specialized knowledge to perform their jobs competently. A lack of proper communication produced a system where no single person was held accountable for mistakes. Therefore, there was little or no incentive to improve performance. Fourth, the layers of FBI and DOJ bureaucracy also helped lead to breakdowns in communication and serious errors in the materials presented to the FISA Court. The Committee learned that in the year before the Moussaoui case, one FBI supervisor was barred from appearing before the FISC due to inaccurate information presented in sworn affidavits to the Court. DOJ explained in a December 23, 2002, response to written questions from the July 25, 2002, oversight hearing that:

"One FBI supervisory special agent has been barred from appearing before the Court. In March of 2001, the government informed the Court of an error contained in a series of FISA applications. This error arose in the description of a "wall" procedure. The Presiding Judge of the Court at the time, Royce Lamberth, wrote to the Attorney General expressing concern over this error and barred one specifically-named FBI agent from appearing before the Court as a FISA affiant. . . . FBI Director Freeh personally met twice with then-Presiding Judge Lamberth to discuss the accuracy problems and necessary solutions."

As the Committee later learned from review of the FISA Court's May 17, 2002, opinion, that Court had complained of 75 inaccuracies in FISA affidavits submitted by the FBI, and the DOJ and FBI had to develop new procedures to ensure accuracy in presentations to that Court. These so-called "Woods Procedures" were declassified at the request of the authors and were made publicly available at the Committee's hearing on June 6, 2002. As DOJ further explained in its December 23, 2002, answers to written questions submitted on July 25, 2002:

"On April 6, 2001, the FBI disseminated to all field divisions and relevant Headquarters divisions a set of new mandatory procedures to be applied to all FISAs within the FBI. These procedures known as the "Woods procedures," are designed to help minimize errors in and ensure that the information provided to the Court is accurate. . . They have been declassified at the request of your Committee."

DOJ describes the inaccuracies cited in the FISA Court opinion as related to "errors in the 'wall' procedure" to keep separate information used for criminal prosecution and information collected under FISA and used for foreign intelligence. However, this does not appear to be the only problem the FBI and DOJ were having in the use of FISA.

An FBI document obtained under the Freedom of Information Act, which is attached to this report as Exhibit D, suggests that the errors committed were far broader. The document is a memorandum dated April 21, 2000, from the FBI's Counterterrorism Division, that details a series of inaccuracies and errors in handling FISA applications and wiretaps that have nothing whatsoever to do with the "wall." Such mistakes included videotaping a meeting when videotaping was not allowed under the relevant FISA Court order, continuing to intercept a person's email after there was no authorization to do so, and continuing a wiretap on a cell phone even after the phone number had changed to a new subscriber who spoke a different language from the target.

This document highlights the fact apart from the problems with applications made to the FISC, that the FBI was experiencing more systemic problems related to the implementation of FISA orders. These issues were unrelated to the legal questions surrounding the "wall," which was in effect long before 1999. The document notes that the number of inaccuracies grew by three-and-one-half times from 1999 to 2000. We recommend that additional efforts to correct the procedural, structural, and training problems in the FISA process would go further toward ensuring accuracy in the FISA process than simply criticizing the state of the law.

One legitimate question is whether the problems inside the FBI and between the FBI and the FISA Court either caused FBI Headquarters to be unduly cautious in proposing FISA warrants or eroded the FISA Court's confidence in the DOJ and the FBI to the point that it affected the FBI's ability to conduct terrorism and intelligence investigations effectively. SA Rowley opines in her letter that in the year before "the September 11th acts of terrorism, numerous alleged IOB [Intelligence Oversight Board] violations on the part of FBI personnel had to be submitted to the FBI's Office of Professional Responsibility (OPR) as well as the IOB. I believe the chilling effect upon all levels of FBI agents assigned to intelligence matters and their managers hampered us from aggressive investigation of terrorists." (Rowley letter, pp. 7–8, fn. 7). Although the belated release of the FISA Court's opinion of May 17, 2002, provided additional insight into this issue, further inquiry is needed.

Fifth, the FBI's inability to properly analyze and disseminate information (even from and between its own agents) rendered key information that it collected relatively useless. Had the FBI put together the disparate strands of information that agents from around the country had furnished to Headquarters before September 11, 2001, additional steps could certainly have been taken to prevent the 9/11 attacks. So, while no one can say with certainty that the 9/11 attacks could have been prevented, in our view, it is also beyond reasonable dispute that more could have been done in the weeks before the attacks to try to prevent them.

Certain of our findings merit additional discussion, and such discussion follows.

3. FBI's Misunderstanding of Legal Standards Applicable to the FISA

a. The FISA Statutory Standard: "Agent of a Foreign Power"

In order to obtain either a search warrant or an authorization to conduct electronic surveillance pursuant to FISA, the FBI and Justice Department must establish before the FISA Court probable cause that the targeted person is an "agent of a foreign power." An agent of a foreign power is defined as "any person who . . . knowingly aids or abets any person in the conduct of [certain] activities." Those certain activities include "international terrorism," and one definition of "foreign power" includes groups that engage in international terrorism. Accordingly, in the Moussaoui case, to obtain a FISA warrant the FBI had to collect only enough evidence to establish that there was "probable cause" to believe that Moussaoui was the "agent" of an "international terrorist group" as defined by FISA.

However, even the FBI agents who dealt most with FISA did not correctly understand this requirement. During a briefing with Judiciary Committee staff in February 2002, the Headquarters counterterrorism Unit Chief of the unit responsible for handling the Moussaoui FISA application stated that with respect to international terrorism cases, FISA warrants could only be obtained for "recognized" terrorist groups (presumably those identified by the Department of State or by the FBI itself or some other government agency). The Unit Chief later admitted that he knew that this was an incorrect understanding of the law, but it was his understanding at the time the application was pending. Additionally, during a closed hearing on July 9, 2002, the Supervisory Special Agent ("SSA") who actually handled the Moussaoui FISA application at Headquarters also mentioned that he was trying to establish whether Moussaoui was an "agent of a recognized foreign power".

Nowhere, however, does the statutory definition require that the terrorist group be an identified organization that is already recognized (such as by the United States Department of State) as engaging in terrorist activities. Indeed, even the FBI concedes this point. Thus, there was no support whatsoever for key FBI officials' incorrect understanding that the target of FISA surveillance must be linked to such an identified group in the time before 9/11. This misunderstanding colored the handling of requests from the field to conduct FISA surveillance in the crucial weeks before the 9/11 attacks. Instead of supporting such an application, key Headquarters personnel asked the field agents working on this investigation to develop additional evidence to prove a fact that was unnecessary to gain judicial approval under FISA. It is difficult to understand how the agents whose job included such a heavy FISA component could not have understood that statute. It is difficult to understand how the FBI could have so failed its own agents in such a crucial aspect of their training.

The Headquarters personnel misapplied the FISA requirements. In the context of this case, the foreign power would be an international terrorist group, that is, "a group engaged in international terrorism or activities in preparation therefore." A "group" is not defined in the FISA, but in common parlance, and using other legal principles, including criminal conspiracy, a group consists of two or more persons whether identified or not. It is our opinion that such a "group" may exist, even if not a group "recognized" by the Department of State.

The SSA's other task would be to help marshal evidence showing probable cause that Moussaoui was an agent of that group. In applying the "totality of the circumstances," as defined in the case of Illinois v. Gates, 462 U.S. 213 (1983), any information available about Moussaoui's "actual contacts" with the group should have been considered in light of other information the FBI had in order to understand and establish the true probable nature of those contacts. (The Supreme Court's leading case on probable cause; it is discussed in more detail in the next section of this report.) It is only with consideration of all the information known to the FBI that Moussaoui's contacts with any group could be properly characterized in determining whether he was an agent of such a group.

In making this evaluation, the fact, as recited in the public indictment, that Moussaoui "paid $6,800 in cash" to the Minneapolis flight school, without adequate explanation for the source of this funding, would have been a highly probative fact bearing on his connections to foreign groups. Yet, it does not appear that this was a fact that the FBI Headquarters agents considered in analyzing the totality of the circumstances. The probable source of that cash should have been a factor that was considered in analyzing the totality of the circumstances. So too would the information in the Phoenix memorandum have been helpful. It also was not considered, as discussed further below. In our view, the FBI applied too cramped an interpretation of probable cause and "agent of a foreign power" in making the determination of whether Moussaoui was an agent of a foreign power. FBI Headquarters personnel in charge of reviewing this application focused too much on establishing a nexus between Moussaoui and a "recognized" group, which is not legally required. Without going into the actual evidence in the Moussaoui case, there appears to have been sufficient evidence in the possession of the FBI which satisfied the FISA requirements for the Moussaoui application. Given this conclusion, our primary task is not to assess blame on particular agents, the overwhelming majority of whom are to be commended for devoting their lives to protecting the public, but to discuss the systemic problems at the FBI that contributed to their inability to succeed in that endeavor.

b. The Probable Cause Standard

i. Supreme Court's Definition of "Probable Cause".—During the course of our investigation, the evidence we have evaluated thus far indicates that both FBI agents and FBI attorneys do not have a clear understanding of the legal standard for probable cause, as defined by the Supreme Court in the case of Illinois v. Gates, 462 U.S. 213 (1983). This is such a basic legal principle that, again, it is impossible to justify the FBI's lack of complete and proper training on it. In Gates, then-Associate Justice Rehnquist wrote for the Court:

"Standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the magistrate's decision. While an effort to fix some general, numerically precise degree of certainty corresponding to "probable cause" may not be helpful, it is clear that "only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause." (462 U.S. at 236 (citations omitted.)

The Court further stated:

For all these reasons, we conclude that it is wiser to abandon the "twopronged test" established by our decisions in Aguilar and Spinelli. In its place we reaffirm the totality of the circumstances analysis that traditionally has informed probable cause determinations. The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the "veracity" and "basis of knowledge" of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. And the duty of a reviewing court is simply to ensure that the magistrate had a "substantial basis for . . . conclud[ing]" that probable cause existed. We are convinced that this flexible, easily applied standard will better achieve the accommodation of public and private interests that the Fourth Amendment requires than does the approach that has developed from Aguilar and Spinelli."

Accordingly, it is clear that the Court rejected "preponderance of the evidence" as the standard for probable cause and established a standard of "probability" based on the "totality of the circumstances."

ii. The FBI's Unnecessarily High Standard for Probable Cause.—Unfortunately, our review has revealed that many agents and lawyers at the FBI did not properly understand the definition of probable cause and that they also possessed inconsistent understandings of that term. In the portion of her letter to Director Mueller discussing the quantum of evidence needed to reach the standard of probable cause, SA Rowley wrote that "although I thought probable cause existed ('probable cause' meaning that the proposition has to be more likely than not, or if quantified, a 51% likelihood), I thought our United States Attorney's Office, (for a lot of reasons including just to play it safe), in regularly requiring much more than probable cause before approving affidavits, (maybe, if quantified, 75%–80% probability and sometimes even higher), and depending upon the actual AUSA who would be assigned, might turn us down." The Gates case and its progeny do not require an exacting standard of proof. Probable cause does not mean more likely than not, but only a probability or substantial chance of the prohibited conduct taking place. Moreover, "[t]he fact that an innocent explanation may be consistent with the facts alleged . . . does not negate probable cause."

On June 6, 2002, the Judiciary Committee held an open hearing on the FBI's conduct of counterterrorism investigations. The Committee heard from Director Mueller and DOJ Inspector General Glenn Fine on the first panel and from SA Rowley on the second panel. The issue of the probable cause standard was specifically raised with Director Mueller, citing the case of Illinois v. Gates, and Director Mueller was asked to comment in writing on the proper standard was asked for establishing probable cause. The FBI responded in an undated letter to Senator Specter and with the subsequent transmission of an electronic communication (E.C.) dated September 16, 2002. In the E.C., the FBI's General Counsel reviewed the case law defining "probable cause," in order to clarify the definition of probable cause for FBI personnel handling both criminal investigations and FISA applications.

At the June 6th hearing, SA Rowley reviewed her discussion of the probable cause standard in her letter. During that testimony three issues arose. First, by focusing on the prosecution of a potential case, versus investigating a case, law enforcement personnel, both investigators and prosecutors, may impose on themselves a higher standard than necessary to secure a warrant. This prosecution focus is one of the largest hurdles that the FBI is facing as it tries to change its focus from crime fighting to the prevention of terrorist attacks. It is symptomatic of a challenge facing the FBI and DOJ in nearly every aspect of their new mission in preventing terrorism. Secondly, prosecutors, in gauging what amount of evidence reaches the probable cause standard, may calibrate their decision to meet the de facto standard imposed by the judges, who may be imposing a higher standard than is required by law. Finally, SA Rowley opined that some prosecutors and senior FBI officials may set a higher standard due to risk-averseness, which is caused by "careerism."

SA Rowley's testimony was corroborated in our other hearings. During a closed hearing, in response to the following questions, a key Headquarters SSA assigned to terrorism matters stated that he did not know the legal standard for obtaining a warrant under FISA.

"Sen. Specter: . . . [SSA], what is your understanding of the legal standard for a FISA warrant?

[SSA]: I am not an attorney, so I would turn all of those types of questions over to one of the attorneys that I work with in the National Security Law Unit.

Question: Well, did you make the preliminary determination that there was not sufficient facts to get a FISA warrant issued?

[SSA]: That is the way I saw it.

Question: Well, assuming you would have to prove there was an agent and there was a foreign power, do you have to prove it beyond a reasonable doubt? Do you have to have a suspicion? Where in between?

[SSA]: I would ask my attorney in the National Security Law Unit that question.

Question: Did anybody give you any instruction as to what the legal standard for probable cause was?

[SSA]: In this particular instance, no."

The SSA explained that he had instruction on probable cause in the past, but could not recall that training. It became clear to us that the SSA was collecting information without knowing when he had enough and, more importantly, making "preliminary" decisions and directing field agents to take investigating steps without knowing the applicable legal standards. While we agree that FBI agents and supervisory personnel should consult regularly with legal experts at the National Security Law Unit, and with the DOJ and U.S. Attorneys Offices, supervisory agents must also have sufficient facility for evaluating probable cause in order to provide support and guidance to the field.

Unfortunately, our oversight revealed a similar confusion as to the proper standard among other FBI officials. On July 9, 2002, the Committee held a closed session on this issue, and heard from the following FBI personnel: Special Agent "G," who had been a counterterrorism supervisor in the Minneapolis Division of the FBI and worked with SA Rowley; the Supervisory Special Agent ("the SSA") from FBI Headquarters referred to in SA Rowley's letter (and referred to the discussion above); the SSA's Unit Chief ("the Unit Chief"); a very senior attorney from the FBI's Office of General Counsel with national security responsibilities ("Attorney #1"); and three attorneys assigned to the FBI's Office of General Counsel's National Security Law Unit ("Attorney #2," "Attorney #3," and "Attorney #4"). The purpose of the session was to determine how the Moussaoui FISA application had been processed by FBI Headquarters personnel. None of the personnel present, including the attorneys, appeared to be familiar with the standard for probable cause articulated in Illinois v. Gates, and none had reviewed the case prior to the hearing, despite its importance having been highlighted at the June 6th hearing with the FBI Director. To wit:

Sen. Specter: . . . [Attorney #1] what is the legal standard for probable cause for a warrant?

[Attorney #1]: A reasonable belief that the facts you are trying to prove are accurate.

Question: Reason to believe?

[Attorney #1]: Reasonable belief.

Question: Reasonable belief?

[Attorney #1]: More probable than not.

Question: More probable than not?

[Attorney #1]: Yes, sir. Not a preponderance of the evidence.

Question: Are you familiar with "Gates v. Illinois"?

[Attorney #1]: No, sir.

However, "more probable than not" is not the standard; rather, "only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause." (Gates, 462 U.S. at 36 (citations omitted).)

Similarly, Attorneys #2, #3, and #4 were also not familiar with Gates. Under further questioning, Attorney #1 conceded that the FBI, at that time, did not have written procedures concerning the definition of "probable cause" in FISA cases: "On the FISA side of the house I don't think we have any written guidelines on that." Additionally, Attorney #1 stated that "[w]e need to have some kinds of facts that an agent can swear to a reasonable belief that they are true," to establish that a person is an agent of a foreign power. Giving a precise definition of probable cause is not an easy task, as whether probable cause exists rests on factual and practical considerations in a particular context. Yet, even with the inherent difficulty in this standard we are concerned that senior FBI officials offered definitions that imposed heightened proof requirements. The issue of what is required for "probable cause" is especially troubling because it is not the first time that the issue had arisen specifically in the FISA context. Indeed, the Judiciary Committee confronted the issue of "probable cause" in the FISA context in 1999, when the Committee initiated oversight hearings of the espionage investigation of Dr. Wen Ho Lee. Among the many issues examined was whether there was probable cause to obtain FISA surveillance of Dr. Lee. In that case, there was a disagreement as to whether probable cause existed between the FBI and the DOJ, within the DOJ, and among ourselves.

In 1999, Attorney General Janet Reno commissioned an internal DOJ review of the Wen Ho Lee investigation. The Attorney General's Review Team on the Handling of the Los Alamos National Laboratory Investigation was headed by Assistant United States Attorney Randy I. Bellows, a Senior Litigation Counsel in the Office of the United States Attorney for the Eastern District of Virginia. Mr. Bellows submitted his exhaustive report on May 12, 2000 (the "Bellows Report"), and made numerous findings of fact and recommendations. With respect to the issue of probable cause, Mr. Bellows concluded that:

"The final draft FISA application (Draft #3), on its face, established probable cause to believe that Wen Ho Lee was an agent of a foreign power, that is to say, a United States person currently engaged in clandestine intelligence gathering activities for or on behalf of the PRC which activities involved or might involve violations of the criminal laws of the United States . . . . Given what the FBI and OIPR knew at the time, it should have resulted in the submission of a FISA application, and the issuance of a FISA order."

The Bellows team concluded that OIPR had been too conservative with the Wen Ho Lee FISA application, a conservatism that may continue to affect the FBI's and DOJ's handling of FISA applications. The team found that with respect to OIPR's near-"perfect record" before the FISA Court (only one FISA rejection), "[w]hile there is something almost unseemly in the use of such a remarkable track record as proof of error, rather than proof of excellence, it is nevertheless true that this record suggests the use of 'PC+,' an insistence on a bit more than the law requires."

The Bellows team made another finding of particular pertinence to the instant issue. It found that "[t]he Attorney General should have been apprised of any rejection of a FISA request . . . ." In effect, FBI Headquarters rejected the Minneapolis Division's request for a FISA application, a decision that was not reported to then Acting Director Thomas Pickard. Director Mueller has adopted a new policy, not formally recorded in writing, that he be informed of the denial within the FBI of any request for a FISA application. However, in an informal briefing the weekend after this new policy was publicly announced, the FBI lawyer whom it most directly affected claimed to know nothing of the new "policy" beyond what he had read in the newspaper. From an oversight perspective, it is striking that the FBI and DOJ were effectively on notice regarding precisely this issue: that the probable cause test being applied in FISA investigations was more stringent than legally required. We appreciate the carefulness and diligence with which the professionals at OIPR and the FBI exercise their duties in processing FISA applications, which normally remain secret and immune from the adversarial scrutiny to which criminal warrants are subject. Yet, this persistent problem has two serious repercussions. First, the FBI and DOJ appear to be failing to take decisive action to provide in-depth training to agents and lawyers on an issue of the utmost national importance. We simply cannot continue to deny or ignore such training flaws only to see them repeated in the future.

Second, when the DOJ and FBI do not apply or use the FISA as fully or comprehensively as the law allows, pressure is brought on the Congress to change the statute in ways that may not be at all necessary. From a civil liberties perspective, the high-profile investigations and cases in which the FISA process appears to have broken down is too easily blamed on the state of the law rather than on inadequacies in the training of those responsible for implementing the law. The reaction on the part of the DOJ and FBI has been to call upon the Congress to relax FISA standards rather than engage in the more time-consuming remedial task of reforming the management and process to make it work better. Many times such "quick legislative fixes" are attractive on the surface, but only operate as an excuse to avoid correcting more fundamental problems.

4. The Working Relationship Between FBI Headquarters and Field Offices

Our oversight revealed that on more than one occasion FBI Headquarters was not sufficiently supportive of agents in the field who were exercising their initiative in an attempt to carry out the FBI's mission. While at least some of this is due to resource and staffing shortages, which the current Director is taking action to address, there are broader issues involved as well. Included in these is a deep-rooted culture at the FBI that makes an assignment to Headquarters unattractive to aggressive field agents and results in an attitude among many who do work at Headquarters that is not supportive of the field.

In addition to these cultural problems at the FBI, we conclude that there are also structural and management problems that contribute to the FBI's shortcomings as exemplified in the implementation of the FISA. Personnel are transferred in and out of key Headquarters jobs too quickly, so that they do not possess the expertise necessary to carry out their vital functions. In addition, the multiple layers of supervision at Headquarters have created a bureaucratic FBI that either will not or cannot respond quickly enough to time-sensitive initiatives from the field. We appreciate that the FBI has taken steps to cut through some of this bureaucracy by requiring OIPR attorneys to have direct contact with field agents working on particular cases.

In addition to hampering the implementation of FISA, these are problems that the Judiciary Committee has witnessed replayed in other contexts within the FBI. These root causes must be addressed head on, so that Headquarters personnel at the FBI view their jobs as supporting talented and aggressive field agents.

The FBI has a key role in the FISA process. Under the system designed by the FBI, a field agent and his field supervisors must negotiate a series of bureaucratic levels in order to even ask for a FISA warrant. The initial consideration of a FISA application and evaluation of whether statutory requirements are met is made by Supervisory Special Agents who staff the numerous Headquarters investigative units. These positions are critical and sensitive by their very nature. No application can move forward to the attorneys in the FBI's National Security Law Unit (NSLU) for further consideration unless the unit SSA says so. In addition, no matter may be forwarded to the DOJ lawyers at the OIPR without the approval of the NSLU. These multiple layers of review are necessary and prudent but take time.

The purpose of having SSAs in the various counterterrorism units is so that those personnel may bring their experience and skill to bear to bolster and enhance the substance of applications sent by field offices. A responsible SSA will provide strategic guidance to the requesting field division and coordinate the investigative activities and efforts between FBI Headquarters and that office, in addition to the other field divisions and outside agencies involved in the investigation. This process did not work well in the Moussaoui case.

Under the FBI's system, an effective SSA should thoroughly brief the NSLU and solicit its determination on the adequacy of any application within a reasonable time after receipt. In "close call" investigations, we would expect the NSLU attorneys to seek to review all written information forwarded by the field office rather than rely on brief oral briefings. In the case of the Moussaoui application forwarded from Minneapolis, the RFU SSA merely provided brief, oral briefings to NSLU attorneys and did not once provide that office with a copy of the extensive written application for their review. An SSA should also facilitate communication between the OIPR, the NSLU, and those in the field doing the investigation and constructing the application. That also did not occur in this case.

By its very nature, having so many players involved in the process allows internal FBI finger-pointing with little or no accountability for mistakes. The NSLU can claim, as it does here, to have acquiesced to the factual judgment of the SSAs in the investigative unit. The SSAs, in turn, claim that they have received no legal training or guidance and rely on the lawyers at the NSLU to make what they term as legal decisions. The judgment of the agents in the field, who are closest to the facts of the case, is almost completely disregarded.

Stuck in this confusing, bureaucratic maze, the seemingly simple and routine business practices within key Headquarters units were flawed. As we note above, even routine renewals on already existing FISA warrants were delayed or not obtained due to the lengthy delays in processing FISA applications.

5. The Mishandling of the Phoenix Electronic Communication

The handling of the Phoenix EC represents another prime example of the problems with the FBI's FISA system as well as its faulty use of information technology. The EC contained information that was material to the decision whether or not to seek a FISA warrant in the Moussaoui case, but it was never considered by the proper people. Even though the RFU Unit Chief himself was listed as a direct addressee on the Phoenix EC (in addition to others within the RFU and other counterterrorism Units at FBI Headquarters), he claims that he never even knew of the existence of such an EC until the FBI's Office of Professional Responsibility (OPR) contacted him months after the 9/11 attacks. Even after this revelation, the Unit Chief never made any attempt to notify the Phoenix Division (or any other field Division) that he had not read the EC addressed to him. He issued no clarifying instructions from his Unit to the field, which very naturally must believe to this day that this Unit Chief is actually reading and assessing the reports that are submitted to his attention and for his consideration. The Unit Chief in question here has claimed to be "at a loss" as to why he did not receive a copy of the Phoenix EC at the time it was assigned, as was the practice in the Unit at that time.

Apparently, it was routine in the Unit for analytic support personnel to assess and close leads assigned to them without any supervisory agent personnel reviewing their activities. In the RFU, the two individuals in the support capacity entered into service at the FBI in 1996 and 1998. The Phoenix memo was assigned to one of these analysts as a "lead" by the Unit's Investigative Assistant (IA) on or about July 30th, 2001. The IA would then accordingly give the Unit Chief a copy of each EC assigned to personnel in the Unit for investigation. The RFU Unit Chief claims to have never seen this one. In short, the crucial information being collected by FBI agents in the field was disappearing into a black hole at Headquarters. To the extent the information was reviewed, it was not reviewed by the appropriate people.

More disturbingly, this is a recurrent problem at the FBI. The handling of the Minneapolis LHM and the Phoenix memo, neither of which were reviewed by the correct people in the FBI, are not the first times that the FBI has experienced such a problem in a major case. The delayed production of documents in the Oklahoma City bombing trial, for example, resulted in significant embarrassment for the FBI in a case of national importance. The Judiciary Committee held a hearing during which the DOJ's own Inspector General testified that the inability of the FBI to access its own information base did and will have serious negative consequences. Although the FBI is undertaking to update its information technology to assist in addressing this problem, the Oklahoma City case demonstrates that the issue is broader than antiquated computer systems. As the report concluded, "human error, not the inadequate computer system, was the chief cause of the failure. . . ." The report concluded that problems of training and FBI culture were the primary causes of the embarrassing mishaps in that case. Once again, the FBI's and DOJ's failures to address such broad based problems seem to have caused their recurrence in another context.

6. The FBI's Poor Information Technology Capabilities

On June 6, 2002, Director Mueller and SA Rowley testified before the Senate Judiciary Committee on the search capabilities of the FBI's Automated Case Support (ACS) system. ACS is the FBI's centralized case management system, and serves as the central electronic repository for the FBI's official investigative textual documents. Director Mueller, who was presumably briefed by senior FBI officials regarding the abilities of the FBI's computers, testified that, although the Phoenix memorandum had been uploaded to the ACS, it was not used by agents who were investigating the Moussaoui case in

Minnesota or at Headquarters. According to Director Mueller, the Phoenix memorandum was not accessible to the Minneapolis field office or any other offices around the country; it was only accessible to the places where it had been sent: Headquarters and perhaps two other offices. Director Mueller also testified that no one in the FBI had searched the ACS for relevant terms such as "aviation schools" or "pilot training." According to Director Mueller, he hoped to have in the future the technology in the computer system to do that type of search (e.g., to pull out any electronic communication relating to aviation), as it was very cumbersome to do that type of search as of June 6, 2002. SA Rowley testified that FBI personnel could only perform one-word searches in the ACS system, which results in too many results to review.

Within two weeks of the hearing, on June 14, 2002, both Director Mueller (through John E. Collingwood, AD Office of Public and Congressional Affairs) and SA Rowley submitted to the Committee written corrections of their June 6, 2002, testimony. The FBI corrected the record by stating that ACS was implemented in all FBI field offices, resident agencies, legal attache offices, and Headquarters on October 16, 1995. In addition, it was, in fact, possible to search for multiple terms in the ACS system, using Boolean connectors (e.g., hijacker or terrorist and flight adj school), and to refine searches with other fields (e.g., document type). Rowley confirmed the multiple search-term capabilities of ACS and added that the specifics of ACS's search capabilities are not widely known within the FBI.

We commend Director Mueller and SA Rowley for promptly correcting their testimony as they became aware of the incorrect description of the FBI's ACS system during the hearing. Nevertheless, their corrections and statements regarding FBI personnel's lack of knowledge of the ACS system highlights a longstanding problem within the Bureau. An OIG report, issued in July 1999, states that FBI personnel were not well-versed in the ACS system or other FBI databases. An OIG report of March 2002, which analyzed the causes for the belated production of many documents in the Oklahoma City bombing case, also concluded that the inefficient and complex ACS system was a contributing factor in the FBI's failure to provide hundreds of investigative documents to the defendants in the Oklahoma City Bombing Case. In short, this Committee's oversight has confirmed, yet again, that not only are the FBI's computer systems inadequate but that the FBI does not adequately train its own personnel in how to use their technology.

7. The "Revolving Door" at FBI Headquarters

Compounding information technology problems at the FBI are both the inexperience and attitude of "careerist" senior FBI agents who rapidly move through sensitive supervisory positions at FBI Headquarters. This "ticket punching" is routinely allowed to take place with the acquiescence of senior FBI management at the expense of maintaining critical institutional knowledge in key investigative and analytical units. FBI agents occupying key Headquarters positions have complained to members of the Senate Judiciary Committee that relocating to Washington, DC, is akin to a "hardship" transfer in the minds of many field agents. More often than not, however, the move is a career enhancement, as the agent is almost always promoted to a higher pay grade during or upon the completion of the assignment. The tour at Headquarters is usually relatively short in duration and the agent is allowed to leave and return to the field.

To his credit, Director Mueller tasked the Executive Board of the Special Agents Advisory Committee (SAAC) to report to him on disincentives for Special Agents seeking administrative advancement. They reported on July 1, 2002, with the following results of an earlier survey:

"Less than 5% of the Agents surveyed indicated an interest in promotion if relocation to FBIHQ was required. Of 35 field supervisors queried, 31 said they would 'step down' rather than accept an assignment in Washington, D.C. All groups of Agents (those with and without FBIHQ experience) viewed as assignment at FBIHQ as very negative. Only 6% of those who had previously been assigned there believed that the experience was positive—the work was clerical, void of supervisory responsibility critical to future field or other assignments. Additionally, the FBIHQ supervisors were generally powerless to make decisions while working in an environment which was full of negativity, intimidation, fear and anxiousness to leave."

The SAAC report also contained serious criticism of FBI management, stating:

"Agents across the board expressed reluctance to become involved in a management system which they believe to [be] hypocritical, lacking ethics, and one in which we lead by what we say and not by example. Most subordinates believe and most managers agreed that the FBI is too often concerned with appearance over substance. Agents believed that management decisions are often based on promoting one's self interest versus the best interests of the FBI."

There is a dire need for the FBI to reconsider and reform a personnel system and a management structure that do not create the proper incentives for its most capable and talented agents to occupy its most important posts. The SAAC recommended a number of steps to reduce or eliminate "disincentives for attaining leadership within the Bureau." Congress must also step up to the plate and assess the location pay differential for Headquarters transfers compared to other transfers and other financial rewards for administrative advancement to ensure that those agents with relevant field experience and accomplishment are in critical Headquarters positions.

Indeed, in the time period both before and after the Moussaoui application was processed at Headquarters (and continuing for months after the 9/11 attacks), most of the agents in the pertinent Headquarters terrorism unit had less than two years of experience working on such cases. In the spring and summer of 2001, when Administration officials have publicly acknowledged increased "chatter" internationally about potential terrorist attacks, the Radical Fundamentalist Unit at FBI Headquarters experienced the routinely high rate of turnover in agent personnel as other units regularly did. Not only was the Unit Chief replaced, but also one or more of the four SSAs who reported to the Unit Chief was a recent transfer into the Unit. These key personnel were to have immediate and direct control over the fate of the "Phoenix memo" and the Minneapolis Division's submission of a FISA application for the personal belongings of Moussaoui. While these supervisory agents certainly had distinguished and even outstanding professional experience within the FBI before being assigned to Headquarters, their short tours in the specialized counterterrorism units raises questions about the depth and scope of their training and experience to handle these requests properly and, more importantly, about the FBI's decision to allow such a key unit to be staffed in such a manner.

Rather than staffing counterterrorism units with Supervisory Special Agents on a revolving door basis, these positions should be filled with a cadre of senior agents who can provide continuity in investigations and guidance to the field.

A related deficiency in FBI management practices was that those SSAs making the decisions on whether any FISA application moved out of an operational unit were not given adequate training, guidance, or instruction on the practical application of key elements of the FISA statute. As we stated earlier, it seems incomprehensible that those very individuals responsible for taking a FISA application past the first step were allowed to apply their own individual interpretations of critical elements of the law relating to what constitutes a "foreign power," "acting as an agent of a foreign power," "probable cause," and the meaning of "totality of the circumstances," before presenting an application to the attorneys in the NSLU. We learned at the Committee's hearing this past September 10th, a full year after the terrorist attacks, that the FBI drafted administrative guidelines that will provide for Unit Chiefs and SSAs at Headquarters a uniform interpretation of how—and just as importantly—when to apply probable cause or other standards in FISA warrant applications.

All of these problems demonstrate that there is a dire need for a thorough review of procedural and substantive practices regarding FISA at the FBI and the DOJ. The Senate Judiciary Committee needs to be even more vigilant in its oversight responsibilities regarding the entire FISA process and the FISA Court itself. The FISA process is not fatally flawed, but rather its administration and coordination needs swift review and improvement if it is to continue to be an effective tool in America's war on terrorism.

IV. THE IMPORTANCE OF ENHANCED CONGRESSIONAL OVERSIGHT

An undeniable and distinguishing feature of the flawed FISA implementation system that has developed at the DOJ and FBI over the last 23 years is its secrecy. Both at the legal and operational level, the most generalized aspects of the DOJ's FISA activities have not only been kept secret from the general public but from the Congress as well. As we stated above, much of this secrecy has been due to a lack of diligence on the part of Congress exercising its oversight responsibility. Equally disturbing, however, is the difficulty that a properly constituted Senate Committee, including a bipartisan group of senior senators, had in conducting effective oversight of the FISA process when we did attempt to perform our constitutional duties.

The Judiciary Committee's ability to conduct its inquiry was seriously hampered by the initial failure of the DOJ and the Administrative Office of the United States Courts to provide to the Committee an unclassified opinion of the FISA Court relevant to these matters. As noted above, we only received this opinion on August 22, 2002, in the middle of the August recess.

Under current law there is no requirement that FISA Court opinions be made available to Congressional committees or the public. The only statutory FISA reporting requirement is for an unclassified annual report of the Attorney General to the Administrative Office of the United States Courts and to Congress setting forth with respect to the preceding calendar year (a) the total number of applications made for orders and extensions of orders approving electronic surveillance under Title I, and (b) the total number of such orders and extensions either granted, modified, or denied. These reports do not disclose or identify unclassified FISA Court opinions or disclose the number of individuals or entities targeted for surveillance, nor do they cover FISA Court orders for physical searches, pen registers, or records access.

Current law also requires various reports from the Attorney General to the Intelligence and Judiciary Committees that are not made public. These reports are used for Congressional oversight purposes, but do not include FISA Court opinions. When the Act was passed in 1978, it required the Intelligence Committees for the first five years after enactment to report respectively to the House of Representatives and the Senate concerning the implementation of the Act and whether the Act should be amended, repealed, or permitted to continue in effect without amendment. Those public reports were issued in 1979-1984 and discussed one FISA Court opinion issued in 1981, which related to the Court's authority to issue search warrants without express statutory jurisdiction.

The USA PATRIOT Act of 2001 made substantial amendments to FISA, and those changes are subject to a sunset clause under which they shall generally cease to have effect on December 31, 2005. That Act did not provide for any additional reporting to the Congress or the public regarding implementation of these amendments or FISA Court opinions interpreting them.

Oversight of the entire FISA process is hampered not just because the Committee was initially denied access to a single unclassified opinion but because the Congress and the public get no access to any work of the FISA Court, even work that is unclassified. This secrecy is unnecessary, and allows problems in applying the law to fester. There needs to be a healthy dialogue on unclassified FISA issues within Congress and the Executive branch and among informed professionals and interested groups. Even classified legal memoranda submitted by the DOJ to, and classified opinions by, the FISA Court can reasonably be redacted to allow some scrutiny of the issues that are being considered. This highly important body of FISA law is being developed in secret, and, because they are ex parte proceedings, without the benefit of opposing sides fleshing out the arguments as in other judicial contexts, and without even the scrutiny of the public or the Congress. Resolution of this problem requires considering legislation that would mandate that the Attorney General submit annual public reports on the number of targets of FISA surveillance, search, and investigative measures who are United States persons, the number of criminal prosecutions where FISA information is used and approved for use, and the unclassified opinions and legal reasoning adopted by the FISA Court and submitted by the DOJ.

As the recent litigation before the FISA Court of Review demonstrated, oversight also bears directly on the protection of important civil liberties. Due process means that the justice system has to be fair and accountable when the system breaks down.

Many things are different now since the tragic events of last September, but one thing that has not changed is the United States Constitution. Congress must work to guarantee the civil liberties of our people while at the same time meet our obligations to America's national security. Excessive secrecy and unilateral decision making by a single branch of government is not the proper method of striking that all important balance. We hope that, joining together, the Congress and the Executive Branch can work in a bipartisan manner to best serve the American people on these important issues. The stakes are too high for any other approach.

PATRICK LEAHY,
U.S. Senator.
ARLEN SPECTER,
U.S. Senator.
CHARLES E. GRASSLEY,
U.S. Senator.

Mr. SPECTER. I ask unanimous consent that the response of the Department of Justice dated February 20, 2003 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, February 20, 2003.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to follow up on outstanding questions from the Committee's hearings on June 6, 2002, at which FBI Director Mueller testified, a closed hearing on July 9, 2002, at which seven FBI personnel testified, and a September 10, 2002, hearing at which an Associate Deputy Attorney General testified on the FISA process. During this latter hearing, and in follow-up letters, dated September 24, 2002 and October 1, 2002, Senator Specter asked for additional information about the circumstances leading up to the FBI's issuance of guidance on the probable cause standard and the number of FBI requests for FISA warrants between June 6, 2002 and September 16, 2002.

In July 2002, the General Counsel's Office undertook to draft a comprehensive memorandum to provide FBI field and headquarters personnel with a practitioner's guide to the FISA process and the changes resulting from the USA PATRIOT Act. A section of that guidance was to be devoted to a refresher discussion of the probable cause standard. Near the end of that month, however, a new General Counsel reported to the FBI and reviewed the initial draft. After discussions with attorneys in the FBI's National Security Law Unit and the Justice Department, it was determined that the guidance would be issued in three separate memoranda. One would provide a broad overview of the FISA process; one would cover recent revisions to the limitations on the sharing of FISA-derived information; and one would clarify the probable cause standard.

These three memoranda were issued in September 2002 and copies are enclosed for your convenience. The 15-page overview of the FISA process was finalized and posted on the FBI intranet on September 12, 2002. The 11-page guidance on the new information sharing procedures was issued on September 18, 2002, and later superceded by the November 18, 2002 decision of the Foreign Intelligence Surveillance Court of Review which approved the Attorney General's March 6, 2002 Intelligence Sharing Procedures for Foreign Intelligence and Foreign Counterintelligence Investigations Conducted by the FBI. The clarification memorandum on the probable cause standard was released on September 16, 2002 and I am advised that, as a matter of courtesy, a copy was delivered to Senator Specter's office on that date.

In light of the November 18, 2002, decision of the Foreign Intelligence Surveillance Court of Review, the Department issued "field guidance" on intelligence sharing and FISA issues on December 24, 2002, which was sent to all United States Attorneys, all Anti-Terrorism Task Force coordinators and all Special Agents of the FBI. It consisted of three documents: (1) a memorandum jointly issued by the Deputy Attorney General and the Director of the FBI discussing the intelligence sharing procedures for foreign intelligence and foreign counterintelligence investigations, including a chart summarizing the March 6, 2002 Intelligence Sharing Procedures; (2) the Attorney General's March 6, 2002 memorandum on Intelligence Sharing Procedures for Foreign Intelligence and Counterintelligence Investigations conducted by the FBI; and (3) a memorandum from the Deputy Attorney General summarizing the November 18, 2002, decision of Foreign Intelligence Surveillance Court of Review. An electronic copy of the field guidance was provided to the Judiciary Committee on January 17, 2003 (an additional courtesy copy is enclosed).

Also on December 24, 2002, the Deputy Attorney General issued a memorandum instructing the Counsel for Intelligence Policy, the Assistant Attorney General for the Criminal Division, and the Director of the FBI to "jointly establish and implement a training curriculum for all Department lawyers and FBI agents who work on foreign intelligence or counterintelligence investigations, both in Washington, DC and in the field, including Assistant United States Attorneys designated under the Department's March 6, 2002 Intelligence Sharing Procedures. At a minimum, the training shall address the FISA process, the importance of accuracy in FISA applications, the legal standards (including probable cause) set by FISA, coordination with law enforcement and with the Intelligence Community, and the proper storing and handling of classified information." A copy of the December 24, 2002, training memorandum is enclosed.

Senator Specter's letter of October 1, 2002, asked as an additional follow-up question about the number of FBI requests for FISA warrants between Colleen Rowley's June 6, 2002, appearance before the Judiciary Committee and the September 16, 2002, issuance of the probable cause memorandum. The number of FBI applications to the Foreign Intelligence Surveillance Court (FISC) for FISA searches and surveillances during this time period is classified at the SECRET level and is being delivered to the Committee through the Office of Senate Security under separate cover and in accordance with the longstanding Executive branch practices on the sharing of classified intelligence information with Congress. Please note that the total annual number of FISA applications for orders authorizing electronic surveillance filed by the government and the total annual number of such applications either granted, modified, or denied by the FISC are not classified and are provided annually to the Administrative Office of the United States Court and to Congress under section 1807 of FISA.

The question of what probable cause standard was used on FISA applications for warrants during that time was posed to supervisors in the National Security Law Unit and in the Office of Intelligence Policy and Review. They responded that the applications—and their discussions about those applications—reflect that the agents and attorneys involved in the FISA process understood and applied the correct probable cause standard in their analyses of the relevant evidence. Based on their observations, the staff's understanding of probable cause—whether based on a reading of *Illinois* v. *Gates*, 462 U.S. 213 (1983), or of any of the other numerous authoritative judicial statements of the probable cause standard—did not change with the issuance of the probable cause memorandum. The standard they employed was consistent with *Illinois* v. *Gates* both before and after they received the memorandum.

I hope that this information is helpful. If you would like further assistance on this or on any other matter, please do not hesitate to contact me.

Sincerely,

JAMIE E. BROWN,
Acting Assistant Attorney General.

Mr. SPECTER. The oversight is going to continue on this matter. We are dealing with a constitutional responsibility of the Congress, that is the Senate and the Judiciary Committee, to conduct oversight on the Department of Justice and on the Federal Bureau of Investigation. This inquiry has demonstrated to this Senator that such oversight is sorely needed.

When I was District Attorney of Philadelphia and an assistant district attorney before that time, I had occasion to deal with a great many applications for search warrants. To find now that the key FBI personnel entrusted with the responsibility to apply for warrants under the Foreign Intelligence Surveillance Act, to get information on agents of foreign powers, at a time when the United States is threatened by terrorism, and they do not know what the right standard is, is just scandalous.

It has already been detailed on the public record that had they followed the right standard, and had the FBI gotten the computer of Zacarias Moussaoui, that 9/11 might have been prevented.

Then when the Judiciary Committee pursues the issue more than a month later at a subsequent hearing, and finds that the key FBI personnel, including their attorneys, do not know the right standard, it is just incredible. Then when the FBI Director does not respond to inquiries as to what the standards are, and days, weeks, and months follow, I wonder what has happened with many matters where terrorists may be plotting other attacks and our law enforcement officials are not doing the job.

This does raise the very fundamental question of whether the FBI is capable of handling counterterrorism in the United States, and what standards are being applied. Senator LEAHY, Senator GRASSLEY, and I have introduced further legislation requiring more reporting. There is a very important issue about civil liberties, but it all turns on appropriate application of the law, and that certainly has not been followed.

I will be sending a copy of this statement to FBI Director Mueller tomorrow when it is in print, and these issues will be raised at the hearing which is scheduled for next Tuesday. We have a hearing scheduled which will include Attorney General Ashcroft, FBI Director Robert Mueller, CIA Director George Tenet, and Secretary of Homeland Defense Tom Ridge. I am urging Chairman HATCH to break it up and to have only one of those individuals appear. If we have all four of them at one time, we will only be hearing opening statements from the Senators and opening statements from the individuals, and along about 1:15, when nobody has gone to lunch, is when we will really get to serious questioning, and the hearing will not exactly be fruitful. So we really need to take these very important individuals one at a time. So stay tuned on some questions for FBI Director Mueller.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 24, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR MUELLER: In a hearing before the Judiciary Committee on June 6, 2002, I questioned you and Special Agent Colleen Rowley about the erroneous standards being applied by the FBI on applications for warrants under the Foreign Intelligence Surveillance Act. I specifically called your attention to the appropriate standards in *Illinois* v. *Gates*.

On July 10, 2002, I wrote to you concerning a closed door hearing on July 9, 2002 where seven FBI personnel including four attorneys were still unfamiliar with the appropriate standard for probable cause of a FISA warrant under Gates.

At a Judiciary Committee hearing on September 10, 2002, I again raised these issues with a representative of the Department of Justice asking why I had not heard about any action taken by the FBI on these issues.

On September 12, 2002, my office received an undated letter from Assistant Director John E. Collingwood (copy enclosed) which was a totally inadequate response. My office has since been furnished with a copy of a memorandum from the Federal Bureau of Investigation dated September 16, 2002, entitled "Probable Cause" which references the Gates case.

I would like an explanation from you as to why it took the FBI so long to disseminate information on the standard for probable cause under Gates for a FISA warrant.

Sincerely,

ARLEN SPECTER.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 12, 2002.

Hon. ARLEN SPECTER,
Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am writing in response to your letter to Director Mueller dated July 10, 2002 regarding the standards applied to applications under the Foreign Intelligence Surveillance Act (FISA).

As you know, the events of September 11, 2001 caused the entire Government to review all of its programs to identify any revisions which may help to prevent another terrorist attack. The FISA review process is critical to our counterterrorism mission and, even before September 11th, we were working with the Department of Justice (DOJ), as well as the FISA Court, to simplify and expedite the FISA procedures. We have made significant progress including implementation of the FISA procedures to ensure accuracy (known as the "Woods Procedures"), a copy of which has been provided to the Committee.

In addition, we have been crafting new guidance, in consultation with DOJ, to address the FISA process as modified by the USA PATRIOT Act. This guidance will also address the concerns raised in your letter and your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation. A copy will be provided to the Committee as well.

I appreciate your concerns and your support in these critical matters. Please contact me if you have any questions.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Office of
Public and Congressional Affairs.

U.S. SENATE,
Washington, DC, October 1, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR MUELLER: Supplementing my letter of September 24, 2002, I would like to know how many requests the FBI made for warrants under the Foreign Intelligence Surveillance Act from June 10, 2002, the date of the Judiciary Committee hearing with you and Special Agent Colleen Rowley, and September 16, 2002, the date on the FBI memorandum citing the Gates case.

I would also like to know the specifics on what standard of probable cause was used on the applications for warrants under FISA during that period.

Sincerely,

ARLEN SPECTER.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 10, 2002.

Hon. ROBERT MUELLER,
Director, Federal Bureau of Investigation,
Washington, DC.

DEAR DIRECTOR: In a hearing before the Judiciary Committee on June 6, 2002, I called your attention to the standard on probable cause in the opinion of then-Associate Justice Rehnquist in *Illinois* v. *Gates*, 462 U.S. 213, 236 (1983) (citations omitted) as follows:

> As early as *Locke* v. *United States*, 7 Cranch. 339, 348, 3 L.Ed. 364 (1813), Chief Justice Marshall observed, in a closely related context, that "the term 'probable cause,' according to its usual acceptation, means less than evidence which would justify condemnation. . . . It imports a seizure made under circumstances which warrant suspicion." More recently, we said that "the quanta . . . of proof" appropriate in ordinary judicial proceedings are inapplicable to the decision to issue a warrant. Finely-tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the magistrate's decision. While an effort to fix some general,

numerically precise degree of certainty corresponding to "probable cause" may not be helpful, it is clear that "only the probability, and not a prima facie showing, of criminal activity is the standard of probable cause."

In a closed door hearing yesterday, seven FBI personnel handling FISA warrant applications were questioned, including four attorneys.

A fair summary of their testimony demonstrated that no one was familiar with Justice Rehnquist's definition from Gates and no one articulated an accurate standard for probable cause.

I would have thought that the FBI personnel handling FISA applications would have noted that issue from the June 6th hearing; or, in the alternative, that you are other supervisory personnel would have called it to their attention.

It is obvious that these applications, which are frequently made, are of the utmost importance to our national security and your personnel should not be applying such a high standard that precludes submission of FISA applications to the Foreign Intelligence Surveillance Court.

I believe the Judiciary Committee will have more to say on this subject but I wanted to call this to your attention immediately so that you could personally take appropriate corrective action.

Sincerely,

ARLEN SPECTER.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC.

Hon. ARLEN SPECTER,
Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am writing in response to your letter to Director Mueller dated July 10, 2002 regarding the standards applied to applications under the Foreign Intelligence Surveillance Act (FISA).

As you know, the events of September 11, 2001 caused the entire Government to review all of its programs to identify any revisions which may help to prevent another terrorist attack. The FISA review process is critical to our counterterrorism mission and, even before September 11th, we were working with the Department of Justice (DOJ), as well as the FISA Court, to simplify and expedite the FISA procedures. We have made significant progress including implementation of the FISA procedures to ensure accuracy (known as the "Woods Procedures"), a copy of which has been provided to the Committee.

In addition, we have been crafting new guidance, in consultation with DOJ, to address the FISA process as modified by the USA PATRIOT Act. This guidance will also address the concerns raised in your letter and your meeting with FBI personnel on July 9, 2002. We anticipate approval of the guidance shortly and will immediately disseminate it to field offices for implementation. A copy will be provided to the Committee as well.

I appreciate your concerns and your support in these critical matters. Please contact me if you have any questions.

Sincerely,

JOHN E. COLLINGWOOD,
Assistant Director, Office of
Public and Congressional Affairs.

EXHIBIT 2

FEDERAL BUREAU OF INVESTIGATION

To: All Divisions.
From: Office of the General Counsel.

PROBABLE CAUSE

Synopsis: The purpose of this Electronic Communication is to clarify the meaning of probable cause.

Details: In recent legislative hearings, questions have been raised about the concept of probable cause as it applies to the Foreign Intelligence Surveillance Act (FISA). While FBI Agents receive substantial legal training and have ample experience applying the concept in their daily work, it is nonetheless helpful to review the case law defining probable cause. Accordingly, the Office of the General Counsel prepared the following summary for the benefit of all FBI Agents.

In *Illinois* versus *Gates*, 462 U.S. 213 (1983, the Supreme Court explained that the probable cause standard is a practical, nontechnical concept which deals with probabilities—not hard certainties—derived from the totality of the circumstances in a factual situation. Probable cause to believe a particular contention is determined by evaluating "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act;" it is a "fluid concept . . . not readily, or even usefully, reduced to a neat set of legal rules." 462 U.S. at 231–32.

The courts have broadly defined the parameters of probable cause. While it requires more than an unfounded suspicion, courts have repeatedly explained that probable cause requires a lesser showing than the rigorous evidentiary standards employed in trial proceedings. In Gates, 462 U.S. at 235, the Supreme Court explained that probable cause is less demanding than the evidentiary standards of beyond a reasonable doubt, preponderance of the evidence or even a prima facie case—all that is required to establish probable cause is a "fair probability" that the asserted contention is true. It is particularly important to note that probable cause is a lower standard than "preponderance of the evidence," which is defined as the amount of evidence that makes a contention more likely true than not true. See, e.g., *United States* versus *Bapack*, 129 F.3d 1320, 1324 (D.C. Cir. 1997) (preponderance standards means "more likley than not"); *United States* versus *Montague*, 40 F.3d 1251, 1255 (D.C. Cir. 1994) ("more probable than not"), BLACK'S LAW DICTIONARY 1064 (5th ed. 1979) ("[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it"). Since probable cause is a lower standard than preponderance of the evidence, an Agent can demonstrate probable cause to believe a factual contention without proving that contention even to a 51 percent certainty, as required under the preponderance of the evidence standard. See, e.g., *United States* versus *Cruz*, 834 F.2d 47, 50 (2d Cir. 1987) (probable cause does not require a showing that it is more probable than not that a crime has been committed); *Paff* versus *Kaltenbach*, 204 F.3d 425, 436 (3d Cir. 2000) (probable cause is a lesser showing than preponderance of the evidence); *United States* versus *Limares*, 269 F.3d 794, 798 (7th Cir. 2001) (same); *United States* versus *Mounts*, 248 F.3d 712, 715 (7th Cir. 2001) (probable cause does not require a showing that it is more likely than not that the suspected committed a crime).

Courts have instructed judges to apply no higher standard when they review warrants for probable cause. The magistrate reviewing an application for a criminal search warrant "is simply to make a practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him, . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Gates*, 462 U.S. at 238. As to arrest warrants, the question for the magistrate is whether the totality of the facts and circumstances set forth in the affidavit are "sufficient to warrant a prudent man in believing that the [suspect] had committed" the alleged offense—an evaluation that "does not require the fine resolution of conflicting evidence that a reasonable-doubt or even a preponderance standard demands." *Gerstin* versus *Pugh*, 420 U.S. 103, 111–12, 121 (1975).

Similarly, a judge of the Foreign Intelligence Surveillance Court reviewing an application for a FISA electronic surveillance order or search warrant must make a probable cause determination based on a practical, common-sense assessment of the circumstances set forth in the declaration. The judge must first find probable cause that the target of the surveillance or search is a foreign power or an agent of a foreign power. While certain non-U.S. persons can qualify as agents of a foreign power merely by acting in the United States as an officer or employee of a foreign power, a U.S. person can be found to be an agent of a foreign power only if the judge finds probable cause to believe that he or she is engaged in activities that involve (or in the case of clandestine intelligence gathering activities "may involve") certain criminal conduct. 50 U.S.C. 1801(b). For an electronic surveillance order to issue under FISA, the judge must additionally find that there is probable cause to believe that each of the facilities or places to be electronically surveilled is being used, or is about to be used, by a foreign power or an agent of a foreign power. 50 U.S.C. 1805(a)(3). For a FISA search warrant, the judge must find probable cause to believe that the premises or property to be searched is owned, used, possessed by or in transit to or from a foreign power or an agent of a foreign power. 50 U.S.C. 1824(a)(3).

We hope this summary clarifies the meaning of probable cause. Agents with questions about probable cause in a case should consult with their Chief Division Counsel, the Office of the General Counsel, or the Assistant United States Attorney or Justice Department attorney assigned to the case.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I think Members on both sides of the aisle greatly respect the work of our colleague on the FBI and we appreciate his work.

Mr. SPECTER. I thank my colleague from New York for the generous comments.

Mr. SCHUMER. Well deserved, not just in my opinion but in the opinion of many Members.

Mr. SPECTER. I thank the Senator.

Mr. SCHUMER. Mr. President, I will continue our discussion on so many issues facing the Nation. Obviously, in the Senate the business is the business of Miguel Estrada. I will comment on that in a few minutes.

I do want to say, however, that some on the other side are attempting to convey the impression that it is we, the Democrats, who continue the debate on Miguel Estrada. We do not. We have, indeed, asked Mr. Estrada to answer the most rudimentary questions that every person who seeks to achieve a lifetime appointment of the high office of judge of the DC Circuit Court of Appeals is asked to answer. There are a large number of Members who will not move to vote until those questions are answered. That seems to be entirely logical.

Let me make clear the reason we continue to debate Mr. Estrada—not the economy, not homeland security, not the many issues that our constituents are asking about—is the choice not of the Democratic minority but of the Republican majority that controls the floor.

In fact, 2 weeks ago, when the Republican majority thought they ought to get other things done, they have. We actually approved three other judges at the majority leader's request. We left the subject of Mr. Estrada and debated those judges. We approved the omnibus budget—late, of course—but we approved that budget, the largest amount of Federal spending we have ever voted on, debated it, amended it, while the Estrada nomination was still pending.

I ask my colleagues on the other side of the aisle, until we resolve this impasse about who Mr. Estrada is and what he actually believes, what his judicial philosophy is, and get the best evidence—not hearsay evidence because there is hearsay evidence on both sides—that we do move to other issues.

When I go to New York, virtually none of my constituents ask me about Miguel Estrada. Yes, you will get some editorials and you get some talk shows talking about him one way or the other. But not average voters. Not even any voter except those in the political class.

My constituents are asking me about the war, when we might go to war and what is happening. I get a lot of negative comments about France, which I am sympathetic toward—not France but the negative comments. And more than that I get questions about the economy. I get question after question after question: What are you guys in Washington doing about the economy?

This morning I flew back from New York and the man at the gate of the airport, obviously somebody who makes an average salary working for Delta Airlines, asked me: Senator, when are you guys going to get the economy going?

We on this side would love to start debating on the economy. We would love to start talking about how we will get people to work. As our minority leader, TOM DASCHLE, put it so well yesterday, the Republicans on the other side of the aisle are concerned about one job, that of Mr. Estrada. And by the way, he already has a job. My guess is he is being paid well into the six figures. He can live quite a nice life, as he deserves, on that ample salary.

But what about the 2.8 million Americans who have lost jobs? What about the tens of millions of other Americans who have jobs, but they are not getting the salaries they used to get in terms of buying power? What about all the companies, the small businesses, that say the business climate is not good enough so they can expand? What about the large businesses? I was reading my clips here and some of the largest companies in upstate New York have stopped putting dollars into research or decreased the amount of money they are putting into research, which is the lifeblood of our future, our information-based economy, because very simply, the economy is so squishy soft.

We have plans to deal with the economy. We would like to debate them. I was told this morning that many think the majority leader will not even bring up a stimulus package until late spring. We cannot afford to wait. We can sit here and make the speeches.

Do you know how many times I have heard that Mr. Estrada graduated from Harvard Law School? It is not new news. We are not making any new points in this debate. I guess every one of the Senators could answer this question: How many former Solicitors General have said that the records should not be revealed? We have heard that probably 100 times on the floor. No new ground is being broken in this debate.

Yet for some strange reason the majority leader seeks to keep us on this issue. We all know what the issue is. It is a simple issue. That is, many Members believe Mr. Estrada has to tell not only the Senate but the American people—because the Founding Fathers regarded us as a mechanism by which the American people could learn—his views on fundamental issues. What is his view of the first amendment and whether it is an expansive view or narrowing view?

Right now we are faced with the age-old conflict between security and liberty as we debate the PATRIOT Act. It is all challenged in court. What are Mr. Estrada's views? How does he see it? Is he hard on the security side? Is he hard on the liberty side? What are his views on the commerce clause?

We all know that there is a move among many Justices in the Supreme Court and judges in the courts of appeals to narrow that commerce clause. Some want to narrow it, in my opinion, so severely we could go back not to the 1930s but the 1890s.

The American people are entitled to know his views. They are not simply entitled to know that Mr. Seth Waxman says he is a good fellow. That is not an answer.

I am sure my colleague from Pennsylvania would admit if he were here, direct evidence is a lot better than hearsay evidence. There are various ways you get direct evidence. One is by asking a witness questions. As anyone who has read the transcript of the hearing that I chaired for Mr. Estrada, he went to every length to avoid any answers that were substantive on any direct questions. I have never seen anything like it.

Of course, subsequent to Mr. Estrada answering that way, I believe there are new nominees saying the same thing. But none of the nominees before were ever so restrictive. And I believe the only reason the others have not answered questions, they were afraid they would embarrass Mr. Estrada, acting at the request of the White House. It is a good guess he has been instructed not to answer these.

Another way is to look at somebody's past history. There is only one place where we can find Mr. Estrada's own views in his past history ,because he has written very little.

He clearly was not previously a judge; he was a lawyer. He was obviously representing clients; that is, by his writings and by his views when he was in the Solicitor General's office. There are some who say those should not be revealed. There are arguments on that side. But there are no legal arguments and there is plenty of precedent on the other side.

Should everybody who worked in the Solicitor General's Office have to reveal such information? Probably it would be better. I believe in openness. But it wouldn't be essential because just about every nominee who has come before us for this kind of high court has had some kind of record.

There are some who say Mr. Estrada is way to the right of Justice Scalia. If that is true, he should not be approved. If, on the other hand, he is a mainstream conservative, he should be approved.

Of the 106 people the President nominated for judge for whom we voted, on whom we have had votes here in the Senate, I have supported 98, 99, or 100 of them. I am sure the vast majority of those were mainstream conservatives—people I might disagree with on this issue or that. But the real issue here is, Is Mr. Estrada so far out of the mainstream on the second highest court in the land that if the American people knew his views they would be aghast?

Do you know what many people say when they hear this argument? When I went back home and anyone asked me—as I said, almost no one did—but when I was asked or when I entered an opinion, there was not a soul who would disagree that he should reveal what he thinks. There is too much power in this awesome lifetime appointment not to do so.

So the issue is drawn. We know the issue. No one has budged over the last 2 to 3 weeks.

Why are we still debating Estrada? Because the Republican majority insists on doing it. Maybe they think they can win political points. I doubt it. I think most people do not care. Maybe they feel so strongly that they want to keep the Senate tied up. I will tell you, if they do, they are not representing what the American people want, which is debate on other issues.

The two issues I think we should be debating now are the economy and what we are doing about homeland security. Those two issues, in my judgment, are the two that have a real impact. We have disagreements on the war. We know that. That is now pretty much in executive branch hands. But what to do about homeland security and what to do about the economy or what the American people are asking us to do—and I will say to you, ladies and gentlemen of America—the reason we are not debating those extremely serious issues is because the Republican majority insists that we stay on the Estrada issue.

If I heard from the other side new arguments that might convince people, I would say, well, maybe they have a point. But a new argument has not been made on this issue for a week or two. Do you know what? If someone comes up with an ingenious argument that might convince a number of Members on this side, we can go back and debate Mr. Estrada. But right now, I will challenge my good friends, my Republican colleagues on the other side of the aisle, to start doing something about the economy. Let us debate that issue.

Again, I say this to the American people. We do not control the floor.

When they say Democrats are filibustering on Mr. Estrada, that is not true. It is the Republican side that is keeping us debating the issue of Mr. Estrada. They say until you see it our way, we are going to stay with Mr. Estrada. If this were the No. 1 issue most Americans think should be tackled, they might have a point. But it isn't, although I am afraid some of my colleagues are sort of out of touch.

I want to quote my good friend, the junior Senator from Pennsylvania, Mr. SANTORUM. He came out of a White House meeting, according to the National Journal, and said that getting Estrada to the Senate was first and foremost on President Bush's mind.

More important than the war in Iraq? More important than protecting our homeland? More important than starting the economy going and getting the jobs we need? I don't think more than 1 percent of the American people would agree with that analysis. If so, the President ought to rethink. If Mr. SANTORUM is properly reporting on President Bush's views that Estrada is first and foremost, then the President ought to get out on the hustings and start talking to the American people and finding out what is on their minds because it isn't Mr. Estrada.

I would like to talk about one thing about the economy which I think is important. Today, along with my colleague from New Jersey, Senator CORZINE, and my colleague from Michigan, Ms. STABENOW, and my colleague from Delaware, Senator CARPER, all members of the Banking Committee, we put in a sense-of-the-Congress resolution that says the independence of the Federal Reserve Board should be preserved; that praises Chairman Greenspan as an independent voice and that asks this Senate to go on record in support of Mr. Greenspan.

Why have we done that? Very simply, 2 weeks ago Mr. Greenspan, before our Banking Committee, was his usual independent self. He said that while he likes the dividend tax cut, that he was so worried about plunging this Nation into fiscal chaos with huge deficits that we only ought to do it if it could be revenue-neutral—in other words, if we could find other cuts in spending or other increases in taxes that would equal the dividend tax cut—a view, by the way, that I find is corroborated by most of the business leaders I talk to.

Right after that happened, there were reports in all the newspapers that the White House was furious at Alan Greenspan. Bob Novak said in his column—which I believe was entitled, "Goodbye Greenspan?"—the White House was so angry at Alan Greenspan's show of display of independence that they might not reappoint him.

Mr. BURNS. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. I will be happy to yield in a few minutes. I want to finish my point.

When the Federal Reserve Board was set up, it was supposed to be independent. That is why it was a board. That is why the appointments are for such lengths of time. If you go back and read the history, it was set up to be as far removed from the political forces within the White House and elsewhere as it could be. Sometimes the independence of Chairman Greenspan benefits the White House.

Two years ago, many of us on this side of the aisle were quite upset with him when he encouraged a tax cut that many economists thought seemed too high—not that there shouldn't have been a tax cut, but that it was too large. At that point, the White House was very happy with the independence of the chairman. Now he said something else. Our economy is weaker. We have a large deficit. It is getting worse. The White House, which says we have no money for homeland security and no money to help the States out of their problems, has $670 billion for a tax cut.

I tend to like tax cuts. I tend to support them. But they ought to be stimulative to the economy. They ought to be fair. In other words, the middle-class people ought to get a good, decent share of the benefit. And they ought to be responsible. They ought not throw us into such large deficits that our economy has a burden on its shoulders for a decade. Chairman Greenspan was saying on the last point that we need to correct it.

When I mentioned this resolution in the Banking Committee a few hours ago, I was glad to hear that three or four of my Republican colleagues, including Chairman SHELBY, said that Alan Greenspan was a fine man, that the Federal Reserve Board ought to be independent, and that he ought to be reappointed.

I ask unanimous consent right now to bring up that amendment, to bring up that sense-of-the-Senate resolution because that would help calm the markets that are jittery enough as they are right now.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. I object.

Mr. SCHUMER. I understand that my colleague objected. It didn't surprise me.

But, again, on the issue of great importance to Americans, the state of this economy, and the independence of the Federal Reserve Board and the need that we don't just become profligate with the tax cut or the spending side, the other side wants not to debate that subject and continue debating Mr. Estrada.

I am happy to debate it. I have been on this floor for many hours. But, again, there are no new arguments that come out. I think every one of us could take a quiz on the three major points the Republican side makes and the Democrat side makes. So I say to my colleagues, it is time to move on. There is another issue I think we should move on to.

I am going to yield just for the purposes of a question to my colleague because I am going on to another little area.

Mr. BURNS. I thank the Senator from New York.

The reason I objected is, that is not the issue at hand on the floor now, and the proper people are not on the floor to strengthen or weaken his argument on Mr. Greenspan.

But I have been watching the debate on Miguel Estrada with a great deal of interest. I would agree with my friend from New York in that I have traveled through my whole State—not the whole State, but a goodly part of it—and it is not the first question we are asked in townhall meetings or in an occasional meeting on the street.

I understand, though, that the Senator from New York questioned Mr. Estrada for about 90 minutes or so in committee. And I think it is general practice here that if you have more questions, even after the committee hearing is over, you submit written questions. I would inquire of my friend from New York: Did you send Mr. Estrada any written questions after the hearing, after he was voted out of committee and his nomination was brought to the floor?

Mr. SCHUMER. Let me respond to my colleague, I did not. I usually do send written questions. I had ample time to question Mr. Estrada. I got to ask a lot of the questions I wanted to ask. There was one problem: I got no answers. When I asked Mr. Estrada his views on, say, the 1st amendment, or on the commerce clause, or on the 11th amendment, I got back an answer that I found extremely unsatisfying. Some might call it disingenuous. I am not going to go that far. He said: Senator, I will follow the law.

Of course, every judge believes they are following the law. But if following the law was all one needed to say, we would not need a confirmation process. How Justice Scalia thinks we ought to follow the law is quite different than how Justice Breyer or Justice Thomas thinks we ought to follow the law.

If simply following the law told us how a judge would vote on the most important issues, then why is it that judges who tend to be appointed by Republican Presidents—not always, but usually—vote quite differently than judges who get appointed by Democratic Presidents? It is because even as you follow the law, your own views always influence you as a judge. And the higher the court is, and the more important the court is, the more that is the case, because there are fewer precedents.

In fact, I commend to my good friend from Montana a study done by Professor Sunstein of the University of Chicago. He looked at this very DC Court of Appeals, and he said there were huge differences on just about every issue between the judges appointed by Democratic Presidents and judges appointed by Republican Presidents.

So the bottom line is, I asked Mr. Estrada, and first he said: I can't answer these questions because it might influence me when I have to make a future decision. And he cited the canons of ethics. We all know that the canons of ethics means you cannot say: Well, there is a case over there about the logging standards in the Sawtooth Mountains. I think those are in Montana.

Mr. BURNS. You got the right mountains, but you have got the wrong State.

Mr. SCHUMER. Idaho. My family and I have traveled through there, and it is a beautiful part of America. We go hiking out there every summer, although I am sure my friend from Montana would think not enough of the West has rubbed off on me yet, but we are trying.

But in any case, that prospective nominee should not answer. But if you ask a prospective nominee his views or her views on: What are your general views on how much leeway the Federal Government has versus the State governments on how logging should be done or how the environment should be regulated? I would argue to my colleague from Montana that is exactly what we should be asking the nominee, and that is exactly what they should be answering.

Let me read you a quote from your leader on the Judiciary Committee. He said, on February 18, 1997, before the University of Utah Federalist Society:

> Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.

That is exactly what we are saying. He was asked by Senator FEINSTEIN his views on Roe v. Wade. Now, I do not believe in a litmus test, and I would say, of the 99 or so judges I voted for, who were nominated by President Bush, most of them disagree with my view on choice, but I voted for them because they were mainstream conservatives. They were mainstream.

Mr. BURNS. Will the Senator further yield?

Mr. SCHUMER. I will yield when I finish my point.

But when Miguel Estrada was asked if he had any personal views on Roe v. Wade, he said, no—something to that effect. I said to him: Name three Supreme Court cases already decided that you do not like. There would be no worry about the canons of ethics. And guess what he said. "I won't answer."

So after 90 minutes of basically being stonewalled, there was no further point in asking written questions and getting the same answers. It is not that we did not ask the questions. We asked him a ton of questions, my colleague from Illinois and all the members of the Judiciary Committee. He just simply dead flat refused to answer them. And that when you are being nominated for the second most important court in the land, a court that is going to have huge power over every one of our lives.

That is not what the Founding Fathers intended. You read The Federalist Papers. It is not fair to this Senate. It makes a mockery of the process. And most of all, I say to my good friend from Montana, it is not fair to the American people. Because the judiciary is the one unelected branch of Government. It is where the people have the least say. That is why sometimes it garners such fervent opinions, pro and con. But the only chance you have—before this lifetime appointment passes—is at this point. And, in all fairness, I cannot think of anybody who has shown less of what he thinks about the major issues of the day before nomination than Mr. Estrada. I am sure my colleague would agree with me, if you asked 100 Americans: Should nominees for such awesome positions be—not required—but should they reveal their views? I bet 99 or 98 would say: Yes.

So I just want to make one other point. I see my other colleagues are in the Chamber. There is another issue—I am going to yield.

I ask the Senator, do you have another question?

Mr. BURNS. Being that the Senate is made up of about 65 to 70 percent attorneys—and I not being one of those—that was the longest "yes, I did not ask him any further questions in written form" I have ever heard. But we have to contend with that in this body.

I watched those hearings with a great deal of interest because I believe, as does the Senator from New York, this is a very sensitive and important part of our role in the Senate. However, I think we have injected a double standard here in this case. And I think that case has been made here. But I would say after——

Mr. SCHUMER. Mr. President, just reclaiming my time, I would say it has been made about 50 times—not very well, in my judgment but 50 times.

Mr. BURNS. If I may finish my question. Didn't he answer that question just about the same as the nominees sent up by the previous President of the United States? That is what I am going back to.

Like the Senator from New York, I think we should be moving on. I contend that we have talked about this, we have discussed it and debated it. The only thing I am saying is let's just vote on him.

I plan to come back to the Chamber later today to make a statement. I was interested in the Senator's discussion and his statement. I thank my good friend from New York for responding to the question.

Mr. SCHUMER. I appreciate that.

Mr. President, let me say this. I don't have all of the nominees here. I have been on the Judiciary Committee for 4 years. I have not come across a nominee to the court of appeals, when given so many extensive questions, who had so few answers as Miguel Estrada.

I don't think there is a double standard. I will quote one. Probably, the nominee of President Clinton that garnered the most controversy—because my colleagues on the other side thought he was too far out of the mainstream from the left side—happened to be a Hispanic nominee named Richard Paez. As the Senator knows, he was held up for over 1,500 days. Let me read the same question that was asked of Mr. Paez—by the way, these were asked by your colleague, my colleague, our friend, Senator SESSIONS. Senator SESSIONS asked him:

> In your opinion, what is the greatest Supreme Court decision in American history?

Did Judge Paez refuse to answer that question, say he could not, as Mr.

Estrada did? No. He right away named Brown v. Board of Education.

Senator SESSIONS then asked the same question I asked of Mr. Estrada. He said:

> What is the worst Supreme Court decision?

Again, Paez answered without hesitation, without ducking, without hiding behind some legal subterfuge—which I know my colleague from Montana doesn't like—that it was Dred Scott.

So if these questions were fair to ask Judge Paez, why are they not fair to ask Miguel Estrada?

One other point I will make rhetorically is, we have heard some charges here—not directed at any one of us specifically—that asking Mr. Estrada all these questions means we are against Hispanics. Why wasn't asking these questions of Judge Paez anti-Hispanic? If you want to talk about a double standard, the double standard, I am afraid, has been brought up by many of my colleagues on the other side of the aisle who seem to think it was perfectly OK then.

This is what Senator HATCH said about another Hispanic nominee. Her name was Rosemary Barkett—a Hispanic nominee, by the way, with the same kind of rags-to-riches story—well, Miguel Estrada didn't come from poverty, but it was the same quick advancement story. She tried to become a nun. She worked in schools and made herself a lawyer—very admirable, with high ratings from the American Bar Association. Same thing. This is what our good friend, ORRIN HATCH, said:

> I led the fight to oppose Judge Barkett's confirmation . . . because her judicial records indicated that she would be an activist who would legislate from the bench.

Why isn't what's good for the goose good for the gander? Senator HATCH believed—and nobody on this side stopped him—that he had to ask this nominee, who also happens to be Hispanic—a Mexican American, not from Central America—a whole lot of questions. He had to go through her records and now all of a sudden when Miguel Estrada comes up, not only are we being told we should not ask questions, but it is a "double standard" because he is Hispanic. I think the double standard comes from the people who are making that charge on the other side. They ought to look in the mirror.

I yield to my colleague from Nevada for a question.

Mr. REID. The Senator from New York is a member of the Judiciary Committee, true?

Mr. SCHUMER. I am indeed.

Mr. REID. The Senator is familiar with the record of the Judiciary Committee during the time Democrats were in control of the Senate, true?

Mr. SCHUMER. I am.

Mr. REID. Is it true that a hundred judges were approved during that short period of time when we were in control of the Senate?

Mr. SCHUMER. Exactly true.

Mr. REID. Breaking all records.

Mr. SCHUMER. Yes. Senator LEAHY, our chairman, made every effort to bring nominees through. When I tell my constituents—the few who care about this, frankly, because most of them want us to talk about the economy or homeland security—that we have approved something like 99 out of 106 nominees, a lot of them said we approved too many. Everyone should not be rubberstamped.

Mr. REID. If I may ask another question. It is also true, is it not, that during this session of the legislature, the three judges brought before us other than Estrada have been approved unanimously?

Mr. SCHUMER. My colleague is exactly correct. I brought this up before while we were debating Miguel Estrada, so we could go off the Estrada issue to debate the economy and homeland security, which my good friend from Montana had the good grace to say is also far more on the minds of his constituents.

Mr. REID. If the Senator will yield for another question, is the Senator aware that a poll was conducted by the Pew Research Center. You are familiar with polls, as I am.

Mr. SCHUMER. I am not familiar with that particular one, but Pew Research has a good reputation.

Mr. REID. They did a poll of 1,254 people that was completed on February 18. Is the Senator aware that in that poll, the people were asked how President Bush was handling the economy? Is the Senator aware that 43 percent of the people approved of the way President Bush was handling the economy and 48 percent disapproved?

Mr. SCHUMER. I was not aware of that poll.

Mr. REID. Is the Senator aware of the fact that Senator DASCHLE, the Democratic leader, came to the floor yesterday and asked that a bill that had been moved by the majority leader the day before, a rule 14, S. 414, is the Senator aware that Senator DASCHLE asked unanimous consent to bring that bill to the floor so we could start talking about a way to maybe improve President Bush's numbers as it relates to the economy and talk about stimulating the economy? S. 414, is the Senator aware that it was objected to?

Mr. SCHUMER. I am aware of that. I was sitting on the floor when Senator DASCHLE brought it up. He made an excellent point, I thought. He said the other side seemed to be concerned about one man's job, Miguel Estrada.

By the way—and Senator DASCHLE didn't say this—Mr. Estrada already has a job. My guess is that he is probably making in the high six figures, so he can do pretty well feeding his family.

Mr. BURNS. Will the Senator yield for another question?

Mr. SCHUMER. In a minute, I will be delighted to yield.

We have 2.8 million fewer Americans in jobs than we had when President Bush took office. We have tens of millions of Americans who have jobs, but their jobs are not as good as the jobs they used to have. We should be debating that issue.

I say to my colleague from Nevada and my colleague from Montana that we should be debating homeland security, which is vital to our future. Those of us who follow football, or basketball, or baseball know that a good team needs both a good offense and a good defense. There are many opinions on the offense, but clearly President Bush has a plan and has implemented it. I have been sometimes critical, but usually supportive, of the President's plan in that regard. But a good team needs defense.

On homeland security, this country is not doing close to what we need to do. Even if, God willing, tomorrow we were to get rid of Saddam Hussein, Osama bin Laden, and al-Qaida, other groups would come forward. Are we protected from shoulder-held missile launchers? Are our planes protected? No. Are we protected from somebody smuggling a nuclear weapon into this country? Are we doing much about it? No.

Is our northern border, which my State shares with Canada for hundreds of miles, at all adequately guarded so bad people cannot come in? No.

Is there money in the President's budget to do these activities? No.

I do not know if this is true of my colleague from Montana, but when I go back and talk to my police chiefs and fire chiefs of big towns, little towns, urban areas, rural areas, and suburban areas, does my colleague know what they tell me? They have huge new responsibilities post 9/11, and they are not getting one thin dime from Washington. In my opinion, most Americans would rather we debate that than debating Miguel Estrada.

So we are at an impasse with Estrada. We believe records should be revealed. The other side says: No, let's vote on him without the records. Nothing has changed in the last week or two. Why don't we just put the issue of Mr. Estrada aside until someone a lot smarter than the Senator from New York and the Senator from Montana thinks of some kind of compromise, because right now we are at loggerheads and nothing has budged, and why don't we start talking about the economy, which my colleague from Nevada brought up; why don't we start talking about homeland security as we are on the edge of war with Iraq, which is what, again, my good friend from Montana has admitted his constituents would prefer. I can certainly tell the Senator that my constituents in New York would much prefer that.

I yield for another question.

Mr. BURNS. Mr. President, I say to my friend from New York, I did not get questions on homeland security or the economy while I was up there. We will go over those questions later.

I understand what the Senator from New York said about Judge Paez, but in the end, did he get a vote?

Mr. SCHUMER. I say to my colleague——

Mr. BURNS. Yes or no, and I have a followup question.

Mr. SCHUMER. Wait, in the Senate—I have only been here 4 years, and my colleague has been here longer, but we do not do that yes or no, cross-examination stuff. In fact, when I came here, I only spoke for 5 or 10 minutes on subjects, and people thought I was crazy, but I am not going to take that long. I am not going to take more than 5 minutes.

At first, Judge Paez, as my friend knows, was held up for 4 years. If my colleague wants to make it equal, start complaining in 2 more years about Judge Estrada. Second, and far more important than the amount of time, Judge Paez had an ample record in the courts. By the way, so ample that I believe it was 39 Members from the other side—perhaps my friend from Montana; I do not know how he voted—voted against Judge Paez, and when Judge Paez came before us and was subjected to extensive questioning by Senator SESSIONS, by Senator Ashcroft, who was then a Senator, by many of my colleagues on the Judiciary Committee, did he duck? Did he hide behind the legal shibboleth of: I have to see all the briefs before I answer, or it is a case that might come before me? He did not. He had the courage, he had the decency, and, most of all, he had the respect for the advise and consent process to answer those questions. So he deserved a vote.

I say to my colleague, if in 2005 we have a Democratic President—God willing—and if that Democratic President should nominate somebody who many on the other side fear would be so far over to the left that he would do real damage on the bench, I would support my colleagues, if he did not answer questions and had as skimpy a record and did as much of a job of stonewalling, in not bringing that nominee to a vote as I would today.

This is not an issue of left or right, in my judgment. It should not be. This is not an issue even of my view, which is: Should ideology matter when you vote for judges? I believe it should, but some do not. This is a matter, in my judgment—and I mean this sincerely to my colleague—that goes to the sacredness of the Constitution of the United States.

When the Founding Fathers, in their wisdom, set up the advice and consent clause, they did not intend it to be degraded by having a sham hearing where the witness answers no questions.

Mr. BURNS. Mr. President, if my friend from New York will allow a comment, and maybe a followup question.

Mr. SCHUMER. Well——

Mr. BURNS. No, a followup question. That is a long way to say, yes, he got a vote. Is it snowing outside today, right now?

Mr. SCHUMER. Let me say to my colleague that snow comes from the clouds, and it happens when the temperature is below 32 degrees up in the clouds.

Mr. BURNS. I submit it is snowing inside today also.

I thank the Presiding Officer. I thank my good friend from New York.

Mr. SCHUMER. Mr. President, it is always a pleasure to debate with my colleague from Montana. I say to my colleague, this, plain and simple, he knows in his heart—I hope he knows; I think he knows—that what Miguel Estrada did in terms of how he treated this body—all of us—was wrong, and if it is allowed to continue, we will have dramatic changes in the way this country is governed, and that is why so many of us feel so strongly about this issue.

I reiterate to my colleague once more, he is not going to change our views, at least not with the same old arguments. I have been asked about four or five times did Judge Paez get a vote. Let's put this aside and talk about the issues the American people want us to talk about: the economy and homeland security. If my colleague can get the record of Mr. Estrada, we will be happy then to bring him to a vote.

I thank my colleague. I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Mr. President, I thank my colleague from New York and my seatmate on the Senate Judiciary Committee for the statement he made on this important nomination. I think he has made this point. I listened earlier today when President Bush spoke to the Latino Coalition at the White House, in the Executive Office Building. I listened to what he said about Miguel Estrada. I find it difficult to quarrel with any of the statements he said about the man's quality.

I met him personally. There is no doubt he has an inspiring life story, having come to the United States from Honduras with limited knowledge of English and, in a matter of a few years, reaching the heights of a legal education at Harvard Law School. Then, of course, there are his opportunities to serve our Government in a legal capacity, and now in private practice. All of these attest to his legal acumen, his legal skills, and the fact he has overcome adversity. Those are qualities we want to respect and reward when it comes to those seeking public service.

The issue before us is one that is narrow in one respect but much broader in another. It is narrow in that we are not questioning his academic or legal credentials or even his experience. I quarrel with those who say he has never been on the bench, in the judiciary. That is not good enough from my point of view. I have seen first timers on the bench in Federal and State courts who have done very well.

What we are questioning—the narrow aspect—is whether he has been forthcoming, honest, and candid in revealing his views on issues, not going so far as to be intrusive in terms of pending cases before the court, or not suggesting he answer a question that is a conflict of interest, but rather that he comes to the heart of the question: What is in his mind? Is he truly a conservative—and we expect those nominees from this President—or is he something more? And if he is something more, should we pause, should we reflect on this fact? Should we ask the hard question of whether this man is entitled to a lifetime appointment to the bench which the President characterized today as the second highest court in the land, the DC Circuit Court of Appeals?

Sadly, when one looks at the record of responses from Miguel Estrada, it is unfortunate. It is truly unfortunate because I believe he has views that he can share with us. I believe he certainly has the knowledge to answer the questions. But he was coached and trained and cautioned not to come to Capitol Hill and be honest and open in his answers.

I am sure the people at the Department of Justice said: Miguel, you may want to answer these questions, but do not do it. Trust us, do not answer them. Give them an evasive answer for anything. Try to move on, get it behind you, get this to the floor. You have enough votes, and you never have to answer those questions.

He probably said at some point: Wait a minute; I do not mind answering a question such as which Supreme Court case do I disagree with. And they said: Be careful. If you start answering those questions, we do not know where this could lead.

He followed that advice, or followed someone's advice. He came before the Judiciary Committee and refused to answer the questions.

So now we have a broader issue. The broader issue is this: If the Senate, and particularly the Judiciary Committee, is to accept this approach from nominees, why in the world are we here? Why do we swear to uphold this Constitution when it comes to advice and consent? Why is it we go through any process whatsoever with nominees? Because we know if Miguel Estrada comes through under these circumstances, the order of the day will be for future nominees: Evasion, concealment, refusal to answer the most basic questions. If that is the case, then, frankly, I think we are not meeting our responsibility.

The broader issue is a constitutional responsibility of this Senate. It has been raised before and should be raised again. There is an easy way to end this impasse and end it within a matter of days. We have asked Miguel Estrada to produce the documents which he generated in the Solicitor General's Office, documents which we can review—in fact, we could review them on a restricted basis.

One of the Republican Senators I admire very much, Mr. BENNETT of Utah, suggested these documents be produced and given to Senator HATCH, a Republican, and Senator LEAHY, a Democrat. They can review them. I do not have to see them as a member of the Judiciary Committee. They can decide whether they merit further inquiry, either with written questions or another hearing. If they decide, on the basis of that in camera and private review, that they do not merit that kind of followup, I will accept Senator LEAHY's judgment on that.

I do not speak for myself only. Yesterday, Senator DASCHLE came to the floor and I asked him point blank if Miguel Estrada will produce this documentation, which he says he wants to voluntarily turn over, to be reviewed by Senators HATCH and LEAHY, and if there is anything controversial we have a chance to follow up or not, can this bring the matter to a close, to a vote?

I think Senator DASCHLE spoke for virtually all of us on the Democrat side and said: Yes, it can. I think that is a fair way to bring this to a conclusion.

This morning I said to Senator HATCH: Isn't that a way to bring this to an end? Isn't that a reasonable way, a dignified way, that does not turn loose all these documents for the world to see and for the press to pore over but gives it to Senator HATCH and Senator LEAHY to review them and see if there is anything that merits a followup?

Senator HATCH said: That is absolutely unacceptable. These are privileged documents and never have they been released and we are not going to start now. Start releasing internal memos and documents like this, and there is no end to it and the White House is right. Despite Miguel Estrada's objections, the White House is right to refuse to release those documents.

I call the attention of my colleagues and those following this debate to the fact that Senator HATCH perhaps did not tell the whole story because when we look at requests for writings such as Miguel Estrada's writings, in the past the Department of Justice has provided memos by attorneys during the following nominations: William Bradford Reynolds, nominated to be Associate Attorney General, the Republican Department of Justice provided the documents then. Robert Bork, the controversial—celebrated in some quarters—nominee to the Supreme Court, he, too, was asked to provide the documents. The Department of Justice did. Benjamin Civiletti, nominated to be Attorney General, provided similar documents to this Congress for review by the Senate Judiciary Committee; Stephen Trott, nominated to the Court of Appeals for the Ninth Circuit, same standard applied, documents provided from the Department of Justice.

Finally, I know it is at the bottom of the list and it maybe should have been at the top, Justice William Rehnquist, when he was nominated to be Chief Justice of the Supreme Court, was asked by those before me who were members of the Judiciary Committee for memoranda that he had prepared. They were provided by the Department of Justice.

For Senators' staff and others to argue that this request is patently unreasonable, unacceptable, and unprecedented, I suggest that in five specific instances, Democratic and Republican Departments of Justice, with Democratic and Republican Attorneys General, these documents have been provided.

Let me go further. I am going to ask in a moment for these letters to be printed in the RECORD, but we have letters to the then-chairman of the Senate Judiciary Committee, JOE BIDEN, from the State of Delaware, relative to the nominations of two individuals, Judge Robert Bork to the Supreme Court—I am sorry. Both of these related to Judge Robert Bork's nomination to the Supreme Court.

It is interesting that the Ronald Reagan Department of Justice, with a Republican Attorney General, produced the very documents that we are discussing today, which Senator HATCH and others have said are unprecedented, that there has never been a request of this nature.

Frankly, in reading the letter of transmittal of presentation from the Department of Justice, we see they decided that in the interest of disclosure, in the interest of openness and candor, that they would cooperate, as they say, to the fullest extent possible with the committee to expedite Judge Bork's confirmation process.

And I quote further from this letter signed by John Bolton, Assistant Attorney General:

> Accordingly, we have decided to take the exceptional step of providing the committee with access to responsive materials we currently possess, except those privileged documents specifically described above. Of course, our decision to produce these documents does not constitute a waiver of any future claim of privilege.

And it should not. But in this instance, the Department of Justice, with the Robert Bork nomination to the Supreme Court before them, made a decision to cooperate with the committee.

In this case, Miguel Estrada, realizing he has never sat on the bench before, and he does not have a body of opinion to which we can turn to understand his judicial philosophy and thinking, has said he is prepared to turn over these memos so we can review them. He believes they are not controversial. He believes they will shed light, perhaps, on his point of view. I think he is probably right, but we will not know.

Mr. CRAPO. Will the Senator yield for and respond to a question?

Mr. DURBIN. I am happy to respond to a question.

Mr. CRAPO. I have been listening to the arguments the Senator has made. I have been listening very carefully to the examples the Senator is pointing out about other nominations in which documents were provided. It is my understanding, however, that the Department of Justice has never disclosed confidential deliberative documents on career lawyers in the Solicitor General's Office. These are documents dealing with recommendations on internal deliberations regarding appeals and certiorari or amicus recommendations in pending cases.

From the information I am aware of that the White House has provided in each of the cases that the Senator has listed, there is a very clear difference in each of those cases. Take the situation of Judge Bork to which the Senator was referring. The materials involving Judge Bork were very carefully limited to those that focused on his observations on political questions, such as President Nixon's assertion of the executive privilege or the pocket veto. Never has the Department of Justice allowed access to internal career lawyers' working documents on appeals or on certiorari or amicus recommendations, and that is what I understand the Senator to be requesting.

First, does the Senator understand the distinction that is made between these document explanations that have been made? And does the Senator believe the Senate should start the precedent, which has never been done in this Senate, of asking for access to these career lawyers' deliberations on confidential matters in the Solicitor's Office?

Mr. DURBIN. In response to my colleague, I believe this is a good-faith question and it is one that deserves an honest reply. Do I believe there are some internal memoranda and writings generated within the Department of Justice that should not be subject to public disclosure? I certainly do. I think lines should be drawn.

In the Bork case, the lines were drawn. They said some of the documents you have requested we will produce in the spirit of cooperation; some we cannot and should not produce. And if that is the response from the Department of Justice when it comes to Miguel Estrada, we may quarrel with their dividing line, but at least it would demonstrate a cooperative effort to work with the Senate Judiciary Committee.

So if they say to us they can give certain memoranda, but they draw the line on others, at least we are moving forward in the process. But at this moment in time, I say to my colleague and friend, the Department of Justice has said flat out: No, not ever; we will not produce anything.

Mr. CRAPO. Will the Senator yield further?

Mr. DURBIN. If I can finish, and then I will be glad to yield for another question.

In the Bork situation, they said: We wish to cooperate to the fullest extent possible. We have decided to take the exceptional step of providing the committee with access to responsive materials we currently possess, except those privileged documents specifically described above.

The Department of Justice, in the Bork situation, said we are drawing a line but we are providing you with these internal memos and information. Now, if the same thing is to apply to Miguel Estrada, as I said, we can debate where the lines can be drawn, but Mr. Gonzales in the White House said, no, we will not consider producing anything.

It leads Members to conclude on this side of the aisle that there is something very damaging in these materials that they do not want disclosed. It is the only conclusion you can draw. The fact that Miguel Estrada volunteered the information, the fact that he is prepared to waive the privilege if it exists, is an indication he does not think the controversy is there, but this White House, tentative and concerned about whether or not Miguel Estrada has said some things that could jeopardize his nomination, refuses to disclose.

I yield to the Senator.

Mr. CRAPO. If I understand correctly, you are reading that the internal work documents of a career attorney of the Solicitor General's Office in making recommendations on how to handle cases would not be something this Senate should try to investigate or to cause to be disclosed?

In each of the cases you have discussed, either it was specific charges of misconduct about which very narrow documents were disclosed or general comments on politics such as the case of Justice Bork. And if you are agreeing with that, perhaps there is some progress we can make. It is my understanding the demand for disclosure is far broader than what you have just described.

Mr. DURBIN. Let me say in response to my colleague, in the case involving Robert Bork, I am reading from a letter from Thomas Boyd, the Acting Assistant Attorney General—and I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE, OFFICE OF
LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, August 24, 1987.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee,
Washington, DC.

DEAR CHAIRMAN BIDEN: This responds further to your August 10th letter requesting certain documents relating to the nomination of Judge Robert Bork to the Supreme Court. Specifically, this sets forth the status of our search for responsive documents and the method and scope of review by the Committee.

As we have previously informed you in our letter of August 18, the search for requested documents has required massive expenditures of resources and time by the Executive Branch. We have nonetheless, with a few exceptions discussed below, completed a thorough review of all sources referenced in your request that were in any way reasonably likely to produce potentially responsive documents. The results of this effort are as follows:

In response to your requests numbered 1–3, we have conducted an extensive search for documents generated during the period 1972–1974 and relating to the so-called Watergate affair. We have followed the same procedure, in response to request number 4, for all documents relating to consideration of Robert Bork for the Supreme Court by President Nixon or his subordinates. We have completed our search and relevant Department of Justice and White House files for documents responsive to these requests. The Federal Bureau of Investigation also has completed its search for responsive documents, focusing on the period October-December 1973 and on references to Robert Bork generally.

Most of the documents responsive to requests numbered 1–4 are in the possession of the National Archives and Records Administration, which has custody of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force. The Archives staff supervised and participated in the search of the opened files of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force, which was directed to those files which the Archives staff deemed reasonably likely to contain potentially responsive documents.

Pursuant to a request by this Department under 36 C.F.R. 1275, the Archives staff also examined relevant unopened files of the Nixon Presidential materials, and, as required under the pertinent regulations, submitted the responsive documents thus located for review by counsel for former President Nixon. Mr. Nixon's counsel, R. Stan Mortenson, interposed no objection to release of those submitted documents that (a) reference, directly or indirectly, Robert Bork, or (b) were received by or disseminated to persons outside the Nixon White House. Mr. Mortenson on behalf of Mr. Nixon objected to production of the documents which are described in the attached appendix. Mr. Mortenson represents that these documents constitute purely internal communications within the White House and contain no direct or indirect reference to Robert Bork.

Mr. Mortenson also objected on the same grounds to production of unopened portions of two documents produced in incomplete form from the opened files of the Nixon Presidential materials:

1. First page and redacted portion of fifth page of handwritten note of John D. Ehrlichman dated December 11, 1972.

2. All pages other than the first page of memorandum from Geoff Shepard to Ken Cole dated June 19, 1973.

Mr. James J. Hastings, Acting Director of the Nixon Presidential Materials Project, has reviewed these two documents and has advised us that the unopened portions of neither document contain any direct or indirect reference to Judge Bork.

Our search has not yielded a copy of the document referenced in paragraph "a" of your request numbered 3, which, as you correctly note, is printed at pages 287–288 of the Judiciary Committee's 1973 "Special Prosecutor" hearings.

Among the documents collected by the Department are certain documents generated in the defense of *Halperin*. v. *Kissinger*, Civil Action No. 73–1187 (D. D.C.), a suit filed against several federal officials in their individual capacity, which remains pending. The Department has an ongoing attorney-client relationship with the defendants in Halperin, which precludes us from releasing certain documents containing client confidences and litigation strategy, without their consent. 28 C.F.R. 50.156(a)(3).

All documents responsive to request number 5, concerning the pocket veto, have been assembled.

All documents responsive to request number 6 have been assembled. The exhibits filed by counsel for Edward S. Miller on July 12, 1978 and referred to in your August 10 letter, remain under seal by order of the United States District Court for the District of Columbia. However, a list of the thirteen documents has been unsealed. We have supplied copies of eleven of these documents, including redacted versions of two of the documents (a few sentences of classified material have been deleted). We have supplied unclassified versions of two of these eleven documents, as small portions of them remain classified. We are precluded by Rule 6(e) of the Rules of Criminal Procedure from giving you access to two other exhibits—classified excerpts of grand jury transcripts—filed on July 12, 1978. We also searched the files of several civil cases related to the Felt and Miller criminal prosecution, as well as the documents generated during the consideration of the pardon for Felt and Miller.

With respect to request number 7, Judge Bork has previously provided to the Committee a number of his speeches, which we have not sought to duplicate. We have sought and supplied any additional speeches, press conferences or interviews by Mr. Bork, as well as any contemporaneous documents which tend to identify a date or event where he gave a speech or press interview during his tenure at the Department.

On request number 8, there are no documents in which President Reagan has set forth the criteria he used to select Supreme Court nominees, or their application to Judge Bork, other than the public pronouncements and speeches we have assembled.

Our search for documents responsive to request number 9 has been time-consuming and very difficult, and is not at this time entirely complete. In order to conduct as broad a search as possible, we requested the files in every case handled by the Civil Rights Division or Civil Division, between 1969–77, which concerned desegregation of public education. Although most of these case files have been retrieved, several remain unaccounted for and perhaps have been lost. We expect to have accounted for the remaining files (which may or may not contain responsive documents) in the next few days. We have also assembled some responsive documents obtained from other Department files. The Department of Education is nearing completion of its search of its files, and those of its predecessor agency, HEW.

We have assembled case files for the cases referred to in question 10, with the exception of *Hill* v. *Stone*, for which there is no file. We have no record of the participation of the United States in *Hill* v. *Stone*, or consideration by the Solicitor General's office of whether to participate in that case.

A few general searches of certain front office files are still underway, and we expect those searches to be concluded in the next few days. We will promptly notify you should any further responsive documents come into our possession.

As you know, the vast majority of the documents you have requested reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch. The disclosure of such sensitive and confidential documents seriously impairs the deliberative process within the Executive Branch, our ability to represent the government in litigation and our relationship with other entities. For these reasons, the Justice Department and other executive agencies have consistently taken the position, in response to the Freedom of Information Act and other requests, that it is not at liberty to disclose materials that would compromise the confidentiality of any such deliberative or otherwise privileged communications.

On the other hand, we also wish to cooperate to the fullest extent possible with the Committee and to expedite Judge Bork's confirmation process. Accordingly, we have decided to take the exceptional step of providing the Committee with access to responsive materials we currently possess, except those privileged documents specifically described above and in the attached appendix. Of course, our decision to produce these documents does not constitute a waiver of any future claims of privilege concerning other documents that the Committee requests or a waiver of any claim over these documents with respect to entities or persons other than the Judiciary Committee.

As I have previously discussed with Diana Huffman, the other documents will be made available in a room at the Justice Department. Particularly in light of the voluminous and privileged nature of these documents, copies of identified documents will be produced, upon request, only to members of the Judiciary Committee and their staff and only on the understanding that they will not be shown or disclosed to any other persons. Please have your staff contact me to arrange a mutually convenient time for inspection of the documents.

As I stressed in my previous letter, if the Committee is or becomes aware of any documents it believes are potentially responsive but have not been produced, please alert us as soon as possible and we will attempt to locate them.

Should you have any questions or comments, please contact me as soon as possible. Thank you for your cooperation.

Sincerely,

LAURA NELSON
(For John R. Bolton,
Assistant Attorney General).

APPENDIX

DOCUMENTS SUBJECT TO OBJECTION

(By Mr. Nixon's Counsel)

1. Memorandum to Buzhardt and Garment from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor (document No. 8).

2. Memorandum to Buzhardt and Garment from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor (document No. 9).

3. Memorandum to Garment from Ray Price, July 25, 1973. Subject: Procedures re: Subpoena (document No. 13).

4. Memorandum to General Haig from Charles A. Wright, July 25, 1973. Subject: Proposed redrafts of letters (document No. 14).

5. Draft letter to Senator Ervin dated July 26, 1973. Subject: two subpoenas from Senator Ervin (document No. 15).

6. Draft letter to Judge Sirica dated July 26, 1973. Subject: subpoena duces tecum (document No. 16).

7. Memorandum to the Lawyers from Charles A. Wright, July 25, 1973. Subject: Thoughts while shaving (document No. 17).

8. Memorandum to the President from J. Fred Buzhardt, Leonard Garment, Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas (document No. 18).

9. Memorandum to Ray Price from Tex Lezar, dated October 17, 1973. Subject: WG Tapes (document No. 20).

10. Memorandum to Leonard Garment and J. Fred Buzhardt from Charles A. Wright, dated August 3, 1973. Subject: Discussions with Philip Lacovara (document No. 25).

11. Memorandum to the President from Leonard Garment, J. Fred Buzhardt, Charles A. Wright, dated August 2, 1973. Subject: Brief for Judge Sirica (document No. 26).

12. Memorandum to Len Garment, Fred Buzhardt, Doug Parker and Tom Marinis from Charlie Wright, dated August 1, 1973. Subject: note regarding brief (document No. 27).

13. Memorandum to the President from J. Fred Buzhardt, Leonard Garment, Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas (document No. 28).

14. Draft letter to Senator Ervin dated July 26, 1973. Subject: two subpoenas issued July 23rd (document No. 29).

15. Draft letter to Judge Sirica dated July 26, 1973. Subject: subpoena duces tecum (document No. 30).

16. Memorandum to J. Fred Buzhardt, Leonard Garment, Charles A. Wright, from Thomas P. Marinis, Jr. (Undated). Subject: Appealability of Cox Suit (document No. 31).

17. Notes (handwritten) (Undated). Subject: [appears to be notes of oral argument] (document No. 32).

18. Memorandum to the President from Charles Alan Wright, dated September 14, 1973. Subject: Response to Court's memorandum (document No. 34).

19. Handwritten notes (document no. 36).

20. Memorandum to J. Frederick Buzhardt from Charles Alan Wright, dated June 2, 1973. Subject: Executive privilege (document no. 41).

21. Memorandum to J. Frederick Buzhardt and Leonard Garment from Charles Alan Wright, dated June 7, 1973. Subject: June 6th meeting with Special Prosecutor (document no. 42).

22. Memorandum to J. Fred Buzhardt from Robert R. Andrews, dated June 21, 1973. Subject: Executive Privilege (document no. 43).

23. Memorandum to J. Fred Buzhardt and Leonard Garment from Thomas P. Marinis, Jr., dated June 20, 1973. Subject: Prosecutor Wright's attempt to obtain document (document no. 44).

24. Memorandum to J. Frederick Buzhardt and Leonard Garment from Charles Alan Garment (sic), dated June 7, 1973. Subject: June 6th meeting with Special Prosecutor (document no. 46).

25. Draft letter to Senator from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th (document no. 60).

26. Draft letter to Senator from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th (document no. 61).

27. Proposal re: transcription of tapes dated October 17, 1973. (document no. 63).

28. Typed note with handwritten notation: Sent to Buzhardt 12/11/73. Undated. Subject: papers Buzhardt sent to Jaworski (document no. 66).

29. Chronology—Presidential Statements, Letters, Subpoenas dated March 12, 1973. Subject: chronology of same (document no. 71).

30. Handwritten note dated 1/31/74 (January 31, 1974). Subject: Duties and responsibilities of Special Prosecutor (document no. 82).

31. Memorandum to Fred Buzhardt from William Timmons, dated 7/30/73 (July 30, 1973). Subject: refusal to release taped conversations (document no. 91).

32. Memorandum to J. Fred Buzhardt from Paul Troible, dated October 30, 1973. Subject: Cox's disclosure of Kleindienst's confidential communication (document no. 92).

33. Proposal regarding transcription of tape conversations dated 10/17/73 (October 17, 1973). (document no. 94).

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, May 10, 1988.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: This letter requests that the Committee return to the Justice Department all copies of documents produced by the Department in response to Committee requests for records relating to the nomination of Robert Bork to the Supreme Court. As Assistant Attorney General John Bolton noted in an August 24, 1987, letter to you, many of the documents provided the Committee, "reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch." We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

Although the Committee's need for these documents has ceased, their privileged nature remains. As we emphasized in our August 24, 1987, letter, production of these documents to the Committee did not constitute a general waiver of claims of privilege. We therefore request that the Committee return all copies of all documents provided by the Department to the Committee, except documents that are clearly a matter of public record (e.g., briefs and judicial opinions) or that were specifically made a part of the record of the hearings.

> Please contact me if you have any questions. Thank you for your cooperation.
>
> Sincerely,
>
> THOMAS M. BOYD,
> *Acting Assistant Attorney General.*

Mr. DURBIN. In this May 10, 1988, letter from Thomas Boyd to JOE BIDEN, then-chairman of the Senate Judiciary Committee:

> As Assistant Attorney General John Bolton noted in an August 24, 1987, letter to you, many of the documents provided the Committee, "reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch." We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

In response to my friend, the point I am making is they did not draw the same absolute line being drawn by the Bush White House for Miguel Estrada. They disclosed information which reflected purely internal deliberations and the work product of attorneys and confidential legal advice and did it in the spirit of cooperation. They drew a line, but the line was on the side of disclosure. The line drawn by the Bush White House for Estrada is on the side of concealment, the refusal to disclose this information.

Mr. CRAPO. Will the Senator yield further?

Mr. DURBIN. I am happy to yield.

Mr. CRAPO. If I understand correctly, you are saying, based on the letter, that you indeed are seeking the disclosure of these confidential internal work documents and you believe that letter shows the precedent for disclosure exists, is that correct?

Mr. DURBIN. Certainly the precedent exists. The statement made on the floor by Senator HATCH and others that this has never been done or only been leaked—he used that term this morning—is not a fact.

I concede the point made by my colleague that they do draw a line. The Department of Justice said no to everything, but they did disclose the information I just described when it came to Robert Bork. At this moment in time I don't think this Department of Justice has even entered into an honest conversation with the Senate Judiciary Committee members about whether that line can be drawn. They have said categorically that they are not going to allow anything to be produced.

That is why we are at this impasse. It is troublesome to have a nominee with great credentials, a great resume, a good paying job as an attorney in the District of Columbia. He has not served as a judge so he does not have written opinions. We are trying to get to the heart of the matter. What are his values? Is he conservative or something else?

Mr. CRAPO. Will the Senator yield?

Mr. DURBIN. I am happy to yield for a question.

Mr. CRAPO. I understand your position now, which is that you are asking for the disclosure of this broad array of confidential documents.

I assume you are aware that every living former Solicitor General has rejected this request. This letter was signed by Democrats Seth Waxman, Walter Dellinger, and by Republicans, Ken Starr, Charles Fried, Robert Bork, and Archibald Cox for the very reasons we have been talking about.

I want to get at this principle. Is it the correct policy, is it the right thing for us to do in the Senate, to change the practice? I understand you can list a few cases where there were exceptions in the history of handling judicial nominations in this country, but if you look at the thousands, indeed tens of thousands of judicial nominations, the policy and practice of the Senate has been not to delve into the confidential documents for the very reason every former living Solicitor General has said it would compromise the ability of its office to do its work effectively.

Do you believe it is the right policy for the Senate to begin putting some standard on those who would become nominees of any President, Republican or Democrat, to a position in the U.S. Judiciary? Should we open this door and start demanding that the Solicitor General's Office, the Justice Department, and other contacts, or in any other situation, start revealing these confidential internal work documents by career lawyers?

(Mrs. DOLE assumed the Chair.)

Mr. DURBIN. In response, Miguel Estrada does not see a problem with this at all.

Mr. CRAPO. Miguel Estrada believes his papers will show support for him. But the principle here is the principle—

Mr. DURBIN. I would like to respond, if I could. In fact, because Miguel Estrada does not see a problem with this is an indication to me that perhaps some in the White House are being overly cautious again. They coached Miguel Estrada to come before us and not answer questions and now when he says, disclose the memoranda, they are saying, no, no, we did not want the Senate raising that.

Going to the point raised by the Senator as to in the history of this Senate how often this has occurred, let me reflect on this for a moment. In most instances, this will never happen. There are only a few nominees who will come before the Senate who actually have generated this kind of documentation in the Solicitor General's Office or the Department. And many of those nominees will have an open record as judges with their writings to indicate what they believe. And most, if not all, of them will have been responsive to the questions that we have asked of the nominees.

We find ourselves backed into this corner with Miguel Estrada because he does not have a body of established opinions as a judge. He does not have an abundance of writings reflecting on his philosophy. He has not answered the questions which we have asked of him. And we are straining to find some information on which to base a reasoned judgment about his nomination to the second highest court of the land for a lifetime appointment.

We find ourselves in the difficult, and I think somewhat rare, situation that has been created by Miguel Estrada and the strategy of the White House in sending this nominee to Capitol Hill. I think that is rare. I hope it does not happen again.

I yield for a question.

Mr. CRAPO. It is not just the White House. As I indicated, this is every living former Solicitor General in the United States who is saying this issue goes far beyond the Miguel Estrada nomination. It goes to the core of what the Senate should be dealing with in terms of its investigation of judicial nominees and what they can do to our judicial system and to the Justice Department in that context.

But you indicated also in your answer that Miguel Estrada did not answer the questions asked of him by the Judiciary Committee. I wish to clarify this because I understand he would not reveal the documents that we are discussing.

Were there any other questions which you asked him or which you are aware of that he has not answered?

Mr. DURBIN. Let me suggest you look at the questions asked of him by Senator KENNEDY, written questions after the nominee appeared, that went to specific decided cases and asked for his response or reasoning. Time after time he came back and said: Well, I have to read all of the pleadings that were filed and all the briefs that were filed before I would hazard an opinion upon this.

Similarly, when Senator SCHUMER asked him what I thought to be a perfectly reasonable question, one that had been asked by Republican Senators of Clinton nominees, repeatedly he refused to answer. The question was one that you would dream of in a constitutional law course in law school. The question was: Name a Supreme Court decision in the last 40 years—or a followup question, at any time in its history—that you would find objectionable.

If that were the question on the final at law school, you would breathe a sigh of relief. You can think of one case with which you disagree. But this man, seeking a lifetime appointment to the second highest court in the land, would not answer that question.

I asked: Which Federal court judge, living or dead, would you emulate or admire on the bench? He went on to say, first, that he could not name a single Federal court judge, living or dead, he would try to emulate on the bench.

He then, in later response to the same question, said: I admire some of the Federal Court Justices I have worked with. I can understand that. That is a reasonable response.

But do you understand how we, sitting on this side of the table, are saying how can this man, who is clearly a gifted individual with extraordinary legal talent, be so afraid to share with us one Supreme Court case that he disagrees with?

That was a question Senator SESSIONS asked of Richard Paez, and I don't believe a Democrat stood up and said: That is not fair. You have gone too far.

It is a reasonable question. It gives you insight. Is he going to mention Brown v. Board of Education? Is he going to mention Roe v. Wade? What case is he going to mention? He wouldn't mention one. Doesn't that trouble you? I ask my colleague and friend, doesn't that trouble you, that someone who is seeking that kind of legal appointment wouldn't be honest and candid with you? For the sake of yielding to my colleague for a question and for him to answer my question, I will yield.

Mr. CRAPO. I will respond and ask a question, how is that?

Mr. DURBIN. Sure.

Mr. CRAPO. Not having sat in the hearing, I don't know how much it would trouble me. I can't tell you if a witness would not answer my questions I wouldn't be troubled by it. I don't think that would cause me to try to filibuster the nomination, which is really one of the core issues we are dealing with here. I might vote no because of it. And you are perfectly entitled to vote no if you don't like the answers to your questions. But we are way beyond not liking the answers to questions here. We are seeing a filibuster of a nomination to the Circuit Court of Appeals for the District of Columbia. It is based, as I understand it, in large part on the fact that confidential documents are not disclosed.

What I am trying to get at is: What else? What I have heard at this point is the nominee did not identify which was his favorite and least favorite Supreme Court case, and that he would not say how he would have judged a particular case until he had read the briefs and studied the matter more carefully. Frankly, I think that makes him a better candidate.

Mr. DURBIN. I am sorry. I am going to have to interject at that point. We didn't ask him how he would rule on a particular case. We asked him, on deciding cases, to explain his position on an accepted standard of law. We could not and should not and I don't think any Member would ask him how he would rule on a specific case pending before the Court. That is way beyond the bounds.

Let me just say, though, this is an interesting thing on which I think my colleague might reflect. This comes from the Legal Times of April 2002. It's a quote:

> President George W. Bush's judicial nominees received some very specific confirmation advice last week: Keep your mouth shut. Justice Scalia called DC Circuit Judge Silberman at one point, the latter recalled, and told him he was about to be questioned about his views about Marbury v. Madison, the nearly 200-year-old case that established the principle of judicial review.

That's almost the first case—McCulloch v. Maryland and Marbury v. Madison—the first two cases you'll ever read in constitutional law. Listen to what Silberman told him.

> "I told him as a matter of principle he should not answer that question either," Silberman said.

So you understand we are not just dealing with my interpretation as to whether or not Miguel Estrada is cooperative; we are dealing with a strategy: Keep your mouth shut. Don't tell the Senate, don't tell the American people, don't put on the record who you are and what you believe. Zip your mouth, hold tight, wait for the vote, and we will give you a lifetime appointment to the second highest court of the land. I don't think that is a fair way to approach this process.

Mr. CRAPO. Will the Senator yield?

Mr. DURBIN. After I finish. When the Clinton nominees came before the Judiciary Committee under the control of the Republicans, they were peppered with questions. Some of those questions I think went way beyond the realm of reasonable inquiry.

I can recall one woman from California who was asked to explain how she had voted on every proposition before the California voters over the previous 10 years; in other words, to disclose the secrecy of the ballot place, how she had voted and why on every proposition. That was a question propounded by a Republican Senator from the Judiciary Committee, still serving there, to this Clinton nominee. She said that is unfair, and we agreed with her. Because of that stance she took, she waited forever and ever to be confirmed.

In this situation I think what we are dealing with is a reasonable inquiry—positions on Supreme Court Justices, Supreme Court cases. We are not asking for Miguel Estrada to disclose his personal conscience and feelings on issues that may be of some personal note to him, but, rather, to focus on his view of the law. I think that is reasonable. I hope we will continue in our efforts to do that.

I might say to the Senator, I am going to move to another topic. If he is interested in staying, of course, he might.

Mr. CRAPO. Will the Senator entertain one more question before he moves on? I do appreciate him allowing me to engage in this discussion with him.

Again, I am trying to make it clear so we understand just exactly what it is that is being said Miguel Estrada has not disclosed. We talked about the documents in the Solicitor General's Office that he prepared as a career attorney. We talked about his failure to identify which was his favorite and least favorite Supreme Court case. And apparently—I was not at the hearing because I don't sit on the Judiciary Committee—he did not answer Senator KENNEDY's questions about some current cases to the satisfaction of the Senators.

Is there anything else that is holding him back? Again, the reason I am getting at this is because we are facing a remarkably unique circumstance here, the filibuster of a circuit court nomination on the basis of nondisclosure. I want to get out exactly what that nondisclosure is so we and the American public can understand that. Then we can deal with it on a very focused basis, on a point-by-point basis and, where there is merit on either side, deal with it.

But the general charges, it seems to me, of nondisclosure and not answering questions to the satisfaction of a Senator usually result in a Senator saying I don't like the way the answers were given so I am going to vote no on the nomination. Instead, at this point we are facing a filibuster, which I believe is a serious threat to the manner and the protocol with which the Senate has approached Presidential nominations to the judiciary and is much broader than just the nomination of this individual judge.

So we have two issues which to me are much broader than this specific nomination. The first is whether we should have the Senate start inquiries into confidential Solicitor General documents, and the second is whether the Senate should be stopped from voting on a Presidential nomination by a filibuster when we are dealing with nominations to the judiciary. That will change the way this Senate has operated historically.

Mr. DURBIN. Let me just say to my colleague, I have given him great leeway in his questioning.

Mr. CRAPO. You have.

Mr. DURBIN. And for specific reason. I thank him for coming to the floor, even though we disagree on this issue. This deliberative body doesn't deliberate much. There is not much debate on the floor of the Senate and that is sad. I thank him for coming to the floor and for engaging me in questions. I think he will find, almost without exception, I always yield for questions because I happen to believe that is what this is about. It is a deliberative body. We should express our points of view. Let our colleagues and those following debate decide who is right and who is wrong. I thank him for asking those questions.

I think what he has said is he has a difference of opinion from my point of view on the disclosure of documents. That is an honest difference. I think what I have said is in the past there has been disclosure, lines have been drawn, but in this case the White House said no disclosure when it comes to Miguel Estrada's documents, and that is an important issue before us.

Second, he has asked for a bill of particulars: Give us the specific questions that you didn't like when it came to Miguel Estrada's responses. I have given him several. That is not an exclusive or exhaustive list. I think other members of the Judiciary Committee could come up with more.

If the Senator is suggesting we should resubmit the questions and see if he takes the test a second time whether he can pass it, maybe that would move us down the road a little closer to a final vote on this individual.

I want to add here it is unusual for there to be a filibuster on a nominee to such an important bench, but it is not unprecedented. I don't know if my colleague was in the Senate when the Richard Paez nomination came before us. But the fact is, he would not have been confirmed had it not been for a cloture vote that had to be filed. Paez, who waited patiently for over 4 years before the Senate Judiciary Committee, finally had to have a cloture vote in which he prevailed to become a Federal judge.

The Republicans, then in a position to launch a filibuster, did it on a Hispanic nominee not that long ago, in March of 2000. We know when it came to Richard Paez, the standard used by many Republican Senators was we will filibuster him. It took a cloture vote to stop the filibuster. I don't know if the Senator was in the Senate at that time. I think he was. I do not know how he voted. But the fact is some Members felt strongly enough about the Paez nomination that they went ahead and initiated this kind of filibuster.

THE ECONOMY

Mr. President, I would like to move on to another issue if I can. It is one I think bears some attention by the Senate and those following the deliberation. We are now in the third week of debating Miguel Estrada. It is an important issue.

Today, I noticed when President Bush spoke to the Latino Coalition in the Executive Office Building, the first issue he raised was not Miguel Estrada but it was an important issue—and I am sure he did that for emphasis—but when it came to the issues raised by the President of the United States to the Latino Coalition in the Executive Office Building, the first issue he raised was the state of the economy. It is interesting to me that though the President raised this issue, we can't raise this issue on the floor of the Senate.

Yesterday, the minority leader, TOM DASCHLE, made a unanimous consent request which I am going to repeat in a few moments that we move from this debate to a debate on the state of the economy—and I think for good reason.

As you look across America, you think people will realize our economy is in a sad state. This is a recession which has gone on entirely too long. My friends on the Republican side say this is a Clinton recession. I am afraid the statute of limitations has run on that particular complaint.

At this point in time, 2.5 million jobs have been lost since President Bush took office. He is going to have to take ownership for this recession.

There are many factors which led to this recession. There is no doubt the economy heated up prior to his coming into office, and there was going to be a correction. There is no doubt as well that terrorism and 9/11 took its toll on the economy, and continue to, I might add.

There is also no doubt that the economic policy pursued by the Bush tax cut 2 years ago failed. It didn't work. We continue to lose jobs by the cut in interest rates to try to get the economy moving forward again. Frankly, we are in a terrible situation. We understand our economy needs a boost. Consumer confidence in America is at a 10-year low. It was reported yesterday that the Consumer Confidence Index plummeted from 4.6 to the revised 7.8, this the lowest reading since October of 1993.

Unemployment is on the rise. Since January 2000, the number of unemployed increased by nearly 40 percent with nearly 8.3 million Americans out of work, and 2.3 million private sector jobs lost.

Contrast that with the Clinton administration where 22 million jobs were created. In the Bush administration of 2 years and a few months, 10 percent of those jobs have been lost—a 2.3 million increase in the creation of jobs. What we have in the Bush administration is the elimination of jobs which were previously created by the Clinton administration.

Unemployment spells are lengthening because companies are not hiring. It isn't a problem of losing a job today and finding another one next month. The average number of weeks individuals spend unsuccessfully seeking work increased by a month over the past year. Approximately 20 percent of all the unemployed have been looking for work for more than 6 months. Wage growth is now stagnant. The shortage of jobs has slowed—I might add, as has the increase in the cost of health insurance, another issue which this administration summarily ignores.

Today, President Bush spoke to the Latino Coalition about small businesses and what we need to do to help small businesses. Instead of a tax plan that will help small businesses, let me suggest as follows. What the Bush tax plan offers to the wealthiest individuals in America is a three-layered cake. What the Bush tax plan offers to small business is crumbs: things that, frankly, are not controversial in terms of expensing. But the vast majority of the tax cut the President is pushing will not stimulate today's economy, but it will burrow us deep into a deficit which, frankly, is not fair. The fact is they are giving tax breaks to the wealthy people.

The President failed to mention what I would suggest would be the top one or two complaints of small businesses in America today. You pick them. Open the phone books and call a small business person and ask. What is your problem today? They will say the economy is not strong. People aren't buying. What about your expenses in business? What kind of problems do you face? I guarantee you the answer will be the cost of health insurance. And not a word, not one word from the Bush administration about how to deal with that.

I introduced a bill to give a tax credit to small businesses which would allow them to provide health insurance for their employees. It doesn't answer the problem. But at least it is sensitive to trying to help small employers employ their people as well as the owners of the business dealing with health insurance protection. That, to me, is a reasonable approach, and something that would help small businesses, which is summarily ignored by the Bush administration.

The track record we have now for job creation is the worst in 58 years. In order for the Bush administration to tie the Eisenhower administration for the worst job creation record ever, President Bush would have to create 96,000 jobs a month starting today to the end of his term. He is not going to get that done, I am afraid. I hope I am wrong. I hope the economy turns around.

But isn't it interesting, with the economy in a basket struggling to survive, that we can't even engage in a debate on the floor of the Senate about what steps we can take to get this economy back on track. I don't have to tell you about the crisis most States are facing when it comes to their budgets. Illinois will have about a $5 billion deficit which the Governor is going to have to wrestle with under extraordinary circumstances. He will have to cut spending, I am sure. There are some who will say he should raise taxes. Whatever he does will not help us move out after a recession. In fact, it puts a damper on economic growth at a time when we should be putting stimulus. So that situation is out there as well.

I might also add that the situation when it comes to homeland security is also a damper on the economy. So many business people across America are worried about their vulnerabilities when it comes to the economy. They hope this government, starting in Washington, will provide a helping hand. But it hasn't happened, because this administration has been strong on rhetoric and press conferences, but weak when it comes to providing the money so that State and local resources can be increased and enhanced.

Who are you going to call if there is a threat of terrorism in the community? Are you going to ask for a telephone number for 1600 Pennsylvania Avenue to try to get through to President Bush or Vice President Chaney? Not likely. You are likely to call 9–1–1 and a local policeman or firefighter is going to be the voice at the other end of the call. If they are not trained, if they are not equipped, frankly, homeland security is a farce.

We know what is going on in the Middle East today. Troops numbering 180,000 have been sent by our government—military personnel and support personnel—in preparation for the invasion of Iraq. It is clear that America is preparing to attack. But we know from the homeland security side that America is not prepared to defend. We are not prepared to defend the hometown families and neighborhoods and communities across America. This administration has not come up with the resources we need to make that happen.

At this point, I would like to introduce into the RECORD—it probably has been done before, but it certainly bears repeating—a letter sent to President Bush by my friend and colleague, and ranking Member of the Senate Committee on Appropriations, Senator ROBERT C. BYRD of West Virginia. The letter is dated February 23, 2003. The reason I want to enter it at this point is that Senator BYRD goes through chapter and verse of the take by Democrats in Congress and Congress in general to persuade the Bush administration to put more money into homeland security. He spells out in graphic detail how this White House has stopped our efforts every step of the way. It is a sad reality that as we face terrorists at home we are not providing the resources that are necessary to the local first responders.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, February 25, 2003.

Hon. GEORGE W. BUSH,
Office of the President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: In your remarks to the National Governors Association on February 24, 2003, you claimed that Congress was to blame for a reduction in homeland security funding in Fiscal Year 2003. Such a claim is wrong, and I urge you to correct it.

If enacted, the Administration's Fiscal Year 2003 request for first responders, for instance, would have eliminated funding for the Justice Department's Office of Domestic Preparedness; it would have eliminated funding for the Community Oriented Policing Services (COPS) hiring initiative; it would have discarded the Edward Byrne Memorial and the Local Law Enforcement Assistance Block grant programs; and it would have provided absolutely no support for the Assistance to Firefighters grant program.

A lack of Administration commitment to first responders is just the beginning of the empty rhetoric coming from the White House on homeland security funding.

Since September 11, 2001, you have signed, with great fanfare, legislation to authorize improvements in airport, seaport, and border security. Yet, your Administration has opposed efforts to fund those bills. On December 10, 2002, you announced a plan for state and local governments to vaccinate 10 million first responders for a potential smallpox attack. But your Administration has passed the responsibility of paying for these vaccines to the state and local governments.

Last August, you rejected $2.5 billion that Congress, in an overwhelming bipartisan fashion, approved for homeland security efforts. Congress had designated those funds as emergency priorities in the Fiscal Year 2002 Supplemental Appropriations bill. This package include funds to begin to meet the billions of dollars of outstanding applications from 18,000 fire departments for equipment and training. The legislation also included grant funding to make police and fire equipment interoperable—a critical weakness in response efforts on September 11, 2001. The homeland security package contained critical funding for port security, for security enhancements at small and medium airports, and for federal law enforcement counterterrorism efforts. The legislation included funding to strengthen security at nuclear plants and laboratories and to protect the nation's food and water supply.

Instead of embracing this package and agreeing with Congress on its urgency, you called it wasteful. It only took your signature to address these vulnerabilities, but you refused and called the funding wasteful.

I must note that the Senate Appropriations Committee approved that funding unanimously. In fact, the Committee last July approved each of the 13 appropriations bills on a unanimous, bipartisan basis. But your Administration objected again and again to these bills despite the overwhelming needs facing the nation.

This past January, during Senate consideration of the Fiscal Year 2003 Omnibus Appropriations bill, I offered two amendments, both aimed at increasing investments in homeland security initiatives from coast to coast. The amendments focused on funding authorization bills that you signed with great fanfare. But again the Administration said the funds were unnecessary and urged the Senate to reject these amendments. The political strong-arm tactics worked, and the amendments were rejected to partisan votes (roll call votes #002 and #003).

Last spring, the Senate Appropriations Committee held five days of hearings to examine homeland security priorities. The Administration was represented by six Cabinet secretaries, the Attorney General, and the Director of the Federal Emergency Management Agency. They argued the case for homeland security funding plan. However, every local government representative and every representative of fire, police, and emergency response agencies testified that the Administration's funding plan was seriously flawed. They testified that doing away with the funding programs which have proved so valuable was shortsighted and irresponsible.

In your remarks to the governors, you characterized the Congress's decision to use existing and effective programs to deliver funding to our first responders as micromanagement. Congress chose to fully fund your $3.5 billion first responder request through existing, effective channels rather than launch a new, untested program. This was a responsible decision.

In the Fiscal Year 2003 appropriations legislation, Congress chose to be responsible by listening to the men and women on the front lines of homeland security. We heard their needs and answered their calls for help. But, time and time again, the Administration has turned its back to the nation's first responders. Enough is enough.

I appreciate your desire to protect the nation from terrorist attack, but the job cannot be accomplished with continued political grandstanding. The country needs an Administration that takes an honest approach to homeland security instead of continually making empty promises to the nation's police, fire, and emergency medical teams. The American people want to know that if there is an attack close to their homes, their local doctors and nurses have the training to treat the injured. They want to know that their local firemen have the ability and equipment to handle a chemical or biological attack. They want to know that their local police officers are trained in identifying and responding to the variety of terrorist attacks that we now could face.

The enemy is not Congress, Mr. President. The enemy is the terrorist who stands ready to exploit the nation's many security gaps. Especially now, when the terror alert is high and war is looming at our doorstep, we must be acutely aware of the sharply increased threat of attack here at home. Instead of pointing fingers and assigning blame, I implore you to expedite the release of the homeland security funds in the Fiscal Year 2003 appropriations legislation and the funds that still are unobligated from the Fiscal Year 2002 appropriations bills. The fact that these dollars, approved by Congress in December 2001, sit idle is beyond comprehension. I also hope that you consider expanding the investment in homeland security in the upcoming supplemental bill. As a nation, we know where our vulnerabilities lie, and we can be sure that the terrorists do, as well. We should take every step possible to protect the American people and to provide critical funding for homeland security initiatives.

As we move forward, I urge you to work with Congress in a bipartisan fashion to provide homeland security funding will make a significant investment in the protection of the American people.

Sincerely yours,

ROBERT C. BYRD.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I appreciate very much the Senator entering that letter from Senator BYRD.

I ask the Senator from Illinois: Is he aware that the reason Senator BYRD wrote that letter is because President Bush, at the signing of the omnibus bill when we lumped 11 appropriations bills—is the Senator aware that he had the audacity to say at the signing of that bill that it was OK, but he was upset with Congress for not providing more money for homeland security? Is the Senator aware that is why Senator BYRD wrote that letter, because it is just not true?

Mr. DURBIN. Yes. I am aware of it. It is sadly troubling, because what the President did in making that statement is to mischaracterize what happened.

The Senator may recall, as I do, that Senator BYRD came before this body early on and said to us we have a problem in America. If we are going to protect America, we need to make a substantial investment in changes such as a statewide communications system for Nevada and Illinois so the police, fire, and medical responders can all be on the same network if there is terrorist activity or a disaster. These investments are basic. And also in the area of bioterrorism, to make sure that doctors, nurses, and health care personnel are adequately trained and that hospitals are ready if there is anthrax, God forbid, as we faced on Capitol Hill.

Senator BYRD came time and time again to this floor and begged us, as a nation, to be responsive. Unfortunately, time and time again, he was rejected.

When we finally sent a $2.5 billion amount to the White House, asking them to put that into homeland security, it was effectively vetoed—$2.5 billion stopped. So the President cannot point the finger at Congress.

I say to my friend from Nevada, I am anxious to follow the debate we are going to face in a few weeks when we have this administration come before us and tell us they need $26 billion for Turkey—$6 billion in grants and $20 billion in loan guarantees for Turkey—which has been their demand if we are going to be using Turkey as a base of operations for an invasion of Iraq.

I want the administration to explain to the American people how we can afford $26 billion for the defense and security of Turkey and cannot afford $2 billion for the defense and security of the United States of America when it comes to homeland security. That is going to be an interesting debate.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I am happy to yield for another question.

Mr. REID. Is the Senator aware that one of the reasons Senator BYRD was so upset—and that is probably too calm a term for how he reacted to this statement of the President. Senator BYRD, you will recall, when he was chairman of the Appropriations Committee, last year, held a series of hearings that went over 2 weeks, where we called in various administration officials, people from communities in States around the country, to find out what their needs were for homeland security. That is why he brought the money number before the Congress. And he was rejected by the President.

Is the Senator aware of that?

Mr. DURBIN. I am not only aware of it, I attended many of those hearings, as I believe the Senator from Nevada did as well. And Senator BYRD took it very seriously. He brought in the experts when it came to law enforcement, fire protection, and medical personnel, and asked them what they needed. It was not this porkbarrel that we are often accused of here and of dreaming up ideas on how to spend money.

He asked the people on the ground: What do you need? What will help? When they identified those needs, he put that into legislation, which was rejected by this administration.

So we have a situation, if you would step back for a second, where we have an economy on the ropes. We have a President with a failed economic policy. We have a war on terrorism, which continues to pursue Osama bin Laden, with very little success. We have a homeland security program headed up by a man we both respect, Tom Ridge, which, unfortunately, is not sending the resources necessary to State and local governments so they can protect America.

Instead, we are preparing to launch an invasion of Iraq. We are putting the billions of dollars necessary into that effort and, unfortunately, shortchanging homeland security in the process. That, to me, shows misguided priorities.

The President cannot get away with blaming Congress for this. It really is a creation of his own administration and their own priorities in spending.

Mr. REID. I have three questions I wish to ask the Senator. Will the Senator yield for the first question?

Mr. DURBIN. I am happy to yield.

Mr. REID. I had in my office yesterday—and I am wondering if the Senator had people from Illinois in his office recently—people who came from Nevada and represented 911 centers, especially the Las Vegas Metropolitan Police Department, which is a very large police department. I spoke to a woman who has worked there for 20 years. She proceeded to tell me that she is frightened for the people of Clark County. That is in the Las Vegas metropolitan area. If someone calls on a regular telephone from their home, they know where that call is coming from.

But a lot of people—because computer use has become so prevalent, and they are using computers for telephones, and because of the use of cell phones—if someone calls from a computer or cell phone to 911, they have no idea where, or who, or anything about that. It is a terrible tragedy for the American people.

Is the Senator aware that is something that money for homeland security would identify because the technology is there, they just need money to be able to do it?

Mr. DURBIN. The Senator's point is well taken because I visited the 911 center in Chicago. It is really state of the art. But there are gaps that they face as well. They need the funding for training, for improving the communications network, money that is not forthcoming from this administration, from this White House.

I pray to God we never face another terrorist event in America. But if we do, this administration will be held accountable as to whether it spent the money, when it should have, to prepare America to defend itself. And when it comes to this kind of communication effort, I am afraid we have not done that.

Mr. REID. I listened to the Senator outline, as he is so adept at doing, the situation we have in the American economy today, with 2 million people unemployed. The Senator has laid out a very good picture of what we have going on in America today.

Is the Senator aware of the nonpartisan organization called the Pew Research Center? Is the Senator aware of that organization?

Mr. DURBIN. Yes, I am.

Mr. REID. I ask, is the Senator aware they conducted a poll, which was completed on February 18, of 1,254 adults? Is the Senator aware that when asked the question on how President Bush is handling the economy, 43 percent of the people said yes, he is doing fine, but that 48 percent of the people asked that question disapproved? Is the Senator aware of those numbers?

Mr. DURBIN. I heard those numbers when the Senator from Nevada mentioned them earlier. But I think reality has caught up with the administration. Generally, Americans give the President high marks as a President. And the numbers have come down, but only slightly. His general overall rating is positive. I think a lot of that reflects on his leadership since 911 and perhaps in the Middle East. But when asked specifically about the state of the economy, that is when the chickens come home to roost.

I think that is the point where the President and the White House is failing. They have failed because their economic policy—giving tax cuts to the wealthiest people in America, generating the biggest deficits in our history—really has us headed down the road which we all understand would be a road of economic ruin.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I am happy to yield for a question.

Mr. REID. Is the Senator aware that this same poll asked how President

Bush is handling tax policy? The Senator has made a number of statements on this floor, and he personally disagrees with the tax policy enunciated by this President. I am happy to report, from this poll, people in America agree with the Senator and not the President.

Is the Senator aware that 42 percent of the people approve of the way George W. Bush is handling tax policy, and 44 percent disapprove? Is the Senator aware of that?

Mr. DURBIN. I had not heard those numbers before, but I think I can understand why the American people reached that conclusion. Because the President promised the age-old Republican response: If you just cut taxes on the wealthiest people in America, it is bound to enliven and energize the economy. Well, he did it. I voted no when it came to that issue. But it passed. It did not work. What happened was we wound up with a deficit and a weaker economy.

So the Bush tax plan failed in the first instance. Now the President has said: I have a new economic policy, and it is called: More of the same; let's try to do this, and do it at even greater levels, which will drag us more deeply into deficit.

I would like to illustrate this point to the Senator from Nevada by showing him a couple charts, if I can find them.

President Bush, on January 29, 2002, in his State of the Union Address, was quoted as saying:

> Our budget will run a deficit that will be [a] small and short term [deficit.]

Then, take a look at what this means. We are going to have record deficits in terms of the Bush administration, the legacy that is going to be left from the President. The actual deficits, which our children will have to pay, are going to break records.

Isn't it interesting that the Republicans, who have fashioned themselves as fiscal conservatives, now find themselves, once again, in a posture of creating the biggest deficits in the history of the United States—harkening back to President Ronald Reagan's administration?

But if you take a look at the surpluses, which we thought we would enjoy for a long time to come, they started with $236 billion to $127 billion. We are paying down the debt in the Social Security trust fund. And then it falls off the table.

In comes the George Bush tax plan, and the state of the economy, and the recession, and look at these deficits start to grow—in the range of $300 billion plus. The administration just gives the back of the hand to those deficits and says they are not really long-term problems.

They are long-term problems because they have to be repaid. And it does not show the kind of discipline, in which we should be engaged. The tax plan proposed by the President is a plan which, sadly, is going to plunge the United States more deeply into deficit and is not going to revive the economy.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I will yield for one last question. I see another colleague is in the Chamber.

Mr. REID. I actually have two questions. I know the Senator is anxious to leave.

I will first lay the basis for my question. The numbers the Senator has on that chart are basically inaccurate to the effect that it does not include the disguise that is taking place down at Pennsylvania Avenue, because Social Security surpluses are there to dampen the amount of the deficit. Actually, the deficit is about $485 billion, not $304 billion, because the Social Security surpluses are being used to disguise the budget.

Is the Senator aware of that?

Mr. DURBIN. I am aware of that. I think it is a good point to be made. These true deficits are at the expense of the Social Security trust fund. In the closing years of the Clinton administration, surpluses that we generated were paying off the debt of the Social Security trust fund, making it a stronger program for years to come, as baby boomers will arrive and ask for benefits.

Now, in the Bush administration, with tax cuts for the wealthiest people in America, we are raiding the Social Security trust fund and weakening it at a time when we know we need it the most.

Mr. REID. Last question. The Senator has spoken about the need for us to be doing something other than just talking about a man who is fully employed, in contrast to the 2.8 million people who have lost jobs under this administration. The man we are debating now has a job downtown where he makes lots of money. We should be doing something else. The Senator, I am sure, is not aware of this statement because it was made during the noon hour and he has been on the floor. I would like the Senator to tell me if he is familiar with Robert Novak.

Mr. DURBIN. Yes. He is an Illinois resident, who grew up in Joliet. I have been on "Crossfire" with him many times.

Mr. REID. Bob Novak said today:

> Well, the Republicans figured that they would be home at their recess last week and find out what the people wanted. Apparently, the people weren't interested in Estrada, because the Republicans have no idea what to do in the Senate. They had a leadership meeting yesterday afternoon [that was Tuesday] couldn't figure anything out, had a luncheon of all the Republican senators, didn't figure it out. All that's decided is, they're not going to ask for a cloture vote to force an end to the filibuster, because they'd lose that. But they have no strategy for around-the-clock sessions. They don't know what to do. The Democrats are winning.

So that former resident of the State of Illinois said this, and would the Senator agree with him?

Mr. DURBIN. The Senator is putting me on the spot to agree with Bob Novak. I will not question his conclusion, unless the Senator on that side would like to correct the record. That is the problem faced by the Republican caucus.

I say to the Senator from Nevada that I am prepared to deliver them from their plight. I am prepared to give them hope and direction. I am going to make a unanimous consent request that we stop this debate right now and move immediately to the consideration of an economic stimulus package and that we engage all of the Senators, Democrats and Republicans, to come to the floor and talk about what we can do to turn the economy around, create jobs, create consumer confidence, give businesses some hope, try to find some way to put Americans back to work.

Let's stop talking about Miguel Estrada, who has a good job downtown for a law firm, and start talking about the millions of Americans who are worried about their jobs and whether they will have them in the future.

When I make the unanimous consent request, if there is no objection, I say to those following the debate, we will move directly to the economic stimulus package. In that debate, perhaps by the end of the week, we can come up with something that shows that the Senate cares, that this Congress cares about the state of the economy.

Now, if by chance a Republican Senator stands up and objects to my unanimous consent request, that Senator is saying that he does not want us to talk about the economy, doesn't want us to talk about economic stimulus; he wants us to stay mired down in one judicial nomination for the remainder of this week. I cannot believe any Republican Senator would object to this unanimous consent request, which I will make now. I believe it is going to finally move us away from this judicial nomination to the issue people care about across America, getting this economy moving.

Madam President, I ask unanimous consent that the Senate proceed to legislative session and begin the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package for America.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Madam President, reserving the right to object. I will not object if the request for unanimous consent is amended to provide that prior to moving to the legislative calendar, the Senate move no later than 6 p.m. today to a vote on the Estrada nomination, up or down, and then proceed to the legislative calendar under the consideration of both the Republican and Democratic plans.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I ask unanimous consent to modify the request of the distinguished junior Senator from Idaho, that his request be changed to that the vote on Estrada would occur only after the memos from the Solicitor General's Office are provided to us, and that following that, he submits himself to questioning.

Mr. CRAPO. Madam President, I will not accept that modification to my request.

Mr. REID. I object to his request.

Mr. CRAPO. I object to the previous request.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Madam President, there you have it. I tried my best to move this debate away from one man, one nomination, to the state of the economy.

Basically, what the Senator has said is that unless we can have this one nominee, we don't care about the economy; let it languish, falter, and let the American people lose hope. We are going to stick with this one political issue.

I think there is a way out of this morass with Miguel Estrada. I think we can do it cooperatively, with the production of documents and the honest answering of questions. I don't think we should delay the business of the Senate indefinitely and ignore the serious problems facing our Nation in the process. I hope there will be some reconsideration of the issue.

Mr. CRAPO. Will the Senator yield for a question?

Mr. DURBIN. I will.

Mr. CRAPO. Madam President, it seems to me that we can easily move to any of these other issues that the Senator and his colleagues have been discussing, which we all agree need to be addressed. We can easily move there if your side will agree to give up trying to stop the nomination of this one single judge.

So one could say that those who want to hold the floor and focus on this nomination are willing to delay debate of other issues until we vote on this particular nomination, or that those who are filibustering—which is generally understood by the public as an act of stopping a procedure and moving to a vote—this particular nomination are unwilling to move to these other economic issues.

Would you not agree that it really comes down to the question of whether we want to agree to change the precedent of the Senate and open up investigation into these confidential documents of the Solicitor General's Office?

Mr. DURBIN. I will say to my friend, we have talked about this at length. I believe it is unprecedented. We are asking for the writings of Mr. Estrada so we may know who he is. I don't think that is unreasonable.

There are three conceivable outcomes of the nomination. One is that there be a cloture vote called for by Senator FRIST to try to bring an end to this debate on the floor. That is his right.

As I noted, there was a cloture vote called on Richard Paez, a Hispanic nominee of the Clinton administration. So it has happened before.

There could be a decision by Senator FRIST to move this nomination back to the calendar. I think the best outcome would be that, finally, Miguel Estrada would be open, candid, honest, and not conceal what he truly believes about the state of law in America. If he is seeking a lifetime appointment to the second highest court of the land, that is the least we can ask of him.

Those are the potential outcomes. What I tried to do was circumvent even those three and say let's move to the economy, and maybe at some later time move back to Miguel Estrada. But the Senator said, no, we don't want to talk about the economic situation in America, about unemployment, about job loss and loss of consumer confidence, the biggest deficits in the history of the United States. We just want to talk about one judicial nomination. That is unfortunate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

A SAFER WORLD

Mr. LEAHY. Madam President, regarding this debate on Miguel Estrada, we do have a lot of other issues that seem to be ignored. I am back home almost every week in Vermont and I don't find anybody talking to me about Miguel Estrada. Even when the White House has sent people up and various special interest groups to attack me, nobody seems to care—"either the press, the people in my State," or anybody else. But what they do care very much about is the economy and Iraq.

More than a half century ago in the aftermath of two catastrophic world wars, the United Nations Charter was signed in San Francisco. It was dedicated to the prevention and peaceful resolution of conflict. The U.N. was largely a creation of the United States, with the support of the other great world powers.

The U.N. has had a difficult history. With the notable exception of the Korean war, the Soviet Union and the United States each worked throughout the Cold War to ensure that the U.N. Security Council remained little more than a toothless forum for debating and passing resolutions of little or no effect.

Even in recent years, the United Nations has had a string of failures. It was unable to prevent the slaughter of half a million people in Rwanda. It failed to prevent the destruction of the former Yugoslavia, which was ultimately stopped only by NATO's intervention. United Nations resolutions seeking to resolve the Israeli—Palestinian conflict have been routinely ignored.

The United Nations has also passed resolutions aimed at eliminating Iraq's nuclear, chemical, and biological weapons programs, but the Iraqi Government has flagrantly tried to subvert those resolutions.

The United Nations is frequently blamed for these failures. It is convenient to ridicule a multilateral organization that often seems to be its own worst enemy. But there are also many examples of U.N. successes, like peacekeeping missions that are strongly supported by the United States but rarely involve any commitment of U.S. troops.

The U.N.'s effectiveness depends on the political—will or lack of will—of its 191 member states. No country—no country—bears more responsibility than the United States for the success or failure of the United Nations. This has never been more true than today when solving so many of the world's problems—especially combating terrorism—depend on U.S. leadership and the cooperation of other nations.

Not surprisingly, when it has served its interests, this administration has praised the United Nations and has urged the Congress to provide the funds to support it. In fact, a Bush administration publication states:

> Acting through the United Nations allows the United States to share the risks and costs of responding to international crises.

I applauded President Bush when he went to the United Nations last September to seek a resolution calling for the return of U.N. weapons inspectors to Iraq. I and others here had urged him to take that step, at a time when many of the President's advisers were insisting that a resolution was both unnecessary and unwise.

And I commended Secretary Powell for recognizing the importance of securing United Nations support for disarming Iraq, and for his work in obtaining a unanimous vote of the U.N. Security Council for that resolution.

Since then, the inspectors have reported mixed cooperation from the Government of Iraq. They have visited hundreds of sites but have not found significant evidence of Saddam Hussein's weapons of mass destruction, despite Saddam Hussein's failure to explain what happened to the thousands of tons of chemical and biological weapons material that was known to exist when the inspectors left Iraq 5 years ago.

The administration's response, with justification, is that Saddam Hussein is once again playing a cat-and-mouse game of deceiving the inspectors, and that time has finally run out. But the solution is not to direct threats and name-calling at some of our oldest allies, or to dismiss the U.N. as irrelevant just because some of its members disagree with us. It is counterproductive and beneath a great nation.

It is no less harmful to mislead the American people. Yesterday's Washington Post reported that the President and other administration officials continue to say publicly that the President has not made a final decision about whether to invade Iraq. These statements lack credibility, especially when the Pentagon continues to amass tens of thousands of U.S. troops on Iraq's borders.

Yet the White House is telling our potential coalition partners that the decision to invade Iraq has been made. The President has made it, they say, and nothing the U.N. Security Council says or does will change that. They warn that unless the U.N. Security Council abandons the inspections process and supports a U.S.-led military invasion, the United Nations will become irrelevant.

At the same time that White House officials dismiss any meaningful role for the Security Council in the decision to go to war, they are calling on the U.N. to prepare to help take care of as many as 2 million Iraqi refugees once the war begins. And they make no secret of the fact that they expect the U.N. to play a central role in the reconstruction of a post-Saddam Iraq.

One of the lessons of the gulf war was that it was far safer for our troops, and of critical importance to our continued relations with the Arab world, to build a broad international coalition in support of the use of force. The importance of that coalition has been lauded by administration officials and Members of Congress, time and again, in public statements and in testimony.

Nothing that has happened since, and nothing that we have heard from this President or his advisers leads one to believe that we should go to war without such a coalition. To the contrary, with the threat of international terrorism fueled by Islamic extremists who fan the flames of hatred of Americans, the arguments for building a strong coalition with the backing of the United Nations are even more compelling.

It has been 28 years since I was first elected to represent my State of Vermont in the Senate. I have served during the administrations of five Presidents Democrat and Republican. I have had my share of agreements and disagreements with each of these Presidents on issues of great importance—from the Vietnam war to the dilemma we face today with Iraq.

But never, in all those years, have I seen such an opportunity to use the tremendous influence of the United States to unite the world behind the common goal of disarmament and in doing so to strengthen the United Nations, mishandled with such arrogance.

Today, apparently only weeks away from a war with Iraq, the United States is telling the rest of the world, "We don't need you." Even though we will be risking the lives of American men and women in uniform to enforce a United Nations resolution, we are going to war in spite of our U.N. allies who urge caution and patience.

The administration's ultimatum on Iraq is but the latest example of its disdain for working with other nations to solve global problems from arms control to the environment.

They thumbed their noses at the Kyoto Treaty, even though the United States uses wastefully a quarter of the world's resources and is by far the largest contributor to global warming.

They sabotaged the International Criminal Court, despite the fact that the United States was instrumental in its conception.

They have walked away from the Anti-Ballistic Missile Treaty and from an agreement to strengthen the biological weapons convention.

Reasonable people may disagree about the merits of these treaties, but the administration has simply walked away. They have offered no constructive alternatives, they have unnecessarily poisoned relations with allies, and they have undermined our Nation's interests.

This pattern has not only alienated and angered those whose support we need, it has made it easier for others to ignore their own international obligations. It has needlessly and recklessly squandered the good will we felt after September 11, when the Star-Spangled Banner played outside Buckingham Palace and France's Le Monde declared, "We are all Americans". This attitude has made us less secure, not more. The administration squandered that worldwide support.

I have no doubt, nor does anyone in this Chamber, that our armed forces can defeat Saddam Hussein's army, which according to all reports is far weaker than it was a decade ago. Nor do any of us differ about the desire to see an end to Saddam Hussein's despicable regime. But the risk that he will use chemical or biological weapons, and of the horror that could result for our own troops, as well as the civilian casualties, are hardly mentioned by the White House.

In the meantime, the situation in Afghanistan so recently the focus of attention remains extremely unstable.

In fact, I read today that Afghanistan has become the largest opium exporter in the world.

The survival of the Karzai government is far from certain, as Pakistan, Russia, and Iran continue to provide support and sanctuary to Afghan warlords and to the Taliban who fled.

Osama bin Laden continues to broadcast threats against Americans, and al-Qaida remains active in dozens of countries.

A nuclear crisis on the Korean peninsula threatens to spiral out of control.

In the Middle East, hardly a day passes without shootings or bombings by both Israelis and Palestinians. The administration appears to have abandoned that crisis.

Our allies are divided about the need to abort the U.N. inspections process and launch a preemptive military invasion of Iraq, and a majority of the American people oppose the use of unilateral U.S. military force.

I am not among those who believe that under no circumstances would force ever be justified to disarm Saddam Hussein. But why now, when there is such discord even among those who agree about the need for Iraq to disarm? Why now, when there is no realistic chance that Saddam Hussein will seek to carry out an act of aggression as long as the U.N. inspectors are there? Why now, when the United Nations is seized with this issue? Why now, when giving the inspectors more time could bring more key nations on board with us if the use of force becomes necessary? Why rush to act in a way that will weaken the United Nations, that will further isolate us from many of our closest allies and create more anti-Americanism and quite possibly more terrorists?

This country is not close to being united in favor of a preemptive, unilateral war with Iraq. It is not a question of whether we can defeat Saddam Hussein. It is a question of the long-term risks to our own security.

The President should listen to the American people. Hundreds of thousands of Americans have braved the freezing cold in recent weeks, as have millions of people in Europe and elsewhere, to demonstrate their opposition to the President's policy. They are protesting not in sympathy with the Iraqi government but in opposition to a war that might yet be prevented.

So today, as our Government moves inexorably towards war, we must continue to question, we must continue to debate, we must continue to do everything we can to support a policy that makes our country and the world safer, not only for tomorrow but for next year and beyond.

If war comes, let us be able to say that it was only because we and our allies exhausted every other option, that we acted with the support of the Security Council, and in doing so we made the United Nations stronger.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

FOSTER CARE REFORM

Mrs. CLINTON. Madam President, I thank my friend and colleague from Vermont for his thoughtful comments. He always brings a really good analysis of any situation to the floor and shares it with us, and I am very grateful to him for that.

Occasionally a movie comes to the screen that brings to life the stories that have become routine in our newspapers and on our television stations, and because of that constant repetition we sometimes become numb to the news. That happens across the board on many issues, but there is one in particular I wish to address that I do not think we can ever afford to be numb to or indifferent toward, and that is the abuse and neglect so many children in our country live with every day, the children who are shuffled in and out of our foster care systems, often with little guidance from or connection to any adult. Too often these stories end in the most tragic way possible.

Seven-year-old Faheem Williams in Newark, NJ, was recently found dead in a basement, with his two brothers in a deplorable condition, having been chained in that basement for weeks at a time. Six-year-old Alma Manjarrez in Chicago was beaten by her mother's boyfriend and left to die outside in the snow and cold of the winter. And despite 27 visits by law enforcement officials to investigate violence, 7-year-old Ray Ferguson from Los Angeles was recently killed in the crossfire of a gun battle in his neighborhood.

Unfortunately, I could take up quite a few minutes of my allotted time telling even more tragic stories such as these, but today I want to focus on a different kind of story, a story of hope and possibility, the story of Antwone Fisher.

Mr. Fisher overcame tremendous odds. He was born in prison, handed over to the State, and lived to tell his story of heartbreaking abuse. At the age of 18, he left foster care for the streets, with nowhere to turn. He found the support, education, and structure he desperately needed in the United States Navy. In the Navy, Mr. Fisher received a mentor and professional counselor who helped him turn his life around.

Mr. Fisher survived that childhood of neglect, abuse, and violence, and has lived to inspire us all and send a stern reminder that it is our duty to reform the foster care system. I believe we have a moral obligation to make sure that no child languishes in this system, left to develop his or her own survival skills, without the attention, guidance, discipline, and love every child is entitled to from at least one caring, responsible adult.

I believe Antwone Fisher's success story should be the rule, not the exception. Tonight, House Majority Leader Tom DeLay and I will be cohosting a screening of the movie "Antwone Fisher"—Mr. Fisher's life story. This is a screening for Members of Congress, but I urge anyone listening or watching today to seek this movie out in their movie theater, because it is an inspirational story. It makes you cry, it makes you laugh, but it leaves you with the very strong fundamental faith that every one of us can do something to help a child like Antwone have a better life.

Tom DeLay and I decided to host this together because we both feel it is imperative to raise national awareness about foster care. Because Antwone Fisher's story is inspirational, we hope his movie will give all of us in this Chamber and in the House the inspiration to tackle this tough issue.

In the year 2000, Congressman DeLay and I received an award together from the Orphan Foundation of America for the work we have both done over many years in the area of foster care and adoption. My staff and Congressman DeLay's staff have been working together to try to figure out how we could, across party lines, from both Houses of Congress, help to create the kind of attention that is needed in the lives of our foster care children.

I commend the commitment Congressman DeLay and his wife Christine have. This is not just an issue for them. They are certainly strong advocates for foster children, but they are also foster parents.

I hope my colleagues in the Senate will join us tonight at the Motion Picture Association for this viewing. For those who cannot join and for those who are watching at home, I want to share a little bit about Antwone Fisher's story. People should know that his book, called "Finding Fish," is just as good as the movie. So go out and buy that. Pass it around. Make sure everybody you go to school with, you work with, you go to church with sees this book and sees this movie.

I would like to read a section from the book. Here is how Mr. Antwone Fisher describes his life story:

> The first recorded mention of me and my life was from the Ohio State child welfare records: Ward No. 13544. Acceptance: Acceptance for the temporary care of Baby Boy Fisher was signed by Mr. Nesi of the Ohio Revised Code. Cause: Referred by division of Child Welfare on 8–3–59. Child is illegitimate; paternity not established. The mother, a minor is unable to plan for the child.' The report when on to detail the otherwise uneventful matter of my birth in a prison hospital facility and my first week of life in a Cleveland orphanage before my placement in the foster care home of Mrs. Nellie Strange. According to the careful notes made by the second of what would be a total of thirteen caseworkers to document my childhood, the board rate for my feeding and care costs the state $2.20 per day.

Fisher continues to describe the document and writes that the child welfare caseworker felt that his first foster mother had become "too attached" to him and insisted that he be given up to another foster home.

The caseworker documents this change,

> Foster mother's friend brought Antwone in from their car. Also her little adopted son came into the agency lobby with Antwone . . . They arrived at the door to the lobby and the friend and the older child quickly slipped back out the door. When Antwone realized that he was alone with the caseworker, he let out a lusty yell and attempted to follow them.
>
> Caseworker picked him up and brought him in. Child cried until completely exhausted and finally leaned back against caseworker, because he was completely unable to cry anymore.

I know a little bit about this because when I was a law student in the late 1960s and very early 1970s, I worked for the Legal Services Organization. The first case I was assigned to was representing a foster mother who had signed up with the State of Connecticut to care for foster children, and in the contract she signed, it said she would never try to adopt any of her foster children. She was just a weigh station. The children were supposed to be just passing by and through. This little girl who came to live with my client was a child of mixed race, a beautiful little girl. She was left with her foster mother for a couple of years. And, boy, did that foster mother get attached. Wouldn't you want a person taking care of a child to become attached? And just as with Antwone Fisher's case, when the State found out that the foster mother had gotten attached to this little girl, they decided they needed to move her on, put her up for adoption, take her to another foster home, but to break the attachment.

I was part of trying to reverse that rule that governed in all the States in the 1960s and early 1970s. I was unsuccessful, although later in Arkansas I tried a case where I was able to reverse that rule, making the argument that is not the best interests of the child supposed to be the guiding standard? Why would we let a bureaucracy and the rules of a bureaucracy determine what is in the best interests of a child, as long as that child was well cared for and that child had a home that was loving and supportive? Why would we break it up?

That is what happened to Antwone Fisher. All through his case files, everyone always seemed to be slipping away in one sense or another. When he arrived at his next foster home and as he grew, he was first not told about the circumstances of his birth. All he knew was that he felt unwanted, that he did not belong anywhere to anyone. It was not long before he came to the conclusion that he was an uninvited guest. It was his hardest earliest truth that he wanted to belong somewhere. He wanted a mother and a father. He never knew that. He never knew a mother, a father, or a permanent home. Instead, he was left to fend for himself until he was expelled from foster care at the age of 18.

That is what we used to do everywhere. It is what we still do in lots of places. When you finish high school, you turn 18, whichever happens first, you are out on the street. I have literally known children whose foster parents and case workers came into the little bedroom, maybe, that they shared with somebody else, took all their belongings, put it in a black garbage bag, handed the garbage bag to the child and said: We are finished with you.

I cannot even imagine that, but that is what happens. That is what happened to Antwone Fisher when he found himself, at the age of 18, on the streets and homeless.

Luckily, somewhere deep inside him, in some sacred place, he found the courage and resilience to keep going with his life, and he found his way to a recruiting station where he volunteered for the U.S. Navy. He needed a place to sleep; he needed food to eat; he needed to be safe on the streets, and thank goodness he did. Thank goodness the U.S. Navy took a chance on Antwone Fisher.

There are lots and lots of children just like him in our foster care system. There are approximately 542,000 children in our Nation's foster care system; 16,000 of these young people leave foster care every year just like Antwone Fisher had to. We worked during the last several years to try to improve conditions.

In 1999, when I was First Lady, I advocated for and Congress passed the Chafee Foster Care Independence Act which provides States with funds to give young people assistance with housing and health care and education. It is funded at $140 million annually. That is not nearly enough for the needs of these children, but I am very grateful that we are doing something to recognize what it means to be the age of 18 and have nowhere to go. I have even met foster children who got admitted into college and during the holidays when most of us who went to college look forward to going home and seeing our friends and seeing our family, they begged to be able to stay in the dorm, even if the heat was turned off, because they had no home to go to.

This bill came after the very important bipartisan Adoption and Safe Families Act of 1997 where we made the most sweeping changes in the Federal child welfare law since 1980 that once and for all said a child's safety is the paramount issue in any placement. If you cannot return a child to his or her home with their biological parents, with their natural family, then let's move to relieve that child of the past and put that child in a position to be adopted and placed in a permanent home.

The next major hurdle we need to tackle is the financing system. Currently, we spend approximately $7 billion annually to protect children from abuse and neglect, to place children in foster care, and to provide adoption assistance. The bulk of this funding falls to States as reimbursements for low-income children taken into foster care when there is a judicial finding that continuation in their home is not safe. This funding provides payments for foster families to care for foster children, as well as training and administrative costs which gives children a safety net. But it is not enough because the financing is focused on the time when the child is in foster care. The longer the child stays in foster care, the more money the States get, which makes no sense to me. We ought to have the incentives in the other direction.

Try to provide the services so you can reunite a child with their family or make the decision to terminate parental rights and put a permanency plan into effect so the child can have a better shot at the future.

I appreciate that President Bush has put a proposal on the table to change the way foster care is financed. I look forward to working with him and my colleagues to try to deal with some of these legitimate issues around financing. But I cannot support block-granting our child welfare system because it is imperative we have standards. If the States could have done this on their own, without Federal oversight funding and standards, they would have done so.

Therefore, we have to ask ourselves, How do we maintain child safety protections that we passed in the Adoption and Safe Families Act? How do we require the targeting of funds to prevention and postfoster care services? What happens if there is a crisis and more foster care children enter the system? These are all important questions. They deserve answers. But it is critical we begin the process to look at how we change the incentives.

In the past, my colleagues, Senators LANDRIEU, DEWINE, and GRASSLEY, put forth a proposal to restructure the priorities in our child welfare system. I think their proposal was headed in the right direction. It ensured that incentives were in place so that foster care stays would be shorter. I applaud my colleague Senator ROCKEFELLER, who has been a long-time champion on these issues, for his welfare reform bill which offers an alternative to financing child welfare by aligning foster care and adoption assistance with TANF eligibility.

I look forward to tackling this hard issue in the months ahead. I look forward to seeing the number of children in foster care decrease. I look forward to seeing more children in foster care being reunited with their birth families or being placed into permanent, loving homes.

For those of you who want more insight into what this issue is truly all about, I urge you to see the movie "Antwone Fisher," to read Mr. Fisher's book "Finding Fish," to understand that may be just one story but it stands for countless others, innocent children to whom we owe a chance for a better life.

I ask unanimous consent that an article appearing in USA Today be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today]

EASING FOSTER CARE'S PAIN UNITES DISPARATE POLITICIANS

(By Hillary Rodham Clinton and Tom DeLay)

Occasionally, a movie shines the spotlight of public recognition onto a problem that lingers deep in the nation's shadow. It forces the country either to confront the issue or look away. Today, the movie is Antwone Fisher, and the 542,000 children languishing in our broken foster care system are the issue.

Antwone Fisher tells the true story of a boy born in prison and abandoned by his mother to years of abuse, both emotional and sexual, in foster care. The compelling story of his life, written by Fisher, is about a child's hope and resilience despite an uncaring system. While we cheer Fisher's success against such abysmal odds, the movie also reminds us that too many still suffer needlessly in a foster care system that is inherently flawed.

When Fisher turned 18, the system dropped him onto the streets. Fisher turned to the Navy, where he discovered structure, discipline, the power of education and strong guidance from an adult mentor. This powerful catalyst turned Fisher's life around. But what about all of the others in our foster care system whose longing for meaning and direction goes unrequited?

Every year 16,000 young adults age out of this system. Many grew up without guidance and faced enormous hardships. The foster care system simply did not teach them the basic skills to live independently in the world. They never learned how to cook, balance a checkbook or apply for a job. Without this critical guidance, they emerge from a system unwanted and uncertain about navigating life's turns. In short, they enter adulthood the way they spend their childhood: alone.

RESET PRIORITIES

Fisher's story should spark broad reforms of the foster care system, which needs to be changed, one community at a time, so that no more children fall through the cracks. Despite our political differences, we are committed to working together so that children like Fisher do not languish in foster care until at 18, then get expelled with little guidance and support.

The federal government now gives states almost $7 billion annually to protect children from abuse and neglect, place children in foster care and provide adoption assistance. But the timing is off: Most of the money goes to states for use after a child is removed from a troubled home. Instead, it should be used to provide more preventive resources—to keep children out of foster care to begin with—and to assist children after they leave the system.

Senators and representatives from both parties acknowledge that we have to change the way we finance our foster care system. Greater emphasis needs to be put on reducing both the number of children in the system and the length of time they stay in foster care. America's children need safe, permanent homes—something Fisher never knew as a child.

BUSH OFFERS ONE PLAN

We can find a bipartisan solution to reform the way we finance our child welfare system.

but both the House and Senate must make reforms a priority. President Bush has offered one proposal that deserves careful consideration. He wants to give states an option to change the way foster care is financed so they can do more to prevent children from entering foster care, shorten the time spent in such care and provide more assistance to children and their families after they leave the system.

Although reform is never easy, there are proven legislative successes in this area. During the past five years, Congress has passed two major bipartisan child-welfare bills, which we both strongly supported. One helped to nearly double the number of children being adopted from foster care, and the second has helped to provide better transition services for older children who, like Fisher, never are adopted and age out of the foster care system at 18.

We are no doubt surprising many of our friends by writing this piece together, but that just underscores our point. If a public-policy dilemma can bring the two of us together, it clearly deserves a hard look from everyone. Fisher's success should be the norm for all children who travel through the foster care system, not be one exceptional spark in the darkness of countless children's lives.

RECESS

The PRESIDING OFFICER. The hour of 2:30 having arrived, under the previous order the Senate stands in recess until 3:30.

Thereupon, the Senate, at 2:30 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Continued

Mr. REID. Madam President, on the floor today is the former chairman of the Judiciary Committee, now the ranking member of the Judiciary Committee, the distinguished senior Senator from Vermont. The Senator has heard me on a number of occasions boast about the work he has done as the leader of the Democrats in the Judiciary Committee and the leader of the Senate in the Judiciary Committee. There has been a lot of talk about the Democrats holding up judicial nominees during the time we were in power in the Senate.

It is my understanding—I ask the Senator to respond to this question—that while the distinguished Senator from Vermont was chairman of the Judiciary Committee for a very short period of time—17 months—he broke all records of the body in approving some 100 Federal judges for President Bush.

Is that a fair statement?

Mr. LEAHY. Madam President, it is a fair statement. In fact, I think in mid-July we finally got an agreement to organize the committee. Ten minutes after we got that agreement, I noticed the first hearing and set the first hearing on President Bush's judges.

The Republicans had been in charge up to that time—up until July—and there were a number of nominees of President Bush, but they had not held any hearings whatsoever. I began the process of holding them within 10 minutes of the time I became chairman. Then, during the next 17 months, we held hearings on 103, we voted through 100, voted down 2, and had 1 remaining.

There is no 17-month period under Republican control with President Clinton when that was done.

Mr. REID. Will the Senator also respond to this? It is also my recollection that during that 17-month period the Senator from Vermont's office received a letter which contained anthrax, Senator DASCHLE's office received a letter which contained anthrax; and 9/11 occurred. In spite of all that, and the Senate being, in effect, locked down and the country being locked down, still the Judiciary Committee, led by the distinguished Senator from Vermont, approved a record number of judges, in spite of those items I mentioned—two anthrax attacks, one on the Senator who is now before me, one on the distinguished majority leader, the Democratic leader, and 9/11.

Is that true?

Mr. LEAHY. The Senator is absolutely correct. Obviously, we all remember how much disruption there was. The letter to the distinguished Senator from South Dakota ended up closing the Hart Building and temporarily the Dirksen Building. The letter that was sent to me was so toxic that two people who touched it died. Died. We had not canceled a single hearing. In fact, on one day when the Senate was being evacuated because we had scheduled a time to vote out some of President Bush's nominees, I literally grabbed Senators and held them here long enough to vote out some of President Bush's nominees.

I say this knowing that when the Republicans were in charge and President Clinton was in office, we sometimes went 8 or 9 months without even having a vote on nominees. We were doing it several times a month.

I appreciate the Senator asking those questions.

Mr. REID. Will the Senator also answer this question? When the Hart Building was locked down, we were out of space around the Capitol and the Senator had every excuse as chairman of that committee not to hold hearings. I remember the Senator holding hearings down in the basement of the Capitol. There was not room for people. People were jammed into that room. But the Senator used no excuse to avoid going ahead with President Bush's nominations to the judiciary.

Is that true?

Mr. LEAHY. The distinguished Senator is absolutely correct. I might say that I commend especially the staff who in some instances were working out of their cars, working out of my hideaway or in the hallways, just because even our committee rooms were closed. I had people working out of the family room in my house. We did all of this so we could continue what turned out to be a recordbreaking number of hearings and votes on President Bush's nominees.

Mr. REID. Madam President, I want to make a brief statement to the distinguished senior Senator from West Virginia.

I ask unanimous consent that he be recognized following my very brief statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Madam President, I want the RECORD to reflect that the Senator from Vermont has been an exemplary chairman of one of the most important committees during one of the most difficult times in the history of this country. And for anyone to ever—I have been on this floor defending the Senator, as I will continue to do my entire career. If anyone ever suggests the Senator from Vermont didn't do stalwart and exemplary work, I will take them to task for it. In the most difficult of circumstances, in the most partisan times in the history of this country, the Senator from Vermont was not partisan. He moved the committee along in a nonpartisan, bipartisan basis. As I recall, 100 judges were approved and only two judges were turned down by the committee.

I think it is remarkable what has been done. I appreciate the Senator responding to those brief questions.

I want to just say briefly there has been some suggestion we have been trying to hold up things here. The only one holding up things is the majority. They can move off this nomination five seconds from now. They could give us the information we want or try to invoke cloture. The reason we are not off this nomination is they have no plan and nothing to do.

I would like to read into the RECORD what Bob Novak—we all know Bob Novak. He is one of the most conservative—it is his birthday today. I heard it on Public Radio. I wish Bob Novak a happy birthday. Bob Novak hasn't been very prone to saying good things about Democrats. But here is what he said.

> Novak: Well, the Republicans figured that they would be home at their recess last week and find out what the people wanted. Apparently, the people weren't interested in Estrada, because the Republicans have no idea what to do in the Senate. They had a leadership meeting yesterday afternoon, couldn't figure anything out, had a luncheon of all the Republican senators, didn't figure it out. All that's decided is, they're not going to ask for a cloture vote to force an end to the filibuster, because they'd lost that. But they have no strategy for around-the-clock sessions. They don't know what to do. The Democrats are winning.

That is Bob Novak.

I want this RECORD spread with the fact that the Democrats if we wanted to hold things up, we could be objecting to committees meeting. We could be doing a lot of things just to slow things down. We want to speed things up. We want to get to the business of this country dealing with the economy.

I listened to the radio this morning that they were going to have a debate in the British Parliament about the Iraqi war. The senior Senator from Illinois told me he listened to an hour of that debate this morning. I think it is wonderful that the British people are able to listen to their leaders debate a war. It does not matter what side you are on. Wouldn't it be important to debate the pros and cons of this war?

And I say to my friend—my esteemed friend, somebody I admire greatly—the senior Senator from West Virginia, you have been able to come here and sneak a little bit of time—sneak it in—to talk about the war. It has been hard for the Senator to get floor time to talk about this issue.

I respect and admire both of these Senators on the floor for being such great examples to me. But I want everyone to know that we are not trying to take advantage of anyone. If we were doing that, there would be all kinds of things we could do in a parliamentary sense. We are not doing that. We believe the burden is on the majority to move the legislation of this country, and it is not being moved.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator from Nevada for his kind comments and always for the great services he performs for the American people here in this body.

Madam President, is the Senate in executive session?

The PRESIDING OFFICER. Yes, it is.

Mr. BYRD. I ask unanimous consent to speak as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

THE BUDGETARY COSTS OF A WAR IN IRAQ

Mr. BYRD. Madam President, since last August, the administration has worked aggressively to convince the American public that Saddam Hussein is a brutal dictator who directly threatens the United States. The President has been unambiguous, and often dangerously blunt, about his passion to use military force to destroy Saddam Hussein's regime.

The Bush administration has promoted a vision of Saddam's removal from power quickly, easily, and bloodlessly. Indeed, part of the rationale for support for this war is that America's tremendous military superiority over Iraq will confine a military conflict to a relatively painless contest between the United States' awesome military forces and the relatively weak, conventional military machine of Saddam Hussein.

A swift and simple military victory certainly is one possibility, but in our democratic Republic the administration also has a responsibility to inform the American people that much less pleasant scenarios are also possible and even likely. The Congress has a responsibility to explore all possible scenarios with an eye to the eventual costs of this war. We must not just accept the rosy projections so far offered by the administration. Frankly, I have seen little effort by either the administration or the Congress to inform the American taxpayer about the likely costs of this war.

In both dollars and human lives, the administration has been ominously quiet about its internal calculations and estimates. What is even worse is that the Congress has barely bothered to ask about them.

Earlier this month, the President unveiled his budget for the fiscal year 2004. Even assuming the most primitive and loose definition of the term "fiscal responsibility," that budget request should certainly have included some rough estimate cost for a war with Iraq. Even a range of costs would have been somewhat illuminating.

But no cost estimate was included in the budget of the President's. Now let me repeat that. There is no estimate of the cost of the looming war with Iraq in the President's budget—no cost estimate. That is hard to believe, isn't it? But that is the case. The possible war has dominated the airwaves for months, and yet there is no cost estimate in the President's budget. President Bush mentions the looming conflict in nearly every public pronouncement, and yet no cost estimate to fight the war appears in the President's budget—none. Is the administration trying to tell the people of this Nation it is for free?

When the Defense Secretary presented the President's defense budget to the Senate Armed Services Committee, and was asked what the administration projected that a war in Iraq would cost, he would only say that such costs are "not knowable." Let us contemplate that answer: "not knowable." Does the Secretary of Defense mean to say that this great Nation does not yet know what its plans include for a war with Iraq? Is that why the costs are "not knowable"? Does he mean to say that we do not yet know exactly what we are going to try to achieve in Iraq? Is that why the costs are "not knowable"? Or does he simply mean to indicate that he does not want to divulge the potential costs, therefore to us they are "not knowable"?

One must presume that by now the administration would have made several internal forecasts of the military cost of the war using various scenarios, and that the White House Council of Economic Advisors would have prepared for the President a classified study of the projected economic impact of the war. Reportedly, OMB Director Mitch Daniels has been working on war estimates for months, and yet we are told that these costs are "not knowable." None of this information has been made available to the public, nor, I suspect, is it likely to be released in the near future. This Congress—these two Houses: the people's elected Representatives—has a responsibility to demand that information. The people have a right to know. They are going to suffer the costs. Congress must not accept the answer, "not knowable." The American people, I say, deserve to know. They deserve to know the truth.

There was one cost estimate provided by the administration which came from an interview last fall with Larry Lindsey, the President's former economic advisor, who said that a war with Iraq could cost between $100 billion and $200 billion. He went on to opine that that was "nothing."

Yet the White House quickly distanced itself from that comment, and the Director of the Office of Management and Budget rebuked that estimate, saying that Lindsey's estimate was "very, very high."

The OMB Director suggested that the cost of the war would be closer to $60 billion or $70 billion. The Pentagon recently stretched that estimate to $95 billion. I wonder just what we are to make of these conflicting estimates.

How are we to gauge the validity of such widely varying numbers? How are the American people to gauge the validity of such widely varying numbers? Do these figures contemplate other complications? What if casualty estimates grow into the thousands? And they may. What if oil prices skyrocket, sparking inflation and lines at the gas pump and costing the U.S. economy thousands of American jobs? Suppose the Middle East erupts in a tornado of violence, toppling regime after regime in the region.

Even a rudimentary list of the possible contingencies shows that costs may grossly exceed what the administration wants the public to believe.

The Congressional Budget Office reported last September that the incremental cost of just deploying a force to the Persian Gulf—that is, those costs incurred above those budgeted for routine operations—could be between $9 billion and $13 billion. Prosecuting a war, according to the CBO, could cost between $6 billion and $9 billion per month. And after hostilities ended, the cost just to return U.S. forces to their home bases could range between $5 billion and $7 billion.

Regardless of the swiftness of a military victory—it could be swift, but it might not be—there remains the cost of a postwar occupation of Iraq, which the administration says could last for up to 2 years and could mean another $1 billion to $4 billion, or more, per month during that period. On top of that, the United States might face a humanitarian crisis, including rampant disease and starvation, if Saddam Hussein employs a scorched earth strategy in defending his regime. What about the need for a cleanup of biological and chemical weapons if the Iraqi Republican Guard employs them against U.S. soldiers?

Reconstruction and nation-building costs resulting from installing a democratic government in Iraq have to also be thought about. The American Academy of Arts and Sciences projected that the minimum reconstruction and nation-building cost for Iraq could be as high as $30 billion, and that is under the very best of circumstances. Will the administration propose something similar to the Marshall plan for Iraq? The Academy reported that U.S. investments in Western Europe after World War II under the Marshall plan cost a total of $13.3 billion over a 4-year period. That is the equivalent of $450 billion over 4 years if measured as a percentage of GDP in 2002.

Mr. SARBANES. Madam President, will the Senator yield for a question?

Mr. BYRD. Madam President, I am glad to yield.

Mr. SARBANES. Madam President, let me say how much I appreciate the clarion call which the very distinguished Senator from West Virginia has been sounding. It is an extremely important issue—actually the No. 1 challenge facing the country.

Am I correct that the budget submitted by the administration—and I know the very able Senator probably knows more about the appropriations process than any Member of this body—did not contain any money for a potential war in Iraq or for subsequent reconstruction efforts?

Mr. BYRD. The distinguished Senator from Maryland is preeminently correct. There is no estimate of what the war will cost in the President's budget.

Mr. SARBANES. So the deficits projected in the President's budget, which are now going up toward the $300 billion level—and which have broken us out of the situation we were in only a couple of years ago where we were running surpluses—do not encompass potential costs of this military action in Iraq. In other words, the deficits would be significantly enhanced by whatever the amount of the cost would be; is that correct?

Mr. BYRD. Astoundingly, the President's budget does not present such a cost. The Senator is exactly right.

Mr. SARBANES. I was listening carefully to the Senator. As I understand it—and the estimates are all over the lot—the administration represents that it could last 4 days, or it could last 4 weeks, or it could last 4 months; and you try to get them to pinpoint it, and they say: Well, who can tell what is going to happen? I gather even the Pentagon—and presumably they want to present the best light—is estimating a $100 billion cost.

Mr. BYRD. It is $95 billion, right under that.

Mr. SARBANES. And you have an estimate for the reconstruction that was $30 billion, roughly speaking.

Mr. BYRD. At a minimum, $30 billion.

Mr. SARBANES. At a minimum. Of course, that was assuming we would not have this kind of devastation out there that might be possible if the weapons of mass destruction were to be utilized.

Mr. BYRD. Yes.

Mr. SARBANES. Well, these are tremendous costs that are staring us in the face, are they not?

Mr. BYRD. They are indeed. It is amazing.

Mr. SARBANES. I think it is a very important service the Senator is rendering in order to lay this out. Many people seem to be skipping right over this dimension, in terms of evaluating the path we should follow in dealing with the challenge we confront in the region.

Mr. BYRD. Scriptures say that the wages of sin is death. We are not being told what the wages of this war are going to amount to. There is no discussion. One may be led to believe that this is going to be like a video game: It will be just over in a matter of moments, in days or weeks. There is no discussion of the cost. There is no estimate.

Now, I find it very hard to believe that the administration has not carefully explored the potential cost of what the American people are going to be asked to bear; and I think the polls we read about, which indicate a pretty high degree of support for the President in his passion to lead us into this war—I don't believe those people who are asked questions have any idea whatsoever as to what the costs are going to be. Why should they? We ourselves don't have any idea. The administration is not presenting us with any estimates of the cost. This seems to me to be strikingly strange.

We are being led into a war—led into a war—by an administration that makes no effort whatsoever to tell the American people what they are likely to pay in treasure, in lives, and especially with regard to a postwar Iraq. I think it is going to be like a bottomless pit.

Mr. SARBANES. I thank the Senator for bringing this to our attention. It is an extremely important point, and the Senator is absolutely right. It has simply been glossed over in any consideration of this matter.

Mr. BYRD. Oh, yes, glossed over. There seems to be no thought given to it. I want to tell the Senator from Maryland that we on the Appropriations Committee and the American taxpayers are going to learn about it at some point when it is over, and the costs of this war may be colossal.

The time to ask questions is now, not a year from now, not when the body bags start coming back, not when the paying of the toll is coming due.

Madam President, I thank the distinguished Senator, one of the most able Senators I have ever seen in my 45 years in this body and in my 50 years on Capitol Hill. He is on committees that know something about dollars and cents and how they add up. I thank him for his incisive questions.

Mr. SARBANES. I thank the Senator.

Mrs. BOXER. Madam President, will my friend yield briefly for a followup to Senator SARBANES' questions?

Mr. BYRD. Madam President, I do yield.

Mrs. BOXER. I thank my friend. I wish to add my voice to that of Senator SARBANES and thank the Senator from West Virginia for his great leadership. I want him to know that in California, my constituents have talked to me about the Senator's statements many times. I spent the week in California, and they have received through e-mail a copy of the most recent statement Senator BYRD made on the Senate floor. It gives them hope to know that he is out here with all his years, his sage years here, and it really helps. It is a great help to me as well as a newer Senator, although one who has been here for 10 years and 10 years on the other side.

I wish to pick up on the questions of, as we look at the costs of this war, to set aside the human costs, about which I have spoken at length and about which the Senator from West Virginia has continually been so eloquent, there is also the cost, for example, of payments to our friend and ally, Turkey, which, as I understand it, also is not in the budget request; am I correct?

Mr. BYRD. The able Senator is correct.

Mrs. BOXER. We are hearing everything from $6 billion in cash to an additional $10 billion to $20 billion in loan guarantees, and yet not a word in the budget. I wish to ask a final question of my friend, and that is, I was amazed to read that our friend, CARL LEVIN, on the Armed Services Committee, was asking questions of the Pentagon about how many troops would be needed in the aftermath of war, immediately following perhaps for 2 years, perhaps longer, the number of troops that need to be put out there. The answer was 200,000 troops, and it took the breath of many of our colleagues. Again, I ask my friend a question: Is there any mention of that fact in the 2004 budget and the impact of that on our budget?

Mr. BYRD. No, there is no mention of that fact. I must say, I have been informed that figure was inaccurate and that the general who used that figure later retracted the figure.

Mrs. BOXER. Does my friend know what they are talking about in terms of the number of troops? I suppose a lot would depend upon whether we have a lot of our allies with us, would it not?

Mr. BYRD. I am sure it would depend in great measure upon that. I do not think the administration has made any presentation of such a figure at all. I understand the British are going to supply 26,000 personnel, but there is no indication of what the other countries—and there are supposed to be a considerable number of other countries that would be supporting us, but nobody has indicated how many troops those other countries are going to present, and I am not sure they could present a great number. Angola, Cameroon, there are various and sundry other nations, some of which names I am almost unfamiliar with. They are included in this array of allies we are going to have supporting the effort.

(Mr. CORNYN assumed the Chair.)

Mrs. BOXER. In closing, I again thank my friend very much. The fact that a general, a very highly placed general, would come out with a number that is not correct, is in itself astounding. It means he certainly is not informed either. Not only are we uninformed, but he is uninformed, and this should give even more pause about this whole situation. I thank my friend for the energy he is putting into this issue. Again, my people in California are very grateful for what the Senator from West Virginia is doing.

Mr. BYRD. Mr. President, I thank the distinguished Senator, and I thank the people of California for their interest in the subject matter, and they certainly should be interested in it.

No one likes to talk about putting a price tag on national security, but these costs simply cannot be ignored in light of our current sagging economy and given a projected budget deficit of $307 billion for the fiscal year 2004. Remember—remember, Mr. President—this Government is going to have to borrow the money to finance this war. The total price of a war in Iraq could easily add up to hundreds of billions of dollars, even a trillion or more, overwhelming a Federal budget that is already sliding into deep deficits and warping the U.S. economy and impacting the economies of other nations for years to come. And, unlike the gulf war in 1991, many of our allies are unlikely to want to help much in defraying these costs.

Right now, the administration is trying to coax other nations to join the "coalition of the willing" by paying them, not by asking them to help us pay for the war. A "coalition of the willing," or a COW for short. It appears to me that the U.S. is the "cow"—the cash cow in this instance. We are the ones who are being milked.

The administration reportedly has negotiated a multibillion-dollar package of grants and loans for the Republic of Turkey for use of its bases to open a possible northern front against Iraq. The administration is negotiating similar multibillion-dollar packages with Egypt, Israel, Jordan, and other allies in the Middle East. I wonder if Members are aware of the details of any of these deals in the works or their projected costs over time.

I believe the cost of this war will be staggering.

We know that our Nation's most precious treasure, the lives of our young men and women in uniform, will most certainly be threatened. But we do not know how great the risk is because the administration will not talk about its plans.

In addition, the cost in terms of taxpayer dollars will be absolutely enormous. We hear of negotiations ongoing with Turkey that are in the area of $30 billion. We learn of requests from Israel for $12 billion. In addition, Jordan wants to be compensated. We read that negotiations are underway to provide economic assistance to Mexico, Chile, and various African nations, all of which are members of the United Nations Security Council.

Where will this all end? Where? How many nations will be promised American economic assistance just for their tacit support? And how strong is support that can be bought with promises of American dollars? This is no way to operate. This is no way to fight a war.

If the case against Saddam Hussein were strong enough on its merits the United States would not have to buy the support of the international community. If the world truly believes that Saddam Hussein poses an imminent threat, then let the world say so clearly. But do not taint that decision, do not taint the possible sacrifice of American soldiers, sailors, and airmen, by prying open the door to war with a blank check from the American taxpayers.

If war is undertaken without U.N. sanction or broad international support, the United States taxpayer can expect to pay the costs of the war for decades and pay the interest costs for decades more.

And that is to say nothing about the larger macroeconomic costs to the economy. The economic ripples of a war could spread beyond direct budgetary costs into international energy markets through higher oil prices. The psychological effects of a war in Iraq, especially if it initiates new terrorist attacks around the globe, could further scare the already jittery financial markets and rattle consumers.

If the war goes badly—and it could. Who knows? If the war goes badly, either through heavier than expected causalities, protracted bloody urban warfare, massive foreign denunciations, chemical and biological warfare, or major terrorist attacks here and abroad, we may be plunging our economy into unfathomable debt which this nation cannot easily sustain.

But even if one discounts these scenarios as unlikely, and sets them all aside, the potential costs of a limited war in Iraq could continue to pile up for years, depending on the total damage to Iraq, the civilian casualties, and the possibility that the war's effects could spread into other countries.

This is a dangerous and damaging game the administration is playing with the American public—with you, you who are looking through those electronic lenses at the Senate. Glossing over the cost of a war with Iraq may make it easier to win short-term support. But without any serious attention to costs, the American people cannot be engaged in a fulsome public discussion about the eventual wisdom of undertaking this war. Public support cannot be sustained to accomplish our post-war goals in Iraq if the Nation has been misled about the duration and difficulty and costs of such a conflict. We cannot treat the citizens of this Nation as if they are children who must be fed a fairy tale about fighting a glorious war of "liberation" which will be cheap, short and bloodless. If the President is going to force this Nation to engage in this unwise, potentially disastrous, and alarmingly expensive commitment, he must lay out all of the costs and risks to the Nation.

Now we will come back to these lines again and again. If I am not here, the American people will still come back to the record that is being written.

What is particularly worrisome is how naively the idea of establishing a perfect democracy in Iraq is being tossed around by this administration. If the administration engages in such a massive undertaking without the American people understanding the real costs and long-term commitment that will be required to achieve this visionary scheme, our efforts in Iraq could end with chaos in the region. Chaos, poverty, hopelessness, hatred—

that is exactly the kind of environment that becomes a fertile breeding ground for terrorists.

The administration is asking the American public and the international community to support this war. The administration must also put all of its cards on the table. A list of real risks and down sides do the Nation no good locked in Donald Rumsfeld's desk drawer. They must be brought into the sunshine for the people to assess.

The American people are willing to embrace a cause when they judge it to be noble and both its risks and its benefits are explained honestly to them. But if information is withheld, long-term political support can never be sustained. Once the order is given and the bombs start falling, the lives of American troops and innocent civilians on the ground hang in the balance. Once "boots are on the ground," concerns about the monetary cost of war necessarily take a back seat. This nation will not shortchange the safety of our fighting men and women once they are in harm's way.

But our people and this Congress should not have to wait until our troops are sent to fight to know what we are facing, including the painful costs of this war in dollars, political turmoil, and blood.

In a democratic-Republic, secrecy has no place. Hiding information from the public to rally support behind a war, at the very time when the government should be striving for maximum trust will eventually undermine our nation's strength. This conflict will be paid for with the people's treasure and the people's blood. This is no time to affront that sacrifice with beltway spin and secrecy.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, for the past few weeks, we have had a vigorous debate on the floor and in the country on this nomination. I discussed my reasons for opposing Mr. Estrada's nomination before the recess. As I said then, I would probably vote to confirm Mr. Estrada to a lower court. But for this crucial court, at this crucial time, he is not the right person for the job. I have reached that conclusion in part because Mr. Estrada gave us so little to work with in trying to understand what kind of judge he would be. When we are talking about a lifetime appointment to the second highest court in this country, we cannot be expected to take it on faith that Mr. Estrada will be a fair and impartial judge, with no ideological axe to grind. The Senate's role is too important to just "hope for the best." No, when we are asked to confirm a nominee to such a significant post, we have a right to expect that nominee to be forthcoming in answering our questions, and we have a right to expect the administration to be cooperative in providing any information that is relevant to making our decision. That is what the advice and consent process is about. Not some kind of phony "consultation", and certainly not a rubberstamp for the President's nominees.

Today I want to respond to some of the arguments that have been raised by those who support the nomination. Many of the arguments come in the form of twisting and misstating the reasons given by opponents, in order to ridicule them. Many have been creating straw men in order to knock them down.

For example, we have heard numerous times that Senators oppose Mr. Estrada because he has no judicial experience, and the answer to that straw man is that many distinguished judges had no judicial experience. That is certainly true. I agree with that. Some great appellate judges had no prior judicial experience. Some of them sat or sit on the DC Circuit.

But those of us who note Mr. Estrada's lack of judicial experience are not saying that that should disqualify him from serving in this position. What we are saying is that his lack of experience means he lacks a record to evaluate, unlike many of the other individuals that President Bush has nominated to the circuit courts, who have served for many years as US District Court judges. At the same time, Mr. Estrada has not been a law professor and written scholarly articles for publication. His lack of judicial experience is part of his lack of a record that we can review in order to see what kind of judge he will be.

That brings me to the Solicitor General memos. In a way, this is really the crux of the problem with Mr. Estrada. Because Mr. Estrada has no judicial experience, because he has not written articles as a law professor, because he is so young and some of his most significant legal experience was as a lawyer in the Solicitor General's office, and because questions have been raised about his performance in that office, we have asked to see the memos that he wrote to his superiors on questions such as whether the United States Government should appeal an adverse ruling to the Supreme Court or whether it should file an amicus brief in a case that the Supreme Court has decided to hear.

This request was originally made by then Chairman LEAHY in May 2002, months before Mr. Estrada had his hearing before the Senate Judiciary Committee. So the claim that the request for these documents is a last minute effort to derail the nomination is patently untrue. We have been seeking these documents for nearly a year now, and the administration has been stonewalling for nearly a year now.

I am afraid I have to say it has also been stonewalling in a really disingenuous way. The administration, echoed by supporters of Mr. Estrada here on the floor, has claimed that our request is unprecedented, that no such memos have ever been turned over to the Senate. One Senator stated unequivocally:

> Never in the history of the Justice Department have those type of materials that are privileged, confidential work product materials been given to this branch of Government or any other branch.

That is a pretty strong statement. It is also untrue. For example, during the consideration of the nomination of William Bradford Reynolds to be Associate Attorney General at the Department of Justice, exactly these kinds of memos—recommendations on appeals and amicus briefs written by line attorneys—were turned over to the Judiciary Committee. Then, during the consideration of the nomination of Robert Bork to the Supreme Court, a large amount of material was turned over to the Committee, including memos written to or from Judge Bork when he served as Solicitor General. In particular, memos to Judge Bork from Judge Frank Easterbrook, who then served in exactly the same position as Mr. Estrada did when he was in Solicitor General's office, were made available to the Senate.

Still the Justice Department disputed the facts and continued to insist that only limited materials were made available during the Bork nomination and other materials must have been leaked. But Senator LEAHY has disclosed a 1988 letter from Acting Assistant Attorney General Thomas Boyd to Senator BIDEN, requesting the return of materials that had been turned over during the confirmation proceedings. Mr. Boyd states:

> [M]any of the documents provided to the Committee, "reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch."
>
> We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

It is abundantly clear that the Justice Department has provided these kinds of materials in the past, despite their confidentiality. And that is as it should be. I have enormous respect for some of the former Solicitors General who have written to us and given their view that these memos should not be released. But with respect, they are not Senators. They are not accountable to constituents for the votes that they take on whether to confirm judicial nominees. They have never made policy for this body, and unless they run for election in the States where they live, they never will.

The White House and some of our colleagues have also argued that these kinds of memos have not been requested of all nominees who once served in that office or in a similar position in the Department of Justice. True enough. But that only underscores how important our request is. I say again, it is because Mr. Estrada has no judicial experience, because he has not written articles as a law professor, because he is so young and some of his most significant legal experience was as a lawyer in the Solicitor General's office, and because questions have been raised about his performance in that office, that we have asked to see these materials.

The administration's failure to comply with our legitimate request, a request which is strongly supported by precedent in the Judiciary Committee's handling of past nominations, frankly leads to the question of whether there is something to hide in those memos. We will never know until we have a chance to read them. But what we do know is that until they are turned over this logjam will continue.

Now some have made the argument on this floor and in the press that our action in delaying a vote on Mr. Estrada is unprecedented. That is plainly not the case, and again illustrates the amount of distortion that is occurring in this debate. According to CRS, there have been cloture motions filed on 14 judicial nominees since 1980. Just three years ago, cloture votes were required before two of President Clinton's nominees to the Ninth Circuit, Marsha Berzon and Richard Paez, could be confirmed. When these nominations were finally reported from committee after years and years of delay, motions to proceed to their consideration on the floor were defeated by the Republican majority. Over 5 months later, the nominations were finally brought to the floor. The two nominations were considered and debated together, and a cloture motion was required to end the debate on each nominee.

It is true that both the majority leader at the time, Senator LOTT, and Senator HATCH, supported cloture on the nominations. But still, there certainly was a filibuster on those nominees. That is what cloture votes do; they end filibusters. Senator Bob Smith was leading the opposition to the nominees. He put out a press release indicating that he was filibustering to stop them. Late last week, we heard from one Senator that this is the first "true filibuster" of a Circuit court nominee. I am still waiting to hear an explanation of what a true filibuster is compared to what happened with Judges Berzon and Paez. Is a "true filibuster" only one that seems to have the votes to succeed? That is an interesting definition.

Let us not forget that in so many other cases during President Clinton's term in office, there was no filibuster because his nominees were never given a hearing or a vote in the Judiciary Committee. That is what happened to two nominees to the Circuit to which Mr. Estrada has been nominated. Alan Snyder, nominated by President Clinton in June of 1999, finally had a hearing in May of 2000, but never received a vote in Committee. Elena Kagan, nominated in September 1999, never even had a hearing in the Committee. So how exactly is that fairer treatment than a filibuster? The claims that this nominee is subject to unprecedented unfairness because an up or down vote is not being permitted at this time ring hollow.

It is time for the Administration to face up to what happened over the last six years that President Clinton was in office. The DC Circuit is a very good place to start. There are two more vacancies on that circuit. If President Bush were to resubmit Mr. Snyder and Ms. Kagan's names, the court would remain balanced, and the President could really change the tone of the judicial nominations issue. For now, we are faced with an effort to fill a slot held open for years of a Democratic presidency with a nominee whose views are a mystery. That is not acceptable and we must continue to resist it.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE EQUITY

Mr. FEINGOLD. Mr. President, I would also like to address one of the most important issues facing my state of Wisconsin, as well as many others across the country, the need to restore fairness to the Medicare program.

During any debate of Medicare reform, one of Congress' top priorities should be to reduce regional inequalities in Medicare spending and support providers of high-quality, low-cost Medicare services.

The high cost of health care in Wisconsin is skyrocketing: A recent survey found that the cost of health benefits for employees in Wisconsin rose 14.8 percent last year, to an average of $6,940 per employee. That is 20 percent higher than the national average of $5,758 for workers in businesses with 500 or more employees. These costs are hitting our state hard—they are burdening businesses and employees, hurting health care providers, and preventing seniors from getting full access to the care that they deserve.

One of the major contributing factors to the high cost of care in our state is the inherent unfairness of the Medicare Program. With the guidance and support of people across our state who are fighting for Medicare fairness, I have proposed legislation to address Medicare's discrimination against Wisconsin's seniors, employers and health care providers. The Medicare program should encourage the kind of high-quality, cost-effective Medicare services that we have in Wisconsin. But as many in Wisconsin know, that is not the case.

To give an idea of how inequitable the distribution of Medicare dollars is, imagine identical twins over the age of 65. Both twins worked at the same company all their lives, at the same salary, and paid the same amount to the federal government in payroll taxes, the tax that goes into the Medicare Trust Fund. But if one twin retired to Louisiana or Florida and the other retired in Eau Claire, Wisconsin, they would have vastly different health care options under the Medicare system. The twin in Louisiana or Florida would get much more.

For example, in most parts of Louisiana and Florida, the first twin would have more options under Medicare. The high Medicare payments in those areas allow Medicare beneficiaries to choose between an HMO and a traditional fee-for-service plan, and, because area health care providers are reimbursed at such a high rate, those providers can afford to offer seniors a broad range of health care services.

The twin in Eau Claire does not have the same access to care—there are no options to choose from in terms of Medicare HMOs, and sometimes fewer health care agencies that can afford to provide care under the traditional fee-for-service plan.

How can two people with identical backgrounds, who paid the same amount in payroll taxes, have such different options under Medicare?

They can because the distribution of Medicare dollars among the 50 states is grossly unfair to Wisconsin, and much of the country. Wisconsinites pay payroll taxes just like every American taxpayer, but the Medicare funds we get in return are lower than those received in many other states. Legislation that I and others have proposed will take us a step in the right direction by reducing the inequities in Medicare payments to Wisconsin's hospitals, physicians, and skilled nursing facilities.

Last year, with the introduction my Medicare fairness legislation and the efforts of many other Senators, including both the chair and ranking member of the Finance Committee, we put Medicare fairness issues front and center in Congress. We saw many successes. The Senate Budget Committee approved my amendment to promote Medicare fairness in any Medicare reform package. A wide range of Senators from both parties endorsed my proposal to create a Medicare fairness coalition. The House passed a number of Medicare fairness provisions that were a result of these successes, and both House and Senate leadership endorsed Medicare fairness issues.

Now that we have finally brought these issues the attention that they deserve, we need to build on that momentum to pass Medicare fairness provisions into law. Some of this increased awareness can be seen in the recently passed omnibus spending bill. While I opposed this legislation, I was especially pleased that it contained provisions that take us a step toward fairness in the distribution of Medicare dollars in Wisconsin and other states across the country. By increasing the Medicare payments to small urban and rural providers, we are closer to reducing the inequities that plague the Medicare system.

I hope that these provisions are only the first steps that Congress takes to restore Medicare fairness for Wisconsin and other affected States. Medicare shouldn't penalize high-quality providers of Medicare services, and most of all, Medicare should stop penalizing seniors who depend on the program for their health care. They have worked hard and they have paid into the program all their lives, and in return they deserve full access to the wide range of benefits that Medicare has to offer.

So I look forward to working with my colleagues to move legislation forward. I believe that we can rebalance the budget, while at the same time encouraging efficient, quality-enhancing Medicare services.

Mr. President, I have one other topic.

SUPPORTING FIRST RESPONDERS

Mr. President, I would also like to take this opportunity to talk about the need for Congress to help first responders do what they do so well: protect our communities in an emergency.

The Department of Homeland Security is creating a massive shift in the Federal Government. Nobody will feel the impact of this shift more than the brave men and women who work in law enforcement, as firefighters, as rescue workers, as emergency medical service providers, and as first responders. We must make sure that these first responders have the resources that they need.

While I commend the administration for raising the funding dedicated to first responders in the President's budget, I am concerned that these new layers of bureaucracy and reorganization could reduce these funding levels or, just as harmfully, put up barriers to first responders actually receiving these funds.

The Federal agencies in the proposed Department of Homeland Security must listen to the priorities of our communities. After all, the needs of first responders actually vary among regions, as well as between rural communities and urban communities. In Wisconsin, I have heard needs ranging from training, to equipment, to more emergency personnel in the field, just to name a few.

So I have proposed legislation, along with my friend from Maine, the chair of the Governmental Affairs Committee, that would promote effective coordination among Federal agencies under the Department of Homeland Security and ensure that our first responders—our firefighters, law enforcement, rescue, and EMS providers—can help Federal agencies and the new Department of Homeland Security improve existing programs and future initiatives.

This is what it would do: It would first establish a Federal Liaison on Homeland Security in each State and coordinate between the Department of Homeland Security and State and local first responders. This office would serve not only as an avenue to exchange ideas, but also as a resource to ensure that the funding and programs are effective.

For example, my hope is that the Homeland Security Department will make programs such as the Fire Act a high priority. The Fire Act provides grants directly to fire departments across our Nation for training and equipment needs. Last year, I visited one excellent example of this program in West Allis, WI, where the department received a grant in 2001 to implement a wellness and fitness program for their firefighters. I am told that it is one of the first departments in the State to meet the goals of this program, and I commend the department for its efforts.

Our legislation would also direct the agencies within the Department of Homeland Security to coordinate and prioritize their activities that support first responders, and at the same time, ensure effective use of taxpayer dollars. As part of this coordination, the First Responders Support Act would establish a new advisory committee of those in the first responder community to identify and streamline effective programs.

Last year, both the original Senate and House homeland security bills lacked the provisions needed to ensure that the new Department of Homeland Security communicates and coordinates effectively with first responders.

During the Senate Governmental Affairs Committee markup of the homeland security bill last year, I was pleased to see the committee added our First Responders Support Act to the legislation. It did so knowing that we would have to reconcile the overlap between our legislation and the language in the chairman's mark creating an office for State and local government coordination. Our amendment, which was approved by the full Senate, did exactly that. Unfortunately, our proposal was dropped from the final bill during conference.

I hope congress can make enactment of this legislation one of its priorities this year. We must be aggressive in seeking the advice of our first responders, and helping them to get the resources that they need to provide effective services. They are on the front lines, and they deserve our support.

In almost any disaster, the local first responders and health care providers play an indispensable role. If the Department of Homeland Security is to be effective, we need to ensure that the resources are delivered to the front line personnel in an effective and coordinated manner. I urge my colleagues to join me in passing this proposal and others to support our first responders.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. Mr. President, I have been a Senator for a little less than 2 months. The same is true for the Presiding Officer. And we ran at a time when I believe the message from the people—and not just of Minnesota but I believe the people in America—was one that it is important the Senate should get things done. The 170th Congress had not passed appropriations bills, had not passed disaster assistance, had not passed a prescription drug benefit for seniors, and had not passed a budget. A lot of serious work needed to be done. That was the message.

We are here now—in a little less than 2 months—and we are caught up in a filibuster. I read about filibusters when I was a kid. This basically means the Senate is spending a lot of time debating the nomination of Miguel Estrada to be a judge in the Court of Appeals for the District of Columbia Circuit, and the distinguished members of the minority party are not going to allow that nomination to get to a vote unless there are 60 Senators who vote for cloture to put an end to the filibuster.

During the course of the discussion about Miguel Estrada, there have been some wonderful presentations on both sides of the aisle about the importance of the Constitution, the very sacred obligation of the Senate to advise and consent on nominations made by the President of the United States on judicial appointments.

In those wonderful discussions talking about this sacred obligation, my fear is that the public may not understand that obligation is not to have 60

Senators vote to confirm a nomination, that to require 60 votes is what is known as a supermajority. The Constitution reserves supermajorities to very specific instances—the approval of treaties—but not for the confirmation of Presidential nominees to the Federal courts. That should take a simple majority.

So what we are faced with today is the very serious issue of an effort to change the constitutional standard for the selection of judges. And for all of us who love this Constitution, who understand its greatness—and I think through Divine guidance given to those who stood before us in chambers and in the Old Senate Chamber—to change the standard for Miguel Estrada is simply wrong.

It is not the right thing to do. What our distinguished colleagues in the minority party should do is the right thing and simply give the Senate a chance to vote on the nomination of Miguel Estrada—vote and say you need 51 votes to confirm this nomination. That is the constitutional standard.

The Web site of one of the most egregious liberal Washington interest groups has a number of troubling statements regarding the nomination and confirmation process for members of the judiciary. One memorandum discusses "the approaching armageddon on judicial nominations." This extreme and inflammatory headline suggests an all-out, no-holds-barred, anything-goes campaign against judicial nominees by those opposing the President's choices. Another headline on the same Web site demands its members and visitors to "tell Senators: Filibuster the Estrada nomination."

I do not believe there has been, in the history of this esteemed body, a filibuster of a circuit judge. I do not believe there has been a partisan filibuster of the type we are experiencing right now in the Senate.

On Wednesday, February 5, 2003, the Washington Post published an editorial referencing this Web site and condemning such tactics and urged a vote on the nomination of Miguel Estrada.

The editorial in the Washington Post correctly points out that a filibuster would be "a dramatic escalation of the judicial nomination wars." It states that Democrats who disagree with the nominee may vote against him, but they should not deny him a vote. The editorial concludes that Mr. Estrada's nomination should not be stalled any longer, stating:

> It certainly doesn't warrant further escalating a war that long ago got out of hand.

As I listen to the debate, it seems that there are a lot of feelings that somebody did something in the past and now we are going to pay back today. There was an earlier time of feuds between the Hatfields and the McCoys, and the Earps and the Youngers. That is not the way to act in the 21st century, when we face the challenges of a potential war with Iraq and with a struggling economy and with moms and dads worried about feeding and clothing their kids and sending their kids to good schools. We should not be caught up in this kind of partisan feuding, saying you did something in the past to our nominees, so now we are going to do the same to yours today. Put it aside.

I am a product of the sixties philosophy. Let today be the first day of your life. We are never going to be younger than we are today, Mr. President. I think we have to put the past behind us. I don't know who was at fault in the past. I don't know about other nominees and the time it took them to get to the floor of the Senate, why they were delayed, for whatever reasons. All I know is that, today, Americans are crying out for the Senate to simply get the work of the people done. We can get the work done if we give Miguel Estrada a chance to simply have an up-or-down vote. That is all it is.

We should not change the constitutional standard. We should not be requiring 60 votes to confirm a judicial nominee. That is not what the greatness of this institution is about. That is not what the Constitution, which has preserved this country and set the standard for democracy, intended.

Let us have a clear understanding of what a modern day filibuster means. Those advocating this obstructionist tactic aren't demanding the opportunity for extended debate: that is already available to all Senators. The practical matter of a filibuster is to prevent a vote on the nominee, unless cloture is obtained. Of course, cloture requires 60 votes. As I said before, those calling for a filibuster on this nominee are demanding a supermajority vote. That is not what the Constitution says. That is not what the Constitution dictates. That is not the precedent and pattern we should be following. This is against the traditions and practices of this body. In fact, in only one instance did the Senate reject cloture and defeat a judicial nominee. That was in 1968, on the nomination of Justice Abe Fortas to be Chief Justice of the Supreme Court.

As I noted before, that was a bipartisan filibuster—not the party-line filibuster we are seeing waged here today against Mr. Estrada.

I agree with the previous chairman of the Judiciary Committee, a Democrat, who said in a speech on the Senate floor—I believe it was the Senator from Vermont:

> I have stated over and over again on this floor . . . that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported, that I felt the Senate should do its duty.

Let the Senate do its duty. Let those who oppose the nomination of Miguel Estrada have their right to cast their vote, have a right to have their say, for whatever reasons. It is within their discretion to choose their reason to say no. On the other hand, let us follow the dictates of our Constitution and not change the constitutional standard. Let us give Miguel Estrada the opportunity simply for an up-or-down vote, and let a majority of Senators in the Senate—and I believe that a majority, which would be a bipartisan majority, not just folks of one party, but distinguished members of the minority party who support the nomination, would not change the constitutional standard.

During the course of this debate, there have been many serious misrepresentations of the record on Mr. Estrada. I want to address in some detail one of the most serious distortions, which concerns the answers that Mr. Estrada gave to questions that members of the Judiciary Committee asked him.

The charge being leveled against Mr. Estrada is that he did not answer questions put to him in general, and he did not answer questions about his judicial philosophy in particular. I have to say, that charge is pure bunk.

I sat here and listened as some of my colleagues on the other side of the aisle said he didn't answer questions. I have the transcript in front of me. He was there for a full day. He answered question after question. He answered followup questions, written questions. He answered the questions.

Again, it is important to remember the circumstances under which this hearing took place. That hearing was held September 26, 2001, chaired by my Democratic friend, the senior Senator from New York, with whom I went to grade school and high school in Brooklyn. Both Democratic and Republican Senators asked scores of questions, which Mr. Estrada answered. If any Senator was unsatisfied with Mr. Estrada's answers, every member of the committee had an opportunity to ask Mr. Estrada followup questions. I believe only two of my Democratic colleagues did that.

A number of questions that Mr. Estrada was asked directly or indirectly tried to pry from him a commitment on how he would rule on a particular case. Previous judicial nominees who were confirmed by the Senate have rightly declined to answer questions on that basis, as Mr. Estrada did. Let me give you some examples.

In 1967, during his confirmation hearing for the Supreme Court, Justice Thurgood Marshall responded to a question about the fifth amendment by stating:

> I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself.

If I may digress, one of the other charges against Mr. Estrada is that he did not have judicial experience. During the course of this debate, it has been highlighted again and again that many distinguished judges—Supreme Court Judges and circuit court judges—did not have judicial experience before they were appointed to the court. Mr. Estrada, in fact, clerked for both a Federal court judge and U.S. Supreme Court Justice Anthony Kennedy. When Thurgood Marshall was appointed, I believe, to the District Court of Appeals, he did not have prior judicial experience. I think it was Justice Holmes who did not have it. I could go on and on. So that charge, too, is pure bunk.

During Sandra Day O'Connor's confirmation hearing, the Senator from Massachusetts, the former chairman of the Judiciary Committee, defended her refusal to discuss her views on abortion. He said:

> It is offensive to suggest that a potential justice of the Supreme Court must pass a presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group.

It is interesting, if you look at Mr. Estrada's response on the question of Roe v. Wade, he said very clearly in response to a question of the Senator from California that he has his views, but his view of the judicial function "does not allow me to answer that question." But he said he has a personal view on the subject. Again, he goes back to his view of judicial function. Then he goes on to say:

> And the reason I have not done any of those things is that I view a system of law in which me as an advocate and possibly if I am confirmed as a judge, have the job of building on the wall that is already there, not to call it into question. I have no particular reason to go back and look at whether that decision was right or wrong as a matter of law, as I would if I were a judge that was hearing the case for the first time.

Then he goes on to say:

> It is there. It is the law and it has subsequently been refined by the Casey case, and I will follow it.

The Senator from California asked:

> Do you believe it is settled law?

The answer is:

> I believe so.

So again, he has done what other nominees have done and he will not discuss his personal feelings. He will not discuss his personal philosophy on that issue, but he says it is settled law—settled law.

Likewise, Justice John Paul Stevens testified during his confirmation hearing:

> I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive, but in all candor, I must say there have been many times in my experience in the past 5 years when I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions, and I think if I were to make comments not carefully thought through, they might be given significance they really did not merit.

Justice Sandra Day O'Connor was confirmed. Justice John Paul Stevens was confirmed.

Justice Ruth Bader Ginsburg also declined to answer certain questions, stating:

> Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions before the Supreme Court. Were I to rehearse here what I would say or how I would reason on such questions, I would act injudiciously.

In addition, as my colleague from Nevada yesterday noted, Justice Ginsburg just last year said in dissent in the case of Republican Party of Minnesota v. White:

> In the context of the Federal system, how a prospective nominee for the bench would resolve certain particular contentious issues would certainly be "of interest" to the President and the Senate. . . .But in accord with a longstanding norm, every Member of this Court declined to furnish such information to the Senate and presumably to the President as well.

I believe I recall in reviewing the transcripts of the hearing of Mr. Estrada—I am not a member of that committee, but I have taken the time to review some of the transcripts—he was asked by one of my distinguished colleagues on the other side of the aisle whether he was a strict constructionist. I believe his response was he was a fair constructionist.

A further discourse by my distinguished colleague from the other side of the aisle, I think from North Carolina: Did the President talk about strict constructionist? I am paraphrasing. Mr. Estrada came back and said: I did not talk about that with the President, but he talks about being a fair constructionist.

That is the kind of judge the people of the United States want to sit on the Circuit Court of Appeals.

I also note, in contrast to the characterization of my colleague from Nevada, however, Justice Scalia in his majority opinion did not take issue with that description, as Mr. Gonzales pointed out in his letter. Justice Scalia said:

> Nor do we assert that candidates for judicial office should be compelled to announce their views on disputed legal issues.

Like these previous nominees, all of whom the Senate confirmed, Mr. Estrada refused to violate the code of ethics for judicial nominees by declining to give answers that would appear to commit him on issues that he would be called upon to decide as a judge. Again and again, he provided answers in direct response to questions that make his judicial philosophy an open book.

Let me share some specific examples. Responding to a question to identify the most important attribute of a judge, Mr. Estrada answered that it was to have an appropriate process for decisionmaking. That, he said, entails having an open mind, listening to the parties, reading their briefs, doing all the legwork on the law and facts, engaging in deliberation with colleagues, and being committed to judging, as a process that is intended to give the right answer.

These are not extreme views. I do not think we could ask any more from any judge.

When asked about the appropriate temperament of a judge, he responded that a judge should be impartial, open-minded, and unbiased, courteous, yet firm, and one who will give ear to people who come into his courtroom. These are the qualities of Miguel Estrada. He testified that he is and would continue to be the type of person who listens with both ears and would be fair to all litigants. Again, that phrase he used, he would be a fair constructionist.

Mr. Estrada was asked a number of questions about his views and philosophy on following legal precedent. Let me highlight a bit of that exchange.

Question:

> Are you committed to following the precedents of higher courts faithfully and giving them full force and effect even if you disagree with such precedents?

Answer:

> Absolutely, Senator.

Question:

> What would you do if you believe the Supreme Court or the Court of Appeals had seriously erred in rendering decision? Would you apply that decision or use your own judgment of the merits, or the best judgment of the merits?

Answer:

> My duty as a judge and my inclination as a person and as a lawyer of integrity would be to follow the orders of the higher court.

Question:

> And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to what sources would you turn to for persuasive authority?

Answer:

> In such a circumstance, my cardinal rule would be to seize aid from any place where I could get it—related case law, legislative history, custom and practice, and views of academics on analysis of law.

That is the kind of judge we want. That is the kind of judge I think the Constitution intended us to have when it gave us this solemn responsibility of advising and consenting on judicial nominations. Again, not by changing the constitutional standard, but advising and consenting, allowing a majority of Senators in the Senate to advise and then consent on a nominee presented by the President but not requiring a supermajority.

These exchanges I have laid out clearly illustrate Miguel Estrada's respect for law and his willingness and ability to faithfully follow the law.

He further testified, in response to other questions:

> I will follow binding case law in every case. Even in accordance with the case law that is not binding, but seems instructive on the area, without any influence whatsoever from any personal view I may have about the subject matter.

This is what we expect judges to do. I can see no good reason why anyone would be opposed to a nominee who promised to follow the law, a nominee who is highly qualified, a nominee who the American Bar Association in rating judges gave a unanimous—every person on the committee, and I presume they were not all conservative Republicans, every person on that review committee unanimously gave him the highest rating, the highest recommendation, which many of my distinguished colleagues on the other side of the aisle have called the gold standard. That is the way in which we should measure judges.

Now we have a judge in front of them who has passed the gold standard unanimously, who is highly educated, who at 17 years of age came to this country from Honduras and did not speak English well, graduated magna cum laude from Columbia, graduated magna cum laude from Harvard Law School, was editor of the Law Review, clerked for Federal and Supreme Court judges, worked, and came back to public service. Talk about the American dream.

Miguel Estrada, being given such great opportunity of education, is coming back and saying: I am going to give back to the community; I want to work in public service.

I had the chance to serve as solicitor general of the State of Minnesota. It is a solemn, high honor to represent your State or to represent your country, to work for your State or your country, to uphold its constitution.

It is important to note that every living former Solicitor General of the United States, four of whom are Democrats, stand with Miguel Estrada on one of the other issues that my distinguished colleagues from the other side have raised. They said they want some of his opinion papers. Yet Democrat Solicitors General—every one of them—say, no, that is not appropriate; those should not be given up. That is not Miguel Estrada saying that. Those are the Solicitors General of the United States. Again, that is another argument that is a bogus argument, if I may be blunt.

When asked about the role of political ideology in the legal process, Mr. Estrada replied with a response that, in my view, was entirely appropriate and within the mainstream of what all Americans expect from their judiciary. He said:

> [A]lthough we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case with an open mind and listen to the parties. And, to the best of his human capacity, to give judgment based solely on the arguments of law. I think my basic idea of judging is to do it on the basis of law and to put aside whatever view I might have on the subject to the maximum extent possible.

When asked about his views on interpreting the Constitution, Mr. Estrada was forthright and complete in his responses. For example, in exchange regarding the literal interpretation of the words of the Constitution, Mr. Estrada responded:

> I recognize that the Supreme Court has said on numerous occasions in the area of privacy and elsewhere, that there are unenumerated rights in the Constitution. And I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the Court. But I think the Court has been quite clear that there are enumerated rights in the Constitution. In the main, the Court has recognized them as being inherent in the right of substantive due process and the liberty clause of the fourteenth amendment.

Mr. Estrada was asked questions about the appropriate balance between Congress and the courts. His answers made clear his view that judges must review challenges to the statutes with a strong presumption of the statute's constitutionality. For example, in responding to a question about environmental protection statutes, he stated:

> Congress has passed a number of statutes that try to safeguard the environment. I think all judges would have to greet those statutes when they come to the court with a strong presumption of constitutionality.

At the same time, he recognized that as a circuit court judge he would be bound to follow the precedent established by Lopez and other Supreme Court cases. So it is clear from the record that Mr. Estrada did answer the questions put to him at his hearing.

His judicial philosophy is an open book. But if my Democratic colleagues are still inclined to vote against him, misguided as I believe that choice to be, then they should have that right. Let them vote against him. Vote for him, vote against him. Do what their conscience dictates. Just vote. Do not change that magnificent, most wonderful constitutional standard that has guided us and kept this country together for over 200 years. Allow the Senate to exercise its duty. Allow each Member to vote their conscience. Just vote and end this filibuster.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I take this opportunity to address the Estrada nomination and a couple of other issues that the people in my State care a lot about.

Before he leaves, I wanted to say to my friend from Minnesota that I know he was not in the Senate during the last filibuster on the court nominee—actually, there were two including the Abe Fortas nomination in the 1960s—and they occurred in the year 2000. They were launched by Members of the Republican side of the aisle, and they were directed at a woman named Marcia Berzon and a man named Richard Paez.

In addition to the filibuster——

Mr. COLEMAN. Madam President, will the Senator from California yield?

Mrs. BOXER [continuing]. There was actually a vote to indefinitely postpone one of those nominees, the Hispanic nominee, Richard Paez.

Mr. COLEMAN. Madam President, will the distinguished Senator from California yield for a question?

Mrs. BOXER. I would be delighted to.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Minnesota.

Mr. COLEMAN. I ask the distinguished Senator from California, is it not true that in those instances when she talks about "filibusters"—and I was not here, but I understand that those "filibusters" did not last more than a day or two—that in fact both of those nominees had a chance to be voted on by this body. Is that true?

Mrs. BOXER. My friend is incorrect. Here is what happened. It took 4 years, I say to my colleague, to get the Republicans to bring the nomination of Richard Paez to the floor of this Senate. How do I know? Because I had recommended Judge Paez first for the district court, where he got immediate approval.

I would like to answer my friend before I yield, and I will be glad to yield to my friend all night long, believe me, if he wants to stay and engage. So relax and we will get to his questions.

My friend was not here. It took 4 long years to get the Republicans to relent. This is Republicans, the Senator's party, who voted to seat him on the district court unanimously. When he was nominated for the circuit court, it took 4 years. There was extensive questioning back and forth, written questions, oral questions. Then there was a filibuster. My friend says it only lasted 2 days. It was 4 years and 2 days.

I say to my friend, the only reason in the world that filibuster was ended is because we had the votes to stop it. The Senator does not have the votes to stop this filibuster. If he did, it could be done in a minute. The reason there are not the votes is because this man will not answer questions, despite the fact that my friend read some answers. I have a lot of other things to put in the RECORD tonight that will challenge that.

Before he leaves, I say to my friend, in answer to his question and before I yield further, this was a clear filibuster. I am going to give a quote.

> I must confess to being somewhat baffled that after a filibuster is cut off by cloture the Senate could still delay a final vote on the nomination.

I say to my friend, who called what happened to Richard Paez a filibuster? None other than the Senator's chairman, ORRIN HATCH. It is in the CONGRESSIONAL RECORD.

I am glad to yield to my friend for a further question.

Mr. COLEMAN. Madam President, I ask the distinguished colleague from California again, in both instances is it not true that cloture was filed—we are talking about filibuster, not 4 years but filibuster debate on this floor—and both nominees were confirmed after cloture was invoked?

Mrs. BOXER. I say to my friend, the day this nomination was brought to the floor, the Republican side could have filed cloture, just as we did, but they are choosing not to do it. There can be a vote on cloture today. It could be tomorrow.

Not only that, when this man answers questions, the vote is going to be won. The Senator is going to have his vote.

I have been around a long time in public life, 10 years in the House, and 10 years in the Senate. I have never seen such a systematic plan not to answer basic questions. Can anyone imagine a man who cannot answer a question if there was ever a Supreme Court case that he disagreed with? I daresay I do not know anyone in the country, lawyer or not, who agrees with the Dred Scott decision. I do not know any person who is willing to say now that he believes separate but equal, Plessey v. Ferguson, was rightly decided.

This man cannot even say which Justice, dead or alive, he would emulate most. It is unbelievable. Except when it is put in the context of who was advising this man, and we have seen it time and again on the floor. They basically said: Do not answer any questions. This is a lifetime appointment. Do not blow it.

Mr. COLEMAN. Madam President, will the distinguished Senator from California yield for two more questions?

Mrs. BOXER. Absolutely.

Mr. COLEMAN. Is it not true the Republicans filed cloture for both of the distinguished judges my colleague from California has mentioned, both Judge Paez and Judge Berzon? Secondly, if that is true, I ask my distinguished colleague from California if she would vote for cloture and support putting an end to this filibuster on the nomination of Miguel Estrada.

Mrs. BOXER. The bottom line is who can file cloture? The Democrats can file cloture on this nomination. The question is, Was there a filibuster? My friend stood up and said there has been no filibuster since Abe Fortas in the 1960s, when his own chairman, ORRIN HATCH said:

> I must confess to be somewhat baffled that after a filibuster is cut off by cloture the Senate can still delay a final vote on the nomination.

By the way, there was a filibuster on Marsha Berzon. My friend ought to know, in addition to the filibuster, after we had won the cloture vote on the Paez nomination, there was an incredible motion filed to indefinitely postpone the vote on the nomination. Imagine, there is this fight; it lasted 4 years and several days on a filibuster. We win this, we get the votes, and then there is a motion from a Republican to indefinitely delay the vote, and even Senator HATCH was stunned. He said he was baffled that could even happen.

So for the Senator to say there has not been a filibuster since the 1960s on a judge is false. His own chairman admitted there was a filibuster.

Not only did his side launch a filibuster—my friend was not here; I don't mean to take it out on you—but as someone who knew how fine these two nominees were, they faced that filibuster. They answered the questions over and over again and finally got a vote.

That is the system here. It is misleading to the American public to hear this day in and day out. "This is unprecedented to have a filibuster." What is unprecedented is that we have the votes to keep it going. You did not have the votes on your side to keep it going.

If my friend has no further questions, I will return to my original statement.

Mr. COLEMAN. Madam President, I have no further questions for my distinguished colleague from California.

Mrs. BOXER. I thank my friend.

The point I make tonight, among several, is that we have been charged—those who want more answers from Miguel Estrada—with doing something that has never been done before when, in fact, in the year 2000, two nominees to the Ninth Circuit Court were filibustered and one of the two was not only filibustered, but after he won cloture there was a motion to indefinitely postpone the actual vote on his nomination. I had never seen that. I hope I never see it again. The fact is, there have been two filibusters led by Republican Members and those were defeated.

The second fact is that one of those particular individuals was the first Mexican American to serve on the Central District Court of California and the Republicans held him up for 4 years before we were able to break the filibuster.

It was quite a situation. My friend from Minnesota said—I don't want to misquote him—something like "the judicial philosophy of this nominee is an open book," I think is what he said. It may be an open book, but it looks like this. This is the book. There is nothing on it.

When a candidate cannot say if there was ever a Supreme Court case with which they disagreed, this is going above and beyond stonewalling; or cannot say what Justice, dead or alive, he would emulate most, this is beyond stonewalling.

In my State we are very fortunate. We have reached agreement with Republicans in our State. We have a wonderful selection process for judicial nominees for the district court. Those individuals come before us and are screened by a joint committee. It is a great process. They answer questions. There are votes taken. Then Senator FEINSTEIN and I make a recommendation. It is a bipartisan process.

This is the point: It is working. And it is a participatory process from both parties and both branches of government. I believe questions ought to be asked and answered and Senators have a right to ask questions and Senators have a right to have those questions answered. It is pretty simple.

I started to talk about Judge Paez who made history as a Hispanic because I wanted to make the point for the Senate that he was treated in a way that was totally outrageous, having to wait 4 years to get a vote. He hung on because of his true grit—hearing after hearing; 7 months his nomination languished in 1998. The Republican majority refused to bring him up for a vote. All we were asking for was a vote. And we were refused.

In 1999, Judge Paez was nominated for the third time, and 6 months later the Judiciary Committee approved his nomination, but again we could not get the nomination up for a vote. Finally, when the nomination was brought up after more than 1,500 days, it was filibustered.

My colleagues say again and again it was not. Senator HATCH, the chairman of the Judiciary Committee, said it and it is in the CONGRESSIONAL RECORD. This was a filibuster. We had to get cloture. When you have to get cloture, there is a filibuster. That is as simple as it is. We had to get 60 votes.

If my Republican friends want to end this, tell the nominee to answer the questions. And believe me, he will get an up-or-down vote and the chips will fall where they fall.

It is very clear to me when I look at the way Judge Paez was treated, Marsha Berzon, Margaret Morrow, and a whole slew of others who were nominated and eventually confirmed, they had to answer question after question after question. I will get to that in a minute, the type of questions that Margaret Morrow had to answer just to become a district court judge.

Let's go to the floor of the Senate and take you back to the year 2000 to this filibuster against Marsha Berzon and against Judge Paez. Let me quote Senator Smith, that is Bob Smith, of New Hampshire, then Senator: "it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez."

And he goes on to say: "So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role."

This is a Republican, leading the filibuster, against Clinton nominees for the circuit court. He says: "don't criticize our right to do these things and don't say things didn't happen that did happen."

And he goes on, more Bob Smith, Republican from New Hampshire, one of the leaders of the filibuster, along with Senator ALLARD, Senator BROWNBACK, Senator BUNNING, Senator CRAIG, Senators DEWINE, ENZI, FRIST, GRAHAM, HELMS, HUTCHINSON, INHOFE, MURKOWSKI, and SHELBY. And Bob Smith said:

> Don't come here on the floor and tell me that if I want to block Judge Paez or Judge Berzon, somehow I'm going down some new path. I am not going down any new path. I am following the tradition and precedent of this Senate.

That was Republican Bob Smith, one of the leaders of the filibuster, against two judges, one Hispanic, nominated by President Bill Clinton for the Ninth Circuit Court.

Senator Bob Smith continues:

> We have a responsibility to make darn sure these judges are going to represent the views of the majority of the American people in terms of the law. I intend to do that as long as I can stand here to do it.

And the Republican Bob Smith continues, one of the leaders of the filibuster, against Hispanic judge Richard Paez. It took him 4 years to get a vote. Bob Smith, Republican:

> When a nominee has some controversy about him or her, if it gets to the floor, there are normally quite a few discussions; i.e., a filibuster.

Now this goes on. I am shocked that my friends on the other side of the aisle didn't read recent history—in the year 2000. Here it goes on. What were the reasons for the filibuster? According to Senator Smith, it was because—what? He didn't get answers to questions.

Let me quote former Senator Smith again, leading a filibuster against a Hispanic judge and Marsha Berzon, two qualified appointees. They got the top rating. They were put up by Bill Clinton.

> I think those questions ought to be answered. I think we should know the answers to those questions about what happened before we put this person on the circuit court.

Let me say that again. A Republican colleague of yours, that side of the aisle, leading the charge against these Clinton nominees, leading a filibuster:

> I think those questions ought to be answered. I think we should know the answers to those questions about what happened before we put this person on the circuit court.

More quotes from Bob Smith, in the CONGRESSIONAL RECORD:

> Filibuster in the Senate has a purpose. It is not simply to delay for the sake of delay. It is to get information.

It is to get information. And do you know what? I disagreed with the filibuster that was led then. It went on and on until they didn't have the votes anymore and we had the votes. You could say: What goes around comes around.

Senators on the other side of the aisle launched a filibuster against two of President Clinton's nominees for the Ninth Circuit Court, with the highest qualifications, and there were those on the other side of the aisle who believed they didn't answer questions. They launched a filibuster on that ground, and we had to get the votes. And you have to get the votes. That is the way it is here.

We were able to get the votes because—guess what—our nominees answered the questions. They answered the questions, every question. I had worked to help get Margaret Morrow to a district court judgeship. I want to tell you, Margaret Morrow waited 2 to 3 years to get a vote for district court. Do you know what she was asked? She was asked a question that was so abhorrent, I could not believe it. She was asked by one of the Senators on the Republican side of the aisle how she voted for the last 10 years on referenda that were on the ballot in California.

Madam President, I know you are not an expert on California. I can tell you, there were hundreds and hundreds of these referenda, and they were on some tough issues for everything you can imagine.

No. 1, I always thought this was a secret ballot. When you go in the voting booth it is between you and yourself; you are going to decide these issues. That is No. 1.

No. 2, this was an impossible request. How could you even remember all these issues, how you voted on them?

So we went to this particular Senator and said: Senator, this is not fair. This is a secret ballot—please. But he wouldn't relent. But he relented to this degree. He said: OK, we won't go back 10 years, just give us the 10 most controversial votes.

She did. She did. She respected the process enough, she even went so far as to answer those questions which, in my opinion—I don't know what I personally would have done. I truly don't know. But I know I told her, if she felt she could do it, do it, because a Senator was asking.

That is an amazing comparison, compared to: Can you name any Supreme Court Justice who would emulate or any Supreme Court case that you disagree with? Those are conventional questions asked over and over again.

As far as memoranda from the Solicitor General's Office are concerned, there is precedent for that. There is precedent for that. I will give you the people who turned over these previously confidential internal documents. I give the names for the record: Robert Bork, William Bradford Reynolds, Benjamin Civiletti, Stephen Trott, Judge William Rehnquist. These people turned over previously confidential internal documents. Do you know why? I think they respected the Senate enough to say: Do you know what? I could just argue legalese with you, but you have a very important job of advice and consent, and we are willing to give you these memoranda. So there is precedent for that.

I am stunned. We went through the RECORD and my staff pointed out the comments that were made on this floor by Senators over and over again, referring to the fact that they were filibustering Judge Paez, they were filibustering Marsha Berzon. And then to hear there hasn't been a filibuster here since the 1960's—I don't know what to say. It is stunning to me.

The fact that we beat it back, that means it is not a filibuster? You get the votes, you beat it back; is it then not going to be a filibuster? I have taken to the floor tonight because I am incredulous on the point. After seeing these words in the RECORD myself, with my own eyes, after hearing Senator HATCH, who is leading the charge and telling us this is unprecedented, what we are doing, this is unfair to someone, he himself referring to what happened to Richard Paez as a filibuster.

Bob Smith not only referred to it as a filibuster that he was actually leading, but that he was leading in order to get information. You could say we took a page out of the book of the Republicans. We didn't. Because we are willing to say we will vote for cloture when he turns over the information. I never heard, frankly, any of them at that time say they were willing to allow a vote if there were more questions answered because, frankly, every question was answered that you could come up with. There wasn't anything else you could know about those nominees—what they thought, or what they dreamed about, or what they wanted to do, or what they believed, or whom they admired, or what meetings they went to. It was extraordinary.

I think it was Marsha Berzon who was asked the question—she was on the board of an organization. They said to her: We want to know everything that happened at every meeting of that organization, whether you went to the meeting or not.

It took her hours. Why? She respected the role of the Senate to advise and consent. It is in the Constitution, and she understood that, and Miguel Estrada should understand that. I don't care who trained him not to say anything. We have those quotes all over the place. I have seen one saying: Don't answer any of these questions; this is a lifetime opportunity; don't let them see who you are. He was trained not to answer questions.

He ought to respect the Senate. I know the members of the Judiciary Committee on our side of the aisle, and I know the members on the other side.

I know they work hard. They have a lot of pressure on them on both sides. When my colleagues tell me they were stunned at the stonewalling they received, I believe them because, by the way, I read some of the answers Miguel Estrada put into the record. I will give you questions and answers here. These are questions asked by Senator SCHUMER:

Question:

> Other than cases in which you were an advocate, please tell us of three cases from the last 40 years of Supreme Court jurisprudence you are most critical of.

Answer:

> I'm not even sure that I could think of three that I would be—that I would have a sort of adverse reaction to, if that's what you are getting at.

Question:

> So, with all of your legal background and your immersion in the legal world, you can't think of three, or even one single case that the Supreme Court has decided that you disagree with?

Answer:

> I don't know that I'm in a position to say that I disagree with any case that the Supreme Court has ever ruled on or that I think the court got it right.

Question:

> I'm not asking how you approach cases. That's a legitimate question and some have asked it. I want to know how you feel about cases. And you have said more broadly than any other witness I have come across—you have given us virtually no opinion on anything because it might come up in the future.

Answer:

> But the problem is the same, Senator Schumer, because taking case A and looking at whether the court got it right or whether I think they got it right I have only the benefit of the opinions. I haven't seen the litigants.

The litigants have been dead for a long time in Dred Scott. But, for God's sake, we ought to know. You can't say that slavery is wrong; that you disagree with that decision? You can't say separate but equal was wrong because you didn't know the litigants?

Where are we? I am stunned.

He said the case is ruled on but he didn't get to see what made it into the opinion.

This is outrageous. He didn't see what made it into the opinion; the court ruled that slavery was constitutional and he didn't disagree with it? He has to meet the litigants? I am stunned.

The Senate has a very sacred job. It is in the Constitution. It doesn't say roll over and play dead when a President picks a nominee to a court. In fact, the Founders disagreed over who should have the responsibility to choose justices. And they came out with this very balanced decision of equal power. Presidents do not like that. I can tell you. I don't know one President who likes the fact we have this advise and consent role. It is very annoying to the executive branch that we are here. I don't care whether they are Democrats and Republicans.

I say that when our constituents sent us here they want us to do the job we swear to do. We hold up our hand here on the Bible and swear to uphold the Constitution. The Constitution says advise and consent on judicial nominees.

It doesn't say roll over and play dead. It doesn't say, oh, give them a break. It doesn't say that. We have a lot of other things to do. It doesn't say that. It says the Senate shall advise and consent.

At home in California, the way people pick district court nominees, it is true—we advise and consent. I have to say there are a lot of people who do not like it. Some conservative groups in California are saying they do not like the way we are doing it. But it is fair. We are appointing moderate Republican judges to the district bench. That is the way the President said he wanted to do it. We are able to do it because in our State we have an agreement where Democrats and Republicans sit side by side and choose. We have two Democratic Senators. That is why this happens.

But if the President is going to send us judicial nominees who won't answer questions, he is not going to get very far. It isn't going to work. Frankly, from my perspective, if people are off the charts on the right wing, I am not going to vote for them. I will not filibuster them. Once they give us the information, I am ready to vote. I will retain my right for a Supreme Court Justice, however, on that point on the filibuster. But, in general, if people answer questions, I will vote no. But I want the answers. I don't want a judicial selection process that excludes the Senate. It is the worst thing that can happen in this country.

If you look around, it is the courts that have stood up for the rights of our people—free speech, freedom of religion, freedom of the press, civil rights, human rights, environmental rights, so many rights that we hold dear, and the right to choose.

Madam President, you and I have worked hard on that. If we didn't have a court that found in the early stages of a pregnancy a woman has the right to choose, I don't even know where we would be for women. The courts have held the line. We know it is very shaky right now.

The courts play a very important role. It is part of the check and balance in our society. It seems to me, if we think that we don't have enough information and just sit back and say it would be a lot easier to let it go, I will vote no to let it go. I don't think that is right for those who come here.

Bob Smith, a Republican from New Hampshire, said he didn't have enough information. I disagreed with him. We beat him on the filibuster. But there was a filibuster. I think recent history is showing us that there is precedent for asking the important questions.

I wish to say one more thing about the Paez nomination. After we won on the filibuster of both Marsha Berzon and Richard Paez, there was a motion made by a Republican Senator to indefinitely postpone the final vote on one of the two, the Hispanic, Richard Paez. It was stunning. It was unprecedented.

Let me make a statement. I believe it is a precedent that never should be occurring here again because the whole purpose of a filibuster is to determine whether you are going to move ahead on a vote. Once there is no filibuster, you have to have a vote. Then we had this intervening motion about indefinitely postponing the vote. It just undercuts what cloture is supposed to be about. I thought that was unbelievable.

Basically a Senator wanted to kill the nomination even after we had won cloture. That was so unprecedented that Senator HATCH himself said he had never seen it. He had never heard of it, and he was perplexed. He was baffled by it.

Let me quote Senator SESSIONS who moved to stop the final vote on this Hispanic Judge, Richard Paez, after we won cloture. He said:

> I move in a postcloture environment to postpone indefinitely the nomination of Richard Paez—

Listen to this—

> in order for this body to get the answers I believe every Senator deserves with regard to the concerns I have raised about Judge Paez over the last several days.

On Judge Paez, because this Senator thought he didn't have the information after 4 years, after pages of questions, after cloture was invoked, then he did something unprecedented and moved to indefinitely postpone the final vote.

At that time, Senator HATCH was perplexed. I was certainly perplexed. Colleagues were amazed. And here is in full what Senator HATCH said at that time.

> I have served a number of years in the Senate, and I have never seen a "motion to postpone indefinitely" that was brought to delay the consideration of a judicial nomination post-cloture. Indeed, I must confess to being somewhat baffled that, after the filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination.

Senator HATCH was right on the point. He called the filibuster a filibuster at that time. He was baffled by the kind of a postfilibuster-filibuster in the guise of postponing the final vote. Clearly, we had to get the votes for Judge Paez, and we did. And he is serving and doing us all proud, I might say, on the Ninth Circuit right now.

IRAQ

Mrs. BOXER. Madam President, I have a couple of things to say about another subject in a brief period. It has to do with the issue of Iraq.

I spent a week during the last break in California and doing several events—many events, doing the normal things you do when you go home: going shopping, taking a walk in the park and around the neighborhood. I don't think I have ever seen my people in California as distressed and on edge and anxious as they are at this particular point in our history.

I want to tell you that this cuts across party lines.

As a matter of fact, there was a poll in the paper today about the views of Californians very much concerned about going to war. My constituents are saying: Senator, is there any way in your mind that the President will not take this country into war? And my answer—because I am searching for it; the President says he has not made a decision—but to be as honest as I can. I say: Here is what I think on that matter. If the true goal is to disarm Saddam Hussein and Iraq, then there is a chance that this could be resolved short of war. But if the true desire is to replace Saddam Hussein, have a regime change, unless Saddam Hussein agrees to go—which would be a wonderful prospect—I do not see how you get there.

The people in my State are very concerned.

Then they say: Well, Senator, do inspections really work? And I tell them that the facts are out there, that in fact there were more weapons of mass destruction dismantled after the gulf war than there were by our bombs.

I asked for the list of weapons of mass destruction that were in fact destroyed after the Gulf war. I am going to read the list of weapons that were destroyed during the inspections.

In the missile area: 48 operational long-range missiles, 14 conventional missile warheads, 6 operational mobile launchers, 28 operational fixed launchpads, 32 fixed launchpads under construction, 30 missile chemical warheads, other missile support equipment and materiel, supervision of the destruction of a variety of assembled and nonassembled supergun components.

In the chemical area: 38,537 filled and empty chemical munitions were destroyed by the inspectors, 690 tons of chemical weapons agent, more than 3,000 tons of precursor chemicals, 426 pieces of chemical weapons production equipment, 91 pieces of related analytical instruments.

In the biological area: an entire biological weapons production facility called Al-Hakam, a variety of biological weapons production equipment and materiel.

So the fact is, the inspectors discovered and dismantled more weapons of mass destruction than were in fact destroyed by our bombs.

Sadly, there was a period where there were no inspectors in Iraq. And I do not trust, for a minute, that Iraq did not start to rebuild these stocks. The fact is, Saddam Hussein must be disarmed. That is why I supported the Levin resolution that said he must be disarmed—but not for us to go it alone, without the world with us, as the world was with us in the first gulf war.

My constituents are coming up to me and saying: What happened here? Everything feels out of control. Why? The world isn't even with us anymore. We are having fights and sniping with our allies. What happened?

I started to think about that. And I will never forget—none of us will ever forget where we were on 9/11, when we were attacked by al-Qaida. Osama bin Laden, remember his name? He attacked us. He hurt us on our own shores. I will never forget that. And I will never forget, on 9/12, that the whole world was with us.

There is a song called "He Has the Whole World in His Hands." It is a beautiful song. President Bush had the whole world in his hands on 9/12. Countries around the world—every one of them; even some that we really do not have such a close relationship with—expressed that they were with us. We had the world in our hands. Yes, we were the leader of the free world before 9/11, but on 9/12 the world was so with us and against terror. And somehow, some way, this has been squandered. This has been squandered. There has been this intensity on Iraq and what I call a designed neglect of the rest of the world.

Even in our own hemisphere, we see what is happening in Colombia, in Venezuela. I met with the Mexican Foreign Minister. I say to my friend from Nevada, who has a good-sized Hispanic population in his State. And the Mexican Foreign Minister told me: We had such high hopes when this administration took office, and we see nothing. We are getting no attention for our issues. We must work with your country. And, actually, he quit his post because there was no communication.

We then see what is happening in North Korea, amazing developments in North Korea. And we cannot seem to get the administration to focus on it at all.

Let me tell you, those of us on the west coast, yes, that is why my constituents are coming up to me in the supermarket and pulling at my sleeve, because the North Koreans have a missile that can reach America. They already have the nuclear weapon. They already have kicked out the inspectors. And what is the answer? When the President put them in the "axis of evil," I asked, from my seat on the Foreign Relations Committee, the State Department: Before the President put North Korea in the "axis of evil," was there a conversation about the ramifications of that? And the answer came back to me, I say to my friend: Well, we did go in and we did see the President—this is the highest levels of the State Department—and we said we agreed that North Korea deserved to be on the "axis of evil."

I said: That was not my question. There are a lot of people who could be termed evil in this world. My question was, did you discuss the ramifications? The answer was: No, we did not.

I asked: Well, did you call up our friends, our allies, with whom we share classified information every day—South Korea, Japan—to talk to them about the ramifications of putting North Korea in the "axis of evil"? Oh, no, came the answer, we do not share State of the Union speeches with other countries.

Well, that was not the point about the State of the Union speech. It is South Korea that looks across the line at North Korea. I have been on that line, that DMZ. By the way, what a failure to humankind that situation is—one people divided. It is just the saddest situation, one of the saddest failures of humanity.

So we had the situation on 9/12/01, where the whole world was with us—the whole world. And after that, that whole situation has been squandered.

I heard Senator LEAHY make similar remarks today about this. I think we have to understand where we are today. And we need to understand there are problems all over this globe, and that for us to go it alone—or almost alone—in a war with Iraq will make matters worse, I am afraid. As a leader, you have to win over your friends, and others, through your reasoning, through your evidence, through your power of persuasion, not just buying people off or giving them money.

There has been a lot of talk about what we are going to give Turkey for their cooperation. Look, I understand an ally is an ally, a friend is a friend, and so on; but this thing is still not resolved, and the costs go up. I don't think the American people understand that this is their tax dollars we are talking about—$5 billion in grants, when we are about to kick off the rolls almost 600,000 children from afterschool programs, according to the President's budget, and not fully funding our disabled kids in school, and the cleanup of only 40 Superfund sites instead of the 87 President Clinton did during his tenure.

These things just don't come about in a vacuum. I thought Senator BYRD was so well spoken when he made the point that we don't even know the cost. Remember Larry Lindsey, I say to my friend from Nevada, the President's economic advisor? He put out—I think last summer—a statement saying it is going to cost us between $100 billion and $200 billion for a war in Iraq.

Mr. REID. If the Senator will yield. Isn't that the man who was fired recently?

Mrs. BOXER. Fired, let go.

It is going to cost between $100 billion and $200 billion. Now they are saying it is $95 billion. They started off saying it was going to be $30 billion, $40 billion, $50 billion, or $60 billion, but that doesn't count what they want to pay to Turkey. When you add in the loan guarantees and the rest, some people are saying that is $26 billion. And we are not reimbursing our States for the work our local police, our firemen, and our emergency workers are doing. We are neglecting port security.

I read today—and this is close to my heart—a little article, which I will send to my colleagues. It is very important. It says that many terrorist groups now have stinger missiles, shoulder-fired missiles. We have seen five, six, seven examples of terrorist groups over the years aiming at commercial aircraft. Admiral Loy's Deputy has said this is worrisome. It is going to cost money to prepare our commercial fleet, to have an antimissile system put on, just as the Israelis reportedly do. The technology is there. Yes, it is going to cost a million dollars per plane, but we are busy giving money out around the world. We are busy giving money out. We don't hear the name Osama bin Laden. One of my colleagues, Senator DORGAN, calls him Osama "been forgotten" because you don't hear anything about him.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. REID. As a foundation for my question, I want to say I appreciate her statement on the floor. Senator BYRD was here earlier. I told him the same thing I say to the Senator from California. This is a good debate to have. It doesn't matter how you feel about the war. It is important to have a debate.

As I said earlier today on the floor, and I say to the Senator from California, are you aware that the British Parliament had a long, extended debate today on the Iraq conflict?

Mrs. BOXER. My staff mentioned that they had watched it. I did not see it myself.

(Mr. ALEXANDER assumed the Chair.)

Mr. REID. The senior Senator from Illinois said he watched it for an hour before work today. He said it was a great debate. They discussed the issues relating to the conflict that will probably occur in Iraq. I say to my friend from California, it is good that you are speaking to alert the American people to some of the problems that may occur with this conflict. It is too bad that the Republicans, the majority, are holding up other legislation and other debate because of one fully employed man, Miguel Estrada, who has a job, as we all know, making hundreds of thousands of dollars a year. It has been laid out on this floor today that the Bush administration lost 2.8 million jobs. Millions are unemployed. But we are hung up on this debate because Republicans won't move off of it.

My question to the Senator is, would it not be good if we had a full day's debate set aside so Senators can offer their views about what is going on in Iraq?

Mrs. BOXER. I say to my friend, if we are to be relevant—this is the word the President talks about when referring to the U.N.—that is what we ought to be doing because, when I went home, people wanted to talk about this because they are nervous about it. Frankly, they don't want us to go it alone. At least the vast majority of people in my State feel that way. They are asking me what it is going to cost. I say I have my own guess, but we really have no idea. A man got fired because he said it would cost between $100 billion and $200 billion. Now they are saying $95 billion. And now they are offering Turkey $26 billion. One general said they will need to stay there with 200,000 troops for years. Another general said that was wrong. We cannot get an answer to that.

We don't know if Saddam Hussein will use these weapons of mass destruction, or what he will do with the oil fields if we go in there. My own view on this is that the American people are very concerned. I agree with my friend. We are spending a whole lot of time on the nomination of one judicial nominee who, frankly, in my view, cannot really want the job that much because he won't answer the questions. He will not answer the questions. If he answers the questions, we would say immediately, vote cloture, then give him a vote, and that is the end of it.

Mr. REID. Will the Senator yield for another question?

Mrs. BOXER. Of course.

Mr. REID. The Senator served in Congress, as I did, when the previous war occurred in Iraq, which was more than a decade ago. Does the Senator recall—and these numbers may not be exactly accurate, but they are close—that the first President Bush reached out and, prior to the conflict beginning, there were commitments from various countries to give billions and billions of dollars to help fight the war in Iraq—billions of dollars? And is the Senator also aware that in addition to giving billions of dollars to help with the conflict, other countries were supplying tens of thousands of troops and airplanes?

Now, I have pretty reliable sources that say the only country really supplying troops is Great Britain. All of the other countries are saying they support the war, but most of those are in the category of Turkey. They are supporting the war if, in fact, they get certain economic benefits. So, in short, is the Senator aware that in the previous conflict there were large sums of money that would be given to help the U.S. fight that war, and large numbers of troops that were being sent to the front lines to help the United States troops fight that war? Is the Senator aware that, in fact, basically other than Great Britain, this is our war and nobody is helping?

Mrs. BOXER. My friend, the Democratic whip, is absolutely correct. Our records show that the first gulf war cost $61 billion. Remember that we stopped well short of Baghdad, when you are thinking what this war will cost. That is a long time ago and there has been inflation. It was $61 billion then, and $54 billion was paid for by our friends around the world. That is more than 80 percent, when you figure it all out.

I further say to my friend that we had many countries sending troops, over 20. In this case, the administration is telling us we need 250,000 troops for this war, and Britain is sending in 26,000 troops. That is about right, 26,000 troops and 250,000. That is pretty much in terms of combat troops. That's it.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. REID. The reports I received today is the United States alone has in the gulf area 210,000 troops, plus Great Britain—I do not know how many they have there, but, in fact, if they need 240,000 troops, is what I am told, the United States is doing it all with the help of Great Britain. There are other countries saying they support us. Those countries, I repeat to the Senator, and I think she will agree, want some economic benefit to even say they support us, even though they are not sending any troops.

Mrs. BOXER. It is an unprecedented handout type of situation, which is offensive to me in many ways. This is a go-it-alone situation where it stands today.

I will finish where I started this conversation about Iraq. We had everyone with us after 9/11—the whole world. We lost that. People around the world are looking at us, and many are saying this was something the President had decided and he just went to the United Nations because he was kind of pushed there—and as one of the people who pushed him there, I am glad he went there. Believe me, I give credit where credit is due. I give credit to Colin Powell. But going there and winking and nodding and saying, I am going to go to the U.N.—but really I know what I want to do—I will give a particular case in point.

Whenever there is a little progress in finding some of these weapons, the President says things such as: Oh, that is the tip of the iceberg, and he may be right. But wouldn't it be better to say something such as: This is the tip of the iceberg, Saddam Hussein, and I am asking you to give us the rest of the iceberg, to do it now to avoid war, to avoid bloodshed. The world is watching.

We do not seem to hear those words. What we really hear is: Inspections mean nothing. Maybe it means nothing, and if it means nothing, then the U.N. eventually is going to call this guy on it. They are going to call him on it, just like they did before. By the way, these weapons are a threat to the world, and a lot of the world is a lot closer to him than we are, and a lot of the world could potentially be reached by his missiles.

The question for me, as one Senator, has never been should Saddam be disarmed—absolutely he should. Back in August when the President was saying we are going to go to war, I said: Wait a minute, the issue is weapons of mass destruction; let's see if we can get intrusive inspections back in there and pick up where we left off with the inspections which destroyed—and I read the list into the RECORD already—more weapons of mass destruction than we did with our bombs. If this is really about that, then we know the proven way to do it. And if Saddam ever so much as kicks the inspectors out, does not cooperate with them, thwarts them, we will know it, and we will be on the moral high ground. We will have the whole world back in our hands, and we can move forward with the world community, just as my friend pointed out happened in 1990.

I thank the Presiding Officer.

I will be glad to yield to the Senator from Nevada for another question.

Mr. REID. I appreciate that.

Mr. President, I mentioned earlier and I ask the Senator if she is aware of a new poll that came out today conducted by a nonpartisan public interest group called the Pew Research Center. The Senator has heard of that prominent group, is that right?

Mrs. BOXER. I heard of the group. I do not know of the poll.

Mr. REID. This poll was conducted between February 12 and February 18. As the Senator knows, 1,254 participants is a big poll. Will the Senator agree with that statement?

Mrs. BOXER. Correct.

Mr. REID. Is the Senator aware that when these people were asked in this nationwide poll how George W. Bush is handling the economy, only 43 percent of the people say they like the way he is handling the economy, but 48 percent disapprove of the way he is handling the economy?

Mrs. BOXER. I say to my friend, this does not surprise me. We are seeing the worst economic record of any administration in 50 years in terms of jobs lost, in terms of mortgages defaulted, in terms of loss of stock market value. We are talking $8 trillion of loss, in terms of fear about retirement, fear about losing health care, fear about the cost of health care, fear about cost of prescription drugs, fear about being able to afford to send your kids to get an education. My friend has given me a number that makes eminent sense, and I say it is going to continue to plummet because every plan this President comes up with is giving tax breaks to the wealthiest among us in the hopes they will trickle down to the working people. It never worked before, and it is not going to work.

I am very worried, and that is why people also are very anxious in my State about the war and about the economy. It is a two-front challenge we face.

Mr. REID. If the Senator will extend her usual courteousness and allow me to ask another question.

Mrs. BOXER. Absolutely.

Mr. REID. The Senator outlined why people likely feel the way they do, but does the Senator also acknowledge the fact that we have in the last 2 years seen a $7 trillion surplus evaporate? Could that be a concern?

Mrs. BOXER. I left that out in the list of items that have gone wrong. A $7 trillion surplus disappeared, and we have deficits as far as the eye can see. The last deficit I remember under George Bush 1 was headed to $300 billion. As I remember, it was up to $290 billion. We all pulled together and said this is an outrage. We worked hard under Bill Clinton for 8 years and got that down to a surplus which was healthy for our economy, and we had the biggest economic boom in years. It has all been squandered. World opinion has been squandered. The surplus has been squandered.

Mr. REID. If the Senator will yield, is the Senator aware that this same poll, when asked how George Bush is handling tax policy, shows that 42 percent of the people approve of the way he is handling tax policy? And is the Senator aware that for the first time in this Presidency, 44 percent of the people feel he is handling it very badly; is the Senator aware of that?

Mrs. BOXER. My friend is telling me something I was not aware of. I did not see the poll, but again, I think it becomes very clear to the people that every policy that comes down, whether it is taxation of dividends, tax breaks for the people at the top of the economic ladder, that we are, in essence, seeing a plan to get this economy revived which is going to do nothing but put money in the pockets of people whose pockets are stuffed with money. We do not need to do that.

I was in California with people who were telling me: Senator, we do not need a tax break. We are doing fine. Worry about homeland security. Worry about nuclear powerplants getting protected. Worry about the chemical plants being protected. Worry about the homeland security first responders.

I say to my friend, if, God forbid, we are attacked anywhere in our country, people are going to dial 9-1-1, they are not going to dial the President, they are not going to dial Senator REID, Senator BOXER, or Senator HATCH. They are going to dial 9-1-1. Those very people are telling us they have not received a penny, and it is a very sad situation.

Mr. REID. Will the Senator yield for another question?

Mrs. BOXER. Yes.

Mr. REID. Today I told the senior Senator from Illinois about the visit I had yesterday with people from Nevada. The woman I remember so clearly works for the Las Vegas Metropolitan Police Department. She has worked there for 27 years. For the last 20 years, she has been the person in charge of the 9-1-1 center. Is the Senator aware that she, like many people who work in these entities around the country—and, of course, in a State of 35 million people, I am sure California has a number of them—she told me that in Las Vegas, this big sprawling urban center we now have, that when someone calls 9-1-1 from a telephone, such as we see on the desk in the corner or such as we have in the cloakroom or the Senator has in her home, they know where that phone call comes from.

They know the address, they know the location, but now when people use computers for doing their telephoning in a way that is hard for me to understand, but I am beginning to understand it better, and cell phones, they have no idea where their emergency calls come from. People have died around the country as a result of a call coming into the 911 center, and they do not know where it is coming from.

Does the Senator realize that can all be cured with money? The technology is here to correct that, but we do not have money to give the State and local governments to correct that one thing to make homeland security and security generally more satisfactory. Is the Senator aware of that?

Mrs. BOXER. My friend is right. As a matter of fact, the Commerce Committee is holding a hearing to address this problem of people dialing 911 from a cell phone. We have had people who are in the midst of being a victim of a crime dialing 911 and the law enforcement did not know where it was from. It is a crucial matter that has to be resolved.

What is amazing is this administration has money to give tax breaks to people at the top. The people who earn over a million dollars a year are going to get back, oh, gosh, an average of about $80,000 a year just from the dividend tax break alone, not to mention an income tax break. They have the money for that, but they do not have the money to help our homeland defense.

They have money to give to Turkey—they are talking turkey with Turkey—that is for sure. Reports of an aid package for Turkey started off as a few billion, then it was $6, then $10, then $16. Now I hear it is $26 billion. I think it was Senator DORGAN or Senator DURBIN who said maybe our States should change their name to Turkey and they will do better than they are doing now.

My friend is right. I have to use a sense of humor because you get upset about these things and you cannot keep being outraged.

Mr. REID. Will the Senator yield?

Mrs. BOXER. I am happy to yield before I close.

Mr. REID. What the Senator said in her statement—and she seems to agree with me, and I ask if she does—the reason we are not debating on the Senate floor Senator DASCHLE's plan to improve the economy, the reason we are not debating homeland security issues, the reason we are not debating environmental issues, which I know the Senator from California is so passionate about—no one in the Senate believes more in doing things to improve the environment than the Senator from California—and there are so many things we could be talking about dealing with the environment, and the multitude of other issues the Senator has talked about today. Is the Senator aware the reason we are not doing this is that Republicans do not want us to do it, because they have no plan, that this is just an excuse for them to do nothing, being hung up on this Estrada thing? Is the Senator aware of that?

Mrs. BOXER. I am absolutely aware of this. I say to my friend, I went through the litany at the beginning of my talk about how other nominees have answered a multitude of questions, and as a matter of fact some have sent previously confidential opinions that they have written. All the other side has to do is say to Mr. Estrada, answer the questions, and then there can be a vote.

When my friend raises the environment, I will take a minute to say that we finally got a report that has been languishing in the administration since June. Surprise, surprise, it was leaked to the Wall Street Journal, and after it was leaked, then the administration released it. It has some horrific statistics about what is happening to young people and women of childbearing age in terms of ingestion of mercury through mercury-tainted fish, and the fact that mercury is now emerging as a leading cause of neurological damage and I predict will become an issue in this Senate just the way lead was an issue in other Senates. We finally got this report. We begged for it and then got it.

My friend is right: What could be more important than getting this economy going than protecting the health of our children by bringing that report up for debate and open for discussion? Senator JEFFORDS has a great plan, the Clean Power Act, that will take that mercury out of the air, that will save these children from getting neurological damage. Let's debate it. Let's debate Senator DASCHLE's plan, his economic stimulus plan, that gives the stimulus to the working people, versus the Bush plan that gives it to the people who do not even have to work because they live off their dividends. I would like to see that debate.

If Miguel Estrada really wants this job, he will do what Margaret Morrow did, he will do what Judge Paez did, he will do what Marsha Berzon did, and answer the questions. There were 4 years of questions to Judge Paez. He answered them all. We had to break their filibuster, I say to my friend, and we did.

Senator Smith at the time was proud to launch the filibuster. Senator Bob Smith said—and I read it into the RECORD—this is a filibuster launched because we need to get questions answered, and it is the right thing to do.

Mr. REID. Would the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. REID. I want the Senator to know that in addition to answering questions—because Judges Paez and Berzon had a judicial record that could be reviewed.

Mrs. BOXER. Correct.

Mr. REID. He has none. In addition to answering the questions, we asked that he submit the memos he wrote when he was at the Solicitor's Office. The Senator will agree with that?

Mrs. BOXER. I did. I said it. I said there was precedent, and I read off the five cases where previously confidential memos were released. I named the gentlemen—they happened to be all men—who were willing to release it in order to get a vote on their confirmation.

So there is adequate precedent for that. There is adequate precedent for answering the questions, and if the Senate has any respect for our work and for the Constitution of the United States, which we have been sworn to uphold, then we will not roll over when any President, this one or any future President, sends a nominee down who cannot even tell if there is one Supreme Court case, in all the hundreds of years, that he disagrees with, cannot even name what jurist he would most emulate. It is beyond the pale, the questions Mr. Estrada refused to answer, because clearly he has been told and trained not to answer any questions.

I was proud to come to this Chamber, after my diligent staff went back through the RECORD and got the quotes of Bob Smith who helped lead the filibuster, who got the quotes of Senator SESSIONS who then said we should have, after we broke the filibuster, yet another vote to indefinitely delay a vote.

It is extraordinary what has happened. In the RECORD tonight, for all who will read, we have the quotes of Senator HATCH, who called what happened to Paez a filibuster, who called what Senator SESSIONS tried to do unprecedented. We have the quotes of Senator Smith who said: All I am doing is asking questions to get answers, and now let the people decide.

They are going to run some kind of ads in my State saying: BARBARA BOXER, shame; she does not like Hispanic nominees.

Do you want to know something? To say that is like saying I do not support women's rights and there is going to be a backlash on that. I am the person who recommended the first Mexican-American to sit on a district court in Los Angeles, the person who stood on her feet day after day trying to get Richard Paez his seat.

They can do all they want because I think the American people understand we are standing on a principle. If I were the only one on my feet, I would stay on my feet because I think it is wrong to stonewall the Senate and members of the Judiciary Committee who in good will have approved, by the way, an enormous number of judges—and who were just simply saying: Answer the questions; give us the memos; we do not know who you are; we want to have a record; we want to make an informed decision. This is the right thing to do.

I dare say to my constituents—and I did when I was home; I said: You may be hearing about this, but I want you to know that you sent me here not to be part of the wallpaper behind me—that is pretty easy—not to go along to get along, but to stand up and do my job as a Senator, and that is not to vote on a judicial nominee who has refused to hand over documents, who has refused to answer questions, who has absolutely no record on which to judge what he is going to do. Once we have that information, I am happy to have a vote and let the chips fall where they may.

IRAQ

On Iraq, I make a rhetorical plea to the administration: You had the whole world in your hand on 9/12; you don't have it in your hand now. Let's get back to being a true leader. Lay out a path for peace. That is an American value, to lay out a path for peace. Lay out a path for peace, not just the path for war.

Get this man disarmed, Saddam Hussein, in a way that does not lead to the loss of life and blood of our people and innocent people. And if we do that, we will be back to where we were on 9/12. If we pay attention to other problems in the world, we will be back to where we were on 9/12.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. We were elected to take an oath of office to uphold the Constitution, defend the Constitution from enemies, foreign and domestic. That is the oath each member takes very seriously. It is an oath that puts on each of our shoulders the responsibility to decide what that means.

Our distinguished Senator from West Virginia, ROBERT BYRD, presented me with a Constitution when I arrived here. I have learned a great deal about this document, about what it says and means. I have learned about the intentions of the Founders of the country. This document is the gospel which each member is required to follow. It says the President, by and with the advice and consent of the Senate—it does not say that the Senate shall approve or how the Senate shall consider. It says the Senate will be an equal partner with the President. The President will make a nomination, and it is for the Senate to decide, 100 Senators to decide, according to their own values and according to their own background experience and according to whatever they want to bring to bear on that matter how they will decide.

I have listened to a lot of these debates in the last couple of weeks on this matter. I am not a lawyer. I am not on the Judiciary Committee. I take very seriously my responsibility to weigh someone's career, weigh someone's character, to try to assess whether this is the kind of person I want to support to put on a court where he will be presiding, if he chooses, for the rest of his life; where he will be making decisions that will affect millions of people, whether someone has the right to housing or whether someone has the right to be protected from discrimination, whether some schoolchildren can go to school under better conditions. I don't know what kind of decisions this man will face, but I know they will be important. I know they will last for a long time and last beyond his own lifetime.

In effect, we are making a decision about someone who will be impacting the lives of Americans for two or three generations. That is the only time this person will be evaluated by his fellow citizens before that decision is made, unlike all of us who face our electorate every 6 years, or the House Members every 2 years, and the President himself every 4 years. This man will be appointed to the bench for life. I believe I am within my rights as one of the 100 who will make that decision to have sufficient information that I can make an informed judgment.

It is not for me to say to the administration the criteria they should use in making this kind of appointment. But I would be surprised, frankly, that out of all the vast numbers of highly qualified people in the country there would be someone chosen for the second highest court in the country without any previous judicial experience. If that is the case, I believe we have a special need to have information provided, to give each of us the information we seek and need to make that determination. That is not forthcoming, either.

We are told we can have certain information and we cannot have other information. I received a note from the White House counselor saying Mr. Estrada would meet with me, and I appreciate the gesture. I don't want to go back into my office off the record and have a conversation. I want to know on the record. This man does not have a judicial record. We have to find other means of obtaining that information. I am wondering why it is that somebody with no judicial record, no series of decisions that we can look to, writings we can look to for guidance as to his views, why he would not feel, and why the nominator would not feel a special obligation to provide that information.

If I went before the voters of Minnesota and refused to answer some of the questions Mr. Estrada refused to answer before the Judiciary Committee, I would be laughed out of the election. Certainly no one should vote for me if I would not give voters any information to allow them to understand my philosophy, what I value or not, what decisions I agreed with or disagreed with in the past, just basic information which we do not have about this man because he has no judicial record because he has never been a judge.

We have elected people in Minnesota who have not had prior experience, and it is fashionable to say they are not a career politician. In fact, we have a Governor who just departed who had that view, that was the right kind of qualification.

If I got on an airplane and the pilot said this is going to be a different kind of flight; I have never flown a commercial airline before, I would not feel more confident. I would be pretty worried. If somebody says they are taking their child in for surgery, and someone said that doctor had never performed that kind of surgery before, I would be very concerned. I would want to know some information about that individual. I would want to know that person's qualifications. I would want to know if that person had the training and skills to approach that matter before I trusted my life or the life of one of my children with that person. And we are entrusting the lives of unknown, not-yet-identified, very real people, very real Americans who will have to go before that court, where that court will review decisions that are made that are their last course. If justice is not served, justice will be forever denied them and that will be a tragic injustice they will suffer for the rest of their lives.

We cannot foresee all of that. We cannot prevent all of it. We have a responsibility to the Constitution of the United States which we swore to uphold and defend, which our Founders thought so important that they did not even talk about the country; they talked about the Constitution. That was our responsibility. Senator BYRD says that our responsibility is to uphold the Constitution. That is our responsibility. That is the responsibility of each of us.

I might want something different in terms of information or background than other of my colleagues. For some of my colleagues, the fact that the President made this nomination, he is of their political party, that is all the information they need, well, that is the absolute right of all of my colleagues who decide that way.

I don't question someone else's right to make their decision however they determine based on that, the same way I don't want anyone to question my right to have the information that I probably need, just basic information so I can know the background, qualifications, judicial philosophy, and views of this person. I don't believe any electorate in any State in this country would elect somebody who wanted to serve in a high office—Governor, Senate, member of the House—who had no prior political record, no prior involvement in public life, and went before the electorate and said: I want to be elected and I am not going to tell you where I stand or what I believe or what I do or what I agreed with in the past or who I like or do not like. I don't think anywhere in America there would be positive reaction to that.

I don't believe there would be a board of directors in corporate America that would hire somebody for an important position—chief executive officer, chief operating officer, the No. 2 position—that would even consider someone who would not provide the basic information that we are asking for here.

To me this gets into the realm of just being ludicrous, that we are in a position of being questioned for taking the particular position that says we want information.

I agree with my colleague from California. If we get the information, then there will be a vote. If we get information so those of us who have these reservations—and really, in my case, I have not come to a final decision because I do not have the information with which to do so. But I am not going to make that decision, I am not going to agree to this matter coming before this body, if I can help it, until I have that information. That is just the way it is. That is the position I have taken. Again, that is my right to do so and that is the right of any one of my colleagues in this situation.

We are spending an awful lot of time here, way too much time, on this matter, given what is going on in the country today. We ought to be setting this nomination aside, giving the nominee the opportunity to present in writing the information we have requested. Either do so or not. We can assess it accordingly. We ought to turn the attention of this body to matters that, when I was in Minnesota last week, certainly concerned every one of the citizens I talked and listened to. It was not the nomination of Miguel Estrada, important as that is. It is about the war in Iraq that is looming. It is people's fears of whether we were going in; what is the right thing to do. The fact that the week before they were told to go out and buy plastic and duct tape, go out and buy bottled water and food. They are not very reassured in Minnesota about the ability of their Government to protect them. They are not really sure.

I must say, based on information I have received, what I have heard expressed from local law enforcement officials in Minnesota, that what we passed in Congress has not gotten out to these first responders—resources, training, information.

I had the sheriff of the largest county in Minnesota, Hennepin County, in my office today. He cannot get information about what happened with the raising of the national security alert. He said he found out about it on CNN. He is a sheriff. He is part of the network of emergency responders for the city of Minneapolis, the largest city, largest county. He does not have any source of information from the Federal Government to tell him even that such a code has been established, much less what the reasons are, much less what some of the circumstances might be.

He said he tried to find out from the FBI, with which he has a very good working relationship, what the circumstances were. They didn't know either. They hadn't gotten any prior word. That certainly astonished me.

On the Governmental Affairs Committee and I sat through the hearings where this was being discussed. It was my clear understanding that the new Department of Homeland Security was going to be in constant communication with the FBI and CIA, that information was going to be shared, and they would all have that information. I also understood, because we certainly provided the funding and we certainly made it clear in the hearings on the floor that we intended for that Department to be communicating, providing resources, providing training, providing expertise and getting that out to the Hennepin counties of Minnesota—and America.

Lo and behold, he doesn't know. The FBI district office in Minneapolis, MN, doesn't know. So he is watching CNN. He was not very confident about how well this administration has done its job to get this country prepared for what may lie ahead.

The citizens of Minnesota, as I said, are certainly alarmed. I believe they have an absolute right to expect that this body, this institution of the Senate would be turning its attention to these matters of concern.

So I say again, respectfully, to the majority leader, the time has come to set this nomination aside to give Mr. Estrada the opportunity to respond in writing to the questions which I and others have said clearly, again and again, we must have answered to make an informed judgment, which is my constitutional obligation to the country and to the Minnesota people who elected me. I don't think that is much to ask at all. Anyway, it is what I am going to ask and require before I am going to proceed.

Then I ask the majority leader, as I wrote 2 weeks ago in a letter, that I and the rest of us turn our attention on this Senate floor to these matters of war and peace, whether the United States of America is going to commit itself to an invasion of another country, a preemptive strike, something that is going to have profound consequences for our country—for our world for years to come.

Our silence here, as again the distinguished senior Senator from West Virginia, Mr. BYRD, said the other day, is just profoundly deafening, the silence here in the Senate, the absence of debate, the absence of 100 different views on what we are doing, what we propose to do, what might we do.

Of course the real tragedy, in my view, and the real embarrassment to this institution, great as it is, and to the House of Representatives, is that this document, the Constitution of the United States, states very clearly and definitively that Congress and only Congress shall declare war. Not the President. No one else. Just Congress.

This was very clearly the intention of those who drafted the Constitution, whose wisdom and foresight is something I find unbelievable, that a group of people back over 200 years ago could have, on their first attempt—not that they didn't have drafts, but that they could put together a document that would be as brilliantly foresighted as this turned out to be, and anticipatory of just these kinds of matters: Where the temptation is to let it go somewhere else; where the pressures are from some person or groups of people to forget something or overlook something or circumvent something. They made the President of the United States the Commander in Chief of all the Armed Forces—back then of the militia. For that very reason they didn't want him, they didn't want any one person—it is not just this President; it is any President—they didn't want that one person making the decision to commit this Nation to war or keep us in peace. Boy, were they ever right. Did they ever understand why that should be a decision made by an elected group such as the Congress.

We didn't declare war back in October. The President was not at that point himself—and I gather not even today is it appropriate—ready to make that final, fateful decision. That was 4 months ago, before we even got to this point. We didn't declare war. What we said is we will give the President the authority to do whatever he determines needs to be done, including the use of force. That is one of those euphemisms we use to hide our true intent, which means if he wants to have a war, he starts one. We will preapprove it and he can proceed. That is not anywhere near what the Constitution says, nor what was intended it say, nor how it was intended to be followed.

Before this Nation is committed to a war, before American men and women are sent across our border to fight and some of them to die, before possibly people in this country might suffer those grotesque experiences, they have the right that their elected officials will give this matter their most serious consideration for a length of time that is appropriate. It will not take as long as has the squabble over Mr. Estrada, but it ought to take a while, because this decision is profound.

The fact that we are here on the Senate floor now, the third day we are back from our recess—the fact we had a recess at all last week rather than being here debating these issues of war and peace—the fact that we are doing something now that, as I said earlier, has its own significance, has its own place, but pales in comparison with war and peace and the enormity of those decisions about the preparation of the country and the Department of Homeland Security, the preparedness of this Government to protect all of its citizens—those are the matters that concern the people of Minnesota almost to the exclusion of anything else; even to the exclusion of the problems with the economy with all those difficulties. Those are the matters which we should be reviewing on the Senate floor.

If the President believes we should commit our forces to invade another country, to launch a preemptive attack, to start a war against another country—which is almost unprecedented in our Nation's history, and is certainly unprecedented in the context of leaping forward to cut off a threat which is not imminent, not immediate, but rather one which we believe would materialize, and probably would if certain lines were crossed, to remove the Government, the leader of another country—these are decisions which are so enormous in their scope immediately and which are going to have such consequence for this world for decades to follow that it is wrong for us to turn the other way, for us to refuse to fulfill our constitutional responsibility. What we should do is bring these matters to the Senate floor and say, Mr. President, that was the 107th Congress, this is the 108th Congress, we are a different body, we want to recertify that constitutional responsibility that Congress and only Congress shall declare war.

No President is authorized by the Constitution to commit any forces in such a way until that decision has been made and voted on by the Congress. That is what we ought to be doing here. The American people have a right. They elected us, and they sent us here, and they expect no less of us and will hold us in the highest reproach if we fail to fulfill that responsibility, if we fail to even bring the matter up, or if we fail to direct our attention and declare ourselves one after another on the record for or against. We owe that to the people who founded this country, who sustained this document—many at the cost of their own lives. We owe that to the courageous Americans—men and women—who are amassed on the borders halfway around the world who will have to carry out that decision, if it is made, to proceed to fight. Some will be wounded and maimed. Some will lose their lives because of that decision.

We owe them nothing less than to fulfill our responsibility here in the Senate at this time or as soon as the President determines that matter should be brought to our attention.

Two weeks ago, think of what we went through. Our citizens were told to go out and buy duct tape and plastic sheets and not even told really what to do with them. In Minnesota, we are well aware of that. We are a cold-weather State. We have quite a bit of experience putting up plastic sheeting and filling up drafts around doors and windows. It is not something you can do lightly. You can increase the concentration of radon in the rooms by closing them up too tightly. The information wasn't even in necessarily the best interests and the best health of people who would be doing it. They are entitled to a lot more from their Government than that. They are entitled to know a lot more than to go out and get bottled water or canned food and duct tape and plastic sheets, and, good luck and God help us. They deserve a lot more than that. That is why on the floor of the Senate we should be bringing up homeland security and discussing what more needs to be done and the resources that are needed.

I want to bring forth the voice of the sheriff of Hennepin County, MN, and his concerns. I want to know why he wasn't told the country was going through the second highest security level and why he had to find out about it from television rather than from the Department of Homeland Security which was established by this body to provide that kind of information—supposedly provide that kind of coordination, services, and resources. God forbid that something would happen to Hennepin County and they wouldn't have the benefit of that information; they would not know what to expect, what it might be, where it would be coming from.

These are critical life-and-death responsibilities that I know the Federal Government and Secretary Ridge take very seriously. I have nothing but the highest respect and regard for him and the monumental task he is undertaking. I hold nothing but the highest respect for the sheriff of Hennepin County. The two of them ought to be working and coordinating. The sheriff ought to have the resources we provided last August in this body. It was vetoed by the President. There is more forthcoming from the 2003 appropriations. We want to make sure that those resources are getting out to local government first responders all over the United States of America so that they have that ability to train, to prepare, and to be equipped to respond as much as possible.

Again, we hope and pray it will never happen. But if it should happen, they will have to be brought into action. Every second is going to count. Every person is going to have to make the right decision. Life depends on how well we help them be prepared.

I commend the majority leader's request that this nomination of Mr. Estrada be set aside and that he be given the time and the opportunity to respond in writing to the questions of those of us who do not have the information that we believe we need to make the decision—that he provide that information to us; that we take a period of time then to focus on what is a life-and-death and most urgent concern of every citizen in Minnesota whom I met with and heard from last week. Even if there was another topic of conversation, they wanted to know about Iraq. They wanted to express their own views and own concerns. They see us on C-SPAN doing nothing but talking about the nomination, and the same the next night and the next night.

I shudder to think what they must think about our sensibilities and our priorities. It is wrong. We owe it to those citizens to do our best in everything we stand for to bring this body back to focusing on the most critical time of our Nation—the pending war, the decision there, the responsibility of the Congress to declare war. And only Congress can declare war. Those of us who voted for resolution last fall abdicated to the President. It doesn't absolve our responsibility and what we must do now to stand up and take that responsibility back and make that decision and be held accountable by the people of America.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am a new Senator. I am aware of the traditions of the Senate, one of which is that a new Senator is not expected to say much—at least throughout the year is not expected to say much—to begin with until they have something of importance to say. So I have not said much.

I had been planning to make my first remarks on this floor next Tuesday on the issues I care most about, which are the education of our children and putting the teaching of American history and civics back in its rightful place in our schools so that our children can grow up knowing what it means to be an American. I planned on doing that next Tuesday. But I have decided to make some remarks today—earlier than expected because I am disappointed in what I have heard in the debate about Miguel Estrada.

Like my friend from Missouri, I have had the opportunity to preside in the last few days. That is one of the honors that are accorded new Members of the Senate. I have been listening very carefully. My disappointment has increased with each of these 10 days as the debate has continued.

I am disappointed first because I believe our friends on the other side of the aisle are being unfair to Miguel Estrada. I am most disappointed in them because I believe if the direction of this debate continues as it is going—and I heard the comments of my friend from Missouri yesterday on this same matter—if we continue in the same direction, we run the risk of permanently damaging the process by which we select Federal judges and by which we dispense justice in the United States. I am disappointed because this is not what I expected when I came to the Senate.

I may be new to the Senate, but I know something about judges. I am a lawyer. I once clerked for a U.S. Attorney General. His name was Robert Kennedy. I once clerked for a great Federal appellate judge. His name was John Minor Wisdom of New Orleans. I once worked in this body 36 years ago for Senator Howard Baker, a great lawyer. I watched this body as it considered and confirmed men and women to the Federal courts of this land. As Governor of Tennessee for 8 years, I had the responsibility of appointing—and did appoint—nearly 50 men and women to judgeships all the way from chancellorships to the supreme court.

I know pretty well the process we have followed in the Senate and in this country for the last couple of centuries.

It is fairly simple. It can be expressed in plain English. The Executive nominates, the Senate considers, and then confirms or rejects the nomination; and in doing so, what the Senators have always looked for, mainly, has been good character, good intelligence, good temperament, a good understanding of the law and the duties of a judge, and whether a nominee seems to have courtesy for those who may come before him or her. And it has always been assumed that it is unnecessary—and, in fact, it is unethical by the standards of most of the judicial canons in this country—for the nominee to try to say how he or she would decide a case that might come before him or her.

Then, after all that examination is done in the Senate, there is a vote. And under our constitutional traditions, the majority decides.

I have been listening very carefully, and that is not what is happening. The other side has simply decided that it will not allow the Senate to vote on the nomination of Miguel Estrada. In doing so, it is doing something that has never been done for a circuit court of appeals judge in our Nation's history.

In those hours that I have presided over this body in the last few days, I have been listening very carefully to see what reasons our friends on the other side could give for coming to such an extraordinary conclusion about whom I have come to learn is an extraordinary individual, Miguel Estrada.

I have been listening carefully for the answers, especially to these three questions: No. 1, what is wrong with Miguel Estrada? What is wrong with him? No. 2, why can't we vote on Miguel Estrada, after 10 days of debate? And, No. 3—most importantly—why should we change the constitutional tradition that a majority of the Senate will decide whether to confirm Miguel Estrada? Because what they are saying, really, is that he will need to get 60 votes—60 votes—instead of 51.

I have had the privilege of listening to each of their arguments. As my friend from Missouri knows, they first try one argument, and it does not go so well. Then they move to another argument, and it does not stand the light of day. And then they move to another one.

But let me tell you what I have heard as I have listened to the debate.

First, they said—it would be hard to imagine that anyone could say this with a straight face, but we had many straight faces on the other side of the aisle saying this—that he was not qualified to be a Federal appellate judge.

You do not hear that argument very much anymore because that is almost a laughable comment if it were not such a serious matter.

But let's go over this. This man isn't just qualified; if this were sports, he would be on the Olympic team, and he would be getting an award for "American Dream Story of the Year."

Here is a man who came to this country at age 17 from Honduras. He had a speech impediment. He spoke very little English. And within a short period of time, he was attending Columbia University, one of the most prestigious universities in America.

Then he went to Harvard Law School. Now, it is really hard to get into Harvard Law School. It has great competition. Everyone who is applying to a law school around the United States of America this year—and I know a great many of them—think about it. This young man, in a few years, was admitted to Harvard Law School. And not only that, he became an editor of the Harvard Law Review and graduated magna cum laude.

This a dream resume, but it is not even over.

Then he went to the Second Circuit as a law clerk. Then he became a clerk for a Supreme Court Justice. By now he was in the top 1 percent of 1 percent of all law school students in the country, with the kind of resume for a lawyer every law firm in the country would want to hire. He has a record that almost everyone would admire.

Then he went to the Southern District of New York, one of the most competitive places, to be hired for training there.

Then he was in the Solicitor General's Office. To those who are not lawyers or who do not keep up with this sort of thing, just being in the Solicitor General's Office might not sound like such a big deal, but those are the plum positions. The way I understand that office, there are a couple of political appointees there—the Solicitor General and his Deputy—and there are about 20 career lawyers. Miguel Estrada was one of those lawyers. They are there because they are not just good, they are the best in America. They have the best resumes. They have been the clerks to the Supreme Court Justices. They are going to be the greatest lawyers. It is the most competitive position in which you can be.

And there he is, Miguel Estrada, coming here at age 17, barely speaking English, making his way into there. He worked there for the Clinton administration and the Bush administration.

Then he went to one of the major law firms of America. And he has argued 15 cases before the Supreme Court of the United States.

That is an incredibly talented record. There is almost no one who has been nominated for any judgeship in our country's history who has a superior record. For anyone to have even suggested for 15 minutes that Miguel Estrada is not superbly qualified to be a member of the United States Court of Appeals—for anyone to even suggest that—it is difficult to see how one could do that with a straight face.

Little has been made about what he did in the Solicitor General's Office. I think it is worth talking about that. These talented young men and women have the job of helping the Solicitor General make decisions about what to do in cases in which the United States is a party. That means they review all the decisions that come against us, the United States of America. They are the lawyers for us, the United States of America.

They write memoranda and they write opinion and they must argue back and forth. And they must argue about every side of every issue. And our friends on the other side have come up with straight-face argument No. 2, which is that somehow Mr. Estrada, who does not even have all those memoranda, should be penalized because the U.S. Government does not want to hand those memoranda, that were exchanged back and forth between the various Solicitor General's assistants, over to the Senate.

We have never done that. There are seven living former Solicitors General of the United States, and seven—all of them—have written a letter to this body saying that has never been done, and it never should be done, for obvious reasons. If it were done, you would never have any straightforward memoranda left in that office. It protects us, the United States. And that never should even be considered to be held against Mr. Estrada.

So is he qualified? It is hard to imagine someone who is better qualified. I consider it a great privilege to come to the Senate and find a President who discovered such an extraordinary person to nominate for the Court of Appeals for the District of Columbia Circuit. Such a story should give inspiration to men and women all over America, that this is the country to which you can come, regardless of race or background or whatever your condition, and dream of being admitted to the best universities, finding the best jobs in a short period of time, and being nominated by the President of the United States for such a court.

What a wonderful story. And what an embarrassing event it is to have our friends on the other side to even take the time of this Senate trying to suggest such a person is not qualified. So let's just throw that argument away and put it in the drawer.

Since that argument did not fly, they then moved to argument No. 2, which is equally difficult to offer with a straight face, if I may respectfully say so. They said he has no judicial experience.

Now, this argument is still being made. I heard the distinguished Senator from New York, last night, in an impassioned address, right over on the other side, say he has never been a judge, and we don't know what his opinions are. Never been a judge—Miguel Estrada cannot be a judge because he has never been a judge.

Well, I am awfully glad that was not the standard that was applied to Justice Felix Frankfurter when President Roosevelt nominated him. He would never have been a judge before he was a Justice of the Supreme Court.

I am glad it was not the standard that was applied to Louis Brandeis before he was nominated to the Supreme Court. I am glad it was not the standard that was applied to Thurgood Marshall, the first African American who was ever appointed to the Supreme Court of the United States. He had never been a judge. And so should Thurgood Marshall have never been a Justice because he had never been a judge?

When I graduated from New York University Law School, the dean came to see me and said I had a chance to be a messenger down in New Orleans for a man that my dean, Bob McKay, said was one of the three or four best Federal judges in the country. His name was John Minor Wisdom, a great man and a great lawyer. He had never been a judge before President Eisenhower appointed him. Neither had Albert Tuttle from Atlanta or John Brown from Texas. The three of them became three of the greatest judges in the South. They presided, having been appointed by a Republican President, over the desegregation of the southern U.S. They were among the greatest judges we have ever had, and they had never been judges.

Of 108 Supreme Court Justices who have been appointed, 43 of those have never been a judge. I have a list somewhere here of judge after judge after judge. Earl Warren; Byron White; Justice Powell; Justice Rehnquist; Justice Breyer; Judge Wisdom's favorite friend on the second circuit, Henry Friendly of New York. He had never been a judge before. Charles Clark; Jerome Frank; John Paul Stevens; Warren Burger; Harold Leventhal; Spottswood Robinson; Ruth Bader Ginsberg, who had never been a judge before she was a Justice. Does that mean she wasn't qualified to sit on this Court?

Why would the other side be taking up the time of the Senate at a time when we are concerned with war with Iraq and the economy is hurting, by making that kind of argument? They would be asked to sit down in any respectable law school in America if they gave that answer. Yet they are here in the Senate trying to persuade us that it makes a point.

In 1980, I appointed George Brown of Memphis as the first African American justice in the history of the State of Tennessee. If George Brown had to be a judge before he had become a justice, I could never have appointed an African American justice, because there were no African American judges at that time. Even today, given the paucity of Hispanics and African Americans and women who are judges, if we were to say that in order for someone to be a judge, before he or she becomes a judge, we would have a terrible, invidious discrimination against men and women who should not be discriminated against, and I am sure my friends on the other side don't want to see that happen.

So even though we have spent days arguing that Miguel Estrada should not be considered because he has never been a judge, that argument has no merit to it whatsoever. We hear it less and less now that it is on the tenth day.

Well, those two arguments didn't fly because here is a superbly qualified person. So they said he didn't answer the questions.

I just had the privilege of hearing the distinguished Senator from California and the distinguished Senator from Minnesota spend a long time talking about that, saying he hasn't answered questions. Well, Mr. President, I am not a member of the Judiciary Committee, but I know they had hearings and I know Members on the other side were in charge of the Senate when they had the hearings. I know the hearings could have gone on as long as they wanted them to because they were in charge. If I am not mistaken, the distinguished Senator from Utah was here. I believe they went on all day long. The hearings were unusually long. Miguel Estrada was there and he answered their questions. Every Senator on the committee had the opportunity to ask followup questions in writing, and two did. The Senator from Massachusetts and the Senator from Illinois did that. Mr. Estrada gave those answers in writing. He has now said to Members of the Senate that he is available for further questions. He will be glad to visit with them.

What does he have to do to answer the questions? Why is there a new standard for Miguel Estrada? Why do we say to him, for the first time, tell us your views in a particular case before we will confirm you? We have tradition rooted in history that it is even unethical to do that. I appointed 50 judges, as I said, when I was Governor. When I sat down with these judges, I didn't ask: How would you rule on TVA and the rate case, or how would you rule on partial-birth abortion, in the abortion case; or what would you do about applying the first amendment to the issue of whether to take the Ten Commandments down from the courthouse in Murfreesboro, TN, or how do you feel about prayer in the schools, or if somebody says a prayer before a football game?

I didn't do that because I didn't think it was right to ask a judge to decide a case before the case came before him, which has been the tradition in this country. We are not appointing legislators to the bench, or precinct chairmen, or think-tank chairmen, or Senators; we are appointing judges. They are supposed to look at the facts and consider the law and come to a conclusion. But they say he didn't answer the questions.

Mr. President, the only way I know to deal with that—because this side says one thing and that side says the other, and since I am not on the Judiciary Committee—is to read the questions and the answers. I wanted to see whether he was asked some questions and whether he gave some answers.

These are the questions and answers, Mr. President. This is the record of the hearing of Miguel Estrada, plus a long memorandum of questions from the Senator from Massachusetts and the Senator from Illinois that he also answered. I will not take the Senate's time to read all of the questions and answers, but since they keep saying he didn't answer the questions, let me give some examples.

The chairman of the committee says:

> Mr. Estrada, we have heard you have held many strongly-held beliefs. You are a zealous advocate. That is great. You know, lawyers who win cases are not the ones who say "on the one hand, this, on the other hand, that." They are zealous. But you also have to make sure, if you are going to enforce the laws, that your personal views don't take over the law. Senator Thurmond has asked every single nominee I have ever heard him speak to—Republican or Democrat—to speak to that effect. What would you say is the most important attribute of a judge, and do you possess that?

A very good question.

Answer:

> The most important quality for a judge, in my view, Senator LEAHY, is to have an appropriate process for decisionmaking. That entails having an open mind, it entails listening to the parties, reading their briefs, going back behind the briefs and doing the legal work needed to ascertain who is right in his or her claims. In courts of appeals court where judges sit in panels of three, it is important to engage in deliberations and give ears to the views of colleagues who may have come to different conclusions. In sum, to be committed to judging as a process that is intended to give us the right answer and not a result. I can give you my level best solemn assurance that I firmly think I have those qualities, or else I would not have accepted the nomination.

"Does that include the temperament of the judge?", asked the chairman.

Mr. Estrada said:

> Yes, that includes the temperament of a judge. To borrow somewhat from the American Bar Association, the temperament of a judge includes whether he or she is impartial and openminded, unbiased, courteous, yet firm, and whether he will give ear to people who have come into his courtroom and who don't come in with a claim about which the judge may at first be skeptical.

The chairman said:

> Thank you.

I submit that is a good answer. I appointed 50 judges and I would have listened to that question. I would give him an A-plus on that.

Here is the Senator from Iowa:

> Before I make some comment, I want to ask three basic questions.

This is in the hearing with Mr. Estrada. This is the man who the other side says doesn't answer questions.

The Senator from Iowa:

> In general, Supreme Court precedents are binding on all lower Federal courts, and circuit court precedents are binding on district courts within a particular circuit. Are you committed to following the precedents of the higher courts faithfully, giving them full force and effect even if you disagree with such precedents?

Mr. Estrada:

Absolutely, Senator.

How could you make a better answer than that? You could either say yes or no. He said yes.

The Senator from Iowa:

What would you do if you believed the Supreme Court or court of appeals had seriously erred in rendering a decision? Would you, nevertheless, apply that decision, or would you use your own judgment on the merits, or the best judgment of the merits?

Mr. Estrada:

My duty as a judge, and inclination as a person and as a lawyer of integrity would be to follow the orders of the highest court.

The Senator from Ohio:

And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to which sources would you turn for persuasive authority?

Mr. Estrada:

When facing a problem for which there is not a decisive answer from a higher court, my cardinal rule would be to seize aid from any place I could get it. Depending on the nature of the problem, that would include related case law and other areas higher courts had dealt with that had some insights to teach with respect to the problem at hand. It could include history of the enactment, in the case of a statute, legislative history. It could include the custom and practice under any predecessor statute or document. It could include the view of academics to the extent they purport to analyze what the law is instead of prescribing what it ought to be, and, in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived.

I give him an A plus for that. That was a good question, and he gave a superb answer, just the kind of answer I think an American citizen who wants to appear before an impartial court in this country would hope to hear. I do not think we want to hear: Welcome to the court, Mr./Ms. Litigant. We have here your Democratic court; we have here your Republican court. If your views are all right, you might get the right hearing. You would want a judge who said what Mr. Estrada said.

The Senator from Massachusetts, who has been extremely critical of Mr. Estrada, asked a more detailed question. Mr. President, you may be wondering why I am going into such detail when this is available to the whole world, including the Senators on the other side. The problem is perhaps someone has not bothered to offer this book to our friends on the other side because they keep coming down here while you and I are presiding day in and day out for 10 straight days and saying Mr. Estrada has not answered the questions. My suggestion is he has answered question after question, and he has done a beautiful job of answering the questions.

Let me take a few more minutes and give examples of answering questions.

The Senator from Massachusetts:

Now, Mr. Estrada, you made the case before the court that the NAACP should not be granted standing to represent the members. As I look through the case, I have difficulty in understanding why you would believe the NAACP would not have standing in this kind of case when it has been so extraordinary in terms of fighting for those—this is the NAACP—and in this case was making the case of intervention because of their concern about the youth in terms of employment, battling drugs, and also voting.

In other words, Mr. KENNEDY was saying: Mr. Estrada, how can you do this when the NAACP is on the other side?

Mr. Estrada's answer:

The laws that were at issue in that case, Senator Kennedy, and in an earlier case, which is how I got involved in the issue, deal with the subject of street gangs that engage in or may engage in some criminal activity. I got involved in the issue as a result of being asked by the city of Chicago——

The last time I checked, the mayor of the city of Chicago was a Democrat, a good mayor, but just so I would not want anyone to think this was a partisan comment——

which had passed by similar ordinance dealing with street gangs. And I was called by somebody who worked for Mayor Daley when they needed help in the Supreme Court in a case that was pending on the loitering issue. I mention that because after doing my work in that case, I got called by the attorney for the city of Annapolis, which is the case to which you are making reference. They had a somewhat similar law to the one that had been at issue in the Supreme Court. Not the same law. They were already in litigation, as you mentioned, with the NAACP. By the time he called me—

This is the lawyer for the city—

he had filed a motion for summary judgment making the argument that you outlined. And he had been met with the entrance into the case by a prominent DC law firm on the other side. He went to the State and local legal center and asked: Who can I turn to to help? And they sent him to me because of the work I had done in the Chicago case. Following that, I did the brief, and the point on the standing issue that you mentioned is that in both Chicago and in the Annapolis ordinance, you were dealing with types of laws that had been passed with significant substantial support from the minority communities. I have always thought that it was part of my duty as a lawyer to make sure that when people go to their elected representatives and ask for those type of laws to be passed to make the appropriate arguments that a court might accept to uphold the judgment of the democratic people. In the context of the NAACP, that was relevant to a legal issue because one of the requirements we argued for representational standing—

Those who might be listening may think this is awfully detailed, awfully specific, awfully long. Mr. President, that is my point. Senator KENNEDY asked an appropriate and very detailed question about an issue involving street gangs in Chicago where Mayor Daley asked Mr. Estrada to help, and Mr. Estrada gave Senator KENNEDY a very detailed, courteous, respectful, specific answer that has taken me 3 or 4 minutes to read, and I am not through yet.

The point is, the other side keeps saying he has not answered questions when he has answered the questions. Not only has he answered them, he has answered them in a way a superbly qualified lawyer with his background might be expected to answer.

The Senator from Alabama:

Mr. Estrada, if you are confirmed in this position, and I hope you will be, how do you see the rule of law, and will you tell us, regardless of whether you agree with it or not, you will follow binding precedent?

Mr. Estrada:

I will follow binding case law in every case. I don't even know that I can say whether I concur in the case or not without actually having gone through all the work of doing it from scratch. I may have a personal, moral, philosophical view on the subject matter, but I undertake to you that I would put all that aside and decide cases in accordance with the binding case law and even in accordance with the case law that is not binding but seems instructive in the area, without any influence whatsoever from any personal view that I may have about the subject matter.

What Mr. Estrada was saying to the Senator from Alabama was: Mr. Senator, with respect, I may not decide this case the way you would like for it to be decided because I will look at the case law and I will follow the case law, and I might even decide this case the way my personal view would decide it if the case law is different than my personal view. In other words, I think Mr. Estrada is giving the answer that most Americans want of their judges, regardless of what party they are in.

I will give a couple more examples, and I do this because this has gone on now 10 days. All I hear from the other side is he will not answer the questions, he is not answering the questions, when, in fact, there is a book full of questions and answers to which I believe law professors in the law school I attended would give a very high grade.

Here is the Senator from Wisconsin:

With that in mind, Mr. Estrada, I would like to know your thoughts on some of the following issues. Mr. Estrada, what do you think of the Supreme Court's effort to curtail Congress' power which began with the Lopez case back in 1995, the Gun-Free School Zone Act. That was a very controversial case. I remember my own view on that. I would have voted against it, even though, obviously, I am for gun-free school zones, but almost every Senator voted for it because they did not want to sound like they were against gun-free school zones, I guess, or whatever the reason might have been, but it was a controversial issue and a hard issue to vote against.

Mr. Estrada:

Yes, I know the case, Senator. As you may know, I was in the Government at the time, and I argued a companion case to Lopez that was pending at the same time and in which I took the view that the United States was urging in the Lopez case and in my case for a very expansive view of the power of Congress to pass statutes under the commerce clause and have them to be upheld by the court. Although my case, which was the companion case to Lopez, was a win for the

> Government on a very narrow theory, the court did reject the broad theory I was urging on the court on behalf of the Government.

In other words, Mr. Estrada was sticking up for the very people who are saying he will not answer their questions. He was there. That was his view, and he talks about it, and he answered the question:

> Even though I worked very hard in that case to come up with every conceivable argument for why the power of Congress would be as vast as the mind could see, and told the court so at oral argument, I understand I lost on that issue in that case as an advocate, and I will be constrained to follow the Lopez case.

Here we are, Mr. President. Mr. Estrada took a position that I would have voted against. I think he is wrong, but he really did not take a position that I would vote against him. He argued a case before the court that made the very best argument he could make, arguing two lines of opinions. What our friends on the other side are saying is, when he writes a brief or argues a case on behalf of the United States, that somehow that reflects the point of view with which they disagree. I disagree with his brief. I would not consider voting against him or anybody else based on that kind of reason, a very complete answer.

Then if I may, I will state two more. Again, I would not normally think it was necessary for me to read the questions and read the answers, except that virtually every Senator from the other side who has come in has said he has not answered the questions, so I want the American people and my colleagues to know that if they want to know whether he has answered the questions all they need to do is go to the hearing record and read the question and read the answer.

Here is a tough one from the Senator from California:

> Do you believe that Roe v. Wade was correctly decided?

There is no more a difficult question for a judge who comes before the Senate, because that is a terribly difficult issue about which we all have deeply held moral beliefs, and for all of us almost there is only one right way to answer the question, unless one believes that what judges are supposed to do is to interpret the law and apply the law to the facts.

Mr. Estrada's answer:

> My view on that judicial function, Senator Feinstein, does not allow me to answer that question.

Then he goes on to explain what he meant.

> I have a personal view on the subject of abortion, as I think you know. But I have not done what I think the judicial function would require me to do in order to ascertain whether the Court got it right as an original matter. I have not listened to the parties. I have not come to an actual case or a controversy with an open mind. I have not gone back and run down everything that they have cited. And the reason I have not done any of those things is that I view our system of law as one in which both me as an advocate and possibly, if I am confirmed, as judge have the job of building on the wall that is already there and not to call it into question. I have had no particular reason to go back and look at whether it was right or wrong as a matter of law, as I would if I were a judge that was hearing the case for the first time. It is there. It is the law, as has been subsequently refined by the Casey case, and I will follow it.

That is a complete answer to the most difficult question that could be asked of a nominee for a Federal judgeship.

> Senator Feinstein: So you believe it is settled law?
>
> Mr. Estrada: I believe so.

As I mentioned, if I understand the committee's rules, every Senator on the committee has the ability to ask followup questions. I know when I was confirmed by the committee they asked me many followup questions and I worked hard answering the questions 10 or 12 years ago when I was in the first President Bush's Cabinet. These are serious questions and serious answers.

Here I think is a revealing question, and one which may give us some idea of why we are in the 10th day of debate on one of the most superbly qualified candidates ever nominated for the court of appeals, a man who exemplifies the American dream. The Senator from Massachusetts, Mr. KENNEDY, asked this question:

> Mr. Estrada, do you consider yourself a "conservative" lawyer? Why or why not? Why do you believe that you are being promoted by your supporters as a conservative judicial nominee? Do you believe that your judicial philosophy is akin to that of Justices Scalia and Thomas? Why or why not?

What Senator KENNEDY is looking for is to find out is this a conservative lawyer. Is the suggestion that we may want conservative decisions or liberal decisions? I thought we wanted fair decisions, based on precedent, based on fact. I thought we wanted judges who it would be impossible for us to tell where they were coming from before they were coming.

The response from Mr. Estrada is very interesting. He said to the Senator from Massachusetts:

> My role as an attorney is to advocate my client's position within ethical bounds rather than promote any particular point of view, conservative or otherwise.

A-plus for that, I would say.

Mr. Estrada says:

> I have worked as an attorney for a variety of clients, including the United States Government, State and local governments, individuals charged with criminal activity.

Are we going to say criminal lawyers cannot be confirmed because they represented people who murdered people and that makes them murderers?

> Large corporations, indigent prisoners seeking Federal habeas corpus, in those cases I have advocated a variety of positions that might be characterized as either liberal or conservative.

Remember, this is from a career employee in the U.S. Solicitor's Office in the Clinton and Bush administrations. This is Miguel Estrada:

> While I am grateful for the wide ranging and bipartisan support that my nomination has received, I have no knowledge of the specific reasons that might cause a particular supporter of my nomination to promote my candidacy for judicial office. As a judge I would view my job as trying to reach the correct answer to the question before me without being guided by any preconceptions or speculations as to how any other judge or justice might approach the same issue.

If all of the Senators would take the time to read Miguel Estrada's answers, some of them might end up in a textbook of appropriate answers, if they believe a judge's job is to apply precedent and consider the facts and come to a fair decision.

Miguel Estrada is qualified, and he is not just qualified, he is one of the most qualified persons ever nominated for the Federal court of appeals. If he, by his very candidacy, represents the American dream that anything is possible, coming here from Honduras at age 17 and making his way through such a distinguished series of appointments, if he has answered the questions in what I would argue is a superior way, the way most nominees would be capable of answering the questions, and I have read just a few of them—I can come back and take another 2 or 3 hours and read more because there are hours of questions and answers—and if a majority of Members of the Senate have signed a letter saying they would vote to confirm him, then why can we not vote on Miguel Estrada?

The only reason can be that our Democratic friends want to change the way judges are selected. They want to say it takes 60 votes instead of 51, and they want to say the criteria for winning those votes is to answer the questions the way they want.

That will give us a Federal judiciary filled with partisans, or an empty Federal judiciary because we will be debating night after night because we cannot agree on whom to nominate and confirm. Such a process, if carried on in subsequent Congresses, will diminish the executive. It will diminish the judiciary. It will reduce the likelihood that facts will be considered and that binding precedent will apply. In other words, it will reduce the chance that justice will be done. It will reduce respect for the courts because it will be assumed that if partisan views on the case are what it takes to get confirmed by the Senate, then partisan views are what it takes to win a case before the court.

It reminds me of the story we tell at home about the old Tennessee judge. He was in a rural county up in the mountains and the lawyers showed up for a case one morning. He said: Gentlemen, we can save a lot of time. I received a telephone call last night. I pretty well know the facts. All you need to do is give me a little memorandum on the law.

We do not want a judiciary where those who come before it believe the judges got their political instructions when they were confirmed and that there is really no need to argue the case.

So Miguel Estrada is superbly qualified. Miguel Estrada has answered question after question, and he has done it very well. A majority of the Senate has signed a letter saying they are ready to vote today to confirm Miguel Estrada, and never in our history have we denied such a vote by filibuster to a circuit court judge. It is time to vote.

Before I finish my remarks, I make this pledge. I may be here long enough, and I hope it is a while, before I have an opportunity to cast a vote for a nominee for a Federal judgeship that is sent over by a Democratic President, but I can pledge now how I will cast my vote. It will be the same way I appointed 50 judges when I was Governor. I look for good character. I look for good intelligence. I look for good temperament. I look for good understanding of the law and of the duties of judges. I will look to see if this nominee has the aspect of courtesy to those who come before the court. I will reserve the right to vote against some extremists, but I will assume that it is unnecessary and unethical for the nominee to try to say to me how he or she would decide a case that might come before him or her. When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide.

In plain English, I will not vote to deny a vote to a Democratic President's judicial nominee just because the nominee may have views more liberal than mine. That is the way judges have always been selected. That is the way they should be selected.

I conclude in equally plain English, and with respect, I hope my friends on the other side of the aisle would not deny a vote to Miguel Estrada just because they suspect his views on some issues may be more conservative than theirs.

These are the most serious times for our country. Our values are being closely examined in every part of the world. Our men and women are about to be asked, it appears, to fight a war in another part of the world. How we administer our system of justice is one of the most important values they are defending. We need to constrain our partisan instincts to get them under control. We need to avoid a result that changes the way we select judges. In my view, we permanently damage our process for selecting Federal judges.

The PRESIDING OFFICER. Before the Senator from Vermont is recognized, the Chair congratulates the Senator from Tennessee for his initial speech in this body.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I was about to congratulate the junior Senator from Tennessee on the same thing.

I am sorry that my good friend from Tennessee—whom I admire greatly; we worked together when he was in the President's Cabinet; we worked on many different things—I am sorry it happens to be a speech where he and I are on different sides. It was done with his usual care and cogency. He spoke to his experience, both as a former Governor with a distinguished record, a former Cabinet member with a distinguished record, one who served in business with a distinguished record. I appreciate having him here.

Sometimes debate can get rancorous and personal. To hear someone who takes a position, albeit different from mine, who does it with care, reflecting his past experience—I compliment the Senator from Tennessee.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Vermont.

Mr. LEAHY. Mr. President, we have heard a lot about Mr. Estrada and whether he has or has not answered questions. Obviously, I believe he has not. The President of the United States again today asked the Senate to do something that no President of either party should ask for. He asked the Senate to vote without having straightforward answers for a nominee for a lifetime position as a Federal judge on one of the most significant courts of this country.

That is not something that would help the Federal judiciary, but instead would set a dangerous precedent that would lessen the independence of the Federal judiciary. When a nominee does not answer basic questions, the Senate clearly has a constitutional responsibility to ask for the answers.

Mr. Estrada will not answer basic questions about his judicial philosophy, yet he has asked the Senate to confirm him to a lifetime job to the second highest court in the land where that judicial philosophy will determine, in many instances, which way that court will rule. That court affects every single American in countless ways through its decisions on everything from clean air and water to the rights of working men and women, from voting rights to all other civil rights law that protect minorities.

Becoming a Federal judge for a lifetime is a privilege, not a right. No nominee should be rewarded for stonewalling the Senate and the American people. The Constitution directs Senators to use their judgment in voting on judicial nominees, not to rubberstamp them.

The Democratic-controlled Senate confirmed a record 100 of President Bush's judicial nominees, acting faster and more fairly than the Republicans did with President Clinton's nominees. We began the process of the first hearing within 10 minutes of the time I became chairman of the Senate Judiciary Committee.

But President Bush has also proposed several controversial nominees, such as Miguel Estrada, who divide the American people and the Senate. The President can end this impasse. I hope he will act to give Senators the answers they need to make informed judgments about this nomination. The President can also help by choosing mainstream judicial nominees who can unite instead of divide the American people. The White House knows very well how easily and quickly they can bring this matter forward for a vote. They would rather make a political statement than to have a vote on a nomination.

Especially at a time when we have so many other issues before us—it has been said a record number of Americans are out of work—when a record number of jobs are being lost in this country, when more jobs are being lost under the President than any President, certainly in my lifetime, we are going to spend week after week in the Senate regarding an extremely highly paid lifetime job for one person.

It would seem a little bit more fair to those who do not have lifetime jobs, to those who are not paid this amount, to the millions of Americans who have lost jobs during the last 2 years, to talk about ways of putting them back to work. I hope the President will pay attention to that.

I said more people have lost jobs during his Presidency than during the Presidency of certainly every President I have served with, and I believe any President in my lifetime.

We should be talking about preserving prescription drugs. Senator FEINGOLD will introduce the Preserving Prescription Drug Discount Act tomorrow. I am pleased to be an original cosponsor of this important legislation. It will address an issue of great concern to me and to so many of the moderates. American drug companies threaten to stop doing business with Canadian pharmacies. How does this affect us? Every one of us who is in a State that comes along the Canadian border is affected. This legislation is a response to the announcement by pharmaceutical giant GlaxoSmithKline to stop supplying Canadian pharmacies that provide American consumers the same prices the Canadians receive.

It is a sad commentary that the richest, most powerful nation on Earth has so many of our citizens who are forced to choose between buying necessities such as food and heat and the prescription drugs they need to live healthy, productive lives. Many Vermonters in these difficult circumstances cross the border into Canada to purchase prescription drugs at dramatically lower prices, sometimes saving up to 80 percent. There is a need for lower cost prescription drugs. It is unconscionable that at a time when pharmaceutical industry profits are soaring, a company such as Glaxo targets the most vulnerable consumers in order to protect what is for them a very large bottom line.

When we have 45 million Americans, most of them working Americans, who do not have medical insurance in this country, we have millions out of jobs and who have lost their jobs in the last 2 years, we ought to at least stand up and tell this pharmaceutical giant: Do not cut off this lifeline.

Vermont is so often at the forefront of developing innovative strategy to combat high health care costs, including announcing a partnership with Michigan and Wisconsin to buy prescription drugs in bulk. This will save the residents of these three States millions of dollars, and it is a step in the right direction toward making prescription drugs more affordable for our citizens.

Unfortunately, for the same consumers, Glaxo's new proposal represents a giant step backward. Both chambers of the Vermont State Legislature responded swiftly and passed a resolution regarding Glaxo's troubling plan, urging the company to reverse its policies. The Vermont lawmakers even went so far as to suggest it may consider requiring all of Glaxo's prescriptions to be considered through a review process before they could be prescribed to State-funded programs.

The Preserving Prescription Drug Discounts Act that my friend, Senator FEINGOLD, will introduce tomorrow, goes one step further than the Vermont House's recommendation.

Under this bill, companies that discriminate against Canadian pharmacies that pass along discounts to American consumers would not be allowed to deduct expenses related to research and development from their taxes.

Glaxco's policy would punish American consumers. There is no other way to describe it. It is not a policy that American taxpayers should support with Government benefits such as tax credits when they openly act to punish American consumers. We American consumers are also American taxpayers and should not have to give them even further benefits.

I hope the quick passage of this measure will prompt Glaxco to reconsider its policy. It is a wrong policy. It is a mean policy. It is an irresponsible policy. I hope other companies will think twice before copying such a mean and irresponsible policy.

We have a responsibility to take the steps necessary to ensure that our citizens have access to health care, including prescription drugs they need and deserve.

I have worked over the years to ease access to generic drugs, to ensure privacy for individuals' medical records, and to continue to work to ensure that our seniors and individuals with disabilities would soon have a voluntary prescription drug benefit as part of Medicare.

The health care challenges facing our Nation are complex. The solutions are not easy. It may take some time to find the necessary solutions to these challenges. In the meantime, we must embrace the issues we can promptly address. That is what the Preserving Description Drug Discounts Act will do. I hope other Senators will join in supporting Senator FEINGOLD.

Mr. President, as I said, I think it is unfortunate. This matter could easily be resolved. The White House is uninterested in doing that.

The President's Counsel almost derisively dismissed a suggestion made by one of the respected senior Republicans in this body for resolving this issue. It makes me think they do not want to bring this to a vote. They would rather talk about bringing this to a vote. That does very little for either the independence of the Federal judiciary, and certainly the question of the independence of the Senate.

At times I get the impression the White House considers the Senate some kind of a constitutional nuisance to be ignored. It is almost as though they issue marching orders, and the Senate should fall in line, from how we should organize on through.

Presidents come and go. I respect all the Presidents and admire their willingness to lead our great country. But the Senate stays here long after any individual President. We either fulfill our obligations of advice and consent or we become a rubberstamp. Prior to my becoming chairman, for 6 months the Republican majority of that time did not hold a single hearing on any of President Bush's judicial nominees. In 17 months I held hearings on 103, we confirmed 100, and voted down 2. That is on top of hundreds upon hundreds of other nominees for everything from U.S. Marshals to the Director of the INS to the head of the Drug Enforcement Agency to the U.S. attorneys. It was pretty productive.

When I listen to some of the statements being made by my friends on the other side, you would think we did nothing. Maybe they are thinking of the months upon months upon months when they would not move any judges for President Clinton and do not want to look at the fact that we were moving them almost every week. We had to, during 17 months. During those 17 months we had recesses, adjournments, anthrax attacks, the Senate being closed down after September 11. We kept turning out these judges.

Many were controversial. Most were conservative. We kept turning them out. Maybe to obscure the fact that we were moving President Bush's judges much faster than the Republicans moved President Clinton's, when we actually dared vote against one, the attacks that came. We were misquoted for our reasons. We had a judge who was defeated basically on questions of competence and willingness to follow the law. The Democrats who voted against him had all kinds of motives ascribed to them. We were told we called him a racist, even though I heard Democratic Senator after Democratic Senator say they did not consider him that. We had the religion of the majority of Members, Democratic Members in the Senate, attacked—including high officials of the Republican Party attacked the religious backgrounds of at least 8 members of the 10 members, Democrats in the Senate Judiciary Committee. But nobody, nobody wanted to discuss the fact that this particular judge was voted down because he was not qualified to be a circuit court of appeals judge.

These are the kinds of things. It is almost like no good deed will go unpunished. The Democrats moved through judges much faster for President Bush than Republicans did for President Clinton, and we are the ones being called obstructionists.

Mr. Estrada's short legal career has been successful. By all accounts he is a good appellate lawyer and legal advocate who has had a series of prestigious positions and is professionally and financially successful. As the grandson of immigrants, as a son, a father and grandfather, I know that no matter the country of origin or economic background, a family takes pride in the success of its children. Mr. Estrada's family has much to be proud of in his accomplishments, regardless of the outcome of this nomination.

Mr. Estrada, who is now 41 years old, has a successful legal career at a prominent corporate law firm, which was the firm of President Reagan's first Attorney General William French Smith and that of President Bush's current Solicitor General Ted Olson. I am told that Mr. Olson, along with Kenneth Starr have been among Mr. Estrada's conservative mentors. At his relatively young age, Mr. Estrada has become a partner in the law firm of Gibson, Dunn & Crutcher having previously worked with the Wall Street law firm of Wachtell, Lipton, Rosen & Katz. While in private practice his clients included major investment banks and health care providers. Mr. Estrada's financial statement, which Senator HATCH inserted into the CONGRESSIONAL RECORD, says that he earned more than $500,000 a year two years ago and makes him look like a millionaire. At his hearing, Mr. Estrada testified: "I have never known what it is to be poor, and I am very thankful to my parents for that. And I have never known what it is to be incredibly rich either, or even very rich, or rich." I will let his financial statement speak for itself on that point.

Mr. Estrada appears to be a highly successful and well-compensated lawyer in a first-rate law firm. As I say, his family and friends surely take pride in this success, and rightly so.

In the almost six years he has been with Gibson, Dunn & Crutcher, with its thriving appellate court practice and the successful Supreme Court practice developed by his senior partner Ted Olson, who was confirmed to be Solicitor General in June 2001. Mr. Estrada has apparently had only one argument before the Supreme Court, however. That was in connection with a habeas petition on which he worked pro bono when he first came to the firm. This is also one of the only pro bono cases he has taken in his entire legal career.

I would also note his role developing legal arguments and writing briefs on behalf of Governor Bush following the 2000 election that resulted in a 5 to 4 majority of the United States Supreme Court's intervention to halt the counting of ballots in Florida and resulting in the selection of President George W. Bush. This information failed to make it into Mr. Estrada's Judiciary Committee questionnaire and list of top 10 legal matters. We know about his involvement in that case because the Puerto Rican Legal Defense and Education asked him about it and included reference to it in their extensive report on this nomination.

Much has been said of Mr. Estrada's time working in the Office of the Solicitor General at the Department of Justice. I understand he was hired for that role by Kenneth Starr when he was the Solicitor General for the first President Bush in 1992. It was in that government post which Mr. Estrada continued during the first term of the Clinton administration in which he had 14 opportunities to argue before the Supreme Court. Of course, one of the principal functions of the Solicitor General's Office is to argue for the Government in behalf of the Supreme Court, and in fact argues more than anybody else. So it is no surprise when attorneys do so.

But there comes the rub. Mr. Estrada's supporters make much of his four and a half years in the Solicitor General's Office and say this qualifies him to an appointment to the DC Circuit. The work that he did, according to the supporters in the Solicitor General's Office, ipso facto qualifies him for appointment to the District of Columbia Circuit. But when we ask, Can we see the work he did? Oh, no, no. Take our word for it.

Interestingly enough, when I asked Mr. Estrada during the first meeting we had whether he had any objection to turning over the material and the work he did, he said no. He would be glad to. He is proud of it. It reflected his views. He would be glad to turn it over. When he was asked during the hearings whether he would be willing to turn it over, he personally would be willing to do so. He was under oath and he said certainly. But the administration says no.

The Administration is seeking to have it both ways: Credit Mr. Estrada with the experience while forbidding the Senate from reviewing for itself what he did in that government job. Given the public comments of a former Deputy Solicitor General and Mr. Estrada's direct supervisor at the Office of Solicitor General, as well as the lack of a written record of Mr. Estrada's views and judicial philosophy and Mr. Estrada's failure at his hearing to satisfy Senators by responding to their questions, there is ample basis on which to request the production of government work papers from the time during which Mr. Estrada was in the Solicitor General's Office. There is also ample precedent for such papers being shared with the Senate in the past.

It makes you wonder why they won't show us Mr. Estrada's paperwork. The same paperwork that was made available during the Carter administration. It was made available during the Reagan administration: It has been made available actually every time the Senate Judiciary Committee has asked for it.

The Democratic leader pointed out the way to resolve the stalemate in his February 11, 2003, letter. It is curious. We asked for materials of cases long since decided. We are not asking for material on a pending case. Certainly, if there is material on a pending case, I would be willing to listen to an argument to hold that back. But how can we argue to hold back on material on a case long decided?

When similar requests were made of material written by William Rehnquist, it was forthcoming. When similar requests were made for material written by Robert Bork, it was forthcoming. When similar material was requested written by Benjamin Civiletti, who became Attorney General, it was forthcoming. When similar material was requested for the nomination of William Bradford Reynolds, it was forthcoming. When similar material was requested for the nomination of Steven Trott, it was forthcoming. But then when it is requested of Mr. Estrada—and this is the only time I can remember such a request being turned down—it is turned down.

Again, you have to ask why. What is in there that they don't want us to see?

Take the public comments of a former Deputy Solicitor General, Mr. Estrada's direct supervisor at the Office of Solicitor General, as well as the lack of a written record of Mr. Estrada's views and judicial philosophy and Mr. Estrada's failure during hearings to satisfy Senators by responding to their questions, then there is ample bases on which to request products of Government workpapers during the time in which Mr. Estrada was in the Solicitor General's Office—papers put together and being paid for by the taxpayers in a job which the administration now says shows why he is entitled to be in this lifetime position. There is ample precedent for such papers being shared with the Senate in the past.

I cannot think of a time when the papers were requested when the administration turned them down.

Professor Bender, Mr. Estrada's supervisor at the Office of the Solicitor General, indicated that when he was supervising Mr. Estrada he did not view Mr. Estrada as reading the law fairly. He viewed Mr. Estrada as one whose personal views and desires colored his readings and presentations of the law, and as someone who might well be an ideologue to be appointed to the bench.

I would think if Senators are going to be fair about this nomination, whether they are Republicans or Democrats, they would want to know the answer to that before they put somebody in a lifetime position.

Mr. SANTORUM. Mr. President, will the Senator yield for a question?

Mr. LEAHY. I would prefer not to until I finish these comments.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Thank you.

But the reason we say this, if this work is what qualifies him, then we ought to know what he did in this work.

Now, Professor Bender, Mr. Estrada's supervisor, is reported to have stated that Mr. Estrada was so "ideologically driven that he couldn't be trusted to state the law in a fair, neutral way." He stated that he "could not rely on [Mr. Estrada's] written work to be a neutral statement of the law." He also indicated that he viewed Mr. Estrada as "smart and charming, but he is a right-wing ideologue" and one who "lacks judgment."

Now, this is somebody who has actually seen his work. Unlike those of us who are not allowed to see it, he has seen it.

Veteran Supreme Court lawyer Carter G. Phillips has also noted that Mr. Estrada, while "extremely self-confident" is a "more strident personality" than the other current nominee for this court, John Roberts.

In fact, when Professor Bender ventured these honest opinions, he suffered partisan attacks by Republicans. Similar to what happened to those of us on the Democratic side on the Judiciary Committee, who had our religion attacked by Republican officeholders because we dared to vote against one of President Bush's nominees, Professor Bender was attacked because he dared to question one of President Bush's nominees.

He was maligned for serving as the general counsel to a commission appointed by President Nixon. He was maligned for legal positions taken by the Clinton administration. Republicans have chosen character assassination and demonization of Professor Bender. Their approach is to deny access to Government records and to seek to destroy anyone who would raise a concern about Mr. Estrada's ideology affecting his legal work.

To his credit, Professor Bender was not intimidated by these personal attacks. He wrote to Chairman Hatch reaffirming his views just days ago. He also did this because he found that he was being misquoted time and time again on the floor of the Senate, and he wanted us to know exactly what his views are.

Contrast this to what the Senate Democrats are trying to do. We would like to get to the merits of the matter. The administration has responded by stonewalling our request. They have attacked us for our attempts to reach a fair resolution of this matter.

I would like to have the papers. I would like to have a hearing where we could ask questions from the papers, where we actually know what is in these things that they say substantiate the reason for Mr. Estrada's nomination.

The administration wants to have it both ways. They say, if you saw these brilliant writings, then you would want him to be a judge. So we say: Fine, let's see the writings. They say: Oh, no, you can't see them. Take our word.

You can't really have it both ways. If this is what shows he is qualified to be a judge, then let us see what is in it and then let us make up our own minds. Then Senators can vote for or against, but at least they will know what it is based on.

One major person in his department says he is not qualified. We are not relying on that. We would like to see the papers and make up our own mind.

One of the significant questions raised by this nomination is whether Mr. Estrada will be a fair judge without a political agenda. To ascertain that, let's review his work when he was serving in a position of trust for the United States, paid for by the American taxpayers.

I believe it is fair to explore whether Mr. Estrada stated the law in a fair and neutral way while asked to do so in the Solicitor General's Office. Remember, the Solicitor General is not just an advocate before the U.S. Supreme Court. The Solicitor General is that unique person, in arguing before the U.S. Supreme Court, who is expected—by the Court and by the American people—to state the law objectively.

I have heard the Solicitor General before the U.S. Supreme Court—in years past, and even from my days in law school—saying things to the effect: Here is the law that would uphold the position of the Government, but the Court should be aware that there is another body of law on the other side. They are supposed to state it fairly and impartially so the Court can rely on them.

Having said that, we have somebody in the Solicitor General's Office preparing this material so that the Supreme Court can be given an objective, fair, and evenhanded view of the law. Isn't it fair game to ask whether that person fulfilled their duty in the Solicitor General's Office? Isn't it fair to ask, when they prepared such material, whether they did it in a fair, evenhanded fashion? Or did they do it in an ideological manner? Did they do it to carry out an agenda?

I think it is a particularly significant question. We are faced with a nominee for a lifetime appointment to a Federal court, and to a Federal court as important as the D.C. Circuit. Usually when somebody is being nominated to such an important court, they have been a judge, they have been a district court judge, they have had a position where you have been able to see how they interpret the law and how they use it, and whether they did so fairly.

That is not the case here. Here we have one place—one place—where by law, custom, and practice he is required to state the law in an evenhanded fashion, not ideologically driven but impartially driven. And the one place where we can ask whether he did that or not, the administration says: Trust us. He did, but we will not show you.

I remember that wonderful saying that President Reagan made up, to the great surprise of the Russians, because he said it was a Russian saying it; but, still, it is a wonderful saying, where he said: Trust but verify. Well, I am tied at the hip with former President Reagan on this one. I will trust, but I would like to verify. I would like to verify.

I think Senators should have the opportunity to review for themselves the documents Mr. Estrada wrote and make their own independent judgments about Mr. Estrada's writings and his ability to apply the law without regard to strongly held personal beliefs.

Objectivity and openmindedness are crucial to appellate deliberations and decisionmaking. This is an area where we could answer that question. We can answer the question. In the Office of the Solicitor General there is a requirement to be objective, not ideological, a requirement to be straightforward and not political. But we are not allowed to see whether he fulfilled that requirement. Don't you think we should at least ask if it was there?

If he had been a district judge before, and had written opinions, which would show whether he was objective and evenhanded, wouldn't we say, let's read them? I cannot imagine any Republican or Democrat saying we would not read them before we made up our mind.

Well, he was not a district judge. But he was in a position where he was required to be nonideological, where he was required to be honest, where he was required to be straightforward, where he was required to be nonpolitical, and we are not allowed to see that record.

Let's see the record. Let us ask questions about it, especially in this case, where one of the people who has looked at the record—one of his supervisors—questions whether he was objective. Isn't that something we should determine? In a job where he was required by law, by practice, and by custom to be objective and nonideological, and intellectually honest, if you have somebody who says he was not, so shouldn't we know that? Because if that is the case—when he is there just for a term—how much worse will it be if it is a lifetime position?

Let's have those papers. Let's ask the questions. Then let Senators make up their minds. I am never going to vote for a judge if I cannot have the answers. I remember when President Clinton had nominees held up here for 2, 3, 4 years. My friends on the Republican side asked question after question. Some were legitimate, some were not. I remember one being asked how she voted on a secret ballot in a State election. I think we can all agree that is a question nobody should be asked—how they vote in an election in a State. But we waited year after year, and they said they must have these answers. Shouldn't we?

I heard that Mr. Estrada was editor of the Harvard Law Review. Some have gone so far as to make it seem as if he was editor in chief or president of the review. That would be pretty impressive. Actually, he was one of 70 student editors working at the Harvard Law Review in 1986. That should be impressive enough. I think most law students would say that is pretty darn impressive. But you don't have to embellish it, as some of his supporters have, and make it far more than what it was. I am impressed that he was 1 of 70. You don't have to embellish it to say he was the No. 1 editor in chief.

We have a lot of people who fall into that category. Claire Sylvia, who worked for a time at our Senate legal counsel's office, was one of those editors. I never remember her claiming to be the editor in chief.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. Yes.

Mr. REID. Did I hear the Senator right that all these statements I have heard on the Senate floor that he was the editor—in fact, he was one of 70 editors?

Mr. LEAHY. Yes, 70.

Mr. REID. That is a distinction, but it is not the editor in chief.

Mr. LEAHY. That is what I am saying. We have had a lot of people who worked for the Senate and for our committees and worked for various Senator's offices who have been one of those 70. It is a proud achievement. I keep worrying when we are seeing somebody gilding the lily on this person, when we see his background and his history change constantly to make it better and better. Well, he has things to be proud of, but you wonder why his supporters have to constantly change it and embellish it.

Jeff Toobin, who has become a journalist, author, and legal commentator, was a student editor there that year. Actually, the supervising editor, who had a far more significant position, was none other than Elena Kagan. I mention this because my friends on the other side said that Mr. Estrada's being one of the 70 editors is reason to be on the court. Elena Kagan was a supervising editor. Now, that is really significant. Professor Kagan is a Harvard law professor. Professor Kagan served as Mr. Estrada's supervising editor, got the highest qualification by the ABA; and based on those qualifications, President Clinton nominated her to the DC Circuit.

I mention this because so much has been made by those on the other side, who say even if you are one of the 70 editors, and got a high qualification from the ABA, that should be enough. Elena Kagan was a law professor and was a supervising editor. She was nominated by President Clinton, but guess what happened. The Republicans never allowed her to even have a hearing, to say nothing of a vote. She was humiliated, not even allowed to have a hearing, to say nothing about a vote.

I worry when I hear Mr. Estrada's supporters talk about his family history. I was impressed when talking to him about his family. But I remember the first stories, and you have heard them repeated here. You almost thought he was a barefoot immigrant coming to America, unable to speak English, and so on and so forth. Actually, he grew up in a relatively wealthy and privileged household. His parents sent him to private school in Honduras, where the annual cost was almost the same as the annual per capita income for most Hondurans during that period.

According to news accounts, his late father was a prominent and politically conservative lawyer who helped found the country's first private university and was also a bank vice president.

I recall that the Honduran Ambassador took time out from his busy schedule last fall to attend a Judiciary Committee hearing, which made me think about the rumors that had circulated that Mr. Estrada's family included relatives who had been on the country's diplomatic corps. I understand his mother was a successful accountant in her own right. She should be proud of that. She is the daughter of a teacher-diplomat. Mr. Estrada completed 12 years of primary and secondary education at a private academy and at a university where he studied English. These are all commendable things—but a lot different than the image we are given.

Again I ask, why not just tell the story as it is? Why not tell the story straightforward and show us the papers straightforward? Why do you have to constantly embellish things? That is why when I am told by the administration: Just trust us, we have looked at the papers and he was objective and honest and nonideological, take our word for it—I haven't been able to take their word for much in this case so far. Why should I take it for something that they don't want me to see?

We do know some things about him. According to news accounts, after one of his mentors, Kenneth Starr, left the Office of the Solicitor General, he said Estrada was "left working for a Justice Department whose views he didn't always agree with."

While at the Solicitor General's Office, Estrada did argue 14 cases before the Supreme Court, primarily criminal matters, but sometimes in the area of banking law. It is worth noting that Seth Waxman was not listed as Solicitor General on the briefs of any of those cases and, apparently, did not directly supervise his work.

When he joined Gibson, Dunn & Crutcher and worked with Ted Olsen, Mr. Estrada gave interviews in which he defended Ken Starr's investigation of President Clinton. He has a right to do that. Some of us would question the $75 million to $100 million that was wasted on the investigations, but Mr. Estrada felt they were well worthwhile. He helped on then-Governor George Bush's litigation over the election results in Florida. He went on to the Justice Department transition team.

I outline this personal history because some partisans have taken liberties with Mr. Estrada's personal and professional background in order to try to make his case more compelling. There is no doubt that Mr. Estrada is a rising star in conservative legal circles. He is a Federalist Society member and has been mentored by Kenneth Starr and Ted Olson.

Certainly, he has a right to be involved with the Federalist Society. There is nothing wrong with that. In fact, he should probably use the membership.

One judicial nominee at his hearing was honest and said he hadn't really heard of the Federalist Society. But he was told if he wanted to be a judge with this administration, he better go join it. He did and he is a judge. It worked for him. In this case, it has served him well, as it has a number of other executive branch nominees.

This organization is sometimes mischaracterized as a mere debating society, and, as I said, one nominee was very honest while under oath and said: Yes, he was told to join it.

They say about themselves:

> The Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians interested in the current state of the legal order.

They state one of their goals is the "reordering of priorities within the legal system" and its objective "requires restoring the recognition of the importance of lawyers, judges, and law professors."

I am not sure how Mr. Estrada plans to reorder priorities and values if he is confirmed as a judge, but we know he has strongly held views he will not share with us. Again, we go back to the one area where he is required to be objective, not ideological, and nonpolitical, and that it in the Office of the Solicitor General. But those writings we are not allowed to see. Those writings would show if he is able to be nonideological, nonpolitical, and straightforward because he is required to in the Solicitor General's Office, but they will not show us what he wrote.

What worries me is that a man who has had so many embellishments made on his record by his supporters, when his supporters question everything from the religion to the biases of those who dare question him, it makes one wonder why do they hide this.

In his hearing testimony, Mr. Estrada did admit "having made some pretty ruthless assessments and the legal views of some [government] agencies which I'm glad to say were sometimes vindicated in the courts later. . . ."

He did not tell us what those assessments were. He did not say which cases vindicated his views. We are left to wonder whether given the awesome power of a lifetime appointment as a Federal judge that he would act on his own "ruthless assessments" or on the facts, the litigants, and the law before him.

His friends and supporters acknowledge that Mr. Estrada has strong conservative views. In fact, they acknowledge far more than Mr. Estrada himself. His classmate Arturo Corrales, a former Presidential candidate in Honduras, said Mr. Estrada's socially conservative views were already evidenced when he was a teenager, including his opposition to abortion. Other colleagues acknowledge his strong views as well. His former law school classmate, Ron Klain, supports him even though Mr. Estrada is "politically conservative" and "has passionate views about legal policy." His former colleague Robert Litt supports Mr. Estrada's confirmation, even though he disagrees with his "legal philosophy."

They do so, however, with the luxury of knowing what Mr. Estrada's views of the Constitution are. That is a luxury that 100 Members of this body do not have. Mr. Estrada refused to share those views with those entrusted by the Constitution with determining whether he should be accorded the power of a lifetime Federal judicial appointment. The Senate wants to know before making that decision whether he can be trusted to apply the law fairly and impartially without regard to his deeply held ideas and views, whatever they may be. It is hard to imagine that he would freely cast his views aside and be objective in a court when he will not even tell us what they are.

Members of the Congressional Hispanic Caucus who met with him noted that Mr. Estrada "did not demonstrate a sense of inherent 'unfairness' or 'justice' in cases that have had a great impact on the Hispanic community."

They noted that, in their view, the "appointment of a Latino to reflect diversity is rendered meaningless unless the nominee can demonstrate an understanding of the historical role courts have played in the lives of minorities in extending equal protections and rights."

Similar concerns have been raised by the Latino Vermonters and many others. For example, the Puerto Rican Legal Defense and Education Fund—this is a national civil rights organization concerned with advancing the civil and human rights of the Latino community, also submitted a strong statement of opposition, and they reviewed all his available writings.

They conducted dozens of interviews with individuals who have studied and worked with Miguel Estrada, and well as those who lived in the same communities with him. They also surveyed news reports and public materials concerning Mr. Estrada.

They also interviewed Mr. Estrada. They noted that "a number of his colleagues have said unequivocally that Mr. Estrada has expressed extreme views that they believe to be outside the mainstream of legal and political thought."

They go further to say that he has "made strong statements that have been interpreted as hostile to defendants' rights, affirmative action, and women's rights."

They also expressed concern about his temperament. They interviewed people who described him as "arrogant and elitist" and that he "harangues his colleagues" and "doesn't listen to other people." In their interview, Mr. Estrada was not even tempered and was "contentious, confrontational, aggressive and even offensive in his verbal exchanges" with them.

After a thorough review, the Puerto Rican Legal Defense and Education Fund concluded that Mr. Estrada was not sufficiently qualified for a lifetime seat on the Nation's second highest court, and then the PRLDEF said "that his reportedly extreme views should be disqualifying; that he has not had a demonstrated interest in or involvement with the organized Hispanic community or Hispanic activities of any; and that he lacks the maturity and judicial temperament necessary to be a circuit judge."

Similarly, the Mexican American Legal Defense and Education Fund, MALDEF, and California La Raza Lawyers, CLRL, have expressed "serious concerns about whether Mr. Estrada would fairly review issues that came before him. MALDEF and CLRL said:

> [I]t is unclear whether he would be fair to Latino plaintiffs as well as others who would appear before him with claims under the first amendment, the fourth amendment, the fifth amendment, and due process clauses in the U.S. Constitution. Further, we found evidence that suggests he may not serve as a fair and impartial jurist on allegations brought before him in the areas of racial profiling, immigration, and abusive or improper police practices where those practices are adopted under a "broken window theory" of law enforcement. We have concerns about whether he would fairly review standing issues for organizations representing minority interests, affirmative action programs, or claims by low-income consumers. We are also unsure, after a careful review of his record, whether he would fairly protect labor rights of immigrant workers or the rights of minority voters under the Voting Rights Act.

These are leading Latino organizations that say that about him.

We have heard from numerous chamber of commerce-related organizations and Republican organizations expressing support, the same Republican organizations able to send five people to Vermont to talk about him. They were really silent when other Latinos were nominated to the court by President Clinton. There are Latino judges out there; 80 percent of the Latinos on the courts of appeals now were appointed by President Clinton. There actually would have been several more, but they were blocked by the Republicans. They were not allowed to have hearings, they were not allowed to have votes, and none of these Republican organizations that are suddenly concerned about the plight of Latinos came forward when one after another was blocked by the Republicans during the Clinton administration.

The spokesperson for the newly minted Coalition for a Fair Judiciary—I love these terms—explains that organization is made up of 70 or more conservative organizations, arose from a similar group called Americans for Ashcroft and is supportive of President Bush's judicial nominees because of their ideology.

We are not allowed to question ideology, but the supporters say because of their ideology they should be confirmed.

Diversity is one of the great strengths of our Nation, and that diversity and background should be reflected in our Federal courts. I only wish some of these same conservative organizations suddenly available today were interested in diversity when President Clinton's minority women nominees were being delayed and derailed by Senate Republicans between 1996 and 2001. They were nowhere to be found or worse yet, arguing for delay, obstruction and defeat of those qualified Hispanic, African-American and female nominees.

Race or ethnicity and gender are, of course, no substitutes for the wisdom, experience, fairness, and impartiality that qualify someone to be a federal judge entrusted with a lifetime appointment. White men should get no presumption of competence or entitlement. Hispanic and African American men and women should not be presumed to be incompetent. All nominees should be treated fairly.

When one gets down to the bottom line, the burden of proof of suitability for lifetime appointment rests on the nominee and the Administration. We must carefully examine the records of all nominees to high offices, but we know the benefits of diversity and how it contributes to achieving and improving justice in America. As Antonia Hernandez wrote in the Wall Street Journal: "The fact that a nominee is Latino should not be a shield from full inquiry, particularly when a nominee's record is sparse, as in Mr. Estrada's case. It is vital to know more about a nominee's philosophies for interpreting and applying the Constitution and the laws." Members of the Congressional Hispanic Caucus has said much the same thing.

Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we vote to confirm have a commitment to upholding the Constitution, following precedent, and listening to claims without fear or favor. When a President is nominating individuals to tip the balance, stack the deck, or to pack the courts with ideologues, the Senate would be abdicating its responsibilities to ignore the very criteria that led to selection of such a nominee.

So, when some organizations come forward and say they are supporting a nominee because of their ideology, they cannot at the same time say we should not ask about that ideology. When the supporters come forward and say his brilliant writings in the Solicitor General's Office qualify him to be a judge, they cannot then in the next breath say, but you cannot see what those brilliant writings were, you have to take our word for it.

Under our Founders' design, the political branches share the power of appointment: the President has the power to nominate or propose judges, but the Senate has a corresponding power to confirm or reject those nominations.

That is one of the ingenious checks and balances of our federal system. If a nominee's record, or lack of a record, raises doubts, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's record relating to fairness, impartiality, bias, experience, or other matters.

Unlike elected officials, these are lifetime jobs, so the Senate Judiciary Committee must undertake an inquiry to be assured that a nominee should be confirmed to high office. When there is no judicial experience to look to, it is all the more critical that the Committee inquire fully into a nominee's experience, record, views and understanding of our fundamental rights.

Now, Chairman Hatch is saying precisely the same thing I am saying. The difference is, he said this speaking to the Federalist Society. He said this when President Clinton was nominating the judges, not when President Bush was nominating them.

In 1997, he told the Utah Chapter of the Federalist Society that "the Senate can and should do what it can to ascertain the jurisprudential views a nominee will bring to the bench in order to prevent the confirmation of those who are likely to be judicial activists. Determining who will become activists is not easy since many of President Clinton's nominees tend to have limited paper trails . . . . Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views." In the case of Mr. Estrada, however, the nominee has refused to provide us many answers at all about the types of jurisprudential views referenced by Chairman HATCH.

Sauce for the goose, Mr. Chairman, sauce for the gander. You were right then. I take the same position today. I am right.

The difference is, President Clinton's nominees turned over those papers.

Most Americans want nominees who will be fair and impartial judges. An independent judiciary is the people's bulwark against a loss of their freedoms and rights. I think the rights at stake are simply too important to take a chance on a lifetime appointment to this high court, to make a decision we cannot reverse, if Mr. Estrada were to turn out to be the activist and ideologues that many of those who have heard him speak candidly. What little record we have calls into question whether he would be neutral referee or an advocate and activist from the bench.

In closing, he had a job in which he was required by law, by custom, by practice, to be impartial and nonideological. He wrote extensively in that taxpayer-funded job where he was required to be nonideological, impartial, straightforward, but he will not show what he wrote.

We are told by the administration, trust us. We have looked at it. He is impartial. We say, then let us see it. Ah, you say, well, then you are a racist, or you have a religious bias, or whatever might be the reason of the day. We have heard so many misstatements from the other side about Mr. Estrada, let's go to the one thing that can be looked at objectively: His writings.

It can be done. A distinguished member of the other party has suggested that it be done. The White House ought to listen to him and they should stop saying opposition to the nomination of Miguel Estrada is anti-Hispanic. We have risen in this Chamber day after day to demonstrate why this is false, referring to, among other things, the numbers of well-known and well-respected Latino organizations who also oppose this nomination.

We have introduced into the record letters from organizations such as the Mexican American Legal Defense Fund, opposed to Mr. Estrada; the Southwest Voter Registration and Education Project, opposed to Mr. Estrada; the Puerto Rican Legal Defense and Education Fund, opposed to Mr. Estrada; a letter from 52 Latino labor leaders, opposed to Mr. Estrada; the Puerto Rican Bar Association of Illinois, opposed to Mr. Estrada. Each one of these explain their thoughtful and principled opposition to Mr. Estrada's nomination.

Today we received another letter from another Latino organization expressing its opposition to the Estrada nomination. The Hispanic Bar Association of Pennsylvania has written that it, too, opposes Mr. Estrada's confirmation to the U.S. Court of Appeals for the DC Circuit. The Hispanic Bar Association of Pennsylvania did not come to this decision lightly.

As the letter says, they created a special committee on judicial nominations. They developed a process to review candidates for the Federal judiciary. They examined Mr. Estrada's record. They considered a variety of factors in their evaluation. They even asked Mr. Estrada to come meet with them. In the end, they conclude they must oppose him. I respect what must have been a difficult decision, but I think letters from the Hispanic Bar Association of Pennsylvania and all these other Latino organizations in opposition to him show that the opposition is not just because he is Hispanic.

I ask unanimous consent that the letter be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISPANIC BAR
ASSOCIATION OF PENNSYLVANIA,
Philadelphia, PA., January 28, 2003.

Re nomination of Miguel A. Estrada.

Hon. PATRICK J. LEAHY,
U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR HONORABLE SIR: I am writing on behalf of the Hispanic Bar Association of Pennsylvania (HBA) to inform you that we oppose the appointment of Miguel Angel Estrada to the United States Court of Appeals for the District of Columbia Circuit. For the reasons that follow, we urge you to vote against Mr. Estrada's confirmation.

The HBA recognizes that Mr. Estrada's nomination was pending for some time prior to his hearing before the Senate Judiciary Committee on September 26, 2002. Nevertheless, it was the Hispanic National Bar Association's public endorsement of this candidate that prompted our organization to initiate its own evaluation of Mr. Estrada.

To that end, the HBA created a Special Committee on Judicial Nominations to develop a process for reviewing and potentially endorsing not only Mr. Estrada, but also all future candidates for the Judiciary. As part of the process, we contacted Mr. Estrada, asked to interview him, and invited him as a guest of the HBA to meet the members of our organization. Mr. Estrada, for stated good cause, declined our invitations. Notwithstanding Mr. Estrada's non-participation, the Committee completed its work and reported its findings to the HBA membership on November 14, 2002. Following the Committee's recommendation, the membership voted not to support Mr. Estrada's nomination.

The HBA recognizes and applauds Mr. Estrada for his outstanding professional and personal achievements. Indeed, the HBA adopts the American Bar Association's rating of "well-qualified" with regard to Mr. Estrada's professional competence and integrity. However, employing the ABA's seven established criteria for evaluating judicial temperament, the HBA finds Mr. Estrada to be lacking. Our organization could find no evidence that Mr. Estrada has demonstrated the judicial temperament required by a nominee for such an important and sensitive judicial position. In addition, the HBA seeks to endorse individuals who have "demonstrated awareness and sensitivity to minority, particularly Hispanic concerns." Sadly, we also could find no evidence of this quality in Mr. Estrada.

The HBA shares the concern of the President of the Judiciary Committee that only the best-qualified and most suitable individuals be appointed to the federal bench. Furthermore, the HBA appreciates the efforts, as evidenced by Mr. Estrada's nomination, to consider and promote members of the rapidly growing Latino population to positions of high visibility and importance. However, we believe that there are a myriad of other well-qualified Latinos whose integrity, professional competence, and judicial temperament would be beyond reproach and who would therefore be better suited for this position.

The Hispanic Bar Association of Pennsylvania regrets that it cannot support the nomination of Mr. Estrada to the United States Court of Appeals for the District of Columbia Circuit. We respectfully request that you oppose the confirmation of his nomination.

Respectfully submitted,
ARLENE RIVERA FINKELSTEIN,
President.

Mr. LEAHY. I see my good friend, the distinguished chairman, on the floor. I hope he has had a chance to go out and get a bite to eat, as we have been doing. He certainly deserves it.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 459 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I ask unanimous consent that the distinguished Senator from Ohio speak next for 15 minutes, the distinguished Senator from Oklahoma speak after that for 5 minutes, and then I be yielded the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today to speak on behalf of the nomination of Miguel Estrada to the DC Circuit Court of Appeals. I had intended to finish my remarks this evening by reading an editorial from the Washington Post. I have listened patiently to the distinguished Senator from Vermont, and I would like very much to quote from the Post editorial because it is looked upon as one of the most objective papers in the United States of America. Some of my colleagues think it has a liberal tilt to its editorial policies. This is a February 18th editorial from the Washington Post:

> The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic Filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.
>
> Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.
>
> Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

We all know of Mr. Estrada's illustrious background. I will not rehash his stellar credentials. We have already heard many of our colleagues come to the floor and tell what I refer to as the "only in America" story about Estrada's unprecedented rise from his home in Honduras to his current position as a partner with one of Washington's distinguished law firms.

My colleagues on the other side of the aisle have leveled many complaints against Mr. Estrada, including that he has not had enough judicial experience. I note the following: 26 circuit judges had no judicial experience when they were nominated by President Clinton; they were all confirmed. Of the 108 individuals who have served on the Supreme Court, 43 had no judicial experience at all. In fact, in the entire history of the Supreme Court of the United States, 8 of the 16 chief justices in America's history had no prior judicial experience. Of those justices appointed in the last 50 years, Justices William Rehnquist, Lewis Powell, Jr., Abe Fortas, Arthur Goldberg, and Byron White had no prior judicial experience when appointed to the Supreme Court.

On the circuit court to which Mr. Estrada has been nominated, five of the eight judges had no previous judicial experience before taking the bench, including two Clinton nominees and one Carter nominee.

On the other hand, Miguel Estrada has a combined level of appellate and trial experience that far exceeds that of the average court of appeals nominee. Mr. Estrada's experience even exceeds that of many Supreme Court nominees. He has argued 15 cases before the U.S. Supreme Court, both criminal and civil. He has tried 10 cases as a prosecutor, argued 7 cases before the U.S. court of appeals for the second district, as assistant U.S. attorney for the southern district of New York.

I emphasize to my colleagues the American Bar Association has rated Estrada well qualified, a rating that my colleagues on the other side of the aisle have called the gold standard. I heard before: Your nominees, Mr. President, are going to have to reach the gold standard of the American Bar Association. Judge Estrada has met the gold standard of the American Bar Association.

My colleagues have also launched criticism at Mr. Estrada for not turning over documents—I heard that this evening several times—that he worked on while he was employed by the Office of the Solicitor General. What they do not mention is that these documents are confidential. These confidential memos were not requested of the seven previous nominees to the court of appeals who had worked in the Solicitor General's Office.

In addition, and I think this is very important, every living Solicitor General, both Democrat and Republican, signed a joint letter to former Judiciary Committee chairman, Senator LEAHY, stating that fulfilling this request would have a debilitating effect on the ability of the Department of Justice to represent the United States before the Supreme Court.

Mr. VOINOVICH. This is a very bad time to delay the appointment of judicial nominees. Our Federal courts are in crisis. The U.S. courts of appeals are currently 15 percent vacant, even as case filings in those courts reached an all-time high in 2002. Chief Justice Rehnquist has warned that this high vacancy level, coupled with the rising caseload, threatens the proper functioning of the Federal courts.

Currently, there are 14 courts of appeals pending nominees, 12 of whom were nominated in 2001 and have been waiting for over a year for a vote in the Senate. The most egregious example is the Sixth Circuit, which includes Ohio, where 6 of the 16 seats are open and classified as judicial emergencies. Of these six vacancies, two, Jeff Sutton and Deborah Cook, have been pending since May 2001, nearly 2 years, and three others have been pending since November 2001, over 2 years. The fact is, we do have a crisis in the judiciary in the United States of America.

Now, let's look at the record. When Senator HATCH was chairman during the Clinton administration, he considered more than one circuit nominee at 11 different hearings. But not once during the 107th Congress did the Democrats hold a hearing on more than one circuit court nominee at a time. The result is we fell behind in the confirmation of circuit nominees.

Presidents Clinton, Reagan and the former President Bush all received confirmations for their first 11 circuit nominees well within 1 year of the nominations. This is in stark contrast with the treatment afforded to President George W. Bush. Only 3 of his first 11 circuit nominees were confirmed within 1 year of their nomination. And only 5—fewer than half—were confirmed during the entire 107th Congress. That's terrible.

My friend Senator HATCH is an extraordinary man. After so much repetition of the same arguments, I'm amazed that he can even stand up.

As Senator HATCH has highlighted in the past, during Democrat control of the Senate in 2001-2002, only 17 Bush circuit court nominees reached the floor for votes. In three of the cases in which they did go to the floor—the nominations of Julia Smith Gibbons, Richard B. Clifton, and Lavenski R. Smith—cloture motions were filed and the motions easily carried.

However, and this is very important, none of those cloture votes was in response to a genuine effort to filibuster a nominee. Rather, cloture petitions were filed as a Senate time-management device.

If the Estrada nomination is permanently blocked by a filibuster, the political baseline shifts forever.

To understand just how extraordinary the current situation is, one only needs to examine the Senate's record of judicial confirmations. The first filibuster of a judicial nominee that resulted in a cloture vote was in 1968. Since then, the Senate has confirmed approximately 1,600 judicial nominations—the vast majority of these, nearly 1,500, occurred without even a roll call vote, as most are confirmed by unanimous consent.

Indeed, of those 1,600 judicial nominations confirmed by the Senate since 1968, only 14 were subject to a cloture vote. And with the exception of the bipartisan 1968 filibuster of Abe Fortas' nomination to be Chief Justice of the United States, the Senate has never blocked by filibuster a judicial nominee to any court—Never.

The rejection of Abe Fortas to serve as Chief Justice of the United States marked the first and only time the Senate has rejected a President's judicial nominee by way of a filibuster. Yet Miguel Estrada presents none of the concerns that caused a bipartisan coalition of Senators to block Justice Fortas' elevation to chief justice.

Given the Senate's historical unwillingness to filibuster nominees—even Supreme Court nominees—it is not surprising that the Senate has never blocked by filibuster a nominee to any lower court. Furthermore, the Senate has never blocked—by a partisan filibuster—any judicial nominee. As I noted, the only rejection-by-filibuster was the case of Justice Fortas, which was bipartisan. There is no precedent in the Senate of a filibuster conducted solely by one Party to deny the President his judicial nominee.

The stakes here are much greater than the fate of a single judicial nominee. At issue is whether the Senate should reinterpret its constitutional advise and consent obligation to require 60 rather than 51 votes to confirm a judicial nominee. This is a position the Senate has never taken in the context of lower court nominees, and one which Republicans have avoided.

To adopt a new standard would fundamentally alter the balance of power between the administration and the Senate in the judicial confirmation process. It also would seriously erode the comity that has existed between the two branches in the past.

In effect, we're playing games with the administration of justice, acting without regard for the problems of the Judiciary. If Senators filibuster Mr. Estrada's nomination to the DC Circuit, and if that filibuster results in the rejection of the nomination, Democrats will have forced a permanent change to the political and constitutional landscape. This in essence, would create a completely new process and would, in effect, allow Senators to deny any judicial nominee their right to a vote.

Due to the numerous delays in the Estrada vote, the crisis in the Federal courts continues and the Senate can't attend to our pressing legislative business. Our country has serious problems today and they require serious and thoughtful consideration in the Senate. The stalling games that are being played here are really hurting the judicial process and to a larger and greater extent the Nation itself.

While we wait for the minority to make up its mind, we cannot accomplish any meaningful debate on the country's pressing problems. These are hard times for Americans and my constituents ask me: Do you guys in Washington get it? Do you get it? Do you understand what is going on?

We are involved in a war on terrorism abroad and at home. The economy is sputtering. The President of the United States has more on his plate than perhaps any President in my memory. Some say he has more on his plate than FDR, some say Abraham Lincoln. Our constituents believe we are behaving like Nero, fiddling around while Rome was burning. They continue to ask, don't you get it? Is the Emperor wearing any clothes?

All of us in this body have priority concerns, yet during this stalemate, no one's legislation is moving ahead. Consideration of urgent matters that I would like to be addressed, such as prescription drugs/Medicare reform, medical lawsuit abuse reform, asbestos litigation reform, human capital, the energy bill at a time when the cost of natural gas is skyrocketing, or the accelerating deficit.

I know I am not the only Senator who is concerned about these issues and I know some of my colleagues have other priority concerns. At present, no one is winning anything by this stalemate and the important concerns of the American people are being held hostage.

This is bigger than a delayed vote on Miguel Estrada. As U.S. Senators we need to act like adults. We need to come together and create a unanimous consent agreement on how we will handle the approval of judges from now on. We have to find a way to reach agreement.

If my colleagues on the other side of the aisle persist in opposing Mr. Estrada, they will have a hard time explaining to their constituents why they voted against him since he has met, and I dare say surpassed, the "gold standard" they asked for by the American Bar Association. They also would be hard-pressed to explain why his nomination has been held up for so long without a vote.

I've been receiving letters from my constituents who think the U.S. Senate is holding up this vote because Mr. Estrada is Hispanic. My Hispanic constituents think he is being used as the whipping boy and they are furious. I don't think some of my colleagues realize what this means to a minority community. In Ohio, I appointed Jose Feliciano as the first Hispanic police commissioner because he was the best candidate, but the Hispanic community was very proud and excited. The Hispanic community was so proud that one of their boys made it. Can you think of what an impact it had on the young people that a Hispanic made it to be the police commissioner.

I remember when I appointed Ken Blackwell to be the treasurer of the State of Ohio, the first African American to serve as the treasurer of the State of Ohio, a constitutional office, and how much it meant to African Americans in our State that someone could hold a constitutional office. They had an inspiration. I came up during the years of Carl Stokes, the first African American mayor of the city of Cleveland, and I remember the impact it had on young people in Cleveland and all over America that an African American could be a mayor of a major city. I remember Frank Lousche, who was the mayor and Governor of the State of Ohio, and Senator, who was a Slovenian—when I was 12 years old, how much it meant to me to see Frank Lousche, Slovenian, get to be mayor, and then Governor. By that time he wasn't even a Senator. But it inspired me and other people of my nationality to say if he can do it, I can do it.

There is more to it here. In this case I think my colleagues should understand, particularly my colleagues on the other side of the aisle, this is a good man. He has the qualifications. There is not any reason why we should not allow a vote on this particularly wonderful human being who will make a difference if he has a chance to serve on the bench here in the DC District.

In addition to that, it will mean so much to Hispanics all over the United States that one of our boys made it.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma has 5 minutes.

Mr. INHOFE. Mr. President, I can relate to the remarks of the Senator from Ohio. He and I had the honor of sharing the same position of mayor of a major city. It happens I started—maybe you did—the first Hispanic commissioner in the city of Tulsa. We had a sister city in Mexico, Ciudad de San Luis Potosi. They would come up there once a year for this big exchange program. I can remember standing there in front of all of our citizens, our Hispanic citizens of Tulsa, saying: Como Acalde de la ciudad de Tulsa, yo quiero decir Bien venidos, bien venidos a la ciudad. Creemos la Ciudad de San Luis Potosi es la ciudad mas hermosa de todas las ciudades del mundo.

Their faces shined and they realized we were participating in their culture and they in ours. They asked me the question last week, and I asked the distinguished Senator from Utah, What do we say to them when we go back and talk to them? Why won't they give us a chance, give one Hispanic a chance at a high office?

They asked me that question and I did not have a very good answer for them. But they said, You know, there are a lot of us out here who really do care. They said, Why don't you kind of visit with us a little bit.

Muchos Hispanos estan eschuchando ahora. . . Y Yo Quiero Decir.

Por desgracia, hay personas en el señado que no quieren escuchar a ni una palabra de la verdad.

Yo invito a la comunidad hispana para llamar a sus senadores para insistir en los derechos de Miguel Estrada y en la confirmación de Miguel Estrada como juez.

Llame los senadores, todos los senadores, especialmente los senadores, de los estados de CA, FL, NY, LA, AR y NM. Llame ahora y pregúntalos, <<Porque no les gusta hispanos?>> Es su misión. Llame ahora! Los Estados Unidos necesitan un hispano . . . y eso hispano es Miguel Estrada.

Vaya, vaya a llamar imediamente. Los hispanos quien estan escuchando ahora pueden hacer la diferencia.

Gracias Mis Amigos.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). Under the previous order, the Senator from Utah has the floor.

Mr. HATCH. Mr. President, I have been here 27 years. I have been on the Judiciary Committee 27 years. I have literally seen 1,500, 1,600 judges confirmed—most all of them without even a debate, just by unanimous consent. I have seen very few judges given a rough time and hardly anybody given the rough time that Miguel Estrada is being given here on the floor. I have never seen anybody in the history of the Senate—in all of my studies of the history the Senate—filibuster a circuit court of appeals nominee—never, not once. I have never seen even where there have been cloture votes for management purposes or whatever else—certainly not a filibuster purpose—I have never seen a circuit court of appeals nominee pulled down because of a filibuster—never.

Why this double standard? Why is Miguel Estrada, with all his credentials—and on the other side of the aisle they admit he has exceptional credentials, including their gold standard, the American Bar Association's most well qualified standard, the highest rating anybody can possibly have—why is it that this double standard is being used against this Hispanic nominee to one of the most important courts in the country, this Hispanic nominee who is by all intents and purposes and by all measure the embodiment of the American dream?

Mr. FRIST. Mr. President, will the Senator yield for a question?

Mr. HATCH. I would be delighted to without losing my right to the floor.

Mr. FRIST. Is the Senator from Utah aware of any argument against the confirmation of Mr. Estrada that he does not have the academic credentials to suggest that he will be a fine judge?

Mr. HATCH. Of course not. They could not. Mr. Estrada graduated magna cum laude from Columbia University after coming from Honduras. He was 4 years old when his parents divorced in Honduras. He was 17 when he came to this country, speaking very little English. He taught himself English. He graduated magna cum laude from Columbia University, and then he graduated magna cum laude from Harvard where he was an editor of the Law Review—one of the highest positions you could have in the law school. Of course not. There is no way they can say he doesn't have the academic credentials to do this job.

Mr. FRIST. Will the Senator yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. FRIST. Mr. President, the Senator from Utah has been reviewing the records of judicial nominees for 27 years. Does the Senator know of many lawyers who have argued 15 cases before the Supreme Court, as has Mr. Estrada?

Mr. HATCH. Of course not. Few lawyers have. Few nominees for judgeships have in the history of this country. That is what makes me so livid—to see lesser legal minds writing partisan letters suggesting he is not a qualified nominee. It drives me nuts, to be honest with you. Few lawyers in America have argued 1 case before the Supreme Court, let alone 15.

By the way, Miguel Estrada has a handicap. He has a disability. He has a speech impediment. Yet he has risen to the top of the legal profession in appellate advocacy and oral advocacy with a speech impediment. Nobody can match that.

Mr. FRIST. Mr. President, will the chairman of the Judiciary Committee yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. FRIST. We know in fact that the American Bar Association has given Mr. Estrada its highest rating—in fact, unanimously well qualified. Does the Senator know if the Senate has ever obstructed a vote on any nominee recommended to the Senate by the Judiciary Committee who has received an ABA rating of unanimously well qualified?

Mr. HATCH. I do not recall anyone who has had this difficulty—in fact, anyone with that type of a rating who has not gone through the Senate once reported by the Judiciary Committee, and the fact that the Democrats are doing this now is outrageous.

Mr. FRIST. Will the Senator yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. FRIST. Will the Senator agree that the opposition mounted against Mr. Estrada is not about his qualifications?

Mr. HATCH. No. How could it be?

Mr. FRIST. If the Senator will yield for a question——

Mr. HATCH. Without losing my right to the floor.

Mr. FRIST. Is the Senator aware that it has been suggested a double standard is being applied to this nominee with requests being made that have never been applied to any other nominee? Does the Senator have any explanation for this?

Mr. HATCH. I agree with the distinguished majority leader that there is a double standard being applied to Miguel Estrada. I don't want to particularly conjecture at this point as to the motive. But a double standard is generally being applied, and it is not fair.

Mr. FRIST. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. FRIST. The chairman of the Judiciary Committee is a constitutional law scholar and knows the rules and the practices of the Senate. My question is, Has he ever seen a filibuster used against an appellate court nominee?

Mr. HATCH. Not a true filibuster. There have been cloture votes as a Senate management device but not a true filibuster. There has never been a true filibuster used against a circuit court of appeals nominee, no, and certainly not against a circuit court of appeals nominee to the Circuit Court of Appeals for the District of Columbia.

Mr. FRIST. Will the Senator yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. FRIST. Does the Senator from Utah share my concern that what they are doing in filibustering Miguel Estrada is harmful to the institution of the Senate and its advise and consent responsibilities?

Mr. HATCH. I have never been more concerned. We are in danger of actually breaking the system. We are in danger of doing lasting harm to the Senate, its procedures, and to the President of the United States, and to the judiciary; to the executive branch because, if this filibuster goes through, that means that on controversial nominees—and my colleagues on the other side treated all of the Bush circuit court nominees as controversial—that means you have to have 60 votes. That would apply to both sides of the floor should they get the Presidency. It is a very dangerous thing and something we just definitely should not allow to come to fruition.

Mr. FRIST. Will the Senator yield for one last question?

Mr. HATCH. Without losing my right to the floor.

Mr. FRIST. Mr. President, the Washington Post has repeatedly and emphatically called on the Democratic leadership to stop these demands for confidential memoranda. I was wondering if the Senator had seen the Washington Post editorial from last September that said, "Seeking Mr. Estrada's work product as a government lawyer is beyond any reasonable inquiry into what sort of judge he would be. Nor is it fair to reject someone as a judge because that person's decision to practice law rather than write articles or engage in politics makes his views more opaque."

Does the Senator agree that these demands go beyond any reasonable inquiry and are instead a gimmick and an attempt to prevent this nominee from ever getting a vote?

Mr. HATCH. Absolutely. The tactic is to demand documents that they know the administration cannot give because the precedent would be so earthshaking because these are privileged documents, and then filibustering and claiming they are filibustering because they can't get the documents. And when they don't get them—it is just typical of what they have been doing—they flaunt what really is proper procedure.

Then they have not only asked for documents but his record, Miguel Estrada's recommendations while at the Solicitor General's Office for appeals, certiorari matters, and amicus curiae matters.

Never in the history of this country has anyone given those documents out of the executive branch to the Senate or to anybody else. And they should not, because it would deter and affect and, in many respects, destroy the work of the Solicitor General, the attorney for the people of this country.

Mr. DEWINE. Mr. President, will the Senator from Utah yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. DEWINE. It is my understanding there is substantial opportunity, following hearings, to submit followup questions in writing. I wonder if the Senator from Utah would tell me whether that is correct or not.

Mr. HATCH. Absolutely. Not only did they hold one of the longest hearings in history for a circuit court appeals nominee—conducted by them, which they said was fair, where they had the privilege of asking every question they wanted or even extending the hearings if they did not believe they got answers to those questions—but afterwards they had a right to submit written questions.

And, by the way, only two people did, the distinguished Senator from Illinois and the distinguished Senator from Massachusetts, Mr. DURBIN and Mr. KENNEDY.

By the way, I do not believe Senator DURBIN was even there during the hearings to ask questions. And yet I have seen, time after time, the distinguished Senator from Illinois take the floor and talk about the nonanswers that were supposedly given.

I refer all of my colleagues to the speech made earlier by the distinguished Senator from Tennessee Senator ALEXANDER. He blew that contention that Miguel Estrada did not answer these questions into oblivion. I recommend everybody in this country read that speech because he actually showed the A-plus answers that Miguel Estrada gave to Democrat and Republican questions. And they were thorough. They were answers that would make anybody proud. They were answers that any judicial nominee would be proud to do. And, frankly, he answered them better than almost any judicial nominees I have seen in the last 27 years.

Mr. DEWINE. Mr. President, will the Senator from Utah yield for an additional question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. DEWINE. So would the Senator from Utah agree, if a Senator thought that he or she did not have enough information at the hearing about Mr. Estrada, or had additional questions that he or she wanted to have answered, they could have submitted additional questions?

Mr. HATCH. No question about it. They were given the right to submit additional written questions, and only two Senators did.

By the way, the administration has even gone further than that. They said: Look, we will present Miguel Estrada to any Democrat Senator who wants to ask him questions in their personal office on a personal basis. They have gone to great lengths for this wonderful nominee.

Why is it—I ask my distinguished friend and all others who are listening—that this Hispanic nominee is being given the business like he is? Why is it that we have this double standard? It is one of the most difficult things for me to see. It is one of the most difficult things to understand.

Mr. DEWINE. Mr. President, I say to my distinguished colleague from Utah, I wonder if you would yield for an additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. DEWINE. I want to make sure I understand. I ask my colleague whether or not Mr. Estrada did, in fact, answer the questions?

Mr. HATCH. He answered the questions. Now, he may not have answered them the way some of my colleagues wanted him to. It was apparent they were trying to get him ensnarled. It reminds me of the Biblical days when the pharisees would try to ensnarl Jesus Christ. They would ask these questions, trying to ensnarl Him and make Him look ridiculous in front of the people.

It was almost that bad in committee. He answered every question. Unfortunately, for them, he answered them precisely the way most Democrat nominees did; and that is, instead of going into how he would rule on matters that would come before him later in the court, he basically said: I will obey the law. I will sustain the law. I will follow the law regardless of my own personal views.

That is what the Democrat nominees have said. And that is a correct answer. And it is a very good answer. His answers were more literate, more scholarly, more persuasive, in many of the questions that were asked than I have seen in most nominees.

Again, I ask, why the double standard in this case? Why don't we recognize how great this young man is and allow him the same privileges that we have given to countless Democrats during the Clinton years when we confirmed 377 Clinton nominees to the Federal court—the second all-time highest confirmation rate in history, only 5 below the highest, and that was Ronald Reagan, who had 382?

Mr. DEWINE. Mr. President, will my distinguished colleague from Utah yield for an additional question?

Mr. HATCH. Without losing my right to the floor.

Mr. DEWINE. It is my understanding that the ABA conducted its own very thorough investigation of Mr. Estrada before they decided to give him their highest possible rating, well qualified.

Could the Senator from Utah tell me whether or not that is correct?

Mr. HATCH. That is correct.

Mr. DEWINE. Mr. President, I wonder if my colleague will yield for an additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. DEWINE. Now, the ABA has expressly stated it does not evaluate a nominee's ideology because it "restricts its evaluation to issues bearing on professional qualifications." But the ABA does investigate a nominee's openmindedness and freedom from bias.

Could the Senator from Utah tell me whether it seems unreasonable to believe that the ABA would have unanimously given Mr. Estrada its highest rating if it thought he would use his judicial role to advance his personal ideology?

Mr. HATCH. There is no way they would have, no way in this world. In fact, there are plenty of Democrats, and I might add, partisan Democrats, who do not act in a partisan way—and neither do the Republicans—on that standing committee. In fact, if I recall it correctly, there are more Democrats on the committee than Republicans. And they all unanimously gave Miguel Estrada the highest rating that the American Bar Association can possibly give.

Keep in mind, my colleagues on the other side of the floor said that the American Bar Association rating is the gold standard, it is the thing that makes the difference as to why they will vote for people. And "qualified" is normally enough to vote for anybody. Here is a man who has been rated unanimously "well qualified" by both Democrats and Republicans on the standing committee, who I think are doing a good job on that committee.

I have been critical of the committee in the past, but I think during the last few years of the Clinton administration, and up to today, that they have been doing a good job.

Mr. DEWINE. Mr. President, I wonder if my distinguished colleague will yield for an additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. DEWINE. Can the Senator from Utah tell me whether I am correct in understanding that, despite the assurances of those who have worked with Mr. Estrada, and the unanimous affirmation of the ABA, some of our colleagues continue to be unconvinced that Mr. Estrada would be an unbiased interpreter of the law?

Mr. HATCH. I do not see how any colleague could remain unconvinced of that. He will be. He will follow the law. He has said he will follow the law. He said he would uphold precedent. He said he would do what is right regardless of his own personal beliefs.

That is all you can ask of any of these nominees. And he has answered those questions absolutely accurately, the way the Clinton nominees answered those questions.

Why—again, might I ask—is there a double standard with regard to this Hispanic nominee? Why is there? I cannot see any reason for it.

Mr. DEWINE. Mr. President, I wonder if my colleague will yield for one additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. DEWINE. I have really tried to understand where some of our colleagues are coming from with their adamant opposition to this extraordinarily well-qualified nominee. The most common criticism has been that there is some concern about whether they know what his personal views are.

I wonder if the Senator from Utah could address that and perhaps remind us again of what Mr. Estrada's supervisors at the U.S. Solicitor General's Office have said about Mr. Estrada's ability to separate his personal views from his analysis of the law.

Mr. HATCH. Well, he worked for both the Clinton administration and a Republican administration. And he got the highest raves and performance evaluations by both administrations, meaning that he worked in a bipartisan way with both administrations. Unfortunately, in order to create a red herring issue that they can hide behind, our colleagues on the other side have demanded his recommendations while at the Solicitor General's Office—the attorney for the U.S.A., for us citizens, the private, privileged memoranda, his recommendations on appeals on matters involving certiorari and on matters involving amicus curiae. There has never been such a move. To my knowledge, the Justice Department, the Solicitor General's Office has never—nor will it ever—give up those documents because they are privileged executive branch documents.

I cannot help but believe our colleagues on the other side know as much about that as I do. They know that is absolutely accurate, and I am just suggesting this is a red herring issue so that they can hold up this nominee with a filibuster, of all things—the first in history.

Let me just go further on that because it is a very important issue, the only issue they seem to have. I hate to say it, but some of our friends in the media ignore the fact that the seven living former Solicitors General wrote a letter to Chairman LEAHY that says this:

> We write to express our concerns about your present request that the Department of Justice turn over appeal recommendations, certiorari recommendations, and amicus recommendations that Miguel Estrada worked on while in the Office of the Solicitor General.
>
> As former heads of the Office of—

By the way, of these seven former Solicitors General—the only living ones—four of them, or better than 50 percent, are Democrats. Three he worked for. They said:

> As former heads of the Office of the Solicitor General under Presidents of both parties, we can attest to the vital importance of candor and confidentiality of the Solicitor's decisionmaking process.

I will read a couple other thoughts here:

> It goes without saying that when we made these and other critical decisions, we relied on frank, honest, and thorough advice from our staff attorneys, like Mr. Estrada. Our decisionmaking process required the unbridled, open exchange of ideas, an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure. Attorneys inevitably will hesitate before giving their honest, independent analysis if their opinions are not safeguarded from future disclosure.
>
> High-level decisionmaking requires candor, and candor, in turn, requires confidentiality.

Remember, four of these seven are Democrats. The other three are Republicans. All of them are together in this, though.

> Any attempt to intrude into the office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the United States litigation interest, a cost that also would be borne by Congress itself. Although we proudly respect the Senate's duty to evaluate Mr. Estrada's fitness for the Federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process.

This is signed by Seth B. Waxman, on behalf of himself, Walter Dellinger, Drew Days—three Democrats—Kenneth Starr, Charles Fried, and Robert H. Bork, all Republicans, and Archibald Cox, of course, a Democrat—four Democrats and three Republicans. That speaks for itself. I hope it puts to bed this phony red herring argument that has been lodged by the other side. It is phony, wrong, and should not be given the time of day. I call on the media to start being responsible with regard to these matters.

Mr. CRAIG. Mr. President, will the chairman of the Judiciary Committee yield for a question?

Mr. HATCH. I will, without losing my right to the floor.

Mr. CRAIG. Mr. President, the Chicago Tribune has strongly condemned the filibuster the chairman is speaking to tonight. So has the Chicago Sun-Times. Those papers don't agree on a lot of things, but one thing they are now agreeing on is that a filibuster is a bad idea. The Tribune said, regarding this confidential memo request that you have just referred to:

> Anyone who wants a glimpse into Estrada's thinking can scrutinize the briefs he wrote and the oral arguments he made.

The Sun-Times wrote:

> Our legal system cannot and must not be held hostage to political nitpicking.

It agrees with President Bush that this would be a shameful event.

Now, I know the Senator from Illinois is not in the Chamber now, but as you referenced him a moment ago, he has been in the Chamber quite often demanding these briefs be turned over. You are the chairman of the committee. At the time you were the ranking member and were there—I was not, as I am a new member of the Judiciary Committee. I was not there during the core investigation and questioning of Miguel Estrada. Can you tell me if the Senator from Illinois was there and if he asked any questions at the time? He seems not to know about this man.

Mr. HATCH. My recollection is that he was not at the hearing and he didn't ask any questions. He and every Democrat had a right to do it, and it went all day long. Yet the Senator seems to be trying to give the impression that he knows everything that went on at the hearings. True, he could have read the transcript, but he had every chance to ask questions. Why wasn't he there? Why didn't he ask the questions? Why is he in the Chamber criticizing Miguel Estrada and criticizing the process and using this phony excuse with regard to the confidential, privileged memoranda of the Justice Department along with his colleagues?

I don't blame any one person. They are all to blame for using these kinds of phony arguments. I think the media is to blame—some of them. I have 57 different editorials, 50 of which are for Mr. Estrada.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Not just yet. You mentioned the Chicago Sun-Times. My staff just gave me that. You know, it is interesting—I will quote a couple lines.

> Who can look at the spectacle of the 108th Congress and not believe that justice and the basic operation of the Nation is being sacrificed on the altar of ugly obstructionist, partisan politics?

That is the Chicago Sun-Times, which is not known as a conservative newspaper, to my knowledge.

Let me give one other. I am quoting a couple sentences. I will put the whole editorial into the RECORD, if I can. I ask unanimous consent that this be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, Feb. 14, 2003]

WHEELS OF JUSTICE CAUGHT IN WASHINGTON GRIDLOCK, AGAIN

"The time has come for the U.S. Senate to stop playing politics with the American judicial system. So bad has the situation become that some Americans wonder whether justice is being hindered. . . ." So began an editorial on this page five years ago, during the now-distant days of the Clinton administration, when Senate Republicans were stonewalling judicial nominees from a Democratic president.

We mention it because the party in power tends to scream about efficient government, while the party out of power complains about failure to follow procedure. To quote Shakespeare, "A plague on both their houses." The only update we'd make in the opening quote is to change "some Americans" into "many Americans" or even "most Americans." For who can look at the spectacle of the 108th Congress and not believe that both justice and the basic operation of the nation is being sacrificed on the altar of ugly, obstructionist, partisan politics?

After dragging their feet on shifting committee chairmanships and the routine operations of the nation's business, Senate Democrats, though in a minority, are threatening to filibuster over the confirmation of Miguel Estrada, a Washington lawyer who seems eminently qualified for the federal appeals bench in every way except for his alacrity to answer questions about his opinions on legal matters that have not yet been presented to him, such as the issue of abortion.

The entire idea behind disabling the business of the nation is so that the blame for whatever bad situation we find ourselves in come election 2004 can be laid at the feet of the Republicans, since they are in power. But the Democrats forget that, if they manage to torpedo the Republican agenda, then the Republicans are not really fully in power, and whatever problems are certain to come are the fault of both parties. And obstructionism hurt Democrats in last November's voting.

President Bush called the Democratic approach "shameful politics." We are not revealing a bias when we agree—the nation needs good judges, from both parties, of both conservative and liberal outlooks. Our legal system cannot and must not be held hostage to political nitpicking. Estrada deserves to be the first Hispanic on the U.S. Court of Appeals for the District of Columbia, and if his nomination in some way helps to break the political deadlock keeping critical judgeships from being filled, that will be just another accomplishment to add to his record.

Mr. HATCH. "Our legal system could not and cannot be held hostage to the political nitpicking"—which is exactly what is going on here. I admit that my distinguished colleague from Illinois did take the time to submit questions. None of the others did, except Senator KENNEDY. All of them are complaining that he didn't answer the questions. I will say that my friend and colleague from Illinois did take the time to submit written questions. He deserves credit for that. But as far as I know, I don't believe he asked any questions at the hearing.

Mr. CRAIG. Mr. President, will the Senator yield further for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. CRAIG. I know the Senator is now in the Chamber. I have referenced these two articles. Those papers have condemned the filibuster, and they have condemned the strategy being used here to try to pry well beyond the oral arguments and briefs of Mr. Estrada.

I want to also ask, was the Senator also aware that the Freeport Journal-Standard, the oldest news source in northwest Illinois, has editorialized that this demand for Solicitor General memos would do serious damage to the ability of any member of the Justice Department to participate in its deliberative process, and that the same paper concluded Democrats are free to vote against him if they want, but vote they must; to do otherwise is an outrageous abuse of power.

The question then: Was the Senator aware that this story had reached our heartland and that now newspapers all over America are reacting? And was he aware that they are speaking to this kind of injustice?

Mr. HATCH. I am. Many editorials are complaining and pointing out that this is terrible politics. It is a terrible thing to do. It is a double standard. You quoted the Freeport Journal-Standard. Let me quote one paragraph:

> If there is one example today of the worst in American politics, it is the decision by Senate Democrats to filibuster the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia. President Bush's description of the move as "shameful politics" is generous. It is a downright repugnant abuse of the Constitution.

The rest of the editorial is good as well. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Freeport Journal Standard, Feb. 20, 2003]

SENATE DEMS SHOWING WORST SIDE OF POLITICS

The issue: Judicial nominations.

Our view: For Senate Democrats to filibuster the nomination of Miguel Estrada is an outrageous abuse of power.

If there is one example today of the worst in American politics, it is the decision by Senate Democrats to filibuster the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia. President Bush's description of the move as "shameful politics" is generous. It is a downright repugnant abuse of the Constitution.

The chief reasons Democrats give is Estrada, an American success story who went from Honduran immigrant to graduating Harvard magna cum laude to Supreme Court clerk and beyond, is a "stealth conservative," whatever that means. They say his responses to questions at committee hearings on his nomination did not sufficiently reveal his political opinions and demand that confidential memoranda written by Estrada when he was an assistant solicitor general be turned over. This is unprecedented, and if allowed, would do serious damage to the ability of any member of the Justice Department to participate in its deliberative processes.

Clearly, Democrats are fearful of conservative jurists. But for eight years, Bill Clinton nominated liberal jurists to the bench, including three Supreme Court justices. This is called democracy. The proper recourse is not to bottle up every nomination on the basis of some asinine political litmus test, but to win the presidency. If this continues, we can expect Republicans to use the same tactic and the result will strangle our justice system.

The Senate has a Constitutional duty to vote on the president's judicial nominees. By all accounts, Estrada is a brilliant scholar, distinguished public servant and outstanding lawyer, rated by the American Bar Association as "highly qualified."

Democrats are free to vote against him if they want, but vote they must. To do otherwise is an outrageous abuse of power.

Mr. CRAIG. Mr. President, I thank the chairman for yielding for questions.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. I will be happy to yield for a question without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. I would like to ask the Senator—I was off the floor in the cloakroom—it is my understanding my name was raised during the course of the debate.

Mr. HATCH. It was raised in a question to me.

Mr. DURBIN. I thank the Senator. I ask the Senator, is he aware of the fact that I was present for the questioning of Miguel Estrada? I came to the hearing room on several occasions and, unfortunately, because of the timing of the schedule, I was never called for questions and forced to go to other committee hearings and submitted written questions to Miguel Estrada?

Mr. HATCH. I will take the Senator's word on that. There is no question the distinguished Senator did submit written questions which were answered, but I also answer the Senator that this hearing went on all day. It was an extraordinarily long hearing, and if the Senator had any questions that he wanted to ask, I think it was his duty and his obligation to get there and ask them, by the way, because we can all find time during the complete day's hearing to come to the committee.

I am not trying to find fault. What I am saying is that it is one thing to be able to speak from personal experience of having been there and asked questions; it is another thing to continually come to the floor and berate Mr. Estrada for not answering questions when, if you refer to the remarks of the distinguished junior Senator from Tennessee earlier this evening, that just is not true. The fact is, he answered the questions.

Mr. DURBIN. Will the Senator yield for another question?

Mr. HATCH. I will say this—and I compliment my dear colleague from Illinois—my colleague from Illinois did submit written questions, but there were answers to those written questions as well. I have to say, my colleague from Illinois was 1 of 2 out of 9 Democrats—actually 10 at the time—who submitted questions. All of a sudden to come here with crocodile tears——

Mr. DURBIN. Will the Senator yield for another question?

Mr. HATCH. Let me finish my remarks and, of course, I will. But to come here with crocodile tears and tell us that he just did not do enough and he did not answer the questions when he did, in fact, do so, and to misrepresent, as some have done—I am not saying the distinguished Senator from Illinois because I have not heard all of his remarks; people will have to judge that for themselves. But to come here and make those kinds of accusations when this man had one of the longest hearings, answered many more questions than almost any Clinton circuit court of appeals nominee had to answer when I was chairman, and to act like he does not deserve to have an up-or-down vote on the Senate floor, which we gave to every Clinton nominee, I think is a little bit beyond the pale, and I think that is what has been happening around here.

Personally, I resent it, on behalf of the United States of America and on behalf of this Hispanic nominee who has all of these qualifications which I believe even the Senator from Illinois has acknowledged.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. DURBIN. During the course of the hearing on Miguel Estrada, we usually have rounds where Senators ask questions. Does the Senator from Utah recall the length of the rounds of the questions that each Senator could ask of Miguel Estrada?

Mr. HATCH. I recall that they were lengthy, and I recall that Senator SCHUMER from New York chaired the hearing. I did not chair the hearing. He could have set up any kind of rounds he wanted to, and, as I understand it, everybody had a full opportunity to ask the questions they wanted, both Democrats and Republicans.

Mr. DURBIN. If the Senator will allow me to ask a question——

Mr. HATCH. If I can just continue, the Senator himself said Mr. Estrada has not answered any questions, and the Senator from Illinois at least implied that from time to time.

Mr. DURBIN. Since my name has been brought up in debate—it becomes a debate over the Senator from Illinois rather than Estrada—I hope the Senator from Utah will give me a chance to respond.

Mr. HATCH. Mr. President——

The PRESIDING OFFICER. The Senator from Utah has the floor and the Chair requests that the Senator from Illinois address his questions to the Chair.

Mr. HATCH. I am not accusing my colleague from Illinois of anything other than based upon whatever he said on the floor.

Mr. DURBIN. Will the Senator allow me to ask a question?

Mr. HATCH. What I do want to make clear is I believe the distinguished Senator from Illinois and others have been saying that Mr. Estrada did not answer the questions. Let me recall, in case it might have slipped the mind of the distinguished Senator, "Follow-up Questions for Miguel Estrada, Senator Richard J. Durbin, Senate Judiciary Committee." Let me read a few of these.

One:

During your nominations hearing, Senator Edwards asked whether you consider yourself a "strict constructionist" when it comes to interpreting the Constitution. You described yourself instead as a "fair constructionist." How do you distinguish these two concepts? In what ways are they similar? In what ways are they different?

That is an intelligent question. I commend my colleague.

Mr. DURBIN. I thank the Senator.

Mr. HATCH. The response:

I do not believe that a legal text, such as the Constitution, should be construed "strictly" (i.e., grudgingly) or "loosely" (i.e., without careful regard to the text's language so as to achieve a meaning beyond that which the text will fairly bear). In my view, the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains. Although the phrase "strict construction" is often used to reflect a legal philosophy that simply gives appropriate consideration to the text of the Constitution, the phrase is also sometimes used in a pejorative fashion to describe an approach to interpretation that does not fairly reflect the meaning that the words, history, and background of the text will fairly bear. For that reason, I avoided using that phrase in response to Senator Edwards' question.

The distinguished Senator from Illinois asked if the current members of the Supreme Court—this is written because he did not ask oral questions during the hearing:

Of the current members of the Supreme Court, who would you characterize as a strict constructionist? Who would you characterize as a fair constructionist? How would you characterize the remaining Justices?

Response:

Although the current members of the United States Supreme Court sometimes emphasize different interpretive tools—giving, for example, greater or less prominence to text, history or precedent in a particular case—I believe each of them attempts in good faith to give a fair reading to the constitutional provisions that come before the Court. For that reason, I would characterize each member of the current Court as a "fair constructionist."

The question again from the distinguished Senator from Illinois:

In terms of judicial philosophy, please name several judges, living or dead, whom you admire and would like to emulate on the bench.

This is what Mr. Estrada responded:

There is no judge, living or dead, whom I would seek to emulate on the bench, whether in terms of judicial philosophy or otherwise. If I am fortunate enough to be confirmed, I hope to seek aid from whatever legal materials may shed light on the problem before me, and thus to reach the correct answer to that problem to the best of my abilities, without any preconception about how some other judge might approach the question.

I have been fortunate to know several great judges and justices in my lifetime. I admire Judge Amalya Kearse and Justice Anthony Kennedy, for whom I was a law clerk. During my time as a law clerk for Justice Kennedy, I also got to work with retired Justice Lewis F. Powell, Jr., for whom I developed a great deal of affection and admiration.

Amalya Kearse was a Carter appointee to the Second Circuit Court of Appeals. In other words, this man has admired a Democratic judge. Anthony Kennedy is, of course, considered a moderate conservative on the Supreme Court. He served him as a clerk, and admires him. Then he admires Lewis F. Powell, Jr., who is considered one of the leading moderate judges during his lifetime on the Court.

I could read all of these questions and answers, and I think any fair person would say he gave some very good answers that would pass almost any professorial, jurisprudential, legal, or other analysts' reviews.

I ask unanimous consent that the followup questions for Miguel Estrada by Senator Richard J. Durbin and his answers be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Follow-up Questions for Miguel Estrada From Senator Richard J. Durbin, Senate Judiciary Committee

(1) During your nominations hearing, Senator Edwards asked whether you consider yourself a "strict constructionist" when it comes to interpreting the Constitution. You described yourself instead as a "fair constructionist."

(a) How do you distinguish these two concepts? In what ways are they similar? In what ways are they different?

Response: I do not believe that a legal text, such as the Constitution, should be construed "strictly" (i.e., grudgingly) or "loosely" (i.e., without careful regard to the text's language so as to achieve a meaning beyond that which the text will fairly bear). In my view, the Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains. Although the phrase "strict construction" is often used to reflect a legal philosophy that simply gives appropriate consideration to the text of the Constitution, the phrase is also sometimes used in a pejorative fashion to describe an approach to interpretation that does not fairly reflect the meaning that the words, history and background of the text will fairly bear. For that reason, I avoided using that phrase in response to Senator Edwards' question.

(b) Of the current members of the Supreme Court, who would you characterize as a strict constructionist? Who would you characterize as a fair constructionist? How would you characterize the remaining justices?

Response: Although the current members of the United States Supreme Court sometimes emphasize different interpretive tools—giving, for example, greater or less prominence to text, history or precedent in a particular case—I believe each of them attempts in good faith to give a fair reading to the Constitutional provisions that come before the Court. For that reason, I would characterize each member of the current Court as a "fair constructionist."

(c) In terms of judicial philosophy, please name several judges, living or dead, whom you admire and would like to emulate on the bench.

Response: There is no judge, living or dead, whom I would seek to emulate on the bench, whether in terms of judicial philosophy or otherwise. If I am fortunate enough to be confirmed, I hope to seek aid from whatever legal materials may shed light on the problem before me, and thus to reach the correct answer to that problem to the best of my abilities, without any preconception about how some other judge might approach the question.

I have been fortunate to know several great judges and justices in my lifetime. I admire Judge Amalya Kearse and Justice Anthony Kennedy, for whom I was a law clerk. During my time as a law clerk for Justice Kennedy, I also got to work with retired Justice Lewis F. Powell, Jr., for whom I developed a great deal of affection and admiration.

(2) In an attempt to learn more about your judicial philosophy, several of my colleagues asked for your opinion about constitutional questions that are now settled law and that are unlikely to come before you as an appellate court judge. For example, Chairman Leahy asked for your views on Romer v. Evans, a Supreme Court opinion striking down a state constitutional provision that prohibited municipalities from passing gay rights ordinances. You responded: "the question as framed is inherently unknowable for somebody in my position who has not sat through the case, listened to the arguments, conferred with the colleagues, and done all of the legwork of investigating every last clue that the briefs and the arguments offer up."

Likewise, in response to questioning from Senator Schumer, you stated: "The only time that I will feel comfortable in opining whether the Court got it right would be if I had done everything that the Court had to do in order to actually issue their ruling."

(a) In your role as an Assistant to the Solicitor General, I am sure you read many of the Supreme Court's decisions. Have you ever expressed any opinion on the merits of a Supreme Court decision, to your colleagues or friends, when you had not read the briefs and watched the oral argument in the case? For example, have you ever told anyone that you thought the Romer v. Evans was rightly or wrongly decided?

Response. During my tenure at the Solicitor General's office, it was not uncommon for lawyers in the office to discuss issues then pending, or recently decided, by the Supreme Court. Such discussions were generally informal (often at the lunch table, since it was the practice of the attorneys in the office to lunch together in the Department's cafeteria) and did not purport to reflect a considered judgment that a particular decision was objectively "right" or "wrong" based on an appraisal of all briefing, argument, and primary materials—the type of judgment that a sitting judge would have to make in deciding the case. It was probably the case that neither my Justice Department colleagues nor I had read every brief filed in a particular case or attended argument. Generally, my colleagues and I would speak of a particular decision in terms of whether it served the Government's programmatic interests and/or whether the majority opinion set forth better reasons for the outcome than did the dissenting opinion (i.e., whether one of the opinions was a better piece of legal reasoning and writing). I do not have any recollection that I or any of my colleagues ever described any particular decision (including Romer) as "wrong," but it is possible that remarks such as that were made in informal conversations—as shorthand for whether a decision accorded with the Government's interest in an area or whether the outcome urged by a dissenting opinion was advocated better than the result reached by the Court's majority.

(b) You and I met privately before your hearing, and I asked you for your views on Roe v. Wade. You indicated that you considered the answer to that question to be a private matter. But your answer suggested that you do have an opinion. Do you have an opinion on the merits of Roe v. Wade? If so, have you read the briefs and a transcript of the oral argument?

Response: I stated during our meeting that, like many Americans, I have personal views on the subject of abortion, which views I consider a private matter that I was unprepared to share or discuss with you. I also stated that I do not harbor any personal views of any kind that, if I were a judge, would preclude me from applying controlling Supreme Court case law in the area of abortion. I did not state that I have private views on whether the case of Roe v. Wade was correctly decided. As I stated during my hearing, it would not be appropriate for me to express such a view without doing the intensive work that a judge hearing that case would have to undertake—not only reading briefs, and hearing the arguments of counsel, but also independently investigating the relevant constitutional text, case law, and history.

(3) You serve on the National Board of Directors for a non-profit foundation called the Center for the Community Interest, or CCI. According to CCI's website, the group's goal is "to make communities and neighborhoods safe places to live and raise children and to make the public spaces of our cities secure and inviting places for all by helping to identify common sense, balanced solutions to crime and quality-of-life problems and to defend those policies against unreasonable legal attacks."

(a) How did you become associated with CCI? For how long have you served on the Board of Directors?

Response: In the Fall of 1998, Eliot Spitzer was elected Attorney General of New York. Mr. Spitzer was a Board member of CCI (and, through his family foundation, was and is an important financial supporter of CCI). As a result of his election, Mr. Spitzer had to resign his Board position. I was invited to join the board, and fill the ensuing vacancy, by another Board member, Scott Muller has long been involved in CCI, and I knew him as a highly respected attorney who practices in Washington, D.C.and New York City; he was recently confirmed by the Senate as General Counsel of the CIA. I have served on the Board since my election in late 1998/early 1999.

(b) As a director, what role do you play in the management of the organization? How frequently does the Board meet?

Response: CCI has a full-time staff that deals with day-to-day matters. The Board deals with major policy issues and the general direction and management of the organization.

It has been a goal of the current Board to increase the number of times we meet. When I first joined the Board, we met only twice a year. We now try to meet three or four times a year. Meetings of the Board may be conducted if a quorum of a majority of the directors is present. Although I try to attend every meeting personally or by telephone, I have not participated in every meeting of the Board that has been held since I joined the Board.

(4) Although the organization purports to defend "common sense" government policies "against unreasonable legal attacks," CCI has adopted some very controversial positions over the last few years. For example, in Dickerson v. United States, CCI filed an amicus brief urging the Supreme Court to overturn the landmark Miranda decision, which ensures that criminal suspects have adequate notice of their legal rights.

As you know, the position favored by CCI in Dickerson was rejected by a decisive seven member majority of the Supreme Court, in a decision authored by Chief Justice Rehnquist. The only dissenters in the case were Justices Antonin Scalia and Clarence Thomas.

(a) As a Director of CCI, did you participate in deliberations or play any other role in the group's decision to file an amicus brief in Dickerson?

Response: Yes. I was one of the Board members who voted on the question whether CCI should file a brief in the case.

(b) Do you support the group's position in that case? Why or why not?

Response: I voted in favor of filing an amicus brief in the case. As I saw it, the case primarily involved an important unsettled legal issue that hinged on the constitutionality of an Act of Congress, 18 U.S.C. §3501, rather than the issue whether Miranda should be superseded because of any disagreement that the current Supreme Court might have with that decision.

As is widely known, the Supreme Court in Miranda required that certain warnings be given to suspects during custodial interrogations. It is less widely known that, in announcing that ruling, the Supreme Court also stated (384 U.S. at 467): "It is impossible for us to foresee the potential alternatives for protecting the privilege which might be devised by Congress or the States in the exercise of their creative rule-making capacities. Therefore we cannot say that the Constitution necessarily requires adherence to any particular solution for the inherent compulsions of the interrogation process as it is presently conducted. Our decision in no way creates a constitutional straitjacket which will handicap sound efforts at reform, nor is it intended to have this effect. We encourage Congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws."

In 1968, in the wake of that decision and in reliance on the Court's suggestion, Congress enacted 18 U.S.C. §3501. That statute required federal courts to admit into evidence all voluntary confessions, after assessing the issue of voluntariness in light of all the facts and circumstances surrounding the confession—including whether the suspect received the warnings required by the Miranda case.

Although some lower courts had assumed that Section 3501 was not constitutional, as a CCI Board member I supported the filing of an amicus brief that supported the constitutionality of the statute. I believed that a law duly passed by both Houses of Congress and signed by the President should not be ignored by the lower courts without an authoritative resolution of the constitutional question by the Supreme Court of the United States.

(c) Do you think that the defendant's challenge of the Fourth Circuit's decision in Dickerson was an unreasonable legal attack?

Response: No.

(d) Chief Justice Rehnquist's decision in Dickerson invoked the doctrine of stare decisis. Do you agree with the application of that doctrine in this case? When is it appropriate for the Supreme Court to overturn its own precedents?

Response: Dickerson reflects a reasonable application of the doctrine of stare decisis. In my view, it is rarely appropriate for the Supreme Court to overturn one of its own precedents. The circumstances that bear on the appropriateness of such a course were summarized by the Court in Agostini v. Felton, 521 U.S. 203, 235–37 (1997), and by the plurality opinion in Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833, 854–55 (1992).

(5) Dickerson was an alarming case to many of us because the Fourth Circuit Court of Appeals, on its own initiative, determined that Miranda was no longer binding law. They reached this conclusion even though the Supreme Court continued to apply *Miranda* to criminal cases in both the federal and state systems; and despite the fact that neither the government nor the criminal defendant was willing to argue that Miranda did not apply. The Fourth Circuit's ruling in Dickerson strikes me as a prime example of the conservative judicial activism we sometimes see today.

(a) What assurances can you give the Committee that you will follow Supreme Court precedent unless and until the Court explicitly overrules itself?

Response: I can absolutely assure the Committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself.

(b) If confirmed to the D.C. Circuit, can you assure us that you will faithfully apply the Supreme Court's ruling in Miranda? What about the Supreme Court's decision in Bakke, which upheld the constitutionality of affirmative action programs in certain circumstances?

Response. I can assure the Committee that I would faithfully apply the Miranda decision as I would any other Supreme Court case that has not been superseded by the Court. With respect to Bakke specifically, in which there was no majority opinion by the Court, there is arguably a division among the courts of appeals on the question whether the various opinions issued by the individual Justices who participated in the case set forth a rule of law that lower courts are required to follow. Compare Hopwood v. Texas, 78 F.3d 932, 944 (5th Cir. 1996), and Johnson v. Board of Regents of Univ. Georgia, 263 F.3d 1234, 1247–50, 1261 (11th Cir. 2001), with Smith v. University of Washington Law Sch., 233 F.3d 1188, 1199–1200 (9th Cir. 2000), and Grutter v. Bollinger, 288 F.3d 732, 738–42 (6th Cir. 2002). As I stated during my appearance before the Committee, because that issue might come before me as judge, I do not believe I should express any views on it.

(6) Let me ask you about two other controversial positions that CCI has adopted in the last few years. In United States v. Knights, CCI argued as an amicus party that warrantless, suspicionless searches of probationers and parolees are constitutional. Likewise, in Department of Housing and Urban Development v. Rucker, CCI defended HUD's so-called "One-Strike" policy, which permitted automatic eviction of an entire household from public housing if any resident or guest was involved in a drug-related crime.

(a) As a Director of CCI, did you participate in deliberations or play any other role in the group's decision to file an amicus brief in Knights or Rucker?

Response. I do not have any recollection of participating in any Board deliberations concerning these two cases. I have made inquiry of the CCI staff, and I have been advised that neither case came before the Board during my tenure as a Board member. In the case of Rucker, it appears that CCI became involved in the litigation while the case was pending in the lower federal courts, and thus the issue whether to participate in the litigation came before the Board before I became a Board member. In the case of Knights, I have been advised that CCI's position echoed the view taken by CCI in a 1997 case that presented a similar issue. I am advised that because the issue already had been addressed by the Board in connection with that 1997 case, the Executive Committee of the Board (of which I was not a member) authorized the filing of the brief without further input from other Board members.

(b) Do you support the group's position in either of these cases? Why or why not?

Response. I have not made a sufficient, independent study of the issues and briefing in each case to know whether I agree with the positions espoused by CCI in these cases. I would note, however, that each case resulted in a unanimous opinion by the Supreme Court that appears to vindicate the position urged by CCI.

(7) It is difficult to find a news account about your nomination that fails to mention your status as a potential nominee of President Bush to the Supreme Court. Frankly, I think this speculation is very premature. You do not have any judicial record yet, so it is hard to know what kind of judge you will be on the Court of Appeals.

(a) Have you given any thought to whether you might like to serve on the Supreme Court someday? What are your aspirations at this point in your career?

Response. During the pendency of my nomination, my wife and I occasionally have received from friends, acquaintances and well-wishers copies of the types of newspaper articles to which your question refers. I have seen some of those articles in our local newspapers as well. Of course, any lawyer would be honored to be viewed as someone who some day might be considered for a position on the Supreme Court. However, beyond discussing with friends and acquaintances the contents of such press articles, I have not carefully considered the issue. As your question points out, it would be premature for me to do so. My aspirations at this point are to be confirmed as a United States Circuit Judge, and to discharge the duties of that position to the best of my abilities.

(b) Has anyone from the White House or the Justice Department ever discussed with you the prospect of serving on the Supreme Court someday? If so, what did he or she tell you?

Response. No one from the White House or the Justice Department has discussed with me the prospect of serving on the Supreme Court of the United States.

Mr. HATCH. Mr. President, I do not want to read them all, but I will if I have to, and I think the distinguished Senator from Illinois ought to be fair.

These answers are very competent, good answers by a very competent, well-qualified, terrific nominee for the Circuit Court of Appeals for the District of Columbia, the first Hispanic nominee in the history of this country. I suggest you read your own answers to your own questions, and I think you will be pretty impressed with him.

(Mr. ENSIGN assumed the Chair.)

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. DURBIN. Would the Senator concede it is virtually impossible to conduct a debate in this format where every question I ask is questioned? Will the Senator be willing to enter into a unanimous consent agreement for the next half hour, equally divide the time between us, and then return the floor to the Senator from Utah so we can have a real debate rather than a contrived attempt to ask questions and to make rebuttals to statements made on the floor?

Mr. HATCH. Of course I will not. First, I have the floor and I am retaining the floor because I have questions from both sides. I am willing to take questions from your side. I am not ignoring those. It is about time the American people hear the truth. We have heard enough rubbish. Now we should hear the truth. In all honesty, that is what we are going to do this evening.

I have heard a lot of ridiculous remarks over there that do not really deserve listening to. So we are going to hear some remarks tonight that deserve being listened to, and we are going to get the facts. This unmitigated bullcorn that he has not answered questions is exactly that.

I think the distinguished Junior Senator from Tennessee tore the hide off the Democrats tonight. I was so doggone impressed, I want to compliment my colleague. But he was not the only one. I have had colleague after colleague stand up over here and tell the truth, and I have had colleague after colleague over there hide behind these phony issues they have raised. They are phony, and it is a double standard. I am ashamed of some of the arguments that have been made over there, absolutely ashamed, and every Hispanic in America ought to be ashamed that they would stoop to this level against a qualified nominee. But not just every Hispanic, every American who wants a great judiciary ought to be outraged by what is happening.

I have never seen this type of treatment of anybody who has been nominated to a circuit court of appeals. I have seen some pretty shabby treatment in my day for some of the people who have been appointed by Republican Presidents, but nobody has had to endure the calumny and the downright despicable comments that this Hispanic nominee, with all these qualifications in the world, has had to endure. It is disgusting.

I know there are people on the other side who have clear thinking who ought to be disturbed by this, and I hope they will rise up in that caucus and say, we have had enough of this. We should not be treating any American this way, let alone somebody like this Hispanic.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Utah yield for a parliamentary inquiry?

Mr. HATCH. Not at this point. I would like to finish what I am saying.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. REID. Parliamentary inquiry, Mr. President.

Mr. HATCH. Without losing my right to the floor, I am happy to yield for a parliamentary inquiry.

Mr. REID. Mr. President, I would ask the Chair to determine if the word "despicable" relating to the remarks that we have been making for 10 days——

Mr. HATCH. I withdraw the word. I ask unanimous consent that that word be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Even though I think it was probably the right word to use.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I am happy to yield to the Senator from Virginia without losing my right to the floor.

Mr. ALLEN. I ask the Senator from Utah to yield for a question.

Mr. HATCH. Without losing my right to the floor.

Mr. ALLEN. Mr. President, Senator WARNER, who was presiding earlier, knows the Senator from Utah is not alone in the feelings he is expressing. We see it in Virginia. In fact, we see it all the way across the Nation, from the San Diego Tribune to all the papers in Virginia that have taken a stand on this issue. They state the Democrats are creating a new double standard that applies only to the nomination of Miguel Estrada. Editorials are unanimous in Virginia, whether it is the Fredericksburg Free Lance-Star, the Richmond Times-Dispatch, even the Winchester Star out in the Shenandoah Valley. They all say, stop filibustering, take a stand and confirm this highly qualified nominee. The Winchester Star in particular—and, by the way, that is a newspaper that is owned by a former colleague of some of our Members, Senator Harry Byrd, and they wrote in particular that the request for the Solicitor General memoranda is outrageous and that to accede to it would compromise that body's ability to properly defend the Government's interests.

Is the Senator from Utah aware that even editorial writers in this fine community in the Shenandoah Valley of Virginia found this Democratic request so improper?

Mr. HATCH. I was not aware of that. But I have to say, I served with Senator Harry Byrd. He is a marvelous human being. He was an Independent who voted mainly with the Democrats, but a very fair, honorable, decent man, one of the finest people who ever served. I agree with the editorial 100 percent.

Mr. ALLEN. Will the Senator yield for another question?

Mr. HATCH. Without losing my right to the floor.

Mr. ALLEN. Could the Senator share with us what the historical practices are as far as the deliberative memoranda are concerned? Have they ever been asked for in confirmation hearings? We are talking about this double standard. They are asking for something, but what is the record? Has this ever been asked for before?

Mr. HATCH. No one before this nominee, to my knowledge—and I believe I am accurate, and we have checked it—no one has ever asked for appeal recommendations, certiorari recommendations, and amicus curiae recommendations. The reason they never have is that it is—I will use the term—despicable to ask for them because they know they cannot be given; that no self-respecting Attorney General or President would allow that to happen because that is a direct intrusion into the deliberative process of the Solicitor General's Office, the attorney for the people. Nobody else has ever done that before.

So we have to ask, why is it being done? And why would seven former Solicitors General, four of whom are Democrats, come out and say this cannot be done? Because they are right and my colleagues on the other side are wrong. They know they are wrong. I think that was geared to try to create a red herring issue so they could say, oh, my goodness, we do not know enough about him.

It took them 505 days to hold a hearing. I presume in that 505 days, knowing how the Judiciary Committee works—and I really know how it works—every Democrat staffer assigned to that was going through every document this man has ever had anything to do with. They scrutinized him like they scrutinize any criminal, and certainly he is not that. But they scrutinized him. That is not a bad thing. I am not criticizing them for that. They know everything about Miguel Estrada that is knowable, and there is a lot. The transcript of the hearing is that big. Gee whiz, they act like there were not any questions or answers. Are you kidding? I think they think sometimes they can say these things and the American people are just going to buy it. Well, we are going to make sure they do not buy it because it is not true. That is what is killing me, is that my colleagues are saying things that just simply are not true if one looks at the RECORD.

Never before have those three areas of recommendations been asked for.

They cite Robert Bork. They cite Justice Rehnquist. Those materials that were given were very limited. They were not anywhere near as sensitive as these. They were not necessarily privileged, although I believe some of them were given just because they were very limited requests. These are broad requests of documents that literally should never be given to any other branch of government, if we want a functioning Solicitor General's Office.

This is a game being played. It is a double standard and very unfair to this nominee. I think my colleagues are pointing that out in no uncertain terms.

Mr. ALLEN. Mr. President, will the Senator from Utah yield for a final question?

Mr. HATCH. Without losing my right to the floor.

Mr. ALLEN. I ask the Senator from Utah if he saw the responses that all of us were seeing, as this filibuster drags on, this unfair consideration of Miguel Estrada, whom Senator WARNER and I introduced to the committee nearly a year and a half after the President nominated him back in September—is he aware as more and more people read about this and hear about it that he is getting more support?

Our senatorial committee Web site has had over 20,000 petitions in support of President Bush's nomination of this outstanding hero. Is the Senator aware that Miguel Estrada is the American dream, the American dream being born these days—not in the days of Horatio Alger, but individually came to this country with his own hard work, studiousness, and efforts, rose to lead the Law Review at Harvard, and other positions in government. Is he aware that support is building by the hour for Miguel Estrada and also in opposition to these obstructionist tactics denying this man a fair up-or-down vote?

Mr. HATCH. I have talked to a wide variety of people today and every day. I have been on radio shows talking about this. I have been on Hispanic radio shows, Latino radio shows. They are getting very angry. And they should.

I am calling upon all Democrats, Independents, and Republicans, as well, to come out of the woodwork and let our friends on the other side of the floor know this will not last. They resent this. There is a price to be paid for this type of obstruction, which is what it is. This is unfair obstruction that we did not do to their nominees.

I cannot understand for the life of me why they are doing it to this Hispanic nominee with all these credentials, with the gold standard highest rating of the American Bar Association—their gold standard by their own definition. I do not understand it personally. I cannot see one reason to do it. People are getting very upset. I am getting thousands of calls saying: Hang in there; do not let them get away with this or the whole judiciary will be hurt; the whole judiciary will be hurt if this continues.

If we have a filibuster that continues like this, our colleagues on the other side are risking the complete breakdown of this process, the complete breakdown of the judicial nominating process, something that we have never done on our side.

Even when there have been cloture votes where they were not true filibusters but still cloture votes, their nominees got votes up and down.

If that is what they are about, I will shut up and not say much more. That is all we are saying. Just vote. All this complaining. Yesterday, I saw the minority leader come on the floor and say we should be getting about all the important business of the country. There is nothing more important in this country than having a fair judiciary. It is the judiciary that has saved the Constitution through all these years. This is a very important nominee and a very important court. If we do not do what is right, everything else that is important might not be as important in the future because we will not have a Constitution to abide by and live by that has kept this country free. This is very important.

To come from that side, when last year for the first time since the Budget Act was enacted, they did not pass a budget because they had to face what we always did—it is tough to do it. They were not willing to put up with it and do the tough things, nor did they pass the majority of the appropriation bills. We had to wait until we became the majority, and we did it in an omnibus after the first of the year, but only after delays caused by the other side.

It was something I could hardly believe. I said if you want to get to the other important things which we do, too, have a vote up and down like we did for all of your nominees. Why treat this man differently? Why obstruct this nominee? Why play the politics of obstruction? Why be so unfair and why have this double standard?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I am happy to yield to the distinguished Senator from North Carolina, and then I will yield to—

Mr. REID. I object. This is not proper procedure.

The PRESIDING OFFICER. The Senator from Utah has the floor and may yield.

Mr. HATCH. I yield to the distinguished Senator from North Carolina for a question, without losing my right to the floor.

Mrs. DOLE. Mr. President, in North Carolina the Kinston Free Press and the Winston-Salem Journal have called on Democrats to stop this filibuster. Even a student writer for the University of North Carolina school paper took the time to write about it and criticize the filibuster. This obstructionism is being noticed and people are angry.

On this question of the Solicitor General's memos, the Winston-Salem Journal wrote: "Congress should not be asking for such material."

Does the Senator from Utah agree with the journal that "if Democrats have a substantive reason for opposing Estrada's nomination, it is past time to produce it. If not, they should let the Senate vote."

Does the Senator agree?

Mr. HATCH. I sure do agree with that. There has not been one substantive argument against this man other than the phony arguments like getting these privileged documents that everyone knows the administration cannot get. There are two reasons for that: They want to embarrass the administration by trying to make the administration look like they are trying to withhold documents that they should give, when they should not give them; and they are trying to defeat Miguel Estrada on what is really a red herring issue.

That particular editorial of the Winston-Salem Journal said: The truth is, the Democrats oppose Estrada because they believe he is too conservative; an unsavory implication is that they believe Hispanics should be liberal.

I think the editorial got it right on the money.

Another truth is, as the Senator said: The Constitution gives Presidents the right to nominate judges and the Presidents usually choose nominees they believe share their political views. If Democrats have a substantive reason for opposing Estrada's nomination, it is past time to produce it. If not, they should let the Senate vote.

I ask unanimous consent the Winston-Salem Journal article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Winston-Salem Journal, Feb. 20, 2003]

Choosing Judges

Democratic and Republican senators have taken turns for years behaving badly when it comes to federal judicial nominees. Now Democrats have taken the unproductive battles to a new low in their refusal to allow a vote on the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia.

It's true that Senate Republicans are guilty of considerable hypocrisy. They bottled up many of President Clinton's nominees in the Judiciary Committee and kept even moderate nominees from having hearings on the Senate floor. Then when President Bush began sending along nominees, Republicans urged Democrats to abandon partisanship and vote for judicial nominees on their merits, not their views.

But Democrats haven't helped matters any by their determination to get revenge. The result is more delays in filling court vacancies and more harm to the federal judicial system.

President Bush stoked the fire by nominating some controversial figures, most notably U.S. District Judge Charles Pickering of Mississippi for the 5th Circuit Court of Appeals, while Democrats held their slim majority in the Senate. Pickering was a controversial choice largely because of his record on race. Democrats voted down his nomination in the Judiciary Committee. Their opposition to him was probably justified, but they should have allowed a vote. The entire Senate, not just the members of the Judiciary Committee, are supposed to have the right to confirm a president's judicial choices.

Now Republicans are back in control of the Senate. Democrats' refusal to allow a vote on Estrada's nomination is worse than their opposition to Pickering, because Estrada does not have any blots on his record comparable to Pickering's. His is an inspiring success story of a Honduran immigrant who became editor of the Harvard Law Review and a clerk for U.S. Supreme Court Justice Anthony Kennedy. He was an assistant solicitor general under Clinton. He's been rated "highly qualified" by the American Bar Association.

Democrats have come up with a variety of objections to Estrada, none of them convincing. They question his youth and lack of judicial experience, but other appeals court judges have been confirmed with similar qualifications. They have demanded that he turn over confidential papers from his years as solicitor general. Congress should not be asking for such material, as all living solicitors general have said in a letter.

Democrats have said that Bush nominated Estrada just because he is Hispanic.

The truth is that Democrats oppose Estrada because they believe that he is too conservative. An unsavory implication is that they believe Hispanics should be liberal.

Another truth is that the Constitution gives presidents the right to nominate judges, and that presidents usually choose nominees who they believe share their political views. If Democrats have a substantive reason for opposing Estrada's nomination, it's past time to produce it. If not, they should let the Senate vote.

Mr. BUNNING. Will the Senator yield?

Mr. HATCH. I yield without losing my right to the floor.

Mr. BUNNING. Mr. President, I say to the Senator from Utah, I have read an editorial from the Riverside Press Enterprise in California which said in response to this fishing expedition on the confidential memoranda that the Democrats claim they want to review Mr. Estrada's legal views: One suspects that is not the role the Democrats have in mind for their memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

Does the Senator agree that is the reason they are doing what they are doing, trying to score political points?

Mr. HATCH. I don't see how they score political points by filibustering the first Hispanic nominee ever nominated to the court of appeals for the District of Columbia. That is a heck of a way to score political points, unless it is with their really far left people who seem to be in domination of that party right now. They are pleased.

People for the American Way, you have to really be on the left to be with them. In fact, their biggest support comes from Hollywood. Not that we should decry our Hollywood stars as experts on everything. I don't think we should always find them not to be. I am sure they are experts on some things, but they seem to not fully understand what is going on here.

The Press Enterprise, Riverside, CA, editorial says: The Democrats tactic employed last week of filibustering the nomination of Miguel A. Estrada to be the U.S. Court of Appeals for the District of Columbia Circuit is an anything-goes strategy that ought to be abandoned.

And then later: A first step would be to not filibuster nominations like this one.

They say: "Parties need to deescalate." I agree with that.

A first step would be to not filibuster nominations like this one of a well-qualified nominees. He's distinctly an American success story, having immigrated from Honduras, gone to Columbia and Harvard, and served as a clerk to a Supreme Court Justice.

I ask unanimous consent the Press Enterprise editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Press-Enterprise (Riverside, CA) Feb. 18, 2003]

The process of filling a vacancy in the federal judiciary is a political one. The Founding Fathers placed it into a political area. The president nominates and the Senate confirms—or doesn't—but that doesn't mean anything goes.

The Democrats' tactic employed last week of filibustering the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the District of Columbia Circuit is an anything-goes strategy that ought to be abandoned. However, with 49 Democratic senators, they are likely to be able to muster the 41 votes needed to maintain a filibuster.

What makes the filibuster inappropriate is that it is rarely used to block a judicial nominee, and Mr. Estrada hardly qualifies as a target for such a big gun. Yes, he was not completely open with members of the Judiciary Committee when he appeared, and Democratic senators are frustrated by the White House's refusal to release to them memoranda he wrote as solicitor general.

But in the best of times, such a request would be out of line, and these are closer to the worst than to the best for the nomination process. If the memoranda were to be used as an honest beginning to a discussion of Mr. Estrada's legal views, there might be some justification for releasing the documents that would normally be considered privileged.

One suspects that's not the role the Democrats have in mind for the memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

The two parties have been allowing their political battles over judicial nominees to escalate since Robert H. Bork's nomination to the U.S. Supreme Court in 1987. One suspects that Republicans, if they were in the minority, would have done the same with the Estrada nomination. The parties need to deescalate.

A first step would be to not filibuster nominations like this one of a well-qualified nominee. He's distinctly an American success story, having immigrated from Honduras, gone to Columbia and Harvard and served as a clerk to a Supreme Court justice.

Democrats, or Republicans when they are in the minority, may fairly make things tough on a nominee in committee or on the Senate floor, in order to fashion nominations more to their liking. But the process has to stop at some point. It's one of advice and consent, not advise and confront.

Mr. SESSIONS. Will the Senator yield?

Mr. HATCH. Without losing my right to the floor.

Mr. SESSIONS. The Senator, as chairman of the Judiciary Committee, disclosed the Department of Justice has declined to produce these internal memoranda. I ask the Senator this: Is it a fact those memoranda belong to the U.S. Department of Justice and under the attorney-client rule they are not Miguel Estrada's and he has no ability whatsoever to produce these documents?

Mr. HATCH. I certainly agree. I have heard the distinguished Senator from Illinois say that he should have produced these documents. He has no right to produce them. He personally said I am proud of my work. If they can give it up, I would be proud to have it given up. But he knows they cannot. I believe the distinguished Senator from Illinois knows they cannot give up these documents. Everybody knows that. That is why it is such a phony red herring issue, but it is the only one they really have.

They started off with he has not had any judicial experience. That is the phoniest thing of all, because that means virtually every Hispanic lawyer doesn't have a chance to be on the Federal bench because they have no judicial experience, in spite of the fact that five of the eight judges on the DC Circuit Court of Appeals had no judicial experience before they went on the court.

Why the double standard? Why is it we are requiring this of Miguel Estrada but not of them? Why is it when Republicans ran the committee we didn't have that difficulty? We never raised that phony issue. Why is it raised now?

Mr. REID. Will the Senator yield for a question?

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. SESSIONS. Chairman HATCH, I know you chaired the committee and you conducted many hearings, both in your recent chairmanship and prior to that when you were chairman of the committee. But isn't it a fact that the hearing of Miguel Estrada was conducted when the Democrats were in control of the Judiciary Committee, Senator LEAHY was the chairman, and they held the committee hearing as long as they chose and could have held even longer hearings had they had any further questions to ask?

Mr. HATCH. It is a fact that they were in control. They chaired the hearings. Senator SCHUMER chaired the hearing at the direction of Chairman LEAHY, the chairman. It was one of the longest hearings for a Circuit Court of Appeals nominee I can recall. They asked every question they wanted to. He answered them, and he answered them fairly and well, as I have been showing here tonight, and as the distinguished Junior Senator from Tennessee, I think, showed in detail earlier in the evening. I commend him and ask everybody to read that.

In all honesty, they controlled the whole doggone process. They even said on the floor, even during this debate, that the hearing was fair—because they conducted it. If it was fair, that means they covered all the questions they wanted answered.

Then we have these phony arguments that he didn't answer the question. Read the remarks of the distinguished Senator from Tennessee, Senator ALEXANDER, this evening and read the transcript. Read the answers to these written questions. I only read a few of them because it more than blew away those phony arguments. Why the double standard? Why the obstruction? Why are we going through this?

I said I would yield to my friend and colleague from Nevada, without losing my right to the floor.

Mr. REID. I would say to my friend, I would respectfully submit, you don't need to say "without losing your right to the floor." You have the floor. You don't have to say that.

Anyway, I ask my distinguished friend from Utah, the neighboring State to Nevada: It is true, is it not, whether you agree or not, we have asked that the Justice Department, the administration, release the memos written by Miguel Estrada when he worked for the Solicitor's Office? You would agree with that?

Mr. HATCH. I agree Senator LEAHY sent a letter to the Department of Justice asking for these privileged matters that have never been given up before, and will not be given up, and should not be given up; knowing, I think, deep down, that they would not be given up.

Mr. REID. The Senator, of course, is aware——

Mr. HATCH. I think it is a political game, if you want to know.

Mr. REID. The Senator has stated in answer to the question of the distinguished Senator from Alabama that Miguel Estrada has no ability to have these released, is that true?

Mr. HATCH. That is correct. He doesn't control the Justice Department. He is no longer an employee of the Justice Department. Nor should he ask the Justice Department for these records.

Mr. REID. I further ask the Senator, it is true, however, that the administration, whether through the counsel's office of the President, the President himself, or the Attorney General, could release those materials?

Mr. HATCH. No, it isn't true. I don't believe the Attorney General could. I don't think any responsible Attorney General could release those. If you are saying is it theoretically possible for somebody to disobey the law, the rules, to not live up to the privileged and confidential information, to ignore every aspect of the executive branch of Government—I suppose somebody could say yes. But I can't. I don't think he would have—I don't think the Attorney General has that privilege; no. I don't.

Mr. REID. Let me ask the Senator this question. Are you saying on the five occasions we know of, there could be more, when the Attorney General released memoranda from the Solicitor's Office relating to Rehnquist, Bork, Civiletti, and others, that they were violating the law when they released those documents?

Mr. HATCH. They were completely different documents. They had nothing to do with recommendations for appeals, certiorari petitions, or amicus curiae matters. No. They have never, ever been asked for before, to my knowledge, and they have never, ever been given, nor would they.

By the way, there have been some limited documents given by the Justice Department in some nomination matters, none of them related to what were requested by the Senate Democrats in this matter. And there are only a couple of cases where the Attorney General did allow that.

The other cases, they appeared to have been leaked by friends of Democrats at the Justice Department. So they were not given up by the Justice Department. We have more than made that case throughout this debate. There is no question about it. And it is just another phony argument. I do not blame my colleague from Nevada for not knowing that. But I think it is time to learn it.

Mr. REID. Could I ask the Senator another question?

Mr. HATCH. Sure.

Mr. REID. I don't mind the Senator commenting on my intelligence.

Mr. HATCH. I think the Senator is very intelligent.

Mr. REID. Let me just complete my question. The Senator has knowledge that on occasions there have been memos released from the Solicitor General's Office relating to matters before the Senate. I ask the question of the Senator from Utah, does that mean on those occasions when they were released, a law was violated?

Mr. HATCH. I am sorry, I missed that.

Mr. REID. We have established in the dialog between the Senator from Utah and the Senator from Nevada that there have been occasions where the Solicitor's memos have been given to the Senate. The Senator says they have been on rare occasions, two occasions, I think the Senator from Utah said. We say five. But on those occasions, does the Senator believe that the law was violated, and those people who released those memos should have been prosecuted in some way?

Mr. HATCH. They were not the same papers, they were not privileged, confidential documents of the order of magnitude that these are.

Let me add, the Clinton nominee—this is a Caucasian, by the way, not a Hispanic. The Clinton nominee, William Bryce, who was confirmed to the Federal circuit in 1994, was an assistant Solicitor General, just like Miguel Estrada. But nobody asked for his memoranda from his time in the Solicitor General's Office. He is one of eight former Solicitor General Office attorneys who have been confirmed at circuit courts without disclosure of their memoranda.

Why the double standard? Why do we do this to the only Hispanic who has ever been nominated for the Circuit Court of Appeals? And why are the Democrats doing this to this Hispanic man? Why are they being so unfair? We never did it. We wouldn't dare do it. The fact of the matter is, I don't think anybody who understands the nature of the Solicitor General's Office, and apparently some on your side don't seem to understand that——

Mr. REID. If my friend will yield for one final question?

Mr. HATCH. Let me just finish my remarks and I will go to your final question.

Why the double standard? Is there a specific allegation that my colleagues are concerned about for which they want to review these highly confidential documents? If there is, I would like to know what it is. I don't want a fishing expedition, even if we could give them. I don't think there is a good explanation as to why they want these documents. I think that is why everyone who looks at this in fairness views it as nothing but a fishing expedition, which is exactly what it is.

We couldn't get Miguel Estrada any other way, so why don't we go fish through all these documents and find just something to pin our antagonism towards him on, so we do not look so doggone bad? Frankly, I think the arguments on the other side look terrible.

Mr. GREGG. Point of order.

Mr. REID. Will the Senator yield for a final question?

Mr. HATCH. Let me yield for one final question by the distinguished minority whip, and then I will yield to someone on this side.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. Mr. President, I say to the distinguished Senator from Utah——

Mr. HATCH. I want to do this in fairness.

Mr. REID. Bork, Civiletti, Rehnquist, and two others, none of whom are Hispanics—and I think a person's ethnicity has nothing to do with the point we have made. The point we have made is on other occasions, memos from the Solicitor General's Office have been made public in this body.

Mr. HATCH. Can I correct the Senator? They were not Solicitor General memoranda. They had nothing from the Solicitor's Office.

Mr. REID. I would respectfully submit we have in the RECORD, admitted yesterday, letters exchanged with Senator BIDEN and the Solicitor General at that time, Bolton, who was Solicitor General, that laid out in some detail the materials that were obtained, and in addition to that we have other materials obtained from the Solicitor General's Office that were memoranda. They are either legal or they are not.

I have to ask the Senator this question: If these memos were relevant—I repeat that they were. It is in the RECORD. We have dates on the letters of when they were exchanged between the Solicitors General and Senator BIDEN, who was chairman of the committee at that time. I respectfully submit to my friend they are not legal. The decision made by the administration is that they are not going to release these documents.

Mr. HATCH. Does the Senator have a question for me?

Mr. REID. Was not a decision made by this administration that they are not going to release these documents even though they have in the past?

Mr. HATCH. Let me answer in this way. Nobody has previously asked for appeal recommendations in the Solicitor General's Office—some of the most important work that is done; certiorari recommendations in the Solicitor General's Office; some of the most important work done by that office; or amicus curiae recommendations, some of the most important work done in that office.

Let me read from the letter from the Department of Justice about what it has to say about this in response to this type of allegation by the Democrats.

> Of the seven cited nominees—

Remember. We hear all about all of these people who got Department of Justice materials. Let us look at the facts. I hope my colleague will listen to some. I hope my other colleagues will listen because we have had these false arguments made day in and day out. So I am going to put them to bed right now.

> Of the seven cited nominees, the hearings of only two, Judge Bork and Judge Easterbrook, involved documents from their service in the Office of the Solicitor General. Senator SCHUMER placed into Mr. Estrada's hearing record a single, two-page amicus recommendation memorandum that Judge Easterbrook authorized as an Assistant to the Solicitor General. The official record of Judge Easterbrook's confirmation hearing contains no references to this document and based on a comprehensive review of the department's files we do not believe that the department authorized its release in connection with Judge Easterbrook's nomination. Senator SCHUMER's possession of this memorandum does not suggest that the department waived applicable privileges and authorized its disclosure in connection with Judge Easterbrook's or any other nomination.

In other words, someone leaked that document illegally. And my colleagues have an illegal document leaked. At least that seems to be the glaring thing that happened here.

The Justice Department goes on to say:

> The hearing record of Judge Bork's nomination to the Supreme Court demonstrates that the committee received access to a limited number of documents related to three specific subjects of heightened interest to the committee, two of which were related to Judge Bork's involvement in Watergate-related issues and triggered specific concerns by the committee.

We have not had specific concerns here. All we have is a fishing expedition. These are with specific concerns.

Let us go further with what the Justice Department says:

> The vast majority of memoranda authored or received by Judge Bork when he served as Solicitor General were neither sought nor produced. And the limited category of documents that were produced for the committee did not reveal the internal deliberative recommendations or analysis of assistants to the Solicitor General regarding appeal, certiorari, or amicus recommendations in pending cases. The remaining five nominations cited at the hearings similarly do not justify the disclosure of deliberative material authored by Mr. Estrada. None of the limited documents disclosed in the hearings for these five nominations involved deliberative memoranda from the Office of Solicitor General. The committee, with respect to these five nominations, requested specific documents primarily related to allegations of miscondcut or malfeasance identified by the committee. Moreover, as noted before with respect to the nomination of Judge Trott, the committee requested documents wholly unrelated to Judge Trott's service at the department.

Again, a vast majority of deliberative memoranda authored or received by these nominees were never sought nor received by the committee.

> In sum, the existence of a few isolated examples where the executive branch on occasion called for very specific information does not in any way alter the fundamental and long-standing principle that memoranda from the Office of the Solicitor General and deliberative Department of Justice materials more broadly must remain protected in the confirmation context so as to maintain the integrity of the executive branch's decision-making process.
>
> In conclusion, we emphasis that the Department of Justice appreciates and profoundly respects the Judiciary Committee's legitimate need to evaluate Mr. Estrada's qualification for the Federal bench. We again suggest, however, that the information currently available is more than adequate to allow the committee to determine whether Mr. Estrada is qualified to be a Federal judge.

I might just add again that this is more than adequate. This is more than has been asked of any nominee in history. Why the obstruction? Why the unfairness? Why are we so unfair to this Hispanic man who has all these qualifications that normally would blow people's minds—and do blow people's minds he is so qualified. Yet here he is being filibustered by my colleagues.

I call on my colleagues of goodwill to quit playing games and start doing what is right.

Mr. CHAMBLISS. Mr. President, will the Senator yield?

Mr. HATCH. I yield to the distinguished Senator from Georgia.

Mr. CHAMBLISS. Mr. President, there have been several editorials written by newspapers in my State that are very critical of the Democrats for the obstructionist attitude and filibustering of this particular nomination of Miguel Estrada. One of those editorials was written by the Atlanta Constitution, which is extremely critical of the process the Democrats are going through tonight as they have for the last 3 weeks. The Atlanta Constitution is one of the most liberal papers in the United States of America.

Mr. HATCH. That has been my experience.

Mr. CHAMBLISS. With respect to this issue of the memoranda that they have requested be produced by Mr. Estrada or by the Justice Department, I note that the Savannah Morning News in Savannah, GA, has written that the "request is unprecedented"—that "the Democratic leadership wants to continue trolling further and further from shore in a desperate attempt to find something—anything—they can hang an accusation on."

They even write that perhaps they could subpoena a list of videotapes that Mr. Estrada rented as they did for Supreme Court nominee Robert Bork.

Does the Senator from Utah agree that this is a true fishing expedition as he has previously alluded, and if the Democratic leadership doesn't like what they have so far they can still vote against Mr. Estrada?

Mr. HATCH. I have been an attorney for a long, long time. I know a fishing expedition when I see one. I have been a Senator for 27 years. I have seen fishing expeditions before but never one as blatantly as this one, or exploiting a red herring issue like they are trying to do on this one.

I compliment the Senator. Let me read from the editorial in the Savannah Morning News just a couple of paragraphs.

> The Democrats are upset because they haven't found a "gotcha" moment in Mr. Estrada's testimony or scholarship that would embarrass or contradict him, and thus provide them ammunition to defeat his nomination.

Then they went on to quote saying what the Senator from Georgia quoted.

> They want to continue trolling further.

This is trolling like you have never seen before.

Then the next paragraph says:

> The problem is, they've already had ample opportunities. If they weren't happy with his answers at his hearing last September, Democrats could have demanded another hearing. They did not. Nor did they take full advantage of normal procedure and submit written follow-up questions to Mr. Estrada after the hearing—only two of the 10 committee Democrats did so.
>
> Because they lack the votes to defeat the nomination on the Senate floor they have resorted to manipulating the process by any means necessary—not, mind you, because they have evidence to oppose him, but because they don't.

Boy, I agree with that editorial.

Then they conclude by saying:

> Mr. Estrada's nomination deserves an up-or-down vote in the Senate and not be held hostage by bipartisan parliamentary games.

I tell you, that sentence: Because they lack the votes to defeat the nomination on the Senate floor, they have resorted to manipulating the process by any means necessary, not, mind you, because they have evidence to oppose him, but because they don't.

This editorial writer and these writers get it accurately. They have not laid a glove on Miguel Estrada. Here we are in the third week of a filibuster against the only Hispanic nominee in the history of the country nominated to the Circuit Court of Appeals for the District of Columbia.

I ask unanimous consent that the Savannah Now editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [From the Savannah Morning News, Feb. 13, 2003]
>
> DEMOCRATS HOLD HOSTAGE
>
> Miguel Estrada is President Bush's nominee to serve on the federal appeals court for the District of Columbia, regarded as the second-highest court in the land behind the U.S. Supreme Court.
>
> He's young (41), a Hispanic immigrant success story (he was born and raised in Honduras before moving to the United States at age 17 and learning English) and generally conservative. That, and the fact that the D.C. appeals court is widely viewed as a stepping stone to the Supreme Court, makes Mr. Estrada public enemy No. 1 to Senate Democrats.
>
> That a majority of Democrats would oppose putting Mr. Estrada on the bench is not surprising. That they would resort to unprecedented tactics to block a Senate vote to confirm him, however, is appalling overkill and partisan politics at its worst.
>
> Democrats have threatened to mount a filibuster to prevent a floor vote they know they would lose—all 51 Republicans are believed to support Mr. Estrada's nomination, as do a handful of Democrats (including Georgia's Zell Miller). But the number of supporters apparently falls just short of the 60 needed to end debate and force a vote, so Minority Leader Tom Daschle is prepared to talk the nomination to death.
>
> A filibuster has never been deployed against a lower-court nominee in the history of the Senate. It's akin to waging nuclear war over Bosnia. So why is one needed now to save the republic from Miguel Estrada?
>
> Democrats argue that he is a "stealth" candidate of whom they know too little about his legal views. For example, they complain that during Judiciary Committee hearings on his nomination that he failed to answer questions about which Supreme Court cases he disagreed with.
>
> But it would be improper for a potential judge on an appeals court to bias himself against cases he might hear. The lower court is obligated to apply the legal precedents set by the Supreme Court, whether the jurists agree or disagree with them. An appeals judge who issues a ruling that reflects his stated bias could be accused of conflict of interest. Judges must follow the law, not their hearts.
>
> Democrats also are demanding that the Bush administration provide confidential papers Mr. Estrada wrote when he worked in the U.S. Solicitor General's Office. The Justice Department has refused on the grounds that those documents are "highly privileged."
>
> Like the filibuster, that, too, is a Democratic tactic that is virtually unprecedented. Indeed, the Bush administration's position is supported in a letter signed by all seven living former solicitors general, who served in both Republican and Democratic administrations.
>
> The Democrats are upset because they haven't found a "gotcha" moment in Mr. Estrada's testimony or scholarship that would embarrass or contradict him, and thus provide them ammunition to defeat his nomination. They want to continue troiling further and further from shore in a desperate attempt to find something, anything they can hang an accusation on. Perhaps they could subpoena the list of videotapes Mr. Estrada rented, as they did with Supreme Court nominee Robert Bork.
>
> The problem is, they've already had ample opportunities. If they weren't happy with his answers at his hearing last September, Democrats could have demanded another hearing. They did not. Nor did they take full advantage of normal procedure and submit written follow-up questions to Mr. Estrada after the hearing (only two of the 10 committee Democrats did so).
>
> Because they lack the votes to defeat the nomination on the Senate floor they have resorted to manipulating the process by any means necessary—not, mind you, because they have evidence to oppose him, but because they don't.
>
> Is that really how Democrats want to go on record opposing the first Hispanic American nominated to the influential D.C. court of appeals?
>
> Mr. Estrada's nomination deserves an up-or-down vote in the Senate, and not be held hostage by partisan parliamentary games.

Mr. DURBIN. Will the Senator yield?

Mr. ALLARD. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor, I yield to the Senator from Colorado.

Mr. ALLARD. Mr. President, is the Senator aware that the two largest newspapers in Colorado—the Rocky Mountain News and the Denver Post—have both called for the Democrat leadership not to filibuster this judicial nominee?

Mr. HATCH. I am aware.

Mr. ALLARD. Is the Senator aware that the Denver Post, which endorsed Al Gore in the 2000 Presidential election, wrote: "To use a filibuster is to impose a new requirement that judges be confirmed by a supermajority"?

And is the Senator aware that the Rocky Mountain News wrote in an editorial: "Keeping others from voting their conscience on this particular matter is simply out of line"?

Mr. HATCH. I am aware of those editorials. And I am also aware, and I want my colleagues to know, that there are more than 50 editorials throughout the country expressing the same matters.

I hold in my hand this binder of editorials in favor of Miguel Estrada—just editorial after editorial after editorial, saying how unfair this process really is, how unfair my colleagues on the other side have been, how they have ignored principles of just plain common decency, how they are obstructing—obstructing, in an unfair way—of course, obstruction, I guess, is always unfair—but how they have been obstructing this nominee. Why? Because, as the editorial writers say, they do not have anything on him.

Mr. ALLARD. I thank the Senator from Utah for yielding.

Mr. GREGG. I ask if the Senator from Utah will yield for a question.

Mr. HATCH. Without losing my right to the floor.

Mr. GREGG. I think the point that has been made by the Senator from Colorado is an appropriate one, citing the editorial from the Denver Post, I guess it was. And it raised a constitutional issue which is an issue that has not been discussed here very much.

Knowing that the Senator is one of the leading authorities in the Senate, and really in the Nation, on the issue of constitutional law, I would be interested in his interpretation of article II, section 2, of the Constitution, which says—and I will simply read it—

> He—

Referring to the President—

> shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States. . . . The implication being that it does not take two-thirds to appoint a judge but, rather, a majority.

Is that your interpretation of the Constitution? And what is the implication of moving to a 60-vote majority in order to appoint a judge?

Mr. HATCH. The Senator is absolutely right. In the very same part of the Constitution, it mentions that there is a supermajority vote required for treaties. By implication, the Senator is correct, advice and consent means a vote up and down on the Senate floor. It certainly does not mean we should have to have a supermajority vote of 60, which is what the Democrats are insisting upon in this body, in order to confirm a circuit court of appeals nominee.

And why is the reason for that? Because the Constitution also talks in terms of the coequal branches of Government: the executive, the legislative, and the judiciary. All are supposed to be coequal, have coequal powers. If we require—because the Democrats will not end the filibuster against Miguel Estrada—60 votes before we can confirm any judge to a position in the judiciary, that diminishes the coequal power and status of the President. It also diminishes the coequal power and status of the judiciary, while increasing and augmenting the power of the legislative branch.

That is unconstitutional. And my colleagues are acting in a highly unconstitutional manner. And they are creating a constitutional crisis by refusing to end the filibuster and the obstructive tactics in this very important area of Constitutional law. And I have to tell you, there is a way around this, but I prefer that they end these obstructive tactics and that we, once and for all, decide that nobody is going to filibuster judicial nominees because the President does deserve, through his nominating power, a vote up and down—a vote up and down—on these judicial nominees.

That is as far as I am going to go this evening. But I have to say that my colleagues are asking for the world to see that the system is broken. If they break the system, then no holds barred, if they break the system, we have to uphold the Constitution on our side, and we are going to do it.

Now, all I can say is this. We have a clear majority of Senators who want to see Miguel Estrada confirmed. And a minority is obstructing—obstructing—O-B-S-T-R-U-C-T-I-N-G—did I spell it right?—obstructing him from being a judge, and obstructing us from exercising our advice and consent powers the Constitution provides.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. I am delighted to yield to my colleague from Illinois.

Mr. DURBIN. I would like to ask the Senator the following question: Has he not stated during the course of the day that the memoranda which we are seeking, namely, memoranda prepared to the Office of the Solicitor General——

Mr. HATCH. The fishing expedition you are asking for?

Mr. DURBIN. Pardon me?

Mr. HATCH. You mean, the fishing expedition you want to have?

Mr. DURBIN. The Senator may characterize it as he chooses.

Mr. HATCH. I do characterize it as such.

Mr. DURBIN. Have you said the memoranda we are seeking in order to understand the jurisprudential philosophy of this nominee has not been produced except in those instances where it has been leaked or other instances where we have questions related to ethical considerations?

And is the Senator not aware of the fact that I am holding in my hand a memorandum from Frank Easterbrook to the Solicitor General relative to the Bork nomination, produced for the Senate Judiciary Committee, relating not to an ethical case but rather to a civil rights case, and that it is in a category that the Senator from Utah has said, categorically, this evening, has never been produced; namely, a recommendation for an amicus brief participation?

Is the Senator from Utah aware that the very brief and memorandum which he said has never been produced was, in fact, produced to the Senate Judiciary Committee during the Bork nomination? And I hold a copy in my hand.

Mr. HATCH. I do not think the Senator knows that came from the Bork matter. I don't think you can make that claim.

Mr. DURBIN. That is exactly where it came from.

Mr. HATCH. Let me answer the question, and let me address some of the specific examples my Democratic colleagues have represented as precedent for their demand.

One, of course, is Frank Easterbrook, who is a judge on the Seventh Circuit Court of Appeals, which the Senator is raising. The Democrats' mere possession of a single memorandum—a 2-page amicus recommendation that Mr. Easterbrook wrote as an assistant to the Solicitor General—does not suggest that the Justice Department waived any privileges or authorized it to be disclosed. It did not.

The official record of the Easterbrook confirmation hearing contains no references to this document. There is nothing in the hearing that shows a reference to it, at least as far as I know. And I am quite sure about that.

After comprehensively reviewing its files, the Justice Department concluded that it never authorized the document's release.

Now, last fall, I sent a letter to Senator SCHUMER, and then to Senator LEAHY, specifically asking for information about how the Democrats obtained this memorandum that the Senator has been waving here, with impunity, by the way. To this day, I have not received a response to my question. There is probably a very good reason for it because he should not have that memorandum. I do not know how they got it.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Not yet.

That single document provides no precedent for the Democrats' sweeping request for every document Mr. Estrada ever prepared on appeal recommendations, certiorari recommendations, and amicus recommendations.

Now, let me take a clear look at this. The Justice Department has no record; the hearing has no record. How is it that the Democrats have that? I can guarantee you they don't have it legally—at least I think I can guarantee that. That is the reason why I have not received a reasonable response. I haven't received any response. I would think if they had it legally, they would give me a response on it.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. I asked for it and, as ranking member of the committee, I was entitled to it. They ignored my request.

The Senator made a couple other remarks I find particularly offensive. I will get into those other remarks later. The Senator had another question.

Mr. DURBIN. Will the Senator yield for a further question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. DURBIN. The Senator is taking exception to this memorandum that the Solicitor General produced during the Bork nomination relating to an amicus. I hold in my hand a copy of the transcript of the hearings of the Committee on the Judiciary relating to the nomination of William Bradford Reynolds to be Associate Attorney General of the United States. And written within the committee hearings, you will find on page 983 a copy of a memorandum to the Solicitor General, sent by Mr. Reynolds relating to the recommendation on an amicus brief. I ask the Senator from Utah, would he like to at least modify his earlier statement that the Department of Justice has never produced a memorandum to the Solicitor General relating to amicus briefs in light of the fact that it is part of the official transcript of his committee?

Mr. HATCH. Let me answer that question. The Senate sought and received materials in the course of pursuing specific allegations that Mr. Reynolds, while Assistant Attorney General for Civil Rights failed to enforce the Voting Rights Act and Civil Rights Act—as with Mr. Civiletti, by the way. The Department's disclosure was limited to specific cases of alleged misconduct—limited.

The sweeping request by the Democrats in this matter is completely different. There have been no allegations that Mr. Estrada engaged in any improper behavior or failed to discharge his duties. Significantly, although Mr. Reynolds previously had served as an assistant to the Solicitor General, the Senate never suggested—never—that his appeal, certiorari, or amicus recommendations should be divulged. Never.

Let's just be honest here. With regard to specific allegations, if the Senators have them, bring them out, instead of asking for a fishing expedition into what could be thousands of documents that are privileged down at the Department of Justice in the Solicitor General's Office. No self-respecting Attorney General or President of the United States is going to give you those documents. How you got some of these documents, I cannot say. I am not suggesting that my colleagues have done wrong in getting these documents, but somebody gave them to them who didn't have the authorization to do it. The Justice Department did not authorize the giving of whatever documents you have. I don't care that you have them. It doesn't mean anything to me, except that it is phony in my eyes to use them and try to say we ought to have this sweeping demand for maybe thousands of documents that we don't know what is in there, but we want to be able to fish through them and see if we can find something against Mr. Estrada.

I hope one of these days my Democratic colleagues will wake up and realize how ridiculous they look on these arguments. These are terrible arguments, phony arguments, if you will.

Mr. CORNYN. Will the Senator yield for a question?

Mr. HATCH. Yes, without losing my right to the floor.

Mr. CORNYN. The Senator from Utah is well versed in the law of attorney-client privilege. I believe that earlier I asked—and I am asking for clarification now—whether even if Mr. Estrada wanted to produce the memos that the Democratic minority wishes to receive, whether he has custody of those, or whether it is the client's privilege to waive or not to waive, and the client—in this case, the Department of Justice—decided not to waive any claim to the privilege they may have on these documents.

Mr. HATCH. Mr. Estrada said he is proud of the work he did. He would personally have no real problem. He also recognizes there is a good reason not to give those documents based upon law and confidentiality and upon client-attorney work product.

This is the attorney for the American people. If we start giving his internal documents out, he cannot function—he or she, whoever it is. So, yes, I am aware of that.

I was interested that over the last weekend, the Senator from New York, who has been very vocal in his opposition to Mr. Estrada—the conservative party of New York said they didn't know enough about him—the same arguments the Democrats are using—by the way, this is almost 2 years they have been examining Mr. Estrada, going through everything they possibly can—Supreme Court briefs, all of his arguments, briefs in other cases, all kinds of other matters. They have had a full solid day of testimony and they asked written questions. Now they are complaining they don't know enough.

The conservative party of New York, as I understand it, wrote a letter to Senator SCHUMER and said: We don't know enough about you. How about giving us your internal documents with regard to these matters? Maybe he will do that. I don't know. In all honesty, no self-respecting attorney who understands this—and this includes the Solicitor General and the Attorney General—would give up his work product that he or she has been doing for clients. It would be unethical to do so. In this particular case, according to seven former Solicitors General—the only living ones to my knowledge—it would be a travesty to do it. It would undermine the very work of the Solicitor General's Office. Four of those were Democrats, three of whom I think he served.

So these arguments are really red herring, phony arguments. I don't know how they have the brazenness to keep bringing them up.

Mr. CORNYN. If the Senator will yield for a further question, in my State of Texas, as in other States that we have heard from here tonight, there is overwhelming editorial support for Mr. Estrada's nomination. Six separate newspapers have called on the Democratic leadership to stop this filibuster, including papers from Waco, El Paso, Dallas, Austin, Fort Worth, Victoria, and I believe there is another one I saw from Tyler in east Texas.

Yet we hear that Democrats come to the floor and say, in effect, that nobody cares about this issue. And in the case of the senior Senator from New York, who earlier today indicated that Democrats really should not pay much attention to this, or worry about paying a political price because no one is paying attention—well, I would like to tell you that is not true in Texas.

Let me ask the Senator from Utah, would he agree with me that whether or not people are paying attention, is that the standard we have come to expect from this institution and Members of the Senate when it comes to doing the right thing and discharging our constitutional responsibilities, when it comes to advice and consent for judicial nominees?

Mr. HATCH. That is an excellent question. There is no question that people are paying attention to this. I have been overwhelmed by Hispanic concerns, just today, all over the country. They are starting to awaken to this. One of the Hispanic nominees—most all of them will say he should not be on the court just because he is Hispanic. We would not support him just for that, but he is qualified. He made the grade. He ought to be treated like everybody else. He will make a great judge. These are Democrats speaking, and Independents, and Republicans speaking. But editorial writers all over the country are speaking as well.

The Senator raised the Dallas News. In an editorial entitled "Rush to Judgment: Estrada nomination has been blocked too long"—we are in the third week of this—let me read a paragraph or two:

> Democrats by now are in full filibuster. Senate proceedings, as carried on C-SPAN, resemble the film Groundhog Day, where the main character has to relive the same day over and over again. Every day, it's the same thing. Democrats get up, march over to the podium, and shuffle papers and recite their main complaint with Mr. Estrada—that he is conservative, unconventional, and unapologetic. That when he had the chance to hand them the rope with which to hang him during his hearing before the Senate Judiciary Committee, he refused to hold up his end.

I think that is pretty good. Then they say:

> And so they have talked and talked, in hopes that Republicans will back down. They won't. Nor should they.

I might add, in the El Paso Times, which the Senator noted—let me read one line in that:

> Set politics aside, confirm a well-qualified nominee, and work for the good of the country rather than the party.

In the Austin American Statesman, to mention three Texas newspapers:

> If Democrats have something substantive to block the confirmation of Miguel Estrada's confirmation to the U.S. Circuit Court of Appeals for the District of Columbia, it's past time they share it. Estrada's nomination was announced in May—

They should have said 2001, almost 2 solid years ago—

> and has been held hostage since by Senate Democrats who have yet to clearly articulate their objections to it.

I ask unanimous consent that these three editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows

[From the Dallas Morning News, Feb. 21, 2003]

RUSH TO JUDGMENT: ESTRADA NOMINATION HAS BEEN BLOCKED TOO LONG

There is a time for talking and a time for voting. The time is past for the U.S. Senate to talk about Miguel Estrada's nomination to the federal Court of Appeals for the District of Columbia circuit. It's time to vote.

Having emigrated from Honduras as a teenager unable to speak much English, Mr. Estrada went on to graduate magna cum laude from Columbia University and Harvard Law School, to clerk for a Supreme Court justice, to serve two administrations in the U.S. solicitor general's office, to win more than a dozen cases in the Supreme Court. In short, the 42-year-old lawyer is talented. Who knew that talent would extend to tying the Senate in knots for days on end.

Democrats by now are in full filibuster. Senate proceedings, as carried on C-SPAN, resemble the film Groundhog Day, where the main character; has to relive the same day over and over again. Every day, it's the same thing. Democrats get up, march over to the podium, shuffle papers and recite their main complaint with Mr. Estrada—that he's conservative, unconventional and unapologetic. That when he had the chance to hand them the rope with which to hang him during his hearing before the Senate Judiciary Committee, he refused to hold up his end.

Democrats haven't liked Mr. Estrada from the beginning. Part of that is due to his ideology—which is decidedly not Democratic. But part of it also has to do with the fellow who nominated him. Democrats don't relish giving President Bush one more thing to brag about when he goes into Hispanic neighborhoods during his re-election campaign next year. They are even less interested in putting a conservative Republican in line to become the first Hispanic justice on the Supreme Court.

And so they have talked and talked, in hopes that Republicans will back down. They won't. Nor should they.

Republicans certainly stalled their share of appointments during the Clinton administration. But Democrats are being shortsighted in seeking retaliation. It is precisely these sorts of narrowly motivated temper tantrums—from both sides of the political aisle—that turn off voters and make cynics of the American people. When that happens, it doesn't matter which nominees get confirmed or rejected. Everybody loses.

[From the El Paso Times, Feb. 8, 2003]

Stop the Partisan Delay; Judicial Nomination Should Be Based on Qualifications

Senate Democrats, led by Minority Leader Tom Daschle from South Dakota, aren't likely to be cited for obstruction of justice. But that's in effect what they're doing by blocking Senate confirmation of Miguel Estrada for the District of Columbia-based federal appeals court. There were even hints of a filibuster.

Playing politics to keep a well-qualified nominee from being confirmed is as common as it is often destructive. And it's not peculiar to Democrats; Republicans do the same thing.

But this time it happens to be Democrats threatening to block the confirmation of an eminently qualified judicial nominee, keeping an important position from being filled in a court system that is in dire need of qualified judges.

Thankfully, threats of a filibuster don't seem to have universal support even among Senate Democrats. Sen. John Breaux, D–La., said that Estrada is "uniquely qualified."

Democrats oppose Estrada because they believe he is too conservative. Political philosophy can certainly be germane when talking about politicians and political parties, but it shouldn't really have any bearing on the fair administration of justice.

As Sen. Orrin Hatch, R–Utah and chairman of the Senate Judiciary Committee, said, "I believe (Estrada) to be moderate to conservative, but I don't know. The important thing is he's qualified, and he ought to be approved."

That's what needs to happen now. Set politics aside, confirm a well-qualified nominee, and work for the good of the country rather than the party.

[From the Austin American-Statesman, Feb. 21, 2003]

Approve Estrada Nomination or Don't—Just Get on With It

If Democrats have something substantive to block Miguel Estrada's confirmation to the U.S. Court of Appeals for the District of Columbia, it's past time they share it. Estrada's nomination was announced in May and has been held hostage since by Senate Democrats who have yet to clearly articulate their objections to it.

Those unschooled in Washington-think—that would be most of us—are bewildered why Estrada, who worked in the Clinton administration, is now deemed unworthy to sit on the bench. So instead of clear reasons, we are treated to a sideshow involving the nominee's ethnicity. Estrada was born in Honduras, immigrated to the United States as a teenager and graduated from Harvard Law School in 1986.

Democrats and their supporters hint that Estrada may not be "Hispanic enough"—whatever that means—while his Republican supporters note that the nominee's opponents are "anti-Latino." Though vaguely amusing, the arguments have nothing to do with whether Estrada has the intellectual ability and temperament to become a judge on the second most influential court in the nation.

Competence, ability and commitment to the law are what should matter, but don't, in winner-take-all ideology fights. In any event, Democrats appear to be the same kind of ideology-driven obstructionists they accused Republicans of being when President Clinton's nominees hit confirmation roadblocks.

Though partisans may not quite see it, what is really imperiled by this judicial hostage-taking is confidence in the American court system. What we're seeing here is an ugly legal brawl in which the participants use big words instead of bottles to hit the opponents on the head.

Enough is enough. We don't expect the partisan brawl over judicial appointments to ever end, but Estrada has clocked enough time as a punching bag for Democrats. Call the vote.

Mr. HATCH. Mr. President, let me say more to my distinguished colleague who I think has raised some pretty important issues here. It is absolutely astounding to me, because I have heard the same comments: We Democrats are not worried about this; nobody is paying attention to it; we are not going to pay a political price; we do not care what we do to this Hispanic man, even though he is highly qualified—and I heard a number of Democrats admit he is highly qualified—we are just going to do this.

I call them my colleagues. Look, I have used some pretty tough language here tonight. I do not want to apologize for it because I feel deeply, but I will apologize. I feel deeply about this issue. I am fighting for this man, as all of us Republicans are. Every one of us is concerned. Every one of us wants this man to be confirmed. Every one of us wants to see justice here. Every one of us wants to stop the obstructive tactics. Every one of us wants to do what is right here. So if I have been too enthusiastic this evening, I apologize. I feel so passionate about this, so deeply about this that I can hardly stand it.

I have never seen, other than in Supreme Court nominations, this type of shabby treatment. I have never seen it before. I think I have a reputation for fairness around here. I think I have a reputation for knowing what is going on in the Judiciary Committee. I think I have a reputation for putting through the Clinton judges. I see this shabby treatment, and I cannot help but get emotionally disturbed by it. I do not know how any honest, decent person would not feel the same way.

I tell you, I feel like I am Hispanic. I am the chairman of the Hispanic task force on our side. For 13 years I have done that, long before some believe the Hispanic people in this country were a political force. I have fought for Hispanics every day I have been in the Senate. I particularly resent this treatment. I particularly resent the fishing expeditions where they cannot come up with one reason for even wanting these privileged papers. They have not listed a specific reason. They just say: Let us cast our line out there and let us see what we can find because we do not have anything on this man and we do not want him on the court because he is appointed by a Republican President and he is a Republican himself, and he is a conservative, a Hispanic. We do not want those kinds on the Federal bench.

Mr. REID. Will the Senator yield for a question?

Mr. HATCH. That, in essence, is what this argument is all about.

Mr. REID. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. REID. Is the Senator aware that on August 24, 1987, John Bolton, the Republican Assistant Attorney General, wrote a letter to Chairman BIDEN, among other things saying:

> Accordingly, we have decided to take this step of providing the committee access to responsive materials we currently possess except those privileged documents specifically described. Of course, our decision to produce these documents does not constitute a waiver of any future claims of privilege concerning other documents the committee requests or waiver of any claim over these documents with respect to the entities or persons other than the Judiciary Committee.

Mr. HATCH. Of course, Senator LEAHY put that in the RECORD I believe on February 25. Let me answer. This is a letter to Senator Thurmond.

Mr. REID. Senator BIDEN.

Mr. HATCH. The one I have is a letter to Senator Thurmond. I also have attached to that two letters to Senator BIDEN. I have a number of letters here. I understand all of these letters the distinguished ranking member of the committee has put in the RECORD.

I point out to the distinguished Senator from Nevada that all of these letters are from the Office of Legal Counsel, not the Solicitor General's Office. They refer to—

Mr. REID. But the Senator would agree the Attorney General released memos from the Solicitor General's Office in this letter. That is what it does. That is what the letter is about. Is the Senator aware of that point?

Mr. HATCH. These were responses to specific allegations—let me ask the Senator on my time, without losing my right to the floor, is the Senator aware of any specific allegations justifying the request for these records from the Solicitor General? Just answer my question. Are you aware of any specific allegations that need to be investigated from the Solicitor General's Office? If you are, I would like to know about it rather than have a fishing expedition trying to find something to murder this guy with.

Mr. REID. The Senator from Utah made a statement on this floor this evening that it is illegal to release documents relating to memos in the Solicitor General's Office, and the record is very clear it has been done before on more than one occasion.

Mr. HATCH. Mr. President, if he has a question, I will be happy to take it. Gratuitous comments are not fair.

Mr. REID. You asked me a question, and I was answering.

Mr. HATCH. I will go with that. The fact is I have not said that. At least I do not believe I said that. I said that these documents are not given. I said we have never given appeal recommendations and certiorari recommendations that were fairly requested except in cases where there were specific allegations, and then in a very limited way.

These letters are responding to Senator BIDEN's August 6 request for certain additional materials referred to in the documents from the Office of Legal Counsel, and I have not said that the Attorney General will act illegally if the Attorney General gives up documents. I suppose the Attorney General can theoretically do anything he wants to do, but he will not be acting responsibly if he gives up privileged documents that should not be given up by the executive branch.

I suspect and said earlier theoretically I suppose the Attorney General can do that if he wants to. He would not be responsible to do it under these circumstances.

Mr. REID. That is what Senator DURBIN and I have been trying to show all night. It has been done in the past.

Mr. HATCH. Let me just make another comment. Is it your desire here to trip me up in a multihour debate, or is it your desire to really find out something about Miguel Estrada you specifically know exists? If that is it, maybe I can accommodate you. I don't know. But the fact is, this is just a job of who got whom. I gotcha, Miguel Estrada, because I got a complaint that there may be in thousands of documents something that might destroy his nomination.

Am I on trial here? Is that what the Senator is doing? I will be happy to say to the Senator, I do make mistakes sometimes. But let me tell you something. Give me a reason that really is specific why the Justice Department should give you access to these thousands of pages of privileged documents that they have never given before except in specific requests and then in this case, the Office of Legal Counsel matters, not the Solicitor General.

Come on, let's be fair here. Is there a substantive reason for all of this blather on the Senate floor? Is there a substantive reason? Do we have a substantive reason to obstruct this man? Do we have a substantive reason? I have not seen an argument against him since the debate began other than the phony argument that he did not answer the questions, which the distinguished Senator from Tennessee, Senator ALEXANDER, blew away tonight.

I think that has been blown away by other Senators as well. My gosh, what is fair is fair.

Mr. REID. Could I respond to the question the Senator asked me without losing his right to the floor?

Mr. HATCH. I will recognize the Senator from North Carolina right now—excuse me, South Carolina.

Mr. REID. The Senator asked me a question.

Mr. HATCH. I did not ask the Senator a question. Well, I suppose I did, theoretically.

I would like the Senator to think about the answer.

The PRESIDENT pro tempore. Who is seeking recognition?

Mr. GRAHAM of South Carolina. Will the Senator from Utah yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. GRAHAM of South Carolina. Mr. President, it is fair to say, like many other States, this nomination has not gone unnoticed by the media in my State of South Carolina—I have been called worse things than being from North Carolina. Both the Spartanburg Herald Journal and Post & Courier of Charleston have called for an end to this filibuster, and there is one aspect of the Spartanburg Herald Journal editorial I would like to ask the senior Senator from Utah about, and it goes as follows:

> No reasonable Congress ought to be seeking such material—

And talking about legal memorandum written by a lawyer to a client—

> as a letter from all living former Solicitors General attests. . . . They don't want those lawyers to be worrying about how their memos will impact future attempts to win judicial seats.

Does the Senator from Utah agree that if we start taking memos prepared by lawyers to their clients and bring those memos out in a fashion as to whether or not a person is qualified to serve one day in the future in the judiciary that it may change work product and it will be very bad for the Justice Department lawyers to have to be thinking about those things? Does the Senator agree this is a road none of us should want to go down?

Mr. HATCH. Seven former Solicitors General agree, four of whom are Democrats and three of whom he served with, three of whom understand whatever he did, why don't my colleagues ask them? I am sure they have in their quest to find some fish around here, and apparently they do not have any specific reasons for asking for this huge fishing expedition. But even if they did, what responsible attorney would give up his work product?

Now, let's suggest there is a Democrat President and one of our body is invited to be a member of the Circuit Court of Appeals for the District of Columbia, he decides he is sick and tired of the Senate, mainly because of obstructive tactics like this, I am sure, and we, as Republicans, then say we are not going to let him serve until we get all of his internal memoranda while he was a Senator. Do my colleagues think he is going to give that up? He would be nuts, because we would then be able to find all kinds of rotten fish in there to use against him or her. Do my colleagues see the point?

I hope our side would not stoop to that level, and I would fight to make sure we did not stoop to that level. So I ask, where are the specific allegations? They must have talked to at least their four Democrat former Solicitors General and said, is there not something there? By the way, those Solicitors General are for Miguel Estrada, at least have said that he handled himself very well and is ethically responsible, and his performance recommendations that they signed are the highest form of recommendations. They have all said he has done that in the highest sense of the Solicitor General's Office.

So, yes, the Senator is absolutely right. Seven former Solicitors General, four of whom are Democrats, three of whom he worked with in the Clinton administration and the Bush administration.

I would like to share with my colleagues an editorial cartoon which really sums it up well. It shows one of two Democrat caricatures stating:

> The makeup of the judicial system should look like America, including blacks, Asians and Latinos.

Then the other asks: What about Estrada? These are two donkeys.

The other tellingly replies: That is different. He is not a liberal.

That is what this is all about. He is not a liberal. How could we have the temerity to choose a Hispanic nominee for the Circuit Court of Appeals for the District of Columbia? How could this

President do this since he is not a liberal? That is what is involved.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. HATCH. Without losing my right to the floor.

Mr. SESSIONS. Mr. President, I will ask the Senator from Utah—I first would say how effective I think he has been tonight in indicating there are no reasons to oppose this nomination. I would note that the Mobile Register in my State has a fine editorial page, and they wrote:

> All precedent indicates that a filibuster against judicial nominations for any reason but one concerning the nominee's very integrity is essentially dirty pool.

My question is: Has this nominee's integrity ever been questioned and does the Senator agree that this filibuster is dirty pool?

Mr. HATCH. This nominee's integrity has never been in question. I think my colleagues on the other side have acknowledged that. His integrity is totally intact. He is an honest, decent, honorable man who, in spite of a disability, a speech impediment, has risen to the top of the legal world, who is a partner in one of the major law firms in this country, who has the highest rating of the American Bar Association, unanimous, well-qualified rating. This man's integrity has never been called into question, to my knowledge, and I would be very ashamed of anybody who tried to call his integrity into question.

I have been very passionate this evening, and I apologize to my colleagues if I have offended anybody, but I have to say this is really important stuff. We cannot allow this type of treatment to go on. We are talking about a breakdown in the Senate, if a filibuster for the first time in history is maintained to defeat a nominee, any nominee, let alone the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia. I have not wanted to antagonize or offend any of my colleagues, and I apologize if I have, but what I have said tonight is true.

I have to say, I am really disturbed by the obstructive tactics that are being used. I would be equally upset if they were used on our side, but they have not ever been used in this fashion on our side.

I see the majority leader is in the Chamber, but first I forgot to put these letters in earlier, my letter to Senators LEAHY and SCHUMER, with regard to the Easterbrook document. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 1, 2002.

Hon. CHARLES E. SCHUMER,
U.S. Senate, Committee on the Judiciary,
Washington, DC.

DEAR SENATOR SCHUMER: Thank you for chairing last Thursday's hearing on the nomination of Miguel Estrada to the United States Court of Appeals for the District of Columbia Circuit. I write to seek your clarification on a matter which you raised at the hearing.

You reiterated your belief that the Department of Justice should turn over certain appeal, certiorari and amicus recommendations that Mr. Estrada authored when he served as an Assistant to the Solicitor General. As precedent for this request, you noted that during the nomination of Judge Frank Easterbrook to the Seventh Circuit Court of Appeals, similar memos were turned over to the Committee. You produced those documents and placed them into the hearing record. When Republican staff requested copies of the documents, only one of the three documents we received appeared to pertain to Judge Easterbrook. That document consists of a two-page memorandum referencing another memorandum prepared by someone else.

At the hearing, you did not explain whether the Committee had ever formally requested this document, or the other two documents, from the Department of Justice, or whether the Department of Justice consented to their disclosure. The written record of Judge Easterbrook's hearing contains no such documents, or even a mention of them. So that the record of Mr. Estrada's hearing is as complete as possible, please advice whether you have any information that the Committee requested these documents from the Department of Justice and whether the Department consented to their disclosure to the Committee. If the documents were neither requested of nor produced by the Department of Justice, please indicate the manner in which the Committee came to possess them.

Thank you for your prompt attention to this matter. I look forward to your response.

Sincerely,

ORRIN G. HATCH,
Ranking Republican Member.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 10, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: On October 1, I sent a letter to Senator Schumer seeking clarification of questions about certain documents that he submitted for the record at Miguel Estrada's confirmation hearing. These documents consisted of memoranda that Senator Schumer stated were provided to the Committee by the Department of Justice during the nomination of Judge Frank Easterbrook to the Seventh Circuit. Senator Schumer cited these documents as precedent for your request that the Department release to the Committee appeal, certiorari and amicus recommendations that Mr. Estrada authored when he served as an Assistant to the Solicitor General.

When Republican staff requested copies of these documents, however, only one of the three documents provided appeared to pertain to Judge Easterbrook. That document consists of a two-page memorandum referencing another memorandum prepared by someone else. The written record of Judge Easterbrook's hearing contains none of the three documents, or even a reference to them.

Enclosed is a copy of my letter to Senator Schumer, which seeks clarification of whether the Committee requested these documents from the Department of Justice in connection with Judge Easterbrook's confirmation and whether the Department consented to their disclosure to the Committee. It also asks for an explanation of the manner in which the Committee came to possess the documents in the event that they were neither requested of nor produced by the Department of Justice.

Yesterday, Senator Schumer's office advised my staff that the full Committee provided him with the documents at issue and, for this reason, he is deferring to you for a response to my letter. I look forward to hearing from you, particularly in light of the October 8 letter of Assistant Attorney General Dan Bryant, which stated the Department's conclusion that it did not authorize the release of the Easterbrook memorandum.

Sincerely,

ORRIN G. HATCH,
Ranking Republican Member.

Mr. REID. Mr. President, I have a unanimous consent request.

Mr. FRIST addressed the Chair.

Mr. REID. I have a unanimous consent to make and ask if the majority leader would yield for that unanimous consent request.

Mr. FRIST addressed the Chair.

The PRESIDENT pro tempore. The majority leader has the floor.

Mr. REID. Of course he does.

Mr. FRIST. Mr. President, as we have for the past 3 weeks, my Republican colleagues, as we can see from the Chamber now, and I have stood ready to debate the Estrada nomination. Few of our Democrat colleagues have been present tonight, although we clearly stand ready to vote on this nomination. It appears that most of our colleagues in the minority are prepared neither to debate nor to vote on Miguel Estrada. Tonight my colleagues have shed light on the immense reaction from newspapers all over the country to the obstruction of this nomination. Tonight my colleagues have shed light on the fact that the peculiar and truly unprecedented obstruction the minority is pursuing is founded upon a double standard which is being applied to this particular nominee. Tonight we have made clear once again that obstruction is being played out in the Senate by a minority that appears far from the mainstream of opinion throughout this country.

I ask unanimous consent that the vote occur on the confirmation of the nomination of Miguel Estrada at midnight tonight, provided further that the time between now and then be equally divided between the chairman and ranking member or their designees, and that at midnight the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the request made by the majority leader be modified to include that the Justice Department provide the requested documents relative to Mr. Estrada's Government service, first requested in May of 2001: that the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing, and any additional questions that may arise from such documents.

Mr. FRIST. Reserving the right to object to that request for modification, let me cite a sample of editorials and what they say about my distinguished friend's request with regard to these memoranda. Just a couple.

From the Redding Record Searchlight in California from February 15: The administration won't hand over memos he wrote when he was in the Solicitor General's Office, say the Senate Democrats. It apparently does not matter to them that publicizing them could rob future memos of their candor and that every former Solicitor General of either party has said the Democrats seek too much.

Just one other from the Detroit News, February 11, 2003: Democrats also demanded that he produce his memos and recommendations while he was in the Solicitor General's Office, which had never been done for any other candidate who had been an assistant in that office. The demand was rejected not only by Estrada but by every former Solicitor General still living, including those who served Democratic Presidents.

I reject the request for modification.

Mr. DASCHLE. Then I object, as well.

The PRESIDENT pro tempore. The objection is heard.

Mr. FRIST. As I said, tonight my colleagues have addressed all the many obstacles that have been put forward by the minority one by one by one by one through a series of questions handled so ably by our chairman of the Judiciary Committee, a nomination that the President of the United States sent to this Senate 2 years ago. Thus, I modify my request so that each Member on the other side of the aisle would be permitted to speak for up to 1 hour on the nomination prior to a vote.

The PRESIDENT pro tempore. Is there objection?

Mr. DASCHLE. Mr. President, I again ask unanimous consent that the request made by the majority leader be modified to allow for the documents requested by the Judiciary Committee members be provided as a part of the hearing record and that additional questions proposed by Judiciary Committee members be included in the RECORD at that time.

Mr. FRIST. Mr. President, in response to the motion, let me cite another sample editorial. Again, it has been fascinating to watch the editorials over the last 2 weeks.

The PRESIDENT pro tempore. Is there an objection?

Mr. DASCHLE. Mr. President, I will ask for regular order. We can debate this if the majority leader wishes, but this is a unanimous consent request.

The PRESIDENT pro tempore. Is there an objection?

Mr. FRIST. Mr. President, I object to the request for the modification.

Mr. President, I have tried, as you can see, on numerous occasions to reach an agreement for something very simple, and that is an up-or-down vote on this qualified nominee. Once again, there has been an objection from the other side of the aisle. It is time to allow the Senate to work its will on this nomination, the will of the Senate.

We are here, as you can see, ready to vote.

Mr. DASCHLE. I was under the impression I made the objection, but of course if I did not, I do it again.

The PRESIDENT pro tempore. The objection is heard.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2 Ex.]

Allard
Bayh
Daschle
Dorgan
Durbin
Frist
Hutchison
Leahy
Lugar
Pryor
Reid

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. FRIST. I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. HAGER), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from West Viginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER), the Senator from North Dakota (Mr. CONRAD), the Senator from North Carolina (Mr. EDWARDS), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Maryland (Mr. SARBANES), and the Senator from Oregon (Mr. WYDEN) are necessarily absent

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 1, as follows:

[Rollcall Vote No. 36 Ex.]

YEAS—73

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Campbell
Cantwell
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hatch
Hutchison
Inhofe
Kohl
Kyl
Leahy
Levin
Lincoln
Lott
Lugar
McCain
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—1

Breaux

NOT VOTING—26

Biden
Bingaman
Byrd
Carper
Chafee
Conrad
Edwards
Feinstein
Graham (FL)
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Lieberman
McConnell
Mikulski
Reed
Rockefeller
Sarbanes
Wyden

The motion was agreed to.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, once again, I state that we are ready to vote on this nomination tonight. As you can see, the nomination has been pending in the Senate since February 5. We have had speech after speech after speech on this qualified nomination. There has been ample time for both sides to make their case. As has been said on the floor by the minority whip, everything has been said.

Mr. President, I now ask unanimous consent that the vote occur on the confirmation of the nomination of Miguel Estrada at 6 p.m. on Monday.

The PRESIDENT pro tempore. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I ask unanimous consent documents requested by members of the Judiciary Committee, as well as answers requested by Members to Mr. Estrada, be made part of the request as well.

The PRESIDENT pro tempore. Is there objection?

Mr. FRIST. Mr. President, I object to the requested modification.

Mr. DASCHLE. Mr. President, then I object as well.

The PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 3 Ex.]

Baucus
Bayh
Boxer
Breaux
Clinton
Corzine
Daschle
Durbin
Feingold
Feinstein
Frist
Leahy
Nelson (FL)
Pryor

The PRESIDING OFFICER (Mr. SMITH). A quorum is not present.

Mr. FRIST. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader. The yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. HAGEL), the Senator from Mississippi (Mr. LOTT), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER), the Senator from North Dakota (Mr. CONRAD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Maryland (Mr. SARBANES) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 1, as follows:

[Rollcall Vote No. 37 Ex.]

YEAS—74

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Campbell
Cantwell
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hatch
Hollings
Hutchison
Inhofe
Kohl
Kyl
Leahy
Levin
Lincoln
Lugar
McCain
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—1

Breaux

NOT VOTING—25

Biden
Bingaman
Byrd
Carper
Chafee
Conrad
Edwards
Graham (FL)
Hagel
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Lieberman
Lott
McConnell
Mikulski
Reed
Rockefeller
Sarbanes
Wyden

The motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, once again we were unable to reach an agreement on the vote for the confirmation of the nomination of Miguel Estrada. I want to thank all of the Members who have participated tonight in what is an important debate. We have had constructive debate through the evening and Members have made themselves available to vote on the Estrada nomination. Unfortunately, given the objections from the other side of the aisle, we will not be allowed to vote on this nomination at this time. Therefore, there will be no further rollcall votes tonight.

I know a number of my colleagues have statements they wish to make, and I encourage them to remain in the Chamber and continue to debate this evening, even though the hour is late. I do want to notify our colleagues that we will convene at noon tomorrow and will continue to debate the Estrada nomination at that time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, anybody who might have been watching the debate this evening has to come to the realization that we are in a filibuster. Personally, I am very concerned about the kind of precedent it is going to set for this body as we move forward in future years. I think that forcing 60 votes in order to get to a vote up or down on a judicial nominee is a very difficult position to put this body in. I am disappointed that we were not able to get a straight up-or-down vote this evening on Miguel Estrada to the Court of Appeals for the District of Columbia.

I realize that watching the Senate on television is probably not the most popular pastime for many Americans, but it should come as no surprise to any of my colleagues or students of Congress that the current debate and unprecedented filibuster over the confirmation of Miguel Estrada, President George W. Bush's nominee to the DC Circuit Court, has citizens from across the country tuning in and paying close attention. From California to Colorado to New York and beyond, Americans have closely watched the DC Circuit Court confirmation, because they realize that justice is not issued by an individual court or judge, but rather collectively, the integrity of the law depending on the ability of each court to function within the whole.

In the midst of the Democrat-led filibuster, the Senate finds its business completely disrupted, unable to proceed to other important issues such as prescription drugs and economic relief. The Constitution commands that Federal judges are to be appointed with the advice and consent of this body. Yet today, thanks to the obstructionist tactics of the Democratic leadership, we face a very real possibility of shifting this authority in a manner the Framers never intended, fundamentally altering the amount of votes required to confirm judicial nominations.

It is clear that the obstructionists are not interested in an up-or-down vote on this nomination. Instead, they prefer to hold the majority and the American people hostage to an unacceptable game of entrenchment and politics. Their reasons to prolong debate may be enough to justify a vote against Miguel Estrada, but I am still waiting for a reason that is sufficient to deny a vote entirely.

Television programs, talk show radio, and newspaper editorials across the United States are demanding that the Democrats allow a vote on Miguel Estrada, that they proceed to a simple up-or-down vote.

The media is simply echoing the statement of an outraged public. They have rejected this tyranny of the minority, and their demand for a vote must be acknowledged. The call for a vote has reached the editorial pages of both major newspapers in Colorado.

The Rocky Mountain News, in an editorial entitled "Democrats Turn Ugly on Estrada," states the filibuster is irresponsible. Their editorial also undermines many of the various arguments that are being used to prolong the confirmation, saying the arguments that we do not know enough about Miguel Estrada is implausible because he has a well-known and rather amazing life story. Estrada immigrated to this country from Honduras, graduated with honors at Columbia College, and was editor of the Law Review at Harvard Law School. Then he was a clerk to a Supreme Court Justice and argued before the Supreme Court 15 times. He received the highest possible recommendation of the American Bar Association.

The editorial concludes:

> The Democrats have no excuse . . . keeping others from voting their consciences on this particular matter is simply out of line.

I ask unanimous consent that the article by the Rocky Mountain News be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rocky Mountain News, Feb. 14, 2003]

DEMOCRATS TURN UGLY ON ESTRADA

Miguel Estrada is—oh—a conservative, and if that makes your heart pound with fear you may very well be a U.S. Senate Democrat. Then you may also be among those trying to thwart the Senate's majoritarian decision-making with a filibuster.

It's irresponsible, this hysteria being acted out to keep Estrada from serving on the U.S. Court of Appeals for the District of Columbia. But Democratic senators do have their excuses, each more petty than the next.

One excuse is that they don't know enough about Estrada—implausible because there's a well-known and rather amazing life history here: Estrada immigrated to this country from Honduras, graduated with honors at Columbia College, was editor of the Law Review and Harvard Law School, a clerk to a Supreme Court justice, argued before the Supreme Court 15 times, and received the highest possible recommendation of the American Bar Association.

Opponents of Estrada are piqued because he stayed true to a widely endorsed tradition of refusing to indicate how as a judge he might decide cases that could come before him. Instead, Estrada merely said he would be an impartial judge loyal to the law.

The Democrats have no excuse (although it's clear they fear Estrada would be in line for a Supreme Court nomination if he gets this other judgeship first). If liberals in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. But keeping others from voting their consciences on this particular matter is simply out of line.

Mr. ALLARD. The News is not the only newspaper to decry the treatment of the President's nominee. The Denver Post, which, by the way, endorsed Al Gore over George W. Bush for President, in an article captioned, "Give Estrada His Day in Court," states those Senators who think Estrada is too conservative should vote no. Those who think he was unresponsive should vote no. The key point is there should be a vote. To do otherwise, to use a filibuster, is to impose a new requirement that judges be confirmed by a supermajority.

The paper agrees the Constitution never intended such a requirement and that an up-or-down vote is in order.

I ask unanimous consent that the Denver Post editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Feb. 13, 2003]

GIVE ESTRADA HIS DAY IN COURT

Something quite unprecedented is taking place on the floor of the U.S. Senate. The Democratic minority is staging a filibuster against the nomination of Miguel Estrada to the D.C. Circuit Court of Appeals.

It is the first time in the history of the Senate that a filibuster has been used against a circuit court nominee.

Under Senate rules, at least 70 senators must agree to shut off debate, and the Democratic leadership says it has sufficient votes to keep the Estrada nomination from being voted upon.

Judicial nominations have always been controversial, and Senate Democrats have said they harbor resentments over the way Republican-controlled Senates of the past treated nominees of Democratic presidents.

The debate on the Senate floor this time clearly indicates this is more than a case of tit for tat. The acrimony in the debate over Estrada suggests the Democrats think they have a winning issue in opposing him on grounds that he is too much of an unknown quantity, that he failed to properly answer their questions and that he may just be "too conservative" for the D.C. Circuit. They are willing to risk the criticism that they are opposing a highly qualified Hispanic attorney who is a picturebook example of an immigrant pursuing the American Dream.

There is no question that Estrada is an attractive nominee. His academic and legal credentials are outstanding, and although he lacks judicial experience, so too did a majority of those now sitting on the D.C. circuit.

The key issue is whether a filibuster should ever be employed to defeat a judicial nominee. We think not. Those senators who think Estrada is too conservative should vote no. Those who think he was unresponsive should vote no. Those who have a beef with the Bush administration for whatever reason should vote no.

The key point is that there should be a vote. To do otherwise, to use the filibuster, is to impose a new requirement that judges be confirmed by a supermajority. The Constitution has no such requirement. It simply says that judges are appointed with the advice and consent of the Senate. That implies an up-or-down vote. A filibuster should play no part in the process.

Mr. ALLARD. Another article that appeared in the Denver Post was written by Al Knight, which states that if the obstructionists succeed, there will only be two kinds of nominees in a Republican administration: Those who can be opposed because they have said something suspect about a touchy topic, and known conservatives who have not said anything inappropriate. The second category can be opposed, however, precisely because they have not furnished their opponents with a basis for opposing their nomination. The article concludes that the Estrada filibuster is a lamentable departure from the past.

I ask unanimous consent that the Al Knight article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Feb. 16, 2003]

CONFUSING POLITICS WITH PRINCIPLE

(By Al Knight)

Senate Minority Leader Tom Daschle claims he and his Democratic colleagues are compelled by principle to torpedo the nomination of Miguel Estrada to the D.C. Circuit Court of Appeals.

No one who has closely followed recent events could possibly believe him. What has been happening in the U.S. Senate is not about principle; it is about one-issue politics, specifically the politics of abortion.

For the first time in history, a filibuster is being used to stop the nomination of a circuit court judge.

The use of a filibuster for this purpose is especially pernicious because it effectively imposes a supermajority requirement on the Estrada nomination whereas the U.S. Constitution requires only a simple majority.

Daschle and others of like mind have done everything to avoid discussing this simple fact. Not one of the Democrats opposing the Estrada nomination has bothered to address the question of why his defeat is worth greatly politicizing every future court nomination. They instead have taken to the Senate floor to talk about every topic under the sun except that one.

To the degree that a central theme has developed, it is this: Miguel Estrada has failed to provide his opponents with a sound basis on which to oppose his nomination. Think about that! Under this method of judicial confirmation, there will be only two kinds of nominees in a Republican administration: those who can be opposed because they have said something suspect about abortion or some other touchy topic and known conservatives who have not said anything inappropriate. This second category can be opposed, however, precisely because they haven't furnished their opponents with a basis for opposing their nomination.

Recent viewers of C-SPAN know just how ugly this fight has become and how it may yet poison the ability of the two major parties to cooperate on other matters.

The truth is that Estrada's great crime is he has refused to worship at the altar of the Roe vs. Wade decision and has simply said that he recognizes it as law.

That, it is now apparent, is not good enough for the Democrats. Daschle has essentially said the party cannot permit a nomination to go forward for someone who refuses to cooperate in his own mugging.

Democrats continue to insist that there is something extraordinary about the Justice Department's refusal to make available a wide variety of internal memos written by Estrada during his five years in the solicitor general's office. The fact that all seven living solicitors general oppose the release of such confidential documents seems not to matter. The Democrats have seized upon this issue as though it were the only lifeline available, but it is a very slim reed, indeed.

Republicans—and at least one Democrat, John Breaux of Louisiana—have said over and over again that if a Democratic senator doesn't like Estrada and thinks he would be a poor addition to the federal bench, the proper thing to do is to vote "no." The Constitution, it has been pointed out, anticipates a Senate vote on all nominations.

The GOP, which is nowhere near as good as the Democratic Party in a streetfight, is obviously hoping that it will become apparent to the public over time that it has the best of this argument and that the use of a filibuster to defeat a judicial nominee would be a terrible precedent.

That hope can only be realized, however, if the American public takes proper notice of this fight and recognizes what is at stake. But some of the coverage it has attracted is simply inaccurate. The New York Times, for example, said the filibuster resembles those of the past.

That characterization, which makes matters sound more romantic than they are, is exactly backwards. The Estrada filibuster, in fact, is a lamentable departure from the past. That is why this is a fight the GOP had better win.

Mr. ALLARD. Mr. President, challenging times are at hand. While I believe a full and fair debate of Presidential nominees is of paramount importance, obstructing an up-or-down vote fails the public trust and is a disservice to our system of justice. The Senate must resist temptations to alter the basic tenets of the Constitution. Instead, the Senate must move forward with the business of the Nation and can start by voting on the nomination of Miguel Estrada.

Again, we ought to look at the chart and remind ourselves of the key point in the editorials. The Denver Post said: The key point is that there should be a vote. . . . A filibuster should play no part in the process.

The Rocky Mountain News says: The Democrats have no excuse for keeping others from voting their consciences on this particular matter. It is simply out of line.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAIG). The Senator From Alabama.

Mr. SESSIONS. Mr. President, I watched with great interest the debate tonight. Senator HATCH answered every question relating to this nominee. It reminds me of the times when I was a Federal prosecutor years ago. You would go through a contentious trial and the defendant attacked the prosecutor, would attack the police, and attack the witnesses. But at the end of the trial, the evidence would be clear and you would have a real fine moment to stand up and challenge the defendant to produce any credible evidence that would justify his position.

Senator HATCH repeatedly challenged our colleagues on the other side of the aisle. He urged them and pleaded with them to state a legitimate basis to reject this fine nominee, Miguel Estrada. They have failed to do so. They came up with the weakest, most pitiful, sorry explanation; that is, they want memorandums, every memorandum he ever wrote in the Justice Department.

That is so weak, so baseless, so wrong. That is something he cannot give. It is not within his power to give. And he should not do it if he had the power to do so. The memorandums he produced for the Department of Justice belong to the Solicitor General, to the Department of Justice, to the people of the United States. The United States of America was his client. He has no ability whatsoever to produce those documents.

He said they can have them as far as he is concerned. But as a good lawyer, he knows the Department of Justice should not and must not produce those documents. And they have never done that absent a specific showing of a specialized need.

It is sad to me to see us get to this point, to see this kind of obstructionism. This is what we have seen. It is not fair to this nominee. It is not fair to the judicial system.

I call on my colleagues across the aisle, and I urge them not to make this historic step, not to head down this road of filibuster. It is something we have not done before, we should not do now, and by all means we should not do this to a nominee who has not the slightest bit of a challenge to his integrity, not the slightest challenge to his legal ability, not any objection by the American Bar Association. In fact, they rated him the highest possible rating they can give and unanimously gave him that rating. It is really a sad day.

If Senator HATCH was frustrated, so are a lot of us. What has been going on here is not right. It is not right. We need to stop it. The Constitution of the United States provides that confirmations are advice and consent of the Senate, article II, section 2, by a majority vote. That is what it has always been. Now we are trying to convert that to a supermajority of 60 votes. It is something we have not done before.

They say: You held up President Clinton's nominee. Let me state plainly, we did not unfairly hold up any nominees. We confirmed, under President Clinton's tenure as President, 377 of his nominees. One of those nominees was voted down on this floor; 377 confirmed. Not once was there a filibuster held. In fact, when people talked about that a few times, Senator HATCH said no, that is not the right thing to do. We ought not to filibuster. That did not occur. We went on anyway and confirmed those judges. There were only 41 nominees left when President Clinton left office of those he nominated who were not confirmed; whereas when former President Bush left office there were 54 nominees unconfirmed by the Democratic Congress. So compared to those two Congresses, there is no doubt that the Republican Congress under Senator HATCH as chairman did a much more favorable job to President Clinton's nominees than the Democratic Senate did to President Bush's nominees. That cannot be disputed.

It is amazing we are carrying on and suggest otherwise. Sure, the Senate is not a rubberstamp. Sure, it has a right to ask questions and demand information that is legitimate. But they are not required and should not ask for information that is not legitimate.

How did we get into this circumstance? How did we get to this point where the ground rules have changed, that we are into an obstructionist tactic, an unfair procedure? What happened? After the last election when President Bush was elected, the New York Times reported that the Democrat majority, the Democratic Senators at that time early in President Bush's administration had a retreat at some location unknown to me, and they heard at that time from three liberal law professors, Lawrence Tribe, Cass Sunstein, and Marcia Greenburger. These liberal professors at this private retreat told the Democrats at that time, they should change the ground rules for nominations. They should ratchet up the pressure and they should alter the historic rules of courtesy, the historic presumptions in the Senate, and they should change how nominees are treated. They said: You have the power to do it. Do it, Democrats. Stand up and block these nominees. Do not accept the nominees from President Bush, like this Republican Senate accepted President Clinton's nominees. Fight every step of the way. That is apparently what has happened.

Shortly after that, when the majority in the Senate changed, I served on the Administrative Oversight and the Courts subcommittee. Senator SCHUMER chaired that subcommittee. He held hearings. He held hearings to argue the point that the burden of proof for a confirmation of a judge should change and it ought to be on the judge to prove he is qualified. That has never been done before in the history of this country. We had Lloyd Cutler, former Counsel to the White House of Democrat Presidents. We had others testify. They testified that it would be wrong to shift the burden to the nominee, it was not the right thing to do. Then he had hearings to say we ought to just consider your politics, your ideology, as he said, and we can consider somebody's politics, and we can reject them if we do not agree politically.

If you happen to be pro-life, you are out. Pro-life, no. No such judge gets confirmed here, I suppose that means. So we went through those hearings. Lloyd Cutler and Boyden Gray headed up a national commission that studied this and the commission rejected this contention. They both said this would not be the right thing to do; they said no, this would politicize the judiciary.

Most of the people who serve here who are lawyers may not regularly have practiced law. I had the opportunity and the honor for almost 12 years to represent the United States of America as U.S. attorney, practicing in Federal court before Federal judges. I practiced before Democratic judges. I practiced before Republican judges. It did not matter to me which one it was. You presented the law and the facts consistently and you would expect them to rule justly. That is what we try to do.

We knew when we researched the law that we were going to win—we thought. If we had the right law, we would expect to win. Politics does not enter into it. That is the ideal of American justice, that there is equal justice under law. It is on the Supreme Court wall here, on the facade of the Supreme Court across the street, "Equal Justice Under Law."

So I am really frustrated that we would suggest we ought to get into a person's politics.

Of course, with regard to Estrada, to my knowledge, he never campaigned for a candidate. To my knowledge, he has never run for office. It appears he is a Republican and he has conservative political views, but as he has explained, they do not affect his abilities and his decision-making process once he puts on that robe and gets in the courtroom. That is not the way he does business, and that is not the way a judge should do business.

I think we are doing something here that is quite historic and is very wrong.

I will say one more thing before I refer to some of the comments that were made earlier about Solicitor General memoranda. Remember, Miguel Estrada is a highly qualified nominee. He graduated magna cum laude from Columbia University after having come to this country at age 17 from Honduras. He went on to Harvard Law School. He finished at the top of his class there, magna cum laude, and was chosen an editor of the Harvard Law Review.

Those of us who are lawyers and those of us who know much about the legal business know that being an editor of a law review at a good law school is one of the highest honors a graduating senior can have. To be an editor of the prestigious Harvard Law Review is one of the great honors any student can have.

After graduating from college, he clerked for a Federal appellate judge in the Second Circuit Court of Appeals, one of the great courts of appeals in America. He did that, served his tenure there. Let me say, those are very competitive positions. You are not chosen to be a law clerk for a court of appeals judge or even a Federal district judge unless you have extraordinary ability and are perceived to be a person people can get along with, pleasant to work with, and have great ability. So he did that.

Remember, he is being nominated for a Federal court of appeals judge. He will do the very same work on the Court of Appeals for the DC Circuit as he would did at the Second Circuit Court of Appeals in New York, as he did there. So he has had great experience sitting at the right hand of a Federal circuit judge, helping him write the opinions dealing with the Federal issues that come before him. I think that is important.

After that, he became an assistant U.S. attorney in the Southern District of New York, a very prestigious U.S. attorney's office, the one in which Rudy Guiliani was U.S. Attorney and ran that office. By the way, Rudy Guiliani has written a very vigorous editorial supporting Miguel Estrada.

He performed superbly there and was taken to the Department of Justice. He was asked to serve as a deputy in the Solicitor General's Office of the United States Department of Justice. The Solicitor General is often referred to as the people's lawyer. The Solicitor General has been called the greatest lawyer's job in the world. The Solicitor General of the United States of America represents the United States of America in court before the Supreme Court of the United States of America. Most lawyers can think of no greater honor, nor can I, than to be able to represent the United States of America before America's greatest Court.

He served there. He came in the tail end of 1992, in the Bush administration, and stayed for 5 years in the Clinton administration. During that time the Clinton administration evaluated his performance. In every possible evaluation, they gave him the highest possible rating. It was not President Bush's administration, not some other Republican administration; the Clinton administration Department of Justice gave him the highest possible performance evaluation.

Then he left there and went to a great law firm, one of America's greatest law firms. He has argued 15 cases before the United States Supreme Court. Let me tell you, I asked a lawyer earlier tonight, we were sitting at a round table, and I said, How many lawyers in America do you think have argued 15 cases before the Supreme Court?

He said, You know, I bet they could all sit at this table. I suggest to you, you could count on your fingers the names of the practicing lawyers today, in practice today, who actually have argued that many cases. Arguing a case before the Supreme Court is a great honor. Very few people get selected. It is big time law business. Only the best are asked to do that. And he has done that 15 times.

That shows that in private practice he has the ability and the respect to carry on weighty matters before the Nation's highest Court.

So the American Bar Association comes along. They are asked to evaluate this nominee, to see how well the lawyers and bar members and all, evaluate his performance. They talk to lawyers who have practiced with him. They talk to the lawyers who have opposed him in his biggest cases. They talk to judges before whom he has practiced. They talk to lawyers for whom he has worked. And they ask people confidentially, also, to express their opinion if they know of anything that affects his integrity, legal ability, temperament, and those kinds of matters. They take it very seriously. They particularly take a court of appeals nomination very seriously.

So they did all that for Miguel Estrada. They checked his background. They probably talked to his law professors and the judges he worked for and lawyers he litigated against as well as with. They evaluated him, and 15 or so of them came together and voted, and they unanimously gave him their highest possible rating. This doesn't happen to most nominees. Far fewer than 50 percent of the nominees for this court get a "well qualified" rating. And even fewer get a unanimous vote of "well qualified" by the lawyers who evaluate them.

So then he came before the Senate. President Bush nominated him in May, 2 years ago. Quickly—by that time, the Democrats have taken back control of the Senate when Senator JEFFORDS switched parties. So they chaired the Judiciary Committee. They refused to give him a hearing. They had all his records and all his files. I am sure they were looking at him very closely because they heard he was a conservative Republican Hispanic, and somebody even said, You know, he might be a good Supreme Court nominee. He could be a real good nominee. Maybe we better beat this guy up a little bit.

As a matter of fact, the more I studied his record, I saw his testimony, I think he would be a great Supreme Court nominee. He has the background, the academics, the integrity, the judgment, the record of accomplishment that would make a great Supreme Court Justice. There is no doubt about it in my mind.

Whatever the reason is, they decided to block him, so they would not give him a hearing. Finally, after almost 2 years, a year and a half or so, they have a hearing. Remember now, they conduct the hearing. Senator LEAHY is the chairman of the committee. Senator SCHUMER presided over the hearing. It went almost all day long. They could have had 3 days worth of hearings if they chose. They got to ask any questions they wanted to. He answered question after question after question. I thought he answered the questions brilliantly. I thought it was interesting tonight that LAMAR ALEXANDER, Senator ALEXANDER, went back and read his answers. Far from agreeing with those on the other side who said he did not answer the questions, he thought he answered them brilliantly. He thought he answered them exactly the way a judge should answer them. And he did.

I saw him do that, and he was a great witness. He does have a speech impediment, but he handled it with such grace. He testified with such smoothness and so much judgment and wisdom. I remember distinctly him being asked. You know President Bush said he wanted a strict constructionist on the bench.

That is a layman's term for a judge who follows the law and doesn't make up law—not an activist the way people talk around the country.

They asked Estrada: Are you a strict constructionist? He said: Well, I wouldn't say that. He said: I would call myself a fair constructionist. I think you should give a fair meaning to the language of the statute and Constitution that we deal with. That is what I will try to do.

They later asked him written questions how he would evaluate Justices on the Supreme Court—all of them. Some of them are liberal and some are conservative. He said in his view they all try to be fair constructionists and he respects all of them but may differ on a few things but fundamentally they are in agreement.

So we had the hearing. He testified well. There were no complaints against him. There were suggestions that he had acted in a politically hostile or partisan way. There was no suggestion that he had any lack of integrity. In fact, his integrity has never been challenged. They never challenged his legal ability or scholarship.

They said he didn't have enough experience. That is just fundamentally false. I don't see how anybody on this floor can stand up and say he is not qualified by background and training and experience to be a court of appeals judge. That is ludicrous. He has one of the finest backgrounds any person I have seen for a court of appeals judge. He clerked for a court of appeals judge. He clerked for Anthony Kennedy on the Supreme Court, which I failed to mention, and he served in the Solicitor General's Office and the appellate division of the Attorney General's Office of the Southern District of New York—unbelievably good experience for this kind of a position.

So now, tonight, when we moved to go forward and end the obstruction and just vote, what kind of objection do we hear? Well, the objection was he didn't turn over his memoranda when he was an attorney in the Solicitor General's Office. He wrote internal memoranda, and we want to see what he said. He might have said something that we can get him on. So, Mr. Estrada, you won't turn over your memos, we will not confirm you.

Let us be truthful about this thing. They are not his memos. He has no authority whatsoever to turn over the Department of Justice memoranda—absolutely none. The Department of Justice says these are work products of the Department of Justice. Seven former Solicitors General—three of them Democratic Solicitors General—have said they must not be turned over; it is the wrong thing to do; we do not need to encroach on the executive branch's deliberating procedures. We don't need to chill free debate in the Solicitor General's Office. They must not be turned over. The Attorney General is not going to turn them over. So, therefore, they say: "We gotcha." OK. Now we have an excuse not to vote for Estrada.

What is the excuse? He won't turn over the memoranda? They are not his to turn over. They are the Department of Justice memos. It is an unfair charge. He is being treated unfairly. The burden of proof is being put on him. They are accusing him of some ideological bent, but they never explain what it is they are unhappy with. Not one political, not one philosophical, not one theological position have I heard them criticize him for. It is absolutely baseless—just absolutely wrong to say he must turn over those memoranda. They are not his to turn over. He can't turn them over, and the Attorney General would violate high standards of ethics if he did. Oh, well, they said, you know, they turned them over for other people. You heard that argument.

Let me mention this first. Let us stop and slow down a minute and talk about some of the people who served as Solicitor General under Democratic administrations. The Solicitor General is a great lawyer position, as I stated before. But also the Solicitor General must be compatible with the President's philosophy and must advocate the views, insofar as he is able, that the President supports. The Solicitors General are attuned to their President.

Let me read what some Democratic Solicitors General said about Miguel Estrada.

Seth Waxman, former Solicitor General, Democrat, well respected throughout the country said:

> During the time Mr. Estrada and I worked together—

They worked together when he was Solicitor General—

> he was a model of professionalism and competence.

And he added:

> In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his political views.

What a compliment from a Democratic Solicitor General for whom he worked.

By the way, they want these memoranda. To whom are they written? They were written to Seth Waxman, Democratic Solicitor General under President Clinton.

What does Mr. Waxman say, Mr. Clinton's Attorney General?

> In no way did I ever discern that the recommendations Mr. Estrada made or the analyses he propounded were colored in any way by his personal views. During the time Mr. Estrada and I worked together he was a model of professionalism and competence.

I am telling you that there is no basis to object to this nominee.

Drew Days, another former Solicitor General under a Democratic administration and an African American, he wrote in support of Mr. Estrada:

> I think he is a superb lawyer.

When he worked for Drew Days, Mr. Days' signature was on his performance reviews giving Mr. Estrada the highest possible rating each year—the outstanding rating in every category on the evaluation sheet.

In the Department of Justice where I served, you have an evaluation form. Every supervisor has to fill it out and you can give them the rating. The highest rating is outstanding. In every category of rating Mr. Estrada got "outstanding" in the Clinton Department of Justice.

How can this man be an extreme person, some stealth candidate out of the right wing of America who can't be trusted on the bench? That is bogus and false and wrong. It is just unfair.

Robert Litt in the Department of Justice, former Deputy Assistant Attorney General, was considered by most people to be one of the more partisan members of the Department of Justice, a capable attorney, however, and certainly a Democrat. Mr. Litt said this:

> I have never felt that the arguments he made were in any way outside the scope of legitimate legal analysis.

Randolph Moss, former Assistant Attorney General, another Democrat:

> He has a near encyclopedic knowledge of the law.

Isn't that wonderful? Think of it.

> He has a near encyclopedic knowledge of the law, a powerful intellect and an ability to bring coherence to even the most complicated legal document.

I am telling you that is what a judge does. A judge must be able to bring coherence to complex legal matters to get to the heart of the matter, to get it to the simplest bases and make a just decision. I think that is an extremely high compliment.

I don't know what the Democratic Senators would look for in this nominee. It is beyond my comprehension how this man who is so qualified and with such a compelling life story would be blocked here. It really is stunning to me.

I have a lot of other things that I could say at this time. I will not go into all of them. I want to make the point about the certain memoranda that have been produced or have leaked out of the Department of Justice with regard to previous nominees.

Now, first, even if a prior Attorney General, at some moment of weakness, unwisely just produced all the memoranda and the work product of some nominee, that would not mean, to me, that we ought now to continue to violate an absolutely clear principle.

But, as I have seen the facts—and we have looked at them—not one Attorney General in history has responded to the fishing expedition set forth here. This is clearly a fishing expedition. They don't say there is one thing they want for a specific reason. What do they say? They say: We want everything you ever wrote. And it is not going to happen. It is not going to happen—nada.

What about Easterbrook? They said they found a two-page memo he wrote when he was in the Department of Justice. Well, the official record of the Easterbrook hearing contains no reference to this document at all. The Department of Justice cannot find any records they ever authorized releasing this document. I am not sure how the people on the other side got it. The Justice Department said they did not release it. So something is fishy about that fishing expedition.

As for the documents on Robert Bork, I was here, and one of my colleagues across the aisle said: Oh, the documents have been given before. And he went on and on. He did not mention Judge Bork's name, and he waved around this document, that he was going to introduce it into the RECORD.

I have been in courtrooms a little bit. He said he was going to introduce it, but he never did. So I said: Are you going to introduce it into the RECORD? He said: Yes, yes, he would. So he introduced it into the RECORD. And I went and got it. I like to read these things.

Well, some can still remember—I don't know if the Presiding Officer was here when the Bork matter was before this body, but I think he was here. He remembers some of the intensity of the debate over the Bork matter.

He was the then-Solicitor General. You had the Attorney General and the deputy, and they would not fire Archibald Cox, the special prosecutor. The Attorney General quit, and the Deputy Attorney General quit, and it fell to Robert Bork; he fired Archibald Cox on behalf of President Nixon. There were all kinds of allegations that there were secret agreements and that Bork had done all kinds of corrupt things. And it was at the height of Watergate, so they demanded all kinds of documents, but they were specific.

Look, this is the document request. They wanted documents generated during the period from 1972 through 1974—not every year he was there—and constituting, describing, referring or relating in whole or in part to the so-called Watergate affair.

Well, people were concerned about Watergate. They were alleging everybody in the Government was a crook. So Bork was in there, and he fired Archibald Cox. They had some specific reasons, and they got some of these documents. I don't think they got them all. They wanted any communications between Robert Bork and any person or entity relating in whole or in part to the Office of Watergate Special Prosecution Force.

They wanted any documents related to the dismissal of Archibald Cox, the abolition of the Office of Watergate Special Prosecution Force, and so on, the designation of Leon Jaworski as Watergate Special Prosecutor, the enforcement of the subpoena at issue in Nixon v. Sirica, and those kinds of matters.

So that is a specific request. At least it had some colorable basis because people were concerned about Watergate. And Mr. Bork had been in the center of a very controversial decision that history records as one of the most controversial matters ever to come before the Department of Justice. So maybe they had a basis for that. And they got that. But they did not ask for everything he wrote. And the Department of Justice did not give it.

Well, I will just say this to my colleagues. I do not believe this has been lost on my colleagues. I think they know that this request is unprecedented. How could they not know that? How could they not know?

They come and say: Well, here is a memorandum that was produced. And they don't show it may have been, and was, in fact, in every instance, a reference to a specific allegation of misconduct or wrongdoing. So that is an argument without basis. It has been demonstrated by Senator HATCH. It has been demonstrated by the facts.

Anybody who is fair and objective, and will listen, will know there is no basis whatsoever for demanding that Miguel Estrada produce these documents. And that is what the distinguished Democratic leader objected on. His basis for objection was solely that Miguel Estrada would not produce the memoranda he wrote while he was in the Department of Justice.

This is a big time principle. It is a major issue. It is not an itty-bitty thing. The Department of Justice is not going to give them, and Miguel Estrada has no power whatsoever to give them because they are not his. They are the work product he made for his client. His client was the United States of America. The United States of America is entitled to the best efforts of its assistants and Assistant Solicitors General, and they ought to be able to express their opinions to their supervisors, as they wish.

So, Mr. President, I think we have had enough time on this nomination. He has waited almost 2 years. The hearing was conducted by the Democrats, and it was a long hearing. They followed up with further questions. He has agreed to meet with any single Senator to answer any questions they have.

He is a man of extraordinary talent, incredible achievement, a man who came here, and he has lived the American dream. I am exceedingly proud of Miguel Estrada. I think he is indeed qualified to be on the Supreme Court. He ought to be confirmed for this Court of Appeals position without any further debate whatsoever. And he ought to be, I hope, one day considered for the Supreme Court. He is certainly that qualified.

I hope we will avoid this filibuster, move forward in this Senate back in accordance with our traditions of comity and respect and courtesy, in which nominees are presumed to be confirmable unless something is shown to be wrong, and that the President is able to move nominees forward, because we need them on the bench today.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, this will be a tough act to follow. The Senator from Alabama has done a wonderful job going through the nuances of where we find ourselves and explained the career of Miguel Estrada better than I could possibly do and has talked about the factors that bring us here at 1:10 in the morning.

All I can add to it is that I am new to the body. I was hoping my first engagement with the Senate would be about Social Security and talking about saving that system. But I find myself in the middle of something very historic; that is the filibustering of a circuit court of appeals judge—apparently, the only time in the history of our Nation such tactics have been employed. And you ask yourself, Why? What has gotten us here? Why have they chosen to do this?

One thing about being a Presiding Officer of the Senate is you get to learn a lot and hear a lot. One thing I have learned is that in the past the abuses of the judicial nomination process have sometimes been striking, and apparently both sides have engaged in some practices that just really do not seem right.

There are all kinds of cases where judges were never given a chance to be voted on and left in committee for years. And people did not like one judge, and they decided to make sure they never got a vote. And they were in the majority. It goes on and on and on. I guess that is politics. I do not suggest that the Republican party, in the past, has not done some things that were probably unfair to people, too.

But what we are about to engage in will become the mother of all abuses. It will take the country in a direction that it need not go in terms of judicial nominations. And the country, I hope, will wake up and listen a little closer to what we are doing over time. Editorial writers are beginning to write, and they are beginning to understand what is at stake. And from a Republican point of view, it is very unusual to have all these papers siding with us and criticizing our friends on the other side. That is normally not the case. What we are doing does affect the future of the country in a very dramatic way.

A courtroom—unlike the business of politics that we all chose to engage in—is a place for quiet reflection. All of us here as Senators have something in common. Our goal is to get 50 plus one vote, or 50 percent of the vote plus one. We engage in a business that is loud, expensive, nasty, and sometimes unpleasant but very important and very rewarding. Our objective, when it comes to election years, is to convince people to vote for us, call attention to what we have done, to how we are different from our opponent, and that we are better for your family and your business than the other person running. We have a big deal made about it, and we spend a lot of money, and we beat each other up, and the public votes and they get to express themselves. The majority wins.

Well, the courtroom is a different place. Our Founding Fathers understood that. There has to be someplace in a democracy where somebody who feels they have been wronged by a large group has a place to go other than the ballot box, because the ballot box sometimes is not the best place to ensure that justice is done in an individual case. So in our system the weak can sue the strong. They can go to a court, be judged by a jury of their peers, and the case will be presided over by somebody with a lifetime appointment, who doesn't have any polls to worry about, or any particular constituency to please. The only person to be pleased is Lady Justice.

The appeals process sends the case forward, and the courtroom itself, in terms of a trial, can be a pretty loud place, because you have witnesses, and a lot of testimony, and a lot of cross-examination. It can be a very flamboyant place. But whether or not that case will withstand scrutiny is determined by a panel of judges at the appeals level. And there is no quieter place in our legal system than the courts of appeals and the Supreme Court itself. People who are there for life listen to very well-constructed arguments by lawyers, who look at the precedents involved in the case, look at the Constitution, and try to render a fair verdict.

Our Founding Fathers understood that the judiciary needs to be an independent, separate branch of Government, immune, as much as it can be, from popular opinion, so that the unpopular may have a just verdict, or they may not get one otherwise.

Unfortunately, in this particular instance, the political trends to be set, if this filibuster is successful, will do great damage to the process of trying to pick qualified men and women to serve in this capacity in the future. The Constitution recognizes that the independent judiciary also needs a check and balance. Our judges at the Federal level are nominated by the President, the executive branch, and the Constitution has conferred upon this body the advise and consent role, a check and balance to the executive branch.

The Constitution envisioned supermajority votes of the Senate in a very few cases, and confirming a judge is not one of them. The Constitution envisions that nominees of any particular President will come to this body, and the Constitution envisions that a majority vote will determine the fate of that nominee.

The Senate rules, over time, have allowed the minority to be able to stop any particular matter, unless the majority can gather 60 votes. That is not part of the Constitution; that is part of the way the Senate works. For some reason, our friends on the Democratic side have chosen to filibuster a circuit court of appeals nominee for the first time in the history of our country. They have chosen Miguel Estrada for some reason. Well, I am not privy to their caucus conversations, but I have a feeling this goes back to last year's election. The Republican party picked up seats in last year's senatorial election that even we could not have envisioned as a party 2 years ago. Something happened in the 2002 election that allowed us to get 51 seats.

For every Member of the body, there is probably a different opinion as to what did happen in 2002. I argue to my friends on the other side that 100 years from now people will not write much about the 2002 election; they really won't care to know why Lindsey Graham got elected with nine other Republican freshman Senators. Unless I can do the Senator Thurmond thing, I will be long gone myself. But they will care and they will write about what happened to our country if we filibuster controversial judicial nominees as a matter of political practice. That will have taken us down a road that no one, so far, has gone down.

I am afraid that road would be a very unpleasant journey for our Nation. I think our friends on the other side of the aisle lost seats in 2002 because we had a popular Republican President, serving right after one of the most horrific events of our time—the tragedy of 9/11—a President Americans liked and trusted to make hard decisions. He was able to make the case to enough American voters in the 2002 election that the Senate in the hands of our Democratic colleagues was not producing in an appropriate fashion.

Now, I know people will disagree with that analysis, but that is what I believe. In my campaign, we talked about a homeland security bill that was held up because of special interest labor union politics. We talked about an antiterrorism insurance bill that would allow people to build buildings without having to absorb the risk of a terrorist attack by themselves because of legal provisions that trial lawyers wanted.

Also, we talked about judges who could not get a vote on the Senate floor. I am convinced that resonated, that after 9/11 people wanted us to work together and, rightly or wrongly, enough people in the country believed the Democratic-controlled Senate was not working as an efficient body and helping a President the public liked and wanted to be successful.

Right after the election in November, we had a special election in Louisiana in December. Our friends on the other side of the aisle were able to hold a seat. I argue that the momentum of the 2002 election was a moment in time, and that those in the Democratic Party who believe they must stand up to George W. Bush at every turn and take him on personally with every agenda he has control of must understand there is a limit to that strategy. The limit to that strategy has to be the common good. I argue that we have gone into an area where the common good is not being served. That the filibustering of Miguel Estrada's nomination to the DC Circuit Court of Appeals is not only unprecedented, I believe it is part of an overall strategy. I believe—and I hope I am wrong—that we will see this happen time and again this year; that this is part of a strategy by our friends on the other side to further obstruct the ability of the President to move judicial nominees through the system.

By employing this tactic, they have set a course that will be hard to turn. Politics being what it is, people have long memories, and there will come a day when a Democrat will occupy the White House and the Republican Party will be in the minority in the Senate, and it will be talked about: Remember what they did to Miguel Estrada.

There is a certain part of politics that appeals to our basic instincts, not the common good, and I hope, and I literally pray, that our friends on the other side of the aisle will find a different tactic to take to make their points of view known about President Bush's agenda, including judges, rather than engaging in a tactic that will basically supplant the constitutional role of confirming judges by requiring Senates of the future to have to gather 60 votes to confirm a controversial judicial nominee.

This tactic will hurt us all. This tactic will belittle and demean the judicial nomination process. This tactic will change the constitutional process we have lived with for well over 200 years in confirming judges. This tactic will allow a bitter minority of the greatest body in democratic history to act in a way that will make it very hard for good men and women to serve. And that bitter minority one day may be a Republican minority.

I hope that reason will prevail: that we can reach a compromise of some sort that will allow everybody to walk away from this in good faith and say they fought the good fight and that Miguel Estrada will have a vote up or down, and that this tactic of filibustering, requiring a supermajority vote for judicial nominees, will give way for the sake of the common good.

It has been amazing to me to see the transformation of the arguments against Miguel Estrada and how they have changed over time. Being a member of the Judiciary Committee, I can recall being shocked by hearing the phrase from someone—and I cannot remember who—"he's not Hispanic enough." Obviously, I am not Hispanic, and I do not know what being "Hispanic enough" means. It was a phrase that just really did not sound nice, was not befitting of the experience we are all in, and was used to explain the fact that Miguel Estrada, by going to a private school, somehow did not share the Hispanic experience. That sounded offensive, and it was offensive. Nobody says it anymore, and that is the good news.

When the Hispanic groups that came out against Mr. Estrada's nomination first rallied around this cause, they were pretty hard on him as a person. Once one understands who he is and what he has gone through, it really is unfair to be hard on him as a person because he is a good person and he has overcome obstacles that everybody should be proud of, that I could only imagine.

He truly has lived the American dream. He made something of himself in the most difficult of circumstances. We do not hear much about that anymore. As a matter of fact, we hear from our friends on the other side of the aisle that this has nothing to do with his ethnic background. Good. Because it should not. It should be about who is qualified. We should enjoy and relish the fact that diversity is part of the American dream, and that for the first time, we will have a Hispanic member on the Circuit Court of Appeals for the District of Columbia, the second highest court in the land. That would be a good thing for America, and we should rejoice in it if it does happen.

Then the attacks moved to a different level: He has never been a judge. When I first heard that, it made me wonder. To be on the circuit court of appeals, maybe it is a good thing to be a judge before you get promoted. Then I learned that Justice Rehnquist and untold numbers of men and women serving in the Federal judiciary were promoted to very important positions without ever having any previous judicial experience, which makes sense because being a judge is a cocktail of several items: Temperament, intellect, the ability to understand human behavior, the ability to reason and to have a kind and compassionate disposition. That is what I am looking for, and people can bring those qualities to the table without ever having worn a robe.

That argument, that he has never been a judge, fell by the wayside when the untold numbers of judges who never had any experience before came forward. So he is like so many others. It makes no sense to say no because of that.

The next argument is he is ideologically driven: that there is something about this man that would not allow him to look at my case or your case or anyone else's case fairly because he is so driven by his ideology that he cannot see justice, that he cannot see facts, and he cannot see prior decisions. I am assuming this ideology is one of some extreme view of the law that only a radical conservative could have: that he is ideologically not equipped to serve in such an important job.

That has to be analyzed in terms of the man's life. It is easy to say something, but it should be a requirement that it be true. I will just offer one fact for people to consider. If he is so ideologically driven that he cannot fairly render justice, how in the world could he have worked for the Bill Clinton administration? I would argue that any ideologically driven conservative would have had a hard time working for Bill Clinton. Not only did Miguel Estrada work in the Clinton administration's Justice Department, he performed in an outstanding manner.

One of the gentlemen who accused him of being ideologically driven happened to be the person who rated his performance, and during the reporting periods involved, he said he was an outstanding lawyer who always applied the law and the facts based on reason and not personal agendas.

The idea that Miguel Estrada is some right-wing ideologue makes absolutely no sense, and he is being supported by the people who know him the best—by Democrats and Republicans who understand that he is a man of great credentials. I will assure my colleagues of one thing, if you do not believe anything else I have said, that the American Bar Association is never going to unanimously support somebody who is an ideologue on the conservative side, and he received a most highly coveted rating, well qualified, by the American Bar Association. That argument that he is an ideologue that cannot see reason is stupid.

The next one is: We do not know enough about him and the only way we are only going to know about him is for us, our friends on the other side, to have access to all the memoranda he has ever written as a lawyer when he worked for the Department of Justice.

There is a reason that all the Solicitors General have come out unanimously against the idea of producing legal memorandum in that Department to the Congress. Nobody would want the lawyers who worked for them, who advise them with written or oral opinions, to have that work product disclosed to the public in a fashion that would change people's opinions and change the way they would advise. If it ever becomes the law of the land, if this case results in internal memos written by lawyers to clients, if that becomes part of how a judge is chosen, then I would argue that Government lawyers who have any aspirations of being a judge are going to find themselves in a very difficult circumstance.

There is a reason that every Solicitor General living today has said that the memos requested by our friends on the other side should not be released. What I find most astonishing is that the last administration, and some who know me understand that I was probably not their biggest fan, time and time again used privilege after privilege, mostly made up, to protect everything they touched. I thought they abused the privilege doctrines, but here is something we should all be able to agree upon: That when a lawyer writes a memo to a client, that should stay between the client and the lawyer. And if the client does not want the memo released, for the good of us all, for the sake of the attorney-client privilege, for the sake of good government, that request should be denied. We do not know enough about him because we really have not had a chance to talk to him.

I was in the Judiciary Committee. The man was there all day. There is a volume that was produced from the hearings. He has been around for a year and a half. He has answered questions. I think he has given good answers. This is not about not knowing enough about him, not being able to answer the questions that were not properly asked, because the people who want this information are going to vote no anyway.

This is about conservative versus liberal. This is about politics. This is about trying to rectify the losses in 2002. I am convinced that our friends on the other side of the aisle have decided that the only way they can get back into the game is to oppose President Bush. Instead of learning from the 2002 elections that obstruction was not the way to a majority. I think they have blinders on now in that they have engaged in a political dynamic that not only will not allow them to regain the majority of this body but could do irreparable damage to our country in the future.

I know that each and every one of them believes that there is a high purpose for what they are doing; they love their country as much as I do and would disagree with my assessment. But this I am sure of: if this filibuster is successful, 100 years from now we will have changed the way business is done in the Senate in regard to confirming controversial judicial nominees. And 100 years from now, people, if they could, would come back to each and every one of us and say: Why did you do that? I wish you would have not done that. We are paying a price for your desire to get a political advantage that you could not even envision.

I am hopeful that over time there will be Members on the other side of the aisle sufficient enough in number who will say: I will not engage in this practice to the point that I am legitimizing a filibuster of a circuit court nominee that will set in motion forces of the future that will change the way the Constitution works.

I am hopeful we will eventually get enough votes not to confirm Miguel Estrada but to allow a vote to be had to confirm Miguel Estrada. If that vote is had, he will win, I am convinced. For the sake of the future of this country, I hope that some time in the near future this tempting practice of making it hard for President Bush to get forward any judicial nominee our friends on the other side do not like will be abandoned because I am convinced they will look back in their political career with great regret that they ever did this.

Several of them are on record of having said in the past, just give him a vote. I will never engage in a filibuster of a judge because I think it is wrong, I think it is bad for the country. When Senator LEAHY said it, he was right. When Senator KENNEDY said it, he was right. When Senator FEINSTEIN said it, she was right. At the time they saw very clearly the consequences of what could happen.

We are too close to the 2002 election for some of our friends on the other side of the aisle to see clearly. All they see is a majority lost and a real desire to get it back. Please reflect, please do not be blinded by the political moment. Please do not take our country down a road that we will all regret.

Mr. KOHL. Mr. President, I rise today to explain again my reasons for supporting a filibuster on the nomination of Miguel Estrada. At the outset, let me state that my opposition to bring his nomination to a vote is not a decision I have reached causally or without serious reflection. Our power to extend debate on a nomination should only be undertaken in extraordinary circumstances, when we have no other choice. We have reached that unfortunate state of affairs today.

In the case of Mr. Estrada, we are presented with a nominee for a lifetime appointment to our Nation's second most powerful court. This nominee has refused to answer our questions regarding his views and judicial philosophy, and indeed has obstructed our efforts to evaluate his fitness to serve on the D.C. Circuit. His repeated evasions subvert our solemn constitutional duty to advise and consent to judicial nominations. We should not permit a vote on a judicial nominee who has so fundamentally attempted to obstruct our confirmation process in this way.

I am aware of the criticism that our action is unprecedented. This is simply not true. While such a step is not—and should not—be done routinely, filibusters of judicial nominations have been undertaken under the leadership of both parties several times in recent years. According to the Congressional Research Service, the Senate has attempted to invoke cloture in response to extended debate on judicial nominees 13 times since 1968. Indeed, cloture was sought after extended debate in response to Republican-led opposition to no fewer than four of President Clinton's judicial nominees.

These statistics do not take into account the silent filibuster known as a "hold"—often anonymous—which permits one objector to block consideration of a judicial nominee. President Clinton's nominees were routinely defeated by anonymous holds. And those holds only defeated the nominees who were lucky enough to even get a hearing and a committee vote. It seems that the same forces complaining about the "unfairness" of extended debate on the Estrada nomination were enthusiastic in blocking President Clinton's nominees without any debate just a few short years ago.

I also am distressed at the false and misleading charges and accusations that Mr. Estrada's supporters have leveled during this debate. The most outrageous is the cynical charge that our opposition to Mr. Estrada is somehow motivated by the fact that he is Hispanic. Nothing could be further from the truth. Our opposition to him is solely based on his consistent obstruction of our review of his nomination and his unwillingness to provide us with the information needed to evaluate his fitness.

No observer can doubt that we support and indeed make diversity a priority in our courts, including appointing Hispanic Americans to fill these positions. And let's remember that the confirmation of at least three highly qualified appellate court nominees of Hispanic origin nominated by President Clinton—two for the Fifth Circuit and one for the Ninth Circuit—were blocked by the same people who complain today about our opposition to Mr. Estrada. One thing is perfectly clear: This nomination has nothing to do with ethnicity and everything to do with duplicity.

When Mr. Estrada refuses to candidly share his views with us, we are left with his record. And this record leaves us with grave concerns about confirming him to this crucial judgeship. A few examples from Mr. Estrada's career highlight these concerns. Mr. Estrada devoted substantial time and energy to defending, on behalf of pro bono clients, anti-loitering statutes, laws which often result in the arrests of a disproportionate number of African-Americans and Latinos. These laws have been repeatedly struck down for violating free speech rights. On the other hand, Mr. Estrada has argued on behalf of the First Amendment rights of a large pharmaceutical company charged with engaging in a deceptive advertising campaign. These two cases make it appear that Mr. Estrada is more comfortable with asserting the First Amendments rights of giant corporations than average citizens. He has also argued in Federal court against the standing of civil rights organizations to vindicate the constitutional rights of their members.

When one reviews Mr. Estrada's professional record, then, there appears to be little to rebut the opinion offered by Paul Bender, his supervisor for three years at the Solicitor General's office, that Mr. Estrada is a "right-wing ideologue" who "lacks [the] judgment . . . to be an appeals court judge." This view, from the one person at the Solicitor General's office who knew his work best, is damning.

Of course, if we had access to Mr. Estrada's memorandums and opinions at the Solicitor General's office, we could evaluate for ourselves whether Mr. Bender's opinion is unduly harsh or not. But we do not have such access. If Mr. Estrada was willing to candidly discuss his views and judicial philosophy with us, our concerns about whether he was outside the mainstream might be assuaged. But this he is also not willing to do so. We have no choice but to rely on his record, and this record convinces us that he does not warrant confirmation to the D.C. Circuit.

Anyone who reviews my record on judicial nominations knows that I have not reached my decision to support extended debate here—indeed my decision to oppose Mr. Estrada's confirmation—lightly. In my entire 14 years in the Senate, I have voted to oppose the confirmation of judicial nominations only seven times. But this nominee's evasions and gross disrespect for our nomination process, when combined with the disturbing evidence from his public record of his extreme ideology, leave me no choice.

One of the most important tasks we perform is our constitutional duty to "advise and consent" on judicial nominations. Once their nominations are confirmed by the Senate, these men and women serve lifetime appointments, unanswerable to Congress, the President, or the people. They will become the guardians of our liberties, of our Constitution, and of our civil rights. Our duty to "advise and consent" is the only check we will ever have on the qualifications and fitness of those chosen to serve as Federal judges.

When a nominee subverts and impedes this vital process by declining to answer our questions so that we cannot evaluate his fitness to serve, he has disqualified himself for consideration by this body. We simply cannot vote up or down on a nominee who both has no judicial record and refused to provide us with the information necessary for us to gain even the most basic understanding of his opinions, his outlook, or judicial philosophy. For these reasons, I oppose his confirmation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. FRIST. Mr. President, as majority leader, I have not taken the opportunity today to discuss the nomination of Miguel Estrada, although I did have the opportunity to participate in the debate and the discussion that we had earlier this evening.

Of course it always on my mind, because the filibuster that is being maintained is very troubling.

Well, I wanted to find some time and it is now 1:45 in the morning here in Washington, and this time works for me.

As we have heard tonight, the leading obstacle to Miguel Estrada's confirmation are unprecedented requests by the minority of documents written by Mr. Estrada when he worked for the Clinton Reno Justice Department.

Well, since we have time, I would like to read at length from a letter just released, this will be the first time anyone has heard this letter to my colleague the Senator from New York from Alberto Gonzales, President Bush's White House Counsel, and like Miguel Estrada, a fine legal mind.

The letter is dated February 24, 2003, and it begins:

> Dear Senator SCHUMER: Based on your public comments yesterday, I am concerned that you may have inaccurate and incomplete information about Miguel Estrada's qualifications and about the historical practice with respect to judicial confirmations. Therefore, I write to respectfully reiterate and explain our conclusion that you and certain other Senators are applying an unfair double standard—indeed, a series of unfair double standards—to Miguel Estrada.
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> First, your request for confidential attorney-client memoranda Mr. Estrada wrote in the Office of Solicitor General seeks information that, based on our review, has not been demanded from past nominees to the federal courts of appeals. We are informed that the Senate has not requested memoranda such as these for any of the 67 appeals court nominees since 1977 who had previously worked in the Justice Department—including the seven nominees who had previously worked in the Solicitor General's office.
>
> Nor have such memoranda been demanded from nominees in similar attorney-client situations: The Senate has not demanded confidential memoranda written by judicial nominees who had served as Senate lawyers, such as memoranda written by Stephen Breyer as a Senate counsel before Justice Breyer was confirmed to the First Circuit in 1980. Nor has the Senate demanded confidential memoranda written by judicial nominees who had served as law clerks to Supreme Court Justices or other federal or state judges. Nor has the Senate demanded confidential memoranda written by judicial nominees who had worked for private clients.
>
> The very few isolated examples you have cited were not nominees for federal appeals courts. Moreover, those situations involved Executive Branch accommodations of targeted requests for particular documents about specific issues that were primarily related to allegations of malfeasance or misconduct in a federal office. We respectfully do not believe these examples support your request. Our conclusion about the general lack of support and precedent for your position is buttressed by the fact that every living former Solicitor General (four Democrats and three Republicans) has strongly opposed your request and stated that it would sacrifice and compromise the ability of the Justice Department to effectively represent the United States in court. In short, the traditional practice of the Senate and the Executive Branch with respect to federal appeals court nominations stands in contrast to your request here and supports our conclusion that an unfair double standard is being applied to Miguel Estrada. (Also, contrary to your suggestion yesterday, please note that no one in the Executive Branch has reviewed these memoranda since President Bush took office in January 2001.)
>
> Second, you suggested that "no judicial nominee that I'm aware of, for such a high court, has ever had so little of a record." I respectfully disagree. Miguel Estrada has been a very accomplished lawyer, trying cases before federal juries, briefing and arguing numerous appeals before federal and state appeals courts, and arguing 15 cases before the Supreme Court, among his other significant work. His record and breadth of experience exceeds that of many judicial nominees, which is no doubt why the American Bar Association—which you have labeled the "gold standard"—unanimously rated him "well-qualified." In noting yesterday that Mr. Estrada's career had been devoted to "arguing for a client," you appeared to imply that only those with prior judicial service (or perhaps "a lot of [law review] articles") may serve on the federal appeals courts. But five of the eight judges currently serving on the D.C. Circuit had no prior judicial service at the time of their appointments. Indeed, Supreme Court Justices Rehnquist, White, and Powell—to name three of the most recent—had not served as judges before being confirmed to the Supreme Court. And like Mr. Estrada, two appointees of President Clinton to the D.C. Circuit (Judge David Tatel and Judge Merrick Garland) had similarly spent their careers "arguing for a client," but were nonetheless confirmed.

Now the letter goes on to quote from the Chief Justice:

> As the Chief Justice noted in his 2001 Year-End Report, moreover, "[t]he federal Judiciary has traditionally drawn from a wide diversity of professional backgrounds." The Chief Justice cited Justice Louis Brandeis, Justice John Harlan, Justice Byron White, Judge Thurgood Marshall (as nominee to the Second Circuit), Judge Learned Hand, and Judge John Minor Wisdom as just a few examples of great judges who had spent virtually their entire careers "arguing for a client" before becoming Supreme Court Justices or federal appeals court judges.
>
> As these examples show, had the "arguing for a client" standard been applied in the past, it would have deprived the American people of many of our most notable appellate judges. Based on our understanding, this standard has not been applied in the past. This further explains why we have concluded that an unfair double standard is being applied to Miguel Estrada.
>
> Third, you stated that "when you went to those hearings, Mr. Estrada answered no questions." The record demonstrates otherwise. Mr. Estrada answered more than 100 questions at his hearing, and another 25 in follow-up written answers. He explained in some detail his approach to judging on many issues, and did so appropriately without providing his personal views on specific legal or policy questions that could come before him—which is how previous judicial nominees of Presidents of both parties have appropriately answered questions. Indeed, at his hearing, Mr. Estrada was asked and answered more questions, and did so more fully, than did President Clinton's appointees to this same court. Judge David Tatel was asked a total of three questions at his hearing. Judges Judith Rogers and Merrick Garland were each asked fewer than 20 questions. The three appointees of President Clinton combined thus answered fewer than half the number of questions at their hearings that Mr. Estrada answered at his hearing.
>
> What is more, like Mr. Estrada, both Judge Rogers and Judge Garland declined to give their personal views on disputed legal and policy questions at the hearing. Judge Rogers refused to give her views when asked about the notion of an evolving Constitution. And Mr. Garland did not answer questions about his personal views on the death penalty, stating that he would follow precedent. In short, we believe that your criticism of Mr. Estrada's answers at his hearing reveals that another unfair double standard is being applied to Mr. Estrada.
>
> Fourth, you stated that the Founding Fathers "came to the conclusion that the Senate ought to ask a whole lot of questions" of judicial nominees. We respect the Senate's constitutional role in the confirmation process, and we agree that the Senate should make an informed judgment consistent with its traditional role and practices. But your characterization of the Senate's role with respect to judicial nominations is not consistent with our reading of historical or traditional practice.

> Alexander Hamilton explained that the purpose of Senate confirmation is to prevent appointment of "unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity." The Federalist 76. The Framers anticipated that the Senate's approval would not often be refused unless there were "special and strong reasons for the refusal." Id. Moreover, the Senate did not hold hearings on judicial nominees for much of American history, and the hearings for lower-court nominees in modern times traditionally have not included the examination of personal views that you have advocated. (My letter of February 12, 2003, to Senators Daschle and Leahy contains more detail on this point.) Indeed, just a few years ago, Senator BIDEN made clear, consistent with the traditional practice, that he would vote to confirm an appeals court judge if he were convinced that the nominee would follow precedent and otherwise was of high ability and integrity.
>
> In short, it appears that you are seeking to change the Senate's traditional standard for assessing judicial nominees. We respect your right to advocate a change, but we do not believe that the standard you seek to apply is consistent with the Framers' vision, the traditional Senate practice, or the Senate's treatment of President Clinton's nominees. Rather, we believe a new standard is being devised and applied to Miguel Estrada.
>
> Fifth, you stated yesterday that a "filibuster" is not an appropriate term to describe what has been occurring in the Senate. We respectfully disagree. Democrat Senators have objected to unanimous consent motions to schedule a vote, and they have indicated that they will continue to do so. That tactic is historically and commonly known as a filibuster, and is a dramatic escalation of the tactics used to oppose judicial nominees. Indeed, in 1998, Senator LEAHY stated:
>
> I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators." 144 Cong. Rec. S6522 (June 18, 1998). In our judgment, the tactics now being employed again show that Miguel Estrada is receiving differential treatment.

Now Judge Gonzales Concludes this way, addressing himself to Senator Schumer:

> As I have said before, I appreciate and respect the Senate's constitutional role in the confirmation process. You have expressed concern that you do not know enough about Mr. Estrada's views, but you have not submitted any follow-up questions to him. We respectfully submit that the Senate has ample information and has had more than enough time to consider questions about the qualifications and suitability of a nominee submitted more than 21 months ago. Most important, we believe that a majority of Senators have now concluded that they possess sufficient information on Mr. Estrada and would vote to confirm him. We believe it is past time for the Senate to vote on this nominee, and we urge your support.
>
> Sincerely,
>
> ALBERTO R. GONZALES
> *Counsel to the President*

Now as we heard earlier an enormous number of editorials, over 60 editorials all over the country have opposed the Democrat filibuster and support Miguel Estrada. Only eight have taken the Democrat view of things—only eight.

It is clear to anyone that what the minority is doing in filibustering Miguel Estrada's nomination is far from the mainstream of what thoughtful people are thinking across this country.

Mr. President, I will read from just a few of these:

First, on the question of the Solicitor General memos:

Boston Herald, 2/14/03:

> The latest [bad argument] has to do with the White House's refusal to release memos and documents written by Estrada during his tenure in the solicitor general's office. Now all of the living former solicitors general—four Democrats and three Republicans—happen to agree with the White House position. There is such a thing as attorney-client privilege, even for the solicitor general.

South Carolina's Spartanburg Herald Journal, 2/14/03:

> The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. They have asked the White House to release internal legal memos he wrote while working for the Solicitor General's Office. These are documents that are usually kept within the White House. In fact, every living former solicitor general, four Democrats and three Republicans, are against releasing the memos. Presidents rely on the Solicitor General's Office to give them legal advice. They don't want those lawyers to be worrying about how their memos will impact future attempts to win judicial seats. The White House has refused to release the documents.

California's Redding Record Searchlight, 2/15/03:

> Well, but the administration won't hand over memos he wrote when he was in the solicitor general's office, say the Senate Democrats. It apparently does not matter to them that publicizing them could rob future memos of their candor and that every former solicitor general of either party has said the Democrats seek too much.

Rhode Island's Providence Journal-Bulletin, 2/14/03:

> [Democrats] have demanded not only supplementary detailed responses to political inquiries, but also Mr. Estrada's confidential memoranda written while he was an assistant solicitor general. Every living solicitor general, Democratic and Republican, has gone on record to oppose this unwarranted intrusion into the deliberative process in the Justice Department. And the Bush administration has been correct to resist Democratic demands.

Chicago Tribune, 2/10/03:

> The Justice Department has refused to release Estrada's memos, noting that such documents have always been regarded as confidential. Every living former solicitor general, Democratic and Republican, has publicly endorsed that position. They say making the documents public would discourage government lawyers from offering candid advice. Anyone who wants a glimpse into Estrada's thinking can scrutinize the briefs he wrote and oral arguments he made.

Detroit News, 2/11/03:

> Democrats also demanded that he produce his memos and recommendations while he was in the solicitor general's office—which had never been done for any other candidate who had been an assistant in that office. The demand was rejected not only by Estrada, but by every former solicitor general still living, including those who served Democratic presidents.

Tampa Tribune, 2/10/03:

> Yet the Democrats claim they don't know enough about Estrada. They have demanded to see copies of his work in the Justice Department, intentionally seeking papers they knew to be confidential. Because Estrada did not turn them over, they have attempted to crucify him, this despite letters from former solicitors general complaining that their demand amounted to legislative overreach and that acceding to it would set a dangerous precedent.

St. Louis Post-Dispatch, 2/7/03:

> Mr. Estrada is an immigrant from Honduras who went to Harvard Law School, clerked on the Supreme Court and worked in the Solicitor General's office. Democrats, frustrated by the absence of a paper trail, and Mr. Estrada's sometimes-evasive answers on issues such as abortion, tried to get legal memos that Mr. Estrada wrote while in the Solicitor General's office. But both Democratic and Republican solicitors general have urged that the memos be kept private so that future solicitors general receive candid views from their staff. In short, the Democratic position doesn't justify a filibuster.

Washington Post, 2/5/03:

> Mr. Estrada's nomination in no way justifies a filibuster. The case against him is that he is a conservative who was publicly criticized by a former supervisor in the Office of the Solicitor General, where he once worked. He was not forthcoming with the committee in its efforts to discern his personal views on controversial issues—as many nominees are not—and the administration has (rightly) declined to provide copies of his confidential memos from his service in government.

Also from the Washington Post, September 29 of last year:

> Democrats are still pushing to see confidential memos Mr. Estrada wrote in the solicitor general's office and trumpeting criticism of him by a single supervisor in that office—criticism that has been discredited by that same colleague's written evaluations. Seeking Mr. Estrada's work product as a government lawyer is beyond any reasonable inquiry into what sort of judge he would be. Nor is it fair to reject someone as a judge because that person's decision to practice law, rather than write articles or engage in politics, makes his views more opaque. And it is terribly wrong to demand that Mr. Estrada answer charges to which nobody is willing to attach his or her name.

The Press-Enterprise, Riverside, CA, entitled "Advice and Filibuster," 2/18/03:

> Democratic senators are frustrated by the White House's refusal to release to them memoranda he wrote as solicitor general. But in the best of times, such a request would be out of line, and these are closer to the worst than to the best for the nomination process. If the memoranda were to be used as an honest beginning to a discussion of Mr. Estrada's legal views, there might be some justification for releasing the documents that would normally be considered

privileged. One suspects that's not the role the Democrats have in mind for the memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

Winston-Salem Journal, 2/20/03:

> [Democrats] have demanded that [Mr. Estrada] turn over confidential papers from his years as solicitor general. Congress should not be asking for such material, as all living solicitors general have said in a letter.

Mr. President, as I said, over 60 editorials share this view. Only 8 have expressed an opposite view.

Mr. President, the hour is late, or early, depending on how you see it. I hope that my friends on the other side of the aisle will see differently tomorrow in the light of day.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate return to Legislative Session and proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RACE-SENSITIVE ADMISSIONS: BACK TO BASICS

Mr. FRIST. Mr. President, I ask unanimous consent that the following paper, "Race-sensitive Admissions: Back to Basics," by William G. Bowen, president emeritus of Princeton University, and Neil L. Rudenstine, president emeritus of Harvard University, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The controversy (and confusion) surrounding the White House's recent statements on the use of race in college and university admissions indicate the need for careful examination of the underlying issues. The Justice Department has filed a brief with the U.S. Supreme Court urging it to declare two race-sensitive policies at the University of Michigan unconstitutional; however, the brief does not rule out ever taking race into account, but argues that institutions should first exhaust all "race-neutral" alternatives. Secretary of State Colin Powell has publicly said that he supports not just affirmative action, but also the Michigan policies. National Security Adviser Condoleezza Rice says she opposes the specific methods used by Michigan, but recognizes the need to take race into account in admissions.

As the Supreme Court prepares to hear oral arguments in a case that will shape college admissions processes in the coming decades, those of us who believe that such processes should be permitted to include a nuanced consideration of race must speak out clearly as well as forcefully. Too often, we fear, the key issues have been oversimplified or overlooked. Having been personally involved with this highly contentious subject for more than 30 years, we would like to try to frame the discussion by offering a set of nine connected propositions about race and admissions that derive from core human values and substantial empirical research.

1. The twin goals served by race-sensitive admissions remain critically important.

The debate over race-sensitive admissions has relevance only at public and private institutions of higher education that have to choose among considerably more qualified candidates than they can admit. Essentially all of these "academically selective" colleges and universities have elected to take race into account in making admissions decisions, a fact that, in itself, has considerable import. Race-sensitive admissions programs are intended to serve two important purposes:

To enrich the learning environment by giving all students the opportunity to share perspective and exchange points of view with classmates from varied backgrounds. The recognition of the educational power of diversity led many colleges and universities—well before the mid-1960s, when the term affirmative action began to be used—to craft incoming classes that included students representing a wide variety of interests, talents, backgrounds, and perspectives. The Shape of the River, written by William Bowen and Derek Bok, provides abundant evidence that graduates of these institutions value educational diversity and, in general, are strong supporters of race-sensitive admissions. Survey responses from more than 90,000 alumni of selective colleges and universities show that nearly 80 percent of those who enrolled in 1976 and 1989 felt that their alma mater placed the right amount of emphasis—or not enough—on diversity in the admissions process. That same survey also found that there is much more interaction across racial lines than many people suppose. In the 1989 entering cohort, 56 percent of white matriculants and 88 percent of black matriculants indicated that they "knew well" two or more classmates of the other race.

To serve the needs of the professions, of business, of government, and of society more generally by educating large numbers of well-prepared minority students who can assume positions of leadership—thereby reducing somewhat the continuing disparity in access to power and responsibility that is related to race in America. Since colonial days, colleges and universities have accepted an obligation to educate individuals who will play leadership roles in society. Today, that requires taking account of the clearly articulated needs of business and the professions for a healthier mix of well-educated leaders and practitioners from varied racial and ethnic backgrounds. Professional groups like the America Bar Association and the American Medical Association, and businesses like General Motors, Microsoft, and American Airlines (among many others), have explicitly endorsed affirmative-action policies in higher education. Leading law firms, hospitals, and businesses depend heavily on their ability to recruit broadly trained individuals from many racial backgrounds who are able to perform at the highest level in settings that are themselves increasingly diverse. A prohibition on the consideration of race in admissions would drastically reduce minority participation in the most selective professional programs. Does it make any sense to resegregate, de facto, many of the country's most respected professional schools and to slow the progress that has been made in achieving diversity within the professions? We don't think so.

2. Private colleges and universities are as likely as their public counterparts to be affected by the outcome of this debate.

The fact that litigation over affirmative action has, thus far, centered on public universities should not lead that private institutions will be unaffected. The 1996 federal-court ruling in Hopwood v. Texas, banning race-sensitive admission policies in Texas, Louisiana, and Mississippi, has been understood to cover Rice University as well as public universities such as the University of Texas. Title VI of the Civil Rights Act of 1964 subjects all institutions that receive federal funds to any court determinations as to what constitutes "discrimination." Because many private colleges and universities have invested substantial resources in creating diverse entering classes, they might well be more dramatically affected by any limitation on their freedom to consider race than would most public institutions. That is especially true because they are, in general, smaller and more selective in admissions than their public counterparts.

It matters that minority applicants have access to the most selective programs, at both undergraduate and graduate levels, in both private and public institutions. The argument that they will surely be able to "get in somewhere" rings hollow to many people. As one black woman quoted in The Shape of the River observed wryly to a white parent: "Are you telling me that all those white folks fighting so hard to get their kids into Duke and Stanford are just ignorant? Or are we supposed to believe that attending a top-ranked school is important for their children but not for mine?" That interchange was not just about perceptions. Various studies show that the short-term and long-term gains associated with attending the most selective institutions are, if anything, greater for minority students than for white students, and that academic and other resources are concentrated increasingly in the top-tier colleges and universities.

3. Race-sensitive admissions policies involve much "picking and choosing" among individual applicants: they need not be mechanical, are not quota systems, and involve making bets about likely student contributions to campus life and, subsequently, to the larger society.

Contrary to what some people believe, admissions decisions at academically selective public and private colleges and universities are much more than a "numbers game." They involve considerations that extend far beyond test scores and GPAs. Analysis of new data from leading private research universities for the undergraduate class entering in 1999 (reported in the forthcoming Reclaiming the Game, by William G. Bowen and Sarah A. Levin) indicates that a very considerable number of high-scoring minority students were turned down. For instance, among male minority applicants with combined SAT scores in the 1200–1299 range (which put them well within the top 10 percent of minority test-takers and the top 20 percent of all test-takers, regardless of race), the odds of admission were about 35 percent: that is, roughly two out of three of these minority applicants were denied admission. At the very top of the SAT distribution (in the 1400-plus range), nearly two out of five were not admitted. Public universities are larger and somewhat less selective, but they also turn down very high-scoring minority candidates. At two public universities for which detailed data are available, one out of four minority candidates in the 1200 to 1399 SAT range was rejected.

In short, admissions officers at both private and public universities have been doing exactly what Justice Powell, in the landmark 1978 decision, Regents of the University of California v. Bakke, said that they should be allowed to do: pursuing "race-sensitive" admission policies that entail considering race among other factors. They have been weighing considerations that are both objective (advanced-placement courses taken in high school, for example) and subjective (indications of drive, intellectual curiosity, leadership ability, and so on). And they have been selecting very well. According to all the available evidence, minority students admitted to academically selective colleges and universities as long ago as the mid-1970s have been shown to be successful in completing rigorous graduate programs, doing well in the marketplace, and, most notably, contributing in the civic arena out of all proportion to their numbers.

Minority candidates are, of course, by no means the only group of applicants to receive special consideration. Colleges and universities have long paid special attention to children of alumni, to "development cases," to applicants who come from poor families or who have otherwise overcome special obstacles, to applicants who will add to the geographic (including international) diversity of the student body, to students with special talents in fields such as music, and, especially in recent years, to athletes. Some readers may be surprised to learn from Reclaiming the Game that recruited athletes at many selective colleges are far more advantaged in the admission process (that is, are much more likely to be admitted at a given SAT level) than are minority candidates.

A related topic deserves some emphasis, and that is the issue of "quotas." There is not space here to discuss the subject in detail, but one point is important to clarify. The fact that the percentage of minority students in many colleges and universities does not fluctuate substantially from year to year is in no sense prima facie evidence that quotas are being used. Anyone familiar with admissions processes—and with their basic statistics—knows that percentages for virtually all subgroups of any reasonable size are remarkably consistent from year to year. That is because the size of the college-going population does not change significantly on an annual basis, nor do the numbers and quality of secondary schools from which institutions draw applications, nor does the number of qualified candidates. All of these numbers are very stable, and it is therefore not at all surprising that incoming college classes should change very little in their composition from year to year. (For example, we suspect that the fraction of an entering class wearing eyeglasses is remarkable consistent from year to year, but that would hardly persuade us that an eyeglass quota is being imposed.)

4. Selectivity and "merit" involve predictions about on-campus learning environments and future contributions to society.

One of the most common misconceptions is that candidates who have scored above some level or earned a certain grade-point average "deserve" a place in an academically selective institution. That "entitlement" notion is squarely at odds with the fundamental principle that, in choosing among a large number of well-qualified applicants, all of whom are over a high threshold, colleges and universities are making bets on the future, not giving rewards for prior accomplishments. Institutions are meant to take well-considered risks. That can involve turning down candidate "A" (who is entirely admissible but does not stand out in any particular way) in favor of candidate "B" (who is expected to contribute more to the educational milieu of the institution and appears to have better long-term prospects of making a major contribution to society). All applicants, of course, deserve to be evaluated fairly, which means treating them the same way as other similarly situated candidates; but, in the words of Lee Bollinger, president of Columbia University and former president of the University of Michigan, "there is no right to be admitted to a university without regard to how the overall makeup of the student body will affect the educational process or without regard to the needs of the society . . . "Merit" is not a simple concept. It has certainly never meant admitting all the valedictorians who apply, or choosing students strictly on the basis of test scores and GPAs.

An elaborate admissions process, which focuses on the particular characteristics of individuals within many subgroups—and on those of the entire pool of applicants—is designed to craft a class that will, in its diversity, be a potent source of educational vitality. Colleges use a variety of procedures to take account of race, and it is essential that differences of opinion concerning the wisdom (or even the legality) of any single approach not lead to an outcome that precludes other approaches.

5. Paying special attention to any group in making admissions decisions entails costs; but the costs of race-sensitive admissions have been modest and well-justified by the benefits.

The "opportunity cost" of admitting any particular student is that another applicant will not be chosen. But such choices are rarely "head-to-head" decisions. For example, there is no reason to believe—as reverse-discrimination lawsuits generally assume—that if a particular minority student had not been accepted, his or her place would have been given to a complainant with comparable or better test scores or grades. The choice might, instead, have been an even higher-scoring minority student who had not been admitted, a student from a foreign country, or a lower-scoring white student from one of several subgroups that are given extra consideration in the admissions process. Making hard choices on the margin is never easy and always—fortunately—involves human judgments made by experienced admissions officers. It is, in any case, wrong to assume that race-sensitive admissions policies have significantly reduced the changes of well-qualified white students to gain admission to the most selective colleges. Findings reported in The Shape of the River, based on data for a subset of selective colleges and universities, demonstrate that elimination of race-sensitive policies would have increased the admission rate for white students by less than two percentage points: from roughly 25 percent of 26.5 percent.

It should be emphasized that taking race into account in making admissions decisions does not appear to have two kinds of costs often mentioned by critics of these policies.

First, there is no systemic evidence that race-sensitive admissions policies tend to "harm the beneficiaries" by putting them in settings in which they are overmatched intellectually or "stigmatized" to the point that they would have been better off attending a less selective institution. On the contrary, extensive analysis of data reported in The Shape of the River shows that minority students at selective schools have, overall, performed well. The more selective the school that they attended, the more likely they were to graduate and earn advanced degrees, the happier they were with their college experience, and the more successful they were in later life.

Second, the available evidence disposes of the argument that the substitution of "race-sensitive" for "race-neutral" admissions policies has led to admission of many minority students who are not well-suited to take advantage of the educational opportunities they are being offered. Examination of the later accomplishments of those students who would have been "retrospectively rejected" under race-neutral policies shows that they did just as well as a hypothetical reference group that might have been admitted if GPAs and test scores had been the primary criteria (which is, itself, a questionable assumption). There are no significant differences in graduation rates, advanced-degree attainment, earnings, civic contributions, or satisfactions with college. In short, the abandonment of race-sensitive admissions would not have removed from campuses a marginal group of mediocre students. Rather, it would have deprived campuses of much of their diversity and diminished the capacity of the academically selective institutions to benefit larger numbers of talented minority students.

6. Progress has been made in narrowing test-score gaps between minority students and other students, but gaps remain.

A frequently asked question is: Are we getting anywhere? Data on average test scores in Reclaiming the Game are encouraging. At a group of liberal-arts colleges and universities examined in 1976 and 1995, average combined SAT test scores for minority students rose roughly 130 points at the liberal-arts colleges and roughly 150 points at the research universities. Test scores for other students rose, too, but by much smaller amounts (roughly 30 points at the liberal-arts colleges and roughly 70 points at the research universities). Test-score gaps narrowed over this period, and the average rank-in-class of minority students on college graduation improved even more than one would have predicted on the basis of test scores alone. As anyone who has studied campus life can attest, there are also many impressionistic signs of progress. Minority students are more involved in a wide range of activities, and increasing numbers of children of minority students of an earlier day are now reaching the age where they are beginning to enroll as "second generation" college students. Graduates are also increasingly making their presence known in the professions and business world.

Still, test-score gaps remain (of roughly 100 to 140 points in the private colleges and universities for which we have data), and so there is still more progress to be made. That is hardly surprising, given the deep-seated nature of the factors that impede academic opportunity and achievement among minority groups—including the fact that a very large proportion of such students continue to attend primary and secondary schools that are underfinanced, insufficiently challenging, and often segregated. It would be naive to expect that a problem as long in the making as the racial divide in educational preparation could be eradicated in a generation or two.

7. There are alternative ways of pursuing diversity, but all substitutes for race-sensitive admissions have serious limitations.

Many of us have a strong appetite for apparently painless alternatives, and it is natural to look for ways to achieve "diversity" without directly confronting the emotion-laden issue of race. Several alternatives to race-sensitive admissions have been suggested. For example, colleges and universities have been urged to:

Focus on the economically disadvantaged. The argument is that, since racial minorities are especially likely to be poor, racial diversity could be promoted in this way (an approach sometimes referred to as "class-based affirmative action"). The results, however, would not be what some people might expect. Several studies have shown that there are simply very few minority candidates for admission to academically selective institutions who are both poor and academically qualified.

Adopt a "percentage plan" whereby all high-school students in a state who graduate in the top X percent of their classes are automatically guaranteed a place in one of the state's universities. In states like Texas, where the secondary-school system is highly segregated, that approach can yield a significant number of minority admissions at the undergraduate level (although the actual effects, even at the undergraduate level, have been shown by the social scientists Marta Tienda and John F. Kain to be more limited than many have suggested). Moreover, the process is highly mechanical. Students in the top X percent are not simply awarded "points," as the undergraduate program at the University of Michigan does. Rather, they are given automatic admission without any prior scrutiny, and without any consideration of the fact that some high schools are much stronger academically than others.

Even if one considered the top-X-percent plan to be viable at state institutions, it could not work at all at private institutions, which admit from national and international pools of applicants and are so selective that they must turn down the vast majority who apply—including very large numbers of students who graduate at or near the top of their secondary-school classes. Private institutions could not conceivably adopt a policy that would automatically give admission to students in the top X percent of their class at the hundreds and hundreds of schools—worldwide—from which they attract applicants.

The top-X-percent plan is also entirely ineffective at the professional and graduate-school level, because (like selective undergraduate colleges) these schools have national and international applicant pools, with no conceivable "reference group" of colleges to which they could possibly give such an admission guarantee. Even if there were a set of undergraduate colleges whose top graduates would be guaranteed admission to certain professional schools, the result would not represent any marked degree of racial diversity. For example, if the top 10 percent of students in the academically selective colleges and universities studied in Reclaiming the Game were offered admission to a professional school (an unrealistically high percentage given the intensely competitive nature of the admission process), only 3 percent of the students included in that group would be underrepresented minorities—and, of course, only some modest fraction of those students would be interested even in applying to such programs. If we are examining a top-5-percent plan, the minority component of the pool would be about one-half of 1 percent. Without some explicit consideration of race, professional schools that ordinarily admit a significant number of their students from selective colleges would simply not be able to enroll a diverse student body.

Other troubling questions include: Do we really want to endorse an admissions approach that depends on de facto segregation at the secondary-school level? Do we want to impose an arbitrary and mechanical admissions standard—based on fixed rank-in-class—on a process that should involve careful consideration of all of an applicant's qualifications as well as thoughtful attention to the overall characteristics of the applicant pool?

Place heavy weight on "geographic distribution" and so-called "experiential" factors, such as a student's ability to overcome obstacles and handicaps of various kinds, or the experience of living in a home where a language other than English is spoken. The argument here is that, if special attention were given to these and analogous criteria, then a sizable pool of qualified minority students would automatically be created.

But, as we have mentioned, colleges have been using precisely such criteria for many decades, and they have discovered—not surprisingly—that there are large numbers of very competitive "majority" candidates in all of the suggested categories. For example, if a student's home language is Russian, Polish, Arabic, Korean, or Hebrew, will that be weighted by a college as strongly as Spanish? If not, then the institutions will clearly be giving conscious preference to a group of underrepresented minority students—Hispanic students—in a deliberate way that explicitly takes ethnicity (or, in other cases, race) into account.

Similar issues arise with respect to other experiential categories, as well as geographic distribution. There is no need to speculate about (or experiment with) such approaches, because colleges have already had nearly a half century of experience applying them, and there is ample evidence that the hoped-for results, in terms of minority representation, are not what many people now suggest or claim. Moreover, insofar as such categories were to become surreptitious gateways for minority students, they would soon run the risk of breeding cynicism, and almost certainly inviting legal challenges.

All of the indirect approaches just described pose serious problems. Nor can they be accurately described as "race-neutral." They have all been proposed with the clear goal (whether practicable or not) of producing an appreciable representation of minority students in higher education. In some cases, they involve the conscious use of a kind of social engineering decried by critics of race-sensitive admissions.

Surely the best way to achieve racial diversity is to acknowledge candidly that minority status is one among many factors that can be considered in an admissions process designed to judge individuals on a case-by-case basis. We can see no reason why a college or university should be compelled to experiment with—and "exhaust"—all suggested alternative approaches before it can turn to a carefully tailored race-sensitive policy that focuses on individual cases. The alternative approaches are susceptible to systematic analysis, based on experience and empirical investigation. A preponderance of them have been tested for decades. All can be shown to be seriously deficient. Indeed, if genuinely race-neutral (and educationally appropriate) methods were available, colleges and universities would long ago have gladly embraced them.

8. Reasonable degrees of institutional autonomy should be permitted—accompanied by a clear expectation of accountability.

As the courts have recognized in other contexts (for example, in giving reasonable deference to administrative agencies), a balance has to be struck between judicial protection of rights guaranteed to all of us by the Constitution and the desirability of giving a presumption of validity to the judgments of those with special knowledge, experience, and closeness to the actual decisions being made. The widely acclaimed heterogeneity of the American system of higher education has permitted much experimentation in admissions, as in other areas, and has discouraged the kinds of government-mandated uniformity that we find in many other parts of the world. Serious consideration should be given to the disadvantages of imposing too many "do's" and "don'ts" on admissions policies.

The case for allowing a considerable degree of institutional autonomy in such sensitive and complex territory is inextricably tied, in our view, to a clear acceptance by colleges and universities of accountability for the policies they elect and the ways such policies are given effect. There is, to be sure, much more accountability today than many people outside the university world recognize. Admissions practices are highly visible and are subject to challenge by faculty members, trustees and regents, avid investigative reporters, disappointed applicants, and the public at large. Colleges and universities operate in more of a "fishbowl" environment than the great majority of other private and public entities. Nonetheless, we favor even stronger commitments by colleges and universities to monitor closely how specific admissions policies work out in practice. Studies of outcomes should be a regular part of college and university operations, and if it is found, for example, that minority students (or other students) accepted with certain test scores or other qualifications are consistently doing poorly, then some change in policy—or some change in the personnel responsible for administering the stated policy—may well be in order.

That point was made with special force by a very conservative friend of ours, Charles Exley, former chairman and CEO of NCR Corporation and a onetime trustee of Wesleyan University. In a pointed conversation that one of us (Bowen) will long remember, Exley explained that he held essentially the same view that we hold concerning who should select the criteria and make admissions decisions. "I would probably not admit the same class that you would admit, even though I don't know how different the classes would be," he said. "You will certainly make mistakes," he went on, "but I would much rather live with your errors than with those that will inevitably result from the imposition of more outside constraints, including legislative and judicial interventions." And then, with the nicest smile, he concluded: "And, if you make too many mistakes, the trustees can always fire you!"

9. Race matters profoundly in America; it differs fundamentally from other "markers" of diversity, and it has to be understood on its own terms.

We believe that it is morally wrong and historically indefensible to think of race as "just another" dimension of diversity. It is a critically important dimension, but it is also far more difficult than others to address. The fundamental reason is that racial classifications were used in this country for more than 300 years in the most odious ways to deprive people of their basic rights. The fact that overt discrimination has now been outlawed should not lead us to believe that race no longer matters. As the legal scholar Ronald Dworkin has put it, "the worst of the stereotypes, suspicions, fears, and hatreds that still poison America are color-coded . . ."

The after effects of this long history continue to place racial minorities (and especially African-Americans) in situations in which embedded perceptions and stereotypes limit opportunities and create divides that demean us all. This social reality, described with searing precision by the economist Glenn C. Loury in The Anatomy of Racial Inequality, explains why persistence is required in efforts to overcome, day by day, the vestiges of our country's "unlovely racial history." We believe that it would be perverse in the extreme if, after many generations when race was used in the service of blatant discrimination, colleges and universities were now to be prevented from considering race at all, when, at last, we are learning how to use nuanced forms of race-sensitive admissions to improve education for everyone and to diminish racial disparities.

The former Attorney General Nicholas Katzenbach draws a sharp distinction between the use of race to exclude a group of people from educational opportunity ("racial discrimination") and the use of race to enhance learning for all students, thereby serving the mission of colleges and universities chartered to serve the public good. No one contends that white students are being excluded by any college or university today simply because they are white.

William G. Bowen is president emeritus of Princeton University and president of the Andrew W. Mellon Foundation. He is the coauthor, with Derek Bok, of The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions (Princeton University Press, 1998) and, with Sarah A. Levin, of Reclaiming the Game: College Sports and Educational Values (Princeton University Press, forthcoming in 2003). Neil L. Rudenstine is president emeritus of Harvard University and chairman of the board of ARTstor. His extended essay "Diversity and Learning" (The President's Report: 1993–1995, Harvard University) focuses on the value of diversity in higher education from the mid-19th century to the present.

THE IMPORTANCE OF TITLE IX

Mr. LEAHY. Mr. President, today the Commission on Opportunity in Athletics sent Secretary Rod Paige their recommendations to change the landmark gender equity law—Title IX.

Two members of the Commission—Julie Foudy and Donna de Varona—decided not to sign the report and instead submitted a minority report because they found the final report slanted, incomplete, and failing to acknowledge that discrimination against women in education still exists. I am very disappointed the Commission did not write a more balanced report, which all members would have felt comfortable signing.

Since its passage more than 30 years ago as part of the Education Amendments of 1972, Title IX has played a monumental role in the advancement of equality for women throughout America. This landmark legislation has opened the doors to colleges, universities and sports team locker rooms for our sisters, daughters and friends. Women's participation in sports has dramatically increased so that women now make up about 40 percent of all college athletics, compared with 15 percent in 1972. Studies have shown that women who participate in athletics learn important values such as, teamwork, leadership, and discipline—values that stay with them throughout their lives.

On January 29, Senators DASCHLE, SNOWE, KENNEDY, SPECTER, MURRAY and I wrote to Education Secretary Rod Paige urging him to defend and strengthen the enforcement of current Title IX policies and regulations. Today, I joined those same Senators in a letter urging President Bush to reaffirm the current policies under Title IX and to reject the changes to those policies proposed by the Commission.

Over the past 30 years, Title IX has been a good and fair law and it should not be weakened in any way. I urge President Bush and Education Secretary Rod Paige to give as much consideration to the report filed by Julie Foudy and Donna de Varona as they do to the majority report and to ultimately reject any efforts to weaken Title IX and its goal to address widespread sex discrimination in athletics and all other aspects of education.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in March 2001 in Portage, WI. A gay man was found murdered in an apartment. The assailant, Darrin Grosskopf, was drinking with the victim, Keith Ward, and claimed that Ward made sexual advances toward him. Grosskopf told police that he thought Ward was a homosexual. When police found Ward's body in the apartment, he was naked and had a stab wound in his chest.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

RULES OF THE SENATE: PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedure of the Committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 26, 2003, a majority of the members of the Committee on Governmental Affairs' Permanent Subcommittee on Investigations adopted subcommittee rules of procedure.

Consistent with Standing Rule XXVI, I ask unanimous consent to have printed in the RECORD a copy of the rules of the Permanent Subcommittee on Investigations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

108TH CONGRESS RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS AS ADOPTED—FEBRUARY 26, 2003

1. No public hearing connected with an investigation may be held without approval of either the Chairman and the Ranking Minority Member or the approval of a majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The Ranking Minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee majority staff upon the approval of the Chairman and notice of such approval to the Ranking Minority Member or the minority counsel. Preliminary inquiries may be undertaken by the minority staff upon the approval of the Ranking Minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the Ranking Minority Member with notice of such approval to all members.

No public hearing shall be held if the minority Members unanimously object, unless the full Committee on Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him, with notice to the Ranking Minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him, immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of

the Subcommittee, a written request therfor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its dates and hour. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

Five (5) Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representation or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he/she is testifying, or his legal rights. Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representative by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him. If the Chairman or designated Member overrules the objection, he/she may refer the matter to the Subcommittee or he/she may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he/she has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Chief Counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the Ranking Minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights shall not be directed at him. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his own testimony whether in public or executive session shall be made available for inspection by witness or his counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense if he/she so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Subcommittee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the Ranking Minority Member waive this requirement.

If a person requests the filing of his sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the minority Members.

18. The Ranking Minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the minority and such other professional staff members and clerical assistants as he/she deems advisable. The total compensation allocated to such minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The minority staff members shall work under the direction and supervision of the Ranking Minority Member. The

Chief Counsel for the minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and Ranking Minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and Ranking Minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State, local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

EXPLANATION OF VOTE

Mr. NELSON of Nebraska. Mr. President, on Monday, February 24, I was unable to be present to vote on S. 151, the PROTECT Act, because I was part of the U.S. Presidential Delegation attending the inauguration of His Excellency Roh Moo-Huyn, President of the Republic of Korea. Had I been present I would have voted "aye."

ECONOMIC RECOVERY ACT

Mr. LEAHY. Mr. President, I rise today in support of Democratic Leader DASCHLE'S request to bring before the Senate the Economic Recovery Act of 2003, S. 414, which includes legislation I introduced last month: the First Responders Partnership Grant Act of 2003. I regret that Republicans objected to proceeding to these important matters when Senator DASCHLE requested we move to it yesterday.

I thank the Democratic leader for authoring this important economic stimulus package. In seeking to improve homeland security, I am proud that he saw fit to include the First Responders Partnership Grant Act—on which he, Democratic Whip REID and Senator BREAUX join me as cosponsors. This legislation will supply our Nation's first responders with the support they so desperately need to protect homeland security and prevent and respond to acts of terrorism.

I want to begin by thanking each of our Nation's brave firefighters, emergency rescurers, law enforcement officers, and other first responder personnel for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our State and local public safety partners.

But while we ask our Nation's first responders to defend us as never before on the front lines against the dark menace of domestic terrorism, we have failed to supply them with the Federal support they need and deserve to protect us, as we expect and need them to protect us.

Since February 7, 2003, the Federal Homeland Security Advisory System has kept State and local first responders on Orange Alert, a "high" condition indicating a high probability of a terrorist attack and when additional precautions by first responders are necessary at public events.

Since then, counterterrorism officials have warned that the threat of terrorist attacks on U.S. soil is at a higher level than in previous months due to the possibility of impending military action against Iraq. This is the second time since September 11, 2001, that the national warning level has been at Orange Alert—from September 10 to September 24 last year, Attorney General Ashcroft declared our country at Orange Threat level.

From March 12, 2002, until this month, we were at Yellow Alert, an "elevated" threat level declared when there is a significant risk of terrorist attacks, requiring increased surveillance of critical locations.

Counties, cities and towns in my home State of Vermont and across the U.S. find themselves overwhelmed by increasing homeland security costs required by the Federal Government. Indeed, the National Governors Association estimates that States incurred around $7 billion in security costs over the past year alone.

As a result, the national threat alerts and other Federal homeland security requirements have become unfunded Federal mandates on our State and local governments. Rutland County Sheriff R.J. Elrick, president of the Vermont Sheriffs' Association, recently wrote to me, "We are in dire need of financial support to keep our personnel trained and equipped to meet the challenges here as home as we continue our vigilant commitment to fight terrorism."

When terrorists strike, first responders are and will always be the first people we turn to for help. We place our lives and the lives of our families and friends in the hands of these officers, trusting that when called upon they will protect and save us.

Just how, without supplying them with the necessary resources, do we expect our Nation's first responders to realistically carry out their duties?

Our State and local law enforcement officers, firefighters and emergency personnel are full partners in preventing, investigating and responding to terrorist acts. They need and deserve the full collaboration of the Federal Government to meet these new national responsibilities.

Washington is buzzing about the literally hundreds of billions of additional dollars the President plans to ask Congress to provide for our military services to fight the war on terrorism abroad. The same cannot be said for helping security here at home, which is shamefully overlooked.

For a year and a half I have been working hard to remedy that, with allies like our distinguished Democratic leader and assistant Democratic leader, and New York Senators SCHUMER and CLINTON. As former chair and now ranking member of the Judiciary Committee, I have made it a high priority to evaluate and meet the needs of our first responders.

For these reasons, I commend the Democratic leader for including in the homeland security section of his economic stimulus package the First Responders Partnership Grant Act, which will give our Nation's law enforcement officers, firefighters and emergency personnel the resources they need to do their jobs. This legislation will establish a grant program at the Department of Homeland Security to provide $5 billion nationwide for current fiscal year to support State and local public safety officers in their efforts to protect homeland security and prevent and respond to acts to terrorism.

Similar to the highly successful Department of Justice Community Oriented Policing Services (COPS) and the Bulletproof Vest Partnership Grant Programs, the First Responder Grants will be made directly to State and local government units for overtime, equipment, training and facility expenses to support our law enforcement officers, firefighters and emergency personnel.

The First Responder Grants may be used to pay up to 90 percent of the cost of the overtime, equipment, training or facility. In cases of fiscal hardship, the Department of Homeland Security may waive the local match requirement of 10 percent to provide Federal funds for communities that cannot afford the local match.

In a world shaped by the violent events of September 11, day after day we call upon our public safety officers to remain vigilant. We not only ask them to put their lives at risk in the line of duty, but also, if need be, given their lives to protect us.

If we take time to listen to our Nation's State and local public safety partners, they will tell us that they welcome the challenge to join in our national mission to protect our homeland security. But we cannot ask our firefighters, emergency personnel, and law enforcement officers to assume these new national responsibilities without also providing new Federal support.

The First Responders Partnership Grant Act will provide the necessary Federal support for our State and public safety officers to serve as full partners in the fight to protect our homeland security. We need our first responders for the security and the life-saving help they bring to our communities. All they ask is for the tools they need to do their jobs for us. And for the sake of our own security, that is not too much to ask.

I commend Senator DASCHLE for his leadership, and hope that the Senate will soon consider this desperately-needed economic stimulus package.

EXPENDITURES OF COMMITTEES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 66, which was submitted earlier today by Senators LOTT and DODD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 66) authorizing expenditures by committees of the Senate for the periods March 1, 2003, through September 30, 2003, October 1, 2003, through September 30, 2004, and October 1, 2004, through February 28, 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 66) was agreed to.

(The resolution is printed in today's RECORD under "Statements on Submitted Resolutions.")

ADDITIONAL STATEMENTS

2004 SUMMER OLYMPIC GAMES

● Mrs. CLINTON. Mr. President, today, thousands of American athletes are training for the ultimate goal of participating in the 2004 summer Olympic Games in Athens Greece. Americans will have to wait until next summer to applaud their efforts, but we can start applauding another Olympic star today—Nadia Weinberg.

A Michigan native, Ms. Weinberg is a member of the Orchestra of Athens and she deserves a gold medal for her beautiful voice and her commitment to helping those who are less fortunate than she.

In order to celebrate the games' return to Greece, the Orchestra of Athens and Ms. Weinberg will conduct a world tour including a 15-city tour in America. They will visit New York City, Washington D.C., Boston, and Detroit to name a few. Each concert will benefit a number of charitable organizations: children's abuse centers, college scholarship funds, soup kitchens, homeless shelters, and children's hospitals. Ms. Weinberg and the Orchestra of Athens are using their gift of music to help spread the goodwill of the Olympic Games here in America and around the world.

We can all be proud that Ms. Weinberg is representing her country with such grace. She has performed in music halls around the world, impressed audiences in Carnegie Hall, the Kennedy Center, and filled the Rotunda of the Capitol with her voice. Each performance shows that the arts have always been a bridge of understanding between cultures.

I can think of no finer American—one who is dedicated to helping others, committed to the arts, and determined to encourage goodwill around the world—than Ms. Weinberg. We are proud of her accomplishments and her participation in this endeavor with the Orchestra of Athens, and we are honored that she is representing the United States around the world.●

HONORING MARION HIGH SCHOOL

● Mr. JOHNSON. Mr. President, on April 26, 2003, more than 1,200 students from across the United States will visit Washington, DC to compete in the national finals of the We the People: The Citizen and the Constitution program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Marion High School will represent the State of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Marion High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the We the People national finals.●

HONORING ALBERT W. SISK

● Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize Mr. Albert W. Sisk of Hopkinsville, KY. Earlier this month, Mr. Sisk was honored as Kentucky's nominee for the 2003 TIME Magazine Quality Dealer Award at the National Automobile Dealers Association convention.

Mr. Sisk is the president and dealer principle of Sisk Auto Mall located in Hopkinsville. One of the most distinguishing features of Mr. Sisk's business philosophy is his commitment to family. Mr. Sisk is a second-generation car dealer and he contributes his success to the knowledge he gained from working alongside his father, a torch he now passes to his son who is General Manager of Sisk Auto Mall.

Mr. Sisk is certainly no stranger to community involvement. Aside from his current service in the private sector, Mr. Sisk once served his country as a member of the United States Army upon graduation from the University of Kentucky in 1965. Now he focuses his attention on helping young adults excel in academics and their future careers. He is an active member of the YMCA, Rotary Club, First Christian Church and the Elizabeth Stone Educational Fund Advisory Board.

Business and personal honors aside, Mr. Sisk cites having the opportunity to work with his father the most rewarding aspect of his career. It is not often we have the chance to honor such a distinguished business man, community member, and family man. Please join me in congratulating Mr. Albert W. Sisk.●

IN APPRECIATION OF MAJOR GENERAL PHILIP G. KILLEY

● Mr. JOHNSON. Mr. President, I rise today to express my profound appreciation for the work MG Philip G. Killey has provided as the adjutant general for the South Dakota National Guard. General Killey has announced that he will be retiring after 40 years of service, and I would like to take this opportunity to thank him for the extraordinary work he has done for this country and for the South Dakota National Guard.

General Killey reports that South Dakota has continued its high rankings in terms of readiness of its National Guard units. South Dakota's units also excel in the quality of its new recruits. I commend the South Dakota National Guard for its continued excellence, and General Killey for his leadership, which has led to the maintenance of this high standard. National rankings only confirm the quality that has come to be expected of the National Guard of a great State.

Most South Dakotans know at least 1 of the 4,500 current members of the South Dakota National Guard or the thousands of former guardsmen. Sometimes, the connection is even more direct. My oldest son Brooks was a proud member of the South Dakota Army National Guard in Yankton prior to his active duty service with the U.S. Army.

Every community in my State benefits from the work of these guardsmen. Following the tragedies of September 11, guardsmen were called to assist in the campaign against terrorism and performed security duties at airports around the State. From Aberdeen to Yankton, the Guard is a key member of the South Dakota community.

In addition to the support the National Guard provides to South Dakota, it has also supported overseas operations including those in Central America, the Middle East, Europe, and Asia. Units around the State have been activated this year, deploying to military bases across our country and around the world.

These latest activities, and the professionalism that our South Dakota National Guardsmen have shown, are a testimony to the leadership of General Killey. Before becoming the adjutant general in 1998, General Killey served with distinction in both the active duty and in the South Dakota National Guard.

General Killey received his commission in 1963 through Officer Training School, at Lackland AFB in Texas. He served a tour in Southeast Asia in 1967–1968 flying the F-4 with the 8th Tactical Fighter Wing at Ubon Royal Thai Air Force Base, Thailand. He left active duty in 1969 and joined the Air National Guard in 1970. He held various positions with the South Dakota Air National Guard before becoming the adjutant general. He was recalled to active duty as director of the Air National Guard from 1988 until 1994. General Killey was the first guardsman to serve as commander, 1st Air Force, Air Combat Command, and Continental United States North American Aerospace Defense Command Region, Tyndall Air Force Base, Florida, from 1994 until 1998.

I enthusiastically commend General Killey for his many years of service, and thank him for all that he has done for this Nation and for our great State of South Dakota. I wish him and his wife Ellen all the very best as they move on to new challenges and opportunities.●

TRIBUTE TO KING DAVID HOLMES, SR.

● Mr. DODD. Mr. President, I rise to pay tribute to the late King David Holmes, Sr., a life-long resident and civil rights leader from the city of Waterbury, CT.

"King David," as he was affectionately known, was born and raised in Waterbury. After graduating from Crosby High School in 1940, he served in the Army during World War II. Returning to Waterbury after his tour of duty, King David worked at Scoville Manufacturing for 30 years, retiring as a shop foreman. He also spent 11 years working for the former Connecticut Department of Human Resources, now known as the Department of Social Services.

As the civil rights movement came to its own in the late 1950s and early 1960s, King David quickly became a local leader in advocating the needs of Waterbury's African-American community. He organized marches and protests against businesses and schools in the city practicing discrimination. He also founded the Waterbury Black Democratic Club and chaired New Opportunities for Waterbury, Inc., which successfully financed the construction of new housing for low-income individuals and families in North Square.

As a member of the Waterbury Democratic Town Committee, King David sought to organize the city's African-American community politically. He strongly promoted local and State African-American political leaders and worked on the Senatorial campaigns of Abraham Ribicoff and my father, Thomas Dodd, both of whom fully supported equal rights. In this regard, I am pleased to say that my family has greatly cherished the friendship and support of this fine man and his family.

King David was known for his open mind and willingness to work with all people for a better Waterbury and a better America. He will be sadly missed. But his social and political contributions will have a lasting impact for many years to come.

King David was predeceased by his daughter, Muriel. He is survived by three children, Patricia, Maria, and King David, Jr., by Erlynde Holmes DePina, and by ten grandchildren.●

MESSAGES FROM THE HOUSE

At 3:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 40. Concurrent Resolution permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that pursuant to 20 U.S.C. 4303, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of Gallaudet University: Mr. LaHood of Illinois.

The message further announced that pursuant to section 815(a)(1) of the Congressional Recognition for Excellence in Arts Education Act (2 U.S.C. 815), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Congressional Recognition for Excellence in Arts Education Awards Board: Mr. McKeon of California; and Mrs. Biggert of Illinois.

The message also announced that pursuant to 20 U.S.C. 4412, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development: Mr. Young of Alaska.

The message further announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), as amended by Public Law 107–117, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. Kolbe of Arizona; and Ms. Pryce of Ohio.

The message also announced that pursuant to Executive Order No. 12131, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the President's Export Council: Mr. English of Pennsylvania; Mr. Pickering of Mississippi; and Mr. Hayes of North Carolina.

The message further announced that pursuant to sections 5580 and 5581 of the Revised Statutes (20 U.S.C. 42–43), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Regents of the Smithsonian Institution: Mr. Regula of Ohio; and Mr. Sam Johnson of Texas.

The message also announced that pursuant to 10 U.S.C. 9355(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Mr. Young of Florida; and Mr. Hefley of Colorado.

The message further announced that pursuant to 46 U.S.C. 1295b(h), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Merchant Marine Academy: Mr. King of New York.

The message also announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. Simmons of Connecticut.

The message further announced that pursuant to 10 U.S.C. 4355(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Military Academy: Mr. Taylor of North Carolina; and Mrs. Kelly of New York.

The message also announced that pursuant to 10 U.S.C. 6968(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Naval Academy: Mr. Cunningham of California; and Mr. Gilchrest of Maryland.

The message further announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. Leach of Iowa, Chairman; Mr. Bereuter of Nebraska; Mr. Dreier of California; Mr. Wolf of Virginia; and Mr. Pitts of Pennsylvania.

The message also announced that pursuant to section 5(a)(2) of the Benjamin Franklin Tercentenary Commission Act (36 U.S.C. 101 note), and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Benjamin Franklin Tercentenary Commission: Mr. Castle of Delaware.

The message further announced that pursuant to 44 U.S.C. 2501, and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the National Historical Publications and Records Commission: Mr. Cole of Oklahoma.

The message also announced that pursuant to section 5(a) of the Abraham Lincoln Bicentennial Commission Act (36 U.S.C. 101 note), and the order of the House of January 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Abraham Lincoln Bicentennial Commission: Mr. LaHood of Illinois.

The message further announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. Ryan of Wisconsin; Ms. Dunn of Washington; Mr. English of Pennsylvania; Mr. Putnam of Florida; and Mr. Paul of Texas.

The message also announced that pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b) note), and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the National Council on the Arts: Mr. Ballenger of North Carolina; and Mr. McKeon of California.

The message further announced that pursuant to 2 U.S.C. 88b-3, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives Page Board: Mr. Shimkus of Illinois and Mrs. Wilson of New Mexico.

The message also announced that pursuant to 36 U.S.C. 2301, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the United States Holocaust Memorial Council: Mr. LaTourette of Ohio; Mr. Cannon of Utah; and Mr. Cantor of Virginia.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 9:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 395. An act to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry, and for other purposes.

H.J. Res. 19. A joint resolution recognizing the 92d birthday of Ronald Reagan.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. Stevens).

MEASURE REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 40. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1242. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling 2003–21—Bureau of Labor Statistics Price Indexes for Department Stores—December 2002 (Rev. Rul. 2003–21)" received on February 12, 2003; to the Committee on Finance.

EC–1243. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Equity Investment Prior to Allocation Deadline (Notice 2003–9)" received on January 28, 2003; to the Committee on Finance.

EC–1244. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—March 2003 (Rev. Rul. 2003–26)" received on February 24, 2003; to the Committee on Finance.

EC–1245. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Excise Tax Relating to Structure Settlement Factoring Transactions (RIN1545–BB24)" received on February 24, 2003; to the Committee on Finance.

EC–1246. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2003 Prevailing State Assumed Interest Rates (Rev. Ruling 2003–24)" received on February 20, 2003; to the Committee on Finance.

EC–1247. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Single Entry for Split Shipments (RIN1515–AC91)" received on February 20, 2003; to the Committee on Finance.

EC–1248. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rules of Origin for Textile and Apparel Products (RIN1515–AC80)" received on February 20, 2003; to the Committee on Finance.

EC–1249. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Changes in the Retirement Age (AE–03)" received on February 14, 2003; to the Committee on Finance.

EC–1250. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Old-Age Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Administrative Review Process; Video Teleconferencing Appearances Before Administrative Law Judges of the Social Security Administration (0960–AE97)" received on February 20, 2003; to the Committee on Finance.

EC–1251. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation Air Quality Implementation Plans; Michigan; Excess Emissions During Startup, Shutdown or Malfunction (FRL 7442–9)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1252. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: Maryland Miscellaneous Revisions (FRL 7450–2)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1253. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Revisions to the Air Resource Regulations (FRL 7448–7)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1254. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitation Guidelines and New Source Performance Standards for the Metal Products and Machinery Point Source Category (FRL 7453–6)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1255. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District (FRL 7448–1)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1256. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1257. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, Imperial County Air Pollution Control District (FRL7452–5)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1258. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District (FRL 7451–4)" received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1259. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Statewide Transportation Planning, Metropolitan Transportation Planning (2125–AE95)" received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1260. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Nuclear Regulatory Commissions Monthly report on the status of its licensing and regulatory duties, received on February 20, 2003; to the Committee on Environment and Public Works.

EC–1261. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled "Small Municipal Waste Combustors: Final Federal Plan Requirements for Combustion Units Constructed on or Before August 30, 1999: Fact Sheet" received on January 31, 2003 ; to the Committee on Environment and Public Works.

EC–1262. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled "Complying with the Revised Drinking Water Standard for Arsenic Small Entity Compliance Guide—One of the Simple Tools for Effective Performance (STEP) Guide Series" received on January 31, 2003; to the Committee on Environment and Public Works.

EC–1263. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Jersey, Motor Vehicle Enhanced Inspections and Maintenance Program (FRL 7441–4)" received on February 14, 2003; to the Committee on Environment and Public Works.

EC–1264. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (FRL 7446–6)" received on February 14, 2003; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself, Mr. KENNEDY, and Mr. DAYTON):

S. 448. A bill to leave no child behind; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 449. A bill to authorize the President to agree to certain amendments to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; to the Committee on Foreign Relations.

By Mr. DURBIN (for himself, Mr. FITZGERALD, and Mrs. CLINTON):

S. 450. A bill to amend the Public Health Service Act to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 451. A bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Armed Services.

By Mr. REID (for himself and Mr. ENSIGN):

S. 452. A bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. COCHRAN, and Mrs. FEINSTEIN):

S. 453. A bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations' in receiving such services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 454. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Environment and Public Works.

By Mr. BREAUX:

S. 455. A bill to provide for a period of open enrollment for judicial officials under section 376 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 456. A bill to exclude certain wire rods from the scope of any antidumping or countervailing duty order issued as a result of certain investigations relating to carbon and certain alloy steel rods; to the Committee on Finance.

By Mr. LEAHY (for himself, Ms. SNOWE, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. CAMPBELL, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DOMENICI, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SUNUNU, Mr. WARNER, Mr. WYDEN, and Ms. CANTWELL):

S. 457. A bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, and Mrs. BOXER):

S. 458. A bill to establish the Southwest Regional Border Authority; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. GRAHAM of South Carolina, Ms. COLLINS, Mr. JEFFORDS, Mr. SARBANES, Mr. SCHUMER, Mr. DURBIN, Ms. LANDRIEU, Mr. NELSON of Florida, Mrs. CLINTON, and Ms. SNOWE):

S. 459. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. MCCAIN, Mr. KYL, Mr. SCHUMER, Mrs. BOXER, Mrs. HUTCHISON, Mr. BINGAMAN, and Mr. DOMENICI):

S. 460. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. LIEBERMAN, Mrs. CLINTON, Mr. KERRY, Mr. JEFFORDS, Mr. CORZINE, Mr. CONRAD, and Mr. AKAKA):

S. 461. A bill to establish a program to promote hydrogen fuel cells, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 462. A bill to establish procedures for the acknowledgment of Indian tribes; to the Committee on Indian Affairs.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 463. A bill to provide grants to ensure full and fair participation in certain decisionmaking processes of the Bureau of Indian Affairs; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 66. A resolution authorizing expenditures by committees of the Senate for the periods March 1, 2003, through September 30, 2003, October 1, 2003, through September 30, 2004, and October 1, 2004, through February 28, 2005; submitted and read.

By Mr. SCHUMER (for himself, Mr. CORZINE, Mr. CARPER, and Ms. STABENOW):

S. Res. 67. A resolution expressing the sense of the Senate that Alan Greenspan, the Chairman of the Federal Reserve Board, should be recognized for his outstanding leadership of the Federal Reserve, his exemplary conduct as Federal Reserve chairman, and his commitment as a public servant; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. DASCHLE, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 7, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program and to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, and for other purposes.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 251

At the request of Mr. LOTT, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 289

At the request of Mr. GRASSLEY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 300

At the request of Mr. KERRY, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 330

At the request of Mr. CAMPBELL, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 392

At the request of Mr. REID, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 397

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 397, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

S. 436

At the request of Mr. LEAHY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 436, a bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the names of the Senator from Missouri (Mr. TALENT), the Senator from Ohio (Mr. DEWINE) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. Con. Res. 7, A concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. RES. 40

At the request of Mr. BIDEN, the names of the Senator from California (Mrs. BOXER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Res. 40, A resolution reaffirming congressional commitment to title IX of the Education Amendments of 1972 and its critical role in guaranteeing equal educational opportunities for women and girls, particularly with respect to school athletics.

S. RES. 48

At the request of Mr. AKAKA, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. Res. 48, A resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 52. A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. KENNEDY, and Mr. DAYTON):

S. 448. A bill to leave no child behind, to the Committee on Finance.

Mr. DODD. Mr. President, I rise today with colleagues Senator KENNEDY and Senator DAYTON to introduce the Leave No Child Behind Act of 2003, legislation that provides a comprehensive blueprint for addressing the needs of our Nation's children.

When Representative GEORGE MILLER and I introduced the Act to Leave No Child Behind in the last Congress, in May of 2001, this Nation was looking at an unprecedented Federal budget surplus of some $5.6 trillion that Federal budget experts forecasted for the years 2002–2011.

But, just 2 years later, that projected surplus is gone. Instead, Federal budget experts now predict a deficit of more than $2 trillion for those years, the worst fiscal reversal in our history.

Where did the money go?

Obviously, the current economic slowdown has had an impact insofar as it has caused a drop in Federal receipts. However, much of the surplus was lost to an enormous tax bill that contained mostly tax breaks for the largest companies and most affluent individuals, which was enacted during the spring of 2001.

And now, to make matters worse, the President is calling for more tax breaks, again, mostly to be enjoyed by the wealthy, which Federal budget experts estimate will cost $1.5 trillion over the next decade.

At the same time, the President has proposed to severely weaken our Nation's efforts on behalf of families and children, particularly poor families with children.

I listened to the President call for a more compassionate America in his State of the Union Address. Little did I expect that he was calling for others to be compassionate so that he would not have to be.

The budget that we received from the President earlier this month is the worst I have seen for families with children in decades.

Despite the fact that millions of parents struggle with the cost of child care, that the majority of States have long waiting lists, and that we vastly need to improve the quality of care, the President proposes to freeze child care assistance in each of the next five years.

At the same time, the President proposes to increase the number of hours that parents on welfare are required to work and increase the overall number of parents on welfare who are required to work. All of this is without a dime more for child care.

Who is going to watch these children? It is an undeniable fact that additional work requirements will cause an increase in the amount of child care parents need. And, additional hours of child care cost money.

The risk is that States will rob Peter to pay Paul. They will shift child care assistance from the working poor, many of whom might be former welfare recipients, to help those on welfare meet their child care costs. This makes no sense.

For Head Start, the President proposes a modest increase, barely enough to cover inflation despite the fact that Head Start reaches only 60 percent of eligible 3- and 4-year-old children and only 3 percent of eligible infants and toddlers.

In lieu of a real expansion in the program, the President proposes giving current Head Start funds used by community programs to States. This would mean that after 38 years of success, Head Start would no longer be a national program, with national performance standards, offering comprehensive services to our Nation's poorest children—those most likely to be struggling once in school.

Head Start works. Study after study shows the gains Head Start children make. Since Head Start graduates make up only 8 percent of incoming kindergarten students, it makes no sense to raid the Head Start money to reach the other 92 percent of children who are not in Head Start. And yet, that could very well be the result of the President's proposal.

What we know in our country is that many of our young people need a safe place to go after school, particularly at-risk youth who would otherwise be likely to go home alone, where in the absence of adult supervision, they are more likely to smoke, drink, have sex, or engage in crime. And yet, the President proposes to cut the 21st Century after-school program by $400 million. That cut would cause some 570,000 children to be discharged next year from after-school programs across America.

The President proposes deep cuts in Federal housing assistance, allowing States to receive foster care as a block grant instead of individual payments based on children actually in foster care, and potentially eliminating health insurance for millions of children through a block grant of Medicaid and the State Children's Health Insurance Program.

At the same time, according to the National Governor's Association, State economies are on the whole in the worst shape since World War II. States are operating with billions of dollars in the red with State constitutional requirements to balance their budgets.

It is clear what is going on here.

Instead of providing more resources to help States during these tough times, the President is raiding poverty programs for children and using that money to help pay for tax benefits for those who are at the very top of the income scale. This reckless policy only worsens the budget shortfalls facing so many States.

Children are one-quarter of our population. But, they are 100 percent of our future. It makes no sense to shortchange our investment in children.

America's children today are living under some staggering challenges. Nearly 12 million children live in poverty; over 9 million children have no health coverage; about 7 million children go home alone each week after school; and, nearly 1 million children are abused and neglected.

We can do better for our children. We should do better for children. We don't need another tax break for America's wealthiest citizens. What we need is a sound investment in our Nation's children.

The legislation we are introducing today is called, "An Act to Leave No Child Behind." We are committed to this one principle beyond all others. Not just a slogan, but as a means to define an urgent national priority.

We need to make sure that we not only talk about leaving no child behind, but that we actually take steps to do so. Introducing this bill is the first such step.

Every word on every page is focused on the same purpose—lifting our children up, giving each child an opportunity, helping each child to have a safe and rewarding life.

Under the Act to Leave No Child Behind, every child in America would have health coverage. No child in America would go to bed at night aching from hunger. We would use our tax code to lift millions of children out of poverty—not provide more hand-outs for the most wealthy in this country.

It's time to ensure that every American child has an opportunity to attend Head Start, Pre-K, or quality child care to begin a lifetime of learning. It's time to ensure that every American child can read by 4th grade, and read at grade level. And, it's time to take dramatic new steps to address the needs of children who are abused and neglected every year.

Budget experts predict that the President's tax plan will give millionaires an average tax break of $88,800 each. For that same amount of money, we could fully fund Head Start and provide health insurance to every one of the 9 million uninsured children.

We have the resources. If we can afford to give $88,800 on average to every millionaire, then the question is really about priorities and political will—not resources.

If we join together, we can transform this Nation and give each and every child his God-given right to grow and flourish to all he can be, to his or her fullest potential so that all children can realize their dreams.

I ask unanimous consent to have a summary of the bill printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE ACT TO LEAVE NO CHILD BEHIND

The Act to Leave No Child Behind is a comprehensive bill that will benefit every child in America. The measure represents a vision of what we can do for children if we really want to move beyond talking about leaving no child behind to taking steps to actually leave no child behind. Each of the bill's twelve titles seeks to improve the lives of children so that they can reach their fullest potential.

TITLE I: EVERY CHILD NEEDS A HEALTHY START

Over 9 million children throughout America have no health insurance today. Under the Act to Leave No Child Behind, all uninsured children would receive health care coverage.

TITLE II: PARENTING—SUPPORTING CHILDREN'S HEALTHY DEVELOPMENT

Too many parents throughout America struggle to balance work, family, and the needs of their children. Under the Act to Leave No Child Behind, the Family and Medical Leave Act would be expanded to cover more employees, create pilot demonstrations to offer paid leave, and allocate grants to states to provide parenting support and education.

TITLE III: CHILD CARE, HEAD START, & EDUCATION

Research on brain development during the first three years of life makes clear the need for quality early childhood development. Yet, only one out of every seven eligible children receives child care assistance and the quality of child care that children receive needs to be vastly improved. Head Start reaches only 60 percent of eligible 3 and 4 year olds and only 3 percent of infants and toddlers. Full funding for child care and 3 & 4 year-olds in Head Start would ensure that all children eligible for assistance can receive it.

Title IV: Tax Relief for Low-Wage Working Families; Title V: Moving Out of Poverty

Tax relief under current law is limited for low income families. The Act to Leave No Child Behind will increase the child tax credit, expand the Earned Income Tax Credit and the Dependent Tax Credit, and reduce the marriage penalty for low income families. Nearly 12 million children live in poverty in America today; about 78 percent of them live in working families. The Act to Leave No Child Behind includes supports for hard working parents to remain employed and to help lift themselves and their children out of poverty.

TITLE VI: GETTING ENOUGH TO EAT; TITLE VII: AFFORDING A PLACE TO LIVE

The Department of Agriculture estimates that nearly 13 million children live in families not getting enough to eat, including nearly 3 million children who regularly go hungry. The Act to Leave No Child Behind will expand food assistance to low income families with children. The fastest growing group among those with "worst case housing needs" includes families with children. The Act to Leave No Child Behind will increase the means for states to ensure that families with children have a decent, affordable place to live.

TITLE VIII: EVERY CHILD NEEDS A SAFE START

Every day, nearly 8,000 children are reported to public child protection agencies as suspected victims of child abuse. In too many states, the child protection system is stretched to its breaking point. The Act to Leave No Child Behind will help to ensure that more children are in safe, nurturing, and permanent families.

TITLE IX: SUCCESSFUL TRANSITIONS TO ADULTHOOD—YOUTH DEVELOPMENT; TITLE X: JUVENILE JUSTICE

Nearly 7 million children go home alone unsupervised each week after school. The Act to Leave No Child Behind will provide increased funding for after-school and youth development programs. While juvenile crime rates have been declining since 1994, still too many children come into contact with the law. The Act to Leave No Child Behind will provide funding for delinquency prevention programs and will enable more at-risk youth to become productive, law-abiding adults.

TITLE XI: GUN SAFETY

The most recent annual data shows that over 3,300 children and teens in America were killed by gunfire, including about one-third who committed suicide. The Act to Leave No Child Behind will close existing loopholes in our nation's gun law and promote child safety.

TITLE XII: EVERY CHILD NEEDS THE SUPPORT OF THE ENTIRE COMMUNITY

The Act to Leave No Child Behind will establish a blue-ribbon commission to identify family-friendly practices that the private sector can replicate and promote.

By Mrs. HUTCHISON:

S. 449. A bill to authorize the President to agree to certain amendments to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; to the Committee on Foreign Relations.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION TO CERTAIN AMENDMENTS REGARDING NORTH AMERICAN DEVELOPMENT BANK.

(a) IN GENERAL.—Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m et seq.) is amended by inserting after section 543 the following new section:

"SEC. 543A. AUTHORIZATION TO AMEND COOPERATION AGREEMENT.

"The President is authorized to instruct the United States representative to the Bank to vote for or otherwise agree to amendments to the Cooperation Agreement that would—

"(1) authorize the Bank, with the approval of its Board of Directors, to make grants and non-market rate loans out of its paid-in capital, if the grants are structured only as cofinancing to pay a portion of the recipient's debt service on debt financing for the project for which the grant is made; and

"(2) amend the definition of 'border region' to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States and Mexico.".

(b) CONFORMING AMENDMENT.—The table of contents for the North American Free Trade Agreement Implementation Act is amended by inserting after the item relating to section 543, the following new item:

"Sec. 543A. Authorization to amend Cooperation Agreement.".

By Mr. DURBIN (for himself, Mr. FITZGERALD, and Mrs. CLINTON):

S. 450. A bill to amend the Public Health Service Act to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise today to introduce the Melanie Stokes Postpartum Depression Research and Care Act along with Senator FITZGERALD and Senator CLINTON.

My legislation is named after a Chicago native who struggled unsuccessfully against postpartum psychosis following the birth of her daughter. While fighting this debilitating mental condition Ms. Stokes has been in and out of hospitals several times, stopped eating and drinking, and wouldn't swallow pills. Despite medical assistance and the support of her family and friends, Mrs. Stokes was ultimately unable to overcome her condition, and jumped to her death from a 12-story window ledge.

Studies indicate that 50 to 75 percent of all new mothers experience the "baby blues," a feeling of moderate emotional distress following childbirth. Serious postpartum depression on the other hand, affects between 10 and 20 percent of women. In Illinois alone there are at least 180,000 births a year. Even using the conservative estimate that 10 percent of mothers will suffer from postpartum depression, this suggests that over 18,000 women, in the State of Illinois alone will experience the devastating symptoms of this disorder each year. Women suffering from serious postpartum depression may worry excessively or find themselves exhausted. They may experience sadness, feelings of guilt, apathy, phobias, or sleep problems sometimes for as long as 3 to 14 months. Understanding this disorder more fully and developing new treatments should be a top priority.

The most severe form of mental illness that can affect women following childbirth is postpartum psychosis. Although this condition is more difficult to recognize since it occurs less frequently than postpartum depression, the consequences of allowing postpartum psychosis to go untreated are serious. Postpartum psychosis is characterized by hallucinations, hearing voices, paranoia, severe insomnia, extreme anxiety and depression and women suffering from the disorder are at increased risk for suicide or harming others.

Even though many new mothers will experience some form of postpartum depression or the "baby blues," few research studies are carefully examining the causes of this mental condition at present. In addition, there is currently no standard treatment for women suffering from postpartum depression. The Melanie Stokes Postpartum Depression Research and Care Act would develop a coordinated approach for understanding and treating this devastating illness.

Specifically, my legislation authorizes the Secretary of Health and Human Services to organize a series of national meetings that focus on developing a consensus research and treatment plan for postpartum depression and psychosis. The Melanie Stokes Postpartum Depression Research and Care Act also encourages the Secretary to implement the consensus research and treatment plan generated via the national meting series in a timely fashion. Finally, the bill makes grant funding available through the Substance Abuse and Mental Health Services Administration to aid in the delivery of treatment services for postpartum depression to women and their families.

I am pleased that Senator FITZGERALD and Senator CLINTON have joined me in introducing this important legislation. Congressman RUSH has taken the lead in the House of Representatives. I am anxious to work in a bipartisan, bicameral fashion to coordinate our approach toward understanding postpartum depression by passing this legislation in remembrance of Melanie Stokes and all the women who have suffered from postpartum depression and psychosis.

By Ms. SNOWE:

S. 451. A bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Armed Services.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that will correct an injustice being visited upon the survivors of our servicemembers killed in action and military retirees under the current military Survivor's Benefit Plan, or SBP.

As the program currently operates, the widows or widowers of those who have "borne the battle" receive an annuity equal to 55 percent of the servicemember's retirement pay. That is, until they turn 62. At that time, under current law, a surviving spouse's SBP benefits must be reduced either by a Social Security offset, or a reduction in payments to 35 percent of retired pay—a drop of almost 40 percent—simply because they have reached the age of 62.

For example, let's take the widow of a Navy chief petty officer or E–7 who had served 20 years before retiring. Before she reaches 62, this widow will receive $771 per month, but on her 62nd birthday, that benefit drops to only $491 per month—a loss of $3,360 per year.

For a retired O–5, say a Marine Corps lieutenant colonel, the widow's benefit would drop by $6,960 a year as soon as she turns 62. Some birthday gift.

But the inequities don't stop there. For example, the military Survivor Benefit Plan does not measure up to the Federal Survivor Benefit Plan in terms of benefits paid to survivors. Survivors of Federal civilian retirees under the original Civil Service Retirement System receive 55 percent of their spouse's retired pay for life—with no drop in benefits at age 62. Under the newer Federal Employee Retirement System, survivors still receive 50 percent of retired pay for life, again with no drop at age 62.

Yet another reason that we should adopt this legislation is that members of the military pay more than their share of Survivor Benefit Plan program costs, as compared to their Federal civilian counterparts.

Originally, the Congress intended the government to subsidize 40 percent of the cost of military Survivor Benefit Plan premiums—similar to the government's contribution to the Federal civilian plan. Over the last several decades, however, there has been a significant decline in the government's cost share, and Department of Defense actuaries advise that the government subsidy is now down to less than 17 percent. This means that military retirees are now paying more than 83 percent of program costs from their retired pay versus the intended 60 percent.

Contrast this to the Federal civilian SBP, which has a 52 percent cost share for those under the Civil Service Retirement System and a 67 percent cost share for those employees, including many of our own staff, under the Federal Employees Retirement System. While it is true that there are differences between the civilian and military premium costs, with Federal civilians paying more, it is also true that military retirees generally retire earlier than their Federal civilian counterparts, and as a result, pay premiums for many more years.

This legislation is intended to raise, over a five year period, the percentage of the retirement annuity received by the survivor from 35 percent to 55 percent after age 62. The first year, 2004, will be an open season to allow new enrollees to sign up for the program in order to reduce retired pay outlays by increasing deductions of SBP premiums from retired pay, thus offsetting part of the cost of the survivor benefit increase.

Beginning on Oct. 1, 2004, the second year, the age-62 SBP annuity would increase to 40 percent of retired pay, followed by an additional increase to 45 percent in 2005, 50 percent in 2006 and 55 percent in 2007 after which all survivors would receive the 55 percent of the annuity.

Once again, I ask my colleagues to support our Nation's military widows and widowers. In the National Defense Authorization Act of 2001, we included a Sense of the Congress on increasing the military SBP annuity. This year, we have a chance to carry out this intent by enacting this important measure, and I ask my colleagues to join with me in support of this legislation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 452. A bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, the Cold War was the longest war in United States history. Lasting 50 years, the Cold War cost thousands of lives, trillions of dollars, changed the course of history, and left America the only superpower in the world. Because of the nuclear capabilities of our enemy it was the most dangerous conflict our country ever faced. The threat of mass destruction left a permanent mark on American life and politics. Those that won this war did so in obscurity. Those that gave their lives in the Cold War have never been properly honored.

Today I introduce with Senator ENSIGN a bill that requires the Department of the Interior to conduct a study to identify sites and resources to commemorate heroes of the Cold War and to interpret the Cold War for future generations.

Our legislation directs the Secretary of the Interior to establish a "Cold War Advisory Committee" to oversee the inventory of Cold War sites and resources for potential inclusion in the National Park System, as national historic landmarks, or other appropriate designations.

The Advisory Committee will work closely with State and local governments and local historical organizations. The committee's starting point will be a Cold War study completed by the Secretary of Defense under the 1991 Defense Appropriations Act Obvious Cold War sites of significance include: Intercontinental Ballistic Missiles, flight training centers, communications and command centers, such as Cheyenne Mountain, Colorado, nuclear weapons test sites, such as the Nevada test site, and strategic and tactical resources.

Perhaps no other state in the Union has played a more significant role than Nevada in winning the Cold War. The Nevada Test Site is a high-technology engineering marvel where the United States developed, tested, and perfected a nuclear deterrent which is the cornerstone of America's security and leadership among nations. The Naval Air Station at Fallon is the Navy's premiere tactical air warfare training facility. The Air Warfare Center at Nellis Air Force Base has the largest training range in the United States to ensure that America's pilots will prevail in any armed conflict.

The Advisory Committee established under this legislation will develop an interpretive handbook on the Cold War to tell the story of the Cold War and its heroes.

I would like to take a moment to relate a story of one group of Cold War heroes. On a snowy evening in November 17, 1955, a United States Air Force C–54 crashed near the summit of Mount Charleston in central Nevada. The doomed flight was carrying 15 scientific and technical personnel to secret Area 51 where the U–2 reconnaissance plane, of Francis Powers fame, was being developed under tight security. The men aboard the ill-fated C–54 helped build the plane which critics said could never be built. The critics were wrong—the U–2 is a vital part of our reconnaissance force to this day.

The secrecy of the mission was so great that the families of the men who perished on Mount Charleston only recently learned about the true circumstances of the crash that took the lives of their loved ones. My legislation will provide $300,000 to identify historic landmarks like the crash at Mount Charleston.

I'd like to thank Mr. Steve Ririe of Las Vegas who brought to light the events surrounding the death of the fourteen men who perished on Mount Charleston nearly a half century ago, and for the efforts of State Senator Rawson who shepherded a resolution through the Nevada legislature to commemorate these heroes.

A grateful Nation owes its gratitude to the "Silent Heroes of the Cold War." We urge our colleagues to support this long overdue tribute to the contribution and sacrifice of those Cold War heroes for the cause of freedom.

By Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. COCHRAN, and Mrs. FEINSTEIN):

S. 453. A bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation today that will reduce barriers to health care for millions of patients across the country, particularly those from medically underserved and minority communities. The Patient Navigator, Outreach, and Chronic Disease Prevention Act will create programs which direct individuals to affordable and accessible prevention, detection and treatment services for cancer and other chronic diseases. The bill will also establish patient navigator programs to assist patients make their way through the often complex health care system.

This year alone, more than 80,000 Texans will be diagnosed with cancer and nearly 35,000 Texans will die of the disease. Cancer is the most expensive illness in the United States. It cost Texas $13.9 billion in one year due to medical costs and loss of productivity in 1998.

Despite the tremendous progress that has been made in cancer and chronic disease prevention, detection, and treatment, not all Americans are benefitting. Cancer survival rates of those living in poverty are ten to fifteen percent lower than other Americans, and African American men have the lowest rate of cancer survival. Cancer and chronic disease continue to disproportionately impact minorities and medically underserved communities. The consequences of inadequate access to these services mean that diseases like cancer are often diagnosed at later stages when the illness is more advanced and options for treatment are decreased.

In my home State of Texas, ensuring access to health care is a profound challenge, particularly along the Texas-Mexico border. The problem is in part due to lack of insurance coverage, as forty-nine percent of the Texas Hispanic population does not have health insurance, but it is also attributable to an uneven distribution of health professionals and hospitals, inadequate transportation, and a shortage of bilingual health information and providers.

The legislation I am introducing today will eliminate barriers by cutting through red tape and increasing access to affordable prevention and care for people from all walks of life.

The bill accomplishes its goals by reaching patients in the communities in which they live—through community health centers, rural health clinics, community hospitals, cancer centers, tribal and urban Indian organizations, among others, and by ensuring that there is a doctor or nurse, who, while speaking in a language people can understand, will provide patients with prevention screenings and follow-up treatment.

Patients will be provided with a trained patient navigator from their own community, who can help with scheduling and keeping appointments and referrals for prevention and treatment. They can also ensure doctor's instructions are followed and funds to pay for treatment or arranging transportation to a specialist are obtained. They may also provide a service as simple as helping out with the paperwork.

This legislation is modeled after successful programs such as the Harlem Navigator Program at Harlem Hospital in New York City operated by Dr. Harold Freeman, and the local Washington, D.C. Hospital Cancer Preventorium directed by Dr. Elmer Huerta. Through implementation of the Harlem patient navigator program, diagnosis of breast cancer at an early stage has improved. In 1989, only 1 out of 20 breast cancer diagnoses were made at an early stage. Now, through the navigator program, 4 out of every 10 diagnoses are identified early. Furthermore, the program has reduced the time between diagnosis and treatment to ten days.

I look forward to working with my colleagues to pass the critically important Patient Navigator, Outreach and Chronic Disease Prevention Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Despite notable progress in the overall health of the Nation, there are continuing disparities in the burden of illness and death experienced by African Americans, Latinos and Hispanics, Native Americans, Alaska Natives, Asian and Pacific Islanders and the poor, compared to the United States population as a whole.

(2) Many racial and ethnic minority groups suffer disproportionately from cancer. Mortality and morbidity rates remain the most important measures of the overall progress against cancer. Decreasing rates of death from cancer reflect improvements in both prevention and treatment. Among all ethnic groups in the United States, African American males have the highest overall rate of mortality from cancer. Some specific forms of cancer affect other ethnic minority communities at rates up to several times higher than the national averages (such as stomach and liver cancers among Asian American populations, colon and rectal cancer among Alaska natives, and cervical cancer among Hispanic and Vietnamese-American women).

(3) Regions characterized by high rates of poverty also have high mortality for some forms of cancer. For example, in Appalachian Kentucky the incidence of lung cancer among white males was 127 per 100,000 in

1992, a rate higher than that for any ethnic minority group in the United States during the same period.

(4) Major disparities for other chronic diseases exist among population groups, with a disproportionate burden of death and disability from cardiovascular disease in racial and ethnic minority and low-income populations. Compared with rates for the general population, coronary heart disease mortality was 40 percent lower for Asian Americans but 40 percent higher for African-Americans.

(5) Minority populations are disproportionately impacted by diabetes and other chronic diseases. Hispanics are twice as likely to have diabetes as non-Hispanic whites; diabetes is the fourth leading cause of death among Hispanic women and elderly. African Americans are 1.7 times as likely to have diabetes as the general population. More than 15% of the combined populations of Native Americans and Alaska Natives have diabetes.

(6) Culturally competent approaches to chronic disease care are needed to encourage increased participation of racial and ethnic minorities and the medically underserved in chronic disease prevention, early detection and treatment programs.

SEC. 3. HRSA GRANTS FOR MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; HRSA GRANTS FOR PATIENT NAVIGATORS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

“SEC. 330L. MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; PATIENT NAVIGATORS.

“(a) Model Community Cancer and Chronic Disease Care and Prevention.—

“(1) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private health centers (including health centers under section 330, Indian Health Service Centers, tribal governments, urban Indian organizations, clinics serving Asian Americans and Pacific Islanders and Alaskan Natives, rural health clinics, and qualified nonprofit entities that enter into partnerships with public and nonprofit private health centers to provide navigation services, which demonstrate the ability to perform all the functions described in this subsection and subsections (b), and (c)) for the development and operation of model programs that—

“(A) provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases;

“(B) ensure that the health services are provided to such individuals in a culturally competent manner;

“(C) assign patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations to—

“(i) accomplish, to the extent possible, the follow-up and diagnosis of an abnormal finding and the treatment and appropriate follow-up care of cancer or other chronic disease; and

“(ii) facilitate access to appropriate health care services within the health care system to ensure optimal patient utilization of such services, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

“(D) require training for patient navigators employed through model programs under this paragraph to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (b), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

“(E) ensure that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

“(2) Outreach services.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the program is serving, of the services of the model program under the grant. Such activities shall include facilitating access to appropriate health care services and patient navigators within the health care system to ensure optimal patient utilization of these services.

“(3) Data collection and report.—

“(A) In general.—To provide for effective program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

“(B) Use of data.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

“(C) Report.—Using data collected under this paragraph, a grantee shall prepare and submit to the Secretary an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

“(4) Application for grant.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(5) Evaluations.—

“(A) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, directly or through grants or contracts, provide for evaluations to determine which outreach activities under paragraph (2) were most effective in informing the public, and the specific community that the program is serving, of the model program services and to determine the extent to which such programs were effective in providing culturally competent services to the health disparity population served by the programs.

“(B) Dissemination of findings.—The Secretary shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

“(6) Coordination with other programs.—The Secretary shall coordinate the program under this subsection with the program under subsection (b), with the program under section 417D, and to the extent practicable, with programs for prevention centers that are carried out by the Director of the Centers for Disease Control and Prevention.

“(b) Program for Patient Navigators.—

“(1) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private health centers (including health centers under section 330, Indian Health Service Centers, tribal governments, urban Indian organizations, clinics serving Asian Americans and Pacific Islanders and Alaskan Natives, rural health clinics, and qualified nonprofit entities that enter into partnerships with public and nonprofit private health centers to provide navigation services, which demonstrate the ability to perform all the functions described in subsections (a), (b), and (c)) for the development and operation of programs to pay the costs of such health centers in—

“(A) assigning patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations for the duration of receiving health services from the health centers, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

“(B) ensuring that the services provided by the patient navigators to such individuals include case management and psychosocial assessment and care or information and referral to such services;

“(C) ensuring that the patient navigators with direct knowledge of the communities they serve provide services to such individuals in a culturally competent manner;

“(D) developing model practices for patient navigators, including with respect to—

“(i) coordination of health services, including psychosocial assessment and care;

“(ii) appropriate follow-up care, including psychosocial assessment and care;

“(iii) determining coverage under health insurance and health plans for all services;

“(iv) ensuring the initiation, continuation, or sustained access to care prescribed by the patients' health care providers; and

“(v) aiding patients with health insurance coverage issues;

“(E) requiring training for patient navigators to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (a), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

“(F) ensuring that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

“(2) Outreach services.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the patient navigator is serving, of the services of the model program under the grant.

“(3) Data collection and report.—

“(A) In general.—To provide for effective patient navigator program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to navigation services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

"(B) USE OF DATA.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

"(C) REPORT.—Using data collected under this paragraph, a grantee shall prepare and submit to the Secretary an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

"(4) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(5) EVALUATIONS.—

"(A) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, directly or through grants or contracts, provide for evaluations to determine the effects of the services of patient navigators on the individuals of health disparity populations for whom the services were provided, taking into account the matters referred to in paragraph (1)(C).

"(B) DISSEMINATION OF FINDINGS.—The Secretary shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(6) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate the program under this subsection with the program under subsection (a) and with the program under section 417D.

"(c) REQUIREMENTS REGARDING FEES.—

"(1) IN GENERAL.—A condition for the receipt of a grant under subsection (a)(1) or (b)(1) is that the program for which the grant is made have in effect—

"(A) a schedule of fees or payments for the provision of its health care services related to the prevention and treatment of disease that is consistent with locally prevailing rates or charges and is designed to cover its reasonable costs of operation; and

"(B) a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the ability of the patient to pay.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require payment for navigation services or to require payment for health care services in cases where the care is provided free of charge, including the case of services provided through programs of the Indian Health Service.

"(d) MODEL.—Not later than three years after the date of the enactment of this section, the Secretary shall develop a peer-reviewed model of systems for the services provided by this section. The Secretary shall update such model as may be necessary to ensure that the best practices are being utilized.

"(e) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a)(1) or (b)(1) may not exceed five years. The provision of such payments are subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'culturally competent', with respect to providing health-related services, means services that, in accordance with standards and measures of the Secretary, are designed to effectively and efficiently respond to the cultural and linguistic needs of patients.

"(2) The term 'appropriate follow-up care' includes palliative and end-of-life care.

"(3) The term 'health disparity population' means a population where there exists a significant disparity in the overall rate of disease incidence, morbidity, mortality, or survival rates in the population as compared to the health status of the general population. Such term includes—

"(A) racial and ethnic minority groups as defined in section 1707; and

"(B) medically underserved groups, such as rural and low-income individuals and individuals with low levels of literacy.

"(4)(A) The term 'patient navigator' means an individual whose functions include—

"(i) assisting and guiding patients with a symptom or an abnormal finding or diagnosis of cancer or other chronic disease within the health care system to accomplish the follow-up and diagnosis of an abnormal finding as well as the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) identifying, anticipating, and helping patients overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

"(B) Such term includes representatives of the target health disparity population, such as nurses, social workers, cancer survivors, and patient advocates.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—

"(A) MODEL PROGRAMS.—For the purpose of carrying out subsection (a) (other than the purpose described in paragraph (2)(A)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(B) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b) (other than the purpose described in paragraph (2)(B)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(C) BUREAU OF PRIMARY HEALTH CARE.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Bureau of Primary Health Care.

"(2) PROGRAMS IN RURAL AREAS.—

"(A) MODEL PROGRAMS.—For the purpose of carrying out subsection (a) by making grants under such subsection for model programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(B) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b) by making grants under such subsection for programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(C) OFFICE OF RURAL HEALTH POLICY.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Office of Rural Health Policy.

"(3) RELATION TO OTHER AUTHORIZATIONS.—Authorizations of appropriations under paragraphs (1) and (2) are in addition to other authorizations of appropriations that are available for the purposes described in such paragraphs.".

SEC. 4. NCI GRANTS FOR MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; NCI GRANTS FOR PATIENT NAVIGATORS.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end following:

"SEC. 417E. MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; PATIENT NAVIGATORS.

"(a) MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION.—

"(1) IN GENERAL.—The Director of the Institute may make grants to eligible entities for the development and operation of model programs that—

"(A) provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases;

"(B) ensure that the health services are provided to such individuals in a culturally competent manner;

"(C) assign patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations to—

"(i) accomplish, to the extent possible, the follow-up and diagnosis of an abnormal finding and the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) facilitate access to appropriate health care services within the health care system to ensure optimal patient utilization of such services, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

"(D) require training for patient navigators employed through model programs under this paragraph to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (b), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

"(E) ensure that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

"(2) ELIGIBLE ENTITIES.—For purposes of this section, an eligible entity is a designated cancer center of the Institute, an academic institution, an Indian Health Services Clinic, a tribal government, an urban Indian organization, a hospital, a qualified nonprofit entity that enters into a partnership with public and nonprofit private health centers to provide navigation services and which demonstrates the ability to perform all the functions described in subsections (a), (b), and (c), or any other public or private entity determined to be appropriate by the Director of the Institute that provides services described in paragraph (1)(A) for cancer and chronic diseases, a nonprofit organization, or any other public or private entity determined to be appropriate by the Director of the Institute, that provides services described in paragraph (1)(A) for cancer or chronic diseases.

"(3) DATA COLLECTION AND REPORT.—

"(A) IN GENERAL.—To provide for effective program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

"(B) USE OF DATA.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

"(C) REPORT.—Using data collected under this paragraph, a grantee shall prepare and submit to the Secretary an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

"(4) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the program is serving, of the services of the model program under the grant. Such activities shall include facilitating access to appropriate health care services and patient navigators within the health care system to ensure optimal patient utilization of these services.

"(5) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Institute and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(6) EVALUATIONS.—

"(A) IN GENERAL.—The Director of the Institute, directly or through grants or contracts, shall provide for evaluations to determine which outreach activities under paragraph (3) were most effective in informing the public, and the specific community that the program is serving, of the model program services and to determine the extent to which such programs were effective in providing culturally competent services to the health disparity population served by the programs.

"(B) DISSEMINATION OF FINDINGS.—The Director of the Institute shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(7) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate the program under this subsection with the program under subsection (b), with the program under section 330I, and to the extent practicable, with programs for prevention centers that are carried out by the Director of the Centers for Disease Control and Prevention.

"(b) PROGRAM FOR PATIENT NAVIGATORS.—

"(1) IN GENERAL.—The Director of the Institute may make grants to eligible entities for the development and operation of programs to pay the costs of such entities in—

"(A) assigning patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations for the duration of receiving health services from the health centers, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

"(B) ensuring that the services provided by the patient navigators to such individuals include case management and psychosocial assessment and care or information and referral to such services;

"(C) ensuring that patient navigators with direct knowledge of the communities they serve provide services to such individuals in a culturally competent manner;

"(D) developing model practices for patient navigators, including with respect to—

"(i) coordination of health services, including psychosocial assessment and care;

"(ii) follow-up services, including psychosocial assessment and care; and

"(iii) determining coverage under health insurance and health plans for all services;

"(iv) ensuring the initiation, continuation, or sustained access to care prescribed by the patients' health care providers; and

"(v) aiding patients with health insurance coverage issues;

"(E) requiring training for patient navigators to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (a), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

"(F) ensuring that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

"(2) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the patient navigator is serving, of the services of the model program under the grant.

"(3) DATA COLLECTION AND REPORT.—

"(A) IN GENERAL.—To provide for effective patient navigator program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to navigation services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

"(B) USE OF DATA.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

"(C) REPORT.—Using data collected under this paragraph, a grantee shall prepare and submit to the Secretary an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

"(4) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Institute and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(5) EVALUATIONS.—

"(A) IN GENERAL.—The Director of the Institute, directly or through grants or contracts, shall provide for evaluations to determine the effects of the services of patient navigators on the health disparity population for whom the services were provided, taking into account the matters referred to in paragraph (1)(C).

"(B) DISSEMINATION OF FINDINGS.—The Director of the Institute shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(6) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate the program under this subsection with the program under subsection (a) and with the program under section 330I.

"(c) REQUIREMENTS REGARDING FEES.—

"(1) IN GENERAL.—A condition for the receipt of a grant under subsection (a)(1) or (b)(1) is that the program for which the grant is made have in effect—

"(A) a schedule of fees or payments for the provision of its health care services related to the prevention and treatment of disease that is consistent with locally prevailing rates or charges and is designed to cover its reasonable costs of operation; and

"(B) a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the ability of the patient to pay.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require payment for navigation services or to require payment for health care services in cases where the care is provided free of charge, including the case of services provided through programs of the Indian Health Service.

"(d) MODEL.—Not later than three years after the date of the enactment of this section, the Director of the Institute shall develop a peer-reviewed model of systems for the services provided by this section. The Director shall update such model as may be necessary to ensure that the best practices are being utilized.

"(e) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a)(1) or (b)(1) may not exceed five years. The provision of such payments are subject to annual approval by the Director of the Institute of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'culturally competent', with respect to providing health-related services, means services that, in accordance with standards and measures of the Secretary, are designed to effectively and efficiently respond to the cultural and linguistic needs of patients.

"(2) the term 'appropriate follow-up care' includes palliative and end-of-life care.

"(3) the term 'health disparity population' means a population where there exists a significant disparity in the overall rate of disease incidence, morbidity, mortality, or survival rates in the population as compared to the health status of the general population. Such term includes—

"(A) racial and ethnic minority groups as defined in section 1707; and

"(B) medically underserved groups, such as rural and low-income individuals and individuals with low levels of literacy.

"(4)(A) the term 'patient navigator' means an individual whose functions include—

"(i) assisting and guiding patients with a symptom or an abnormal finding or diagnosis of cancer or other chronic disease within the health care system to accomplish the follow-up and diagnosis of an abnormal finding as well as the treatment and appropriate follow-up care of cancer or other chronic disease, including information about clinical trials; and

"(ii) identifying, anticipating, and helping patients overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

"(B) Such term includes representatives of the target health disparity population, such as nurses, social workers, cancer survivors, and patient advocates.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) MODEL PROGRAMS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(2) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

"(3) RELATION TO OTHER AUTHORIZATIONS.—Authorizations of appropriations under paragraphs (1) and (2) are in addition to other authorizations of appropriations that are available for the purposes described in such paragraphs.".

SEC. 5. IHS GRANTS FOR MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; IHS GRANTS FOR PATIENT NAVIGATORS.

Title II of the Indian Health Care Improvement Act (25 U.S.C. 162 et seq.) is amended by adding at the end the following:

"SEC. 226. MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; PATIENT NAVIGATORS.

"(a) MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION.—

"(1) IN GENERAL.—The Director of the Service may make grants to Indian Health Service Centers, tribal governments, urban Indian organizations, tribal organizations, and qualified nonprofit entities that enter into partnerships with public and nonprofit private health centers serving Native American populations to provide navigation services and that demonstrate the ability to perform all the functions described in this subsection and subsections (b) and (c), for the development and operation of model programs that—

"(A) provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases;

"(B) ensure that the health services are provided to such individuals in a culturally competent manner;

"(C) assign patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations to—

"(i) accomplish, to the extent possible, the follow-up and diagnosis of an abnormal finding and the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) facilitate access to appropriate health care services within the health care system to ensure optimal patient utilization of such services, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

"(D) require training for patient navigators employed through model programs under this paragraph to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (b), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

"(E) ensure that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

"(2) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the program is serving, of the services of the model program under the grant. Such activities shall include facilitating access to appropriate health care services and patient navigators within the health care system to ensure optimal patient utilization of these services.

"(3) DATA COLLECTION AND REPORT.—

"(A) IN GENERAL.—To provide for effective program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

"(B) USE OF DATA.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

"(C) REPORT.—Using data collected under this paragraph, a grantee shall prepare and submit to the Secretary an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

"(4) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Service and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(5) EVALUATIONS.—

"(A) IN GENERAL.—The Director of the Service, directly or through grants or contracts, shall provide for evaluations to determine which outreach activities under paragraph (2) were most effective in informing the public, and the specific community that the program is serving, of the model program services and to determine the extent to which such programs were effective in providing culturally competent services to the health disparity population served by the programs.

"(B) DISSEMINATION OF FINDINGS.—The Director of the Service shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(6) COORDINATION WITH OTHER PROGRAMS.—The Director of the Service shall coordinate the program under this subsection with the program under subsection (b), with the program under section 417D of the Public Health Service Act, and to the extent practicable, with programs for prevention centers that are carried out by the Director of the Centers for Disease Control and Prevention.

"(b) PROGRAM FOR PATIENT NAVIGATORS.—

"(1) IN GENERAL.—The Director of the Service may make grants to Indian Health Service Centers, tribal governments, urban Indian organizations, tribal organizations, and qualified nonprofit entities that enter into partnerships with public and nonprofit private health centers serving Native American populations to provide navigation services, and that demonstrate the ability to perform all the functions described in this subsection and subsections (b) and (c), for the development and operation of model programs to pay the costs of such entities in—

"(A) assigning patient navigators, in accordance with applicable criteria of the Secretary, for managing the care of individuals of health disparity populations for the duration of receiving health services from the health centers, including aid in coordinating and scheduling appointments and referrals, community outreach, assistance with transportation arrangements, and assistance with insurance issuers and other barriers to care;

"(B) ensuring that the services provided by the patient navigators to such individuals include case management and psychosocial assessment and care or information and referral to such services;

"(C) ensuring that patient navigators with direct knowledge of the communities they serve provide services to such individuals in a culturally competent manner;

"(D) developing model practices for patient navigators, including with respect to—

"(i) coordination of health services, including psychosocial assessment and care;

"(ii) follow-up services, including psychosocial assessment and care; and

"(iii) determining coverage under health insurance and health plans for all services;

"(iv) ensuring the initiation, continuation, or sustained access to care prescribed by the patients' health care providers; and

"(v) aiding patients with health insurance coverage issues;

"(E) requiring training for patient navigators to ensure the ability of such navigators to perform all of the duties required under this subsection and in subsection (a), including training to ensure that such navigators are informed about health insurance systems and are able to aid patients in resolving access issues; and

“(F) ensuring that consumers have direct access to patient navigators during regularly scheduled hours of business operation.

“(2) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public, and the specific community that the patient navigator is serving, of the services of the model program under the grant.

“(3) DATA COLLECTION AND REPORT.—

“(A) IN GENERAL.—To provide for effective patient navigator program evaluation, a grant recipient under this subsection shall collect specific patient data with respect to navigation services provided to each patient served through the program and shall establish and implement procedures and protocols, consistent with applicable Federal and State laws (including sections 160 and 164 of title 45, Code of Federal Regulations) to ensure the confidentiality of all information shared by a patient in the program (or their personal representative) and their health care providers, group health plans, or health insurance insurers.

“(B) USE OF DATA.—A grant recipient under this subsection may, consistent with applicable Federal and State confidentiality laws, collect, use, or disclose aggregate information that is not individually identifiable (as such term is defined for purposes of sections 160 and 164 of title 45 Code of Federal Regulations).

“(C) REPORT.—Using data collected under this paragraph, a grantee shall prepare and submit to the Director of the Service an annual report that summarizes and analyzes such data and provides information on the need for navigation services, the types of access difficulties resolved, the sources of repeated resolutions, and the flaws in the system of access, including insurance barriers.

“(4) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Service and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

“(5) EVALUATIONS.—

“(A) IN GENERAL.—The Director of the Service, directly or through grants or contracts, shall provide for evaluations to determine the effects of the services of patient navigators on the health disparity population for whom the services were provided, taking into account the matters referred to in paragraph (1)(C).

“(B) DISSEMINATION OF FINDINGS.—The Director of the Service shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

“(6) COORDINATION WITH OTHER PROGRAMS.—The Director of the Service shall coordinate the program under this subsection with the program under subsection (a) and with the program under section 417D of the Public Health Service Act.

“(c) REQUIREMENTS REGARDING FEES.—

“(1) IN GENERAL.—A condition for the receipt of a grant under subsection (a)(1) or (b)(1) is that the program for which the grant is made have in effect—

“(A) a schedule of fees or payments for the provision of its health care services related to the prevention and treatment of disease that is consistent with locally prevailing rates or charges and is designed to cover its reasonable costs of operation; and

“(B) a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the ability of the patient to pay.

“(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require payment for navigation services or to require payment for health care services in cases where the care is provided free of charge, including the case of services provided through programs of the Indian Health Service.

“(d) MODEL.—Not later than three years after the date of the enactment of this section, the Director of the Service shall develop a peer-reviewed model of systems for the services provided by this section. The Director shall update such model as may be necessary to ensure that the best practices are being utilized.

“(e) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a)(1) or (b)(1) may not exceed five years. The provision of such payments are subject to annual approval by the Director of the Service of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

“(f) DEFINITIONS.—For purposes of this section:

“(1) The term ‘culturally competent’, with respect to providing health-related services, means services that, in accordance with standards and measures of the Secretary, are designed to effectively and efficiently respond to the cultural and linguistic needs of patients.

“(2) the term ‘appropriate follow-up care’ includes palliative and end-of-life care.

“(3) the term ‘health disparity population’ means a population where there exists a significant disparity in the overall rate of disease incidence, morbidity, mortality, or survival rates in the population as compared to the health status of the general population. Such term includes—

“(A) racial and ethnic minority groups as defined in section 1707 of the Public Health Service Act; and

“(B) medically underserved groups, such as rural and low-income individuals and individuals with low levels of literacy.

“(4)(A) the term ‘patient navigator’ means an individual whose functions include—

“(i) assisting and guiding patients with a symptom or an abnormal finding or diagnosis of cancer or other chronic disease within the health care system to accomplish the follow-up and diagnosis of an abnormal finding as well as the treatment and appropriate follow-up care of cancer or other chronic disease, including information about clinical trials; and

“(ii) identifying, anticipating, and helping patients overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

“(B) Such term includes representatives of the target health disparity population, such as nurses, social workers, cancer survivors, and patient advocates.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—

“(A) MODEL PROGRAMS.—For the purpose of carrying out subsection (a) (other than the purpose described in paragraph (2)(A)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

“(B) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b) (other than the purpose described in paragraph (2)(B)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

“(C) BUREAU OF PRIMARY HEALTH CARE.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Bureau of Primary Health Care.

“(2) PROGRAMS IN RURAL AREAS.—

“(A) MODEL PROGRAMS.—For the purpose of carrying out subsection (a) by making grants under such subsection for model programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

“(B) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b) by making grants under such subsection for programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2008.

“(C) OFFICE OF RURAL HEALTH POLICY.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Office of Rural Health Policy.

“(3) RELATION TO OTHER AUTHORIZATIONS.—Authorizations of appropriations under paragraphs (1) and (2) are in addition to other authorizations of appropriations that are available for the purposes described in such paragraphs.”.

By Mr. VOINOVICH:

S. 456. A bill to exclude certain wire rods from the scope of any antidumping or countervailing duty order issued as a result of certain investigations relating to carbon and certain alloy steel rods; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF CERTAIN WIRE RODS FROM ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any antidumping or countervailing duty order that is issued as a result of antidumping investigations A–351–832, A–122–840, A–428–832, A–560–815, A–201–830, A–841–805, A–274–804, and A–823–812, or countervailing duty investigations C–351–833, C–122–841, C–428–833, C–274–805, and C–489–809, relating to carbon and certain alloy steel rods, shall not include wire rods that meet the American Welding Society ER70S–6 classification and are used to produce Mig Wire.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. LEAHY (for himself, Ms. SNOWE, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. CAMPBELL, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DOMENICI, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SUNUNU, Mr. WARNER, Mr. WYDEN, and Ms. CANTWELL):

S. 456. A bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, today I am proud to introduce with Senator SNOWE a bipartisan bill that will repeal a rider in the Omnibus Appropriations Conference Report. After the Conference Committee met and behind closed doors, this special interest rider gutted the organic standards just recently enacted by U.S. Department of Agriculture. Thirty four Senators, and counting, from both parties are joining me to repeal this special interest provision and restore credibility to the USDA organic standards.

I understand this special interest provision was inserted into the bill on behalf of a single producer who essentially wants to hijack the "organic" certification label for his own purposes. He wants to get a market premium for his products, without actually being an organic product.

This provision will allow producers to label their meat and dairy products "organic" even though they do not meet the strict criteria set forth by USDA, including the requirement that the animals be fed organically grown feed. This approach was considered and outright rejected by USDA last June. The entire organic industry opposed this weakening of the organic standards. If beef, poultry, pork and dairy producers are able to label their products as "organic" without using organic feed, which is one of the primary inputs, then what exactly is organic about the product?

This provision is particularly galling because so many producers have already made the commitment to organic production. For most, this is a huge financial commitment on their part. I have already heard from some large producers—General Mills, Tyson Foods—as well as scores of farmers from Vermont and around the country who are enraged by this special loophole included for one company that does not want to play by the rules.

My legislation strikes this rider from the Omnibus Appropriations Act and I hope to move it through Congress quickly before it does gut the organic meat and dairy industry. We need to send a message to all producers that if you want to benefit from the organic standards economically, you must actually meet them. When I included the "The Organic Foods Production Act" in the 1990 farm bill, it was because farmers recognized the growing consumer demand for organically produced products, but needed a tool to help consumers know which products were truly organic and which were not. The Act directed USDA to set minimum national standards for products labeled "organic" so that consumers could make informed buying decisions. The national standard also reassured farmers selling organically produced products that they would not have to follow separate rules in each state, and that their products could be labeled "organic" overseas.

The new standards have been enthusiastically welcomed by consumers, because through organic labeling they now can know what they are choosing and paying for when they shop. This proposal to weaken the organic standards would undermine public confidence in organic labeling, which is less than a year old.

Getting the organic standards that are behind the "USDA Organic" label right was a long and difficult process, but critically important to the future of the industry. Along the way, some tried to allow products treated with sewer sludge, irradiation, and antibiotics to be labeled "organic." The public outcry against this was overwhelming. More than 325,000 people weighed in during the comment period, as did I. The groundswell of support for strong standards clearly showed that the public wants "organic" to really mean something. Those efforts to hijack the term were defeated and this one should be too.

Consumers and producers rely on the standard. I hope more members will cosponsor my bill and send a message to special interests that they cannot hijack the organic industry through a rider on the spending bill. We need to fix this mistake and restore integrity to our organic standards.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, and Mrs. BOXER):

S. 458. A bill to establish the Southwest Regional Border Authority; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation along with Senator KAY BAILEY HUTCHISON that will help raise the standard of living for hundreds of thousands of Americans who live near the U.S.-Mexico Border. The "Southwest Regional Border Authority Act" would create an economic development authority for the Southwest border region, charged with awarding grants to border communities in support of their local economic development projects.

The need for a Regional Border Authority is acute: the poverty rate in the Southwest border region is 20 percent—nearly double the national average; unemployment rates in Southwest border counties often reach as high as five times the national unemployment rate; per capita personal income in the region is greatly below the national average; and lack of adequate access to capital has made it difficult for businesses to start up in the region.

In addition, the development of key infrastructures—such as water and wastewater, transportation, public health, and telecommunications—has not kept pace with the population explosion and the increase in cross-border commerce.

The counties in the Southwest border region are among the most economically distressed in the nation. In fact, there are only a few such regions of economic distress throughout the country—almost all of which are currently served by regional economic development commissions. These commissions, which are authorized by Congress, include the Appalachian Regional Commission, the Delta Regional Authority, and the Denali Commission. In order to address the needs of the border region in a similar fashion, I propose the creation of a regional economic development authority for the Southwest border.

My bill, which is modeled after the Appalachian Regional Commission, is based on four guiding principles. First, it starts from the premise that the people who live in the southwest border region know best when it comes to making decisions that affect their communities. Second, it employs a regional approach to economic development and encourages communities to work across county and state lines when appropriate. All too often, past efforts to improve the Southwest border region have hit roadblocks as a result of poor coordination and communication between communities.

Third, it creates an economic development entity that is independent—meaning it will be able to make decisions that are in the best interest of border communities, without being subject to the politics of Federal agencies. Finally, it brings together representatives of the four Southwest border States and the Federal Government as equal partners, all of whom will work to improve the quality of life and standard of living for border residents.

This is not just another commission, and it is certainly not just another grant program. I believe the Southwest Regional Border Authority not only will help leverage new private sector funding, but also will help better target Federal funding to those projects that are most likely to achieve the desired outcome of increased economic development.

The legislation accomplishes this through a sensible mechanism of development planning. Under the bill, communities in each of the four border

States will work through "local development districts" to create development plans that reflect the needs and priorities specific to each locality. These local development plans then go to the State in which the communities are located, where they become the basis for a State development plan. The four State development plans, in turn, form the basis for a regional development plan, which is put together by the Authority. The purpose of this planning process is to ensure that local priorities are reflected in the projects funded by the Authority, while also providing flexibility to the Authority to fund projects that are regional in nature.

This process has several advantages. First, by ensuring that Federal dollars are targeted to projects that have gone through thorough planning at the local level, we will greatly improve the probability of success for those projects—thereby increasing the Federal Government's return on its investment. Second, local development plans are essential to attracting private sector funding. Increased private investment means less need for Federal, State, and local public sector funding. Third, combining resources in such a way will help communities get more funding then they can currently get from any one program. This is particularly important now as we in Congress grapple with how to fund the needs of the border in the current budget climate.

I believe there are additional benefits to be derived from the Border Authority. As the only independent, quasi-Federal entity charged with economic development for the entire Southwest border region, the Authority will become a clearinghouse of sorts on all the funding available to the border region. This will enable the Authority to help border communities learn which programs are best suited to their needs and most likely to achieve the goals of their local development plans. Another benefit is its focus on economically distressed counties. Under the bill, the Authority can provide funding to increase the Federal share of a federal grant program to up to 90 percent of the total cost. This is particularly helpful to the many communities that are often unable to utilize federal funding because they can't afford the required local match.

For far too long the needs of the Southwest Border have been ignored, overlooked, or underfunded. I am confident that the creation of a Southwest Regional Border Authority not only will call attention to the great needs that exist along the border, but also provide resources to local communities where the dollars will do the most good. I urge the Senate to move swiftly on this legislation, and I ask my colleagues for their support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Southwest Regional Border Authority Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—SOUTHWEST REGIONAL BORDER AUTHORITY

Sec. 101. Membership and voting.
Sec. 102. Duties and powers.
Sec. 103. Authority personnel matters.

TITLE II—GRANTS AND DEVELOPMENT PLANNING

Sec. 201. Infrastructure development and improvement.
Sec. 202. Technology development.
Sec. 203. Community development and entrepreneurship.
Sec. 204. Education and workforce development.
Sec. 205. Funding.
Sec. 206. Supplements to Federal grant programs.
Sec. 207. Demonstration projects.
Sec. 208. Local development districts; certification and administrative expenses.
Sec. 209. Distressed counties and areas and economically strong counties.
Sec. 210. Development planning process.

TITLE III—ADMINISTRATION

Sec. 301. Program development criteria.
Sec. 302. Approval of development plans and projects.
Sec. 303. Consent of States.
Sec. 304. Records.
Sec. 305. Annual report.
Sec. 306. Authorization of appropriations.
Sec. 307. Termination of authority.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) a rapid increase in population in the Southwest border region is placing a significant strain on the infrastructure of the region, including transportation, water and wastewater, public health, and telecommunications;

(2) 20 percent of the residents of the region have incomes below the poverty level;

(3) unemployment rates in counties in the region are up to 5 times the national unemployment rate;

(4) per capita personal income in the region is significantly below the national average and much of the income in the region is distributed through welfare programs, retirement programs, and unemployment payments;

(5) a lack of adequate access to capital in the region—

(A) has created economic disparities between communities in the region and communities outside the region; and

(B) has made it difficult for businesses to start up in the region;

(6) it has been difficult for displaced workers in the region to find employment because many workers—

(A) have limited English language proficiency; and

(B) lack adequate English language and job training;

(7) many residents of the region live in communities referred to as "colonias" that lack basic necessities, including running water, sewers, storm drainage, and electricity;

(8) many of the problems that exist in the region could be solved or ameliorated by technology that would contribute to economic development in the region;

(9) while numerous Federal, State, and local programs target financial resources to the region, those programs are often uncoordinated, duplicative, and, in some cases, unavailable to eligible border communities because those communities cannot afford the required funding match;

(10) Congress has established several regional economic development commissions, including the Appalachian Regional Commission, the Delta Regional Authority, and the Denali Commission, to improve the economies of those areas of the United States that experience the greatest economic distress; and

(11) many of the counties in the region are among the most economically distressed in the United States and would benefit from a regional economic development commission.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a regional economic development authority for the Southwest Border region to address critical issues relating to the economic health and well-being of the residents of the region;

(2) to provide funding to communities in the region to stimulate and foster infrastructure development, technology development, community development and entrepreneurship, and education and workforce development in the region;

(3) to increase the total amount of Federal funding available for border economic development projects by coordinating with and reducing duplication of other Federal, State, and local programs; and

(4) to empower the people of the region through the use of local development districts and State and regional development plans that reflect State and local priorities.

SEC. 3. DEFINITIONS.

In this Act:

(1) ATTAINMENT COUNTY.—The term "attainment county" means an economically strong county that is not a distressed county or a competitive county.

(2) AUTHORITY.—The term "Authority" means the Southwest Regional Border Authority established by section 101(a)(1).

(3) BINATIONAL REGION.—The term "binational region" means the area in the United States and Mexico that is within 150 miles of the international border between the United States and Mexico.

(4) BUSINESS INCUBATOR SERVICE.—The term "business incubator service" means—

(A) a legal service, including aid in preparing a corporate charter, partnership agreement, or contract;

(B) a service in support of the protection of intellectual property through a patent, a trademark, or any other means;

(C) a service in support of the acquisition or use of advanced technology, including the use of Internet services and Web-based services; and

(D) consultation on strategic planning, marketing, or advertising.

(5) COMPETITIVE COUNTY.—The term "competitive county" means an economically strong county that meets at least 1, but not all, of the criteria for a distressed county specified in paragraph (5).

(6) DISTRESSED COUNTY.—The term "distressed county" means a county in the region that—

(A)(i) has a poverty rate that is at least 150 percent of the poverty rate of the United States;

(ii) has a per capita market income that is not more than 67 percent of the per capita market income of the United States; and

(iii) has a 3-year unemployment rate that is at least 150 percent of the unemployment rate of the United States; or

(B)(i) has a poverty rate that is at least 200 percent of the poverty rate of the United States; and

(ii)(I) has a per capita market income that is not more than 67 percent of the per capita market income of the United States; or

(II) has a 3-year unemployment rate that is at least 150 percent of the unemployment rate of the United States.

(7) ECONOMICALLY STRONG COUNTY.—The term "economically strong county" means a county in the region that is not a distressed county.

(8) FEDERAL GRANT PROGRAM.—The term "Federal grant program" means a Federal grant program to provide assistance in—

(A) acquiring or developing land;

(B) constructing or equipping a highway, road, bridge, or facility; or

(C) carrying out other economic development activities.

(9) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) ISOLATED AREA OF DISTRESS.—The term "isolated area of distress" means an area located in an economically strong county that has a high rate of poverty, unemployment, or outmigration, as determined by the Authority.

(11) LOCAL DEVELOPMENT DISTRICT.—The term "local development district" means an entity that—

(A)(i) is an economic development district that is—

(I) in existence on the date of enactment of this Act; and

(II) recognized by the Economic Development Administration; and

(III) located in the region; or

(ii) if an entity described in clause (i) does not exist—

(I) is organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the region;

(II) is governed by a policy board with at least a simple majority of members consisting of—

(aa) elected officials; or

(bb) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and

(III) is certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the region; and

(B) has not, as certified by the Federal cochairperson—

(i) inappropriately used Federal grant funds from any Federal source; or

(ii) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

(12) REGION.—The term "region" means—

(A) the counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona;

(B) the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California;

(C) the counties of Catron, Chaves, Doña Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico; and

(D) the counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green, Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

(13) SMALL BUSINESS.—The term "small business" has the meaning given the term "small business concern" in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

TITLE I—SOUTHWEST REGIONAL BORDER AUTHORITY

SEC. 101. MEMBERSHIP AND VOTING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Southwest Regional Border Authority.

(2) COMPOSITION.—The Authority shall be composed of—

(A) a Federal member, to be appointed by the President, by and with the advice and consent of the Senate; and

(B) State members, who shall consist of the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority.

(3) COCHAIRPERSONS.—The Authority shall be headed by—

(A) the Federal member, who shall serve—

(i) as the Federal cochairperson; and

(ii) as a liaison between the Federal Government and the Authority; and

(B) a State cochairperson, who shall—

(i) be a Governor of a State described in paragraph (2)(B);

(ii) be elected by the State members for a term of not more than 2 years; and

(iii) serve only 1 term during any 4 year period.

(b) ALTERNATE MEMBERS.—

(1) STATE ALTERNATES.—The State member of a State described in paragraph (2)(B) may have a single alternate, who shall be—

(A) a resident of that State; and

(B) appointed by the Governor of the State, from among the members of the cabinet or personal staff of the Governor.

(2) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.

(3) QUORUM.—Subject to subsection (d)(4), a State alternate member shall not be counted toward the establishment of a quorum of the members of the Authority in any case in which a quorum of the State members is required to be present.

(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraph (2) or (3) of subsection (d), and no voting right of any member of the Authority, shall be delegated to any person who is not—

(A) a member of the Authority; or

(B) entitled to vote at meetings of the Authority.

(c) MEETINGS.—

(1) INITIAL MEETING.—The initial meeting of the Authority shall be conducted not later than the date that is the earlier of—

(A) 180 days after the date of enactment of this Act; or

(B) 60 days after the date on which the Federal cochairperson is appointed.

(2) OTHER MEETINGS.—The Authority shall hold meetings at such times as the Authority determines, but not less often than semiannually.

(3) LOCATION.—Meetings of the Authority shall be conducted, on a rotating basis, at a site in the region in each of the States of Arizona, California, New Mexico, and Texas.

(d) VOTING.—

(1) IN GENERAL.—To be effective, a decision by the Authority shall require the approval of the Federal cochairperson and not less than 60 percent of the State members of the Authority (not including any member representing a State that is delinquent under section 102(d)(2)(D)).

(2) QUORUM.—

(A) IN GENERAL.—A majority of the State members shall constitute a quorum.

(B) REQUIRED FOR POLICY DECISION.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

(i) a modification or revision of a policy decision of the Authority;

(ii) approval of a State or regional development plan; and

(iii) any allocation of funds among the States.

(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—

(A) a responsibility of the Authority; and

(B) conducted in accordance with section 302.

(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.

SEC. 102. DUTIES AND POWERS.

(a) DUTIES.—The Authority shall—

(1) develop comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, and local planning and development activities in the region;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, using, in part, the materials compiled by the Interagency Task Force on the Economic Development of the Southwest Border established by Executive Order No. 13122 (64 Fed. Reg. 29201);

(3) sponsor demonstration projects under section 207;

(4)(A) enhance the capacity of, and provide support for, local development districts in the region; or

(B) if there is no local development district described in clause (i) of section 3(11)(A) for a portion of the region, foster the creation of a local development district;

(5) review and study Federal, State, and local public and private programs and, as appropriate, recommend modifications or additions to increase the effectiveness of the programs;

(6) formulate and recommend, as appropriate, interstate and international compacts and other forms of interstate and international cooperation;

(7) encourage private investment in industrial, commercial, and recreational projects in the region;

(8) provide a forum for consideration of the problems of the region and any proposed solutions to those problems;

(9) establish and use, as appropriate, citizens, special advisory counsels, and public conferences; and

(10) provide a coordinating mechanism to avoid duplication of efforts among the border programs of the Federal agencies and the programs established under the North American Free Trade Agreement entered into by the United States, Mexico, and Canada on December 17, 1992.

(b) Powers.—In carrying out subsection (a), the Authority may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings of, and reports on actions by, the Authority as the Authority considers appropriate;

(2) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Authority in carrying out the duties of the Authority;

(3) maintain an accurate and complete record of all transactions and activities of the Authority, to be available for audit and examination by the Comptroller General of the United States;

(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties of the Authority;

(5) request the head of any Federal agency to detail to the Authority, for a specified period of time, such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(6) request the head of any State department or agency or local government to detail to the Authority, for a specified period of time, such personnel as the Authority requires to carry out the duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(7) make recommendations to the President regarding—

(A) the expenditure of funds at the Federal, State, and local levels under this Act; and

(B) additional Federal, State, and local legislation that may be necessary to further the purposes of this Act;

(8) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

(A) making arrangements or entering into contracts with any participating State government; or

(B) otherwise providing retirement and other employee benefit coverage;

(9) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

(10) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out the duties of the Authority;

(11) establish and maintain—

(A) a headquarters for the Authority, to be located at a site that is not more than 100 kilometers from the international border between the United States and Mexico; and

(B) at least 1 field office in each of the States of Arizona, California, New Mexico, and Texas, to be located at appropriate sites in the region that are not more than 100 kilometers from the international border between the United States and Mexico; and

(12) provide for an appropriate level of representation in Washington, D.C.

(c) Federal Agency Cooperation.—A Federal agency shall—

(1) cooperate with the Authority; and

(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this Act, in accordance with applicable Federal laws (including regulations).

(d) Administrative Expenses.—

(1) In general.—

(A) Administrative expenses.—Subject to paragraph (2), administrative expenses of the Authority shall be paid—

(i) by the Federal Government, in an amount equal to 60 percent of the administrative expenses; and

(ii) by the States in the region that elect to participate in the Authority, in an amount equal to 40 percent of the administrative expenses.

(B) Expenses of federal chairperson.—All expenses of the Federal cochairperson, including expenses of the alternate and staff of the Federal cochairperson, shall be paid by the Federal Government.

(2) State share.—

(A) In general.—Subject to subparagraph (C), the share of administrative expenses of the Authority to be paid by each State shall be determined by a unanimous vote of the State members of the Authority.

(B) No federal participation.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (A).

(C) Limitation.—A State shall not pay less than 10 nor more than 40 percent of the share of administrative expenses of the Authority determined under paragraph (1)(A)(ii).

(D) Delinquent states.—During any period in which a State is more than 1 year delinquent in payment of the State's share of administrative expenses of the Authority under this subsection (as determined by the Secretary)—

(i) no assistance under this Act shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

(E) Effect on assistance.—A State's share of administrative expenses of the Authority under this subsection shall not be taken into consideration in determining the amount of assistance provided to the State under title II.

SEC. 103. AUTHORITY PERSONNEL MATTERS.

(a) Compensation of Members.—

(1) Federal cochairperson.—The Federal cochairperson shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(2) Alternate federal cochairperson.—The alternate Federal cochairperson—

(A) shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level V of the Executive Schedule described in paragraph (1); and

(B) when not actively serving as an alternate for the Federal cochairperson, shall perform such functions and duties as are delegated by the Federal cochairperson.

(3) State members and alternates.—

(A) In general.—A State shall compensate each member and alternate member representing the State on the Authority at the rate established by State law.

(B) No additional compensation.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary, from any source other than the State for services provided by the member or alternate member to the Authority.

(b) Detailed Employees.—

(1) In general.—No person detailed to serve the Authority under section 102(b)(6) shall receive any salary, or any contribution to or supplementation of salary, for services provided to the Authority from—

(A) any source other than the State, local, or intergovernmental department or agency from which the person was detailed; or

(B) the Authority.

(2) Violation.—Any person that violates this subsection shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

(c) Additional Personnel.—

(1) Compensation.—

(A) In general.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

(B) Exception.—Compensation under subparagraph (A) shall not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(2) Executive director.—The executive director shall be responsible for—

(A) carrying out the administrative duties of the Authority;

(B) directing the Authority staff; and

(C) carrying out such other duties as the Authority may assign.

(3) No federal employee status.—No member, alternate, officer, or employee of the Authority (other than the Federal cochairperson, the alternate Federal cochairperson, staff of the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (b)) shall be considered to be a Federal employee for any purpose.

(d) Conflicts of Interest.—

(1) In general.—Except as provided under paragraph (2), no State member, State alternate, officer, employee, or detailee of the Authority shall participate personally and substantially as a member, alternate, officer, employee, or detailee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which the member, alternate, officer, employee, or detailee has a financial interest.

(2) Disclosure.—Paragraph (1) shall not apply if the State member, State alternate, officer, employee, or detailee—

(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

(B) makes full disclosure of the financial interest; and

(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, State alternate, officer, employee, or detailee.

(3) Violation.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

(e) Validity of Contracts, Loans, and Grants.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of subsection (b), subsection (d), or any of sections 202 through 209 of title 18, United States Code.

(f) Applicable Labor Standards.—

(1) In general.—All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works funded by the United States under this Act, shall be paid wages at not less than the prevailing wages on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq.).

(2) Authority.—With respect to the determination of wages under paragraph (1), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

TITLE II—GRANTS AND DEVELOPMENT PLANNING

SEC. 201. INFRASTRUCTURE DEVELOPMENT AND IMPROVEMENT.

The Authority may approve grants to States, local governments, Indian tribes, and public and nonprofit organizations in the region for projects, approved in accordance with section 302, to develop and improve the transportation, water and wastewater, public health, and telecommunications infrastructure of the region.

SEC. 202. TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

The Authority may approve grants to small businesses, universities, national laboratories, and nonprofit organizations in the region to research, develop, demonstrate, and deploy technology that addresses—

(1) water quality;

(2) water quantity;

(3) pollution;

(4) transportation;

(5) energy consumption;

(6) public health;

(7) border and port security; and

(8) any other related matter that stimulates job creation or enhances economic development in the region, as determined by the Authority.

SEC. 203. COMMUNITY DEVELOPMENT AND ENTREPRENEURSHIP.

The Authority may approve grants to States, local governments, Indian tribes, small businesses, and public or nonprofit entities for projects, approved in accordance with section 302—

(1) to create dynamic local economies by—

(A) recruiting businesses to the region; and

(B) increasing and expanding international trade to other countries;

(2) to foster entrepreneurship by—

(A) supporting the advancement of, and providing entrepreneurial training and education for, youths, students, and businesspersons;

(B) improving access to debt and equity capital by facilitating the establishment of development venture capital funds and other appropriate means;

(C) providing aid to communities in identifying, developing, and implementing development strategies for various sectors of the economy; and

(D)(i) developing a working network of business incubators; and

(ii) supporting entities that provide business incubator services; and

(3) to promote civic responsibility and leadership through activities that include—

(A) the identification and training of emerging leaders;

(B) the encouragement of citizen participation; and

(C) the provision of assistance for strategic planning and organization development.

SEC. 204. EDUCATION AND WORKFORCE DEVELOPMENT.

The Authority, in coordination with State and local workforce development boards, may approve grants to States, local governments, Indian tribes, small businesses, and public or nonprofit entities for projects, approved in accordance with section 302—

(1) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies; and

(2) to supplement in-plant training programs offered by State and local governments to attract new businesses to the region.

SEC. 205. FUNDING.

(a) In General.—Funds for grants under sections 201 through 204 may be provided—

(1) entirely from appropriations to carry out this Act;

(2) in combination with funds available under another Federal grant program or other Federal program; or

(3) in combination with funds from any other source, including—

(A) State and local governments, nonprofit organizations, and the private sector in the United States;

(B) the federal and local government of, and private sector in, Mexico; and

(C) the North American Development Bank.

(b) Priority of Funding.—

(1) In general.—Subject to paragraph (2), the Authority shall award funding to each State in the region for activities in accordance with an order of priority to be determined by the State.

(2) Funding for border counties.—For each fiscal year, the Authority shall allocate at least 60 percent of the amounts made available under section 306 for programs and projects designed to serve the needs of—

(A) distressed counties located along the international border between the United States and Mexico; and

(B) isolated areas of distress located within counties along the international border between the United States and Mexico.

(c) Binational Projects.—

(1) Prohibition on provision of funding to non-United States entities.—The Authority shall not award funding to any entity that is not incorporated in the United States.

(2) Funding of binational projects.—The Authority may award funding to a project in which an entity that is incorporated outside the United States participates if, for any fiscal year, the entity matches with an equal amount, in cash or in-kind, the assistance received under this Act for the fiscal year.

SEC. 206. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

(a) Finding.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

(1) they lack the economic resources to provide the required matching share; or

(2) there are insufficient funds available under the Federal law authorizing the Federal grant program to meet pressing needs of the region.

(b) Federal Grant Program Funding.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region, may—

(1) increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 209(b)); and

(2) use amounts made available to carry out this Act to pay all or a portion of the increased Federal share.

(c) Certifications.—

(1) In general.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

(2) Certification by authority.—

(A) In general.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 302—

(i) shall be controlling; and

(ii) shall be accepted by the Federal agencies.

(B) Acceptance by federal cochairperson.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

SEC. 207. DEMONSTRATION PROJECTS.

(a) In General.—For each fiscal year, the Authority may approve not more than 10 demonstration projects to carry out activities described in sections 201 through 204, of which not more than 3 shall be carried out in any 1 State.

(b) Requirements.—A demonstration project carried out under this section shall—

(1) be carried out on a multistate or multicounty basis; and

(2) be developed in accordance with the regional development plan prepared under section 210(d).

SEC. 208. LOCAL DEVELOPMENT DISTRICTS; CERTIFICATION AND ADMINISTRATIVE EXPENSES.

(a) Grants to Local Development Districts.—

(1) In general.—The Authority shall make grants to local development districts to pay the administrative expenses of the local development districts.

(2) Conditions for grants.—

(A) Maximum amount.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

(B) Maximum period.—No grant described in paragraph (1) shall be awarded for a period greater than 3 years to a State agency certified as a local development district.

(C) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

(b) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

(1) operate as a lead organization serving multicounty areas in the region at the local level;

(2) assist the Authority in carrying out outreach activities for local governments, community development groups, the business community, and the public;

(3) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens; and

(4) assist the individuals and entities described in paragraph (3) in identifying, assessing, and facilitating projects and programs to promote the economic development of the region.

SEC. 209. DISTRESSED COUNTIES AND AREAS AND ECONOMICALLY STRONG COUNTIES.

(a) DESIGNATIONS.—At the initial meeting of the Authority and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

(1) distressed counties;

(2) economically strong counties;

(3) attainment counties;

(4) competitive counties; and

(5) isolated areas of distress.

(b) DISTRESSED COUNTIES.—

(1) IN GENERAL.—For each fiscal year, the Authority shall allocate at least 50 percent of the amounts made available under section 306 for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

(2) FUNDING LIMITATIONS.—The funding limitations under section 206(b) shall not apply to a project to provide transportation or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

(c) ECONOMICALLY STRONG COUNTIES.—

(1) ATTAINMENT COUNTIES.—Except as provided in paragraph (3), the Authority shall not provide funds for a project located in a county designated as an attainment county under subsection (a)(3).

(2) COMPETITIVE COUNTIES.—Except as provided in paragraph (3), the Authority shall not provide more than 30 percent of the total cost of any project carried out in a county designated as a competitive county under subsection (a)(2)(B).

(3) EXCEPTIONS.—

(A) IN GENERAL.—The funding prohibition under paragraph (1) and the funding limitation under paragraph (2) shall not apply to grants to fund the administrative expenses of local development districts under section 208(a).

(B) MULTICOUNTY PROJECTS.—If the Authority determines that a project could bring significant benefits to areas of the region outside an attainment or competitive county, the Authority may waive the application of the funding prohibition under paragraph (1) and the funding limitation under paragraph (2) to—

(i) a multicounty project that includes participation by an attainment or competitive county; or

(ii) any other type of project.

(4) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

(A) by the most recent Federal data available; or

(B) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

SEC. 210. DEVELOPMENT PLANNING PROCESS.

(a) STATE DEVELOPMENT PLAN.—In accordance with policies established by the Authority, each State member shall submit an annual development plan for the area of the region represented by the State member to assist the Authority in determining funding priorities under section 205(b).

(b) CONSULTATION WITH INTERESTED PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State shall—

(1) consult with—

(A) local development districts; and

(B) local units of government;

(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1); and

(3) solicit input on and take into consideration the potential impact of the State development plan on the binational region.

(c) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this Act.

(2) REGULATIONS.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

(d) REGIONAL DEVELOPMENT PLAN.—The Authority shall prepare an annual regional development plan that—

(1) is based on State development plans submitted under subsection (a);

(2) takes into account—

(A) the input of the private sector, academia, and nongovernmental organizations; and

(B) the potential impact of the regional development plan on the binational region;

(3) establishes 5-year goals for the development of the region;

(4) identifies and recommends to the States—

(A) potential multistate or multicounty projects that further the goals for the region; and

(B) potential development projects for the binational region; and

(5) identifies and recommends to the Authority for funding demonstration projects under section 207.

TITLE III—ADMINISTRATION

SEC. 301. PROGRAM DEVELOPMENT CRITERIA.

(a) IN GENERAL.—In considering programs and projects to be provided assistance under this Act, and in establishing a priority ranking of the requests for assistance provided to the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

(1) the relationship of the project or class of projects to overall regional development;

(2) the per capita income and poverty and unemployment rates in an area;

(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

(4) the socioeconomic importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

(b) NO RELOCATION ASSISTANCE.—No financial assistance authorized by this Act shall be used to assist a person or entity in relocating from 1 area to another, except that financial assistance may be used as otherwise authorized by this Act to attract businesses from outside the region to the region.

(c) MAINTENANCE OF EFFORT.—Funds may be provided for a program or project in a State under this Act only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this Act, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this Act.

SEC. 302. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.

(a) IN GENERAL.—A State or regional development plan or any multistate subregional plan that is proposed for development under this Act shall be reviewed by the Authority.

(b) EVALUATION BY STATE MEMBER.—An application for a grant or any other assistance for a project under this Act shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

(c) CERTIFICATION.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

(1) describes ways in which the project complies with any applicable State development plan;

(2) meets applicable criteria under section 301;

(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

(4) otherwise meets the requirements of this Act.

(d) VOTES FOR DECISIONS.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 101(d) shall be required for approval of the application.

SEC. 303. CONSENT OF STATES.

Nothing in this Act requires any State to engage in or accept any program under this Act without the consent of the State.

SEC. 304. RECORDS.

(a) RECORDS OF THE AUTHORITY.—

(1) IN GENERAL.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

(2) AVAILABILITY.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States (including authorized representatives of the Comptroller General).

(b) RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—A recipient of Federal funds under this Act shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report to the Authority on the transactions and activities.

(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States and the Authority (including authorized representatives of the Comptroller General and the Authority).

(c) ANNUAL AUDIT.—The Comptroller General of the United States shall audit the activities, transactions, and records of the Authority on an annual basis.

SEC. 305. ANNUAL REPORT.

(a) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this Act.

(b) CONTENTS.—

(1) IN GENERAL.—The report shall include—

(A) an evaluation of the progress of the Authority—

(i) in meeting the goals set forth in the regional development plan and the State development plans; and

(ii) in working with other Federal agencies and the border programs administered by the Federal agencies;

(B) examples of notable projects in each State;

(C) a description of all demonstration projects funded under section 306(b) during the fiscal year preceding submission of the report; and

(D) any policy recommendations approved by the Authority.

(2) INITIAL REPORT.—In addition to the contents specified in paragraph (1), the initial report submitted under this section shall include—

(A) a determination as to whether the creation of a loan fund to be administered by the Authority is necessary; and

(B) if the Authority determines that a loan fund is necessary—

(i) a request for the authority to establish a loan fund; and

(ii) a description of the eligibility criteria and performance requirements for the loans.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Authority to carry out this Act, to remain available until expended—

(1) $50,000,000 for fiscal year 2004;

(2) $75,000,000 for fiscal year 2005;

(3) $90,000,000 for fiscal year 2006;

(4) $92,000,000 for fiscal year 2007; and

(5) $94,000,000 for fiscal year 2008.

(b) DEMONSTRATION PROJECTS.—Of the funds made available under subsection (a), $5,000,000 for each fiscal year shall be available to the Authority to carry out section 207.

SEC. 307. TERMINATION OF AUTHORITY.

The authority provided by this Act terminates effective October 1, 2008.

By Mr. LEAHY (for himself, Mr. GRAHAM of South Carolina, Ms. COLLINS, Mr. JEFFORDS, Mr. SARBANES, Mr. SCHUMER, Mr. DURBIN, Ms. LANDRIEU, Mr. NELSON of Florida, Mrs. CLINTON, and Ms. SNOWE):

S. 459. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I proudly rise today to introduce the Hometown Heroes Survivors Benefits Act of 2003. I thank Senators GRAHAM of South Carolina, COLLINS, JEFFORDS, SARBANES, SCHUMER, DURBIN, LANDRIEU, NELSON of Florida, CLINTON and SNOWE for joining me as original cosponsors of this multipartisan legislation that will improve the Department of Justice's Public Safety Officers' Benefits, PSOB, Program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for Federal survivor benefits.

I want to begin by thanking each of our Nation's brave firefighters, emergency medical rescuers and law enforcement officers for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our state and local public safety partners.

I commend Congressmen ETHERIDGE, WELDON, HOYER and OXLEY for their leadership and fortitude during the last Congress on an identical bill in the House. I look forward to working with them again during the 108th Congress on this important legislation.

Last year, both the House and Senate versions of this legislation received the endorsement of the Fraternal Order of Police, National Association of Police Organizations, Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, National Fire Protection Association, National Volunteer Fire Council, North American Fire Training Directors, International Fire Buff Associates, National Association of Emergency Medical Technicians, American Ambulance Association, the American Federation of State, County and Municipal Employees, along with over 50 additional national organizations. I thank all of these organizations for their unwavering support for this legislation.

Public safety officers are among our most brave and dedicated public servants. I applaud the efforts of all members of fire, law enforcement, and rescue organizations nationwide who are the first to respond to more than 1.6 million emergency calls annually whether those calls involve a crime, fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident without reservation. They act with an unwavering commitment to the safety and protection of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to provide safe and reliable emergency services to their communities. Sadly, this dedication to service can result in tragedy, as was evident by the bravery displayed on September 11, 2001, when scores of first responders raced to the World Trade Center and the Pentagon with no other goal but to save lives.

Every year, hundreds of public safety officers nationwide lose their lives and thousands more are injured while performing duties that subject them to great physical risks. And while we know that PSOB benefits can never be a substitute for the loss of a loved one, the families of all our fallen heroes deserve to collect these funds.

The PSOB Program was established in 1976 to authorize a one-time financial payment to the eligible survivors of Federal, State, and local public safety officers for all line-of-duty deaths.

Two years ago, Congress improved the PSOB Program by streamlining the process for families of public safety officers killed or injured in connection with prevention, investigation, rescue or recovery efforts related to a terrorist attack. We also retroactively increased the total benefits available by $100,000 as part of the USA PATRIOT Act.

The PSOB Program currently provides approximately $262,000 in benefits to the families of law enforcement officers, firemen, emergency response squad members, and ambulance crew members who are killed in the line of duty.

Unfortunately, the issue of covering heart attack and stroke victims in the PSOB Program was not addressed at that time.

When establishing the PSOB Program, Congress placed only three limitations on the payment of benefits. No award could be paid, first, if the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about his own death; second, if voluntary intoxication of the officer was the proximate cause of such officer's death; or, third, to any person otherwise entitled to a benefit if such person's action was a substantial contributing factor to the death of the officer.

In years following, however, the Justice Department began to interpret the Program's guidelines to exclude from benefits the survivors of public safety officer who die of a heart attack or stroke while acting in the line of duty, arguing that the attack must be accompanied by a traumatic injury, such as a wound or other condition of the body caused by external force, including injuries by bullets, smoke inhalation, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria. Barred are those who suffer from occupational injuries, such as stress and strain.

Service-connected heart, lung, and hypertension conditions are silent killers of public safety officers nationwide. The numerous hidden health dangers dealt with by police officers, firefighters and emergency medical personnel are widely recognized, but officers face these dangers in order to carry out their sworn duty to serve and protect their fellow citizens.

Our multi-partisan bill would effectively erase any distinction between traumatic and occupational injuries. The Hometown Heroes bill will fix the loophole in the PSOB Program to ensure that the survivors of public safety officers who die of heart attacks or strokes in the line of duty or within 24 hours of a triggering effect while on duty regardless of whether a traumatic injury is present at the time of the heart attack or stroke are eligible to receive financial assistance.

I was serving my first term in the Senate when this program was established, and I firmly believe that this is what Congress meant for the survivors of our Nation's first responders to receive through the Public Safety Officers Benefits Program.

Heart attack and cardiac related deaths account for almost half of all firefighter fatalities—between 45-50 deaths—and an average of 13 police officer deaths each year. Yet the families of these fallen heroes are rarely eligible to receive PSOB benefits.

In January 1978, special Deputy Sheriff Bernard Demag of the Chittenden County Sheriff's Office in Vermont suffered a fatal heart attack within two hours of his chase and apprehension of an escaped juvenile whom he had been transporting. Mr. Demag's family spent nearly two decades fighting in court for workers' compensation death benefits all to no avail. Clearly, we should be treating surviving family members of officers who die in the line of duty with more decency and respect.

Public safety is dangerous, exhausting, and stressful work. A first responder's chances of suffering a heart attack or stroke greatly increase when he or she puts on heavy equipment and rushes into a burning building to fight a fire and save lives. The families of these brave public servants deserve to participate in the PSOB Program if their loved ones die of a heart attack or other cardiac related ailments while selflessly protecting us from harm.

First responders across the country now face a new series of challenges as they respond to millions of emergency calls this year. They do this with an unwavering commitment to the safety of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to protect the lives and property of their fellow citizens. It is time for the Senate to show its support and appreciation for these extraordinarily brave and heroic public safety officers by passing the Hometown Heroes Survivors Benefit Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hometown Heroes Survivors Benefits Act of 2003".

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following:

"(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty, or not later than 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty.".

SEC. 3. APPLICABILITY.

Section 1201(k) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2, shall apply to deaths occurring on or after January 1, 2003.

By Mrs. FEINSTEIN (for herself, Mr. MCCAIN, Mr. KYL, Mr. SCHUMER, Mrs. BOXER, Mrs. HUTCHISON, Mr. BINGAMAN, and Mr. DOMENICI):

S. 460. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Criminal Alien Assistance Program Reauthorization Act of 2003".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2004 THROUGH 2010.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking "appropriated" and all that follows through the period and inserting the following: "appropriated to carry out this subsection—

"(A) such sums as may be necessary for fiscal year 2003;

"(B) $750,000,000 for fiscal year 2004;

"(C) $850,000,000 for fiscal year 2005; and

"(D) $950,000,000 for each of the fiscal years 2006 through 2010.".

Mr. MCCAIN. Mr. President, I have long worked with my colleagues from Arizona and other border states to address issues, from health care to crime, that are associated with illegal immigration. In the 107th Congress, I joined Senator FEINSTEIN, Senator KYL, and a bipartisan group of Senators to reauthorize the State Criminal Alien Assistance Program, SCAAP, to ensure that the Federal Government reimbursed States for the costs wrongly borne by local communities for the incarceration of undocumented immigrants. That bill was based on the premise that control of illegal immigration is principally the responsibility of the Federal Government.

Last November, that legislation was incorporated into the 21st Century Department of Justice Authorization Act. Despite its enactment, States and local governments continue to disproportionately bear the costs associated with incarcerating illegal immigrants. As undocumented aliens take increasingly desperate measures to cross our border with Mexico, the burden borne by States along the Southwestern border continues to grow.

The Federal Government's attempt to stem illegal immigration in Texas and California has made it increasingly difficult to cross the border in these States. Unfortunately, these actions have created a funnel effect, giving Arizona the dubious distinction of being the location of choice for illegal border crossers. Reports suggest that at least one in three of the illegal border crossers arrested traversing the U.S.-Mexico border are stopped in Arizona. Last year approximately 320 people died in the desert trying to cross the border. Additionally, the number of attacks on National Park Service Officers has increased in recent years. Property crimes are rampant along the border, leaving Arizona with the highest per-capita auto theft rate in the nation. Times have gotten so desperate that vigilante groups have begun to form with the goal of doing the job the Federal Government is failing to do.

The situation along our Southwestern border has reached a crisis. I will continue to support legislative initiatives aimed at addressing the problems that stem from illegal immigration. However, I strongly believe that the Federal Government desperately needs innovative legislation to address the source of this problem through a guest worker program. In the absence of guest worker legislation, we must continue supporting important programs, such as SCAAP, that assist the border States where the Federal Government has failed.

Covering the cost of incarcerating illegal immigrants is yet another underfunded Federal mandate thrust upon struggling State governments. Less than two weeks ago, States were struck an enormous blow when the funding for SCAAP was cut in half by the FY 2003 Omnibus appropriations bill signed into law by the President.

For my own State of Arizona, this means that rather than the $24 million reimbursement Arizona received in FY 2002—which barely covered one third of the actual cost borne by the State—at best Arizona can hope to receive half that amount. Even more disconcerting are recent suggestions that this program should be cut completely, because it does not fit within the mission of the Department of Justice.

I believe that SCAAP is absolutely necessary for all States, particularly those that line our Nation's Southern border. For that reason, Senator FEINSTEIN and I are today introducing the State Criminal Alien Assistance Program Reauthorization Act of 2003. I am grateful for the opportunity to work with Senator FEINSTEIN, Senator KYL, and Congressman KOLBE, who has introduced the companion to this bill in the House of Representatives, to correct this problem. The bill we are introducing today will extend the authorization of SCAAP through 2010 and to authorize increased funding levels to ensure that States are not shortchanged and funding for this important program continues to increase.

At a time when most states are experiencing the worst budge shortfalls since the Great Depression, the Federal Government must stop shirking the cost for what is truly a Federal responsibility. It is time for us to step up to the plate and reimburse states and local communities for the costs of our failure to adequately address illegal immigration.

By Mr. DORGAN (for himself, Mr. LIEBERMAN, Mrs. CLINTON, Mr. KERRY, Mr. JEFFORDS, Mr. CORZINE, Mr. CONRAD, and Mr. AKAKA):

S. 461. A bill to establish a program to promote hydrogen fuel cells, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hydrogen Fuel Cell Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—HYDROGEN AND FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT

Sec. 101. Definitions.
Sec. 102. Hydrogen and fuel cell research and development.
Sec. 103. Coordination and consultation.
Sec. 104. Advisory committee.
Sec. 105. Report to Congress.
Sec. 106. National Academy of Sciences review.
Sec. 107. Authorization of appropriations for hydrogen production, storage, and transport.
Sec. 108. Authorization of appropriations for fuel cell technologies.

TITLE II—DEMONSTRATION PROGRAMS

Sec. 201. Fuel cell vehicle demonstration program.
Sec. 202. Heavy duty fuel cell vehicle fleet demonstration program.
Sec. 203. Tribal stationary hybrid power demonstration.
Sec. 204. Stationary fuel cell grant demonstration program.

TITLE III—FEDERAL PURCHASE PROGRAM

Sec. 301. Procurement of fuel cell vehicles.
Sec. 302. Federal stationary fuel cell power purchase program.
Sec. 303. Establishment of an interagency task force.

TITLE IV—REMOVAL OF REGULATORY BARRIERS

Sec. 401. Amendments to PURPA.
Sec. 402. Net metering.
Sec. 403. Department of Energy study.

TITLE V—TAX INCENTIVES FOR HYDROGEN FUEL CELL TECHNOLOGY

Sec. 501. Hydrogen fuel cell motor vehicle credit.
Sec. 502. Credit for installation of hydrogen fuel cell motor vehicle fueling stations.
Sec. 503. Credit for residential fuel cell property.
Sec. 504. Credit for business installation of qualified fuel cells.

TITLE VI—EDUCATION AND OUTREACH

Sec. 601. Education and outreach.

TITLE VII—TARGETS AND TIMETABLES

Sec. 701. Department of Energy strategy.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States currently imports approximately 55 percent of the oil it consumes.

(2) At present trends, reliance on foreign oil will increase to 68 percent by 2025.

(3) Nearly all of the cars and trucks run on gasoline, and they are the main reason the United States imports so much oil.

(4) Two-thirds of the 20,000,000 barrels of oil Americans use each day is used for transportation.

(5) Hydrogen fuel cell vehicles offer the best hope of dramatically reducing our dependence on foreign oil, increasing our energy security, and enhancing our environmental protection.

(6) In the spirit of the Apollo project that put a man on the moon, the United States must commit the necessary resources to develop and commercialize hydrogen fuel cell vehicles, in partnership with the private sector.

(7) In developing hydrogen fuel cell vehicles, the United States must also support the development and commercialization of stationary fuel cells to power homes and other buildings, so as to diversify energy sources, better protect the environment, provide assured power, and accelerate implementation of fuel cell technology generally.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote the comprehensive development, demonstration, and commercialization of hydrogen-powered fuel cells in partnership with industry;

(2) to increase our Nation's energy independence, and energy and national security in doing so;

(3) to develop a sustainable national energy strategy;

(4) to protect and strengthen the Nation's economy and standard of living;

(5) to reduce the environmental impacts of energy production, distribution, transportation, and use; and

(6) to leverage financial resources through the use of public-private partnerships.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "critical technology" means a technology that, in the opinion of the Secretary, requires understanding and development in order to take the next step needed in the development of hydrogen as an economic fuel or storage medium or in the development of fuel cell technologies as a transportation mode;

(2) the term "fuel cell vehicle" means a vehicle that derives all, or a significant part, of its propulsion energy from 1 or more fuel cells; and

(3) the term "Secretary" means the Secretary of Energy.

TITLE I—HYDROGEN AND FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT

SEC. 101. DEFINITIONS.

As used in this title—

(1) the term "advisory committee" means the advisory committee established under section 105; and

(2) the term "critical technical issue" means an issue that, in the opinion of the Secretary, requires understanding and development in order to take the next step needed in the development of hydrogen as an economic fuel or storage medium or in the development of fuel cell technologies as a transportation mode.

SEC. 102. HYDROGEN AND FUEL CELL RESEARCH AND DEVELOPMENT.

(a) PROGRAMS.—

(1) HYDROGEN ENERGY RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall, in consultation with the private sector, conduct a research and development program relating to the production, storage, distribution, and use of hydrogen energy, including fueling infrastructure, with the goal of enabling the private sector to demonstrate and commercialize the use of hydrogen for transportation, industrial, commercial, residential, and utility applications.

(2) FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall conduct fuel cell technology research and development, with the goal of commercializing fuel cell vehicles and stationary fuel cells. The program shall include advanced materials, interfaces and electronics, lower cost and advanced design, balance of plant, enhanced manufacturing processes, reforming capability, and analysis and integration of systems.

(b) ELEMENTS.—In conducting the programs authorized by this section, the Secretary shall—

(1) initiate or accelerate research and development concerning critical technical issues that will contribute to the development of more economical and environmentally sound fuel cell vehicles and hydrogen energy systems, including critical technical issues with respect to—

(A) production, with consideration of cost-effective and market-efficient production from renewable energy sources;

(B) transmission and distribution;

(C) storage, including storage of hydrogen for surface transportation applications; and

(D) use, including use in—

(i) surface transportation;

(ii) fuel cells and components;

(iii) fueling infrastructure;

(iv) stationary applications; and

(v) isolated villages, islands, and communities in which other energy sources are not available or are very expensive;

(2) give particular attention to resolving critical technical issues preventing the introduction of hydrogen energy and fuel cell vehicles into the marketplace; and

(3) survey private sector hydrogen energy and fuel cell research and development activities worldwide and take steps to ensure that such activities under this section—

(A) enhance rather than unnecessarily duplicate any available research and development; and

(B) complement rather than displace or compete with the privately funded hydrogen energy or fuel cell research and development activities of United States industry.

(c) FEDERAL FUNDING.—The Secretary shall carry out the research and development activities authorized under this section using a competitive merit review process.

(d) COST SHARING.—

(1) IN GENERAL.—The Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of proposed research and development projects under this section.

(2) REDUCTION OR ELIMINATION.—The Secretary may reduce or eliminate the cost sharing requirement under subsection (d)(1)—

(A) if the Secretary determines that the research and development is of a basic or fundamental nature; or

(B) for technical analyses, outreach activities, and educational programs that the Secretary does not expect to result in a marketable product.

SEC. 103. COORDINATION AND CONSULTATION.

(a) SECRETARY'S RESPONSIBILITY.—The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall establish a central point for the coordination of all hydrogen energy and fuel cell research, development, and demonstration activities of the Department of Energy; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this Act, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this Act.

(b) ASSISTANCE.—The Secretary may, in accordance with subsection (a), obtain the assistance of any Federal agency upon written request, on a reimbursable basis or otherwise and with the consent of such agency. Each such request shall identify the assistance the Secretary considers necessary to carry out any duty under this Act.

(c) CONSULTATION.—The Secretary shall consult with other Federal agencies as appropriate, and the advisory committee, in carrying out the Secretary's authorities pursuant to this Act.

SEC. 104. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established a Technical Advisory Committee to advise the Secretary on the programs under this Act and under title II of the Hydrogen Future Act of 1996, to remain in existence for the duration of such programs.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory committee shall be comprised of not fewer than 9 nor more than 15 members appointed by the Secretary, and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, and financial, environmental, and other organizations as the Secretary considers appropriate based on the Secretary's assessment of the technical and other qualifications of such representatives.

(2) TERMS.—

(A) IN GENERAL.—The term of a member of the advisory committee shall not be more than 3 years.

(B) STAGGERED TERMS.—The Secretary may appoint members of the advisory committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the advisory committee.

(C) REAPPOINTMENT.—A member of the advisory committee whose term expires may be reappointed.

(3) CHAIRPERSON.—The advisory committee shall have a chairperson, who shall be elected by the members from among their number.

(c) COOPERATION.—The heads of Federal agencies shall cooperate with the advisory committee in carrying out the requirements of this section and shall furnish to the advisory committee such information as the advisory committee considers necessary to carry out this section.

(d) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

(1) the implementation and conduct of programs under this title;

(2) the economic, technological, and environmental consequences of the deployment of technologies under this title; and

(3) means for removing barriers to implementing the technologies and programs under this title.

(e) RESPONSE TO RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the advisory committee under subsection (d). The Secretary shall either describe the implementation, or provide an explanation of the reasons that any such recommendations will not be implemented, in the report to Congress under section 103(b).

(f) SUPPORT.—The Secretary shall provide such staff, funds, and other support as may be necessary to enable the advisory committee to carry out its functions.

SEC. 105. REPORT TO CONGRESS.

(a) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act and biennially thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs authorized under this title.

(2) CONTENTS.—A report under paragraph (1) shall include, in addition to any views and recommendations of the Secretary—

(A) an assessment of the effectiveness of the programs authorized under this Act;

(B) recommendations of the advisory committee for any improvements in the program that are needed, including recommendations for additional legislation; and

(C) to the extent practicable, an analysis of Federal, State, local, and private sector hydrogen- and fuel cell-related research, development, and demonstration activities to identify productive areas for increased intergovernmental and private-public sector collaboration.

SEC. 106. NATIONAL ACADEMY OF SCIENCES REVIEW.

Beginning 2 years after the date of enactment of this Act, and every 4 years thereafter, the National Academy of Sciences shall perform a review of the progress made through the programs and activities authorized under this Act and title II of the Hydrogen Future Act of 1996, and shall report to Congress on the results of such reviews.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS FOR HYDROGEN PRODUCTION, STORAGE, AND TRANSPORT.

There are authorized to be appropriated to carry out hydrogen production, storage, and transport activities under this title (in addition to any amounts made available for such purposes under other Acts)—

(1) $200,000,000 for fiscal year 2004;
(2) $200,000,000 for fiscal year 2005;
(3) $200,000,000 for fiscal year 2006;
(4) $200,000,000 for fiscal year 2007;
(5) $100,000,000 for fiscal year 2008;
(6) $100,000,000 for fiscal year 2009;
(7) $100,000,000 for fiscal year 2010;
(8) $75,000,000 for fiscal year 2011;
(9) $75,000,000 for fiscal year 2012; and
(10) $50,000,000 for fiscal year 2013.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR FUEL CELL TECHNOLOGIES.

There are authorized to be appropriated to the Secretary for fuel cell technology activities under this title—

(1) $200,000,000 for fiscal year 2004;
(2) $250,000,000 for fiscal year 2005;
(3) $250,000,000 for fiscal year 2006;
(4) $200,000,000 for fiscal year 2007;
(5) $100,000,000 for fiscal year 2008;
(6) $100,000,000 for fiscal year 2009;
(7) $100,000,000 for fiscal year 2010;
(8) $75,000,000 for fiscal year 2011;
(9) $75,000,000 for fiscal year 2012; and
(10) $50,000,000 for fiscal year 2013.

TITLE II—DEMONSTRATION PROGRAMS

SEC. 201. FUEL CELL VEHICLE DEMONSTRATION PROGRAM.

(a) PROGRAM.—The Secretary shall establish a cost shared program to purchase, operate, and evaluate fuel cell vehicles in integrated service in Federal, tribal, State, local, or private fleets to demonstrate the viability of fuel cell vehicles in commercial use in a range of climates, duty cycles, and operating environments.

(b) COOPERATIVE AGREEMENTS.—In carrying out the program, the Secretary may enter into cooperative agreements with Federal, tribal, State, local agencies, or private entities and manufacturers of fuel cell vehicles.

(c) COMPONENTS.—The program shall include the following components:

(1) SELECTION OF PILOT FLEET SITES.—

(A) IN GENERAL.—The Secretary shall—

(i) consult with fleet managers to identify potential fleet sites; and

(ii) select 10 or more sites at which to carry out the program.

(B) CRITERIA.—The criteria for selecting fleet sites shall include—

(i) geographic diversity;

(ii) a wide range of climates, duty cycles, and operating environments;

(iii) the interest and capability of the participating agencies or entities;

(iv) the appropriateness of a site for refueling infrastructure and for maintaining the fuel cell vehicles; and

(v) such other criteria as the Secretary determines to be necessary to the success of the program.

(C) FEDERAL SITES.—At least 2 of the projects must be at Federal sites.

(2) FUELING INFRASTRUCTURE.—

(A) IN GENERAL.—The Secretary shall support the installation of the necessary refueling infrastructure at the fleet sites.

(B) CO-PRODUCTION OF HYDROGEN AND ELECTRICITY PILOT PROJECTS.—Priority shall be given to pilot projects that integrate—

(i) both vehicles and stationary electricity production; or

(ii) hydrogen production, storage, and distribution systems with end-use applications.

(3) PURCHASE OF FUEL CELL VEHICLES.—The Secretary, in consultation with the participating agencies, tribal, State, or local agency, academic institution, or private entity, shall purchase fuel cell vehicles for the program by competitive bid.

(4) OPERATION AND MAINTENANCE PERIOD.—The fuel cell vehicles shall be operated and maintained by the participating agencies or entities in regular duty cycles for a period of not less than 12 months.

(5) DATA COLLECTION, ANALYSIS, AND DISSEMINATION.—

(A) AGREEMENTS.—The Secretary shall enter into agreements with participating agencies, academic institutions, or private sector entities providing for the collection of proprietary and nonproprietary information with the program.

(B) PUBLIC AVAILABILITY.—The Secretary shall make available to all interested persons technical nonproprietary information and analyses collected under an agreement under subparagraph (A).

(C) PROPRIETARY INFORMATION.—The Secretary shall not disclose to the public any proprietary information or analyses collected under an agreement under subparagraph (A).

(6) TRAINING AND TECHNICAL SUPPORT.—The Secretary shall provide such training and technical support as fleet managers and fuel cell vehicle operators require to assure the success of the program, including training and technical support in—

(A) the installation, operation, and maintenance of fueling infrastructure;

(B) the operation and maintenance of fuel cell vehicles; and

(C) data collection.

(d) COORDINATION.—The Secretary shall ensure coordination of the program with other Federal fuel cell demonstration programs to improve efficiency, share infrastructure, and avoid duplication of effort.

(e) COST SHARING.—

(1) IN GENERAL.—The Secretary shall require a 50 percent financial commitment from participating private-sector companies or other non-Federal sources for participation in the program.

(2) COMMITMENTS.—The Secretary may require a financial commitment from participating agencies or entities based on the avoided costs for purchase, operation, and maintenance of traditional vehicles and refueling infrastructure.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $40,000,000 for fiscal year 2004;

(2) $100,000,000 for fiscal year 2005;

(3) $115,000,000 for fiscal year 2006;

(4) $115,000,000 for fiscal year 2007;

(5) $95,000,000 for fiscal year 2008;

(6) $30,000,000 for fiscal year 2009; and

(7) $15,000,000 for fiscal year 2010.

SEC. 202. HEAVY DUTY FUEL CELL VEHICLE FLEET DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, in consultation with other Federal agencies, shall establish a program for entering into cooperative agreements with the private sector to demonstrate fuel cell-powered buses, trucks and other heavy duty vehicles.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, and not later than October 1, 2009, the Secretary, in consultation with other Federal agencies, shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of developing infrastructure to accommodate fuel cell-powered buses, trucks, and heavy duty vehicles; and

(2) assesses the results of the demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this demonstration program, to remain available until expended—

(1) $60,000,000 for fiscal year 2004;

(2) $90,000,000 for fiscal year 2005;

(3) $175,000,000 for fiscal year 2006;

(4) $175,000,000 for fiscal year 2007;

(5) $175,000,000 for fiscal year 2008;

(6) $135,000,000 for fiscal year 2009; and

(7) $40,000,000 for fiscal year 2010.

SEC. 203. TRIBAL STATIONARY HYBRID POWER DEMONSTRATION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with Tribes, shall develop and transmit to Congress a strategy for a demonstration and commercial application program to develop hybrid distributed power systems on tribal lands that combine—

(1) one renewable electric power generating technology of 2 megawatts or less located near the site of electric energy use; and

(2) fuel cell power generation suitable for use in distributed power systems.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for activities under this section—

(1) $1,000,000 for fiscal year 2005;

(2) $5,000,000 for fiscal year 2006;

(3) $5,000,000 for fiscal year 2007;

(4) $4,000,000 for fiscal year 2008;

(5) $3,000,000 for fiscal year 2009; and

(6) $2,000,000 for fiscal year 2010.

SEC. 204. STATIONARY FUEL CELL GRANT DEMONSTRATION PROGRAM.

(a) SOLICITATION OF PROPOSALS.—The Secretary shall solicit proposals for projects demonstrating hydrogen technologies needed to operate fuel cells in Federal, tribal, State, and local government, and academic, and private stationary applications.

(b) COMPETITIVE EVALUATION.—Each proposal submitted in response to the solicitation under this section shall be evaluated on a competitive basis using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposal.

(c) PREFERENCE.—The Secretary shall give preference, in making an award under this section, to proposals that—

(1) are submitted jointly from consortia including academic institutions, industry, State or local governments, and Federal laboratories; and

(2) reflect proven experience and capability with technologies relevant to the projects proposed.

(d) NON-FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $45,000,000 for fiscal year 2004;

(2) $85,000,000 for fiscal year 2005;

(3) $95,000,000 for fiscal year 2006;

(4) $95,000,000 for fiscal year 2007;

(5) $65,000,000 for fiscal year 2008;

(6) $50,000,000 for fiscal year 2009; and

(7) $15,000,000 for fiscal year 2010.

TITLE III—FEDERAL PURCHASE PROGRAM

SEC. 301. PROCUREMENT OF FUEL CELL VEHICLES.

(a) TRANSITION PLAN.—Each agency of the Federal Government that maintains a fleet of motor vehicles shall develop a plan for a transition of the fleet to vehicles powered by fuel cell technology, including plans for necessary fueling infrastructure, training, and maintenance and operation of such vehicles. Each such plan shall include implementation beginning no later than fiscal year 2008. Each plan shall incorporate and build on the results of completed and ongoing Federal demonstration programs, and shall include additional demonstration programs and pilot programs as necessary to test or investigate available technologies and transition procedures.

(b) REQUIREMENT.—The Secretary, in collaboration with the General Services Administration and other Federal agencies, shall purchase and place 20,000 hydrogen-powered fuel cell vehicles by 2010 in Federal fleets and the requisite fueling infrastructure.

(c) EXCEPTIONS.—The head of an executive agency is not required to procure a fuel cell vehicle under subsection (c) if—

(1) no fuel cell vehicle is available that meets the requirements of the executive agency; or

(2) it is not practicable to do so for a particular agency or instance.

(d) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all designs and procurements, and into the factors for the evaluation of offers received for the procurement, criteria for fuel cell vehicles that are consistent with vehicle purchasing requirements.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2005;

(2) $15,000,000 for fiscal year 2006;

(3) $50,000,000 for fiscal year 2007;

(4) $150,000,000 for fiscal year 2008;

(5) $175,000,000 for fiscal year 2009;

(6) $170,000,000 for fiscal year 2010;

(7) $110,000,000 for fiscal year 2011;

(8) $65,000,000 for fiscal year 2012; and

(9) $55,000,000 for fiscal year 2013.

SEC. 302. FEDERAL STATIONARY FUEL CELL POWER PURCHASE PROGRAM.

(a) PROGRAM.—The Secretary shall establish a program within 1 year after the date of enactment of this Act for the acquisition by Federal agencies of—

(1) up to 200 megawatts of commercially available fuel cell power plants;

(2) up to 200 megawatts of power generated from commercially available fuel cell power plants; or

(3) a combination thereof, by 2006 and annually thereafter for use at federally-owned or -operated facilities, Federal residences, and Federal portable applications. The Secretary shall provide funding for purchase, site engineering, installation, startup, training, operation, and maintenance costs associated with the acquisition of such power or power plants, along with any other necessary assistance.

(b) DOMESTIC ASSEMBLY.—All fuel cell systems in power plants acquired, or from which power is acquired, under subsection (a) shall be assembled in the United States.

(c) SITE SELECTION.—In the selection of federally-owned or -operated facilities as a site for the location of power plants acquired under this section, or as a site to receive power acquired under this section, priority shall be given to sites with 1 or more of the following attributes:

(1) Location (of the Federal facility or the generating power plant) in an area classified as a nonattainment area under title I of the Clean Air Act.

(2) Computer or electronic operations that are sensitive to power supply disruptions.

(3) Need for a reliable, uninterrupted power supply.

(4) Academic institution.

(5) Rural or remote location, or other factors requiring off-grid power generation.

(6) Critical manufacturing or other activities that support national security efforts.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $5,000,000 for fiscal year 2004;
(2) $10,000,000 for fiscal year 2005;
(3) $15,000,000 for fiscal year 2006;
(4) $50,000,000 for fiscal year 2007;
(5) $75,000,000 for fiscal year 2008;
(6) $85,000,000 for fiscal year 2009;
(7) $75,000,000 for fiscal year 2010;
(8) $50,000,000 for fiscal year 2011;
(9) $25,000,000 for fiscal year 2012; and
(10) $10,000,000 for fiscal year 2013.

(e) LIFE CYCLE COST BENEFIT.—Any life cycle cost benefit analysis undertaken by a Federal agency with respect to investments in fuel cell products, services, construction, and other projects shall include an analysis of environmental, power reliability, and oil dependence factors.

SEC. 303. ESTABLISHMENT OF AN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an interagency task force led by the Secretary's designee and comprised of representatives of—

(1) the Office of Science and Technology Policy;

(2) the Department of Transportation;

(3) the Department of Defense;

(4) the Department of Commerce (including the National Institute of Standards and Technology);

(5) the Environmental Protection Agency;

(6) the National Aeronautics and Space Administration; and

(7) other Federal agencies as appropriate.

(b) DUTIES.—The task force shall develop a plan for carrying out titles II and III.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the requirements of this section.

TITLE IV—REMOVAL OF REGULATORY BARRIERS

SEC. 401. AMENDMENTS TO PURPA.

(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

"(6) DISTRIBUTED GENERATION.—Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less per unit.

"(7) DISTRIBUTION INTERCONNECTIONS.—No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with procedures adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

"(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY STANDARD.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable and high-efficiency technologies.

"(9) PROHIBITED RATES AND CHARGES.—No electric utility shall charge the owner or operator of an on-site generating facility an additional standby, capacity, interconnection, or other rate or charge.".

(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

"(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978, shall be deemed to be a reference to the date of enactment of this subsection.".

SEC. 402. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

"(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978, shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) The Commission shall implement the standards set out in this section not later than 1 year after the date of enactment of this paragraph. Notwithstanding subsections (b) and (c) of section 112, a State may adopt alternative standards or procedures regarding net metering as defined in this section; provided that net metering service, pursuant to standards and procedures adopted by the Commission, shall be available to any electric consumer within any State notwithstanding the adoption by any State of such alternative standards or procedures.

"(D) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.".

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(i) NET METERING.—

"(1) RATES AND CHARGES.—An electric utility—

"(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class to which the owner or operator would be assigned if there were no on-site generating facility; and

"(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility, using a single meter unless the electric utility can establish to the State regulatory authority that a single meter is not technically feasible, and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period is in accordance with normal metering practices.

"(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

"(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

"(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

"(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall be interconnected provided the facility meets all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

"(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'eligible on-site generating facility' means—

"(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less per unit that is fueled by solar energy, wind energy, or fuel cells; or

"(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less per unit that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system;

"(B) the term 'renewable energy resource' means solar, wind, biomass, or geothermal energy;

"(C) the term 'high efficiency system' means fuel cells or combined heat and power; and

"(D) the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.".

SEC. 403. DEPARTMENT OF ENERGY STUDY.

The Secretary, in consultation with other Federal agencies, as appropriate, shall identify barriers to the introduction of portable fuel cells, including regulatory barriers, and take appropriate action to eliminate such barriers in a timely fashion.

TITLE V—TAX INCENTIVES FOR HYDROGEN FUEL CELL TECHNOLOGY

SEC. 501. HYDROGEN FUEL CELL MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. HYDROGEN FUEL CELL MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the new qualified hydrogen fuel cell motor vehicle credit determined under subsection (b).

"(b) NEW QUALIFIED HYDROGEN FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hydrogen fuel cell motor vehicle credit determined under this subsection with respect to a new qualified hydrogen fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified hydrogen fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

"(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 to 8,500 lbs	11.1 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.0 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED HYDROGEN FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hydrogen fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2003 model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (c)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter with respect to a new qualified hydrogen fuel cell motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a new qualified hydrogen fuel cell motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) Property used outside United States, etc., not qualified.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) Election to not take credit.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) Carryback and carryforward allowed.—

"(A) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this section which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) Interaction with air quality and motor vehicle safety standards.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(e) Regulations.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) Coordination in prescription of certain regulations.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.".

(b) Conforming Amendments.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(d)(4).".

(2) Section 55(c)(2) of such Code is amended by inserting "30B(c)," after "30(b)(3)".

(3) Section 6501(m) of such Code is amended by inserting "30B(d)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Hydrogen fuel cell motor vehicle credit.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 502. CREDIT FOR INSTALLATION OF HYDROGEN FUEL CELL MOTOR VEHICLE FUELING STATIONS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. HYDROGEN FUEL CELL MOTOR VEHICLE REFUELING PROPERTY CREDIT.

"(a) Credit Allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified hydrogen fuel cell motor vehicle refueling property.

"(b) Limitation.—The credit allowed under subsection (a)—

"(1) with respect to any retail hydrogen fuel cell motor vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential hydrogen fuel cell motor vehicle refueling property, shall not exceed $1,500.

"(c) Year Credit Allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified hydrogen fuel cell motor vehicle refueling property is placed in service by the taxpayer.

"(d) Definitions.—For purposes of this section—

"(1) Qualified hydrogen fuel cell motor vehicle refueling property.—The term 'qualified hydrogen fuel cell motor vehicle refueling property' means any property (not including a building and its structural components) if—

"(A) such property is of a character subject to the allowance for depreciation,

"(B) the original use of such property begins with the taxpayer, and

"(C) such property is for the storage or dispensing of hydrogen fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

In the case of hydrogen produced from another clean-burning fuel (as defined in section 179A(c)(1)), subparagraph (C) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.

"(2) Residential hydrogen fuel cell motor vehicle refueling property.—The term 'residential hydrogen fuel cell motor vehicle refueling property' means qualified hydrogen fuel cell motor vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) Retail hydrogen fuel cell motor vehicle refueling property.—The term 'retail hydrogen fuel cell motor vehicle refueling property' means qualified hydrogen fuel cell motor vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) No Double Benefit.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) Refueling Property Installed for Tax-Exempt Entities.—In the case of qualified hydrogen fuel cell motor vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail hydrogen fuel cell motor vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) Carryforward Allowed.—

"(1) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) Special Rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.".

(b) Incentive for Production of Hydrogen at Qualified Clean-Fuel Vehicle Refueling Property.—Section 179A(d) of the Internal Revenue Code of 1986 (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(c) Modifications to Extension of Deduction for Hydrogen Refueling Property.—

(1) In general.—Section 179A(f) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting "(other

than property relating to hydrogen)" after "property".

(2) NONAPPLICATION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code (relating to phaseout) is amended by inserting "(other than property relating to hydrogen)" after "property".

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2) of such Code, as amended by this Act, is amended by inserting "30C(e)," after "30B(e)".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Hydrogen fuel cell motor vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. CREDIT FOR RESIDENTIAL FUEL CELL PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL FUEL CELL PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $1,000 for each kilowatt of capacity.

"(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless such property meets appropriate fire and electric code requirements.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, including all necessary installation fees and charges.

"(2) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of such property and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b) of the Internal Revenue Code of 1986, as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c) of such Code, as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) of such Code is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) of such Code is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) of such Code is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) of such Code is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) of such Code is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(h) of such Code is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) of such Code is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c) of the Internal Revenue Code of 1986, as in effect for taxable years beginning before January 1, 2004, is amended by striking "section 1400C" and inserting "sections 25C and 1400C".

(2) Section 25(e)(1)(C) of such Code, as in effect for taxable years beginning before January 1, 2004, is amended by inserting ", 25C," after "sections 23".

(3) Subsection (a) of section 1016 of such Code, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(4) Section 1400C(d) of such Code, as in effect for taxable years beginning before January 1, 2004, is amended by inserting "and section 25C" after "this section".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential fuel cell property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the

date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 504. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property,".

(b) QUALIFIED FUEL CELL PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(i) generates electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent at rated power.

"(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

"(i) 30 percent of the basis of such property, including all necessary installation fees and charges, or

"(ii) $1,000 for each kilowatt of capacity of such property.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)(ii)—

"(i) ELECTRICITY-ONLY GENERATION EFFICIENCY.—The electricity-only generation efficiency percentage of a fuel cell power plant is the fraction—

"(I) the numerator of which is the total useful electrical power produced by such plant at normal operating rates, and expected to be consumed in its normal application, and

"(II) the denominator of which is the lower heating value of the fuel source for such plant.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The electricity-only generation efficiency percentage shall be determined on a Btu basis.

"(D) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.".

(c) LIMITATION.—Section 48(a)(2)(A) of the Internal Revenue Code of 1986 (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENT.—Section 29(b)(3)(A)(i)(III) of the Internal Revenue Code of 1986 is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

TITLE VI—EDUCATION AND OUTREACH

SEC. 601. EDUCATION AND OUTREACH.

(a) REQUIREMENTS.—The Secretary shall work with other Federal, State, and local agencies, and academic institutions and organizations to develop a public outreach and awareness program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this title $7,000,000 for fiscal year 2004 and each fiscal year thereafter through fiscal year 2013.

TITLE VII—TARGETS AND TIMETABLES

SEC. 701. DEPARTMENT OF ENERGY STRATEGY.

(a) CRITICAL TECHNOLOGY PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish and transmit to Congress a plan identifying critical technologies, enabling strategies and applications, technical targets, and associated timeframes that support the commercialization of hydrogen-fueled fuel cell vehicles.

(b) CONTENTS.—The plan shall describe the activities of the Department of Energy, including a research, development, demonstration, and commercial application program for developing technologies to support—

(1) the production and deployment of 100,000 hydrogen-fueled fuel cell vehicles in the United States by 2010 and 2,500,000 of such vehicles by 2020 and annually thereafter; and

(2) the integration of hydrogen activities, with associated technical targets and timetables for the development of technologies to provide for the sale of hydrogen at fueling stations in the United States by 2010 and 2020, respectively.

(c) PROGRESS REVIEW.—The Secretary shall include in each annual budget submission a review of the progress toward meeting the numerical targets in subsection (b).

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 462. A bill to establish procedures for the acknowledgment of Indian tribes; to the Committee on Indian Affairs.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 463. A bill to provide grants to ensure full and fair participation in certain decisionmaking processes of the Bureau of Indian Affairs; to the Committee on Indian Affairs.

Mr. DODD. Mr. President, I rise with our colleague Senator LIEBERMAN today to reintroduce two pieces of legislation intended to improve the process by which the Federal Government acknowledges the sovereign rights of American Indians and their tribal governments. The first bill is called the Tribal Recognition and Indian Bureau Enhancement Act, or the TRIBE Act. The second bill I am introducing is a bill to provide assistance grants to financially needy tribal groups and municipalities so that those groups and towns can more fully and fairly participate in certain decision-making processes at the Bureau of Indian Affairs.

I offer these bills with a renewed sense of hope, knowing that they will contribute to the larger national conversation about how the Federal Government can best fulfill its obligations to America's native peoples. Senator CAMPBELL and Senator INOUYE have provided invaluable leadership on this issue. The bills I am reintroducing were the subject of a hearing before the Indian Affairs Committee last fall. While neither bill was reported out of Committee before the end of the last Congress, I hope that the Indian Affairs Committee will continue its work on these and related bills—including Senator CAMPBELL's recently introduced tribal recognition bill—and will see fit to address the problems that currently plague the recognition process.

Currently, there are some 200 petitions pending at the Bureau of Indian Affairs by groups from throughout our Nation seeking Federal recognition as Indian tribes. Nine of these are in the State of Connecticut. These are in addition to the two tribes already recognized in our State: the Mashantucket Pequot tribe and the Mohegan Tribal Nation.

I want to emphasize that as a State, Connecticut has embraced its two established and federally recognized tribes—the Mashantucket Pequot tribe and the Mohegan Tribe. They have generated thousands of jobs for Connecticut residents—primarily in the gaming industry. In fact, Foxwoods Casino, owned by the Mashantucket Pequot Tribe, is the largest gambling casino in the world. Both tribes have delivered hundreds of millions of dollars into the treasuries of our State and towns dollars that have been used to help meet needs in housing, health care, education, and transportation for people throughout the State.

Like any large enterprise, these casinos have placed significant demands on the roadways, water systems, and police and fire departments. By some estimates, an average of 20,000 to 40,000 people visit these two casinos every day, seven days a week, 365 days a year.

Clearly, Federal recognition is an important legal status that can profoundly change both Indian and non-Indian communities. Our experience in Connecticut has taught us that Federal recognition is too important to be treated lightly.

I would not be back before the Senate to address this issue if I did not believe that there are serious defects in the process for tribal recognition. This is a significant issue for Connecticut, but it is also a matter of concern for the entire country. The tribal recognition process is broken. And the process is harming communities and tribes across the country.

The problems with the current recognition process have been well documented and I do not intend to restate all that has been said and written about the subject in recent years. Suffice it to say that it is widely recognized that the process is failing both tribal groups and other interested parties. The General Accounting Office, in a highly-critical study released in November 2001, summarized the problem when it concluded that "because of weaknesses in the recognition process, the basis for BIA's tribal recognition decisions is not always clear and the length of time involved can be substantial."

Senator CAMPBELL, Chairman of the Indian Affairs Committee, has eloquently pointed out the irony that descendants of native peoples who have lived in North America for thousands of years are the only Americans that must be "documented" to prove their status. How much more bitter that irony has become now that a process established to be fair and considerate toward native peoples is, in many ways, working against them. Let me share with our colleagues some compelling facts, which I have referenced here on the floor of the Senate before.

Decisions on tribal petitions do not take months to make. They typically take years—and sometimes decades, thanks to understaffing and the demands of complying with FOIA requests and litigation. At its current pace, it will take well over 100 years for BIA to clear just its existing backlog of tribal recognition petitions. Can you imagine any group of Americans having to wait years or decades to have their legal rights vindicated? We would not and do not tolerate those kinds of delays in other areas of federal administrative law. Yet they are commonplace with respect to groups seeking Federal tribal status.

Tribes, towns, and other interested parties have often had their evidentiary submissions ignored. During consideration of two recent petitions, the BIA decided it would no longer accept evidence submitted on the petitions—but the agency failed to tell interested parties for eleven months. In the meantime, neighboring parties and other interested parties had spent large sums of time and money to submit voluminous additional evidence bearing on whether or not the petitions should have been granted.

In some cases, the seven mandatory criteria for recognition have been selectively ignored by BIA. In the case of the Eastern Pequot and Paucatuck Eastern Pequot petitions, two of the seven criteria for recognition were waived by the then-Assistant Secretary for Indian Affairs. According to published reports, he effectively ignored the recommendations of the historians and genealogists on his staff who had found that those criteria had not been met. In another case, there was a 70-year period during which a petitioner could produce no evidence that it continuously existed as a distinct community exhibiting political authority. The BIA's technical staff concluded that a 70-year gap was too long to support a finding of continuous existence. Despite the lack of evidence, the Assistant Secretary decided that continuous existence could be presumed, and so he went on to deem this criterion to be met and to recognize the tribe.

Again, the bottom line is that the recognition process is broken. Last year, one of our colleagues—a long-time champion for American Indian causes—called the current recognition process a "scandal." I agree and I think it's bad public policy to allow Federal agencies to continue to make decisions when their decision-making procedures are so flawed.

The current process is arcane, burdensome, time consuming, difficult to understand, and too easily manipulated for political purposes. The evidence is overwhelming that the rules of recognition are being applied strictly for some and bent or ignored altogether for others. That's wrong. That's unfair. The Chairwoman of the Duwamish Tribe of Washington State has said she and her people "have known and felt the effects of 20 years of administrative inaccuracies, delays and the blasé approach in . . . handling and . . . processing the Duwamish petitions." Because the process is so complicated and so different from other, more familiar, administrative procedures, it is hard for people to have confidence in the BIA's decisions—especially when the BIA appears to be applying the rules differently in different cases.

The reforms proposed by the TRIBE Act are modest. The TRIBE Act will permit any Indian group in the continental United States that desires to be acknowledged as an Indian Tribe to file a petition with the BIA. If the group can satisfy the mandatory criteria for federal acknowledgment, then the group would be recognized.

The legislation simply requires better notice to Indians and non-Indian groups. It provides for better fact-finding and it requires the Secretary to publish a complete explanation of final decisions regarding documented petitions. The bill improves the recognition process in the following specific ways: first, it would authorize $10 million per year to better enable the Bureau of Indian Affairs to consider petitions in a thorough, fair, and timely manner. Second, it would provide for improved notice of a petition to key persons who may have an interest in a petition, including: the governor and attorney general of the state where a tribe seeks recognition; other tribes; and elected leaders of towns in the vicinity of a tribe seeking recognition, third, it would require that a petitioner meets each of the seven mandatory criteria for federal recognition spelled out in the current Code of Federal Regulations, and fourth, it would require that a decision on a petition be published in the Federal Register, which would include a detailed explanation of the findings of fact and of law with respect to each of the seven mandatory criteria for recognition.

I want to emphasize what this legislation would not do. It would not revoke or in any way alter the status of tribes whose petitions for federal recognition have already been granted. It would not restrict in any way the existing prerogatives and privileges of such tribes. Tribes will retain their right to self-determination consistent with their sovereign status. Finally, and perhaps most importantly, the TRIBE Act will not dictate outcomes or micro-manage the agency.

As I have often said, I believe that every tribal Government that is entitled to recognition should be recognized and should be recognized in an appropriately speedy process. But I also think we have to make sure that the BIA's conclusions are accurate so there won't be endless questions and disputes over the Bureau's decisions. Every recognition decision carries with it a legal significance that should endure forever. Each recognition decision made by the BIA is a foundation upon which relationships between tribes and States, tribes and towns, Indians and non-Indians will be built for generations to come. We need to make sure that the foundation upon which these lasting decisions are built is sound and will withstand the test of time. We as a Nation cannot afford to build relationships between sovereigns on the shifting sands of a broken bureaucratic procedure.

Let me close with a word about the second bill I am introducing. This bill will provide grants to allow poor tribes and municipalities an opportunity to effectively participate in important decision-making processes. When the Federal Government, through the Bureau of Indian Affairs, makes decisions that will change communities, it is only right that the government should provide a meaningful opportunity for those communities, whether tribal or non-tribal, to be heard.

As we consider how best to reform the process for tribal recognition, we ought to be guided by the firm principles embedded in the bills I am offering here today: fairness, openness, respect, and a common interest in bettering the quality of life for all Americans. I look forward to discussing these and other ideas with Chairman CAMPBELL, Senator INOUYE, and my colleagues here in the Senate, tribal leaders, and others who believe the time for reform has come.

Mr. LIEBERMAN. Mr. President, I rise to speak in support of the "Tribal Recognition and Indian Bureau Enhancement Act." I am proud to join the senior Senator from Connecticut in reintroducing this legislation.

Senator DODD and I are interested in making the tribal recognition process a more fair and open process. I am aware of another bill introduced last month by Chairman CAMPBELL that also seeks to reform the Bureau of Indian Affairs' recognition process. While I am concerned with several aspects of the Senator's bill, I am nonetheless gratified to see that my colleagues on both sides of the aisle recognize that the current BIA process is fraught with problems.

I know that both Chairman CAMPBELL and Vice Chairman INOUYE want to reform the broken tribal recognition process at the BIA. I look forward to working together with both Chairman CAMPBELL and Vice Chairman INOUYE to craft and pass legislation to fix a process that Vice chairman INOUYE last year called a "scandal."

I would first like to reiterate my support for the recognition of our historic Indian tribes. Unfortunately, this important recognition process is not operating as it should—in particular, the decisions are murky on the criteria for recognition when, and how, they may be satisfied—and those shortcomings are undermining the legitimacy of the entire process.

The lack of public confidence in the tribal recognition process is of grave concern to me. In my home State of Connecticut, public interest in the recognition process has increased because of the ability of recognized tribes to open large casinos. Senator DODD and I introduced both of these bills in the 107th Congress in an effort to reinvigorate the process and redeem the BIA program for future generations. Our bill will codify existing recognition criteria and require the BIA to provide notice of pending petitions to various interested groups—something that will benefit both the tribes and the communities that surround them. The companion bill Senator DODD and I have introduced today will and provide the resources that stakeholders of limited means require to meaningfully participate in the process. As a whole, our two pieces of legislation move towards a stronger recognition system in which all interested persons are able to participate, and participate meaningfully.

In particular, the "Tribal Recognition and Indian Bureau Enhancement Act" is intended to ensure that recognition criteria are satisfied and all affected parties, including affected towns, have a change to fairly participate in the decision process. It ensures that: affected parties be given proper notice; that relevant evidence from petitioners and interested parties, including neighboring towns, is properly considered; that a formal hearing may be requested, with an opportunity for witnesses to be called and with other due process procedures in place; that a transcript of the hearing is kept; that the evidence is sufficient to show that the petitioner meets the seven mandatory criteria in federal regulations; and that a complete and detailed explanation of the final decision and findings of fact are published in the Federal Register.

Having created these new procedures, our second bill is intended to ensure that all stakeholders are able to participate in them. It would provide grants to local governments and needy tribes to allow them to hire genealogists, lawyers, and other professionals necessary to participate in proceedings. Grants would be available to assist eligible parties in BIA proceedings regarding the recognition of a tribe as well as proceedings regarding whether to place land into trust for a tribe. We view these bills as working in tandem: we can't make the recognition process stronger and more transparent without giving participants the appropriate professional resources. Together, these bills insist on systemic reform while investing in ore legitimate results.

I want to stress that these bills do nothing to affect already recognized federal tribes or hinder their economic development plans. Nor do they change existing Federal tribal recognition laws. It is still my hope that tribes could support these reforms, so as to buttress the legitimacy of their recognition rulings.

I again want to express my commitment to working with members from both sides of the aisle to craft a more fair and effective tribal recognition process for the BIA. The tribal recognition process is an important issue not only for Connecticut, but for many States throughout this great Nation of ours. The process, unfortunately, is broken, and we should come together to fix it for the benefit of all involved. I look forward to working with Senators DODD, Chairman CAMPBELL, and Vice Chairman INOUYE on legislation to create a better recognition process.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 66—AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE FOR THE PERIODS MARCH 1, 2003, THROUGH SEPTEMBER 30, 2003, OCTOBER 1, 2003, THROUGH SEPTEMBER 30, 2004, AND OCTOBER 1, 2004, THROUGH FEBRUARY 28, 2005.

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was submitted and read:

S. RES. 66

Resolved,

SECTION 1. AGGREGATE AUTHORIZATION.

(a) IN GENERAL.—For purposes of carrying out the powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate there is authorized for the period March 1, 2003, through September 30, 2003, in the aggregate of $48,264,374, for the period October 1, 2003, through September 30, 2004, in the aggregate of $84,961,067, and for the period October 1, 2004, through February 28, 2005, in the aggregate of $36,221,156, in accordance with the provisions of this resolution, for standing committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Committee on Indian Affairs.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees for the period March 1, 2003, through September 30, 2003, for the period October 1, 2003, through September 30, 2004, and for the period October 1, 2004, through February 28, 2005, to be paid from the appropriations account for "Expenses of Inquiries and Investigations" of the Senate.

SEC. 2. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,949,860, of which amount—

(1) not to exceed $150,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $3,431,602, of which amount—

(1) not to exceed $150,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $1,462,700, of which amount—

(1) not to exceed $150,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $40,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 3. COMMITTEE ON ARMED SERVICES.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $3,594,172, of which amount—

(1) not to exceed $80,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $6,328,829, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,698,836, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $30,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 4. COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $2,979,871, of which amount—

(1) not to exceed $11,667, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $496, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $5,244,760, of which amount—

(1) not to exceed $20,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $850, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,235,697, of which amount—

(1) not to exceed $8,333, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $354, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 5. COMMITTEE ON THE BUDGET.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $3,136,108, of which amount—

(1) not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $5,522,410, of which amount—

(1) not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,355,010, of which amount—

(1) not to exceed $40,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 6. COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $3,227,950, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $5,681,955, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,422,263, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 7. COMMITTEE ON ENERGY AND NATURAL RESOURCES.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $2,724,301.

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $4,795,783.

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,044,614.

SEC. 8. COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $2,516,590, of which amount—

(1) not to exceed $4,667, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $1,167, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $4,427,783, of which amount—

(1) not to exceed $8,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $2,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $1,886,876, of which amount—

(1) not to exceed $3,333, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $833, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 9. COMMITTEE ON FINANCE.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $3,511,242, of which amount—

(1) not to exceed $17,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $5,833, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $6,179,693, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,634,121, of which amount—

(1) not to exceed $12,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,167, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 10. COMMITTEE ON FOREIGN RELATIONS.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $2,884,041, of which amount—

(1) not to exceed $210,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $5,078,940, of which amount—

(1) not to exceed $210,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $2,166,036, of which amount—

(1) not to exceed $210,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 11. COMMITTEE ON GOVERNMENTAL AFFAIRS.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $4,764,738, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) Expenses for Fiscal Year 2004 Period.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $8,387,779, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) Expenses for Period Ending February 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $3,576,035, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(e) Investigations.—

(1) In general.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) Extent of inquiries.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) Special committee authority.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2003, through February 28, 2005, is authorized, in its, his, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) Authority of other committees.—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) Subpoena authority.—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 54, agreed to March 8, 2001 (107th Congress) are authorized to continue.

SEC. 12. COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.

(a) General Authority.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) Expenses for Period Ending September 30, 2003.—The expenses of the committee for the period March 1, 2003, through

September 30, 2003, under this section shall not exceed $4,236,427, of which amount—

(1) not to exceed $32,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $7,457,494, of which amount—

(1) not to exceed $32,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $3,179,327, of which amount—

(1) not to exceed $32,500, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $25,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 13. COMMITTEE ON THE JUDICIARY.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $4,605,727, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $8,110,222, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $3,458,551, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 14. COMMITTEE ON RULES AND ADMINISTRATION.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,288,413, of which amount—

(1) not to exceed $30,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $6,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $2,269,014, of which amount—

(1) not to exceed $50,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $967,696, of which amount—

(1) not to exceed $21,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,200, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 15. COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business and Entrepreneurship is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,215,913, of which amount—

(1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $2,139,332, of which amount—

(1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $911,668, of which amount—

(1) not to exceed $10,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 16. COMMITTEE ON VETERANS' AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,112,475, of which amount—

(1) not to exceed $59,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $5,900, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $1,958,451, of which amount—

(1) not to exceed $100,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $10,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $834,987, of which amount—

(1) not to exceed $42,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $4,200, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 17. SPECIAL COMMITTEE ON AGING.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions imposed by section 104 of S. Res. 4, agreed to February 4, 1977 (Ninety-fifth Congress), and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,347,927, of which amount—

(1) not to exceed $117,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $2,372,258, of which amount—

(1) not to exceed $200,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $1,011,165, of which amount—

(1) not to exceed $85,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $5,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 18. SELECT COMMITTEE ON INTELLIGENCE.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976 (94th Congress), in accordance with its jurisdiction under section 3(a) of that resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of that resolution, the Select Committee on Intelligence is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $2,117,309, of which amount not to exceed $37,917, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $3,726,412, of which amount not to exceed $65,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $1,588,401, of which amount not to exceed $27,083, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946).

SEC. 19. COMMITTEE ON INDIAN AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions imposed by section 105 of S. Res. 4, agreed to February 4, 1977 (95th Congress), and in exercising the authority conferred on it by that section, the Committee on Indian Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2003.—The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this section shall not exceed $1,051,310, of which amount not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2004 PERIOD.—The expenses of the committee for the period October 1, 2003, through September 30, 2004, under this section shall not exceed $1,848,350, of which amount not to exceed $1:000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2005.—For the period October 1, 2004, through February 28, 2005, expenses of the committee under this section shall not exceed $787,173, of which amount not to exceed $1,000, may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of that Act).

SEC. 20. SPECIAL RESERVE.

(a) ESTABLISHMENT.—Within the funds in the account "Expenses of Inquiries and Investigations" appropriated by the legislative branch appropriation Acts for fiscal years 2003, 2004, and 2005, there is authorized to be established a special reserve to be available to any committee funded by this resolution as provided in subsection (b) of which—

(1) an amount not to exceed $3,500,000, shall be available for the period March 1, 2003, through September 30, 2003; and

(2) an amount not to exceed $6,000,000, shall be available for the period October 1, 2003, through September 30, 2004; and

(3) an amount not to exceed $2,500,000, shall be available for the period October 1, 2004, through February 28, 2005.

(b) AVAILABILITY.—The special reserve authorized in subsection (a) shall be available to any committee—

(1) on the basis of special need to meet unpaid obligations incurred by that committee during the periods referred to in paragraphs (1) and (2) of subsection (a); and

(2) at the request of a Chairman and Ranking Member of that committee subject to the approval of the Chairman and Ranking Member of the Committee on Rules and Administration.

SENATE RESOLUTION 67—EXPRESSING THE SENSE OF THE SENATE THAT ALAN GREENSPAN, THE CHAIRMAN OF THE FEDERAL RESERVE BOARD, SHOULD BE RECOGNIZED FOR HIS OUTSTANDING LEADERSHIP OF THE FEDERAL RESERVE, HIS EXEMPLARY CONDUCT AS FEDERAL RESERVE CHAIRMAN, AND HIS COMMITMENT AS A PUBLIC SERVANT

Mr. SCHUMER (for himself, Mr. CORZINE, Mr. CARPER, and Ms.

STABENOW) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 67

Whereas Chairman Alan Greenspan has provided leadership to the Federal Reserve for nearly fifteen years;

Whereas Chairman Greenspan has led the formulation of United States monetary policy through a time of significant economic expansion and low interest rates;

Whereas Chairman Greenspan has provided a steadying hand on policy during periods of great financial risk for the United States economy;

Whereas Chairman Greenspan possesses the wisdom of experience and the confidence of the public to continue to lead monetary policy through future economic cycles;

Whereas Chairman Greenspan has carefully upheld the responsibility of the Federal Reserve to be unbiased and impartial in its decision making; and

Whereas the Senate has the duty to provide oversight of the Federal Reserve: Now, therefore, be it

Resolved, That it is the sense of the Senate that Alan Greenspan, the Chairman of the Federal Reserve Board, should be recognized for his outstanding leadership of the Federal Reserve, his exemplary conduct as Federal Reserve chairman, and his commitment as a public servant.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, February 26, 2003, at 9:30 a.m., in closed session to receive a classified briefing on planning for post conflict Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 26, 2003, at 9:30 a.m., to conduct an oversight hearing on "The Federal Deposit Insurance System."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 26, 2003, on SUV safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 26 at 10:00 a.m. for purposes of conducting a business meeting to consider pending calendar business.

1. Agenda Item #5: S. 273—To direct the Secretary of the Interior to acquire specified State lands within the boundaries of Grand Teton National Park by donation, purchase, or exchange for specified Federal lands of equal value in Wyoming.

2. Agenda Item #6: S. 302—To direct the Secretary of the Interior to acquire specified lands from willing sellers for addition to Golden Gate National Recreation Area in the State of California.

3. Agenda Item #7: Nomination of Joseph Kelliher to be a Member of the Federal Energy Regulatory Commission.

4. Agenda Item #8: Views and Estimates of the Committee on Energy and Natural Resources with respect to those portions of the budget for fiscal year 2004 within the jurisdiction of this Committee.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, February 26, 2003 at 9:30 am to conduct a hearing to receive testimony from Christine Todd Whitman, Administrator of the EPA, on the proposed FY 2004 EPA budget.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Wednesday, February 26, 2003, at 10:00 a.m., to markup an original bill entitled, the Miscellaneous Trade and Technical Corrections Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 26, 2003, at 10:30 a.m., to hold a hearing on Post Conflict Afghanistan: A Perspective on Revitalization & Reconstruction.

Guest: His Excellency Hamid Karzai, President, The Transitional Islamic Republic of Afghanistan, Kabul, Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, February 26, 2003, at 10:00 a.m. for a hearing entitled "Consolidating Intelligence Analysis: A Review of the President's Proposal to Create a Terrorist Threat Integration Center—Day 2."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, February 26, 2003, at 10:00 a.m., in Room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee business, to be followed immediately by a hearing on the President's FY 2004 Budget for Indian Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, February 26, 2003, at 9:15 a.m., to mark up an original resolution authorizing expenditures by committees of the Senate for the period March 1, 2003, through February 28, 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, February 26, 2003, for a hearing on the Administration's proposed Fiscal Year 2004 Department of Veterans Affairs budget.

The hearing will take place in room 418 of the Russell Senate Office Building at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to meet during the session of the Senate in Room 628 of the Dirksen Senate Office Building, Wednesday, February 26, 2003, at 2:30 p.m. until 5 p.m. to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the appointment that is at the desk appear separately in the RECORD as if made by the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair, on behalf of the Majority Leader, pursuant to Public Law 107-273, announces the appointment of the following individuals as members of the Antitrust Modernization Commission: Steve Cannon, of Virginia, and Makan Delrahim, of the District of Columbia.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 33 and all nominations on the Secretary's Desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

ARMY

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Steven J. Hashem, 9921

NOMINATIONS PLACED ON THE SECRETARY'S DESK

PN324 Army nominations (59) beginning DONOVAN G GREEN, and ending DANIEL M WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

MARINE CORPS

PN325 Marine Corps nomination of Karl G. Hartenstine, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN330 Marine Corps nomination of Leland W. Suttee, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN331 Marine Corps nomination of Carlos D. Sanabria, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN332 Marine Corps nomination of John W. Bradway, Jr., which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN333 Marine Corps nomination of Kathleen A. Hoard, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN334 Marine Corps nomination of Jeffrey A. Fultz, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN335 Marine Corps nomination of Eric R. McBee, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN336 Marine Corps nominations (5) beginning CHRISTOPHER J. AMBS, and ending DOUGLAS E. WEDDLE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN337 Marine Corps nominations (4) beginning ROBERT E. COTE, and ending FR[illegible] L. WHITE, which nominations were recei[illegible] by the Senate and appeared in the Co[illegible]sional Record of February 11, 2003.

PN338 Marine Corps nominations [illegible] ning CHARLES W. ANDERSON, [illegible] JERRY B. SCHMIDT, which non[illegible]tions were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN340 Marine Corps nominations (2) beginning DOUGLAS M. FINN, and ending RONALD P. HEFLIN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN341 Marine Corps nominations (2) beginning CALVIN L. HYNES, and ending CHARLES S. MORROW, JR., which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

NAVY

PN301 Navy nomination of Waymon J. Jackson, which was received by the Senate and appeared in the Congressional Record of February 6, 2003.

AIR FORCE

PN274 Air Force nomination of Richard M. * Norris, which was received by the Senate and appeared in the Congressional Record of January 28, 2003.

PN281 Air Force nomination of Joseph P. Dibeneditto, which was received by the Senate and appeared in the Congressional Record of January 29, 2003.

PN282 Air Force nomination of John C. Landreneau, which was received by the Senate and appeared in the Congressional Record of January 29, 2003.

PN311 Air Force nomination of Charles N. Davidson, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN312 Air Force nomination of Thomas R. Unrath, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

ARMY

PN313 Army nominations (3) beginning THOMAS W. SHEA, and ending THOMAS W. YARBOROUGH, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN314 Army nominations (3) beginning ROBERT J. KINCAID, and ending RODNEY L. THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN315 Army nomination of Bradley J. Jorgensen, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN316 Army nominations (8) beginning THERESA S. GONZALES, and ending ANTHONY S. THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN317 Army nominations (9) beginning RONALD E. ELLYSON, and ending SHELDON WATSON, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN318 Army nominations (10) beginning DAVID J COHEN, and ending MICHAEL J. ZAPOR, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN319 Army nominations (16) beginning BRAD A * BLANKENSHIP, and ending EUGENE K * WEBSTER, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

[illegible]N320 Army nominations (130) beginning [illegible]EILA R * ADAMS, and ending AMMON * [illegible]NN, III, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN321 Army nominations (37) beginning MARY C * ADAMSCHALLENGER, and ending DAVID A * WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN322 Army nominations (92) beginning TEDD S * ADAIR, II, and ending REBECCA A * YUREK, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN323 Army nominations (20) beginning DAVID W GARCIA, and ending TERRY E RAINES, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, FEBRUARY 27, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Thursday, February 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate return to executive session and resume the consideration of the nomination of Miguel Estrada to be a Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow—which is today—the Senate will begin its 11th day of consideration of the Estrada nomination. I thank my colleagues for their hard work today and encourage those Members who still wish to speak on the nomination to do so during tomorrow's session.

ADJOURNMENT UNTIL THURSDAY, FEBRUARY 27, 2003

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:08 a.m., adjourned until Thursday, February 27, 2003, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate after midnight on February 26, 2003:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. STEVEN J. HASHEM

AIR FORCE NOMINATION OF RICHARD M. NORRIS.*

AIR FORCE NOMINATION OF JOSEPH P. DIBENEDITTO.

AIR FORCE NOMINATION OF JOHN C. LANDRENEAU.

AIR FORCE NOMINATION OF CHARLES N. DAVIDSON.

AIR FORCE NOMINATION OF THOMAS R. UNRATH.

ARMY NOMINATIONS BEGINNING THOMAS W. SHEA AND ENDING THOMAS W. YARBOROUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING ROBERT J. KINCAID AND ENDING RODNEY L. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATION OF BRADLEY J. JORGENSEN.

ARMY NOMINATIONS BEGINNING THERESA S. GONZALES AND ENDING ANTHONY S. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING RONALD E. ELLYSON AND ENDING SHELDON WATSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING DAVID J COHEN AND ENDING MICHAEL J ZAPOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING BRAD A BLANKENSHIP* AND ENDING EUGENE K WEBSTER,* WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING SHEILA R ADAMS* AND ENDING AMMON WYNN III,* WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING MARY C ADAMSCHALLENGER* AND ENDING DAVID A WRIGHT,* WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING TEDD S ADAIR II* AND ENDING REBECCA A YUREK,* WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING DAVID W GARCIA AND ENDING TERRY E RAINES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

ARMY NOMINATIONS BEGINNING DONOVAN G GREEN AND ENDING DANIEL M WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATION OF KARL G. HARTENSTINE.

MARINE CORPS NOMINATION OF LELAND W. SUTTEE.

MARINE CORPS NOMINATION OF CARLOS D. SANABRIA.

MARINE CORPS NOMINATION OF JOHN W. BRADWAY, JR.

MARINE CORPS NOMINATION OF KATHLEEN A. HOARD.

MARINE CORPS NOMINATION OF JEFFREY A. FULTZ.

MARINE CORPS NOMINATION OF ERIC R. MCBEE.

MARINE CORPS NOMINATIONS BEGINNING CHRISTOPHER J. AMBS AND ENDING DOUGLAS E. WEDDLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING ROBERT E. COTE AND ENDING FRANK L. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING CHARLES W. ANDERSON AND ENDING JERRY B. SCHMIDT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING DOUGLAS M. FINN AND ENDING RONALD P. HEFLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

MARINE CORPS NOMINATIONS BEGINNING CALVIN L. HYNES AND ENDING CHARLES S. MORROW, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2003.

NAVY NOMINATION OF WAYMON J. JACKSON.

EXTENSIONS OF REMARKS

RECOGNIZING JENNA SOENDKER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jenna Soendker, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1815, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) earning the senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Jenna created a family reading night to promote reading.

Mr. Speaker, I proudly ask you to join me in commending Jenna Soendker for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

BETTER SCRUTINY OF NATIONAL SPACE PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, everyone in the nation was deeply touched by the terrible tragedy involving the recent loss of seven astronauts aboard the *Columbia* Space Shuttle. As in the case of the *Challenger* Shuttle explosion 17 years ago, Congress must become deeply involved in reviewing the causes of this accident. That review, as our former colleague and highly respected expert on the space program, Tim Roemer reminds us, must be an independent study. Far too much—in money, in effort and in lives—is invested in the manned space program for us to fail to undertake a thorough and fully credible review, including whether or not congressional funding decisions might have affected the adequacy of the resources devoted to shuttle safety.

Congressman Roemer offered sound advice to the Gehman Commission that is charged with investigating the *Columbia* tragedy in a recent column published in Roll Call, which I am submitting to the RECORD.

The article follows:

NASA PANEL NEEDS TO FIND REAL SOLUTIONS

(By Tim Roemer)

After the Challenger space shuttle exploded on takeoff in 1986. the prominent physicist Richard Feynman dramatically conducted an experiment visually linking the cause and effect for all to understand. He carefully dipped the rubber O-rings into a glass of ice water to replicate what had happened when they hardened, cracked and, consequently, malfunctioned. An independent panel, known as the Rogers Commission, generally concluded that NASA officials and contractors were largely at fault. The report went on to list poor communications with management, sacrificing standards to remain within the budget, and not paying enough attention to hazards and warnings.

Now, 17 years later, the Columbia has disintegrated upon re-entry. We cannot merely round up the usual cast of suspects, appoint the same names to an investigation board and point the finger at the predictable target. It is too important to understand how this happened, with decisions led us there and how to fix it.

Whatever the final conclusion, the newly appointed Gehman Commission tasked with discovering the cause should be loaded with independent and aggressive individuals willing to challenge Congressional budgeting decisions and oversight performance. Everything should be on the table.

The commission should have begun its investigation 10 years before last month's takeoff of Columbia. On June 23, 1993, Congress voted 216–215 to authorize $13 billion for space station costs over the next decade. While Members of Congress, the administration and especially NASA recognize that the space station was experiencing significant design glitches, cost overruns and scheduling delays, they also knew that more money would eventually be needed in the overall NASA budget. But the overall NASA budget level would decline in real dollars over the next 10 years. The space station overruns multiplied.

Something had to give. The overall NASA budget went from $14.36 billion in 1993 to $14.9 billion in 2002. However, this declining budget in real dollars included an increase in 2002 for securing the NASA facilities from terrorist threats after the Sept. 11, 2001. attacks. What happened during this same period to the space shuttle budget? In 1994, the budget for the shuttle was $3.8 billion. It was cut each year for eight years by more than $500 million. In 1997, $200 million was moved from the "shuttle account" to the "space station account" by NASA with Congress' approval. Meanwhile, the space station budget grew to $2.4 billion and then went down to $2.1 billion. Due to NASA's many alternations in accounting during this 10-year period, it is exptemely difficult to calculate precise figures for many of these programs. The commission should get a detailed and thorough explanation on how much was spent and where the money went.

By 1996, a single prime contractor took over the shuttle operations. The "USA" on the astronauts' uniforms now stood for "United Space Alliance," a collaboration of private-sector companies. Did Congress object? Approve? Ring the alarm bells? I was a member of one of the responsible committees, and we didn't do enough.

The Gehman Commission should analyze the role of Congress in many of these important decisions. In the end, Congress may or may not be part of the problem. But it can be part of the solution.

The House and Senate space oversight committees have a historic opportunity to conduct 18 months of comprehensive oversight hearings over the remaining 108th Congress. They should produce a comprehensive and long-range report detailing general options for a pared down space station, a plan for robotic space exploration even beyond Mars, a robust replacement shuttle, a bigger and better Hubble telescope, and a vision for human space travel using nuclear propulsion technology. And they must propose an affordable and sustainable budget without sacrificing the viability of one program for the benefit of another.

This would be like the phoenix rising from earth, a testimony and living memorial to the seven Columbia astronauts. Together, their spirits and earthly remains would break "the surly bonds of earth."

THE ESTABLISHMENT OF CEDAR CREEK AND BELLE GROVE NATIONAL PARK

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WOLF. Mr. Speaker, on January 31, 2003, America opened its 388th park in the National Park Service: Cedar Creek and Belle Grove National Historical Park. The establishment of this park represents years of hard work by many dedicated individuals and institutions. I am inserting into the RECORD an editorial by Adrian O'Connor, "History at Belle Grove" which appeared in the Winchester Star on February 1, 2003. This piece outlines the unique partnership which helped create this park and the plans for its future. Following this editorial is a list of those who played a seminal role in bringing this park into existence.

HISTORY AT BELLE GROVE—NOW THERE ARE 388 NATIONAL PARKS

History was made—or, should we say, further history was made—on a chilly, muscle-tightening morning near the front steps of Belle Grove Plantation.

With a gentle snow falling, cattle contentedly lowing in a distant pasture, and a late fog rolling across the surrounding fields—the latter a historical symmetry not lost on Virginia's senior senator, Republican John W. Warner—Cedar Creek Battlefield and Belle Grove Plantation became the 388th star in the National Park Service constellation.

Observing the pristine carpet of snow around Belle Grove, Dr. Stanley Hirschberg, former president of the Cedar Creek Battlefield Foundation, likened it to a "fresh beginning" for the historic acreage and manor house near Middletown.

And so it is—a "fresh beginning" born of a partnership to preserve or, as Rep. Bob Goodlatte, R-6th, called it, "a new way to protect and preserve." On Friday, the National Park Service officially joined the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefield Foundation, and Belle Grove Plantation as caretakers of this historical gem—now known as the Cedar Creek and Belle Grove National Historical Park.

These four entities are now partners in a new-model national park, one whose very approach to land acquisition plows virgin ground in this field. Suffice it to say, at a time when rampant development is threatening the Chancellorsville battlefield park near Fredericksburg and dollars for such new endeavors are scarce in the federal budget, this is soil that needed to be furrowed in such fashion. And a steadfast combination from Virginia's congressional delegation—legislators eager to set a new and different precedent in the creation of national parks—saw that it was done.

What is new and different about this national park? For starters, the approach to acquiring land. There will be no acrimonious condemnation by the Federal government in this process; it will only purchase private property inside the 3,000-acre park when owners express a willingness to sell. Such guidelines, Mr. Warner said, need to be "replicated" across America.

"There's little money left for national parks," he said, after noting the weather and the fact that Confederate Gen. Jubal A. Early attacked the Union Army ringing Belle Grove under a similar cover of fog on Oct. 19, 1864.

"Uncle Sam doesn't have to buy every square foot of land to bring about preservation."

In addition, all three lawmakers on hand for the ceremony—Messrs. Warner and Goodlatte as well as Rep. Frank Wolf, R-10th—noted that current residents and businesses will be able to live and work within the park's boundaries, and will be free to change or renovate their property as they see fit. And, as Mr. Wolf pointed out, this will be the first national park to allow historical re-enactments—i.e. the annual Battle of Cedar Creek—within its confines.

"There will be a partnership with the community, a reaching out beyond our boundaries," said Fran Mainella, director of the National Park Service.

Significant as well is the broad historical scope of this park. Though known primarily as the site of the climactic Civil War battle in the Shenandoah Valley, Cedar Creek/Belle Grove is more than just a Civil War battlefield. Much as its current watchwords—"Back Country to Breadbasket to Battlefield and Beyond"—duly suggest, the park will embrace a wide swath of our blessed heritage. Emphasis will be placed on Native American and French and Indian War history in addition to that of the Civil War. Central to these themes will be the Belle Grove manor house designed, so local lore has it, by Thomas Jefferson.

Thus, Mr. Wolf had it right when, taking in the panoramic surroundings Friday morning, he said that "we stand on the shoulders of giants." Now, however, it is time for us, as residents of this Valley, to build on the vision of these latter-day statesmen who strove so diligently to craft a new-model national park, one of which we can all be proud.

Cedar Creek Battlefield Foundation: Suzanne Chilson, executive director; L.A. "Butch" Fravel—vice president; Joseph Whitehorne, President; Board Members: Daniel Ambrose; John Cadden—Secretary; Martin Downey; Stanley Hirschberg; Mike Kehoe; Richard Kleese; Kay Ely Pierce; Sam Riggs; and Gary Rinkerman.

Belle Grove, Inc. Trustees: The late Mr. Jay Monahan; Mr. Frederick Andreae, past president and Belle Grove Park Working Group representative; Mrs. Lilburn T. Talley, past president. Officers: Mr. Robert W. Claytor, President; Mrs. Harry F. Byrd, III, first vice president; Mrs. Charles Schutte, second vice president; Mrs. Mary Potter Robinson, immediate past president; Mr. David N. Carne, treasurer; Mrs. Kathryn Perry Werner, assistant treasurer; Mrs. David Powers, secretary; Mrs. Charles O. Davis, assistant secretary; Mr. Jay Hillerson, at-large member, Executive Committee; Mr. D. Richard Hottel, Jr., At-Large Member, Executive Committee. Members: Mrs. Frank Armstrong, III; Mr. Douglas C. Arthur; Dr. Byron Brill; Mrs. Stuart Butler; Mrs. H. Robert Edwards; Mrs. Lee Fawcett; Dr. Clarence Geier; Mr. Lawrence P. Goldschmidt; Mrs. Jeffrey Harris; Ms. Maral Kalbian; Mrs. Thomas Larsen; Mrs. William H. Leachman, III; Mr. Christopher Lewis; Mr. Ron Llewellyn; Mrs. Gilbert McKown; Dr. Thomas S. Truban. Belle Grove staff: Elizabeth McClung, executive director, Park Working Group representative; Amy Keller, administrative assistant; Jacquelyn Williamson, Museum Shop manager/buyer; Ed Presley, program coordinator; Christopher Taucci, maintenance technician. Selected Belle Grove Advisory Council and Docent Guild Members: Advisory: Mr. Malcolm Brumback; Mr. John Copeland, mayor, Middletown, VA; Mr. and Mrs. H. W. Lyon; Mrs. Eve Newman; Mrs. Gee Gee Pasquet. Docent Guild Members: Mrs. Jean Allen; Mr. Charles Davis; Mrs. Robert Dever; Mr. and Mrs. Kermit Frey; Mrs. Dolores Fridinger; Mrs. Mary Ellen Gross; Ms. Paula Hite; Mrs. Wanda Kruetzfeldt; Ms. Barbara Moss.

National Park Service (NPS): Jeffrey P. Reinbold, NPS planner; Alexander "Sandy" Rives, NPS Virginia director; Wendy L. O'Sullivan, NPS project manager; Marie G. Rust, NPS Northeast regional director; Donald T. King, NPS chief of lands, Martinsburg office; Charles F. Blouser, NPS realty speciality, Martinsburg office; Fran P. Mainella, NPS director; Denny Galvin, former NPS deputy director; Alma Ripps, NPS legislative affairs specialist; Donald J. Hellmann, NPS deputy assistant director Legislative & Congressional Affairs; Steve Griles, Department of the Interior deputy secretary; Howard G. Miller, lands coordinator & control officer; Richard Moe, president, National Trust for Historic Preservation; David Brown, executive vice president, National Trust for Historic Preservation; Paul Edmondson, vice president and general counsel, National Trust for Historic Preservation; James Vaughan, vice president, Stewardship of Historic Sites, National Trust for Historic Preservation; Robert Nieweg, director, and regional attorney, Southern Field Office National Trust for Historic Preservation; Patrick Lally, director of Congressional Affairs, National Trust for Historic Preservation; Emma Panahy, program assistant, Southern Field Office, National Trust for Historic Preservation.

Members of Congress: Senator John Warner; Senator George Allen; Rep. Bob Goodlatte; former Senator Chuck Robb, the late Rep. French Slaughter.

Shenanndoah Valley Battlefields Foundation Trustees: Patricia L. Zontine, chair of the Board of Trustees; Joseph E. Callahan; Vincent F. Callahan; Faye C. Cooper; James A. Davis; Beverly H. Fleming; Kay D. Frye; Nancy H. Hess; Susie M. Hill; Kathleen S. Kilpatrick; Richard B. Kleese; William B. Kyger, Jr.; Allen L. Louderback; John W. Mountcastle; D. Eveland Newman; David W. Powers; Alexander L. Rives; Dan C. Stickley, Jr.; Kris C. Tierney; James L. White; the late Carrington Williams.

Shenandoh Valley Battlefields National Historic District Commissioners: Daniel J. Beattie; Larry D. Bradford; John L. Heatwole; Donovan E. Hower; Richard D. Kern; Janet O. Kilby; Scot W. Marsh; Nicholas J. Nerangis; the late Eugene L. Newman; William G. O'Brien; Joseph W.A. Whitehorne; H. Alexander Wise, Jr. Staff of the Shenandoah Valley Battlefields Foundation: Howard J. Kittell; John Hutchinson, V; Nancy R. Long; Elizabeth Paradis Stern; Sherman L. Fleek.

Rep. Frank R. Wolf staff members: Daniel Scandling, chief of staff; Chris Santora, legislative assistant.

Senator John Waner staff member: Ann Loomis, legislative director.

RECOGNIZING CARRIE BOYCE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Carrie Boyce, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 472, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Carrie refurbished and painted a playground.

Mr. Speaker, I proudly ask you to join me in commending Carrie Boyce for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO THE HONORABLE DELANO PALUGHI

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to the life of the Honorable Delano Palughi, who passed away suddenly and unexpectedly last Saturday, February 22, 2003. Judge Palughi, who served with distinction on the Mobile County District Court, was a pillar of the Mobile community and a man whose character and generosity towards others will be remembered by all who were fortunate enough to know him.

Judge Palughi was deeply religious and attended mass daily, often at St. Mary's Catholic Church. His reverence for his country was strong as he opened his courtroom every morning with the Pledge of Allegiance. His dedication to his community and fellow man throughout his law practice, which he maintained for 40 years, and as Mobile County District Court Judge since his election in 1998, prompted the attendance of more than 600 family, friends, fellow judges and colleagues at the service honoring his life. Judge Palughi will be honored and remembered not only for his service to his community but for his unwillingness and inability to turn down an indigent prospective client during his many years practicing law. He represented the poor and downtrodden when others would not. The Reverend Paul Zoghby recognized Judge Palughi's kindness and humility and stated, at the service, that "If he's not there (in Heaven), I don't think the rest of us have a chance." His charitable nature will be missed amongst the legal community and the City of Mobile.

Mr. Speaker, it is my honor to pay tribute to the life of Delano Palughi. Judge Palughi's love for his wife of 33 years, Frances; his two sons, Vincent and Anthony; his brother, Peter; two grandchildren, family, friends and his church was the foundation of his compassionate and charitable manner towards clients and those who appeared before him as District Court Judge. I would like to extend my prayers and deepest sympathies to his family and friends.

CONFERENCE REPORT ON H.J. RES. 2. CONSOLIDATED APPROPRIATIONS RESOLUTION, 2003

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BASS. I have come to the floor today to compliment the Committee on an excellent job balancing all the very important programs in the Omnibus Appropriations bill and particularly the Chapter of the bill that includes the matters that relate to the jurisdiction of the VA/HUD Subcommittee. I know the spending limitations necessarily imposed on the Subcommittee do not permit the Chairman and other members to address each and every issue as fully as they would like, but nonetheless the chairman has achieved a balanced and good result. I want to extend this praise to Chairman WALSH and the other members of the subcommittee.

Earlier this year, a number of Members contacted the Subcommittee to express the view that the Veterans Health Administration be as proactive as possible to help ensure that disabled veterans have the most advanced prosthetic and sensory aids devices made available to them, as would be medically appropriate. I want to strongly associate myself with those views and in that regard, I was pleased to see that the committee approved the Administration's fiscal year 2003 budget request for $739.1 million for prosthetic and sensory aids devices providing an increase of $60.3 million over last year's level. I am also most appreciative of the report language the committee included on this subject.

One of the exciting new prosthetic and sensory aids devices known as the IBOT was invented in my home State of New Hampshire. It is a mobility device that climbs stairs, traverses all-terrain, and balances the seated user at standing eye-level. It would be my view that some portion—at least 1 percent—of the approximately 25,000 veterans with service-connected spinal cord injuries should have access to this advanced mobility device. In fact, at the request of Congress, the VHA conducted a study of this mobility device last year that concluded with the finding that "the subjects were unanimous in their recommendation that the Veterans Health Administration should provide IBOTS to veterans" and that "the IBOT could improve integration and work performance." Additionally as Secretary Principi has established a priority of "restoring the capability of disabled veterans to the extent possible" it is my expectation that such devices will be actively considered and provided to disabled veterans as medically appropriate.

It is my view and the view of Members who I have discussed this matter with the Department should aggressively pursue making this mobility device and other state of the art assistive technologies available to veterans with disabilities as medically appropriate. I should state further that it is my intention to work with the Department and with Chairman WALSH over the next year to ensure that the Department does pursue this matter appropriately.

RECOGNIZING JENNIFER BLACKWELL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jennifer Blackwell, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 511, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, one, earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; two, earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; three, earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; fourth, designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and five, spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Jennifer collected school supplies for the Community Service League.

Mr. Speaker, I proudly ask you to join me in commending Jennifer Blackwell for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

CELEBRATING THE 100TH ANNIVERSARY OF THE BOROUGH OF MOUNT PENN

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GERLACH. Mr. Speaker, I rise today to honor the Borough of Mount Penn, Pennsylvania during its 100th anniversary celebration. Mount Penn, known as the "Friendly Borough," truly lives up to its moniker.

The area lying at the foot of Mount Penn was settled in 1748; it was originally named Dengler's, after one of its most prominent citizens. With busy Philadelphia Pike running through town, Dengler's quickly became a popular suburb of nearby Reading. Some of the first businesses were carriage and wagon works to help speed travelers along the 55-mile trip between Reading and Philadelphia.

In 1902, residents of the village petitioned the courts to create their own borough. On

January 7, 1903, the petition was granted and the 500-citizen Mount Penn Borough was born. As time went on, trolley lines and paved roads running to all points around Mount Penn brought more visitors and settlers to the borough.

Today, Mount Penn has grown to around 242 acres and 3,000 residents—many of whom are third- and fourth-generation "Mountaineers." The Borough contains a thriving business district, including Leinbach's Hardware, which at 82 years old is the longest continually operated business in the borough.

Although the Borough has kept up with the times, it still retains the small-town feel that made it so appealing to travelers many years ago. In a day and age when many people do not even know their neighbors, Mount Penn is a shining example of what a community can be. I congratulate Mount Penn Borough on its one hundredth anniversary and call upon my colleagues to do the same.

TRIBUTE TO JAMES E. STEWART

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to Mr. James E. Stewart of Foley, Alabama, on the occasion of his being honored by his friends, family and colleagues on "James E. Stewart Day" in Baldwin County, Alabama.

For the past fifty years, Jim Stewart has been the anchor of the Baldwin County radio broadcast community. Beginning with the formation of Baldwin County's first radio station, WHEP, in Foley, Alabama, in 1953, Mr. Stewart has been the head of a growing broadcast family that has provided immeasurable joy and valuable information for thousands of listeners along Alabama's Gulf Coast. During his professional career, Mr. Stewart has been actively involved in the life of his community and has taken a leading role in many civic and professional organizations. Many groups including the South Baldwin Chamber of Commerce, the Alabama Council of Hospital Governing Boards, the Foley Rotary Club, and the South Baldwin Health Care Foundation have benefited from his experience, leadership and interest in promoting further growth in Baldwin County, and from his desire to ensure that his fellow residents received the best that life in South Alabama has to offer.

Moreover, Mr. Stewart has received on many occasions the most important recognition of all: the respect and admiration of his professional peers. From his service in the Alabama Radio-Television Broadcasters Association to membership on Legislative Liaison Committees of the National Association of Broadcasters, Jim Stewart has been honored for his outstanding professional and journalistic integrity and for his genuine concern for and love of his community and state.

Mr. Speaker, I don't feet there are a sufficient number of honors or awards to recognize the significant contributions Jim Stewart has made during the past five decades, nor are there enough words to express the thanks of the many people he has touched during that time. I can only express my deepest appreciation for his service to Baldwin County and to the entire State of Alabama. His many accomplishments during his life can be counted; the tremendous number of lives he has impacted cannot.

RECOGNIZING CRYTAL BANUELOS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Crystal Banuelos, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 116, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a selfdevelopment plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Crystal organized a poetry and writing appreciation program.

Mr. Speaker, I proudly ask you to join me in commending Crystal Banuelos for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

EXECUTIVE COMMITTEE OF CORRESPONDENTS WISHES A DEAR COLLEAGUE AND FRIEND, DAVID HOLMES, WELL IN HIS RETIREMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. HASTERT. Mr. Speaker, I would like to submit the following into the CONGRESSIONAL RECORD:

> The Executive Committee of Correspondents conveys its gratitude on behalf of the more than 250 publications and 1,800 reporters who benefited from your 28 years as director of the House Periodical Press Gallery.
>
> Over the decades, you have helped the gallery grow and expand, ranging from the number of reporters served to the amount of information available. You have kept the gallery and its staff up to date with the latest technology and pushed for even greater technological advances.
>
> Reporters have always found you a valuable resource. Your vast knowledge of Congressional rules and procedures will be sorely missed, as will your keen political insights and ability to steer reporters in the right direction.
>
> You have always looked out for the best interests of reporters and fought for increased access to lawmakers and events. You deserve our thanks and gratitude for getting to know the right people throughout the years so that we could do our jobs with minimum of interference.
>
> We also acknowledge your role in defending our interests in court when the need arose and for always being fair and impartial when it came to credentialing new organizations for admittance into the gallery.
>
> For all these and so many more reasons, the Executive Committee thanks you for your many years of service and wishes you and Shauna a happy, long and well-deserved retirement.
>
> Sincerely,
>
> CHERYL BOLEN
> HEIDI GLENN
> RICHARD COHEN
> TIM CURRAN
> DOUGLAS WALLER
> TERENCE SAMUEL
> LORRAINE WOELLERT

INTRODUCTION OF THE FAMILY FARM TAX SIMPLIFICATION ACT OF 2003

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. POMEROY. Mr. Speaker, I rise today to introduce the Family Farm Tax Simplification Act of 2003, legislation that will allow married co-owners of family farms to significantly reduce the amount of time it takes to prepare a correct income tax return and to provide both spouses with Social Security and Medicare coverage.

As ranking member of the Ways and Means Oversight Subcommittee, I am pleased that we held a hearing on this issue earlier in the month and that, today, we are able to quickly move forward and act to simplify the tax law. I am honored to have the Oversight Subcommittee Chairman HOUGHTON join me in cosponsoring this bill.

The National Taxpayer Advocate has reported that approximately 3,000 family farmers in North Dakota may not be eligible for Social Security and Medicare benefits because of the onerous partnership tax rules associated with preparing the return that allows both spouses to pay into the Social Security and Medicare systems. The IRS estimates that it takes the average partnership approximately 165–200 hours to prepare its return.

As a result, some family farms have chosen to file a sole proprietor return, attributing all income to, and paying self-employment taxes on, only one spouse. Unfortunately, when this occurs, the other spouse will not be covered under the Social Security and Medicare systems. Many, many hard-working couples are getting a bad deal under the current system, and they will not find out about it until it is too late.

For example, take a family farm run equally by husband and wife. If the business files a return with the husband as sole proprietor, he would be awarded Social Security disability benefits if he becomes disabled, alleviating some of the financial burden of his disability on the family. However, if the wife becomes disabled, she is unable to collect Social Security disability. By not collecting this benefit, the business is further financially disadvantaged.

Current law puts husband and wife businesses in a serious dilemma with a difficult choice under our current tax return filing rules. If they file a partnership return which is technically correct they face hundreds of hours in tax return preparation and/or very expensive charges from a tax attorney or accountant. If they file a sole proprietorship return, which is technically not correct, one of the spouses loses coverage for Social Security disability benefits, Social Security survivorship benefits, and Medicare benefits.

The IRS has been "winking" at letting couples file as a sole proprietorship since there generally is no tax liability difference between the two approaches to filing. In fact, these couples are subject to serious civil and criminal penalties for filing incorrect returns. This is just a plain, bad arrangement.

The solution is quite simple. The tax law needs to be changed to allow a couple to file a simple return with income attributed to both spouses and both spouses paying into the Social Security/Medicare system.

The Family Farm Tax Simplification Act of 2003 would allow a married couple to elect to file a joint Form 1040 tax return—through which each spouse is treated as a sole proprietor of the business, and each spouse is allocated part of the farm's business income, gain or loss. By offering this election, both spouses are able to pay self-employment taxes and, thus, can both be covered by the Social Security and Medicare systems. With very few exceptions, the proposal would not affect a couple's total income tax liability nor their total Social Security/Medicare tax contribution.

Finally, I have asked the Taxpayer Advocate to provide the Oversight Subcommittee with more information on how legislation, such as I am introducing today, might apply in the case of non-farm small businesses. I will be receiving a State-by-State analysis of such firms and a description of how the commonly-used Schedule C could be modified to simplify returns for these taxpayers. I would hope that tax simplification reforms provided in my bill could be expanded to other types of small family-owned firms.

I look forward to working with my colleagues to help family farmers receive Social Security and Medicare benefits. I hope my colleagues will join me in passing this important legislation.

DEFENSE TRANSFORMATION

HON. MAC THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. THORNBERRY. Mr. Speaker, one of the most important challenges facing our Nation is to transform the most successful military in the world so that it is better able to meet the security needs to the years ahead. I would like to submit for the record and commend to my colleagues an outstanding speech entitled, "Transforming the Defense Establishment," by Dr. Stephen A. Cambone, Department of Defense Director of Program Analysis and Evaluation, which was delivered before Bear Stearns and Company on January 27, 2003. In my view, Dr. Cambone's emphasis on changing the culture of organizations is particularly important.

As we consider the President's 2004 defense budget request, we should give careful attention to the excellent insights offered by Dr. Cambone.

In his September 1999 speech at the Citadel, then-candidate George Bush declared that, if elected, he would seize on an opportunity created by what he called a "revolution in the technology of war." As a result of that revolution, he said, power "is increasingly defined not by mass or size but by mobility and swiftness. Influence is measured in information, safety is gained in stealth, and force is projected on the long arc of precision-guided weapons. This revolution perfectly matches the strength of our country, the skill of our people, and the superiority of our technology. The best way to keep the peace," he said, "is to redefine war on our terms."

The President went on to sketch his vision of the armed forces. He said, "Our forces in the next century must be agile, lethal, readily deployable, and require a minimum of logistical support. We must be able to project our power over long distances, in days and weeks, rather than months. Our military must be able to identify targets by a variety of means, from a Marine patrol on the ground to a satellite in space, and then it must be able to destroy those targets almost instantly with an array of weapons from the submarine-launched cruise missile to mobile long-range artillery."

"Our land forces," he said, "must be lighter, our light forces must be more lethal, and all must be easier to deploy. And, these forces must be organized in smaller, more agile formations, than cumbersome divisions." "On the seas, we need to pursue promising ideas . . . to destroy targets from great distances." "In the air, we must be able to strike from across the world with pinpoint accuracy with long-range aircraft and perhaps with unmanned systems." "In space, we must be able to protect our network of satellites essential to our flow of commerce and defense of our country."

As a way of underscoring his determination to bring about the transformation of the military forces of the United States, the President reminded the audience of another time of what he called "rapid change and momentous choices." "In the late 1930s, as Britain refused to adapt to the new realities of war, Winston Churchill observed, 'The era of procrastination, of half-measures, of soothing and baffling expedience, of delays, is coming to a close. In its place we are entering a period of consequences.' "

Well, that period of consequences arrived here in this city just two years later, on September 11, 2001. The remainder of this talk will focus on how we have answered the call laid down by the President during his candidacy. Let me sum them up: He asked us to do three things. He asked us to assure the well-being of the men and women in uniform and the civilians who work for the Department. He asked us to provide the means to them to defeat today's threats. He asked us to take on the transformation of the defense establishment to meet the challenges of the future. Before I take on each in turn, that is to say, what we've done for our people, how we've met today's challenges, and what we are doing for the future, let me take a moment to tell you what we think transformation is, and what it is not.

What it is, we think, is a continuing effort over time. It is not a static objective in time. So, if you are looking to judge this transformational process or the progress that we have made, and you try to pin it to a certain place in a certain time and use a static measure, you will be disappointed and probably mislead yourself and others.

Secondly, it is a change in culture. A change in culture that is reflected in what we do, how we do it, and the means we choose to accomplish our objectives. I can't stress enough the importance of the change in culture that comes with the transformation. Those of you who have watched various companies merge and come apart over the last decade or so will understand just how important changes in culture are to a transformational effort.

It's also about balancing risk. We have identified risk in four categories. The first area of risk has to do, not surprisingly, with our people. Are we keeping them in proper trim, as it were? Do they have the means to do their training: are they able to see their families: do they live in decent housing? Second, are we able to conduct operations today at a minimum of risk not, mind you, without risk, but at a minimum of risk, by assuring that our people are well positioned, well led, and have the proper means to conduct operations? Third, have we made the investments that are necessary to prepare for the future? and lastly, our business practices: have we gone any way toward reforming them? It is our belief that those four categories of risk need to be properly balanced. We cannot over-invest in any one and expect to succeed in all.

Now, let me say a word about what we think transformation is not. It is not change for its own sake. Nor is it measured as a success or a failure on the basis of programs that have been cancelled, programs that have been completed, or programs that have begun. It is easy to keep score that way, and we will, in a few minutes, talk about some of the programs that we have cancelled and programs that we have begun. But, again, that is not a very good scorecard of the progress of this transformational effort.

I call you back again to what transformation is. It's about culture, about what we do, how we do it, and the means we choose to accomplish those objectives. If you were going to develop a checklist to measure transformation, I offer you the following set of points. There are seven, and I'll give them to you in fairly quick order.

The first would be to look at the guidance that we have given both to our civilian and military personnel. Some of that guidance is available to you, for example, in the form of the National Security Strategy that has been published by the White House and the

Quadrennial Defense Review that was published by the Department of Defense. Others are not available to you—except when they're leaked to the newspapers—for example:

The Nuclear Posture Review, which reconfigured our nuclear forces, and allowed the President to take the steps to reduce the size of our nuclear offensive arsenal and to incorporate into our future strategic force conventional weapons as well as nuclear weapons. The Contingency Planning Guidance, which is given to our combatant commanders and signed out by the President, and which directs combatant commanders to prepare plans for contingencies now and into the future that reflect the tenets of the strategy that was laid down in the National Security Strategy and the Quadrennial Defense Review. But guidance is fine going back to my point about culture, however: Are we changing the culture? It is often changed by changes in organizations. And I have to tell you, we have changed organizations quite extensively within the Department. We have done so with the aim of enabling what we call joint operations, i.e., the ability of our land, sea, air, and space forces to be combined under the control of a single combatant commander and used in ways that are most appropriate to achieving the objectives of the campaign that he has laid out.

We have changed the structure of our commands: We have added a combatant command for the United States called Northern Command. It "stood up" just recently. We have merged our Space Command and the old Strategic Command into a new command designed to make use of the new instruments of strategic power. We have changed the mission of our Special Operations Command. We have undertaken changes to our organization in the office of the Secretary of Defense. The Army, the Navy, the Air Force—each of them has restructured their staffs and their functions.

Third, I said we were interested in joint operations. Well, it turns out the Department of Defense does not have a joint concept to guide the conduct of joint operations. What we have are concepts that have been generated by each of the services about how they would prefer to fight. We have, however, no overarching concept for the employment of the joint force. So we have, indeed, set about that task. I would expect by springtime, probably early summer, that we will, indeed, have a joint operational concept that will begin to frame for our services how they ought to go about the task they have under Title X—to man, train, and equip the armed forces of the United States.

But the services—the fourth point of the seven—have not been lagging behind. If, for example, you look at what the Navy is proposing, what the Army is proposing, what the Air Force and the Marines are proposing, you will see their effort to begin transforming their own service and to make it friendly to the joint operational environment. But it's not enough to say we want to fight joint, we have to train joint, so we have taken steps to put in place a substantial amount of funding to enable joint training, and we will do it for the most part in a virtual environment, but this will be an enormous step in the direction toward joint operations.

What about our investments? Investment is made up of a combination of RDT&E—research, development, test and evaluation—coupled to what we procure. We will talk in a few minutes about that investment, but I do believe that, if you look at it, you will begin to notice that it is favoring the enabling of joint warfare. So, as we look through our choices during the course of our just-completed program review, we constantly came back to the same question: What will this investment do for joint warfighting?

Lastly, processes and practices within the Department of Defense. Under Secretary Wynne and Dr. Zakheim, both of whom have spoken to you, and others are working very hard to alter the manner in which we do our business. This will be the most transforming thing the Department of Defense can do. We can spend a great deal of time on any of these seven points, but let me ask you to bear in mind a summary point that arises out of them: Because we do not know who our adversaries may be either in the near term or the long term; or how they may choose to fight; but because we do know that modern technology is available to our adversaries or potential adversaries, as readily as it is available to us; and because we know that as a democratic society we are vulnerable to attack: We decided to pursue our strategy for transformation in a way that would provide our combatant commanders with what we are calling a portfolio of capabilities. We have tried to avoid the point solution to any particular problem. We are looking to equip them with a portfolio of capabilities with which that combatant commander can conduct joint operations. The reason I mention this to you is that, as you begin to review the budget programs and think your way through what that means, you've got to keep coming back to the question: Has the Department chosen the right set of capabilities to support joint operations?

Next, let me outline what those capabilities and joint operations are intended to provide. Let me tick off a list of six points for you that we think are the appropriate characteristics by which to measure these capabilities. First, does it permit the force to rapidly transition from its steady state peacetime garrison its training its presence mission does it allow it to transition rapidly into combat operations? Second, do we have a set of capabilities that will provide timely and wide-ranging effects applied to targets throughout the full depth—the full depth—of an adversary's battle space? Third, can we apply those effects to both fixed and mobile targets? Fixed targets are a delight; they sort of stay right where you always thought they were. It's the ones that move around that vex us all, and it's very, very difficult trying to track and attack those targets. Fourth, does it provide us the kind of persistent surveillance we're going to need especially for the purposes of tracking mobile targets.

Let me digress here for a moment. The difficulties we see in the efforts to gain intelligence is a function of how hard it is to gain that intelligence. If one has only a periodic view of events, it is difficult to collect and stitch that information together. To the extent that we are able to provide a persistent level of surveillance for our combatant commanders, they will be able to make their plans with a great deal more knowledge and information than they have today. We must continue to dominate the air, we need to learn how to operate from sea bases, and we need to improve our ground maneuverability. Fifth, the above capabilities need to allow us, as well, to hold at risk an adversary's command and control network as well as his weapons of mass destruction. Sixth and last, but not least by any means, they are capabilities that we must have in order to be able to force any fight in which we find ourselves to a rapid conclusion.

That concludes the top-level chapeau of what we're trying to do and why. Let me turn to our program proposals. I'll begin with the most important resource that we have, which is our people. We have, since 2001, made a substantial effort to increase the pay and benefits of our troops. We have, in fact, gone farther than others might have thought. We have gone to a targeted pay raise for our senior enlisted and mid-career officers to ensure that we keep the talent that we need and develop the skill sets that a military 10 and 15 years from now is going to require. We have also managed to reduce to near-elimination within two years the kinds of out-of-pocket expenses that our personnel have to pay for their housing when they live on the economy. In terms of housing on bases, we will have eliminated most of (the substandard) housing by 2007, and we will have privatized a lot of that housing, particularly with respect to the Navy and Army. And, as I said, we have gone a long way toward providing the kind of joint, national training that we think our people are going to need in the years to come.

In addition to our people, we need a firm foundation, a solid foundation, in what we call our operations and support activities and in the infrastructure that is part of the Defense establishment. Toward that end, we have included in the proposal that we sent to the President, and that he will send on to Capitol Hill, a great deal of additional monies over this program period designed to support our operations and maintenance budgets. We did this for a very good and sound reason. Over the years, what has happened is that funds for operations and maintenance, the daily upkeep of the force, has been systematically underfunded. The consequence of systematically underfunding it has been that, in the event, in any given year, when those bills begin to mount, the services went looking for dollars. Where that money came from traditionally has been out of the investment account, that is, out of procurement and out of RDT&E. What we are looking to do is to stabilize the investment programs by funding the O&M accounts. That is a principled approach to what we are trying to do. So, the hope is that over time, those investments will be more stable than they have been in the past.

Investments. With respect to the investments, as I said, we have both RDT&E and procurement in the account. That account is up substantially, on average, over what was in the plan that we found when we arrived at the beginning of 2001. What is interesting about it is that, proportionally, we have increased the RDT&E accounts a bit more than we have the procurement accounts. There's a reason for that. One is that it signifies a certain leaning by the Department toward reducing the risks of having inappropriate forces and equipment in future years.

It also reflects an approach toward funding some of our near-term efforts, particularly with respect to the Navy, which will fund the first ship of four new classes of ships that it intends to begin during the course of this program. It will fund that first ship of each class out of its RDT&E accounts because in fact those ships are, indeed, experimental, from the point of view of the Navy. The services, in trying to meet the demands of transformation, have made some important decisions about shifting their resources. You will discover, for example, when looking at the

Army's accounts, that: It will have moved roughly $20 billion out of programs it might have funded in its '02 program into different accounts. It has, since 2002, terminated 24 systems, and it has reduced or restructured another 24. It has done so for two reasons: first, in order to be able to fund its highest priority for modernization.

Second, at the same time, the Army, over this coming program period, will shift something on the order of $13–14 billion into the development of its Future Combat System. That is, indeed, its transformational system. The Navy, from the period of 2002 until the end of this program period: will have retired 36 ships. Some of those ships could have been modernized. Service life extension programs could have been conducted for those ships. The Navy decided to retire them, take the savings, and invest those savings into a number of new classes of ships. Those ship classes include a new littoral combat ship, a new cruiser, a new destroyer, a new helicopter-deck ship, and a new prepositioning ship, and it includes resources shifted to a new design for the next generation of aircraft carrier. The Air Force, for its part, has moved something on the order of $20 billion in its budget. It has retired a number of older aircraft, it has done some internal consolidations of its squadrons. It has funded its highest priorities which are its readiness and people and, importantly, it has made commitments to a number of programs which I will discuss in a moment.

So, there is a great deal of work going on inside the Department in terms of reallocating resources. It's not simply a matter of having been afforded more money by Congress, but rather, we have taken steps to move dollars inside the accounts in the Department. Now, when we're done, what we think, is that that capabilities package that I talked about will enable us to better perform what we think are six of the most important operational goals for our force. Let me give them to you: First, we have to defend what we call our bases of operation, that is to say, the United States, our people, our forces abroad, and our allies. We have to protect them not only against the kinds of attacks that occurred two years ago in New York and at the Pentagon, but also against missile strikes and other forms of offensive operations. We have to be able to project and sustain our forces abroad. Recalling the President's words, we need to be able to move quickly in order to bring the fight to a quick conclusion. Third, we need to be able to deny sanctuary to our adversary. This is where the issue of persistent surveillance, for example, comes into play. If we're trying to find terrorists hiding in remote places, we have to have the ability to essentially sit on top of them and their activities and watch them and follow them as they go about their business. But having done that, we have to be able to attack an adversary no matter where they are and no matter how deep inside the land mass they may be or where they might be on the oceans or in the air. Fourth; we have got to enhance our space capabilities. We are highly dependent upon space for both commercial and defense needs, and we will have made a substantial investment in enhancing those capabilities. Fifth, we need to do what is necessary to leverage our information advantage. Last, we need to ensure that the information on the network is secure.

So, in making our investment set, let me tick off for you some of those which have probably gotten your attention for a variety of reasons. The first is missile defense. The President committed to bringing about a missile defense for the United States. We have invested quite heavily in the RDT&E program for missile defense. The President has decided that, beginning in 2004, we will begin to deploy a small number of interceptors inside a test bed arrangement that we have developed for the testing of our land-based missile defense capabilities. Those interceptors will give us a modest capability against a small number of long-range ballistic missile warheads launched at the United States. That test bed is located on land, so the President has asked us as well to see if we couldn't put some missile defense interceptors aboard ship by about the 2004 time frame as well, and we have committed to doing so.

We have made a very large investment in transformational communications. What do I mean by that? It has three parts. We are committed to the development of a laser-based communications satellite, which will allow us to communicate by light via space. Today, we do it by radio-frequency waves, both from ground to satellite and from satellite to satellite. What we hope to be able to do is to do that by light. Essentially, we hope to move fiber optics into space. We have, as well, made a very large investment in expanding what we call our global information grid which is, itself, a fiber-optic net, which will be expanded substantially. We have made major investments in command, control, communications, and computing systems. We have made a similar investment in assuring the information net will work within that transformational communications system.

In order to gain the persistence that I have talked about, we have made investments in systems like Global Hawk, which is an unmanned drone aircraft that is loaded with sensors. You have read, I'm sure, of the exploits of Predator, a much smaller drone that has been used extensively in Afghanistan. But we have also invested in a space-based system, which is a radar. The idea is that, if we are able, around 2012, to put up a constellation of satellites, these radar satellites would enable us to have the kind of persistent surveillance that I talked about a few moments ago. If you take the information that is available on the space-based radar and other surveillance assets and imagine moving them through a system that I described that is essentially a fiber-optics system, you can understand how fast we can move that information, how much information we can move, and the fact that we can move it and deliver it in formats that are useful to the receivers. If we can do that, and we believe we can, we will be able to see, hear, talk, act, and assess much more rapidly than any adversary we could encounter. If we can do that, in near-real time, we will have achieved what many might want to call information superiority.

Shipbuilding. Let me take a moment there. We have committed to about seven ships a year if we can do it. That will enable us to stabilize the shipbuilding base over the course of the FYDP, but we also have made a major decision with respect to the Navy's follow-on aircraft carrier, called CVN–21. The Navy has taken many of the improvements that would have been included in a ship that they had believed would begin building in FY2011 and has moved many of those technologies and changes in the organization and internal structure of the ship and its equipment sets back to the carrier that is slated to begin construction in FY2007. With respect to combat air forces, we have studiously gone about the business of attempting to create competition for the missions in this area. As you know, we have the F–22, the F/A–18. They are the main aircraft in production. The Joint Strike Fighter is intended to follow on toward the end of this decade, but in addition, we have made investments to improve our capabilities with respect to unmanned combat aerial vehicles (UCAVs), unmanned aerial vehicles like Global Hawk and Predator, and their successors. We have made an investment in a national aerospace initiative which will stress hypersonic missile technology which will allow us to move at very rapid speed. As the principal proponent of that program likes to say, "Speed kills." You can imagine that hitting a target at 7 or 8 Mach will do real damage to that target. Lastly, we have tried to look at whether or not we can revive a conventional ballistic missile capability which would, as the President said, allow us to strike around the world at a moment's notice with pinpoint accuracy.

The Army, for its part, is deep into its transformational effort in keeping with the President's words about being more lethal and quicker to move and not taking so long to build up. The Army is attempting to do so with its objective force and its so-called "Future Combat System." They are hopeful to come in this Spring with their proposals on how they intend to proceed with this program, and as I said a moment ago, they have invested near to $14 billion over the FYDP for that program. Those are some of the highlights of the investment strategy, and let me just tick off for you some of those changes. When we started in 2001 on this process of transforming our capabilities, we didn't have a missile defense capability; by 2004, we hope to have a limited capability. We were using conventional radio-frequency waves for our satellite communications; we hope to move to laser-based communications. We didn't have a space-based radar program; we do now, and we hope we can deploy it by 2012. We had no submarines that could launch large numbers of conventional cruise missiles. Well, we've taken four submarines out of the strategic force, took the nuclear weapons off them, and we intend to put conventional cruise missiles on them and use them as strike platforms well into the next decades. I've already mentioned the carriers. We will have a CVN–21 beginning in FY–07. The surface fleet was aging. It will shrink a bit in the coming years, only to begin to increase its numbers as we go into the 2006–7–8 time frame. We will have four new ship classes. We merged the tactical air programs of the Navy and the Air Force. I've mentioned the family of UAVs and the UCAVS, and I've mentioned the housing and the facilities improvements. So, let me conclude. We are a nation at war; we do not know how long it will last, but it is unlikely to be short. We cannot know where all of its battles will be fought. There are multiple fronts in this war, and there is no single theater of operations. We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will be both conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret, where our victories will be known to only a few. For the Department of Defense, it means that we now plan and fight today's battles even as we prepare for that longer campaign. In light of this, let me remind you of how the President assesses his 1999 speech at the Citadel. Two years later, in December of 2001, he returned to the Citadel and said the following: "The need for military transformation was clear before the conflict in Afghanistan and before September 11. At the Citadel in 1999, I spoke of keeping the peace by redefining war on our terms. We have," he said, "a sense of urgency about this task, the need to build this future force while fighting the present war is an urgent need." And then he said, "It's like overhauling an engine when you're going 80 miles an hour, but we have no other choice." So, mindful of the urgency to transform, as the President expressed in his Citadel speech a year ago, I can say that we will press this war to its conclusion. But even as we do, we will plan and prepare for the future when that war is won, and the world itself has been transformed. Thank you very much.

RECOGNITION FOR THE ACHIEVEMENTS OF THE WE THE PEOPLE PARTICIPANTS FROM SOUTH DAKOTA

HON. WILLIAM J. JANKLOW

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. JANKLOW. Mr. Speaker, I would like, today, to recognize the following high school class in Marion, South Dakota.

On April 26, 2003, more than 1200 students from across the United States will visit Washington, D.C. to compete in the national finals of the We the People: The Citizen and the Constitution program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Marion High School from Marion will represent the state of South Dakota in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The three-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Independent studies by the Educational Testing Service (ETS) revealed that students enrolled in the We the People program at upper elementary, middle, and high school levels "significantly outperformed comparison students on every topic of the tests taken." Another study by Richard Brody at Stanford University discovered that students involved in the We the People program develop greater commitment to democratic principles and values than do students using traditional textbooks and approaches. Researchers at the Council for Basic Education noted, *"[T]eachers feel excited and renewed. . . . Students are enthusiastic about what they have been able to accomplish, especially in terms of their ability to carry out a reasoned argument. They have become energized about their place as citizens of the United States.*

The class from Marion High School is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the We the People national finals.

RECOGNIZING SARAH AMBRIZ

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Sarah Ambriz, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1381, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Sarah organized a music clinic for elementary school children.

Mr. Speaker, I proudly ask you to join me in commending Sarah Ambriz for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO IRVING L. DILLIARD

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to honor the life and achievements of Irving L. Dilliard.

A resident of my hometown of Collinsville, IL, Irving passed from this life on October 9th from complications of leukemia. An accomplished writer, editor, and well-known authority on the Constitution and the Supreme Court, Irving wrote more than 10,000 editorials and many books. Irving also wrote about those people who didn't often make headlines; he used his talent to bring attention to various injustices throughout the world.

Irving attended Collinsville High School and was a 1927 graduate of the University of Illinois. While attending the U of I, he was initiated into the Gamma chapter of Alpha Kappa Lamba fraternity. Irving continued his dedication to the fraternity by serving as AKL National President from 1936–38. Irving eventually went on to become one of the first Nieman Fellows at Harvard University, a year-long graduate program for journalists.

Irving became a reporter at the St. Louis Post-Dispatch in the late 1920s. Soon after joining the newspaper staff, Irving wrote a pamphlet on the 1787 Constitutional Convention entitled, "Building the Constitution", which was then distributed to schools for free and saw 850,000 copies in print.

Irving joined the war effort in 1943 by enlisting in the Army to serve in World War II. He earned the rank of Lieutenant Colonel and served as a psychological warfare specialist on Gen. Dwight D. Eisenhower's staff. He was also an editorial adviser for the European edition of Stars and Stripes during the war.

Following the war, Irving rejoined the Post-Dispatch, this time as an editorial writer. He worked his way up to editorial page editor by 1949. During his years at the newspaper, Irving was known as an expert on the Supreme Court and Constitution. Irving eventually retired from the Post-Dispatch in 1960. However, his career in journalism did not end at this time; Irving went on to teach that subject for 10 years at Princeton University.

Following his years as an educator, he continued to serve his state and country by serving as the first director of the Illinois Department of Aging. As late as 1995, Irving was still working for the people, this time as an Illinois delegate to the White House Conference on Aging.

Irving held many honors throughout his long career. He was president of the Illinois State

Historical Society, the Illinois State Historical Library, and the Society of Professional Journalists. He was elected to the Board of Trustees of the University of Illinois in 1960—receiving more than 2 million votes statewide. Irving also remained loyal to his hometown of Collinsville by holding a seat on the Collinsville Library Board for 52 years; 23 of those years he served as president.

Irving Dilliard was the epitome of a great American citizen. He was a dedicated servant to his community, state, and nation and will be greatly missed.

TRIBUTE TO LUIS MUÑOZ MARÍN

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. ACEVEDO-VILÁ. Mr. Speaker, last week Puerto Ricans celebrated the birthday of one of our greatest and most beloved leaders: Luis Muñoz Marín. Today I want to honor Muñoz Marín's memory and recognize his contribution to democracy and progress in Puerto Rico and the Americas.

Muñoz was the architect of Puerto Rico's commonwealth status and the promoter of an economic revolution that transformed Puerto Rican society. Muñoz was a true champion of liberalism and democracy and had absolute confidence in the capacity of Puerto Ricans to govern themselves. Muñoz dedicated his life to strengthen our democracy and to promote the best of our culture. His vision translated into the "Estado Libre Asociado" (or Commonwealth), which allowed Puerto Ricans to approve their own constitution and achieve a high degree of self-government in association with the United States.

Muñoz understood that social justice was the basis of true prosperity and thus he made social justice the cornerstone of the Popular Democratic Party, which he founded in 1938.

Muñoz worked closely with several Presidents, including Presidents Roosevelt, Eisenhower and Kennedy, and was a key player in the implementation of U.S. foreign policy in Latin America. He was a proud United States citizen, but was also very proud of his Puerto Rican nationhood.

Twice in about a decade, Time Magazine graced its cover with Muñoz Marín's portrait. Muñoz Marín will always be remembered for his contributions to promote democracy and social justice in the Americas. Muñoz died in 1980, but his legacy is very much alive. Today, as a new generation of leaders lays the foundations for a further enhancement of the commonwealth status, let's all remember and honor Luis Muñoz Marín.

RECOGNIZING SHAUNA BRYANT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Shauna Bryant, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1815, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and; 5. spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Shauna updated a refurbished girl's locker room.

Mr. Speaker, I proudly ask you to join me in commending Shauna Bryant for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

JULIE DASH—DIRECTOR'S GUILD AWARD NOMINATION, THE ROSA PARKS STORY

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Ms. WATSON. Mr. Speaker, I rise today to share my pride over the nomination of Ms. Julie Dash for a prestigious Director's Guild Award for her work on The Rosa Parks Story. She was nominated in the category of Outstanding Directorial Achievement in Movies for Television for 2002. The winners will be announced at the 55th Annual DGA Awards Dinner on Saturday, March 1, 2003 at The Century Plaza Hotel in Los Angeles. Ms. Dash is the only female nominated in this category this year.

The Rosa Parks Story stars Angela Bassett, Cicily Tyson and Dexter Scott King, the son of Dr. Martin Luther King, Jr. The film brings to life the peaceful dissent an exhausted Rosa Parks showed on a crowded Montgomery, Alabama bus in 1955, and the Civil Rights Movement that ensued. The movie originally aired on television on February 24, 2002.

It seems appropriate that Ms. Dash would be nominated for this award during Black History Month. African American actors, directors and others in the industry are hard-pressed to find meaningful, quality projects. Given these challenges, I am even more proud of Ms. Dash's achievement today.

Ms. Dash's own story of success is also very inspiring. She was born and raised in New York City, and in 1992 became the first African American woman to have her film, Daughters of the Dust, receive a full-length theatrical release. In 1994 Ms. Dash was chosen as one of the 100 Fearless Women by Mirabella magazine.

She has received numerous awards, including The Sojourner Truth Award from the New York Chapter of the Links, the Maya Deren Award from the American Film Institute, a Candace Award from the National Coalition of 100 Black Women, and the prestigious John Simon Guggenheim Memorial Foundation Fellowship.

I was honored to host a congressional screening of the film, The Rosa Parks Story, last year prior to the film's television debut. I had the good fortune then of meeting Ms. Dash, along with Ms. Cicily Tyson, Ms. Angela Bassett, and many others who were instrumental in the success of this movie.

This film has held meaning and significance for me personally, and it brings me great joy to see Ms. Dash's work recognized by the Director's Guild of America. I wish her the best at the awards ceremony on March 1st!

HONORING EARL F. BROWN, JR.

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. WILSON of South Carolina. Mr. Speaker, Earl F. Brown, Jr. has been a true leader in South Carolina for decades, with a long history of service to his community and country. I want to commend him for his tireless work and take a look at his history.

From 1973 to 2001, Mr. Brown was employed with the South Carolina Human Affairs Commission, SCHAC. While at SCHAC he served as Executive Assistant to the Commissioner for External Affairs, Director for Community Relations and Director of Compliance and Investigations.

A native of Jacksonville, Florida, Mr. Brown was educated in the public schools of Duval County. He was accepted at Savannah State College on a basketball scholarship and played the point guard position on the 1952 Southeastern Athletic Conference Championship Team. After completion of the Bachelor of Science in Political Science, he was drafted in the U.S. Army and served as a military aide to Brigadier General Frank F. Bowen, Jr. He received an Honorable Discharge in 1956.

Upon leaving the military in 1956, he joined the staff of the Afro-American Insurance Company in Jacksonville, Florida as an Insurance Counselor. Mr. Brown began his community activities as a volunteer in 1957 with the local NAACP as its Public Relations/Chairman of the Voters Registration Drive for Duvall County and later served on the statewide voter registration team. He served as a community organizer and community leader for eight years in the struggle for equality and employment.

In 1964, he enrolled in Benedict College in Columbia, South Carolina and received an A.B. Degree in Social Science and Psychology in 1966.

Mr. Brown's career as a public servant took flight when in 1966, he assumed the position as a public school teacher at W.A. Perry Junior High School. In 1967, he was offered a position as Probation Officer and Counselor for the Richland County Family Court System. In April 1969, he was awarded a Ford Foundation Scholarship to study at the Duke University Institute of Developmental Administration and Management System. In 1971, he completed Harvard University's Institute of Educational Management program. In 1977, he received a MCJ Degree from the University of South Carolina with a concentration in "Court Administration".

Mr. Brown is a 1987 graduate of Leadership Columbia, a graduate of the Governor's Leadership School of South Carolina in 1988, a 1996 graduate of the Executive Institute, and a Certified Labor Arbitrator by the South Carolina Labor Department.

Earl Brown's professional and civic activities as well as his awards and honors are numerous and have included: Life Member of Kappa Alpha Psi Fraternity, Inc.; Chairman of the Board of Commissioners—Richland County Airport; President, Capital Senior Center, Inc.; Southern Regional Vice President-National Association of Human Rights Workers; Chairman of Cooperative Ministries of the Midlands (SC); Vice-President of The Brookland Foundation; Chairman of Board of Directors-Central Midlands (SC) Councils of Government; President of Richland/Lexington (SC) Chapter State Employees Association; Chairman of American Red Cross Blood Service, Board of Directors for South Carolina Region; Chairman of Columbia Housing Development Corporation, Inc.; President of College of Criminal Justice Alumni Association, University of South Carolina; Member of United Way of Midlands (SC); Member of Richland County School District 1 (SC) Education Advisory Committee; Member of American Arbitration Association; Outstanding Citizen Award from the National Council of Negro Women (1980); President's Award for Outstanding Service to Savannah State College (1980); The Southeastern Providence Achievement Award 1971 "Man of the Year"; Elected to "Who's Who in America" 15th Edition (1975); and President's Award for Outstanding Services and Leadership to the American Red Cross Blood Services for the South Carolina Region (1995).

Mr. Brown is a member of Brookland Baptist Church in West Columbia, South Carolina. He is the father of two children, Kim and Felton.

I ask my colleagues to join me in thanking Mr. Brown for setting an example for reaching out to a community in need, and working to make the lives of those around him better. He is an inspiration to South Carolina and the Nation.

INTRODUCING LEGISLATION TO BUILD A NEW BRIDGE NEAR FOLSOM DAM

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. OSE. Mr. Speaker, in the 1950s a new artery opened that has helped alleviate traffic in the booming Sacramento region for close to half a century: the Folsom Dam Road.

Built to provide both flood protection and water reserves, a road also runs across the top of the Folsom Dam, thus providing better access to the growing communities in Sacramento, Placer, and El Dorado Counties.

In recent years I have often argued that the growth in the region demands a new, bigger bridge to handle the more than 18,000 commuters who traveled across the dam each day.

In addition to the congestion on the narrow dam road, I argued that in the wake of the September 11 attacks, providing an alternative to traffic became a security risk as well. With the dam so close to Sacramento, the access to the dam was a tempting target to terrorists who might want to attack my hometown and community. Security was increased at the dam—the only facility in the nation with a public road running across it besides the Hoover Dam, and the only one adjacent to a heavily populated area. But many of us still had concerns.

Last week, the Department of the Interior through the Bureau of Reclamation—which runs the dam—came to the same conclusion: allowing traffic on the dam is too dangerous. Last Thursday they announced the closure of the dam road to all vehicle and foot traffic, effective this Friday, February 28, 2003. Said a spokesman for the bureau, "In order to protect the facility and the 900,000 people below it, we have decided to take this step."

Unfortunately, there is still no new bridge to provide an alternative to the tens of thousands in the region who used the bridge as their avenue through the area. Those of us who live and commute in the area have less than a week to adjust our patterns.

Last year, my colleague Representative JOHN DOOLITTE and I introduced legislation to build a new bridge. This bill passed the House Resources Committee. Today, Representative DOOLITTLE and I reintroduce this language with even greater necessity. The Bureau of Reclamation unilaterally decided to close the road. But they provided no alternative. They have assured me that they support an effort to provide an alternative and restore a method for crossing the region in the form of this new bridge. Chairman POMBO has already indicated that he will give this bill its proper consideration.

I urge my colleagues in the House to join me in supporting the effort to provide a safe and secure way for all those traveling in the Sacramento region—home to an international port, airport and two interstate highways—to continue to cross through this beautiful and productive region by passing this legislation and building a bridge to replace the Folsom Dam Road.

RECOGNIZING MARY JO ELWELL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Mary Jo Elwell, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 3248, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement Attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Mary Jo organized and ran a T-Ball program.

Mr. Speaker, I proudly ask you to join me in commending Mary Jo Ewell for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO DR. VELMA LAWS-CLAY FOR HER SERVICE TO THE CITIZENS OF GREATER BATTLE CREEK

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Dr. Velma Laws-Clay as Scene Magazine's Woman of the Year.

I am pleased to pay tribute to a woman whose vision, intellect and commitment to community service has made her one of Battle Creek, Michigan's best known and most respected citizens. Whether working quietly behind the scenes or out front leading the charge, Velma's positive attitude and strength of conviction serve as an inspiration to all who know her.

Velma has been described as the consummate community volunteer; giving generously of her time, talent and resources. She serves on numerous boards and committees including NorthPointe Woods, the Art Center of Battle creek, and the Battle Creek Community Foundation, where she became the first African-American to serve as Board Chairman. One of her more prominent roles was serving as chairman of the year-long sojourner Truth 200th Anniversary Celebration and the Sojourner Truth Monument dedication, events which paid tribute to the historic legacy of one of Battle Creek's most famous citizens.

As her affiliation with the Art Center might suggest, Velma has a passion for the arts. It is this passion, along with her knowledge and admiration of her cultural heritage that led her, along with her sister Vivian, to assemble a vast private collection of African American art and artifacts. The collection, known as the "Journey to Freedom", encompasses over 300 pieces, ranging from prints and drawings to mixed media and sculptures. It provides individuals the opportunity to experience and learn about the history of African Americans through the eyes and works of the artists.

Velma has been the recipient of many well-deserved accolades. In 2001 she was named Alumnus of the Year by Kellogg Community College and received an Alumni Achievement Award from Western Michigan University. She was also recognized as a George Award winner for her outstanding service to the community, and most recently, was presented with the prestigious Athena Award by the Battle Creek Area Chamber of Commerce.

Those who know and have worked with Velma state that her energy is contagious. She is a positive, motivating force that inspires the best in others. Through her actions and deeds, Velma serves not only as a strong community leader and visionary, but also as a tremendous role model for others in the community.

I am honored to recognize Dr. Velma Laws-Clay for her passionate devotion to promoting and improving the community in which she lives and for truly exemplifying service above self. I join with the citizens of Battle Creek in congratulating her on being named Scene Magazine's Woman of the Year.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 27, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 4

2:30 a.m.
Veterans' Affairs
To hold hearings to examine the nominations of Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, and John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.
SR–418

9:30 a.m.
Armed Services
To hold closed briefings on current military operations.
SR–222

Foreign Relations
To hold hearings to examine a new way to aid the Millennium Challenge Account.
SD–419

Judiciary
To hold hearings to examine the war against terrorism, focusing protecting America.
SD–106

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the federal government's initiatives regarding the school breakfast and lunch programs.
SH–216

Banking, Housing, and Urban Affairs
To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Department of Housing and Urban Development.
SD–538

Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on financial conditions of the electricity market.
SD–366

Appropriations
Military Construction Subcommittee
To hold hearings on the proposed budget estimates for fiscal year 2004 for military construction.
SD–138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for the fiscal year 2004 for military construction programs.
SD–138

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 164, to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement, S. 328, to designate Catoctin Mountain Park in the States of Maryland as the "Catoctin Mountain National Recreation Area", S. 347, to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and S. 425, to revise the boundary of the Wind Cage National Park in the Sate of South Dakota.
SD–366

MARCH 5

9:30 a.m.
Judiciary
To hold hearings to examine pending nominations.
SD–226

10 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 2004 for operations intelligence.
S–407 Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine the Army Corps of Engineers and Bureau of Reclamation Hearing.
SD–124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2004 for the Army Corps of Engineers and Bureau of Reclamation energy and water development programs.
SD–124

2 p.m.
Judiciary
To hold hearings to examine the asbestos litigation crisis.
SH–216

3 p.m.
Foreign Relations
To hold hearings to examine the Tax Convention with the United Kingdom and Protocols amending Tax Conventions with Australia and Mexico.
SD–419

MARCH 6

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.
SD–106

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine the Workforce Investment Act.
SD–430

Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on energy use in the transportation sector.
SD–366

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, the Blinded Veterans Association, and the Non-Commissioned Officers Association.
345 Cannon Building

MARCH 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, hydrogen, and conservation, focusing on federal programs for energy efficiency and conservation.
SD–366

MARCH 12

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars.

345 Cannon Building

MARCH 13

9:30 a.m.

Armed Services

To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.

SH–216

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Federal Transit Administration.

SD–538

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reserve Association, and the Air Force Sergeants Association.

345 Cannon Building

MARCH 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.

345 Cannon Building

MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

HOUSE OF REPRESENTATIVES—*Thursday, February 27, 2003*

The House met at 1 p.m.

The Chaplain. the Reverend Daniel P. Coughlin. offered the following prayer:

Eternal Father of all. You teach by touching human hearts. which is far beyond simply changing minds or forming new language.

By converting deepest desires. You shape priorities of true concern and focus attention on lasting ideas that have penetrating consequences.

Your presence in our midst is manifested by marvelous deeds which consume debatable words.

Send now Your spirit upon the Members of the House of Representatives. that they may see beyond present dilemmas and know in their hearts what is the right course for our future as a Nation in this world community. Remove the clouds of fear and confusion. Instead. by Your spirit guide all to right judgment.

And may Your people discover an inner freedom which confirms their decisions and provides a joy in serving You. now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1. rule I. the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America. and to the Republic for which it stands. one nation under God. indivisible. with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans. one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER. One-minute requests will be at the end of business today.

HUMAN CLONING PROHIBITION ACT OF 2003

Mrs. MYRICK. Mr. Speaker. by direction of the Committee on Rules. I call up House Resolution 105 and ask for its immediate consideration.

The Clerk read the resolution. as follows:

H. RES. 105

Resolved. That at any time after the adoption of this resolution the Speaker may. pursuant to clause 2(b) of rule XVIII. declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 534) to amend title 18. United States Code. to prohibit human cloning. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report. may be offered only by a Member designated in the report. shall be considered as read. shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. and shall not be subject to amendment. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SWEENEY). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker. for the purpose of debate only. I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN). pending which I yield myself such time as I may consume. During consideration of this resolution. all time yielded is for the purpose of debate only.

On Wednesday. the Committee on Rules met and granted a structured rule for H.R. 534. the Human Cloning Prohibition Act. As an original cosponsor of this legislation. I am very pleased to see it is one of the first top priorities of the House of Representatives.

Mr. Speaker. this is a fair rule which will permit a thorough discussion of all of the relevant issues. The first of these issues is the Greenwood substitute which allows human cloning for medical purposes.

I personally oppose the Greenwood amendment because it is wrong to create human embryo farms. even for scientific research.

Research cloning would contradict the most fundamental principle of medical ethics. that no human life should be exploited or extinguished for the benefit of another. Anything other than a total ban on human cloning would be virtually impossible to enforce.

I understand there is no way to control actual implementation of these fetuses into a woman's uterus. so cloning of children could still happen.

The Justice Department submitted testimony explaining that once countless human embryos are created by cloning. there would be no practical way to enforce the prohibition on transferring such embryos into wombs.

The Committee on Rules. though. recognizes that the gentleman from Pennsylvania's proposal is the leading alternative to the ban on cloning. And because we are aiming for a fair and thorough debate. we should make it in order on the House floor.

Human cloning is a deeply troubling issue to me and to most Americans. Life is a creation. not a commodity.

I also agreed with President Bush when he said that science has set before us, decisions of immense consequence. We can pursue medical research with a clear sense of moral purpose. or we can travel without an ethical compass into a world we could live to regret.

Science now presses forward with this issue of human cloning. How we answer the issue of human cloning will place us on one path or the other.

I spent a lot of time considering this issue because it is so complex. and I have decided to once again vote to ban human cloning. It is simply wrong to clone human beings.

It is wrong to create fully-grown. tailor-made cloned babies. and it is wrong to clone human embryos to experiment on and destroy them. Anything other than a ban on human cloning would license the most ghoulish and dangerous enterprise in human history. Some of us can still remember how the world was repulsed during and after World War II by the experiments conducted by the Nazis during the war. How is this different?

Congress must act now. We can no longer wait for another biotech company to claim that they have produced cloned children. despite the fact that laboratory cloning of animals has led to spontaneous abortions and terrible. terrible abnormalities.

Congress will not face a weightier issue than the ethics of human cloning, and Congress should not run away from this problem. It is our job to address such pressing moral dilemmas, and it is our job to do so in a deliberative way. That is what we will do today.

To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank the gentlewoman from North Carolina for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, let me begin by making clear that I believe human cloning is morally and ethically wrong. Every Member of this body is opposed to cloning a human being, and the American people are unified in their opposition to human cloning. Unfortunately, this debate is not about making it illegal to clone a human being; rather, it is about outlawing cutting-edge research that could one day save and improve lives.

The bill we are considering today, the so-called Human Cloning Prohibition Act of 2003, will jail scientists for conducting therapeutic research. This bill, if enacted, will close the door to important research that one day could result in treatments or cures for such diseases as Parkinson's, Alzheimer's, and diabetes. If a drug or treatment for diseases like Alzheimer's or Parkinson's is developed in another country using therapeutic cloning, that treatment will not be available to patients in the United States. Think about it. This bill would actually deny Americans treatments for debilitating diseases. That strikes me as not only wrong, but cruel.

It is important to make clear that we are not debating whether or not Federal funds can be used for stem cell research. The President made that decision in 2001. Based on that decision, a private company can conduct stem cell research if it uses its own funds, or companies can conduct stem cell research with Federal funds if they follow very strict guidelines. While this bill does not deal with this issue, it is important to note that stem cells are at the heart of the therapeutic cloning debate.

Stem cells were only discovered in 1998. The promises for treatments and cures from stem cell research may not be realized for 15 to 20 years, but the gains will be enormous. The research of today will result in the cures of tomorrow.

Now, today, scientists say therapeutic cloning is the best way to produce the stem cells that could lead to breakthrough discoveries. Through stem cell research, scientists might one day help a person with a spinal cord injury walk again. How can this body ban this promising endeavor to end human suffering?

Scientists are so important to this debate. They are the experts, and this body should listen when they speak.

In 1863, President Abraham Lincoln created the National Academy of Sciences so that a group of scientists could advise Congress and the administration on the complex scientific issues facing our country. Mr. Speaker, 140 years later, the party of Lincoln brings before this body legislation that ignores the findings or recommendations of this respected group of scientists.

The academy, in a February 2002 report, declared that therapeutic cloning has scientific potential and should be allowed to continue. Additionally, the National Institutes of Health and 40 Nobel Laureates attest the value of this important research.

Former President Gerald Ford, a Republican, and former President Jimmy Carter, a Democrat, also publicly support this research.

So does former First Lady Nancy Reagan. Her husband, former President Ronald Reagan, suffers from Alzheimer's disease. This research may hold the key to treating or even curing that disease. But if this bill is endorsed today, it would deny the Reagans and millions of other families any benefit from this research. Mrs. Reagan's views should be heard by this body, and I will read her letter of support into the RECORD, a letter she sent to the other Chamber. I want to read it so that my colleagues can hear her eloquent words.

□ 1315

She writes, "As you may know, Ronnie will observe his 92nd birthday soon. In earlier times, we would have been able to celebrate that day with great joy and wonderful memories of our life together. Now, while I can draw strength from these memories, I do it alone, as Ronnie struggles in a world unknown to me or the scientists who devote their life to Alzheimer's research. Because of this, I am determined to do what I can to save other families from this pain. I am writing, therefore, to offer my support for stem cell research and to tell you I'm in favor of new legislation to allow the ethical use of therapeutic cloning.

"Like you, I support a complete ban on reproductive cloning. However, I believe that embryonic stem cell research under appropriate guidelines may provide our scientists with many answers that are now beyond our grasp. There are so many diseases that can be cured, or at least helped, that we cannot turn our back on this. We have lost so much time already. I cannot bear to lose any more. Sincerely, Nancy."

Mr. Speaker, I could not have said it better than Mrs. Reagan. Mrs. Reagan makes a powerful moral argument that we should not put up a roadblock to close this promising avenue of research.

We talk a lot about morality in this body. For the life of me, I cannot see how it is moral to look into the eyes of someone suffering from Alzheimer's or Parkinson's and say, we are going to stand in the way of something that has the potential to save your life, or to tell them that even if a breakthrough treatment is available in Europe or elsewhere, they are not allowed to have it.

This debate is about improving and saving millions of lives in this country. It is about whether we should jail scientists who are trying to save the lives of people who suffer from such debilitating diseases as Alzheimer's, Parkinson's, diabetes, and so many other diseases.

Let us do the right thing: Vote for the Greenwood substitute, and if that fails, vote against the Weldon bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2¼ minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise today in strong support of H.R. 534 and the rule for the Human Cloning Prohibition Act of 2003. I thank the gentleman from Florida for his principled leadership on this issue.

The history of cloning is replete with defects, deformity, and death. Dolly the sheep was the 277th try. By now, everyone knows of the euthanized death of Dolly. She died on Valentine's Day a couple of weeks ago at the age of 6, half the normal life expectancy for sheep.

Alan Coleman, a Singapore-based scientist who helped clone Dolly, said, "I think it highlights more than ever the foolishness of those who want to legalize human cloning. In the case of humans, it would be scandalous to go ahead, given our knowledge about the long-term effects of cloning."

If cloning is not safe for animals, how can it be good for humans? President Reagan said in 1983 that every legislator, every doctor, every citizen, needs to recognize that the real issue is whether to affirm and protect the sanctity of all human life or whether to embrace an ethic where some human lives are valued and others are not. As a Nation we must choose between the sanctity-of-life ethic and the quality-of-life ethic.

If we allow the therapeutic cloning of human embryos for experimentation, we will devalue the entire system of ethics of this country. We will have endorsed the idea that it is okay to treat human life like a commodity.

I am not willing to make that choice. I am not willing to say that we should create a class of human beings to be used as human guinea pigs and laboratory rats. We have seen that happen before in Nazi Germany with experiments on concentration camp victims, and in Tuskegee, Alabama, where our own U.S. Government experimented on African Americans, infecting them with syphilis in search of a cure.

We find these stories morally abhorrent. But what will history say about us if we fail to learn the lessons of the past and if we knowingly do the same thing to tiny little humans again?

The Greenwood substitute would allow the creation of cloned human embryos as long as the embryo is destroyed within 14 days and never implanted in the womb. Even that phony restriction is lifted within 10 years of enactment. It will result in the creation of a human embryo.

We need to stop playing word games and admit that serious issues are at stake here. This vote will determine whether we as a Nation will affirm the dignity of human life or reject it. Support the Weldon-Stupak bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this bill is part of a broader, tragic political agenda to stymie good science with scare tactics. It fails totally to distinguish between cloning or reproducing human beings—a frightful prospect that all of us reject—and therapeutic cloning, which someday could save the lives of millions.

The therapeutic form, the transplanting of a patient's DNA into an unfertilized egg in order to grow stem cells, could cure devastating diseases. The promise of this technology would be that the patient's body accepts the cells from transplantation without immuno-suppressant drugs. These cells are not transplanted into a woman's womb. In what is deliberate overreaching, this bill bans somatic cell nuclear transfer, which produces only stem cells, not babies.

First, we Americans were told to use duct tape to seal up our rooms. Now, with this bill, the Republican leadership places duct tape over the microscopes of dedicated medical scientists who are leading the effort to find the cures for diabetes, Alzheimer's, ALS, Parkinson's, cancer, spinal cord injuries and cystic fibrosis.

At a time when we are alarmed daily by the possibility of biological attacks from afar, this bill represents a very real and present biological attack on the victims of these tragic diseases, diseases that strike Americans down in a nonpartisan manner. They deserve a nonpartisan solution.

For most parents, it is traumatic enough to take a child to the hospital for a tonsillectomy or a broken bone. How cruel that for lingering diseases that can slowly drain the happiness, the energy, and the life from a child, one of the best hopes for treatment that we have would be completely denied by this bill.

I think of the Austin mother who wrote to me about her diabetic five-year-old. She told of her baby who suffered through 4 to 8 insulin shots a day. Now, as a toddler, she undergoes 10 to 15 pricks a day to test her blood sugar. Her mom wrote: "Our daughter is a lively girl who is optimistic by nature. We would like to see this horrible disease cured before her optimism fades."

Let us not put politics over life-saving science. The restrictions in this bill are truly unprecedented. It bans private as well as public research. It says even to the victim of disease, "if you go abroad," where medical science will certainly move if this tragic bill is adopted, "you are not only getting treatment, you are getting a jail term, because you are a criminal under this bill for seeking a cure or treatment for your disease."

Restrictive federal regulations already deny sufficient stem cell lines to conduct essential research. This bill does more than tie the hands of our best scientists: it steals precious time that victims do not have; it robs them of hope; it is, for too many, a death sentence.

Those innocent victims are not criminals; this bill is. Do not make Americans choose between health and their homeland. Vote to end suffering. Vote for hope. Vote "no."

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise today in support of the Human Cloning Prohibition Act of 2003, H.R. 534, reintroduced by the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Michigan (Mr. STUPAK). The issue here is human cloning. The issue has to do with us playing God and allowing human embryos to be produced.

Make no mistake about it, we are compassionate Americans. We care about pain and suffering, we care about curing diseases; but at the cost of creating human life, human embryos?

There is a claim that cancer, diabetes, and other diseases will be cured. I would go as far as to say in the medical community, with safeguards against terrorists, we can identify biological weapons. In my district sits one of the finest anthrax labs in the world that can already identify these types of dangerous pathogens. We do not need human cloning to identify those signatures that exist within those pathogens.

As researchers develop artificial wombs, if you are voting for the Greenwood substitute, after 10 years it would allow scientists the legal protection to harvest embryos and to grow human fetuses. It is essential that, whether for research or reproduction, we not allow people to create human life.

Join me in voting in favor of final passage of the Weldon-Stupak bill.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the rule and to the underlying bill. No one in Congress supports cloning a human being, but we cannot afford to block research into important scientific areas that may have critical medical benefits to American citizens.

The millions who are currently suffering from diseases that have no cures, Parkinson's, cancer, Alzheimer's, diabetes, spinal cord injuries, and their families, these millions are desperately hoping that new medical research can provide them relief.

The best hope for many of these people may lie with research into somatic cell nuclear transfer or therapeutic cloning. This process may allow doctors and scientists to duplicate human stem cells to create medical therapies for diseases, therapies that will not be rejected by patients' bodies. This research and these therapies do not require or result in a cloned human being; but the bill before us would ban that research and take away hope for millions of Americans, just because of fear of the unknown.

We can increase understanding of the science involved here and at the same time provide protections against its untoward use. Congress should take its time and consider these issues. We should ban human cloning, as we have, and allow research to go forward. We should set the ethical parameters for scientific research. That is our job, set these parameters which will lead to saving lives and restoring health.

On behalf of those millions who suffer and wait and hope, I urge my colleagues to vote against the Weldon bill and to vote for the Greenwood amendment.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of the rule. In doing so, I would like to bring to light one of the most dangerous consequences of voting for human cloning, both reproductive and therapeutic. That is the exploitation of women.

Women of lower economic means are particular targets for exploitation. Advanced Cell Technologies paid $3,500 to $4,000 to each woman who donated their eggs for the failed human cloning experiments. Because of the many risks associated with this procedure, it will mostly be women of little means who will volunteer to sell their eggs.

In order to generate enough cloned embryos to carry out this research, thousands of eggs will need to be solicited from numerous women. It takes about 50 eggs to get one viable cloned embryo. Just to treat the 16 million Parkinson's patients, it is estimated that 800 million human eggs would be needed from a minimum of 80 million women of childbearing age.

I implore my colleagues to vote for the health and well-being of women. Please vote for the rule and for the Weldon-Stupak bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BELL).

Mr. BELL. Mr. Speaker, I rise today in opposition to H.R. 534 and in support of the bipartisan substitute.

I lost my mother in 1999, but really I lost her twice. The first time was when she was suffering from a cruel, mind-altering disease that has afflicted millions of American families, a disease known as Parkinson's. For my mom, each of the 10 years she spent fighting Parkinson's disease was a little more difficult than the one before, until finally her body just could not fight anymore.

After losing my mother that way, I will do all I can to help find a cure for diseases like Parkinson's. There are tens of millions of Americans that feel the same way because of someone they have lost in their lives, because fighting for a cure is the right thing to do.

I do not know how I am going to explain to my constituents that my colleagues in the House decided not to allow scientists to use the vast technology at our disposal to cure their mother's Parkinson's disease or their grandmother's Alzheimer's or their husband's diabetes, because that is exactly what stem cell research and therapeutic cloning are going to do: cure disease and save lives.

□ 1330

Stem cell research is no different than the discovery of penicillin or the invention of the Hart pump or the vaccine for polio. It is simply the next step in modern medicine. When it comes down to it, American families will be the victims of H.R. 534. The price of this bill will be the lives of children, grandchildren, the mothers and fathers that each of us cherishes, all who we were able, but not willing, to save. And why?

We all oppose human cloning. That is not the issue. That is not what I am talking about. Let us be perfectly clear. Therapeutic cloning is in no way, shape or form the same as human cloning. I oppose human cloning as do most Members of this House. But we are not talking about simply a ban on human cloning, but a ban on therapeutic cloning as well, a process where there is no fertilization, no implantation, no pregnancy and no chance for a child to be produced whatsoever.

Under the proposed bill, therapeutic cloning would be banned and a research process that takes place in a petri dish would be criminalized. A process that provides hope, and someday a cure for millions of Americans, would be criminalized.

So for the millions of us who are all too familiar with the pain and suffering brought on by diseases like Parkinson's, Alzheimer's, and diabetes, for those of us who pray every night that a cure can be found, my distinguished colleagues on both sides of the aisle should vote against H.R. 534 and support the bipartisan substitute.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I rise today to express my strong support for the Weldon-Stupak Human Cloning Prohibition Act. The passage of this bill is of utmost urgency as scientists in this country and around the world are making dangerous advances towards the creation of a cloned human being.

The science of human cloning may be difficult to explain and to understand to those of us who are not scientists, but its immorality is not without question. You do not have to be a scientist to know this is wrong. Whether produced for the intention of human reproduction or for the purpose of medical research, the fact remains the same: human cloning is simply wrong. It invariably requires the creation and killing of numerous human lives in the effort to produce either cloned cells for the purpose of research or cloned human beings.

Numerous ethical questions arise. Who, for example, would be the parents of a cloned human being? What rights would they have? And what about the potential to create human-animal hybrids through the transferring of human nuclear material into animal eggs? If we open the door to human cloning, these ethical problems will be unavoidable. Additionally, cloning cheapens all human life by making it a commodity, an object to tinker with, to alter, to change to a scientist's preset specifications. Manipulating the genetic outcomes of human reproduction render certain people desirable and others not. How then will society view these people determined less desirable? Are they of less human value?

In fact, if we do not enact a ban on human cloning, these situations I have described are just a few of the scenarios we will face in the near future. As one of the Nation's leading bioethicists, Dr. Leon Kass, has said, "We are compelled to decide nothing less than whether human procreation is going to remain human, whether children are going to be made to order rather than begotten, and whether we wish to say yes in principle to the road that leads to the dehumanized hell of 'Brave New World.'"

The American people have spoken loud and clear on their view on this issue, as has the scientific community, our President, and this body of Congress last year. The national consensus is evident. Human cloning for any reason, whether for research or reproduction, should be prohibited.

Please join me in voting "yes" on the Weldon-Stupak bill and "no" on the Greenwood substitute.

NATIONAL RIGHT TO LIFE
COMMITTEE, INC.,
February 10, 2003.

Congress Resumes Action on Human Cloning Legislation this Week, As Supporters of Cloning Human Embryos Try to Fool Lawmakers, Journalists, and the Public with Deceptive "Egg-Speak"

INTRODUCTION

Congress is renewing consideration of whether to ban all human cloning, as a number of other major nations have already done. On Wednesday, February 12, the House Judiciary Committee will act on the Weldon-Stupak bill (H.R. 534). This bill, which is backed by President Bush, would ban the creation of human embryos by cloning. In the Senate, the same policy is embodied in the Brownback-Landrieu bill (S. 245).

Those who favor cloning human embryos are proposing competing legislation that would allow the mass cloning of human embryos to be killed in research, but attempt to ban implantation of such an embryo in a womb. In the House, we expect that this "clone and kill" approach will be advanced by Rep. Jim Greeenwood (R–Pa.), who offered such a proposal in 2001. In the Senate, a cloning-embryos-for-research bill has been introduced by Senator Orrin Hatch (R–Utah), Dianne Feinstein (D–Ca.), and others as S. 303.

In recent days, a number of news outlets have transmitted inaccurate reports about what these competing bills would each allow and forbid—reports that obscure what the argument is really about. These points of confusion are discussed in more detail below.

PRESIDENT BUSH'S POSITION

President Bush has repeatedly called on Congress to ban all human cloning (i.e., to ban the cloning of human embryos). In remarks on January 22, the President said, "I also urge the Congress to ban all human cloning. We must not create life to destroy life. Human beings are not research material to be used in a cruel and reckless experiment." In his January 28 State of the Union speech, the President said, "Because no human life should be started or ended as the object of an experiment. I ask you to set a high standard for humanity, and pass a law against all human cloning." In a speech on human cloning last year, President Bush warned that unless such legislation is enacted, human "embryo farms" will be established in the United States. (See www.whitehouse.gov/news/releases/2002/04/print/2002410–4.html)

THE SITUATION IN CONGRESS

The House Judiciary Committee is scheduled to mark up the Weldon-Stupak bill (H.R. 534) on Wednesday, February 12, at 10:15 a.m., at 2141 Rayburn House Office Building. Once the committee completes its work, the full House could take up the bill at any time. H.R. 534 is nearly identical to the measure that passed the House on July 31, 2001, by lopsided bipartisan vote of 265–162 (roll call no. 304). When the House considered the issue on that occasion, it decisively rejected (249–178) a substitute amendment, the Greenwood-Deutsch Amendment, that would have allowed the cloning of human embryos for research (roll call no. 302)

The Senate companion to the Weldon-Stupak bill, the Brownback-Landrieu bill (S. 245), currently has 26 cosponsors. A radically different measure, the Hatch-Feinstein bill

(S. 303), has only eight cosponsors, but it has considerable additional support, mostly among Senate Democrats.

The Brownback-Landrieu bill has been referred to the Committee on Health, Education, Labor, and Pensions (HELP), which is chaired by Senator Judd Gregg (R-NH), who was a cosponsor of the bill in the 107th Congress. The Hatch-Feinstein bill has been referred to the Senate Judiciary Committee, which Hatch chairs. Whatever happens in these committees, the full Senate ultimately will vote on both of these diametrically conflicting approaches.

The recently selected Senate Majority Leader, Bill Frist (R-Tn.), said in a January 12 interview on Fox News Sunday, "I am opposed to any time that you create an embryo itself with the purpose being destruction, and that would include the so-called research cloning. And remember, research cloning is just that, it's experimental. There's been no demonstrated benefit of that to date, so I don't think you ought to destroy life. . ."

The key differences between the two bills are discussed below. In many recent news media reports on human cloning issues, the differences have been mischaracterized, and the specific activities that each bill would allow and prohibit have been widely misunderstood.

MISCONCEPTIONS AND FACTS

Misconception: The Brownback-Landrieu/Weldon-Stupak legislation prohibits cloning of human "cells," while the Hatch-Feinstein bill would allow cloning of "cells."

Reality: The Brownback-Landrieu bill (S. 245) and the Weldon-Stupak bill (H.R. 534)—like their predecessors in the 107th Congress—explicitly allow "the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans." [Sec. 2 of the bill, at (d) in H.R. 534 and at (e) in S. 245; boldface added for emphasis] Thus, the methods currently used to "clone" new skin, for example, or to "clone" DNA, are perfectly okay under the Brownback-Landrieu bill. Moreover, any cloning method that would produce stem cells without first producing and killing a human embryo—as some researchers have claimed that they eventually will be able to do—is explicitly permitted by this language. In addition, the Brownback-Landrieu and Weldon-Stupak bills place no restrictions on research of any kind on human ova ("eggs").

In short, the Brownback/Weldon legislation and the Hatch-Feinstein legislation are alike in that they would both permit cloning involving merely eggs, cells, or tissues, but they differ on one profound issue: The Hatch-Feinstein/Greenwood proposals would allow the use of the somatic cell nuclear transfer (SCNT) process to clone human embryos, and the Brownback/Weldon legislation would forbid the use of SCNT to clone human embryos.

Verbiage by supporters of "research cloning" about "eggs" and "cells" is intended to conceal what the argument is really about: whether it should be permitted to clone human embryos.

Misconception: So-called "therapeutic cloning" does not involve creating human embryos.

Fact: That SCNT using human genetic material will create a developing embryo of the species Homo sapiens is something that authorities on all sides agreed on until sometime in 2001, when some of the pro-cloning forces decided to try to obscure this fact for political purposes. Among those who clearly affirmed that SCNT will create human embryos were the bioethics panels of both Presidents Clinton and Bush, the embryo research panel at NIH, and the chief cloning researchers at Advanced Cell Technology in Massachusetts. Some samples of such statements, which pre-date the current disinformation campaign, are posted here: www.nrlc.org/Killing Embryos/factsheetembryo.html.

The cite just one example here, a group of scientists, ethicists, and biotechnology executives advocating so-called "therapeutic cloning" and use of human embryos for research—Arthur Caplan of the University of Pennsylvania, Lee Silver of Princeton University, Ronald Green of Dartmouth University, and Michael West, Robert Lanza, and Jose Cibelli of Advanced Cell Technology—wrote in the December 27, 2000 issue of the Journal of the American Medical Association, "CRNT [cell replacement through nuclear transfer, another term for "therapeutic cloning"] requires the deliberate creation and disaggregation of a human embryo." They also wrote, ". . . because therapeutic cloning requires the creation and disaggregation ex utero of blastocyst stage embryos, this technique raises complex ethical questions."

In its 2002 report on human cloning, the President's Council on Bioethics, although divided on policy recommendations, provided without dissent recommendations regarding the use of honest terminology in this crucial public policy debate, including acknowledging that successful SCNT will create human embryos. The Council said, "The product of 'SCNT' is not only an embryo; it is also a clone, genetically virtually identical to the individual that was the source of the transferred nucleus, hence an embryonic clone of the donor."

The Council recommended use of the terms "cloning for biomedical research" and "cloning to produce children" to distinguish between two of the purposes for which human embryos might be cloned. ("Cloning for research" and "cloning for birth" convey pretty much the same thing.) The Council's discussion on accurate and neutral terminology is here: www.bioethics.gov/cloningreport/terminology.html.

The phrase "reproductive cloning" is misleading, because whenever somatic cell nuclear transfer produces a developing embryo, "reproduction" has occurred. The term "therapeutic cloning" is misleading, because no therapies have been demonstrated using cloned embryos (even in animals, as discussed below), and the process is certainly not "therapeutic" for the human embryo who is dissected—which is what the argument is about.

Misconception: The Hatch-Feinstein bill would allow research only on "unfertilized eggs up to 14 days."

Reality: As can be confirmed by reference to any biology text or even any decent dictionary, a human ovum or "egg" is, by definition, a single cell. Moreover, it is a very unusual cell—a gamete cell, which means it has only 23 chromosomes. An ovum has no sex.

As discussed above, once one has a complete nucleus from any species that is activated (whether by sexual fertilization or by asexual somatic cell nuclear transfer, SCNT) and developing, then one has a developing embryo of that species (sheep, cow, Homo sapiens, etc). There is no such thing in biology or in any dictionary as a human "egg" or "egg cell" that has 46 chromosomes, is either male or female, and is five days old (consisting of several hundred cells) or even 14 days old (consisting of thousands of cells). In short, calling a five-day-old or a two-week-old human embryo an "egg" is an attempt to deceive the public regarding what the policy argument is really about. We submit that this is not an effort in which responsible journalists should enlist.

The actual text of the Hatch-Feinstein bill coins the term "unfertilized blastocyst." But "blastocyst" is simply a technical term for an embryo at an early stage of development. As for "unfertilized," this is just another word trick aimed at the gullible. Of course human embryos produced by cloning will be "unfertilized," because that is what cloning is: asexual reproduction—no sperm. Every cloned mammal in the world was unfertilized from the one-celled embryo stage, and every one of them will be unfertilized on the day they die. If a human embryo created by cloning instead of fertilization is implanted in a womb, is born, and lives to be eighty, she will still be unfertilized.

Misconception: The Hatch-Feinstein bill is a compromise that would accomplish what almost everyone agrees on, banning "reproductive cloning."

Reality: Far from representing "common ground," the Hatch-Feinstein bill represents a policy disfavored by most Americans and strongly opposed by the Bush Administration. It will not become law. But that does not bother many of its backers, such as the biotechnology industry lobby, because the primary purpose of the Hatch-Feinstein bill is to impede enactment of the real ban on human cloning, by providing political cover for lawmakers who favor allowing the creation of human embryos for research.

Notwithstanding the marketing efforts of the biotechnology industry lobby and its allies, the Hatch-Feinstein bill or the Greenwood amendment would enact a policy that is far from a consensus position—indeed, a policy that the substantial majority of Americans oppose. A Gallup poll in May 2002 found that 61 percent of the American people opposed "cloning of human embryos for use in medical research" (34 percent approved), which is precisely what the Hatch-Feinstein bill is crafted to allow and indeed encourage. In other polls, substantially higher numbers are opposed when it is explained that the human embryos will die in the research.

The Hatch-Feinstein bill is not a partial solution or a middle ground. Rather, it is a step in the wrong direction. The Hatch-Feinstein bill would give a green light to the establishment of human embryo farms.

The "clone and kill" approach has already been emphatically rejected by the Bush Administration and by the House of Representatives (in 2001). Secretary of Health and Human Services Tommy Thompson last year sent a letter to Senator Brownback warning that such a bill would face a presidential veto. Thompson wrote, "The President does not believe that 'reproductive' and 'research cloning should be treated differently, given that they both require the creation, exploitation, and destruction of human embryos . . . the Administration could not support any measure that purported to ban 'reproductive' cloning while authorizing research cloning, and I would recommend to the President that he veto such a bill." (See www.nrlc.org/Killing Embryos/ThompsontoBrownback.pdf).

The Hatch-Feinstein bill would give federal law enforcement agencies responsibility for trying to enforce a ban on implanting a cloned embryo in a womb—an approach that the Justice Department in 2002 rejected as unworkable. The Department explained that once large numbers of cloned human embryos are created, there is no practical way to prevent some of them from being implanted in wombs, and no remedy to apply after that occurs. The testimony is posted here: www.nrlc.org/killing embryos/Justice Dept on cloning.pdf.

Misconception: The Hatch-Feinstein bill would "ban human cloning" or "ban the cloning of human beings."

Reality: The Hatch-Feinstein bill does not ban "human cloning." It bans implanting a cloned human embryo "into a uterus or the functional equivalent of a uterus" (the latter term is not defined), an act to which criminal penalties are attached. It also attempts to impose a rule against allowing a cloned human embryo (a so-called "unfertilized blastocyst") to develop past 14 days of age (not counting time frozen). Violations of this "14-day rule" are subject to a civil fine of up to $250,000, and there is nothing in the bill to prevent the threat of such a fine from being applied even against a woman who carries an unborn cloned human in utero, perhaps in an attempt to compel her to procure an abortion.

It other words, the bill bans not "human cloning," but the survival of human clones, which is a very different thing.

Any bill that permits cloning (somatic cell nuclear transfer) with human nuclei does not "ban human cloning," because such a bill allows the cloning of embryos of the species Homo sapiens, and an embryo of the species Homo sapiens is human (just as the cloned embryo that was later born as Dolly the sheep, the first cloned mammal, was always a member of the species Ovis aries).

As to whether a cloned human embryo is to be regarded as a "human being," we would think that journalists would want to avoid blatantly taking sides on that question. A statement that the Hatch-Feinstein bill "bans the cloning of human beings" is certainly taking sides on the issue, because it amounts to a declaration that a two-week-old embryo of the species Homo sapiens is not a "human being." (if not, what species of being is it?)

It appears that President Bush is among those who recognize cloned human embryos as human beings: in his January 22 statement, the President said, "I also urge the Congress to ban all human cloning. We must not create life to destroy life. Human beings are not research material to be used in a cruel and reckless experiment." [emphasis added]

The National Right to Life Committee believes that if a cloned human being is born, she should have the same status as other humans—but Senator Hatch and some others apparently are not so sure. In a press release dated February 5, 2002, Senator Hatch said, "No doubt somewhere, some—such as the Raelians—are trying to make a name for themselves and are busy trying to apply the techniques that gave us Dolly the Sheep to human beings. Frankly, I am not sure that human being would even be the correct term for such an individual heretofore unknown in nature."

As Slate.com columnist Will Saletan commented ("Killing Eve," December 31, 2002, http://slate.msn.com/id/2076199/), "The first cloned baby—Eve or whoever comes after her—won't be fertilized. If fertilization is a prerequisite to humanity, as Hatch and Feinstein suggest, that baby will never be human. You can press the pillow over her face and walk away." (See also: www.nrlc.org/killing embryos/arecloneshuman.html).

Misconception: Those who favor cloning for research would never allow clones to develop past two weeks of age.

Reality: While the Hatch-Feinstein bill purports to establish a two-week "deadline" for killing human clones, there are substantial reasons to doubt that the biotechnology industry would support such a limitation in a bill it actually expected to become law. Already, some policymakers are opening the door to "fetus farming" with human clones.

For example, the New Jersey legislature appears close to giving final approval to a bill that would permit cloned humans to be grown through any stage of fetal development, even to birth, to obtain tissues for transplantation, as long as they are not kept alive past the "newborn" stage. (SB 1909, as amended) Four members of the President's Council on Bioethics wrote to Gov. James McGreevey to warn about the bill's radical implications. (See www.nationalreview.com/document/document020303c.asp).

Last year, researchers reported harvesting tissue from cloned cows at six and eight weeks of fetal development, and from cloned mice at the newborn stage. Both studies were widely reported by the news media as breakthroughs for so-called "therapeutic cloning." Indeed, so far these are the only two animal studies that have claimed to show "therapeutic" results from cloning.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the rule and H.R. 534, the Weldon-Stupak Human Cloning Prohibition Act.

Mr. Speaker, it has been 2 years since we had the Raelian cult before my committee, the Committee on Energy and Commerce. We warned people back then it was not a question of if cloning would take place. It was a question of when. The Raelians have proven us right.

Whether or not they can actually clone a human is besides the point. The point is under current Federal law they can clone a human. We need to stop this manipulation of human life, and we need to stop it now. We cannot allow the Greenwood substitute that does allow the cloning of embryos, yet merely outlaws the implantation. We need to send the strongest possible message that cloning in any form is unacceptable.

The Weldon-Stupak bill is the only bill that does this. We cannot afford to treat the issue of human embryo cloning lightly, nor can we treat it without serious debate and deliberation.

The need for action is clear. Research firms, Advance Cell Technology of Massachusetts for one, have already begun cloning embryos for research purposes. Whatever your belief is, pro-life or pro-choice, the fact is embryos are either the building block of life or human life itself. We must ask ourselves what will our message be? What makes up human beings? What is the human spirit? What moves us? What separates us from animals? That is what is being debated here today.

What message will the United States Congress send? Will it be a cynical signal that human embryo cloning and destruction is okay, acceptable, even to be encouraged all in the name of science, or will it be a message urging caution and care? If we allow this research to go forward unchecked, what will be next? Allowing parents to choose what color hair and eyes their baby will have?

We need to consider all aspects of cloning and not just what the researchers tell us is good. Opposition to our bill has based its objections on arguments that we will stifle research, discourage free thinking, put science back in the dark ages. The Weldon-Stupak bill does nothing of the sort. It allows animal cloning. It allows tissue cloning. It allows current stem cell research being done on existing embryos. It allows DNA cloning. How is this stifling research? The fact is: there is no research being done on cloned human embryos, so how can we stifle it?

And do you know why there is no research being done? Because the scientists, the same ones that are coming to our offices, banging on our doors, begging to be allowed to experiment with human embryos, they do not even know how. They have experimented for years with cloned animal embryos with very limited success. These scientists who are pushing so hard to be allowed a free pass for research on what constitutes the very essence of what it is to be human do not know what goes wrong with cloned animal embryos. And the horror stories are too many to mention here of deformed mice and deformed sheep developing from cloned embryos.

A prominent researcher working for the bioresearch companies has admitted scientists do not know how or what happens in cloned embryos allowing these deformities. In fact, he calls the procedure when an egg reprograms DNA "magic."

Magic? That is hardly a comforting, hard-hitting scientific term, but it is accurate. It is magic. Opponents of the bill have said embryonic research is the Holy Grail of science and holds the key to untold medical wonders. I say to these opponents, show me your miracles. Show me the wondrous advances done on animal embryonic cloning. But these opponents cannot show me these advances because they do not exist.

Our ability to delve into the mysteries of life grows exponentially. All fields of science fuse to enhance our ability to go where we have never gone before.

The question is simply: Just because we can do something, does that mean we should do it? What is a better path to take, one of haste and a rush to benefits that are at best years away into the future, entrusting cloned human embryos to scientists who do not know what they are doing with cloned animal embryos? Or is it one urging caution, urging a step back, further deliberation?

The human race is not open to experimentation at any level, even the molecular level. Has the 20th century not shown us of this folly?

Holy Grail? Magic? How about the human soul? Scientists and medical researchers cannot find it, cannot medically explain it, but writers write about it. Songwriters sing about it. We believe in it. From the depths of our souls we know we should ban human cloning. For the sake of our souls, let us reject the Greenwood substitute and support the Weldon-Stupak bill.

Mr. Speaker, I thank the gentleman for yielding me time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I rise in strong support of the rule and the bill.

The consequence of allowing human cloning would be dire. Human embryos would be created for the sole purpose of being experimented on and killed. Cloned humans would likely have serious defects such as premature aging which may have led to premature death of Dolly, the cloned sheep. Women could be exploited through the buying and selling of their eggs for medical research, and children could be manufactured with specific genetic traits, making them commodities rather than precious gifts from God.

This bill would prevent those horrifying scenarios from reality. This legislation would ban reproductive cloning and research cloning, which both involve creation of human life.

As elected leaders, we have a responsibility to safeguard the future of humanity by placing clear, ethical limits on medical research. Our scientists should concentrate on promising avenues which raise no moral concerns such as adult stem cell research. Allowing human cloning would only devalue human life and permit women and children to be exploited.

Mr. Speaker, I urge my colleagues to vote in favor of the rule and H.R. 534.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Massachusetts for his leadership and his kindness for yielding me time.

Mr. Speaker, I have it right here in my hands, this legislation that we intend to pass today criminalizes physicians, hospitals, innocent patients, sick people all over the world who are in need of the relief from the intellect and the ability that our scientists have to provide hope over death, life over death, better health over no health at all.

Mr. Speaker, I think it is extremely important as we confront the amazing opportunities of science and technology, as we look to secure the homeland with advances in science and technology that we call today's legislation what it is: a condemnation, an outrage on the outstanding research and abilities of our research scientists and medical professionals.

Mr. Speaker, if this was legislation to ban human cloning, you would have a unanimous green light from the Members of this Congress. But now what we are saying to those who are working in the venues of research of life and hope, we are suggesting to them that they must be condemned.

Mr. Speaker, I have heard of no such thing as women selling their eggs being intimidated to do so, but I do know those who have Parkinson's disease and other diseases who are suffering and who have spinal injuries who are suffering now who want us to be able to do the kind of research that stem cell research allows.

Mr. Speaker, H.R. 534 does nothing but criminalize those individuals who are now in research labs, innocent bright and brilliant Americans who are trying to find hope for those who are ill. Particularly the stem cells that the President has allowed some 64 lines does not take into account the diversity and the different ethnic groups in this Nation, the diseases that afflict African Americans, Hispanic Americans, Jewish Americans, where research is needed on particular stem cell research.

The gentleman from New York (Mr. NADLER) and myself offered an amendment in the Committee on Rules, and I opposed this rule that would have provided specifically with the growing of those unique stem cells that would allow research on all Americans so that we could in fact provide the hope and life that is necessary. But yet the Committee on Rules decided in their wisdom to deny such an amendment, so we could not even debate it on the floor of the House.

It is very interesting to note that a recent Institute of Medicine study explains that, because the cells lines to researchers are limited, they do not represent the genetic diversity of the general population; nor do they represent the diversity of our population. Diseases that plague minority populations are almost certainly not represented in the 64 approved stem cells. On the uses of stem cells, the National Institutes of Health described the medical potential as enormous.

This legislation, Mr. Speaker, is to give a death sentence to millions and millions of Americans waiting by their bedsides hoping beyond hope. We realize that we have been able to give hope to the aging. We have been able to give hope to those who are suffering from diseases of which heretofore we could not even imagine a solution, that we could not have imagined some 50, 70, or 100 years ago to cure.

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We know in the early ages of this, of the history of this Nation, that individuals did not live to see 45 or 50 years old. Now we are very gratified to know that our population, our mothers and fathers, our relatives, are living to 75 and 80 and 85 and 90 years old. What a joy for families across this Nation and around the world.

Mr. Speaker, would we take this legislation that we have today and to be able to void all of the wonderful research that generated an extended life so that people might enjoy their families and enjoy the wonderment of the world, the outstanding new discoveries every day? Now we want to criminalize our doctors, criminalize our hospitals, criminalize the sick, criminalize researchers with the passage of H.R. 534.

I oppose very much the legislation, the rule, and I do support the substitute.

The SPEAKER pro tempore (Mr. SWEENEY). The Chair would inform Members that the gentleman from Massachusetts (Mr. MCGOVERN) has 8 minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 18½ minutes remaining.

The gentlewoman from North Carolina (Mrs. MYRICK) is recognized.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I rise in strong support for this rule, and as a cosponsor and strong supporter of H.R. 534, and I urge my colleagues to vote against the substitute amendment.

As the President stated just a few weeks ago, "Because no human life should be started or ended as the object of an experiment, I ask you to set a high standard for humanity, and pass a law against all human cloning."

I am certainly very sympathetic to all those who suffer from incurable or chronic afflictions, and we are all committed to helping find cures. I understand the good intentions of those who advocate human cloning in the hope that research on these clones might yield cures for major illnesses. But for a variety of reasons, both technical and ethical, I believe it is wrong to pursue this approach.

On the technical level, the evidence suggests that cloned human embryos are not likely to yield cures for major illnesses. Hopes to the contrary are just not well founded and they provide false hopes for the afflicted.

Supporters of human cloning for research purposes have proposed limitations which they claim will prevent a cloned baby from being born, but they would allow cloned embryos to develop indefinitely, as long as they are outside of a woman's womb. Where will this end?

The process of transferring a somatic cell nucleus into an enucleated egg produces a human embryo that has the potential to be implanted in utero and developed to term. In others words, the embryo produced for the purpose of therapeutic cloning, as some call it, is biologically indistinguishable from an embryo intended for reproduction. It is a human life, at a very early stage of development, of course, but entirely human nevertheless. Thus, creating cloned human embryos for research purposes means creating human life for the purpose of research and with the intent of destroying it.

This commodification and exploitation strikes me as a profound undermining of our society's sense of human dignity, and in doing so, it undermines our very humanity.

Again, I urge a vote in favor of the rule, against the substitute amendment, and in favor of H.R. 534.

Mr. McGOVERN. Mr. Speaker, may I inquire from the gentlewoman from North Carolina (Mrs. MYRICK) how many more speakers she has.

Mrs. MYRICK. At this point, I only have two that are here. I have some others signed up, but they are not here yet. I only have two more.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I think it is important to note that much of what has been said today in support of this bill has nothing to do with protecting the country from the ills outlined.

What is somatic cell nuclear transfer? A woman donates an egg, a patient donates a skin cell. Perhaps the nucleus is removed from the egg. The DNA from the skin cell is inserted into the egg. The egg is stimulated to divide into eight cells, and those are the stem cells.

What has been talked about in terms of embryo experimentation is certainly legal if this bill were to pass and instead of a skin cell there was a sperm that began that cell division, if we had in vitro fertilization, we could experiment all we wanted.

So I think where we are going with this proposal is apparently a plan to outlaw in vitro fertilization in the United States. I think we ought to be clear about that.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I, in earlier days in my life, used to go out to junkyards sometimes to find parts for my sports car, go out with some wrenches, and we would take off a transmission or an alternator or something like that. And of course, there is nothing wrong with finding spare parts in a junkyard.

But what we have before us in this debate is the serious possibility that if we do not direct science properly, that we could end up in some sort of a brave new world which none of us want to find ourselves in, a world in which parts of human beings are like parts in a junkyard. And that may sound a little bit like a science fiction novel or something like that, but the Human Cloning Prohibition Act of 2003 will ensure that human beings are not treated like old junk cars in some parking lot.

Therapeutic cloning pledges unique cures for hundreds of illnesses; yet, this is an empty promise. It has never produced a single cure in animal models nor has it produced any cures in human clinical trials. In fact, James Thompson, the scientist who discovered embryonic stem cells, said in reference to therapeutic cloning, "The poor availability of human oocytes, the low efficiency of the nuclear transfer procedure and the long population-doubling time of human embryonic stem cells make it difficult to envision this becoming a routine clinical procedure."

Opening the door to therapeutic cloning will only result in a slippery slope of unscrupulous science and unenforceable law.

On the other hand, adult stem cells have produced promising medical results. These stem cells do not require the cloning or destruction of human embryos and have been successful in many human applications without the growth of tumors, which is a key defect in the use of cloned embryos.

Last year, in fact, researchers at the University of Minnesota announced that they had made a discovery involving an adult human stem cell that has the potential to develop into many different types of cells in the human body. What that means is it now seems entirely possible and reasonable that cells from one of our own, our own body, can then be coaxed into replacement of organs or tissues that exactly match our own body that it was taken from.

Using adult stem cells, for example, a man named Dean Grimm of Charlotte, Iowa, regained his sight after having been blind due to a chemical accident in 1983. His physician implanted adult stem cells and also three new corneas. Now after being blind so many years he can see, and his sons say that since his dad has regained his sight, he and his siblings cannot get away with a lot of stuff.

A ban on therapeutic cloning will not restrict science, but it will deter the perversion of scientific research. I urge my colleagues to vote in favor of the rule for H.R. 534.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for his leadership, and I thank him for yielding me the time, and I rise in opposition to the rule and in opposition to the underlying bill, H.R. 534.

I am against human reproductive cloning, but I am concerned that the Weldon bill could exert a devastating impact on future life-saving research, and I fear that it will bring current research that offers great promise to cure a whole host of diseases to a grinding halt.

I represent a district that includes many premier medical research institutions. Top scientists have told me that therapeutic cloning could lead to cures and new treatments for cancer, heart disease, diabetes, Parkinson's, Alzheimer's, ALS, and other chronic or fatal illnesses, and they say that it could alleviate tremendous human suffering.

In a recent Newsweek article by Dr. Gerald Fischbach, Dean of the Faculty of Medicine at Columbia University Medical School and former head of NIH's National Institute of Neurological Disorders and Strokes, he wrote the following about this issue: "A less obvious, but real, cost is the damage to the fabric of America's extraordinary culture of inquiry and technical development in biomedical research. If revolutionary new therapies are delayed or outlawed, we could be set back for years, if not decades."

It is appropriate that policymakers scrutinize cutting-edge science. We must ensure that research is conducted in a legal and ethical manner, but the underlying bill goes too far.

A more appropriate approach is the Greenwood-Deutsch substitute, and that bill will allow potentially life-saving research to proceed while banning human reproductive cloning.

I know something about the suffering of millions of American families as their loved ones struggle against disease for which research cloning may one day offer a treatment or cure. My own father battled against Parkinson's until he passed away this year, and I cannot in good conscience tell those families that our society will benefit from an outright ban on this vital research.

I urge my colleagues to oppose H.R. 534 and to support the substitute.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong and grateful support for the Human Cloning Prohibition Act and for the extraordinary efforts of my colleague, the gentleman from Florida (Mr. WELDON), in conceiving of and promoting this bill over the last several years.

I also urge opposition to the substitute, despite the fact that I know it is well intended, and my colleagues on the Committee on the Judiciary, with whom I serve, I know bring great passion and compassion to these issues.

I rise today, Mr. Speaker, not to demagogue an issue and not to vilify those who would differ with me but to offer a gentle but firm endorsement of a clean ban of human cloning in all of its permutations.

Like virtually everyone in this institution and everyone, as the previous speaker just said, opposed the idea of reproductive human cloning. We see it as deeply, morally offensive and objectionable, and so it is. But I would also offer, in a spirit of humility, Mr. Speaker, that even that which is called therapeutic cloning or the cloning only of nascent human life for the purpose of experimentation is also deeply, morally problematic and that we derive this from two basic principles from an understanding of the history of Western civilization.

That first principle is that which has distinguished Western civilization, with very few exceptions, has been our belief in the sanctity of human life, in the uniqueness and the preciousness of each and every individual human being. That has been something characteristic of Western civilization, and it has caused the laws of this Nation and the laws of every nation of Western civilization since its genesis 3,000 years ago to ever back slowly and respectfully away where human life is in question and where the depriving of human life is involved.

Against that backdrop, not only does history teach us to back away from the awesome power of human life, but it also teaches us not to trust government power; and, in fact, an undeniable truth of history has been that time and time again, each time government had the power to intrude itself on human life, that it abused that power and often trampled on human beings and classes of human beings and races of human beings.

It is against that spirit and against putting us on that slippery slope that I believe that the gentleman from Florida (Mr. WELDON) has the right prescription here, Mr. Speaker, and we should draw a strong line in the sand, a moral line that says, as we look at human life or even nascent human life, wherever one determines that life begins, that we would back slowly and humbly away, ban human cloning for all of its purposes, ban all development of human life for experimentation and destruction.

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As the Good Book says, "I set before you today life and blessings, death and destruction. Now choose life." And it is my hope and confidence we will do so today.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, last May, the Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on human cloning. The subcommittee was informed that research cloning of humans was unnecessary due to the exciting medical breakthroughs utilizing adult stem cells and other ethical avenues of research. We were told that scientists agree that cloning is dangerous and clones suffer from countless severe genetic disorders.

The Department of Justice informed us that it would be impossible to enforce a bill that allowed human cloning for the purpose of research and not reproduction. And we were warned by Dr. Zavos of Kentucky that unless a ban on human cloning was enacted, he and other rogue scientists would soon successfully clone humans.

Despite these warnings, researchers seeking to clone humans for research make hollow promises and offer false hope that such research will result in cures for numerous human ailments. The fact is human cloning is never necessary regardless of its intent, and better ethical research alternatives do exist.

Nearly every week, for example, new scientific breakthroughs utilizing adult stem cells are announced. Researchers report that they have grown an entire organ from adult stem cells. And just this week, scientists have announced that a type of cell found in blood can be turned into nearly any cell in the body.

These findings and others like them suggest that every one of us may carry our own "repair kit" that can be used to treat countless medical disorders and genetic diseases by allowing doctors to regrow organs and tissues from our own cells. And unlike destructive human cloning research that remains entirely speculative, adult stem cell therapies are already currently being used to treat a host of medical conditions.

There are no guarantees that allowing human cloning for research will produce cures or that cloned embryos will not be misused for other purposes. If we now permit the manufacturing of human embryos for human research, where do we draw the line? Do we only allow cloned embryos to grow for 5 days before they are destroyed in the process of extracting their stem cells? What about removing tissue from 5-week-old embryos? Should we consider harvesting the organs from 5-month-old fetuses? What will those who support destructive research claim is necessary next to advance science?

We must finally draw the line and stop the exploitation of all forms of human life. The science is clear. So is the moral issue. In my favorite movie, "Rudy," a great scene has the priest telling Rudy there are two things in life he knows for sure, one is that there is a God, and, secondly, that he is not God.

Mr. Speaker, I would urge my colleagues to vote for the Weldon-Stupak bill.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Florida (Mr. WELDON), the author of this legislation.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I think this is a good, fair rule. It allows an honest debate of the issues. As many of my colleagues know, I am a physician. I still see patients once a month at the veterans clinic in my congressional district, and I practiced medicine for 15 years before I was elected to the House of Representatives. I took care of a lot of patients with paralysis, Parkinson's disease, diabetes, and Alzheimer's disease. I saw firsthand on a daily basis the hardship those people and their families went through.

Indeed, I wanted to share with all my colleagues that my father died of complications of diabetes disease. I had six uncles. When I was growing up as a kid, one of my favorite uncles was my Uncle John. He died of complications of Parkinson's disease. So if there were evidence to support the position being held by some people in this body and some people in the scientific community that there was great potential from therapeutic cloning, I would be the first to admit it. I would be the first person to acknowledge it. I could not deny it because it would be evident in the medical literature. But the fact of the matter is, the evidence is not there.

What we are debating today is the ethical parameters on the whole issue of regenerative medicine. For decades, doctors have had at their disposal surgical techniques to help people and make them well. They have had medications, drugs that they could use to make people well. And in the past 20 years, they have been making use of something called regenerative medicine using what is called stem cells. This bill, contrary to what some people say, does not ban stem cell research. It does not ban embryo stem cell research. It specifically bans the creation of cloned human embryos.

We voted on this very issue. We debated this issue on the floor of this House a year and a half ago. It was July of 2001. The progression of science is something that we need to include in this debate. I went through the medical literature just about the last 12 months; and I have about 88 studies showing adult stem cells in humans and that they have tremendous potential, that they are actually finding application in the treatment of 45 different diseases.

Mr. Speaker, I wish I could produce a study that shows that therapeutic cloning in humans has potential, but there is not even one study. Indeed, I wish I could introduce a study that shows that therapeutic cloning in animals has potential; but, likewise, there is not a single study even in animals. It has been tried in mice, and it has not worked. Therapeutic cloning has never been done.

We are debating here on the floor of the House therapeutic cloning as though therapeutic cloning exists, as though it is around the corner. Let us get realistic here. People are going to come to the floor, and they are going to suggest that we have to hold out therapeutic cloning because it is the only hope for these people. We are funding NIH $27 billion a year. We have thousands of researchers all over the Nation doing all kinds of research using all kinds of modalities, surgeries, therapies, medications; and this regenerative medicine issue is one little slice of what researchers are exploring to help these people with these conditions. We are essentially debating a subsegment of that. And some people will come down here and hold that up as though it is the only thing out there.

Let us get realistic. It has never been done. They tried it in mice, and it was published in "Cell." For those who do not read the scientific literature, this is one of the most prestigious journals that cell biologists read. I will quote from the study. It says: "Our results raise the provocative possibility that even genetically matched cells derived by therapeutic cloning may still face barriers to effective transplantation for some disorders." They tried therapeutic cloning in a mouse model of disease and it failed dismally. So not only can we not produce a study that shows that it works, we can produce studies that show that it does not work.

I think the time has arrived for us to do the right thing. This is a moral and ethical decision. We are talking about scientists creating human embryos for the purpose of exploiting them and destroying them, and there is no scientific evidence today that this is justifiable.

Mr. Speaker, I will include for the RECORD the studies I referred to above.

PARLIAMENTARY INQUIRY

Mr. McGOVERN. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. SWEENEY). The gentleman will state his parliamentary inquiry.

Mr. McGOVERN. Mr. Speaker, I wonder if the Chair can inform me how much it will cost the American taxpayer to reprint the several months of studies that have just been submitted for the RECORD?

The SPEAKER pro tempore. The Chair would inform the gentleman that that is not a parliamentary inquiry.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time. I very much want to rise and join my colleagues in opposition to this rule and to the underlying bill.

Mr. Speaker, why would Members of Congress want to turn doctors into criminals and treat medical researchers like outlaws? With all the grave issues facing America that continue to go unaddressed by this body, our broken health care system, a lack of education funding, fears of Social Security insolvency and a soaring economy, why are we spending time criminalizing promising medical research and threatening to send doctors to jail for 10 years?

This bill does not regulate the way that Federal funds are spent on medical research. It makes medical research or treatments using therapeutic cloning a Federal crime. The role of our government is to provide research achievements and to provide incubators for medical and scientific breakthroughs. It is not our job to criminalize good doctors or to force leaders in medical research to abandon promising techniques.

According to the National Institutes of Health, which advises us on a daily basis, therapeutic cloning could provide treatments for Parkinson's disease, chronic heart failure, in-stage kidney disease, liver failure, rheumatoid arthritis, osteoporosis, severe burns, spinal cord injuries, multiple sclerosis, Alzheimer's disease, diabetes, lupus, heart damage, cancer, paralyzed limbs, and Lou Gehrig's disease. There is even the hope this research could lead to entire transplantable organs.

Forty Nobel laureates, millions of patients, former First Lady Nancy Reagan, and former President Gerald Ford advocate human cloning. In fact, just last month, Mrs. Reagan wrote to Senator HATCH, the Chair of the Senate Committee on the Judiciary, supporting therapeutic cloning.

Despite the arrogant amendment that only this Committee on Rules would ever give to anyone, because it is the height of arrogance, this bill tells us that they want to ban cloning, therapeutic cloning, not just here but all over the world. My, what a reach we do have.

The promising research that we are trying to stop today will be driven overseas where therapeutic cloning is not only legal but is government funded. Other countries will become the world leaders in these treatments.

As a scientist, and I am, I am profoundly concerned about what I hear as very bad science on this floor. Sick Americans would not benefit from the American miracles if they occurred in another country because the legislation prohibits improving lifesaving medical technology if the treatment is developed by therapeutic cloning. If scientists overseas develop a cure for Parkinson's disease using stem cells from therapeutic cloning, suffering Americans would be banned by their government from taking advantage of that cure here in the United States. Imagine that. We want to criminalize almost everybody.

Once again, Mr. Speaker, the majority weakens this noble institution and the deliberative process. It is a shame and a blight on Congress that we would even bring a bill of this magnitude, affecting the life and health of millions of Americans, without this bill even going through the committee procedure.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise today in support of this rule and I urge its passage.

Mr. Speaker, we are doing the right thing here today. It is my belief, as an OB-GYN physician for over 28 years, with over 5,000 deliveries, that human cloning is not only morally wrong but it is also a very dangerous practice.

Human cloning for reproduction poses serious risks of producing children who are stillborn, severely malformed, or disabled. We can make this assertion because most cloned animals have demonstrated serious genetic defects. The most high-profile example, of course, is Dolly the sheep, with the premature aging situation.

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With this knowledge, would we wish to create these hardships for even one child?

I also oppose cloning embryos for research because it is a very short bridge to implantation and, thus, reproductive cloning. If we allow human embryo farms for research, it will become impossible to enforce a ban on reproductive cloning.

Although I fully support this rule and H.R. 534, I do have concerns about the bill. The creation and destruction of human life is the most serious issue that we can face. Therefore, if it is unacceptable to participate in human cloning within the United States, then we should extend this ban and prohibit United States researchers from participating in human cloning outside of the United States as well. U.S. law when enacted is assumed not to apply to citizens when they are outside of the United States borders. In other words, there is an "assumptive nonapplication." However, the courts have held when Congress acts to explicitly apply United States law to citizens acting outside of our borders, the justice system can prosecute these actions.

H.R. 534 is a good bill, but in the future we should seek to extend the ban to prohibit United States citizens from performing human cloning outside of our borders.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the cloning of a human being is wrong, and this body and the American public should not stand for it. But that is not what this debate is about. The Weldon bill is misguided, it is unnecessary, and it is just plain bad policy and it should be defeated. It is misguided because it will stifle and end research that will undoubtedly improve and save human lives. Should scientists have given up on finding a cure for polio merely because they had already developed the iron lung? Of course not. With all due respect to the author of this legislation, there are other physicians, many, and there are scientists, many, who believe in the promise of therapeutic cloning. The National Academy of Sciences sees the value in therapeutic cloning. Forty Nobel laureates all support going forward with therapeutic cloning.

The Weldon bill is unnecessary because the Food and Drug Administration has already declared reproductive cloning illegal and subject to prosecution under current law. Dr. Kathryn Zoon, the director of the Center for Biologics Evaluation and Research at the FDA, wrote in a March 28, 2001, letter that, quote, clinical research using cloning technology to clone a human being may not proceed without an investigational new drug application and that, given unresolved safety questions, the FDA would not permit any such investigation to proceed.

The letter works. No individual and no group has tried to clone a human being in the United States for fear of prosecution by the FDA.

But having said that, if this bill were only about banning human cloning, I would be for it. I think it would pass almost unanimously, if not unanimously, in this House. But this bill goes much farther than that. The Weldon bill is bad policy because in my opinion it is cruel. Remember the words of Nancy Reagan. She wrote, there are so many diseases that can be cured or at least helped that we can't turn our back on this. We have lost so much time already. I can't bear to lose any more.

It is cruel to deny potential cures to people who suffer from Alzheimer's or Parkinson's disease. It is cruel to legislate that a cure for diabetes developed in Great Britain may not be used to cure diabetes in this country if therapeutic cloning were used to find a cure to that problem. But that is just what the Weldon bill does.

I would urge my colleagues to support the Greenwood-Deutsch substitute. If that fails, please defeat the Weldon bill.

Mr. Speaker, I include Dr. Zoon's letter for the RECORD.

The text of the letter is as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,

Rockville, MD, March 28, 2001.

DEAR: The purpose of this letter is to remind your organization and its members that the Food and Drug Administration (FDA) has jurisdiction over clinical research using cloning technology to clone a human being, and to inform you of the FDA regulatory process that is required. You are receiving this letter because of a number of recent reports in the media describing the use of cloning technology to clone human beings. As described more fully below, the appropriate mechanism to pursue such clinical investigation using cloning technology is the submission of an investigational new drug application (IND) to FDA's Center for Biologics Evaluation and Research (CBER). Please inform the members of your organization of the information provided below.

Clinical research using cloning technology to clone a human being is subject to FDA regulation under the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act. Under these statutes and FDA's implementing regulations, before such research may begin, the sponsor of the research is required to: submit to FDA an IND describing the proposed research plan; obtain authorization from a properly constituted institutional review board (IRB); and obtain a commitment from the investigators to obtain informed consent from all human subjects of the research. Such research may proceed only when an IND is in effect. Since the FDA believes that there are major unresolved safety questions pertaining to the use of cloning technology to clone a human being, until those questions are appropriately addressed in an IND, FDA would not permit any such investigation to proceed.

FDA may prohibit a sponsor from conducting a study proposed in an IND application (often referred to as placing the study on "clinical hold") for a variety of reasons. If the Agency finds that "human subjects are or would be exposed to an unreasonable and significant risk of illness or injury," that would be sufficient reason to put a study on clinical hold. Other reasons listed in the regulations include "the IND does not contain sufficient information required to assess the risks to subjects of the proposed studies," or "the clinical investigators are not qualified by reason of their scientific training and experience to conduct the investigation."

The procedures and requirements governing the use of investigational new drugs, including those for the submission and review of INDs, are set forth in Title 21 of the Code of Federal Regulations (CFR), Part 312. Additional responsibilities of the sponsor of an IND include: selecting qualified investigators and overseeing the conduct of the investigators; ensuring that the investigations are performed in accordance with the protocols of the IND; submitting adverse experience reports and annual reports; and other duties as outlined in the regulations. The responsibilities of an investigator include: ensuring that the study is conducted in accordance with the protocols; obtaining informed consent from study participants; and ensuring that an IRB that complies with the requirements of 21 CFR Part 56 reviews and approves the proposed clinical study and the informed consent form and procedures for obtaining informed consent, among other requirements specified in the regulations.

Clinical investigators are encouraged to obtain a copy of the current "Information Sheets for IRBs and Clinical Investigators" (which contains useful information regarding clinical investigations) from CBER's Manufacturers Assistance and Technical Training Branch at 1-800-835-4709. This document is also available at http://www.fda.gov/oc/oha/irb/toc.html.

Additional information on how to submit an IND can be found on CBER's website at: http://www.fda/gov/cber/ind/ind.htm. Copies of the relevant sections of 21 CFR, including Parts 50 (Protection of Human Subjects), 56 (Institutional Review Boards), and 312 (Investigational New Drug Application) can be found at: http://www.gpo.gov/nara/cfr. Information on ways to communicate with CBER is available for you or members of the association at: http://www.fda.gov/cber/pubinquire.htm.

We encourage your members to meet with the Agency prior to submitting any IND application. Such a meeting would be arranged through the Office of Therapeutics Research and Review of FDA's Center for Biologics Evaluation and Research.

Sincerely yours,

KATHRYN C. ZOON,
Director,
Center for Biologics Evaluation and Research.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. MYRICK). Pursuant to House Resolution 105 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 534.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 534, the Human Cloning Prohibition Act of 2003. This bill criminalizes the act of cloning humans, importing cloned humans and importing products derived from cloned humans. It is what is needed, and it is what President Bush has asked for, a comprehensive ban against cloning people. It has bipartisan cosponsorship and was reported favorably by the Committee on the Judiciary on February 12.

Today we are considering more than the moral and ethical issues raised by human cloning. This vote is about providing moral leadership for a watching world. We have the largest and most powerful research community on the face of the earth and we devote more money to research and development than any other nation in the world. Although many other nations have already taken steps to ban human cloning, the world is waiting for the United States to set the moral tone against this experimentation.

Currently in the United States there are no clear rules or regulations over privately funded human cloning. Although the FDA has announced it has the authority to regulate human cloning through the Public Health Service Act and the Food, Drug and Cosmetic Act, this authority is unclear and has not been tested. The fact of the matter is that the FDA cannot stop human cloning, it can only begin to regulate it. This will be a day late and a dollar short for a clone that is used for research, harvesting organs, or born grotesquely deformed.

In November 2001, researchers at Advanced Cell Technology in Worcester, Massachusetts announced that they had cloned the first human embryo. Others have indicated that they are prepared to utilize existing technology to clone a human baby. On December 26, 2002, Clonaid announced the birth of the first cloned human baby. Although the Clonaid announcement appears to have been a hoax, there are a growing number of individuals who claim that they can and will clone a human being. In light of these announcements, it has become imperative that the Congress act immediately to prevent the cloning of human embryos from continuing.

Others argue that cloned humans are the key that will unlock the door to medical achievements in the 21st century. Nothing could be further from the truth. These miraculous achievements may be found through stem cell research but not from cloning. Let me be perfectly clear. H.R. 534 does not in any way impede or prohibit stem cell research that does not require cloned human embryos. This debate is whether or not it should be legal in the United States to clone human beings. Nothing more and nothing less.

While H.R. 534 does not prohibit the use of cloning techniques to produce molecules, tissues, organs, plants, DNA cells other than human embryos, and animals other than humans, it does prohibit the creation of cloned embryos. This is absolutely necessary to prevent human cloning because, as we all know, embryos become people. If scientists were permitted to clone embryos, they would eventually be stockpiled and mass marketed. In addition, it would be impossible to enforce a ban on human reproductive cloning. Let me repeat that. It would be impossible to enforce a ban on human reproductive cloning because once a cloned human embryo is implanted into a woman's uterus, it can grow and become a baby. Therefore, any legislative attempt to ban human cloning must include embryos.

Should human cloning ever prove successful, its potential applications and expected demands would undoubtedly and ultimately lead to a worldwide mass market for human clones. Human clones would be used for medical experimentation, leading to human exploitation under the good name of medicine. Parents would want the best genes for their children, creating a market for human designer genes. Again, governments would have to weigh in and decide questions such as what rights do human clones hold, who is responsible for them, who will ensure their health, and what interaction will clones have with their genealogical parent.

As most people know, Dolly the sheep was cloned in 1996. Since that time, scientists from around the globe have experimentally cloned a number of monkeys, mice, cows, goats, lambs, bulls and pigs. It took 277 attempts to clone Dolly; 276 failures before success. These later experiments also produced a very low rate of success, a dismal 3 percent. Now some of the same scientists would like to add people, human beings, to this experimental list. As it turns out, Dolly the sheep was also a failure. It just took 6 years to realize it. On February 14, Dolly the sheep was euthanized as a result of complications linked to what some geneticists are speculating were signs of premature aging.

Human cloning is both ethically and morally offensive. It diminishes the careful balance of humanity that nature has installed in each of us. I believe we need to send a clear and distinct message to the watching world that America will not permit human cloning and that it does not support scientific research into cloning human embryos. This bill sends this message, by permitting cloning research on human DNA molecules, cells, tissues, organs, or animals but preventing the creation of cloned human embryos.

Mr. Chairman, I urge all Members to unequivocally say no to human cloning by supporting H.R. 534. Stop human cloning and preserve the integrity of mankind and allow legitimate scientific research to continue.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, like the authors of H.R. 534, believe that we should outlaw human cloning. If we wanted to pass a bill that only prohibits human cloning, it would sail through Congress on a voice vote. But this bill goes too far. It halts the progress of medical research by banning somatic cell nuclear transfer for research and medical treatments. This research has promise for diseases like Alzheimer's, Parkinson's, diabetes and others. This bill criminalizes a scientific research process that takes place in a petri dish, regardless of the intent of the researcher or the inability of this process to result in the birth of a cloned child. The penalty for violating these provisions includes sanctions of a criminal fine and/or imprisonment for up to 10 years and a civil penalty of at least $1 million. This would represent an unprecedented intrusion of the criminal law into the scientific process.

I think the science teachers of America may be pretty appalled at what they hear and see on this floor today. I think much that has been said and will be said reflects a profound ignorance about the science, about the current role of the FDA in their regulatory practices, but also Americans need to ask themselves why the proponents of this bill want to ban this research, and I think the answer is simple: They want to impose their religious beliefs on the entire country.

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This country reflects the diverse religious beliefs found all over the world. Some, like the authors of this bill, believe that all cloning is wrong. Others believe that research cloning should be allowed. These are all legitimate views, but I think it is wrong to use the political power of one group to criminalize the beliefs of another.

To better understand the real issue involved in this debate, it is important to understand what research cloning is. Somatic cell nuclear transfer has six steps: a woman donates an egg; a patient donates a somatic cell, like a skin cell; the nucleus is removed from the egg; the nucleus from the patient's skin cell is inserted into the egg; the egg is then stimulated to induce it to divide; the egg begins to divide, creating stem cells that are identical to the patient's own cells.

So we are talking about the creation of cells in a petri dish, not bringing a child into this world. That is why research cloning is supported by some of the most ardent pro-life conservatives like Senator ORRIN HATCH and former Senator Connie Mack, who said, "Anyone who would ban research on embryonic stem cells will be responsible for harm done to real live postnatal sentient beings who might be helped by this research."

Why is this process important? Scientists believe that these stem cells are less likely to be rejected after transplant since they have the same genetic properties as the recipient.

They could also help scientists learn why diseases occur. They also have important advantages over adult stem cells which cannot develop into as many cell types and which cannot be generated in the same quantities in the lab. That is why this bill is opposed by almost every organization representing patients and researchers, including Juvenile Diabetes Research Foundation, the Cancer Research and Prevention Foundation, the Biotechnology Industry Association, the Society for Women's Health Research, the Coalition for the Advancement of Medical Research, and the Alliance for Aging Research.

I have heard the words that we are going down a "slippery slope" used by the proponents of this bill, but in fact the slippery slope is that being suggested by those who call six cells in a petri dish the equivalent of me or my mother. If it is murder to use somatic cell transfer and to create six cells for research purposes, then it must also be mass murder to have in vitro fertilization and discard the cells that are not later utilized by the couple using IVF. So the slippery slope is to eliminate in vitro fertilization in this country.

This debate really boils down to one question: Should an embryonic stem cell with no central nervous system, no chance of developing into a fetus have the same rights as a child suffering from juvenile diabetes? I do not think so. I urge you not to rob sick Americans of their hope for a cure.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair reminds the Members that it is not in order to cite the views of sitting Senators.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), our chairman, for yielding me this time.

Mr. Chairman, the manufacture of cloned human beings alarms an overwhelming majority of Americans. The theoretical discussion surrounding the cloning of humans has raised profound ethical and legal issues. Currently, no clear regulations exist in the United States that would prevent a private group from attempting to create a human clone. H.R. 534 would prevent experimental procedures that the National Bioethics Advisory Commission, the NBAC, called scientifically and ethically objectionable. The NBAC unanimously concluded that given the state of science, "any attempt to create a child using somatic cell nuclear transfer, whether in the public or private sector, is uncertain in its outcome, is unacceptably dangerous to the fetus and, therefore, morally unacceptable." In fact, virtually every widely known and respected organization that has taken a position on reproductive human cloning flatly opposes the notion because of the extreme ethical and moral concerns.

Cloning of human beings carries massive risks of producing unhealthy, abnormal, malformed children. The only way to prevent this from happening is to adopt the restrictions on human cloning set forth in H.R. 534. As Professor Bradley of the Notre Dame School of Law testified last Congress, "The only effective way to prohibit human reproductive cloning is to prohibit all human cloning." Any other approach would allow for stockpiles of cloned human embryos to be produced, bought, and sold without restrictions. Implantation of cloned embryos, a relatively simple procedure, would inevitably occur. Attempts to enforce a cloning ban would prove virtually impossible to monitor. The last time Congress dealt with the issue of human cloning, an editorial in the Washington Post stated: "It is unnecessary to be against abortion rights or to believe human life literally begins at conception to be deeply alarmed by the notion of scientists purposely causing conceptions in a context entirely divorced from even the potential of reproduction." The editorial went on to characterize the creation of embryos solely for research as unconscionable.

It is important to note that research currently being done using adult stem cells, which I support, is showing great progress. I believe this relatively new area of research, Mr. Chairman, deserves appropriate funding and necessary scientific resources to discover its complete potential. To divert resources from this promising research to controversial procedures, such as therapeutic cloning, may inadvertently push an effective cure farther out of reach.

I urge my colleagues to support H.R. 534, Mr. Chairman.

Ms. LOFGREN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. NADLER), my colleague on the Committee on the Judiciary.

Mr. NADLER. Mr. Chairman, I rise in opposition to this dangerous and ill considered legislation. Rather than protecting the sanctity of human life, this legislation will needlessly sentence untold generations of innocent human beings to premature death and lifetimes of suffering. There is no disagreement that it is immoral to use cloning to create human beings and that that ought to be prohibited. The evidence from research involving cloned animals is that such efforts can result in severe deformities, premature aging and death. It is wrong to willfully inflict this kind of suffering on people and it should not be permitted. If this bill prohibited only that kind of activity, we would have no disagreement and no debate.

It is precisely because we abhor the suffering that would result from using cloning techniques for human reproduction that it is also clearly immoral to criminalize using so-called therapeutic cloning, which scientists call somatic cell nuclear transfer, for medical research and medical treatment. The fruits of this research promise cures for Parkinson's disease, chronic heart disease, rheumatoid arthritis, spinal cord injuries, Alzheimer's disease, Huntington's disease, brain damage, lupus, combined immunodeficiency, Tay-Sachs, and sickle cell disease, to name just a few.

We will hear that we must make criminal the creation of human life in order to destroy that human life to produce stem cells. But that assumes that a one-celled organism or a several-celled embryo is a human being. If it is, then therapeutic cloning is immoral. If a several-celled embryo is not a human being, then therapeutic cloning is not only not immoral but is profoundly moral, as it will be used to save and prolong human lives.

So what is this bill really about? It would write into our criminal law a particular religious view that holds that a few cells in a petri dish are moral equivalents to a fully developed human being or in fact a human being, and that no benefit to those suffering and dying from terrible diseases would justify such research, would justify the destruction of a several-celled embryo.

People are certainly entitled to their religious beliefs, but they are not entitled to inflict suffering on the sick and death on the ill and enforce the imposition of their religious beliefs on others using $1 million fines and 10-year prison sentences. In fact, there are many other religious perspectives that disagree with the religious perspective that is the only justification for this bill.

As the Union of Orthodox Jewish Congregations and the Rabbinical Council of America put it in a letter to President Bush: "The potential to save and heal human lives is an integral part of valuing human life from the traditional Jewish perspective. Moreover, our rabbinic authorities inform us that an isolated fertilized egg does not enjoy the full status of personhood and its attendant protections. Thus, if embryonic stem cell research can help us preserve and heal humans with greater success and does not require or encourage the destruction of life in the process, it ought to be pursued." This opinion comes from a religious community that does not favor legalized abortion, which should put to rest the view that this is a debate about abortion. It is not. It is rather a debate about whether anyone should be allowed to use our criminal laws to impose their particular religious view on the vast majority of Americans who may not share that moral or religious outlook.

Muslim groups, Mormons, some mainline Protestant denominations including the United Church of Christ and the Presbyterian Church (USA) support stem cell research. It is wrong to cause so much suffering in the name of protecting the sanctity of human life. It is especially wrong to use the criminal code to impose that narrowly held view on the innocent and the vulnerable. It is said that therapeutic cloning has nothing to do with the therapeutic use of stem cells, but it may very well be that only embryonic stem cells produced by therapeutic cloning can overcome the body's immune defenses in order to be able to cure a disease; and the same people who oppose therapeutic cloning oppose the use of embryonic stem cells for the same reason: their religious view that the several-celled embryo from which the embryonic stem cells are derived is a human being. They are entitled to their belief. They are not entitled to impose that religious belief on the entire country at the cost of who-knows-how-many lives.

It is said that allowing therapeutic cloning will inevitably lead to reproductive cloning, but research and medical practice can be regulated and can be policed. We have heard today that this is a moral question. Yes, in part. It is immoral to prohibit medical research and treatment that can save lives. It is immoral to make it criminal, as this bill would do, to import a cancer vaccine from a foreign country if that vaccine was produced through therapeutic cloning in a foreign country. And it is immorally arrogant, immorally arrogant to think that only one religious view is valid or moral and that one has the right to use political power to impose that religious view on the rest of the American people who may hold different religious views. That is what this bill would do. That is why this is an immoral bill unless amended to apply only to reproductive cloning.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds. As I recall, when Moses came down from the mountain, he had 10 commandments with him. One of them said thou shalt not murder and the other said thou shalt not steal, and I do not think anybody in their right mind would say that criminal laws saying that murder and theft are criminal in nature is imposing religious views on anybody. They are both wrong; they are both criminal.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I rise in strong support of the Human Cloning Prohibition Act. This legislation would ban any use of cloning to create human embryos. In contrast, agreeing with the Greenwood substitute would permit, indeed would encourage the creation of any number of human embryos by cloning for the purpose of harvesting their parts. The substitute even leaves open the door, as artificial womb technology advances, to growing cloned humans to later stages of fetal development for the harvesting of their tissues and organs as has already been done with cloned cows and mice.

As we seek to improve human life, we must always preserve human dignity, and therefore we must preclude human cloning by stopping it before it starts. Creating, killing, and harvesting one human being in the service of others raises significant ethical and moral concerns. As a society, are we willing to endorse a policy that allows the creation of human life so that it can then be destroyed? Cloning is a dangerous assault on human life. It is an affront to human dignity. It is not a policy that should be supported by the United States Congress.

I urge my colleagues to support H.R. 534 and oppose the Greenwood amendment.

I include for the RECORD this letter from the National Right to Life group.

NATIONAL RIGHT TO LIFE LETTER,
February 21, 2003.

Re Greenwood embryo-farms substitute amendment vs. Weldon-Stupak Human Cloning Prohibition Act.

DEAR MEMBER OF CONGRESS: On Thursday, February 27, the House of Representatives will choose between the Human Cloning Prohibition Act (H.R. 534), authored by Congressmen Weldon and Stupak, and a radically different—indeed, antihetical—substitute amendment to be offered by Congressman Greenwood. The National Right to Life Committee (NRLC) supports H.R. 534. Because enactment of the Greenwood policy would be a giant step in the pro-cloning direction—it would give the green light to what President Bush called human "embryo farms"—NRLC strongly urges you to vote "no" on the Greenwood Substitute. The roll call on the Greenwood Substitute will be included as a key vote in the NRLC congressional scorecard for 2003.

The Weldon-Stupak bill (H.R. 534), which NRLC supports, would ban any use of cloning to create human embryos. In contrast, the Greenwood Substitute would permit (indeed, would encourage) the creation of any number of human embryos by cloning for the purpose of harvesting their parts. The substitute even leaves open the door—as artificial womb technology advances—to growing cloned humans to later stages of fetal development for the harvesting of their tissues and organs, as has already been done with cloned cows and mice.

Supporters of the Greenwood Substitute assert that it would "ban reproductive cloning," but this claim is highly misleading, because the Greenwood Substitute does not restrict the actual act of human cloning—the use of somatic cell nuclear transfer (SCNT) to create human embryos. Rather, the Greenwood Substitute would seek to impede the initiation of a pregnancy. Thus, the Greenwood Substitute bans not human cloning but the survival of human clones, which is a very different matter.

When Mr. Greenwood originally offered his pro-embryo-farming substitute during consideration of the Weldon-Stupak bill in 2001, Dr. Charles Krauthammer wrote a powerful column, "A Nightmare of a Bill," pointing out its radical implications: www.nrlc.org/Killing Embryos/Krauthammer %20on%20Greenwood%20Amendment.pdf

On July 31, 2001, the House rejected the Greenwood Substitute (roll call No. 302), before approving the Weldon-Stupak bill by a margin of 265–162 (roll call No. 304).

When language similar to the Greenwood Substitute was proposed in the Senate, the Bush Administration made it clear that any such clone-and-kill legislation would face a veto. (See the letter from HHS Secretary Tommy Thompson's to Senator Sam Brownback, here: http://www.nrlc.org/killing embryos/ThompsontoBrownback.pdf)

Moreover, the Justice Department submitted testimony explaining that once countless human embryos are created by cloning, there would be no practical way to enforce the prohibition on transferring such embryos into wombs. The testimony is here: http://www.nrcl.org/killing embryos/Justice Dept on cloning.pdf.

We would add that in our view, there also would be no ethical way to enforce such a prohibition; which would amount to a federal law requiring the death of a class of members of the species Homo sapiens.

On January 22, President Bush said, "I also urge the Congress to ban all human cloning. We must not create life to destroy life. Human beings are not research material to be used in a cruel and reckless experiment." In his January 28 State of the Union address, the President's call to act before what he has aptly called human "embryo farms" open for business in the United States.

Some supporters of the Greenwood Substitute claim that it would allow only "research on unfertilized eggs," and that cloning does not really create a human embryo. But this is nonsense. Authorities as diverse as President Clinton's bioethics panel, NIH, and research that somatic cell nuclear transfer (SCNT) with human genetic material will create human embryos—until recently, when they decided to try to hide the embryo for political purposes. (Here are some quotes from various pro-cloning and neutral authorities:http://www.nrlc.org/killing embryos/factsheetembryo.html)

The Weldon-Stupak bill does not place any restrictions on research on human "eggs," unfertilized or otherwise. As any middle school biology student knows any dictionary will confirm, a human "egg" (ovum) is a gamete cell, possessing only 23 chromosomes. While an egg cell is produced by the female, the egg cell itself has no sex. But once one has a complete nucleus that is activated (whether through sexual fertilization somatic cell nuclear transfer), then one had a developing embryo, not an "egg cell." There is no such thing as a five-day-old or two-week-old "egg" that is developing, has 46 chromosomes, and may as easily be male or female. That describes only a human embryo. As for the claim that the Greenwood Substitute would only permit research on "unfertilized" embryos, this is just another word trick aimed at the gullible. Of course human embryos produced by cloning will be "unfertilized," because that is what cloning is—asexual reproduction, reproduction, without fertilization by sperm. Every cloned animal in the world was "unfertilized" from the one-celled embryo stage, and every one of them will be "unfertilized" on the day they die. And if a member of the species Homo sapiens is created by cloning, is implanted in a womb, is born, and lives to be 25 years old, she will still be "unfertilized." But she will be human.

Some supporters of the Greenwood Substitute claim that the Welden-Stupak bill DNA. This is false. The Weldon-Stupak bill (at Section 2. (d)) explicitly allows the use of cloning techniques to produce cells, tissues, or organs, whenever this can be done without first creating a human embryo.

Moreover, the Weldon-Stupak bill does not speak to the separate issue of the use of frozen human embryos, created through in vitro fertilization, for medical research on stem cells or for any other research purposes. The restrictions of the Weldon-Stupak bill apply only to: (1) the use of the somatic cell nuclear transfer (SCNT) cloning technique, to produce (2) a human embryo.

Despite the efforts of some to confuse the cloning debate with the separate issue of stem cell research, even Mr. Greenwood conceded, during the 2001 debate, "The gentleman from Florida (Mr. WELDON) did not bring a bill to the floor to ban embryonic stem cell research."

A more detailed critique of the misleading claims that some are making on behalf of the Greenwood Substitute and the similar Hatch-Feinstein bill (S. 303) is posted here: http://www.nrlc.org/killing—embryos/cloningbackrounder021003.html

In conclusion, NRLC strongly urges that you oppose the Greenwood Substitute, and support without amendment the Weldon-Stupak Human Cloning Prohibition Act (H.R. 534). Thank you for your consideration of NRLC's perspective on this critical issue.

Sincerely,

DOUGLAS JOHNSON,
Legislative Director,
National Right to Life Committee.

Ms. LOFGREN. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

☐ 1445

Mr. NADLER. Mr. Chairman, if one is quoting from Moses, one might note that in the same five books of Moses that contain the Ten Commandments there is a passage that says if a man smites a woman and she die, he shall surely die, and if he smites her and her fetus dies, she shall pay monetary compensation, showing at least the Biblical view that a fetus at some stage of development is not a person and not subject to being murdered.

The heart of this debate is whether you are creating a human being when you are creating an embryo.

Ms. LOFGREN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California (Mr. WAXMAN), a Member of the Committee on Energy and Commerce.

Mr. WAXMAN. Mr. Chairman, 104 years ago today, on February 27, 1899, the man who would make one of the most important discoveries in modern medicine was born in the town of West Pembroke, Maine. His name was Charles H. Best, and he would help identify insulin, the treatment that has saved the lives of millions of diabetics around the world. Let us not celebrate Dr. Best's birthday today by voting to block scientific research that aims to cure diabetes in our lifetime.

The bill before the House is called the Human Cloning Prohibition Act of 2003. This legislation could also be named the Impede Stem Cell Research Act of 2003. This proposal would bar the creation of some of the stem cells that our Nation's top scientists believe could help cure many devastating diseases.

The National Institutes of Health, for example, has found that stem cells can be coaxed into producing insulin, offering a possible cure for diabetes. According to the NIH, stem cells may also help restore lost function to people who are paralyzed and may strengthen the heart muscles of people who have had severe heart attacks.

There are several ways to make stem cells. One of the most promising ways uses a patient's own DNA via a process called therapeutic cloning. The National Academy of Sciences has found that this approach offers great potential to obtain stem cells to treat many diseases, including Alzheimer's, cancer, autoimmune disorders, rheumatoid arthritis. Countries around the world, including the United Kingdom, have not only found this research to be promising, but are planning to invest in it.

Not the United States. In the summer of 2001, President Bush told the American people that he would permit Federal funding of research on 64 existing stem cell lines. Today, the NIH says that just 9 are actually available to researchers. President Bush's decision did not strike a fair balance. To the contrary, it has starved promising research to satisfy an ideological agenda.

The legislation before us would actually criminalize stem cell research based on therapeutic cloning. Does it make any sense to lock up scientists who are seeking cures for diseases? Not even a majority of President Bush's handpicked Ethics Advisory Committee reached the conclusion that the creation of stem cells through therapeutic cloning is unethical. Yet this bill would treat scientists trying to save lives as if they were drug dealers.

There is a far better alternative. We will have before us a substitute amendment. It would outlaw cloning of human embryos for the purpose of producing a child. That issue is not in dispute. But the substitute would not also stop promising microscopic stem cell research. This substitute strikes a balance that respects both the sanctity of life and the needs of the living. A similar balance was struck recently in California law passed to encourage life-saving research using stem cells.

I urge my colleagues to remember Dr. Best's birthday today. Insulin transformed medicine over the past century. We should give scientists the tools and room to make new miracles in the next one.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I would first like to thank the chairman for yielding me time and for his hard work on this bill.

Mr. Chairman, as a cosponsor of the bill before us, I am pleased to see the House quickly acting on this important bill. Today we are taking an important step in affirming the uniqueness and dignity of every human being.

Human cloning represents the first footstep into a dark wilderness from which we may never emerge. University of Chicago Professor Leon Kass, who is also the chairman of the President's Council on Bioethics, has written that human cloning would be a fateful step toward "making man himself simply another one of the manmade things. Human nature becomes merely the last part of nature to succumb to the technological project which turns all of nature into raw material at human disposal."

The last century and a half is bloodsoaked with examples of what happens when men are subjugated to the will of other men. In our vain quest for immortality, will we simply regard cloned babies as meaningless blobs of cells and tissue mass that we can dispose of without any burden to our conscience?

For those who say we should create embryos for medical research, my own father suffers from Parkinson's disease. While I recognize the agony of so many Americans with devastating illnesses and injuries, we must search for ways to ease their suffering without destroying human life. We must promote methods of scientific research that increase our quality of life without forsaking the value of human life in its most vulnerable form.

Cloning diminishes human reproduction from a loving act between two parents to a cold exercise of producing parentless children. Life is a gift. It is not ours to manufacture to our predetermined criteria. I shudder to think of the consequences of turning the creation into the creator.

If we allow human cloning to proceed as a mainstream scientific endeavor, we may soon find out what C.S. Lewis meant when he observed, "Man's conquest of nature would result in the abolition of man."

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would note before yielding to my colleague from California a letter received from the Senior Pastor of the Riverside Baptist Church and the Legislative Director of the United Church of Christ, where it is said, "While it is imperative that we as a Nation and as a people of faith proceed with caution, it is also important that we do what we can to alleviate the suffering of others. We believe that to ban this potentially life-saving research would be a mistake."

I think it is important that we recognize the diversity of religious viewpoints on when life begins and not impose just one viewpoint on the country.

Mr. Chairman, I include for the RECORD the letter referred to.

FEBRUARY 26, 2003.

Hon. JAMES GREENWOOD,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GREENWOOD: As members of the religious community, we would like to commend you for your leadership on stem cell research. Your recognition of the great promise of stem cell research and your support for legislation that allows therapeutic cloning offer great hope for those suffering from juvenile diabetes, Alzheimer's disease, Parkinson's disease, spinal cord injuries, and other ailments.

This is a difficult issue for all of us, and we understand the complex decision you face in considering any legislation that involves human cloning. While it is imperative that we as a nation and as people of faith proceed with great caution, it is also important to do what we can to alleviate the suffering of others. Therefore, we believe that to ban this potentially life-saving research would be a mistake.

Like most, we are opposed to the practice of reproductive human cloning. A ban on this practice would be both welcome and appropriate. Therapeutic cloning, however, requires careful review. We are pleased that you considered this issue in its entirety and took into account the countless individuals who could be saved and whose pain could be alleviated by this medical research. We have a duty to do what we can to help our fellow man, and you have demonstrated your commitment to doing so through your leadership on this issue.

Sincerely,

RABBI HERSHEL BILLET,
President, Rabbinical Council of America, New York, NY.
REV. DR. JOAN BROWN CAMPBELL,
Director of Religion, Chautauqua Institution, Chautauqua, NY.
REV. DR. MICHAEL BLEDSOE,
Senior Pastor, Riverside Baptist Church, Adjunct Professor, Howard University School of Divinity, Washington, DC.
REV. DR. PAT CONOVER,
Legislative Director, United Church of Christ, Justice and Witness Ministries, Washington, DC.
REV. DR. CHARLES S. MILLIGAN,
Ordained Minister, United Church of Christ, Professor Emeritus, Iliff School of Theology, Theologian in Residence, Washington Park UCC Church, Denver, CO.
REV. DR. GEORGE F. REGAS,
Rector Emeritus, All Saints Church, Pasadena, CA.
REV. DR. J. PHILIP WOGAMAN,
Former Senior Minister, Foundry United Methodist Church, Washington, DC.

Mr. Chairman, I am delighted to yield 3 minutes to the gentlewoman from California (Ms. ESHOO), a distinguished member of the Committee on Energy and Commerce.

Ms. ESHOO. Mr. Chairman, I thank my distinguished colleague for yielding me time.

Mr. Chairman, I want to use these 3 minutes to talk about the science that the substitute, H.R. 801, preserves, and exactly what somatic cell nuclear transfer is.

The American people are tuned in today and they are listening to this discussion and they deserve to get some facts.

First, a woman donates an egg cell and a patient donates a skin cell. The nucleus is removed from the woman's egg cell and in its place the nucleus from the patient's skin cell is inserted. The egg is then stimulated to induce it to divide. Once the egg divides, it begins creating stem cells that are identical to the patient's own cells.

This is regenerative medicine, it is not fertilization. Children are created by the fertilization of an egg cell by sperm, not by chemical stimulation.

Stem cell research is research on the most fundamental part of the human system, cells that can become any other type of cell in the body. Because of their ability to develop into liver cells, pancreatic cells, spinal cells, any kind of cell, stem cells are critical to researchers who are trying to cure a whole host of diseases.

What researchers are focusing on today is how these stem cells become other types of cells. There are some types of protein or chemicals that stimulate stem cells to become spinal cells. Scientists just do not know what proteins or chemicals they are.

Somatic cell nuclear transfer or therapeutic cloning is an important part of this process because scientists are still learning how to use the cell from inside the patient's cheek to turn it back into a stem cell, and then reprogram it to become a liver cell that revitalizes the liver damaged by cancer. That is what this discussion is about today.

There are two proposals. They both outlaw human cloning. It is unethical. It is wrong. We all agree to that. But only one bill preserves science and research to accomplish what I just outlined.

So I urge my colleagues to protect the research. Do not criminalize scientists. That would be wrong in our great Nation. We can preserve and protect the sanctity of what we want to protect, to outlaw human cloning, but we should move ahead and be the America that we have always been, to embrace research, to embrace innovation and to help those who are suffering in our country today.

Mr. Chairman, I urge my colleagues to support the substitute and to oppose the underlying bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 90 seconds.

Mr. Chairman, what we just heard seems to indicate that the material we are talking about is "just an egg." I would like to quote from Dr. John Gerhart, who is on the other side of this issue, he comes from Johns Hopkins University, at a press conference that was held yesterday by the gentleman from Pennsylvania (Mr. GREENWOOD) and the supporters of his amendment.

Dr. Gerhart said, "I contend it is an embryo. I don't think anybody is saying that it is just an egg."

This follows along with what President Clinton's National Bioethics Advisory Commission stated in June of 1997. The executive summary says, "The Commission begins its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo, with the apparent potential to be implanted in utero and developed to term."

Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I rise in support of H.R. 534, the Human Cloning Prohibition Act.

People agree that cloning humans is wrong. The recent scare that we all went through regarding an organization called Clonaid brought revulsion to everyone who heard the story that there may have been a cloned embryo implanted into a woman and there may be a child as a result. People across the globe were upset by this possibility.

The only way for us to avoid this possibility is to completely ban cloning. Once that clone is created, how do we control what is done with that embryo? The only effective means to prevent having a cloned human is to ban cloning.

As for the claims we have heard today as for the need for this process to cure disease, there is no evidence that therapeutic cloning has produced a single cure. Not only has it failed in animal research, it has failed also in human research.

Scientific ethics requires that we draw a line. We draw a line in research every day as far as science goes. The fear that we could tread in territory that would create a cloned human being is enough to prevent us from allowing cloning at all.

We need to maintain these ethical principles that guide scientific research and inquiries. Frankly, the costs are too high to our society if we do not do it. We have heard the statistic before that between 95 and 98 percent of cloning in animals fails. This could translate into countless children who would be products of cloning who would be born with serious birth defects, debilitating diseases, and shortened, terrible lives.

Mr. Chairman, the only solution is to support this bill as it is and to reject the alternative. H.R. 534 is the only way to prevent such horrible ideas.

Ms. LOFGREN. Mr. Chairman, I am happy to yield 3 minutes to the distinguished gentleman from North Carolina (Mr. WATT), my colleague on the Committee on the Judiciary.

Mr. WATT. Mr. Chairman, I thank the gentlewoman for yielding time.

Mr. Chairman, I do serve on the Committee on the Judiciary and confess that I have talked to a number of my colleagues, not a single one of which has said to me that they believe in human cloning. I think if there were a bill on the floor that prohibited human cloning, it would pass 435 to 0.

□ 1500

To me, it is somewhat distressing that this bill has been postured in much the same political context as the abortion debate around the question of when life begins and in a way that would make it impossible to do any kind of cloning, even for research or therapeutic research purposes. And I think the thing that is so distressing about that is that every single one of us knows someone who needs the benefit of science to come up with a therapy, a treatment that could prevent or stop the progress of a distressing disease; and most of the promise is in the area that this bill would prohibit.

So I just want to appeal to those people who would like to make this a political issue, a debate about when life begins, that I think different religions have different beliefs about that, and different individuals have different beliefs about that. The thing that I hope we all agree on is that when research advancements, therapeutic or otherwise, can make it possible for people to live their lives with higher quality and for longer periods of time, or to keep them from dying, we ought to allow that kind of research to progress and not get into a political debate that serves somebody's political purpose.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. WELDON), the author of the bill.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to commend him for his leadership on this very, very important and critical issue.

As I mentioned in the debate on the rule, the science on so-called therapeutic cloning is going nowhere, so why do all of these scientists say that they want to allow embryo cloning? Why do all of these biotechnology companies say they want to allow embryo cloning, even though the chairman of Geron, Thomas Okarma, is quoted on the issue of therapeutic cloning, and he is quoted as saying, "The odds favoring success are vanishingly small, and the costs are daunting. It would take thousands of human eggs on an assembly line to produce a custom therapy for a single person."

He goes on to say, "This process is a nonstarter."

So if this therapeutic cloning is such a nonstarter as Okarma says, why do the people in the biotech industries, why do all of these scientists say we have to allow this, we have to make this legal? What is the rationale behind all of this?

I will tell my colleagues what they want to do. They want to create human models of disease. Research scientists today in America, if they want to do research on Parkinson's, Alzheimer's, diabetes, they buy mice and they buy rats that have been engineered to manifest that disease, and what they want to do is they want to create human beings that are engineered to manifest these diseases.

Now, can we imagine that? They want to have shelves with diseases on them filled with human embryos and sell them for a profit to research labs, and that is where we are going with this issue.

Some people get up and ridicule this concept of a slippery slope, but that is exactly what we are on. Because I will tell my colleagues what is next. The artificial womb technology is there. It is available to us today. One can take these embryos and put them in these baths and one can grow them well beyond the embryonic stage, and that will be the next thing we will be debating and talking about in this Chamber if the positions held by some people who want to allow embryo cloning are allowed to move forward.

These are the same exact arguments that occurred in this House on fetal tissue research 10 years ago; and people got up and claimed, we have to allow this, it is the great potential of the future. It turned out to be an absolute bust. It was a disaster. It went absolutely nowhere. Therapeutic cloning is going nowhere. It has been a year and a half since we originally debated this issue. I placed a mountain of evidence before this body here showing that the adult stem cells are working out great, the embryo stem cells are going nowhere, the cloned stem cells are going absolutely nowhere. So why are we still here? Why are we debating this issue? It is because there are people who want to create human models of disease that they can sell for a profit. It is an abomination.

Vote for this bill. Vote against the substitute.

Ms. LOFGREN. Mr. Chairman, I am very honored to yield 2 minutes to the gentleman from New Jersey (Mr. HOLT), a distinguished scientist and Member of this House.

Mr. HOLT. Mr. Chairman, as a scientist, I must say extreme conviction seems to be crowding out understanding here today. I would like to cut through the scientific rhetoric of this biomedical research technique and discuss the real progress in this area. But in the limited time available, let me draw the choice as sharply as possible.

Down one road we see potential therapeutic cloning to help cure diseases from Parkinson's to Alzheimer's; down the other road we see unprecedented criminalization of scientific research.

Now, therapeutic cloning is not some far-out technique conducted on the fringe of the scientific community. These researchers are not crazed Dr. Frankensteins. They are people like our neighbors, highly ethical who are working hard to save lives, to relieve suffering, to improve the quality of life. Let us not make them criminals.

Now, to draw the distinction here, particularly referring to my colleague's reference to a slippery slope, in vitro fertilization has been hailed as a miracle of modern science allowing millions of American couples to conceive. However, by necessity of the in vitro fertilization procedure, some human embryos are created that will not be given the chance to develop into babies. Are we to say here today that we want to outlaw in vitro fertilization? IVF is not only accepted, it is enthusiastically embraced. It is a God send for millions of families. Yes, millions of families. Therapeutic cloning is no more ethically objectionable than IVF.

Now, I asked the proponents of this bill, do you question the ethics of the parents of those million Americans alive today through the miracle of IVF? They may, but let us not command their beliefs to become law.

The majority of my constituents, the majority of Americans, all scientific researchers I know, agree that human reproductive cloning would be unsafe, unethical, and should not be allowed. The Greenwood substitute is every bit as effective as H.R. 534 in keeping scientists from creating genetic duplicates of people. Regardless of which bill is passed today, millions of human embryos will be created.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Chairman, today I rise in support of H.R. 534, the Human Cloning Prohibition Act, a bill to ban all types of human cloning.

I believe human cloning is ethically and morally wrong. It is an unjust experiment whereby human beings are created and destroyed solely for the purpose of research. Human beings cannot be treated as material used for scientific research, and the cloning of human babies turns the natural procreation process into the simple manufacturing of human beings.

It has been determined that human cloning is entirely unsafe to practice on human beings. Most scientists agree that human cloning poses a serious risk of producing children who are stillborn, unhealthy, severely malformed, or disabled.

The fact is, in animal cloning trials, 95 to 98 percent of all cloning attempts have ended in failure, and almost all successfully cloned animals have genetic abnormalities. In fact, Dolly, the infamous cloned sheep, died this past Valentine's Day of a lung disease she acquired before she was even born, and lived only half of the normal life expectancy for a sheep. Why would we even consider for a moment that cloning is safe for humans?

I agree with President Bush when he stated no human life should be started or ended as an object of an experiment.

When debating this issue, we must ask the ethical question: Are we created in God's image, or are we created in our own? Today, this House has a unique opportunity to shut the door on this invasive procedure to women and an affront to humanity. I urge my colleagues to vote in favor of the Weldon bill, to set a precedent for morality and the sanctity of humanity.

Ms. LOFGREN. Mr. Chairman, I am honored to yield 1½ minutes to the gentleman from Wisconsin (Mr. KIND), a leader of the New Democrats and someone who has distinguished himself on the issue of medical research.

Mr. KIND. Mr. Chairman, I thank the gentlewoman from California for the leadership that she has shown on this issue as well.

Mr. Chairman, let us be clear again yet today. This is not a fight about banning human cloning. We all agree cloning for purposes of creating another human being is wrong and it should be prohibited.

Instead, what we are arguing about is allowing scientific research to continue that can lead to cures for Alzheimer's, Parkinson's, diabetes, spinal cord injuries. Unfortunately, H.R. 534's approach would take a Howitzer after a house fly.

What about bone marrow transplants? What about in vitro fertilization? If we logically extend the argument for H.R. 534, that is next.

Some of the most advanced and exciting stem cell research in the world is occurring at the University of Wisconsin. I have had the opportunity over a few occasions to visit their research department; and while the research they are doing there itself is exciting, what is most impressive is how much in tandem the researchers of the science and the ethics department work.

What most people do not realize on this subject is that therapeutic stem cell research is already a heavily regulated industry. The FDA has strict requirements on what they can and cannot do.

But my main point is this: we need to do this if for no other reason than to provide leadership for the rest of the world. I am more comfortable knowing that our country, our researchers, our FDA is providing oversight and guidance on this discovery which could lead almost anywhere. Lets make sure that with our leadership, the discoveries will be used for the betterment of human kind rather than for nefarious purposes.

Mr. Chairman, I urge passage of the substitute and rejection of H.R. 534.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I rise today to support H.R. 534 and speak against the substitute. I believe that combining a somatic nucleus with a donor cell is inherently dangerous. It is inhumane to create a life form that is vulnerable to a host of disabilities and genetic malformations.

As a doctor, I find it very difficult to support a reckless procedure whose scientific merits are unsound, at best. Even more pernicious are the implications that this substitute amendment would have for humanity. So-called therapeutic cloning is virtually identical to reproductive cloning.

Human cloning for reproduction will result in high failure rates. What do those words mean, a high failure rate? They mean that children will be produced that are stillborn, malformed, and disabled.

The proponents of this substitute would make us think that stem cell research would be entirely restricted. As a scientist, successful alternatives such as adult stem cell research and umbilical cord stem cell research have already been used successfully in human trials. We must prohibit both human somatic nuclear transfer and research cloning.

The country is looking for us for leadership on this very important issue. Anything short of a complete prohibition is unacceptable. I urge my colleagues to vote against the substitute and for H.R. 534.

Ms. LOFGREN. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY), who has led efforts to promote science in this regard.

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Ms. SCHAKOWSKY. Mr. Chairman, I rise today in opposition to H.R. 534 and in support of the Greenwood-Deutsch substitute. H.R. 534 squashes the hopes of parents and their families who wake up every day hoping cures to the ailments for which they suffer will have been found.

I speak for Teresa, a mom from my district who urged me to support ongoing somatic cell nuclear transfer research. She told me about her 13-year-old son, Andrew, with type I diabetes who has to check his blood sugar level and inject himself with insulin repeatedly throughout the day and night. "Even with the most vigilant care, he is bound to suffer traumatic complications from this horrible disease. No child should have to deal with a condition like this."

I speak for my dear friend, Bonnie Wilson, and her daughter, Jennifer, who also lives every day with juvenile diabetes.

Fortunately, doctors are learning more every day about how to treat and eventually cure diseases such as diabetes, Parkinson's, Alzheimer's, using somatic cell nuclear transfer. Yet, H.R. 534 aims to take away these research opportunities, and in the end, take hope from Teresa and Andrew, Bonnie and Jennifer.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I wish to address some comments made earlier in the debate where a vote for this bill was characterized as eliminating the only hope for the suffering and the dying. I just hope that that is an insensitive representation, and not based on a true understanding of the issue.

By voting for this bill, Members are not casting themselves as scientific Luddites nor moral zealots; they are merely saying there are alternatives that are existent in the current scientific community that are relevant to developing the cures and promises that have been held out by that of embryonic research but not yet fulfilled.

Much of the limitations on embryonic research's success has come from the results of cellular meiosis. When the cell has divided, those genetic defaults it would sometimes trigger that were developed to terminate are artificially preserved, thereby limiting the effectiveness of the embryonic cell line, which has been touted as the only hope for medical survivability.

Other than that, placental embryonic and cord blood research has moved far beyond clinical research, and in fact now there is a corporation within my own district that is in the process of marketing products. For example, a corneal implant used after surgery produced from stem cells, put over the surgical incision, does not have to be removed because it is incorporated into the body. Stem cells from placental research inserted after a myocardial infarction has provided 100 percent recovery of heart function. The list goes on and on and on.

By voting for this bill, Members are not religious zealots, not scientific Luddites, but they are merely saying that the issue of cloning is entirely different from stem cell research. There are avenues highly successful, highly provable, and I can take anyone who cares to see it to Baton Rouge, Louisiana, and walk through the halls of this facility where this research has moved beyond where human suffering has been responded to and addressed.

and offers the hope and promise that all of us seek with the passage of this bill.

Ms. LOFGREN. Mr. Chairman, I am happy to yield 1½ minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, today we live in an age of exploding technological advances. Many of these new technologies offer the potential to improve the lives of people in the United States and around the world.

But, Mr. Chairman, some of this new technology also has the potential to do great harm to our people and to our environment. All too often, these dangers are magnified because the owners of technology are primarily interested in how much money they can make, rather than the betterment of society.

We have seen this in the area of genetically modified organisms that are finding their way into our food supply in the U.S. The legislation we are considering today concerns an even more important issue; namely, the cloning of human life itself. While I support stem cell research, the cloning of a human being for any purpose raises the deepest and most profound ethical and moral questions: questions about the sanctity or the uniqueness of each human person; questions about the evil of eugenics and genetic engineering in humans; and, equally important, questions about the ownership and use of cloned humans by an unregulated corporate biotechnology industry motivated almost exclusively by their quest for venture capital, short-term profits, and higher stock prices.

The speed with which human cloning technology has developed thus far has far outpaced our abilities as a society to wrestle with these questions.

Mr. Chairman, technology should not drive ethics and morality in this country and on this planet; ethics and morality should frame the acceptable limits of our use of technology. That is why I strongly support H.R. 534, which would ban all human cloning.

Ms. LOFGREN. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Texas (Mr. GREEN), a member of the Committee on Commerce.

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague, the gentlewoman from California, for yielding time to me.

Mr. Chairman, there are few decisions more difficult than the one we are making today. If it were simply a debate about human cloning, I doubt that we would have one vote for it. I think the vote would be 435 to zero.

I think we are all troubled by the recent media reports by the Raelians about attempting to clone a human being. Human cloning is a horrifying practice that should be banned, and people like the Raelians should be stopped.

But this legislation is more than human cloning. There is an exciting field of research known as therapeutic cloning that can potentially cure diseases and conditions such as diabetes, Parkinson's disease, spinal cord injuries, organ failure, Alzheimer's, and other life-threatening illnesses. Who of us has not had a constituent or family member touched by one of these illnesses so that we would be willing to do whatever research possible to end their suffering?

We have heard amazing testimony from scientific experts who have made a compelling case for therapeutic cloning. They tell me that individuals currently receiving organ transplants may endure toxic immunosuppressive drugs in order to stay alive; but by cloning tissues and organs, nerve cells and other cells, we can provide a genetic duplicate that the body would not reject. If this technology is developed, we could cure any disease that involves the damage or deterioration of tissues and cells. There are very few diseases that do not fall in this category. This is the most promising approach for millions of Americans whose suffering could end if therapeutic cloning is allowed. That is why I support the Greenwood substitute.

Many oppose cloning because they believe it is not allowed in their religious beliefs. The Greenwood substitute prohibits human cloning but it allows for our God-given intelligence to make our world a healthier and safer and less painful place.

As Christians, I hope that is our mission and our prayer, to eliminate human suffering. That is why I hope my colleagues will join me in supporting the Greenwood substitute and give hope to these individuals.

Ms. LOFGREN. Mr. Chairman, I yield myself my final 30 seconds.

Mr. Chairman, I urge a no vote on this bill. We have taken a consensus and we all agree that human cloning should be outlawed and warped it into a vehicle to impose one religious viewpoint on the scientists of this country. Not only is this wrong, but it will force scientists to flee our shores, will bring down the veil of ignorance to our country, and will remove us as having the leading scientific edge in the world for this biotechnology research.

I urge all Members to vote no.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 2½ minutes.

Mr. SENSENBRENNER. Mr. Chairman, during this general debate we have heard from the opponents of this legislation that scientific research would come to a screeching halt if a ban on cloning of human embryos is enacted. There would be no more stem cell research, there would be no in vitro fertilization, and on and on and on.

Nothing could be further from the truth. The bill itself in section 302(d) says, and I quote, "Nothing in this section restricts areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans."

What this section says is that all of this type of scientific research that is going on now will be able to continue as long as cloned human embryos are not used. That is a big difference. If a scientist wants to create human embryos and peddle them around the world and around this country to make a profit, that will be prohibited. But if a scientist wants to do scientific research, including stem cell research, on material other than cloned human embryos, which include adult stem cells, then that will be able to continue to proceed.

This bill draws a line, a very reasonable line, between science and ethics. That reasonable line is whether a cloned human embryo is used. Should a cloned human embryo be created and used, yes, this bill criminalizes it, as it should; but if the research uses any other material besides cloned human embryos, the criminal penalties of this bill do not apply, and that research will be able to proceed.

I would hope that the Members of this House will listen to the fine points of this debate and ignore allegations that have been made that are not contained in the bill, and pass it.

Mr. COOPER. Mr. Chairman, I, like most Americans, am strongly opposed to human cloning. It is wrong to try to duplicate human beings. But it is important, as we ban human cloning, that we do not prevent legitimate scientific research into life-saving therapies that can mean so much to human life. All of us have friends who suffer from Alzheimer's, diabetes, stroke, Parkinson's, heart disease, liver failure, end-stage renal disease, rheumatoid arthritis, osteoporosis, burns, multiple sclerosis, brain damage, Lou Gehrig's disease and lupus. Americans who suffer from these diseases should not be told that Congress has stopped the search for a cure for their diseases, and that they will have to move to another country to have any hope.

One of the great achievements of Congress in the last several years has been to boost NIH funding to accelerate the discovery of cures for many of these dread diseases. It would be a mistake to put NIH and other leading research institutions in a legal straightjacket that prevented legitimate research.

Unfortunately, although the Weldon bill commendably bans human cloning, it also cripples scientific research into potentially-life saving therapies. That is why I am supporting the Greenwood bill, which bans human cloning without harming other scientific research. The Greenwood bill actually has tougher punishments for those who violate its provisions than the Weldon bill does.

There is considerable confusion surrounding this debate. I have been listening to many people with differing points of view, and read many articles concerning the bills. One particularly touching conversation was with a father whose own son has Type I diabetes, and whose opposition to the human cloning and any related technology is so strong that he is willing to forego research that could even save his own son's life. For Middle Tennesseans, the debate is more confused because Senator BILL FRIST, M.D., has surprised the scientific community by supporting the Weldon bill. It is interesting to note, however, that Vanderbilt University, the institution where Dr. FRIST worked before entering politics, opposes the Weldon bill and supported the Greenwood bill. The head of Princeton University, where Dr. FRIST received his training in pre-medical studies, also opposes the Weldon bill and supports the Greenwood bill.

Having studied this issue closely, I think that the Greenwood bill hits the target of banning human cloning, without harmful side-effects. In past congressional debates, such as over research on DNA, Congress was tempted to pass an overly broad ban, but, fortunately resisted such temptation. Congress has another such opportunity today: to pass legislation that achieves the objective of banning human cloning, with out harming the health care of our people.

Finally, it was unfair to the Republican majority to require a vote on this bill without having held any committee hearings or received any testimony on it in this Congress. While it was considered in the previous Congress, there are many new members who do not have the benefit of those hearings, and even older member lack of updated information that is available from the scientific community. It is a serious mistake for Congress to rush complex legislation through without any hearings and with minimal debate, especially when it could have such a profound impact on the health of the American people.

Mr. ETHERIDGE. Mr. Chairman, I rise today in opposition to H.R. 534, and in support of the Greenwood substitute.

Two years have passed since the House last considered this complex issue. And in that time, scientists and physicians around the world have made incredible strides in their efforts to understand and cure diseases like Alzheimers, diabetes, and cancer. The work our scientists are doing is truly remarkable and it holds the potential to alleviate human suffering around the globe. Today, we are considering a bill, which will leave our sickest patients hopeless at the expense of politics.

I oppose reproductive human cloning because it is morally wrong. But, H.R. 534 goes too far. The Weldon bill would stop all research initiatives that rely on somatic nuclear cell transfers, just as we are realizing to enormous benefits of this biomedical research. The Greenwood substitute, in contrast, bans reproductive cloning while allowing this critical research to continue.

As a representative of the Research Triangle Region of North Carolina, I understand the importance of the research our scientists are conducting. It has the potential to save the lives of hundreds of thousands of people who suffer from a number of debilitating diseases.

The implications of passing H.R. 534 reach far beyond the highly emotional and contentious debate of whether or not the creation of an embryo to be used in medical research constitutes human life. This bill criminalizes medical research that might be the only chance for a cure for many terrible diseases. While the promise of this biomedical research remains years away from being perfected and utilized, the Greenwood substitute allows us to hold on to the hope that we may one day find a cure for leukemia, heart disease, Parkinson's, spinal cord injuries, and a host of other illnesses.

I urge my colleagues to oppose H.R. 534 and vote for the Greenwood substitute.

Mr. MANZULLO. Mr. Chairman, I rise today in support of H.R. 534, the Human Cloning Prohibition Act of 2003. Human cloning is accomplished by a technique called "somatic cell nuclear transfer." One takes the nucleus from a body (somatic) cell and transfers it into a female egg which has its nuclear material removed. Using an electric current or chemical stimulus, the cloned embryo beings to divide as does a fertilized embryo. Thus, the product of human cloning would be a human embryo, regardless of how the embryo will be used.

Mr. Chairman, I am opposed to human cloning for a variety of reasons. When animals are cloned, 95–98 percent of the attempts end in failure, and those that are successful have genetic abnormalities. Most scientists will agree that human cloning poses a serious risk of producing children who are stillborn, unhealthy, severely malformed or disabled. Many opponents of this bill think the cloned embryos will produce stem cells that can be used to cure a variety of ailments. However, there are no models in animal cloning in which scientists derived stem cells to cure the animals. The prospect of creating clinical treatments from stem cells derived from cloned embryos is completely speculative.

The attempt to perfect human cloning despite the high risks of injury would constitute a violation of the fundamental principle of all human research: DO NO HARM. To proceed on the basis that the eventual benefits may outweigh the probable harms to woman and child is akin to the Nazi experiments at Nuremberg. Efforts to create human beings by cloning shift human reproduction into a manufacturing process in which children are made in laboratories to preordained specifications and in multiple copies.

Human cloning also poses a significant risk to women's health. In order to create human embryos, great quantities of women's eggs will be needed. To obtain eggs, women will be injected with supervulatory drugs and then will undergo an invasive procedure. The risks of this procedure are just starting to be documented. The side effects from these injections are known to be abdominal pain and nausea, in three to five percent of cases of hyperstimulation of the ovaries occurs, causing severe abdominal pain, and on rare occasions surgery is required which may leave the woman infertile.

Women of lower economic means are particular targets for exploitation. Women may be paid to donate their eggs for failed human cloning experiments. But it will not just be a few women who will be needed. In order to generate enough cloned embryos to carry out research on the scale that is envisioned, thousands of eggs will need to be solicited from numerous women. Just to treat 16 million Parkinson's patients, it is estimated that a minimum of 800 million human eggs would be needed from a minimum of 80 million of childbearing age.

I strongly support the development of cell and tissue-based therapies based on research involving the tissue based on research involving the cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans. Already, these scientific methods have enabled researchers to develop innovative drugs to treat diseases such as breast cancer, and aid in treatment techniques for injuries, such as cloning skin cells for skin grafts. The bill I support restricts the use of cloning technology only on human embryos.

Mr. Chairman, I believe that human life at every stage of biological development is deserving of respect and protection, regardless of the circumstances under which that human life was created. That is why I am supporting H.R. 534 and will oppose Mr. Greenwood's substitute amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to speak on H.R. 534. This legislation involves an important public policy matter and what many would call cutting edge scientific issue: human cloning.

We have not held hearings in which we discussed the ethics of cloning and legislation proposals to impose federal control on the cloning process. Yet, today we will vote on the Human Cloning Prohibition Act of 2003, H.R. 534.

We all recognize that cloning is a fascinating and promising issue but is certainly an area that needs to be fully explored. We must carefully balance society's need for lifesaving scientific research against numerous moral, ethical, social and scientific issues. Reproductive cloning is almost universally opposed in Congress and the majority of Americans are not comfortable with the prospect of a human clone.

In our rush to ban reproductive cloning, there are some in Congress who want to close the door on this new research technology, which may provide critical medical advances. And, one of these innovative areas is the promise of stem cell research. Stem cell research has the potential to cure some of the most painful and deadly diseases afflicting our population.

H.R. 534 would make it next to impossible to use stem cell lines to research diseases which are more prevalent in people of particular racial or ethnic groups, for example, diseases such as sickle cell which afflict African-Americans, thalassemia which disproportionately affects Asian-Americans, or Tay-Sachs which is prevalent in the Jewish population.

After Congress considered this issue in the 107th Congress, President Bush issued an order limiting stem cell research to the approximately seventy stem cell lines existing as of August 9, 2001. A recent Institute of Medicine study explained that because the cell lines available to researchers are limited, they do not represent the genetic diversity of the general population nor do they represent the diversity of our population.

Diseases that plague minority populations are almost certainly not represented in the 64 approved stem cell lines. On the uses of stem cells, the National Institutes of Health described their medical potential as enormous.

The legislation before us is so sweeping that it would not only ban reproductive cloning but all uses of nuclear transfer—also known as therapeutic cloning—for research or medical treatment.

H.R. 534 goes beyond banning reproductive cloning to banning research in somatic cell nuclear transfer. The result is that the bill would cut off scientific developments that are granting hope to millions of Americans who have been told there is no cure for their diseases.

I would note that the legislation's supporters would have us believe that H.R. 534 has nothing to do with stem cell research and would not disrupt scientific advances being made in this important and much-discussed area. I disagree with this argument.

I strongly believe that we should provide an exemption for embryonic cloning for the purpose of creating a genetically diverse stem cell line.

Mr. BLUMENAUER. Mr. Chairman, cloning for the purpose of reproduction is wrong, and I am confident my colleagues agree. I am supporting a proposal, offered as an amendment to H.R. 534, which clearly outlaws human reproductive cloning while not closing the door on future advancements in scientific research which have the potential to find cures for degenerative and life threatening diseases. This research is critical to advancing therapies and cures for diseases such as Parkinson's, Alzheimer's and diabetes, as well as conditions resulting from spinal and head injuries.

Most egregious, the underlying bill will halt important research on cures for these diseases, which kill over 3,000 Americans each year. The bill goes so far as to even bar the importation of overseas medical treatments developed using cell cloning techniques. Just because this type of scientific research does not fit the ultra-conservative views of some members of this body is no reason to withhold potentially life-saving treatments from millions of Americans suffering from debilitating and life threatening diseases. These citizens and their families deserve better.

This bill is a misplaced application of religious doctrine, imposing a narrowly held view of science and law on America. We can and should provide guidelines that prevent reckless experimentation on the development of humans and prohibit cloning for purposes of human reproduction, but Congress should not overreach in this area.

Ms. CORRINE BROWN of Florida. Mr. Chairman, if I had been present, I would have voted no on final passage and yes on the Democratic substitute. I needed to return to my district earlier than planned because of an urgent matter and because of the weather emergency.

I believe that this measure is simply going too far since it bans all human cloning. This would lead to a terrible stifling of important scientific research that could potentially have been conducted to save the lives of countless human beings who suffer from degenerative and life-threatening illness.

The bill is so extensive that it would not only ban reproductive cloning but also therapeutic cloning for research or medical treatment. Moreover, it would impede research that is designed to help those who suffer from a variety of disease such as Alzheimer's, diabetes, Parkinson's and spinal cord injuries.

The bill would make it nearly impossible for our country to benefit from ongoing stem-cell research. Many people I have spoken with that are informed on this subject argue that the technology banned by this bill is vital to any breakthrough in the use of these "master" stem cells. Enactment of this legislation would stop stem cell research in its tracks and deny Americans the benefit of research that the National Institutes of Health has described as having "enormous" medical potential in the treatment of any number of life-threatening diseases and conditions.

Additonally, I believe that those who oppose stem cell research on ethical grounds are simply misunderstanding the issue. Currently, there are tens of thousands of frozen embryos already in fertility clinics around the nation, which, if not used for research, will merely be destroyed. These are cells that are not yet specialized to perform a specific task, but can take on the character of virtually any cell in the body. Numerous studies demonstrate that these cells may be capable of repairing what goes wrong with other cells, and therefore hold the cure to many horrible diseases and conditions that attack the human body on the cellular level.

In my view, not to take advantage of this research by yielding to the excessive influence of our country's powerful conservative activists would be a terrible mistake. I also do not believe that an all out ban on human cloning needs to include a ban on nuclear transfer research. The former brings a new child into the world; the latter is concerned only with the study of embryonic development and curing disease. In a word, this bill would prevent vital research from taking place.

Ms. MAJETTE. Mr. Chairman, I would like to take this opportunity to explain why I am voting against the Human Cloning Prohibition Act today.

I call to mind a previous case that I think closely resembles today's actions by this body. I refer to a trial that took place almost 400 years ago; the heresy trial of Galileo in 1633.

Galileo was a scientist who studied the mysteries of the physical world—he dared to explore that which we did not understand. Unfortunately, the political leaders at the time were afraid, and justifiably so. They said that his ideas threatened their religious beliefs, they were afraid of where the research would lead. They were right to be afraid—they were wrong to take the actions they did as a result.

Galileo's persecutors concluded that his research was immoral, and after his heresy trial he spent the rest of his life under house arrest. It was not until 1992 that the church lifted its edict of inquisition against him.

Galileo himself saw no conflict between science and religion. When asked about his research, he said that "Holy Scripture and Nature are both emanation from the divine word: the former dictated by the Holy Spirit, the latter the observant executrix of God's commands.' And he died a devout Catholic.

Like the Roman Catholic Church in Galileo's time, I am scared. I am afraid of where cloning research may lead. I am afraid of its applicability in the wrong hands. But I refuse to be a part of a heresy trial today.

This bill would make it a crime for scientists to pursue reasonable research, inspired by noble goals and performed by decent people.

Supporters of this misinformed bill argue that this research should not be pursued. One of the reasons they gave is that there is no evidence that the research will work as intended. I submit that that is exactly why it should be pursued. After all, that is the point of research—to try to understand those things which we do not yet understand.

I believe that we have some of the greatest minds of our time trying to find cures for the dozens of diseases that plague us—young and sold, rich and poor alike. I am unwilling to take away any of their tools out of fear.

I am unwilling to persecute Galileo. My faith in God is strong and, perhaps, just as Galileo's research is not described by religious scholars as "opening up new windows upon the wonders of God's creation," this research may one day be universally acclaimed—both for its ability to cure diseases as well as the insight it lends us to God's creation.

Mr. UDALL of New Mexico. Mr. Chairman, I believe that human cloning is dangerous, unethical and needs to be prohibited. The recent reports surrounding Clonaid's supposed first successful human baby cloning, though thus far unverified, provides further impetus for the need to enact a prohibition of this practice. As such, I strongly support banning the practice of reproductive cloning, which is the replication of an individual's genetic material in a new individual.

However, as strong as my opposition is to the process of reproductive cloning, my support for continued stem cell research to develop cures for debilitating diseases such as cancer, diabetes, and others, is equally strong. The process of therapeutic cloning, also known as somatic cell nuclear transfer, is the transplantation of a patient's own DNA into an unfertilized egg in order to grow stem cells. Therapeutic cloning does not in any way lead to the creation of viable human life. However, it does allow for continued research in the area of stem cells.

Unfortunately as a result of overly broad cloning prohibition language in H.R. 534, the scientific process of therapeutic cloning is also prohibited along with reproductive cloning. Also, as my colleague Mr. CONYERS has recently pointed out, H.R. 534 also bans the importation of lifesaving medicines from other countries if their production is in anyway derived from nuclear transfer. Because of these considerations, I will be voting against H.R. 534.

I do, however, strongly support the substitute measure being offered by Mr. GREENWOOD, Mr. DEUTSCH, Ms. DEGETTE, Mr. ESHOO, and Mr. KIRK. This measure also bans the process of reproductive cloning, but allows continued stem cell research, which has shown great promise towards finding cures for many illnesses such as Parkinson's disease, juvenile diabetes, Alzheimer's, spinal cord injuries, blindness and sickle cell anemia.

Forty Nobel Laureates, millions of patients, former first-lady Nancy Reagan who's husband, as we all know, suffers from Alzheimer's disease, and others, have expressed support for therapeutic cloning. I urge my colleagues to join me in support of the Greenwood substitute and in support of banning the unethical process of human cloning, but at the same time allowing further research into a promising field that could benefit millions of men, women, and children who suffer from devastating diseases.

Mr. SHAYS. Mr. Chairman, in our rush to ban human reproductive cloning, we are at risk of also banning the most promising and exciting area of biomedical research in the past thirty years. If passed into law, the overly-broad Human Cloning Prohibition Act would ban not only human cloning but also a laboratory technique that may enable scientists to understand the genetic causes of diseases such as cancer and develop therapies for diseases and disabilities such as diabetes, Parkinson's Disease, and spinal cord injuries.

No responsible person, patient advocate or scientist supports the cloning of human beings. Human reproductive cloning is unethical, should be prohibited, and should be punishable under federal law.

But in banning human cloning, we should not ban a laboratory technique called somatic cell nuclear transfer, which can be used to derive human embryonic stem cells. With such stem cells, our scientists will gain fundamental insights into cell biology that will lead to new treatments and cures for a host of diseases and disabilities.

Prohibiting this basic scientific technique will severely hinder U.S. research. Our scientists have achieved an unparalleled record of accomplishment by employing new technologies to benefit humankind. New innovations in scientific discovery have historically been controversial, but they have proven to save lives and help manage devastating diseases. An example is the use of recombinant DNA technology, which provoked considerable alarm and debate in the 1970's, and has since become the foundation of modern biomedical research and our biotechnology industry.

In his speech memorializing the crew of the space shuttle *Columbia*, President Bush said. "This cause of exploration and discovery is not an option we choose; it is a desire written in the human heart. We are that part of creation which seeks to understand all creation."

Mr. Chairman, we should be encouraging our scientists to respond to that desire which is written in their hearts: understanding and ending the suffering of their fellow human beings. I urge my colleagues to vote in favor of the substitute offered by Mr. GREENWOOD and, if it fails, against the underlying bill.

Mr. PITTS. Mr. Chairman, on Thursday, February 27, the House will take up the Weldon-Stupak Human Cloning Prohibition Act (H.R. 534), a bill to prohibit the creation of human embryos by cloning.

This is the same bill that the House debated on July 31, 2001. On that occasion, our colleague Mr. GREENWOOD offered a substitute amendment that would have permitted the human cloning (the cloning of human embryos), but attempted to prohibit initiating a pregnancy by implanting such a cloned human embryo in a womb. The House decisively rejected the Greenwood Substitute, and then adopted the Weldon-Stupak bill overwhelmingly, 265–162. Although 64 members of the Democratic caucus voted to pass the Weldon-Stupak bill, to our disappointment, Democratic Leader GEPHARDT voted in opposition.

However, it is noteworthy that when Mr. GEPHARDT appeared on NBC's Meet the Press less than three weeks later, on August 19, 2001, he appeared to have had a change of heart. Although host Tim Russert did not ask about cloning, Mr. GEPHARDT volunteered this remarkable statement: "Obviously, we don't want cloning. . . . We passed a law saying no cloning and I think that's the law that we ought to follow."

The only bill that had been passed pertaining to cloning, of course, was the Weldon-Stupak bill (the House had emphatically rejected the pro-cloning Greenwood Substitute). It seemed that Mr. GEPHARDT was taking credit for what the House had done, even though he had voted against it just three weeks earlier. But be that as it may, we certainly agree with Mr. GEPHARDT's conclusion that the ban that the House passed (the Weldon-Stupak bill) is indeed "the law that we ought to follow."

We urge you to oppose the Greenwood Substitute, which would permit what President Bush called cloned human "embryo farms," and to support the Weldon-Stupak bill, the only bill that would really say "no cloning."

The complete transcript of the exchange between Mr. Russert and Mr. GEPHARDT follows.

[Excerpt from NBC Meet The Press, August 19, 2001]

Mr. TIM RUSSERT: Let me turn to the issue of stem cell embryo research. The president decided that we should look at the stem cells that already exist, but not allow any development of any new stem cells. You disagree with him. Why?

Rep. RICHARD GEPHARDT (D–Mo.): I just—I don't think we know where this research is going. We don't even know how many stem cell segments are out there now. He said 60. Some of the researchers don't even know that there are 60 in place now. This is an emerging field. Look, if you have somebody in your family who has Alzheimer's, who has diabetes, who has cancer, you want to find the answers to these problems. The researchers believe there may be real answers to many of these diseases over the next years. We shouldn't limit the areas that we're going to look at. We ought to see where the research can go. Obviously, we don't want cloning. Nobody is for cloning. But we need to use the research that's out there to get the answers to these diseases. Boy, if you've got somebody in your family that's really ill, you want to know the research might find an answer.

Mr. RUSSERT: The public seems to support the president overwhelmingly. Let me show you the latest USA Today poll. Sixty percent approve of the president's decision; just 34 percent disagree. And there's a simple question to be asked: When do you think life begins?

Rep. GEPHARDT: Well, the Supreme Court said, after the—you know, somewhere between the first and second trimester.

Mr. RUSSERT: But when do you think?

Rep. GEPHARDT: I think the Supreme Court probably had it right. And I think we ought to use the research that can be done on stem cells to find the answers to these dread diseases. You know, try . . .

Mr. RUSSERT: Wait, wait, wait. This is important. When you first came to Congress, you proposed a constitutional amendment to ban all abortion. And you said on the House floor, "Life begins at conception." You've now changed your mind?

Rep. GEPHARDT: I think that the thing to do here is to follow the Supreme Court. I think their decision said it very clearly, and I think that's the policy that ought to be followed. I think on this stem cell research decision, we've got to let the research go to where it can, to find the answers to these problems.

Mr. RUSSERT: Including using the frozen embryos that are created by in vitro fertilization clinics.

Rep. GEPHARDT: I think we ought to let the research find the answers to these problems.

Mr. RUSSERT: So you would use those?

Rep. GEPHARDT: We passed a law saying no cloning and I think that's the law that we ought to follow.

Mr. RUSSERT: But these are stem cell embryos created by in vitro fertilization clinics that are discarded if not used for research.

Rep. GEPHARDT: I think we ought to let the research find the answers to these problems.

CONGRESS OF THE U.S.,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 2003.

DEAR COLLEAGUE: By now, everyone has heard of the euthanized death of "Dolly," the infamous cloned sheep. She died on Valentine's Day 2003 at the age of 6, half the normal life-expectancy for a sheep.

Alan Coleman, A Singapore-based scientist who helped clone Dolly said, "I think it highlights more than ever the foolishness of those who want to legalize (human) . . . cloning . . . In the case of humans, it would be scandalous to go ahead given our knowledge about the long-term affects of cloning."

If cloning is not safe for animals, how can it be good for humans?

I urge you to vote for the Weldon/Stupak ban (H.R. 534) and vote against the Greenwood substitute.

Cordially,

JOSEPH R. PITTS,
Member of Congress.

Mr. RYUN of Kansas. Mr. Chairman, I believe that all embryonic cloning, whether therapeutic or reproductive, violates moral and rational bounds.

First, embryonic cloning is unproven. Not a single case of embryonic cloning in animals has resulted in successful treatment of any disease. Furthermore, animals created through embryonic cloning have developed unnaturally and suffered numerous genetic defects.

Second, embryonic cloning is immoral. Every cloned embryo is capable of developing into an adult. The Greenwood amendment proposes the artificial creation of life and subsequent destruction thereof. This cannot be tolerated.

Finally, even in the most conservative of estimates, hundreds of millions of human eggs would be needed for human cloning. Women, especially the under-privileged, would be exploited for the sale of their eggs. We cannot allow human eggs to become a commodity.

We must ban all embryonic cloning. I urge my colleagues to support the resolution.

Mr. SOUDER. Mr. Speaker, I would like to submit the following information from National Right-to-Life:

Congress is renewing consideration of whether to ban all human cloning, as a number of other major nations have already done. On Wednesday, February 12, the House Judiciary Committee will act on the Weldon-Stupak bill (H.R. 534). This bill, which is backed by President Bush, would ban the creation of human embryos by cloning. In the Senate, the same policy is embodied in the Brownback-Landrieu bill (S. 245).

Those who favor cloning human embryos are proposing competing legislation that would allow the mass cloning of human embryos to be killed in research, but attempt to ban implanation of such an embryo in a womb. In the House, we expect that this "clone and kill" approach will be advanced by Rep. Jim Greenwood (R–Pa.), who offered such a proposal in 2001. In the Senate, a cloning-embryos-for-research bill has been introduced by Senator Orrin Hatch (R–Utah), Dianne Feinstein (D–Ca.), and others as S. 303.

In recent days, a number of news outlets have transmitted inaccurate reports about what these competing bills would each allow and forbid—reports that obscure what the argument is really about. These points of confusion are discussed in more detail below.

PRESIDENT BUSH'S POSITION

President Bush has repeatedly called on Congress to ban all human cloning (i.e., to ban the cloning of human embryos). In remarks on January 22, the President said, "I also urge the Congress to ban all human cloning. We must not create life to destroy life. Human beings are not research material to be used in a cruel and reckless experiment." In his January 28 State of the Union speech, the President said, "Because no human life should be started or ended as the object of an experiment, I ask you to set a high standard for humanity, and pass a law against all human cloning." In a speech on human cloning last year, President Bush warned that unless such legislation is enacted, human "embryo farms" will be established in the United States. (See www.whitehouse.gov/news/releases/2002/04/print/20020410-4.html)

THE SITUATION IN CONGRESS

The House Judiciary Committee is scheduled to mark up the Weldon-Stupak bill (H.R. 534) on Wednesday, February 12, at 10:15 a.m., at 2141 Rayburn House Office Building. Once the committee completes its work, the full House could take up the bill at any time. H.R. 534 is nearly identical to the measure that passed the House on July 31, 2001, by lopsided bipartisan vote of 265–162 (roll call no. 304). When the House considered the issue on that occasion, it decisively rejected (249–178) as substitute amendment, the Greenwood-Deutsch Amendment, that would have allowed the cloning of human embryos for research (roll call no. 302).

The Senate companion to the Weldon-Stupak bill, the Brownback-Landrieu bill (S. 245), currently has 26 cosponsors. A radically different measure, the Hatch-Feinstein bill (S. 303), has only eight cosponsors, but it has considerable additional support, mostly among Senate Democrats.

The Brownback-Landrieu bill has been referred to the Committee on Health, Education, Labor, and Pensions (HELP), which is chaired by Senator Judd Gregg (R-NH), who was a cosponsor of the bill in the 107th Congress. The Hatch-Feinstein bill has been referred to the Senate Judiciary Committee, which Hatch chairs. Whatever happens in these committees, the full Senate ultimately will vote on both of these diametrically conflicting approaches.

The recently selected Senate Majority Leader, Bill Frist (R–Tn.), said in a January 12 interview on Fox News Sunday, "I am opposed to any time that you create an embryo itself with the purpose being destruction, and that would include the so-called research cloning. And remember, research, cloning is just that, it's experimental. There's been no demonstrated benefit of that to date, so I don't think you ought to destroy life. . . ."

The key differences between the two bills are discussed below. In many recent news media reports on human cloning issues, the differences have been mischaracterized, and the specific activities that each bill would allow and prohibit have been widely misunderstood.

MISCONCEPTIONS AND FACTS

MISCONCEPTION: The Brownback-Landrieu/Weldon-Stupak legislation prohibits cloning of human "cells," while the Hatch-Feinstein bill would allow cloning of "cells."

REALITY: The Brownback-Landrieu bill (S. 245) and the Weldon-Stupak bill (H.R. 534)— like their predecessors in the 107th Congress—explicitly allow "the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans." [Sec. 2 of the bill, at (d) in H.R. 534 and at (e) in S. 245; boldface added for emphasis] Thus, the methods currently used to "clone" new skin, for example, or to "clone" DNA, are perfectly okay under the Brownback-Landrieu bill. Moreover, any cloning method that would produce stem cells without first producing and killing a human embryo—as some researchers have claimed that they eventually will be able to do—is explicitly permitted by this language. In addition, the Brownback-Landrieu and Weldon-Stupak bills place no restrictions on research of any kind on human ova ("eggs").

In short, the Brownback/Weldon legislation and the Hatch-Feinstein legislation are alike in that they would both permit cloning involving merely eggs, cells, or tissues, but they differ on one proground issue: The Hatch-Feinstein/Greenwood proposals would allow the use of the somatic cell nuclear transfer (SCNT) process to clone human embryos, and the Brownback/Weldon legislation would forbid the use of SCNT to clone human embryos.

Verbiage by supporters of "research cloning" about "eggs" and "cells" is intended to conceal what the argument is really about: whether it should be permitted to clone human embryos.

MISCONCEPTION: So-called "therapeutic cloning" does not involve creating human embryos.

FACT: That SCNT using human genetic material will create a developing embryo of the species Homo sapiens is something that authorities on all sides agreed on until sometime in 2001, when some of the pro-cloning forces decided to try to obscure this fact for political purposes. Among those who clearly affirmed that SCNT will create human embryos were the bioethics panels of both Presidents Clinton and Bush, the embryo research panel at NIH, and the chief cloning researchers at Advanced Cell Technology in Massachusetts. Some samples of such statements, which pre-date the current disinformation campaign, are posted here: www.nrlc.org/Killing Embryos/factsheetembryo.html

To cite just one example here, a group of scientists, ethicists, and biotechnology executives advocating so-called "therapeutic cloning" and use of human embryos for research—Arthur Caplan of the University of Pennsylvania, Lee Silver of Princeton University, Ronald Green of Dartmouth University, and Michael West, Robert Lanza, and Jose Cibelli of Advanced Cell Technology—wrote in the December 27, 2000 issue of the Journal of the American Medical Association, "CRNT [cell replacement through nuclear transfer, another term for "therapeutic cloning"] requires the deliberate creation and disaggregation of a human embryo." They also wrote, ". . . because therapeutic cloning requires the creation and disaggregation ex utero of blastocyst stage embryos, this technique raises complex ethical questions."

In its 2002 report on human cloning, the President's Council on Bioethics, although divided on policy recommendations, provided without dissent recommendations regarding the use of honest terminology in this crucial public policy debate, including acknowledging that successful SCNT will create human embryos. The Council said, "The product of 'SCNT' is not only an embryo; it is also a clone, genetically virtually identical to the individual that was the source of the transferred nucleus, hence an embryonic clone of the donor."

The Council recommended use of the terms "cloning for biomedical research" and "cloning to produce children" to distinguish between two of the purposes for which human embryos might be cloned. ("Cloning for research" and "cloning for birth" convey pretty much the same thing.) The Council's discussion on accurate and neutral terminology is here: www.bioethics.gov/cloningreport/terminology.html

The phrase "reproductive cloning" is misleading, because whenever somatic cell nuclear transfer produces a developing embryo, "reproduction" has occurred. The term "therapeutic cloning" is misleading, because no therapies have been demonstrated using cloned embryos (even in animals, as discussed below), and the process is certainly not "therapeutic" for the human embryo who is dissected—which is what the argument is about.

MISCONCEPTION: The Hatch-Feinstein bill would allow research on only "unfertilized eggs up to 14 days."

REALITY: As can be confirmed by reference to any biology text or even any decent dictionary, a human ovum or "egg" is, by definition, a single cell. Moreover, it is a very unusual cell—a gamete cell, which means it has only 23 chromosomes. An ovum has no sex.

As discussed above, once one has a complete nucleus from any species that is activated (whether by sexual fertilization or by asexual somatic cell nuclear transfer, SCNT) and developing, then one has a developing embryo of that species (sheep, cow, Homo sapiens, etc). There is no such thing in biology or in any dictionary as a human "egg" or "egg cell" that has 46 chromosomes, is either male or female, and is five days old (consisting of several hundred cells) or even 14 days old (consisting of thousands of cells). In short, calling a five-day-old or a two-week-old human embryo an "egg" is an attempt to deceive the public regarding what the policy argument is really about. We submit that this is not an effort in which responsible journalists should enlist.

The actual text of the Hatch-Feinstein bill coins the term "unfertilized blastocyst." But "blastocyst" is simply a technical term for an embryo at an early stage of development. As for "unfertilized," this is just another word trick aimed at the gullible. Of course human embryos produced by cloning will be "unfertilized," because that is what cloning is: asexual reproduction—no sperm. Every cloned mammal in the world was unfertilized from the one-celled embryo stage, and every one of them will be unfertilized on the day they die. If a human embryo created by cloning instead of fertilization is implanted in a womb, is born, and lives to be eighty, she will still be unfertilized.

MISCONCEPTION: The Hatch-Feinstein bill is a compromise that would accomplish what almost everyone agrees on, banning "reproductive cloning."

REALITY: Far from representing "common ground," the Hatch-Feinstein bill represents a policy disfavored by most Americans and strongly opposed by the Bush Administration. It will not become law. But that does not bother many of its backers, such as the biotechnology industry lobby, because the primary purpose of the Hatch-Feinstein bill is to impede enactment of the real ban on human cloning, by providing political cover for lawmakers who favor allowing the creation of human embryos for research.

Notwithstanding the marketing efforts of the biotechnology industry lobby and its allies, the policy the Hatch-Feinstein bill or the Greenwood amendment would enact a policy that is far from a consensus position—indeed, a policy that the substantial majority of Americans oppose. A Gallup poll in May 2002 found that 61% of the American people opposed "cloning of human embryos for use in medical research" (34% approved), which is precisely what the Hatch-Feinstein bill is crafted to allow and indeed encourage. In other polls, substantially higher numbers are opposed when it explained that the human embryos will die in the research.

The Hatch-Feinstein bill is not a partial solution or a middle ground. Rather, it is a step in the wrong direction. The Hatch-Feinstein bill would give a green light to the establishment of human embryo farms.

The "clone and kill" approach has already been emphatically rejected by the Bush Administration and by the House of Representatives (in 2001). Secretary of Health and Human Services Tommy Thompson last year sent a letter to Senator Brownback warning that such a bill would face a presidential veto. Thompson wrote, "The President does not believe that 'reproductive' and 'research cloning should be treated differently, given that they both require the creation, exploitation. and destruction of human embryos . . . the Administration could not support any measure that purported to ban 'reproductive' cloning while authorizing research cloning, and I would recommend to the President that he veto such a bill." (See www.nrlc.org/Killing Embryos/ThompsontoBrownback.pdf)

The Hatch-Feinstein bill would give federal law enforcement agencies responsibility for trying to enforce a ban on implanting a cloned embryo in a womb—an approach that the Justice Department in 2002 rejected as unworkable. The Department explained that once large numbers of cloned human embryos are created, there is no practical way to prevent some of them from being implanted in wombs, and no remedy to apply after that occurs. The testimony is posted here: www.nrlc.org/killing embryos/Justice Dept on cloning.pdf

MISCONCEPTION: The Hatch-Feinstein bill would "ban human cloning" or "ban the cloning of human beings."

REALITY: The Hatch-Feinstein bill does not ban "human cloning." It bans implanting a cloned human embryo "into a uterus or the functional equivalent of a uterus" (the latter term is not defined), an act to which criminal penalties are attached. It also attempts to impose a rule against allowing a cloned human embryo (a so-called "unfertilized blastocyst") to develop past 14 days of age (not counting time frozen). Violations of this "14-day rule" are subject to a civil fine of up to $250,000, and there is nothing in the bill to prevent the threat of such a fine from being applied even against a woman who carries an unborn cloned human in utero, perhaps in an attempt to compel her to procure an abortion.

In other words, the bill bans not "human cloning," but the survival of human clones, which is a very different thing.

Any bill that permits cloning (somatic cell nuclear transfer) with human nuclei does not "ban human cloning," because such a bill allows the cloning of embryos of the species Homo sapiens, and an embryo of the species Homo sapiens is human (just as the cloned embryo that was later born as Dolly the sheep, the first cloned mammal, was always a member of the species Ovis aries).

As to whether a cloned human embryo is to be regarded as a "human being," we would think that journalists would want to avoid blatantly taking sides on that question. A statement that the Hatch-Feinstein bill "bans the cloning of human beings" is certainly taking sides on the issue, because it amounts to a declaration that a two-week-old embryo of the species Homo sapiens is not a "human being." (If not, what species of being is it?)

It appears that President Bush is among those who recognize cloned human embryos as human beings: in his January 22 statement, the President said, "I also urge the Congress to ban all human cloning. We must not create life to destroy life. *Human beings* are not research material to be used in a cruel and reckless experiment." [emphasis added]

The National Right to Life Committee believes that if a cloned human being is born, she should have the same status as other humans—but Senator Hatch and some others apparently are not so sure. In a press release dated February 5, 2002, Senator Hatch said, "No doubt somewhere, some—such as the Raelians—are trying to make a name for themselves and are busy trying to apply the techniques that gave us Dolly the Sheep to human beings. Frankly, I am not sure that human being would even be the correct term for such an individual heretofore unknown in nature."

As Slate.com columnist Will Saletan commented ("Killing Eve," December 31, 2002, http://slate.msn.com/id/2076199/), "The first cloned baby—Eve or whoever comes after her—won't be fertilized. If fertilization is a prerequisite to humanity, as Hatch and Feinstein suggest, that baby will never be human. You can press the pillow over her face and walk away." (See also: www.nrlc.org/killing embryos/arecloneshuman.html)

MISCONCEPTION: Those who favor cloning for research would never allow clones to develop past two weeks of age.

REALITY: While the Hatch-Feinstein bill purports to establish a two-week "deadline" for killing human clones, there are substantial reasons to doubt that the biotechnology industry would support such a limitation in a bill it actually expected to become law. Already, some policymakers are opening the door to "fetus farming" with human clones.

For example, the New Jersey legislature appears close to giving final approval to a bill that would permit cloned humans to be grown through any stage of fetal development, even to birth, to obtain tissues for transplantation, as long as they are not kept alive past the "newborn" stage. (SB 1909, as amended) Four members of the President's Council on Bioethics wrote to Gov. James McGreevey to warn about the bill's radical implications. (See www.nationalreview.com/document/document020303c.asp)

Last year, researchers reported harvesting tissue from cloned cows at six and eight weeks of fetal development, and from cloned mice at the newborn stage. Both studies were widely reported by the news media as breakthroughs for so-called "therapeutic cloning." Indeed, so far these are the only two animal studies that have claimed to show "therapeutic" results from cloning.

Mr. VITTER. Mr. Chairman, every once in a while, an issue comes along that makes so much sense and has so much support, it clearly must be good public policy. The issue before us today, a full and complete ban on cloning, is just such an issue.

The American people overwhelmingly support banning cloning, a majority of this House has voted in the past to fully ban cloning, the Administration supports this ban, and importantly scientists and doctors and other medical professionals support this ban on cloning.

So what's the hold up?

A lot has been and will be said about "research cloning" or "therapeutic cloning"—but despite all of the semantics and wordplay the other side uses, the reality remains that this procedure is one that simply horrifies most Americans. The repercussions if we do not act today are grave.

What we're debating here is the value of human life, pure and simple. If you want to reduce human life to merely clinical terms, research elements and other antiseptic talk, then you can vote that way today. But if you are as horrified I am, as the American people are, and the medical community is, by the ghastly possibilities that cloning offers us, then you should support this legislation and a complete, full, and real ban on cloning.

I commend the gentlemen from Florida (DAVE WELDON) and Michigan (STUPAK) for their work, and strongly encourage all of my colleagues to support the passage of this important bill..

Mr. PAUL. Mr. Chairman, these words are from Frederic Bastiat's The Law. They are prophetic, not only in the way they describe legislators' attempts to transform society through socialized economic planning, but also in the analogy to the current moral issue before us today: human cloning.

Human life begins at conception. This fact is not a matter of faith. Every contemporary textbook of human embryology teaches that the life of the new individual human being begins at fertilization. When an embryo is cloned, a distinct human being is created: if implanted into a woman's uterus, he or she grows into a human being. Those who deny the humanity of the "embryo" simply deny the facts.

Today we see another instance of the legislator playing God, viewing himself as Bastiat's farmer or chemist. But human embryos are not just some "seeds" for the "farmers" to scatter! I ask those of you wishing to use taxpayer dollars to fund human cloning: Were you not once at this very stage of life? Is not each of you a developed embryo? And to those who view cloning and the accompanying destruction of humans at the embryonic stage of life as morally acceptable, I ask this, Are you aware that it took 277 attempts to clone Dolly the sheep, and when she finally was born, she was defective and died soon after? We must shudder to think of what this kind of experimentation implies for humans. Many ignore that a human is not cloned by simply waving a magic wand—rather, embryos are experimented upon and then discarded before a human is created via cloning. Many prolifers mistakenly attack the act of cloning, when what they should address is the discarding of humans at the embryonic stage of development that precedes the act of cloning.

Today we have before us a bill that attempts to protect innocent human life from legislators wishing to exploit it. Though well intentioned, Congress does not have authority under the Constitution to create a federal law banning cloning and the accompanying destruction of human life. The separation and enumeration of powers reserves to the states and local governments the power to write and enforce laws that protect life. If this bill instead were introduced as a constitutional amendment banning the destruction and discarding of human embryos, it would both accomplish its purpose and, equally important, hold to the letter of the law.

In Congress we can either pass an unconstitutional ban on cloning, or we can abide by the law and not pass the ban, as bureaucrats continue to have control over human cloning and use of taxpayer funds to destroy human life. These bureaucrats seem to have no difficulty violating the consciences of those who recognize cloning experimentation for what it is. What is to be done? I fear the answer to this question, and its implications, will continue to haunt us in the months and years to come, whether or not this federal ban on human cloning passes. Mr. Chairman, when we last considered this issue I placed the following statement in the RECORD and wish to do so once again.

Mr. PAUL. Mr. Speaker, today we're being asked to choose between two options dealing with the controversies surrounding cloning and stem cell research. As an obstetrician gynecologist with 30 years of experience with strong pro-life convictions I find this debate regarding stem cell research and human cloning offtrack, dangerous, and missing some very important points. This debate is one of the most profound ethical issues of all times. It has moral, religious, legal, and ethical overtones. However, this debate is as much about process as it is the problem we are trying to solve.

This dilemma demonstrates so clearly why difficult problems like this are made much more complex when we accept the notion that a powerful centralized state should provide the solution, while assuming it can be done precisely and without offending either side, which is a virtual impossibility.

Centralized governments' solutions inevitably compound the problem we're trying to solve. The solution is always found to be offensive to those on the losing side of the debate. It requires that the loser contribute through tax payments to implement the particular program and ignores the unintended consequences that arise. Mistakes are nationalized when we depend on Presidential orders or a new federal law. The assumption that either one is capable of quickly resolving complex issues is unfounded. We are now obsessed with finding a quick fix for this difficult problem.

Since federal funding has already been used to promote much of the research that has inspired cloning technology, no one can be sure that voluntary funds would have been spent in the same manner. There are many shortcomings of cloning and I predict there are more to come. Private funds may well have flowed much more slowly into this research than when the government/taxpayer does the funding. The notion that one person, i.e., the President, by issuing a Presidential order can instantly stop or start major research is frightening. Likewise, the U.S. Congress is no more likely to do the right thing than the President by rushing to pass a new federal law. Political wisdom in dealing with highly charged and emotional issues is not likely to be found.

The idea that the taxpayer must fund controversial decisions, whether it be stem cell research, or performing abortion overseas, I find repugnant. The original concept of the republic was much more suited to sort out the pros and cons of such a difficult issue. It did so with the issue of capital punishment. It did so, until 1973, with the issue of abortion. As with many other issues it has done the same but now unfortunately, most difficult problems are nationalized.

Decentralized decision making and privatized funding would have gone a long way in preventing the highly charged emotional debate going on today regarding cloning and stem cell research.

There is danger in a blanket national prohibition of some questionable research in an effort to protect what is perceived as legitimate research. Too often there are unintended consequences. National legalization of cloning and financing discredits life and insults those who are forced to pay. Even a national law prohibiting cloning legitimizes a national approach that can later be used to undermine this original intent. This national approach rules out states from passing any meaningful legislation and regulation on these issues.

There are some medical questions not yet resolved and careless legislation may impede legitimate research and use of fetal tissue. For instance, should a spontaneously aborted fetus, non-viable, not be used for stem cell research or organ transplant? Should a live fetus from an ectopic pregnancy removed and generally discarded not be used in research? How is a spontaneous abortion of an embryo or fetus different from an embryo conceived in a dish?

Being pro-life and pro-research makes the question profound and I might say best not answered by political demagogues, executive orders or emotional hype. How do problems like this get resolved in a free society where government power is strictly limited and kept local? Not easily, and not perfectly, but I am confident it would be much better than through centralized and arbitrary authority initiated by politicians responding to emotional arguments. For a free society to function, the moral standards of the people are crucial. Personal morality, local laws, and medical ethics should prevail in dealing with a subject such as this. This law, the government, the bureaucrats, the politicians can't make the people more moral in making these judgments.

Laws inevitably reflect the morality or immorality of the people. The Supreme Court did not usher in the 60s revolution that undermined the respect for all human life and liberty. Instead, the people's attitude of the 60s led to the Supreme Court Roe vs. Wade ruling in 1973 and contributed to a steady erosion of personal liberty. If a centralized government is incapable of doing the right thing, what happens when the people embrace immorality and offer no voluntary ethical approach to difficult questions such as cloning? The government then takes over and predictably makes things much worse. The government cannot instill morality in the people. An apathetic and immoral society inspires centralized, rigid answers while the many consequences to come are ignored. Unfortunately, once centralized government takes charge, the real victim becomes personal liberty.

What can be done? The first step Congress should take is to stop all funding of research for cloning and other controversial issues. Obviously all research in a free society should be done privately, thus preventing this type of problem. If this policy were to be followed, instead of less funding being available for research, there would actually be more.

Second, the President should issue no Executive Order because under the Constitution he does not have the authority either to promote or stop any particular research nor does the Congress. And third, there should be no sacrifice of life. Local law officials are responsible for protecting life or should not participate in its destruction. We should continue the ethical debate and hope that the medical leaders would voluntarily do the self-policing that is required in a moral society. Local laws, under the Constitution, could be written and the reasonable ones could then set the standard for the rest of the nation.

This problem regarding cloning and stem cell research has been made much worse by the federal government involved, both by the pro and con forces in dealing with the federal government's involvement in embryonic research. The problem may be that a moral society does not exist, rather than a lack of federal laws or federal police. We need no more federal mandates to deal with difficult issues that for the most part were made worse by previous government mandates.

If the problem is that our society lacks moral standards and governments can't impose moral standards, hardly will this effort to write more laws solve this perplexing and intriguing question regarding the cloning of a human being and stem cell research. Neither option offered today regarding cloning provides a satisfactory solution. Unfortunately, the real issue is being ignored.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 534, the Human Cloning Prohibition Act of 2003. Like most Americans, I believe reproductive cloning of human beings ought to be criminalized. I support outlawing this practice, which is one of the provisions of this legislation. But, I cannot support this bill because it would also severely limit the ability of scientists to conduct advanced cell research and develop life-saving therapies that could benefit millions of Americans.

H.R. 534's overly broad language would needlessly outlaw an important form of advanced cell research, known as somatic cell nuclear transfer. This research holds great promise to radically improve the health of Americans. This laboratory procedure allows for the development and harvesting of embryonic stem cells that can potentially repair damaged organs and tissues. If the donor material of this procedure is from the patient, the stem cells would be genetically identical to the patient and thus avoid the problem of immune system rejection that is present with conventional treatments. According to the National Institutes of Health, this technology has "enormous" medical potential to treat conditions as varied as Parkinson's disease, chronic heart disease, Alzheimer's disease, diabetes and spinal injuries.

Unfortunately, this bill's broad language also makes illegal the importation of any therapies developed in other countries that employ this advanced cell research technology. This ban against importation will further deprive our Nation's patients of treatments that could save their lives.

Support for the continuation of advanced cell research has been expressed by countless teaching and research institutions, scientists, and patient advocate groups. Opponents of this research are quick to offer scenarios of doom and gloom if we allow this research to continue. Yet, this same group of religious zealots and hapless naysayers made similar predictions with the development of such biological advances as in-vitro fertilization and recombinant DNA. The only "horrors" that have occurred from fostering that biological research has been allowing more than 16,000 otherwise infertile couples to experience the joys of childbirth and parenthood and the development of an improved form of insulin for the treatment of diabetes.

While I strongly urge my colleagues to oppose H.R. 534, I also encourage support of the Greenwood/Deutsch substitute bill that prohibits the cloning of a human life, but allows for the continuation of advanced cell research and the unfettered availability of health-improving products and procedures derived from this research.

Mr. DEFAZIO. Mr. Chairman, today we are having a virtually identical debate over the virtually identical bill we had in the 107th Congress. Had I not been required to travel to Oregon for official representational purposes, I would have voted (1) 'aye' on the Scott amendment to provide for a GAO study to determine whether the prohibition on human cloning needs to be amended in the future give newer technologies; (2) 'no' on the Stearns amendment forcing our moralities on other nations; (3) 'aye' on the Greenwood amendment in the nature of a substitute; and (3) 'no' on the underlying bill, H.R. 534.

By bringing a bill like this to the floor, the Republican majority has transformed what could have been a rational debate over the merits and limits of emerging technologies into a dogmatic infomercial for the radical-right.

I've consistently opposed human cloning for reproductive purposes. Under current law the federal government is prohibited from funding research that involves human cloning. In addition, the Food and Drug Administration (FDA) has the authority under federal law to prohibit any attempt to clone humans for reproductive purposes and has acted to stop such efforts. I support the FDA's actions.

I believe H.R. 534 goes too far. This legislation would not just ban reproductive cloning, it would create harsh criminal penalties that would significantly restrict a wide range of scientific research efforts in related fields.

This legislation would specifically halt scientific efforts aimed at developing new treatments for those suffering from cancer, diabetes, Parkinson's disease, Alzheimer's disease, spinal cord and burn injuries. These diseases and injuries can be extremely debilitating, costly and dehumanizing for individuals, families and our society. I'm also concerned with provisions in the bill that would ban American's from receiving new treatments developed in other countries that have developed with such research.

If this bill is passed, we're showing the world that our drive for innovation can be derailed by senseless hysteria. Limiting Americans access to new treatments and therapies based on fear and ideology is a backward way to legislate in the twenty-first century.

Mr. BUYER. Mr. Chairman, I rise in support of H.R. 534, the Human Cloning Prohibition Act, and I am pleased to be a cosponsor of this measure. The only difference between human cloning to produce a cloned baby and human cloning for research is whether the cloned embryo is implanted in the uterus or destroyed. The scientific procedure to create the clone is the same.

H.R. 534 would prevent cloned human embryos from being used as human guinea pigs. Without this legislation, human life could be copied, manufactured in a laboratory, in a petri dish, for the sole purpose of harvesting cells and then destroying the clone. The mass production of human clones solely for the purpose of human experimentation demeans us all.

The simple, most effective way to stop this process is to ban it, deterring its use. H.R. 534 does nothing to prohibit appropriate scientific research. It fully permits research that clones molecules, or DNA, tissues, organs, plants, or non-human animals. So-called therapeutic cloning has not produced a single cure in animal models for any disease, nor has it produced any cures in human clinical trials.

In the area of human embryo cloning, the ends do not justify the means.

Mr. CAPUANO. Mr. Chairman, I rise today in opposition to H.R. 534, the Human Cloning Prohibition Act of 2003. This legislation would ban reproductive human cloning and prohibit nuclear transplantation to produce stem cells for medical research. I am sure that most of my colleagues here today would agree with me and every one of my constituent scientists with whom I have discussed this matter that we do not want to allow reproductive cloning. An attempt to duplicate an individual human raises profound and disturbing moral and bioethical questions. It is unacceptable for anyone in the public or private sector to attempt to create a person using somatic cell nuclear transfer (SCNT) and I believe we must prohibit it. However, Representative WELDON's proposal before us today, goes too far and also bans SCNT for therapeutic purposes. This complete ban will close the door on promising publicly and privately funded research in regenerative medicine and will end hope for more millions of Americans suffering from life-threatening diseases.

The Human Cloning Prohibition Act criminalizes the very biomedical research that could help researchers find cures for Alzheimer's disease, Parkinson's disease, cystic fibrosis, various cancers, strokes and spinal cord injuries. Furthermore, H.R. 534 will halt vital research in my congressional district, throughout Massachusetts and the Nation. A ban or a moratorium on this research will result in other countries taking the lead in finding cures to these diseases.

Our colleague from Pennsylvania, Representative GREENWOOD, has worked to produce what I believe to be a well-balanced, comprehensive alternative. The Greenwood substitute contains the same language that Rep. WELDON'S legislation uses to ban reproductive cloning. Both ban scientists from using technology to produce human beings. Unlike the Weldon proposal, the Greenwood alternative allows strictly regulated, privately funded SCNT research to move forward. This legislation requires scientists to register with the federal government before conducting medical research and requires all research to be conducted with substantial oversight. The bill would also permit a stem cell technique that offers significant promise of delivering new treatments and cures to millions of Americans.

I believe a ban on human cloning does not need to include a ban on nuclear transfer research. The National Academies and more than 40 Noble laureates agree that this research has the potential to produce promising contributions to science and medicine. I urge my colleagues to allow this research to continue, vote no on Weldon and yes on Greenwood.

Mrs. JONES of Ohio. Mr. Chairman, I rise today in opposition to H.R. 534. Although I am against Human Cloning this bill does more than ban Human Cloning. It prevents the highest form of medical research in our society, therapeutic cloning. We owe it to our communities to explore the options of therapeutic cloning. Those who have lost relatives due to heart disease, brain damage due to strokes, Parkinson's, Alzheimer's, Cancer . . . we owe it to these people to at least explore the option of therapeutic cloning. I don't want to stop medical progress and the possibilities that it would allow for new treatments to diseases where medical progress is continuously being made. Doctors understand that these diseases cause damage to cells and tissues and that therapeutic cloning would allow them to explore the option of replacing these dead cells or tissues. I do not support human cloning for organ production. I am saying lets leave ourselves options for the future. Doctors are trying to find medically safe and reliable ways to help people with disease. I have some of the greatest doctors (at Cleveland Clinic, University Hospital), in the world in, my district working with molecules and DNA to find cures for diseases, and this would limit their abilities to continue to do what it is that they do best. Save lives.

Mr. SMITH of Texas. Mr. Chairman, ninety percent of all Americans oppose cloning human beings. And for good reason. The American public recognizes that cloning raises serious ethical questions. Scientists have cloned monkeys, cattle, pigs, mice and other animals. Because of this success, there are a growing number of groups who claim they can, and will, clone a human being. That prospect should worry us. Cloning is a manufacturing process—a scientific assembly line—devoid of procreation. Efforts to improve humanity should never spin out of control and devalue humanity, which is precisely what human cloning does.

Our values of faith and family are slowly eroding. Given that fact, we should be mindful that there are certain ethical lines we should never cross. One of the dehumanizing effects of the cloning process is the failure rate. It is extremely high. Those in favor of cloning humans often downplay that it took 277 stillborn, miscarried or dead sheep to make one Dolly. And what happens to those who survive? Attempts to clone human beings could carry massive risks of producing unhealthy, abnormal, and malformed children.

I favor a total ban on human cloning because if we allow cloning for any reason, we will be unable to control what is done with cloned embryos. No one is going to monitor every research laboratory. I urge my colleagues to support this bill.

Ms. LEE. Mr. Chairman, I rise today in strong opposition to H.R. 534. This bill's title claims that it is designed to prohibit human cloning. The reality is it will do much more: it will stifle crucial medical research that might someday cure diseases such as Parkinson's, diabetes, or Alzheimer's. None of us support human cloning. We all see such a step as ethically reckless and medically unsound. The cloning and creation of human beings should be banned. But this bill goes much further. It bans the practice of somatic cell nuclear, which creates cells, not human beings. Somatic cell nuclear transfer, or therapeutic cloning as it is also called, represents one of our most promising avenues of medical research.

That is why I support the bipartisan Greenwood/Deutsch/Degette amendment that would outlaw human cloning for reproduction without outlawing medical advancements. This bipartisan alternative provides severe penalties, including $10 million fines, for violations of the human cloning ban but allows cell transfer technology to proceed. Through the creation of stem cells, we may be able to conquer spinal paralysis, heal burn victims, and cure a wide range of diseases. For everyone who has helplessly watched a parent succumb to the terrible cruelty of Alzheimer's or seen a child struggle with diabetes, somatic cell nuclear transfer holds out the promise of a potential cure.

But this bill would cut off that research and criminalize those medical advancements. The National Academies of Science examined this issue and urged lawmakers to forbid human cloning but not to outlaw nuclear transplantation which could hold the key to treating life-threatening diseases and injuries. As they complete their medical training and begin their careers as physicians, we ask our doctors to take Hippocratic Oath, which involves, the principle, "first do no harm." As legislators, we should adopt a similar principle: as we wrestle with these complex scientific questions, let us first do no harm.

This bill applies a sledge hammer when a scalpel is needed. We can and should outlaw human cloning without wiping out the promise of a cure for millions of Americans. I urge you to oppose this bill and to support the bipartisan Greenwood/Deutsch/Degette alternative. Thank you and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The text of H.R. 534 is as follows:

H.R. 534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Human Cloning Prohibition Act of 2003".

SEC. 2. PROHIBITION ON HUMAN CLONING.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—HUMAN CLONING

"Sec.
"301. Definitions.
"302. Prohibition on human cloning.

"§ 301. Definitions

"In this chapter:

"(1) Human cloning.—The term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

"(2) Asexual reproduction.—The term 'asexual reproduction' means reproduction not initiated by the union of oocyte and sperm.

"(3) Somatic cell.—The term 'somatic cell' means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

"§ 302. Prohibition on human cloning

"(a) In General.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce, knowingly—

"(1) to perform or attempt to perform human cloning;

"(2) to participate in an attempt to perform human cloning; or

"(3) to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.

"(b) Importation.—It shall be unlawful for any person or entity, public or private, knowingly to import for any purpose an embryo produced by human cloning or any product derived from such embryo.

"(c) Penalties.—

"(1) Criminal penalty.—Any person or entity that violates this section shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) Civil penalty.—Any person or entity that violates any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

"(d) Scientific Research.—Nothing in this section restricts areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.".

(b) Clerical Amendment.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

"16. Human Cloning .... 301".

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 108–21. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

It is now in order to consider amendment No. 1 printed in House Report 108–21.

AMENDMENT NO. 1 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Scott of Virginia:

Add at the end of the bill the following:

SEC. 3. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) In General.—The General Accounting Office shall conduct a study to assess the need (if any) for amendment of the prohibition on human cloning, as defined in section 301 of title 18, United States Code, as added by this Act, which study should include—

(1) a discussion of new developments in medical technology concerning human cloning and somatic cell nuclear transfer, the need (if any) for somatic cell nuclear transfer to produce medical advances, current public attitudes and prevailing ethical views concerning the use of somatic cell nuclear transfer, and potential legal implications of research in somatic cell nuclear transfer; and

(2) a review of any technological developments that may require that technical changes be made to section 2 of this Act.

(b) Report.—The General Accounting Office shall transmit to the Congress, within 2 years after the date of enactment of this Act, a report containing the findings and conclusions of its study, together with recommendations for any legislation or administrative actions which in considers appropriate.

The CHAIRMAN. Pursuant to House Resolution 105, the gentleman from Virginia (Mr. Scott) and a Member opposed each will control 5 minutes.

MODIFICATION TO AMENDMENT NO. 1 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, at the suggestion of the gentleman from Oregon (Mr. Wu), I ask unanimous consent to modify the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 1 offered by Mr. SCOTT of Virginia:

In the proposed subsection 3(a), insert "after consultation with the National Academy of Sciences" after "office".

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks.)

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this provides a GAO study of the issue.

This amendment is being presented jointly with Rep. Wu.

We all agree that the cloning technology we are aware of today should not be used for human reproductive purposes. Yet, we all know that the nuclear cell transfer process that this bill bans in this country will continue in other countries in order that the promising developments in stem-cell research can continue. It is possible that this process can develop to the point that it could be used to prevent or cure many dreaded childhood or adult-onset diseases such as Parkinson's disease, Alzheimer's disease, diabetes, cancer, heart disease, spinal cord injury, multiple sclerosis, severe burns, or other diseases, disorders, or conditions.

These developments are proceeding at a very rapid pace. This amendment would ensure that Congress is informed of developments in the technology and their potential for medical advances. It would advise us of any need for technical changes to the bill which would keep its prohibition on reproductive cloning effective and narrowly drawn, while allowing any beneficial uses of the technology consistent with the prohibition.

Furthermore, this is an area where public attitudes and ethical views are often confused and uncertain, and a GAO study would be helpful in summarizing and clarifying them before Congress chooses to revisit this issue. I urge my colleagues to support the amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I believe this is a constructive addition to the bill, I am prepared to support it, and urge that the Members adopt it. I thank the gentleman.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Virginia (Mr. SCOTT).

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 101–21.

No Member being present to offer amendment No. 2, it is now in order to consider amendment No. 3 in the nature of a substitute printed in House Report 108–21.

AMENDMENT NO. 3 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREENWOOD

Mr. GREENWOOD. Mr. Chairman, I offer amendment No. 3 in the nature of a substitute.

The CHAIRMAN. The Clerk will designate amendment No. 3 in the nature of a substitute.

The Clerk read as follows:

Amendment No. 3 in the nature of a substitute offered by Mr. GREENWOOD:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cloning Prohibition Act of 2003".

SEC. 2. PROHIBITION AGAINST HUMAN CLONING.

(a) IN GENERAL.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended by adding at the end the following:

"CHAPTER X—HUMAN CLONING

"PROHIBITION AGAINST HUMAN CLONING

"SEC. 1001. (a) NUCLEAR TRANSFER TECHNOLOGY.—

"(1) IN GENERAL.—It shall be unlawful for any person—

"(A) to use or attempt to use human somatic cell nuclear transfer technology, or the product of such technology, to initiate a pregnancy or with the intent to initiate a pregnancy; or

"(B) to ship, mail, transport, or receive the product of such technology knowing that the product is intended to be used to initiate a pregnancy.

"(2) DEFINITION.—For purposes of this section, the term 'human somatic cell nuclear transfer technology' means transferring the nuclear material of a human somatic cell into an egg cell from which the nuclear material has been removed or rendered inert.

"(b) RULE OF CONSTRUCTION.—This section may not be construed as applying to any of the following:

"(1) The use of somatic cell nuclear transfer technology to clone molecules, DNA, cells, or tissues.

"(2) The use of mitochondrial, cytoplasmic, or gene therapy.

"(3) The use of in vitro fertilization, the administration of fertility-enhancing drugs, or the use of other medical procedures (excluding those using human somatic cell nuclear transfer or the product thereof) to assist a woman in becoming or remaining pregnant.

"(4) The use of somatic cell nuclear transfer technology to clone or otherwise create animals other than humans.

"(5) Any other activity (including biomedical, microbiological, or agricultural research or practices) not expressly prohibited in subsection (a).

"(c) REGISTRATION.—

"(1) IN GENERAL.—Each individual who intends to perform human somatic cell nuclear transfer technology shall, prior to first performing such technology, register with the Secretary his or her name and place of business (except that, in the case of an individual who performed such technology before the date of the enactment of the Cloning Prohibition Act of 2003, the individual shall so register not later than 60 days after such date). The Secretary may by regulation require that the registration provide additional information regarding the identity and business locations of the individual, and information on the training and experience of the individual regarding the performance of such technology.

"(2) ATTESTATION BY RESEARCHER.—A registration under paragraph (1) shall include a statement, signed by the individual submitting the registration, declaring that the individual is aware of the prohibitions described in subsection (a) and will not engage in any violation of such subsection.

"(3) CONFIDENTIALITY.—Information provided in a registration under paragraph (1) shall not be disclosed to the public by the Secretary except to the extent that—

"(A) the individual submitting the registration has in writing authorized the disclosure; or

"(B) the disclosure does not identify such individual or any place of business of the individual.

"(d) APPLICABILITY OF HUMAN SUBJECT PROTECTION STANDARDS.—

"(1) IN GENERAL.—Research involving human somatic cell nuclear transfer technology shall be conducted in accordance with parts 50 and 56 of title 21, Code of Federal Regulations, subject to paragraph (2). Individuals whose cells are used for such research shall be considered human subjects for purposes of such parts.

"(2) INFORMED CONSENT.—

"(A) DONOR OF HUMAN CELLS.—In research involving human somatic cell nuclear transfer technology, human cells may be used only if, in addition to requirements that apply under parts 50 and 56 of title 21, Code of Federal Regulations, the individual who provides the cells makes a statement in writing, which is signed by the individual, declaring that—

"(i) the individual donates the cells for purposes of such research;

"(ii) the individual understands that Federal law regulates such technology and establishes a crime relating to the use of the technology to initiate a pregnancy; and

"(iii) the individual does not intend for the cells to be used to initiate a pregnancy.

"(B) ATTESTATION BY RESEARCHERS.—In research involving human somatic cell nuclear transfer technology, human cells may be used only if, in addition to requirements that apply under parts 50 and 56 of title 21, Code of Federal Regulations, the individual with the principal responsibility for conducting the research makes a statement in writing, which is signed by the individual, declaring that the consent of the donor of the cells for the cells to be used in such research was obtained in accordance with this subsection.

"(e) PREEMPTION OF STATE LAW.—This section supersedes any State or local law that—

"(1) establishes prohibitions, requirements, or authorizations regarding human somatic cell nuclear transfer technology that are different than, or in addition to, those established in subsection (a) or (c); or

"(2) with respect to humans, prohibits or restricts research regarding or practices constituting—

"(A) somatic cell nuclear transfer;

"(B) mitochondrial or cytoplasmic therapy; or

"(C) the cloning of molecules, DNA, cells, tissues, or organs;

except that this subsection does not apply to any State or local law that was in effect as of the day before the date of the enactment of the Cloning Prohibition Act of 2003.

"(f) RIGHT OF ACTION.—This section may not be construed as establishing any private right of action.

"(g) DEFINITION.—For purposes of this section, the term 'person' includes governmental entities.

"(h) SUNSET.—This section and section 301(hh) do not apply to any activity described in subsection (a) that occurs on or after the expiration of the 10-year period beginning on the date of the enactment of the Cloning Prohibition Act of 2003.".

(b) PROHIBITED ACTS.—

(1) IN GENERAL.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) The violation of section 1001(a), or the failure to register in accordance with section 1001(c).".

(2) CRIMINAL PENALTY.—Section 303(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(b)) is amended by adding at the end the following:

"(7) Notwithstanding subsection (a), any person who violates section 301(hh) shall be imprisoned not more than 10 years or fined in accordance with title 18, United States Code, or both.".

(3) CIVIL PENALTIES.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

"(h)(1) Any person who violates section 301(hh) or section 1001(d) shall be liable to the United States for a civil penalty in an amount not to exceed the greater of—

"(A) $10,000,000; or

"(B) an amount equal to the amount of any gross pecuniary gain derived from such violation multiplied by 2.

"(2) Paragraphs (3) through (5) of subsection (g) apply with respect to a civil penalty under this subsection to the same extent and in the same manner as such paragraphs (3) through (5) apply with respect to a civil penalty under subsection (g).".

(4) FORFEITURE.—Section 303 of the Federal Food, Drug, and Cosmetic Act, as amended by paragraph (3), is amended by adding at the end the following:

"(i) Any property, real or personal, derived from or used to commit a violation of section 301(hh), or any property traceable to such property, shall be subject to forfeiture to the United States.".

SEC. 3. STUDY BY INSTITUTE OF MEDICINE.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall request the Institute of Medicine to enter into an agreement with the Secretary under which such Institute conducts a study to—

(1) review the current state of knowledge about the biological properties of stem cells obtained from embryos, fetal tissues, and adult tissues;

(2) evaluate the current state of knowledge about biological differences among stem cells obtained from embryos, fetal tissues, and adult tissues and the consequences for research and medicine; and

(3) assess what is currently known about the ability of stem cells to generate neurons, heart, kidney, blood, liver and other tissues and the potential clinical uses of these tissues.

(b) OTHER ENTITIES.—If the Institute of Medicine declines to conduct the study described in subsection (a), the Secretary shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

(c) REPORT.—The Secretary shall ensure that, not later than three years after the date of the enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made in the study is submitted to the Committee on Energy and Commerce in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate.

The CHAIRMAN. Pursuant to House Resolution 105, the gentleman from Pennsylvania (Mr. GREENWOOD) and a Member opposed each will control 30 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized to control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

PARLIAMENTARY INQUIRY

Mr. GREENWOOD. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GREENWOOD. Mr. Chairman, do I need to designate a portion of my time to the minority?

The CHAIRMAN. The gentleman may yield a portion of his time.

Mr. GREENWOOD. Mr. Chairman, I yield half of my time to the gentlewoman from Colorado (Ms. DEGETTE).

The CHAIRMAN. Without objection, the gentlewoman from Colorado (Ms. DEGETTE) will be allowed to control 15 minutes.

There was no objection.

□ 1530

The CHAIRMAN pro tempore (Mr. LINDER). The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been a good debate so far. It was a good debate last year. This is about ethical and moral issues. The proponents of the gentleman from Florida's (Mr. WELDON) bill have argued the ethical and moral issues against reproductive cloning; and on that issue, my friend, the gentleman from Florida (Mr. WELDON) and I are in perfect agreement. It is wrong to create a human being through cloning. It is probably physically cruel to do that, because of the likelihood of defect; and it is emotionally, I believe, cruel to do that because no one should be brought into life as a duplicate of another. Each of us has the right to be the product of a mother and a father. So we agree on that.

Now let us deal with the moral and ethical issues that have to do with somatic nuclear transfer. Because what is at stake is well over a hundred million Americans today suffering from diseases like Parkinson's, like Alzheimer's, like cancer, and like diabetes; and as this chart shows, the millions of people suffering today from those diseases and the millions more expected to be suffering from those diseases over the next 10 years.

Now, none of us in this room is an expert on the science of nuclear cell somatic transfer. But those who are the experts tell us this, that with this technology simply requires a limited number of eggs donated by women, denucleated, enucleated. And then the cells, the DNA from something like a cheek cell placed in that nucleus, electricity is applied and then the cells divide. Why do scientists want to do that? They want to do that because we want to observe the miraculous occurrence inside that egg as those cells become first pluripotent stem cells and then divide into specialized cells.

Why do they want to do that? They want to do that because they need to understand the biology and the chemistry as to how that happens. And when they have understood the biology and the chemistry of that process, there is no more need for women to donate eggs in order for the cures for these diseases to come about. Because then doctors in hospitals around the world will be able to take these patients suffering from not only these diseases but from juvenile diabetes, from Alzheimer's, from spinal cord injuries, from head injuries, and take the somatic cells from that patient, combine them with the growth factors that they identify in this limited amount of research, process healthy cells from our own bodies and use those healthy cells to cure our diseases, to fix our injuries, and to reduce human suffering by amounts that we cannot even imagine.

So the ethical and moral issue here is are we or are we not willing to allow that science to go forward so that we go through this transient phase where we use this relatively small number of ova contributed by willing women to understand how to do this so we can bring about the cure. Now the argument that is presented by the exponents of my substitute, which again bans reproductive cloning, allows this research to continue.

The argument that is proposed is, well, once that cheek cell divides in an egg in a petri dish, it is a potential human being; and, therefore, if it is going to be destroyed after it divides a certain number of times, after the observations are finished that that is immoral.

Now, if that is the case, if that is what you believe, then we should ban in vitro fertilization because in vitro fertilization has produced 100,000 embryos in this country right now that will be discarded, 100,000 of them. Far more order of magnitude than will ever be created through this technology and they are going to be discarded, and that is apparently okay with the proponents of this legislation because it brings beautiful little children into the world to couples who otherwise could not have them.

So that is the trade-off we make. And nobody here is arguing, in fact, to the contrary. They are preserving the need for in vitro fertilization, and yet the number of embryos created and destroyed by in vitro fertilization orders of magnitude is more than we are talking about here. And if we want to get totally philosophical about this, every single day millions of eggs are fertilized in the womb that do not adhere to the uterine walls and are flushed away and somehow that is the way God does it. That is the way nature does it. And we do not hear a gnashing of teeth about that by the makers of this amendment about this bill.

Ladies and gentlemen, this is a turning point in our history. This is a question about whether or not we are going to go forward with the most promising medicine of our time. The ability to stop the suffering, to heal the sick, to cure the injured of diseases that have plagued us for centuries or whether we turn our back on this science in the name of ethics and morals and kill an opportunity to do something that is ethically and morally correct, and that is to prevent this suffering.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the debate on whether or not human embryos should be cloned is one that goes across religious lines, it goes across philosophical lines, and it goes across political lines; and I certainly can respect those who come down on the other side of this piece of legislation. But this amendment in the nature of a substitute is the equivalent of a political knuckle ball thrown into the debate on whether or not human embryos should be cloned.

In June of 1997, President Clinton's National Bioethics Advisory Committee issued its report entitled "Cloning Human Beings." I referred to this in the general debate, but I want to refer to this again because this is the crux of the argument against the Greenwood substitute. The executive summary of President Clinton's blue ribbon commission states in part: "The commission began its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo with the apparent potential to be implanted in utero and developed to term."

The whole question around the Greenwood substitute amendment is how to police the cloned human embryos once they are created. Sure, some of them may be used for purposes that the gentleman from Pennsylvania (Mr. GREENWOOD) described in his eloquent opening statement, but others can be implanted in utero and be developed to term. And what does the government do in that case when somebody for whatever purpose they want to announces that they have developed a cloned human being?

This substitute is a big mistake for a number of reasons, and it should not be supported. Most notably it would make the prohibitions against human cloning virtually impossible to enforce, as I have just described. It would foster the creation of cloned human embryos through the Department of Health and Human Services, an agency of the Federal Government; and it would trump States that wish to prohibit cloning. As I have already stated, allowing the creation of cloned embryos by law would enable anyone to attempt to clone a human being. While most individuals do not have the scientific capacity to clone human embryos, once they have been cloned, there has been no mechanism for tracking them and to determine what use those cloned human embryos are being put to. In fact, one would logically expect an organization to authorize the cloned human embryos pursuant to this substitute to be prepared to produce an abundance of cloned embryos for research. Meanwhile, those without the capabilities to clone human embryos could easily implant any one of the legally cloned embryos if they had the opportunity and a child would develop.

The fact is any legislative effort in order to be effective to prohibit cloning must allow enforcement to occur before the cloned embryo is implanted. Otherwise, it is too late, and that is the big deficiency of the Greenwood substitute. The substitute attempts to draw a distinction between necessary scientific research in human cloning by authorizing the Department of Health and Human Services to administer a quasi-registry, quasi because the embryos are not in the custody of HHS. They are maintained by private individuals. However, let us be clear that the crux of this substitute is to invoke a debate on stem cell research. A political knuckle ball in this debate on stem cell research is a red herring.

Just read the bill. First, therapeutic cloning does not exist, not even for experimental tests on animals. Second, the substitute would require authorized researchers to destroy unused embryos, the first Federal mandate of its kind and a step that is extremely controversial. Third, H.R. 534 within its text allows for research using stem cells. Again, the bill does not prohibit stem cell research, notwithstanding the allegations by those who are opposed to it.

Currently, private organizations are able to conduct unfettered research on embryonic stem cells. Further, in August 2001, President Bush announced that Federal funds could be used for research on existing stem cell lines. H.R. 534 would do nothing to hinder that research.

The bill would also not affect research using adult stem cells. Adult stem cells are the other area of stem cell research which is much less controversial and which has been successful in over 45 clinical trials. In fact, adult stem cells have been utilized to treat multiple sclerosis, bone marrow disorders, leukemia, anemia, and cartilage defects, and immuno-deficiency in children.

Adult stem cells have been extracted from bone marrow, blood, skeletal muscle, the gastrointestinal tract, the placenta, and brain tissue to form bone marrow, bone, cartilage, tendon, muscle, fat, liver, brain, nerve, blood, heart and other cells. H.R. 534 would not interfere with this work. It would not interfere with this work. But it prohibits the production of cloned embryos. It is a cloning bill, not a stem cell research bill.

Fourth, the substitute prohibits States from adopting laws that prohibit or more strictly regulate cloning within their borders. It is a Federal preemption. Try telling any of our constituents that they cannot ban human cloning through their State legislatures and I will tell you they will disagree.

Finally, Mr. Chairman, the substitute contains a 10-year sunset provision. If this were to be enacted, Congress would have to go through this debate once again before the sunset occurs. The ethical and moral objections to human cloning will not change 10 years from now or 50 years from now or forever. However, the proponents of human cloning will continue to fight for their right to produce human clones in America, and authorizing a subsequent ban on human cloning could become even more controversial.

That is why Members on both sides of the aisle should rise in opposition to the substitute, defeat it, and pass H.R. 534.

Mr. Chairman, I reserve the balance of my time.

Mr. DEUTSCH. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE), who has been a leader for several years on this issue.

Ms. DEGETTE. Mr. Chairman, in the April 22, 2001, edition of the magazine "Science," researcher Irving Weissman and Nobel Laureate David Baltimore said, "The wrong action here could close the door to an important avenue of scientific and clinical discovery."

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They were talking, of course, about the restrictions on Federal funding of stem cell research. As Ronald Reagan said, here they go again.

Everybody agrees that we must ban human cloning and our substitute does just that, but the difference in this bill is we allow for the very important somatic nuclear cell transfer technology which is being developed and which will be the cure for many diseases that affect millions of people both in the United States and worldwide.

I hear the opponent of our substitute saying, oh, no, stem cell research will not be hurt, but that could not be farther from the truth, and here is why. Stem cell research is continuing, but the base bill will ban the somatic nuclear cell transfer research that we are talking about. What this research does at this point is it takes somatic cells, so-called therapeutic cloning techniques, it replaces the nucleus, and it makes new cells of tissues that will cure diseases like Parkinson's, Alzheimer's and diabetes. This type of research is truly the clinical extension of stem cell research because without this research we will never have islet cells for diabetics. We will never have the cells for Parkinson's or Alzheimer's or nerve damage because we will not be able to match the patient's tissue.

We are not and we do not support creating embryos for the purpose of this research. Instead, what happens is researchers use existing embryos from reproductive clinics, which are going to be disposed of anyway, and there is no way that this research will be used to clone a human being, period. It will be a criminal act under our substitute.

I do not think people should demagogue this issue. These are very difficult ethical and medical issues, but unless we have some control over the research and unless we ban human cloning, we will not be able to have cures for all of these very important diseases.

As the co-chair of the Congressional Diabetes Caucus, I think we need to do everything we can to support this important cell research but also to have strict control. Forty Nobel Laureates agree with this. More than two thirds of Americans agree with this. Senator ORRIN HATCH and former Senator Connie Mack agree with this. And here is what Nancy Reagan said in a letter dated January 29 of this year: "There are so many diseases that can be cured, we cannot turn our back on this."

Do not turn your back on all of these procedures.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time, and I again want to commend him for his work in this area and his eloquent statements on the floor.

I rise in very strong opposition to this substitute, and I encourage all my colleagues to vote against it and to vote in favor of the underlying bill.

Let me address, first out, one of the issues that seems to be implied by some of the discussion that I have heard so far, and that is, these embryos that are created through somatic cell nuclear transfer process are somehow not embryos or they are cells or they are cheek cells or they are stem cells. I am a scientist, a doctor. I am not an expert in this area, but I know a fair amount about it. I did research in molecular genetics as an undergraduate. I am a physician.

When a person does somatic cell nuclear transfer they are creating a human embryo. Indeed, President Clinton's Bioethics Council has said that, and President Bush's Bioethics Council has said that, a human embryo resulting from the nuclear transfer process is a human embryo. It is contrasted from a human embryo created by sexual reproduction, which is a unique embryo; whereas when we create a human embryo through somatic cell nuclear transfer, we are essentially creating an identical duplicate or twin.

So let us do away with that issue here and now. This is very, very clearly a human embryo. That is what the gentleman from Pennsylvania wants to allow to be created for research purposes. What will happen if we do that? What will happen if we go down that route?

I contend that a lot of things will happen that I think are very, very concerning. Number one, we are going to have a lot of research labs that will need eggs. Where will they get the eggs? They will have to get them from women. How do we get eggs from women? Well, we give them drugs that cause a phenomenon called superovulation. We have to do periodic ultrasounds to make sure they do not develop ovarian cysts, and they can get depression from those drugs; and then once the eggs are ripe, we have to give the woman a general anesthetic to harvest the eggs. And we will have these research labs that are going to need these large quantities of eggs, and this is why these biotech executives say this is a nonstarter in terms of developing so-called therapeutic cloning. The logistics of this are just unimaginable of how we would execute something like this.

One important thing I want to say, if we have all of these labs generating these eggs, we are going to have unscrupulous physicians implanting one of these in a woman, and we are going to usher in the very thing that the gentleman from Pennsylvania and the gentleman from Florida say they are against. They say they are against reproductive cloning, but our own Justice Department says there will be no way to police this. We will have all of these embryos in all of these labs, and the only way to prevent it is to stop it from the very, very beginning.

Might I also just reiterate, adult stem cell research is moving along very nicely. We have heard some very impassioned comments about Parkinson's disease. I want to quote from Dennis Turner, who had his Parkinson's disease treated successfully with adult stem cells. We cannot even produce one research study in a rat where we can cure Parkinson's disease with embryo stem cells or cloned stem cells. But I have got a real live human being here. He says, they were not fetal cells, they were my cells, so I would not have to take any anti-rejection medications the rest of my life. Dennis Turner previously could not even hold a newspaper, and now he is hardly on any medication at all. The adult stem cells are working great.

I say to my colleagues this alternative, this substitute, is unnecessary and unethical. We do not want to go down the path of creating human life for the purpose of exploiting it in the lab and then destroying it.

Vote no on this substitute. Vote yes on the underlying bill.

The CHAIRMAN pro tempore (Mr. LINDER). Is there any objection for the time yielded by the gentleman from Pennsylvania (Mr. GREENWOOD) to the gentlewoman from Colorado (Ms. DEGETTE) to be controlled on the minority side by the gentleman from Florida (Mr. DEUTSCH)?

There was no objection.

Mr. GREENWOOD. Mr. Chairman, I yield myself such time as I may consume.

I want to quickly make observations about two contradictions that I think my friend from Florida made. Number one, he said that our substitute cannot be enforced. That does not make any sense. If we can enforce the Weldon law, we can enforce the Greenwood law, and if people are going to make clones in violation of the law, they are going to do it under the Weldon law or the Greenwood law. So that is an argument we should discount immediately.

The second contradiction, which I think is more severe, is that I heard the gentleman from Florida (Mr. WELDON) talk about we are going to have shelves of embryos, we are going to have embryo farms; we are going to create all of these embryos. He just told us how extraordinarily difficult it is to get one ovum. We have to superovulate a woman. It is very difficult. It is painful. Women are not going to line up to have this procedure.

So there is absolutely no chance whatsoever that we are going to have this huge multitude of eggs. We are going to be lucky to have enough to do the research.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I thank the gentleman for yielding me the time, and rise in support of the Greenwood substitute because it honors our tradition of medical science.

Medical achievement is part of America's birthright. In the last 50 years we have won more Nobel prizes than England, Germany, Russia, France, Sweden, Canada, Denmark, Japan and Switzerland combined. Six out of 10 Nobel prizes in medicine come just to America.

Part of our achievement is due to Congress because we have supported medical research. Republicans and Democrats joined to double biomedical research at the National Institutes of Health. But part of our achievement is also because Congress did not impede research. Unlike Iran, we follow the guidance of doctors, not doctrines.

America's medical leadership conquered yellow fever, diptheria, cholera and smallpox and polio; and words like "gout," describing excess uric acid, or "consumption," describing tuberculosis, were commonly used by our grandparents but are now aliens outside our children's vocabulary.

We stand on the edge of new victories. AIDS is no longer a death sentence in America, and peer-reviewed scientists predict that Americans are in their last decade of diabetes. In my district, we are building a human kidney using stem cells, an achievement that would cause the word "dialysis" to drop from the English language.

Parkinson's and Alzheimer's will one day make their last stand against the tide of American research. And think of it: a world without diabetes, Parkinson's, Alzheimer's or dialysis.

It is our duty to honor the American tradition of medical science to hasten the day when these diseases no longer plague our mothers and fathers. In the Navy, we say, "Lead, follow, or get out of the way." I urge Members to support the Greenwood substitute: Lead, follow or get out of the way.

The Greenwood language continues America's leadership. Other countries will continue to follow us, and at the very least, it gets Congress out of the way of future cures.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I rise to state today that I am strongly pro-choice. I am strongly pro-stem cell research, and I have profound discomfort in opposing many of my professors who oppose the Weldon-Stupak bill which I favor, and I urge support of the Weldon-Stupak bill and reluctantly urge defeat of the substitute bill.

I think that this is a time to pause. It is a time which behooves caution, that we take some time to let our ethics catch up with our technology. Our technology has gotten to the point where we are talking about genetic mixes, mixing of human and animal cells and other procedures which I think the public has a reasonable, profound discomfort with.

Many scientists say it is incredibly dangerous to stop any form of experimentation. I submit to my colleagues that we do stop certain forms of experimentation. We no longer permit the kinds of experiments on nonhuman primates which potentially could protect us in vehicle accidents. The Nuclear Test Ban Treaty is nothing but a cessation of certain forms of experimentation, and many scientists were in favor of the destruction of the last stocks of smallpox virus which would have stopped experimentation on that virus.

There are times, very rare, but there are times when it behooves caution to pause, to pull back, and to deeply consider. I differ with the chairman that perhaps in 5 or 10 years, science and the ethics may lead us to a different conclusion. But perhaps it leads us to the same conclusion. We should come back and force Congress to address this issue in 5 or 10 years.

At this point in time, I rise to support the Weldon-Stupak bill and in opposition to the Greenwood-Deutsch substitute, and I submit for the RECORD an article from the Washington Post, April 11, 2002, on this subject.

NOT READY FOR HUMAN CLONING

(By Bill Frist)

WASHINGTON POST.—Can one be an advocate for embryonic stem cell research while opposing human cloning experimentation? That's the question facing about 30 U.S. senators who have not yet taken a position on human cloning legislation to be brought before the Senate.

But we must first understand the similarities and distinctions between the two. It's important to understand that human "therapeutic" or "research" cloning is an experimental tool often confused with, but distinct from, embryonic stem cell research. Only then can we appropriately dissect a debate on the potential of the science vs. the restraint defined by ethics and moral concerns.

Most agree that human reproductive cloning, or the cloning of human beings, should be banned. The contentious issue is whether this ban should extend to all human cloning, including human embryo a research cloning experimentation, a brand-new field. Advocates point to its potential to develop tissues that will not be rejected by a patient's immune system. They also argue for human cloning as a source of genetically diverse stem cells for research. Moreover, they say such experimentation will further our basic understanding of biology and life's origins.

But regardless of our religious backgrounds, most of us remain uncomfortable with the idea of creating cloned human embryos to be destroyed in an experiment.

As a physician and legislator who struggles with this inherent tension between scientific progress and ethical concerns. I focus on two fundamental questions: (1) Does the scientific potential of human research cloning experimentation justify the purposeful creation of human embryos, which must be destroyed in experiments? (2) Does the promise of human embryonic stem cell research depend on experimental human research cloning?

At this point in the evolution of this new science, I cannot justify the purposeful creation and destruction of human embryos in order to experiment on them, especially when the promise and success of human embryonic stem cell research do not depend on experimental research cloning.

President Bush last August outlined a scientifically and ethically balanced policy that allows federal funding of embryonic stem cell research for nearly 80 stem cell lines. This has opened the door to a significant expansion of embryonic stem cell research. Further, there are no restrictions on private research using stem cells from the thousands of embryos left over after in vitro fertilization. This research, too, is underway. The promise and hope for new cures is being investigated. And the promise of this research does not—I repeat, does not—depend on human embryo cloning.

Human cloning would indeed provide another source of stem cells—this time by asexual reproduction. But a human embryo still has to be created—then destroyed—to produce these stem cells. Moreover, very little research cloning experimentation has been done with animals—a prerequisite to any demands for such work in humans. Given the early state of this uncharted new science, the large number of federal cell lines and the unlimited number available for private research, I believe a sufficient number and range of cell lines are available.

As a heart-transplant surgeon, I know intimately the challenges of transplant rejection. But I also know of multiple promising strategies to address this issue, such as the development of "tolerance strategies," improved pharmacologic immunosuppression and the manipulation of cell surface structure to make cells "invisible" to the immune system—none of which carries the ethical burdens attached to human cloning.

No one can deny the potential that human cloning holds for increased scientific understanding. But given the serious ethical concerns this research raises, the fact that promising embryonic stem cell research will continue even under a cloning ban, the lack of significant research in animal models and the existence of promising alternatives, I am unable to find a compelling justification for allowing human cloning today.

The fact that we are even engaged in this debate testifies to the rapid and encouraging progress of science. For now, the proper course is to stop short of allowing cloning research in humans but to enthusiastically embrace the public and private stem cell research that holds such great hope for those who suffer from a wide range of disorders and conditions, such as Alzheimer's disease, Parkinson's disease and diabetes.

Mr. DEUTSCH. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO), who, based upon long background and interest in this area, has been a leader in terms of health care for all Americans.

Ms. ESHOO. Mr. Chairman, I thank my distinguished colleague for yielding me the time.

I rise today in support of the substitute and in opposition to the underlying bill.

There are three major points that need to be made. First, the substitute bans human cloning in any form, period. It has stiff criminal and civil penalties imposed on anyone who would attempt human cloning, and both bills do that.

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One is not diminished with a stronger bill. They both absolutely provide that.

Second, the underlying bill takes a step that I do not think can be talked about enough, and that is that it turns scientists and researchers, who I think are the merchants of hope, into criminals simply for trying to find cures for our most dreadful diseases.

In the life of our Nation, there have been many times that white-hot issues have been debated in the Congress. In the mid-1970s, the subject was recombinant DNA. Today, this procedure is responsible for the insulin that allows children with juvenile diabetes to live normal lives. It was such a debate like this one today that took place in the Congress, and there were Members that stood up and said we cannot do this, the sky will fall, it is not moral, it is not ethical; and yet we took the steps to move in that direction.

In the late 1970s, and again in the early 1990s, the subject was in vitro fertilization. Many Members questioned then, in a very important debate, how we could allow that process to go forward; and yet today there are many happy families as a result of it. Today, the opposition characterizes this in a very unusual way. In my view, it is the equivalent of book burning, to criminalize scientists and researchers and ban what they do.

It is important to take note of how these debates have gone forward. I think the Congress needs to move forward today with scientific discovery and also affirming life and protecting it. We can do both. I understand that this is a difficult issue for some Members, but I think that we need to look at who stands with us in this, the groups that support H.R. 801. Is Stanford University off its rocker? Is the American College of Obstetricians and Gynecologists totally wrong in this? Is the American Gastroenterological Association wrong? How about the American Infertility Association, the American Medical Association, the American Society for Cell Biology, the National Health Council, the Lymphoma Research Foundation, the International Foundation for Anticancer Drugs?

I could go on and on, Mr. Chairman. I urge my colleagues to read the list that I will ask be placed in the RECORD and to read it carefully. Let us ban human cloning, let us support American research and those that are a part of it.

Mr. Chairman, the list I just referred to is submitted herewith for the RECORD.

Groups Supporting H.R. 801—Alliance for Aging Research, Alpha-1 Foundation, ALS Association, American Association of Neurological, Surgeons/Congress of Neurological Surgeons, American College of Obstetricians and Gynecologists, American Council on Education, American Foundation for AIDS Research (amfAR), American Gastroenterological Association, American Infertility Association, American Medical Association, American Society for Cell Biology, American Society for Microbiology, American Society for Reproductive Medicine, American Society of Hematology, Association for Women in Science, Association of American Medical Colleges, Association of American Universities, Association of Reproductive Health Professionals, Biotechnology Industry Organization, California Institute of Technology, Californians for Cure, Canavan Research Illinois, Cancer Research and Prevention Foundation, Cedars-Sinai Health System, Children's Neurobiological Solutions, Christopher Reeve Paralysis Foundation, Coalition of Patient Advocates for Skin Disease Research, Columbia University Committee for the Advancement of Stem Cell Research, Cures Now, Duke University Medical Center, Elizabeth Glaser Pediatric AIDS Foundation, Genetic Alliance, Hadassah, Harvard University, Hereditary Disease Foundation, Hope for ALS.

International Foundation for Anticancer Drug Discovery (IFADD), International Longevity Center—USA, International Psoriasis Community (IPC), Jeffrey Modell Foundation, Johns Hopkins Medicine, Juvenile Diabetes Research Foundation, International Lymphoma Research Foundation, Monash University, National Association for Biomedical Research, National Coalition for Cancer Research, National Coalition for Cancer Survivorship, National Council on Spinal Cord Injury, National Health Council, National Venture Capital Association, Parents of Infants and Children with Kernicterus, Parkinson's Action Network, Parkinson's Disease Foundation, Project A.L.S., Quest for the Cure, Research!America, Resolve: The National Infertility Association, Rett Syndrome Research Foundation, Society for Women's Health Research, Stanford University, Stem Cell Research Foundation, Steven and Michele Kirsch Foundation, Tourette's Syndrome Association, Tuberous Sclerosis Alliance, University of California System, University of Minnesota, University of Rochester Medical Center, University of Southern California, University of Wisconsin-Madison, Vanderbilt University and Medical Center, Washington University in St. Louis, WiCell Research Institution, Wisconsin Alumni Research Foundation, Wisconsin Association for Biomedical Research and Education.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding me this time.

Mr. Chairman, on the eve of this debate in July 2001, Washington Post columnist Charles Krauthammer referred to Mr. GREENWOOD's legislative approach to human cloning "a nightmare of a bill." He said, "Mr. GREENWOOD sanctions, licenses, and protects the launching of the most ghoulish and dangerous enterprise in modern scientific history, the creation of a nascent cloned human life for the sole purpose of its exploitation and destruction."

The majority of the House, like Mr. Krauthammer, rejected the Greenwood amendment by a vote of 178 to 249. We got it right then, and I do hope that Members today will vote against the Greenwood substitute. The Greenwood substitute, Mr. Chairman, would, for the first time in human history, sanction the creation of human life with the demand, backed by new Federal criminal and civil sanctions, that the new life be destroyed after being exploited.

For the small inconvenience of registering your name and your business address, and filling out a form, you would be licensed to play God by creating life in your own image or someone else's. You would have the right to create embryo farms or anything else science might someday allow to be created outside the womb. And in the end, only failure to kill that which you had created would be against the law. We call it, Mr. Chairman, clone and kill. Amazingly, the only new crime created by the Greenwood amendment is failure to kill all human lives created. Federal law would say, create as many as you like, so long as you eventually kill them.

Mr. Chairman, the clear consequence, I believe, of the Greenwood substitute is that it would not even stop the birth of a human clone, which it proposes to do with a moratorium. Because his approach would encourage the creation of cloned embryo stockpiles and cloned embryo farms, it would make the hard part of human cloning completely legal and would make the relatively easy part, implantation, illegal.

I strongly support the underlying bill and urge rejection of the Greenwood substitute.

Mr. GREENWOOD. Mr. Chairman, I yield myself such time as I may consume, and ask my friend from New Jersey how we would wind up with a cloned embryo stockpile? How would that happen?

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. I would just say to my friend, Mr. Chairman, that once this process is sanctioned and encouraged legally Federal dollars or other dollars might follow, and embryos will be cloned, this, I believe over time, human embryo farms, this science, will be certainly doable. And it is doable. We know that.

Mr. GREENWOOD. Mr. Chairman, reclaiming my time, and then I will yield to the gentleman again.

Mr. SMITH of New Jersey. Let me finish. You asked me a question.

Mr. GREENWOOD. I am reclaiming my time, and then I will yield to the gentleman again.

Mr. SMITH of New Jersey. But over time there would be the creation of human embryo farms.

The CHAIRMAN pro tempore (Mr. LINDER). The gentleman from Pennsylvania controls the time.

Mr. GREENWOOD. Mr. Chairman, I would love to have a dialogue with the gentleman, but let us go back and forth a little here.

The gentleman from New Jersey said over time we would clone eggs. Can the gentleman explain how you clone an egg? Is the gentleman suggesting we can take one egg and turn it into multiple eggs?

Mr. SMITH of New Jersey. If the gentleman will continue to yield, I said we would clone cells that would become identical to those that they were from, whether it be from you or I or anyone else. They would become an embryo capable of growing, if uninterrupted, into a young person, into an elderly person, and to a natural death.

Mr. GREENWOOD. Reclaiming my time once again. I am not sure, with all due respect, that my friend from New Jersey understands this process.

You cannot, you cannot, you cannot take one cloned entity and multiply it. You have to go back and get another egg. The gentleman from Florida (Mr. WELDON) described how extraordinarily difficult it is to get one egg. You have to find a woman who is willing to be superovulated and give up an egg to science. You cannot multiply that egg into more embryos. You can make one.

So, Mr. Chairman, I ask the gentleman again, can the gentleman explain the science by which he claims that we are going to wind up with, as he said, embryo stockpiles, embryo farms? Where do these thousands of eggs that the gentleman describes in this fictitious nightmare come from?

Mr. SMITH of New Jersey. I thank the gentleman for continuing to yield, Mr. Chairman, and respond that it will happen over time, as financial inducements are provided. As some of our colleagues pointed out earlier in the debate, when money is provided, some women may be induced to sell their eggs; and many thousands, if not tens of thousands of eggs will be produced over time. There will be a magnet provided to these women, especially the poorer women, to offer up their eggs for this kind of operation.

Mr. GREENWOOD. Mr. Chairman, the gentleman has answered my question, and I will reclaim my time.

The gentleman proposes in his response to my question that women of America are going to line up for dollars so they can be superovulated, and it is the most ridiculous and disrespectful attitude towards women I can imagine. To think that the gentleman from New Jersey believes that the women of this country are going to line up for a painful procedure, and one as intimate as the donation of eggs for money, I think, is incredible.

The proponents of the Weldon bill would like to paint those of us who think that this research, this transient period of research so important for science, as somehow out of the mainstream. The gentlewoman from California talked about some of the organizations that stand with us. Let me name some others:

The Alliance for Aging Research, the Alpha-1 Foundation, the ALS Association, the American Association of Neurological Surgeons, the Congress of Neurological Surgeons, the American College of Obstetricians and Gynecologists, the American Foundation of AIDS Research, the American Gastroenterological Association, the American Infertility Association, the American Medical Association, the American Society for Cell Biology, the American Society for Reproductive Medicine, the American Society of Hematology, the Association of American Medical Colleges, the Cancer Research and Prevention Foundation, the Christopher Reeve Paralysis Foundation, the Children's Neurobiological Solutions Organization, the Coalition of Patient Advocates for Skin Disease Research, the Genetic Alliance, Harvard University, Hope for ALS, Lymphoma Research Foundation, the National Association for Biomedical Research, the National Coalition for Cancer Research, the National Coalition for Cancer Survivorship, the National Council on Spinal Cord Injury, National Health Council, the Parents of Infants and Children with Kernicterus, Parkinson's Action Network, the Parkinson's Disease Foundation, Research America, Tourette's Syndrome Research Foundation, et cetera.

This is the mainstream of American medicine. This is the mainstream of American science. This is the intelligentsia of America who actually understand how this science works, who do not walk around thinking you can multiply eggs through science and who do not believe women are going to line up by the tens of thousands for dollars to produce these fictitious embryo farms.

My colleagues, there is a time in American history where we are either going to decide to go with the people who understand this stuff and the people who have compassion in their hearts for these people with these diseases, or we are going to fall prey to this Luddite anti-scientific and demagogical approach.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Pennsylvania is way off base, and I can tell my colleagues from my own family experience how far off base he is.

My mother died of Alzheimer's disease. For the last year and a half of her life, she did not know who I was, she did not know who my wife was, she did not know who my sister was, or who my kids were. And to insinuate that those of us who disagree with the gentleman's amendment are Luddites and insensitive is flat-out wrong.

Furthermore, my beloved wife, who I have been married to for almost 26 years, has had a spinal cord injury. She has no sensitivity below her waist. She is a wonderful woman. She has given me two wonderful children, and we have lived day by day and minute by minute with that kind of a condition; and she and I are both in favor of what the gentleman from Florida (Mr. WELDON) is trying to do because there is an ethical issue and there is a moral issue involved in this, which many people want to turn their backs on. But in my family we have to live with it every day and every minute, and we will until death do us part.

Now, the whole issue on this amendment, to get back to my initial remarks, is the policing of what is done with the cloned embryos that the Greenwood amendment allows. 99.99 percent of the people that do the experimentation on cloned embryos may do it in an entirely ethical manner. But all we need is one unethical person to implant a cloned embryo in utero and we have a cloned baby. And once that unethical person plants the cloned embryo in utero and it starts developing as a fetus, what does that gentleman's amendment do about it? Absolutely nothing. Are we going to throw somebody in jail for doing that? Are we going to throw the mother in jail for doing that? No way. The baby is going to be born, and we are going to have a cloned human being.

Again, Bill Clinton's bioethics panel said: "The commission began its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo with the apparent potential to be implanted in utero and developed to term."

□ 1615

Your substitute does not deal with this issue at all. That is why it is fatally flawed.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me this time. I want to get at this issue of eggs and how are you going to get them. The gentleman from Pennsylvania has implied that my concerns about women's donation are unfounded. Let me just underscore from the start that there are a lot of people on the left that have a lot of concern about this issue. One of the first people who came into my office to join forces with me on preparing this legislation was Judy Norsigian. She is pro-choice. She helped write the Boston Women's Health Cooperative book, "Our Bodies, Ourselves."

Indeed, I think some of the concern about this issue is why I think seven Democrats, seven or eight Democrats with a perfect voting record with NARAL, supported my bill in the 107th Congress and it is over this concern. The gentleman from Pennsylvania implied it's ridiculous, women aren't going to be lining up. The issue is essentially this. If you are going to start doing a lot of this experimentation, you are going to need a lot of eggs because not every egg you put the nucleus in and then zap it with electricity begins to divide and form an embryo. There is a fairly high failure rate if you actually read the research articles, which I have done. There is a pretty high failure rate. So you are going to need lots of eggs to create a few embryos and you are going to need a lot of women to get a lot of eggs.

And who will donate their eggs? Well, it is going to be women who will do it for money. It is a painful procedure. Women do this right now. The fertility clinics frequently deal with women who are older and their eggs are not very viable and so they pay typically coeds to donate some of their eggs so that some of these older women can actually have a baby. It is already going on today. But it is going on today on a very limited level and it is going on today for what I think is an ethically and morally appropriate purpose: somebody wants to have a baby, somebody struggling with infertility. But now we are going to be talking about creating these eggs for this research.

The research, Mr. Chairman, is going nowhere. I have read the reports. It is not going to ever lead to any cures. The reason the biotech industry wants the Greenwood amendment to prevail and does not want my position to prevail is because they want to create human models of disease so that we can get away from using rats and mice as our models for disease. To me, this is a huge issue. You are talking about creating human embryos, modifying them genetically to preprogram them with diseases, and then selling them for a profit by the biotech industry.

I said before, it is an abomination. If you do not think that is an abomination, I do not know what you think is. To me it is absolutely ghastly.

Let me just close by again saying all of this research can proceed with animal models unfettered under the provisions of the bill that the chairman has brought to the floor. You can continue with animal research. You can clone DNA. You can clone animals. You can clone cells. You just cannot create a human embryo under the provision of this legislation. I think it is the right thing to do. I think that morally it is the correct thing to do. I would again encourage all of my colleagues to vote "no" on this substitute and vote "yes" on the underlying bill.

I want to commend the gentleman from Wisconsin for his very eloquent remarks.

Mr. DEUTSCH. Mr. Chairman, may I inquire how much time each of us has remaining?

The CHAIRMAN pro tempore (Mr. Simpson). The gentleman from Florida (Mr. Deutsch) has 9 minutes remaining. The gentleman from Wisconsin (Mr. Sensenbrenner) has 5 minutes remaining. The gentleman from Pennsylvania (Mr. Greenwood) has 30 seconds remaining.

Mr. DEUTSCH. Mr. Chairman, I know, at least at this table, we have literally probably about 10 or 12 or 15 Members who would like to speak. I would at least ask for unanimous consent to offer each side an additional 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SENSENBRENNER. Mr. Chairman, reserving the right to object, there is a snowstorm bearing down on this city. There are numerous Members who have asked me to speed this debate up so that they can get out of town and not be marooned here. I would ask the gentleman from Florida to have compassion on those Members and withdraw his unanimous consent request. If he persists, I am constrained to object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DEUTSCH. Mr. Chairman, I hear the possibility of objection so I withdraw it at this point in time.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Schiff), an original cosponsor of the legislation who is very knowledgeable about this issue.

Mr. SCHIFF. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to address my remarks to some of the arguments that have been made by the opposition to the substitute: first, that other research will adequately substitute for somatic cell nuclear transfer; second, the policing issue; and third, the moral issue.

On the first issue, there is no adequate substitute for the science of somatic cell nuclear transfer. Adult stem cells do not have the same potential to differentiate. And even if you are talking about embryonic stem cells, the advantage of the somatic cell nuclear transfer is that the transfer will bear the DNA of the patient who is being treated and it will not be rejected by the patient. That is a vital distinction, because it will not necessitate the use of immunosuppressant drugs. So there is no adequate substitute for this type of research.

On the second point, that we cannot adequately police this if we allow this. As a practical matter and speaking as a former prosecutor, if we want to preclude any possibility of abuse, we not only need to preclude any kind of stem cell research, we need to ban and close down every fertility clinic in the country. When has it been the case that because of the possibility of abuse or criminality we would shut down important, vital avenues of research? That has never been the policy of the United States. It is one of the reasons we lead the world in research and one of the reasons we have to continue to lead.

Finally, on the most difficult question, and that is the moral question, the question of when life begins. This is not a question that we can resolve on the House floor. It is something we all bring our faiths to bear on. But what we can decide is whether we are willing to use the coercive power of the government to make that decision for everyone else; whether we are willing to use that coercive power to say that we will deny people treatment derived from this important science because some of us have a view of life that life begins with the fertilization of an egg or with a somatic cell nuclear transfer when others do not. I would urge my colleagues to deny themselves the benefit of that research if they choose, but do not deny it to the rest of the world.

Mr. DEUTSCH. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. Price).

Mr. PRICE of North Carolina. Mr. Chairman, since the House last considered a ban on cloning, the National Academy of Sciences and the President's Council on Bioethics have both issued reports on the ethical and social questions raised by cloning. H.R. 534 does not reflect the recommendations of either body.

In moving to head off the morally unacceptable practice of cloning human beings, the National Academy of Sciences concluded that we must take great care not to limit the process of somatic cell nuclear transfer which holds considerable potential for developing new therapies and advancing biomedical knowledge.

The 17 members of the President's Council on Bioethics were divided on a final policy recommendation, but even the most conservative members of the council recommended only a 4-year moratorium on therapeutic cloning, not an outright ban as the Weldon bill would mandate.

There is a compelling moral case for therapeutic cloning based on our obligation to relieve human suffering and to affirm human health and life. The Greenwood substitute maintains the critical scientific and moral distinction between reproductive cloning, which we all agree should be banned, and therapeutic cloning which has tremendous potential for human benefit.

Vote against H.R. 534 and for the Greenwood substitute.

Mr. DEUTSCH. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. Moran).

Mr. MORAN of Virginia. Mr. Chairman, I rise in very strong support for this substitute amendment. Embryonic stem cell use is necessary in discovering the causes of a myriad of genetic diseases, to testing new drug therapies more efficiently on laboratory tissue instead of human volunteers, and to staving off the ravages of disease with the regeneration of our bodies' essential organs.

Contrary to what opponents have been saying, this substitute does not give a green light to individuals and companies who perform human somatic cell nuclear transfer. It requires them to register with the Food and Drug Administration which will act as an independent oversight committee. The Greenwood substitute formalizes in law what is already being practiced across this Nation.

If the underlying bill instead of the substitute passes, it will represent a triumph for ideological special interests over the public interest, because the public interest is best served when the medical and the scientific community is free to exercise their professional judgment in extending and enhancing human life.

Mr. DEUTSCH. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I rise in support of the Greenwood substitute. We know that the people who have come before us today have said, and they have said this very clearly, that none of us supports cloning as a means of human reproduction. But we also know that drug discoveries often have narrow targets. I believe that my colleague, the gentleman from Pennsylvania (Mr. GREENWOOD), mentioned the number of organizations that are supporting this. Those who suffer from unusual illnesses that kill the young seldom have sufficient numbers to stimulate drug research; but it is this basic research we are talking about, this basic research into cell reproduction that, if successful, could benefit large numbers of such diseases, each of which affects a small number of people.

None of us here would want to look a constituent in the eye and say that we rejected the possibility of pursuing 21st century science which might have saved the life of their loved one.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the good doctor from Florida's legislation, H.R. 534, and against the Greenwood substitute. I also want to thank my chairman on the Committee on the Judiciary for moving the legislation through our committee and bringing it here today.

I am very concerned by the language of the substitute and its ramifications. Leon Kass, the distinguished bioethicist, notes that under the Greenwood language, embryo production is explicitly licensed and treated like drug manufacturing. Furthermore, it would establish an unworkable system of embryos in labs all over the country and puts Federal law enforcement in charge of making sure that no egg is ever implanted in a woman's body. Our law enforcement officials simply cannot carry out the directive.

The language of the base bill is narrowly tailored. Simply, the language ensures that women are not exploited so their eggs cannot be mass harvested as commodities for research purposes. And the language prohibits the creation of cloned human embryos for experimental research or productive purposes. I urge my colleagues to oppose the substitute and to support this important legislation.

Mr. DEUTSCH. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. RUPPERSBERGER), one of our new Members.

Mr. RUPPERSBERGER. Mr. Chairman, I am not in favor of cloning humans for reproduction but I do favor the medical research that the Greenwood substitute would provide. Every day in this country hundreds of thousands of Americans suffer from the effects of degenerative disease and spinal cord injuries. As a young attorney I was in a car accident where I nearly lost my life. Maryland's Emergency Medical Shock Trauma system saved my life. Medical research saved my life. To this day I continue to serve as vice chair of the Shock Trauma Board. My work with shock trauma has put me in contact with a number of people who are suffering from degenerative diseases and spinal cord injuries.

My good friend Burt Greenwood from Baltimore has Lou Gehrig's disease. Every day he fights to stay with us. Every day he hopes that stem cell research someday will give him a chance. That is why I stand in support of the Greenwood amendment. We must make continued research a reality and not just a hope for the families that we represent.

Let me quote Dr. Jeffrey Rothstein, a professor of neurology and the director for ALS research at Johns Hopkins University:

> No responsible scientist wants to clone a human. Responsible scientists want to continue the research for cures to degenerative disease. Stem cell research holds the only hope for thousands of suffering Americans.

□ 1630

Mr. DEUTSCH. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Chairman, this debate is not about human cloning, and everybody in this Chamber knows that. In fact, both bills ban human cloning. This debate is about whether there is going to be medical research that may provide answers to some of the horrible diseases that afflict people. I want my colleagues to meet little Claire, 3½, and Lauren, 5. They have a disease called SMA, spinal muscular atrophy. It is a genetic disease. Half the kids diagnosed with this die by the time they are 2 years old. All they want is a chance. They have hope. H.R. 534 takes the chance for a cure away from them. I hope that the people on the side of H.R. 534 will think about that. All they want is a chance. Is that too much to ask?

Please, I implore my colleagues here to vote for the Greenwood substitute and against H.R. 534.

Mr. DEUTSCH. Mr. Chairman, I yield 30 seconds to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the gentleman from Florida (Mr. DEUTSCH) for yielding me this time.

Mr. Chairman, I rise today in support of the Greenwood substitute and in opposition to H.R. 534. I join with my colleagues in making one thing perfectly clear: I am opposed to cloning of humans. I do not believe there is any justification in replication of a human being. However, I believe that we in Congress have a responsibility to carefully craft Federal legislation on cloning that will not outlaw legitimate medical research that may save or enhance the lives of many.

Former First Lady Nancy Reagan has stated her support of therapeutic cloning because it offers the best hope for curing Alzheimer's. I am supporting the amendment. I urge my colleagues to do the same.

Mr. DEUTSCH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am going to read a letter that Nancy Reagan wrote to this Congress on this issue. "As you may know, Ronnie will observe his 92nd birthday soon. In earlier times we would have been able to celebrate that day with great joy and wonderful memories of our life together. Now, while I can draw strength from these memories, I do it alone, as Ronnie struggles in a world unknown to me or the scientists who devote their lives to Alzheimer's research. Because of this, I am determined to do what I can to save other families from this pain. I'm writing, therefore, to offer my support for stem cell research and to tell you I'm in favor of new legislation to allow the ethical use of therapeutic cloning. Like you, I support a complete ban on reproductive cloning. However, I believe that embryonic stem cell research, under appropriate guidelines, may provide our scientists with many answers that are now beyond our grasp. Sincerely, Nancy Reagan."

Mr. Chairman, there are those families that might not choose to want to use this research, and my colleagues mentioned, themselves, that they would not. This bill actually bans the importation of those cures. I doubt there is a family in America that if Alzheimer's was cured through this research in Ireland, Japan, Germany that they would not use it; and I would not ask a Member personally to state what would happen on the floor if that was the case, but I ask them to look into their own hearts before they vote about that.

Finally, I would say that that is the issue in front of us today. I urge the support of the substitute and adoption of the final bill.

Mr. GREENWOOD. Mr. Chairman, I yield myself such time as I may consume.

It has been a good debate. The gentleman from Wisconsin seemed to think that I was impugning the opponents of my substitute. I am not. My point was that contrary to the argument that the gentleman from New Jersey (Mr. SMITH) made that the purpose of this research is strictly for the exploitation and destruction of human life is wrong, this is about hope. This is about trying to stop suffering, and we have a choice to make here between fear and hope, and I encourage my colleagues to support hope. Support the Greenwood-Deutsch amendment and vote "no" on the Weldon bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. WELDON), the author of the bill.

Mr. WELDON of Florida. Mr. Chairman, I again thank the chairman for his work in this area, and I thank him for yielding me this time.

The Greenwood substitute purports to be a ban on human cloning. It is a moratorium on human cloning. It is a 10-year prohibition that sunsets; and it allows unfettered, essentially, the creation of human embryos in the lab for the purpose of research; and then it requires their destruction, essentially, through a process called somatic cell nuclear transfer or human cloning.

We have never gone in this direction before where we are actually talking about creating human embryos in the lab for exploiting them and destroying them. There have been a few labs in different places in the country that have tried to do this. One successfully. There are fertility clinics that have so-called excess embryos, and some of them have made those embryos available for stem cell research. This bill does not affect that. That would be permissible to move forward.

The question before us is, is the Greenwood substitute a real ban on human cloning? I contend it is not. It would still allow the creation of clones in the lab in embryonic form, and I believe very strongly that it will usher in what the supporters of the substitute claim that they do not want to see and that is reproductive cloning, because we will have all of these labs generating these embryos and eventually one of them or more will find its way into unscrupulous hands, will be implanted, and will result in reproductive cloning.

Might I also add that there are some people who want to allow this research to move forward so that they can some day be able to do reproductive cloning. At a hearing we had on this issue, I had Dr. Brian Cohen testify before the committee, and he repeatedly said, "We are opposed to reproductive cloning at this time." He kept saying "at this time." And I finally asked him, "What do you mean by 'at this time'?" And he is the executive director, or the president, of the American Society for Reproductive Medicine; and then he went on to basically say that if they can work through all of the problems with cloning that they would some day like to be able to do it. And what will happen, what will be next with that? I contend that the age of eugenics will have arrived. There will be people who will then want to manipulate these embryos for the purpose of creating a human with preintended specifications, specifying size, height, weight, athletic performance, intellectual capabilities; and it will open a Pandora's box of frightful potentialities that I feel that we as a civilization do not want to open up, and therefore I strongly encourage my colleagues on both sides of the aisle to vote against the substitute and vote "yes" on the underlying bill.

Mr. EVANS. Mr. Chairman, I have come before you today to share my strong opposition to H.R. 534 and to ask my colleagues to vote for the Greenwood substitute. It is very important to me personally that we take a serious look at the issue of banning technology for the inherently different uses of creating embryos for both therapeutic cloning and reproduction cloning.

First, this issue does not conflict with religious faith. One leading scientist provides this description of cloning technology: "Because there are no body cells of any kind, and the cells have not yet individualized they are not a person yet, by definition. Saying that a preimplantation embryo is a human being and arguing that therapeutic cloning is, therefore, unethical is simply not based on fact."

Therapeutic cloning and stem cell research have the potential to bring us exciting new treatments and possible cures for many of our most debilitating diseases and injuries including Parkinson's, diabetes, heart disease, multiple sclerosis, burns, and spinal cord injuries. The list goes on. The number of Americans suffering from these afflictions—and indeed the number of those who will potentially reap the benefits—is estimated to be over 100 million. Mr. Chairman, and as someone with Parkinson's Disease, I am one of those millions.

Critics of therapeutic cloning and embryonic stem cell research say that there has been little progress and these techniques offer only pipe dreams to those who are sick or dying. I ask my colleagues why this fledgling science which is in its infancy should be banned before further developments and progress can be made.

Opponents to therapeutic cloning say that the possible evils associated with creating cloned human beings are so great that we need to ban the technology itself, that is a slippery slope. This is simply not the case, and the Greenwood substitute institutes severe criminal penalties for anyone involved in implanting a cloned embryo in a women's uterus.

In fact, the only slippery slope in this debate—the fate of embryos, which may be applied then to embryos created for in vitro fertilization, that are created with a possibility of being discarded is at stake. As a society, we have accepted and even embraced the science of in vitro fertilization. Deciding that we should move to a society in which embryos should never be created with the knowledge that they would be discarded would not only affect the importance research of embryonic stem cells but also affect the millions of Americans who gain hope of bearing their own children by in virto fertilization.

Regeneration medicine provides hope for millions of Americans. It is the future of medicine for so many of our citizens who suffer every day. It holds hope for my life. Let us leave science and medical technology to our medical technology to our medical researchers and use our time to focus on this Nation's real problems. I urge my colleagues to vote for the Greenwood substitute, H.R. 801, and vote against H.R.534.

Mr. KIND. Mr. Chairman, I rise today in strong opposition to H.R. 534 and in strong support for the Greenwood/Deutsch/DeGette/Eshoo/Kirk substitute. The United States has long been the leader in medical research and biotechnology. Biotechnological advances have the potential to transform the way we treat many debilitating diseases.

One promising way that biotechnology is changing our lives is through the potential of stem cell research and therapeutic cloning. Therapeutic cloning is not cloning in the sense most people use the term, namely using technology to create a person who is a genetically identical copy of someone else. That type of cloning is reproductive cloning and is rightfully subject to a ban. The Greenwood Substitute would do just that.

In addition, the Greenwood Substitute would also permit therapeutic cloning. The potential therapies that may be developed from therapeutic cloning are significant. Therapeutic cloning will help researchers pursue stem cell therapies that could impact the lives of millions of Americans suffering from many of our most devastating illnesses, including Alzheimer's disease, Parkinson's disease, ALS, heart disease, cancer, and spinal cord injury. Further, this technology offers hope to the more than 1 million American children who suffer from juvenile diabetes because of the potential to turn these cells into insulin-producing cells.

We have entered the 21st Century and are on the verge of breakthrough biomedical discoveries that could save millions of lives. H.R. 534 would halt vital research that has the potential to revolutionize the biotech industry. Stopping this research in its tracks puts the United States at a clear and immediate disadvantage. Other nations such as Britain, France, Sweden, and the Netherlands, all of which currently have laws allowing therapeutic cloning from designated sources, continue to advance the technology. Molecular and cellular biologists committed to this research have already begun to look abroad, and they take with them lucrative investments from the biotech industry. Other scientists have dropped the cause all together, wasting precious time in the development of life-saving procedures that will someday help millions of people.

Back home in Wisconsin, I have had the privilege of meeting with Dr. James Thomson, a developmental biologist at the University of Wisconsin-Madison, who has contributed greatly to stem cell research. Three years ago he became the first person to isolate stem cells from human embryos. He has not taken on this work lightly, he has thought carefully about the ethical implications of his research. For Dr. Thompson, the moral questions about embryo experimentation were not difficult to resolve; he concluded that research was the "better ethical choice."

Because embryonic stem cells have the potential to grow into any cell or tissue in the human body, scientists say they hold great potential for repairing damaged tissues or organs. But to extract them requires that the embryo be destroyed, therefore, every year since 1995, Congress has attached language to its appropriations legislation to ban taxpayer financing of the work.

This ban requires that Dr. Thomson work into different laboratories, one of them in secret. He works primarily out of the university's primate center. This is his federally financed laboratory where he studies stem cells derived from the embryos of rhesus monkeys and marmosets.

When he conducts research on human cells, he must, however, move to an entirely different laboratory. This one is paid for by WiCell Research Institute, a corporation set up as a subsidiary of the Wisconsin Alumni Research Foundation, the nonprofit group that holds the patent to Dr. Thomson's work. The location of this lab has never been disclosed to ensure the safety of the workers.

Freedom of research has led to the development of over 117 biotech products that have helped more than 250 million people worldwide. In addition, the biotech industry generated $28.5 billion in revenues in 2001, an increase of more than 350 percent in just ten years. Further, employment within the sector more than doubled in the same time period.

The United States has an obligation to demonstrate our continued leadership in this arena and we can only do so with the support of our government. We cannot afford the loss of resources that a chilled scientific climate will bring. We should not cede our leadership, or our industry, to other nations.

I urge my colleagues to vote no on the Weldon bill. Support responsible research, vote yes on the Greenwood Substitute.

Mrs. CHRISTENSEN. Mr. Chairman, the issue of human cloning is one that understandably causes grave concern and often heated opposition. But we in our position as leaders have the responsibility not only to ensure that this developing and promising technology that can revolutionize the art of healing, is not used for nefarious purposes, but to also educate and inform the public on the issue.

Today I rise in support of H.R. 801, the Greenwood-Deutsch Cloning Prohibition Act of 2003, because it makes the critical distinctions and provides the hope that the people of this country are looking for. We don't ever want to clone human beings, but we do want to use the technology termed, "human somatic cell transfer" as the vital tool it is, to allow scientists to fully develop the wonderful promise of stem cell research.

I applaud my colleagues for their leadership in bringing this alternative bill forward. It should be the primary, and really the one bill before us today.

As a physician I look forward to the day when we can cure diseases such as sickle cell disease, make the quadriplegic walk again, and successfully treat or reverse so many other diseases for which this was still an impossible dream I was in practice.

To pass H.R. 534 would not only cost our nation its standing as the world leader in health technology, but passing that base bill would kill this dream, and with it the hope of life and health for countless of our constituents.

Let's not do that, vote instead for the Greenwood/Deutsch/DeGette/Eschoo substitute.

Mrs. McCARTHY of New York. Mr. Chairman, I rise today to express my extreme opposition to the cloning of human beings. At no time do I think it will be acceptable for science to go down that path. As Members of Congress, we need to impose very strict penalties to prevent scientists from making the jump from doing important research to playing God.

But as a nurse, I remember a debate very similar to this one, the debate over researching DNA. In the 1970s, we in the healthcare community were very excited over the research being conducted by scientists on human beings actual biological makeup. However, many others believed then that we were headed towards creating Frankenstein or Aldolphus Huxley's "Brave New World."

The DNA technology debate also focused on regenerative medicine based on stem cell and nuclear transfer biology. DNA involves splicing the gene for a desired protein into bacterial, yeast or other mammalian cells, which then manufacture protein. To accomplish this, scientists had to develop incredibly powerful techniques for managing the mechanisms to cellular biology. Society had to decide whether to allow their continued development and if so, how to regulate and manage these techniques.

Mr. Chairman, the research continued, and millions of patients and their families have benefited. Today, it is used to produce human therapeutic proteins to treat or prevent a wider array of diseases and conditions. DNA products include: Human Insulin for diabetics; Herceptin for patients with breast cancer; Epogen for patients with kidney disease; Enbrel to hel patients with rheumatoid arthritis; and Pulmozyne that has prevented childhood deaths from cystic fibrosis.

Mr. Chairman, at this time I would like to submit for the RECORD a list of 66 other DNA products that are approved by the FDA. These products have helped ten of millions of patients worldwide.

Mr. Chairman, today's, Greenwood Amendment takes care of both of my concerns on this issue. First and foremost, if defines human somatic cell nuclear transfer with the intent to initiate a pregnancy as a criminal act subject to criminal and civil penalties. These penalties include: Imprisonment of up to 10 years; Civil penalties up to $10 million (or two times the pecuniary gain from cloning); and it provides for forfeiture of equipment, other property, and any monetary gains from cloning human beings. In addition, it requires all individuals who plan to perform human somatic cell nuclear transfer to register with the FDA. And finally it requires all research be conducted with the Institutional Review Board's oversight.

The Greenwood Amendment also addresses my concern about restrictions on therapeutic cloning by allowing this important research to proceed. The goal of therapeutic cloning is to treat or cure patients with life threatening diseases by creating tailor made, genetically identical cells that the patient's body will not reject. In other words, this procedure could allow patients to be cured using their own DNA.

In that process the nucleus is removed from a donated unfertilized egg and replaced with the patient's own cells, like skin, heart, or nerve cell. These types of cells are called somatic cells. These unfertilized egg cells are stored in a perti dish to become a source of stem cells that can be used to treat life-threatening medical conditions. These cells are not transplanted into a womb and no sperm is used in this procedure.

The National Scientists Academy believes that therapeutic cloning or somatic cell nuclear transplant technology could lead to dramatic new treatments and cures for currently noncurable diseases and medical conditions including cancer, diabetes, parkinson's, spinal cord injuries, heart disease, ALS and many others. We need to find these cures today and this research may be the key to unlock the cure.

Therefore, Mr. Chairman, I rise in support of the Greenwood Amendment and urge all my colleagues to do the same.

RECOMBINANT DNA PRODUCTS APPROVED THROUGH DECEMBER 31, 2001

Product	Company	Indication	Year approved
Actimmune® (interferon gamma-1b)	Genetech Inc. and InterMune Pharmaceuticals Inc.	Treatment of chronic ganulomatous disease; treatment of severe malignant ostepetrosis	1990 2000
Activas® (alteplase)/Cathflo™ Activase®	Genentech Inc	Treatment of acute myocamprdial infarction (heart attack); acute massive pulmonary embolism; acute ischemic stroke within first three hours of systom onset; restoration of function to central venous access devices (Cathflo Activase).	1987 1990 1996 2001
Aranesp™ (darbepoietin alfa)	Amgen	Treatment of anemia asociated with chronic renal failure	2001
Avonex® (interferon beta 1-alpha)	Biogen	Treatment of relapsing-remitting multiple sclerosis	1996
BeneFix™ (coagulation factor IX)	Genetics Institute (subsidiary of American Home Products).	Treatment of hemophilia B	1997
Betaseron® (interferon beta 1-b)	Berlex Laboratories and Chiron Corp	Treatment of relapsing-remitting multiple sclerosis	1993
Bioclate™ (antihemophilic factor)	Centeon	Treatment of hemophilia A; perioperative management of patients with hemophilia A	1993
BioTropin™ (human growth hormone)	Bio-Technology General Corp	Treatment of human growth hormone deficiency in children	1995
Campath® (alemtuzumab, recombinant monoclonal antibody).	Ilex Oncology Inc., Millennium Pharmaceuticals Inc. and Berlex Laboratories Inc.	Treatment of B-cell chronic lymphocytic leukemia (B-CLL) in patients who have been treated with alkylating agents and who have failed fludarabine therapy.	2001
Cerezyme® (alglucerase)	Genzyme	Treatment of Type 1 Gaucher's disease	1991 1994
Enbrel® (etanercept)	Immunex Corporation	Treatment of moderate to severely active rheumatoid arthritis in patients who have had an inadequate response to one or more disease-modifying antirheumatic drugs; treatment of polyarticular course juvenile rheumatoid arthritis; treatment as a first-line therapy for moderate to severe active rheumatoid arthritis.	1998 1999 2000
Engerix-B®, (hepatitis B vaccine, recombinant)	GlaxoSmithKline	Hepatitis B vaccine; adults with chronic hepatitis C infection	1989; 1998
Epogen® (epoietin alfa)	Amgen	Treatment of anemia associated with chronic renal failure and anemia in zidovudine-treated HIV patients; pediatric use	1989; 1999
Follistim™ (folitropin beta for injection)	Organon	Recombinant follicle-stimulating hormone for treatment of infertility	1997
Geno Tropin® (semorelin)	Pharmacia	Treatment of growth hormone deficiency in children; growth hormone deficiency in adults	1995; 1997
Geref® (semorelin)	Serono Laboratories	Treatment of growth hormone deficiency in children with growth failure	1997
Gonal-F® (folicle-stimulating hormone)	Serono Laboratories	Treatment of infertility in women not due to primary ovarian failure; treatment of infertility in men and women	1998; 2000
Helixate® (antihemophilic factor)	Aventis	Factor VIII for treatment of hemophilia A; second-generation factor VIII formulated with sucrose for treatment of hemophilia A	1994; 2000
Herceptin® (trastuzumab, recombinant monoclonal antibody).	Genentech Inc	Treatment of patients with metastatic breast cancer whose tumors overexpress the HER2 receptor	1998
Humalog® (human insulin)	Eli Lilly and Company	Treatment of diabetes	1996
Humatrope® (somatotropin)	Eli Lilly and Company	Treatment of growth hormone deficiency in children; somatotropin deficiency syndrome in adults	1996; 1997
Humulin® (insulin)	Eli Lilly and Company	Treatment of diabetes	1982
Infergen® (interferon alfacon-1)	Amgen	Treatment of hepatitis C virus (HCV) in patients 18 years or older with compensated liver disease who have anti-HCV serum antibodies and/or the presence of HCV RNA; subsequent treatment of HCV-infected patients who have tolerated an initial course of interferon therapy.	1997; 1999
Intron A® (alpha interferon)	Schering-Plough Corporation	Treatment of hairy cell leukemia; gential warts; AIDS-related Kaposi's sarcoma; non-A, non-B malignant melanoma; extended therapy for follicular lymphoma in conjunction with chemotherapy; treatment of hepatitis B in pediatric patients.	1986; 1988; 1988; 1991; 1996; 1997; 1997; 1998
Kineret™ (anakinra)	Amgen Inc.	Treatment of moderately to severely active rheumatoid arthritis in patients 18 or older who have failed one or more disease-modifying antirheumatic drugs.	2001
Kogenate® FS (antihemophilic factor)	Bayer Corporation	Factor VII for treatment hemophilia A; second-generation factor VII formulated with sucrose for treatment of hemophilia A	1989; 2000
Lantus® (insulin glargine)	Aventis	Biosynthetic basal insulin for adult and pediatric patients with type 2 diabetes	2000
Leukine® (granulocyte macrophage colony stimulating factor).	Immunex Corporation	Treatment of autologous bone marrow transplantation; treatment of white blood cell toxicities following induction chemotherapy in older patients with acute myelogenous leukemia; for use following allogenic bone marrow transplantation from HLA-matched related donors; for use mobilizing peripheral blood progenitor cells and for use after PBPC transplantation.	1991; 1995; 1995; 1995; 1996
Norditropin® (somatropin)	Novo Nordisk	Treatment of growth hormone deficiency in children	1995
Novolin® (human insulin)	Novo Nordisk	Treatment of diabetes	1982
NovoLog® (insulin aspart)	Novo Nordisk	Insulin analog for adults with diabetes mellitus	2000
NovoSeven® (coagulation factor VIIa)	Novo Nordisk	Treatment of bleeding episodes in hemophilia A or B patients with inhibitors to factor VIII or factor IX	1999
Nutropin Depot™ (somatropin, injectable suspension)	Genentech Inc. and Alkermes Inc.	Long-acting dosage form of recombinant growth hormone (one or two doses permonth) for pediatric growth bormone deficiency	1999
Nutropin®/Nutropin AQ® (somatropin)	Genentech Inc.	Treatment of growth hormone deficiency in children; growth hormone deficiency in adults; growth failure associated with chronic renal insufficiency prior to kidney transplantation; short stature associated with Turner Syndrome; to improve spine bone mineral density observed in childhood-onset adult growth hormone-deficent patients and to increase serum alkaline phosphatase.	1993; 1994; 1996; 1996; 1999
LYMrix™ (OspA)	SmithKline Beecham Biologicals	Prevention of Lyme disease	1998
Mylotarg™ (gemtuzumab ozogamicin)	Celltech Chiroscience and Wyeth-Ayerst (American Home Products Corporation).	Human antibody linked to calicheamicin (chemotherapeutic) for treatment of CD33 positive acute myeloid leukemia in patients 60 and older in first relapse who are not considered candidates for cytotoxic chemotherapy.	2000
Natrecor® (nesiritide)	Scios Inc.	Treatment of patients with acutely decompensated heart failure who have syspnea at rest or with minimal activity	2001
Neumega® (oprelvekin)	Genetics Institute (American Home Products Corporation)	Prevention of severe chemotherapy-induced thrombocytopenia in cancer patients	1997
Nuepogen® (filgastim)	Amgen	Treatment of chemotherapy-induced neutropenia; bone marrow transplant accompanied neutropenia; severe chronic neutropenia; autologous bone marrow transplant engraftment or failure; mobilization of autologous PBPCs after chemotherapy.	1991; 1994; 1994; 1995; 1998
Ovidre® (human chorionic gonadotropin)	Serono Laboratories	Treatment of infertility in women	2000
PEG-Intron™ (pegylated version of recombinant interferon alfa-2b).	Enzon Inc. and Schering-Plough	Treatment of chronic hepatitis C; combination therapy with Rebetol of treatment of hepatitis C in patients with compensated liver disease	2001
Procrit® (epoietin alfa)	Ortho Biotech Inc.	Treatment of anemia in AZT-treated HIV patients; anemia in cancer patients on chemotherapy; for use in anemic patients scheduled to undergo elective noncardiac, nonvascular surgery.	1990; 1993; 1996
Proleukin IL-2® (aldesleukin)	Chiron Corporation	Treatment of kidney carcinoma; treatment of metastastic melanoma	1992; 1998
Protropin® (somatrem)	Genentech Inc.	Treatment of growth hormone deficiency in children	1985
Pulmozyme® (dornase alfa)	Genentech Inc.	Treatment of mild to moderate cystic fibrosis; advanced cystic fibrosis; pediatric use in infants three months to 2 years and children 2 to 4 years old.	1993; 1996; 1998
Rebetron™ (combination of ribavirin and alpha interferon).	Schering-Plough Corporation	Combination therapy for treatment of chronic hepatitis C in patients with compensated liver disease who have relapsed following alpha interferon treatment; treatment of chronic hepatitis C in patients with compensated liver disease previously untreated with alpha interferon therapy	1998
Recombinate® rAHF (antihemophilic factor)	Baxter Healthcare Corporation	Blood-clotting factor VIII for the treatment of hemophilia A	1992
Recombivax-HB® (hepatitis B vaccine)	Merck & Company Inc.	Hepatitis B vaccine for adolescents and high-risk infants; adults; dialysis patients; pediatrics	1987; 1987; 1989; 1993
DeFacto® (antihemophilic factor)	Genetics Institute (American Home Products Corporation)	Control and prevention of hemophilia A and short-term prophylaxis to reduce bleeding episodes	2000
Refludan® (lepirudin)	Hoechst Marion Roussel	For anticoagulation in patients with heparin-induced thrombocyto-penia	1998
Regranex® Gel (gel becaplermin)	Ortho-McNeil and Chiron Corporation	Platelet-derived growth factor treatment of diabetic foot ulcers	1997
Remicade™ (infliximab)	Centocor Inc.	Short-term management of moderately to severely active Crohn's disease, including those patients with fistulae; treatment of patients with rheumatoid arthritis who have had inadequate response to methotrexate alone.	1998; 1999
ReoPro™ (abciximab)	Centocor and Eli Lilly and Company	Reduction of acute blood-clot-related complications for high-risk angioplasty patients; reduction of acute blood clot complications for all patients undergoing any coronary intervention; treatment of unstable angina not responding to conventional medical therapy when percutaneous coronary litervention is planned within 24 hours.	1994; 1997
Retavase™ (reteplase)	Centocor Inc.	Management of acute myocardial infarction in adults (thrombolytic)	1996
Rituxan™ (rituximab)	IDEC Pharmaceuticals and Genentech Inc.	Treatment of relapsed or refactory low-grade or follicular, CD20-positive B-cell non-Hodgkin's lymphoma	1997
Roferon-A® (interferon alfa-2a)	Hoffmann-La Roche Inc.	Treatment of hairy cell leukemia; AIDS-related Kaposi's sarcoma; chronic phase Philadelphia chromosome positive chronic myelogenous leukemia; hepatitis C.	1986; 1988; 1995; 1995

Saizen® (human growth hormone)	Serono Laboratories	Treatment of growth hormone deficiency in children
Serostim® (human growth hormone)	Serono Laboratories	

Saizen® (human growth hormone)	Serono Laboratories	Treatment of growth hormone deficiency in children	1996
Serostim® (human growth hormone)	Serono Laboratories	Treatment of cachexia (AIDS-easting)	1996
Simulect® (basiliximab)	Novartis Pharmaceutical Corporation and Ligand Pharmaceuticals Inc..	Prevention of acute rejection episodes in kidney transplant recipients; use in renal transplantation in combination with triple immunosuppressive therapy; use in pediatric renal transplantation and use of an IV bolus injection.	1998; 2001
SYNAGIS ™ (palivizumab)	MedImmune Inc.	Prevention of serious lower respiratory tract disease caused by respiratory syncytial virus (RSV) in pediatric patients at high risk of RSV disease.	1998
Thyrogen® (thyrotropin alfa)	Genzyme	Adjunctive diagnostic tool for serum thyroglobulin testing with or without radioiodine imaging in the follow-up of patients with thyroid cancer	1998
TNKase ™ (tenecteplase)	Genentech Inc.	Treatment of acute myocardial infarction	2000
Twinrix® (hepatitis A and hepatitis B [recombinant] vaccine).	SmithKline Beecham Biologicals	Immunization against hepatitis A and B viruses	2001
Xigris ™ (drotecogin alfa, recombinant)	Eli Lilly and Company	Treatment of severe, life-threatening sepsis	2001
Zenapax® (daclizumab)	Hoffmann-La Roche Inc.	Prevention of kidney transplant rejection	1997

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GREENWOOD).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEUTSCH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 231, answered "present" 1, not voting 28, as follows:

[Roll No. 37]

AYES—174

Abercrombie
Allen
Andrews
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Frank (MA)
Frost
Gibbons
Gilchrest
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn

NOES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Brady (TX),
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gillmor
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kucinich
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCotter
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanders
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (AK)

ANSWERED "PRESENT"—1

Filner

NOT VOTING—28

Ackerman
Baca
Brown, Corrine
Burton (IN)
Carson (IN)
Combest
DeFazio
Diaz-Balart, L.
Ford
Gallegly
Gephardt
Hinojosa
Hoeffel
Hyde
Lipinski
McCarthy (MO)
McCrery
Millender-McDonald
Miller, Gary
Ortiz
Payne
Peterson (MN)
Ros-Lehtinen
Sanchez, Loretta
Smith (MI)
Snyder
Waters
Young (FL)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. GILCHREST) (during the vote). The Chair will remind Members that there are 2 minutes left to this vote.

☐ 1658

Messrs. HILL, SOUDER, BOOZMAN, EVERETT and TURNER of Ohio changed their vote from "aye" to "no."

Ms. WOOLSEY changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY of Missouri. Mr. Chairman, during rollcall vote No. 37, I was unavoidably detained. Had I been present, I would have voted "aye."

☐ 1700

The CHAIRMAN pro tempore (Mr. GILCHREST). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. GILCHREST, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning, pursuant to House Resolution 105, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SENSENBRENNER. Would it be true that the quicker the Members take their seats and calm down, the quicker we can vote and get to the airport?

The SPEAKER pro tempore. That is not a proper parliamentary inquiry.

MOTION TO RECOMMIT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. LOFGREN. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. LOFGREN moves to recommit the bill, H.R. 534, to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 4, line 24, strike the close quotation mark and the period that follows.

Page 4, after line 24, insert the following:

"(e) EXEMPTION OF MEDICAL TREATMENT.—The prohibitions of this section do not apply to the shipping, receipt, or importation of any product derived from an embryo (including pluripotent stem cells) designed for use in medical treatment for or to cure Parkinson's disease, Alzheimer's disease, diabetes, cancer, heart disease, spinal cord injury, multiple sclerosis, severe burns, or other diseases, disorders, or conditions, provided that the product of such use is not utilized to initiate a pregnancy and is not intended to be utilized to initiate a pregnancy and is unable to develop into a full human being. Nothing in this subsection shall exempt any product from any applicable regulatory approval.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. LOFGREN) is recognized for 5 minutes in support of her motion.

Ms. LOFGREN. Mr. Speaker, I first yield 1 minute to the gentlewoman from Wisconsin (Ms. BALDWIN), my colleague on the Committee on the Judiciary.

Ms. BALDWIN. Mr. Speaker, who among us could tell a person suffering from cancer or Alzheimer's disease, you cannot import the cure that would save your life, and if you do, you will face a 10-year prison sentence? Who could face their families and tell them they could not have the cure because the stem cell treatment that would have saved their loved ones' lives was derived from therapeutic cloning?

The wondrous promise held out by the advances in embryonic stem cell research is that we will one day be able to diminish human suffering, heal, treat and, yes, save lives.

If you support this bill, and a cure is discovered outside the United States for a devastating disease, would you deny life to our fellow Americans?

I urge my colleagues to vote for this motion to recommit and against H.R. 534.

Ms. LOFGREN. Mr. Speaker, this bill not only ties the hands of our medical researchers; it prevents Americans from utilizing cures developed in other countries. There is no doubt that if this bill becomes law, we will lose our most talented medical researchers. They will flock to other countries that continue to allow therapeutic cloning; and hopefully, one day, they will help to develop cures to some of the worst diseases known to humankind.

What happens when a British researcher develops a cure for Alzheimer's or is able to regenerate insulin-producing cells in children with juvenile diabetes or learns how to generate nervous system cells that can restore spinal cord function after paralysis? Sick Americans should have access to these cures. But H.R. 534 prevents the importation of any products derived from somatic cell nuclear transfer. It would make it a crime for a terminally-ill person to receive medical care in America if the cure was developed using this science abroad.

That is both unnecessary and unfair. The motion to recommit is simple. It will ensure that cures developed in other countries are available to Americans suffering from Parkinson's, Alzheimer's, diabetes, cancer, heart disease, spinal cord injury, MS, severe burns, and other diseases.

If cures to these debilitating diseases are found, Congress should not stand in the way or require its citizens to travel to other countries to benefit from them.

There have been lots of argument today about a slippery slope. There is no slippery slope in this motion.

Mr. Speaker, I have been deeply troubled by many of the arguments I have heard today. I am troubled that some Members think they have the right to impose their religious beliefs on all Americans. I am troubled that in return, some of the most vulnerable members of society, like children suffering from juvenile diabetes, would be forced potentially to give up their best hope for a cure.

This country is a democracy; it is not a theocracy. I understand that some Members of this House have religious beliefs that are guiding them. My advice to them would be, if you object to the cures that are developed using this technology of therapeutic cloning, fine, do not use the cure. But do not try and deny other Americans cures to deadly diseases because of your own religious beliefs. That is simply an improper role for Congress to take.

Therapeutic cloning has nothing to do with cloning a child. There is no fertilization with sperm, there is no implantation into the uterus, there is no pregnancy, there is no child.

Somatic cell nuclear transfer is a scientific method where researchers create new stem cells in a petri dish. To listen to some of the debate today, one would see that there would be a picture painted that very tiny babies in test tubes are being the subject of this research. That is completely false. These are eight cells on a petri dish that can give lifesaving cures to Americans and others throughout the world who are suffering horrendous diseases.

I think we ought to take the advice of Senator HATCH and former First Lady Nancy Reagan who wrote, "The embryonic stem cell research, under appropriate guidelines, may provide our scientists with many answers that are now beyond our grasp. There are so many diseases that can be cured, or at least helped, that we can't turn our backs on this."

Do not turn your backs on the millions of Americans who might be able to benefit from cures made abroad.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this merely moves offshore what this bill bans in the United States. What it will do is create a huge financial incentive for those people and companies in foreign countries to take advantage of Americans. I do not think that we should be giving foreign companies that kind of financial advantage. If it is wrong to do here, we should prohibit the importation of these materials.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. LOFGREN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 164, noes 237, not voting 33, as follows:

[Roll No. 38]

AYES—164

Abercrombie
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gibbons
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Kolbe
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Ramstad
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—237

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McHugh
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Northup
Norwood
Nunes
Nussle
Oberstar
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—33

Ackerman
Baca
Boyd
Brown, Corrine
Burton (IN)
Carson (IN)
Combest
DeFazio
Diaz-Balart, L.
Ford
Frost
Gallegly
Gephardt
Hinojosa
Hoeffel
Hyde
Lipinski
McCarthy (MO)
McCrery
McInnis
Millender-McDonald
Miller, Gary
Ney
Ortiz
Payne
Peterson (MN)
Ros-Lehtinen
Sanchez, Loretta
Sanders
Smith (MI)
Snyder
Waters
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1725

Mr. GILCHREST changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 38, I was unavoidably detained. Had I been present, I would have voted "aye."

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 241, nays 155, not voting 38, as follows:

[Roll No. 39]

YEAS—241

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McHugh
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanders
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NAYS—155

Abercrombie
Allen
Andrews
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gilchrest
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind
Kleczka
Kolbe
Lampson
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pastor
Paul
Pelosi
Price (NC)
Pryce (OH)
Ramstad
Rangel
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—38

Ackerman
Baca
Barton (TX)
Boyd
Brown, Corrine
Burton (IN)
Carson (IN)
Combest
DeFazio
Diaz-Balart, L.
Ford
Frost
Gallegly
Gephardt
Hinojosa
Hoeffel
Hyde
Lipinski
McCarthy (MO)
McCarthy (NY)
McCrery
McInnis
McIntyre
Millender-McDonald
Miller, Gary
Ney
Oberstar
Ortiz
Payne

Peterson (MN)
Ros-Lehtinen
Sánchez, Loretta
Serrano
Smith (MI)
Snyder
Vitter
Waters
Young (FL)

The SPEAKER (during the vote). There are 2 minutes remaining in this vote.

☐ 1732

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. VITTER. Mr. Speaker, I was inadvertently absent for rollcall vote 39. Were I present, I would have voted "aye" in support of H.R. 534, the Human Cloning Prohibition Act.

Stated against:

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 39, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Thursday, February 27, I was unavoidably detained due to a prior obligation in my district. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted "yes" on rollcall No. 37, on "yes" rollcall No. 38, and on "no" rollcall No. 39.

PERSONAL EXPLANATION

Mr. HOEFFEL. Mr. Speaker, unfortunately, I was absent for votes on Thursday, February 27, 2003 as a result of the passing of my mother, Mrs. Eleanore Hoeffel. Had I been present, I would have cast my votes as follows: rollcall vote No. 37 "nay," rollcall vote No. 38 "aye," rollcall vote No. 39 "nay."

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, due to an unavoidable conflict in my schedule, I was unable to be present during rollcall votes 37–39. Had I voted, I would have voted "no" on rollcall votes 37–38, and "yea" on rollcall vote 39.

GENERAL LEAVE

Mr. PENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 534, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the distinguished gentleman from Texas (Mr. DELAY), the majority leader, for the purposes of asking the majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman for yielding. I am told that the airports are still open. I know all of our Members are rushing to catch their planes to go back to their districts, and I wish them a very good weekend. But, Mr. Speaker, I do appreciate the gentleman from Maryland (Mr. HOYER) for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to the Members' offices early next week. There will be no votes in the House before 6:30 on Tuesday.

On Wednesday we expect to consider two bills from the Committee on Ways and Means: the Miscellaneous Trade and Technical Corrections Act of 2003 and H.R. 743, the Social Security Protection Act of 2003.

On Thursday we expect to consider H.R. 878, the Armed Forces Tax Fairness Act.

Mr. Speaker, I thank the gentleman for yielding, and I will be happy to answer any questions the gentleman may have.

Mr. HOYER. I thank the gentleman for his comments. Reclaiming my time, the first question I have, Mr. Leader, am I correct that the two tax bills that you refer to as Miscellaneous Trade and Technical Corrections and Social Security Protection Act are essentially technical in nature?

Mr. DELAY. If the gentleman would continue to yield, that is correct.

Mr. HOYER. Mr. Majority Leader, could you advise the House of when your expectation is that the medical malpractice legislation would be coming to the floor?

Mr. DELAY. If the gentleman would continue to yield, I appreciate the gentleman asking. My understanding is that the Committee on the Judiciary and the Committee on Energy and Commerce have tentative plans to mark up the medical liability bills sponsored by the gentleman from Pennsylvania (Mr. GREENWOOD) sometime next week. Once that bill is reported by the two committees, I would expect quick action in this House. I would also note that the Committee on Energy and Commerce and the Committee on Ways and Means have held mark-ups of legislation dealing with medical errors. I would expect legislation dealing with medical errors to be considered soon by the House as well, probably in the same week as the medical liability bill.

Mr. HOYER. Reclaiming my time, would I be correct that the soonest that would be done would be the week after next?

Mr. DELAY. The gentleman is correct.

Mr. HOYER. I thank the gentleman.

Secondly, could the majority leader tell me when he expects the budget resolution to be scheduled for the floor? I yield to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding. I will say we will be as ambitious as I have seen in a long time in trying to bring the budget to the floor of the House, get the budget process done in an expedited manner. The Committee on the Budget is continuing to hold hearings with administration officials, economists and other budget experts; but we expect the House to consider the budget resolution actually on a schedule that allows us to have the conference report completed by April 15, as the Budget Act requires.

Mr. HOYER. I thank the gentleman for that answer; and reclaiming my time, I would ask the gentleman if he expects the President's tax proposal, or the majority's tax proposal, to be included within the budget document. I yield to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding, and I would expect that there would be a tremendous debate over the size of the Economic Growth and Jobs Creation Act, and whatever that size is would be included in the budget that comes out of the Committee on the Budget, yes.

Mr. HOYER. I thank the gentleman. One additional question, Mr. Leader, with reference to the budget. Has the majority made a determination yet as to whether or not it will be a 5-year or a 10-year budget projection?

Mr. DELAY. If the gentleman would continue to yield, that decision has not been made yet. I know there are ongoing consultations with the chairman of the Committee on the Budget in the other body and also with the majority leader in the other body. The Speaker and the leadership on this side are consulting with them. That decision has not been made yet, but probably will be made fairly soon, certainly by the time the chairman lays out his mark.

Mr. HOYER. I thank the leader for that observation, and unfortunately I think I agree with him. But very frankly, Mr. Leader, if we could get maybe a little advice prior to the mark being laid on the table, it would be helpful for us to fairly consider the chairman's mark.

Mr. DELAY. If the gentleman would continue to yield, as the gentleman knows, it will probably be in the press before we even make the decision; so the gentleman can probably read it there.

Mr. HOYER. I thank the gentleman. And if he thinks the press will be dispositive of that issue, I will take that to heart.

Mr. Leader, could you also tell me the status of the Partial Birth Abortion Bill that we had understood would be considered early, perhaps as early as next week? And there was some discussion about it this week, but now we hear there may be an intent to wait on the other body's acting on this and sending it to the House. Can you bring us up to date on what the plans are on this?

I yield to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding to me. At this time I do not believe the gentleman from Wisconsin (Mr. SENSENBRENNER) has scheduled any action on this legislation, the partial birth abortion ban. Having said that, I do believe that this is really important legislation. This is something that the Senate has indicated they will move early this year, and it is certainly something that I would expect the House to vote on at least by the beginning of the summer.

Mr. HOYER. I thank the leader for the information.

ADJOURNMENT TO MONDAY, MARCH 3, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it stand adjourned to meet at noon on Monday, March 3, 2003.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 4, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, it stand adjourned to meet at 12:30 p.m., Tuesday, March 4, 2003 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONTINUING NATIONAL EMERGENCY RELATING TO CUBA AND REGULATION, ANCHORAGE AND MOVEMENT OF VESSELS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-42)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba on February 24, 1996, is to continue in effect beyond March 1, 2003, to the Federal Register for publication.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 27, 2003.*

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

MR. SPEAKER: Effective February 27, 2003, I hereby take a leave of absence from my position on the House Small Business Committee due to my appointment to the Committee on House Administration.

Sincerely,

ROBERT BRADY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute speeches.

HONORING G. FRANKLIN CRUMPLER, HOKE COUNTY CORONER

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, today I rise to recognize the accomplishments of G. Franklin Crumpler, coroner for Hoke County, North Carolina. Mr. Crumpler holds the distinction of being the longest-serving elected official in North Carolina.

In 1960, G. Franklin Crumpler was appointed coroner for Hoke County after the serving coroner moved away. He served the unexpired term for 3 years and then ran for the office to which he was elected and has served in this capacity consecutively for the past 42 years.

He is married to the former Dayne Capps and has two sons, a daughter, and 11 grandchildren. Frank and his wife moved to Raeford in April of 1960 and opened a funeral home. Since then they have purchased a funeral home in Red Springs, North Carolina, and are part owners of LaFayette Funeral Home in Fayetteville.

Frank was born in nearby Sampson County in 1934 to the late Margaret Bradshaw and Gordon Crumpler. Frank graduated from Clinton High School in Clinton, North Carolina; Cincinnati College of Embalming; and Missouri Auction School in Kansas City, Missouri. He is a funeral service licensee, an auctioneer, and sells insurance.

He is a member and lifetime deacon of Raeford Baptist Church, past president and lieutenant governor of Raeford Kiwanis Club of which he was awarded "Man of the Year." He is on the board of directors of Raeford-Hoke Chamber of Commerce and past president of Red Springs Chamber of Commerce. He is also a mason and a Shriner.

Please join me in expressing the appreciation of the House to Mr. G. Franklin Crumpler for over 4 decades of dedicated service to the citizens of Hoke County, North Carolina.

□ 1745

AUTHORIZATION FOR USE OF MILITARY FORCE AGAINST IRAQ RESOLUTION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, $100 billion, thousands of innocent lives of Iraqi women and children and the lives of our United States military and other military, I do not consider that to be collateral damage. Mr. Speaker, I believe it is imperative that this Congress engage in a debate that is being asked of the United Nations Security Council.

So today I am asking the Speaker to bring to the floor for our debate H. Con. Res. 2, a simple resolution that simply allows us to redebate the Iraqi war resolution in light of the information regarding North Korea, in light of the information and question as to whether or not the United States is under imminent danger of attack, in light of the question being raised whether the United States should engage in a preemptive unilateral attack against Iraq, and in light of the fact that the Constitution does say that it is the United States Congress under Article I, section 8 that should declare war, but most importantly, Mr. Speaker, in order to save lives.

It is imperative for this Congress to stand up and be heard and be counted and not to abdicate its duty to save lives on behalf of the American people and on behalf of world peace.

I include this letter for the RECORD.

WASHINGTON, DC,
February 27, 2003.

The Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We are writing to request floor consideration for H. Con. Res. 2, which expresses the sense of Congress that the Authorization for Use of Military Force Against Iraq Resolution of 2002 be repealed. I introduced this legislation on January 7, 2003 to bring renewed debate and to re-examine the decision to authorize force against Iraq.

Since the passage of Public Law 107–243, which authorizes the President to use force against Iraq, the world is a different place. We have a dire situation in North Korea and our policies dealing with nations accused of having weapons of mass destruction should be consistent. In addition, many of our long-time allies are advocating that the U.N. inspections should be given more time to continue their work in Iraq. If the President intends to seek a new resolution in the United Nations, thereby allowing the U.N. Security Council to re-debate the question of force against Iraq, then it is more than reasonable for Congress to re-examine its decision based upon all the information available now, so as not to abdicate its constitutional duty.

Congress is constitutionally obligated to debate and to vote on any decision to go to war. Article I, 8 of the U.S. Constitution vests the authority to declare war solely with Congress. We are calling for a vigorous debate before we launch a probable preemptive unilateral strike against Iraq. It is Congress that must ultimately decide to go to war.

We would like to request that H. Con. Res. 2 be brought to the floor for debate. Before the President uses force against Iraq, approval and considered debate should occur in the Congress.

Sincerely,
Sheila Jackson-Lee, Diane E. Watson, John Conyers, Jr., Raúl M. Grijalva, Danny K. Davis, Jim McDermott, Bob Filner, Bert Saunders, José E. Serrano, Carolyn C. Kilpatrick, Frank W. Ballance, Jr., Bobby Scott, Lynn C. Woolsey, Pete Stark, Maurice D. Hinchey, Hilda L. Solis.

MOVING EXPENSES FOR FEDERAL EMPLOYEES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the Associated Press has now reported that the Federal Government has paid out over $100,000 each in moving expenses to hundreds of Federal employees.

Investigators found 388 moves that cost taxpayers over $100,000 each. One FBI employee got $203,000, and three IRS workers got over $190,000 each for their moves. In addition to these hundreds of moves that have already been paid for, 81 other Federal employees have been authorized to receive over $100,000 each for their moves.

Mr. Speaker, this is ridiculous. It is excessive. It is a rip-off of the taxpayers, and Congress should stop it. Federal employment used to be called government service. However, it is anything but public service when employees seem to care less and less about what a move costs as long as it does not come out of their own pockets.

CONGRESSIONAL BICYCLE CAUCUS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, I would hope that as we are dealing with some weighty matters here before us that we also may be able to pause for a moment and deal with one simple little item that can help bring us together. We are in the midst now of encouraging Members to renew their membership in the bipartisan Bicycle Caucus.

The gentlewoman from New York (Mrs. KELLY) and I have issued a letter that is circulating to the Members. Last year, we had over a hundred Members, representing 37 States, that worked to help promote cycling policies around the country, to do work here in Washington, D.C., to promote that opportunity to make the cycling-friendly environment and to have some positive experiences for Members, family, and staff using cycles here.

Next week, there will be a bicycle summit with participation from virtually every State in the Union, over 500 people. We encourage Members to renew their membership. They will get the certified bicycle membership pen, and we will have an opportunity to work together on something that we will enjoy that will be good for the environment, good for health, and good for our country.

SUPPORT OUR TROOPS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to thank my colleagues and the American people for supporting our men and women who have volunteered to stand in harm's way. While no one desires to go to war, the threat to America posed by Iraq and international terrorism is real, and many of those in the Armed Forces may be asked to make the ultimate sacrifice.

I am especially appreciative of our servicemembers because I recently served on a delegation led by the gentleman from Georgia (Mr. COLLINS) to visit the courageous troops in Kuwait, Uzbekistan and Kyrgyzstan.

Already nearly 170,000 members of the National Guard and Reserves have been called up for deployment. These brave people have volunteered to leave their jobs and families to help secure our liberty.

Many of our military families struggle to make ends meet, and I ask Americans to reach out to them. Every helping hand is greatly appreciated, even if just a word of encouragement. I ask everyone across this great land to support our troops by assisting their families while they are defending freedom.

DIVIDEND TAX CUT

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEAUPREZ. Mr. Speaker, in coming days and weeks, this body will take up issues of economic growth and taxation fairness. The President has suggested the elimination of the tax on dividends, a tax paid of course by investors, half of which I am told are senior citizens, treated as ordinary income.

This tax is rightly referred to as a double tax because companies that pay dividends have already been subjected to a corporate income tax. Thus 60 percent or more of every dollar of business profit, when taxed both at the corporate and personal level, could end up in the Federal tax bucket.

This seems excessive. It seems unfair. It seems a penalty on success. This is clearly a disincentive to capital investment which is critical, of course, to job creation: capital investment, which declined for eight consecutive quarters of our battered economy.

Mr. Speaker, I am certain every Member of this body is committed to more job availability for Americans, especially now. Elimination of the dividend tax would be an incentive for capital investment which is necessary for job creation.

Let us do American workers a favor and eliminate the dividend tax now.

JOBS AND ECONOMIC GROWTH PACKAGE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I rise in support of the President's jobs and economic growth package because of the immediate benefits that it will provide for our small business owners.

Under current law, businesses can only deduct a fraction of new investment expenses and are forced to wait years to deduct the full cost. The President's jobs and economic growth package will help reduce this anti-investment bias by immediately increasing the amount of investment that can be deducted from $25,000 to $75,000 per year. Increasing by 300 percent the amount that small businesses can invest in their company will have an immediate and positive impact on our Nation's economy. This package is projected to return an average of $2,042 to over 23 million small business owners this year.

This legislation will help increase the bottom line, and I hope my colleagues will support it when it comes before the House.

SUPPORT FOR THE NATIONAL GUARDSMEN AND RESERVES

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, as our Nation mobilizes in every way, and most especially our military, to confront the war on terror, as our soldiers in numbers exceeding 150,000 prepare in a theater overseas for possible confrontation, a brief word about the citizen-soldier and their role, National Guardsmen and Reserves in this effort, fully 60,000 of which have not only been activated but deployed to that theater overseas.

This week, the historic base, Camp Atterbury in my own district, became the very first State-owned National Guard facility to be activated as a mobilization site in the war on terror. My congratulations to Governor Frank O'Bannon and the Indiana Army National Guard and the 38th Division for their stewardship of this facility, and it is all of our hope and prayer that the men who pass through that place through mobilization go with God and go prepared and come home to their families and their grateful communities soon.

PRESIDENT BUSH'S ECONOMIC PLAN

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, Ronald Reagan once said that the best thing that the government can do to stimulate the economy is get out of the way, and I agree completely. President Bush's economic growth and jobs creation plan is a perfect blueprint for what elected officials should do to stimulate this economy and create jobs.

I want to just tell my colleagues briefly about a small company in my district, the 11th of Georgia, the Daisaka company owned by Patty and Carlos Suarez. This is a glass-decorating company. They started 5 or 6 years ago with 6 employees and now have 45, but the Suarezes want to grow that company. With the increase of the capital credit from $25,000 to $75,000 a year they are going to be able to do that and create 10 or 12 additional jobs and grow that company.

We need to pass this economic growth and job creation package now so that more and more small businesses in this country, we estimate 23 million of them, will benefit from this growth package and end up creating 1.2 million jobs.

I commend the President and we need to get on with that business and pass that package.

COMPLETE DEATH TAX ELIMINATION

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today in favor of tax relief for small business owners and farmers in the 12th District of Georgia and in America.

Small business owners and farmers in my State have always assumed their fair share of our Nation's tax burden. Fortunately, because of the Economic Growth and Tax Relief Reconciliation Act of 2001, these hardworking men and women will not bear the burden of additional taxation in death, at least not for a few more years.

Unfortunately, Congress did not finish the job, and many of my constituents, real working Americans, will face the so-called death tax once again in 2011. That is why this morning I signed on as a cosponsor of H.R. 57, the Death Tax Permanency Act of 2003. I believe that the gentlewoman from Washington (Ms. DUNN) has put together a fine piece of legislation, and I am proud to cosponsor this legislation.

Mr. Speaker, my constituents are not rich. They work hard, building on the American dream of freedom in pursuit of happiness. They also expect to leave something to their children. Without complete death tax elimination, farmers and small business owners are left out of that dream. The death tax is restrictive. It is an obstacle to the American dream and it is unfair and inappropriate.

□ 1800

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO PAINE COLLEGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BURNS) is recognized for 5 minutes.

Mr. BURNS. Mr. Speaker, I would like to take time to offer praise to one of Augusta, Georgia's most prized and valuable educational institutions. A recent guest of Travis Smiley's C–SPAN program ventured that Paine College was among several Historically Black Colleges in serious trouble financially and was in danger of dissolving. This could not be farther from the truth for Paine, which has experienced the largest growth in its 70 years of accredited education, with an average enrollment of 850 young men and women for the past 5 years.

As a college professor, I know the challenges that today's institutions of higher education face. The rising cost of education and the ever-growing competition between schools to recruit and retain students are difficult to manage, but among these and other trials Paine College has not only held its ground but has grown and it has prospered.

Paine students hail not just from Georgia but from all corners of our great Nation and from foreign lands, including Zambia and Cameroon. Gate Millennium Scholars, recognized for their achievements in high school, are given the chance to attend the college of their choice with full funding. This year, two of these students chose to continue their education in Augusta and build a foundation of a successful life with a degree from Paine College.

Like many colleges and universities throughout the country, many of Paine's students qualify for Federal scholarships and grants. Additionally, 227 students are currently studying at Paine with the assistance of the Georgia HOPE Scholarship, for which they have to maintain at least a 3.0 grade point average.

With so many choices among institutions of higher education, students will go where they can find the best educational value. Paine College has experienced its recent growth by recognizing that fact and providing a low-cost education that produces excellent results. Graduates of Paine College often move across town to attend the Medical College of Georgia or to study at other prestigious graduate programs across the country, such as Penn State University, the Claremont School of Theology, or the University of Maryland.

Those of us who have served as teachers know that it is not only the job of a school to help shape and educate the mind but to develop a member of a community who will offer something in return to his neighbors. Paine's students can be seen volunteering to give back to the Augusta community every day. The Boys' and Girls' Clubs, Shiloh Senior Community Center, and the area public schools have all benefited from the generosity of Paine College students and alumni who give their time to volunteer in areas where they can have a positive impact on the lives of Augusta's youth.

Academically, Paine College provides an outstanding curriculum run by a top-notch faculty. Business, education, natural sciences, mathematics, social sciences and humanities programs all offer programs of study to prepare students to not only compete but to excel in their chosen fields. To appreciate the quality of a Paine College education, all you have to do is see a short list of the achievements of Paine's alumni. Frank Yerby has published 32 novels. Charles Goode Gommillion argued and won a United States Supreme Court case. Mack Gibson was the first African American to receive a Ph.D. from the University of Chicago and works for NASA.

Paine College has served as a great resource for the development of great minds and members of the community both for Augusta and for our country and the world as a whole. I can see nothing but more growth and continued great achievements for Paine in the future, and I am proud to represent its students and faculty in the House of Representatives. Students seeking a quality-centered education can be confident in choosing Paine College and being a proud part of America's future.

BLACK HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, "O, let America be America again, the land that never has been yet, and yet must be; the land where every man is free. The land that's mine, the poor man's, Indian's, Negro's, me, who made America, whose sweat and blood, whose faith and pain, whose hand at the foundry, whose plow in the rain, must bring back our mighty dream again."

Mr. Speaker, those eloquent words of celebrated African American poet and writer Langston Hughes resound today as we celebrate Black History Month 2003. On February 1, 2002, Mr. Hughes joined the other 24 prominent African Americans distinguished by having a stamp issued in their honor as part of the United States Postal Service's Black Heritage Stamp series.

There was certainly a time in our not-so-distant past when this would not have been possible, issuing stamps depicting prominent African Americans. Indeed, this was the case in February 1926, when renowned African American educator and scholar Carter G. Woodson, founder of the Association for the Study of African American History and Life, designated a week in February coinciding with the birthdays of two great Americans, Frederick Douglass and Abraham Lincoln, as Negro History Week. Mr. Woodson hoped that the contributions of African Americans would be studied as integral to our shared American history. Fifty years later, in 1976, the observance was expanded to embrace the entire month of February, and here we are again today commemorating yet another Black History Month.

In 1926, the landscape in this country for African Americans was demonstrably different than it is today. At that time, separate but equal, a doctrine that afforded Black Americans second-class citizenship, was the law of the land, albeit an immoral one. Through the heroic efforts of many Americans of all races, legalized discrimination became a thing of the past. This body passed landmark legislation, most notably the Civil Rights Act of 1964 and the Voting Rights Act of 1965. However, the story of racial discrimination did not end in 1965.

Here we are in 2003, and we must continue to ask the question: Is race still a factor in quality of life in America? And is racism dead? African Americans, despite our robust laws, face a daily dosage of humiliation as a result of racism. Thousands of African Americans and other racial and ethnic minorities have been the victims of racial, ethnic or national origin profiling: targeted, identified, stopped, questioned and searched by law enforcement officials under the guise of committing a crime, when in reality the only crime was the color of their skin or their country of origin. Young black and Latino men are particularly prone to DWB, driving while black or brown. And since September 11, law-abiding Arab-American citizens have been targeted for profiling by law enforcement officials.

Racial profiling violates the equal protection provisions of our great Constitution. Not only is it un-American, it is also bad law enforcement. Wade Henderson, executive director of the Leadership Conference on Civil Rights, states that most Americans think that the most blatant forms of discrimination and segregation have ended; that we are now dealing with a much more complex, often more subtle, form of discrimination. Yet incidents like the ones we are discussing now seem to belie that point. They seem to suggest that even the more blatant forms of discrimination, though not as institutionalized as they once were, are still occurring, and I think stand in mockery of the perception that America has become a color-blind Nation.

Since June of year before last, the End Racial Profiling Act of 2001 has been pending in this body. This 108th Congress could put an end to racial profiling by passing this act and sending it to the President for signature. Then we would have another dimension as we celebrate Black History Month and as we come closer to ending racial profiling.

So I end, Mr. Speaker, as I started: Let America be America again, the land that never has been yet, and yet must be. The land where every man is free, the land where every man and woman has his or her chance, his or her golden opportunity to become whatever their manhood or womanhood talents and ambitions combine to make them. That, Mr. Speaker, is the promise of America, and that is our hope as we end the observance of this Black History Month celebration.

PUBLICATION OF THE RULES OF THE COMMITTEE ON ENERGY AND COMMERCE, 108TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. TAUZIN) is recognized for 5 minutes.

Mr. TAUZIN. Mr. Speaker, pursuant to clause 2(a)2 of Rule XI of the Rules of the House of Representatives, I hereby submit the Rules of the Committee on Energy and Commerce for the 108th Congress for publication in the CONGRESSIONAL RECORD. The Committee adopted Rules on January 29, 2003, and amended the Rules on February 12, 2003, both in meetings that were open to the public.

RULES FOR THE COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, 108TH CONGRESS

Rule 1. General Provisions. (a) Rules of the Committee. The Rules of the House are the rules of the Committee on Energy and Commerce (hereinafter the "Committee") and its subcommittees so far as is applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, is nondebatable and privileged in the Committee and its subcommittees.

(b) Rules of the Subcommittees. Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

Rule 2. Time and Place of Meetings. (a) Regular Meeting Days. The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) Additional Meetings. The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) Vice Chairmen; Presiding Member. The chairman shall designate a member of the majority party to serve as vice chairman of the Committee, and shall designate a majority member of each subcommittee to serve as vice chairman of each subcommittee. The vice chairman of the Committee or subcommittee, as the case may be, shall preside at any meeting or hearing during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting or hearing, the ranking member of the majority party who is present shall preside at the meeting or hearing.

(d) Open Meetings and Hearings. Except as provided by the Rules of the House, each meeting of the Committee or any of its subcommittees for the transaction of business, including the markup of legislation, and each hearing, shall be open to the public including to radio, television and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.

Rule 3. Agenda. The agenda for each Committee or subcommittee meeting (other than a hearing), setting out the date, time, place, and all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

Rule 4. Procedure. (a)(1) Hearings. The date, time, place, and subject matter of any hearing of the Committee or any of its subcommittees shall be announced at least one week in advance of the commencement of such hearing, unless the Committee or subcommittee determines in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(2)(A) Meetings. The date, time, place, and subject matter of any meeting (other than a hearing) scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session, shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting.

(B) Other Meetings. The date, time, place, and subject matter of a meeting (other than a hearing or a meeting to which subparagraph (A) applies) shall be announced at least 72 hours in advance of the commencement of such meeting.

(b)(1) Requirements for Testimony. Each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee or a subcommittee, of a written statement of his or her proposed testimony to provide to members and staff of the Committee or subcommittee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or of a subcommittee, or the presiding member, may waive the requirements of this paragraph or any part thereof.

(2) Additional Requirements for Testimony. To the greatest extent practicable, the written testimony of each witness appearing in a non-governmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(c) Questioning Witnesses. The right to interrogate the witnesses before the Committee or any of its subcommittees shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. While the Committee or subcommittee is operating under the 5-minute rule for the interrogation of witnesses, the chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee or subcommittee, as the case may be.

(d) Explanation of Subcommittee Action. No bill, recommendation, or other matter reported by a subcommittee shall be considered by the full Committee unless the text of the matter reported, together with an explanation, has been available to members of the Committee for at least 36 hours. Such explanation shall include a summary of the major provisions of the legislation, an explanation of the relationship of the matter to present law, and a summary of the need for the legislation. All subcommittee actions shall be reported promptly by the clerk of the Committee to all members of the Committee.

(e) Opening Statements. Opening statements by members at the beginning of any hearing or markup of the Committee or any of its subcommittees shall be limited to 5 minutes each for the chairman and ranking minority member (or their respective designee) of the Committee or subcommittee, as applicable, and 3 minutes each for all other members. With the consent of the Committee, prior to the recognition of the first witness for testimony, any Member, when recognized for an opening statement, may completely defer his or her three-minute opening statement and instead use those three minutes during the initial round of witness questioning.

Rule 5. Waiver of Agenda, Notice, and Layover Requirements. Requirements of rules 3, 4(a)(2), and 4(d) may be waived by a majority of those present and voting (a majority being present) of the Committee or subcommittee, as the case may be.

Rule 6. Quorum. Testimony may be taken and evidence received at any hearing at which there are present not fewer than two members of the Committee or subcommittee in question. A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, or of closing a meeting or hearing pursuant to clause 2(g) of Rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B)). For the purposes of taking any action other than those specified in the preceding sentence, one-third of the members of the Committee or subcommittee shall constitute a quorum.

Rule 7. Official Committee Records. (a)(1) Journal. The proceedings of the Committee shall be recorded in a journal which shall, among other things, show those present at each meeting, and include a record of the vote on any question on which a record vote is demanded and a description of the amendment, motion, order, or other proposition voted. A copy of the journal shall be furnished to the ranking minority member.

(2) Record Votes. A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made available in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House.

(b) Archived Records. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

Rule 8. Subcommittees. There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

Rule 9. Powers and Duties of Subcommittees. Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

Rule 10. Reference of Legislation and Other Matters. All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks of the date of receipt by the Committee unless action is taken by the full committee within those two weeks, or by majority vote of the members of the Committee, consideration is to be by the full Committee. In the case of legislation or other matter within the jurisdiction of more than one subcommittee, the chairman of the Committee may, in his discretion, refer the matter simultaneously to two or more subcommittees for concurrent consideration, or may designate a subcommittee of primary jurisdiction and also refer the matter to one or more additional subcommittees for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc subcommittee appointed by the chairman, with the approval of the Committee, from the members of the subcommittee having legislative or oversight jurisdiction.

Rule 11. Ratio of Subcommittees. The majority caucus of the Committee shall determine an appropriate ratio of majority to minority party members for each subcommittee and the chairman shall negotiate that ratio with the minority party, provided that the ratio of party members on each subcommittee shall be no less favorable to the majority than that of the full Committee, nor shall such ratio provide for a majority of less than two majority members.

Rule 12. Subcommittee Membership. (a) Selection of Subcommittee Members. Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(b) Ex Officio Members. The chairman and ranking minority member of the Committee shall be ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees.

Rule 13. Managing Legislation on the House Floor. The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

Rule 14. Committee Professional and Clerical Staff Appointments. (a) Delegation of Staff. Whenever the chairman of the Committee determines that any professional staff member appointed pursuant to the provisions of clause 9 of Rule X of the House of Representatives, who is assigned to such chairman and not to the ranking minority member, by reason of such professional staff member's expertise or qualifications will be of assistance to one or more subcommittees in carrying out their assigned responsibilities, he may delegate such member to such subcommittees for such purpose. A delegation of a member of the professional staff pursuant to this subsection shall be made after consultation with subcommittee chairmen and with the approval of the subcommittee chairman or chairmen involved.

(b) Minority Professional Staff. Professional staff members appointed pursuant to clause 9 of Rule X of the House of Representatives, who are assigned to the ranking minority member of the Committee and not to the chairman of the Committee, shall be assigned to such Committee business as the minority party members of the Committee consider advisable.

(c) Additional Staff Appointments. In addition to the professional staff appointed pursuant to clause 9 of Rule X of the House of Representatives, the chairman of the Committee shall be entitled to make such appointments to the professional and clerical staff of the Committee as may be provided within the budget approved for such purposes by the Committee. Such appointee shall be assigned to such business of the full Committee as the chairman of the Committee considers advisable.

(d) Sufficient Staff. The chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee.

(e) Fair Treatment of Minority Members in Appointment of Committee Staff. The chairman shall ensure that the minority members of the Committee are treated fairly in appointment of Committee staff.

(f) Contracts for Temporary or Intermittent Services. Any contract for the temporary services or intermittent service of individual consultants or organizations to make studies or advise the Committee or its subcommittees with respect to any matter within their jurisdiction shall be deemed to have been approved by a majority of the members of the Committee if approved by the chairman and ranking minority member of the Committee. Such approval shall not be deemed to have been given if at least one-third of the members of the Committee request in writing that the Committee formally act on such a contract, if the request is made within 10 days after the latest date on which such chairman or chairmen, and such ranking minority member or members, approve such contract.

Rule 15. Supervision, Duties of Staff. (a) Supervision of Majority Staff. The professional and clerical staff of the Committee not assigned to the minority shall be under the supervision and direction of the chairman who, in consultation with the chairmen of the subcommittees, shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he determines appropriate.

(b) Supervision of Minority Staff. The professional and clerical staff assigned to the minority shall be under the supervision and direction of the minority members of the Committee, who may delegate such authority as they determine appropriate.

Rule 16. Committee Budget. (a) Preparation of Committee Budget. The chairman of the Committee, after consultation with the ranking minority member of the Committee and the chairmen of the subcommittees, shall for the 108th Congress prepare a preliminary budget for the Committee, with such budget including necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, and which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight. Such budget shall be presented by the chairman to the majority party caucus of the Committee and thereafter to the full Committee for its approval.

(b) Approval of the Committee Budget. The chairman shall take whatever action is necessary to have the budget as finally approved by the Committee duly authorized by the House. No proposed Committee budget may be submitted to the Committee on House Administration unless it has been presented to and approved by the majority party caucus and thereafter by the full Committee. The chairman of the Committee may authorize all necessary expenses in accordance with these rules and within the limits of the Committee's budget as approved by the House.

(c) Monthly Expenditures Report. Committee members shall be furnished a copy of each monthly report, prepared by the chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year by the Committee and subcommittees, anticipated expenditures for the projected Committee program, and detailed information on travel.

Rule 17. Broadcasting of Committee Hearings. Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements of clause 4 of Rule XI of the Rules of the House. The coverage of any hearing or other proceeding of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or other proceeding and may be terminated by such member in accordance with the Rules of the House.

Rule 18. Comptroller General Audits. The chairman of the Committee is authorized to request verification examinations by the Comptroller General of the United States pursuant to Title V, Part A of the Energy Policy and Conservation Act (Public Law 94-163), after consultation with the members of the Committee.

Rule 19. Subpoenas. The Committee, or any subcommittee, may authorize and issue a subpoena under clause 2(m)(2)(A) of Rule XI of the House, if authorized by a majority of the members of the Committee or subcommittee (as the case may be) voting, a quorum being present. Authorized subpoenas may be issued over the signature of the chairman of the Committee or any member designated by the Committee, and may be served by any person designated by such chairman or member. The chairman of the Committee may authorize and issue subpoenas under such clause during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary to obtain the material set forth in the subpoena. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable but in no event later than one week after service of such subpoena.

Rule 20. Travel of Members and Staff. (a) Approval of Travel. Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the chairman in writing the following: (1) the purpose of the travel; (2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made; (3) the location of the event for which the travel is to be made; and (4) the names of members and staff seeking authorization.

(b) Approval of Travel by Minority Members and Staff. In the case of travel by minority party members and minority party professional staff for the purpose set out in (a), the prior approval, not only of the chairman but also of the ranking minority member, shall be required. Such prior authorization shall be given by the chairman only upon the representation by the ranking minority member in writing setting forth those items enumerated in (1), (2), (3), and (4) of paragraph (a).

WE SHOULD STEP AWAY FROM THE BRINK OF WAR WITH IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL of Colorado. Mr. Speaker, is this really the time for the United States to lead an attack on Iraq and to make this the immediate centerpiece of our war on terrorism? I think not.

This is not to suggest that military action and war are never justified. Clearly, there are times when force is not only justified but is the most effective means of securing human rights, freedom and security. Knowing when to go to war is as important, however, as recognizing when a war is justified.

Liberating the people of Iraq from one of the world's most repressive regimes and preventing Saddam Hussein from acquiring nuclear weapons and other weapons of mass destruction are all worthy goals that are beyond reasonable argument. But are we certain that we have reached the point where war is the only means of achieving these goals?

A few weeks ago I joined Senator MCCAIN and other legislators at the Wehrkunde Conference. During the conference, Defense Secretary Rumsfeld confronted the Europeans, challenging them to join in military action to disarm Saddam. Most Europeans balked, and they continue to balk today. We may not be entirely alone, but we remain largely isolated, and that will not only make success in Iraq harder. It will also risk our long-term success in the war against al Qaeda and terrorism.

The administration speaks of a short war and assured success. But success in Iraq is not just about eliminating Saddam. Many military experts believe that that will be the easy part. Success in Iraq also means managing the ensuing social chaos, keeping a lid on the Middle East powder keg, thwarting terrorist attacks at home, rebuilding Iraq, and doing all of this when our own economy is faltering. Energy prices are rising and domestic priorities like health care and education are crying out for attention.

The President should be commended for deciding to act through the United Nations with respect to Iraq. And Secretary of State Powell performed admirably in achieving the unanimous Security Council vote giving Iraq a last chance to disarm and instituting renewed inspections. Those were steps that earned us the support of the world community. But that support has dwindled as the administration presses for early action on a timetable that seems to be largely driven by the rising temperatures in the Iraqi desert rather than the degree to which we have built international support. In fact, this has gone so far that some members of the Security Council seem prepared to repudiate the resolution they so recently approved.

The President's rhetoric has fueled the perception that America is eager for invasion, no matter what the rest of the world thinks. This perception has been compounded by seemingly shifting goals and rationales. President Bush did finally specify disarmament as opposed to regime change as the official goal of any U.S. invasion of Iraq. But the administration's emphasis has changed as it suited the President's case. It has been weapons of mass destruction one day, potential links to al Qaeda the next, and Saddam's atrocious human rights record the day after that.

The point is not that these rationales are unfounded. Saddam is a ruthless tyrant who has attacked his neighbors and terrorized and murdered his own people. He has defied U.N. resolutions and has given every sign of trying to continue to evade disarmament.

□ 1815

The point is that it is difficult to believe the administration did not opt for war long ago whatever the consequences. Although we could be left virtually alone to bear the costs of winning the war and securing the peace, the administration has appeared intent on moving forward, seemingly with contempt for international opinion.

Although it seems that we are beyond the 11th hour and the clock is ticking, there are things we can and must do before taking military action against Iraq. I think continued diplomatic pressure and the threat of military action can force Saddam Hussein to disarm or seek permanent exile abroad. We should continue to apply this pressure through the United Nations.

Further, I think we must be more open to the idea of so-called coercive inspections, using our military buildup in coordination with the U.N. to test the effectiveness of a more robust inspection and disarmament process in Iraq. This would involve putting the most qualified people in the field, providing them with real-time intelligence, destroying forbidden items as soon as they are detected, strictly prohibiting Iraqi flying in the designated no-fly zones and reinforcing the authority of inspectors with ground troops if necessary.

Mr. Speaker, I am an optimist by nature, but I am not naive. Coercive inspections alone may not be enough to disarm Saddam. But I believe they may be the best step now to build greater international support for forcing him to disarm. And as a strategic move in our larger role against terrorism, tightening the international noose on Saddam strikes me as a smarter option, at least in the short term, than opting now for a war with all its known and unknown consequences.

TRIBUTE TO THE LATE DR. WILLIAM "BILL" PERRY, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MEEK) is recognized for 5 minutes.

Mr. MEEK of Florida. Mr. Speaker, I rise today to pay honor to a fallen soldier in our country. I rise to pay tribute to one of Florida's unsung heroes, the late Dr. William B. Perry, Jr. who was truly one of the most outstanding civil rights leaders of our time. His passing on Wednesday, February 12, 2003, in Miami-Dade County leaves a deep void in our community as it relates to being an outstanding protector of justice and protecting civil rights in our community for disenfranchised African Americans and people of color.

He was a grassroots person. He was beyond what you may call an elected official or someone that felt that they should do a good thing every once in a while. He was an individual that had many individuals come who celebrated his life on February 17, and it so happens to be Black History Month, of his contributions not only in south Florida but also in other parts of our Nation.

He was noted for being an educator, an educator of young and old, someone that continued to fight a good fight, day in and day out, on behalf of those that were disenfranchised. I think it is important that we remember his work as untraditional and uncommon, doing uncommon things uncommonly well in a way that everyday people could be able to grab on and hold on to his dream. He stood up in a time in the 1980s when there was a gentleman by the name of Arthur McDuffie that was killed by police officers in Miami-Dade County that then sparked off several days of rioting, and he was a part of bringing calmness to that situation and moving forth to help move Miami forward and what we have to do as it relates to fair play for all.

I think it is important, Mr. Speaker, for us to note that he attended college at Coppin State College and Loyola College for his undergraduate studies, and then went on to earn his doctorate degree in education from the University of Massachusetts. He served as an ordinary classroom teacher with the Baltimore City Public Schools. After that, he then went on and was awarded a national fellowship in the school superintendency by the Rockefeller Foundation in 1996, one of the Nation's most prestigious academic honors given to postdoctoral scholars.

I think it is also important for us to be able to note his contributions within the NAACP. He served as one of the Presidents of the Greater Miami-Dade NAACP where he was at the forefront and was ready to be able to move forth on behalf of those individuals that needed a voice in the community and in our Nation. Dr. Perry went on to educate many other leaders that are in our community today. He was a man who believed in family. He believed in commitment. He believed in the American way and making sure that everyone, and I do mean everyone, had an opportunity of the American dream. He left behind a family of great love and appreciation not only for public service but for education, making sure that they were the beacon for other families to follow. He left several grandchildren and children behind to carry on his legacy, and even those that are not in his bloodline, Mr. Speaker, that can continue his way of thinking, his uncanting will to represent those that needed the representation.

Words are truly inadequate, Mr. Speaker, to try to describe all the contributions that Dr. Perry gave to our country and also to Miami-Dade County in Florida. But we must say that we only have a Dr. William Perry to come our way every once in a while. I must say that we need to continue to carry on, and America should move along in standing for those that need individuals to stand for them, and also make sure that we keep Dr. King's dream alive and Dr. Perry's dream alive in equality for everyone. Dr. Perry also was a drum major, to make sure to tell young and old never to give up on what they believe in and what they think is right.

Mr. Speaker, I would close by saying that it is important that we have fallen heroes, be it elected or selected or, we may say in the Christian community, anointed to lead, that we remember their contributions so that others can follow their track.

THE IRAQ CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, President Bush, from all appearances, seems poised to attack the country of Iraq sometime in the next 2 or 3 weeks according to news reports, according to reading a bit between the lines of statements coming from the Bush administration. The fundamental question about whether or not the United States should launch a preemptive strike without U.N. support against Iraq, the fundamental question is whether that attack against Iraq makes the United States a safer country and whether it makes American civilians traveling abroad, living abroad more importantly, perhaps, living in the United States, whether it makes all of us safer. The CIA says no.

A CIA analysis said that the chances of what they call a blowback, meaning attacks against civilians from terrorists abroad or terrorists inside the United States, that attacks against civilians, the chances increase according to the CIA, so-called blowback, the term they used, the chances increase if we launch a preemptive strike against Iraq without U.N. support. Several four-star generals testified in the other body and said that an attack against Iraq without U.N. support, a preemptive attack will, in their words, supercharge al Qaeda recruiting. Common sense simply tells you that the U.S. will not be a safer place, will be a more dangerous place, that civilians in this country will in fact be in more danger if we unilaterally attack Iraq. Common sense says that, Mr. Speaker, because if Saddam Hussein is backed into a corner, Saddam Hussein, who has not attacked anyone in the last 10 years, if he is backed into a corner with whatever weapons he might have, the chances are he is much more likely to attack the United States if in fact that happens.

Mr. Speaker, this country for the last five decades has followed a military doctrine of containment and deterrence and diplomacy. Dwight Eisenhower when urged by some advisers and some newspapers similar to the actions of the Washington Post, those kind of jingoist, expansion, let's-get-into-war newspapers that encouraged him, Dwight Eisenhower, to go to war against Stalin and the Soviets, Dwight Eisenhower said, "That's not what we do in this country. We don't launch preemptive attacks against people. Instead we contain, we deter, we use diplomacy."

Dwight Eisenhower and others contained and deterred and used diplomacy with Joseph Stalin and the Soviets to contain them. We used the same containment and deterrence and diplomacy with the People's Republic of China and Mao Zedong. John Kennedy used the same kind of deterrence and containment against Fidel Castro and the Cubans to keep them in check, to keep them from expanding. And the United States Government, George Bush, Sr., President Clinton, and the first couple of years of President Bush, we have done the same containment and deterrence to keep Saddam Hussein in check.

Now if we launch a preemptive attack against Iraq, go against a country that has not attacked us, a country that we know has no ties to the terrorists who attacked our country, we know Saudi Arabia has ties. In fact the people who attacked our country, most of them were from Saudi Arabia. We also know that the Saudi royal family happens to be friends of the Bush family. Saudi Arabia is still our friend. We do not attack them even though they have ties to al Qaeda.

We are not attacking North Korea, even though we know they have nuclear weapons. We are not attacking Iran, even though they are a part of the axis of evil. The President has decided that we are about to attack Iraq, a country where we have contained and deterred and kept Saddam Hussein in check.

But, Mr. Speaker, if we decide to change our military doctrine of containment, deterrence and diplomacy, to change our military doctrine that we have followed for the last five or six decades, and preemptively strike a country that has not attacked us, the message around the world, the message to the Russians is going to be, it is okay to chase down Chechen terrorists and go into Georgia and attack them. The message to the Chinese will be, it is okay to clamp down harder on Tibet, it is okay maybe to invade Taiwan because the United States launched a preemptive attack, and maybe it is okay for the world powers to engage in that kind of lawlessness. And most problematically and most dangerously and most frighteningly, Mr. Speaker, it will say to India that maybe it is okay to launch a preemptive strike against Pakistan over Kashmir. It will say to Pakistan, maybe it is okay to launch a preemptive strike against India over Kashmir. Those happen to be, Mr. Speaker, two countries that have nuclear weapons.

So if we go against the U.N. decision, if we go into Iraq without U.N. support preemptively, first of all it clearly makes our country more dangerous because you can count on as we attack Iraq, you can count on Al-Jazeera taping hostilities and taping casualties of Iraqi civilians and the message that that is going to send to the Arab world of destabilization, making the world a more dangerous place to be.

LIONS CLUB FOUNDER MELVIN JONES AND LIBERTY DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 60 minutes as the designee of the majority leader.

Mr. KENNEDY of Minnesota. Mr. Speaker, over 200 years ago, at the end of the Constitutional Convention in Philadelphia, a curious woman asked Benjamin Franklin, "Sir, what have you given us?" He replied, "A republic, if you can keep it."

That is our challenge today. A couple of things that are vital to maintaining, to help that republic, include the active involvement of our citizens in our government and the active community service of others, reaching out to others in their communities. No one understands this better than a man named Melvin Jones who I would like to honor here today, the club he started, the Lions Club, as well as a program that the Lions Club are undertaking called Liberty Day.

This man, Melvin Jones, is a living example of what it means to be a community servant. As he went out and founded the world's largest network of community service organizations, the Lions Club International, I am proud to be a member of the Watertown, Minnesota, Lions Club.

Melvin Jones was born on January 13, 1879, in the cavalry outpost at Fort Thomas in what was then Arizona Territory, to Captain Calvin Jones and Lydia Gibler Jones. Like many children growing up in the Wild West, his early years were filled with memories of horses, blue-clad troopers, bugles and war cries, wagon trains, rugged settlers and windswept dust. At the age of 7 his father was transferred east to St. Louis and later to Quincy, Illinois. Marked by the effects of growing up during times of war, Melvin's attendance in school was sporadic.

□ 1830

After the move east, he attended public schools in both Quincy and St. Louis and attended Union Business College and Chaddock College in Quincy. After college, he moved to Chicago and took a job with the insurance agency Johnson and Higgins. In 1909 he married women's professional golfer, Rose Amanda Freeman, who later unqualified as Melvin worked tirelessly to get Lions Club rolling. In 1913 Melvin's success in the insurance industry opened the doors of his being the sole owner of Melvin Jones Insurance Agency.

Later in 1913 an acquaintance invited Melvin to meet some of the boys who turned out to be a members group of businessmen called the Business Circle who welcomed Melvin to the club with open arms. Like many such groups during that time, the Business Circle was a scratch-my-back-and-I-will-scratch-yours club. Although Jones enjoyed the club, he was uncomfortable with the exclusivity and introduced new ideas to expand the group's membership and purpose. In 1915 Melvin Jones was elected secretary of the Business Circle. As secretary, he pondered how much could be accomplished if everyone redirected their energy and pooled their abundant intelligence, talents, and ambition towards the greater good of their communities.

Jones broached this idea with other similar organizations with mixed reviews at best. So Melvin Jones set out to launch his own organization to put this unique vision into action. Although the reviews of this novel idea were mixed, Melvin Jones trudged on: and on June 17, 1917, he assembled 20 delegates representing 27 clubs nationwide in the east room of the Hotel LaSalle in Chicago. A consensus was easily reached that a national organization should be formed dedicated to community service. After spirited debate, the group voted by secret ballot to name this new organization the Association of Lions Clubs. Jones advocated for the name Lions because it was a symbol of courage, strength, fidelity, and vital action. It helped set the standard for the club. Jones insisted during the draft of the organization's constitution that no club shall hold out as one of its objects financial benefits to its members. He followed this model throughout his life.

The novel idea of a national organization committed to community service caught on fast. In 1920, the club became international when it chartered a new club in Windsor, Ontario. One of the profound moments of the club's history occurred at the 1925 Lions international convention in Cedar Point, Ohio. At the Cedar Point convention, Helen Keller addressed the members challenging the Lions to become "knights of the blind in the crusade against darkness." From then on the Lions Clubs have made one of their biggest priorities to serve the blind and the visually impaired.

By 1927, the Lions Club had grown to 11,083 local clubs supporting 60,000 members performing charitable service in communities all over the world. In 1950 when Lions membership surpassed the 400,000 mark, the International Board of Directors conferred upon Melvin Jones the title of secretary general of Lions International, which was changed to founder and secretary general in 1958. The 1950s and 1960s were marked by major international expansion by the Lions of Europe, Asia, and Africa. Melvin Jones played a central role in the Lions operation until the time of his death.

Throughout his life, Jones's refusal to accept the limitations of old age was an inspirational reminder to his peers of his dedication to serving others. At the age of 81, even after several strokes the year before, he commuted alone on a daily basis from his suburban Chicago home, never missing a moment of the Lions 1960 international convention where thunderous applause for the founding father shook the rafters.

On June 1 of 1961, Jones's perfect attendance record ended with his passing into the next life and joining his maker. Soon after his passing, the International Board of Directors proclaimed January 13, Melvin Jones's birthday, as a day of memory each year through the world. In 1965 the Melvin Jones's Lions International Memorial was erected and dedicated near his birthplace at Fort Thomas, Arizona. In June of 1999, the Lions International Board dedicated a prestigious 50-foot spire, recognition as an international shrine. During his remarkable life, Melvin Jones accumulated dozens of awards, honors, and accolades. In 1932 Herbert Hoover invited him to the White House as part of the conference of business leaders to discuss the economic problems of that time. In 1945 he represented the Lions Club at a conference in Washington, D.C. for preliminary planning of the United Nations and later that year in San Francisco as a consultant at the historic organization of the United Nations. And in 1953 after 32 years in cramped quarters of the McCormick Building in Chicago, the Lions Club International's very own building was dedicated on Michigan Avenue, a beautiful symbol and living monument to the founder.

Lions Club International is the largest network of service clubs in the world. Today there are more than 44,600 clubs and 1.4 million members throughout the world spanning 190 countries. Lions Clubs continue to embrace, giving back to their communities by building a brighter future for their communities. Lions Clubs perform a wide range of services from simple things such as cleaning up local parks to helping with medical advances. And ever since Helen Keller addressed that convention, they have had a dedication to helping those with sight issues and advancing those with blindness.

This brings us to the Lions' role in a new project for the new century. As many of us are well aware, over the years civics has become only a voluntary study in many schools around the country. In fact, many history books have left out the two most important documents in our Nation's history: the Declaration of Independence and the Constitution. This is very unfortunate and will have detrimental effects on our Republic as young people are learning less and less about government and about our beginning as a country. This leads to the apathy and cynicism about our government often associated with our younger generations. If we educate our children about our foundation, it is more likely that they will take a stronger interest in our government and be more attentive, informed voters when they become adults.

In the summer of 1966, two members of the Youth Service Committee of the Lions Club in Denver, Colorado, decided to start a small program in Denver schools to distribute books containing just the Declaration of Independence and the Constitution. The program immediately got traction and volunteers sought out private donations for the printing of these little booklets.

Teachers loved the concept, but they lacked an appropriate day on which to teach about the Declaration of Independence and the Constitution because students were out of schools on the most logical day, the July 4 holiday. A theme day was established and through a contest it was named Liberty Day. The first official celebration of Liberty Day was September 17, 1999, the same day as the signing of the Constitution. However, many thought it was celebrated too close to the start of a school year. It was moved to December 15, the day of the ratification of the Bill of Rights. Many thought it was too close to Christmas. It was then decided that the best day would be the Father of the Constitution's, James Madison's, birthday on March 16. However, this day still lacked significance to many students. Lions Club members and volunteers recruited elected State officials in Colorado that included the Speaker of the Statehouse, Russell George, former Senator Gary Hart, and Attorney General Gale Norton, and others to go to the schools, speak to the classes, and distribute the books. The response was unbelievable. Instead of doodling, scribbling, or discarding the books, students lined up to have their books autographed and flooded the speakers with thank you notes for what they had learned. To make things easier for teachers, Lions Club members and volunteers have taken on the role of schedulers for both the officials and teachers.

An idea this powerful could not stay in one place for very long. Almost immediately, the little Denver project began expanding across the country. Today, every State has its own booklet on Liberty Day, and many have appointed statewide Liberty Day coordinators who are raising money to print these books; and I am proud to be the State chairman of Minnesota's Liberty Day program. Other national service organizations have even chimed in to contribute to the Liberty Day cause. Liberty Day is not just spread all over the United States. It is spread all over the calendar. Although March 16 is still the official date, Liberty Days are now being celebrated practically every week of every month somewhere around. Liberty Day has evolved into more than just a celebration for students. It is a celebration in which the whole community can participate.

Many communities celebrate by holding public lectures, displaying sections of the Declaration of Independence and Constitution in public places, staging mock debates on issues our Founding Fathers grappled with more than 200 years ago. The little booklets that started with Liberty Day are used for far more than just Liberty Day celebrations and educating students on our founding documents. Boy Scouts use them to study for their merit badges, immigrants to study for their citizenship tests, even Congressmen use them to distribute at town meetings, and grandparents to give to their grandchildren. As in many parts of the country, Liberty Day has taken on an importance to thousands of students in Minnesota.

Liberty Day celebrations are terrific opportunities to connect with our constituents and to provide an example and opportunity to give back something to our community. It is also a chance to leave a lasting impression in the minds of young and old alike and erase some of the cynicism that they may have towards government and public officials. In my district, I have had the honor of participating in about a dozen of these celebrations, talking to thousands of students and hundreds of adults, and the results have been overwhelmingly positive.

I really challenge all of my colleagues, many of whom already do this, to take advantage of this wonderful opportunity to give so much back to the community with the minimum commitment of time. To learn more about this exciting program, I highly encourage everyone to contact the National Liberty Day organization and visit their Web site at www.LibertyDay.org.

In many of my programs, we do in fact involve the whole community. The VFW, the American Legion often participate in bringing the flags up. The schools often participate by singing a patriotic song or the band playing patriotic music. Local officials such as school board members, the mayor, or legislators or members of the Lions Club would come and participate, giving their message as to what liberty means for them. And there is a very powerful message that these students really appreciate hearing.

In my remarks at these Liberty Day programs, I remind them that, in fact, President Bush reminded us that in every generation the world has raised up enemies of human freedom and that they have attacked America, as he said, because we are freedom's home and defenders. I tell them that their grandparents' generation will all remember where they were on that Day of Infamy on December 7, 1941; and I encourage them to talk to their grandparents about that memory and what it meant to them and how they valued freedom ever since.

I tell them that people of their parents' generation, of my generation, will remember where we were on November 22, 1963, when we first heard that John F. Kennedy was shot. I tell them of my memory of being in first grade in a four-room schoolhouse and our teacher coming in and telling us that and looking to the back of the room and seeing the picture of President Kennedy on top of the bookcase. And I tell them that in a similar way, all of them, indeed everyone today that was living at the time of September 11, will remember the vicious and cowardly attacks on our country on that day. I describe to them how I will never forget that day, in being in my office here in Washington, D.C., seeing smoke from our Nation's military headquarters, the Pentagon, out of my office window, having the Capitol as a prime target across the street and a fourth hijacked plane heading our way.

□ 1845

How I will never forget returning to the Capitol after being evacuated later that day and seeing, even though it was a bright sunshiny day, that instead of the crowds of students and others that usually throng the Capitol, there was only beefed-up security forces, and F-16s flying overhead, making it seem more like the movie set of a science fiction film than our Nation's Capital.

And how I will never forget going to the Pentagon 2 days after the attack and having the workers there tell me that they had not yet found a piece of the airplane longer than 6 feet long. How I would never forget going with several Members of Congress to Ground Zero at the World Trade Center site in New York City and the utter devastation that I witnessed, with seven buildings totally destroyed and the others looking as if a giant had taken a can opener and pried away at the edges.

But I tell them that in New York City if you stopped and turned up towards the harbor, that you could see that the Statue of Liberty still held that Flame of Liberty high. And that as you talked to the people there in New York, and for me back home in Minnesota and all my other colleagues, I know you experience the same thing back in your own States, you could tell that the spirit of America was as strong as it has ever been.

I asked them to think about where do we get that source of the spirit of America? In answering that question, I describe to them a vacation that I took where I learned about the spirit of America, the first vacation in fact that I took outside of the State of Minnesota when I was 10 years old.

I took a vacation with my family to visit my uncle and his family in Virginia. My uncle Earl was a World War II veteran of Pearl Harbor, was in the Navy at the time, did not really enjoy the fact you could not dig a foxhole in the middle of the ocean, so switched to the Army, retired working with the Army in Newport News at Fort Eustis.

He was a history buff. He took us all around the Tidewater, Virginia area to the historic sites there, to Williamsburg, Jamestown, and Yorktown. And I describe Jamestown as the place where the first settlers came over and braved the treacherous crossing on the ocean to come and settle this land back in 1607, and how a young captain there, John Smith, got in trouble with the natives, but that a young lady came and helped him out. And, you know, it is true, thanks to the movie, all of our students can tell us who that young lady was. Pocahontas. I, of course, kid them that their younger brothers and sisters were the ones that made them watch the movie.

Then I talk about Williamsburg, the colonial capital of Virginia, right nearby and describe that it is a lot like my State capital, in my case in St. Paul in Minnesota, but that instead of having the legislators, several of which are often there at the Liberty Day programs, how they had people like George Washington, Thomas Jefferson, and a guy who said, "Is life so dear or peace so sweet as to be purchased by the bonds of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death." And many of these students do know who said that: Patrick Henry. And it is good to have many of them reminded of the historic events that took place there.

Then I talk to them about the fact that that was the place where the Virginia legislature made the motion for independence that was carried to the Continental Congress, a place similar to our body here, that made the motion for independence that led to the Declaration of Independence. And how just a few miles away from there, in Yorktown, is where we ultimately won the Revolutionary War, our battle for independence, when General Cornwallis surrendered to George Washington.

And I describe that clearly in those historic places and the events that took place there, that that is part of the source of our American spirit, but that I learned more about the American spirit than its strengths later on in that trip. How my uncle took me to the Newport News shipyards and how I could see, looking through the chainlink fence, them building a ship. The ship happened to be pretty big. It was the USS *John F. Kennedy* aircraft carrier. And I described that one of the biggest honors that I have had in my term in Congress, my first term in Congress, was having the opportunity to fly out aboard that same carrier many years later.

And I asked the students, do you know how a plane stops on an aircraft carrier in the middle of the ocean on such a short runway? There is always at least one or several smart young students that know. And they are enthralled when you talk about the risks that these pilots take, how an arm drops down from a plane with a hook on the end of it and has to catch one of the cables strung along the flight deck. How you go from 150 miles an hour to zero on the way in. And the experience that you have when you come out aboard this heaving, windblown flight deck, with the Hornets and the Tomcats crowded in around you, and the sailors in their multicolored suits standing at attention to salute you.

I tell them I have never seen a more dedicated, capable, committed group of young men and women than those I have seen defending our freedom here in America today, and say that clearly that is also part of the source of America's strength, the strength of the American spirit.

But I say I found out even more about that source of the strength of the American spirit later on that same trip, when we had one day where we came here to Washington, DC. I tell how I was really inspired by coming to the Capitol and the White House and seeing the Washington Monument and the Jefferson Memorial and Lincoln Memorial.

But I say the one place that inspired me most and that in my mind had the deepest source of that American spirit was in a building that has a room in it as big as the auditorium that we are normally giving these presentations in, and I say in this room its prime purpose is to house just two documents, and that those two documents are so vital and critical that they are kept in an environmentally controlled case that will recede down into a vault in the evenings or when it is threatened.

Then I ask them to guess what are those documents? And by that time they always know, and they are impressed with how much we hold these documents in reverence, the Declaration of Independence and the Constitution.

To help them better understand those documents, I use the example of football. Since we are in the State of Minnesota and the people we love to compete against and beat are the Green Bay Packers, I always put it in the context of the Minnesota Vikings and the Green Bay Packers and say, you know, if you are going to play football, the first thing you need to do is you need to agree on what the goal is. And if the Packers say it is the team with the least points that wins and we think it is the one with the most, and you do not decide that ahead of time, you really do not get much out of the game of football.

But I describe that that is the role of the Declaration of Independence. It tells everybody what our goal is, what is the goal of government. And the goal of government is that governments are instituted amongst men to secure our rights, and that they derive their just power from the consent of the governed; you, the students, I say, as you turn 18.

That is what the Declaration of Independence tells us. It talks about our rights, those inalienable rights of life, liberty, and the pursuit of happiness. And I tell the students that even though you have heard this so many times, seemingly from before you were born, that you think that there is nothing big about that. But that back in 1776 those words, those ideas, were radical.

Back then, they still had a Holy Roman Emperor in Europe, the Manchu Dynasty still ruled in China, the Shoguns still ruled in Japan, and the Declaration of Independence brought to birth for the first time the idea that we were free and that governments got their power from the governed.

But getting back to the football example, I say, okay, now that we all agree on what the goal is, you need to know more, and you need to know the rules of engagement. And let us just say the Packers say, okay, they get five downs to make a first down and the Vikings only get three, that would not be fair. The students understand that. And in a similar way we cannot decide that one party gets 5 years if they get elected as a President and the other party's candidate would only get 3. We have to all do it the same.

I describe that in the case of Minnesota, that our coach, Vikings Coach Tice, cannot all of a sudden decide he wants to switch with the referee, or the referee cannot decide that he just wants to switch and be quarterback instead of Dante Culpepper; that there has to be rules, and that the Constitution defines those rules.

I say that we here, colleagues, are very much like the coach; we pass the laws, which is very similar to calling the plays. How the President and the administration are very much like the quarterback and the team. They carry out those laws, carry out those plays. And how the court system is very much like the referees, how they blow the whistle when we go out of bounds.

I talk about how it is for this understanding that Liberty Day was established, and how George Washington was the father of our country, but that James Madison was really the father of the Constitution and therefore the father of our government. And that even though we declared independence in 1776 and we won the Revolutionary War at Yorktown in 1781, it was not until that Constitution was ratified that we began having Presidents and Congresses.

I tell them how Madison was elected to that very first Congress. And one of the things that always captures their attention, even if it is 4,000 students in an auditorium, is when I put the microphone in front of a student and bend down and show them the pin that recognizes us as Members of Congress.

I ask the student, What is the only thing it says on this pin? Everybody is focused, because they are waiting to hear what the child has to say, and they always get it right, sooner or later. The only thing on our pins is it says 108. And that 108 means that we are a Member of the 108th Congress. I tell them, James Madison was in the First, we are in the 108th.

Our Congresses last every 2 years. That is why we have campaigns every 2 years, which makes sense to them. So how long has our Constitution been functioning? Two times 108; and, you know what? There is always a smart kid, they always get the answer right, 216 years.

I congratulate the math teachers and I describe to them how significant that is, how our Constitution is a century longer than most other countries' constitutions. How during that same time, France has had five constitutions.

I tell them that just as their football team, their school football team, needs fans in the stands that are engaged, that know what the goal is, to get the most points, and know what the rules of the game are, they need all of that for their team to be successful; that for our government, for our country to be strong and successful, that we need to have people that are engaged in a similar way, that know what the goal is, independence, and that know what the rules are, our Constitution.

I challenge them to renew their commitment to learn more about our heritage, to learn more about the Declaration of Independence and the Constitution and the ideas behind it, and to continue to be informed about their government, about civic life, and challenge them to be involved.

Finally, given the times we are in, I tell them, you know, we are in scary times. You hear and see scary things. But I encourage them to remember what President Bush said: that we are in a battle between fear and freedom, and that if we succumb to that fear and lose all our freedoms, that the terrorists have won, and that we need to be strong in that.

I tell them that not did just President Bush tell us not to be fearful, but another guy told us not to be fearful. When I tell them that this other guy's name was in a movie series called Star Wars and his name is Yoda, and encourage them to do the same that he told Anikan before the Jedi Council, which I describe is very similar to the group that they are viewing, and they always get a good chuckle out of that; but I tell them, Remember what Yoda said, that fear is the path to the dark side; that fear leads to anger and anger leads to hate and hate leads to suffering.

I encourage them to follow the words of their President, to follow the words of Yoda, to follow the words and example of the veterans, many of which are at the events, and as described by President Reagan, those veterans, the men of Normandy, and tell them as Reagan said of the men of Normandy, that they had faith that what they were doing was right; that they had faith that they fought for all humanity; and they had faith that a just God would show them mercy on this beachhead or the next. And how they knew that word was spreading back home in the dark, and that they could feel in their hearts that the people in Georgia were filling the churches at 4 o'clock in the morning; that the people in Kansas were kneeling on their porches and praying; and that the people in Philadelphia were ringing the Liberty Bell.

□ 1900

I remind them that we have been given the responsibility and the honor to again fight freedom's fight. But that if we redouble our efforts to understand what our Constitution and what our Declaration of Independence tell us today, to follow through with the strong active civic involvement, and that if we follow the examples of those that came before us, by filling our churches, kneeling on the porches and praying and ringing the Liberty Bell, that we will do, as John F. Kennedy said, by having the energy and the faith and the devotion that we bring to this task light our country and all who serve it and that the glow from that fire can truly light the world.

Mr. Speaker, that is a powerful message that our students appreciate hearing and really need to hear. We need to make sure that we are inspiring the next generation with the message of the Constitution, the message of the Declaration of Independence, the message of our Founders, and the heritage that has been built up by so many people over the centuries of this country.

I would really like to thank the Lions Club, the members, all of those whom have been involved in bringing this Liberty Day to the success that it enjoys today. Specifically, I would like to mention Andy McKean, the director of Liberty Day, Colorado and a member of the Denver Lions Club, who has played a vital role in promoting Liberty Day nationwide. I would also like to thank our very own Frank Loreno, the Minnesota Lions Club Liberty Day coordinator. He has been tireless in his working to promote this program throughout Minnesota. However, it is with great sadness I report that Frank has recently been diagnosed with cancer. He is recovering well, but I ask that he and his family be kept in our thoughts and prayers.

It is important for all of us to remember our veterans, many of whom gave the ultimate sacrifice to ensure our liberty, to ensure that it is protected. And it is the volunteers of Liberty Day, it is these veterans, it is individuals who have sacrificed their own time and effort for the good of their neighbors, these are the true inspiration for the importance of Liberty Day.

Mr. Speaker, Liberty Day is a wonderful concept and a valuable part of teaching all Americans about the importance of civics. I strongly encourage everyone to support Liberty Day and to volunteer to help advance this noble cause.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. DEFAZIO (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of official business in the district.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. BOYD (at the request of Ms. PELOSI) for today after 5:00 p.m. on account of business in the district.

Ms. WATERS (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of business in the district.

Mr. HYDE (at the request of Mr. DELAY) for today on account of influenza.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DAVIS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. UDALL of Colorado, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. KENNEDY of Minnesota) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY, for 5 minutes, today.

Mr. TAUZIN, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on February 27, 2003 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 19. Recognizing the 92nd birthday of Ronald Reagan.

H.R. 395. To authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry, and for other purposes.

ADJOURNMENT

Mr. KENNEDY of Minnesota. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Monday, March 3, 2003, at noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the second and fourth quarters of 2002, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. John Mica	11/30	12/4	United Kingdom		1,544.00		668.17				2,212.17
	12/4	12/8	Italy		2,080.00		(3)				2,080.00
Sharon Pinkerton	11/30	12/4	United Kingdom		1,544.00		5,445.42				6,989.42
	12/4	12/6	Italy		1,248.00		(3)				1,248.00
Hon. Mike Rogers	11/18	11/19	Turkey		273.00		6,776.39				7,049.39
	11/19	11/21	Qatar		468.00		(3)				468.00
	11/21	11/23	Bahrain		542.00		(3)				542.00
	11/23	11/25	Kuwait		778.00		(3)				778.00
	11/25	11/27	United Kingdom		772.00						772.00
Committee total					9,249.00		12,899.98				22,138.98

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DON YOUNG, Chairman, Feb. 10, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 16 AND MAY 19, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim Kolbe, Chairman	5/16	5/19	Mexico		345.65		(3)				345.65
Hon. David Dreier	5/16	5/19	Mexico		252.72		(3)				252.72
Hon. Charles Stenholm	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Joe Barton	5/16	5/19	Mexico		168.48		(3)				168.48
Hon. Chris Cannon	5/16	5/19	Mexico		168.48		(3)				168.48
Hon. Tom Tancredo	5/16	5/19	Mexico		186.96		(3)				186.96
Hon. Howard Berman	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Calvin Dooley	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Ed Pastor	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Bob Filner	5/16	5/19	Mexico		252.72		(3)				252.72
Hon. Lucille Roybal-Allard	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Silverstre Reyes	5/16	5/19	Mexico		280.44		(3)				280.44
Hon. Tom Udall	5/16	5/19	Mexico		280.44		(3)				280.44
Fran McNaught	5/16	5/19	Mexico		252.72		(3)				252.72
Patrick Baugh	5/16	5/19	Mexico		252.72		(3)				252.72
Caleb McCarry	5/16	5/19	Mexico		252.72		(3)				252.72
Jim Farr	5/16	5/19	Mexico		252.72		(3)				252.72
Linda Solomon	5/16	5/19	Mexico		252.72		(3)				252.72
Jean Carroll	5/16	5/19	Mexico		252.72		(3)				252.72
Paul Oostburg Sanz	5/16	5/19	Mexico		252.72		(3)				252.72
Brad Smith	5/16	5/19	Mexico		252.72		(3)				252.72
Delegation expenses									4,077.62		4,077.62
Interpreters									3,120.00		3,120.00
Committee total					5,359.85				7,197.62		12,557.47

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JIM KOLBE, Chairman, June 18, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Henry E. Moore	10/19	10/25	France		1,410.29						1,410.29
Commercial airfare							7,008.07				7,008.07
John T. Blazey	11/17	11/21	Turkey		1,072.00						1,072.00
	11/21	11/25	Tunisia		656.00						656.00
	11/25	11/28	Italy		1,248.00						1,248.00
									86.00		86.00
Commercial airfare							6,856.09				6,856.09
Therese McAuliffe	11/17	11/21	Turkey		1,072.00						1,072.00
	11/21	11/25	Tunisia		656.00						656.00
	11/25	11/28	Italy		1,248.00						1,248.00
									86.00		86.00
Commercial airfare							6,856.09				6,856.09
Hon. Bud Cramer	11/17	11/21	Turkey		1,072.00						1,072.00
	11/21	11/25	Tunisia		656.00						656.00
	11/25	11/28	Italy		1,248.00						1,248.00
									86.00		86.00
Commercial airfare							6,856.09				6,856.09
Rob Nabors	11/16	11/19	England		840.00						840.00
	11/19	11/21	Germany		670.00						670.00
	11/21	11/23	Netherlands		490.00						490.00
									100.00		100.00
Commercial airfare							1,315.83				1,315.83
Leslie F. Albright	11/16	11/19	England		840.00						840.00
	11/19	11/21	Germany		670.00						670.00
	11/21	11/23	Netherlands		490.00						490.00
									128.02		128.02

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial airfare							1,315.83				1,315.83
Hon. David L. Hobson	11/23	11/29	Italy		2,496.00						2,496.00
	11/29	12/1	Greece		236.00						236.00
	12/1	12/2	Spain		196.00						196.00
Part commercial airfare							530.05				530.05
Hon. Robert Aderholt	11/24	11/29	Italy		2,080.00						2,080.00
	11/29	12/1	Greece		236.00						236.00
	12/1	12/2	Spain		196.00		(3)				196.00
John Scofield	11/24	11/29	Italy		2,080.00						2,080.00
	11/29	12/1	Greece		236.00						236.00
	12/1	12/2	Spain		196.00		(3)				196.00
Brian Potts	11/23	11/29	Italy		2,080.00						2,080.00
	11/29	12/1	Greece		236.00						236.00
	12/1	12/2	Spain		196.00		(3)				196.00
Jennifer Miller	11/24	11/29	Italy		2,080.00						2,080.00
	11/29	12/1	Greece		236.00						236.00
	12/1	12/2	Spain		196.00		(3)				196.00
Hon. C.W. Bill Young	12/2	12/4	Germany		210.00						210.00
	12/4	12/6	Italy		600.00						600.00
							(3)		426.96		426.96
Hon. Rodney Frelinghuysen	12/2	12/4	Germany		210.00						210.00
	12/4	12/6	Italy		832.00						832.00
							(3)		426.96		426.96
Douglas Gregory	12/2	12/4	Germany		210.00						210.00
	12/4	12/6	Italy		832.00						832.00
							(3)		426.96		426.96
David Jolly	12/2	12/4	Germany		210.00						210.00
	12/4	12/6	Italy		600.00						600.00
							(3)		426.96		426.96
Hon. Charles Taylor	12/4	12/7	Russia		1,032.00						1,032.00
Part military airfare							(3)				
Mark Murray	12/7	12/11	Russia		1,400.00						1,400.00
	12/11	12/15	Turkey		900.00						900.00
Part commercial airfare							5,659.00				5,659.00
John Shank	12/10	12/15	Turkey		1,100.00						1,100.00
Commercial airfare							5,178.69				5,178.69
Michelle M. Burkett	12/3	12/7	Japan		1,356.00						1,356.00
Commercial airfare							7,155.21				7,155.21
Kevin Roper	12/20	12/21	Qatar		234.00						234.00
	12/21	12/23	Kuwait		778.00		(3)				778.00
Committee total					37,818.29		48,750.95		2,193.86		88,743.10

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

C.W. BILL YOUNG, Chairman, Jan. 29, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Travel to Turkey, Qatar, Bahrain, Kuwait and the United Kingdom, November 18–27, 2002:											
Hon. Joe Wilson	11/18	11/19	Turkey		273.00						273.00
	11/19	11/21	Qatar		467.99						467.99
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		779.40						779.40
	11/25	11/27	United Kingdom		772.00						772.00
Commercial airfare							5,034.95				5,034.95
Hon. Mark Kirk	11/19	11/21	Turkey		536.00						536.00
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		779.40						779.40
	11/25	11/27	United Kingdom		772.00						772.00
Commercial airfare							4,904.00				4,904.00
Travel to Colombia and Bolivia, November 19–23, 2002:											
Hon. Jo Ann Davis	11/19	11/20	Colombia		225.00						225.00
	11/20	11/23	Bolivia		492.00						492.00
Commercial airfare							1,067.20				1,067.20
Travel to Georgia, Belarus and Russia, December 1–7, 2002:											
Hon. Curt Weldon	12/1	12/3	Georgia		536.00						536.00
	12/3	12/4	Belarus		194.00						194.00
	12/4	12/7	Russia		1,032.00						1,032.00
Hon. Roscoe Bartlett	12/1	12/3	Georgia		536.00						536.00
	12/3	12/4	Belarus		194.00						194.00
	12/4	12/7	Russia		1,032.00						1,032.00
Mr. Douglas C. Roach	12/1	12/3	Georgia		536.00						536.00
	12/3	12/4	Belarus		83.34						83.34
	12/4	12/7	Russia		1,032.00						1,032.00
Travel to Ecuador, Colombia and Argentina, December 15–21, 2002:											
Hon. Loretta Sanchez	12/15	12/17	Ecuador		337.20						337.20
	12/17	12/19	Colombia		350.00						350.00
	12/19	12/21	Argentina		703.00						703.00
Commercial airfare							4,181.00				4,181.00
Committee total					12,746.33		15,187.15				27,933.48

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, Jan. 31, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN BOEHNER, Chairman, Feb. 4, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Paul Kangas	10/26	11/01	Belgium		660.00		825.47				1,485.47
Hon. Patrick Tiberi	11/24	11/29	Italy		2,080.00		(3)				2,080.00
	11/29	12/1	Greece		236.00		(3)				236.00
	12/1	12/2	Spain		196.00		(3)				196.00
Hon. Melvin Watt	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00		(3)				1,180.00
Committee total					5,369.00		825.47				6,194.47

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

MICHAEL G. OXLEY, Chairman, Jan. 30, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Barr	10/10	10/15	Colombia		750.00						
Marc Chretien	10/11	10/15	Colombia		450.00		1,877.50				
Hon. Benjamin Gilman	10/10	10/15	Colombia		750.00						
Gilbert Macklin	10/9	10/15	Colombia		900.00		1,574.50				
Pablo Carrillo	10/10	10/15	Colombia		750.00						
Hon. Christopher Shays	11/19	11/20	Netherlands		490.04		5,140.06				
	11/21	11/22	Italy		573.70						
Nicholas Palarino	11/19	11/20	Netherlands		490.04		5,542.00				
	11/21	11/22	Italy		573.70						
Hon. Mark Souder	11/19	11/21	Canada		410.00		1,748.04				
Christopher Donesa	11/19	11/21	Canada		410.00		1,914.71				
Hon. Mark Souder	12/11	12/14	England		1,233.00						
	12/14	12/16	Italy		882.00						
	12/16	12/17	Switzerland		345.00						
	12/17	12/18	Netherlands		345.00						
Hon. JoAnn Davis	12/11	12/14	England		1,233.00						
	12/14	12/16	Italy		882.00						
	12/16	12/17	Switzerland		345.00						
	12/17	12/18	Netherlands		345.00						
Christopher Donesa	12/11	12/14	England		1,233.00						
	12/14	12/16	Italy		882.00						
	12/16	12/17	Switzerland		345.00						
	12/17	12/18	Netherlands		345.00						
Nicholas Coleman	12/11	12/14	England		1,233.00						
	12/14	12/16	Italy		882.00						
	12/16	12/17	Switzerland		345.00						
	12/17	12/18	Netherlands		345.00						
Gilbert Macklin	12/3	12/6	Colombia		450.00		2,151.50				
	12/3	12/6	Colombia		450.00		2,151.50				
Orly Isaacson	12/11	12/17	Thailand		1,624.00		5,259.50				
Committee total					20,291.48		27,629.31				47,920.79

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Jan. 30, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Blaine Aaron	12/5	12/8	Japan		1,017.00						1,017.00
	12/8	12/12	China		1,180.00						1,180.00
David Abramowitz	12/5	12/8	Japan		907.00						907.00
	12/8	12/12	China		1,060.00						1,060.00
Commercial and military transportation							1,906.30				1,906.30
David Adams	11/18	11/19	Turkey		273.00						273.00
	11/19	11/21	Qatar		468.00						468.00
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		778.00						778.00
	11/25	11/27	United Kingdom		772.00						772.00
Commercial and military transportation							5,034.95				5,034.95

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Douglas Anderson	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Deborah Bodlander	11/16	11/19	Turkey		819.00						819.00
	11/19	11/21	Qatar		468.00						468.00
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		780.00						780.00
	11/25	11/27	United Kingdom		772.00						772.00
Commercial and military transportation							3,883.69				3,883.69
Malik Chaka	10/28	11/1	South Africa		332.00						332.00
	11/1	11/5	Mozambique		744.00						744.00
	11/5	11/7	Swaziland		206.00						206.00
R/T commercial airfare							6,426.94				6,426.94
	12/9	12/12	Zimbabwe		414.00						414.00
	12/12	12/14	Zambia		302.00						302.00
	12/14	12/18	Ethiopia		762.00						762.00
	12/18	12/19	Djibouti		199.00						199.00
	12/19	12/21	Eritrea		368.00						368.00
R/T commercial airfare							7,648.17				7,648.17
Joan Condon	12/14	12/18	Ethiopia		683.00						683.00
	12/18	12/19	Djibouti		229.00						229.00
	12/19	12/21	Eritrea		368.00						368.00
R/T commercial airfare							7,108.52				7,108.52
Hon. William Delahunt	11/19	11/21	Qatar		468.48						468.48
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		780.06						708.06
	11/25	11/26	United Kingdom		386.00						386.00
Commercial and military transportation							6,364.48				6,364.48
Hon. Eni Faleomavaega	12/5	12/8	Japan		1,017.00		(3)				1,107.00
	12/8	12/12	China		1,180.00						1,180.00
James Farr	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
David Fite	11/18	11/19	Turkey		218.00						218.00
	11/19	11/21	Qatar		358.00						358.00
	11/21	11/23	Bahrain		407.00						407.00
	11/23	11/25	Kuwait		630.63						630.63
	11/25	11/27	United Kingdom		772.00						772.00
Commercial and military transportation							5,034.95				5,034.95
Daniel Freeman	11/18	11/21	Chile		1,316.00						1,316.00
R/T commercial airfare							4,479.19				4,479.19
Paul Gallis	11/16	11/20	Turkey		1,357.00		(3)				1,357.00
	11/20	11/23	Italy		1,260.00						1,260.00
Kirsti Garlock	11/18	11/21	Chile		1,316.00						1,316.00
R/T commercial airfare							5,664.50				5,664.50
Kristen Gilley	12/3	12/8	Turkey		1,100.00						1,100.00
	12/8	12/10	Germany		510.00						510.00
R/T commercial airfare							4,595.45				4,595.45
Dennis Halpin	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Hon. Henry Hyde	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Hon. Darrell Issa	11/18	11/19	Turkey		273.00						273.00
	11/19	11/21	Qatar		1,703.50						1,703.50
	12/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		783.18						783.18
	11/25	11/27	United Kingdom		772.00						772.00
Commercial and military transportation			Commercial/Milair				7,431.88				7,431.88
	12/5	12/8	Japan		1,017.00						1,017.00
	12/8	12/12	China		1,180.00		(3)				1,180.00
Robert Jones	12/5	12/8	Japan		1,017.00						1,017.00
	12/8	12/12	China		1,180.00		(3)				1,180.00
Hon. Brian Kerns	10/11	10/15	Colombia		1,018.00		(3)				1,018.00
David Killion	11/8	11/12	Korea		1,376.00						1,376.00
R/T commercial airfare							4,107.71				4,107.71
Kay King	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		571.18						571.18
Robert King	12/5	12/8	Japan		566.44		(3)				566.44
	12/8	12/12	China		1,180.00						1,180.00
Sheila Klein	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Hon. Tom Lantos	11/22	12/4	Hungary		1,296.00						1,296.00
R/T commercial airfare							2,173.95				2,173.95
Noelle Lusane	12/9	12/12	Zimbabwe		414.00						414.00
	12/12	12/14	Zambia		302.00						302.00
	12/14	12/18	Ethiopia		816.00						816.00
	12/18	12/19	Djibouti		229.00						229.00
	12/19	12/21	Eritrea		368.00						368.00
R/T commercial airfare							7,648.17				7,648.17
John Mackey	10/11	10/15	Colombia		1,018.00		(3)				1,018.00
	12/2	12/3	Ireland		312.00						312.00
	12/3	12/4	United Kingdom		268.00						268.00
	12/4	12/5	Ireland		312.00						312.00
	12/5	12/8	Turkey		654.00						654.00
	12/8	12/10	Germany		510.00						510.00
R/T commercial airfare							5,622.33				5,622.33
Alan Makovsky	11/16	11/19	Turkey		739.00						739.00
	11/19	11/21	Qatar		440.00						440.00
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		660.00						660.00
	11/25	11/27	United Kingdom		729.00						729.00
R/T commercial airfare							3,883.69				3,883.69
Pearl-Alice Marsh	10/28	11/1	South Africa		281.58						281.58
	11/1	11/5	Mozambique		744.00						744.00
	11/5	11/7	Swaziland		204.00						204.00
R/T commercial airfare							6,426.94				6,426.94
	12/9	12/12	Zimbabwe		414.00						414.00
	12/12	12/14	Zambia		302.00						302.00
	12/14	12/18	Ethiopia		812.00						812.00
R/T commercial airfare							8,316.60				8,316.60
Caleb McCarry	11/18	11/20	Chile		234.00						234.00
	11/21	11/23	Nicaragua		382.50						382.50
R/T commercial airfare							5,274.60				5,274.60

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Cynthia McKinney	10/18	10/19	Amsterdam		230.00						230.00
	10/19	10/20	Burundi		197.00						197.00
R/T commercial airfare							9.342.68				9,342.68
	10/28	10/31	Kenya		606.00						606.00
	10/31	11/3	Ethiopia		263.00						263.00
R/T commercial airfare							7,458.57				7,458.57
Thomas Mooney	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
R/T commercial airfare							7,458.57				7,458.57
Dana Mott	10/18	10/19	Amsterdam		230.00						230.00
	10/19	10/20	Burundi		197.00						197.00
R/T commercial airfare							9.342.68				9,342.68
	10/28	10/31	Kenya		606.00						606.00
	10/31	11/3	Ethiopia		263.00						263.00
R/T commercial airfare							7,458.57				7,458.57
Paul Oostburg-Sanz	11/18	11/21	Chile		390.00						390.00
R/T commercial airfare							5,664.50				5,664.50
Marilyn Owen	12/05	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	11/12	China		1,180.00						1,180.00
Yleem Poblete	11/8	11/12	Korea		1,376.00						1,376.00
R/T commercial airfare							4,107.71				4,107.71
Record, Frank	11/18	11/20	Chile		1,266.00						1,266.00
R/T commercial airfare							5,664.50				5,664.50
Hon. Dana Rohrabacher	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
J. Walker Roberts	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Douglas Seay	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Sam Stratman	11/18	11/19	Turkey		123.00		(3)				123.00
	11/19	11/21	Qatar		468.00						468.00
	11/21	11/23	Bahrain		542.00						542.00
	11/23	11/25	Kuwait		778.00						778.00
	11/25	11/27	United Kingdom		772.00						772.00
Commercial and military transportation							7,653.81				7,653.81
	12/5	12/8	Japan		1,017.00		(3)				1,017.00
	12/8	12/12	China		1,180.00						1,180.00
Valerie Van Buren	10/28	11/1	South Africa		332.00						332.00
	11/1	11/5	Mozambique		744.00						744.00
	11/5	11/7	Swaziland		266.00						266.00
R/T commercial airfare							6,426.94				6,426.94
	12/9	12/12	Zimbabwe		414.00						414.00
	12/12	12/14	Zambia		302.00						302.00
	12/14	12/18	Ethiopia		812.00						812.00
	12/18	12/19	Djibouti		229.00						229.00
	12/19	12/21	Eritrea		368.00						368.00
R/T commercial airfare							7,648.17				7,648.17
Hillel Weinberg	11/18	11/19	Turkey		223.00						223.00
	11/19	11/21	Qatar		418.00						418.00
	11/21	11/23	Bahrain		492.00						492.00
	11/23	11/25	Kuwait		678.00						678.00
	11/25	11/27	United Kingdom		672.00						672.00
Commercial and military transportation							7,668.38				7,666.38
Committee total					94,206.55		194 926.09				289,132.64

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HENRY HYDE, Chairman, Jan. 31, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. David Dreier	12/10	12/12	New Zealand		638.00		(3)				638.00
	12/13	12/16	Australia		993.00		(3)				993.00
	12/17	12/18	Micronesia		180.00		(3)				180.00
	12/18	12/19	Marshall Islands		280.00		(3)				280.00
Hon. Pete Sessions	12/10	12/12	New Zealand		638.00		(3)				638.00
	12/13	12/16	Australia		993.00		(3)				993.00
	12/17	12/18	Micronesia		180.00		(3)				180.00
	12/18	12/19	Marshall Islands		280.00		(3)				280.00
Matt Reynolds	12/10	12/12	New Zealand		638.00		(3)				638.00
	12/13	12/16	Australia		993.00		(3)				993.00
	12/17	12/18	Micronesia		180.00		(3)		120.05		300.05
	12/18	12/19	Marshall Islands		280.00		(3)				280.00
Brad Smith	12/10	12/12	New Zealand		638.00		(3)				638.00
	12/13	12/16	Australia		993.00		(3)				993.00
	12/17	12/18	Micronesia		180.00		(3)				180.00
	12/18	12/19	Marshall Islands		280.00		(3)				280.00
Committee total					8,364.00				120.05		8,484.05

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DAVID DREIER, Chairman, Jan. 27, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

FOR HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted aboved, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SHERWOOD BOEHLERT, Chairman, Jan. 23, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Matthew Szymanski	11/8	11/15	England				5,800.00		1,700.00		7,500.00
Ian Deason	12/1	12/12	China				5,000.00		7,250.00		12,250.00
Matthew Szymanski	12/1	12/12	China				5,000.00		7,250.00		12,250.00
Committee total							15,800.00		16,200.00		32,000.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD A. MANZULLO, Chairman, Jan. 29, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

FOR HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOEL HEFLEY, Chairman, Jan. 30, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael Castellano	12/9	12/12	Switzerland		849.00		4,840.78				5,689.78
Committee total					849.00		4,840.78				5,689.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL THOMAS, Chairman, Feb. 11, 2003.

RULES AND REPORTS SUBMITTED PURSUANT TO THE CONGRESSIONAL REVIEW ACT

Pursuant to 5 U.S.C. 801(d), executive communications [final rules] submitted to the House pursuant to 5 U.S.C. 801(a)(1) during the period of June 18, 2002 through January 7, 2003, shall be treated as though received on February 27, 2003. Original dates of transmittal, numberings, and referrals to committee of those executive communications remain as indicated in the Executive Communication section of the relevant CONGRESSIONAL RECORDS.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

785. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Extension of Tolerances for Emergency Exemptions (Multiple Chemicals) [OPP-2002-0336; FRL-7284-8] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

786. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations — Requirement that Currency Dealers and Exchangers Report Suspicious Transactions (RIN: 1506-AA34) received February 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

787. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Authority to Waive the Market-to-Market Regulations [Docket No. FR-4791-F-01] received February 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

788. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 200, 300, and 1900 Series, and Models F90 and A100-1 Airplanes [Docket No. 2001-CE-AD; Amendment 39-12955; AD 2002-23-11] (RIN: 2120-AA64) received January 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

789. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Delaware, the District of Columbia, Allegheny County and Philadelphia, Pennsylvania; Control of Emissions from Existing Small Municipal Waste Combustion Units [DC051-7003a; DE068-7003a; PA187-7003a, PA186-7003a; FRL-7434-5] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

790. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the

Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Delaware, the District of Columbia, and Philadelphia, Pennsylvania; Control of Emissions from Existing Commercial/Industrial Solid Waste (CISWI) Incinerator Units [DC051-7004a; DE068-7004a; PA186-7004a; FRL-7434-4] received December 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

791. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Oregon [OR-01-003; FRL-7429-5] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

792. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: Arizona: Motor Vehicle Inspection and Maintenance Programs [AZ 106-0064; FRL-7418-8] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

793. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval Implementation Plans; Ohio [OH118-1a; FRL-7428-5] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

794. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Idaho Designation of Areas for Air Quality Planning Purposes; Idaho [ID-02-002; FRL-7422-3] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

795. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Regulations [OH155-1a; FRL-7425-8] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

796. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revision to the Control of Volatile Organic Compound Emissions from Screen Printing and Digital Imaging [MD137-3090a; FRL-7420-8] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

797. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of Volatile Organic Compounds From Solvent Cleaning Operations [PA185-4197; FRL-7437-5] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

798. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to the Florida State Implementation Plan [FL-69-1-9940a; FRL-7439-2] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

799. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland: Motor Vehicle Inspection and Maintenance Program — Request for Delay in the Incorporation of On-Board Diagnostics Testing [MD 137-3093a; FRL-7436-9] received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

800. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and Monterey Bay Unified Air Pollution Control District [CA 273-0370a; FRL-7441-5] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

801. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Polychlorinated Biphenyls: Manufacturing (Import) Exemptions [OPPT-2002-0013; FRL-7288-6] (RIN: 2070-AB20) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

802. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, Imperial County Air Pollution Control District [CA 273-0370C; FRL-7441-7] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

803. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois [MO 169-1169; IL 187-2; FRL-7444-4] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

804. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plan for Designated Facilities and Pollutants: Alabama [AL-058-1-200312a; FRL-7444-9] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

805. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Colorado [SIP No. CO-001-0068; FRL-7443-8] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

806. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Alabama Update to Materials Incorporated by Reference [AL-200311; FRL-7444-7] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

807. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2003 [FRL-7430-7] (RIN: 2060-AK48) received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

808. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: North Carolina: Nitrogen Oxides Budget and Allowance Trading Program [NC-94; 100-200305; FRL-7429-7] received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

809. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans for Kentucky: Air Permit Regulations [KY 125-2-200308(a); FRL-7430-9] received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

810. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending September 30, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

811. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Change of Physical Location of EPA's Environmental Appeals Board [FRL-7439-7] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

812. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. TPE331-3, -5, -6, -8, -10, and -11 Series Turboprop and TSE331-3 Series Turboshaft Engines [Docket No. 2001-NE-11-AD; Amendment 39-12977; AD 2002-25-02] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

813. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc. RB211-535 Turbofan Engines; Correction [Docket No. 2002-NE-16-AD; Amendment 39-12952; AD 2002-23-08] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

814. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Univair Aircraft Corporation Models (ERCO) 415-C, (ERCO) 415-CD, (ERCO) 415-D, (ERCO) 415-E, (ERCO) 415-G, (Forney) F-1, and (Forney) F-1A Airplanes [Docket No: 2000-CE-79-AD; Amendment 39-12843; AD 2002-16-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

815. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 Series Airplanes [Docket No. 2002-NM-135-AD; Amendment 39-12841; AD 2002-16-02] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to

the Committee on Transportation and Infrastructure.

816. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2002-NM-141-AD; Amendment 39-12844; AD 2002-16-05] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

817. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautics S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No: 2002-NM-166-AD; Amendment 39-12845; AD 2002-16-06] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

818. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600; -700, -700C, -800, and -900 Series Airplanes [Docket No. 2002-NM-148-AD; Amendment 39-12842; AD 2002-16-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

819. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 Helicopters [Docket No. 2002-SW-15-AD; Amendment 39-12817; AD 2002-14-17] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

820. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 Helicopters [Docket No. 2001-SW-34-AD; Amendment 39-12948; AD 2002-23-04] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

821. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines [Docket No. 2001-NE-30-AD; Amendment 39-12958; AD 2002-23-14] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

822. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Canada PT6A Series Turboprop Engines [Docket No. 99-NE-44-AD; Amendment 39-12957; AD 2002-23-13] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

823. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Britten Norman (Bembridge) Limited BN2A Mk. III Series Airplanes [Docket No. 2002-CE-36-AD; Amendment 39-12966; AD 2002-24-01] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

824. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-375-AD; Amendment 39-12960; AD 2002-23-16] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

825. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, -200B, -200C, -200F, -300, -400, -400F, and 747SR Series Airplanes, Equipped with a Main Deck Side Cargo Door (MDSCD) Manufactured by Boeing [Docket No. 2002-NM-270-AD; Amendment 39-12959; AD 2002-23-15] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

826. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. 2001-NM-84-AD; Amendment 39-12961; AD 2002-23-17] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

827. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc. RB211-535 Turbofan Engines [Docket No. 2002-NE-16-AD; Amendment 39-12952; AD 2002-23-08] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

828. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-11, -12, -13, -14, -15, and -15F Airplanes; Model DC-9-21 Airplanes; Model DC-9-31, -32, -32(VC-9C), -32F, -32F(C-9A, C-9B), -33F, -34, and -34F Airplanes; Model DC-9-41 Airplanes; Model DC-9-51 Airplanes; Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) Airplanes; and Model MD-88 Airplanes [Docket No. 99-NM-90-AD; Amendment 39-13001; AD 2002-26-13] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

829. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2002-NM-67-AD; Amendment 39-12999; AD 2002-26-11] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

830. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2001-NM-396-AD; Amendment 39-13000; AD 2002-26-12] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

831. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002-NM-84-AD; Amendment 39-13005; AD 2002-26-17] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

832. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-401A, AT-402, AT-402A, AT-501, AT-502, and AT-502A Airplanes [Docket No. 2000-CE-60-AD; Amendment 39-12985; AD 2002-25-09] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

833. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Textron Lycoming Division, AVCO Corporation Fuel Injected Reciprocating Engines [Docket No. 92-ANE-56-AD; Amendment 39-12986; AD 2002-26-01] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

834. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra Series Airplanes [Docket No. 2002-NM-114-AD; Amendment 39-12902; AD 2002-20-06] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

835. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerostar Aircraft Corporation Models PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P), PA-60-602P (Aerostar 602P), and PA-60-700P (Aerostar 700P) Airplanes [Docket No. 99-CE-86-AD; Amendment 39-12972; AD 2002-24-07] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

836. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, AS332L, AS332L1, SA330F, SA330G, and SA330J Helicopters [Docket No. 2001-SW-35-AD; Amendment 39-12976; AD 2002-25-01] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

837. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 206L, L-1, L-3, and L-4 Helicopters [Docket No. 99-SW-80-AD; Amendment 39-12983; AD 2002-25-07] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

838. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-45, -50, -80A, -80C2, and -80E1 Turbofan Engines [Docket No. 2001-NE-26-AD; Amendment 39-12984; AD 2002-25-08] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

839. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Univair Aircraft Corporation Models Alon A-2 and A2-A; ERCO 415-C, 415-CD, 415-D, 415-E, and 415-G; Forney

F-1 and F-1A; and Mooney M10 Airplanes [Docket No. 2001-CE-45-AD; Amendment 39-12987; AD 2002-26-02] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

840. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Beech Models 36, A36, A36TC, B36TC, 58, and 58A Airplanes [Docket No. 2002-CE-07-AD; Amendment 39-13012; AD 2003-01-01] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

841. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000, SAAB SF340A, and SAAB 340B Series Airplanes [Docket No. 2002-NM-104-AD; Amendment 39-13007; AD 2002-26-19] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

842. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. 2000-NM-402-AD; Amendment 39-12997; AD 2002-26-09] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

843. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002-NM-85-AD; Amendment 39-1003; AD 2002-26-15] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

844. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series Airplanes; and Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 2002-NM-53-AD; Amendment 39-12996; AD 2002-26-08] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

845. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Model ( )HC-( )2Y( )—( ) propellers [Docket No. 2002-NE-25-AD; Amendment 39-13014; AD 2003-01-03] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

846. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas DC-9-10, -20, -30, -40, and -50 Series Airplanes [Dcoket No. 2001-NM-78-AD; Amendment 39-12998; AD 2002-26-10] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

847. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2001-NM-290-AD; Amendment 39-13004; AD 2002-26-16] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

848. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. 2002-NM-44-AD; Amendment 39-13006; AD 2002-26-18] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

849. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-100 and -300 Series Airplanes [Docket No. 2002-NM--77-AD; Amendment 39-13010; AD 2002-26-21] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

850. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Brackett Aircraft Company, Brackett Single Screen Air Filter [Docket No. 2002-CE-38-AD; Amendment 39-12988; AD 2002-26-03] (RIN: 2120-AA64) received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

851. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives [Docket No. 2002-NE-13-AD; Amendment 39-12946; AD 2002-23-02] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

852. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Model 750 Airplanes [Docket No. 99-NM-218-AD; Amendment 39-12949; AD 2002-23-05] (RIN: 2120-AA64) received January 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

853. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Regulatory Innovations: Pilot-Specific Rule for Electronic Materials in the EPA Region III Mid-Atlantic States; Hazardous Waste Management System: Modification of the Hazardous Waste Program; Cathode Ray Tubes [FRL-7429-3] (RIN: 2003-AA00) received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

854. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Control, transmitting the Agency's final rule — National Pollutant Discharge Elimination System-Amendment of Final Regulations Addressing Cooling Water Intake Structures for New Facilities [FRL-7430-4] received February 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

855. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program: Physician Fee Schedule Update for Calendar Year 2003 [CMS-1204-F2] (RIN: 0938-AL21) received February 26, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

856. A letter from the Inspector General, Railroad Retirement Board, transmitting the Board's Budget Justification for Fiscal Year 2004, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

857. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's Congressional Justification of Budget Estimates for Fiscal Year 2004, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, Ways and Means, and Government Reform.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS:

H.R. 2. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself, Mr. RAMSTAD, Mr. SMITH of New Jersey, Mr. STARK, Mr. MURTHA, Mr. LANGEVIN, Mr. SERRANO, Mr. ABERCROMBIE, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. JACKSON-LEE of Texas, Mr. ANDREWS, Mr. BECERRA, Ms. BERKLEY, Ms. CARSON of Indiana, Mr. FARR, Mr. FATTAH, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HOLDEN, Mr. LARSON of Connecticut, Ms. LEE, Mrs. MALONEY, Mr. MATSUI, Mr. MEEHAN, Mr. MENENDEZ, Mr. MOLLOHAN, Mr. MORAN of Virginia, Ms. NORTON, Mr. PALLONE, Ms. PELOSI, Mr. UDALL of New Mexico, Mr. WEINER, Mr. BISHOP of New York, Mr. CAPUANO, Mr. HOLT, Mr. MCDERMOTT, Mr. OWENS, Mr. STRICKLAND, Mr. BALLANCE, Mr. COSTELLO, Mr. GARY G. MILLER of California, Mr. RYAN of Ohio, Ms. WOOLSEY, Mr. LEVIN, Mr. CARDIN, Mr. CASE, Mrs. CHRISTENSEN, Mr. EMANUEL, Mr. ENGLISH, Mr. FOLEY, Mr. FRELINGHUYSEN, Mr. GILCHREST, Mr. HOEFFEL, Mr. HONDA, Mr. INSLEE, Mr. KIND, Mr. LATOURETTE, Mr. LEACH, Mr. MCNULTY, Mr. OBERSTAR, Mr. OLVER, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. WAXMAN, Mr. WYNN, Mr. DEFAZIO, Ms. DELAURO, Mr. DOGGETT, Mr. FROST, Mrs. JONES of Ohio, Mr. KILDEE, Mr. KLECZKA, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. NADLER, Mr. PASTOR, Mr. SCOTT of Virginia, Mr. SKELTON, Mr. TIERNEY, Mr. VAN HOLLEN, Mr. ACKERMAN, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Ms. DEGETTE, Mr. DICKS, Mr. DINGELL, Mr. LOBIONDO, Ms. MCCOLLUM, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SHAYS, Ms. SOLIS, Mr. BERRY, Ms. BORDALLO, Mr. BROWN of Ohio, Mr. DELAHUNT, Mr. GREENWOOD, Mr. GRIJALVA, Mr. PASCRELL, Mr. PLATTS, Mr. QUINN, Mr. SAXTON, Mr. SIMMONS, Mrs. TAUSCHER, Mr. DOYLE, Mr. FORD, Mr. HINCHEY, Mr. RODRIGUEZ, Mr. VISCLOSKY, Mr. BURNS, Mr. DEUTSCH, Mr. ENGEL, Mr. ETHERIDGE, Ms. KILPATRICK, Mr. ROTHMAN, Mr. ALLEN, Mr. DAVIS of Florida, Mr. FALEOMAVAEGA, Mr. NORWOOD, Mr. TOWNS, Mr. BACA, Mr. CARSON of Oklahoma, Mr. PAYNE, Mr.

PRICE of North Carolina, Mr. THOMPSON of California, Ms. WATSON, Mr. BERMAN, Mr. COOPER, Mr. DAVIS of Illinois, Mr. DAVIS of Tennessee, Mrs. KELLY, Mr. KIRK, Mr. LARSEN of Washington, Mr. RAHALL, Ms. LORETTA SANCHEZ of California, Mr. WAMP, Mr. CLYBURN, Ms. HOOLEY of Oregon, Mr. KUCINICH, Mr. BOEHLERT, Mr. MATHESON, Mr. ORTIZ, Ms. SLAUGHTER, Mr. SNYDER, Mr. WALSH, Mr. MURPHY, Mr. SWEENEY, Mr. LIPINSKI, Mr. MCGOVERN, Mr. BAIRD, Mr. STUPAK, Mr. WILSON of South Carolina, Mr. BOUCHER, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Mr. CONYERS, Mrs. DAVIS of California, Mrs. LOWEY, Mr. PETERSON of Minnesota, and Mr. SABO):

H.R. 953. A bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOUDER:

H.R. 954. A bill to confirm Federal recognition of the Miami Nation of Indiana; to the Committee on Resources.

By Mr. FARR (for himself, Mr. KIND, Mr. SHERWOOD, Ms. WOOLSEY, Ms. ESHOO, Mr. HONDA, Mr. OLVER, Mr. SHERMAN, Mr. PRICE of North Carolina, Ms. LEE, Mr. DEFAZIO, Mr. THOMPSON of California, Mrs. CAPPS, Mr. FILNER, Mr. GEORGE MILLER of California, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Ms. LORETTA SANCHEZ of California, Mr. DELAHUNT, Ms. BALDWIN, Mr. NETHERCUTT, Mr. KUCINICH, Mr. HINCHEY, and Mr. BOEHLERT):

H.R. 955. A bill to amend the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003, to reinstate the requirement that a farm, in order to be certified as an organic farm with respect to livestock produced on the farm, feed the livestock with organically produced feed; to the Committee on Agriculture.

By Mrs. MALONEY (for herself, Mr. FROST, Mr. CROWLEY, Mr. SERRANO, Mr. NADLER, Mr. VAN HOLLEN, Ms. SCHAKOWSKY, Ms. NORTON, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Mr. MCDERMOTT, Mr. OWENS, and Mr. FRANK of Massachusetts):

H.R. 956. A bill to amend the Family and Medical Leave Act of 1993 to allow employees to take, as additional leave, parental invlovement leave to participate in or attend their children's and grandchildren's educational and extracurricular activities and to clarify that leave may be taken for routine medical needs and to assist elderly relatives, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI (for himself, Mr. OXLEY, and Mr. BAKER):

H.R. 957. A bill to enhance investor confidence by providing investors with easy online access to complete information about securities firms and their brokers; to the Committee on Financial Services.

By Mr. YOUNG of Alaska:

H.R. 958. A bill to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, and for other purposes; to the Committee on Resources.

By Mr. SAXTON:

H.R. 959. A bill to improve the conservation and management of coastal and ocean resources by authorizing National Oceanic and Atmospheric Administration oceanographic programs; to the Committee on Resources, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA:

H.R. 960. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. GUTKNECHT, Mr. COSTELLO, Mr. LEACH, Mr. KILDEE, and Mr. KENNEDY of Minnesota):

H.R. 961. A bill to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes; to the Committee on Resources.

By Mr. OBERSTAR (for himself, Mr. DINGELL, Mr. DEFAZIO, Mr. LEACH, Mr. HOEFFEL, Mr. KUCINICH, Mr. KILDEE, Mr. BROWN of Ohio, Ms. BALDWIN, Ms. NORTON, Ms. MCCOLLUM, Mr. PASCRELL, Mr. BOEHLERT, Mr. BLUMENAUER, Ms. SCHAKOWSKY, Mr. MARKEY, Mr. GEORGE MILLER of California, Mr. VISCLOSKY, Mr. INSLEE, Mr. NADLER, Mrs. NAPOLITANO, and Mrs. TAUSCHER):

H.R. 962. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Transportation and Infrastructure.

By Mr. FILNER (for himself and Mrs. DAVIS of California):

H.R. 963. A bill to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the "Cesar E. Chavez Post Office"; to the Committee on Government Reform.

By Mr. OSE (for himself and Mr. HUNTER):

H.R. 964. A bill to amend the Federal Power Act to provide the Federal Energy Regulatory Commission with authority to order certain refunds of electric rates, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEORGE MILLER of California (for himself, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Ms. BALDWIN, Mr. BERMAN, Mr. BOUCHER, Mr. BROWN of Ohio, Ms. CORRINE BROWN of Florida, Mr. CARDIN, Mr. CARSON of Oklahoma, Mr. CONYERS, Mr. COSTELLO, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DINGELL, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE, Mr. LEVIN, Ms. LOFGREN, Mr. MARKEY, Mr. MATSUI, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. RANGEL, Mr. RODRIGUEZ, Mr. RYAN of Ohio, Mr. SABO, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SOLIS, Mr. STARK, Mr. STUPAK, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, and Mr. WU):

H.R. 965. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; to the Committee on Education and the Workforce.

By Mr. BROWN of South Carolina (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, and Mr. EVANS):

H.R. 966. A bill to amend title 38, United States Code, to reinstate the vocational training program of the Department of Veterans Affairs for certain low-income veterans in receipt of pension from that Department; to the Committee on Veterans' Affairs.

By Mr. ALLEN (for himself, Mrs. CAPITO, Mr. FROST, Mr. TOWNS, Ms. BALDWIN, Mr. GOODE, Ms. WOOLSEY, Mr. MCHUGH, Mr. ABERCROMBIE, Mr. KILDEE, Mr. MORAN of Virginia, Mr. WOLF, Mr. LANGEVIN, Ms. MCCOLLUM, Mr. HOLDEN, Mr. SANDERS, Mr. VAN HOLLEN, Ms. SCHAKOWSKY, Mr. COSTELLO, Mr. ORTIZ, Ms. DELAURO, Mrs. NAPOLITANO, Mr. CARDOZA, Mr. HINCHEY, Mr. KIND, Ms. JACKSON-LEE of Texas, Mrs. EMERSON, Mr. MCINTYRE, Mr. MCNULTY, Mr. INSLEE, Mr. BERRY, and Mr. LUCAS of Kentucky):

H.R. 967. A bill to extend for 3 additional years a temporary increase in payment for skilled nursing facility services under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 968. A bill to amend title 23, United States Code, to provide incentives to States for the development of traffic safety programs to reduce crashes related to driver fatigue and sleep deprivation; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 969. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of infertility treatment services for individuals entitled to health insurance benefits under that program by reason of a disability; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. ISAKSON, Mr. HOLT, Mr. NEAL of Massachusetts, Mr. BOSWELL, Mr. ANDREWS, Mr. FILNER, Mrs. MALONEY, Ms. BALDWIN, Mr. LYNCH, Mrs. CAPITO, Mr. ADERHOLT, Mrs. BIGGERT, and Mrs. MCCARTHY of New York):

H.R. 970. A bill to provide competitive grants for training court reporters and realtime writers to meet requirements for closed captioning under the Telecommunications Act of 1996, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BACHUS:

H.R. 971. A bill to amend the Internal Revenue Code of 1986 to exclude $100 of interest from gross income and to raise the threshhold for reporting interest paid to $100; to the Committee on Ways and Means.

By Ms. BALDWIN (for herself, Mr. KENNEDY of Rhode Island, Ms. LEE, Mr. BROWN of Ohio, Ms. MILLENDER-MCDONALD, Mr. LYNCH, Mr. SERRANO, Mr. DINGELL, Mr. RODRIGUEZ, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Mr. MCGOVERN, Mrs. MALONEY, Mr. FROST, Mr. SANDERS, Ms. DELAURO, Mr. MENENDEZ, Mr. KIND, Mrs. JONES of Ohio, Mrs. NAPOLITANO, Mr. STRICKLAND, Ms. WOOLSEY, Mr. OWENS, and Mr. FARR):

H.R. 972. A bill to clarify the effective date of the modification of treatment for retirement annuity purposes of part-time service before April 7, 1986, of certain Department of Veterans Affairs health-care professionals; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself, Mr. LEVIN, Mr. ROGERS of Michigan, Mr. MATSUI, Mr. RYAN of Wisconsin, Mr. RANGEL, Ms. JACKSON-LEE of Texas, Mr. DELAHUNT, Mr. WYNN, Mr. HINCHEY, Mr. MCNULTY, and Mr. EHLERS):

H.R. 973. A bill to amend the Internal Revenue Code of 1986 to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans and to increase the maximum amount of the exclusion; to the Committee on Ways and Means.

By Mr. COLLINS:

H.R. 974. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (for himself, Mr. BOUCHER, Mr. CANNON, Mr. ANDREWS, Mr. BACHUS, Mr. CASTLE, Mr. CHABOT, Mr. COBLE, Mr. CRAMER, Mr. CROWLEY, Mr. DOOLEY of California, Mr. DREIER, Mr. ENGLISH, Mr. FEENEY, Mr. FLAKE, Mr. FOLEY, Mr. GOODLATTE, Ms. HART, Mr. ISSA, Mr. KELLER, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. LUCAS of Kentucky, Mr. MENENDEZ, Mrs. MYRICK, Mr. NEY, Mr. OXLEY, Mr. PENCE, Mr. PITTS, Ms. PRYCE of Ohio, Mr. ROTHMAN, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SMITH of Washington, Mr. SMITH of Michigan, Mr. TAUZIN, Mr. TERRY, Mr. TIBERI, Mr. TOOMEY, Mr. FROST, Mrs. BIGGERT, Mr. REYNOLDS, Mrs. NORTHUP, Mr. LATOURETTE, Mrs. TAUSCHER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GIBBONS, Mr. BLUNT, Mr. SIMPSON, and Mr. KINGSTON):

H.R. 975. A bill to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COSTELLO (for himself, Mr. TOWNS, Mr. BROWN of Ohio, Mr. HOLDEN, Mr. PAUL, Ms. KAPTUR, Mr. ACEVEDO-VILÁ, Mr. GUTIERREZ, Ms. NORTON, Ms. DELAURO, Mr. JOHN, Mr. RUSH, Mr. CARSON of Oklahoma, Mr. FROST, Mr. CLAY, Mr. MCNULTY, Mr. ACKERMAN, Ms. WATSON, Ms. BORDALLO, Mr. GRIJALVA, Mr. EVANS, Mr. GREEN of Wisconsin, Mr. LIPINSKI, Mr. GREEN of Texas, Ms. SCHAKOWSKY, Mr. KILDEE, Mr. FORD, Mrs. NAPOLITANO, and Ms. WOOLSEY):

H.R. 976. A bill to amend title II of the Social Security Act to provide that the waiting period for disability insurance benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself and Mr. ISSA):

H.R. 977. A bill to amend the Federal Land Policy and Management Act of 1976 to provide death and disability benefits for aerial firefighters who work on a contract basis for the Forest Service or an agency of the Department of the Interior and suffer death or disability in the line of duty, and for other purposes; to the Committee on Resources, and in addition to the Committees on Agriculture, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JO ANN DAVIS of Virginia (for herself and Mr. GREENWOOD):

H.R. 978. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes; to the Committee on Government Reform.

By Ms. DELAURO (for herself, Mr. HINCHEY, Mr. DEFAZIO, Mr. OLVER, Mr. PAYNE, Mr. KILDEE, Mr. NEAL of Massachusetts, Mr. WEXLER, Mr. FORD, Mr. ISRAEL, Mr. MARKEY, Mr. PASCRELL, Mr. HONDA, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Mrs. DAVIS of California, Mrs. TAUSCHER, Mr. INSLEE, Mr. GUTIERREZ, Mrs. JONES of Ohio, Mr. HOLT, Mrs. MALONEY, Ms. WOOLSEY, Mr. CLAY, Mr. BOUCHER, Mr. MORAN of Virginia, Ms. NORTON, Mr. MCDERMOTT, Mr. BLUMENAUER, Mr. DELAHUNT, Mrs. CAPPS, Mr. LANTOS, Mr. KLECZKA, Ms. BALDWIN, Mr. OWENS, Ms. JACKSON-LEE of Texas, Ms. CORRINE BROWN of Florida, Mr. ENGEL, Mr. SERRANO, Mr. CARDIN, Mr. FILNER, Mr. DEUTSCH, Mr. LEVIN, Mr. WYNN, Ms. MCCARTHY of Missouri, Mr. NADLER, Mr. RODRIGUEZ, Mr. SCHIFF, Mr. PRICE of North Carolina, Mr. FRANK of Massachusetts, Mr. UDALL of Colorado, Ms. LEE, Mr. VAN HOLLEN, Mr. HOEFFEL, Mr. COOPER, Mrs. LOWEY, Ms. SCHAKOWSKY, Mr. MICHAUD, Mr. WEINER, Mr. BAIRD, Mr. ACKERMAN, Ms. CARSON of Indiana, Mr. SANDERS, Ms. SOLIS, Mr. STARK, Mr. MATSUI, Ms. MCCOLLUM, Mr. EVANS, Mr. BISHOP of New York, Mr. DOGGETT, Mr. SHAYS, Mr. BROWN of Ohio, Mr. RYAN of Ohio, Mr. CROWLEY, Mr. LEACH, Mr. PALLONE, Ms. SLAUGHTER, Mr. LANGEVIN, Mr. CASE, Mr. WATT, Mr. ALLEN, Mr. GONZALEZ, Mr. GRIJALVA, Mr. WAXMAN, Mr. JACKSON of Illinois, Mr. ROTHMAN, Mrs. JOHNSON of Connecticut, Mr. RUSH, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. FARR, Mr. DAVIS of Florida, Mr. CUMMINGS, Mr. KENNEDY of Rhode Island, Mr. LYNCH, Ms. HOOLEY of Oregon, Mr. CONYERS, Mr. BERMAN, Mr. UDALL of New Mexico, Mr. SABO, Ms. VELÁZQUEZ, and Mr. CLYBURN):

H.R. 979. A bill to provide additional protections for National Forest System lands in Alaska through the designation of wilderness areas, wilderness study areas, Land Use Designation II management areas, restoration areas, special management areas, and additional components of the national wild and scenic rivers system; to the Committee on Resources.

By Ms. DUNN (for herself, Mr. MCDERMOTT, Mr. PICKERING, Mrs. CAPPS, Mr. INSLEE, Mr. CRANE, Mr. GREENWOOD, Mr. DICKS, Mr. HASTINGS of Washington, Mr. ABERCROMBIE, Mr. MCNULTY, Mr. KLECZKA, Mr. PAUL, and Mr. FROST):

H.R. 980. A bill to amend title XVIII of the Social Security Act to expand Medicare coverage of certain self-injected biologicals; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. BRADY of Pennsylvania, Mr. DOYLE, Mr. FATTAH, Mr. GERLACH, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. KANJORSKI, Mr. MURPHY, Mr. MURTHA, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. TOOMEY, and Mr. WELDON of Pennsylvania):

H.R. 981. A bill to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the "James R. Merry Post Office"; to the Committee on Government Reform.

By Mr. FALEOMAVAEGA:

H.R. 982. A bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa; to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY (for himself, Mr. ISSA, Ms. MILLENDER-MCDONALD, Mr. COX, Mr. DREIER, and Mr. ROHRABACHER):

H.R. 983. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes;

to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST:

H.R. 984. A bill to improve the conservation and management of coastal and ocean resources by reenacting and clarifying provisions of a reorganization plan authorizing the National Oceanic and Atmospheric Administration; to the Committee on Resources, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR (for himself, Mr. CHABOT, Mr. PORTMAN, Mr. TURNER of Ohio, Mr. OXLEY, Mr. STRICKLAND, Mr. HOBSON, Mr. BOEHNER, Ms. KAPTUR, Mr. KUCINICH, Mrs. JONES of Ohio, Mr. TIBERI, Mr. BROWN of Ohio, Mr. LATOURETTE, Ms. PRYCE of Ohio, Mr. REGULA, Mr. RYAN of Ohio, and Mr. NEY):

H.R. 985. A bill to designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the "Delbert L. Latta Post Office Building"; to the Committee on Government Reform.

By Mr. GOODE (for himself, Mr. LEWIS of Kentucky, and Mr. JONES of North Carolina):

H.R. 986. A bill to replace the existing Federal tobacco program with a federally chartered corporation to ensure the stability of the price and supply of domestically produced tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide transition assistance for active tobacco producers, to increase the competitiveness of domestically produced tobacco, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER (for himself and Mr. DOOLITTLE):

H.R. 987. A bill to amend the Wild and Scenic Rivers Act to ensure congressional involvement in the process by which a river that is designated as a wild, scenic, or recreational river by an act of the legislature of the State or States through which the river flows may be included in the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Resources.

By Mr. HERGER:

H.R. 988. A bill to provide compensation to individuals who are injured by an escaped prescribed fire and to amend the tort procedure provisions of title 28, United States Code, relating to claims for such fires, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.R. 989. A bill to require the issuance of regulations pursuant to the National Invasive Species Act of 1996 to assure, to the maximum extent practicable, that vessels entering the Great Lakes do not discharge ballast water that introduces or spreads nonindigenous aquatic species and treat such ballast water and its sediments through the most effective and efficient techniques available, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HOSTETTLER (for himself, Mr. HAYWORTH, Mrs. JO ANN DAVIS of Virginia, Mr. CRANE, Mr. DOOLITTLE, Mr. WAMP, Mr. OTTER, Mr. GIBBONS, Mr. LEWIS of Kentucky, Mr. NEY, Mr. CANNON, Mr. GOODE, Mr. BOUCHER, Mr. SOUDER, Mr. PETERSON of Pennsylvania, Mr. GOODLATTE, Mr. HALL, Mr. ADERHOLT, Mr. ENGLISH, Mr. BISHOP of Georgia, Mrs. MUSGRAVE, Mr. PENCE, and Mr. BRADLEY of New Hampshire):

H.R. 990. A bill to amend title 18 of the United States Code to provide for reciprocity in regard to the manner in which nonresidents of a State may carry certain concealed firearms in that State; to the Committee on the Judiciary.

By Mr. HUNTER (for himself and Mr. UDALL of Colorado):

H.R. 991. A bill to amend the Internal Revenue Code of 1986 to expand the renewable resources production tax credit to include additional forms of renewable energy, and to expand the investment tax credit to include equipment used to produce electricity from renewable resources; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. BALLENGER, Mr. NORWOOD, Mr. MCKEON, Mr. CARTER, and Mrs. MUSGRAVE):

H.R. 992. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to inform union members of their rights; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. BALLENGER, Mr. NORWOOD, Mr. MCKEON, Mr. CARTER, and Mrs. MUSGRAVE):

H.R. 993. A bill to provide for civil monetary penalties in certain cases; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. BALLENGER, Mr. NORWOOD, Mr. MCKEON, Mr. CARTER, and Mrs. MUSGRAVE):

H.R. 994. A bill to enhance notification to union members of their rights under the Labor-Management Reporting and Disclosure Act of 1959; to the Committee on Education and the Workforce.

By Mr. JONES of North Carolina:

H.R. 995. A bill to amend title 37, United States Code, to provide a dislocation allowance under section 407 of such title to retired members of the uniformed services, including members placed on the temporary disability retired list, moving from their last duty station to their designated home; to the Committee on Armed Services.

By Mr. JONES of North Carolina (for himself, Mr. ROSS, and Ms. HOOLEY of Oregon):

H.R. 996. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Financial Services.

By Mr. KING of Iowa:

H.R. 997. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a uniform rule of naturalization under article I, section 8, of the Constitution; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLECZKA:

H.R. 998. A bill to amend title 38, United States Code, to require Department of Veterans Affairs pharmacies to dispense medications to veterans for prescriptions written by private practitioners, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BARTON of Texas (for himself and Mr. TAUZIN) (both by request):

H.R. 999. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BOEHNER (for himself, Mr. SAM JOHNSON of Texas, Mr. GREENWOOD, Mr. GIBBONS, Mr. KELLER, Mr. WILSON of South Carolina, Mr. NORWOOD, Mr. PLATTS, Mr. TIBERI, Mr. SHAYS, Mr. SIMMONS, Mr. MCKEON, Mrs. BIGGERT, Mr. FRELINGHUYSEN, Mr. ISAKSON, Ms. GINNY BROWN-WAITE of Florida, Mr. LATOURETTE, Ms. NORTON, Mr. SOUDER, Mr. SENSENBRENNER, Mr. ENGLISH, Mr. GREEN of Wisconsin, Mr. HERGER, Mr. WELDON of Pennsylvania, Mr. BEAUPREZ, Mr. FEENEY, Mr. NEY, Mr. BALLENGER, Mr. SWEENEY, Mr. BRADY of Texas, Mr. BURR, Mrs. MUSGRAVE, Mr. DEMINT, Mr. CRANE, Ms. HART, Mr. OXLEY, Mr. UPTON, Mrs. BLACKBURN, Mr. KLINE, Mr. COLE, Mr. CASTLE, Mr. PETERSON of Pennsylvania, Mr. TANCREDO, Mr. ROGERS of Michigan, Mr. KOLBE, Mr. JANKLOW, Mr. REYNOLDS, Mr. REHBERG, Mr. HILL, Mr. FOSSELLA, Mr. BOOZMAN, Mr. CULBERSON, and Mr. WALSH):

H.R. 1000. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMPSON (for himself, Mr. GORDON, and Mr. HALL):

H.R. 1001. A bill to amend the Iran Nonproliferation Act of 2000 to allow extraordinary payments in connection with the International Space Station to be made to the Russian Aviation and Space Agency for safety and maintenance purposes during any period in which the United States Space Shuttle fleet is grounded, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mr. Rangel, Mr. Frost, and Ms. Bordallo):

H.R. 1002. A bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. LOWEY (for herself, Mr. Thompson of Mississippi, Mr. Brown of Ohio, Ms. DeLauro, and Mr. George Miller of California):

H.R. 1003. A bill to expand the enforcement options under the Federal Meat Inspection Act and the Poultry Products Inspection Act to include the imposition of civil money penalties, and to amend the Federal Food, Drug, and Cosmetic Act to expand enforcement options to include such penalties with respect to meat and poultry; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McDERMOTT (for himself, Ms. Dunn, Mr. Lewis of Georgia, Mr. Cummings, Mr. Dicks, Mr. Rangel, Mr. McNulty, Mr. Goode, Mr. Hastings of Washington, Mr. Inslee, Mr. Kirk, and Mrs. Christensen):

H.R. 1004. A bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for more frequent hemodialysis treatments; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINNIS (for himself, Mr. Tancredo, Mr. Cannon, Mr. Otter, Mr. Herger, Mr. Udall of Colorado, Mr. Udall of New Mexico, Mrs. Cubin, Mr. Hefley, Mr. Rehberg, Mr. Houghton, Ms. Dunn, Mr. Gibbons, Mr. Peterson of Pennsylvania, and Mr. Ose):

H.R. 1005. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes; to the Committee on Resources.

By Mr. McKEON (for himself and Mr. George Miller of California):

H.R. 1006. A bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species; to the Committee on Resources.

By Mr. McNULTY (for himself and Ms. Loretta Sánchez of California):

H.R. 1007. A bill to provide for homeland security block grants; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, Energy and Commerce, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas:

H.R. 1008. A bill to amend the National Highway System Designation Act of 1995 relating to the maximum hours of service for operators of ground water well drilling rigs; to the Committee on Transportation and Infrastructure.

By Mr. NADLER (for himself, Mr. Serrano, and Mr. Towns):

H.R. 1009. A bill to require Federal law enforcement agencies to expunge voidable arrest records, to provide incentive funds to States that have in effect a system for expunging such records, and for other purposes; to the Committee on the Judiciary.

By Mr. NADLER:

H.R. 1010. A bill to amend title 46, United States Code, to require inspection of cargo destined for the United States; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT:

H.R. 1011. A bill to amend the Internal Revenue Code of 1986 to provide a 10-year extension of the credit for producing electricity from wind; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 1012. A bill to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes; to the Committee on Resources.

By Mr. RADANOVICH (for himself, Mr. Hastings of Washington, and Mr. Walden of Oregon):

H.R. 1013. A bill to amend the Federal Power Act to provide for alternative conditions and alternative fishways in hydroelectric dam licenses, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RADANOVICH (for himself, Mrs. Christensen, Mr. McInnis, Mrs. Cubin, Mr. Cannon, Mr. Simpson, Mr. Otter, and Mr. Bishop of Utah):

H.R. 1014. A bill to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H.R. 1015. A bill to require the Secretary of the Treasury to mint coins in commemoration of Associate Justice Thurgood Marshall; to the Committee on Financial Services.

By Mr. RANGEL:

H.R. 1016. A bill to require the Secretary of the Treasury to redesign the $1 coin to commemorate Dr. Martin Luther King, Jr; to the Committee on Financial Services.

By Mr. RANGEL:

H.R. 1017. A bill to authorize the President to award a gold medal on behalf of the Congress to Jesse L. Jackson, Sr. in recognition of his outstanding and enduring contributions to the Nation; to the Committee on Financial Services.

By Mr. RANGEL:

H.R. 1018. A bill to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building"; to the Committee on Transportation and Infrastructure.

By Mr. ROYCE (for himself and Ms. Lofgren):

H.R. 1019. A bill to promote the freedom of information in Vietnam; to the Committee on International Relations.

By Mr. RYAN of Wisconsin (for himself, Mr. Green of Wisconsin, and Mr. Sensenbrenner):

H.R. 1020. A bill to amend the Clean Air Act requirements relating to gasoline to prevent future supply shortages and price spikes in the gasoline market, and for other purposes; to the Committee on Energy and Commerce.

By Ms. LORETTA SÁNCHEZ of California (for herself, Mr. Abercrombie, Mr. Berman, Mr. Cummings, Mrs. Emerson, Mr. Frost, Mr. Hinchey, Mr. Inslee, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Ms. Kaptur, Mr. Kildee, Ms. Kilpatrick, Mr. Larson of Connecticut, Mr. Levin, Mr. Lipinski, Ms. Lofgren, Mr. McNulty, Mr. Payne, Mr. Sherman, Ms. Watson, and Mr. Udall of Colorado):

H.R. 1021. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture.

By Mr. SANDERS (for himself, Ms. Millender-McDonald, and Mr. Towns):

H.R. 1022. A bill to provide assistance for the development of indoor disease prevention and health promotion centers in urban and rural areas throughout the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON:

H.R. 1023. A bill to prohibit, through the period ending on December 31, 2007, any Department of Defense participation in any international aviation trade exhibition (known as an "air show") to be held in France; to the Committee on Armed Services.

By Mr. SAXTON:

H.R. 1024. A bill to establish in the National Marine Fisheries Service a pelagic longline highly migratory species bycatch and mortality reduction research program, and for other purposes; to the Committee on Resources.

By Mr. SAXTON:

H.R. 1025. A bill to amend the Coastal Zone Management Act of 1972 to establish the National Estuarine Reserve System, and for other purposes; to the Committee on Resources.

By Mr. SAXTON:

H.R. 1026. A bill to amend the Coastal Zone Management Act of 1972 to reauthorize coastal services, training, education, and technical support programs of the National Oceanic and Atmospheric Administration, to establish a performance evaluation system for such administration, and for other purposes; to the Committee on Resources.

By Mr. SAXTON:

H.R. 1027. A bill to amend the Federal Water Pollution Control Act relating to marine sanitation devices; to the Committee on Transportation and Infrastructure.

By Mr. SAXTON:

H.R. 1028. A bill to amend the Coastal Zone Management Act of 1972 to authorize grants to coastal States under that Act, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. Frank of Massachusetts, Mr. Sanders, and Mr. McDermott):

H.R. 1029. A bill to authorize the President to detain an enemy combatant who is a United States person or resident who is a member of al Qaeda or knowingly cooperated with members of al Qaeda, to guarantee timely access to judicial review to challenge the basis for a detention, to permit the detainee access to counsel, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS:

H.R. 1030. A bill to reduce overpayments of subsidies in Department of Housing and Urban Development housing assistance programs by providing for more accurate verification of employment and income of participants in such programs; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. Conyers, Mr. Crane, Mr. Rangel, Mr. Foley, Ms. Jackson-Lee of Texas, Mr. Goss, Ms. Lee, Mr. Meek of Florida, Ms. Watson, and Mrs. Christensen):

H.R. 1031. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 1032. A bill to amend title XVIII of the Social Security Act to provide for special treatment for certain drugs and biologicals under the prospective payment system for hospital outpatient department services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON (for himself, Mr. Walden of Oregon, Mr. Nethercutt, and Mr. Otter):

H.R. 1033. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Ms. SOLIS (for herself, Mr. Pastor, Ms. DeLauro, Mr. Hoeffel, Mr. Becerra, Mr. Owens, Ms. Berkley, Mr. Menendez, Mrs. Christensen, Mr. Gutierrez, Mrs. Napolitano, and Mr. Acevedo-Vilá):

H.R. 1034. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Resources.

By Mr. STEARNS:

H.R. 1035. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STEARNS (for himself, Mr. John, Ms. Hart, Mr. Boucher, Mr. Pearce, Mr. Johnson of Illinois, Mr. Simmons, Mr. Lewis of Kentucky, Mr. Knollenberg, Mr. Putnam, Mr. Bishop of Georgia, Mrs. Capito, Mr. Boehlert, Mr. Forbes, Mr. Goode, Mr. Rogers of Alabama, Mr. Bishop of Utah, Mr. Pickering, Mr. Costello, Mr. Brown of South Carolina, Mr. Hill, Mr. Mica, Mr. Hostettler, Mr. Burgess, Mr. Lampson, Mr. Miller of Florida, Mr. Turner of Ohio, Mr. Murphy, Mr. Hall, Mrs. Northup, Mr. Gary G. Miller of California, Mr. Brady of Texas, Mr. Ryan of Ohio, Mr. Michaud, Mr. Gerlach, Mr. Ballenger, Mr. Gingrey, Mr. Radanovich, Mr. Pitts, Mr. McInnis, Mr. Akin, Mr. Marshall, Mr. Ryan of Wisconsin, Mr. Foley, Mr. Everett, Mr. Kennedy of Minnesota, Mr. Murtha, Mr. Nethercutt, Mr. Larsen of Washington, Mr. Ney, Mr. Wilson of South Carolina, Ms. Pryce of Ohio, Mr. Rehberg, Mr. Vitter, Mr. Cannon, Mr. Kolbe, Mr. Strickland, Mr. Hayworth, Mr. Schrock, Mr. Ross, Mr. Young of Alaska, Mr. Flake, Mr. Peterson of Minnesota, Mr. Crane, Mr. Herger, Mr. Pence, Mr. Doolittle, Mr. Chocola, Mr. Boyd, Mr. Holden, Mr. Toomey, Mr. Carson of Oklahoma, Mr. McIntyre, Mr. Kingston, Mr. Keller, Mr. Simpson, Mr. Cunningham, Mr. Green of Texas, Mr. Terry, Mr. Tancredo, Mr. Calvert, Mr. Wicker, Mr. Ortiz, Mr. Buyer, Mr. Beauprez, Mr. Dingell, Mr. Rogers of Kentucky, Mrs. Miller of Michigan, Mr. Matheson, Ms. Ginny Brown-Waite of Florida, Mr. Davis of Tennessee, Mr. Lucas of Kentucky, Mr. Latham, Mr. Baca, Mr. Walden of Oregon, Mr. Gibbons, Mr. Shuster, Mr. Bachus, Mr. Issa, Mr. DeMint, Mr. Moran of Kansas, Mr. Rahall, Mr. Smith of Michigan, Mr. Weller, Mr. Renzi, Mr. Upton, Mr. Barton of Texas, Mr. Coble, Mr. Rogers of Michigan, Mr. Bass, Mr. Shadegg, Mr. Souder, Mr. Burr, Mr. Burton of Indiana, Mr. Cantor, Mrs. Myrick, Mr. Berry, Mr. Janklow, Mr. Tiberi, Mrs. Jo Ann Davis of Virginia, Mr. Franks of Arizona, Mr. Hunter, Mr. Taylor of Mississippi, Mr. Jenkins, Mr. Pombo, Mr. Kanjorski, Mr. Carter, Mr. Norwood, Mr. Aderholt, Mr. Isakson, Mr. Goodlatte, Mr. Lucas of Oklahoma, Mr. Hefley, Mr. Thompson of California, Mr. King of Iowa, Mr. Weldon of Florida, Mr. Boswell, Mr. Nunes, Mr. Cox, Mr. Otter, Mrs. Cubin, Mr. DeLay, Mr. Kline, Mr. Bartlett of Maryland, Mr. Graves, Mr. Reynolds, Mr. Bradley of New Hampshire, Mr. Mario Diaz-Balart of Florida, Mr. Linder, Mr. Stenholm, Mr. Cramer, Mr. Boehner, Mr. Whitfield, Mr. Hayes, Mr. Gordon, Mr. Crenshaw, Mr. Fletcher, Mr. Cole, Mr. Sullivan, Mr. Cardoza, Mr. Wamp, Mr. Thornberry, Mr. Taylor of North Carolina, Mr. Culberson, Mr. Blunt, Mr. Stupak, Mr. Ehlers, Mr. McHugh, Mr. Oxley, Mr. Gutknecht, Mr. Istook, Mr. Green of Wisconsin, Mr. LaHood, Mr. Greenwood, Mr. Hulshof, Mr. Nussle, Mr. Barrett of South Carolina, Mr. McCotter, Mr. Bonner, Mr. Hastings of Washington, Mr. Sweeney, Mr. Reyes, Mr. Wolf, Mr. Davis of Alabama, Mr. Goss, Mr. Skelton, Mr. Tom Davis of Virginia, Mr. LoBiondo, Mr. Hoekstra, Mr. Hyde, Mr. Smith of Texas, Mrs. Emerson, Mr. Sandlin, Mrs. Blackburn, Mr. Manzullo, Mr. Regula, Mr. McKeon, Mr. Alexander, Mr. Baker, Mr. Duncan, Mr. Tanner, Mr. Hensarling, Mr. Bonilla, Mr. Sessions, Ms. Harris, Mr. Boozman, Mr. McCrery, Mr. Collins, Mr. Dreier, Mr. Feeney, Mrs. Bono, Mr. Tauzin, Mr. Lewis of California, Mr. English, Mr. Platts, Mr. Shimkus, Mr. Camp, Mr. Garrett of New Jersey, Mr. Turner of Texas, Mr. Ose, Mr. Osborne, Mr. Portman, Mr. Weldon of Pennsylvania, Mr. Hobson, Mr. Peterson of Pennsylvania, Mr. Mollohan, Mrs. Musgrave, Mr. Combest, Mr. Chabot, Ms. Granger, Mr. Sherwood, Mrs. Biggert, Mr. Sam Johnson of Texas, Mrs. Kelly, Mr. Burns, Mr. Royce, Mr. LaTourette, Mr. Saxton, Mr. Gillmor, Mr. Jones of North Carolina, Mr. Porter, Mr. Thomas, Mr. Tiahrt, and Mr. Ryun of Kansas):

H.R. 1036. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

By Mr. SWEENEY:

H.R. 1037. A bill to prevent terrorists and money launderers from establishing accounts for illegal money transfers through the use of false Social Security numbers or taxpayer identification numbers, and for other purposes; to the Committee on Financial Services.

By Mr. TANCREDO (for himself, Mr. McInnis, Mr. Udall of Colorado, Mr. Beauprez, Mrs. Musgrave, and Mr. Hefley):

H.R. 1038. A bill to increase the penalties to be imposed for a violation of fire regulations applicable to the public lands, National Park System lands, or National Forest System lands when the violation results in damage to public or private property, to specify the purpose for which collected fines may be used, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of California (for himself, Ms. Woolsey, Mrs. Capps, Mr. Case, Mr. McIntyre, Mr. Berman, Mr. DeFazio, Ms. Carson of Indiana, Mr. Filner, Mr. Weiner, Mrs. Davis of California, Mr. Lipinski, Ms. Norton, Mrs. Napolitano, Mr. McGovern, Mr. Kucinich, Mr. Gutierrez, Mr. Honda, Ms. Berkley, and Mr. Capuano):

H.R. 1039. A bill to prohibit certain discriminatory pricing policies in wholesale motor fuel sales, and for other purposes; to the Committee on Energy and Commerce.

By Ms. LEE:

H.R. 1040. A bill to establish a living wage, jobs for all policy for all peoples in the United States and its territories, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on the Budget, Armed Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado:

H.R. 1041. A bill to direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems, and for other purposes; to the Committee on Science.

By Mr. UDALL of Colorado (for himself and Mr. UDALL of New Mexico):

H.R. 1042. A bill to authorize collaborative forest restoration and wildland fire hazard mitigation projects on National Forest System lands and other public and private lands, to improve the implementation of the National Fire Plan, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALSH (for himself, Mr. HOYER, Mr. ABERCROMBIE, Mr. BELL, Ms. BORDALLO, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CASE, Mr. CLAY, Mr. CONYERS, Mr. COSTELLO, Mr. CRANE, Mr. CULBERSON, Mr. CUNNINGHAM, Mr. DINGELL, Mr. DOYLE, Mr. FARR, Mr. FILNER, Mr. FORD, Mr. FOSSELLA, Mr. FROST, Mr. GILLMOR, Mr. GOODE, Mr. GREEN of Wisconsin, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HEFLEY, Mr. HINCHEY, Mr. HOBSON, Mr. HOLDEN, Ms. NORTON, Mr. HOUGHTON, Mr. ISAKSON, Mr. JANKLOW, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Illinois, Mr. JONES of North Carolina, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KILDEE, Mr. LAMPSON, Ms. LEE, Mr. LEVIN, Mrs. LOWEY, Mr. LUCAS of Kentucky, Mr. GRIJALVA, Mrs. MALONEY, Mrs. MCCARTHY of New York, Ms. MILLENDER-MCDONALD, Mr. MICA, Mrs. MILLER of Michigan, Mr. MOORE, Mrs. NAPOLITANO, Mr. PAUL, Mr. PORTER, Mr. PUTNAM, Mr. QUINN, Mr. REGULA, Mr. REYES, Mr. RODRIGUEZ, Mr. ROGERS of Michigan, Ms. SCHAKOWSKY, Mr. STRICKLAND, Mr. TERRY, Mr. TOWNS, Mr. UPTON, Mr. WILSON of South Carolina, and Ms. WOOLSEY):

H.R. 1043. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

By Mr. WYNN:

H.R. 1044. A bill to establish the Commission on Medical Malpractice Insurance; to the Committee on Energy and Commerce.

By Mr. LUCAS of Oklahoma:

H.J. Res. 26. A joint resolution proposing an amendment to the Constitution of the United States to protect the Pledge of Allegiance; to the Committee on the Judiciary.

By Ms. SCHAKOWSKY (for herself, Mrs. BIGGERT, Ms. PELOSI, Mr. LANTOS, Mrs. CAPITO, Mr. KIRK, Ms. SLAUGHTER, Ms. SOLIS, Mr. GEORGE MILLER of California, Ms. DELAURO, Ms. WOOLSEY, Ms. CORRINE BROWN of Florida, Ms. BALDWIN, Ms. KILPATRICK, Mr. CROWLEY, Ms. WATSON, Mr. SIMMONS, Mr. FILNER, Mrs. CAPPS, Ms. CARSON of Indiana, Ms. MCCOLLUM, Mrs. JONES of Ohio, Ms. MILLENDER-MCDONALD, Ms. KAPTUR, Ms. LEE, Mrs. MALONEY, Mr. BROWN of Ohio, Ms. NORTON, Mr. FROST, Mr. SANDERS, Ms. JACKSON-LEE of Texas, Mr. CUMMINGS, Mr. GRIJALVA, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. BALLANCE, Mr. NADLER, Ms. LINDA T. SÁNCHEZ of California, Mr. EVANS, Mr. LEVIN, Mr. GUTIERREZ, Ms. ROYBAL-ALLARD, Mr. DAVIS of Illinois, Mr. EMANUEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCNULTY, Mr. MCDERMOTT, Mr. KUCINICH, Mr. BOSWELL, Mr. FALEOMAVAEGA, Ms. BERKLEY, Mr. LAHOOD, Mr. LIPINSKI, Mr. MANZULLO, Mr. JOHNSON of Illinois, and Mr. RUSH):

H. Con. Res. 57. Concurrent resolution supporting the goals of International Women's Day; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ETHERIDGE (for himself, Mr. MCINTYRE, Mr. BALLANCE, Mr. BALLENGER, Mrs. MYRICK, Mr. WATT, Mr. MILLER of North Carolina, Mr. HAYES, Mr. COBLE, Mr. BURR, Mr. JONES of North Carolina, Mr. PRICE of North Carolina, and Mr. TAYLOR of North Carolina):

H. Con. Res. 58. Concurrent resolution honoring the City of Fayetteville, North Carolina, and its many partners for the Festival of Flight, a celebration of the centennial of Wilbur and Orville Wright's first flight, the first controlled, powered flight in history; to the Committee on Government Reform.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. TOWNS, Mr. JACKSON of Illinois, Mr. CONYERS, Ms. CARSON of Indiana, Mr. FROST, Mr. WYNN, Ms. JACKSON-LEE of Texas, Mr. MEEK of Florida, Mr. BROWN of Ohio, Mr. PAYNE, Mr. FATTAH, Ms. LEE, Mr. RUSH, Ms. NORTON, Mr. CUMMINGS, Mr. JEFFERSON, Ms. KILPATRICK, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Mr. BALLANCE, Mrs. CHRISTENSEN, Mr. CLAY, Mr. GRIJALVA, Mr. OWENS, Mr. RANGEL, Mr. DAVIS of Illinois, Mrs. JONES of Ohio, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. WATSON, Ms. MAJETTE, Mr. BISHOP of Georgia, Mr. SCOTT of Virginia, Mr. HASTINGS of Florida, Mr. MCDERMOTT, and Mr. WATT):

H. Con. Res. 59. Concurrent resolution recognizes the significant achievements and contributions of African-American scientists, mathematicians, and inventors, and supporting the establishment of a special day on which these great minds may be honored and esteemed; to the Committee on Science.

By Mr. JONES of North Carolina:

H. Con. Res. 60. Concurrent resolution requesting the United States Government to take appropriate action to urge the Government of the People's Republic of China to provide for a fair resolution of the claims of United States citizens who hold Chinese Government bonds on which that Government has defaulted; to the Committee on International Relations.

By Ms. MCCOLLUM (for herself, Mr. FARR, Mr. BERMAN, Mr. CROWLEY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. LEE, Mr. MCNULTY, Ms. NORTON, Mr. OBERSTAR, Mr. OWENS, Mr. PALLONE, Mr. HOEFFEL, Mr. UDALL of New Mexico, Ms. CARSON of Indiana, Mr. CASE, Mrs. JONES of Ohio, Mr. KUCINICH, Mr. WAXMAN, Ms. SCHAKOWSKY, Mr. NADLER, Mr. MCDERMOTT, and Mr. HONDA):

H. Con. Res. 61. Concurrent resolution recognizing the need to double Federal funding for the Peace Corps from fiscal year 2002 funding levels to $550,000,000 by 2007, and for other purposes; to the Committee on International Relations.

By Mr. RANGEL:

H. Con. Res. 62. Concurrent resolution expressing the sense of Congress that Katherine Dunham should be recognized for her groundbreaking achievements in dance, theater, music, and education, as well as for her work as an activist striving for racial equality throughout the world; to the Committee on Education and the Workforce.

By Mr. RANGEL:

H. Con. Res. 63. Concurrent resolution expressing the sense of Congress that Lionel Hampton should be honored for his contributions to American music; to the Committee on Education and the Workforce.

By Mr. RANGEL:

H. Con. Res. 64. Concurrent resolution expressing the sense of Congress that Zora Neale Hurston should be recognized for her achievements as a novelist and anthropologist, and for her contributions to the Harlem Renaissance movement; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 65. Concurrent resolution expressing the sense of Congress that Madame C. J. Walker should be recognized for her achievements in business, her inventions, and her commitment to the African-American community; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 66. Concurrent resolution expressing the sense of Congress that Shirley Chisholm should be recognized for her activism and groundbreaking achievements in politics during the civil rights era, and for her efforts to reform the Nation's political system and legislatures so that they better represent the needs of a greater number of Americans; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 67. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring Arthur Ashe, and that the Citizens Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 68. Concurrent resolution expressing the sense of Congress that Dorothy I. Height should be recognized for her achievements as a civil rights leader, dedicated activist working to fight racial and social prejudice, and for her lifetime commitment to improving the opportunities available to the most vulnerable in society; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 69. Concurrent resolution expressing the sense of Congress that Althea Gibson should be recognized for her ground breaking achievements in athletics and her commitment to ending racial discrimination and prejudice within the world of sports; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 70. Concurrent resolution expressing the sense of Congress that the anniversary of the birth of Malcom X should be observed as a day of prayer, remembrance, and reflection on the life of Malcolm X; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 71. Concurrent resolution recognizing the importance of Ralph Bunche as one of the great leaders of the United States, the first African-American Nobel Peace Prize winner, an accomplished scholar, a distinguished diplomat, and a tireless campaigner of civil rights for people throughout the world; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 72. Concurrent resolution expressing the sense of the Congress that the United States Postal Service should issue a postage stamp commemorating Congressman Adam Clayton Powell, Jr; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 73. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring Roy Campanella, and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 74. Concurrent resolution expressing the sense of Congress with respect to Marcus Garvey; to the Committee on the Judiciary.

By Mr. RANGEL:

H. Con. Res. 75. Concurrent resolution expressing the sense of Congress that Arthur Schomburg should be recognized for his leadership and contributions in documenting, recording, and researching the historical contributions to society of peoples of African descent and for his efforts to combat racial and ethnic discrimination in the United States; to the Committee on the Judiciary.

By Mr. TIBERI:

H. Con. Res. 76. Concurrent resolution recognizing the health risks associated with childhood obesity and encouraging parents to promote healthy weight and increased physical activity to their children; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. Wolf, Mr. Pitts, Mr. Lincoln Diaz-Balart of Florida, Mr. Chabot, Ms. Ros-Lehtinen, Mr. Rohrabacher, Mr. Bereuter, Mr. Hoeffel, Mr. Wexler, Mr. Markey, Ms. Bordallo, Mr. Leach, Mr. Faleomavaega, Mr. Gallegly, and Mr. Wamp):

H. Res. 109. A resolution urging passage of a resolution addressing human rights abuses in North Korea at the 59th session of the United Nations Commission on Human Rights, and calling on the Government of North Korea to respect and protect the human rights of its citizens; to the Committee on International Relations.

By Mr. COX:

H. Res. 110. A resolution providing amounts for the expenses of the Committee on Homeland Security in the One Hundred Eighth Congress; to the Committee on House Administration.

By Mr. DOYLE (for himself, Mr. Murphy, Mr. Holden, Mr. Fattah, Mr. Shuster, Mr. Murtha, Mr. Greenwood, Ms. Hart, Mr. Kanjorski, Mr. Peterson of Pennsylvania, Mr. Hoeffel, Mr. Platts, Mr. Brady of Pennsylvania, Mr. Sherwood, Mr. English, and Mr. Stupak):

H. Res. 111. A resolution honoring the legacy of Fred Rogers and his dedication to creating a more compassionate, kind, and loving world for children and adults; to the Committee on Government Reform.

By Mr. BACA (for himself, Mr. Rodriguez, Mrs. Napolitano, Mr. Hinojosa, Ms. Linda T. Sánchez of California, Mr. Cummings, Mr. Abercrombie, Mr. Ortiz, Ms. Solis, Mr. Berman, Ms. Roybal-Allard, Ms. Eddie Bernice Johnson of Texas, Mr. Pastor, Ms. Watson, Mr. McDermott, Ms. Millender-McDonald, Mr. Reyes, Mr. Gonzalez, Mr. Becerra, Ms. Velázquez, Mr. Serrano, Mr. Menendez, Mrs. Capps, Mr. Grijalva, Mr. Acevedo-Vilá, Mr. Cardoza, Mr. Gutierrez, and Mr. Honda):

H. Res. 112. A resolution urging the establishment and observation of a legal public holiday in honor of Cesar E. Chavez.

By Mr. HAYWORTH:

H. Res. 113. A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem; to the Committee on Education and the Workforce.

By Mr. RANGEL:

H. Res. 114. A resolution honoring the life of Betty Shabazz; to the Committee on Government Reform.

By Mr. RANGEL:

H. Res. 115. A resolution expressing the sense of the House of Representatives that Sugar Ray Robinson should be recognized for his athletic achievements and commitment to young people; to the Committee on Government Reform.

By Mr. RANGEL:

H. Res. 116. A resolution expressing the sense of the House of Representatives that A. Philip Randolph should be recognized for his lifelong leadership and work to end discrimination and secure equal employment and labor opportunities for all Americans; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYES (for himself, Mr. Acevedo-Vilá, Mr. Baca, Mr. Becerra, Mr. Cardoza, Mr. Gonzalez, Mr. Grijalva, Mr. Gutierrez, Mr. Hinojosa, Mr. Menendez, Mrs. Napolitano, Mr. Ortiz, Mr. Pastor, Mr. Rodriguez, Ms. Roybal-Allard, Ms. Linda T. Sánchez of California, Ms. Loretta Sánchez of California, Mr. Serrano, Ms. Solis, and Ms. Velázquez):

H. Res. 117. A resolution commending the Latino and immigrant workers who participated in the completion of the Pentagon renovation project, referred to as the Phoenix Project; to the Committee on Education and the Workforce.

By Mr. WELDON of Pennsylvania (for himself, Mr. Cardin, Mr. Hoyer, Mr. Ortiz, Mr. Reyes, Mr. Rodriguez, Mr. Ballenger, Mr. Cunningham, Mr. Upton, Mr. Walden of Oregon, Mr. Goode, Mr. Hostettler, Mr. Platts, Mr. Wilson of South Carolina, Mr. Peterson of Pennsylvania, Mr. Toomey, Mr. Bartlett of Maryland, Mr. Simmons, Mr. Delahunt, Mr. Sweeney, Mr. Coble, Mr. Sandlin, Mr. Hunter, Mr. Saxton, Mr. Smith of Michigan, Mr. Edwards, Mr. Crenshaw, Mr. Pitts, Mr. Hobson, Mr. Kirk, Mr. Holden, Mr. Ryun of Kansas, Mr. Hayes, Mr. Shuster, Mr. Sherwood, Mr. Souder, Mr. Weller, Mr. Skelton, Mr. McHugh, Mr. Hall, Mr. Norwood, Mr. Sam Johnson of Texas, Mr. Duncan, Mr. Camp, Mr. Greenwood, Mr. Terry, and Mr. Crowley):

H. Res. 118. A resolution calling for the establishment of an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. Stark, Mr. McDermott, Mrs. Jones of Ohio, Mr. Menendez, Mr. Abercrombie, Mr. Bishop of New York, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mrs. Christensen, Mr. Fattah, Mr. Ford, Mr. Frost, Mr. Frank of Massachusetts, Mr. Green of Texas, Mr. Hinojosa, Mr. Hoeffel, Mr. Holden, Mr. Kildee, Mr. Lantos, Ms. Lofgren, Mr. McGovern, Mr. McIntyre, Mr. Meehan, Mr. Nadler, Ms. Norton, Mr. Reyes, Ms. Linda T. Sánchez of California, Mr. Serrano, Ms. Schakowsky, Ms. Solis, and Mr. Towns.

H.R. 49: Ms. Hooley of Oregon, Mr. Chocola, Mr. Rogers of Michigan, and Mr. Fossella.

H.R. 50: Mr. Culberson, Mr. Chocola, Mr. Cannon, Mrs. Blackburn, Mr. Issa, and Mr. Mario Diaz-Balart of Florida.

H.R. 52: Mr. Rehberg, Mr. Graves, Mr. Crane, Mr. Otter, Ms. Ros-Lehtinen, Mr. Rangel, Mr. Wilson of South Carolina, Mr. Rogers of Michigan, Mr. Carson of Oklahoma, and Mr. Mario Diaz-Balart of Florida.

H.R. 55: Mr. Flake.

H.R. 58: Mr. Gallegly, Mr. Neal of Massachusetts, Mrs. Bono, Mr. Souder, Mr. Wu, Mr. Bilirakis, Ms. Lofgren, Mr. Terry, Mr. Doyle, Mr. Olver, Mr. Forbes, Mr. LaHood, and Mr. Oberstar.

H.R. 73: Mr. Kucinich, Mr. Brady of Texas, and Mr. Rothman.

H.R. 119: Mrs. Cubin.

H.R. 140: Mr. Ballance.

H.R. 155: Mr. Duncan.

H.R. 157: Mr. Stenholm.

H.R. 167: Ms. Ros-Lehtinen.

H.R. 168: Mr. Gerlach, Mr. Gillmor, Ms. Ginny Brown-Waite of Florida, and Mr. Kline.

H.R. 173: Mr. McGovern, Mr. Peterson of Minnesota, Mr. Etheridge, Mr. Neal of Massachusetts, Mr. Rogers of Kentucky, Mr. Hoeffel, and Mr. Wexler.

H.R. 180: Mr. Barrett of South Carolina.

H.R. 200: Mr. Faleomavaega.

H.R. 201: Mr. Rogers of Michigan.

H.R. 208: Mr. Stenholm.

H.R. 210: Mr. Hobson, Mr. Gillmor, Mrs. Musgrave, Mr. Keller, Mr. Cannon, Mr. Franks of Arizona, and Mr. Sessions.

H.R. 224: Mr. Duncan.

H.R. 240: Mr. Filner.

H.R. 241: Mr. Kildee.

H.R. 300: Mr. Terry.

H.R. 303: Mr. Lucas of Kentucky, Mrs. Tauscher, and Mr. Davis of Alabama.

H.R. 323: Mr. Olver.

H.R. 331: Ms. Lofgren, Mr. Carson of Oklahoma, and Mr. LaHood.

H.R. 339: Mr. LOBIONDO and Mr. HASTINGS of Washington.

H.R. 361: Mr. WALSH and Ms. WATSON.

H.R. 373: Mr. SANDERS.

H.R. 375: Mr. CANTOR and Mr. HOUGHTON.

H.R. 383: Mr. OSE.

H.R. 396: Mr. LIPINSKI.

H.R. 401: Mr. WEXLER, Mr. PENCE, Mr. LOBIONDO, and Mr. VAN HOLLEN.

H.R. 412: Mrs. LOWERY and Mr. CLYBURN.

H.R. 414: Mr. LAMPSON and Ms. SCHAKOWSKY.

H.R. 433: Mr. PRICE of North Carolina.

H.R. 434: Mr. REYNOLDS, Mr. SIMMONS, Mr. POMBO, Mr. PAUL, Mr. LEACH, Mr. LINDER, Mr. BONILLA, Mr. GRAVES, and Mr. HAYWORTH.

H.R. 442: Mr. OWENS.

H.R. 462: Mr. PAUL and Mr. TERRY.

H.R. 466: Mr. GUTIERREZ, Mr. SANDERS, Ms. WATSON, Mr. TOWNS, Mr. SCOTT of Georgia, Mr. SESSIONS, Mr. WEXLER, Mr. SHERMAN, Mr. BONILLA, Mr. CAPUANO, Mr. FILNER, Mr. MARKEY, Mr. TIERNEY, Mr. GREEN of Texas, Ms. MILLENDER-MCDONALD, Mr. CASE, Mr. DAVIS of Illinois, Mr. PICKERING, Mr. GINGREY, and Mrs. CAPPS.

H.R. 467: Mr. PALLONE, Ms. KAPTUR, Mr. FROST, Mr. STARK, Mr. GEORGE MILLER of California, Ms. WOOLSEY, and Mr. SANDERS.

H.R. 468: Ms. KAPTUR, Ms. CORRINE BROWN of Florida, and Mr. OWENS.

H.R. 469: Mr. FROST, Mr. ETHERIDGE, Mr. MCNULTY, and Mr. OWENS.

H.R. 470: Mr. FRANK of Massachusetts, Mr. OTTER, Ms. WATERS, Mr. MCNULTY, Mr. KUCINICH, and Mr. OWENS.

H.R. 471: Mr. FRANK of Massachusetts, Mr. OTTER, Ms. WATERS, Mr. MCNULTY, Mr. KUCINICH, and Mr. OWENS.

H.R. 472: Mr. FRANK of Massachusetts, Mr. OTTER, Ms. WATERS, Mr. MCNULTY, Mr. KUCINICH, and Mr. OWENS.

H.R. 473: Ms. WATSON, Mr. MCNULTY, Mr. OWENS, and Mr. CLYBURN.

H.R. 474: Mr. FRANK of Massachusetts, Mr. OTTER, Ms. WATERS, Mr. MCNULTY, Mr. KUCINICH, and Mr. OWENS.

H.R. 476: Ms. DELAURO and Mr. MCDERMOTT.

H.R. 489: Mr. DUNCAN and Mr. GOODE.

H.R. 491: Mr. BONNER, Mr. NORWOOD, Mr. OTTER, Mr. TAYLOR of Mississippi, Mr. DEFAZIO, Mr. BOOZMAN, Mr. TAYLOR of North Carolina, and Mr. BURNS.

H.R. 522: Mr. OSBORNE.

H.R. 528: Mr. VISCLOSKY, Mr. TIERNEY, and Mr. COSTELLO.

H.R. 531: Mr. KING of New York, Mr. GREEN of Wisconsin, Mr. STARK, Mr. CASTLE, Ms. WOOLSEY, Mr. WALSH, Mr. FARR, Mr. UPTON, Mr. SANDERS, Mr. MATSUI, Mr. BRADY of Pennsylvania, Mr. GRIJALVA, Mr. STUPAK, Mr. MCDERMOTT, Mr. SHADEGG, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. REYNOLDS, Mr. GORDON, Mr. ISSA, Mr. GREEN of Texas, Mr. COSTELLO, Mr. HALL, Mr. MCGOVERN, Ms. DELAURO, Ms. SCHAKOWSKY, and Mr. PASCRELL.

H.R. 545: Mr. UPTON and Mr. MCCRERY.

H.R. 548: Mrs. MALONEY, Mr. BISHOP of Georgia, Mr. REYES, Mr. LARSEN of Washington, Mr. FALEOMAVAEGA, Mrs. JO ANN DAVIS of Virginia, Mr. DICKS, Mr. GALLEGLY, Mr. GILLMOR, Mr. WEXLER, and Mr. PORTER.

H.R. 569: Mr. ENGLISH.

H.R. 572: Mr. SOUDER and Mr. ISAKSON.

H.R. 584: Mr. HOBSON.

H.R. 585: Mr. MCDERMOTT, Mr. GRIJALVA, Ms. CARSON of Indiana, and Mr. SANDERS.

H.R. 588: Mr. STARK.

H.R. 591: Mr. KNOLLENBERG.

H.R. 594: Mr. VISCLOSKY, Mr. LANGEVIN, Mr. REYES, Mr. HOEFFEL, Mr. JEFFERSON, Mr. CAPUANO, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 664: Ms. WOOLSEY, Mrs. NAPOLITANO, Mr. DOOLEY of California, Ms. LINDA T. SÁNCHEZ of California, Mr. GUTIERREZ, Mr. CASE, Mr. WAXMAN, Ms. CORRINE BROWN of Florida, Ms. SCHAKOWSKY, Mr. LIPINSKI, Mr. FOSSELLA, Mr. FALEOMAVAEGA, Mr. VAN HOLLEN, and Mr. EMANUEL.

H.R. 678: Mr. PICKERING, Mr. ROGERS of Alabama, and Mr. THOMPSON of Mississippi.

H.R. 680: Mr. LAMPSON.

H.R. 684: Mrs. MUSGRAVE and Mr. FOSSELLA.

H.R. 692: Mr. KUCINICH.

H.R. 693: Mr. TAYLOR of Mississippi, Mr. UDALL of Colorado, and Mr. SCHIFF.

H.R. 713: Mr. MCNULTY.

H.R. 715: Mrs. MALONEY, Ms. BERKLEY, and Ms. LOFGREN.

H.R. 720: Mr. MARIO DIAZ-BALART of Florida, Ms. GINNY BROWN-WAITE of Florida, Ms. CORRINE BROWN of Florida, Mr. DAVIS of Florida, Mr. FORD, Mr. GORDON, Mr. BELL, Mr. EDWARDS, Mr. RODRIGUEZ, Mr. SMITH of Washington, Mr. DEUTSCH, Mr. JENKINS, and Ms. GRANGER.

H.R. 722: Mr. MCHUGH, Mr. REYNOLDS, Mr. BARRETT of South Carolina, Mr. JOHNSON of Illinois, Mr. DOOLITTLE, Mr. JONES of North Carolina, Mr. JEFFERSON, Mr. FOLEY, and Mr. STENHOLM.

H.R. 727: Mr. MCGOVERN, Mr. VAN HOLLEN, and Ms. LOFGREN.

H.R. 729: Mrs. MYRICK and Ms. WOOLSEY.

H.R. 730: Mr. GARY G. MILLER of California.

H.R. 735: Mr. SULLIVAN.

H.R. 740: Ms. NORTON.

H.R. 752: Mr. MARKEY, Mr. ACKERMAN, and Mr. KUCINICH.

H.R. 760: Mr. JOHNSON of Illinois.

H.R. 762: Mr. GIBBONS.

H.R. 766: Mr. ETHERIDGE, Ms. HART, Mr. WELDON of Pennsylvania, and Mr. BELL.

H.R. 768: Mr. CANNON and Mr. DEAL of Georgia.

H.R. 776: Mr. MEEHAN and Ms. NORTON.

H.R. 779: Mr. SCHIFF, Mr. CONYERS, and Mr. FROST.

H.R. 785: Mr. BOEHLERT.

H.R. 786: Mr. REHBERG, Mr. OSE, Mr. BURNS, Ms. HART, Mr. FEENEY, Mr. HULSHOF, Mr. FERGUSON, Mr. TIBERI, Mr. CANTOR, and Mr. SHAW.

H.R. 794: Mr. GIBBONS.

H.R. 797: Ms. GINNY BROWN-WAITE of Florida.

H.R. 802: Ms. WOOLSEY.

H.R. 804: Mr. WALDEN of Oregon, Mr. FOLEY, and Mr. DOOLITTLE.

H.R. 809: Mr. BOEHLERT and Mr. DOOLEY of California.

H.R. 813: Mr. TAYLOR of Mississippi.

H.R. 830: Mr. STUPAK.

H.R. 834: Mr. COX, Mr. LARSEN of Washington, and Mr. FOLEY.

H.R. 841: Mr. HAYWORTH.

H.R. 844: Mr. OWENS, Mr. SANDERS, Mr. GRIJALVA, Mr. BRADY of Pennsylvania, Mrs. CHRISTENSEN, Mr. ORTIZ, Mr. UPTON, and Ms. SOLIS.

H.R. 846: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEXLER, Mr. CLYBURN, and Mrs. NAPOLITANO.

H.R. 847: Ms. NORTON, Mr. LATOURETTE, Mr. HASTINGS of Florida, and Mr. FRANK of Massachusetts.

H.R. 857: Mr. EVANS.

H.R. 859: Mr. NEY, Mr. FROST, and Mr. SOUDER.

H.R. 876: Mr. BACHUS.

H.R. 877: Mr. PORTMAN, Mr. MCCRERY, and Mr. POMEROY.

H.R. 878: Mr. WILSON of South Carolina and Mr. REYNOLDS.

H.R. 887: Mr. BAIRD, Mr. ACEVEDO-VILÁ, and Mr. FILNER.

H.R. 896: Mr. ACKERMAN.

H.R. 919: Ms. JACKSON-LEE of Texas, Mr. PASCRELL, Mr. HOLDEN, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Ms. DELAURO, Mr. OLVER, Mr. DOGGETT, and Mr. SIMMONS.

H.R. 933: Ms. LINDA T. SÁNCHEZ of California.

H.R. 941: Mr. HAYWORTH.

H.J. Res. 20: Mr. BLUMENAUER and Mr. HINCHEY.

H.J. Res. 22: Mr. FORBES.

H.J. Res. 24: Ms. JACKSON-LEE of Texas, Mr. FARR, Ms. LOFGREN, and Mr. DEFAZIO.

H. Con. Res. 29: Mr. BARTLETT of Maryland, Mr. BOOZMAN, Ms. GINNY BROWN-WAITE of Florida, and Mr. ROGERS of Kentucky.

H. Con. Res. 30: Mr. WEXLER.

H. Con. Res. 47: Mr. ACEVEDO-VILÁ, Ms. SOLIS, Mr. MCNULTY, Mr. CLAY, Ms. VELÁZQUEZ, Mr. WATT, Mr. LEWIS of Georgia, Mr. WYNN, Ms. CARSON of Indiana, Ms. CORRINE BROWN of Florida, Mr. RUSH, Mr. FATTAH, Mr. GUTIERREZ, and Ms. MILLENDER-MCDONALD.

H. Con. Res. 49: Mr. LINDER, Mr. VAN HOLLEN, Mr. WEINER, Mr. ACKERMAN, Mr. HOEFFEL, Mr. SENSENBRENNER, Mr. WAXMAN, Mr. FOLEY, Mr. BLUNT, Mr. SULLIVAN, Ms. ROS-LEHTINEN, Mr. CARSON of Oklahoma, Mr. MCDERMOTT, Mr. SWEENEY, Mr. FORBES, Mr. CLAY, Mr. PAYNE, Mr. EVANS, Mr. FROST, Ms. SCHAKOWSKY, Mr. FARR, and Mr. BERMAN.

H. Res. 19: Mr. BURGESS.

H. Res. 21: Mr. DAVIS of Illinois, Mr. OWENS, Mr. FRANK of Massachusetts, Mr. ENGEL, Mr. OLVER, Ms. LINDA T. SÁNCHEZ of California, Mr. ABERCROMBIE, Mr. DOGGETT, Mr. ALLEN, Mr. UDALL of New Mexico, and Ms. LOFGREN.

H. Res. 38: Mrs. MALONEY.

H. Res. 49: Mr. BISHOP of New York, Ms. HOOLEY of Oregon, Mr. BISHOP of Georgia, Mr. MCHUGH, Mr. MENENDEZ, Mr. UPTON, Mr. BARRETT of South Carolina, Mr. BALLANCE, Mr. MURPHY, and Mr. LIPINSKI.

H. Res. 56: Mr. LEVIN, Mr. ENGEL, Mr. WATT, and Mrs. LOWEY.

H. Res. 58: Mr. EMANUEL.

H. Res. 60: Mr. WEINER, Mr. GREEN of Texas, Mr. KING of New York, Mr. OXLEY, Mr. WOLF, Mrs. NAPOLITANO, Mr. BURTON of Indiana, and Mr. SAXTON.

H. Res. 72: Mr. DOGGETT.

H. Res. 86: Ms. MILLENDER-MCDONALD, Mr. COOPER, Mr. BOYD, Mr. SPRATT, Mr. FROST, Mr. ETHERIDGE, and Mr. SOUDER.

SENATE—*Thursday, February 27, 2003*

The Senate met at 12 noon and was called to order by the Honorable NORM COLEMAN, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. Dr. Ruben Diaz, of the Bronx, NY.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Heavenly Father, Creator of the heavens and the earth, God of our beloved Nation. The men and women of the United States Senate come before You today to ask that You bless this legislative body with Your wisdom, and guidance.

We ask that You keep its Members in Your holy presence. Psalms 105 says that "Your word is a lamp to our feet, and light to our path." We ask that You light our path especially during the difficult and challenging times of our Nation.

Oh God, we seek Your vision and we want to do Your will that is pleasing to You, and right for our country. We want our decisions to be unified, in step with justice, righteousness, and that which best serve the people of this Nation.

Father, we thank You for allowing us the honor and privilege of living in this great Nation, where our rights and freedoms are protected as "one Nation under God," with a government "of the people, by the people, and for the people." We thank You for allowing us the opportunity to serve.

We humble ourselves, and ask that You bless this Senate, its distinguished Members, and all those who work to insure that America continues to be a great Nation in Your eyes and the eyes of the world.

We praise and bless Your Holy Name. In Your Holy Name, we ask, amen.

PLEDGE OF ALLEGIANCE

The Honorable NORM COLEMAN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 27, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable NORM COLEMAN, a Senator from the State of Minnesota, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. COLEMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WELCOMING THE GUEST CHAPLAIN

Mr. FRIST. Mr. President, I welcome our guest Chaplain today and the many people who have accompanied him from his home community. It gives great meaning, as we all know, to listen to and to rely upon the words as expressed so meaningfully and so aptly by our guest Chaplain today.

I yield the floor to the distinguished Senator from New York to also welcome our guest Chaplain.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, first, let me thank our majority leader for the grace and hospitality he has shown our honored guest today, and all of our guests from the Bronx and the New York area who are present.

We are graced, of course, by God's presence but also by the presence of one of the great leaders in New York, the Reverend Diaz.

Visitors are not allowed to applaud, but we are applauding in our hearts—en nuestros corazones. And we are honored and blessed to have a leader such as Reverend Diaz. He is a leader in both the temporal world—God's world—and our secular world. And he brings the two together in such a beautiful and exquisite way that he is admired from one end of our State to the other.

He has been my friend for a very long time. We are honored that he serves us in our legislature, but we are even more honored that he brings the word of God to all of us here in the Senate as well as in New York. And may he be granted many, many more years of leadership and good health.

Mr. President, I thank the majority leader.

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will spend the day in executive session trying to reach an agreement for a time to vote on the Estrada nomination.

Yesterday, every issue raised by my colleagues on the other side of the aisle was answered by Chairman HATCH and my Republican colleagues in a 2-hour, rapid paced, very responsive question-and-answer colloquy, designed to further clarify the RECORD. We continued the discussion well into the evening. I think we closed the Senate at about 2 o'clock in the morning. That partly explains starting a bit later today.

Mr. President, the Miguel Estrada nomination was submitted by President Bush in May 2001—almost 2 years ago. We know that he has not only the support of the majority party, but he has support from a majority of the Members—more than 51 Senators—in this body. And that was demonstrated in a letter that was sent by Senator MCCONNELL and 51 other colleagues to the President, dated February 25, 2003.

Yet my colleagues on the other side of the aisle continue to practice justice delayed, which, incidentally, is increasingly being called, by the American people, justice denied, because that delay is denying the majority will of this body.

My objective, since February 5—since this nomination came to the floor of the Senate—has been to provide all of our Senators with a forum for informed deliberation, for tempered deliberation, for thorough consideration. I have been very clear from the beginning that my intention was to have a vote—an up-or-down vote—and to move this nomination to the constitutionally mandated question: Will the Senate advise and consent to this nomination—yes or no, yea or nay, up or down? That is all that we ask.

It is the majority leader's job, after consultation with the minority leader, to schedule this yea or nay vote. I have asked, on numerous occasions, for a time certain for this vote. Again and again, each of my requests has been rejected.

The nomination has been pending now for 3 weeks—or more than 3 weeks—and I do believe there has been ample time for Members to deliberate on this nominee. There is no doubt about the outcome if we are allowed to vote on it. The sheer number of signatures on that February 25 letter reflects that the confirmation would occur. Yet Democrats continue to refuse to set a time for this dispositive vote.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

So, once again, I say: Let's vote. I hope that Members do come to the floor during today's proceedings to discuss this important nomination.

With respect to rollcall votes—because I know a number of our colleagues are very interested in what the plans will be for both today, tomorrow, and on Monday—I will be discussing the schedule with the Democratic assistant leader or the Democratic leader today in relation to the schedule so that very shortly we can determine when these votes will be scheduled.

The Judiciary Committee is still meeting as we speak. But I hope to have some information here within the next hour or hour and a half so we can set up votes over the next couple days.

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, the two leaders have met several times in the last 12 hours. That is fair. And there is progress being made as to what the majority leader is going to do next week. We will be happy to cooperate in any way we can. We have this little dust-up here. We have to work around that.

As I indicated—the leader was not on the floor at the time yesterday—we know we have a problem with the Estrada nomination.

But we are not trying to delay. We have allowed the committees to go forward. We have tried to cooperate with the majority leader anytime he has had other legislation to bring forward. We will continue to do that. We just need to figure out some way to get through the parliamentary problem we have now with the Estrada nomination. We will continue to be advocates for our position in that regard, but we stand ready, as the majority leader has been told by Senator DASCHLE, to work with him in any way we can to help move legislation.

Mr. FRIST. Mr. President, we will continue to work aggressively. I think everybody in this body understands our goal. I appreciate the good nature. We will continue to push forward for a vote. I did have the opportunity to talk to the leader on the other side of the aisle. The Democratic leader and I discussed plans over the next several weeks. That discussion is very important. I believe we are making progress there. Again, in terms of votes, either later today or tomorrow morning, hopefully within an hour or hour and a half, we can make decisions. In all likelihood, we will be voting Monday afternoon and throughout Tuesday.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. CORZINE. Mr. President, for the past several weeks, as we have heard this morning, this body has done very little beyond the debate on the nomination of Miguel Estrada. Hour upon hour, day upon day, week upon week, the debate has continued. We have heard every argument there is to make on both sides of the issue. We have heard them from just about every Senator, and we have heard them over and over. It has been pretty repetitious.

I don't mean to diminish the importance of this debate about a single, very important job. After all, it goes to the heart of the Senate's role under the constitutional system of government. The question is whether this constitutionally responsible body will be diminished to such an extent that we just become a rubberstamp for White House judicial nominations; that is, whether we will agree to automatically confirm nominees even if they refuse to answer publicly the most basic of our questions on their jurisprudential perspectives. It is hard to understand how we can give a lifetime appointment to a job without having a job interview.

This is an important debate. All of us believe that. That is why we have had 3 weeks of consideration. It is one that reaches well beyond the specifics of the individual candidate. It deserves our careful consideration. The Constitution charges the Senate with the responsibility to provide advice and consent on judicial nominations. Those of us on this side will attend to that responsibility.

Of all the issues facing our Nation at this most challenging time in our history, there are other—certainly in my view and I suspect the view of most of my colleagues—issues that are of a higher priority. It is a profound mistake on the part of the majority to insist on staying on this nomination indefinitely while Mr. Estrada and the administration, with all due respect, continue what some would term "stonewalling" while there are so many vital issues our Congress should be addressing.

THE ECONOMY

Today, I will focus in particular on the problem, along with the drastic, dramatic threat of terrorism we face daily and the prospect of war with Iraq, which we heard the President talked about last evening, that is probably uppermost in the minds of my constituents in New Jersey and, I suspect, across the country, and that is the state of our economy. It is in serious need of attention.

I have been listening to New Jerseyans from around the State, from all walks of life, all ethnic, religious, racial backgrounds, the long-term unemployed, to manual laborers, to mid-level managers, to CEOs, to retirees and soccer moms. For just about all of them, there is a tremendous sense of anxiety with respect to the state of our economy and their families' economic security. People are concerned about whether they will have a job, whether their savings will be there when they retire, whether they will be able to pay for their college educations, whether they will be able to have health care. There are serious concerns, flat-out kitchen table concerns for all Americans. I know that is the case in my home State.

An anecdotal perspective on this country's anxiousness has now been backed up by hard statistics from the conference board released this week. Sometimes we divorce these statistics from the reality. I certainly see it in people's faces and the words, but we saw it actually monitored in a statistic released by the conference board this week. We saw consumer confidence drop from 78, almost 79 percent, of the population last month to 64 percent. That is the lowest level since October of 1993. That is probably one of the sharpest drops in history; I did not check the actual number, but far greater than post-September 11, and it is reflective of a dramatic undermining of the strength of well-being felt by most Americans.

Americans around the country are deeply concerned about our Nation's economy. They have a good reason to be. After all, since January 2001, the number of unemployed has increased by nearly 40 percent—almost 8.5 million people. About 2.5 million private sector jobs have been lost in that period, and there are now about 2.5 job seekers for every job opening in America. Think about that, 2.5 people applying for every job now available.

Not only have the number of unemployed Americans increased, those out of work are now jobless for longer periods of time. Over the past year, the average number of weeks individuals have spent unsuccessfully seeking work has increased by about a month, and 20 percent of the unemployed have been looking for work more than 6 months. There are 1 million of these long-term unemployed workers in

America and almost 100,000 falling off the rolls for unemployment insurance benefits each month. Just slightly fewer than 100,000 each month are dropping off the benefits because they can't find jobs.

While there are no great and solid statistics on it, there are a lot of people dropping out of the job market. The job market is not growing, and it is one of the reasons—the statistics show the unemployment rate certainly up dramatically and skyrocketing—a lot of people have just stopped looking. The lack of jobs has also slowed wage growth. Recently, only those workers with the very highest of incomes have experienced any wage increases in the economy, any wage increases at least that have outpaced inflation. For lower wage earners, that growth has absolutely stalled to zero. That is not, obviously, helping create the demand that will drive our economy and make a real difference in people's lives.

The Bush administration's record on job creation is on track to be the worst in 58 years. In fact, to just equal what transpired during the Eisenhower administration, which currently has the worst record, you would have to create 96,000 new jobs each month starting today and continuing each month for the remainder of this President's term; 96,000 is a lot of jobs to create, particularly when we have been losing jobs at a rate almost that fast each month.

It is extraordinary what we have to do to turn the economy around. Without a significant increase in job creation, we will have the worst 4-year record in the history of any President.

Unfortunately, there is little evidence to suggest that it will turn around. For instance, according to the employment outlook survey conducted by Manpower, Inc., which came out this week, which is the private sector's best gauge of what is going on in the employment market, only 22 percent of America's employers are going to increase the number of jobs in the upcoming two quarters. The rest of them are either going to reduce jobs or stay the same.

Mr. President, 22 percent is a very low number by any historical measure. I don't understand why we are debating one job on the floor of the Senate when we are failing to address the fundamental needs and requirements for all American families, their jobs, and their well-being.

Of course, the problems with the economy are much deeper than just reflected in what is probably the most important place—the job market. But there is a lack of confidence in a whole host of sectors in the American economy. Our businesses are now operating at only about 75 percent of capacity. That is well below any of the averages we have had historically, which is about 81 percent. Our States are suffering with some of the most severe fiscal crises they faced in decades, forcing Governors and State legislators to approve steep tax increases. In my State, the average increase in property taxes was 7.1 percent. New York City increased property taxes 18.5 percent, and they are trying to put a commuter tax on so everybody who surrounds the city is helping to bail it out with lots of legitimate needs on homeland defense and first responders. We are putting unbelievable pressure on those individuals who are responsible for State and local governments.

In the upcoming fiscal year, estimates of the total State deficits are roughly $90 billion cumulatively. And we are talking about a $36 billion tax cut to be administered this year. That is way overblown by what is happening at our State and local levels.

Briefly, I will mention that investors are in a state of shock. The stock market has declined dramatically in the last 2 years and couple of months, losing almost $5 trillion in value in that period of time. Those are unbelievable numbers, but when you translate that into 401(k)s and IRAs of individuals—at least in my State—I think that is about a 40 percent decline in value, on average. It is a huge loss of the retirement security that many families have seen happen in their financial well-being. When the President's program was announced in early January, actually the Dow Jones Industrial Average was supposed to be benefited by that program, but it dropped by over 10 percent.

Our Federal budget, which 2 years ago was projected to enjoy a 10-year surplus at $5.6 trillion, now looks at record deficits for absolutely years to come—as far as the eye can see, some would say—and will be increasing the public debt over the same horizon as we projected that $5.6 billion surplus to $2 trillion worth of public debt. That is a fiscal reversal in this country of $8 trillion. It is an $8 trillion negative cash swing in the country's cashflow.

I don't want to tell you what I would do if I were back running a company and we had an $8 trillion negative cashflow, but it would probably be grounds for change in policies and programs—maybe even a change in CEOs.

When you add all these concerns together, it is clear that the economic record of the Bush administration is bordering on abject failure. Now the administration's response to the problem is, let's do more of the same. Having based its economic policy on large tax breaks for the most fortunate among us, the President's response to that failed policy is let's stay the course, let's have more tax breaks targeted for those with the highest income, and let's run larger budget deficits and increase our national debt even more, and let's reduce national savings—which is the way we create growth in this country—even more.

Whatever happened to the simple view that I think there has been a bipartisan sense of, which is that rising tides lift all boats? Are we not thinking about the economy in its totality? Why don't we have everybody participating? I don't understand why we are sticking with policies that look to be not serving the country well.

As I have suggested, there used to be a business leader who said, "If it's broke, fix it." It is really nothing more than common sense. If things are not working, I think you have to adjust policies; you have to think about doing something differently if you are stuck in a rut. This administration is doing just the reverse. It has dug itself into a hole, and its response is to dig deeper. If we don't challenge these policies, the long-term implications could reduce our Nation's standard of living not just in the near term but for decades to come.

At a time when we are challenged with domestic security and international security, when we are asking for sacrifice from our men and women in uniform, for all of the country to understand we have serious challenges to our national security, why we are not understanding that this is a time for us to pull together and have shared sacrifice is hard for me to understand.

Frankly, if one projects the cost of the President's tax cut package beyond 10 years—if you put that structure in place while the demographic bubble of the baby boomers comes into play, frankly—I don't care about dynamic scoring—we will end up running, by almost all objective analyses, catastrophic deficits, as Chairman Alan Greenspan testified just this morning at a House hearing on aging. It will be a real challenge to be able to maintain Social Security and Medicare at anything similar to today's programs for the future seniors of America.

We are putting those programs at risk, we are putting our fiscal position at risk, if we stay the course with the policies we have today. Considering all these facts, unfortunately, it is difficult for the administration to provide effective leadership, in my view, on the economy because its credibility has been badly eroded. There is a tremendous credibility gap, and it results from the repeated use of figures and claims that are just badly misleading in many ways. As a matter of fact, starting to come out are regular analyses by economists, people in the press, and I think one needs to honestly look at and challenge what some of these predictions and analyses point to and compare them with the facts.

Let me provide a few examples. The President's rhetoric would lead one to believe that his tax plan will provide a meaningful economic stimulus, get jobs growing, and it is all about jobs. When you dig into the numbers, it turns out that the reality is very different. In fact, only $36 billion of the

President's planned $675 billion on the table would kick in this year—$36 billion in a $10 trillion economy. It is just an absolute drop in the bucket relative to what would be needed to actually drive this economy forward, by anybody's measure, any objective measure of what it takes to get an economy moving.

There is virtually no one in Congress I have been able to find who would argue that this is a program that will stimulate or revitalize this economy, nor does it make sense to argue that the President's dividend exclusion somehow is going to stimulate the economy, when its real effect will be to shift cash off the corporate balance sheet. If corporations are going to invest in jobs and research and development, and if they are going to put money to work in building, plant, and equipment, they need cash. You cannot go to a bank unless you have margin to put down. You need to invest in those things to drive our economy.

By definition, dividend exclusion is going to take money off the balance sheets of companies, and the capacity to invest and retain and create jobs is going to be diminished. That is why there is this argument about whether, if you are going to have a dividend exclusion, you ought to at least do it at the corporate side of the income statement as opposed to through an exclusion.

We have heard that from Chairman Greenspan. We see that from almost any reasonable economic analysis. Cash on the balance sheets is how you get business done, as far as investment and creating jobs. It is almost a truism. Instead of driving economic growth, it is actually antigrowth, and I think we will end up with less economic stimulus by the nature of the structure, even if we thought it was an appropriate time for that reform on something other than a revenue-neutral basis. In other words, the President's claims about the stimulative impact of his proposal, in my view, and I think a vast majority of independent analysts, is little more than rhetoric. The reality is quite different.

There are other elements with which people can deal with regard to the credibility of the proposals of the administration claiming benefits of this tax cut are going to go—I think this is the quote—"92 million Americans receive an average tax cut of $1,083." That is the claim.

As we are hearing over and over, that is pretty misleading because the average tax cut is inflated by the huge breaks going to a very narrow set of folks, while a lot of other people are getting very small tax cuts. In fact, a half of all taxpayers would get a tax cut not of $1,083, but less than $100. This is a difference between mean and average, and 78 percent of Americans would get reductions of less than $1,000.

When I went to business school, our required reading included the book "How to Lie with Statistics." There are some spinmeisters who must have reviewed this work and learned it well, as far as I can tell. I am sure Americans understand how averages are put together, and they can cover great sins.

Similarly, the White House likes to claim the amount of income tax paid by high-income Americans would actually rise under this proposal. We hear this under the arguments of class warfare. When you consider the real measure of who benefits in terms of increases in something that is simple for people to understand, aftertax take-home pay—the stuff people can actually buy groceries with or pay the bills with—it turns out that—no surprise—it is the most fortunate who do best under the Bush plan.

The tax reduction for those making $45,000 would amount to less than 1 percent of their aftertax take-home pay. Those making more than $525,000 would see an increase of more than three times that rate, and in real dollars those are substantial numbers. But with the aftertax, what people can actually use in their everyday lives, the opposite is being promoted from what the reality is. Again, there is a credibility gap.

I also argue the credibility gap applies to the administration's claims that their plan will help seniors. In fact, over half of all dividends paid to the elderly go to seniors with incomes over $100,000. I think it is great they planned and saved, but the number of seniors out of the roughly 40 million seniors who have incomes over $100,000 is about 3.5 million. That is where over half of this dividend exclusion benefit would go. By the way, only about a quarter of all seniors would receive any benefit.

To say this is going to somehow vastly improve the position of seniors in America is just a gross overstatement. I wish to revert back to comments I made earlier. The vast majority of seniors depend on Social Security and Medicare as the basis for protecting their economic security and their well-being over a period of time, and we are doing just the opposite of what is necessary to protect Social Security and Medicare in the future years. It is depressing. That is what Chairman Greenspan talked about an hour ago in a hearing of the House Committee on Aging: the risks to Social Security and Medicare if we do not change our economic policies and do something to straighten out our fiscal policies in this country.

Let's consider the administration's claims about how cutting taxes on dividends will benefit millions of Americans. The truth is, only 22 percent of those with incomes under $100,000—this is the vast majority of income-tax-paying Americans—reported any dividends in the year 2000, and the average tax cut from the dividend exclusion for those with modest incomes of between $30,000 and $40,000—by the way, the average income for individuals in America is something close to $40,000—those people are going to get a $29 tax cut associated with this dividend exclusion.

There is a real credibility gap. We are exaggerating and distorting the claims about the power of this tax cut. We are talking in terms that really do not relate to the vast majority of Americans. I think the word is starting to get out. There are serious questions in the minds of Americans that at a time when we have the potential for war offshore, and we certainly have threats of terrorism at home, why are we focusing so much of our benefits of what we are doing with regard to tax proposals on such a narrow segment when the broad economy, that rising tide that would help everyone, is suffering and there is no stimulus going to it?

This is not the only area, by the way, where some of these claims, relative to reality, are setting up a real pattern of a credibility gap for the administration. The Secretary of Defense, on a number of occasions, argued the cost of war in Iraq might be $50 billion to $60 billion, something in that neighborhood. But when the President's top economic adviser last December—maybe it was in November—to his credit suggested this figure was far too low and the actual cost could be as high as $200 billion, what happened? He got fired.

The dissidence between what is talked about in the public relative to what the analysis is by a lot of people who are trying to look at this in a serious-minded way so we understand what our needs are as a nation is troubling to a lot of folks and accentuates this credibility gap.

It is time for the administration to be more forthcoming about the real costs of the impending war. The American people have a right to know. I am glad this week we started to see a little of that discussion, but even in that context, we need to consider the ongoing costs of rebuilding Iraq in the aftermath of a war, presuming that war goes the way we expect, presuming that it is relatively short in nature.

Even yesterday's estimate of $60 billion to $95 billion that we read about in the papers included only 1 year of reconstruction costs—1 year—when almost every expert I have heard come before the Foreign Relations Committee has talked about a decade, maybe a little bit more, but a very long-term program. By the way, all we have to do is think about Korea. We are still in Korea 53 years after a war on that peninsula.

The administration should play it straight with everyone about the costs we are going to face, just as we ought to play it straight with regard to our budget, with regard to tax cuts. In my view, we need to talk straight so we can build up the trust of the American people and those who watch us around the world. Trust does matter. It is important. That is what we are asking corporate America to do, to clean up its act. That is why we want accounting statements that are true. I think people expect to truly understand what the nature of the current situation is as we go forward.

Actually there is a serious credibility problem that is causing us problems abroad as well. I think whether or not we are believed by some of the populations abroad is reflected in how much opposition we have seen from a lot of countries, not just in their political establishment but by literally millions of people who have shown up, probably most clearly in Great Britain, which has been our strongest supporter with regard to the Iraqi situation. The population is someplace else. Why is it we are not able to make our case clear?

I think part of this comes from credibility in how we frame these issues, how the information has been brought forward. All one has to do is look at what is going on in the economy to bring about some credibility questions, when we get on to some of these issues of national security.

In this context, let me return to the issue of the nomination of Miguel Estrada. As with many of the claims about the Bush budget, too many of the claims from the other side on this issue simply lack credibility. One of those—probably the most irritating—is the claim that somehow those who oppose the Estrada nomination, or at least would like to have information to prepare ourselves for a vote, are somehow anti-Hispanic.

Does that suggest that groups such as the Congressional Hispanic Caucus, the National Association of Latino Elected and Appointed Officials, the Mexican American Legal Defense and Education Fund, the National Puerto Rican Coalition are anti-Hispanic? I do not get it.

We are making a judgment about how the constitutional process is supposed to work, not talking about whether or not someone is qualified or disqualified because of ethnic background. As far as I am concerned, these kinds of demagogic attacks on Hispanic groups and those who show common cause with them lack credibility. The facts do not meet the circumstance, and they are part of an attempt to intimidate opponents of Mr. Estrada's nomination to stay silent in fulfilling our rightful and responsible position of advice and consent in selecting judges for lifetime appointments to the courts of our country.

It is not going to work, and one reason it is not going to work is the American people expect us to do our job—it is very simple—just as they expect us to pay attention to the economy and do those things that will get us flat off our back and get the economy moving. These things really are common sense, in my view. We are spending weeks upon weeks debating whether one individual is appropriate for a job because many of us do not understand what his views are, and he is unwilling to answer questions, unwilling to have a job interview, and we are forgetting about the 2½ million private sector jobs that we have lost and the 8 million-plus people who are searching for a job. One job versus 8 million.

I have a very hard time understanding where those priorities come out. What is more important to the American people?

A couple of days ago, I asked the distinguished Democratic leader about some conversations he had with the Governors who have been around town from both sides of the aisle. We have all met with them. We have sympathized with some of their needs. I asked if one single Governor lobbied the leader about the Estrada nomination, either to move it on or take it off, or what is happening. Not a single one spoke to the distinguished leader about that nomination.

It should not surprise anyone that our Nation's Governors are more concerned about the economy and the terrible fiscal crisis they face, and here we are talking about this one individual who has been nominated for this one seat on the Court of Appeals for the District of Columbia.

I know from my conversations with people in New Jersey that they feel the same way, and I am sure Americans across America agree. Why is the Senate spending all this time worrying about this one job—I do not get it—while we ignore the millions of Americans who have lost their jobs? We see the consumer confidence falling off the charts. We see our stock market reeling. We see the dollar declining. We are not paying attention to the real things that people are concerned about that make a difference to their lives, their kids' lives, their families' lives. This Estrada nomination is not the priority of the American people, and I do not think it is the priority of my Democratic colleagues.

In a moment, I am going to make a unanimous consent request that we at long last make the economy our top priority. I am going to ask that at least for now we move off the Estrada nomination, as we have done for other concerns—we have passed the omnibus appropriations bill. We were able to take up the child pornography issue this week. We ought to focus on our economy.

The bill for which I will ask unanimous consent was proposed by the distinguished Democratic leader. It includes, among other things, middle-class tax cuts, aid to the States, an expansion of benefits for unemployed Americans, those 100,000 people a week who are dropping off the unemployment rolls right now, and establish rules to restore long-term fiscal discipline and health in our economy.

I recognize my colleagues on the other side of the aisle are not likely to agree to this proposal, but as Democrats continue to emphasize the importance of dealing with our economy, I hope someone on the other side will begin to question the decision to spend days upon days and weeks upon weeks on the nomination of this one individual. I hope they will come to appreciate that there is little time to waste when it comes to boosting our economy and taking care of America's families and getting on to the priority of creating jobs for Americans. I hope they will adapt their priorities, the priorities of the Senate, to those of the American people, which is jobs and economic security.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the pending nomination be set aside and that the Senate take up and begin debate on Calendar No. 21, S. 414, a bill to provide an immediate stimulus to our Nation's economy.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Nevada.

Mr. ENSIGN. Reserving the right to object, the way to resolve the nomination is to schedule an up-or-down vote. I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

The Senator from New Jersey has the floor.

Mr. CORZINE. With full expectation and understanding of the position, I am disappointed with the objection that has been raised, but I am not surprised. We have a critical need to get focused on our economy in this country. The needs of the American people are not being addressed. It is not because we are having this debate. We could move off this debate and move to the economy today, then come back to it like we did with regard to the omnibus appropriations.

The American people should know there are proposals on the table that would stimulate this economy and get it moving, instead of seeing unemployment rates skyrocket, instead of seeing deficits as far as the eye can see being put in place, with no attention being drawn to them, without dealing with the core things that matter in families' lives, in real people's lives. We could do that and still come back to this and have a full constitutional and responsible debate about what is needed to review a candidate and get on with the real needs facing our country.

I find it very difficult to understand where we are with regard to a lot of these priorities at this point in time, and I hope we will see the light before we have to go further with more of these serious problems that our American families face with their economic security.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, it is my pleasure today to come before the Senate to lend my support to a man of tremendous character and extraordinary legal credentials, Mr. Miguel Estrada. We have heard a lot about this nominee. We have heard a lot about why we should be focusing, why we shouldn't. As I discussed before, I would like to see us get on to things like the economy, like the budget. The simplest way to do that is to have an up-or-down vote on Miguel Estrada.

I will share a few facts about Mr. Estrada and the importance of the nomination to our legal system. Mr. Estrada is an American success story. He came to this country at the age of 17 as an immigrant from Honduras, speaking very little English. He overcame amazing obstacles to rise to the top of the legal profession. After graduating magna cum laude from Harvard Law School, Miguel became a law clerk to the Supreme Court Justice Anthony Kennedy. Since that time, he served as a Federal prosecutor in New York and Assistant Solicitor General of the United States for 1 year in the Bush Administration and 4 years in the Clinton administration. He was handed nothing, and his achievements are the product of hard work, perseverance, and a commitment to education. He is actually living the American dream.

Among other accomplishments, Mr. Estrada has argued 15 cases before the Supreme Court of the United States, including one case in which he represented a death row inmate pro bono. The American Bar Association unanimously rated Mr. Estrada as well qualified for the DC Circuit. This is the ABA's highest possible rating, and the rating typically used as the gold standard for judicial nominees in the Senate Judiciary Committee, especially on the Democrat side.

Mr. Estrada served as a member of the Solicitor General's Office in both the Bush and Clinton administrations. He is enthusiastically supported by both President Bush and President Clinton. The long list of Hispanic groups backing Miguel Estrada's nomination includes the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Latino Coalition, the Hispanic Bar Association, and the National Association of Small Disadvantaged Businesses.

Sadly, Mr. Estrada's extraordinary accomplishments and his desire to serve our country have not been enough to protect him from the baseless, vicious, and partisan attacks he has endured through this process. Now is not the time to play partisan games with the United States judicial system. America is facing a judicial vacancy crisis in our Federal courts. The U.S. Courts of Appeals are currently 15 percent vacant, with 25 vacancies out of 167 authorized seats. The DC court, which is the court we are trying to get Miguel Estrada onto, has four vacancies on a 12-judge court.

Adding to this crisis, caseloads in the Federal courts continue to grow dramatically. Filings in the Federal appeals court reached an all-time high last year. The Chief Justice recently warned that the current number of vacancies, combined with the rising caseloads, threatens the proper functioning of the Federal courts. He has asked the Senate to provide every nominee with a prompt up-or-down vote.

Chief Rehnquist is right. Every judicial nominee deserves a prompt hearing and a chance at an up-or-down vote on the Senate floor. This nominee is not being assessed by the traditional standards of quality or by his ability to follow the law as a judge. There is no question that this nomination is being delayed and possibly blocked because of a distorted analysis of his qualifications, policies, and personal views. My colleagues on the other side of the aisle are blocking this nomination simply because he is President Bush's nominee. This is a detriment to the integrity of this body. It is unfair to the nominee. And it is unfair to the American people.

I am asking my colleagues in the Senate today to do what we were elected to do, to allow this body to work its will, and to give Mr. Estrada the up-or-down vote he deserves. I add that the precedent we are setting, this 60-vote threshold for circuit court nominees, is a dangerous precedent. Right now the Republicans are in the majority and we have the Presidency. At some point the Democrats are going to be back in the majority. At some point the Democrats are going to hold the Presidency again. Paybacks are very ugly. But make no mistake about it, with the precedent being set here, unless this can be worked out, those paybacks will come back to haunt the other side of the aisle.

It is vitally important we work this out for the health of the judiciary in this country. It should not become a political tool to be bandied about just because somebody thinks that somebody may have a particular ideology.

We realize that having a Republican Hispanic on the DC Circuit Court of Appeals is something the other side does not like.

But just because they don't like the politics of that does not mean that they should object to him getting on the court. He deserves this. He is qualified for it. He has the integrity to carry it out. And we, as a body, should give this man an up-or-down vote. If we give him an up-or-down vote he will be confirmed by the Senate.

I believe it is our constitutional duty to give him an up-or-down vote. He has had all the hearings he needs to have. We have been doing this for almost 2 years now. We need to give this well-qualified candidate the vote he deserves.

I want to raise a couple of points. The Senator from New Jersey was talking about the economy. He says we have to get on the economy. I agree, we need to take care of the economy. I have some proposals. The President has some proposals. There are going to be other Senators who will have proposals to try to stimulate the economy. The Senator from New Jersey indicated he doesn't think what the President is doing is going to have enough of an impact. I have a proposal that actually, the first year alone, according to the Joint Tax Committee, will bring $135 billion worth of investment into this country. I hope the other side of the aisle is going to join us in that. That is significant even in the size economy that we have.

What the President has laid out as part of his plan—I don't agree with all of it, but there are some good things in it. He has laid out a plan, not only for this year but for solid growth and, in future years, to have good, solid, long-term fiscal policy and long-term growth.

I agree with some of the things the other side of the aisle is talking about with respect to budget deficits. We do have a problem in the outyears with budget deficits. But if we do not fix the economy, we know we will never fix the deficits. We will continue to go further and further into debt. That is why it is critical for us to fix the economy, so we produce more tax revenues so we don't have these huge deficits and threats to Medicare and threats to Social Security and threats to our defense spending in the future.

We have proven here in Washington, DC, we can't cut spending. We can maybe slow down the rate of growth sometimes, but we can't cut spending. As Ronald Reagan talked about—I don't remember the exact quote, but as he said in the early 1980s: The best way to eternal life is to become a Federal agency or department in Washington. He said that because he realized once a program starts, it develops a constituency and it is impossible to cut it. So I believe if the other side is concerned about the deficit, they should join some of us on this side of the aisle and start cutting out some of the waste and overspending in certain parts of our Government.

Having said that, let me conclude by saying let's have an up-or-down vote on Miguel Estrada so we can get on to some of the other important issues. Make no mistake about it, though; the judiciary and this part of what we do is a very important part of our role as Senators in fulfilling our obligation, our oath of obligation to defend and support the Constitution. We can get on to other things. The budget was not enacted last year. For the first time since 1974 we did not have a budget. Because of that, we ended up with some serious problems last year. The appropriations bills didn't get finished until just a couple of weeks ago.

We are asking the other side to not continue to obstruct the will and the work of this body, to join us, have an up-or-down vote, let the Senate work its will on this nomination so we can get on to other important business of the country. We have a lot of things to do. Let's join together. Let's work across the aisle. Let's join hands. There are a lot of good things we can do for the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise to express my great dismay at the policy of the President of the United States that he seems to be attempting to impose on the Senate, which would require each and every one of us in this body to betray the Constitution, to betray our oath of office, and to ignore the constitutional mandate that we give meaningful advice and consent on judicial nominees coming before this body.

I will never betray the Constitution and my oath. I don't care whether we have to be here night after night. I am not going to go down that road. I speak as a Senator who has voted in favor of somewhere in the range of 100 judicial nominees that President Bush has sent to this body, virtually all conservative Republicans. I wish it were different. I wish there were more progressive judges before us. But I understand the President's prerogative, and I respect his right to nominate whomever he may wish.

But this nomination before us is unprecedented. It is not only a matter of Mr. Estrada, it is a matter of the sanctity of our Constitution. It goes to the very oath of office we have taken. It would make a travesty of this body and of the Constitution for us to do otherwise than to object to the manner in which this particular nominee has been presented to the Senate.

The other nominees who have come before this body—for whom I have voted over and over again, somewhere in the range of 100 already—we at least knew what was their legal philosophy. They tended to be conservative Republicans and that is the President's prerogative and I voted for them, but they had either been Federal judges or State judges, allowing us to look at their rulings in the past, or they had been legal scholars with a significant body of work that allowed us to view what the inner workings of their minds were and allowed us to determine whether they were, in fact, within the mainstream of American jurisprudential thought. This nominee stands unique. The precedent would be catastrophic to our Republic if we start, for the first time ever, to approve secret judges, stealth judges, judges who have no record and who will disclose no record to the Senate.

We have no way of knowing what this individual's legal philosophy might be. We have reason to believe he is undoubtedly a capable lawyer, in terms of his technical skills as a Solicitor, but we have no idea where he stands otherwise. The question is not whether we will have Hispanic Republican judges on the District of Columbia Court of Appeals. That is irrelevant. I voted repeatedly, as have my colleagues on my side of the aisle, for Hispanic judges and other high officials in our Government. I am proud to have played a role in supporting our Hispanic colleagues in issue after issue, and position after position. But this, this is a sham. This is a travesty. I believe any Senator who thinks seriously about his oath and reads the Constitution, the obligation—not the right but the obligation of the Senate to provide advice and consent on these offices is a profoundly important role.

It is one thing to approve or not approve Cabinet appointees and other advisers to the President; they come and they go. It is a serious matter, but at least there is not a lifelong appointment involved. In this case, we have a lifetime appointment to the second highest court in the land. What is worse, if we submit to this failure to abide by our constitutional obligations to make a meaningful decision about advice and consent, we will have opened the floodgate because it will become apparent to this President that the strategy to use from here on out is to continue to find individuals who have no track record, who may have a secret ideological agenda, and to send them one after another through the Senate to be rubberstamped by this institution. That is not acceptable. This is a matter of enormous importance.

These individuals, and this particular individual about whom we are debating today, if confirmed, will likely serve on this bench for the rest of our lifetimes, for many of us in this body. President Bush may come and he may go, but these appointments will last a lifetime.

So it is with enormous concern that I rise to express my opposition to this strategy because that is what this is about. It is about a strategy. It is not about whether a Hispanic Republican should be on the bench. It is not about whether a conservative should be on the bench, so long as they fall within the mainstream of American juris prudential thought. The question is, Should this Senate be allowed any idea about this individual's ideology, about his legal philosophy? There we know nothing. We would be surrendering our constitutional prerogatives and our constitutional obligations were we to respond any other way than we have attempted to do on this side. Obviously, we can move on to other agenda items, whether it be stimulating the economy, education, health care, or what have you. All that is required is for leadership of our colleagues on the other side of the aisle in support of the President to either withdraw this nominee or to have him respond to reasonable questions about his philosophy. There is no effort here to require this individual to answer questions that have not been put to other judges. The question is not his response to specific items before the Court. It would be inappropriate to ask those kinds of questions. But this is astonishing. This is stonewalling. That is what this is. It is unacceptable.

Again, over 100 judges that President Bush has nominated have been confirmed by this body, and most have gone through with my support. Most of them were conservative Republican judges. That is fine. But this is different. I hope the American public understands the profound consequences that would flow from our surrendering of our constitutional obligation to at least make meaningful decisions about whether to confirm a particular nominee.

THE BUDGET

Mr. President, I also want to express my great frustration and my great sadness in many ways over priorities that President Bush has recently exhibited relative to our young men and women in uniform and the likely war we are about to embark upon.

Americans all across this country, including my wife and myself, are about to send our finest young men and young women into harm's way in the Iraq region. We can debate the wisdom of that. But that is the reality. I think we all see this coming. We can take great pride in these men and women in uniform, the courage they show, and their commitment to America. They are asking for so little and, yet, they are willing to do whatever is required of our American military. They are the greatest military ever fielded in terms of the sophistication of technology they deal with and the requirements they meet.

But while we put this military together and send them on their way with flags flying and salutes and the prayers of all of us, the President simultaneously has recommended now in his 2004 budget recommendation that we cut impact aid education funding for the children of these very troops who we are sending into war. Is it because we can't afford to finance quality education of the children of our military? No. President Bush also, as we recall, has called for over $100 billion of tax cuts for primarily the very wealthiest of Americans—primarily on Wall Street. So rather than asking America's wealthiest families to sacrifice at a time of war, the request seems to be of the middle class and the working family, send your sons and daughters into combat, and we will ask America's wealthiest no sacrifice whatever. In fact, we will cut their taxes and we will come back to these families who are sending their sons and daughters into combat and tell them we can't afford to educate your kids while you are gone. And these spouses remain. The Guard and Reserve and active-duty spouses in South Dakota and across every State in our land are worried to death about the prospects of their loved ones, but proud, and upholding America's ideals as they go into heaven knows what kind of combat circumstance they will face with weapons of mass destruction arrayed against them. We hope whatever combat occurs will be swift and decisive and conclude positively for us. But obviously we all know there is great risk for everyone's sons and daughters who go into circumstances such as this.

Is it asking too much of President Bush to at least not cut the education funding for the children who are left behind? Is that asking too much? It says a lot about the priorities of this administration, that we would array the world's finest military on the one hand, provide tax relief for the world's wealthiest people on the other hand, and simultaneously beg poverty when it comes to the schools for the children of our military personnel. Shame on the President. Shame on the President for these kinds of priorities. America deserves better. Our fighting men and women deserve better than this. Fiscal responsibility is not the issue. Priority is the issue.

Then when our military personnel come home again, what do they find but the Veterans Administration underfunded yet again. The administration is asking for higher copayments, higher deductibles, and denies hundreds of thousands of our veterans access to VA health care they were promised. What kind of signal does that send? How are you going to continue to attract the very best of America's young men and women to wear our Nation's uniform when they find that while we do that and pat them on their back and salute them and send them into combat—4 years, 5 years—at the same time we are not going to take care of their kids. When they come home, we are not going to take care of their health care obligations as we promised we would.

It is long overdue that some of these priorities be met off the top of the barrel, rather than the bottom of the barrel and the crumbs that are left over half doing other things.

I don't know how we can expect in the day and age of a voluntary military to continue to attract the best and the brightest of our young people who deal with the sophisticated kinds of technology they are requested to do now, if they know simultaneously—and they increasingly do—that once they leave home and once they come back, they will in too many cases be treated shabbily by our government, which is too busy stuffing its pockets with cash rather than meeting its obligations to those who are laying their lives literally on the line for America's freedom and American values.

As a member of the Senate Budget Committee, today I also expressed alarm at recent news reports of still larger than expected Federal budget deficits, after an unprecedented 4 years in a row of budget surpluses during the final 4 years of the past Clinton administration—the years in which we were in the black. We were paying down on the accumulated national debt. We were not borrowing from the Social Security trust fund. We now find the bipartisan Congressional Budget Office telling us this red ink will be an astonishing $199 billion. As recently as 2001, we had a surplus of $127 billion.

Mr. President, in 2001—2 years ago—we had a surplus of $127 billion, which followed 3 preceding surplus years in the black. That was responsible budgeting. Some experts now are saying that the 2004 deficit is going to break all records, at over $350 billion, if war expenses and the cost of the Bush tax policies are assumed.

The budget surplus, the paying down of the national debt, and the preservation of the Social Security trust funds—which was what we all had when this administration commenced—have all gone away. The days of not borrowing from the Social Security trust fund are over. We are back. And we are told by the White House budget people at OMB that we will continue to borrow under the President's budget and tax plans out of the Social Security trust fund for the remainder of the decade.

The paying down of the national debt has gone away. The ability to avoid continued high debt service so we can redirect those dollars, instead, to education, to health care, to our veterans, to our military, whatever it might be, has all gone away, because we are going to increasingly pay debt service under the President's budget plan.

The CBO indicates that our Nation will not see a budget surplus again until 2007, and then only if there are no war expenses, no additional tax cuts, and no Medicare prescription drug legislation. We all know that is not going to happen. We are going to have war expenses. We do not know what they will be. We will pay whatever it takes to make sure our men and women in uniform are supported. Whatever the cost is, we will pay it. But the war and the follow-on occupation is likely to cost at least $100 billion.

We know the President has tax cut after tax cut lined up primarily for his wealthiest contributors. And then we know, as well, that we need to move on to prescription drug legislation that is long overdue. We are the only major democratic society in the world that does not have some kind of prescription drug or national health care strategy.

So what we find here is President Bush's proposal to borrow yet another $1 trillion. Now we are not even talking "B," we are talking the "T" word. Mr. President, $1 trillion over the coming decade in order to finance Wall Street tax breaks has to be approached with great caution. This seems, to me, to be part of an agenda designed to make it impossible to have strong Federal funding for education, veterans, agriculture, and seniors for generations to come.

This overall strategy strikes me as one that we saw a glimmer of in the 1980s; and that is, a strategy designed to primarily break the Federal Government, to deny all resources. Because when our friends in the far political right try to advance the cause of eliminating Medicare, downsizing Social Security, downsizing or eliminating veterans health care, withdrawing from supporting our schools, getting out of the afterschool and daycare programs, getting away from rural electricity and rural development programs—when they try to do that, they are always met with resistance from the American people, Democrats and Republicans alike.

They have never been able to win that war because Americans want that kind of partnership—that constructive partnership—between Washington and our communities and our States. So in a very cynical tactic, what has been discovered here is that while they cannot win the war on the merits of eliminating that partnership, they can try to break the Government, to deny it the revenue it needs, so that they can come to the American public and say: Well, we would love to support those afterschool programs, we would love to have more police on the beat, we would love to help our fire departments, and we would love to make sure all our young people could afford to go to college or technical programs, but, oh, we are broke; we don't have the money.

That is apparently how some people hope this debate will conclude. They cannot win on the merits of the policy, but what they can try to do is come up with a tax policy that enriches the wealthiest contributors while simultaneously making it increasingly impossible for this Federal Government to live up to its obligations to its people and to build a stronger society, offering more opportunity for every young American—Black, Hispanic, Native American, Caucasian, whoever they might be.

I feel great frustration. I hope the American public understands what really is going on here relative to the President's budget-and-tax agenda. It is a radical agenda. If you don't believe it is a radical agenda, look at what this President is willing to do, even to the children of our men and women in uniform. It is appalling.

Look at what the President is willing to do to try to stack the court, possibly with ideologues, far outside the mainstream of American jurisprudential thought, to bend the Constitution, to break the Constitution, by bringing nominees to this body who will not share with us their judicial thoughts, who have no scholarly writings, who have no past judicial decisions to look to. They are stealth judges, secret judges.

We cannot allow that to stand. We cannot allow that to happen in our Nation. Our country has been a beacon of democracy, a beacon of openness, a beacon of opportunity. We cannot walk away from that. The Constitution has been the bulwark of making sure that those remain our ideals. For this body to walk away, and to allow for a rubberstamp process to go on, that any individual can come before the Senate Judiciary Committee and the full Senate without the Senate or the committee having any idea who he is or what his agenda really is would be a travesty. It is completely unacceptable.

So, again, I have been proud to work in a bipartisan manner on the confirmation of roughly 100 judges—virtually all conservative Republican judges. But I draw the line here. This is unprecedented, and the constitutional ramifications of what would occur and what precedent would be set would be devastating to this Nation. It would make a mockery of our oath, a mockery of the Constitution, for this body to do anything other than to insist that this nominee share with the body his philosophy relative to legal issues, his jurisprudence.

So I hope we can soon either get to the bottom of who this individual is or move on to other issues that are pressing before our Republic—ranging from health care, education, support of our men and women in uniform. There is much we need to be doing.

Frankly, there is very little pending on the floor at this time, but there is much that ultimately we need to be doing. I hope, in the context of taking on these additional issues, we will do it with fiscal responsibility, which not only involves not succumbing to the temptation to sink our country deeper and deeper and deeper into red ink as far as the eye can see, but also involves correcting President Bush's budget priorities to the degree that we take care of these kids of our military men and women, that we resist the President's temptation to take money away from these schoolhouses in order to give it to Wall Street and to wealthy contributors for political campaigns.

That isn't what we are here for. Those aren't the people we represent. Those aren't the ideals we represent. And this Nation deserves better.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

MEDICAID

Mr. BINGAMAN. Mr. President, I rise to address two or three issues this afternoon. I very much appreciate the chance to do so. First, let me begin with a subject that is extremely important to my State and to many of our States. That is Medicaid. I want to address two different proposals there. First, there is a proposal the administration has made related to Medicaid.

We don't have a written proposal as yet, but we do have various statements from Secretary Thompson. We had a hearing this morning in the Finance Committee that the Presiding Officer attended, as did I. We have had testimony and oral statements and very brief descriptions, but we do not have a written proposal or even a detailed outline of what might be proposed by the administration. But in what they are proposing, I find some real serious concerns.

The other proposal I want to discuss is one I am working on with Congressman DINGELL—we hope to introduce it probably early next week—entitled "Saving Our States." I will try to describe a little bit each of these.

The Nation's Governors have been here this week. I had the good fortune to speak to them last Sunday at one of their subcommittee meetings on human resources about Medicaid. It is clear that they are under severe stress at this point fiscally. It is estimated the States are facing nearly a $30 billion shortfall this year and an $80 billion shortfall in fiscal year 2004. In my view, it is important that the Federal Government respond to that. We cannot just ignore the fact that a growing number of our citizens are uninsured and that more and more people are being dropped from the Medicaid Program and the SCHIP program.

The Federal Government needs to fundamentally reassess its own role in providing health care and reassess its relationship to the States in this regard. As I indicated, I am working with Congressman DINGELL to prepare legislation to do just that.

Let me talk first about the administration's proposal in very broad terms, as I understand it. It contains two parts. One is a set of reforms where, as the Secretary very eloquently described, it would allow States to adopt the best practices. It would allow States to put more emphasis on preventive care for seniors. It would allow States to have the flexibility they need to meet their particular needs. All of that is, of course, very good public policy, at least as stated in its most general form.

As a general matter, I certainly believe the President and the Secretary will find strong support in Congress for that effort. But the second part of their proposal is the one that gives me concern. That is the restructuring of the financing. This part is much more difficult. What this does is basically say that for optional groups and for optional services—and that is an interesting definition as to what is optional; you will find that most of the services and groups currently covered by Medicaid turn out to be optional, and most of the funding that is currently spent on Medicaid turns out to be funding for optional groups and optional services—States would have the ability to get extra money for the first 7 years if they agreed that they would essentially live by a capped amount of Federal funding from now on. It would be about what they were getting in the year 2000 plus a 9-percent increase per year. That is the basic proposal.

In addition to that, they are saying not only are we going to give the States a little extra money, we will reduce the amount of growth in that portion that the State in fact provides. So this is going to save money for the Federal Government. It will save money for the States.

The one thing that is not discussed and that I have great concern about is the effect on the people who are supposed to be getting the health care services under this program; that is, the low-income children and the seniors.

When you look at these definitions, optional groups, which seniors would you think might be in an optional group? Well, under the definition I have been given, if your income is over 74 percent of the Federal poverty rate, you are in an optional group. That means if your income gets anywhere up over about $7,500 or $8,000 per year, somewhere in that range—and I can get the exact figure—you are in an optional group. That means the total resources going to assist in your health care are being capped and are not going to grow as the population needing those services grows, are not going to grow as the usage of those services grows, are not going to grow as the health care cost of those services grows. We all know that there is growth in all three of those areas. That concerns me greatly.

The other part of this which I can understand and makes it somewhat attractive to Governors, some of the Governors who were here this week, is that the Federal proposal says, if you agree to this, not only do you get a little extra Federal money but the amount of State money that you are going to have to put in is also going to be capped. The growth in that is also going to be capped. In other words, we will be able to save you money in your State budget.

This is great for the States; it is great for the Federal Government. The problem is that the health care services available to low-income children and to seniors in our society are going to be reduced and reduced very substantially over the next 10 years under this proposal. So that has been my concern.

Allow me to cite a couple of quotations from people who have spent a lot of time studying this. The AARP executive director and CEO, Bill Novelli, has said, in relation to the administration's proposal:

> This proposal handcuffs states because it leaves people more vulnerable in future years as states struggle to meet increased needs with decreased dollars.

Another quote, from the Consortium for Citizens with Disabilities:

> The Bush Administration proposal fails people with disabilities and dishonors the nation's commitment to its residents—it is not in the national interest. . . . What the Medicaid program calls "optional" services are, in reality, mandatory disability services for the children and adults who need them. These services often are not only life-saving, but also the key to a positive quality of life—something everyone in our nation deserves.

I believe strongly that the Federal Government at this particular time in our Nation's history should not be stepping away from its commitment to seniors, to people with disabilities, and to low-income children. It should not be leaving the States with the primary responsibility for dealing with growth in the cost of the services to these groups in the future.

The administration will point out that the proposal does provide more funding up front to the States. The proposal is to give $12.7 billion more over the first 7 years to help the States. But there is something of an element of bait and switch in that after the first 7 years, that additional funding goes away.

Secretary Thompson noted in his press conference that is after he has left his position, and I am sure it is after most of the Governors will have left their positions and probably after many of us will have left the Senate. That does not give us an adequate justification for putting in place a system that cuts funding for these vitally needed services in future years.

The administration points out that they are promising the block grant for optional populations in a way that will increase at the same percentages that are projected in its budget. This is difficult to respond to, frankly, until we see a written proposal. We need a written proposal from the administration. We do not have that as yet. We do not have that on the Medicaid subject. We do not have that on Medicare either. And I hope those will be forthcoming soon because they are extremely vital programs for all of our States.

Let me also talk a little about the proposal that I have, along with Congressman DINGELL, that we are going to introduce next week. And I will go into more detail about it next week.

Our idea is that there are certain groups that receive health care services under Medicaid, where the Federal Government needs to step up and pay the full cost of those services—or something very close to the full cost. One such group is so-called dual eligibles. These are people who are eligible for Medicare benefits, but are also low income enough that they are eligible for Medicaid at the same time.

Current law says for those who are covered under the Medicaid law the States pay the lion's share of that cost. We are saying the States should not have to pay the lion's share of that cost. This is something where these folks have become eligible for Medicare. We should be paying 100 percent of that cost at the Federal level.

Another group the Federal Government should be underwriting the cost of providing services for are illegal immigrants who come to our health care providers needing emergency attention. Here you can get into quite a philosophical argument as to whether or not these services should be provided. The reality is, if you are a doctor, if you are working in an emergency room and someone shows up who needs emergency care, you are obligated under your Hippocratic oath and the laws of decency, basically, to provide that care, if you are able to do so. To turn a person away because they do not have the right health insurance coverage, or they cannot demonstrate to you their financial solvency, when their circumstance is critical, is just not the way we should do business.

The question is, Once that person has come into that emergency room and asked for that emergency care, who should reimburse the hospital for it? Who should pay the cost of that physician? At the current time, the States are picking that up, or the counties are picking that up, or the health care providers themselves are doing this on a pro bono basis. The reality is the Federal Government should be responsible for that, and we are proposing that in our legislation.

Another group, of course, is Native American citizens. We have a great many Native Americans in my home State. The Federal Government should be stepping up to its responsibility to ensure that health care for these individuals is provided. We propose that as part of our proposal for saving our States as well.

I will have another chance to talk this "saving our States" proposal when we introduce it early next week. I very much wanted to make reference to it today and indicate my great concern about the proposal I understand the administration is about to present to us. The truth is, the cost of providing health care is very high, and it is not getting any cheaper. We need to budget that in and we need to acknowledge that and we need to recognize that as a matter of public policy in this country, we should provide that basic care to seniors, to low-income children, to those who are disabled. The Medicaid Program does that. We need to keep the Medicaid Program sound and not undermine it by rationing back on the dollars we are willing to spend on those basic services.

SOUTHWEST REGIONAL BORDER AUTHORITY ACT

Mr. President, let me also talk about a bill I introduced yesterday. This is a bill entitled Southwest Regional Border Authority Act. We offered this same bill last May. I am very pleased this year I am joined by Senator KAY BAILEY HUTCHISON, and also Senator BARBARA BOXER. This legislation would create an economic development authority for the Southwest border region that would be charged with awarding grants to border communities in support of local economic development projects. The need for a regional border authority is acute. The poverty rate in the Southwest border region is over 20 percent, nearly double the national average of 11.7 percent. The unemployment rate in Southwest border counties can reach as high as six times the national unemployment rate. The per capita personal income in the region is greatly below the national average. In many border counties, the per capita personal income is less than 50 percent of the national average. There is a lack of adequate access to capital that has made it difficult for businesses to get started in this region.

In addition, the development of key infrastructures, such as water, waste water, transportation, public health, and telecommunications—all of these areas of infrastructure need have failed to keep pace with the population explosion and the increase in commerce across our border with Mexico.

Mr. President, the counties in the Southwest border region are among the most economically distressed in the Nation. It should be noted that there are only a few such regions of economic distress throughout the country. Virtually all of the other regions that face this same economic distress are, in fact, served by regional economic development commissions today. These commissions include the Appalachian

Regional Commission, the Delta Regional Authority, the Denali Commission in Alaska, and the Northern Great Plains Regional Authority.

In order to address the needs of the border region in a similar fashion, we are proposing this Regional Economic Commission for the Southwest border. The bill is based on four guiding principles.

First, it starts from the premise that people who live on the Southwest border know best when it comes to making decisions as to how to improve their own communities.

Second, it employs a regional approach to economic development and encourages communities to work across county and State lines where appropriate. All too often in the past, the efforts to improve our region have hit roadblocks as a result of poor coordination and communication between communities.

Third, it creates an independent agency, meaning it will be able to make decisions that are in the best interest of the border communities, without being subject to the politics of Federal agencies.

Finally, it brings together representatives of the four Southwest border States and the Federal Government as partners to work on improving the standard of living for people living on the border.

This is not just another commission, and it is certainly not just another grant program. I believe this Southwest regional border authority not only will help leverage new private sector funding, it will also help to better target the Federal funds that are available to those projects that are most likely to produce results.

The legislation accomplishes this through a sensible mechanism of development planning. The purpose of the planning process is to ensure that priorities are reflected in the projects funded by the authority. It also is to provide flexibility to the authority to fund projects that are regional in nature.

I think the process has various advantages, and there are great benefits that can be derived from setting up this border authority. I believe very strongly this legislation is overdue. It is something that should have happened several years ago. For too long, the needs of the Southwest border have been ignored, overlooked, and underfunded.

I am confident the creation of a Southwest regional border authority not only will call attention to the great needs that exist on the border, but will help us to meet those needs. I urge my colleagues to give attention to this legislation that we have introduced. I hope other colleagues will choose to support it. I hope we can have a hearing on it in the near future and move the legislation through the Senate and through the House to the President for signature.

Mr. President, let me say a few words about the Estrada nomination as well. I know that is a subject of great concern to many on both sides of the aisle. I have taken some time in the last couple of days to review the transcript of the testimony that Mr. Estrada gave in the Judiciary Committee.

I have been struck by his position, as stated numerous times in that testimony, that he was not willing to share his views on any issue related to judicial philosophy or court decisions with the committee.

I was particularly struck by the discussion he had with our colleague, Senator SCHUMER. Senator SCHUMER was asking about Mr. Estrada's earlier statement that he saw as part of his job working for Justice Kennedy recommending law clerks and asking them questions, of course, interviewing them before he made the recommendation.

Senator SCHUMER said:

> Isn't it appropriate that you would ask those questions? Isn't it also appropriate that we would be asking you some questions to try to determine your views?

Mr. Estrada said in response to that question:

> Questions that I asked in doing my job for Justice Kennedy were intended to ascertain whether there were any strongly felt views that would keep that person from being a good law clerk to the Justice.

That is entirely appropriate, in my view, and a very well-stated position. That, in my view, is the exact job we have to perform as we screen and consider the various nominees for Federal court positions that the President sends us. We need to determine whether they have any strongly felt views that would keep them from being good members of the Court of Appeals for the District of Columbia, good members of the district court, or good members of the Supreme Court.

My own position is that I am willing, and have demonstrated many times on the Senate floor my willingness, to support conservative nominees to the court. I believe many of those people are making excellent judges in our Federal court system. But I also want to be sure their views on issues that relate to their duties are mainstream, that they are not extreme. The only way I know to carry out that responsibility is to ask some questions to determine whether they have strongly felt views, as Mr. Estrada said, that would keep them from being, as he said in the case he was referring to, a good law clerk to the Justice.

In the Senate, when we are considering people for lifetime appointments to the Federal judiciary, we have a heavier responsibility to be sure there are no strongly held views that would keep these individuals from being good judges in our Federal court system for the remainder of their lives. That is what I believe we should be trying to do. I think that is what many members of the Judiciary Committee were trying to do in the hearing that took place on Mr. Estrada.

His view was that he would not respond to questions that were put to him about any such views, and he repeatedly said he did not think it was appropriate for him to comment on any personal views he might have. Since, of course, he would not comment on his personal views, there is no way to determine whether any of them are extreme.

I do not think that is an adequate carrying out of responsibilities by the Judiciary Committee. I do not think it is an adequate carrying out of responsibilities by the Senate. And I think we do need more information. That has been my position. Before we move ahead with this nomination, we should get more information.

I hope the Judiciary Committee will consider reconvening a hearing, once again providing the nominee with an opportunity to respond, as other nominees have traditionally responded. That is all we are asking, not that he give us information others were not asked to give or others did not give, but that he essentially provide basic information.

He may express some views with which I do not agree. That is fine. Many judges for whom I have voted also, I believe, expressed views with which I did not agree. At least I was confident their views were not extreme. At least I was confident their views were mainstream and that they were within the mainstream as far as their conception of where the law is and where the law ought to go.

I hope very much we can get the additional information we have been asking for and can proceed to dispose of this nomination. That would be my great hope. I do not know what the intent of the majority leader is at this point or the intent of the Judiciary Committee. I hope we can proceed in that manner.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

Mr. REID. Mr. President, last evening, there was a lot of talk about whether memos at the Solicitor General's Office had ever been made public. I am going to talk about that, but I think we should put this whole debate involving Miguel Estrada in a framework that people who are watching the debate who are not familiar with Senate procedure can better understand what is going on.

In effect, Miguel Estrada has asked his employer, the Federal Government, to give him a job to last for life. As with any job, one usually has to have an interview. In this instance, in addition to an interview, you bring whatever papers you have, whether it is a resume or other documents that your employer may want to find out if you should be hired. In the instance of Miguel Estrada, he simply has not filled out the requisite papers, he has not answered the questions or supplied the necessary information.

An employer in Nevada, whether a company that sold tires or a company that sold food—it would not matter what it is—if somebody applied for a job, they would have to answer the questions that employer asked and give the requisite papers. In this instance, Democratic members of the Judiciary Committee believe he has not answered the questions. By reading the transcript, it is quite clear that is true.

But yesterday, the distinguished Senator from Utah, Mr. HATCH, engaged in extensive discussion regarding the release of Solicitor General memoranda. As everyone by this time knows, we have asked that Miguel Estrada release memos he wrote while he was an attorney in the Solicitor General's Office. The administration has refused to provide these documents.

There are two basic charges raised by my distinguished colleagues on the other side of the aisle about these memoranda: First, the distinguished chairman of the committee, Senator HATCH, has argued that when such memos were provided in the past, they were leaked.

My colleague argued that they have never, ever been given to anyone on Capitol Hill.

Second, he qualified his remarks by saying to the extent memos had been provided, they were provided because there was some allegation of improper behavior by the nominee in connection with the memo.

I will place in the RECORD a series of correspondence between the Judiciary Committee and the Justice Department from 1987 that demonstrates in fact such documents were provided. This is only one instance. These letters show that these memoranda were not leaked. They show that they were in fact provided freely by the Justice Department.

In a letter dated August 10, 1987, then Judiciary Committee Chairman BIDEN set forth a request for several types of documents relating to the nomination of Judge Bork to the Supreme Court. In the letter, Senator BIDEN requested four classes of Bork-related memos: He requested those that related to the Watergate controversy; second, all documents generated or involving Solicitor General Bork relating to the constitutionality, appropriateness, or use of the pocket veto; third, all documents generated to or involving then Solicitor General Bork regarding school desegregation; fourth, all documents generated to or involving then Solicitor General Bork in forming the U.S. position in a series of specific cases.

These requests involved memoranda provided by attorneys in the Solicitor General's Office to the Solicitor General recommending such things as whether to file amicus briefs in particular cases.

In this instance, what happened to Senator BIDEN's request? Well, in fact a letter came to him dated August 24 from then Republican Assistant Attorney General Bolton to Democratic Senator JOE BIDEN. In that letter, the Justice Department declined to provide documents relating to the Watergate controversy. This denial of documents was based on executive privilege. The documents involved did not include Bork but, rather, related to communications between and among close advisers to the President and the President.

Yesterday, Senator CRAPO made reference to the fact that some documents were not turned over to the committee during this time. While it is true that the Watergate documents were not turned over, and this is based on executive privilege, that does not affect our debate. Solicitor General memoranda from Estrada to his supervisors are not covered by executive privilege. No one has ever claimed they are.

In 1987, however, the Justice Department did provide the other documents I described above which were requested in the Biden letter. In these materials, the Justice Department noted in the letter: The vast majority of the documents that have been requested reflect or disclose internal deliberations within the executive branch. We wish to cooperate to the fullest extent with the committee and to expedite Judge Bork's confirmation process. The letter concludes that the documents referred to above would be provided. The letter confirms the nature and circumstances under which the Solicitor General memoranda were provided to the Judiciary Committee during Bork's hearings.

So what about the argument that to the extent memoranda have been provided, they were only provided when the request alleged misconduct or malfeasance on the part of the nominee or other attorneys involved in the matter? This simply is not true.

I have a list of internal attorney memoranda provided during the Bork, Reynolds, and Rehnquist nominations. These documents, some of which are from the Solicitor's Office, others from other parts of the Justice Department, were made public and given to Senator BIDEN, and in other instances given to others. For example, all documents related to school desegregation between 1969 and 1977 relating to Bork in any way, there was no allegation of misconduct; documents related to Halpren v. Kissinger, no allegation of misconduct.

I have about 14 of these that were made a part of proceedings before the Senate.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

All documents related to school desegregation between 1969 and 1977 relating to Bork in any way (disclosure included, among others, the SG Office memos about *Vorcheimer* v. *Philadelphia*, known as "the Easterbrook memo"; *United States* v. *Omaha; United States* v. *Demopolis City* (school desegregation in Alabama)): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Documents related to *Halperin* v. *Kissinger* (civil suit for 4th Amendment violations for wiretapping): No allegation of misconduct or malfeasance by the nominee.

Memos about whether to file an amicus brief in *Hishon* v. *King & Spaulding* (gender discrimination at a law firm): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos regarding *Wallace* v. *Jaffree* (school prayer in Alabama): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about Congressional reapportionment in Louisiana and one-person, one-vote standard: No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos regarding possible constitutional amendment in 1970 to overturn *Green* v. *New Kent County*, and preserve racial discrimination in Southern schools: No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memo of November 16, 1970 from John Dean: No allegation of misconduct or malfeasance by the nominee.

Memos of William Ruckelshaus of December 19, 1969 and February 6, 1970: No allegation of misconduct or malfeasance by the nominee.

Memos of Robert Mardian of January 18 1971: No allegation of misconduct or malfeasance by the nominee.

Memos of law clerk to Justice Jackson: No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about whether or not to seek Supreme Court review in *Kennedy* v. *Sampson* (pocket veto): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *Hills* v. *Gautreaux* (racial discrimination in housing in Chicago): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *DeFunis* v. *Odegaard* (affirmative action program at the University of Washington law school): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *Morgan* v. *McDonough* (public school desegregation in Boston): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *Pasadena* v. *Spengler* (public school desegregation): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *Barnes* v. *Kline* (military assistance in El Salvador): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Memos about *Kennedy* v. *Jones* (pocket veto and the mass transit bill and bill to assist the disabled): No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Documents related to Supreme Court selection process of Nixon and Reagan: No allegation of misconduct or malfeasance by the nominee or anyone else at the Justice Department.

Mr. REID. I say respectfully that the statements made by the distinguished Senator from Utah were without basis of fact. Here we have records that were not leaked, they are directly as we said they were last night. We were unable to get the floor, but in fact that is what the story was.

So now that we do have the floor, I ask unanimous consent that the letter dated August 10, 1987, to Attorney General Ed Meese from JOSEPH BIDEN be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 10, 1987.

Hon. EDWIN MEESE III,
Attorney General, Department of Justice, Washington, DC.

DEAR GENERAL MEESE: As part of its preparation for the hearings on the nomination of Judge Robert Bork to the Supreme Court, the Judiciary Committee needs to review certain material in the possession of the Justice Department and the Executive Office of the President.

Attached you will find a list of the documents that the Committee is requesting. Please provide the requested documents by August 24, 1987. If you have any questions about this request, please contact the Committee staff director, Diana Huffman, at 224-0747.

Thank you for your cooperation.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Chairman.

REQUEST FOR DOCUMENTS REGARDING THE NOMINATION OF ROBERT H. BORK TO BE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

Please provide to the Committee in accordance with the attached guidelines the following documents in the possession, custody or control of the United States Department of Justice, the Executive Office of the President, or any agency, component or document depository of either (including but not limited to the Federal Bureau of Investigation):

1. All documents generated during the period from 1972 through 1974 and constituting, describing, referring or relating in whole or in part to Robert H. Bork and the so-called Watergate affair.

2. Without limiting the foregoing, all documents generated during the period from 1972 through 1974 and constituting, describing, referring or relating in whole or in part to any of the following:

a. any communications between Robert H. Bork and any person or entity relating in whole or in part to the Office of Watergate Special Prosecution Force or its predecessors- or successors-in-interest;

b. the dismissal of Archibald Cox as Special Prosecutor;

c. the abolition of the Office of Watergate Special Prosecution Force on or about October 23, 1973;

d. any efforts to define, narrow, limit or otherwise curtail the jurisdiction of the Office of Watergate Special Prosecution Force, or the investigative or prosecutorial activities thereof;

e. the decision to reestablish the Office of Watergate Special Prosecution Force in November 1973;

f. the designation of Mr. Leon Jaworski as Watergate Special Prosecutor;

g. the enforcement of the subpoena at issue in *Nixon* v. *Sirica*;

h. any communications on October 20, 1973 between Robert H. Bork and then-President Nixon, Alexander Haig, Leonard Garment, Fred Buzhardt, Elliot Richardson, or William Ruckelshaus;

l. any communications between Robert H. Bork and then-President Nixon, Alexander Haig and/or any other federal official or employee on the subject of Mr. Bork and a position or potential position as counsel to President Nixon with respect to the so-called Watergate matter;

m. any action, involvement or participation by Robert H. Bork with respect to any issue in the case of *Nader* v. *Bork*, 366 F. Supp. 104 (D.D.C. 1975), or the appeal thereof;

n. any communication between Robert H. Bork and then-President Nixon or any other federal official or employee, or between Mr. Bork and Professor Charles Black, concerning Executive Privilege, including but not limited to Professor Black's views on the President's "right" to confidentiality as expressed by Professor Black in a letter or article which appeared in the *New York Times* in 1973 (see Mr. Bork's testimony in the 1973 Senate Judiciary Committee hearings on the Special Prosecutor);

o. the stationing of FBI agents at the Office of Watergate, Special Prosecution Force on or about October 20, 1973, including but not limited to documents constituting, describing, referring or relating to any communication between Robert H. Bork, Alexander Haig, or any official or employee of the Office of the President or the Office of the Attorney General, on the one hand, and any official or employee of the FBI, on the other; and

p. the establishment of the Office of Watergate Special Prosecution Force, including but not limited to all documents constituting, describing, referring or relating in whole or in part to any assurances, representations, commitments or communications by any member of the Executive Branch or any agency thereof to any member of Congress regarding the independence or operation of the Office of Watergate Special Prosecution Force, or the circumstances under which the Special Prosecutor could be discharged.

3. The following documents together with any other documents referring or relating to them:

a. the memorandum to the Attorney General from then-Solicitor General Boark, dated August 21, 1973, and its attached "redraft of the memorandum intended as a basis for discussion with Archie Cox" concerning "The Special Prosecutor's authority" (typeset copies of which are printed at pages 287-288 of the Senate Judiciary Committee's 1973 "Special Prosecutor" hearings);

b. the letter addressed to Acting Attorney General Bork from then-President Nixon, dated October 20, 1973., directing him to discharge Archibald Cox;

c. the letter addressed to Archibald Cox from then-Acting Attorney General Bork, dated October 20, 1973, discharging Mr. Cox from his position as Special Prosecutor;

d. Order No. 546-73, dated October 23, 1973, signed by then-Acting Attorney General Bork, entitled "Abolishment of Office of Watergate Special Prosecutor Force";

e. Order No. 547-73, dated October 23, 1973, signed by then-Acting Attorney General Bork, entitled "Additional Assignments of Functions and Designation of Officials to Perform the Duties of Certain Offices in Case of Vacancy, or Absence therein or in Case of Inability or Disqualification to Act";

f. Order No. 551-73, dated November 2, 1973, signed by then-Acting Attorney General Bork, entitled "Establishing the Office of Watergate Special Prosecution Force";

g. the Appendix to Item 2.f., entitle "Duties and Responsibilities of Special Prosecutor";

h. Order No. 552-73, dated November 5, 1973, signed by then-Acting Attorney General Bork, designating "Special Prosecutor Leon Jaworski the Director of the Office of Watergate Special Prosecution Force";

i. Order No. 554-73, dated November 19, 1973, signed by then-Acting Attorney General Bork, entitled "Amending the Regulations Establishing the Office of Watergate Special Prosecution Force"; and

j. the letter to Leon Jaworski, Special Prosecutor, from then-Acting Attorney General Bork, dated November 21, 1973, concerning Item 2.i.

4. All documents constituting, describing, referring or relating in whole or in part to any meetings, discussions and telephone conversations between Robert H. Bork and then-President Nixon, Alexander Haig or any other federal official or employee on the subject of Mr. Bork's being considered or nominated for appointment to the Supreme Court.

5. All documents generated from 1973 through 1977 and constituting, describing, referring or relating in whole or in part to Robert H. Bork and the constitutionality, appropriateness or use by the President of the United States of the "Pocket Veto" power set forth in Art. I, section 7, paragraph 2 of the United States Constitution, including but not limited to all documents constituting, describing, referring or relating in whole or in part to any of the following:

a. The decision not to petition for certiorari from the decision of the United States Court of Appeals for the District of Columbia Circuit in *Kennedy* v. *Sampson*, 511 F.2d 430 (1947);

b. the entry of the judgment in *Kennedy* v. *Jones*, 412 F. Supp. 353 (D.D.C. 1976); and

c. the policy regarding pocket vetoes publicly adopted by President Gerald R. Ford in April 1976.

6. All documents constituting, describing, referring or relating in whole or in part to Robert H. Bork and the incidents at issue in *United States* v. *Gray, Felt & Miller*, No. Cr. 78-00179 (D.D.C. 1978), including but not limited to all documents constituting, describing, referring or relating in whole or in part to any of the exhibits filed by counsel for Edward S. Miller in support of his contention that Mr. Bork was aware in 1973 of the incidents at issue.

7. All documents constituting, describing or referring to any speeches, talks, or informal or impromptu remarks given by Robert

H. Bork on matters relating to constitutional law or public policy.

8. All documents constituting, describing, referring or relating in whole or in part either (i) to all criteria or standards used by President Reagan in selecting nominees to the Supreme Court, or (ii) to the application of those criteria to the nomination of Robert H. Bork to be Associate Justice of the Supreme Court.

9. All documents constituting, describing, referring or relating in whole or in part to Robert H. Bork and any study or consideration during the period 1969–1977 by the Executive Branch of the United States Government or any agency or component thereof of school desegregation remedies. (In addition to responsive documents from the entities identified in the beginning of this request, please provide any responsive documents in the possession, custody or control of the U.S. Department of Education or its predecessor agency, or any agency, component or document depository thereof.)

10. All documents constituting, describing, referring or relating in whole or in part to the participation of Solicitor General Robert H. Bork in the formulation of the position of the United States with respect to the following cases:

a. *Evans* v. *Wilmington School Board*, 423 U.S. 963 (1975), and 429 U.S. 973 (1976);

b. *McDonough* v. *Morgan*, 426 U.S. 935 (1976);

c. *Hills* v. *Gautreaux*, 425 U.S. 284 (1976);

d. *Pasadena City Board of Education* v. *Spangler*, 427 U.S. 424 (1976);

e. *Roemer* v. *Maryland Board of Public Education*, 426 U.S. 736 (1976);

f. *Hill* v. *Stone*, 421 U.S. 289 (1975); and

g. *DeFunis* v. *Odegaard*, 416 U.S. 312 (1975).

GUIDELINES

1. This request is continuing in character and if additional responsive documents come to your attention following the date of production, please provide such documents to the Committee promptly.

2. As used herein, "document" means the original (or an additional copy when an original is not available) and each distribution copy of writings or other graphic material, whether inscribed by hand or by mechanical, electronic, photographic or other means, including without limitation correspondence, memoranda, publications, articles, transcripts, diaries, telephone logs, message sheets, records, voice recordings, tapes, film, dictabelts and other data compilations from which information can be obtained. This request seeks production of all documents described, including all drafts and distribution copies, and contemplates production of responsive documents in their entirety, without abbreviation or expurgation.

3. In the event that any requested document has been destroyed or discarded or otherwise disposed of, please identify the document as completely as possible, including without limitation the date, author(s), addressee(s), recipient(s), title, and subject matter, and the reason for disposal of the document and the identity of all persons who authorized disposal of the document.

4. If a claim is made that any requested document will not be produced by reason of a privilege of any kind, describe each such document by date, author(s), addressee(s), recipient(s), title, and subject matter, and set forth the nature of the claimed privilege with respect to each document.

Mr. REID. Mr. President, this outlines seven pages of documents he wants and certain guidelines that would be followed so that the Attorney General's Office would be protected.

In addition, I ask unanimous consent that a letter dated August 24 of that same year to JOSEPH R. BIDEN from Mr. Bolton, the Assistant Attorney General, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC.

Hon. JOSEPH R. BIDEN, Jr.
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN BIDEN: This responds further to your August 10th letter requesting certain documents relating to the nomination of Judge Robert Bork to the Supreme Court. Specifically, this sets forth the status of our search for responsive documents and the methods and scope of review by the Committee.

As we have previously informed you in our letter of August 18, the search for requested documents has required massive expenditures of resources and time by the Executive Branch. We have nonetheless, with a few exceptions discussed below, completed a thorough review of all sources referenced in your request that were in any way reasonably likely to produce potentially responsive documents. The results of this effort are as follows:

In response to your requests numbered 1–3, we have conducted an extensive search for documents generated during the period 1972–1974 and relating to the so-called Watergate affair. We have followed the same procedure, in response to request number 4, for all documents relating to consideration of Robert Bork for the Supreme Court by President Nixon or his subordinates. We have completed our search of relevant Department of Justice and White House files for documents responsive to these requests. The Federal Bureau of Investigation also has completed its search for responsive documents, focusing on the period October–December 1973 and on references to Robert Bork generally.

Most of the documents responsive to requests numbered 1–4 are in the possession of the National Archives and Records Administration, which has custody of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force. The Archives staff supervised and participated in the search of the opened files of the Nixon Presidential materials and the files of the Watergate Special Prosecution Force, which was directed to those files which the Archives staff deemed reasonably likely to contain potentially responsive documents.

Pursuant to a request by this Department under 36 C.F.R. 1275, the Archives staff also examined relevant unopened files of the Nixon Presidential materials, and, as required under the pertinent regulations, submitted the responsive documents thus located for review by counsel for former President Nixon. Mr. Nixon's counsel, R. Stan Mortenson, interposed no objection to release of those submitted documents that (a) reference, directly or indirectly, Robert Bork, or (b) were received by or disseminated to persons outside the Nixon White House. Mr. Mortenson on behalf of Mr. Nixon objected to production of the documents which are described in the attached appendix. Mr. Mortenson represents that these documents constitute purely internal communications within the White House and contain no direct or indirect reference to Robert Bork.

Mr. Mortenson also objected on the same grounds to production of unopened portions of two documents produced in incomplete form from the opened files of the Nixon Presidential materials:

1. First page and redacted portion of fifth page of handwritten note of John D. Ehrlichman dated December 11, 1972.

2. All pages other than the first page of memorandum from Geoff Shepard to Ken Cole dated June 19, 1973.

Mr. James J. Hastings, Acting Director of the Nixon Presidential Materials Project, has reviewed these two documents and has advised us that the unopened portions of neither document contain any direct or indirect reference to Judge Bork.

Our search has not yielded a copy of the document referenced in paragraph "a" of your request numbered 3, which, as you correctly note, is printed at pages 287–288 of the Judiciary Committee's 1973 "Special Prosecutor" hearings.

Among the documents collected by the Department are certain documents generated in the defense of *Halperin* v. *Kissinger*, Civil Action No. 73–1187 (D. D.C.), a suit filed against several federal officials in their individual capacity, which remains pending. The Department has an ongoing attorney-client relationship with the defendants in *Halperin*, which precludes us from releasing certain documents containing client confidences and litigation strategy, without their consent. 28 C.F.R. 50.156(a)(3).

All documents responsive to request number 5, concerning the pocket veto, have been assembled.

All documents responsive to request number 6 have been assembled. The exhibits filed by counsel for Edward S. Miller on July 12, 1978 and referred to in your August 10 letter, remain under seal by order of the United States District Court for the District of Columbia. However, a list of the thirteen documents has been unsealed. We have supplied copies of eleven of these documents, including redacted versions of two of the documents (a few sentences of classified material have been deleted). We have supplied unclassified versions of two of these eleven documents, as small portions of them remain classified. We are precluded by Rule 6(e) of the Rules of Criminal Procedure from giving you access to two other exhibits—classified excerpts of grand jury transcripts—filed on July 12, 1978. We also searched the files of several civil cases related to the Felt and Miller criminal prosecution, as well as the documents generated during the consideration of the pardon for Felt and Miller.

With respect to request number seven, Judge Bork has previously provided to the Committee a number of his speeches, which we have not sought to duplicate. We have sought and supplied any additional speeches, press conferences or interviews by Mr. Bork, as well as any contemporaneous documents which tend to identify a date or event where he gave a speech or press interview during his tenure at the Department.

On request number eight, there are no documents in which President Reagan has set forth the criteria he used to select Supreme Court nominees, or their application to Judge Bork, other than the public pronouncements and speeches we have assembled.

Our search for documents responsive to request number nine has been time-consuming and very difficult, and is not at this time entirely complete. In order to conduct as broad a search as possible, we requested the files in every case handled by the Civil Rights Division or Civil Division, between 1969–77, which concerned desegregation of public education. Although most of these case files have been retrieved, several remain unaccounted for and perhaps have been lost. We expect to have accounted for the remaining files (which may or may not contain responsive documents) in the next few days. We have also assembled some responsive documents obtained from other Department files. The Department of Education is nearing completion of its search of its files, and those of its predecessor agency, HEW.

We have assembled case files for the cases referred to in question ten, with the exception of *Hill* v. STONE, for which there is no file. We have no record of the participation of the United States in *Hill* v. *Stone*, or consideration by the Solicitor General's office of whether to participate in that case.

A few general searches of certain front office files are still underway, and we expect those searches to be concluded in the next few days. We will promptly notify you should any further responsive documents come into our possession.

As you know, the vast majority of the documents you have requested reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch. The disclosure of such sensitive and confidential documents seriously impairs the deliberative process within the Executive Branch, our ability to represent the government in litigation and our relationship with other entities. For these reasons, the Justice Department and other executive agencies have consistently taken the position, in response to the Freedom of Information Act and other requests, that it is not at liberty to disclose materials that would compromise the confidentiality of any such deliberative or otherwise privileged communications.

On the other hand, we also wish to cooperate to the fullest extent possible with the Committee and to expedite Judge Bork's confirmation process. Accordingly, we have decided to take the exceptional step of providing the Committee with access to responsive materials we currently possess, except those privileged documents specifically described above and in the attached appendix. Of course, our decision to produce these documents does not constitute a waiver of any future claims of privilege concerning other documents that the Committee request or a waiver of any claim over these documents with respect to entities or persons other than the Judiciary Committee.

As I have previously discussed with Diana Huffman, the other documents will be made available in a room at the Justice Department. Particularly in light of the voluminous and privileged nature of these documents, copies of identified documents will be produced, upon request, only to members of the Judiciary Committee and their staff and only on the understanding that they will not be shown or disclosed to any other persons. Please have you staff contact me to arrange a mutually convenient time for inspection of the documents.

As I stressed in my previous letter, if the Committee is or becomes aware of any documents it believes are potentially responsive but have not been produced, please alert us as soon as possible and we will attempt to locate them.

Should you have any questions or comments, please contact me as soon possible. Thank you for your cooperation.

Sincerely,

LAURA WILSON
(for John R. Bolton, Assistant
Attorney General)

APPENDIX

DOCUMENTS SUBJECT TO OBJECTION BY MR. NIXON'S COUNSEL

1. Memorandum to Buzhardt and Garment, from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor. (Document No. 8)

2. Memorandum to Buzhardt and Garment, from Charles Alan Wright, January 7, 1973. Subject: June 6th meeting with the Special Prosecutor. (Document No. 9)

3. Memorandum to Garment, from Ray Price, July 25, 1973. Subject: Procedures re: Subpoena. (Document No. 13)

4. Memorandum to General Haig, from Charles A. Wright, July 25, 1973. Subject: Proposed redrafts of letters. (Document No. 14)

5. Draft letter to Senator Ervin, dated July 26, 1973. Subject: two subpoenas from Senator Ervin. (Document No. 15)

6. Draft letter to Judge Sirica, dated July 26, 1973. Subject: subpoena duces tecum. (Document No. 16)

7. Memorandum to The Lawyers, from Charlie Wright, dated July 25, 1973. Subject: Thoughts while shaving. (Document No. 17)

8. Memorandum to The President, from J. Fred Buzhardt, Leonard Garment, Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas. (Document No. 18)

9. Memorandum to Ray Price, from Tex Lezar, dated October 17, 1973. Subject: WG Tapes. (Document No. 20)

10. Memorandum to Leonard Garment and J. Fred Buzhardt, from Charles A. Wright, dated August 3, 1973. Subject: Discussions with Philip Lacovara. (Document No. 25)

11. Memorandum to the President, from Leonard Garment, J. Fred Buzhardt, Charles A. Wright, dated August 2, 1973. Subject: Brief for Judge Sirica. (Document No. 26)

12. Memorandum to Len Garment, Fred Buzhardt, Doug Parker and Tom Marinis, From Charlie Wright, dated August 1, 1973. Subject: note regarding brief. (Document No. 27)

13. Memorandum to The President, from J. Fred Buzhardt, Leonard Garment and Charles A. Wright, dated July 24, 1973. Subject: Response to Subpoenas. (Document No. 28)

14. Draft letter to Senator Ervin, dated July 26, 1973. Subject: two subpoenas issued July 23rd. (Document No. 29)

15. Draft letter to Judge Sirica, dated July 26, 1973. Subject: subpoena duces tecum. (Document No. 30)

16. Memorandum to J. Fred Buzhardt, Leonard Garment and Charles Alan Wright, from Thomas P. Marinis, Jr. (undated). Subject: Appealability of Cox Suit. (Document No. 31)

17. Notes (handwritten) (undated). Subject: [appears to be notes of oral argument]. (Document No. 32)

18. Memorandum to The President, from Charles Alan Wright, dated September 14, 1973. Subject: Response to Court's memorandum. (Document No. 34)

19. Handwritten notes. (Document No. 36)

20. Memorandum to J. Frederick Buzhardt, from Charles Alan Wright, dated June 2, 1973. Subject: Executive privilege. (Document No. 41)

21. Memorandum to J. Frederick Buzhardt and Leonard Garment, from Charles Alan Wright, dated June 7, 1973. Subject: June 6th meeting with Special Prosecutor. (Document No. 42)

22. Memorandum to J. Fred Buzhardt from Robert R. Andrews, dated June 21, 1973. Subject: Executive Privilege. (Document No. 43)

23. Memorandum to J. Fred Buzhardt and Leonard Garment, from Thomas P. Marinis, Jr., dated June 20, 1973. Subject: Professor Wright's attempt to obtain document. (Document No. 44)

24. Memorandum to J. Fred Buzhardt and Leonard Garment, from Charles Alan Garment (sic), dated June 7, 1973. Subject: June 6th meeting with the Special Prosecutor. (Document No. 46)

25. Draft letter to Senator, from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th. (Document No. 60)

26. Draft Letter to Senator, from Alexander Haig, dated December 12, 1973. Subject: Response to letter of the 5th. (Document No. 61)

27. Proposal re: transcription of tapes, dated October 17, 1973. (Document No. 63)

28. Typed note with handwritten notation: Sent to Buzhardt 12/11/73, undated. Subject: papers Buzhardt sent to Jaworski. (Document No. 66)

29. Chronology—Presidential Statements, Letters, Subpoenas, dated March 12, 1973. Subject: chronology of same. (Document No. 71)

30. Handwritten note, dated 1/31/74 (January 31, 1974). Subject: Duties and responsibilities of Special Prosecutor. (Document No. 82)

31. Memorandum to Fred Buzhardt, from William Timmons, dated 7/30/73 (July 30, 1973). Subject: refusal to release taped conversations. (Document No. 91)

32. Memorandum to Fred Buzhardt, from Paul Trible, dated October 30, 1973. Subject: Cox's diclosure of Kleindienst's confidential communication. (Document No. 92)

33. Proposal regarding transcription of tape conversations, dated 10/17/73 (October 17, 1973). (Document No. 94)

Mr. REID. These clearly indicate that Bolton acknowledged materials would be forthcoming.

The reason these are important is that we have said this man who has no judicial record whatsoever—and I heard the distinguished Presiding Officer give a statement yesterday about the many judges who have been distinguished who have not had judicial experience. We have never debated that. We agree, one does not have to have judicial experience to be a good judge. If that were the case, there would never be any good judges, quite frankly. Somebody has to start someplace. In fact, we would never have judges. That is what is referred to as a red herring.

We have never alleged that Miguel Estrada is disqualified from being a judge because he has not been a judge. That is something that the majority has talked about a lot, but we have never raised that as an issue.

What we have said is that those instances where we can learn something about his political philosophy and his philosophy as it relates to jurisprudence, we need to know something about that. The only place we can go to look is in relation to when he worked at the Solicitor's Office because he has not answered the questions we have asked him about the cases he prepared and took to trial when he was an Assistant Attorney General or when he argued cases before appellate courts.

As I have said on a number of different occasions, I have been to court lots of times. I have represented all kinds of different people. In all the cases I took, when I argued a case before a jury and before a court, one could not find out what my political or judicial philosophy was. The reason was I was being paid to represent somebody and carrying out my responsibilities as a lawyer.

So the fact that he has been before the Supreme Court and other appellate courts and has tried cases adds to someone's capabilities, but it does not allow us to find out about a person who is going to the second highest court in the land, if he passes this test. That is not enough. We need to know something about him. That is the reason we have raised these issues.

One thing my friend from Vermont raised, and I thought it was so good last evening: One does not have to graduate first in their class at Harvard to be a judge, but we heard assertions that Miguel Estrada has graduated first in his class. He has not. But he could graduate last in his class. He went to Harvard, which is one of the top two or three law schools in the entire country. The mere fact he went to Harvard means he is really smart.

He did not graduate first in his class. He was not editor of the Law Review. He was, with 71 other men and women at Harvard, part of the Law Review. He was 1 of 71. That is a pretty large group. As I have indicated, they are all smart.

The fact that he was an editor adds to his qualifications, but do not try to puff him up to make him something that he is not. He was not editor of the Law Review.

I think we are off on a lot of tangents. As Senator HATCH laid out so clearly last night, I think it is tremendous that a man came from Central America when he was 17 years old, went to Columbia University, also a school that is hard to get in, so he must have done well on his tests. I think it is tremendous that he was able then to go to Harvard. But let's not try to make this a rags-to-riches story because it was not. He did well, and that is tremendous. He is an immigrant to this country who has done well academically, but let's not build this up to some kind of a Horatio Alger story as some have said. I think the guy has done very well, and that is commendable. But we have heard all of these assertions that he graduated first in his class and he was editor of the Law Review, which is not true. It does not take away from what a smart man he must be.

We heard a lot last night, with Senators asking questions of Senator HATCH about all the editorials from around the country. Of course, there are lots of editorials that oppose Miguel Estrada. There is no need to read all of them, but I would like to read one from the New York Times. It may only be one newspaper, but the circulation makes up for a lot of smaller newspapers.

This editorial is 411 words long and is entitled "Full Disclosure for Judicial Candidates."

> The Constitution requires the Senate to give its advise and consent on nominees for federal judgeships. But in the case of Miguel Estrada, the Bush administration's choice for a vacancy on the powerful United States Court of Appeals for the District of Columbia Circuit, the Senate is not being given the records it needs to perform its constitutional role. The Senate should not be bullied into making this important decision in the dark.
>
> Mr. Estrada, who has a hearing before the Senate Judiciary Committee tomorrow, has made few public statements about controversial legal issues. But some former colleagues report that his views are far outside the legal mainstream.
>
> The best evidence of Mr. Estrada's views is almost certainly the memorandums he wrote while working for the solicitor general's office, where he argued 15 cases before the Supreme Court on behalf of the federal government. In these documents, he no doubt gave his views on what position the government should take on cases before the Supreme Court and lower federal courts. Reading them would give the Senate insight into how Mr. Estrada interprets the Constitution, and in what direction he believes the law should head.
>
> There are precedents for this. When Robert Bork was nominated to the Supreme Court in 1987, the Senate was given access to memos prepared while he was solicitor general. The administration has no legal basis for its refusal to supply these documents. Congress has oversight authority over the solicitor general's office, which is part of the Justice Department, and therefore has a right to review its records. Attorney-client privilege and executive privilege are inapplicable for many reasons, including their inability to override the Senate's constitutional duty to investigate fully this judicial nomination.
>
> This is an administration that loves secrecy, on issues ranging from the war in Iraq to Vice President Dick Cheney's energy task force. And it seems to think that if Congress is ignored, it will simply go away. Congress must insist on getting the documents it needs to evaluate Mr. Estrada, and it should not confirm him until it does.

There are three things that can be done and we have been saying this for the 3 weeks we have been on this matter. No. 1, pull the nomination. What does that mean? That means go to something else. No. 2, try to invoke cloture. File a motion to invoke cloture and to do that you need 60 votes. That certainly is within the framework of the Senate for these many years. I also recognize the other way to do this is for Mr. Estrada to come before the Senate and answer the questions that we ask and also supply the memoranda that the New York Times says he should supply. That would be the way to get over this.

We have had now for several days statements made that we should not be on this, that Miguel Estrada is making hundreds of thousands of dollars a year as a lawyer, fully employed at a large law firm here in Washington, DC. We believe that for the many people who are unemployed, the many people who have lost their jobs, 2.8 million during the 2 years of this administration, we should be dealing with those people who are not employed and underemployed people with no health insurance or who are underinsured, people who are trying to make it educationally and otherwise in this society. That is what we should be dealing with. Rather than spending 3 weeks on a man who is fully employed, making hundreds of thousands of dollars a year, we think we should get off this and go to something else.

We are, as has been indicated, here for the duration. If the majority decides they would rather spend the Senate's valuable time on Miguel Estrada, they can do that. But I say that idle time is time we cannot make up later. There is a limited amount of time and a limited amount of legislative days that we have. We could be going to something else.

These filibusters occur very infrequently. I have been here more than two decades now and filibusters are very rare. Once in a while you have to stand for what you believe is right. As the New York Times indicated, we believe we are right.

Now, there was a lot of name calling last night. Both my friend from Colorado and my friend from Tennessee have the absolute right to voice their opinion. I don't think any less of Members for voicing opinions because they disagree with me. I don't think this is the time to name call. We have an actual factual dispute in the Senate. It is now in a procedural bog. We have to figure a way out of this. It should be a debate that is worthy of the traditions of the Senate. That is what this is all about. The Senate traditionally has had debate we read about in our history books. That is what I want the people who read about this debate to see in years to come—not calling each other names, negative in nature but, rather, referring to a person's position as one of conviction.

I listened to the speech of the Presiding Officer who indicated he would wait until next Tuesday to give his maiden speech, but he felt so passionate—that is my word, not his—about this issue that he wanted to give it a few days early. More power to the Senator from Tennessee. That is certainly fine. That is tremendous that the Senator from Tennessee made his speech and he feels strongly about the issue. It does not mean I have to agree with him. But I admire and respect his position.

Everyone on the other side should understand we also have conviction and feel passionately about this issue, and sometimes there are stalemates. This may be one of those. There may be a very tough decision that the majority leader has to make to pull this nomination. If he wants to go through a cloture vote, second cloture vote, a third cloture vote, eat up more time of the Senate, we are here. We are here for the duration. I don't think because we are involved in this debate that people suddenly need to say the Senate will never be the same. Of course it will be the same. We survived the filibuster with the Abe Fortas nomination. We survived that. It was very tough at the time. I watched that from the sidelines. We survived the filibusters conducted against President Clinton's nominees. The problem the Republicans had at that time, they did not have enough votes to stop cloture from being invoked because there were Republicans of good will who decided it was the wrong thing to do. That is good.

The fact there were filibusters and some people felt so strongly is hard to comprehend, but even after the filibuster was ended with the cloture vote then people still moved to postpone that nomination. It went that far.

The Senate survived that. And the Senate will survive this little dustup that is going on here.

The point I am trying to make, let's feel good about other people's positions. You do not have to be mean spirited about someone disagreeing with you. I hope, however long this debate takes, whether it is ended today, Friday, next week, or a month from now, that people will speak well about each other in the Senate and not resort to name calling. That is not good at all.

I hope we can move on to some of the other important issues now facing this country.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Colorado.

Mr. ALLARD. Mr. President, I stand in support of Miguel Estrada, and the need for a vote on his nomination. I listened to the comments of my colleague from Nevada, and I ask myself, what is this debate really about? The debate is about whether a majority of Senators should have the opportunity to voice their opinion through a vote on Miguel Estrada. I, for one, feel like I have adequate information. There is more than a majority of Senators in this body who obviously feel they have adequate information to take a vote on Miguel Estrada.

This filibuster is unprecedented. We have never had a filibuster of this nature before on a circuit court judge up for consideration before this body. I think it is time we recognize that in the Constitution there is an advise and consent provision. Many of us feel the debate has reached the point where enough questions have been asked and now the full body of the Senate is ready to proceed to a vote.

When a judge starts through the nomination process, he is introduced to the Senate through resolution. The nomination goes to the committee. There is also a process where individual Senators can express their concerns through a blue slip process. Then there are hearings and votes in committee, and then the nomination comes to the floor for a vote.

Miguel Estrada has gone through this process. He has even received the highest recommendation from the American Bar Association. That is a body of peers, peers he has done business with on a regular basis, who understand his record, who know him personally, and who appreciate and respect his professional competence to the point they are willing to give him the highest rating the American Bar Association will give to any nominee.

I think he has a great story. He came to this country with a limited English language ability at the age of 17. He could speak Spanish hardly any English at all. If you come here at 17 and don't know the language and you graduate from a university magna cum laude and then go and serve on the Harvard Law Review—it is simply an outstanding academic accomplishment.

This individual's accomplishments did not stop with graduation; they continued through his professional life. Not just anybody gets to argue before the Supreme Court of the United States. That is a select group of people. So as far as I am concerned, let's simplify this debate, as my colleague suggested. Let's have a vote. That is what we are talking about. Let's just bring up Miguel Estrada for a vote in the Senate. I think it is time. I think a lot of debate has been going on. There are some differences of opinion about things that can be argued about. But if we have a vote, each individual Senator has an opportunity to make up his or her mind as to how they feel, as to whether or not there is enough information, to make up their minds as to whether they think this is the quality of person they would like to have on the DC Court of Appeals.

The assistant Democratic leader suggested there are three ways to resolve this problem. He said we can pull the nomination, file cloture, or submit the nominee to additional questioning. I suggest another: To do what we do for most nominees; that is, have the debate, which we are having and have done, set a time certain for a vote, which the other side simply has refused to do, and then vote up or down. Unfortunately, they are not going to permit that to happen.

Last night I joined a majority of my colleagues to display our unity in support for Miguel Estrada, a display of support that is particularly important in the midst of this Democrat-led filibuster. But last night was more than just a display. It was an attempt to break the logjam, a good will invitation to carry out the Senate's duties as commanded by the advice and consent clause of the Constitution. My colleagues and I gathered here on the floor last night, ready to act. A majority of this body is willing to move forward on the nomination of Miguel Estrada by taking a simple up-or-down vote. That is all we are asking for, a simple up-or-down vote on a nominee who is more than qualified to assume the judgeship of the DC Circuit Court, the second most important court in the United States.

Hoping to proceed, my colleagues and I participated in a dialog with Chairman HATCH, a back-and-forth exchange of questions and answers. I admire, I have to say, the ability and knowledge of Chairman HATCH and his dedication to this cause, especially as it became apparent that we, once again, would be denied the opportunity to vote, held hostage by a game of entrenchment politics.

Every time I hear one of my colleagues address the nomination of Mr. Estrada, I cannot help but to be both impressed and shocked, impressed with the character and integrity, the intellect and principles of Mr. Estrada; and shocked that such a capable man, who has the opportunity to become the first Hispanic judge on the DC Circuit Court, cannot even receive a vote, a simple up-or-down vote.

The majority of my colleagues are ready to move forward on the nomination. We are ready to vote. I cannot cast judgment on those who oppose Mr. Estrada. If they want to vote no, that is their choice. I respect that. It is their right. I understand that. I voted against judges whom I believed were not fit to serve. But it is implausible to think he should be denied a vote entirely.

Newspapers, radio stations, television programs across the country are demanding that the stalemate end, and that the minority party allow the Senate to proceed and to break off a filibuster that could amount to a major shift in constitutional authority.

Last week I spent the Presidents Day recess traveling across the State of Colorado. In every community, big or small, concerned citizens shared their beliefs on the importance of this nomination and the need to provide a vote for Miguel Estrada. They were appalled that we were not moving forward, that their representative in the Senate would not have an opportunity to vote on a very important consideration for the judiciary. Perhaps some disagree on whether he should be confirmed, but they all agree there should be at least a vote, and they agree it should be done without shifting constitutional authority in a manner that imposes a supermajority requirement on all judicial nominations. I am afraid that is where we are headed.

Let me share with you a couple of editorials that ran in Colorado's two major newspapers, one published in the Denver Post, the other appearing in the Rocky Mountain News.

The Denver Post, a paper that endorsed Al Gore in 2000, and by no means an arm of the Republican party, demands that Estrada be given his day in court, that the Senate be provided a vote. The paper confirms the outstanding quality of the nominee, noting that he is a picture book example of an immigrant pursuing the American dream.

The Denver Post also recognizes his outstanding credentials, stating that while he may lack judicial experience, so, too, do a majority of those now sitting on the DC Circuit Court, some of whom were nominated by Presidents Carter and Clinton.

I have a statement here from the editorial in the Denver Post on the posterboard beside me.

> The key point is that there should be a vote . . . a filibuster should play no part in the process.

The Rocky Mountain News simply described the Democrats tactics as "ugly," commenting on their attempt to thwart the Senate's majoritarian decisionmaking.

The editorial calls the filibuster:

> . . . irresponsible, a hysteria being acted out to keep Estrada from serving on the US Court of Appeals for the District of Columbia.

On the chart I have a quote from both papers highlighting the need to end the filibuster and to proceed to a vote.

The Denver Post:

> The key point is that there should be a vote . . . a filibuster should play no part in the process.

The Rocky Mountain News concludes that:

> The Democrats have no excuse. Keeping others from voting their consciences on this particular matter is simply out of line.

Editorial boards across the country echo this very same sentiment. More than 60 major newspapers are calling for an end to the filibuster.

I would like to share with my colleagues here this afternoon a few of those. Let me name a few:

The Arkansas Democrat-Gazette; in California, Redding, and The Press Enterprise; The Hartford Courant; The Washington Post; in Florida, The Tampa Tribune and The Florida Times-Union; The Atlanta Journal Constitution and the Augusta Chronicle; the Chicago Tribune in Illinois, along with the Chicago Sun-Times, and Freeport Journal Standard; The Advocate in Baton Rouge, Louisiana; The Boston Herald; The Detroit News and Grand Rapids Press; in New Mexico the Albuquerque Journal; in Nevada, the Las Vegas Review Journal; the Winston-Salem Journal in North Carolina; in North Dakota, the Grand Forks Herald; the Providence Journal in Rhode Island; in West Virginia, the Wheeling News Register/Intelligencer; and nationally, the Investor's Business Daily and the Wall Street Journal.

I would also like to refute one of the arguments being put forward by the Democrats against Mr. Estrada.

For 11 days we have heard statements that the nominee is not qualified to serve because he lacks judicial experience. This standard is simply ridiculous.

Had it applied to their own Democratic nominees, it would have prevented some of the most capable attorney's from being seated on the federal bench.

Under the experience litmus test, the late Justice Byron "Whizzer" White, a great Coloradan, who was nominated to the Supreme Court by President John F. Kennedy, would never have been confirmed.

Nor would another great Coloradan, Judge Carlos Lucero, who was nominated by President Bill Clinton to the Tenth Circuit Court of Appeals, have been confirmed.

To consider a lack of judicial experience as the poison pill of the Estrada nomination while ignoring the confirmation of Democratic nominees Justice White and Judge Lucero, is a double standard of the highest order.

The majority of this body, a majority elected by the American people, is ready to proceed with the nomination of Miguel Estrada.

I have no doubt that the obstructionists have their own reason to vote against the nominee. But they have no reason to prevent a vote entirely.

I hope that my colleagues will realize the danger of the path they have chosen, and will end this course of obstruction.

While I believe a full and fair debate of Presidential nominees is of paramount importance, obstructing an up-or-down vote fails the public trust and is a disservice to our system of justice.

I know how I am going to vote. I am voting for a highly qualified individual. A nominee who the American Bar Association has stated is "highly-qualified." That individual is Miguel Estrada, and he deserves a vote by the United States Senate.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE IX

Mrs. CLINTON. Mr. President, yesterday, the President's Commission on Opportunity in Athletics released its recommendations for Title IX and some of the findings are a haunting reminder of the way things used to be.

It seems that many of the Commissioners believe that men's sports have suffered because of women's programs. They believe that it is okay to count "slots" instead of actual women players. And some believe that since men are better "naturally" at sports compared to women—that is their word and not mine. That is a true statement if it comes from me, but it is not a true statement when it comes from other women who are more athletically different—and, therefore, men deserve more funding and support. I don't think we should forget that was the excuse used for decades and for generations to keep women out of college, out of math and science classes, and out of the workplace.

I remember as a young girl reading stories of the first women back in the 19th century who wanted to go to medical school to become a doctor or to a law school to become lawyers and who wanted to go to college to further their education. There were court decisions which said women naturally were not suited for higher education. It will wear out their brain. It will undermine their health, and they certainly are not fit to go into the courtroom or into the operating room. Thank goodness we have come a long way from those days.

But I think about it frequently because my mother was born before women could vote. Lest we forget that many of the changes which we now take for granted did not come about just because somebody changed their mind. It is because we had to fight for work and for the kind of progress which we can see all around us.

For 30 years, title IX has encouraged millions of girls and women to participate in sports. In 1972, only 1 out of every 27 women participated in sports. Today, that number is 1 in 2. The program works. I think we should recognize the extraordinary progress we have made.

I remember very well that although I loved playing sports and athletics as a young girl, I was never very good at it. But I played hard, and it was a major influence on my understanding of my abilities, my limits, teamwork, and sportsmanship. It was hard for me to accept the fact that many of my friends and colleagues who were more talented really hit a wall. There were not the kind of interscholastic teams available at the high school level which we now take for granted. There were not scholarships available in most sports for most girls who had the capacity to compete and be good. The colleges were in no way fulfilling the need and desire that young women had to further their athletic pursuits. There really wasn't anything that you could point to as being professional athletic options for extremely well-qualified and motivated women.

I believe passionately that title IX changed the rules on the playing field and opened up the opportunities so more girls and women could see themselves on that field—and create conditions that would encourage our institutions actually to respond to those needs and desires.

I was very pleased to hear last night that Secretary Paige announced he would only consider the recommendations of the Commission that the Commission unanimously agreed upon. And I applaud that announcement.

But I believe that the minority report, which was written by Julie Foudy, the captain and 9-year veteran of the U.S. Women's National Soccer Team, and Donna de Varona, an Olympic swimmer with two gold metals, raises questions about whether any of these recommendations can actually be described as unanimous.

The introduction of the report reads as follows:

> After . . . unsuccessful efforts to include . . . our minority views within the majority report, we have reached the conclusion that we cannot join the report of the Commission.

And Julie Foudy and Donna de Varona go on to say:

> Our decision is based on our fundamental disagreement with the tenor, structure and significant portions of the content of the Commission's report, which fails to present a full and fair consideration of the issues or a clear statement of the discrimination women and girls still face in obtaining equal opportunity in athletics—

They go on to say:

> [secondly,] our belief that many of the recommendations made by the majority would seriously weaken Title IX's protections and substantially reduce the opportunities to which women and girls are entitled under current law; and, [third,] our belief that only one of the proposals would address the budgetary causes underlying the discontinuation of some men's teams, and that others would not restore opportunities that have been lost.

Their goal in issuing this minority report was to make sure it was included in the official record of the Commission. Unfortunately, it is my understanding that the Secretary of Education today has refused to include the minority report. I think that is fundamentally unfair. To me, that report should belong with the majority report, especially since those two women, probably between them, have more direct personal experience in what athletics can mean to a woman's life and what it was like before IX, when Donna was competing, and what it was like after IX was enacted, when Julie helped to lead our women's soccer team to the World Cup Championship.

Therefore, Mr. President, I am going to ask unanimous consent to have printed in the RECORD this minority report. I am doing so because I believe it is important that on this issue we hear from the people who have the most to lose: women athletes, women students. Julie and Donna were invited to join the Commission to represent that point of view, and their voices should be heard. For the information of my colleagues, the minority report can be found at http://www.womensports foundation.org/binary-data/WSF—Article/pdf—file/944.pdf.

Now, along with my colleagues, Senator DASCHLE, Senator KENNEDY, Senator MURRAY, Senator SNOWE, and Senator STEVENS, who care so deeply about this issue, we will continue to keep a watchful eye on the Department of Education because the truth is, they do not need permission from the Commission or anyone else to adopt the changes the Commission has proposed; they can propose to change the regulations or offer guidance at any time.

So I am here today in the Chamber to say that I, and many of my colleagues on both sides of the aisle—men and women alike; athletes and nonathletes alike—will fight to protect title IX for our daughters and our granddaughters and generations of girls and women to come.

But let me also add, my support of title IX and my support of the right of the minority to be heard with respect to the Commission's recommendations does not, in any way, suggest that I do not believe in the importance of sports for young men, because I do. I strongly support sports for all young people.

In fact, I think it is very unfortunate that physical education has been dropped from so many of our schools, that so many of our youngsters not only do not have the opportunity to discharge energy and engage in physical activities, but to learn about sports, to find out that maybe something would inspire their passion and their commitment.

There are other ways to ensure that all boys and girls, all men and women have the opportunity for athletic experiences, to participate on teams.

I was somewhat distressed, when the Commission was appointed, with the number of Commissioners who represented an experience that is not the common experience; namely, the experience of very high stakes, big college and university football, which of course is important; I very much believe that. But that is only one sport, and it is a very expensive sport.

I think there are ways, without taking anything away from anyone—boys, girls, men, women—that we can listen to the voices of experience, such as Julie's and Donna's, and come to recognize that there may be other reasons, besides the law, that some men's teams have been discontinued, which I am very sorry about and wish did not have to happen and believe should not have happened if there had been a fairer allocation of athletic resources across all sports.

So I think we can come to some agreements that would serve perhaps to create additional opportunities, but we should not do it to the detriment of girls and women.

I appreciate the opportunity to come to the floor to recognize this very important piece of legislation which has literally changed the lives of girls and women and should continue to do so. What we ought to be doing is looking for ways we can enhance the physical activity, the athletic, competitive opportunities of boys and girls.

One of the biggest problems we have confronting us now is obesity among young people. We need to get kids moving again. We need to get them in organized physical education classes, intramural sports, interscholastic sports, afterschool sports, and summer sports, so they can have an opportunity to develop their bodies and their athletic interests, as well as their minds and their academic pursuits.

Mr. KYL. Mr. President, also, for the information of my colleagues, "Open to All," the report of the Secretary of Education's Commission on Opportunity in Athletics can be found at http://ed.gov/pubs/titleixat30/index.html.

HOMELAND SECURITY

Mrs. CLINTON. Now, Mr. President, on another issue that is of deep concern to me, I come also to raise questions about our commitment to homeland security. This is something I have come to this Chamber to address on numerous occasions, starting in those terrible days after September 11, 2001. And it is an issue I will continue to address in every forum and venue that I possibly can find because, unfortunately, I do not believe we have done enough to protect ourselves here at home.

On February 3, Mitch Daniels, the Director of the Office of Management and Budget, said:

> There is not enough money in the galaxy to protect every square inch of America and every American against every conceived threat.

This statement bothered me at the time. It has continued to bother me. I suppose, on the face of it, it is an accurate statement. Not only isn't there enough money in the United States, the world, or the galaxy to protect every square inch, but what kind of country would we have if we were trying to protect every square inch? That would raise all sorts of issues that might possibly change the character and quality of life here in America.

But I do not think that is what really motivated the statement. The statement was a kind of excuse, if you will, as to why this administration has consistently failed to provide even the rudimentary funding that we have needed for our first responders and to deal with national security vulnerabilities.

We have learned, in the last few months, that threats do exist all over our country. It is not just New York

City or Washington, DC, that suffered on September 11. We know that in the months since then, we have seen many other parts of our country respond to alerts—our latest orange alert—which have required huge expenditures of resources in order to protect local water supplies, bridges, chemical plants, nuclear powerplants, to do all that is necessary to know that we have done the best we can.

Life is not certain. There is no way any of us knows where we will be in an hour or in a day or in a year. But what we try to do is to plan for the worst, against contingencies that might undermine our safety. And then we have to just hope and trust and have faith that we have done enough. But if we do not try, if we do not make the commitment, if we do not provide the resources, then we have essentially just put up our hands and surrendered to what did not have to be the inevitable.

When I heard Mr. Daniels make that comment, I thought to myself, if you had made a list of every community in America that might possibly be a site for an al-Qaida terrorist cell, I am not sure that Lackawanna, NY, would have made that list. It is a small community outside of Buffalo where the FBI, in cooperation with local law enforcement, uncovered such a cell of people who had gone to Bin Laden's training camps in Afghanistan and then come back home, most likely what is called a sleeper cell. Their leader was in Yemen where one of our predator aircraft found him and took action against him and his compatriots who are part of the al-Qaida terrorist campaign against us. If we were just thinking, where should we put money to protect ourselves, I am not sure Lackawanna, NY, would have been on that list. Yet we have reason to believe it should be on any list anywhere. Just yesterday four men in Syracuse, NY, were accused of sending millions of dollars to Saddam Hussein.

I don't know that we can sit here in Washington and say: Well, we can't possibly protect everybody so we shouldn't protect anybody. But that seems to be the attitude of this administration. That is what concerns me most. We should be doing everything we possibly can to make our country safer. We should be thinking 24 hours a day, 7 days a week about new steps, smart steps that we should be taking. Why? Because that is what our enemies do when they think about how to attack us. If somebody is on CNN or the Internet, it doesn't stop at our borders. That is viewed and analyzed in places all over the world. We know that they are working as hard as they possibly can to do as much harm to us and our way of life as they possibly can.

Since September 11, our first responders, our mayors, police and fire chiefs have said over and over again they need Federal support so they can do their jobs to protect the American people. During this recent code orange alert, they have done a remarkable job. They have responded to their new responsibility as this country's frontline soldiers in the war against terrorism with grace, honor, and a dedication that Washington should emulate.

We have had the opportunity to do so. We could have already had in the pipeline and delivered more dollars to pay for needed training, personnel, overtime costs, equipment, whatever it took as determined by local communities that they require to do the job we expect them to do. But every time the Senate has tried to do more for our first responders, the administration and some in Congress have said we should do less.

Senator BYRD stood right over there last summer and offered an amendment, which the Senate supported, that would have provided more than $5.1 billion in homeland security funding. It included $585 million for port security; $150 million to purchase interoperable radio so that police, firefighters and emergency service workers can communicate effectively, a problem we found out tragically interfered with communication on September 11 in New York City; another $83 million to protect our borders. But in each case, despite having passed it in the Senate, the administration and Republican leaders settled for far less. They called such spending "unnecessary." In some cases, such as the funding for interoperable radios, not only did we not get the increase to buy this critical equipment, the funding was cut by $66 million.

It was during that debate that we needed the administration's support. But instead, they opposed such efforts, and the President himself refused to designate $5.1 billion last August as an emergency to do the kinds of things that mayors and police chiefs and fire chiefs and others have been telling me and my colleagues they desperately need help doing.

The paper today says the President acknowledges we need to do more. I welcome that acknowledgment. But I have learned that we have to wait to see whether the actions match the words. We have to make sure this new awareness about having shortchanged homeland security doesn't translate into taking money away from the functions that firefighters and police officers are called upon to do every day, transferring it across the government ledger, relabeling it counterterrorism, and wiping our hands of it and saying: We did it.

That just doesn't add up. That is what they tried to do for the last year, take money away from the so-called COPS program, which put police on the beat onto our streets, which helped to lower the crime rate during the 1990s, taking money away from the grants that go to fire departments to be well prepared to get those hazardous materials, equipment, and suits that will protect them and claiming that we take that money away, we put it over here, and we say we have done our job. That is just not an appropriate, fair-minded response.

We cannot undo the past, but every day we don't plan for the future is a lost day. I don't ever want to have a debate in the Senate about what we should have done or we could have done or we would have done to protect ourselves, if only we had taken as seriously our commitment to homeland security as the administration takes our commitment to national security.

Last month I issued a report about how 70 percent of the cities and counties in New York are not receiving any Federal homeland security funding. I commissioned this study because I wanted to know for myself whether maybe some money had trickled down into their coffers that I was not aware of. Well, 70 percent say they had gotten nothing; 30 percent say they had gotten a little bit of the bioterrorism money that we had appropriated. But then I also asked them, how much did they need and what did they need it for and how did they justify their needs. And I must say, most of the requests were very well thought out, prudent requests for help that in this time of falling revenues and budget crunches, city and county governments just cannot do themselves.

When that orange alert went out a week or so ago, what happened? I know in New York City, if you were there, you would have seen an intense police presence because our commissioner of police, our mayor, knew they had to respond. They had to get out there and keep a watchful eye. But there was no help coming from Washington for them to do that. It may be a national alert, but it is a local response. And we are not taking care of the people we expect to make that response for us.

Then I was concerned to see that in so many of the discussions of potential weapons of mass destruction, doctors and nurses and hospital administrators are saying: We are not ready. We do not have the funding. We don't even have the funding to do the preventive work, the smallpox vaccination. We don't have the means to be ready for some kind of chemical or biological or radiological attack.

When we had the incident a few months ago of the shoulder-fired missile that was aimed at the Israeli airline in Kenya—thankfully it missed—I called the people in the new Department of Homeland Security. I said: What are our plans? How do we respond to the threat posed by shoulder-fired missiles?

The response I got back was: Well, that is a local law enforcement responsibility.

Are we going to provide more funding so we can have more police patrols on the outskirts of large airports similar to the ones we have in New York and other States have?

Well, no, that is not in the cards. You just go out there and keep an eye out for those shoulder-fired missiles.

Time and time again we hear about a threat. We hear the conversations from our government officials. We listen to the experts tell us what we have to be afraid of. And if you are a police chief or a fire chief sitting in any city in our country, you are sitting there in front of the television set saying to yourself: My goodness, how am I going to protect my people? How am I possibly going to do the work I need to do when my State budget is being cut, when my local budget is being cut, when the Federal budget is not providing me any resources? How am I going to do that?

It is a fair question. Yet when we dial 911, we expect that phone to be answered, not in this Chamber, not down at the other end of Pennsylvania Avenue in the White House, but right in our local precinct and our local firehouse. Yet in place after place around America, we read stories about police being laid off or being enticed into early retirement to save money, firehouses being closed or firefighters being encouraged to take early retirement, not filling classes in the police and fire academy.

There is something wrong with this picture. Now, we have done all we know to do to give our men and women who wear military uniforms every bit of support we believe they need. If we are going to put them in harm's way, then we owe it to them, to their families, to equip them and train them, and give them the best possible protection so they can fulfill their mission without harm to themselves.

But this is a two-front war. We hear that all the time. My gosh, there is nothing else coming across the airwaves except about what is happening in the Persian Gulf and on the Korean peninsula and what is happening with al-Qaida. We know we are in a global war against terror and against weapons of mass destruction. That is good offense. We need to be out there trying to rid the world of weapons of mass destruction, rid the world of tyrants and dictators who would use such weapons.

But what about defense? What about what happens here at home? We have not done what we need to do to protect our homeland or our hometowns. That is absolutely unacceptable. The one thing we have learned from the horrors of September 11 is that in this new globalization of transportation and information we now live in, boundaries mean very little. Part of the reason we were immune from attack through many decades—with the exception of Pearl Harbor and the attack on this city and on Baltimore in the War of 1812—is we were protected by those big oceans, and with friendly neighbors to the north and south. But those days are gone. You can get on a jet plane from anywhere. You can be in a cave in Afghanistan and use your computer. You can transfer information about attacks and about weapons of mass destruction with the flick of a mouse.

So we have to upgrade and transform our homeland defense, just as we have to think differently about our military readiness and capacity. This does not come cheaply. This is not easy to do. I spend a lot of time talking with police, firefighters, hospital administrators, and front line doctors and nurses; they are ready to make the sacrifice to perform in whatever way they are expected to do so to protect us. But we are not giving them the help they need.

Now, we can remedy this. It was a good sign when the President admitted today that he and his administration have not funded homeland security, and I am glad to hear they have finally admitted that. But now we have to do something about that admission. It cannot be just a one-day headline. We have to figure out, OK, now that you are seeing what we see, what we have been worried about, let's do something. Let's make sure that whatever budget is sent up here has money in it for these important functions, so we can look in the eyes of our police officers, firefighters, and emergency providers, and say we have done the best we know how to do.

That doesn't mean we are 100 percent safe. There is no such thing. That is impossible. That is not something we can possibly achieve. But we have to do the best we can. I believe it is probably a good old adage to "hope for the best, but prepare for the worst." When you have done all you knew how to do, when something does happen, hopefully, you are prepared to deal with it.

From my perspective, Mr. President, this is a national priority that cannot wait. Many of the commentators and pundits of the current theme talk about the likely military action necessitated by Saddam Hussein's refusal to disarm, and point to the possibility that such action will trigger an upsurge in potential attack not only here at home but on American assets and individuals around the world. It would be impossible to write any scenario about the next 10 years without taking into account the potential of future terrorism.

But what is not impossible—in fact, what is absolutely necessary—is for us to be able to say to our children and the children of firefighters and police officers and emergency responders that we did all we knew to do; we were as prepared as we possibly could be. That is what I want to be able to say, and I know we cannot do that without the resources that will make it a real promise of security, instead of an empty promise.

So, Mr. President, it is my very strong hope that in the wake of the administration's recognition of the failure thus far to fund homeland security, now we can get down to business; that we not only can fund it, but do it quickly, get the money flowing, and get local communities ready to implement it, and we can get about the business of making America safer here at home. I will do everything I can to realize that goal. I look forward to working with my colleagues on both sides of the aisle as we provide the kind of homeland security Americans deserve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that I be permitted to speak in morning business for up to 25 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Arkansas is recognized.

(The remarks of Mr. PRYOR are printed in today's RECORD under "Morning Business.")

Mr. SUNUNU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise once again to speak in support of the confirmation of Miguel Estrada, an exceptionally well qualified nominee who does not deserve to have his nomination obstructed by this filibuster. I have been a strong supporter of Mr. Estrada's since he came before the Judiciary Committee last year. At that time, I argued that his nomination should come up for a floor vote, but we were not allowed to vote on his nomination then. Here we are a year later, and I am still strongly supporting Mr. Estrada, and I am still arguing for a floor vote, and that vote is still being refused. I think it is shameful to continue holding up the vote on this very qualified judicial nominee, who, by the way, will make an excellent member of the US Court of Appeals for the DC Circuit.

I know my colleagues heard Mr. Estrada's credentials many times last week. In fact, I am pretty sure that some of my colleagues could quote his credentials in their sleep. However, I think it is important that the Senate is reminded of how qualified this nominee is who is being filibustered. Not only is he regarded as one of the Nation's top appellate lawyers, having argued 15 cases before the Supreme Court of the United States, but the American Bar Association, which I think Democrats consider the gold standard of determination of the person's qualifications to be a judicial nominee, has given him a unanimous rating of, in their words, "well qualified." This happens to be the highest American Bar Association rating. It is a rating they would not give to just any lawyer who comes up the pike. According to the American Bar Association, quoting from their standard:

> To merit a rating of well qualified, the nominee must be at the top of the legal profession in his or her legal community, having outstanding legal ability, breadth of experience, the highest reputation for integrity and either have demonstrated or exhibited the capacity for judicial temperament.

We ought to demand that more qualified people like Miguel Estrada be appointed to the bench rather than fighting his nomination.

As my colleagues know, I am not a lawyer. There is nothing wrong with going to law school, but I did not. I have been on the Judiciary Committee my entire time in the Senate. I know some of the qualifications that are needed to be a Federal judge, particularly a Federal judge on this DC Circuit that handles so many appeals from administrative agencies and is often considered, by legal experts, to be the second highest court of our land.

Mr. Estrada's academic credentials are stellar. He graduated from Columbia University with his bachelor's degree magna cum laude and was also a member of Phi Beta Kappa. Then he earned his juris doctorate from Harvard University, also magna cum laude, where he was editor of the Harvard Law Review. Mr. Estrada did not just attend Harvard Law School; he graduated with honors. He also served as the editor of the Harvard Law Review. To be selected as the editor of a law review is a feat that only the most exceptional of law students attain.

While Mr. Estrada certainly has the intellect required to be a Federal judge, his professional background also gives testament to his being qualified for a Federal Court of Appeals judgeship as opposed to just any judgeship.

After law school, Mr. Estrada served as a law clerk to the Second Circuit Court of Appeals and as a law clerk to Justice Kennedy, on the United States Supreme Court. Subsequently, he served as an Assistant US Attorney and deputy chief of the appellate section of the US Attorney's Office of the Southern District of New York, and then as assistant to the Solicitor General of the United States of America.

Mr. Estrada has been in the private sector as well. He is a partner with the Washington, DC, office of the law firm of Gibson, Dunn & Crutcher. In this exceptional career, Mr. Estrada has argued 15 cases before the United States Supreme Court. He won nine of those cases. Mr. Estrada is not just an appellate lawyer; he is one of the top appellate lawyers in the country. So for a young lawyer, I think I can give my colleagues a person who can truly be labeled an American success story. In fact, instead of degrading his ability to serve as a circuit court judge, we should all be proud of Mr. Estrada's many accomplishments.

This is the nominee that the Democrats are filibustering. I fail to understand why a nominee of these outstanding qualifications, and who has been honored by the ABA with its highest rating, would be the object of such obstruction. In all my years on the Judiciary Committee—and that has been my entire tenure in the Senate—Republicans never once filibustered a Democratic President's nominee to the Federal bench. There are many I may have wanted to filibuster, but I did not do it—we did not do it—because it is not right.

In fact, as I understand it, in the entire history of the Senate neither party has ever filibustered a judicial nominee. Going back over 200 years, Republicans and Democrats have resisted the urge to obstruct a nominee by filibustering. Good men of sound judgment have come to the conclusion that to use this tool of last resorts to obstruct a nomination is, at best, inappropriate, and, at worst, just down right wrong.

This nominee, like all nominees, deserves an up-or-down vote. Anything less is absolutely unfair. I hope my colleagues on the other side of the aisle will reconsider this filibuster. The Senate should not cross this Rubicon and establish new precedent for the confirmation process.

Over 40 newspapers from across the country have published editorials advocating that the Senate give Mr. Estrada a vote. Even the Washington Post, which is not exactly a bastion of conservatism, published an editorial last week entitled, "Just Vote." In that editorial, the Post correctly characterized the Democrats obstructionist efforts. With regard to the Democrat request for the internal memos Mr. Estrada drafted while he was in the Solicitor General's Office, the Post said that this filibuster of Mr. Estrada goes beyond the normal political confirmation games, because,

> Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address.

I agree with the Post:

> It's long past time to stop these games and vote.

I make a unanimous consent request that this Washington Post editorial, "Just Vote" be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. GRASSLEY. Those denying the Senate an up-or-down vote on Mr. Estrada's nomination claim that he has not answered questions or produced documentation, and so he should not be confirmed to the Federal bench. I can think of a number of Democratic nominees who did not sufficiently answer question that I submitted to them, but that did not lead me to filibuster. As far as I know, Mr. Estrada has answered all questions posed to him by the Judiciary Committee members.

His opponents claim that he has refused to hand over certain in-house Justice Department memoranda. What actually is happening is that the Democrats on the Judiciary Committee have requested that the Department of Justice submit to the Committee, internal memoranda written by Miguel Estrada when he was an attorney in the Solicitor General's Office. These internal memos are attorney work product, specifically appeal, certiorari, and amicus memoranda, and the Justice Department has rightly refused to produce them.

The Department of Justice has never disclosed such sensitive information in the context of a Court of Appeals nomination. These memoranda should not be released, because they detail the appeal, certiorari and amicus recommendations and legal opinions of an assistant to the Solicitor General. This is not just the policy of this administration, the Bush administration, a Republican administration. This has also been the policy under Democratic Presidents.

The inappropriateness of this request prompted all seven living former Solicitors General to write a bipartisan letter to the Committee to express their concern regarding the Committee's request and to defend the need to keep such documents confidential. The letter was signed by Democrats Seth Waxman, Walter Dellinger, Drew Days III and Republicans Ken Starr, Charles Fried, Robert Bork and Archibald Cox. The letter notes that when each of the Solicitors General made important decisions regarding whether to seek Supreme Court review of adverse appellate decisions and whether to participate as amicus curiae in other high profile cases, they:

> relied on frank, honest and thorough advice from [their] staff attorneys like Mr. Estrada . . .

and that the open exchange of ideas which must occur in such a context

> Simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure.

The letter concludes that

> Any attempt to intrude into the Office's highly privileged deliberations would come

at a cost of the Solicitor General's ability to defend vigorously the United States litigation interests, a cost that also would be borne by Congress itself.

The Democratic committee member's request has even drawn criticism from the editorial boards of the Washington Post and Wall Street Journal. On May 28, 2002, in an editorial entitled "Not Fair Game" the Washington Post editorialized that the request

> For an attorney's work product would be unthinkable if the work had been done for a private client. . . . [and] legal advice by a line attorney for the federal government is not fair game either.

According to the Post editorial

> . . . In elite government offices such as that of the solicitor general, lawyers need to speak freely without worrying that the positions they are advocating today will be used against them if they ever get nominated to some other position.

On May 24, 2002, the Wall Street Journal in an editorial entitled "The Estrada Gambit" also criticized the request, calling it "one more attempt to delay giving Mr. Estrada a hearing and a vote." The Journal further criticized the Committee's request in a later editorial, entitled "No Judicial Fishing", calling the request "outrageous" and noting that the goal of the request "is to delay, trying to put off the day when Mr. Estrada takes a seat on the D.C. Circuit Court of Appeals."

Mr. President, I ask unanimous consent that these two editorials also be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. GRASSLEY. Mr. Estrada is not the only former deputy or assistant to the Solicitor General nominated to the Federal bench. In fact, there are seven others now serving on the Federal Courts of Appeals. None had any prior judicial experience, and the committee did not ask the Justice Department to turn over any confidential internal memoranda those nominees prepared while serving in the Solicitor General's Office. The seven nominees were: Samuel Alito on the 3rd Circuit, Danny Boggs on the 6th Circuit, William Bryson and Daniel Friedman on the Federal Circuit, Frank Easterbrook and Richard Posner on the 7th Circuit, and A. Raymond Randolph on the D.C. Circuit. Why should Mr. Estrada be treated any differently?

During Mr. Estrada's hearing, Judiciary Committee Democrats alleged that the committee has reviewed the work product of other nominees, including memos written by Frank Easterbrook, by Chief Justice Rehnquist when he served as a clerk to Justice Jackson, and by Robert Bork when he was an official at the Justice Department.

For the record, there is no evidence that the Department of Justice ever turned over confidential memoranda prepared by Frank Easterbrook when he served in the Solicitor General's Office. There also is no evidence that the committee even requested such information.

During Robert Bork's hearings, the Department did turn over memos Judge Bork wrote while serving as Solicitor General, but none of these memos contained the sort of deliberative materials requested of Mr. Estrada and the Justice Department. The Bork materials include memos containing Bork's opinions on such subjects as the constitutionality of the pocket veto, and on President Nixon's assertions of executive privilege and his views of the Office of Special Prosecutor. None of the memos contain information regarding internal deliberations of career attorneys on appeal decisions or legal opinions in connection with appeal decisions. Moreover, the Bork documents reflected information transmitted between a political appointee, namely the Solicitor General, and political advisors to the President, rather than the advice of a career Department of Justice attorney to his superiors, as is the case with Mr. Estrada.

You see, the Judiciary Committee has never requested and the Department of Justice has never agreed to release the internal memos of a career line attorney. To ask that Mr. Estrada turn over his memos is unprecedented, and frankly unfair. No Member of this body would ever condone a request to turn over staff memos. What my staff communicates to me in writing is internal and private. I am sure every other Senator feels the same way as I do. This Democrat fishing expedition needs to stop. Miguel Estrada is a more than well qualified nominee and he deserves a vote on his nomination, today.

In conclusion, we are again seeing an attack on another very talented, very principled, highly qualified legal mind. It all boils down to this, Mr. Estrada's opponents refuse to give him a vote because they say they do not know enough about him. They further contend that the Justice Department memos, which they know will never be released, are the only way they can find out what they need to know about Mr. Estrada. It is a terrible Catch-22.

These obstructionist efforts are a disgrace and an outrage. We must put a stop to these inappropriate political attacks and get on with the business of confirming to the Federal bench good men and women who are committed to doing what judges should do, interpret law as opposed to making law from the bench, because it is our responsibility to make law as members of the legislative branch.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Feb. 18, 2003]

JUST VOTE

The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

EXHIBIT 2

[From the Wall Street Journal, May 24, 2002]

THE ESTRADA GAMBIT

Senate Judiciary Chairman Patrick Leahy keeps saying he's assessing judicial nominees on the merits, without political influence. So why does he keep getting caught with someone else's fingerprints on his press releases?

The latest episode involves Miguel Estrada, nominated more than a year ago by President Bush for the prestigious D.C. Circuit Court of Appeals. Mr. Estrada scares the legal briefs off liberal lobbies because he's young, smart and accomplished, having served in the Clinton Solicitor General's office, and especially because he's a conservative Hispanic. All of these things make him a potential candidate to be elevated to the U.S. Supreme Court down the road.

Sooner or later even Mr. Leahy has to grant the nominee a hearing, one would think. But maybe not, if he keeps taking orders from Ralph Neas at People for the American Way. On April 15, the Legal Times newspaper reported that a "leader" of the anti-Estrada liberal coalition was considering "launching an effort to obtain internal memos that Estrada wrote while at the SG's office, hoping they will shed light on the nominee's personal views."

Hmmm. Who could that leader be? Mr. Neas, perhaps? Whoever it is, Mr. Leahy seems to be following orders, because a month later, on May 15, Mr. Leahy sent a letter to Mr. Estrada requesting the "appeal recommendations, certiorari recommendations, and amicus recommendations you worked on while at the United States Department of Justice."

It's important to understand how outrageous this request is. Mr. Leahy is demanding pre-decision memorandums, the kind of internal deliberations that are almost by definition protected by executive privilege. No White House would disclose them, and the Bush Administration has already turned down a similar Senate request of memorandums in the case of EPA nominee Jeffrey Holmstead, who once worked in the White House counsel's office.

No legal fool, Mr. Leahy must understand this. So the question is what is he really up to? The answer is almost certainly one more attempt to delay giving Mr. Estrada a hearing and vote. A simple exchange of letters from lawyers can take weeks. And then if the White House turns Mr. Leahy down, he can claim lack of cooperation and use that as an excuse to delay still further.

Mr. Leahy is also playing star marionette to liberal Hispanic groups, which on May 1 wrote to Mr. Leahy urging that he delay the Estrada hearing until at least August in order to "allow sufficient time . . . to complete a thorough and comprehensive review of the nominee's record." We guess a year isn't adequate time and can only assume they need the labor-intensive summer months to complete their investigation. (Now there's a job for an intern.) On May 9, the one-year anniversary of Mr. Estrada's nomination, Mr. Leahy issued a statement justifying the delay in granting him a hearing by pointing to the Hispanic group's letter.

These groups, by the way, deserve some greater exposure. They include the Mexican American Legal Defense and Educational Fund as well as La Raza, two lobbies that claim to represent the interests of Hispanics. Apparently they now believe their job is to help white liberals dig up dirt on a distinguished jurist who could be the first Hispanic on the U.S. Supreme Court.

The frustration among liberals in not being able to dig up anything on Mr. Estrada is obvious. Nam Aron, president of the Alliance for Justice, told Legal Times that "There is a dearth of information about Estrada's record, which places a responsibility on the part of Senators to develop a record at his hearing. There is much that he has done that is not apparent." Translation: We can't beat him yet.

Anywhere but Washington, Mr. Estrada would be considered a splendid nominee. The American Bar Association, whose recommendation Mr. LEAHY one called the "gold standard by which judicial candidates have been judged," awarded Mr. Estrada its highest rating of unanimously well-qualified. There are even Democrats, such as Gore advisor Ron Klaim, who are as effusive as Republicans singing the candidate's praises.

When Mr. Estrada worked in the Clinton-era Solicitor General's office, he wrote a friend-of-the-court brief in support of the National Organization of Women's position that anti-abortion protestors violated RICO. It's hard to paint a lawyer who's worked for Bill Clinton and supported NOW as a right-wing fanatic.

We report all of this because it reveals just how poison judicial politics have become, and how the Senate is perverting its advise and consent power. Yesterday the Judiciary Committee finally confirmed a Bush nominee, but only after Republican Arlen Specter went to extraordinary lengths to help fellow Pennsylvanian Brooks Smith.

Mr. Estrada doesn't have such a patron, so he's fated to endure the delay and document-fishing of liberal interests and the Senate Chairman who takes their dictation.

Ms. MIKULSKI. Mr. President, I rise in opposition to the nomination of Miguel Estrada to the United States Circuit Court of Appeals for the District of Columbia.

The President has the right to make judicial nominations. The Senate has the Constitutional responsibility to advise and consent. I take this responsibility very seriously. This is a lifetime appointment for our nation's second most important court. Only the Supreme Court has a greater impact on the lives and rights of every American.

The District of Columbia Circuit is the final arbiter on many cases that the Supreme Court refuses to consider. That means it's responsible for decisions on fundamental constitutional issues involving freedom of speech, the right to privacy and equal protection.

In addition, the D.C. Circuit has special jurisdiction over Federal agency actions. That means the D.C. Circuit is responsible for cases on issues of great national significance involving labor rights, affirmative action, clean air and clear water standards, health and safety regulations, consumer privacy and campaign finance. The importance of this court highlights the importance of placing skilled, experienced and moderate jurists on the court.

I base my consideration of each judicial nominee on three criteria: competence, integrity and commitment to core Constitutional principles.

I don't question Mr. Estrada's character or competence. He is clearly a skilled lawyer. Yet the Senate does not have enough information to judge Mr. Estrada's commitment to core Constitutional principles.

He has refused to answer even the most basic questions during his hearing in Senate Judiciary Committee. For example, he was asked to give examples of Supreme Court decisions with which he disagreed. He refused to answer. He was asked basic questions on his judicial philosophy. He refused to answer.

The Constitution gives the Senate the responsibility to advise and consent on judicial nominations. This consent should be based on rigorous analysis. The nominee doesn't have to be an academic with a paper trail. Yet the nominee must be open and forthcoming. He or she must answer questions that seek to determine their commitment to core Constitutional principles.

This is a divisive nomination—at a time when our Nation should be united. Our Nation is preparing for a possible war in Iraq. We are already engaged in a war against terrorism. We are also facing a weak economy. Americans are stressed and anxious. The Senate should be working to reduce this stress—to make America more secure; to strengthen our economy and to deal with the ballooning cost of health care.

I urge the administration to nominate judicial candidates who are moderate and mainstream—and to instruct those nominees to be forthright and forthcoming with the Senate so the Senate can address the significant issues that face our Nation today.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. NICKLES. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. NICKLES pertaining to the introduction of S. 2 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, one of our most important responsibilities as Senators is the confirmation of Federal judges. Federal judges are appointed for life, and they will be interpreting laws affecting the lives of all our citizens for many years to come. Yet my colleagues across the aisle suggest that something far less than a full review of a nominee's record is warranted. Republican Senators pretend that by seeking additional information to help us understand Mr. Estrada's views and judicial philosophy, we are upsetting the proper constitutional balance between the Senate and the executive branch. They claim the Senate has to consent to the President's judicial nominees, as long as they have appropriate professional qualifications.

In fact, the Constitution gives a strong role to the Senate in evaluating nominees. The role of the Senate is fundamental to the basic constitutional concept of checks and balances at the heart of the Federal Government. And when we say "check" we don't mean blank check.

The debates over the drafting of the Constitution tell a great deal about the proper role of the Senate in the judicial selection process. Both the text of the Appointments Clause of the Constitution and the debates over its adoption make clear that the Senate should play an active and independent role in selecting judges.

Given recent statements by Republican Senators, it is important to lay out the historical record in detail. The Constitutional Convention met in Philadelphia from late May until mid-September of 1787. On May 29, 1787, the Convention began its work on the Constitution with the Virginia Plan introduced by Governor Randolph, which provided "that a National Judiciary be established, to be chosen by the National Legislature." Under this plan, the President had no role at all in the selection of judges.

When this provision came before the Convention on June 5, several members were concerned that having the whole legislature select judges was too unwieldy. James Wilson suggested an alternative proposal that the President be given sole power to appoint judges.

That idea had almost no support. Rutledge of South Carolina said that he "was by no means disposed to grant so great a power to any single person." James Madison agreed that the legislature was too large a body, and stated that he was "rather inclined to give [the appointment power] to the Senatorial branch" of the legislature, a group "sufficiently stable and independent" to provide "deliberate judgements."

A week later, Madison offered a formal motion to give the Senate the sole power to appoint judges and this motion was adopted without any objection. On June 19, the Convention formally adopted a working draft of the Constitution, and it gave the Senate the exclusive power to appoint judges.

July of 1787 was spent reviewing the draft Constitution. On July 18, the Convention reaffirmed its decision to grant the Senate the exclusive power. James Wilson again proposed "that the Judges be appointed by the Executive" and again his motion was defeated.

The issue was considered again on July 21, and the Convention again agreed to the exclusive Senate appointment of judges.

In a debate concerning the provision, George Mason called the idea of executive appointment of Federal judges a "dangerous precedent." The Constitution was drafted to read: "The Senate of the United States shall have power to appoint Judges of the Supreme Court."

Not until the final days of the Convention was the President given power to nominate Judges. On September 4, 2 weeks before the Convention's work was completed, the Committee proposed that the President should have a role in selecting judges. It stated: "The President shall nominate and by and with the advice and consent of the Senate shall appoint judges of the Supreme Court." The debates, make clear, however, that while the President had the power to nominate judges, the Senate still had a central role.

Governor Morris of Pennsylvania described the provision as giving the Senate the power "to appoint Judges nominated to them by the President." The Constitutional Convention adopted this reworded provision giving the President the power, with the advice and consent of the Senate, to nominate and appoint judges.

The debates and the series of events proceeding adoption of the "advise and consent" language make clear, that the Senate should play an active role. The Convention having repeatedly rejected proposals that would lodge exclusive power to select judges with the executive branch, could not possibly have intended to reduce the Senate to a rubber stamp role.

The reasons given by delegates to the Convention for making the selection of judges a joint decision by the President and the Senate are as relevant today as they were in 1787. The framers refused to give the power of appointment to a "single individual." They understood that a more representative judiciary would be attained by giving members of the Senate a major role.

From the start, the Senate has not hesitated to fully exercise this power. During the first 100 years after ratification of the Constitution, 21 or 81 Supreme Court nominations—one out of four—were rejected, withdrawn, or not acted on. During these confirmation debates, ideology often mattered. John Rutledge, nominated by George Washington, failed to win confirmation as Chief Justice in 1795.

Alexander Hamilton and other Federalists opposed him, because of his position on the controversial Jay Treaty. A nominee of President James Polk was rejected because of his anti-immigration position. A nominee of President Hoover was rejected because of his anti labor view. Our Republican colleagues are obviously aware of this. Their recent statements attempting to downplay the Senate's role stand in stark contrast to the statements when they controlled the Senate during the Clinton administration. At that time, they vigorously asserted their right of "advice and consent."

Indeed, while public debate and a demand to fully review a nominee's record is consistent with our duty of "advice and consent," many of the actions by Republicans were damaging to the nominations process. Democrats have made clear our concerns about whether Mr. Estrada has met the burden of showing that he should be appointed to the DC Circuit, but Republicans resorted to tactics such as secret holds to block President Clinton's nominees. For instance, it took four years to act on the nomination of Richard Paez, a Mexican-American, to the Ninth Circuit. Senate Republicans repeatedly delayed floor action on Judge Paez through use of anonymous holds.

Republicans voted to indefinitely postpone action on Judge Paez's nomination. Finally, in March 2000, 4 years after his nomination and with the Presidential election on the horizon, Judge Paez was confirmed, after cloture was invoked.

Reviewing Mr. Estrada's nomination is our constitutional duty. We take his nomination particularly seriously because of the importance of the DC Circuit, the Court to which he has been nominated. The important work we do in Congress to improve health care, protect workers rights, and protect civil rights mean far less if we fail to fulfill our responsibility to provide the best possible advice and consent on judicial nominations. Tough environmental laws mean little to a community that can't enforce them in our federal courts. Civil rights laws are undercut if there are no remedies for disabled men and women. Fair labor laws are only words on paper if we confirm judges who ignore them.

What we know about Mr. Estrada leads us to question whether he will deal fairly with the range of important issues affecting everyday Americans that came before him.

Mr. Estrada has been actively involved in supporting broad anti-loitering ordinances that restrict the rights of minority residents to conduct lawful activities in their neighborhoods. Mr. Estrada has sought to undermine the ability of civil rights groups like the NAACP to challenge these broad ordinances which affect the ability of minority citizens to conduct activities such as drug counseling and voter outreach in their communities.

Information we need to know about Mr. Estrada's record has been hidden from us by the Department of Justice. Democratic Senators have asked for Mr. Estrada's Solicitor General Memoranda. We have moved for unanimous consent to proceed to a vote on his nomination, after those memoranda are provided. Yet, the White House refuses to provide any of Mr. Estrada's memos, even though there is ample precedent for allowing the Senate to review these documents.

Even as Republicans refuse to allow us to see Mr. Estrada's memos from his time in public office—and even as Mr. Estrada declined to answer many basic questions about his judicial philosophy and approach—Republicans repeatedly make clear that they are familiar with Mr. Estrada's views and judicial philosophy.

Since his nomination, Republican Senators have repeatedly praised Mr. Estrada as a "conservative." A recent article from Roll Call states that the Republican Party is confident that Mr. Estrada will rule in support of big business. The article also states that the Republican Party has asked lobbyists to get involved in the battle over Mr. Estrada's nomination.

I have spoken in recent days about the importance of the DC Circuit and it's shift to the right in the 1980s and

1990s. In the 1960s and 1970s, the DC Circuit had a significant role in protecting public access to agency and judicial proceedings, protecting civil rights guarantees, overseeing administrative agencies, protecting the public interest in communications regulation, and enforcing environmental protections. In the 1980s, however, the DC Circuit changed dramatically because of the appointment of conservative judges. As its composition changed, it became a conservative and activist court—striking down civil rights and constitutional protections, encouraging deregulation, closing the doors of the courts to many citizens, favoring employers over workers, and undermining federal protection of the environment.

It seems clear that Mr. Estrada has been nominated to the DC Circuit in the hope that this court will continue to be more interested in favoring big business than in protecting the rights of workers, consumers, women, minorities, and other Americans.

Mr. Estrada's nomination is strongly opposed by those concerned about these rights. Republicans repeatedly praise Mr. Estrada as a Hispanic—but many Hispanic groups oppose his nomination. The Congressional Hispanic Caucus, the Mexican American Legal Defense Fund, the Southwest Voter Registration Project, 52 Latino Labor Leaders representing working families across the country, the California League of United Lationo Citizens, the California La Raza, the Puerto Rican Legal Defense Fund and fifteen past presidents of the Hispanic National Bar Association, whose terms span from 1972 until 1998 have stated their opposition to Mr. Estrada. As these Presidents write:

> Based upon our review and understanding of the totality of Mr. Estrada's record and life's experiences, we believe that there are more than enought reasons to conclude that Mr. Estrada's candidacy falls short. [These] reasons include: his virtually non-existent written record, his verbally expressed and un-rebutted extreme views, his lack of judicial or academic teaching experience (against which his fairness, reasoning skills and judicial philosophy could be properly tested), his poor judicial temperament, his total lack of connection whatsoever to, or lack of demonstrated interest in the Hispanic community, his refusals to answer even the most basic questions about civil rights and constitutional law, his less than candid responses to other straightforward questions of Senate Judiciary Committee Members.

I would like to include in the RECORD statements at the end of my remarks of two of the past National Presidents of the League of United Latin American Citizens opposing Mr. Estrada's nomination. The first statement is from Belen Robles, a native Texas who has a long and active involvement in the Latino civil rights community. He writes that he is "deeply troubled with the nomination of Miguel Estrada." He is troubled by the positions that Mr. Estrada has taken on racial profiling, and on whether the NAACP had standing to put forward the claims of African-Americans arrested under an anti-loitering ordinance.

Mr. Robles writes:

> As a former National President of LULAC, I know very well that on many occasions LULAC has been a champion of the rights of its membership in civil rights cases. We asserted those rights on behalf of voters in voting cases in Texas, and in many other civil rights cases. Under his view, Mr. Estrada could decide that a civil rights organization such as LULAC would not be able to sue on behalf of its members. NO supporter of civil rights could agree with Mr. Estrada's confirmation.

Ruben Bonilla, an attorney in Texas who is also a past National president of LULAC, opposes the confirmation of Mr. Estrada.

Mr. Bonilla writes:

> I am deeply troubled with the double standard that surrounds the nomination of Mr. Estrada. It is particularly troubling that some of the Senators have accused Democrats or other Latinos of being anti-Hispanic, or holding the American dream hostage. Yet, these same Senators in fact prevented Latinos appointed by the Clinton Administration from ever being given a hearing. Notably, Corpus Christi lawyer Jorge Rangel, and El Paso attorney Enrique Moreno, and Denver attorney Christine Arguello never received hearings before the judiciary committee. Yet, these individuals who came from the top of their profession were schooled in the Ivy League, were raised from modest means in the Southwest, and in fact truly embodied the American Dream. These highly qualified Mexican-Americans never had the opportunity to introduce themselves and their views to the Senate, as Mr. Estrada did.

Mr. President, the Senate is entitled to see Mr. Estrada's full record. Both the Constitution and historical practices require us to ignore the Administration's obvious ideological nominations. Judicial nominees who come before the Senate should have professional qualifications and the right temperament to be a judge. They should be committed to basic constitutional principles. Many of us have no confidence that Mr. Estrada has met this burden. I urge the Senate to reject this nomination.

I ask unanimous consent that supporting material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HNBA'S PAST PRESIDENTS' STATEMENT, FEBRUARY 21, 2003

We the undesigned past presidents of the Hispanic National Bar Association write in strong opposition to the nomination of Miguel A. Estrada for judgeship on the Court of Appeals for the District of Columbia Circuit.

Since the HNBA's establishment in 1972, promoting civil rights and advocating for judicial appointments of qualified Hispanic Americans throughout our nation have been our fundamental concerns. Over the years, we have had a proven and respected record of endorsing or not endorsing or rejecting nominees on a non-partisan basis of both Republican and Democratic presidents.

In addition to evaluating a candidate's professional experience and judicial temperament, the HNBA's policies and procedures governing judicial endorsements have required that the following additional criteria be considered: The extent to which a candidate has been involved in, supportive of, and responsive to the issues, needs and concerns or Hispanic Americans, and the candidate's demonstrated commitment to the concept of equal opportunity and equal justice under the law.

Based upon our review and understanding of the totality of Mr. Estrada's record and life's experiences, we believe that there are more than enough reasons to conclude that Mr. Estrada's candidacy falls short in these respects. We believe that for many reasons including: his virtually non-existent written record, his verbally expressed and un-rebutted extreme views, his lack of judicial or academic teaching experience, (against which his fairness, reasoning skills and judicial philosophy could be properly tested), his poor judicial temperament, his total lack of any connection whatsoever to, or lack of demonstrated interest in the Hispanic community, his refusals to answer even the most basic questions about civil rights and constitutional law, his less than candid responses to the other straightforward questions of Senate Judiciary Committee members, and because of the Administration's refusal to provide the Judiciary Committee the additional information and cooperation it needs to address these concerns, the United States Senate cannot and must not conclude that Mr. Estrada can be a fair and impartial appellate court judge.

Respectfully submitted,

JOHN ROY CASTILLO, ET AL.

[From The Oregonian, Feb. 24, 2003]

ESTRADA WOULD DESTROY HARD-FOUGHT VICTORIES

(By Dolores C. Huerta)

As a co-founder of the United Farm Workers with Cesar Chavez, I know what progress looks like. Injustice and the fight against it take many forms—from boycotts and marches to contract negotiations and legislation. Over the years, we had to fight against brutal opponents, but the courts were often there to back us up. Where we moved forward, America's courts helped to establish important legal protections for all farm workers; all women, all Americans. Now, though, a dangerous shift in the courts could destroy the worker's rights, women's rights, and civil rights that our collective actions secured.

It is especially bitter for me that one of the most visible agents of the strategy to erase our legal victories is being called a great role model for Latinos. It is true that for Latinos to realize America's promise of equality and justice for all, we need to be represented in every sector of business and every branch of government. But it is also true that judges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children. And they are not the kind of judges we want on the federal courts.

Miguel Estrada is a successful lawyer, and he has powerful friends who are trying to get him a lifetime job as a federal judge. Many of them talk about him being a future Supreme Court justice. Shouldn't we be proud of him?

I for one am not too proud of a man who is unconcerned about the discrimination that many Latinos live with every day. I am not especially proud of a man whose political friends—the ones fighting hardest to put him on the court—are also fighting to abolish affirmative action and to make it harder if not impossible for federal courts to protect the rights and safety of workers and women and anyone with little power and only the hope of the courts to protect their legal rights.

Just as we resist the injustice of racial profiling and the assumption that we are lesser individuals because of where we were born or the color of our skin, so too must we resist the urge to endorse a man on the basis of his ethnic background. Members of the Congressional Hispanic Caucus met with Miguel Estrada and came away convinced that he would harm our community as a federal judge. The Mexican American Legal Defense and Educational Fund and the Puerto Rican Defense and Education Fund reviewed his record and came to the same conclusion.

Are these groups fighting Miguel Estrada because they are somehow anti-Hispanic? Are they saying that only people with certain political views are "true" Latinos? Of course not. They are saying that as a judge this man would do damage to the rights we have fought so hard to obtain, and that we cannot ignore that fact just because he is Latino. I think Cesar Chavez would be turning over in his grave if he knew that a candidate like this would be celebrated for supposedly representing the Hispanic community. He would also be dismayed that any civil rights organization would stay silent or back such a candidate.

To my friends who think this is all about politicians fighting among themselves, I ask you to think what would have happened over the last 40 years if the federal courts were fighting against worker's rights and women's rights and civil rights. And then think about how quickly that could become the world we are living in.

As MALDEF wrote in a detailed analysis, Estrada's record suggests that "he would not recognize the due process rights of Latinos," that he "would not fairly review Latino allegations of racial profiling by law enforcement," that he "would most likely always find that government affirmative action programs fail to meet" legal standards, and that he "could very well compromise the rights of Latino voters under the Voting Rights Act."

Miguel Estrada is only one of the people nominated by President Bush who could destroy much of what we have built if they become judges. The far right is fighting for them just as it is fighting for Estrada. We must fight back against Estrada and against all of them. If the only way to stop this is a filibuster in the Senate, I say, Que viva la filibuster!

Statement of Ruben Bonilla, in Opposition to the Confirmation of Miguel Estrada

I write to join other Latinos in opposing the confirmation of Miguel Estrada to the DC Circuit Court of Appeals. I have a long history of involvement in the Latino civil rights community. I am an attorney in Corpus Christi, Texas, and am a past National President of LULAC. I am deeply concerned with the betterment of my community.

I am deeply troubled with the double standard that surrounds the nomination of Miguel Estrada. It is particularly troubling that some of the senators have accused Democrats or other Latinos of being anti-Hispanic, or holding the American dream hostage. Yet, these same senators in fact prevented Latinos appointed by the Clinton Administration from ever being given a hearing. Notably, Corpus Christi lawyer Jorge Rangel, and El Paso attorney Enrique Moreno, and Denver attorney Christine Arguello never received hearings before the judiciary committee. Yet, these individuals who came from the top of their profession were schooled in the Ivy League, were raised from modest means in the Southwest, and in fact truly embodied the American Dream. These highly qualified Mexican Americans never had the opportunity to introduce themselves and their views to the Senate, as Mr. Estrada did.

In addition to my concerns regarding this double standard, I am also concerned that Mr. Estrada showed himself unwilling to allow the Senate to fully evaluate his record. He was not candid in his responses. Yet, Mr. Estrada, as every other nominee who is a candidate for a lifelong appointment, must be prepared to fully answer basic questions, particularly where there is no prior judicial record or scholarly work to scrutinize. By declining to give full and candid responses, he frustrated the process. Individuals with values should be called to explain those values honestly and forthrightly. We can demand no less from those who would hold a lifelong appointment in our system of justice.

Finally, I am also concerned with some of the answers that Mr. Estrada did give when he was pressed. For example, I understand that as an attorney he argued that the NAACP did not have legal standing to press the claims of African Americans who had been arrested under a particular ordinance. As a former National President of LULAC, I know that on many occasions LULAC has represented the rights of its membership in voting cases, and in other civil rights matters. I would be troubled that if he were confirmed, Mr. Estrada would not find a civil rights organization to be an appropriate plaintiff, and would uphold closing the courthouse door on them.

Given these concerns, I oppose the confirmation of Mr. Miguel Estrada.

Statement of Belen Robles in Opposition to the Confirmation of Miguel Estrada

I write to join other Latino leaders and organizations in opposing the confirmation of Miguel Estrada to the DC Circuit Court of Appeals. As a native Texan, I have a very long and active involvement in the Latino civil rights community and have worked hard to ensure that Latinos have real choices about their lives. I am a past National President of the League of United Latin American Citizens (LULAC).

I am deeply troubled with the nomination of Miguel Estrada. I am very troubled with the positions he seems to have taken about our youth being subjected to racial profiling. As I understand his position, he does not believe that racial profiling exists, and has many times argued that the Constitution gives police officers unbridled authority and power. In our communities, racial profiling does exist and our children have been subjected to it. This is an issue that Latino organizations, including LULAC have long cared about. In all of the years that I was involved with civil rights, LULAC always stood to protect our community, including our youth when law enforcement exceeds their authority.

I am also concerned that Mr. Estrada did not allow the Senate to fully evaluate his record. He was not open in his responses, but instead was evasive. Yet, anyone appointed to a lifelong position has to be willing to answer questions fully. The American people have a right to know who sits in our seats of justice. And to demand that the person be fair.

Mr. Estrada has also taken actions against organizations that make me believe that he would not be fair. For example, as an attorney he argued that the NAACP did not have legal standing to put forward the claims of African Americans who have been arrested under a particular ordinance. As a former National President of LULAC, I know very well that on many occasions LULAC has been a champion of the rights of its membership in civil rights cases. We asserted those rights on behalf of voters in voting cases in Texas, and in many other civil rights cases. Under his view, Mr. Estrada could decide that a civil rights organization such as LULAC would not be able to sue on behalf of its members. No supporter of civil rights could agree with Mr. Estrada's confirmation.

I oppose the confirmation of Mr. Miguel Estrada.

HISPANIC BAR ASSOCIATION
OF PENNSYLVANIA,
Philadelphia, PA, January 28, 2003.
Hon. Senator EDWARD M. KENNEDY,
Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR HONORABLE SIR: I am writing on behalf of the Hispanic Bar Association of Pennsylvania (HBA) to inform you that we oppose the appointment of Miguel Angel Estrada to the United States Court of Appeals for the District of Columbia Circuit. For the reasons that follow, we urge you to vote against Mr. Estrada's confirmation.

The HBA recognizes that Mr. Estrada's nomination was pending for some time prior to his hearing before the Senate Judiciary Committee on September 26, 2002. Nevertheless, it was the Hispanic National Bar Association's public endorsement of this candidate that prompted our organization to initiate its own evaluation of Mr. Estrada.

To that end, the HBA created a Special Committee on Judicial Nominations to develop a process for reviewing and potentially endorsing not only Mr. Estrada, but also all future candidates for the Judiciary. As part of the process, we contacted Mr. Estrada, asked to interview him, and invited him as a guest of the HBA to meet the members of our organization. Mr. Estrada, for stated good cause, declined our invitations. Notwithstanding Mr. Estrada's non-participation, the Committee completed its work and reported its findings to the HBA membership on November 14, 2002. Following the Committee's recommendation, the membership voted not to support Mr. Estrada's nomination.

The HBA recognizes and applauds Mr. Estrada for his outstanding professional and personal achievements. Indeed, the HBA adopts the American Bar Association's rating of "well-qualified" with regard to Mr. Estrada's professional competence and integrity. However, employing the ABA's seven established criteria for evaluating judicial temperament, the HBA finds Mr. Estrada to be lacking. Our organization could find no evidence that Mr. Estrada has demonstrated the judicial position. In addition, the HBA seeks to endorse individuals who have "demonstrated awareness and sensitivity to minority, particularly Hispanic concerns." Sadly, we also could find no evidence of this quality in Mr. Estrada.

The HBA shares the concern of the president of the Judiciary Committee that only the best-qualified and most suitable individuals be appointed to the federal bench. Furthermore, the HBA appreciates the efforts, as evidenced by Mr. Estrada's nomination, to consider and promote members of the rapidly growing Latino population to positions of high visibility and importance. However, we believe that there are a myriad of other well-qualified Latinos whose integrity, professional competence, and judicial temperament would be beyond reproach and who would therefore be better suited for this position.

The Hispanic Bar Association of Pennsylvania regrets that it cannot support the nomination of Mr. Estrada to the United States Court of Appeals for the District of Columbia Circuit. We respectfully request that you oppose the confirmation of his nomination.

Respectfully submitted,

ARLENE RIVERA FINKELSTEIN,
President, and the Special Committee on Judicial Nominations on behalf of the Hispanic Bar Association of Pennsylvania.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, today is the 12th day, as remarkable as that seems, that the Senate is debating this nomination instead of doing what it has to for the important business of the American people, as I see it. It is quite clear the other side is just not going to get cloture on this nomination. So the choice is either bring forward a cloture motion or move on to other business.

The Nation's Governors are in Washington meeting with President Bush and Members of Congress to discuss critically important issues, such as homeland security, rising unemployment, and increasing State deficits. These are serious issues that need attention, but we are delaying tending to the needs of the American people with endless debate on a judicial nominee who is refusing to tell the Senate almost anything about his judicial philosophy or decisionmaking process.

This hide-the-ball strategy being used by Mr. Estrada, frankly, I think is an affront to the Senate and the American people. We have the right to get complete and thoughtful answers to legitimate concerns about his approach to his interpretation of the U.S. Constitution and the laws of the country.

I was formerly a businessman. Sometimes there are processes that are not dissimilar to our functions here. One of them is to be able to understand what a nominee or an appointment of a high-ranking executive might include and a review of that person's potential, that person's experience, that person's attitude before you put him to work.

My fellow Senators on the other side of the aisle would have the Senate, considered the most deliberative body in world history—and, I assume, also considered one of the most thoughtful places in the world in terms of Government and deliberative bodies—vote to confirm a nominee to a lifetime—lifetime, and it is important people realize that means you cannot be fired from the job; this means you can go as long as you want to, and when you are finished with your service, your salary continues at exactly the same level it did when you went to work every day—a lifetime appointment without disclosure of what I and my colleagues consider required information.

In the business world, this practice would have been unheard of, and the American people deserve better. If someone were seeking a post and they appeared before a congressional committee or a department head and said, I would like the job, but I am not willing to answer that questionnaire, that would make that aspirant unacceptable under any condition. It should be a requirement when a lifetime-tenured job is under discussion, something so important as the circuit court of appeals where people, after getting a decision from district court, go to get the judgment of wise and experienced people. His unwillingness to answer questions, to talk about what he stands for, and what he believes is a shocking disregard for appropriate behavior.

Responsible business owners do not hire senior managers without first conducting a complete and thorough review of that candidate's job application. The candidate would answer questions that give interviewers an opportunity to measure the candidate's decisionmaking process and views on work-related issues. A candidate cannot simply refuse to answer important questions of fitness, philosophy, or temperament. No business executive would hire a candidate who refused to answer basic inquiries. These are not private matters. They become the matters of the employer, be it government or business. Those in business would put their businesses at risk and leave themselves susceptible to future lawsuits based on negligent hiring practices.

No one is doubting the fact Mr. Estrada is bright and intelligent, but his repeated refusal to provide the Senate with any insight into his views on the law and the U.S. Constitution is incomprehensible. I just cannot understand it. How can we make an informed decision about a judicial nominee if the nominee refuses to provide the Senate with sufficient information about his judicial philosophy and, therefore, his temperament?

The questions being asked are not prohibited by law or judicial or professional ethics codes. Instead of entertaining continuing with these dilatory tactics, the Senate should simply move on to the important business of the American people concerned about the protection of their homeland; move on to repair a hemorrhaging Federal budget that under this administration has been converted from a $5.6 trillion surplus into a $2.1 trillion deficit; move on to provide States that are experiencing dire economic conditions with more Federal assistance that would help them weather the storms during these times of increasing unemployment, threatening war with Iraq, and a sustained fear of potential terrorist acts.

In the most recent CNN Gallup poll, 50 percent of Americans believe the economy is the most pressing issue confronting the Nation. Thirty percent of Americans believe the war with Iraq is the most important issue, second to jobs and the economy.

The nomination of Mr. Estrada did not make the list of important concerns facing the Nation. Since January 2001, the number of unemployed Americans has increased by nearly 40 percent, with nearly 8.3 million Americans out of work.

Since President Bush took office, 2.3 million private sector jobs have been lost and the unemployment rate for Latinos by way of example has increased 33 percent. According to the Department of Labor, there are now 2.4 jobseekers for every job opening. So rather than focusing on creating jobs for 8.3 million Americans, the Senate is targeted on the job of one attorney, a very successful attorney who made a lot of money. But how does that influence what the American people see as their need?

This is the same thinking that has produced an economic stimulus package that overwhelmingly favors the top 1 percent of American taxpayers while giving very little to those who really need some economic help.

The Senate needs to move on to the important work of protecting the homeland. CIA Director Tenet and FBI Director Mueller have both testified that America is still vulnerable to terrorist attack, and we keep on hearing alarms described in different colors. The American public does not understand what the difference between red and yellow is. They just know it scares them. It panics them. They do not know what to do. I get phone calls from people in New Jersey asking, Should we stay out of New York City? Should we not take our children on a trip? Should we stay home? The answer to all of those is that we do not really know, but we ought to get on with finding out.

The omnibus appropriations bill provides less than half of the $3.5 billion in funding promised to law enforcement people, firefighters, and emergency medical personnel. Meanwhile, America's ports, borders, and critical infrastructure remain dangerously unprotected.

Once again, instead of focusing on protecting the homeland and funding our first responders, the work of the Senate is being delayed in order to secure the appointment of a judicial nominee who refuses to share his views with the American people.

I do not intend to demean or diminish the importance of this nomination. It is very important. To the contrary, the nomination at issue is to the U.S. Court of Appeals for the DC Circuit, which is the most powerful intermediate Federal appellate court, second only to the U.S. Supreme Court. The DC Circuit is more powerful, it is observed, than other Federal courts because it has exclusive jurisdiction over a broad array of far-reaching Federal regulations that enforce critical environment, consumer, and worker protection laws.

As history has shown, DC Circuit Court judges are often tapped to serve on the Supreme Court. Presently, three of the nine Supreme Court Justices—Justices Antonin Scalia, Clarence Thomas, and Ruth Bader Ginsburg—previously served on the DC Circuit.

The Senate has a constitutional responsibility. The constitutional judicial confirmation process grants authority to the President of the United States to make the nominations and gives the Senate an equally significant role to agree by advising and consenting with the President's recommendation before a nominee can sit on the Federal bench. These important, mutually coexisting roles of the President and the Senate are central to the democratic system of separation of powers and checks and balances.

Mr. Estrada must provide the Senate with a full and complete understanding of his views of the law and the Constitution, including important civil rights laws that protect all Americans, especially minorities, women, the elderly, and the disabled. However, if he is unwilling or the White House is unwilling to nominate judicial nominees who are willing to answer reasonable, nonintrusive, and legitimate inquiries of the Senate, then these nominees should not be confirmed.

The role of the Senate in the confirmation process is advise and consent. It does not say anyplace to rubberstamp all Presidential nominations. The Senate should not abdicate its responsibility to thoroughly review judicial nominations. It is a responsibility, it is an obligation, for each one of us. Rather, the Senate is dutybound to ensure that each nominee maintains the utmost commitment to upholding the Constitution of our country—following precedent, listening to arguments without fear or favor, and rendering judgment without personal bias. Miguel Estrada has failed to respond to legitimate inquiries to the Senate and the American people.

As I said before, it is time to move on to the important work of the American people, and let this appointment fall as it should unless Mr. Estrada has a reckoning with himself and his obligation and comes to the Senate to discuss his views in response to questions posed by the Senate.

Mr. REID. Will the Senator yield for a question?

Mr. LAUTENBERG. Yes.

Mr. REID. The Senator is from the State of New Jersey. Of course, the State of New Jersey is very aware of the news that is put out in the New York Times and the editorials put out in the New York Times. Is that a fair statement?

Mr. LAUTENBERG. It is a very important paper, yes.

Mr. REID. I do not know if the Senator is aware that I read into the RECORD this morning a New York Times editorial from last fall dealing with Estrada. I ask the Senator if he is aware of the first paragraph of an editorial written February 13, 2003, in the New York Times?

Is the Senator also aware that last night the majority read into the RECORD a number of editorials from around the country?

Mr. LAUTENBERG. I am aware of that.

Mr. REID. Does the Senator from New Jersey know the circulation of the New York Times?

Mr. LAUTENBERG. I do not know precisely, but it is in the——

Mr. REID. It is in the millions.

Mr. LAUTENBERG. I am sorry?

Mr. REID. It is over a million.

Mr. LAUTENBERG. Over a million certainly on the weekends.

Mr. REID. Yes, I am sure it is.

Is the Senator aware of this editorial that says, paragraph No. 1, "The Bush administration is missing the point in the Senate battle over Miguel Estrada, its controversial nominee to the powerful DC Circuit Court of Appeals. Democrats who have vowed to filibuster the nomination are not engaging in 'shameful politics,' as the President has put it, nor are they anti-Latino, as Republicans have cynically charged. They are insisting that the White House respect the Senate's role in confirming judicial nominees"?

Mr. LAUTENBERG. I am. I am also aware of the fact that there are Latino organizations that are unalterably opposed to this nomination.

Mr. REID. If the Senator will yield for a question, is he aware that it is led by the Congressional Hispanic Caucus?

Mr. LAUTENBERG. I am aware of all that.

Mr. REID. If the Senator will yield for a further question, it would be difficult, would it not, to say that the Congressional Hispanic Caucus was anti-Hispanic?

Mr. LAUTENBERG. I absolutely agree that there would typically be a determination by them to support the nomination, but they are not. If the Senator will help sharpen my memory, I think they said keep on talking in the close of that editorial piece.

Mr. REID. We are going to find out. If the Senator would yield for another question?

Mr. LAUTENBERG. I would be happy to.

Mr. REID. I ask if the Senator from New Jersey agrees with that first paragraph of the editorial that I just wrote—read. I wish I had written it, but I read it.

Mr. LAUTENBERG. I agree with the Senator and wish I had written it as well.

Mr. REID. It is a short editorial. It is only three paragraphs. I will ask the Senator a question if he would yield.

Mr. LAUTENBERG. Yes.

Mr. REID. "The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and has dug in its heels on its most controversial choices. At their confirmation hearings, judicial nominees have refused to answer questions about their views on legal issues. And Senate Republicans have rushed through the procedures on controversial nominees. Mr. Estrada embodies the White House's scorn for the Senate's role. Dubbed the 'stealth candidate,' he arrived with an extremely conservative reputation but almost no paper trail. He refused to answer questions, and although he had written many memorandums as a lawyer in the Justice Department, the White House refused to release them."

Does the Senator from New Jersey agree with the statement made in this editorial, second paragraph, by the New York Times?

Mr. LAUTENBERG. I agree with it fully. I read that editorial. I was in total agreement with their logic, coming from New Jersey where we had candidates who were recommended for the appeals court languish—nothing happening for months and months and months. The protests we hear now from our friends on the other side about the process are a bit shameless because we had a nominee from California, Mr. Paez, who waited, I believe, 1,500 days.

Mr. REID. One thousand five hundred four days.

Mr. LAUTENBERG. Waiting for a review by the committee, and could not get that.

If we talk about obstinate approaches to the process about deliberate obstruction, the record is very clear.

When we presented candidates, when the Democrats were a majority, they could not move them because the Republican side of the Senate would not permit any action at all.

Mr. REID. Will the Senator yield for an additional question?

Mr. LAUTENBERG. I am happy to yield to my friend from Nevada.

Mr. REID. The final paragraph of this short but powerful editorial, does the

Senator from New Jersey agree with this:

> The Senate Democratic leader, Tom Daschle, insists that the Senate be given the information it needs to evaluate Mr. Estrada. He says there cannot be a vote until senators are given access to Mr. Estrada's memorandums and until they get answers to their questions. The White House can call this politics or obstruction. But in fact it is Senators doing their jobs.

Would the Senator agree with this statement?

Mr. LAUTENBERG. I agree 100 percent with that statement, and I think we ought to get on with the business of the American people.

Mr. REID. If the Senator will yield for another question before he leaves the floor. The Senator mentioned there were aspirants to be appellate judges, and is the Senator aware that a number of these people were from New York? Is that true?

Mr. LAUTENBERG. Indeed, that is true.

I just got a letter from a district court judge in New Jersey, considered one of the most brilliant and able district court judges, who was recommended for the circuit court of appeals in our district and decided after a long wait that he was not going to get a chance to be heard for a circuit court job. He informs me in his letter that he is going back to the law firm after 10 years on the Federal bench—a distinguished jurist, a great loss. He could not get a hearing, so he decided to withdraw rather than sit there and be dangled like a kite in the wind.

Mr. REID. Is the Senator aware of the names of 79 Clinton judicial nominees who were not confirmed by the Republicans?

Mr. LAUTENBERG. I am fully aware of that. I listened when the distinguished Democratic whip read that list the first time, and I took the liberty of reading the list a second time to make sure it was clearly understood.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, it is very interesting to hear the discussions. It is very similar to what we have heard now for a couple of weeks. I could not agree more with the Senator from New Jersey who says let's get on with it. I have a suggestion as to how we can do that. There are more than a majority in this Senate who are satisfied with this candidate and ready to vote. All we need to do is have an up-or-down vote. Those who are opposing that are in the minority. They can study as many things as they choose. The fact is, the majority of the people on this floor are satisfied this candidate is the right candidate and it is time to go. I could not agree more.

We have a lot of things to do. We have gone through the hearings, we have gone through all the background, and certainly most of us would like to get away from this delay tactic and get on with our work. I have to say that when the majority is ready to go, that is what we ought to do. I suggest that.

I will discuss another subject for a moment.

THE PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 475 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMAS. Mr. President, again I hope we find ourselves in a position to move forward. I don't think there is a soul here who would not admit we have talked enough about this judicial nomination. I don't think there is a soul here who would deny we have all made up our minds, we all know exactly what we are going to do. It is very clear that the majority on this floor is prepared to vote for this nominee and we are being held up over here by a minority that simply continues to ask for something that is not necessary because the majority has already been determined. So I hope we can move on and do the business of this country for these people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I rise today to submit a resolution.

(The remarks of Mr. CRAPO pertaining to the submission of S. Con. Res. 11 are printed in today's RECORD under "Submission on Concurrent and Senate Resolutions.")

JUDICIARY COMMITTEE ACTION

Mr. DASCHLE. Mr. President, I wanted to come to the floor this afternoon to discuss a matter that occurred in the Judiciary Committee today that is deeply troubling.

During a mark-up of 3 controversial circuit court nominees, the Chairman of the Judiciary Committee refused to observe the long-standing rules of the committee and brought two circuit court nominations to a vote despite the fact that there was a desire by several members of the minority to continue debate.

This situation is very specifically addressed by Committee Rule No. 4, which reads as follows:

> The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.

At the time that the chairman attempted to bring the nominations of John Roberts and Deborah Cook to a vote, objections were lodged by at least 2 members of the committee.

In fact, I believe that this rule was read into the RECORD in an effort to make clear to the chairman that it was not appropriate under the committee rules to bring these matters to a vote.

Despite the fact that this action represented a clear violation of the committee rules, the chairman ended debate on these nominations and conducted a roll call vote.

This reckless exercise of raw power by a chairman without regard to the agreed-upon standards of conduct that members of the committee have agreed to is ominous.

Senate committees either have rules or they do not. It cannot be the case that the rules of a committee will apply unless the chairman deems them inconvenient or an obstacle to a goal he seeks at any given moment.

This body has, for over 200 years, operated on the principle that civil debate and resolution of competing philosophies require rules. If the actions taken today indicate the new standard to which the majority plans to hold itself, then I propose that we simply repeal committee rules altogether and acknowledge that "might makes right" and there is no respect for minority interests.

How can we expect the Judiciary Committee to place on the bench individuals who respect the rule of law if the very process that the committee uses to confirm those individuals violates the Senate rules themselves?

I hope that upon reflection the chairman of the Judiciary Committee will reconvene the committee and allow for the committee to report out these nominations in a manner that is consistent with the committee rules.

If not, he must recognize that he is setting a terrible precedent regarding the operation of Senate committees in the future, regardless of which party may be in control.

Mr. President, I am very deeply troubled. This is a body of rules. This is a country of laws. I cannot imagine that there is ever a time that any one of us—any one of us—ought to be in a position to say: The rules in this case are not going to apply, the law in this case will not apply.

And how ironic—how ironic—that in the Judiciary Committee, the committee which passes judgment on those who will interpret the rule of law, that very committee violated the rule today.

So, Mr. President, we call attention to this extraordinary development with grave concern about its implications, about its precedent, about the message it sends. And I must say, it will not be tolerated.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. REID. Mr. President, there have been a number of statements over the past many months about the fact that we should have been spending more money on homeland security.

For example, this week, I had a woman come to me from Las Vegas, who is in charge of the 9–1–1 center at the Metropolitan Police Department, a very large police department, with hundreds and hundreds of police officers representing that urban area of some 1.5 to 1.7 million people.

She indicated to me there is a real problem. If you have a telephone call coming from a standard telephone, that person can be identified. They know the location of that telephone. Or if it is a pay phone, they know the location of that pay phone. But today a lot of people are getting rid of their standard telephones, as we know them, and are using computers, and millions and millions of people are using cell phones.

She said that for virtually every place in the United States, including the Las Vegas area, if you call 9–1–1 from a cell phone, they have no idea who is making the phone call or where it is coming from. And, of course, with the computer, that is absolutely the case also.

She was lamenting the fact that the technology is there. It is easy to do what needs to be done to make sure that 9–1–1 calls that come from cell phones can be located.

People have lost their lives and have been injured and harm caused to them as a result of 9–1–1 not being able to identify when the emergency call comes in. This is only one example of how technology could handle the problem.

Why isn't it being done in Las Vegas and other places? There isn't enough money. With what happened on September 11, there is tremendous need for more money to be spent for homeland security. This was certainly the opinion of the Governors who were in town this week. They are having all kinds of problems.

So, Mr. President, I would like to refer again to the New York Times. I have talked about an editorial, as did my friend from Idaho, in the New York Times. I want to refer to a news story from the New York Times, dated today, February 27, 2003, written by one Philip Shenon, entitled "White House Concedes That Counterterror Budget Is Meager." In effect, what this news article says is the White House now recognizes that there isn't enough money to take care of the problems of homeland security.

In this article, among other things, the President blames the leadership of the House and the Senate. And, of course, that does not include the Democratic leadership, because everyone knows, including the President, that we have been crying for more money for more than a year.

There are just a couple things from this news article I would like to point out to the Senate:

> . . . the long delayed Government spending plan for the year does not provide enough money to protect against terrorist attacks on American soil.

Mr. President, this is a statement from this administration. This is not a statement from the Senator from West Virginia, the senior member of the Appropriations Committee, who has spoken for hours and hours on the need for more money. This is not a statement from Senator DASCHLE, the Democratic leader. This is coming from the administration: White House concedes that counterterror budget is meager.

The article goes on to say:

> . . . because it had failed to provide adequate money for local counterterrorism programs.

Mr. President, throughout America today you can't have police agencies talking with each other. In Las Vegas, as an example, you have the Las Vegas Metropolitan Police Department, the city of Henderson, and Boulder City, and they can't talk to each other in an emergency. The technology is there. They can do that. But these governments simply don't have the money to do that. Fire departments can't talk to police departments all over America. It is not only a problem in Nevada.

We have been asking that the President help with these moneys, and he has been unwilling to do so. He, in effect, vetoed a multibillion dollar proposal we had in a bill just a short time ago. In the bill we had, the big omnibus bill, we asked for a small amount of money for all the demands in here. We asked for $3.5 billion, but it contains only, as this article indicates, about $1.3 billion in counterterrorism money for local governments.

Now, these remarks struck some of the audiences unusually sharp, given that "both Houses of Congress are controlled by the President's party," as the article indicates.

Now, there is more in this article, and the day is late, and the snow is falling, but I do want to read this to make sure the picture is plain.

This is a quote from Governor Gary Locke of Washington, which is in the article:

> We have a lot of police agencies in the state that were assured by the administration, repeatedly, that this money was on the way.

Still quoting from the article:

> He said that many police and fire departments had bought [for example] hazardous-materials protective suits and other counterterrorism equipment in the expectation that they would be reimbursed by the federal government.
>
> "And now," Governor Locke said, "they're going to have to scramble to terminate other programs in order to cover those costs."

It is not only Democratic Governors complaining. Republican Governors are complaining. Governor Bob Taft, a Republican, said lawmakers did not appropriate the amount that was recommended and earmarked for what they appropriated. So it is very clear there are things we need to do on this Senate floor that deal with more than the employment of one man, Miguel Estrada, a man who today, I am sure, is billing big hours down at his plush office here in Washington, a man who makes hundreds of thousands of dollars a year.

There have been statements made on this floor that it is extremely important that we shift from this man's employment, one man's employment, to the millions of people who are unemployed, and millions who are underemployed, people who have no health insurance and are underinsured and the many other problems we face.

UNANIMOUS CONSENT REQUEST—S. 466

Based upon the New York Times article and the fact that the President of the United States has now acknowledged that the counterterror budget is meager, I ask unanimous consent that the Senate return to legislative session and then proceed to the immediate consideration of S. 466, a bill to provide $5 billion for first responders, introduced today by Senator DASCHLE.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, this is no surprise. I hope that people will understand the need to go to other legislation. When we have our own President who, for more than a year, has said we have enough money, there is money in the pipeline, now agreeing that we have a problem, that we don't have enough money. The State of Nevada, I spoke to the State legislature there a week ago last Tuesday, 10 days ago, 9 days ago. I told the legislature there, which is like 45 other State legislatures around America today, they have a State that is in red ink. I told them there are a number of reasons they are in red ink. One is we have passed a bill called Leave No Child Behind, and we are leaving lots of children behind because we passed on to the State of Nevada and other States unfunded mandates that create financial problems for the States.

I also told the State legislature that what we have done in passing different measures dealing with terrorism, we have passed on to the State and local governments unfunded mandates, costing the State of Nevada and local governments millions of dollars, causing their budgets to be in the red significantly.

The President is wrong. He must help us address the problem. Senator DASCHLE's bill for $5 billion for first responders is not enough, but it is a step in the right direction.

We are fighting. We have now here the former chairman of the Armed Services Committee, now ranking member. As we speak, American forces are in a war in Afghanistan. People every day are being wounded and killed in Afghanistan. But that has been overwhelmed by what is going on in Iraq, or what soon will go on in Iraq.

We have lots of problems. We have problems in North Korea, which is a real serious one. They have started their second reactor there in the last few days. I was present at a briefing the other day with somebody from the administration who should know about how much the war is going to cost, and they don't know. The war in Iraq, they don't know. But we know we have a war going on here at home to fight terrorism, and we are not spending enough money to protect American people.

We have interests in the Middle East. We have interests in Afghanistan. We have interests on the Korean peninsula. We have interests here, and they are being neglected. The President acknowledges that. What are we doing here, spending 3 weeks dealing with Miguel Estrada. It is wrong. I am not surprised this unanimous consent request was objected to, but even though I am not surprised, it doesn't take away from the significance and really how depressed I am as a result of not having the adequate resources we need to take care of the problems dealing with homeland security.

Mr. LEVIN. I wonder if the Senator will yield for one question?

Mr. REID. I am happy to yield to my friend.

Mr. LEVIN. We have heard now with some regularity from the administration that they have no idea, no estimate as to what the cost of the war with Iraq will be, nor what the aftermath would cost; in other words, assuming there is a war, assuming that we occupy Iraq with or without others. According to General Shinseki, that could actually involve up to 100,000 troops there for some unlimited period of time. But even if they disagree with that, which apparently some members of the Pentagon do, we have not been able to obtain—and they claim there is none—an estimate of the cost of the aftermath of a war with Iraq at the same time that they are asking us to put in place an additional tax cut.

Does it not strike my good friend from Nevada as being irresponsible to put into place tax cuts with huge costs to the Treasury when we are likely on the verge of a war which has no particular estimated cost, and then the aftermath of that war, which could last years, in turn also has no estimated cost? Does it not strike the Senator from Nevada as simply not being the responsible thing to do to be imposing or putting into place tax reductions which means losses to the Treasury, when we are right on the verge of potential expenditures which could be literally hundreds of billions of dollars over a reasonably short period of time?

Mr. REID. Even though I would disagree with what the administration would do if they had the information and wouldn't give it to us, I wouldn't like that, but I would at least feel more comfortable that they were on top of their game. But for them to come to us and say, we don't know, that says it all. If they don't know and have no estimates as to the cost of what post-Iraq is going to be, we should all be concerned. If the general is 50 percent wrong, and it is only 100,000 troops, that is a lot of troops to keep there for a period of time. They don't know whether it is 2 days, 2 years or 2 decades.

Mr. LEVIN. And the answer we get is there is no way to know with certainty. These specifics are simply not available. There are too many imponderables. That is true, there are clearly some uncertainties. But it seems obvious to me the planners at the Pentagon must have some range of time or else there is no exit strategy, or else it is forever.

Previous administrations have been criticized for not having exit strategies, not having estimates in time, for making their estimate too short: They will be home by Christmas. But that is no excuse for not having some range—that we will be there from 1 to 3 years according to the best estimate. The worst case scenario is X number of years, best case scenario is such and such. The best case scenario is we won't have problems with the Kurds or the Shia will not be attacking the Sunni. The worst case scenario is we will have those kinds of civil wars. There are best case and worst case scenarios which allow planners who are working actually on estimated costs and exit strategies to come up with some kind of an estimate upon which we can base future resources and expenditures of this Nation.

Mr. REID. People in the administration who try to be candid with Congress get in trouble. Larry Lindsey, the chief economic adviser to the President, told us the war would cost $100 billion. He lost his job. I don't know if that is the only reason, but the general, a couple days ago, said: We will have to have 200,000 troops. There was a mad rush to that poor man to get him to change his opinion, and he changed his opinion and said: Maybe I was wrong, maybe it will be—and he mumbled around a little bit, but he gave an honest answer.

Mr. LEVIN. He did.

Mr. REID. Let's hope he doesn't lose his job. Let me also say this. We have all been impressed with this movie "A Beautiful Mind," which a year ago won the Academy Award. The principle of that movie and the book that I read, written by a woman named Nasar, was that this brilliant man, Nash, figured out what was called the game theory. This doesn't necessarily mean playing checkers.

He was able to determine through this brilliant mind that he had what would happen if more than two people were engaged in an activity and, as a result of the work he did, that is what much of the cold war planning was based upon—his theory, his game theory.

Now, for me to be told that this mighty Nation, the United States of America, with 260 million people, with the finest educational institutions in the world—there are about 121 great universities in the world, and we have about 112 of them; basically they are all in America. So for someone to tell me that we don't know what it is going to cost postwar, that simply is not being candid. They know. There are different scenarios and they have them all in those computers, and they know what the different costs are going to be.

I say to my friend from Michigan that, through mathematics, through computer modeling, you can figure about anything out. As most everybody knows, my last election was real close. I won election night by 401 votes. By the time it was over, I picked up 27 more votes. But on election night, I had a computer man who worked with me for many years. He was a fine man. He had run a number of different models for the 17 counties in Nevada and he told me after the vote was out of Clark County: You cannot lose. I have run every model there is and you cannot lose. It will be close, but you cannot lose. He figured out with mathematical certainty that I could not lose. Now, I didn't believe him, but he knew because he believes math doesn't lie.

So without belaboring the point to the Senator from Michigan, somebody knows in this administration, but they are not going to tell us because they are afraid the American people are going to lose more confidence. As reported yesterday, the Wall Street Journal reports that soaring energy costs, the threat of terrorism, and a stagnant job market has sent consumer spirits plunging to levels only seen in recessions. That was from yesterday. That is why they are not telling us.

I have given the Senator a very long answer to a short question, but I believe the administration knows and they are afraid to fess up to the Congress and to the American people what this war is going to cost.

Mr. LEVIN. Just to add one further thought, it seems to me it would be absolutely irresponsible not to have a range or an estimate of what the cost of a war would be in the best and worst case scenarios.

Mr. REID. Or middle case.

Mr. LEVIN. Yes, or at least a range on what is the worst case scenario and what is the best case scenario. I cannot believe the planners at the Pentagon and the OMB do not have a range. If they don't have a range, it would be irresponsible because how in heaven's name can the administration then say that we can afford a tax cut of the size they are proposing, when we have an impending demand for resources in a war that could be lengthy, costly, and then the aftermath could be lengthy and costly? It borders on the reckless, in terms of an economy, to say we don't have an estimate, we don't know whether or not it is going to be $20 billion, $40 billion, $100 billion—we don't have a range; yet they are trying to persuade a majority of the Congress that we ought to shrink the resources coming into the Government at the same time we are on the verge of war and the aftermath of a war, which doesn't have any estimated length, any estimated cost, and no troop estimate. We were given about a 200,000 estimate. Well, that is too high. OK, what is the ceiling that is more realistic to the people who say 200,000 is too high? We are completely devoid of that.

What we are not devoid of, though, is the effort to shrink resources to this Government through a tax cut, which has a number of problems to it. One of them is that when we are facing what we are in terms of expenditures, it is not the responsible thing to do.

Mr. REID. I would like to respond, not in a very direct way, but to point out problems the Senator has outlined in his statement to me. Is the Senator aware that yesterday I talked about a Pew Research Center poll? It is a nonpartisan organization. They are not for Democrats or Republicans. This was a real big poll, where 1,254 adults were contacted between February 12 and 18. For the first time in this administration, the American people do not approve of the way George W. Bush is handling the economy; 48 percent of the people disapprove. Is the Senator aware of that?

Mr. LEVIN. I wasn't aware of the Senator's remarks, but I was aware of the poll.

Mr. REID. And the Senator talked about tax policy. This same poll says that 44 percent of the American people disagree of George W. Bush's handling of tax policy. So the Senator said it all. I appreciate his asking me a question.

Mr. LEVIN. Mr. President, I am going to speak about the very budget document that the Senator from Nevada and I have been discussing, perhaps in an indirect way. I wish to share some thoughts with the Senate about the proposed budget for 2004, which the President has now sent to Congress.

As always, I wanted to see where the President's priorities were—not in sound bites, but the actual nitty-gritty numbers in the budget document. While every budget request is important, with the economy sputtering the way it is and with huge Federal deficits looming and critical domestic and international issues unresolved, particularly when we are facing the potential of a war and a very lengthy and complicated, expensive aftermath to that war, this budget requires special attention.

I have been keenly disappointed by what this attention revealed. The President's budget would do exactly what he recently said he did not want to do, which was to pass our problems along to the next generation. The President made a very eloquent statement in the State of the Union Address, saying that we are not going to pass our problems along to the next generation. But when you look at the details of the budget, that is precisely what this budget request does.

By the administration's own calculations, this budget would have us run a deficit of over a trillion dollars for the next 5 years, including record-setting deficits of over $300 billion for this year and next.

Now, the contrast here between this projection of deficit and the $5.5 trillion 10-year surplus that was projected in January of 2001 is simply stunning. That contrast between just what 2 years ago was projected for our economy—a $5.5 trillion surplus—now there are projections of deficits upon deficits upon deficits—a projected deficit of over a trillion dollars over the next 5 years.

The administration's plan estimates a non-Social Security deficit totaling over $2.5 trillion to the year 2008, which would leave us with an additional debt of $5 trillion in 2008, which is 150 times greater than what was projected just in the year 2001.

Why such dire fiscal predictions? First, while the tax cut in the year 2001 played a huge part in putting us into the current deficit ditch, the President's call for an additional $1.5 trillion in new tax cuts—most of which disproportionately benefits upper income folks—will help ensure that we not only stay in the deficit ditch, which we are back into, but that it will be a deep deficit ditch.

Even Federal Reserve Chairman Alan Greenspan recognized the danger of such cuts when he spoke of the importance of curbing the deficit, not increasing it.

That perhaps came as a surprise to some people in the administration who were looking to Alan Greenspan to give support to the tax cut proposal and minimize, they hoped, the impact of deficits on future economies. That is not what Chairman Greenspan did. He straightforwardly recognized the danger of the tax cuts when he spoke of the importance of reducing deficits and not increasing deficits.

Mr. President, I see the Democratic leader is in the Chamber. I withhold the remainder of my comments at this time because he has a very important message relative to North Korea, and I wish to participate with him in a colloquy and presentation. So I withhold the remainder of my comments relative to the President's budget at this time.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

NORTH KOREA

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Michigan for his courtesy and appreciate very much his comments with regard to the budget and his extraordinary leadership with regard to many issues involving our military challenges and priorities abroad.

Three weeks ago, I came to the Senate floor to address the intensifying crisis in North Korea, a country and a situation that I believe poses a risk to our Nation every bit as serious as that posed by Saddam Hussein. At the time, I urged President Bush immediately and directly to engage the North Korean Government in discussions to bring about a verifiable end to that country's nuclear weapons program.

Unfortunately, the administration so far has failed to act, and, in the meantime, the crisis in North Korea continues to escalate. In recent days, we have seen reports that North Korea test-fired a new missile, evidently that regime's idea of an inauguration present for South Korea's incoming President. Just today, the newspapers contain reports that North Korea has restarted one of the reactors at its primary nuclear complex, a reactor that produces spent plutonium which can then be converted into weapons grade material.

Let's be clear about what this latest provocation means. It means North Korea could have a nuclear production line up and running and producing weapons grade nuclear material in a matter of months. It means the world's worst proliferator could have enough nuclear material to produce six to eight nuclear weapons by summer.

According to Brent Scowcroft, President George Bush's National Security Adviser, if we fail to act, it means "We will soon face a rampant plutonium production program that could spark a nuclear arms race in Asia and provide deadly exports to America's most implacable enemies."

Unfortunately, the administration continues to insist on downplaying this threat. These latest developments should confirm for anyone watching that this is a crisis that only grows with each day the administration fails to act. I come to the floor today to join with my colleague, the ranking member of the Armed Services Committee, to urge the administration to act now.

The first step toward action is to acknowledge there is a problem. Based on a series of administration statements that play down the threat posed by North Korea's actions, it appears many in the administration are not even willing to take this step. For example, for quite some time now, the administration refused to call this situation even a crisis.

Last month, North Korea announced its intention to withdraw from the Nuclear Non-Proliferation Treaty, the cornerstone of the world's nonproliferation efforts, and the response from Under Secretary of State John Bolton, "Not at all expected," and on Monday after the missile test, the administration is quoted as saying that this was "just a periodic event." Secretary Powell called the test "not surprising and fairly innocuous."

So what do we do? I believe we must begin by making certain we are on the same page as our allies. Failure to do so will only produce a failed policy. Unfortunately, while the administration says the right things about the importance of coalitions, it is unwilling or unable to do the right things to build a coalition.

The administration continues to insist on multilateral discussions with the North Koreans while our friends and others have consistently and repeatedly urged President Bush to engage in bilateral talks. Therefore, the administration must redouble its efforts with our allies in South Korea, Japan, with the Chinese, and the Russians.

Second, we must make it clear to the North Koreans that separating plutonium from the spent fuel rods at Yongbyon represents an unacceptable threat to our collective security. We should tell North Korea what we expect of them directly: That if it verifiably freezes all nuclear activities, we and our allies are prepared to discuss the full range of security issues affecting the peninsula, as well as other steps North Korea can take to reenter the international community.

This is not news to the administration. In fact, the President himself has suggested he is prepared to have just these kinds of talks.

Yet, I must say, regrettably, the administration still delays. It allows the crisis to deepen and relations with our friends who are most directly threatened by North Korea to suffer. In fact, what would reward North Korea is to continue to stand by while it builds a nuclear arsenal. The danger within North Korea is too urgent for the President to delay this any further.

Finally, let me also take advantage of having my colleague, Senator LEVIN, in the Chamber to discuss a recent exchange of letters with the administration on this issue. Senators LEVIN, BIDEN, and I laid out our concerns to the administration about its North Korean policies and provided recommendations in a series of letters. I recently received a response from Dr. Rice, and I ask unanimous consent to print our January 31 letter and Dr. Rice's February 10 response in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 31, 2003.

Dr. CONDOLEEZZA RICE,
National Security Adviser, The White House, Washington, DC.

DEAR DR. RICE: We wrote to you earlier this month about our increased concern regarding the crises on the Korean peninsula. Our concern has deepended significantly as a result of a report in today's New York Times, which was confirmed by the Administration, that the U.S. government has evidence that North Korea is removing spent nuclear fuel rods from storage. These rods, which had been securely stored under IAEA monitoring from 1994 until recently, reportedly contain enough plutonium to produce roughtly a half dozen nuclear weapons.

As alarming as this report is, we are just as troubled by the Administration's reported reaction to these developments. Prior to this disclosure, the Administration said nothing publicly or privately to Congress about these activities. According to comments attributed to senior Administration officials, the Administration has consciously decided to hold this information in an effort to avoid creating a crisis atmosphere and distracting international attention from Iraq.

This muted response to the world's worst proliferator taking concrete steps that could permit it to build a nuclear arsenal stands in stark contrast to the President's statement on Tuesday evening that "the gravest danger in the war on terror . . . is outlaw regimes that seek and possess nuclear, chemical, and biological weapons." It is also increasingly difficult to square the Administration's rhetoric on Iraq and decades of U.S. policy aimed at discouraging the emergence of declared nuclear powers with its continued downplaying of the threat posed by North Korea's blatant disregard for international rules on proliferation.

As the crisis with North Korea continues to escalate, the Administration's policy has not gotten any clearer. The Administration's lack of a clear, consistent policy and our failure to take concrete steps to address this growing crisis has produced consternation and confusion. One result is that our allies in the region appear to be taking a course directly at odds with the Administration's latest pronouncements.

Given the stakes of the situation and the ongoing confusion about the Administration's policy, we request that you come brief the Senate as early as is practical to discuss that we know about North Korea's latest actions and what the United States is doing in response.

We look forward to hearing from you as soon as possible

Sincerely,
TOM DASCHLE.
JOSEPH R. BIDEN, Jr.
CARL LEVIN.

THE WHITE HOUSE,
Washington, DC, February 10, 2003.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: Thank you for your letter regarding U.S. policy on North Korea.

I agree with you about the need to take effective action in light of North Korea's recent actions to restart its nuclear facilities at Yongbyon. The United States is working closely with friends and allies toward our objective of the elimination of North Korea's nuclear weapons program in a verifiable and irreversible manner.

However, I disagree with the assertion contained in your letter that, prior to the New York Times article on January 31 on recent North Korean activities, "the Administration said nothing publicly or privately to Congress about these activities." I also reject any suggestion that the Administration consciously withheld information from Congress to avoid distracting attention from Iraq.

The Administration has regularly briefed and consulted Members of Congress regarding policy toward North Korea and Iraq. For example, Deputy Secretary Armitage briefed Senators on January 16 on recent intelligence on activities at North Korean nuclear facilities and steps taken by the Administration in response to these actions. He also testified before the Senate Foreign Relations Committee on February 4.

In addition, the CIA has routinely provided briefings and written reports to Members and its oversight Committees. CIA briefed Senate Foreign Relations staff on three occasions in December on North Korea WMD issues, and on January 29, published an article on North Korean nuclear-related activities in the Senior Executive Intelligence Brief (SEIB) that addressed the issues discussed in the New York Times on January 31. The January 29 article was one of nine such articles published in the SEIB on North Korea in January alone. The SEIB is delivered daily to the CIA's oversight Committees and to the Office of Senate Security where it is available to Senators and appropriately-cleared staff.

In the days and weeks ahead, it is my hope that we can work together to address the challenges we face on a range of critical national security issues, including North Korea and Iraq.

Sincerely,
CONDOLEEZZA RICE,
Assistant to the President for National Security Affairs.

Mr. DASCHLE. Unfortunately, little in Dr. Rice's letter addresses our policy concerns. Rather, the bulk of her comments are dedicated to rebutting a claim in our letter that Congress has not been adequately consulted about some explosive findings revealed in a January 31 New York Times article.

The article stated that the U.S. Government has evidence North Korea had begun moving spent fuel rods out of a secure storage area, a development that was subsequently confirmed by the administration. Movement of spent fuel rods would either suggest that North Korea was getting ready to reprocess that fuel to build new weapons or was trying to hide the spent fuel from the international community. In either case, this is a very significant finding that we believed then and still believe deserves to be brought to the Congress's attention.

While Dr. Rice rightly points out that Congress has been briefed on North Korea issues generally, including a briefing by Deputy Secretary Armitage on January 16, we are not aware of any administration briefing that provided us with information on this specific development prior to the New York Times story. And in recent testimony before the Senate Foreign Relations Committee, Deputy Secretary Armitage implicitly acknowledged that fact.

The reason to bring this up is because we are facing a crisis on the Korean peninsula, a crisis with extremely high stakes, a crisis that demands robust American response, a crisis that demands we be clear with each other and with the American people. Given the stakes of the situation and the ongoing confusion about the administration's policy, we should expect no less.

I yield the floor.

Mr. LEVIN. Mr. President, will the Democratic leader yield just for some questions?

Mr. DASCHLE. Before I yield the floor, I am happy to yield to the distinguished Senator from Michigan.

Mr. LEVIN. Is the Senator aware of a statement which was made before us—I do not know how he would be, but let me brief him on it. We had the head of the Defense Intelligence Agency in front of the Armed Services Committee a couple of days ago, and we asked him whether or not in his judgment there was a crisis on the Korean peninsula because of the actions of North Korea in removing these seals from the spent fuel, eliminating the cameras and kicking out the inspectors. Even though the administration is unwilling to put the label "crisis" on what is going on on the Korean peninsula, Admiral Jacoby was more than willing to say, yes, this is a crisis.

I am wondering if the Democratic leader would agree that part of the problem that we have in dealing with the North Korean situation is the unwillingness to see it for what it is, which is a major proliferation threat when there is a country that has been the world's greatest proliferator, including Libya and Iran, missiles and missile technology, when there is a country with a nuclear program that they acknowledge removes the inspectors from its country, whether or not that would represent progress if we could just at least get the administration to acknowledge what the head of the Defense Intelligence Agency says, which is that we have a crisis on the Korean peninsula?

Mr. DASCHLE. I think the Senator asks a very good question. This is more than just a semantical issue. Whether one calls it a crisis, an emergency, whatever volatile term one wishes to apply, clearly this deserves more of a response than this administration has provided.

I wonder what would have happened if Iraq had been the country with the evidence now to suggest that weapons of mass destruction, nuclear weapons, would be produced with the degree of certainty that we now see them in North Korea, what would the administration have said to that? If Iraq had fired a test missile within the last 2 weeks, what would the administration have said of that? My hunch, is that they would have used the word "crisis" and then some.

They have already claimed, of course, that North Korea is a member of the so-called axis of evil, an unfortunate term in my opinion. But to avoid using the word "crisis," I believe, lends a real serious credibility question to the administration's foreign policy with regard to the region. This is a crisis. Every expert has acknowledged that it is a crisis. Unless we are willing to recognize the reality of the implications of this crisis, I believe the crisis will only worsen.

The Senator from Michigan has made a very important point with his question.

Mr. LEVIN. In addition to looking a problem square in the eye and not sugarcoating it, if we are going to solve it, another part of the administration's platform relative to Korea, or approach to the Korean problem, is to say that the multilateral approach is the right approach. I am always glad to hear when the administration is willing to work multilaterally. I have been a critic of the administration because their unilateral rhetoric activities, it seems to me, have been counterproductive in many parts of the world. So whenever the administration talks about a multilateral approach or consulting with allies and friends, that is good news. But when they do the consultation, when they talk to South Korea, both its former President and its new President, as well as when they talk to China, as well as when they talk to Japan, as well as when they talk to other allies in the area, they are told the same thing. When they do use the multilateral approach, they are told: Engage in direct discussions with North Korea. As a matter of fact, the representative of the new President of South Korea, the special envoy of new President Roh, visited us. His name is Dr. Chyung, and he visited with us on February 3.

That was, again, the open advice, he said, of the South Korean Government, is to have the United States talk directly with North Korea so that they can hear from us what our concerns are; so that both sides can avoid any kind of miscalculations; so that we do not fuel the paranoia this isolated regime has. They are paranoid. They are isolated. They actually believe we might strike them with one of our preemptive strikes. They actually believe it.

So the advice we are getting when we talk to our allies and follow this multilateral approach is engage with North Korea, and yet we refuse to do so.

I am wondering whether the Senator would agree that it is not only important that we consult with allies, not necessarily follow the advice but at least give serious consideration to the advice they give us when they talk to us about a direct engagement with North Korea to avoid miscalculation, so that the North can hear directly from us what our major concerns are?

Mr. DASCHLE. I appreciate the question posed by the Senator from Michigan. This whole experience has turned logic on its head. We have 220,000 troops in the gulf. We are told that there is almost an inevitability of war. We are told that the reason for this near inevitability is because of weapons of mass destruction that we have yet to find in Iraq and because of an unstable leader in Iraq.

These assertions have required the administration to go to great lengths to try to prove that their findings are ones that could be recognized by the world community. With all of their best effort, they have yet to demonstrate to the satisfaction of some of our allies that the threat exists to the extent the administration perceives it, and yet there is a clear set of circumstances that are undeniable in North Korea. There is a very questionable leader spurring development of nuclear weapons in the most rapid way, which we know could be sold quickly to terrorist organizations and used against us and the world community. Yet this administration chooses to ignore it.

The Senator asks the question, why would we not engage the community and recognize the importance of confronting North Korea? The administration says the answer to that is they do not want to reward bad behavior.

I argue that we are rewarding bad behavior by ignoring the circumstances as this administration has chosen to do. What could be worse behavior than what is going on right now?

As I understand it, we began to reship food assistance to the North Korean people within the last few days. We have no real guarantee that aid is going to get to the people, but it is a very unusual message they are sending to both Iraq and North Korea. Of all those who would be most confused it would be our allies. How do they explain all of this? What credibility do we have with them as we attempt to rationalize this odd position we find ourselves in today?

I appreciate the question, and I would simply say to my colleague that it begs further explanation by the administration which, again, because they refuse to call this a crisis, they have yet to provide.

Mr. LEVIN. This administration has blown hot and cold when it comes to policy relative to North Korea.

I just have one final question.

The Democratic leader points out just how confusing a policy it is, not just for North Korea but for our own allies. Our ally with the most at stake on the Korean peninsula is South Korea. They could be destroyed if there is a miscalculation. Their capital is within range of tens of thousands of artillery of North Korea.

On March 6, 2001, on the eve of a summit between then South Korean President Kim Jong-Il and President Bush, Secretary of State Powell said we plan to engage with North Korea and to pick up where President Clinton and his administration left off.

Within 24 hours was the Secretary of State's statement that we were going to engage with North Korea and pick up where the Clinton administration left off because the Clinton administration obtained the framework agreement that resulted in the canning of that very material which is so dangerous which contains plutonium. Within 24 hours, at the summit the next day, President Bush basically said: We are not going to have any discussions with North Korea. We are not picking up where the Clinton administration left off. We do not trust North Korea.

No kidding. That is a mild statement, that we do not trust North Korea. If we did not talk to people we did not trust, we would not be talking to half of the world, including some of the most dangerous people in the world.

Talking to people does not mean we are going to reward anything. It simply means they will hear directly, eyeball to eyeball, from us as to what our concerns are, and also why we do not threaten them, and why, if they will terminate their nuclear program, they can rest assured they will get an agreement from us that there is not going to be any active aggression against them.

The blowing hot and cold, the erratic policy, the undermining not just of our own Secretary of State 24 hours after he said we would continue a policy, but undermining our South Korean allies with so much at stake, it seems to me has contributed to a very uncertain policy on the Korean peninsula, has sowed the seeds of confusion, and fueled and contributed to the paranoia that already existed in spades in North Korea.

I have been to Yongbyon, the place in North Korea where they were canning those fuel rods, where they had sealed them. I don't know that any other Member of the Congress got there, but I got there a couple years ago. I watched the International Atomic Energy Agency as they were sealing those fuel rods. That was a very positive thing to watch, to actually see, under IAEA inspection and supervision, those incredibly dangerous nuclear materials being canned instead of threatening to the rest of the world as potential proliferated material, to actually see it put under the supervision of the IAEA.

That is now out the window. We are starting from scratch. I understate my feelings on the matter when I say the Senator, the Democratic leader here, has so accurately stated the fact that we have a problem. Step 1 is to recognize we indeed have a crisis. Step 2 is not just to consult with allies but to seriously consider what they recommend when they talk about having direct engagement with the North Koreans.

I thank the Democratic leader for his constant determination to keep this Korean peninsula crisis in front of us. We cannot lose sight of it. It is a greater threat than Iraq because in North Korea you have a known proliferator who has removed the inspectors and who has nuclear material which could be so easily distributed, shipped, or sold to people who could do great harm with it.

I thank my friend from South Dakota.

Mr. DASCHLE. I thank the distinguished Senator from Michigan.

We can learn a lot from history. History, for most of my lifetime, involved a cold war, a cold war with an archenemy—the Soviet Union—which had thousands of nuclear warheads pointed toward the United States. They posed an imminent threat that could at any moment destroy all of civilization.

We made the choice, for good reason, Republican and Democratic administrations made the choice, that rather than engage in conflict, we would contain, negotiate, disarm, and ultimately wear down those leaders of the Soviet Union. That is ultimately what happened. The Soviet Union collapsed, negotiations for disarmament continued, and I recognize the contribution of many Presidents, from Harry Truman on.

But it was Ronald Reagan who said: Trust but verify. He did not say: I don't trust the Soviet Union, so I'm not going to enter into dialog with them. He was criticized at times, but he said: I'm going to engage in dialog. I'm going to continue the effort of my predecessors. I'm going to trust. But then I'm going to verify.

What the Senator from Michigan noted is that a couple of years ago that verification process was underway. We trusted. And we verified. His site visit was an indication of that verification.

I can only hope that those responsible for the day-to-day decisions made with regard to U.S. foreign policy will recognize the importance of past precedent, that we engage our enemies, we engage those whom there is ample reason to distrust, but we recognize that without some communication, without some engagement, the only other option is conflict.

The only other option is to see what is happening today. Nuclear weapons are being constructed. Nuclear weapons are being stockpiled. Nuclear weapons could be shipped. Nuclear weapons could be used not only in the region but against this country, as well. Every day we delay, every day we lack the will to confront and communicate, every day we lack the desire to verify, every day we create a problem more complex for future leaders and for future American policy.

I hope this administration will very carefully reconsider their position. I hope they will listen to our allies. I hope they will engage the North Koreans. I hope they can give us greater appreciation with greater clarity of their intentions with regard to that part of the world.

I yield the floor.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now return to legislative session and go into a period of morning business.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

IRAQ

Mr. BENNETT. Mr. President, this morning's Washington Post has an especially long editorial. Indeed, it takes up the entire length of the editorial page. It is entitled "Drumbeat on Iraq, a Response to Readers."

I have a dear friend in Utah who wrote me. She was distraught—is distraught, I am sure—about the prospect of going to war and expressed a great many concerns. I have been in the process of constructing what I hope is a responsible and thoughtful response to her concerns. As I read the editorial in this morning's Washington Post, I found that it does a better job than I could do of summarizing many, if not most, of the issues about which she is concerned. I want to read from sections of the editorial and then ask unanimous consent that it be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. In the editorial they say:

> The right question, though, is not, "Is war risky?" but "Is inaction less so?" No one can provide more than a judgment in reply. But the world is already a dangerous place. Anthrax has been wielded in Florida, New York

> and Washington. Terrorists have struck repeatedly and with increased strength over the past decade. Are the United States and its allies ultimately safer if they back down again and leave Saddam Hussein secure? Or does safety lie in making clear that his kind of outlaw behavior will not be tolerated and in helping Iraq become a peaceable nation that offers no haven to terrorists? We would say the latter. . . .

As I say, I could not have put it better, which is why I have quoted it. I have raised the question on the floor before: What are the consequences if we do not follow through in Iraq? Some have said let's just leave the troops in place. And that means Iraq remains contained.

Leaving the troops in place is not an option. We must understand that the troops are where they are, poised to move into Iraq, because of the agreement of the governments in Qatar, Turkey, and Saudi Arabia, among others. Those governments will not allow our troops to remain on their soil indefinitely. They will not allow those troops to remain there while we contain Saddam Hussein for 6 months or 12 months or 12 years, which has been the period of "containment" that we have seen up until now. We must either withdraw those troops and say we are not going to move ahead militarily or, if Saddam Hussein does not disarm in accordance with the U.N. resolutions, those troops will move forward into his territory. We have no other choice: Move forward or withdraw.

For those who say the inspectors should be allowed to do their job, we must understand that the only reason the inspectors are there is because the troops are there. So we are coming down to the decision point, that is very clear.

Again, back to the editorial:

> Some argue now that, because Saddam Hussein has not in the intervening half decade used his arsenal, Mr. Clinton was wrong. . . .

I should say that the editorial quotes President Clinton as outlining the case against Saddam Hussein in 1998.

> Some would argue now that, because Saddam Hussein has not in the intervening half decade used his arsenal, Mr. Clinton was wrong and the world can rest assured that Iraq is adequately "contained." Given what we know about how containment erodes over time; about Saddam Hussein's single-mindedness compared with the inattention and divisions of other nations; and about the ease with which deadly weapons can move across borders, we do not trust such an assurance. Mr. Clinton understood, as Mr. Bush understands, that no president can bet his nation's safety on the hope that Iraq is "contained." We respect our readers who believe that war is the worst option. But we believe that, in this case, long-term peace will be better served by strength than by concessions.

There is one other issue that was raised by my friend in Utah to which the editorial does not speak. This is the issue of first strike. My friend says we cannot cross the line of having the United States be involved in a first strike against a nation that has not attacked us.

One of the arguments I have heard on this score is that if we do it, we will set a precedent that will allow other nations to do it. Other nations that we do not want to do it will say we can do it because the United States did.

If I may, without being disrespectful to that argument, I would point out that Adolph Hitler did not need a precedent from the United States to attack Poland. He made up his own excuse. He pretended that Poland had attacked him. He dressed prisoners in Polish military uniforms, murdered them, and then had them found by German soldiers on German soil who said they were shot as they tried to invade Germany.

The setting of a precedent by the United States or the not setting of a precedent by the United States will have absolutely no effect on the actions of a brutal dictator who decides to attack his neighbors in a first strike fashion. Saddam Hussein didn't quote precedent when he attacked Kuwait in the early 1990s. He went ahead and did it, and would have done it again whether he had precedent or not.

Having said that, however, I want to review a little bit of American history. It may not be history of which we are proud, for those who say we have never committed a first strike, but it is history nonetheless of which we must be aware. I have not taken the time to research all examples of this because my memory provides me with enough to make the point.

I remember when Lyndon Johnson sent the Marines into the Dominican Republic, for what purpose I cannot recall. But this was not a country that had attacked us and we sent military forces in there on the grounds that there was some American interest that had to be protected.

Ronald Reagan sent the Marines into Grenada. His reason was that the legitimate Government of Grenada requested it.

In his book, "The Rise and Fall of the Soviet Empire," Brian Crozier referred to the American military action in Grenada as one of the key turning points in the cold war. He said if the United States had not moved into Grenada and removed the Communist government there, the cold war would have lasted considerably longer and been more devastating.

There was no international clamor against President Reagan when he did this. He believed it was in America's best interests, and at least one historian has said it was not only in America's best interests, it was in the world's best interests for Ronald Reagan to have done what he did in Grenada.

In the waning days of his Presidency, the first President Bush sent American troops into Somalia. Somalia had not attacked us and did not represent any threat. The troops were there presumably on a humanitarian mission, but they were sent in to deal with a military situation in that country that President Bush thought had to be dealt with. Those troops were withdrawn by the Clinton administration. But, once again, this was not a circumstance where America had been attacked but one where an American President sent American troops and there was no international outcry, no international complaint.

Shortly after I came to the Senate, President Clinton invaded Haiti. Our former colleague, Sam Nunn, was in Haiti just prior to the time when the American military entered that country, and he debriefed a number of us after he came back. He pointed out that the only reason there was not bloodshed when the American troops entered Haiti was because the former Chairman of the Joint Chiefs of Staff, Colin Powell, went with Senator Nunn and former President Jimmy Carter to Haiti and General Powell was able to convince the Haitian general in charge of their military that it was not dishonorable for the Haitian general to save the lives of his troops and allow the Americans to come in without military opposition.

As I recall it from Senator Nunn, the Haitian general was determined that it was his duty as a military man to resist any invasion of his country, no matter how hopeless that resistance might be. And he gathered his family around him, his wife and his children, hugged them together and said: This is our last night on Earth because tomorrow the Americans are invading and I will be killed.

As I say, General Powell sat down with the Haitian general, convinced him that his first duty as a military officer was to protect the lives of his troops, and that he was not doing a dishonorable thing if he did not mount a hopeless resistance against the Americans.

Once again, there was no international outcry against the American decision to send troops into Haiti. Looking back on it, it was not necessarily a wise thing to have done. We replaced a brutal dictator much beloved by American conservatives with a brutal dictator much beloved by American liberals. But the average Haitian has not seen any improvement in his or her lifestyle. Indeed, those who have been to Haiti recently tell me things are worse now than they were before the Americans invaded.

Then we have the former Yugoslavia, a country that represented no threat to the United States and had not attacked the United States, but the United States led a national coalition in war upon that nation.

Why did we do it? We did it because, under Milosevic, that nation had produced enough casualties within its borders to begin to approach 20 percent of the size of the Holocaust. They killed that many of their own people, and the Americans felt that was a serious enough challenge to require us to go ahead.

Now we have just heard a speech by the Senator from Michigan with respect to North Korea. We are being asked, Why are we not doing more with respect to North Korea? I will not respond to the Senator from Michigan or the Democratic leader in that vein. But I will point out that the attitude around the world and, indeed, here in the Senate is why the United States isn't taking care of this. If I might add one word to that question. Why isn't the United States taking care of this unilaterally? In other words, the United States should handle this all by themselves, according to speeches that are made here and in the world community.

I run through this history simply to make this point: It is not accurate to say the proposed action in Iraq is either unprecedented in American history or illegal under American or international law. The action that is proposed with respect to Iraq is in the tradition of these humanitarian missions that I have described.

Some of them have gone wrong. Some of them have turned out not to produce a humanitarian result. But in every case there was no prior complaint raised against the proposal that we do this on the ground that this was an unacceptable first strike against a defenseless neighbor. In every circumstance, it went forward with full approval. I voted against the move into Haiti. But the President appropriately came to the Congress and got approval before he did it.

President Bush has come to the Congress, and by a 77-23 vote in this body and an equally lopsided vote in the other body, has approval before he goes into Iraq. This is not a stealth attack like Pearl Harbor under the cover of night. This is something that has been debated and laid before the United Nations. The United Nations, by a 15-0 vote in the Security Council, announced to Iraq if she did not disarm, she would face serious consequences, and serious consequences in United Nations speak means war. This is not something that is done hidden or in a corner or in the dark.

So we come back now to the fundamental question: Is it safer to go ahead with an operation in Iraq than it is to pull down the American troops and bring them home? I agree with the editorial writers of the Washington Post. This is an agonizing decision. This is not one to be made lightly, and I am sure from conversations with him that the President is not going to make it lightly. He is going to weigh all of the consequences. But I believe in the end he will come to the same conclusion that the Washington Post editorial writers have come to and that I have come to. Whatever the unknowns on either side, the present evidence suggests that the most dangerous thing we could do with respect to the situation in Iraq is to back down if Iraq does not comply with the United Nations resolution. To pull our troops out of Iraq does not comply with the demands that the world has made upon it. The safest thing to do if Iraq does not comply is to carry through with the resolution that was adopted on this floor by an overwhelming margin, adopted in the Security Council of the United Nations unanimously, and not hold back.

I yield the floor.

[From the Washington Post, Feb. 27, 2003]

"DRUMBEAT" ON IRAQ? A RESPONSE TO READERS

"I have been a faithful reader of The Washington Post for almost 10 years," a recent e-mail to this page begins. "Recently, however, I have grown tired of your bias and endless drumbeating for war in Iraq." He's not the only one. The national and international debate over Saddam Hussein's weapons of mass destruction, and our editorials in favor of disarming the dictator, have prompted a torrent of letters, many approving and many critical. They are for the most part thoughtful and serious; the antiwar letters in particular are often angry and anguished as well. "It is truly depressing to witness the depths Washington Post editors have reached in their jingoistic rush to war," another reader writes. It's a serious charge, and it deserves a serious response.

That answer, given the reference to "Washington Post editors," probably needs to begin with a restatement of the separation at The Post between news and editorial opinion functions. Those of us who write editorials have no influence over editors and reporters who cover the news and who are committed to offering the fairest and most complete journalism possible about the standoff with Iraq. They in turn have no influence over us.

For our part, we might begin with that phrase "rush to war." In fact there is nothing sudden or precipitous about our view that Saddam Hussein poses a grave danger. In 1990 and 1991 we supported many months of diplomacy and pressure to persuade the Iraqi dictator to withdraw his troops from Kuwait, the neighboring country he had invaded. When he failed to do so, we supported the use of force to restore Kuwait's independence. While many of the same Democrats who oppose force now opposed it then also, we believe war was the correct option—though it was certainly not, at the time, the only choice. When the war ended, we supported—in hindsight too unquestioningly—a cease-fire agreement that left Saddam Hussein in power. But it was an agreement, imposed by the U.N. Security Council, that demanded that he give up his dangerous weapons.

In 1997 and 1998, we strongly backed President Clinton when he vowed that Iraq must finally honor its commitments to the United Nations to give up its nuclear, biological and chemical weapons—and we strongly criticized him when he retreated from those vows. Mr. Clinton understood the stakes. Iraq, he said, was a "rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us unnoticed."

When we cite Mr. Clinton's perceptive but ultimately empty comments, it is in part to chide him and other Democrats who take a different view now that a Republican is in charge. But it has a more serious purpose too. Mr. Clinton could not muster the will, or the domestic or international support, to force Saddam Hussein to live up to the promises he had made in 1991, though even then the danger was well understood. Republicans who now line up behind President Bush were in many cases particularly irresponsible; when Mr. Clinton did bomb Iraqi weapons sites in 1998, some GOP leaders accused him of seeking only to distract the nation from his impeachment worries. Through the end of Mr. Clinton's tenure and the first year of Mr. Bush's presidency, Saddam Hussein built up his power, beat back sanctions and found new space to rearm—all with the support of France and Russia and the acquiescence of the United States.

After Sept. 11, 2001, many people of both parties said—and we certainly hoped—that the country had moved beyond such failures of will and politicization of deadly foreign threats. An outlaw dictator, in open defiance of U.N. resolutions, unquestionably possessing and pursuing biological and chemical weapons, expressing support for the Sept. 11 attacks: Surely the nation would no longer dither in the face of such a menace. Now it seems again an open question. To us, risks that were clear before seem even clearer now.

But what of our "jingoism," our "drumbeating"? Probably no editorial page sin could be more grievous than whipping up war fever for some political or trivial purpose. And we do not take lightly the risks of war—to American and Iraqi soldiers and civilians first of all. We believe that the Bush administration has only begun to prepare the public for the sacrifices that the nation and many young Americans might bear during and after a war. And there is a long list of terrible things that could go wrong: anthrax dispersed, moderate regimes imperiled, Islamist recruiting spurred, oil wells set afire.

The first question, though, is not "Is war risky?" but "Is inaction less so?" No one can provide more than a judgment in reply. But the world is already a dangerous place. Anthrax has been wielded in Florida, New York and Washington. Terrorists have struck repeatedly and with increasing strength over the past decade. Are the United States and its allies ultimately safer if they back down again and leave Saddam Hussein secure? Or does safety lie in making clear that his kind of outlaw behavior will not be tolerated and in helping Iraq become a peaceable nation that offers no haven to terrorists? We would say the latter while acknowledging the magnitude of the challenge, both during and especially after any war that may have to be fought. And we would say also that not only terrible things are possible: To free the Iraqi people from the sadistic repression of Saddam Hussein, while not the primary goal of a war, would surely be a blessing.

Nor is it useful merely to repeat that war "should only be a last resort," as the latest French-German-Russian resolution states, or that, as French President Jacques Chirac said Monday, Iraq must disarm "because it represents a danger for the region and maybe the world . . . But we believe this disarmament must happen peacefully." Like everyone else, we hope it does happen peacefully. But if it does not—if Saddam Hussein refuses as he has for a dozen years—should that refusal be accommodated?

War in fact has rarely been the last resort for the United States. In very recent times, the nation could have allowed Saddam Hussein to swallow Kuwait. It could have allowed Slobodan Milosevic to expel 1 million refugees from Kosovo. In each case, the nation and its allies fought wars of choice. Even the 2001 campaign against Afghanistan was not a "last resort," though it is now remembered as an inevitable war of self-defense. Many Americans argued that the Taliban had not attacked the United States and should not be attacked; that what was needed was a police action against Osama bin Laden. We believed they were wrong and Mr. Bush was right, though he will be vindicated in history only if the United States and its allies stay focused on Afghanistan and its reconstruction.

So the real questions are whether every meaningful alternative has been exhausted, and if so whether war is wise as well as justified. The risks should be minimized. Everyone agrees, for example, that the United States would be stronger before and during a war if jointed by many allies, and even better positioned if backed by the United Nations. If waiting a month, or three months, would ensure such backing, the wait would be worthwhile.

But the history is not encouraging. The Security Council agreed unanimously in early November that Iraq was a danger; that inspectors could do no more than verify a voluntary disarmament; and that a failure to disarm would be considered a "material breach." Now all agree that Saddam Hussein has not cooperated, and yet some countries balk at the consequences—as they have, time and again, since 1991. We have seen no evidence that an additional three months would be helpful. Nor does it strike us as serious to argue that the war should be fought if Mr. Chirac and German Chancellor Gerhard Schroeder agree, but not if they do not. If the war is that optional, it should not be fought, even if those leaders do agree; if it is essential to U.S. national security, their objections ultimately cannot be dispositive.

In 1998, Mr. Clinton explained to the nation why U.S. national security was, in fact, in danger. "What if he fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction? . . . Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use the arsenal."

Some argue now that, because Saddam Hussein has not in the intervening half-decade use his arsenal, Mr. Clinton was wrong and the world can rest assured that Iraq is adequately "contained." Given what we know about how containment erodes over time; about Saddam Hussein's single-mindedness compared with the inattention and divisions of other nations; and about the ease with which deadly weapons can move across borders, we do not trust such an assurance. Mr. Clinton understood, as Mr. Bush understands, that no president can bet his nation's safety on the hope that Iraq is "contained." We respect our readers who believe that war is the worst option. But we believe that, in this case, long-term peace will be better served by strength than by concessions.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I send a resolution to the desk and ask unanimous consent that it be held at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SANTORUM. Thank you, Mr. President.

FRED McFEELY ROGERS

Mr. SANTORUM. Mr. President, it is with great sadness that I rise tonight on the Senate floor to talk about the life of Fred Rogers from my hometown of Pittsburgh, PA. Mr. Rogers died today of stomach cancer. It is a very sad time for all of us—at least to my generation—who remembers Mr. Rogers from public television, and certainly from my experience with him and the wonderful work that he did for children not just all over the country, frankly, but all over the world, certainly, and very importantly to the people of southwestern Pennsylvania.

In fact, I had the pleasure and the honor of having lunch with him in the Senate dining room just a couple of months ago around Christmas before he found out that he was stricken with stomach cancer. He was here to talk about, predictably, what we can and should be doing to help create a culture that is more nurturing to children in the United States of America.

In times when just about every figure in public life has some controversy surrounding them, he is someone who throughout his life escaped that controversy and stood as a beacon of caring, compassion, and thoughtfulness to parents and children alike.

Mr. Rogers was born in Latrobe, PA, south side of Pittsburgh in 1928. He married his wife 51 years ago, back in 1952. His wife Joanne survives him today.

Very early in his career he had a gift for the media and a heart for trying to reach children and touch children and educate and nurture children through the media. He worked in a variety of different things. But in 1966, he created and hosted "Mr. Rogers' Neighborhood." Before that, he worked on a series in Canada for the CBC. And he worked at WQED, which is one of the first public broadcasting stations in the country.

We are very honored that WQED is in Pittsburgh. We are also very proud of the fact that the first radio station in the country was KDKA in Pittsburgh.

We in Pittsburgh are very proud of WQED and the great work that Fred Rogers did in putting together the first children's program there. Even before it was on the air he started producing programming for that station. I think it was called "The Children's Corner." It became known almost 10 years later, in 1966, as "Mr. Rogers' Neighborhood." It was actually created back in 1955. There were characters such as "Daniel S. Striped Tiger," "X the Owl," "King Friday XIII," "Henrietta Pussycat," and "Lady Elaine Fairchild."

For many of these characters, we have puppets in my conference room to celebrate the contribution Fred Rogers has made not just to the people of Pennsylvania but to the people of this country.

And that program, "Mister Rogers' Neighborhood," had the very famous song: "Won't you be my neighbor?" and Mr. Rogers coming in, and putting on that cardigan sweater and tennis shoes, inviting you into his home, the "Land of Make Believe," and the trolley. All of those things are such wonderful memories for me and for generations, and which is continuing today. Even though the program has now been out of production for a couple of years, there are over 900 episodes of "Mister Rogers' Neighborhood" that PBS has and distributes on a regular basis all over the country.

Mr. Rogers will continue to touch future generations of children, particularly young children, in that nurturing and reassuring way he had with the very young. In many cases, a lot of kids sit in front of television; mom is busy; dad is at work; or mom and dad are both at work. And there was always a reassuring and comforting voice, someone who reassured them of their values as a person, their own self-worth, their ability to accomplish things, to dream great dreams.

Mr. Rogers—in a culture that is not always so positive, and certainly not very reassuring—was just that. He was a positive example of what a good father, a good parent, can and should be, and what good adults and what adults generally can be to our children in his neighborhood—I would argue, in our neighborhood—and that we, too, can learn from Fred Rogers, can learn from the kindness and the gentility and the wholesomeness he showed to America's children and to America's parents.

We will miss Fred Rogers. I can tell you, Pittsburgh is going to greatly miss this legend in our town. All of those shows were filmed in Pittsburgh, PA, at WQED. And his neighborhood, which is the Oakland, Shadyside, and Squirrel Hill, which is where WQED is located, where much, I am sure, of his ideas came from, is a place that is lesser today than it was yesterday because of this great man passing.

But the joy in getting up and talking about Fred Rogers is what he has left. Oh, that all of us could say we have touched so many and influenced, in such a positive way, literally millions of children in this country and around the world and have made a positive contribution in serving this country.

Fred Rogers was a Presbyterian minister who found that God's calling to him was to serve children through the media. And I think God, this morning, when he arrived in Heaven, said: Well done, my good and faithful servant.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield.

Mr. REID. The Senator is absolutely right. Mr. Rogers is somebody we all knew, you in a little bit of a different reference than I because you really did know him. But the fact that the Senator from Pennsylvania actually knew him does not mean that the rest of us did not really know him. He was a unique individual, as you said. He walked in, put on that sweater, with that very bad voice that we all remember.

The reason I wanted to interrupt the Senator before he went to the closing script is this has been a contentious week in the Senate, and I could not think of a more peaceful man to end the week than Fred Rogers. So I appreciate very much the Senator coming to the floor as quickly as he did, upon the death of this wonderful man, and ending the Senate today with memories of a peacemaker.

Mr. SANTORUM. I thank the Senator from Nevada.

I want to share another moment where I had a chance to be with Fred Rogers. And it was—oh, I wish I could remember exactly how many years ago it was. It was probably about a dozen or so years ago, give or take a couple years.

Every year, in Pennsylvania, the business world and the political world, right before Christmas, goes up to New York for the Pennsylvania Society. It has been going on now for over 100 years.

There is a dinner on a Saturday night. The industrialists used to go up there to that with their families and friends. And it has turned into a big event, a bipartisan political event as well as a business event. We have a big dinner. I think we are the longest running annual dinner at the Waldorf Astoria. It has been for over a 100 years now.

I remember they give a gold medal to a famous Pennsylvanian. One of the years I happened to be there, in the late 1980s, it was Fred Rogers who received that award. He got up to speak. And there were 3,000 people in the Waldorf Astoria Ballroom. I had been, and have been since, to many of these dinners. It is quite unusual that you can even hear the speaker usually by halfway through the speech. We have all been at dinners like that.

I remember sitting there, and Fred Rogers was talking about how important it is to be a positive influence in one child's life. Now, we all talk about mentoring and the importance of mentoring. It is sort of a new and current thing to talk about. Well, Fred was ahead of his time. He talked about that.

He talked and gave the example of someone in his life who meant something to him. It was a rivetting and compelling speech. I remember he stopped and said: I am going to stop for a minute. And I want you to all think about someone who made a difference in your life. I am going to stop for 1 minute, and I just want you to think about that person, what they have meant to you, and whether you can be that person for somebody else.

And he stopped talking. And for a minute, in that ballroom, with 3,000 people in it, you could have heard a pin drop. That was the power of someone who not only reached out to children, and spoke and preached a good talk, but someone who lived it, and who was sincere, and acted it out in his life. Obviously, it had an impact on me because I remember it to this day. It inspired me to try to make that contribution to someone.

Mr. DAYTON. Will the Senator yield for another question?

Mr. SANTORUM. I am happy to yield.

Mr. DAYTON. I thank the Senator for bringing this great man to our attention. I was not aware, until the Senator spoke, about his passing.

I, like so many others, felt I knew this man indirectly, as the father of two sons, who are now 19 and 22 years old. So I reckon it was about for 20 years that I watched that show. And I think I looked forward to it as often as my sons did.

The Senator captured very eloquently and sensitively the spirit of a very gentle soul, yet a very visionary man.

I recall going to the National Education Foundation dinner here just after I arrived 2 years ago, and there were not as many people there as the Senator described in the event he mentioned, but there were a good 700, 800 people.

Mr. Rogers was receiving the honor, Award of the Year. The first thing I noticed was, when he came out, everybody knew the song, and they all sang that song. As the Senator said, you could have heard a pin drop when he spoke. And he spoke in the same general way to adults as he did to kids.

I say to the Senator, are there any other neighborhoods like that in Pittsburgh you could send to the rest of the country? If so, we can use a few.

Mr. SANTORUM. We have lots of wonderful neighborhoods. And like Minnesota, we have a lot of old, wonderful, ethnic neighborhoods. I think Mr. Rogers reflected that spirit in a lot of those communities—the close-knit, caring spirit, looking after your neighbor in those communities.

Some may suggest that "Mister Rogers' Neighborhood" was from a bygone era that does not exist anymore, that that neighborhood isn't around anymore. Well, I make the argument that the neighborhood is what the neighbors make it, and that he sets a pretty good model for what neighbors should be, and neighborhoods can be, and, hopefully, again someday will be.

ADDITIONAL STATEMENTS

IN HONOR OF PENNSYLVANIA'S HISTORICALLY BLACK UNIVERSITIES

• Mr. SANTORUM. Mr. President, in celebration of Black History Month, I rise today to honor Lincoln University and Cheyney University of Pennsylvania for the contribution they have made in the education of African-Americans over the past two centuries. These two institutions of higher learning are charter members of a group of schools known as Historically Black Colleges and Universities (HBCUs) and they have had a seminal role in our Nation's academic heritage.

The Commonwealth of Pennsylvania is proud to be the birthplace of secondary education for African-Americans in this country. Cheyney University, originally named the Institute for Colored Youth in Pennsylvania, was founded in 1837 as an elementary and high school for young blacks. The Institute was a successful, free school for young students and, after some years, became a teachers college. Cheyney's charter mission was to instruct African descendants in mechanical arts and agricultural trades so that they might teach their peers to compete and be self-sufficient in the post-slavery economy. Today, Cheyney educates men and women in more than thirty disciplines and maintains its legacy of providing for minorities of various cultures and nationalities.

Lincoln University rivals Cheyney for the title of oldest historically black university. Initially founded as the Ashmun Institute, the school opened in 1854 as the very first place of "higher education in the arts and sciences for male youth of African descent." In addition to the important message of educational equality and opportunity through learning these universities continue to convey, there are thousands of Lincoln and Cheyney alumni who illustrate the great gift these schools have given the African-American community in particular and the academic community at large. Among these graduates are Supreme Court Justice Thurgood Marshall, author Langston Hughes, former Nigerian President Nnamdi Azikiwe, journalist Ed Bradley, and publisher Robert Bogle, to name but a few.

HBCUs are an integral aspect of what has always been the American dream, an ideal that sees education and industry as the tools for succeeding in life and pursuing one's talents and interests. The livelihood of institutions such as Lincoln and Cheyney Universities is central to the preservation of this ideal and with it, our national heritage. Our Government has a responsibility to help sustain the legacy of these schools, and I am proud to support legislation to this end. Bills that bring 21st Century technology to tomorrow's graduates and funds intended to keep quality, affordable higher education available to all of our Nation's young students are part of the process. I encourage my Senate colleagues to join me in recognizing the importance of our country's HBCUs. I hope that together we can celebrate their history and ensure their future for the posterity of the Nation's higher education system.●

EMILY LANCE HAS A BLAST AT SPACE CENTER

● Mr. MILLER. Mr. President, today I share with my colleagues the thoughts of Emily Lance, an 8-year-old third grader at Calhoun Elementary School, who had the privilege of watching the launch of the Space Shuttle *Columbia*:

> We left at 6 o'clock Tuesday morning, Jan. 14, to see the Space Shuttle launch. But first we had to get there. It was a 10-hour drive. We were staying at the Hilton.
>
> Before we could get to the hotel, we had to go through security because the Israeli ambassador and the astronauts' families were staying there. Finally, we got to the room. Then we found our bathing suits and went out to the beach.
>
> That's when we saw the horse patrol. They were very pretty horses. We found a lot of shells at the beach. Then we went back to our room, had dinner, and went to bed.
>
> We woke up early and went to the Kennedy Space Center. We checked in the protocol office and got our mission briefing passes. Then we had to go through NASA security.
>
> Going to the briefing wasn't all we did. First we checked out the Rocket Garden. It was huge and had replicas of the rockets that went into space.
>
> Then it was time for the briefing. First we got our seats. There were a lot of people. The briefing was very interesting.
>
> They announced that the shuttle was to go off at 10:39 Thursday morning. I learned a lot at the briefing.
>
> After the briefing we went to the Mad Mission to Mars. It was 3–D and so cool. They called for volunteers, and I was picked. I was chosen to be the planet Venus. Then we were blasting off to Mars. Then it was the end of the show. After that we went to eat.
>
> Then we got to see a movie called "The Dream Is Alive." I liked it very much. Then it was time to go back to the hotel. But before we did, I got to go get Space Dots. That is ice cream in little balls, also known as Dipping Dots.
>
> Then it was time to go home after a great day at the Kennedy Space Center. I couldn't wait until tomorrow. It was going to be awesome.
>
> After dinner I had to go to bed early. We had to get up at 5 in the morning. On the way to Kennedy Space Center, we stopped at Waffle House to get some breakfast.
>
> When we got there we went to the Protocol Office and got our bus passes so we could get to the grandstand.
>
> While we were standing in line, we met this man who works at NASA in California. He was really excited, too. Then I noticed he had a really cool necklace and on it was the word NASA. It also had a blue flashing light.
>
> I told him it was really cool. Then he asked me if I really liked it. I said yes, then he gave it to me. I was so happy.
>
> After that, he showed me his official NASA badge. Then we got on the bus. It was a 10-minute ride to the grandstand.
>
> When we got there we picked seats on the top row. You could see the Launch Pad perfectly. It was a long time until the shuttle went off so I went in the Saturn Building and watched a movie.
>
> It was about the Apollo 11 mission. Neil Armstrong walked the first few steps on the moon in the Apollo mission. Then I had to go sit down.
>
> The shuttle was about to go off. At 9 minutes the countdown stopped. Then it started again. At 1 minute until it launched, I was so excited. When it got to 10 seconds, we all went 10, 9, 8, 7, 6, 5, 4, 3, 2, 1.
>
> Then it happened. It was so awesome. It was like an earthquake. The ground shook, and the noise sounded like an explosion.
>
> It lasted about two minutes, then it was gone. It was already in space. It can go around the world in 90 minutes.
>
> Then we got back on the bus. When we got back to the Space Center, we went to see a 3–D movie called "The Space Station." The space station is a place where astronauts can go and live.
>
> Then we went home after our last day at the Kennedy Space Center. So ends my wonderful space vacation.●

TRIBUTE TO BRENDA S. GEIST

● Mr. WARNER. Mr. President, I rise today to honor Mrs. Brenda Geist on the occasion of her retirement from the Department of the Navy. Today, we celebrate with Brenda and her family her remarkable 37 years of exemplary and distinguished service to the Navy and the Nation. It is a privilege for me to address the Chamber today in honor of Brenda.

"Far and away the best prize that life offers," Teddy Roosevelt remarked, "is the chance to work hard at work worth doing." When Brenda first began with the Navy Department at the Charleston Naval Station, she understood that supporting the men and women of the Sea Service was indeed work worth doing. Brenda has remained true to this principle ever since.

From the small Navy office on the Cooper River to the many postings around the world that followed, Brenda quickly became recognized by all for her acumen and accomplishments. Understandably, Brenda's talents were ultimately sought by the Chief of Naval Operations and the Secretary of the Navy in Washington, D.C. In 1987, Brenda was selected to serve as the director of the Congressional Travel Division for the Navy Secretary's legislative affairs office. Past being prologue, Brenda's record of success continued unabated and has been nothing short of outstanding.

For 15 years, Brenda has been a key advisor to a succession of eight admirals. During her tenure, Brenda planned and coordinated travel around the world for more than 300 congressional delegations. A superb financial manager, Brenda also responsibly managed annual budgets of over $1.5 million—maintaining flawless documents and receiving the highest possible praise at every audit. Every day, her work directly supported the positive, productive interaction of senior Navy leadership and the Congress.

The Pentagon on the Potomac is a long way from the little Navy office on the Cooper River. Brenda's heartfelt commitment to the Navy's officers and sailors, her guiding compass over the years, never wavered.

Sharing this adventure with Brenda is Captain Gary Geist, U.S. Navy Ret., her husband of 24 years, and their children, Jim, Stacey, Darcey, Sam, and Curtis. With the loving support of her immediate Navy family, Brenda time and again, rose to the occasion for her larger extended Navy family.

Mr. President, I invite you and our Senate colleagues to join me and offer our sincere appreciation to Brenda Geist for her years of dedication and outstanding service. We wish her and her loving family "fair winds and following seas" as they begin their next adventure together. They will be sorely missed, but most certainly never forgotten.●

HEALTH CARE HERO

● Mr. SMITH. Mr. President, I rise today to salute a Health Care Hero from my home State of Oregon, the N2K Nursing Shortage Demonstration Project.

Several of my colleagues and I have come to this chamber before to discuss the growing shortage of health care workers in this country. This growing crisis has severe implications for quality patient care, retention of qualified nurses, and the future of health care delivery. Last year, Congress began to address this problem by passing the Nurse Reinvestment Act, but there is much more work to be done.

Fortunately, an exciting new program in Oregon is working to find new ways to recruit nurses. The N2K project offers paraprofessional staff from local hospitals and clinics the opportunity to secure a nursing degree while continuing to receive their current salary and benefits. Participants finish prerequisite classwork, participate in clinical training and complete an 18 month nursing degree program. Because they have come from health care institutions, these workers are more likely to continue in the nursing profession and stay in the communities where they were trained, solving some of the pressing issues creating the nursing crisis.

But the most unique and beneficial part of this program is that recruits must be bilingual or be from a minority population. A major challenge facing health care delivery today is the severe lack of bilingual health professionals. In Oregon, and in many other places, we have large immigrant communities, primarily Spanish-speaking, and few nurses who can communicate with them easily. Many N2K participants would not have the opportunity to pursue a professional nursing career were this program not available. As nurses, they will bring a new level of comfort and care to non-English speaking patients.

Although the N2K demonstration project is still in its initial stages, it is already showing great success. Representatives from the U.S. Department of Health and Human Services Office of Minority Health visited Oregon this week to meet with the participating institutions and 11 students completing the program. The visitors were deeply impressed with the project, particularly after speaking with these excellent students who look forward to a rewarding career in nursing.

Today I honor the N2K project as a Health Care Hero. N2K's vision and dedication to building a more diverse health care work force is helping Oregon find the quality workers we need to meet tomorrow's health care challenges. I look forward to the project's continuing success and wish the partnership all the best as it moves forward.•

TRIBUTE TO JOHNSON CENTRAL HIGH SCHOOL ACADEMIC TEAM

• Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to the Johnson Central High School Academic Team. Recently, the members of this Academic Team won their fourth straight 15th Regional Governor's Cup.

The Johnson Central Academic Team won the overall District 60 Governor's Cup Championship and went on to claim the Regional title. Along with winning the overall title, the team was awarded top honors in the Written Assessments section and the Future Problem Solving team also won first place. Also, the Quick Recall team defended their title by placing first 2 years in a row. Individual members also placed first in Mathematics, Language Arts and English Composition, and Science and Social Studies.

The citizens of Paintsville, KY are fortunate to have the 15th Regional champ's living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I congratulate the members of the Academic Team for their success. But also, I want to congratulate their peers, coaches, teachers, administrators, and parents for their support and sacrifices they've made to help the Academic Team meet those achievements and dreams.•

50th ANNIVERSARY OF WORLD MEDICAL RELIEF, INC.

• Mr. LEVIN. Mr. President, I would like to congratulate World Medical Relief, Inc. for 50 years of distinguished service to needy individuals in the United States and around the world. On March 8, 2003, staff members, supporters, and beneficiaries of World Medical Relief, Inc. services will gather in my home state of Michigan for the "Miracles of Mercy Gala 2003." This event will commemorate the commitment and dedication that World Medical Relief, Inc. has provided to the sick and needy.

For 50 years, World Medical Relief, Inc. has been a driving force for medical support both in my home state of Michigan and internationally. It is noteworthy that the success and accomplishments of this program today are in part the direct result of the unwavering devotion of founder Irene M. Auberlin. The hard work and perseverance of Mrs. Auberlin is now reflected by the many individuals and groups that continue to provide assistance to those most in need.

Today, the program serves over 1,500 people in the metropolitan Detroit area and 125 nations worldwide. I would like to congratulate William N. Genematas for receiving this year's Irene M. Auberlin Service Above Self Award for his long-time dedication to World Medical Relief, Inc. I also would like to commend both the Ford Motor Company Fund for its continued support of the Senior Prescription Program and the Christian Association of Medical Mission for their international aid efforts in developing nations. World Medical Relief, Inc. and its members deserve both our respect and gratitude.

I am sure that my colleagues in the Senate will join me in offering our congratulations to World Medical Relief, Inc. and its members as they celebrate 50 years of distinguished service.•

THE HEROIC EFFORTS OF BILL CARR AND JEFF KEEZER

• Mr. NELSON of Nebraska. Mr. President, today it is my great honor to recognize the valiant efforts of two volunteer firefighters from Ainsworth, NE.

Mr. Bill Carr and Mr. Jeff Keezer of the Ainsworth Volunteer Firefighter Department were instrumental in the April 22, 2002 rescue attempt of Timothy Culpepper, a digital communications worker who was stranded more than one thousand one hundred feet in the air when a fifteen hundred foot telecommunications tower he was working on partially collapsed near Bassett, NE.

When a wire snapped disabling and stranding Mr. Culpepper, several agencies, including the Nebraska Emergency Management Agency, were called upon for the dangerous rescue mission. However, upon arriving at the scene, response teams realized they were ill-equipped to perform the high-altitude rescue.

Bill Carr, a carpenter and married father of three, had spent many summers during college painting tall communications towers. Jeff Keezer, a married father of one, works for a steel company that erects hundred-foot grain elevators. Though these experiences could not have adequately prepared them for this dangerous and technically challenging rescue. They quickly volunteered to help.

With no regard for their personal safety, Mr. Carr and Mr. Keezer, armed only with estimations of the exact height of the stranded worker, began to make the physically challenging two-hour ascent to rescue the man who was hanging only by a harness. Carrying bundles of rope and heavy rescue equipment, these brave firefighters, along with a handful on colleagues from the Lincoln Fire Department, scaled the tower amid 30-mph winds and with dwindling daylight. Upon reaching Mr. Culpepper it was discovered that tragically he did not survive the impact of tumbling debris.

Mr. Carr and two other firefighters managed to scale the total distance to Mr. Culppeper in ninety minutes while Mr. Keezer, with heavy rescue equipment on his back, and two other firefighters scaled to the half-way point to manage the recovery effort and descent that lasted more than 3 hours.

Unfortunately these two brave and selfless first-responders were omitted from an award ceremony in Washington, D.C. on February 14. Though the Department of Justice didn't recognize their efforts, Mr. Carr and Mr. Keezer can forever hold their heads high knowing their bravery and the fabric of their character has made all Nebraskans, and especially their neighbors in Ainsworth, proud of their actions.

Mr. President, heroism comes in many forms and the courage displayed by Mr. Carr and Mr. Keezer with danger present is a shining example. Nebraskans like Mr. Carr and Mr. Keezer are selfless, honorable and just and they are what makes living in Nebraska living "the good life."

I am proud to represent Nebraskans like Mr. Carr and Mr. Keezer who are committed public servants. Volunteer services are an essential part of small-town America. Without the brave and selfless efforts of everyday citizens like Mr. Keezer and Mr. Carr, many rural communities would lack vital protection and security. The city of Ainsworth and the state of Nebraska are fortunate to have courageous citizens like Jeff Keezer and Bill Carr. These men are true heroes.●

NEW REVOLVER TOO BIG FOR "DIRTY" HARRY

● Mr. LEVIN. Mr. President, I want to bring to the attention of my colleagues an article from the February 14, 2003, Los Angeles Times entitled "New Revolver Too Big For 'Dirty' Harry." The article discusses a new .50 caliber handgun manufactured by the Smith and Wesson Corporation. The 500 model, the biggest handgun currently in production, is 15 inches long, weighs 4.5 pounds, and uses a .50 caliber Magnum Smith and Wesson bullet that packs a muzzle force of 2,600 foot-pounds. The bullet is half an inch wide and is more powerful than comparable ammunition because it is much longer and contains more gun powder.

According to a Violence Policy Center expert cited in the article, the gun's cartridge has about twice the muzzle energy of most rounds for common semiautomatic assault weapons, such as the AR–15, a civilian version of the military's M–16. In fact, the new gun packs a punch powerful enough to stop a charging bear in its tracks.

A Smith and Wesson representative acknowledges that the company hopes the gun will help Smith and Wesson win back market share lost when the company agreed to a number of steps to improve gun safety and keep guns out of the hands of criminals. Smith and Wesson's decision to produce the .50 caliber handgun represents a step backward in the effort to improve gun safety. Not only has the company apparently scrapped its plan to work with the federal government to take sensible steps to make guns safer and keep guns from getting into the wrong hands, but the company seems to be headed in the opposite direction by creating a handgun that is reported to have double the power of most assault rifles.

Last year, I cosponsored the Military Sniper Weapon Regulation Act, a bill which would change the way .50 caliber sniper rifles are regulated by placing them under the requirements of the National Firearms Act. This bill would subject the sniper rifles to the same regimen of registration and background checks as other weapons of war, such as machine guns.

Unfortunately, the new Smith and Wesson .50 caliber handgun would not be affected by this legislation. However, both the .50 caliber handgun and sniper rifle are simply too powerful to be on the streets. Congress must take a long, hard look at these potentially lethal weapons.

[From the L.A. Times, Feb. 14, 2003]

A POWERFUL NEW REVOLVER IS DRAWING FIRE ALREADY

(By Ralph Frammolino and Steve Berry)

Even the most ardent firearm lovers acknowledge that Smith & Wesson's new .50-caliber Magnum revolver is more gun than anyone needs.

It has double the power of most assault rifles in America. Its kick can send a grown man reeling; a single bullet can drop a grizzly.; It is so heavy and long that police say no-criminal would dare try to hide it in his waistband. It will cost as much $989.

And gun buyers across the country can't wait to get their hands on it.

"The initial reaction has been even stronger than we had anticipated, so we're ramping up production to meet the demand," Bob Scott, Smith & Wesson Corp.'s chairman, said from the 2003 Shooting, Hunting, Outdoor Trade Show in Orlando, Fla.

"Certainly, in our booth it's the product that has created the most buzz."

The Springfield, Mass-based company, creator of the .44 Magnum of "Dirty Harry" fame, unveiled its new offering Thursday as the world most powerful commercially produced revolver. Executives for the country's second-largest firearms manufacturer said they hoped the gun would help regain lost market share by generating excitement among an important, albeit niche, market of big-game hunters, collectors and recreational target shooters.

But even before the weapon's wide distribution, scheduled for next month, forces on both sides of the firearms debate are taking aim at its social effects.

Gun control groups condemned the Model 500 as an example of the industry's "deadlier-is-better" mentality, predicting that the new model would soon find its way to the streets.

"A hunting weapon? that's a joke," said Luis Tolley, director of state legislation for the Brady Campaign to Prevent Gun Violence. "What we have here is a weapon that's designed to appeal to people who just want to make a bigger hole in whatever they're shooting at. And, hopefully, they're not living next door to me."

Said Josh Sugarmann, executive director of the Violence Policy Center: "This gun is not being made for hunters in Africa. It's being made for bored white gun owners in America. Why are they putting so much firepower into people's hands?"

The real question, say some gun experts, is: Why are people demanding it?

Adam Firestone, editor of Cruffler.com, a Web site for gun collectors, said he viewed demand for Smith & Wesson's new product as more of an outgrowth of America's obsession with size and status, rather than an indicator of growing paranoia over crime or homeland security.

"How many people do you know have Lincoln Navigators or Hummer H2s?" he said. "We are phenomenal at buying beyond our needs. And with regard to the firearm industry, if it is bigger, if it is more expensive . . . we will line up around the corner to buy the darned thing, regardless of the fact that there may be six other guns that cost half as much and do the job just as well."

Smith & Wesson executives hope that the new offering, one of nine new models introduced at the Florida gun show Thursday, will put it back in the good graces of a gun-buying constituency that remains sore over the company's decision in 2000 to sign agreements with the federal government that promised to put locks on all firearms it sold.

That backlash served as a double whammy, taking away sales from Smith & Wesson even as the entire industry was in decline.

"We're in the process of winning back market share or business that was lost as a result of negative reaction by consumers to the decisions by the previous ownership," said Scott, the company chairman.

Smith & Wesson has built its reputation by building bigger guns. The .357 Magnum, introduced in 1935, was considered a breakthrough because of its muzzle energy that delivered impact at 535 foot-pounds, said Roy G. Jinks, the company's historian.

The weapon, developed at the behest of hunters, gained favor with police during the mobster era because it could shoot through a car's engine block, he said.

In 1956, Smith & Wesson introduced the even more powerful .44 Magnum, the gun made famous years later by Clint Eastwood in his crime-fighting movies as "Dirty" Harry Callahan, a San Francisco cop.

With Thursday's unveiling the company now leapfrogs ahead of its competitors, which had surpassed the .44 Magnum with more potent weapons.

The Model 500 uses a bigger frame, takes a new .50 caliber Magnum Smith & Wesson bullet and packs a muzzle force of 2,600 foot-pounds.

Though there are single-shot, custom pistols that use larger ammunition, the new gun is the largest production revolver or semiautomatic pistol.

At .50-caliber, the bullet is about half an inch wide but is more powerful than other such ammunition because it is longer and can pack more powder, said Garen Wintemute, a gun expert and director of the Violence Prevention Research Program at UC Davis.

He said the gun's cartridge has about twice the muzzle energy of most rounds for common semiautomatic assault weapons used in America, such as the AR–15, a civilian version of the military's M–16.

Wintemute predicted that it would be a smash with gun enthusiasts who can order one with a barrel as long as 10 inches.

One such enthusiast is Marc Halcon, owner of American Shooting Center in San Diego.

He said the allure of the weapon "has something to do with the artistry of creating a mechanism that will do something that no other will do. It's another step in science and engineering."

On a personal level, Halcon said. "I already own the most powerful handgun on the market, and if they build a more powerful one, then I want to buy it."

Sam Paredes, executive director of the Gun Owners of California feels much the same.

"I can't wait to shoot one of these things," he said.

Paredes acknowledged that the Model 500 could be portrayed as the "boogeyman of all guns."

He said its recoil would pack such a wallop that it would be virtually impossible for criminals to rely on it—a sentiment shared by Lt. Bruce Harris, the firing range master for the Los Angeles County Sheriff's Department.

"It's a little tough to have one of those under your shirt," Harris said, adding that he didn't believe it would become the weapon of the street because "gangbangers don't have $900 to spend on a Smith & Wesson revolver."

Proposed legislation regulating the sale of .50 caliber rifles is scheduled for consideration in the state Assembly and the Los Angeles City Council, said Tolley of the Brady Campaign. But government officials said Thursday that they had no plans to include the new revolver in the restrictions.

Still, Tolley said, his group will work to bring the Model 500 under some kind of control because, despite Smith & Wesson's intentions, the weapon is bound to end up in the wrong hands.

"They're marketing this weapon to people who get off on the idea that they have the biggest, baddest gun on the block," Tolley said.

"Unfortunately a number of them are going to juvenile gang members and people who have an unhealthy fascination with fire arms."●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTICE STATING THAT THE EMERGENCY DECLARED WITH RESPECT TO THE GOVERNMENT OF CUBA ON FEBRUARY 24, 1996, IS TO CONTINUE IN EFFECT BEYOND MARCH 1, 2003—PM 18

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba on February 24, 1996, is to continue in effect beyond March 1, 2003, to the *Federal Register* for publication.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 27, 2003.*

MESSAGES FROM THE HOUSE

At 12:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 254. An act to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

H.R. 258. An act to ensure continuity of the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes.

H.R. 657. An act to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission.

H.R. 672. An act to rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William "Willie" McCool, who was the pilot of the Space Shuttle Colombia when it was tragically lost on February 1, 2003.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 36. Concurrent resolution encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery.

At 5:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 534. An act to amend title 18, United States Code, to prohibit human cloning.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 254. An act to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes; to the Committee on Foreign Relations.

H.R. 258. An act to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 657. An act to amend the Securities Exchange Act of 1934 to augment the emergency authority of the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 672. An act to rename the Guam South Elementary Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William "Willie" McCool, who was the pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated

H. Con. Res. 36. Concurrent resolution encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery; to the Committee on the Judiciary.

MEASURE HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

S. Con. Res. 12. Concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 534. An act to amend title 18, United States Code, to prohibit human cloning.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1265. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Definition of Terms in the Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934 (RIN3235-AI19)" received on February 24, 2003; to the Committee on Banking , Housing, and Urban Affairs.

EC–1266. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of Financial Institutions, received on February 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1267. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Regulations Analyst Certification (See Release 33–8193; 34–47384(February 20, 2003)) (RIN3235–AI60)" received on February 24, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1268. A communication from the Deputy Secretary, Division of Market Regulations, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Custody of Investment Company assets with a Securities Depository (3235–AG71)" received on February 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1269. A communication from the Assistant General Counsel for Regulations, Office of the Assistant Secretary for Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Authority To Waive the Market-to-Market Regulations (RIN2502–AH94)" received on February 24, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1270. A communication from the Assistant General Counsel for Regulations, Office of the Assistant Secretary for Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ``Office of Inspector General Subpoenas and Production in Response to Subpoenas or Demands of Courts of Other Authorities (RIN2508-AA13)'' received on February 24, 2003; to the Committee on Banking , Housing, and Urban Affairs.

EC-1271. A communication from the Chairman and President, Import-Export Bank, transmitting, pursuant to law, the report relative to transactions involving U.S. exports to Italy; to the Committee on Banking, Housing, and Urban Affairs.

EC-1272. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Annual Report for Fiscal Year 2002 of the Department of Commerce's Bureau of Industry and Security (BIS); to the Committee on Banking, Housing, and Urban Affairs.

EC-1273. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Drawbridge Regulations; Ashley River; Charleston, SC (CGD07-03-018)'' received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1274. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Safety/Security Zone Regulations; (Including 3 Regulations) [COTP San Diego 03-007] [COTP San Diego 03-008] [COTP San Diego 03-009] (RIN2115-AA97]'' received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1275. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Drawbridge Regulations: Gulf Intercostal Waterway, Grand Lake, LA (CGD08-03-003)'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1276. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Safety/Security Zone Regulations; (Including 2 regulations) [CGD01-03-010] [COTP Miami 03-001] 92115-AA97]'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1277. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Fire Suppression Systems and Voltage Planning for Towing Vessels (USCG 2000-6931)(CGD 97-064) (2115-AF53)'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1278. A communication from the Secretary of the Commission, Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ``16 CFR Parts 801 and 803 (3084-AA23)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1279. A communication from the Secretary of the Commission, Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ``10 CFR Part 305—Rule Concerning Disclosures Re Energy Consumption and Water Use of Certain Home Appliances And Other Products Required Under the Energy Policy and Conservation Act (``Appliance Labeling Rule'')—Clothes Washer Reporting Date (RIN3084-AA74)'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1280. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska—Closure for Pollock in Statistical Area 630, Gulf of Alaska'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1281. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Closure; Gulf of Alaska directed fishing for Pacific cod (0679)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1282. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska—Closure for CDQ Reserve Amounts of Shortraker/Rougheye Rockfish and Northern Rockfish in the BS Subarea, BSAI'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1283. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska—Closes Directed Fishing for Rock Sole by Catcher Processors Listed Under the American Fisheries Act in the BSAI Management Area'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1284. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Increase the Trip Limit for Gulf Group King Mackerel in the Florida East Coast Subzone'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1285. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska—Closes Pacific Cod Fishery by the Inshore Component in the Central Regulatory Area, Gulf of Alaska'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1286. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Opening fishing for pollock in Statistical Area 630 in the Gulf of Alaska (0679)'' received on February 24 , 2003; to the Committee on Commerce, Science, and Transportation.

EC-1287. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Closure of the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone in the southern Florida west coast subzone'' received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1288. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries of the Exclusive Economic Zone Off Alaska—Interim 2003 Harvest Specification for Gulf of Alaska Groundfish Fisheries'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1289. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Fisheries Off West Coast States and in Western Pacific, Coastal Pelagic Species Fishery: Amendment 10 (0648-AP87)'' received on February 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1290. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Pacific Remote Island Areas; Permit and Reporting Requirements for the Pelagic Troll and Handline Fishery (RIN0648-AL41)'' received on February 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1291. A communication from the Deputy Assistant Administrator, Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ``Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations (0648-AQ13)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1292. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Air worthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Rafts Docket No. 99-NE-31 (2120-AA64) (2003-0114)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1293. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Amendment to Class E Airspace Ulysses, KS Docket No. 02-ACE-11 (2120-AA66)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1294. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ``Standard Instrument Approach Procedures; Miscellaneous Amendments (4) Amendment No. 3040 Docket No. 30349 (2120-AA65)'' received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1295. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class D Airspace; White Plains, NY Docket No. 02–AEA–20 (2120–AA66)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1296. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Lockhaven, PA Docket No. 02–AEA–21 (2120–AA66)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1297. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class D Airspace, Shaw AFB, SC Docket No. 02–ASO–27 (2120–AA66) (2003–0044)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1298. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 737–600, 700, 700C, 800 and 900 Series Airplanes Docket No. 2002–NM–307 (2120–AA64) (2003–0125)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1299. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directive: Turbomeca S.A. Arriel 1 A2, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K, 1K1, 1S, 1S1, and Arriel 2B, 2B1, 2C, 2C1, 2S1 Series Turboshaft Engines” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1300. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Various Boeing and McDonnell Douglas Transport Category Airplanes Docket No. 2002–NM–43 (2120–AA64) (2003–0123)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1301. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes Docket No. 2001–NM–277 (2120–AA64) (2003–0122)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1302. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 737–300, 400 and 500 Series Airplanes Docket No. 2001–NM–274 (2120–AA64) (2003–0121)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1303. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: BAE Systems Operations Limited Model BAE and Arvo 146–RJ Series Airplanes Docket No. 2002–NM–48 (2120–AA64) (2003–0120)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1304. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A300, B2, and B4; A300, B4–600, B4–600R and F4–600R [Collectively Called A300–600) A310, A319, A320, A321, A330 and A340, Series Airplanes Docket No. 96–NM–179 (2120–AA64) (2003–0119)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1305. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767 Series Airplanes Docket No. 2002–NM–308 (2120–AA64) (2003–0118)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1306. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A330 and A340 Series Airplane Docket No. 2001–NM–340 (2120–AA64) (2003–0117)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1307. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empresa Brasileria da Aeronautica S.A (EMBRAER) Model EMB–145 Series Airplanes Docket No. 99–Nm–83 (2120–AA64) (2003–0116)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1308. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD 90–30 Airplanes Docket No. 2001–NM–172 (2120–AA64) (2003–0115)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1309. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Change of Controlling Agency for Restricted Area R–6601 Fort A P Hill, VA; and R–6608A, R–6608B, and R–6608C, Quantico, VA; Docket No. 02–AEA–23 (2120–AA66) (2003–0042)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1310. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Revocation of Class E Airspace; Brookfield, MO; Docket no. 03–ACE–3 (2120–AA66) (2003–0041)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1311. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E2 Airspace and Modification of Existing Class E5 Airspace; Ainsworth, NE; correction; Docket No. 02–ACE–8 (2120–AA66) (2003–0040)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1312. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: MD Helicopters, Inc. Model 369D, 369E, 369F, and 369FF Helicopters; Docket no. 2001–SE–40 (2120–AA64) (2003–0111)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1313. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Ratheon Aircraft Company 65, 90, 100, 200, and 300 Series , and Model 2000 Airplanes; Docket No. 2000–CE–80 (2120–AA64) (2003–0110)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1314. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: CFM International CFM 56–6, and 5B Series Turbofan Engines; Docket No. 2001–NE–49 (2120–AA64) (2003–0109)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1315. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives Bell Helicopter Textron Canada Limited Model 407 Helicopters; docket no. 2002-sw-33” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1316. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing 7777 Series Airplanes Equipped with Rolls Royce Model Trent 800 Series Engines, Docket no. 2002-Nm-318 (2120–AA64) (2003–0107)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1317. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Aging aircraft Safety; Interim final Rule; Extension of Comment period; Docket No. FAA–1999–540 (2120–AE42) (2003–0002)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1318. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (14); Amdt. No 3042 (2120–AA65) (2003–0009)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1319. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments (43) Amdt. No. 3041 (2120–AA65) (2003–0008)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1320. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Using Agency for Restricted Area 2301E, Ajo East, AZ; Restricted Area 2304, Gila Bend, AZ: and Restricted Area 2305, Gila Bend, AZ; Docket No. 02–Awp-11 (2120–AA66) (203–0043)" received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1321. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2. B3, C, D D1, AS355E, F F1, F2, and N Helicopters; Docket No. 2002–SW–41" received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 476. An original bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes (Rept. No. 108–11).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Deborah L. Cook, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Jay S. Bybee, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

Ralph R. Erickson, of North Dakota, to be United States District Judge for the District of North Dakota.

William D. Quarles, Jr., of Maryland, to be United States District Judge for the District of Maryland.

Gregory L. Frost, of Ohio, to be United States District Judge for the Southern District of Ohio.

Jeremy H. G. Ibrahim, of Pennsylvania, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2005.

Edward F. Reilly, of Kansas, to be a Commissioner of the United States Parole Commission for a term of six years.

Cranston J. Mitchell, of Missouri, to be a Commissioner of the United States Parole Commission for a term of six years.

Marian Blank Horn, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade.

Peter Joseph Elliott, of Ohio, to be United States Marshal for the Northern District of Ohio for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself and Mr. Miller) (by request):

S. 2. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth; to the Committee on Finance.

By Mr. REID (for himself, Mr. Smith, Ms. Snowe, Ms. Cantwell, Mr. Harkin, Mr. Lieberman, Mrs. Feinstein, Mr. Jeffords, Mr. Wyden, and Mr. Coleman):

S. 464. A bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

By Mrs. MURRAY (for herself, Ms. Cantwell, Mr. Reed, Ms. Collins, Ms. Landrieu, Ms. Mikulski, and Mr. Smith):

S. 465. A bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. Leahy):

S. 466. A bill to provide financial assistance to State and local governments to assist them in preventing and responding to acts of terrorism in order to better protect homeland security; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Ms. Cantwell, Mr. Frist, Mr. Cornyn, Mr. Cochran, Mr. Thomas, and Mr. Alexander):

S. 467. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local sales taxes in lieu of State and local income taxes and to allow the State and local income tax deduction against the alternative minimum tax; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. Domenici, Mr. Levin, Mr. Bingaman, Mr. Breaux, Mrs. Clinton, Mr. Johnson, and Ms. Landrieu):

S. 468. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself, Mr. DeWine, Mrs. Feinstein, Mr. Schumer, Mr. Reed, Ms. Mikulski, Mr. Corzine, and Mr. Levin):

S. 469. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. Warner, Ms. Mikulski, Mr. Lugar, and Mr. Durbin):

S. 470. A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr; to the Committee on Energy and Natural Resources.

By Mr. ALLEN:

S. 471. A bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLEN (for himself and Mr. Warner):

S. 472. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Northern Neck National Heritage Area in Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself, Mrs. Boxer, Mr. Jeffords, and Mr. Lieberman):

S. 473. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

By Mr. JOHNSON:

S. 474. A bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THOMAS:

S. 475. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from whole electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 476. An original bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. FEINGOLD (for himself, Mr. Leahy, and Mr. Dayton):

S. 477. A bill to amend the Internal Revenue Code of 1986 to disallow deductions and credits for companies who discriminate against Canadian pharmacies that pass along discounts to consumers living in the United States; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. Warner, Mrs. Murray, Mr. Campbell, Mrs. Hutchison, Mrs. Clinton, Mr. Sessions, and Mr. Miller):

S. 478. A bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes; to the Committee on the Judiciary.

By Mr. EDWARDS:

S. 479. A bill to amend title IV of the Higher Education Act of 1965 to provide grants for homeland security scholarships; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. Grassley, Mr. Kennedy, Mr. Cochran, Mrs. Lincoln, Mr. Kerry, Mr. Bingaman, Mr. Dodd, Mr. Baucus, and Mr. Edwards):

S. 480. A bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLEN (for himself and Mr. Warner):

S. 481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes; to the Committee on Governmental Affairs.

By Ms. COLLINS:

S. 482. A bill to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 483. A bill to authorize the Secretary of the Army to carry out a project for the mitigation of shore damages attributable to the project for navigation, Saco River, Maine; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 484. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INHOFE (for himself and Mr. VOINOVICH) (by request):

S. 485. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. KENNEDY, Mr. COLEMAN, Mr. DAYTON, Mr. GRASSLEY, Mr. REED, Mr. COCHRAN, Mr. DODD, Mr. WARNER, Mr. REID, Mr. THOMAS, Mr. JOHNSON, Mr. SPECTER, Mr. HARKIN, Mr. LUGAR, Mr. DASCHLE, Mr. GRAHAM of South Carolina, Mrs. MURRAY, Ms. COLLINS, Ms. CANTWELL, Mr. ROBERTS, Mr. EDWARDS, Mr. CHAFEE, Mrs. LINCOLN, Mr. BENNETT, and Mr. LAUTENBERG):

S. 486. A bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. KERRY):

S. 487. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. BREAUX, Mr. DURBIN, Mr. LEAHY, Mr. HARKIN, and Mr. JOHNSON):

S. 488. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. GRAHAM of Florida, Mr. LUGAR, Mr. DURBIN, Mr. CHAFEE, and Mr. NELSON of Florida):

S. 489. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Finance.

By Mr. REID (for himself and Mr. ENSIGN):

S. 490. A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mr. COCHRAN, Mr. DODD, Mr. INOUYE, Ms. LANDRIEU, Mr. LOTT, and Mr. MILLER):

S. 491. A bill to expand research regarding inflammatory bowel disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAIG:

S. 492. A bill to direct the Secretary of Commerce to impose countervailing duties on dynamic random access memory (DRAM) semiconductors produced by Hynix Semiconductor; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. SPECTER, Mr. ENSIGN, and Ms. LANDRIEU):

S. 493. A bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes; to the Committee on Finance.

By Mr. CRAPO:

S. 494. A bill to amend the Internal Revenue Code of 1986 to include agricultural and animal waste sources as a renewable energy resource; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Res. 68. A resolution recognizing the bicentennial of Ohio's founding; considered and agreed to.

By Ms. COLLINS (for herself, Mr. REED, and Mr. KENNEDY):

S. Res. 69. A resolution designating March 3, 2003, as "Read Across America Day"; considered and agreed to.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. SNOWE, and Mr. DASCHLE):

S. Con. Res. 10. A concurrent resolution designating April 2003 as "Human Genome Month" and April 25 as "DNA Day"; considered and agreed to.

By Mr. CRAPO (for himself and Mr. ALLEN):

S. Con. Res. 11. A concurrent resolution expressing the sense of Congress regarding the Republic of Korea's continuing unlawful bailouts of Hynix Semiconductor Inc., and calling on the Republic of Korea, the Secretary of Commerce, the United States Trade Representative, and the President to take actions to end the bailouts; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. Con. Res. 12. A concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers; ordered held at the desk.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

S. 56

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 150

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 251

At the request of Mr. LOTT, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 252

At the request of Mr. THOMAS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 252, a bill to amend the Internal Revenue Code of 1986 to provide special rules relating to the replacement of livestock sold on account of weather-related conditions.

S. 253

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 267

At the request of Mr. MCCAIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 267, a bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

S. 271

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 287

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 287, a bill to amend the

Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 300

At the request of Mr. McCain, the name of the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 300

At the request of Mr. Kerry, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 300, supra.

S. 330

At the request of Mr. Campbell, the names of the Senator from South Carolina (Mr. Graham), the Senator from Montana (Mr. Burns) and the Senator from Virginia (Mr. Allen) were added as cosponsors of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 338

At the request of Mr. Lautenberg, the names of the Senator from New Jersey (Mr. Corzine) and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 344

At the request of Mr. Akaka, the name of the Senator from Nevada (Mr. Reid) was added as a cosponsor of S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

S. 361

At the request of Mrs. Lincoln, the names of the Senator from Mississippi (Mr. Cochran) and the Senator from Kentucky (Mr. Bunning) were added as cosponsors of S. 361, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 392

At the request of Mr. Reid, the names of the Senator from Maine (Ms. Collins) and the Senator from Ohio (Mr. DeWine) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 392

At the request of Mr. Bunning, his name was added as a cosponsor of S. 392, supra.

S. 412

At the request of Mr. Kyl, the name of the Senator from Texas (Mrs. Hutchison) was added as a cosponsor of S. 412, a bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

S. 457

At the request of Mr. Leahy, the names of the Senator from Montana (Mr. Burns), the Senator from North Dakota (Mr. Conrad), the Senator from North Dakota (Mr. Dorgan), the Senator from Louisiana (Ms. Landrieu), the Senator from New Jersey (Mr. Lautenberg), the Senator from Indiana (Mr. Lugar), the Senator from Rhode Island (Mr. Reed) and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. CON. RES. 5

At the request of Mr. Grassley, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. Con. Res. 5, a concurrent resolution expressing the support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854.

S. CON. RES. 7

At the request of Mr. Bunning, his name was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. CON. RES. 8

At the request of Ms. Collins, the name of the Senator from Nebraska (Mr. Nelson) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. RES. 24

At the request of Mr. Byrd, the names of the Senator from Nevada (Mr. Reid) and the Senator from Illinois (Mr. Durbin) were added as cosponsors of S. Res. 24, a resolution designating the week beginning May 4, 2003, as "National Correctional Officers and Employees Week".

S. RES. 46

At the request of Mr. Bingaman, the names of the Senator from Virginia (Mr. Allen), the Senator from New Mexico (Mr. Domenici), the Senator from Wisconsin (Mr. Kohl), the Senator from West Virginia (Mr. Rockefeller) and the Senator from Oregon (Mr. Smith) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 48

At the request of Mr. Akaka, the name of the Senator from Wyoming (Mr. Thomas) was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 67

At the request of Mr. Schumer, the names of the Senator from Indiana (Mr. Bayh), the Senator from California (Mrs. Feinstein), the Senator from Massachusetts (Mr. Kennedy) and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. Res. 67, a resolution expressing the sense of the Senate that Alan Greenspan, the Chairman of the Federal Reserve Board, should be recognized for his outstanding leadership of the Federal Reserve, his exemplary conduct as Federal Reserve chairman, and his commitment as a public servant.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself and Mr. Miller) (by request):

S. 2. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth; to the Committee on Finance.

Mr. NICKLES. Mr. President, today I am sending to the desk a bill by myself and Senator Miller to amend the IRS Code. It is a bill to provide jobs and economic growth for our country.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. NICKLES. Mr. President, this bill Senator Miller and I are introducing is the President's economic and growth package. This is a package the President has put together that would help American families. This is a package that is profamilial and progrowth. It is a bill that will create jobs. It is a bill that will create an incentive to invest. It is a bill to eliminate unfair punitive taxes on corporate earnings that are distributed to the owners of the corporation. It is a bill that will help stimulate and grow our economy.

I compliment the President for his work in proposing this. I am happy to introduce it. Let me talk about a couple of the provisions of the bill.

This bill will expand the 10-percent bracket. This is to help people of all incomes. But the lowest income people will be the true beneficiaries of this package. It will accelerate reductions in the individual income tax rates that were passed in 2001. You might remember the 2001 tax bill that we passed which had individual rate reductions phased in over the years. There was a 1 percent reduction in most of the rates in 2004, and another percent reduction in 2006. These are accelerated to 2003.

It means that the maximum personal income tax bracket would be 35 percent instead of the present 38.6 percent. It means that individuals would not have to pay taxes at rates greater than corporations. The bulk of the benefit of this will come to individuals who are self-employed, individuals who are sole proprietors, and individuals who own or operate their own business. They will receive the bulk of the benefit of this rate reduction. Some people may want to demagog some of the estimates that benefit primarily the wealthy. I disagree.

We also might keep in perspective that when President Clinton was elected, the maximum rate was 31 percent. He increased it to 39.4 percent. When we totally implement President Bush's tax reduction, the maximum rate will be 35 percent, which is still significantly higher than the 31 percent just 10 years ago.

The President's proposal that we are introducing today would also accelerate the reduction in the marriage penalty. This is a very big item to help married couples reduce their taxes. The net impact of this is it would double the 15-percent bracket that individuals have for couples.

To give you an example, individuals presently pay 15 percent, I believe, on income up to about $28,000. But couples have to start paying a 28-percent or 27-percent bracket when they have income above $47,000. We say that instead of paying 27 percent for taxable income above $47,000, no, that should be double the individual amount. So couples don't have to pay above the 15-percent bracket unless their income exceeds $56,000.

It is not very complicated. Couples should have for the 15-percent bracket twice what individuals have. Individuals pay 15 percent up to $28,000. So we doubled that amount for couples. The net impact of that is you pay 15 percent instead of 27 percent for a total of about $9,000. It saves couples a total of $1,022. If the couples have two children, they would get additional child credit. We increase the child credit, which is presently $600, to $1,000. That is an increase of $400 per child. If you have two children, that is $800 of tax credit—not deductions, tax credit. It reduces your tax bill by $800.

If you have a taxable income of $56,000, you also get the $1,122 of marriage penalty relief. You get $100 savings from the 10-percent bracket expansion. Total tax relief for a family that has taxable income of $56,800 totals over $2,000. Actually, it is $2,022. That is about a 22-percent tax cut for middle-income families. That will help thousands—millions—of families all across the country.

Also, this bill would eliminate the double taxation on corporate earnings. Presently, in the United States, unfortunately, unbelievably, we tax corporate earnings that are distributed to the owners more than almost any other country in the world. Only one country, Japan, taxes corporate earnings distributed to the owners higher than the United States.

Our combined tax rate of 35 percent corporate and the individual tax percentage, depending on the individual's income tax bracket—it could be 15 percent, it could be 30 percent, it could be 38.6 percent—if you add the 38.6 percent plus the 35 percent, it is over 70 percent. If it is 30 percent for the individual rate, and the corporation rate is 35, it is 65 percent. So for a corporation that makes $1,000 and wants to distribute that to the owners, the Federal Government gets 65 percent; and the beneficiary, the owner of the company, gets 35 percent. That is absurd. That is embarrassing. That is indefensible. And countless people—economists, the President, candidates and others—said we should eliminate this unfair double taxation of dividends.

The President has come up with a proposal to do that. I am happy to introduce it for him. I urge my colleagues—before they demagog it, before they castigate it—to look at the facts.

Does it really make sense for us to be taxing corporate distributions to all owners—incidently, the majority of owners are senior citizens—does it really make sense for us to be taxing these proceeds higher than any other country in the world but one? It makes no sense.

Does it really make sense to have the Tax Code skewed to where it really is beneficial to go into debt because you can expense your interest expense? But, oh, yes, if you go the equity route, you have to pay taxes on anything that is generated in the company. And the individual who receives the benefits pays taxes, so the Government gets two-thirds of the money, two-thirds of the distribution. That does not make sense. It discourages investment. It encourages debt. Not a good corporate policy.

Present law encourages a lot of corporate shenanigans and corporate games trying to get around taxes when they realize that such a great percentage of the distribution to owners is going to be paid in taxes—"Let's figure out other ways." Maybe they do it through bonuses, but they might do it through all kinds of schemes. And we have seen some of those.

This would be great corporate reform, very positive, well-needed reform, and long overdue—long overdue.

In this package that the President has proposed, it also has something I am very much in favor of: expensing for small business. I used to have a small business. But it triples the amount a small businessperson can expense from $25,000 to $75,000. In other words, if they write a check for that amount, they can expense it in the year that the check is written. That will greatly encourage investment because they get to recoup the investment that is made in the same year the check is written—a very positive, progrowth proposal. Most jobs are created in small businesses, and this is a good, positive small business provision that will create jobs.

So we reduce taxes on business owners, sole proprietors. They would not have to pay taxes more than corporations. We would reduce taxes on married couples. We would discontinue the present policy of penalizing them for being married and filing joint returns. We would allow them to keep more of their own money. We would allow them to keep more of their own money if they have kids.

Certainly, if you have kids, it costs a lot of money to raise them. We say you should have a $1,000 tax credit per child. So for every child you have, you get to save $1,000 in taxes. I have four kids, so that is $4,000 per year. A couple with four kids would get to save $4,000 per year. That is significant. That is profamily. That is positive. That allows people who really need the money raising families to keep it.

One, we eliminate the marriage penalty, and, two, we allow them to keep more for their own kids. Very significant benefits. When you add all the benefits together, it really makes the income tax even more progressive.

The upper income groups would still pay a greater percentage of income tax, even after we pass this proposal. I can just envision people saying: Well, this is class warfare. I hope they do not play those arguments because this is very family friendly and also investment friendly and will create jobs.

We need to do some things. Revenues have been declining for the last 2 years. We need to figure out ways to get revenues to grow. That means a growing economy. It means the stock market needs to move up instead of down.

This proposal will do that. This proposal is investment friendly. And the main beneficiaries will not be just the owners, it will be the people who get a job because the investment was not going to be made without it.

So let's do some things that will create an incentive for investment, for expensing, for people to go to work, and for people who are working to be able to keep more of their own money so they can take care of their families.

That is what the President's proposal is all about. So I am delighted to introduce this today with my colleague and friend, Senator ZELL MILLER of Georgia.

I ask unanimous consent to have printed in the RECORD two charts to further explain the breakout of this proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT BUSH'S 2004 BUDGET TAX PROPOSALS

(Dollars in billions)

	Fiscal years												
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004–2008	2004–2013
Growth Package—Revenue Impact:													
Accelerate 10% bracket expansion	−0.978	−7.782	−6.112	−6.117	−6.495	−4.275	−3.227	−3.283	−3.326	−3.294	−3.283	−30.781	−47.194
Accelerate reduction in marginal rates	−5.808	−35.693	−17.470	−4.939	—	—	—	—	—	—	—	−58.102	−58.102
Accelerate marriage penalty relief	−2.776	−27.134	−14.680	−7.642	−3.595	−1.735	−0.424	0.000	0.000	0.000	0.000	−54.786	−55.210
Accelerate increase in child credit	−13.527	−5.060	−10.735	−8.534	−8.532	−8.502	−7.746	−4.197	0.000	0.000	0.000	−41.363	−53.306
Eliminate double taxation of dividends	−3.801	−24.874	−22.062	−28.218	−31.126	−33.952	−37.378	−40.842	−44.010	−47.246	−50.616	−140.232	−360.324
Increase the small business expensing limit	−1.023	−1.652	−1.776	−1.912	−1.601	−1.431	−1.256	−1.170	−1.235	−1.259	−1.291	−8.372	−14.583
AMT hold-harmless	−3.141	−8.534	−10.353	−6.931	—	—	—	—	—	—	—	−25.818	−25.818
Growth Package Revenue Impact	−31.054	−110.729	−83.188	−64.293	−51.349	−49.895	−50.031	−49.492	−48.571	−51.799	−55.190	−359.454	−614.537

THE JOBS AND GROWTH TAX ACT OF 2003—TAX RELIEF FOR WORKING FAMILIES

Example: *Married couple with two children.*

Taxable Income	$56,800
Total Tax Liability Under Current Law	9,042
With Enactment of The Jobs and Growth Tax Act of 2003:	
Marriage Penalty Relief	1,122
Relief from 10% Bracket Expansion	100
Relief From Child Credit Increase	800
Total Tax Relief in 2003	2,022

Tax savings of 22 percent.

Mr. NICKLES. I urge my colleagues to seriously consider this proposal. And I welcome their support of it.

I yield the floor.

By Mr. REID (for himself, Mr. SMITH Ms. SNOWE, Ms. CANTWELL, Mr. HARKIN, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. WYDEN, and Mr. COLEMAN):

S. 464. A bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

Mr. REID. Mr. President, faced with uncertainties in electricity energy markets, turmoil in the Mideast, the need to cut back on the fossil fuel emissions linked to global warming, air pollution that contributes to high rates of asthma and fills even our national parks with smog, the United States must diversify its energy supply by promoting the growth of renewable energy.

Since 1999, Las Vegas electricity rates have increased by 60 percent. In the same period, natural gas prices across Nevada have doubled. We need to change the energy equation. We need to diversify the Nation's energy supply to reduce volatility and ensure a stable supply of electricity. We must harness the brilliance of the sun, the strength of the wind, and the heat of the Earth to provide clean, renewable energy for our nation.

I rise today to introduce a bill with Senators SMITH, SNOWE, CANTWELL, HARKIN, LIEBERMAN, FEINSTEIN, JEFFORDS, and WYDEN expands the existing Section 45 production tax credit for renewable energy resources to cover all renewable energy resources. Our legislation accomplishes this by adding geothermal, incremental geothermal, solar, open-loop biomass, incremental hydropower, landfill gas, and animal waste to the list of renewable energy resources that would quality for a production tax credit.

Our legislation also makes the production tax credit permanent to signal America's long-term commitment to renewable energy resources. The existing production tax credit that covers wind energy, poultry waste, and closed-look biomass will expire at the end of 2003! Since it inception in 1992, the production tax credit has expired and been renewed twice; in 1999 and 2001. Development of wind energy has closely mirrored these renewal cycles. Clearly, the private investment necessary to develop renewable energy resources requires the business certainly afforded a long-term extension of the production tax credit.

Our bill allows for co-production credits to encourage blending of renewable energy with traditional fuels and provides a credit for renewable facilities on native American and native Alaskan lands. In northern Nevada, the Pyramid Lake Paiute Tribe is working with Advanced Thermal Systems to develop geothermal resources on Indian lands that will spur economic development by creating business opportunities and jobs for tribal members.

This legislation also provides production incentives to not-for-profit public power utilities and rural electric cooperatives, which serve 25 percent of the Nation's power customers, by allowing them to transfer of their credits to taxable entities.

The good news is that the production tax credit for renewable energy resources really works to promote the growth of renewable energy. In 1990, the cost of wind energy was 22.5 cents per kilowatt hour and, today, with new technology and the help of a modest production tax credit, wind is a competitive energy source at 3 to 4 cents per kilowatt hour. In the last 5 years, wind energy has experience a 30 percent growth rate. This year, Nevada utilities have signed contracts for more then 130 MW of wind energy.

The production tax credit provides 1.8 cents for every kilowatt-hour of electricity produced. Similar to wind energy, this credit will allow geothermal energy, incremental hydropower, and landfill gas to immediately compete with fossil fuels, while biomass will follow closely behind. The Department of Energy estimates that we would increase our geothermal energy production almost ten fold, supplying ten percent of the energy needs of the West. As fantastic as it sounds, enough sunlight falls on a 100 mile by 100 miles of southern Nevada that—if covered with solar panels—could power the entire Nation.

Let's never lose sight of the fact that renewable energy resources are domestic sources of energy, and using them instead of foreign sources contributes to our energy security. Renewables provide fuel diversify and price stability. After all, the fuel—the wind, the sun, heat from the core of the earth—costs nothing. And they provide jobs, especially in rural areas that have been largely left out of American recent economic growth.

The production tax credit for renewable energy resources is a powerful, fast acting stimulus to the economy. According to the Western Government Association, the Department of Energy's Initiative to deploy 1,000 MWs of concentrated solar power in the Southwestern area of the United States by the year 2006 would create approximately 10,0000 jobs and estimated expenditures of more than 3.7 billion over 14 years. Nevada has already developed 200 Megawatts of geothermal power, with a longer-term potential of more than 2,500 Megawatts. This development will provide billions of private investment and create thousands of jobs. Our production tax credit means immediate economic development and jobs!

In the U.S. today, we get less than 3 percent of our electricity from renewable energy sources like wind, solar, geothermal, and biomass. But the potential for much greater supply is here.

For example, Nevada is considered the Saudi Arabia of geothermal. My state could use geothermal energy to meet one-third of its electricity needs, but today this source of energy only supplies 2.3 percent. I'm proud to say that Nevada has adopted one of the most aggressive Renewable Portfolio Standard in the Nation, requiring that 5 percent of the State's electricity needs be met by renewable energy resources in 2003, which then grows to 15 percent by 2013.

After pouring billions of dollars into oil and gas, we need to invest in a clean energy future. Fossil fuel plants pump over 11 million tons of pollutants into our air each year. Federal energy policy must promote reductions in greenhouse gas emissions. By including landfill gas in this legislation, we systematically reduce the largest single human source of methane emissions in the United States, effectively eliminating the greenhouse gas equivalent of 223 million tons of carbon dioxide.

An article in The Journal of the American Medical Association revealed an alarming link between soot particles from power plants and motor vehicles and lung cancer and heart disease. The adverse health effects of power plant and vehicle emissions cost Americans billions of dollars in medical care, and our cost in human suffering is immeasurable. Simply put, the human cost of dirty air is staggering. If we factor in environmental and health effects, the real cost of energy becomes apparent, and renewable energy become the fuel of choice.

America's abundant and untapped renewable resources can fuel our journey into a more prosperous and safer tomorrow without compromising air and water quality.

Renewable energy is the cornerstone of a successful, forward looking, and secure energy policy for the 21st Century.

By Mrs. HUTCHISON (for herself, Ms. CANTWELL, Mr. FRIST, Mr. CORNYN, Mr. COCHRAN, Mr. THOMAS, and Mr. ALEXANDER):

S. 467. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local sales taxes in lieu of State and local income taxes and to allow the State and local income tax deduction against the alternative minimum tax; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to correct an injustice in the tax code that harms citizens in every state of this great Nation.

State and local governments have various alternatives for raising revenue. Some levy income taxes, some use sales taxes, and others use a combination of the two. The citizens who pay State and local income taxes are able to offset some of what they pay by receiving a deduction on their Federal taxes. Before 1986, taxpayers also had the ability to deduct their sales taxes.

The philosophy behind these deductions is simple: people should not have to pay taxes on their taxes. The money that people must give to one level of government should not also be taxed by another level of government.

Unfortunately, these common sense deductions have slowly been eroded over the years. First, the deduction for State and local sales tax was eliminated in the 1986 tax reform legislation. Second, the alternative minimum tax has reduced the benefit of the income tax deduction for many.

The elimination of the sales tax deduction discriminates against those living in states, such as my home State of Texas, with no income taxes. It is important to remember the lack of an income tax does not mean citizens in these States do not pay State taxes; revenues are simply collected differently.

It is unfair to give citizens from some States a deduction for the revenue they provide their State and local governments, while not doing the same for citizens from other States. Federal tax law should not treat people differently on the basis of State residence and differing tax collection methods.

This discrepancy has a significant impact on Texas. According to the Texas Comptroller, if taxpayers could deduct their sales taxes, more than $700 million would stay in the hands of Texans. This could lead to the creation of more than 16,000 new jobs and add almost $900 million in economic activity. The impact of this growth would be particularly beneficial during this period when many States are facing record-breaking deficits. At the same time, such a tax change would cost the Federal Government less than one percent of what the current State and local income tax deduction costs.

For those in states with income taxes, their tax deduction benefit has been diminished by the alternative minimum tax, AMT. People can deduct their state and local income taxes when calculating their regular taxes, but not when determining the AMT. The difference often is the reason people must pay the higher alternative tax.

In fact, state and local taxes account for 54 percent of the difference between the AMT and the regular tax calculation. This particularly hurts the 60 percent of AMT payers who are from states with higher income tax rates. Eliminating this discrepancy would go a long way toward reducing the number of people affected by the AMT.

The legislation I am offering today will fix these problems. First, it will provide all taxpayers with the option of deducting State and local sales taxes, instead of income taxes, when calculating their Federal tax. This will end the discrimination suffered by my fellow Texans and citizens of other states who do not have the option of an income tax deduction. It will also allow people from states with both a sales and an income tax to choose the most advantageous deduction.

My bill will also provide for a State and local income and sales tax deduction in the AMT. This is an important step in reducing the ballooning growth of the AMT, which will impact almost a third of all taxpayers by 2010.

The legislation I am introducing today is about reestablishing equity to the tax code and defending the important principle of eliminating taxes on taxes. I hope my fellow Senators will support this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “State Sales and Income Tax Deduction Fairness Act of 2003”.

SEC. 2. DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.

(a) IN GENERAL.—Subsection (b) of section 164 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

“(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—

“(i) IN GENERAL.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

“(I) without regard to the reference to State and local income taxes,

“(II) as if State and local general sales taxes were referred to in a paragraph thereof, and

“(III) without regard to the last sentence.

“(B) DEFINITION OF GENERAL SALES TAX.—The term ‘general sales tax’ means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

“(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

“(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

“(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

“(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

“(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term 'compensating use tax' means, with respect to any item, a tax which—

"(i) is imposed on the use, storage, or consumption of such item, and

"(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

"(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

"(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer's trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

"(H) AMOUNT OF DEDUCTION TO BE DETERMINED UNDER TABLES.—

"(i) IN GENERAL.—The amount of the deduction allowed under this paragraph shall be determined under tables prescribed by the Secretary.

"(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i) shall reflect the provisions of this paragraph and shall be based on the average consumption by taxpayers on a State-by-State basis, as determined by the Secretary, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. ALLOWANCE OF STATE AND LOCAL INCOME TAXES AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 56(b)(1)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitation on deductions) is amended by inserting "(other than State and local income taxes or general sales taxes)" before the period.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. KOHL (for himself, Mr. DEWINE, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. REED, Ms. MIKULSKI, Mr. CORZINE, and Mr. LEVIN).

S. 469. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with my colleagues Senator DEWINE, Senator FEINSTEIN, Senator SCHUMER, Senator REED, Senator MIKULSKI, Senator CORZINE, and Senator LEVIN to reintroduce the "Technological Resource to Assist Criminal Enforcement" "TRACE" Act, a bill to require ballistics testing of all firearms manufactured or imported in the United States.

The science of ballistics testing has given police the ability to solve multiple crimes simply by comparing bullets and shell casings found at the scene of a crime to a gun seized in a seemingly unrelated incident. This comparison is possible because every gun has a unique "fingerprint" it leaves on spent shell casings and bullets after it is fired. Just as human fingerprints can be grouped into general classifications such as loops and whorls, but still possess individual characteristics and then analyzed for its unique characteristics, firearms evidence can be similarly grouped and then analyzed by trained technicians for unique identifying characteristics.

Let me explain more specifically how this technology works. Today, ballistics technology equipment allows firearms technicians to acquire digital images of the images of the markings made by a firearm on bullets and cartridge casings; the images then undergo an automated initial comparison. If a high confidence match emerges, experts compare the original evidence to confirm a match. Once a match is found, law enforcement can begin tracing that weapon from its original sale to the person who used it to commit the crime.

Microscopic comparison of bullets and shell casings has been in practice for many years, even before formal databases were established. However, in the past 15 years, through the use of computer databases, ballistics technology described above has developed into a systematic tool for law enforcement to solve gun crimes. Since the early 1990's, more than 250 crime labs and law enforcement agencies in more than 40 States have been operating independent ballistics systems maintained by either the Bureau of Alcohol, Tobacco, Firearms, and Explosives "ATFE", or the Federal Bureau of Investigation. Together, ATFE's Integrated Ballistics Identification System, "IBIS", and the FBI's DRUGFIRE system have been responsible for linking 5,700 guns to two or more crimes where corroborating evidence was otherwise lacking. These links have helped law enforcement and prosecutors bring thousands of dangerous criminals to justice.

Never before have the tremendous law enforcement benefits of ballistics testing been so apparent. I would like to take the opportunity to describe a few instances where ballistics technology helped solve otherwise unsolvable crimes.

Last fall, law enforcement officials used ballistics testing to match the bullets and shell casings found at the scenes of the sniper shootings in the Nation's Capital region, and later to other deadly shootings across the country. The bullets and casings were also linked to the gun that the accused assailants had in their possession when they were arrested. This ballistics information has provided vital evidence to prosecutors and will help keep the snipers behind bars.

In another example, the only evidence at the scene of a brutal homicide in Milwaukee was 9 millimeter cartridge casings—there were no other clues. But 4 months later, when a teenage male was arrested on an unrelated charge, he was found to be in possession of the firearm that had discharged those casings. Ballistics linked the two cases. Prosecutors successfully prosecuted three adult suspects for the homicide and convicted the teen in juvenile court.

On September 9, 2000, several suspects were arrested in Boston for the illegal possession of three handguns. Each of the guns was test fired, and the ballistics information was compared to evidence found at other crime scenes. The police quickly found that the three guns were used in the commission of 15 felonies in Massachusetts and Rhode Island. This routine arrest for illegal possession of firearms provided police with new leads in the investigation of 15 unsolved crimes. Without the ballistics testing, these crimes would not have been linked and might have never been solved.

As you can see, ballistics technology helps law enforcement exponentially in their efforts to solve gun crimes. But while success stories are increasingly frequent, the full potential of ballistics testing is still untapped. One way that the Bureau of Alcohol, Tobacco, Firearms and Explosives is making ballistics testing more accessible to state and local law enforcement is through the installation of a new network of ballistics imaging machines. The final introduction of the machines across the country is almost complete and, once it is, the computers will be able to access each other and search for a greater number of images. The National Integrated Ballistics Information Network, better know as "NIBIN," will be a regional network of databases that will permit law enforcement in one locality access to information stored in other gun crime databases around the entire country. According to the ATFE, "the NIBIN program is a key element to ATFE's efforts [to remove violent offenders from America's streets]."

But ballistics testing is only as useful as the number of images in the database. Today, almost all jurisdictions are limited to images of bullets and cartridge casings that come from guns used in crimes. The TRACE Act would dramatically expand the scope of that database by mandating that all guns manufactured or imported be test fired before being placed into the stream of commerce. The images collected from the test firing would then be collected and accessible to law enforcement—and law enforcement only—for the purpose of investigating and prosecuting gun crimes.

Recently, studies done about ballistics testing and ballistics databases have been in the news. Concern has been expressed by some about the size and practicality of a large database. However, it is important to point out that this bill would merely expand upon the existing network of 16 multi-state regional databases, rather than create a single large national database. In addition, accusations that systems would be logjammed with too many entries has been refuted by ATFE ballistics experts. Since its inception, the speed and efficiency of ballistics databases has substantially increased. For example, from 1994 to 1999 the IBIS correlation speed for cartridge casings dropped from 35 seconds to 1.7 seconds, and correlation speed for bullets dropped from 4 seconds to 0.3 seconds. The conversion to NIBIN is expected to yield an even faster return of correlation results, regardless of an increase in entries.

Of course no investigative tool is perfect or effective in every single situation, not even fingerprints. However, ATFE maintains that the availability of an open-case file of many thousands of exhibits, searchable within minutes, provides invaluable information to law enforcement authorities. TRACE would enhance the current ballistics databases by giving federal, state, and local law enforcement access to even more evidence that will help them solve more gun crimes and make our communities safer.

Today, police can find out more about a human being than they can about a gun used in a crime. Law enforcement can use DNA testing, take fingerprints and blood samples, search a person's health records, peruse bank records and credit card statements, obtain phone records and get a list of book purchases to link a suspect to a crime. Yet, the bullets found at the scene of a crime often cannot be traced back to the gun used because our ballistics images database is not comprehensive. Many of those on the front lines of the fight against crime are in favor of ballistics testing. In fact, in my home state of Wisconsin, over 75 percent of police chiefs surveyed are supportive of the use of ballistics technology.

The burden on manufacturers is minimal—we authorize funds to underwrite the cost of testing—and the assistance to law enforcement is considerable. And don't take our word for it, ask the gun manufacturers and the police. Listen to what Paul Januzzo, the vice-president of the gun manufacturer Glock, said in reference to ballistics testing, "Our mantra has been that the issue is crime control, not gun control . . . it would be two-faced of us not to want this." In their agreement with the Department of Housing and Urban Development, Smith & Wesson agreed to perform ballistics testing on all new handguns. And Ben Wilson, the chief of the firearms section at ATFE, emphasized the importance of ballistics testing as a investigative device, "This [ballistics] allows you literally to find a needle in a haystack."

To be sure, we are sensitive to the notion that law abiding hunters and sportsmen need to be protected from any misuse of the ballistics database by government. The TRACE Act explicitly prohibits ballistics information from being used for any purpose unless it is necessary for the investigation of a gun crime.

The TRACE Act will enhance a revolutionary new technology that helps solve crime. The technology is becoming more and more advanced to accommodate high volume-usage, and it is expected to continue to get better and better. Ballistics testing will help solve more gun crimes, prosecute more criminals, and ensure that more communities are protected from violence. TRACE is a worthwhile piece of crime control legislation and I hope that the Senate will move quickly to pass it.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technological Resource to Assist Criminal Enforcement Act" or the "TRACE Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 3. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(36) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets and cartridge casings were discharged, through identification of the unique markings that each firearm imprints on bullets and cartridge casings.".

SEC. 4. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

"(A) test fire firearms manufactured or imported by such licensees as specified by the Attorney General by regulation;

"(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

"(C) make the records available to the Attorney General for entry into the electronic database established under paragraph (3)(B); and

"(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Attorney General by regulation.

"(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

"(3)(A) The Attorney General shall assist firearm manufacturers and importers in complying with paragraph (1) by—

"(i) acquiring, installing, and upgrading ballistics equipment and bullet and cartridge casing recovery equipment to be placed at locations readily accessible to licensed manufacturers and importers;

"(ii) hiring or designating sufficient personnel to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research, and evaluation;

"(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

"(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

"(v) taking other necessary steps to make ballistics testing effective.

"(B) The Attorney General shall—

"(i) establish an electronic database—

"(I) through which State and local law enforcement agencies can promptly access the ballistics records stored under this subsection, as soon as such capability is available; and

"(II) that shall not include any identifying information regarding dealers, collectors, or purchasers of firearms; and

"(ii) require training for all ballistics examiners.

"(4) The Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.

"(5) Not later than 3 years after the date of enactment of this subsection, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report regarding the implementation of this section, including—

"(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records, provided under the system established under this section and under similar systems operated by any State, served as a valuable investigative tool in the prosecution of gun crimes;

"(B) the extent to which ballistics records are accessible across jurisdictions; and

"(C) a statistical evaluation of the test programs conducted pursuant to paragraph (4).

"(6) There are authorized to be appropriated to the Department of Justice $20,000,000 for each of the fiscal years 2004 through 2007 to carry out this subsection, to be used to—

"(A) install ballistics equipment and bullet and cartridge casing recovery equipment;

"(B) establish sites for ballistics testing;

"(C) pay salaries and expenses of necessary personnel; and

"(D) conduct related research and evaluation.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall take effect on the date on which the Attorney General, in consultation with the Board of the National Integrated Ballistics Information Network, certifies that the ballistics system used by the Department of Justice is sufficiently developed to support mandatory ballistics testing of new firearms.

(2) BALLISTICS TESTING.—Section 923(m)(1) of title 18, United States Code, as added by subsection (a), shall take effect 2 years after the date of enactment of this Act.

(3) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(4) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 5. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, Mr. LUGAR, and Mr. DURBIN):

S. 470. A bill to extend the authority for the construction of a memorial to Martin Luther King, Jr; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, I am pleased to join today with Senators WARNER, LUGAR, MIKULSKI and DURBIN in introducing legislation that would extend the legislative authority for the Martin Luther King, Jr. Memorial for an additional three years. The monument to Martin Luther King, Jr., which will be built on the Mall, will honor one of this Nation's most treasured citizens. Dr. King challenged us to live by the principles set forth at this Nation's inception, and forever changed the fabric of this country.

Despite the enormous dedication of the Martin Luther King, Jr. National Memorial Project Foundation, Inc., additional time is necessary for the Foundation to erect a fitting tribute to Dr. King. The Commemorative Works Act currently requires that construction of the Memorial begin by November 2003. However, meeting the administrative procedures and fundraising requirements of the Act has been a very slow process.

On November 12, 1996, legislation was enacted authorizing construction of the Memorial within a seven-year period. It then took Congress another two years to pass legislation authorizing placement of the Memorial in Area I of the Capital. Then the Foundation worked with the National Capital Planning Commission and the Commission for Fine Arts for over a year to locate an appropriate site for the Memorial within Area I. As a result, the Foundation was unable to select a design for the Memorial until September 2000.

This consultative process has been challenging, but it has resulted in a design for a Memorial on the Tidal Basin that will fittingly reflect the legacy of the greatest civil rights leader of our time. Initial estimates indicate that the construction costs of the Memorial alone could be as much as $60 million, and the Foundation is actively engaged in fundraising for the Memorial. However, it does not expect to have the necessary funds to receive the construction permit by the deadline of November 2003 as dictated by the Commemorative Works Act. One hundred percent of the funding must be privately financed, and the total cost of the project could near $100 million. Our legislation would give the Foundation an additional three years to raise the necessary funds to obtain the construction permit, and would ensure that work on the Memorial is completed. This extension of legislative authority has been done before for other memorials, given the length of time it usually takes to embark on a project of this magnitude, and it should be done for the Martin Luther King, Jr. Memorial.

Dr. King serves as a reminder that change is brought about most powerfully when it is done by non-violent means. This country owes much to Dr. King, most notably his legacy of non-violent protest that has informed and influenced subsequent rights campaigns in our nation. Visitors will come to the Memorial from every part of this country and indeed the world, to be inspired anew by Dr. King's words and deeds, and the extraordinary story of his life. Mr. President, I ask my colleagues to support this important legislation and grant the Foundation the additional time it needs to complete this significant monument.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEMORIAL TO MARTIN LUTHER KING, JR.

Section 508(b) of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4157) is amended—

(1) by striking "The establishment" and all that follows through the period at the end and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the establishment of the memorial shall be in accordance with chapter 89 of title 40, United States Code."; and

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

"(2) EXCEPTION.—Notwithstanding section 8903(e) of title 40, United States Code, the authority provided by this section terminates on November 12, 2006.".

By Mr. FEINGOLD (for himself, Mrs. BOXER, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 473. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, today I am introducing important legislation to affirm Federal jurisdiction over the waters of the United States. I am pleased to have three members of the Environment and Public Works Committee, the Senator from California, Mrs. BOXER, the Senator from Vermont, Mr. JEFFORDS, and the Senator from Connecticut, Mr. LIEBERMAN, as original cosponsors of this bill.

In the U.S. Supreme Court's January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over non-navigable, intrastate, isolated wetlands, streams, ponds, and other bodies of water.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court's discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters. The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court's decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation's wetlands. An estimate from my home state of Wisconsin suggested that more than 60 percent of the wetlands in my state lost federal protection. Wisconsin is not alone. The National Association of State Wetland Managers has been collecting data from states across the country. For example, Nebraska estimates that it will lose protection for more than 40 percent of its wetlands. Indiana estimates they will lose 31 percent of total wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of protection for 33 percent or more of their freshwater wetlands.

These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the nations ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. Loss of these waters would have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to Federal regulation, the decision also shifts more of the economic burden for regulating wetlands to State and local governments. My home State of Wisconsin has passed legislation to assume the regulation of isolated waters, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide is unclear, confusing, and jeopardizes the migratory birds and other wildlife that depend on these wetlands.

Since 2001, the confusion over the interpretation of the SWANCC decision is growing. On January 15, 2003, the EPA and Army Corps of Engineers published in the Federal Register an Advanced Notice of Proposed Rulemaking raising questions about the jurisdiction of the Clean Water Act. Simultaneously, they released a guidance memo to their field staff regarding Clean Water Act jurisdiction.

The agencies claim these actions are necessary because of the SWANCC case. But both the guidance memo and the proposed rulemaking go far beyond the holding in SWANCC. The guidance took effect right away and has had an immediate impact. It tells the Corps and EPA staff to stop asserting jurisdiction over isolated waters without first obtaining permission from headquarters. Based on this guidance, waters that the EPA and Corps judge to be outside the Clean Water Act can be filled, dredged, and polluted without a permit or any other long-standing Clean Water Act safeguard.

The rulemaking announces the Administration's intention to consider even broader changes to Clean Water Act coverage for our waters. Specifically, the agencies are questioning whether there is any basis for asserting Clean Water Act jurisdiction over additional waters, like intermittent streams. The possibility for a redefinition of our waters is troubling because there is only one definition of the term "water" in the Clean Water Act. The wetlands program, the point source program which stops the dumping of pollution, and the non-point program governing polluted runoff all depend on this definition.

If we don't protect a category of waters from being filled under the wetlands program, we also fail to protect them from having trash or raw sewage dumped in them, or having other activities that violate the Clean Water Act conducted in them as well.

Congress needs to re-establish the common understanding of the Clean Water Act's jurisdiction to protect all waters of the U.S.—the understanding that Congress held when the Act was adopted in 1972—as reflected in the law, legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation does three things, and it is a very simple bill. It adopts a statutory definition of "waters of the United States" based on a longstanding definition of waters in the EPA and Corps of Engineers' regulations. Second, it deletes the term navigable from the Act to clarify that Congress's primary concern in 1972 was to protect the nation's waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent. Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands on all relevant Constitutional grounds, including the Commerce Clause, the Property Clause, the Treaty Clause, and Necessary and Proper Clause.

In conclusion, I am very pleased to have the support of so many environmental and conservation groups, and well as organizations that represent those who regulate and manage our country's wetlands, such as: the Natural Resources Defense Council, Earthjustice, the National Wildlife Federation, Sierra Club, American Rivers, the National Audubon Society, U.S. Public Interest Research Group, Defenders of Wildlife, the Ocean Conservancy, Trout Unlimited, the Izaac Walton League, and the Association of State Floodplain Managers. They know, as I do, that we need to re-affirm the federal government's role in protecting our water. This legislation is a first step in doing just that.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Water Authority Restoration Act of 2003".

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To reaffirm the original intent of Congress in enacting the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816) to restore and maintain the chemical, physical, and biological integrity of the waters of the United States.

(2) To clearly define the waters of the United States that are subject to the Federal Water Pollution Control Act.

(3) To provide protection to the waters of the United States to the fullest extent of the legislative authority of Congress under the Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) Water is a unique and precious resource that is necessary to sustain human life and the life of animals and plants.

(2) Water is used not only for human, animal, and plant consumption, but is also important for agriculture, transportation, flood control, energy production, recreation, fishing and shellfishing, and municipal and commercial uses.

(3) In enacting amendments to the Federal Water Pollution Control Act in 1972 and through subsequent amendment, including the Clean Water Act of 1977 (91 Stat. 1566) and the Water Quality Act of 1987 (101 Stat. 7), Congress established the national objective of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States and recognized that achieving this objective requires uniform, minimum national water quality and aquatic ecosystem protection standards to restore and maintain the natural structures and functions of the aquatic ecosystems of the United States.

(4) Water is transported through interconnected hydrologic cycles, and the pollution, impairment, or destruction of any part of an aquatic system may affect the chemical, physical, and biological integrity of other parts of the aquatic system.

(5) Protection of intrastate waters, along with other waters of the United States, is necessary to restore and maintain the chemical, physical, and biological integrity of all waters in the United States.

(6) The regulation of discharges of pollutants into interstate and intrastate waters is an integral part of the comprehensive clean water regulatory program of the United States.

(7) Small and periodically-flowing streams comprise the majority of all stream channels in the United States and serve critical biological and hydrological functions that affect entire watersheds, including reducing the introduction of pollutants to large streams and rivers, and especially affecting the life cycles of aquatic organisms and the flow of higher order streams during floods.

(8) The pollution or other degradation of waters of the United States, individually and in the aggregate, has a substantial relation to and effect on interstate commerce.

(9) Protection of the waters of the United States, including intrastate waters, is necessary to prevent significant harm to interstate commerce and sustain a robust system of interstate commerce in the future.

(10) Waters, including wetlands, provide protection from flooding, and draining or filling wetlands and channelizing or filling streams, including intrastate wetlands and streams, can cause or exacerbate flooding, placing a significant burden on interstate commerce.

(11) Millions of people in the United States depend on wetlands and other waters of the United States to filter water and recharge surface and subsurface drinking water supplies, protect human health, and create economic opportunity.

(12) Millions of people in the United States enjoy recreational activities that depend on intrastate waters, such as waterfowl hunting, bird watching, fishing, and photography and other graphic arts, and those activities and associated travel generate billions of dollars of income each year for the travel, tourism, recreation, and sporting sectors of the economy of the United States.

(13) Activities that result in the discharge of pollutants into waters of the United States are commercial or economic in nature.

(14) States have the responsibility and right to prevent, reduce, and eliminate pollution of waters, and the Federal Water Pollution Control Act respects the rights and responsibilities of States by preserving for States the ability to manage permitting, grant, and research programs to prevent, reduce, and eliminate pollution, and to establish standards and programs more protective of a State's waters than is provided under Federal standards and programs.

(15) Protecting the quality of and regulating activities affecting the waters of the United States is a necessary and proper means of implementing treaties to which the United States is a party, including treaties protecting species of fish, birds, and wildlife.

(16) Protecting the quality of and regulating activities affecting the waters of the United States is a necessary and proper means of protecting Federal land, including hundreds of millions of acres of parkland, refuge land, and other land under Federal ownership and the wide array of waters encompassed by that land.

(17) Protecting the quality of and regulating activities affecting the waters of the United States is necessary to protect Federal land and waters from discharges of pollutants and other forms of degradation.

SEC. 4. DEFINITION OF WATERS OF THE UNITED STATES.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (8) through (23) as paragraphs (7) through (22), respectively; and

(3) by adding at the end the following:

"(23) WATERS OF THE UNITED STATES.—The term 'waters of the United States' means all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of Congress under the Constitution.".

SEC. 5. CONFORMING AMENDMENTS.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended—

(1) by striking "navigable waters of the United States" each place it appears and inserting "waters of the United States";

(2) in section 304(l)(1) by striking "NAVIGABLE WATERS" in the heading and inserting "WATERS OF THE UNITED STATES"; and

(3) by striking "navigable waters" each place it appears and inserting "waters of the United States".

By Mr. THOMAS:

S. 475. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from whole electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I come to the floor to talk about one of the things that is so important. Obviously, items connected with terrorism, the war in Iraq have to be dealt with. We have to deal with heightened homeland security and related issues. Health care is an area we need to talk about. Prescription drugs is in the process of this.

One issue that is particularly important is an energy policy. I don't think there has ever been a time when it has been more apparent and more important to deal with energy policy. We have an economy, prices with gas and energy that are high. We have uncertainty, certainly, in the Middle East. We have had a Venezuelan problem. We had a very cold winter. We cannot seem to come together to put together a policy that will allow us to move forward, an aggressive energy policy. I would like to talk briefly about a component of that which I think is very important, and that is an electric component.

I rise today to introduce the Electric Transmission Reliability and Enhancement Act of 2003. It is my intention to build on a changing wholesale, competitive, open access market and to suggest that we build that into a policy. Things have changed in the way energy is generated, the way energy is transmitted, the way energy is sold. We need to change our policy, as well.

Very simply, what we have is: In years past, there was a generator that generated for their own distribution area. That was pretty simple. Prices were controlled. It was a simple technique. Now we have more and more merchant generators, people who do not have a constituency or distribution system of their own but they sell into the marketplace. This is good. There is competition. And we will see more and more of that. But to do that, we have to update our laws and we have to update the regulations that go with that. My legislation would extend and improve open nondiscriminatory access policies. Access to transmission would remove antiquated Federal barriers that stand in the way of competitive wholesale markets. Wholesale markets that are competitive are new. We have to change to meet those needs. We have to encourage increased investments in our transmission system and establish reliability standards.

We saw what happened in California 2 years ago. If there is no reliability, we cannot depend upon getting that energy to people's homes, to businesses, and then we have a very difficult situation.

Particularly what has changed now is it is interstate. For years we grew up with the fact that in your State the State controlled both the generation and the distribution, and that worked well. Now we go across interstate lines and there needs to be something different.

Legislatively we have to pare down our wish list so we get to the bare essentials and keep those things that are necessary.

It seems clear, if we are going to have a truly wholesale market, we need to ensure that all the industry participants play by the same rules. Only Congress can give FERC, the Federal Energy Regulatory Commission, the tools it needs to ensure that all participants get treated fairly in a competitive marketplace. Under the Federal law, currently FERC has no jurisdiction or authority over transmission owned by public power agencies, municipals, cooperatives, yet they want to participate and need to participate and should participate. Many of them—most—are willing to participate.

These nonregulated utilities represent 52 percent of the total, so we do not want to move forward with FERC's so-called market plan. I think it goes too far getting into the authority of the States. But there are some changes that need to be made, and we would like to do that.

We also need to protect those cooperatives. I grew up in a area of cooperatives and spent much of my life working with cooperatives. So we have given that break. Those that sell less than 4 million megawatt hours per year are entirely exempt. We think that is as it should be.

We would repeal the Public Utility Holding Company Act, PUHCA, because it needs to be restructured and the deployment of capital in this industry needs to go where it is desperately needed. We need to do that. There is ample regulation over those investments now in the existing business. We want to make it easier for people to be able to invest, produce competitively, and go into the marketplace.

The Department of Justice, Federal Trade Commission, and the State commissions would still be able to monitor rates and prevent cross-subsidies. So my legislation would prospectively eliminate mandatory purchase and sales obligations of PURPA, one that was put in a very long time ago. Despite the State administering it, it causes favoritism to many utilities and changes things.

Over the years the grid has been protected through voluntary standards and that is exactly right. But what we are now faced with is to have RTOs, regional transportation organizations, where they can make those decisions within the RTO. There would be a Western one, a Midwestern one, a New England one, and so on. But then connecting with those will be an interstate, like an interstate highway. That has to, of course, be organized and controlled by a national group because it serves all these different ones.

So what we need is to modernize our system so we can accommodate things that have changed. Reliability organizations must be run by market participants and be overseen by FERC. Reliability organizations must be made up of representatives of everyone who is affected: residential, commercial, industrial. That can be done, and this provides an opportunity to do that.

During our discussions last year, we were made to address some of the more egregious behavior and found a great deal of issues that needed to be dealt with—market manipulation, those kinds of things. This is very complex. I believe we can address these issues with regulatory agencies, things that truly can exist.

So my legislation would provide a greater price in the transmission of availability of information and outlaw the practice of roundtrip trading. In the past we found some trading where they went around, got it back, made a profit on the sale, and served no one.

We prohibit the reporting of false information for the purpose of manipulating price indices. Again, we go back a little bit to the California situation, where there obviously is a great need to do some opening up so there is visibility of what is happening. That is what we are seeking to do. It would increase civil and criminal penalties for the violation of the Federal Power Act and would accelerate the effective dates of refunds and so on.

In the end, it is about consumers, it is about serving consumers, it is about competition, it is about reliability, it is about keeping the lights on—the part of energy that probably affects more people and more businesses than any other. It is my hope that the Electric Transmission Reliability Enhancement Act of 2003 will produce a more reliable, efficient transmission system, a more dependable and more affordable product for the end user, and perhaps more than anything else, bring our system and our oversight into the modern time of electric generation and transmission.

Things change. We need to change. Now is the time. We will have an energy bill. It needs to have an energy component.

Mr. President, any comprehensive energy bill must contain an electric component. That is why, today, I rise to introduce the "Electric Transmission and Reliability Enhancement Act of 2003." It is my intention to build on the competitive wholesale open access policies adopted by the Congress in the 1992 Energy Policy Act. My legislation would extend and improve these open, non-discriminatory access policies; remove antiquated federal statutory barriers that stand in the way of competitive wholesale markets; encourage increased investment in our transmission system and establish enforceable reliability standards to help ensure the continued reliability of the interstate transmission system.

The state of the industry is far weaker financially than it has been in years. Billions of dollars of shareholder value has evaporated. Access to capital is becoming an important issue for large segments of the industry that are fighting for survival. In addition, the Federal Energy Regulatory Commission, FERC, policy regarding wholesale markets seems to be in a state of constant change. The Standard Market Design, SMD, Notice of Proposed Rulemaking, NOPR, has divided regulators and industry participants in a way that may be unprecedented, threatening more years of rulemakings, litigation and regulatory uncertainty.

If we are to legislate successfully, we will have to par down our wish list to the bare essentials, plus those issues necessary for the electric industry to attract the capital it needs to keep our lights on. Last year, the Enron fallout dominated the debate. By being on the defensive most of last year, it was not possible to successfully advance those issues most important to consumers and the industry that serves them.

It seems clear that if truly competitive wholesale markets are to exist, there is a need to ensure that all industry participants play by the same rules. While FERC has tried to ensure this, the Commission's tools are limited. Only Congress can give FERC the tools it needs to ensure that all industry participants in competitive wholesale markets play by the same rules.

The Wyoming State commissioners wrote that "under present Federal law the FERC has no jurisdiction or authority over transmission facilities owned by public power agencies, municipalities and cooperatives. In the West these types of entities own a substantial portion, perhaps as much as half of the interstate electric transmission system." As a matter of fact, in the Western Electric Coordinating Council, an area that encompasses all or part of 11 Western States and parts of Canada, non-FERC jurisdictional facilities account for 52 percent of transmission miles.

The Wyoming commissioners claim that, "without the full participation of all of those who own transmission in the West, the FERC's wholesale market initiative will fail to provide the full spectrum of benefits Congress expected when it created wholesale electricity markets. System optimization requires that bulk power be able to move freely throughout the interconnected system without regard to who owns the facilities over which the power travels. Removing the institutional impediments to the free movement of bulk power is also requisite to identifying the physical constraints that exist in the western system. Proper planning for the relief of such constraints depends on properly identifying and quantifying them, absent other economic and institutional constraints."

They go on to say that such a vision for the future of wholesale power markets makes a compelling case for the inclusion of all facilities which can be used to move bulk power across the West, regardless of ownership. Anything less than 100 percent participation by transmission owning entities will simply perpetuate some level of inefficiency in the system and will continue to afford those who do not participate the ability to favor their own generation resources.

My legislation would permit FERC to require certain nonregulated utilities to offer transmission serviced at comparable rates to those they charge themselves, and on terms and conditions comparable to those applicable to jurisdictional public utilities. Currently nonregulated transmitting utilities would not be subject to the full panoply of FERC regulation under this provision. Instead, a "light handed" form of regulation would apply and small nonregulated entities, such as those that sell less than 4,000,000 MW/h per year, would be entirely exempt from these nondiscrimination requirements.

It also seems clear that the Public Utility Holding Company Act PUHCA, is hindering necessary restructuring of the industry and the deployment of capital into an industry that desperately needs it. Investors are deterred simply because they do not want to deal with the PUHCA rules and restrictions. If repealed, utility securities will continue to be regulated by the Securities and Exchange Commission, SEC, FERC and most state commissions. Mergers and acquisitions of jurisdictional assets would still require FERC and state commission approval and review by Department of Justice, DOJ, and the Federal Trade Commission, FTC. FERC and State commissions would still be able to monitor rates and prevent cross-subsidies.

Despite State progress in administering the Public Utility Regulatory Policies Act of 1978, PURPA, more intune with markets, it is clear that PURPA continues to provide special privileges to certain favored generators at the expense of utilities and their customers. Like PUHCA, PURPA is no longer needed in today's competitive wholesale markets. My legislation prospectively eliminates the mandatory purchase and sell obligations of PURPA.

Over the years the grid has been well protected through voluntary standards established by the North American Electric Reliability Council, NERC. NERC's voluntary reliability standards—which are not enforceable—have generally been complied with by the electric power industry. But with the opening of the wholesale power market to competition, our transmission grid is being used in ways for which it was not designed. New system strains are also being created by the breakup of vertically integrated utilities and by the emergence of new market structures and participants. The results of these changes have been an increase in the number and severity of violations of NERC's voluntary rules.

My legislation converts the existing NERC voluntary reliability system into a mandatory reliability system. A nation-wide organization would have the authority to establish and enforce reliability standards, and take into account regional differences. The new reliability organization will be run by market participants, and will be overseen by the FERC in the U.S. The reliability organization will be made up of representatives of everyone who is affected—residential, commercial and industrial consumers; state public utility commissions; independent power producers; electric utilities and others. There is no question that we need a new system to safeguard the integrity of our electric grid. My legislation would do this, using language that was effectively agreed upon last fall by House and Senate conferees for the energy bill.

During discussions last year, efforts were made to address some of the more egregious behavior and attempted market manipulation through legislation. While this area is obviously very complex, I believe that we need to address this issue if regulatory gaps truly do exist. I realize my attempt might not be perfect, but I wanted to initiate discussion on this very important topic if, in fact, regulatory agencies do need additional authority to police and monitor the industry.

My legislation will provide greater price and transmission availability information, outlaw the practice of round trip trading and prohibit reporting of false information for the purpose of manipulating price indices. In addition, I've included authority the FERC has requested and that would increase civil and criminal penalties for violation of the Federal Power Act and accelerate the refund effective date to the date of filing of a complaint.

In the end it's about the consumer. It is my hope and vision that the "Electric Transmission and Reliability and Enhancement Act of 2003" I am introducing today will produce a more reliable and efficient transmission system and that these improvements will result in a more dependable and affordable product for the end user. This legislation is the best solution to move forward with a better product for all classes of consumers and the industry as a whole.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electric Transmission and Reliability Enhancement Act of 2003".

TITLE I—TRANSMISSION IMPROVEMENT

SEC. 101. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

"(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(d) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under 211.

"(f) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(g) For purposes of this subsection, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

"(2) is either an entity described in section 201(f) or a rural electric cooperative.".

SEC. 102. FEDERAL AGENCY COORDINATION.

The Department of Energy shall be the lead agency for conducting environmental review (for purposes of the National Environmental Policy Act of 1969) of the establishment and modification of electric power transmission corridors across federal lands. The Secretary of Energy shall coordinate with Federal agencies, including Federal land management agencies, to ensure the timely completion of environmental reviews pertaining to such corridors and may set deadlines for the completion of such reviews. For purposes of this section, the term "Federal land management agencies" means the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, and the Department of Defense. For purposes of this section, "Federal lands" means all lands owned by the United States except lands in the National Park System or the national wilderness preservation system, or such other lands as the President may designate.

SEC. 103. PRIORITY FOR RIGHTS-OF-WAY ACROSS FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding the following new subsection at the end thereof:

"(e) In administering the provisions of this title, the Secretary of the Interior and the Secretary of Agriculture shall each shall give a priority to applications for rights of way for electric power transmission corridors.".

SEC. 104. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting the following new section at the end thereof:

"SEC. 215. ELECTRIC RELIABILITY

"(a) DEFINITIONS.—For purposes of this section—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) Certification.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization (ERO). The Commission may certify one such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system;

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d) Reliability Standards.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) Enforcement.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the Electric Reliability Organization files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the Electric Reliability Organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the Electric Reliability Organization for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall establish regulations directing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by an independent, balanced stakeholder, or combination independent and balanced stakeholder board;

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) Changes in Electricity Reliability Organization Rules.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or compliant, may propose a change to the rules of the Electric Reliability Organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminary or preferential, is in the public interest, and satisfies the requirements of subsection(c).

"(g) Reliability Reports.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) Coordination With Canada and Mexico.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the Electric Reliability Organization in the United States and Canada or Mexico.

"(i) Savings Provisions.—(1) The Electric Reliability Organization shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the Electric Reliability Organization or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

‘‘(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

‘‘(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the Electric Reliability Organization.

‘‘(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

‘‘(j) Regional Advisory Bodies.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

‘‘(k) Application to Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.’’.

TITLE II—ELIMINATION OF COMPETITIVE BARRIERS

Subtitle A—Provisions Regarding the Public Utility Holding Company Act of 1935

SEC. 201. DEFINITIONS.

For the purpose of this subtitle:

(1) The term ‘‘affiliate’’ of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term ‘‘associate company’’ of a company means any company in the same holding company system with such company.

(3) The term ‘‘Commission’’ means the Federal Energy Regulatory Commission.

(4) the term ‘‘company’’ means a corporation, partnership, association, joint stock company, business rust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term ‘‘electric utility company’’ means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The term ‘‘exempt wholesale generator’’ and ‘‘foreign utility company’’ have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ‘‘gas utility company’’ means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) the term ‘‘holding company’’ means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such persons be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term ‘‘holding company system’’ means a holding company, together with its subsidiary companies.

(10) The term ‘‘jurisdictional rates’’ means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term ‘‘natural gas company’’ means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term ‘‘person’’ means an individual or company.

(13) The term ‘‘public utility’’ means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ‘‘public utility company’’ means an electric utility company or a gas utility company.

(15) The term ‘‘State commission’’ means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term ‘‘subsidiary company’’ of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term ‘‘voting security’’ means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 202. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a and following) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 203. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) Affiliate Companies.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) Holding Company Systems.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) Confidentiality.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 204. STATE ACCESS TO BOOKS AND RECORDS.

(a) In General.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) Effect on State Law.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 205. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later 90 days after the date of enactment of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 203 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

SEC. 206. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commissioner or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.

SEC. 207. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 208. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 209. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 210. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a and following) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 and following) (including section 8 of that Act).

SEC. 211. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this Act, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implements this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 212. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 213. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this Act.

SEC. 214. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

SUBTITLE B—PROVISIONS REGARDING THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

SEC. 215. PROSPECTIVE REPEAL OF SECTION 210.

(a) NEW CONTRACTS.—After the date of enactment of this Act, no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electric energy or capacity pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3).

(b) EXISTING RIGHTS AND REMEDIES NOT AFFECTED.—Nothing in this Act affects the rights or remedies of any party with respect to the purchase or sale of electric energy or capacity from or to a facility determined to be a qualifying small power production facility or a qualifying cogeneration facility under section 210 of the Public Utility Regulatory Policies Act of 1978 pursuant to any contract or obligation to purchase or to sell electric energy or capacity in effect on the date of enactment of this Act, including the right to recover the costs of purchasing such electric energy or capacity.

SEC. 216. RECOVERY OF COSTS.

In order to assure recovery by electric utilities purchasing electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this Act, of all costs associated with such purchases, the Commission shall promulgate and enforce such regulations as may be required to assure that no such electric utility shall be required directly or indirectly to absorb the costs associated with such purchases from a qualifying facility. Such regulations shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a–825r).

SEC. 217. DEFINITIONS.

For purposes of this subtitle, the terms "Commission", "electric utility", "qualifying cogeneration facility", and "qualifying small power production facility", shall have the same meanings as provided in the Public Utility Regulatory Policies Act of 1978, and the term "qualifying facility" shall mean either a qualifying small production facility or a qualifying cogeneration facility as defined in such Act.

TITLE III—MARKET TRANSPARENCY, ANTIMANIPULATION AND ENFORCEMENT

SUBTITLE A—MARKET TRANSPARENCY, ANTI-MANIPULATION AND ENFORCEMENT

SEC. 301. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding after section 215 as added by this Act the following:

"SEC. 216. MARKET TRANSPARENCY RULES.

"(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide statistical information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissioners, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

"(b) INFORMATION REQUIRED.—The Commission shall require—

"(1) each regional transmission organization or, where no regional transmission organization is operating, each transmitting utility to provide information about the available capacity of transmission facilities operated by the organization or transmitting utility; and

"(2) each regional transmission organization or broker or exchange to provide aggregate information about the amount and price of physical sales of electric energy at wholesale in interstate commerce it transacts.

"(c) DEFINITION.—For purposes of this section, the term 'broker or exchange' means an entity that matches offers to sell and offers to buy physical sales of wholesale electric energy in interstate commerce.

"(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market.".

SEC. 302. MARKET MANIPULATION.

(a) Part II of the Federal Power Act is amended by adding after section 216 as added by this Act the following:

"SEC. 217. PROHIBITION ON FILING FALSE INFORMATION.

"It shall be a violation of this Act for any person willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person knew to be false at the time of the reporting, to any governmental or nongovernmental entity and with the intent to manipulate the date being compiled by such entity.".

"SEC. 218. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—It shall be a violation of this Act for any person willfully and knowingly to enter into any contract or other arrangement to execute a "round-trip trade" for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION OF ROUND-TRIP TRADE.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.".

SEC. 303. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting "electric utility," after "Any person,"; and

(2) inserting "transmitting utility," after "license" each place it appears.

(b) INVESTIGATIONS—Section 307(a) of the Federal Power Act (16 U.S.C. 825f((a)) is amended by inserting "or transmitting utility" after "any person" in the first sentence.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "Any person," in the first sentence.

(d) CRIMINAL PENALTIES—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1 is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

SUBTITLE B—REFUND EFFECTIVE DATE

SEC. 304. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) striking "60 days after" in the third sentence and inserting "of";

(3) striking "expiration of such 60-day period" in the third sentence and inserting "publication date"; and

(4) striking the fifth sentence and inserting in lieu thereof: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. DAYTON):

S. 477. A bill to amend the Internal Revenue Code of 1986 to disallow deductions and credits for companies who discriminate against Canadian pharmacies that pass along discounts to consumers living in the United States; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation on behalf of Wisconsin's seniors and taxpayers whose wallets are being gauged by certain pharmaceutical companies. My legislation is in response to certain pharmaceutical companies' decision to target seniors who are crossing into Canada to get more affordable prescription drugs for their own use.

If these pharmaceutical companies are going to price gauge seniors's wallets, they don't deserve the taxpayers' support.

A growing number of American seniors are obtaining their prescription drugs from Canada for personal use.

Unfortunately, many of these seniors who are crossing the boarder to access more affordable prescription drugs for their personal use are being targeted by the very pharmaceutical companies that receive millions in tax breaks.

I recently received a call from seniors in my state that Glaxo Smith Klein had decided to stop supplying Canadian pharmacies that resell its drugs to Americans, thereby preventing them from receiving the same benefits these pharmacies provide to Canadians.

The Seniors in my State were not the only ones who took notice of this action. On February 21st of this month, Seniors groups from 12 States, including Wisconsin, sent Glaxo a message by launching a boycott of nonprescription products of Glaxo-Smith-Kline.

Congress should also send all pharmaceutical companies a message that this practice simply is unacceptable.

I think the single most important step we can take is to modernize Medicare and make it better is to eliminate the current inequities in the Medicare system and provide the prescription drug coverage senior citizens need.

At the same time Congress should pass legislation, that Senators SCHUMER, MCCAIN, and I introduced that would bring lower-cost generic drugs to the market faster and lower the cost of prescription drugs by $60 billion.

Until we pass a comprehensive prescription drug benefit, we must ensure that seniors are not targeted by pharmaceutical companies. If these drug companies actively discriminate against American seniors, we should not provide them tax breaks.

That's why my legislation would deny tax breaks to drug companies who discriminate against Canadian pharmacies that provide Americans the same discount that they provide to Canadians.

I urge my colleagues to join me in cosponsoring this legislation.

By Mr. SARBANES (for himself, Mr. WARNER, Mrs. MURRAY, Mr. CAMPBELL, Mrs. HUTCHISON, Mrs. CLINTON, Mr. SESSIONS, and Mr. MILLER):

S. 478. A bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes; to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am once again introducing legislation together with Senators WARNER, CAMPBELL, MURRAY, CLINTON, SESSIONS, HUTCHISON and MILLER which would grant a Federal Charter to the Korean War Veterans Association, Incorporated. This legislation, which has passed the Senate in the past two Congresses, recognizes and honors the 5.7 million Americans who fought and served during the Korean War for their struggles and sacrifices on behalf of freedom and the principles and ideals of our nation.

For the past three years, under the direction of Public Law 105–85, we have been marking the 50th Anniversary of the events of the Korean War—beginning with the events of June 1950 when the North Korea People's Army swept across the 38th Parallel to occupy Seoul, South Korea. Members of our Armed Forces—including many from the State of Maryland—immediately answered the call of the U.N. to repel this forceful invasion. Without hesitation, these soldiers traveled to an unfamiliar corner of the world to join an unprecedented multi-national force comprised of 22 countries and risked their lives to protect freedom. The Americans who led this international effort were true patriots who fought with remarkable courage.

In battles such as Pork Chop Hill, the Inchon Landing and the frozen Chosin Reservoir, which was fought in temperatures as low as fifty-seven degrees below zero, they faced some of the most brutal combat in history. This year, on July 27, we will commemorate the 50th Anniversary of the signing of the Military Armistice Agreement which officially ended armed hostilities. By the time the fighting had ended, 8,177 Americans were listed as missing or prisoners of war—some of whom are still missing—and over 36,000 Americans had died. One hundred and thirty-one Korean War Veterans were awarded the nation's highest commendation for combat bravery, the Medal of Honor. Ninety-four of these soldiers gave their lives in the process.

There is an engraving on the Korean War Veterans Memorial which reflects these losses and how brutal a war this was. It reads, "Freedom is not Free." Yet, as a Nation, we have done little more than establish this memorial to publicly acknowledge the bravery of those who fought in the Korean War. The Korean War has been termed by many as the "Forgotten War." Freedom is not free. We owe our Korean War Veterans a debt of gratitude. Granting this Federal charter—at no cost to the government—is a small expression of appreciation that we as a Nation can offer to these men and women, one which will enable them to work as a unified front to ensure that the "Forgotten War" is forgotten no more.

The Korean War Veterans Association was originally incorporated on

June 25, 1985. Since its first annual reunion and memorial service in Arlington, Virginia, where its members decided to develop a national focus and strong commitment to service, the association has grown substantially to a membership of approximately 19,000. A Federal charter would allow the Association to continue and grow its mission and further its charitable and benevolent causes. Specifically, it will afford the Korean War Veterans' Association the same status as other major veterans organizations and allow it to participate as part of select committees with other congressionally chartered veterans and military groups. A Federal charter will also accelerate the Association's "accreditation" with the Department of Veterans Affairs which will enable its members to assist in processing veterans' claims.

The Korean War Veterans have asked for very little in return for their service and sacrifice. I urge my colleagues to join me in supporting this legislation and ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]"; and

(2) by inserting the following:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Duty to maintain corporate and tax-exempt status.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.

"§ 120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), incorporated in the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are as provided in its articles of incorporation and include—

"(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

"(2) providing a means of contact and communication among members of the corporation;

"(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

"(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

"§ 120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"§ 120107. Duty to maintain corporate and tax-exempt status

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

"1201. Korean War Veterans Association, Incorporated ....120101".

By Mr. EDWARDS:

S. 479. A bill to amend title IV of the Higher Education Act of 1965 to provide grants for homeland security scholarships; to the Committee on Health, Education, Labor, and Pensions.

Mr. EDWARDS. Mr. President, I rise today to introduce the Protect America Scholarships Act of 2003. The Act will draw talented young people into professions that are vital to America's security and that are critically short of expertise. It offers college students a simple deal: If you'll serve for five years, we'll pay for your college.

The reason for this law is simple. Our country continues to have tremendous homeland security needs. We have thousands of important jobs that we aren't filling because we don't have the qualified people. And we have thousands of young people who are looking to serve their country, and who are also looking for ways to pay for college.

So this bill puts together the needs of our country and the idealism of our young people. It says that young people who commit to meeting priority homeland security needs will get money for college in return.

Let me give three examples of professions where this bill can make a real difference.

First, our public health system suffers from a shortage of trained professionals who can contribute to the fight against terrorism. Too few medical professionals are trained to diagnose and treat diseases caused by biological agents. Public health laboratories don't have the capacity to test all the specimens suspected of being biological agents. Local governments need as many as 15,000 new public health preparedness employees. And despite the central role of nurses in responding should terrorists attack with chemical or biological weapons, there are more than 126,000 unfilled nursing positions today. There are special roles in all of these professions that trained young people could fill in important ways.

Second, the federal government faces a critical shortage of policymakers and intelligence analysts with expertise in foreign languages and cultures. The General Accounting Office has reported that the FBI's efforts to combat terrorism have been impeded by a lack of qualified translators. Thousands of hours of audiotapes and pages of written material have not been reviewed or translated. Similarly, the U.S. Department of State reports that lack of language fluency has weakened its fight against international terrorism and drug trafficking.

A third area where we need more people is fighting cyberterrorism. We now live in a world where a terrorist can do as much damage with a keyboard and a modem as with a gun or a bomb. By exploiting computer vulnerabilities, terrorists might be able to shut down power for entire cities for extended periods; disrupt our phones; poison our water; erase financial records; paralyze our police, firefighters, and ambulances; and stop all traffic on the Internet. Yet our workforce specializing in cybersecurity remains inadequate. The federal government has especially serious shortages. These vulnerabilities leave our Federal agencies exposed to hackers, system shutdowns, and cyberterrorists.

By offering up to **$10,000** in college tuition, the Protect America Scholarships Act will harness the patriotism and determination of a new generation of Americans to urgent national priorities. The federal government and a growing number of states, including North Carolina, use similar programs to recruit teachers successfully. The recent Hart-Rudman report identified student loan debt burdens as a particular obstacle to attracting young adults into public service.

The safety of the American people depends on the millions of people working to protect them. Today's bill will help recruit more talented Americans to professions needed to defend our nation. I hope it will earn the support of my colleagues.

I request unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protect America Scholarships Act of 2003".

SEC. 2. GRANTS AUTHORIZED.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Homeland Security Scholarships

"SEC. 420K. PURPOSES.

"The purposes of this subpart are—

"(1) to recruit talented young people to professions that are needed to ensure the Nation's homeland security; and

"(2) to make college education more affordable.

"SEC. 420L. DEFINITIONS.

"In this subpart:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership between—

"(A) an institution of higher education (or consortium of such institutions); and

"(B) a qualified employer (or consortium of such employers).

"(2) ELIGIBLE STUDENT.—The term 'eligible student' means an individual who—

"(A)(i) is enrolled as a full- or part-time student at an institution of higher education with a qualified academic major or program; or

"(ii) has been accepted for enrollment at an institution of higher education and intends to major in a qualified academic major or program;

"(B) submits an application for a scholarship under this subpart; and

"(C) submits a written contract, prior to receiving assistance, accepting payment of a scholarship in exchange for providing qualified service.

"(3) QUALIFIED ACADEMIC MAJOR OR PROGRAM.—

"(A) IN GENERAL.—The term 'qualified academic major or program' means an academic major or program of study designated by the Secretary for each State in an annual notice in the Federal Register that—

"(i) prepares students in such majors or programs for a career that—

"(I) is primarily related to homeland security;

"(II) requires specialized expertise; and

"(III) suffers from a critical shortage of qualified personnel; and

"(ii) is a—

"(I) national priority, as determined by the Secretary in consultation with the Secretary of Homeland Security; or

"(II) State priority, as determined by the chief executive officer in the State in which the student seeking a scholarship under this subpart—

"(aa) graduated from secondary school; or

"(bb) is enrolled at an institution of higher education.

"(B) CONTINUATION OF QUALIFICATION.—An academic major or program of study designated by the Secretary under subparagraph (A) shall continue to be considered a qualified academic major or program for a student if such academic major or program of study was a qualified academic major or program at the time such student commenced study of such major or program of study.

"(4) QUALIFIED EMPLOYER.—The term 'qualified employer' means—

"(A) a nonprofit organization; or

"(B) a public agency.

"(5) QUALIFIED SERVICE.—

"(A) IN GENERAL.—The term 'qualified service' means full-time employment with the qualified employer of the eligible entity that awarded the eligible student a scholarship or with another qualified employer (consistent with the guidelines issued by the Secretary pursuant to subparagraph (B)), for a period of 2 years for the first year of a scholarship award and an additional 1 year for each additional year of a scholarship award, in a position that—

"(i) is primarily related to homeland security;

"(ii) requires specialized expertise related to the qualified academic major or program of the eligible student; and

"(iii) suffers from a critical lack of qualified personnel.

"(B) SERVICE WITH DIFFERENT EMPLOYER.—The Secretary shall issue guidelines describing when employment may be completed with a qualified employer who is not the qualified employer of the eligible entity that awarded the eligible student a scholarship.

"SEC. 420M. GRANTS TO ELIGIBLE ENTITIES.

"(a) IN GENERAL.—From funds appropriated under section 420O, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the entities to award scholarships to eligible students in exchange for qualified service from such students.

"(b) APPLICATION.—An eligible entity that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) USE OF GRANT FUNDS.—

"(1) SCHOLARSHIP AWARDS.—An eligible entity that receives a grant under this subpart shall award scholarships to eligible students in exchange for qualified service from such students.

"(2) APPLICATION FORM.—An eligible entity that receives a grant under this subpart shall create an application form for a student desiring to receive a scholarship under this subpart, and include in such form a summary of the rights and liabilities of a student whose application is approved (and whose contract is accepted) by the eligible entity.

"(3) CONTRACT.—

"(A) IN GENERAL.—An eligible entity that receives a grant under this subpart shall prepare a written contract that shall be provided to a student desiring to receive a scholarship under this subpart at the time that an application is provided to such student.

"(B) CONTENT.—The contract described in subparagraph (A) shall be an agreement between the eligible entity and student that states that, subject to subparagraph (C)—

"(i) the eligible entity agrees to provide the student with a scholarship, that may be renewed in each year of study at the institution of higher education for a total of not more than 4 years; and

"(ii) the student agrees to—

"(I)(aa) accept provision of such a scholarship to the student;

"(bb) maintain enrollment in the qualified academic major or program until the student completes the course of study at the institution of higher education;

"(cc) while enrolled in such qualified academic major or program, maintain an acceptable level of academic standing (as determined by the institution of higher education); and

"(dd) provide qualified service; and

"(II) repay the scholarship under the terms of this subpart if the student fails to comply with the requirements of subclause (I).

"(C) LIMITATION.—The contract described in subparagraph (A) shall contain a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the student which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart.

"(4) INFORMATION ON SCHOLARSHIP RECIPIENTS.—An eligible entity that receives a grant under this subpart shall submit a report to the Secretary at the time a scholarship award is provided to an eligible student identifying—

"(A) such student's name, date of birth, and social security number; and

"(B) the amount of such scholarship.

"(d) MATCHING FUNDS.—An eligible entity receiving Federal assistance under this subpart shall contribute non-Federal matching funds in an amount equal to 50 percent of the amount of Federal assistance.

"(e) DURATION OF GRANT.—Grants awarded under this subpart shall be for a term of 5 years.

"SEC. 420N. SCHOLARSHIPS.

"(a) SUBMISSION OF APPLICATION AND WRITTEN CONTRACT.—A student that desires to receive a scholarship under this subpart shall submit an application and written contract to an eligible entity at such time, in such manner, and containing such information as the eligible entity may require.

"(b) PAYMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), a scholarship provided to an eligible student under this subpart for a school year shall consist of payment to, or (in accordance with paragraph (3)) on behalf of, the eligible student of the amount of the tuition and fees, described in section 472(1), of the eligible student in such school year.

"(2) MAXIMUM SCHOLARSHIP AMOUNT.—A scholarship awarded under this subpart during fiscal year 2004 shall not exceed $10,000. The Secretary shall determine the maximum scholarship amount for each succeeding fiscal year after adjusting for inflation.

"(3) CONTRACT.—The Secretary may contract with an institution of higher education, in which an eligible student is enrolled, for the payment to the institution of higher education of the amounts of tuition and fees described in paragraph (1).

"(c) VERIFICATION OF QUALIFIED SERVICE.—

"(1) DOCUMENTATION.—

"(A) FROM ELIGIBLE STUDENT.—An eligible student that receives a scholarship under this subpart shall submit documentation to the eligible entity that awarded the student the scholarship, under standards and procedures determined by the eligible entity, verifying that the student has completed such student's qualified service.

"(B) FROM ELIGIBLE ENTITY.—An eligible entity that receives a grant under this subpart shall submit documentation to the Secretary by a date specified by the Secretary and under standards and procedures determined by the Secretary, verifying that each eligible student awarded a scholarship under this subpart has completed such student's qualified service.

"(2) ROLE OF SECRETARY.—If the Secretary does not receive satisfactory documentation under paragraph (1)(B) by the date specified by the Secretary, then the Secretary shall collect the scholarship amount determined under paragraph (3) as a loan under the terms and conditions for repayment of loans under part B (including provisions under such part that provide for loan repayment over time).

"(3) BREACH OF AGREEMENT.—Subject to paragraph (4), if an eligible student receives a scholarship under this subpart and agrees to provide qualified service in consideration for receipt of the scholarship, the eligible student is liable to the Federal Government for the amount of such award, for interest on such amount at the rate applicable at the time of noncompliance for Stafford loans under section 427A, and for reasonable collections costs, if the eligible student fails to submit the documentation required under paragraph (1)(A).

"(4) WAIVER OR SUSPENSION OF LIABILITY.—The Secretary shall waive liability under paragraph (3) if—

"(A) the student subsequently demonstrates that such student has provided qualified service;

"(B) the student suffers death or permanent and total disability;

"(C) the student is unable to complete the program in which such student was enrolled due to the closure of the institution of higher education; or

"(D) the Secretary determines that compliance by the student with the agreement involved is impossible or would involve extreme hardship to such student.

"(5) AMOUNTS TO REMAIN AVAILABLE.—Any amounts collected by the Secretary under this subsection shall remain available for grant awards under this subpart.

"(d) TAX-FREE.—The amount of any scholarship that is received under this subpart shall not, consistent with section 108(f) of the Internal Revenue Code of 1986, be treated as gross income for Federal income tax purposes.

"SEC. 420O. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart—

"(1) $50,000,000 for fiscal year 2004;

"(2) $100,000,000 for fiscal year 2005;

"(3) $150,000,000 for fiscal year 2006; and

"(4) such sums as may be necessary for each of fiscal years 2007 and 2008.".

By Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. KENNEDY, Mr. COCHRAN, Mrs. LINCOLN, Mr. KERRY, Mr. BINGAMAN, Mr. DODD, Mr. BAUCUS, and Mr. EDWARDS):

S. 480. A bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, today I am introducing legislation, the Training for Realtime Writers Act of 2003, on behalf of myself and my colleagues, Senators GRASSLEY, KENNEDY, COCHRAN, LINCOLN, KERRY, BINGAMAN, DODD, and BAUCUS. The 1996 Telecom Act required that all television broadcasts were to be captioned by 2006. This was a much needed reform that has helped millions of deaf and hard-of-hearing Americans to be able to take full advantage of television programing. As of today, it is estimated that 3,000 captioners will be needed to fulfill this requirement, and that number continues to increase as more and more broadband stations come online. Unfortunately, the United States only has 300 captioners. If our country expects to have media fully captioned by 2006, something must be done.

This is an issue that I feel very strongly about because my late brother, Frank, was deaf. I know personally that access to culture, news, and other media was important to him and to others in achieving a better quality of life. More than 28 million Americans, or 8 percent of the population, are considered deaf or hard of hearing and many require captioning services to participate in mainstream activities. In 1990, I authored legislation that required all television sets to be equipped with a computer chip to decode closed captioning. This bill completes the promise of that technology, affording deaf and hard of hearing Americans the same equality and access that captioning provides.

Though we don't necessarily think about it, on the morning of September 11 was a perfect example of the need for captioners. Holli Miller of Ankeny, IA, was captioning for Fox News. She was supposed to do her three and a half hour shift ending at 8:00 a.m. but as we all know, disaster struck. Despite the fact that she had already worked most of her shift and had two small children to care for, Holli Miller stayed right where she was and for nearly five more hours and continued to caption. Without even the ability to take bathroom breaks, Holli Miller made sure that deaf and hard of hearing people got the same news the rest of us got on September 11. I want to personally say thank you to Holli Miller and all the many captioners and other people across the country that made sure all Americans were alert and informed on that tragic day.

But let me emphasize that the deaf and hard of hearing population is only one of a number of groups that will benefit from the legislation. The audience for captioning also includes individuals seeking to acquire or improve literacy skills, including approximately 27 million functionally illiterate adults, 3 to 4 million immigrants learning English as a second language, and 18 million children learning to read in grades kindergarten through 3. In addition, I see people using closed captioning to stay informed everywhere—from the gym to the airport. Captioning helps people educate themselves and helps all of us stay informed and entertained when audio isn't the most appropriate medium.

Although we have a few years to go until the deadline given by the 1996 Telecom Act, our nation is facing a serious shortage of captioners. Over the past five years, student enrollment in programs that train court reporters to become realtime writers has decreased significantly, causing such programs to close on many campuses. Yet the need for these skills continues to rise. That is why my colleagues and I are introducing this vital piece of legislation. The Training for Realtime Writers Act of 2003 would establish competitive grants to be used toward training real time captioners. This is necessary to ensure that we meet our goal set by the 1996 Telecom Act.

I urge my colleagues to review this legislation and I hope they will join us in support and join us in our effort to win its passage. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Training for Realtime Writers Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As directed by Congress in section 723 of the Communications Act of 1934 (47 U.S.C. 613), as added by section 305 of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 126), the Federal Communications Commission adopted rules requiring closed captioning of most television programming, which gradually require new video programming to be fully captioned beginning in 2006.

(2) More than 28,000,000 Americans, or 8 percent of the population, are considered deaf or hard of hearing, and many require captioning services to participate in mainstream activities.

(3) More than 24,000 children are born in the United States each year with some form of hearing loss.

(4) According to the Department of Health and Human Services and a study done by the National Council on Aging—

(A) 25 percent of Americans over 65 years old are hearing impaired;

(B) 33 percent of Americans over 70 years old are hearing impaired; and

(C) 41 percent of Americans over 75 years old are hearing impaired.

(5) The National Council on Aging study also found that depression in older adults may be directly related to hearing loss and disconnection with the spoken word.

(6) Empirical research demonstrates that captions improve the performance of individuals learning to read English and, according to numerous Federal agency statistics, could benefit—

(A) 3,700,000 remedial readers;

(B) 12,000,000 young children learning to read;

(C) 27,000,000 illiterate adults; and

(D) 30,000,000 people for whom English is a second language.

(7) Over the past 5 years, student enrollment in programs that train court reporters to become realtime writers has decreased significantly, causing such programs to close on many campuses.

SEC. 3. AUTHORIZATION OF GRANT PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall make competitive grants to eligible entities under subsection (b) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 723 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

(b) ELIGIBLE ENTITIES.—For purposes of this Act, an eligible entity is a court reporting program that—

(1) can document and demonstrate to the Secretary of Commerce that it meets minimum standards of educational and financial accountability, with a curriculum capable of training realtime writers qualified to provide captioning services;

(2) is accredited by an accrediting agency recognized by the Department of Education; and

(3) is participating in student aid programs under title IV of the Higher Education Act of 1965.

(c) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary of Commerce shall give a priority to eligible entities that, as determined by the Secretary of Commerce—

(1) possess the most substantial capability to increase their capacity to train realtime writers;

(2) demonstrate the most promising collaboration with local educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(3) propose the most promising and innovative approaches for initiating or expanding training and job placement assistance efforts with respect to realtime writers.

(d) DURATION OF GRANT.—A grant under this section shall be for a period of two years.

(e) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under subsection (a) to an entity eligible may not exceed $1,500,000 for the two-year period of the grant under subsection (d).

SEC. 4. APPLICATION.

(a) IN GENERAL.—To receive a grant under section 3, an eligible entity shall submit an application to the National Telecommunications and Information Administration at such time and in such manner as the Administration may require. The application shall contain the information set forth under subsection (b).

(b) INFORMATION.—Information in the application of an eligible entity under subsection (a) for a grant under section 3 shall include the following:

(1) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(2) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(3) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(4) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(5) A description of how the eligible entity will work with local workforce investment boards to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(6) Additional information, if any, of the eligibility of the eligible entity for priority in the making of grants under section 3(c).

(7) Such other information as the Administration may require.

SEC. 5. USE OF FUNDS.

(a) IN GENERAL.—An eligible entity receiving a grant under section 3 shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(1) recruitment;

(2) subject to subsection (b), the provision of scholarships;

(3) distance learning;

(4) development of curriculum to more effectively train realtime writing skills, and education in the knowledge necessary for the delivery of high-quality closed captioning services;

(5) assistance in job placement for upcoming and recent graduates with all types of captioning employers;

(6) encouragement of individuals with disabilities to pursue a career in realtime writing; and

(7) the employment and payment of personnel for such purposes.

(b) SCHOLARSHIPS.—

(1) AMOUNT.—The amount of a scholarship under subsection (a)(2) shall be based on the amount of need of the recipient of the scholarship for financial assistance, as determined in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk).

(2) AGREEMENT.—Each recipient of a scholarship under subsection (a)(2) shall enter into an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time (as determined by the Administration) that is appropriate (as so determined) for the amount of the scholarship received.

(3) COURSEWORK AND EMPLOYMENT.—The Administration shall establish requirements for coursework and employment for recipients of scholarships under subsection (a)(2), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. Requirements for repayment of scholarship amounts shall take into account the effect of economic conditions on the capacity of scholarship recipients to find work as realtime writers.

(c) ADMINISTRATIVE COSTS.—The recipient of a grant under section 3 may not use more than 5 percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(d) SUPPLEMENT NOT SUPPLANT.—Grant amounts under this Act shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers

SEC. 6. REPORTS.

(a) ANNUAL REPORTS.—Each eligible entity receiving a grant under section 3 shall submit to the National Telecommunications and Information Administration, at the end of each year of the grant period, a report on the activities of such entity with respect to the use of grant amounts during such year.

(b) REPORT INFORMATION.—

(1) IN GENERAL.—Each report of an entity for a year under subsection (a) shall include a description of the use of grant amounts by the entity during such year, including an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers. The assessment shall utilize the performance measures submitted by the entity in the application for the grant under section 4(b).

(2) FINAL REPORT.—The final report of an entity on a grant under subsection (a) shall include a description of the best practices identified by the entity as a result of the

grant for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act, amounts as follows:

(1) $20,000,000 for each of fiscal years 2004, 2005, and 2006.

(2) Such sums as may be necessary for fiscal year 2007.

Mr. GRASSLEY. Mr. President, I am pleased to once again be the lead Republican cosponsor of the "Training for Realtime Writers Act". This legislation that Senator HARKIN and I are introducing today will provide grants for the training of realtime reporters and captioners. While we ran out of time to address this matter in the 107th Congress, I would remind Senators of the looming problem related to a shortage of what are called "realtime writers". Realtime writers are essentially trained court reporters, much like the Official Reporters of Debates here in the Senate, who use a combination of additional specialized training and technology to transform words into text as they are spoken. This can allow deaf and hard of hearing individuals to understand live television as well as follow proceedings at a civic function or in a classroom.

In the Telecommunications Act of 1996, Congress mandated that most television programming be fully captioned by 2006 in order to allow the 28 million Americans who are deaf or hard of hearing to have access to the same news and information that many of us take for granted. Information provides a vital link to the outside world. Americans receive a large amount of their information about what is happening in the world and right in their communities from television. Whether it is an international crisis or a weather warning, information is necessary to fully participate in our society. In order for those who are deaf and hard of hearing to receive the same information as it is broadcast on live television, groups of captions must work around the clock transcribing words as they are spoken.

Currently, video-programming distributers must provide an average of at least 900 hours of captioned programming. Starting in 2005, this will increase to 1350 hours. By 2006, 100 percent of new nonexempt programming must be provided with captions. At the same time, student enrollment in programs that provide essential training in captioning has decreased significantly, with programs closing on many campuses. In order to meet the growing demand for realtime writers caused by this mandate, we must do everything we can to increase the number of individuals receiving this very specialized training.

Our bill will help address the shortage of individuals trained as realtime writers by providing grants to accredited court reporting programs to promote the training and placement of individuals as realtime writers. Specifically, court reporting programs could use these grants for item like recruitment of students for realtime writing programs, need-based scholarships, distance learning, education and training, job placement assistance, the encouragement of individuals with disabilities to pursue a career as a realtime writer, and personnel costs.

The expansion of distance learning opportunities in particular will have an enormous impact by making training accessible to individuals who want to become realtime writers but do not live in metropolitan areas. Also, need based scholarships offered using these grants funds would be subject to an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time.

We must act quickly because the shortage of individuals trained as realtime writers will only grow more severe as the captioning mandate in the 1996 Telecommunications Act continues to take effect. Failure to act could leave the 28 million deaf or hard of hearing Americans without the ability to fully participate in many of the professional, educational, and civic activities that other Americans enjoy. Congress was not able to complete work on this urgent matter before the end of the 107th Congress, so we must redouble our efforts. I would urge all senators to support the swift passage of this legislation.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes; to the Committee on Governmental Affairs.

Mr. ALLEN. Mr. President, I rise today to introduce a bill to fairly assist injured Federal employees. This legislation will adjust Federal employees retirement computations to offset reductions in their retirement arising from on-the-job injuries covered by the Workers Compensation program. I introduced similar legislation last session that was passed by the Senate. I would like to thank my colleague Senator WARNER, the senior Senator from Virginia, for his valuable support in cosponsoring this important effort.

This bill addresses a problem in the retirement program for Federal employees that has been recognized but unresolved since 1986 when the current retirement system was established. Unfortunately, complications arising from the Tax Code and the Workers Rehabilitation Act of 1973 have blocked any solution.

My resolve to address this problem was inspired by Ms. Louise Kurtz, a Federal employee from Virginia who was severely injured in the September 11 attack on the Pentagon. She suffered burns over 70 percent of her body and lost all of her fingers. She has had many painful surgeries and faces additional surgeries in the future. She continues to endure rehabilitation over a year after suffering her injuries, yet still hopes to return to work some day. Current law, however, does not allow Mrs. Kurtz to contribute to her retirement program while she is recuperating and receiving Workers' Compensation disability payments. As a result, after returning to work and eventually retiring, she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation.

As Ms. Kurtz's situation reveals, Federal employee under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor's Office of Workers' Compensation Programs are unable to make contributions or payments into Social Security or the Thrift Savings Plan. Therefore, the future retirement benefits from both sources are reduced.

This legislation offsets the reductions in Social Security and Thrift Savings Plan retirement benefits by increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability.

The passage of this bill ensures that the pensions of our hard-working federal employees will be kept whole during a period of injury and recuperations, especially now that many of them are on the frontlines of protecting our homeland security in this new war on terror. By protecting the retirement security of injured Federal employees, we have provided an incentive for them to return to work and increased our ability to retain our most dedicated and experienced Federal workers. This is a reasonable and fair approach in which the whole Senate acted in a logical and compassionate manner last fall. Let us do so again.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

"(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 2 months of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point."

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107–135), is amended by striking "8415(i)" and inserting "8415(k)".

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

By Ms. COLLINS:

S. 482. A bill to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 483. A bill to authorize the Secretary of the Army to carry out a project for the mitigation of shore damages attributable to the project for navigation, Saco River, Maine; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce two pieces of legislation that will improve the lives of our Nation's fishermen who are struggling to make a living on the sea.

Fishing is more than just a profession in New England. Fishing is a culture and a way of life. This way of life is being threatened, however, by excessive regulation and unnecessary litigation. Despite scientific evidence of a rebound in fish stocks, New England's fishermen are suffering under ever more burdensome restrictions. Everyday, I hear from fishermen who struggle to support their families because they have been deprived of their right to make an honest living on the seas. The "working waterfronts" of our communities are in danger if disappearing, likely to be replaced by development. When that happens, a part of Maine's heritage is lost forever.

Today, I am introducing a package of amendments to the Magnuson-Stevens Act that will deliver a resource management strategy that is balanced, responsive, and sensible. It recognizes the fishermen's strong commitment to conserving the stocks, and acknowledges fishermen as partners in fisheries management.

The Fisheries Science and Management Improvement Act of 2003 will address much needed improvements in the science and regulatory standards of fisheries management. The Nation's fisheries management system, as it is currently designed, is broken. If anyone doubts this is the case, I want to point out that more than 100 lawsuits are currently pending against the Department of Commerce involving fisheries management plans.

Litigation is no way to manage one of our Nation's most important ecological and economic resources. The fact is, the courts are simply not well-suited to making biological and regulatory decisions. Fisheries management is best left to those who know the subject best: the fishermen, scientists, and regulators working together cooperatively.

No one in the country knows this better than New England groundfishermen. Over the last two years, a court case has thrown New England's groundfishing industry into a crisis. The case ended when a Federal judge ordered severe restrictions on groundfishing, including a 20-percent cut in Days-at-Sea. The effect of this court order has been simply catastrophic for New England's groundfishing industry—an industry made up of small, independently-owned, and often family-owned, businesses.

These severe restrictions were ordered despite the fact that the science clearly demonstrates that the biomass for New England groundfish has increased every year since 1996. If the biomass is increasing, and the stock is clearly rebuilding, it makes no sense to enforce an arbitrarily structured and unscientifically based timeframe on the rebuilding process. This is especially true when the survival of a culture is at stake.

My legislation would inject consistency and common-sense standards into the fisheries management process: it addresses the importance of solid and reliable science in fisheries management. It strengthens the definition of "best scientific information available" and requires scientific data, including all stock assessments, to be peer-reviewed and to include the consideration of anecdotal information gathered from the people who know fishing best—the fishermen themselves. My bill ensures that the process of rebuilding stocks is based on rational and comprehensive science. Under current law, when fisheries are classified as overfished, the Councils are required to implement rebuilding plans to attain a historic high level of abundance within ten years, regardless of whether or not the current state of the marine environment can sustain such an abundance level. My bill redefines the concept of "overfishing" to take into consideration natural fluctuations in the marine environment. It also eliminates the ten-year rebuilding requirement—a requirement that has no foundation in science—and requires rebuilding periods to take into consideration the biology of the fish stock and the economic impact on fishing communities.

The legislation also addresses problems with the current conception of Essential Fish Habitat. Currently, the entire Exclusive Economic Zone has been defined as Essential Fish Habitat instead of more discrete units of habitat as originally conceived. Further, current law allows the Councils to regulate the impacts of fishing activity on Essential Fish Habitat, while the Councils cannot regulate other commercial activities—such as mining and coastal development and the laying of telecommunications cables—that affect these areas. My bill focuses the management of these areas on "Habitat Areas of Particular Concern"—more discrete units of fish habitat that are more consistent with the congressional intent behind the Essential Fish Habitat concept.

My proposal treats the fishing industry as a legitimate interest in fisheries management by acknowledging the important role that commercial fishing plays in food security and healthy food consumption. My bill also ensures that the cumulative economic and social impacts of fisheries management decisions are considered, rather than assessed in isolation from one another.

Finally, the legislation would reduce the litigation burden on the fisheries management system. My proposal ensures that fishery management plans are pre-determined to be compliant with NEPA requirements, thereby preventing NEPA law from being used in an incorrect way to regulate fisheries. It would still require fishery management plans to meet all the other conservation provisions, including those governing rebuilding of overfished stocks, set out in the law. The Nation's Councils have asked for this protection from lawsuits so they may resume their proper role as a regulatory body.

I want to acknowledge the important role that my colleagues Senators SNOWE and KERRY, Chair and Ranking Member of the Oceans and Fisheries Subcommittee, are playing in addressing the problems of Magnuson-Stevens. My hope is that my proposal will help propel a discussion in the upcoming months as their committee moves forward with their own ideas.

The second piece of legislation I am offering is the Commercial Fishermen Safety Act of 2003, a bill to help fishermen purchase the life-saving safety equipment they need to survive when disaster strikes. I am pleased to be joined by my good friend from Massachusetts, Senator KERRY, in introducing this legislation. Senator KERRY has been a leader in the effort to sustain our fisheries and to maintain the proud fishing tradition that exists in his state and throughout the country.

The release of the movie The Perfect Storm provided millions of Americans with a glimpse of the challenges and dangers associated with earning a living in the fishing industry. While based on a true story, the movie merely scratches the surface of what it is like to be a modern-day fisherman. Everyday, members of our fishing communities struggle to cope with the pressures of running a small business, complying with extensive regulations, and maintaining their vessels and equipment. Added to these challenges are the dangers associated with fishing, where disaster can strike in conditions that are far less extreme than those depicted by the movie.

Year-in and year-out, commercial fishing is among the nation's most dangerous occupations. According to data compiled by the Coast Guard and the Bureau of Labor Statistics, 536 fishermen have lost their lives at sea since 1994. In fact, with an annual fatality rate of about 150 deaths per 100,000 workers, fishing is 30 times more dangerous than the average occupation.

The year 2000 will always be remembered in Maine's fishing communities as a year marked by tragedy. All told, nine commercial fishermen lost their lives off the coast of Maine in the year 2000, exceeding the combined casualties of the three previous years.

Yet as tragic as the year was, it could have been worse. Heroic acts by the Coast Guard and other fishermen resulted in the rescue of 13 commercial fishermen off the coast of Maine in the year 2000. In most of these circumstances, these fishermen were returned to their families because they had access to safety equipment that made the difference between life and death.

Coast Guard regulations require all fishing vessels to carry safety equipment. The requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the vessel travels from shore to fish.

When an emergency arises, safety equipment is priceless. At all other times, the cost of purchasing or maintaining this equipment must compete with other expenses such as loan payments, fuel, wages, maintenance, and insurance. Meeting all of these obligations is made more difficult by a regulatory framework that uses measures such as trip limits, days at sea, and gear alterations to manage our marine resources.

The Commercial Fishermen Safety Act of 2003 lends a hand to fishermen attempting to prepare in case disaster strikes. My bill provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit is capped at $1500. Items such as EPIRBs and immersion suits cost hundreds of dollars, while life rafts can reach into the thousands. The tax credit will make life-saving equipment more affordable for more fishermen, who currently face limited options under the federal tax code.

I believe these two bills will assist our Nation's fishermen as they struggle to make their living on the seas. Fishing is a legitimate profession that deserves to be treated with the common-sense and consistency that we treat other professions. The legislation I am introducing gives these communities the tools they need to safely make their living in a way that still protects the resource.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 484. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility stem generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

Mr. LEAHY. Mr. President, the risks and health effects of mercury contamination continue to be serious and immediate. We have known about mercury pollution for many years. It remains one of, if not the last of, the major toxic pollutants without a comprehensive plan to control its spread. We know where the sources contributing to mercury contamination are, we have a pretty good idea where it goes, and we definitely know what harm it causes to people and to wildlife. Yet, serious contamination continues. That is why I am reintroducing important legislation today to confront this problem directly.

The most serious threat of mercury pollution is to our children. Just this week, the Environmental Protection Agency finally released their report, "American's Children and the Environment: Measures of Contaminants, Body Burdens and Illnesses." The report should alarm all of us. It highlights the neurological harm that can come to children exposed to elevated mercury levels while in the womb and during the first years of their lives. As more mercury is dumped into our environment, more children will be at risk. Today, according to the Centers for Disease Control, 1 in 12 women of childbearing age has mercury levels above the safe health threshold established by EPA.

Although the report comes nine months late, it does highlight a serious gap between the Administration's "Clear Skies" proposal and the Leahy/Snowe bill when it comes to reducing mercury levels. The only thing clear about the Administration's proposal is that it won't protect Vermont's children from the pollution spewing out of power plants in the Midwest. The Administration's Clear Skies proposal will actually relax current mercury emissions law.

Our bill will reduce mercury emission from coal-fired power plants by 90 percent. The Clear Skies proposal would only reduce emissions by 50 percent in the near future and 70 percent over the next 15 years. Not only does this fall far short of our proposal, but it also falls short of current law and the Administration's previous position. In 2001, EPA Administrator Christie Todd Whitman said the EPA had initiated strict "maximum achievable control technology" MACT, standards for oil- and coal-fired electric utility units as required under section 112 of the Clean Air Act. At that time, Whitman said that mercury reductions are "necessary now, not decades from now."

Administrator Whitman was right then and wrong now. With industry's vigorous opposition to tighter mercury controls and the Bush administration's record to date rolling back environmental legislation regulation, especially the Clean Air Act, I worry that more children will be put at risk as the Administration continues to delay the MACT standards and other policies. The delays and rollbacks make you ask whose interests the Administration is putting first—children, or the big powerplant companies?

I ask for unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary of the bill was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 2003

WHAT WILL THE OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 2003 DO?

The Omnibus Mercury Emissions Reduction Act of 2003 mandates substantial reductions in mercury emissions from all major sources in the United States. It is the only comprehensive legislation to control mercury emissions from all major sources. It directs EPA to issue new standards for unregulated sources and to monitor and report on the progress of currently regulated sources. It sets an aggressive timetable for these reductions so that mercury emissions are reduced as soon as possible.

With these emissions reductions, the bill requires the safe disposal of mercury recovered from pollution control systems, so that the hazards of mercury are not merely transferred from one environmental medium to another. It requires annual public reporting—in both paper and electronic form—of facility-specific mercury emissions. It phases out mercury use in consumer products, requires product labeling, and mandates international cooperation. It supports research into the retirement of excess mercury, the handling of mercury waste, the effectiveness of fish consumption advisories, and the magnitude of previously uninventoried sources.

SECTION 3. MERCURY EMISSION STANDARDS FOR FOSSIL FUEL-FIRED ELECTRIC UTILITY STEAM GENERATING UNITS

The EPA's "Mercury Study Report to Congress" estimated 52 tons of mercury emissions per year from coal- and oil-fired electric utility steam generating units. More recently, an EPA inventory estimated 43 tons of mercury from coal-fired power plants. Collectively, these power plants constitute the largest source of mercury emissions in the United States. In December 2000, the EPA issued a positive determination to regulate these mercury emissions. But these rules will take years to write and implement, and there is already vigorous industry opposition. It is uncertain what form these rules will take or how long they may be delayed. This section requires EPA to set a "maximum achievable control technology" (MACT) standard for these emissions, such that nationwide emissions decrease by at least 90 percent.

SECTION 4. MERCURY EMISSION STANDARDS FOR COAL- AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER UNITS

The EPA's report on its study estimates that 29 tons of mercury emissions are released per year from coal- and oil-fired commercial and industrial boiler units. The EPA has not yet decided to regulate these emissions. This section requires EPA to set a MACT standard for these mercury emissions, such that nationwide emissions decrease by at least 90 percent.

SECTION 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID WASTE INCINERATION UNITS

The EPA study estimates that 30 tons of mercury emissions are released each year from municipal waste combustors. These emissions result from the presence of mercury-containing items such as fluorescent lamps, fever thermometers, thermostats and switches, in municipal solid waste streams. In 1995 EPA promulgated final rules for these emissions, and these rules took effect in 2000. This section reaffirms those rules and requires stricter rules for units that do not comply. The most effective way to reduce mercury emissions from incinerators is to reduce the volume of mercury-containing items before they reach the incinerator. That is why this section also requires the separation of mercury-containing items from the waste stream, the labeling of mercury-containing items to facilitate this separation, and the phaseout of mercury in consumer products within three years, allowing for the possibility of exceptions for essential uses.

SECTION 6. MERCURY EMISSION STANDARDS FOR CHLOR-ALKALI PLANTS

The EPA study estimates that 7 tons of mercury emissions are released per year from chlor-alkali plants that use the mercury cell process to produce chlorine. EPA has not issued rules to regulate these emissions. This section requires each chlor-alkali plant that uses the mercury cell process to reduce its mercury emissions by 95 percent. The most effective way to meet this standard would be to switch to the more energy efficient membrane cell process, which many plants already use.

SECTION 7. MERCURY EMISSION STANDARDS FOR PORTLAND CEMENT PLANTS

The EPA study estimates that 5 tons of mercury emissions are released each year from Portland cement plants. In 1999 EPA promulgated final rules for emissions from cement plants, but these rules did not include mercury. This section requires each Portland cement plant to reduce its mercury emissions by 95 percent.

SECTION 8. REPORT ON IMPLEMENTATION OF MERCURY EMISSION STANDARDS FOR MEDICAL WASTE INCINERATORS

The EPA study estimates that 16 tons of mercury emissions are released per year from medical waste incinerators. In 1997 EPA issued final rules for emissions from hospital/medical/infectious waste incinerators. This section requires EPA to report on the success of these rules in reducing these mercury emissions.

SECTION 9. REPORT ON IMPLEMENTATION OF MERCURY EMISSION STANDARDS FOR HAZARDOUS WASTE COMBUSTORS

The EPA study estimates that 7 tons of mercury emissions are released each year form hazardous waste incinerators. In 1999 EPA promulgated final rules for these emissions. This section requires EPA to report on the success of these rules in reducing these mercury emissions.

SECTION 10. DEFENSE ACTIVITIES

This section requires the Department of Defense to report on its use of mercury, including the steps it is taking to reduce mercury emissions and to stabilize and recycle discarded mercury. This section also prohibits the Department of Defense from returning the nearly 5,000 tons of mercury in the National Defense Stockpile to the global market.

SECTION 11. INTERNATIONAL ACTIVITIES

This section directs EPA to work with Canada and Mexico to study mercury pollution in North America, including the sources of mercury pollution, the pathways of the pollution, and options for reducing the pollution.

SECTION 12. MERCURY RESEARCH

This section supports a variety of mercury research projects. First, it promotes accountability by mandating an interagency report on the effectiveness of this act in reducing mercury pollution. Second, it mandates an EPA study on mercury sedimentation trends in major bodies of water. Third, it directs EPA to evaluate and improve state-level mercury data and fish consumption advisories. Fourth, it mandates a National Academy of Sciences report on the reatirement of excess mercury, such as stockpiled industrial mercury that is no longer needed due to plant closures or process changes. Fifth, it mandates an EPA study of mercury emissions from electric arc furnaces, a source not studied in the EPA's study report. Finally, it authorizes $2,000,000 for modernization and expansion of the Mercury Deposition Network, plus $10,000,000 over ten years for operational support of that network.

Ms. SNOWE. Mr. President, I rise today as the lead cosponsor of Senator LEAHY's Omnibus Mercury Reduction Act of 2003 to ask support for our continued efforts to dramatically reduce mercury pollution that has been shown to pose serious health risks, especially for pregnant women, and can cause irreversible nerve damage in young children.

This legislation responds to the Environmental Protection Agency's just released report on "America's Children and the Environment: Measures of Contaminants, Body Burdens, and Illnesses", which states that EPA remains concerned about children potentially exposed to mercury in the womb.

Mercury is among the least-controlled and most dangerous toxins threatening pregnant women and children from mercury exposure through the air and water in America today, and we need to continue the fight to pass a national approach to better control its use. Because mercury pollution knows no State borders, a national initiative is necessary to control it and better understand its health effects.

The Omnibus Mercury Emissions Reduction Act of 2003 would require the U.S. Environmental Protection Agency, EPA, to impose new restrictions on mercury emissions by utility power plants, coal and oil-fired commercial boilers, solid waste incinerators, and other sources of emissions. According to the EPA, an estimated 30 tons of mercury emissions per year come from municipal waste combustors because of the presence of mercury-containing items such as fluorescent lamps, fever thermometers, thermostats, and switches.

Our bill requires utility power plants and commercial boilers to reduce mercury emissions by 95 percent in five years, and requires the EPA to publish a list of mercury-containing items that need to be separated and removed from the waste streams that feed solid waste management facilities. The most effective way to reduce mercury emissions from incinerators is to reduce the volume of mercury-containing items before they reach the incinerator.

The bill would also expand research on the effects of mercury on sensitive subpopulations such as pregnant women and children, and it directs the EPA to work with the States to improve the quality and dissemination of State fish consumption advisories.

Even in Maine, where great efforts have been made to preserve clean air and water, mercury arrives as an unseen threat, carried in the air from hundreds of miles away and deposited in our lakes, rivers and coastal regions through rain and snowfall. This bill complements the steps Maine has taken to reduce mercury emissions, and by addressing what happens outside our borders, it also can ensure that Maine's actions will not be in vain.

Mercury is a dangerous toxin present in coal, which is burned to produce 65 percent of the nation's electricity, other fossil fuels, and various household and industrial products. When mercury is burned, fine particles are released and carried by precipitation back to earth, contaminating water bodies, fish, and wildlife, and ultimately posing a threat to humans. Nationwide, 39 States have issued warnings about eating certain fish in more than 50,000 bodies of water, up from 27 States in 1993.

While Maine ranks 49th among the least-polluting States in terms of mercury emissions, nearly all of its lakes are under health advisories due to airborne mercury pollution transported in air currents from other States. Because mercury is an element and cannot be destroyed, it cycles endlessly through the environment, necessitating control of the toxin at the source.

With the technology and resources available, we can and must find creative ways to substantially reduce mercury pollution, and this bill kicks that process into gear and will go a very long way toward removing this harmful toxin as a threat to human health and the environment.

In partnership with the Omnibus mercury bill, I am also a cosponsor of Senator JEFFORDS' Clean Power Act that calls for a 90 percent reduction of mercury from coal burning power plants by 2008. By 2009, the Jeffords bill also dramatically cuts aggregate power plant emissions of the three other major power plant pollutants: nitrogen oxides, NO$_X$, the primary cause of smog, by 71 percent from 2000 levels; sulfur dioxide, SO$_2$, that causes acid rain and respiratory disease, by 81 percent from 2000 levels; and carbon dioxide, CO$_2$, the greenhouse gas most directly linked to global climate variabilities, by 21 percent from 2000 levels. Of note, the NO$_X$, SO$_2$, and mercury reductions are set at levels that are known to be cost effective with available technology.

I hope to work with my colleagues in the 108th Congress to see that provisions in these two bills are fully debated and policy is passed to protect our environment and our population from the ravages of these major air pollutants. We must move forward for the health of the unborn, the American public and the entire planet.

By Mr. INHOFE (for himself and Mr. VOINOVICH) (by request):

S. 485. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I hereby introduce, by request, the Clear Skies Initiative to reduce harmful air pollutants.

I am pleased that Senator VOINOVICH and I and our counterparts in the House have the opportunity to work with the President on one of his top legislative priorities. Clear Skies demonstrates the President's serious commitment to providing strong environmental protections for the American people. It is the most aggressive presidential initiative in history to reduce power plant emissions.

Clear Skies will build upon the remarkable environmental progress we've made over the last 30 years. Since passage of the Clean Air Act in 1970 the nation's gross domestic product has increased 160 percent, energy consumption has increased 45 percent, and population has increased 38 percent. At the same time we've reduced emissions by 29 percent.

President Bush understands that achieving positive environmental results and promoting economic growth are not incompatible goals. Moving beyond the confusing, command-and-control mandates of the past, Clear Skies cap-and-trade system harnesses the power of technology and innovation to bring about significant reductions in harmful pollutants.

I look forward to working with the Administration on crafting a sound bill. I believe Clear Skies represents a good starting point for moving forward with the legislative process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clear Skies Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, table of contents.
Sec. 2. Emission Reduction Programs.

"TITLE IV—EMISSION REDUCTION PROGRAMS

"PART A—GENERAL PROVISIONS

"Sec. 401. (Reserved)
"Sec. 402. Definitions.
"Sec. 403. Allowance system.
"Sec. 404. Permits and compliance plans.
"Sec. 405. Monitoring, reporting, and recordkeeping requirements.
"Sec. 406. Excess emissions penalty; general compliance with other provisions; enforcement.
"Sec. 407. Election of additional units.
"Sec. 408. Clean coal technology regulatory incentives.
"Sec. 409. Auctions.
"Sec. 410. Evaluation of limitations on total sulfur dioxide, nitrogen oxides, and mercury emissions that start in 2018.

"PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

"Subpart 1—Acid Rain Program

"Sec. 410. Evaluation of limitations on total sulfur dioxide, nitrogen oxides, and mercury emissions that start in 2018.
"Sec. 411. Definitions.
"Sec. 412. Allowance allocations.
"Sec. 413. Phase I sulfur dioxide requirements.
"Sec. 414. Phase II sulfur dioxide requirements.
"Sec. 415. Allowances for States with emission rates at or below .8 lbs/mmBtu.
"Sec. 416. Election for additional sources.
"Sec. 417. Auctions, Reserve.
"Sec. 418. Industrial sulfur dioxide emissions.
"Sec. 419. Termination.

"Subpart 2—Clear Skies Sulfur Dioxide Allowance Program

"Sec. 421. Definitions.
"Sec. 422. Applicability.
"Sec. 423. Limitations on total emissions.
"Sec. 424. Allocations.
"Sec. 425. Disposition of sulfur dioxide allowances allocated under subpart 1.
"Sec. 426. Incentives for sulfur dioxide emission control technology.

"Subpart 3—Western Regional Air Partnership

"Sec. 431. Definitions.
"Sec. 432. Applicability.
"Sec. 433. Limitations on total emissions.
"Sec. 434. Allocations.

"PART C—NITROGEN OXIDES EMISSIONS REDUCTIONS

"Subpart 1—Acid Rain Program

"Sec. 441. Nitrogen Oxides Emission Reduction Program.
"Sec. 442. Termination.

"Subpart 2—Clear Skies Nitrogen Oxides Allowance Program

"Sec. 451. Definitions.
"Sec. 452. Applicability.
"Sec. 453. Limitations on total emissions.
"Sec. 454. Allocations.

"Subpart 3—Ozone Season NO$_X$ Budget Program

"Sec. 461. Definitions.
"Sec. 462. General Provisions.
"Sec. 463. Applicable Implementation Plan.
"Sec. 464. Termination of Federal Administration of NO$_X$ Trading Program.
"Sec. 465. Carryforward of Pre-2008 Nitrogen Oxides Allowances.

"PART D—MERCURY EMISSION REDUCTIONS

"Sec. 471. Definitions.
"Sec. 472. Applicability.
"Sec. 473. Limitations on total emissions.
"Sec. 474. Allocations.

"PART E—NATIONAL EMISSION STANDARDS; RESEARCH; ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS

"Sec. 481. National emission standards for affected units.
"Sec. 482. Research, environmental monitoring, and assessment.
"Sec. 483. Exemption from major source preconstruction review and best availability retrofit control technology requirements."

Sec. 3. Other amendments.

SEC. 2. EMISSION REDUCTION PROGRAMS.

Title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651, et seq.) is amended to read as follows:

"TITLE IV—EMISSION REDUCTION PROGRAMS

"PART A—GENERAL PROVISIONS

"SEC. 401. (Reserved)

"SEC. 402. DEFINITIONS.

"As used in this title—

"(1) The term 'affected EGU' shall have the meaning set forth in section 421, 431, 451, or 471, as appropriate.

"(2) The term 'affected facility' or 'affected source' means a facility or source that includes one or more affected units.

"(3) The term 'affected unit' means—

"(A) under this part, a unit that is subject to emission reduction requirements or limitations under part B, C, or D or, it applicable, under a specified part or subpart; or

"(B) under subpart 1 of part B or subpart 1 of part C, a unit that is subject to emission reduction requirements or limitations under that subpart.

"(4) The term 'allowance' means—

"(A) an authorization, by the Administrator under this title, to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury; or

"(B) under subpart 1 of part B, an authorization by the Administrator under this title, to emit one ton of sulfur dioxide.

“(5)(A) The term ‘baseline heat input’ means, except under subpart 1 of part B and section 407, the average annual heat input used by a unit during the 3 years in which the unit had the highest heat input for the period 1998 through 2002.

“(B) Notwithstanding subparagraph (A), if a unit commenced or commences operation during the period 2001 through 2004, then ‘baseline heat input’ means the manufacturer's design heat input capacity for the unit multiplied by 80 percent for coal-fired units, 50 percent for boilers that are not coal-fired, 50 percent for combustion turbines other than simple cycle turbines, and 5 percent for simple cycle combustion turbines.

“(C) A unit's heat input for a year shall be the heat input—

“(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

“(ii) reported to the Energy Information Administration for the unit, if the unit was not required to report heat input under section 405;

“(iii) based on data for the unit reported to the State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

“(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the State.

“(D) Not later than 3 months after the enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations, without notice and opportunity for comment, specifying the format in which the information under subparagraphs (B)(ii) and (C)(ii), (iii), or (iv) shall be submitted. Not later than 9 months after the enactment of the Clear Skies Act of 2003, the owner or operator of any unit under subparagraph (B)(ii) or (C)(ii), (iii), or (iv) to which allowances may be allocated under section 424, 434, 454, or 474 shall submit to the Administrator such information. The Administrator is not required to allocate allowances under such sections to a unit for which the owner or operator fails to submit information in accordance with the regulations promulgated under this subparagraph.

“(6) The term ‘clearing price’ means the price at which allowances are sold at an auction conducted by the Administrator or, if allowances are sold at an auction conducted by the Administrator at more than one price, the lowest price at which allowances are sold at the auction.

“(7) The term ‘coal’ means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

“(8) The term ‘coal-derived fuel’ means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

“(9) The term ‘coal-fired’ with regard to a unit means, except under subpart 1 of part B, subpart 1 of part C, and sections 424 and 434, combusting coal or any coal-derived fuel alone or in combination with any mount of any other fuel in any year.

“(10) The term ‘cogeneration unit’ means, except under subpart 1 of part B and subpart 1 of part C, a unit that produces through the sequential use of energy:

“(A) electricity; and

“(B) useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes.

“(11) The term ‘combustion turbine’ means any combustion turbine that is not self-propelled. The term includes, but is not limited to, a simple cycle combustion turbine, a combined cycle combustion turbine and any duct burner or heat recovery device used to extract heat from the combustion turbine exhaust, and a regenerative combustion turbine. The term does not include a combined turbine in an integrated gasification combined cycle plant.

“(12) The term ‘commence operation’ with regard to a unit means start up the unit's combustion chamber.

“(13) The term ‘compliance plan’ means either—

“(A) a statement that the facility will comply with all applicable requirements under this title, or

“(B) under subpart 1 of part B or subpart 1 of part C, where applicable, a schedule and description of the method or methods for compliance and certification by the owner or operator that the facility is in compliance with the requirements of that subpart.

“(14) The term ‘continuous emission monitoring system’ (CEMS) means the equipment as required by section 405, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 405.

“(15) The term ‘designated representative’ means a responsible person or official authorized by the owner or operator of a unit and the facility that includes the unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances, and the submission of and compliance with permits, permit applications, and compliance plans.

“(16) The term ‘duct burner’ means a combustion device that uses the exhaust from a combustion turbine to burn fuel for heat recovery.

“(17) The term ‘facility’ means all buildings, structures, or installations located on one or more contiguous or adjacent properties under common control of the same person or persons.

“(18) The term ‘fossil fuel’ means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

“(19) The term ‘fossil fuel-fired’ with regard to a unit means combusting fossil fuel, alone or in combination with any amount of other fuel or material.

“(20) The term ‘fuel oil’ means a petroleum-based fuel, including diesel fuel or petroleum derivatives.

“(21) The term ‘gas-fired’ with regard to a unit means, except under subpart 1 of part B and subpart 1 of part C, combusting only natural gas or fuel oil, with natural gas comprising at lease 90 percent, and fuel oil comprising no more than 10 percent, of the unit's total heat input in any year.

“(22) The term ‘gasify’ means to convert carbon-containing material into a gas consisting primarily of carbon monoxide and hydrogen.

“(23) The term ‘generator’ means a device that produces electricity and, under subpart 1 of part B and subpart 1 of part C, that is reported as a generating unit pursuant to Department of Energy Form 860.

“(24) The term ‘heat input’ with regard to a specific period of time means the product (in mmBtu/time) of the gross calorific value of the fuel (in mmBtu/lb) and the fuel feed rate into a unit (in lb of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust.

“(25) The term ‘integrated gasification combined cycle plant’ means any combination of equipment used to gasify fossil fuels (with or without other material) and then burn the gas in a combined cycle combustion turbine.

“(26) The term ‘oil-fired’ with regard to a unit means, except under section 424 and 434, combusting fuel oil for more than 10 percent of the unit's total heat input, and combusting no coal or coal-derived fuel, in any year.

“(27) The term ‘owner or operator’ with regard to a unit or facility means, except for subpart 1 of part B and subpart 1 of part C, any person who owns, leases, operates, controls, or supervises the unit or the facility.

“(28) The term ‘permitting authority’ means the Administrator, or the State or local air pollution control agency, with an approved permitting program under title V of the Act.

“(29) The term ‘potential electrical output’ with regard to a generator means the nameplate capacity of the generator multiplied by 8,760 hours.

“(30) The term ‘simple cycle combustion turbine’ means a combustion turbine that does not extract heat from the combustion turbine exhaust gases.

“(31) The term ‘source’ means, except for sections 410, 481, and 482, all buildings, structures, or installations located on one or more contiguous or adjacent properties under common control of the same person or persons.

“(32) The term ‘State’ means—

“(A) one of the 48 contiguous States, Alaska, Hawaii, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or

“(B) under subpart 1 of part B and subpart 1 of part C, one of the 48 contiguous States or the District of Columbia.

“(33) The term ‘unit’ means—

“(A) a fossil fuel-fired boiler, combustion turbine, or integrated gasification combined cycle plan; or

“(B) under subpart 1 of part B and subpart 1 of part C, a fossil fuel-fired combustion device.

“(34) The term ‘utility unit’ shall have the meaning set forth in section 411.

“(35) The term ‘year’ means calendar year.

SEC. 403. ALLOWANCE SYSTEM.

“(a) ALLOCATIONS IN GENERAL.—

“(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for an affected unit, to be held or distributed by the designated representative of the owner or operator in accordance with this title as follows—

“(A) sulfur dioxide allowances in an amount equal to the annual tonnage emission limitation calculated under section 413, 414, 415, or 416, except as otherwise specifically provided elsewhere in subpart 1 of part B, or in an amount calculated under section 424 or 434,

“(B) nitrogen oxides allowances in an amount calculated under section 454, and

“(C) mercury allowances in an amount calculated under section 474.

“(2) Notwithstanding any other provision of law to the contrary, the calculation of the allocation for any unit or facility, and the determination of any values used in such calculation, under sections 424, 434, 454, and 474 shall not be subject to judicial review.

"(3) Allowances shall be allocated by the Administrator without cost to the recipient, and shall be auctioned or sold by the Administrator, in accordance with this title.

"(b) Allowance Transfer System.—Allowances allocated, auctioned, or sold by the Administrator under this title may be transferred among designated representatives of the owners or operators of affected facilities under this title and any other person, as provided by the allowance system regulations promulgated by the Administrator. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 CFR part 73 (2002), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than 24 months after the date of enactment of the Clear Skies Act of 2003. The regulations under this subsection shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was allocated or auctioned and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, except as otherwise provided in section 425. Such regulations shall provide, or shall be amended to provide, that transfers of allowances shall not be effective until certification of the transfer, signed by a responsible official of the transferor, is received and recorded by the Administrator.

"(c) Allowance Tracking System.—The Administrator shall promulgate regulations establishing a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. Such system shall provide, not later than the commencement date of the nitrogen oxides allowance requirement under section 452, for one or more facility-wide accounts for holding sulfur dioxide allowances, nitrogen oxides allowances, and, if applicable, mercury allowances for all affected units at an affected facility. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 CFR part 73 (2002), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than 24 months after the date of enactment of the Clear Skies Act of 2002. All allowance allocations and transfers shall, upon recording by the Administrator, be deemed a part of each unit's or facility's permit requirements pursuant to section 404, without any further permit review and revision.

"(d) Nature of Allowances.—A sulfur dioxide allowance, nitrogen oxides allowance, or mercury allowance allocated, auctioned, or sold by the Administrator under this title is a limited authorization to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury, as the case may be, in accordance with the provisions of this title. Such allowance does not constitute a property right. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. Nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or facility, including the provisions related to applicable National Ambient Air Quality Standards and State implementation plans. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once allocated or auctioned to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title V or section 404 with respect to the unit for which such allowance was originally allocated and recorded.

"(e) Prohibition.—

"(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated, auctioned, or sold by the Administrator under this title, except in accordance with regulations promulgated by the Administrator.

"(2) It shall be unlawful for any affected unit or for the affected units at a facility to emit sulfur dioxide, nitrogen oxides, and mercury, as the case may be, during a year in excess of the number of allowances held for that unit or facility for that year by the owner or operator as provided in sections 412(c), 422, 432, 452, and 472.

"(3) The owner or operator of a facility may purchase allowances directly from the Administrator to be used only to meet the requirements of sections 422, 432, 452, and 472, as the case may be, for the year in which the purchase is made or the prior year. Not later than 36 months after the date of enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations providing for direct sales of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances to an owner or operator of a facility. The regulations shall provide that—

"(A) such allowances may be used only to meet the requirements of section 422, 432, 452, and 472, as the case may be, for such facility and for the year in which the purchase is made or the prior year,

"(B) each such sulfur dioxide allowance shall be sold for $4,000, each such nitrogen oxides allowance shall be sold for $4,000, and each such mercury allowance shall be sold for $2,187.50, with such prices adjusted for inflation based on the Consumer Price Index on the date of enactment of the Clear Skies Act of 2003 and annually thereafter,

"(C) the proceeds from any sales of allowances under subparagraph (B) shall be deposited in the United States Treasury,

"(D) the allowances directly purchased for use for the year specified in subparagraph (A) shall be taken from, and reduce, the amount of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that would otherwise be auctioned under section 423, 453, or 473 starting for the year after the specified year and continuing for each subsequent year as necessary.

"(E) if an owner or operator does not use any such allowance in accordance with paragraph (A)—

"(i) the owner or operator shall hold the allowance for deduction by the Administrator, and

"(ii) the Administrator shall deduct the allowance, without refund or other form of recompense, and offer it for sale in the auction from which it was taken under subparagraph (D) or a subsequent relevant auction as necessary, and

"(F) if the direct sales of allowances result in the removal of all sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, from auctions under section 423, 453, or 473 for 3 consecutive years, the Administrator shall conduct a study to determine whether revisions to the relevant allowance trading program are necessary and shall report the results to the Congress.

"(4) Allowances may not be used prior to the calendar year for which they are allocated or auctioned. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected facilities of their requirements and liabilities under the Act.

"(f) Competitive Bidding for Power Supply.—Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(g) Applicability of the Antitrust Laws.—(1) Nothing in this section affects—

"(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

"(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, 'antitrust laws' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

"(h) Public Utility Holding Company Act.—The acquisition or disposition of allowances pursuant to this title including the issuance of securities or the undertaking of any other financing transaction in connection with such allowances shall not be subject to the provisions of the Public Utility Holding Company Act of 1935.

"(i) Interpollutant Trading.—Not later 6 years after the enactment of the Clear Skies Act of 2003, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances for nitrogen oxides allowances and nitrogen oxides allowances for sulfur dioxide allowances.

"(j) International Trading.—Not later than 24 months after the date of enactment of the Clear Skies Act of 2003, the Administrator shall furnish to the Congress a study evaluating the feasibility of international trading of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances.

"SEC. 404. PERMITS AND COMPLIANCE PLANS.

"(a) Permit Program.—The provisions of this title shall be implemented, subject to section 403, by permits issued to units and facilities subject to this title and enforced in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

"(1) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472,

"(2) exceeding applicable emissions rates under section 441,

"(3) the use of any allowance prior to the year for which it was allocated or auctioned, and

"(4) contravention of any other provision of the permit.

No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

"(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the facility to comply with its requirements under this title. Where an affected facility consists of more than one affected unit, such plan shall cover all such units, and such facility shall be considered a 'facility' under section 502(c). Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances.

"(1) Submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a unit subject to the emissions limitation requirements of sections 412(c), 413, 414, and 441, that the unit will meet the applicable emissions limitation requirements of such sections in a timely manner or that, in the case of the emissions limitation requirements of sections 412(c), 413, and 414, the owners and operators will hold sulfur dioxide allowances in the amount required by section 412(c), shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V, except that, for any unit that will meet the requirements of this title by means of an alternative method of compliance authorized under section 413 (b), (c), (d), or (f), section 416, and section 441 (d) or (e), the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulations promulgated by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on one or more alternative methods of compliance in the manner and time authorized under subpart 1 of part B or subpart 1 of part C.

"(2) Submission of a statement by the owner or operator, or the designated representative, of a facility that includes a unit subject to the emissions limitation requirements of sections 422, 432, 452, and 472 that the owner or operator will hold sulfur dioxide allowances, nitrogen oxide allowances, and mercury allowances, as the case may be, in the amount required by such sections shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V with regard to subparts A through D.

"(3) Recording by the Administrator of transfers of allowances shall amend automatically all applicable proposed or approved permit applications, compliance plans and permits.

"(c) PERMITS.—The owner or operator of each facility under this title that includes an affected unit subject to title V shall submit a permit application and compliance plan with regard to the applicable requirements under sections 412(c), 422, 432, 441, 452, and 472 for sulfur dioxide emissions, nitrogen oxide emissions, and mercury emissions from such unit to the permitting authority in accordance with the deadline for submission of permit applications and compliance plans under title V. The permitting authority shall issue a permit to such owner or operator, or the designated representative of such owner or operator, that satisfies the requirements of title V and this title.

"(d) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section.

"(e) PROHIBITION.—

"(1) It shall be unlawful for an owner or operator, or designated representative, required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.

"(2) It shall be unlawful for any person to operate any facility subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for facilities subject to this title shall be deemed compliance with this subsection as well as section 502(a).

"(3) In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operations of a unit serving a generator for failure to have an approved permit or compliance plan under this section, except that any such unit may be subject to the applicable enforcement provisions of section 113.

"(f) CERTIFICATE OF REPRESENTATION.—No permit shall be issued under this section to an affected unit or facility until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances.

"SEC. 405. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

"(a) APPLICABILITY.—

"(1)(A) The owner and operator of any facility subject to this title shall be required to install and operate CEMS on each affected unit subject to subpart 1 of part B or subpart 1 of part C at the facility, and to quality assure the data, for sulfur dioxide, nitrogen oxides, opacity, and volumetric flow at each such unit.

"(B) The Administrator shall, by regulations, specify the requirements for CEMS under subparagraph (A), for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and time lines as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

"(2)(A) The owner and operator of any facility subject to this title shall be required to install and operate CEMS to monitor the emissions from each affected unit at the facility, and to quality assure the data for—

"(i) sulfur dioxide, opacity, and volumetric flow for all affected units subject to subpart 2 of part B at the facility,

"(ii) nitrogen oxides for all affected units subject to subpart 2 of part C at the facility, and

"(iii) mercury for all affected units subject to part D at the facility.

"(B)(i) The Administrator shall, by regulations, specify the requirements for CEMS under subparagraph (A), for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timeliness as that provided by CEMS, for recordkeeping and reporting of information from such systems, and if necessary under section 474, for monitoring, recordkeeping, and reporting of the mercury content of fuel.

"(ii) Notwithstanding the requirements of clause (i), the regulations under clause (i) may specify an alternative monitoring system for determining mercury emissions to the extent that the Administrator determines that CEMS for mercury with appropriate vendor guarantees are not commercially available.

"(iii) The regulations under clause (i) may include limitation on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title.

"(iv) Except as provided in clause (v), the regulations under clause (i) shall not require a separate CEMS for each unit where two or more units utilize a single stack and shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for such units.

"(v) The regulations under clause (i) may require a separate CEMS for each unit where two or more units utilize a single stack and another provision of the Act requires data under subparagraph (A) for an individual unit.

"(b) DEADLINES.—

"(1) NEW UTILITY UNITS.—Upon commencement of commercial operation of each new utility unit under subpart I of part B, the unit shall comply with the requirements of subsection (a)(1).

"(2) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 2 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date 12 months before the commencement date of the sulfur dioxide allowance requirement of section 422, or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide, opacity, and volumetric flow.

"(3) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 3 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the later of January 1 of the year before the first covered year or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 3 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide and volumetric flow.

"(4) Deadline for affected units under subpart 2 of part C for installation and operation of CEMS.—By the later of the date 12 months before the commencement date of the nitrogen oxides allowance requirement under section 452, or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part C shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to nitrogen oxides.

"(5) Deadline for affected units under part D for installation and operation of CEMS.—By the later of the date 12 months before the commencement date of the mercury allowance requirement of section 472, or the date on which the unit commences operation, the owner or operator of each affected unit under part D shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to mercury.

"(c) Unavailability of Emissions Data.—If CEMS data or data from an alternative monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 406 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

"(d) Implementation.—With regard to sulfur dioxide, nitrogen oxides, opacity, and volumetric flow, the Administrator shall implement subsections (a) and (c) under 40 CFR part 75 (2002), amended as appropriate by the Administrator. With regard to mercury, the Administrator shall implement subsections (a) and (c) by issuing proposed regulations not later than 36 months before the commencement date of the mercury allowance requirement under section 472 and final regulations not later than 24 months before that commencement date.

"(e) Prohibition.—It shall be unlawful for the owner or operator of any facility subject to this title to operate a facility without complying with the requirements of this section, and any regulations implementing this section.

"SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL COMPLIANCE WITH OTHER PROVISIONS; ENFORCEMENT.

"(a) Excess Emissions Penalty.—

"(1) Amount for oxides of nitrogen.—The owner or operator of any unit subject to the requirements of section 441 that emits nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement shall be liable for the payment of an excess emissions penalty, except where such emission were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement multiplied by $2,000.

"(2) Amount for sulfur dioxide before 2008.—The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide for any calendar year before 2008 in excess of the sulfur dioxide allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated as follows:

"(A) the product of the unit's excess emissions (in tons) multiplied by the clearing price of sulfur dioxide allowances sold at the most recent auction under section 417, if within thirty days after the date on which the owner or operator was required to hold sulfur dioxide allowances—

"(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(1); and

"(ii) the Administrator receives the penalty required under this subparagraph.

"(B) if the requirements of clause (A)(i) or (A)(ii) are not met, 300 percent of the product of the unit's excess emissions (in tons) multiplied by the clearing price of sulfur dioxide allowances sold at the most recent auction under section 417.

"(3) Amount for sulfur dioxide after 2007.—If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for any calendar year after 2007 in excess of the sulfur dioxide allowances that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated under paragraph (4)(A) or (4)(B).

"(4) Units subject to sections 422, 432, 452, or 472 .—If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated as follows:

"(A) the product of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the clearing price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold at the most recent auction under section 423, 453, or 473, if within thirty days after the date on which the owner or operator was required to hold sulfur dioxide, nitrogen oxides allowance, or mercury allowances as the case may be—

"(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(2) or (b)(3), as applicable; and

"(ii) the Administrator receives the penalty required under this subparagraph.

"(B) if the requirements of clause (A)(i) or (A)(ii) are not met, 300 percent of the product of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the clearing price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold at the most recent auction under section 423, 453, or 473.

"(5) Payment.—Any penalty under paragraph 1, 2, 3, or 4 shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. With regard to the penalty under paragraph 1, the Administrator shall implement this paragraph under 40 CFR part 77 (2002), amended as appropriate by the Administrator. With regard to the penalty under paragraphs 2, 3, and 4, the Administrator shall implement this paragraph by issuing regulations no later than 24 months after the date of enactment of the Clear Skies Act of 2003. Any such payment shall be deposited in the United States Treasury. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act.

"(b) Excess Emissions Offset.—

"(1) The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide during any calendar year before 2008 in excess of the sulfur dioxide allowances held for the unit for the calendar year shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess tonnage from those held for the facility for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

"(2) If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for a year after 2007 in excess of the sulfur dioxide allowances that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess emissions in tons from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

"(3) If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons or, for mercury, ounces in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances, nitrogen oxide allowances, or mercury allowances, as the case may be, equal to the excess emissions in tons or, for mercury, ounces from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

"(c) Penalty Adjustment.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a)(1) for inflation, based on the Consumer Price Index, on November 15, 1990, and annually thereafter.

"(d) Prohibition.—It shall be unlawful for the owner or operator of any unit or facility liable for a penalty and offset under this section to fail—

“(1) to pay the penalty under subsection (a); or

“(2) to offset excess emissions as required by subsection (b).

“(e) Savings Provision.—Nothing in this title shall limit or otherwise affect the application of section 113, 114, 120, or 304 except as otherwise explicitly provided in this title.

“(f) Other requirements.—Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any facility subject to this title from compliance with any other applicable requirements of this Act. Notwithstanding any other provision of this Act, no State or political subdivision thereof shall restrict or interfere with the transfer, sale, or purchase of allowances under this title.

“(g) Violations.—Violation by any person subject to this title of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit or the affected units at a facility to emit sulfur dioxide, nitrogen oxides, or mercury in violation of section 412(c), 422, 432, 452, and 472, as the case may be, shall be deemed a violation, with each ton or, in the case of mercury, each ounce emitted in excess of allowances held constituting a separate violation.

“SEC. 407. ELECTION FOR ADDITIONAL UNITS.

“(a) Applicability.—The owner or operator of any unit that is not an affected EGU under subpart 2 of part B and subpart 2 of part C and whose emissions of sulfur dioxide and nitrogen oxides are vented only through a stack or duct may elect to designate such unit as an affected unit under subpart 2 of part B and subpart 2 of part C. If the owner or operator elects to designate a unit that is coal-fired and emits mercury vented only through a stack or duct, the owner or operator shall also designate the unit as an affected unit under part D.

“(b) Application.—The owner or operator making an election under subsection (a) shall submit an application for the election to the Administrator for approval.

“(c) Approval.—If an application for an election under subsection (b) meets the requirements of subsection (a), the Administrator shall approve the designation as an affected unit under subpart 2 of part B and subpart 2 of part C and, if applicable, under part D, subject to the requirements in subsections (d) through (g).

“(d) Establishment of Baseline.—

“(1) After approval of the designation under subsection (c), the owner or operator shall install and operate CEMS on the unit, and shall quality assure the data, in accordance with the requirements of paragraph (a)(2) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each unit.

“(2) The baselines for heat input and sulfur dioxide, nitrogen oxides, and mercury emission rates, as the case may be, for the unit shall be the unit's heat input and the emission rates of sulfur dioxide, nitrogen oxides, and mercury for a year starting after approval of the designation under subsection (c). The Administrator shall issue regulations requiring all the unit's baselines to be based on the same year and specifying minimum requirements concerning the percentage of the unit's operating hours for which quality assured CEMS data must be available during such year.

“(e) Emission Limitations.—After approval of the designation of the unit under paragraph (c), the unit shall become:

“(1) an affected unit under subpart 2 of part B, and shall be allocated sulfur dioxide allowances under paragraph (f), starting the later of January 1, 2010, or January 1 of the year after the year on which the unit's baselines are based under subsection (d);

“(2) an affected unit under subpart 2 of part C, and shall be allocated nitrogen oxides allowances under paragraph (f), starting the later of January 1, 2008, or January 1 of the year after the year on which the unit's baselines are based under subsection (d); and

“(3) if applicable, an affected unit under part D, and shall be allocated mercury allowances, starting the later of January 1, 2010, or January 1 of the year after the year on which the unit's baselines are based under subsection (d).

“(f) Allocations and Auction Amounts.—

“(1) The Administrator shall promulgate regulations determining the allocations of sulfur dioxide allowances, nitrogen oxides allowances, and, if applicable, mercury allowances for each year during which a unit is an affected unit under subsection (e). The regulations shall provide for allocations equal to 50 percent of the following amounts, as adjusted under paragraph (2)—

“(A) the lesser of the unit's baseline heat input under subsection (d) or the unit's heat input for the year before the year for which the Administrator is determining the allocations; multiplied by

“(B) the lesser of—

“(i) the unit's baseline sulfur dioxide emission rate, nitrogen oxides emission rate, or mercury emission rate, as the case may be;

“(ii) the unit's sulfur dioxide emission rate, nitrogen oxides emission rate, or mercury emission rate, as the case may be, during 2002, as determined by the Administrator based, to the extent available, on information reported to the State where the unit is located; or

“(iii) the unit's most stringent State or Federal emission limitation for sulfur dioxide, nitrogen oxides, or mercury applicable to the year on which the unit's baseline heat input is based under subsection (d).

“(2) The Administrator shall reduce the allocations under paragraph (1) by 1.0 percent in the first year for which the Administrator is allocating allowances to the unit, by an additional 1.0 percent of the allocations under paragraph (1) each year starting in the second year through the twentieth year, and by an additional 2.5 percent of the allocations under paragraph (1) each year starting in the 21 year and each year thereafter. The Administrator shall make corresponding increases in the amounts of allowances auctioned under sections 423, 453, and 473.

“(g) Withdrawal.—The Administrator shall promulgate regulations withdrawing from the approved designation under subsection (c) any unit that qualifies as an affected EGU under subpart 2 of part B, subpart 2 of part C, or part D after the approval of the designation of the unit under subsection (c).

“(h) The Administrator shall promulgate regulations implementing this section within 24 months of the date of enactment of the Clear Skies Act of 2003.

“SEC. 408. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

“(a) Definition.—For purposes of this section, ‘clean coal technology’ means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

“(b) Revised Regulations for Clean Coal Technology Demonstrations.—

“(1) Applicability.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project using funds appropriated under the heading ‘Department of Energy—Clean Coal Technology’, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, ; or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for qualifying project shall be at least 20 percent of the total cost of the demonstration project.

“(2) Temporary projects.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

“(3) Permanent projects.—For permanent clean coal technology demonstration projects that constitute repowering as defined in section 411, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

“(4) EPA regulations.—Not later than 12 months after November 15, 1990, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

“(c) Exemption for Reactivation of Very Clean Units.—Physical changes or changes in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation shall not subject the unit to the requirements of section 111 or part C of the Act where the unit—

“(1) has not been in operation for the two-year period prior to November 15, 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory on November 15, 1990,

“(2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent, "(3) is equipped with low-NO_X burners prior to the time of commencement, and

"(4) is otherwise in compliance with the requirements of this Act.

"SEC. 409. AUCTIONS.

"(a) IN GENERAL.—(1) Commencing in 2005 and in each year thereafter, the Administrator shall conduct auctions, as required under sections 423, 424, 426, 434, 453, 454, 473, and 474, at which allowances shall be offered for sale in accordance with regulations promulgated by the Administrator no later than 24 months after the date of enactment of the Clear Skies Act of 2003.

"(2) Such regulations shall promote an efficient auction outcome and a competitive marketfor allowances.

"(3) Such regulations may provide allowances to be offered for sale before or during the year for which such allowances may be used to meet the requirement to hold allowances under section 422, 432, 452, and 472, as the case may be. Such regulations shall specify the frequency and timing of auctions and may provide for more than one auction of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances during a year. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this title.

"(4) The regulations shall provide that each auction shall be open to any person. A person wishing to bid for allowances in the auction shall submit bids according to auction procedures, a bidding schedule, a bidding means, and requirements for financial guarantees specified in the regulations. Winning bids, and required payments, for allowances shall be determined in accordance with the regulations. For any winning bid, the Administrator shall record the allowances in the Allowance Tracking System under section 403(c) only after the required payment for such allowances is received.

"(b) DEFAULT AUCTION PROCEDURES.—If the Administrator is required to conduct an auction of allowances under subsection (a) before regulations have been promulgated under that subsection, such auction shall be conducted as follows:

"(1) The auction shall begin on the first business day in October of the year in which the auction is required or, of the year before the first year for which the allowances may be used to meet the requirements of section 403(e)(2).

"(2) The auction shall be open to any person.

"(3) The auction shall be a multiple-round auction in which sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances are offered simultaneously.

"(4) In order to bid for allowances included in the auction, a person shall submit, and the Administrator must receive by the date three business days before the auction, one or more initial bids to purchase a specified quantity of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, at a reserve price specified by the Administrator. The bidder shall identify the account in the Allowance Tracking System under section 403(c) in which the such allowances that are purchased are to be recorded. Each bid must be guaranteed by a certified check, a funds transfer, or, in a form acceptable to the Administrator, a letter of credit for such quantity multiplied by the reserve price payable to the U.S. EPA.

"(5) The procedures in paragraph (4) shall constitute the first round of the auction.

"(6) In each round of the auction, the Administrator shall—

"(A) announce current round reserve prices for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances;

"(B) receive bids comprising nonnegative quantities for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be;

"(C) determine whether bids are acceptable as meeting auction requirements;

"(D) for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, determine whether the sum of the acceptable bids exceeds the quantity of such allowances available for auction;

"(E) if the sum of the acceptable bids for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, exceeds the quantity of such allowances available for auction, increase the reserve price for the next round based on the amount by which the sum of such acceptable bids exceeds the quantity of such allowances;

"(F) if the sum of the acceptable bids for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, does not exceed the quantity of such allowances available for auction, declare that round the last round of the auction for such allowances.

"(7) In the second and all subsequent rounds of the auction, the Administrator shall require that, for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, a bidder's quantity bid may not exceed the bidder's quantity bid for such allowances in the first round of the auction.

"(8) After the auction, the Administrator shall publish the names of winning and losing bidders, their quantities awarded, and the final prices. The Administrator shall provide the successful bidders notice of the allowances that they have purchased within thirty days after payments equaling the quantity awarded multiplied by the corresponding final reserve price is collected by the Administrator. After the conclusion of the auction, the Administrator shall return payment to unsuccessful bidders and add any unsold allowances to the next relevant auction.

"(9) The Administrator may specify by regulations, without notice and opportunity for comment, the following auction requirements and procedures:

"(A) reserve prices for sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be;

"(B) procedures for adjusting reserve prices in each round;

"(C) procedures limiting a bidder s bids based on his or her bids in previous rounds;

"(D) rationing procedures to treat tie bids;

"(E) procedures allowing bids at intermediate prices between previous reserve prices and current reserve prices;

"(F) procedures allowing bid withdrawals before the final round of the auction;

"(G) anti-collusion rules;

"(H) market share limitations on a bidder or associated bidders;

"(I) aggregate information made available to bidders during the auction;

"(J) proxy bidding or procedures for facilitating participation by small bidders;

"(K) levels and details of financial guarantees;

"(L) technical specifications for electronic bidding; and

"(M) bidding schedules and other administrative requirements and procedures of the auction.

"(c) DELEGATION OR CONTRACT.—The Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

"(d) PROCEEDS.—The proceeds from any auction conducted under this title shall be deposited in the United States Treasury.

"SEC. 410. EVALUATION OF LIMITATIONS ON TOTAL SULFUR DIOXIDE, NITROGEN OXIDES, AND MERCURY EMISSIONS THAT START IN 2018.

"(a) EVALUATION.—(1) The Administrator, in consultation with the Secretary of Energy, shall study whether the limitations on the total annual amounts of allowances available starting in 2018 for sulfur dioxide under section 423, nitrogen oxides under section 453, and mercury under section 473 should be adjusted.

"(2) In conducting the study, the Administrator shall include the following analyses and evaluations concerning the pollutants under paragraph (1) of subsection (a)(1):

"(A) An evaluation of the need for further emission reductions from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and other sources to attain or maintain the national ambient air quality standards.

"(B) A benefit-cost analysis to evaluate whether the benefits of the limitations on the total annual amounts of allowances available starting in 2018 justify the costs and whether adjusting any of the limitations would provide additional benefits which justify the costs of such adjustment, taking into account both quantifiable and nonquantifiable factors.

"(C) The marginal cost effectiveness of reducing emissions for each pollutant.

"(D) The merits of allowing trading between nitrogen oxides emissions and sulfur dioxide emissions.

"(E) An evaluation of the relative marginal cost effectiveness of reducing sulfur dioxide and nitrogen oxide emissions from affected EGUs under subpart 2 of part B and subpart 2 of part C, as compared to the marginal cost effectiveness of controls on other sources of sulfur dioxide, nitrogen oxides and other pollutants that can be controlled to attain or maintain national ambient air quality standards.

"(F) An evaluation of the feasibility of attaining the limitations on the total annual amounts of allowances available starting in 2018 given the available control technologies and the ability to install control technologies by 2018, and the feasibility of attaining alternative limitations on the total annual amounts of allowances available starting in 2018 under paragraph (1) of subsection (a) for each pollutant, including the ability to achieve alternative limitations given the available control technologies, and the feasibility of installing the control technologies needed to meet the alternative limitation by 2018.

"(G) An assessment of the results of the most current research and development regarding technologies and strategies to reduce the emissions of one or more of these pollutants from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D, as applicable and the results of the most current research and development regarding technologies for other sources of the same pollutants.

"(H) The projected impact of the limitations on the total annual amounts of allowances available starting in 2018 and the projected impact of adjusting any of the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (1) of subsection (a) on the safety and reliability of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and on fuel diversity within the power generation section.

"(I) An assessment of the best available and most current scientific information relating to emissions, transformation and deposition of these pollutants, including studies evaluating—

"(i) the role of emissions of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D in the atmospheric formation of pollutants for which national ambient air quality standards exist;

"(ii) the transformation, transport, and fate of these pollutants in the atmosphere, other media, and biota;

"(iii) the extent to which effective control programs in other countries would prevent air pollution generated in those countries from contributing to nonattainment, or interfering with the maintenance of any national ambient air quality standards;

"(iv) whether the limitations starting in 2010 or 2018 will result in an increase in the level of any other pollutant and the level of any such increase; and

"(v) speciated monitoring data for particulate matter and the effect of various components of fine particulate matter on public health.

"(J) An assessment of the best available and most current scientific information relating to emissions, transformation and deposition of mercury, including studies evaluating—

"(i) known and potential human health and environmental effects of mercury;

"(ii) whether emissions of mercury from affected EGUs under part D contribute significantly to elevated levels of mercury in fish;

"(iii) human population exposure to mercury; and

"(iv) the relative marginal cost effectiveness of reducing mercury emissions from affected EGUs under part D, as compared to the marginal cost effectiveness of controls on other sources of mercury.

"(K) A comparison of the extent to which sources of mercury not located in the United States contributed to adverse affects on terrestrial or aquatic systems as opposed to the contribution from affected EGUs under part D, and the extent to which effective mercury control programs in other countries could minimize such impairment.

"(L) An analysis of the effectiveness and efficiency of the sulfur dioxide allowance program under subpart 2 of part B, the nitrogen oxides allowance program under subpart 2 of part C, and the mercury allowance program under part D.

"(3) As part of the study, the Administrator shall take into account the best available information pursuant to the review of the air quality criteria for particulate matter under section 108.

"(b) PEER REVIEW PROCEDURES.—(1) The draft results of the study under subsection (a), including the benefit-cost analysis, the risk assessment, technological information and related technical documents shall be subject to an independent and external peer review in accordance with this section. Any documents that are to be considered by the Administrator in the study shall be independently peer reviewed no later than July 1, 2008. The peer review required under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) The Administrator shall conduct the peer review in an open manner. Such peer review shall—

"(A) be conducted through a formal panel that is broadly representative and involves qualified specialists who—

"(i) are selected primarily on the basis of their technical expertise relevant to the analyses required under this section;

"(ii) disclose to the agency prior technical or policy positions they have taken on the issues under consideration; and

"(iii) disclose to the agency their sources of personal and institutional funding from the private or public sectors;

"(B) contain a balanced presentation of all considerations, including minority reports;

"(C) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements;

"(D) afford an opportunity for public comment; and

"(E) be complete by no later than January 1, 2009.

"(2) The Administrator shall respond, in writing, to all significant peer review and public comments and certify that—

"(A) each peer review participant has the expertise and independence required under this section; and

"(B) the agency has adequately responded to the peer review comments as required under this section.

"(c) RECOMMENDATION TO CONGRESS.—The Administrator, in consultation with the Secretary of Energy, should submit to Congress no later than July 1, 2009, a recommendation whether to revise the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (1) of subsection (a). The recommendation shall include the final results of the study under subsections (a) and (b) and shall address the factors described in paragraph (2) of subsection (a). The Administrator may submit separate recommendations addressing sulfur dioxide, nitrogen oxides, or mercury at any time after the study has been completed under paragraph (2) of subsection (a) and the peer review process has been completed under subsection (b).

"PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

"Subpart 1—Acid Rain Program

"SEC. 410. EVALUATION OF LIMITATIONS ON TOTAL SULFUR DIOXIDE, NITROGEN OXIDES, AND MERCURY EMISSIONS THAT START IN 2018.

"(a) Evaluation.—(1) The Administrator, in consultation with the Secretary of Energy, shall study whether the limitations on the total annual amounts of allowances available starting in 2018 for sulfur dioxide under section 423, nitrogen oxides under section 453, and mercury under section 473 should be adjusted.

"(2) In conducting the study, the Administrator shall include the following analyses and evaluations concerning the pollutants under paragraph (a)(1),

"(A) an evaluation of the need for further emission reductions from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and other sources to attain or maintain the national ambient air quality standards;

"(B) A benefit-cost analysis to evaluate whether the benefits of the limitations on the total annual amounts of allowances available starting in 2018 justify the costs and whether adjusting any of the limitations would provide additional benefits which justify the costs of such adjustment, taking into account both quantifiable and nonquantifiable factors;

"(C) the marginal cost effectiveness of reducing emissions for each pollutant;

"(D) the merits of allowing trading between NO_x and SO_2 limitations;

"(E) an evaluation of the relative marginal cost effectiveness of reducing sulfur dioxide and nitrogen oxide emissions from affected EGUs under sub-part 2 of part B and subpart 2 of part C, as compared to the marginal cost effectiveness of controls on other sources of sulfur dioxide, nitrogen oxides and other pollutants that can be controlled to attain or maintain national ambient air quality standard;

"(F) an evaluation of the feasibility of attaining the limitations on the total annual amounts of allowances available starting in 2018 given the available control technologies and the ability to install control technologies by 2018, and the feasibility of attaining alternative limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1) for each pollutant, including the ability to achieve alternative limitations given the available control technologies, and the feasibility of installing the control technologies needed to meet the alternative limitation by 2018;

"(G) an assessment of the results of the most current research and development regarding technologies and strategies to reduce the emissions of one or more of these pollutants from affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D, as applicable and the results of the most current research and development regarding technologies for other sources of the same pollutants;

"(H) the projected impact of the limitations on the total annual amounts of allowances available starting in 2018 and the projected impact of adjusting any of the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1) on the safety and reliability of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D and on fuel diversity within the power generation section;

"(I) an assessment of the best available and most current scientific information relating to emissions, transformation and deposition of these pollutants, including studies evaluating—

"(i) the role of emissions of affected EGUs under subpart 2 of part B, subpart 2 of part C, or part D in the atmospheric formation of pollutants for which national ambient air quality standards exist;

"(ii) the transformation, transport, and fate of these pollutants in the atmosphere, other media, and biota;

"(iii) the extent to which effective control programs in other countries would prevent air pollution generated in those countries from contributing to nonattainment, or interfering with the maintenance of any national ambient air quality standards;

"(iv) whether the limitations starting in 2010 or 2018 will result in an increase in the level of any other pollutant and the level of any such increase; and

"(v) speciated monitoring data for particulate matter and the effect of various elements of fine particulate matter on public health;

"(J) an assessment of the best available and most current scientific information relating to emissions, transformation and deposition of mercury, including studies evaluating—

"(i) known and potential human health and environmental effects of mercury;

"(ii) whether emissions of mercury from affected EGUs under part D contribute significantly to elevated levels of mercury in fish;

"(iii) human population exposure to mercury; and

"(iv) the relative marginal cost effectiveness of reducing mercury emissions from affected EGUs under part D, as compared to the marginal cost effectiveness of controls on other sources of mercury;

"(K) a comparison of the extent to which sources of mercury not located in the United States contributed to adverse affects on terrestrial or aquatic systems as opposed to the contribution from affected EGUs under part D, and the extent to which effective mercury control programs in other countries could minimize such impairment; and

"(L) an analysis of the effectiveness and efficiency of the sulfur dioxide allowance program under subpart 2 of part B, the nitrogen oxides allowance program under subpart 2 of part C, and the mercury allowance program under part D.

"(3) As part of the study, the Administrator shall take into account the best available information pursuant to the review of the air quality criteria for particulate matter under section 108.

"(b) Peer Review Procedures.—(1) The draft results of the study under subsection (a) shall be subject to an independent and external peer review in accordance with this section. Any documents that are to be considered by the Administrator in the study shall be independently peer reviewed no later than July 1, 2008. The peer review required under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) The Administrator shall conduct the peer review in an open and rigorous manner. Such peer review shall—

"(A) be conducted through a formal panel that is broadly representative of the relevant scientific and technical views and involves qualified specialists who—

"(i) are selected primarily on the basis of their technical expertise relevant to the analyses required under this section;

"(iii) disclose to the agency prior technical or policy positions they have taken on the issues under consideration; and

"(iv) disclose to the agency their sources of personal and institutional funding from the private or public sectors;

"(B) contain a balanced presentation of all considerations, including minority reports;

"(C) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements;

"(D) afford an opportunity for public comment; and

"(E) be complete by no later than January 1, 2009.

"(2) The Administrator shall respond, in writing, to all significant peer review and public comments; and

"(3) The Administrator shall certify that—

"(A) each peer review participant has the expertise an independence required under this section; and

"(B) the agency has adequately responded to the peer review comments as required under this section.

"(c) Recommendaiton to Congress.—The Administrator, in consultation with the Secretary of Energy, shall submit to Congress no later than July 1, 2009, a recommendation whether to revise the limitations on the total annual amounts of allowances available starting in 2018 under paragraph (a)(1). The recommendation shall include the final results of the study under subsections (a) and (b) and shall address the factors described in paragraph (2) of subsection (a). The Administrator may submit separate recommendations addressing sulfur dioxide, nitrogen oxides, or mercury at any time after the study has been completed under paragraph (2) of subsection (a) and the peer review process has been completed under subsection (b).

"SEC. 411. DEFINITIONS.

"For purposes of this subpart and subpart 1 of part B:

"(1) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version, 2 National Utility reference File. For nonutility units, the term 'actual 1985 emission rate' means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(2) The term 'allowable 1985 emissions rate' means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions.

"(3) The term 'alternative method of compliance' means a method of compliance in accordance with one or more of the following authorities—

"(A) a substitution plan submitted and approved in accordance with subsections 413(b) and (c); or

"(B) a Phase I extension plan approved by the Administrator under section 413(d), using qualifying phase I technology as determined by the Administrator in accordance with that section.

"(4) The term 'baseline' means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ('mmBtu's'), calculated as follows:

"(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF) or in a corrected data base as established by the Administrator pursuant to paragraph (3). For non-utility units, the baseline in the NAPAP Emissions Inventory, Version 2. The Administrator, in the Administrator's sole discretion, may exclude periods during which a unit is shutdown for a continuous period of 4 calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

"(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the Administrator shall prescribe by regulation to be promulgated not later than 18 months after November 15, 1990.

"(C) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this subpart and correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this subpart. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

"(5) The term 'basic Phase II allowance allocations' means:

"(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i) and (j) of section 414.

"(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4) and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i) and (j) of section 414.

"(6) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(7) The term 'commenced' as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

"(8) The term 'commenced commercial operation' means to have begun to generate electricity for sale.

"(9) The term 'construction' means fabrication, erection, or installation of an affected unit.

"(10) The term 'existing unit' means a unit (including units subject to section 111) that commenced commercial operation before November 15, 1990. Any unit that commenced commercial operation before November 15, 1990 which is modified, reconstructed, or repowered after November 15, 1990 shall continue to be an existing unit for the purposes of this subpart. For the purposes of this subpart, existing units shall not include simple combustion turbines, or units which serve a generator with a nameplate capacity of 25 MWe or less.

"(11) The term 'independent power producer' means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

"(12) The term 'new independent power production facility' means a facility that—

"(A) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

"(B) in nonrecourse project-financed (as such term is defined by the Secretary of Energy within 3 months of the date of the enactment of the Clean Air Act Amendments of 1990); and

"(C) is a new unit required to hold allowances under this subpart.

"(13) The term 'industrial source' means a unit that does not serve a generator that produces electricity, a 'non-utility unit' as defined in this section, or a process source.

"(14) The term 'life-of-the-unit, firm power contractual arrangement' means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, pursuant to a contract either—

"(A) for the life of the unit;

"(B) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

"(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or release some portion of the capacity and associated energy generated by the unit (or units) at the end of the period.

"(15) The term 'new unit' means a unit that commences commercial operation on or after November 15, 1990.

"(16) The term 'nonutility unit' means a unit other than a utility unit.

"(17) The term 'Phase II bonus allowance allocations' means, for calendar year 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 412, subsections (a)(2), (b)(2), (c)(4), (d)(3) (except as otherwise provided therein), and (h)(2) of section 414, and section 415.

"(18) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"(19) The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magneto-hydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

"(20) The term 'reserve' means any bank of allowances established by the Administrator under this subpart.

"(21)(A) The term 'utility unit' means—

"(i) a unit that serves a generator in any State that produces electricity for sale, or

"(ii) a unit that, during 1985, served a generator in any State that produced electricity for sale.

"(B) Notwithstanding subparagraph (A), a unit described in subparagraph (A) that—

"(i) was in commercial operations during 1985, but

"(ii) did not during 1985, serve a generator in any State that produced electricity for sale shall not be a utility unit for purposes of this subpart.

"(C) A unit that cogenerates steam and electricity is not a 'utility unit' for purposes of this subpart unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990 and supplies more than one-third of its potential electric output capacity of more than 25 megawatts electrical output to any utility power distribution system for sale.

"SEC. 412. ALLOWANCE ALLOCATION.

"(a) Except as provided in sections 414(a)(2), 415(a)(3), and 416, beginning January 1, 2000, the Administrator shall not allocate annual missions of sulfur dioxide from utility units in excess of 8.90 million tons except that the Administrator shall not to take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meeting he restrictions imposed in the preceding sentence, he Administrator shall reduce, pro rata, the basic Phase II allowance allocations for each unit subject to the requirements of section 414. Subject to the provisions of section 417, the Administrator shall allocate allowances for each affected until at an affected source annually, as provided in paragraphs (2) and(3) and section 404. Except as provided in sections 416, the removal of an existing affected unit or source from commercial operation at any time after November 15, 1990 (whether before or after January 1, 1995, or January 1, 2000), shall not terminate or otherwise affect the allocation of allowances pursuant to section 413 or 414 to which the unit is entitled. Prior to June 1, 1998, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 414(a)(2).

"(b) NEW UTILITY UNITS.—

"(1) After January 1, 2000 and through December 31, 2007, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator.

"(2) Starting January 1, 2008, a new utility unit shall be subject to the prohibition in subsection (c)(3).

"(3) New utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g)(2) or (3) of section 414. New utility units may obtain allowances from any person, in accordance with this title. The owner or operator of any new utility unit in violation of subsection (b)(1) or subsection(c)(3) shall be liable for fulfilling the obligations specified in section 406.

"(c) PROHIBITIONS.—

"(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this subpart, except in accordance with regulations promulgated by the Administrator.

"(2) For any year 1995 through 2007, it shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for that unit for that year by the owner or operator of the unit.

"(3) Starting January 1, 2008, it shall be unlawful for the affected units at a source to emit a total amount of sulfur dioxide during the year in excess of the number of allowances held for the source for that year by the owner or operator of the source.

"(4) Upon the allocation of allowances under this subpart, the prohibition in paragraphs (2) and (3) shall supersede any other emission limitation applicable under this subpart to the units for which such allowances are allocated.

"(d) In order to insure electric reliability, regulations establishing a system for issuing, recording, and tracking allowances under section 403(b) and this subpart shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements, that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recording. The owners or operators of such units shall act through a designated representative. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from all units in such a utility system, power pool, or allowance pool agreements shall not exceed the total allowances for such units for the calendar year concerned, including for calendar years after 2007, allowances held for such units by the owner or operator of the sources where the units are located.

"(e) Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate of representation required under section 404(f) shall state—

"(1) that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or

"(2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in accordance with the contract.

A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances under this subpart received by the unit are deemed to be held for that person.

"SEC. 413. PHASE I SULFUR DIOXIDE REQUIREMENTS.

"(a) EMISSION LIMITATIONS.—

"(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 413(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless—

"(A) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or

"(B) the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, except that, after January 1, 2000, the emissions limitations established in this section shall be superseded by those established in section 414. The owner or operator of any unit in violation of this section be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 406.

“(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between—

“(A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and

“(B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this subpart that the Administrator finds would have occurred in the absence of the imposition of such requirements. Pursuant to subsection (d), the Administrator shall allocate allowances from the reserve established hereunder until the earlier of such time as all such allowances in the reserve are allocated or December 31, 1999.

“(3) In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, inclusive, the Administrator shall allocate for each unit on Table A that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances in an amount equal to 200,000 multiplied by the unit's pro rata share of the total number of allowances allocated for all units on Table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of the reserve under paragraph (2).

“(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 404 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

“(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

“(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

“(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, emitted by the substitute unit or units, based on the baseline for each unit, as defined in section 411(4), multiplied by the lesser of the unit's actual or allowable 1985 emissions rate;

“(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

“(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

“(6) such other information as the Administrator may require.

“(c) ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.—

“(1) The Administrator shall take final action on such substitution proposal in accordance with section 404(c) if the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

“(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 404. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 412. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds allowances to emit not less than the unit's total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 406. If a substitution proposal is disapproved, the Administrator shall allocate allowances to the original affected unit or units in accordance with subsection (a).

“(d) ELIGIBLE PHASE I EXTENSION UNITS.—

“(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 404 for an extension of 2 years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds allowances to emit not less than the unit's total annual emissions for each of the 2 years of the period of extension. To qualify for such an extension, the affected unit must either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 404, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

“(2) Such extension proposal shall—

“(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

“(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

“(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

“(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

“(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

“(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 404, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the subpart.

“(4) In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of the allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraph (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

“(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

“(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

“(C) the amount by which (i) the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

“(5) Each eligible Phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, for calendar year 1995, the Administrator shall allocate to each eligible Phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emission tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds allowances to emit not less than the unit's total annual emissions.

"(6) In addition to allowances specified in paragraph (4), the Administrator shall allocate for each eligible Phase I extension unit employing qualifying Phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000 exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection.

"(7) After January 1, 1997, in addition to any liability under this Act, including under section 406, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (2) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

"(e)(1) In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements—

"(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and

"(B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this paragraph for the unit pursuant to this subsection. The Administrator shall allocate allowances for a unit that is an affected unit pursuant to section 414 (but is not also an affected unit under this section) and part of a utility system that includes 1 or more affected units under section 414 for reductions in the emissions of sulfur dioxide made during the period 1995–1999 if the unit meets the requirements of this subsection and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such unit, the prior year concerned as specified below, shall be any year after January 1, 1995 but prior to January 1, 2000.

"(2) In the case of an affected unit under this section described in subparagraph (A), the allowances allocated under this subsection for early reductions in any prior year may not exceed the amount which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000 exceeds (B) the allowances specified for such unit in Table A. In the case of an affected unit under section 414 described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (i) the product of the quality of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by the lesser of 2.50 or the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000 exceeds (ii) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned. Allowances allocated under this subsection for units referred to in subparagraph (A) may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after November 15, 1990, including changes in the type or quality of fossil fuel consumed.

"(3) In no event shall the provisions of this paragraph be interpreted as an event of force majeure or a commercial impracticability or in any other way as a basis for excused nonperformance by a utility system under a coal sales contract in effect before November 15, 1990.

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)

State	Plant name	Generator	Phase I allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
Georgia	Bowen	1	56,320
		2	54,770
		3	71,750
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
		7	21,480
Illinois	Baldwin	1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
	Grand Tower	4	5,910
	Hennepin	2	18,410
	Joppa Steam	1	12,590
		2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
	Vermilion	2	8,880

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
Indiana	Bailly	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E. W. Stout	5	3,880
		6	4,770
		7	23,610
	F. B. Culley	2	4,290
		3	16,970
	F. E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H.T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,430
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750
		5	3,670
		6	12,280
	Warrick	4	26,980
Iowa	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,290
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	11,250
		2	12,840
		3	12,340
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,910
		2	24,330
	C.P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
		2	38,480
Michigan	J.H. Campbell	1	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,480
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
		7	38,510
	Muskingum River	1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270
	Martins Creek	1	12,660
		2	12,820
	Portland	1	5,940
		2	10,230
	Shawville	1	10,320
		2	10,320
		3	14,220
		4	14,070
	Sunbury	3	8,760
		4	11,450
Tennessee	Allen	1	15,320
		2	16,770
		3	15,670
	Cumberland	1	86,700
		2	94,840
	Gallatin	1	17,870
		2	17,310
		3	20,020
		4	21,260
	Johnsonville	1	7,790
		2	8,040
		3	8,410
		4	7,990
		5	8,240
		6	7,890
		7	8,980
		8	8,700
		9	7,080
		10	7,550
West Virginia	Albright	3	12,000
	Fort Martin	1	41,590
		2	41,200
	Harrison	1	48,620
		2	46,150
		3	41,500
	Kammer	1	18,740
		2	19,460
		3	17,390
	Mitchell	1	43,980
		2	45,510
	Mount Storm	1	43,720
		2	35,580
		3	42,430
Wisconsin	Edgewater	4	24,750
	La Crosse/Genoa	3	22,700
	Nelson Dewey	1	6,010
		2	6,680
	N. Oak Creek	1	5,220
		2	5,140
		3	5,370
		4	6,320
	Pulliam	8	7,510
	S. Oak Creek	5	9,670
		6	12,040
		7	16.180
		8	15,790

“(f) Energy Conservation and Renewable Energy.—

“(1) Definitions.—As used in this subsection:

“(A) Qualified energy conservation measure.—The term ‘qualified energy conservation measure’ means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.

“(B) Qualified renewable energy.—The term ‘qualified renewable energy’ means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

“(C) Electric utility.—The term ‘electric utility’ means any person, State agency, or Federal agency, which sells electric energy.

“(2) Allowances for emissions avoided through energy conservation and renewable energy.—

“(A) In general.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.

“(B) Requirements for issuance.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:

“(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

“(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

“(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

“(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

“(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with rate-making authority for such utility.

“(iv) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (B) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

“(v) Such utility or any subsidiary of the utility’s holding company owns or operates at least one affected unit.

“(C) Period of applicability.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992, and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this subpart (including those sources that elect to become affected by this title, pursuant to section 417).

“(D) Determination of avoided emissions.—

“(i) Application.—In order to receive allowances under this subsection, an electric utility shall make an application which—

“(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions;

“(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

“(III) demonstrates that the requirements of subparagraph (B) have been met. Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

“(E) Avoided emissions from qualified energy conservation measures.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

“(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

“(ii) 0.004, and dividing by 2,000.

“(F) Avoided emissions from the use of qualified renewable energy.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by (ii) 0.004, and dividing by 2,000.

“(G) Prohibitions.—

“(i) No allowances shall be allocated under this subsection for the implementation of programs that are exclusively informational or educational in nature.

“(ii) No allowances shall be allocated for energy conservation measures or renewable energy that were operational before January 1, 1992.

“(3) Savings provision.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

“(4) Regulations.—The Administrator shall implement this subsection under 40 CFR part 73 (2002), amended as appropriate by the Administrator. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility and from State-to-State in accordance with the Administrator’s rules. The Administrator shall publish the findings of this review no less than annually.

“(g) Conservation and Renewable Energy Reserve.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate from the Conservation and Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 411. In order to provide 300,000 allowances for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit’s basic Phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. Notwithstanding the prior sentence, if allowances remain in the reserve one year after the date of enactment of the Clear Skies Act of 2003, the Administrator shall allocate such allowances for affected units under section 414 on a pro rata basis. For purposes of this subsection, for any unit subject to the emissions limitation requirements of section 414, the term ‘pro rata basis’ refers to the ratio which the reductions made in such unit’s allowances in order to establish the reserve under this subsection bears to the total of such reductions for all such units.

“(h) Alternative Allowance Allocation for Units in Certain Utility Systems With Optional Baseline.—

“(1) Optional baseline for units in certain systems.—In the case of a unit subject to the emissions limitation requirements of this section which (as of November 15, 1990)—

“(A) has an emission rate below 1.0 lbs/mmBtu,

“(B) has decreased its sulfur dioxide emissions rate by 60 percent or greater since 1980, and

“(C) is part of a utility system which has a weighted average sulfur dioxide emissions rate for all fossil fueled-fired units below 1.0 lbs/mmBtu, at the election to the owner or operator of such unit, the unit’s baseline may be calculated

“(i) as provided under section 411, or

“(ii) by utilizing the unit’s average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

“(2) Allowance allocation.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances for the unit pursuant to section 412(a), this section, and section 414 (as Basic Phase II allowance allocations) in an amount equal to the baseline selected multiplied by the lower of the average annual emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this section and section 414.

"SEC. 414. PHASE II SULFUR DIOXIDE REQUIREMENTS.

"(a) APPLICABILITY.—

"(1) After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this subpart. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 406.

"(2) In addition to basic Phase II allowance allocations, in each year beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall allocate up to 530,000 Phase II bonus allowances pursuant to subsections (b)(2),(c)(4), (d)(3)(A) and (B), and (h)(2) of this section and section 415.

"(3) In addition to basic Phase II allowances allocations and Phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate for each unit listed on Table A in section 413 (other than units at Kyger Creek, Clifty Creek, and Joppa Stream) and located in the States of Illinois, Indiana, Ohio, Georgia, Alabama, Missouri, Pennsylvania, West Virginia, Kentucky, or Tennessee allowances in an amount equal to 50,000 multiplied by the unit's pro rata share of the total number of basic allowances allocated for all units listed on Table A (other than units at Kyger Creek, Clifty Creek, and Joppa Stream). Allowances allocated pursuant to this paragraph shall not be subject to the 8,900,000 ton limitation in section 412(a).

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—

"(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

"(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated nonattainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

"(4) After January 1, 2000, the Administrator shall allocate annually for each unit, subject to the emissions limitation requirements of paragraph (1), which is located in a State with an installed electrical generating capacity of more than 30,000,000 kw in 1988 and for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided*, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated for each unit under this paragraph.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—

"(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, less than 250 MWe, to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

"(3) After January 1, 2000 it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity greater than 250 MWe, and less than 450 MWe which serves fewer than 78,000 electrical customers as of November 15, 1990, to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds allowances to emit not less than the units total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

"(4) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, inclusive, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(5) After January 1, 2000, is shall be unlawful for any existing unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which is part of an electric utility system which, as of November 15, 1990—

"(A) has at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices,

"(B) has more than 10 percent of its fossil-fuel capacity consisting of coal-fired unites of less than 75 MWe, and

"(C) has large units (greater than 400 MWe) all of which have difficult or very difficult

FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986) to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 2.5 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the project of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—

“(1) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by—

“(A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, and

“(B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(2) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(3)(A) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which—

“(i) the product of the lesser of 0.60 lbs.mmBtu or the unit's allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds

“(ii) the number of allowances allocated for the unit pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations.

“(B) In addition to allowances allocated pursuant to paragraph (2) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which—

“(i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds

“(ii) the number of allowances allocated for the unit pursuant to paragraph (2) and section 412(a) as basic Phase II allowance allocations.

“(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect the allocation of allowances as provided under subparagraphs (A) and (B). Such election shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall allocate allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

“(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

“(5) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, beginning January 1, 2002, the Administrator shall allocate for the unit allowances in an amount equal to the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

“(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any existing oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by (A) the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and (B) a numerical factor of 120 percent divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—

“(1) After January 1, 2000, it shall be unlawful for any oil and gas-fired existing utility unit the lesser of whose actual or allowance 1985 emission rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis was 90 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by—

“(A) the lesser of 0.60 lbs/mmBtu or the unit's allowance 1985 emissions, and

“(B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007,

unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(2) In addition to allowances allocated pursuant to paragraph (1) as basic Phase II allowance allocations and section 412(a), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

“(g) UNITS THAT COMMENCE OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—

“(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1986, but not later than September 30, 1990 to exceed an annual tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowance 1985 sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(2) After January 1, 2000, the Administrator shall allocate allowances pursuant to section 411 to each unit which is listed in table B of this paragraph in an annual amount equal to the amount specified in table B.

“TABLE B

Unit	Allowances
Brandon Shores	8,907
Miller 4	9,197
TNP One 2	4,000
Zimmer 1	18,458
Spruce 1	7,647
Clover 1	2,796
Clover 2	2,796
Twin Oak 2	1,760
Twin Oak 1	9,158
Cross 1	6,401
Malakoff 1	1,759

Notwithstanding any other paragraph of this subsection, for units subject to this paragraph, the Administrator shall not allocate allowances pursuant to any other paragraph of this subsection, provided that the owner or operator of a unit listed on Table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.

“(3) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

“(4) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

“(5) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired existing operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq, repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(6) Unless the Administrator has approved a designation of such facility under section 417, the provisions of this subpart shall not apply to a 'qualifying small power production facility' or 'qualifying cogeneration facility' (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a 'new independent power production facility' if, as of November 15, 1990—

“(A) an applicable power sales agreement has been executed;

“(B) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement with, purchase capacity from, or (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility;

“(C) an electric utility has issued a letter of intent or similar instrument committing to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

“(D) the facility has been selected as a winning bidder in a utility competitive bid solicitation.

“(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—

“(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

“(3) In addition to allowances allocated pursuant to paragraph (1) and section 412(a), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

“(i) UNITS IN HIGH GROWTH STATES.—

“(1) In addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, the Administrator shall allocate annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

“(A) has experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981–1988 allocated by the United States Department of Commerce, and

“(B) had an installed electrical generating capacity of more than 30,000,000 kw in 1988, in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: *Provided*, That the number of allowances allocated pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

“(2) Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1)—

“(A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 percent or more as of November 15, 1990,

“(B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000,

“(C) which commenced operation after January 1, 1970,

“(D) which is owned by a utility company whose combined commercial and industrial kilowatt-hour sales have increased by more than 20 percent between calendar year 1980 and November 15, 1990, and

“(E) whose company-wide fossil fuel sulfur dioxide emissions rate has declined 40 percent or more from 1980 to 1988, allowances in an amount equal to the difference between—

“(i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator, and

“(ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): *Provided*, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000 allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated to each unit pursuant to this paragraph.

“(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

“SEC. 415. ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU.

“(a) ELECTION OF GOVERNOR.—In addition to basic Phase II allowance allocations, upon the election of the Governor of any State, with a 1985 statewide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate, in lieu of other Phase II bonus allowance allocations, allowances from the reserve created pursuant to section 414(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

“(b) NOTIFICATION OF ADMINISTRATOR.—Pursuant to section 412(a), each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate allowances pursuant to section 414.

“(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 414.

"SEC. 416. ELECTION FOR ADDITIONAL SOURCES.

``(a) Applicability.—The owner or operator of any unit that is not, nor will become, an affected unit under section 412(b), 413, or 414, that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this subpart. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 404. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit shall be allocated allowances, and be an affected unit for purposes of this subpart.

``(b) Establishment of Baseline.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

``(c) Emission Limitations.—

``(1) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) before January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

``(2) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) on or after January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 4,000.

``(d) Allowances and Permits.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c), in accordance with section 412. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 412. Affected sources under this section shall be subject to the requirements of sections 404, 405, 406, and 412.

``(e) Limitation.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this subpart, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

``(f) Implementation.—The Administrator shall implement this section under 40 CFR part 74 (2002), amended as appropriate by the Administrator.

"SEC. 417. AUCTIONS, RESERVE.

``(a) Special Reserve of Allowances.—For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold—

``(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

``(2) 2.8 percent of the basic Phase II allowance allocation of allowances for each year beginning in the year 2000

which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section.

``(b) Auction Sales.—

``(1) Subaccount for auctions.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall contain allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive and 250,000 tons per year for each year from 2000 through 2009, inclusive.

``(2) Annual auctions.—Commencing in 1993 and in each year thereafter until 2010, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator. The allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table C. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowance sat specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this subpart and subpart 2.

"TABLE C.—NUMBER OF ALLOWANCES AVAILABLE FOR AUCTION

Year of sale	Spot auction (same year)	Advance auction
1993	50,000*	100,000
1994	50,000*	100,000
1995	50,000*	100,000
1996	150,000	100,000
1997	150,000	100,000
1998	150,000	100,000
1999	150,000	100,000
2000	125,000	125,000
2001	125,000	125,000
2002	125,000	125,000
2003	125,000	0
2004–2009	125,000	0

Allowances sold in the spot sale in any year are allowances which may be used only in that year (unless banked for use in a later year), except as otherwise noted. Allowances sold in the advance auction in any year are allowances which may only be used in the 7th year after the year in which they are first offered for sale (unless banked for use in a later year).

*Available for use only in 1995 (unless banked for use in a later year).

``(3) Proceeds.—

``(A) Transfer.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under this section, on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld under subsection (b). No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

``(B) Return.—At the end of each year, any allowances offered for sale but not sold at the auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld. With 170 days after the date of enactment of the Clear Skies Act of 2003, any allowance withheld under paragraph (a)(2) but not offered for sale at an auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld.

``(4) Recording by EPA.—The Administrator shall record and publicly report the nature, prices and results of each auction under this subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this subpart.

``(c) Changes in Auctions and Withholding.—Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 1998 (in the case of advance auctions) and 2005 (in the case of spot auctions) decrease the number of allowances withheld and sold under this section.

``(d) Termination of Auctions.—Not later than the commencement date of the sulfur dioxide allowance requirement under section 422, the Administrator shall terminate the withholding of allowances and the auction sales under this section. Pursuant to regulations under this section, the Administrator may be delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

``(e) The Administrator shall implement this section under 40 CFR part 73 (2002), amended as appropriate by the Administrator.

"SEC. 418. INDUSTRIAL SO_2 EMISSIONS.

``(a) Report.—Not later than January 1, 1995 and every 5 years thereafter, the Administrator shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources (as defined in section 411(11)), including units subject to section 414(g)(2), for all years for which data are available, as well as the likely trend in such emission over the following twenty-year period. The reports shall also contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

``(b) 5.60 Million Ton Cap.—Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 414(g)(2), and may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator shall take such actions under the Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 414(g)(2), under section 111(b), as well as promulgation of standards of performance for existing sources, including units subject to section 414(g)(2), under authority of this section. For an existing source regulated under this section, ‘standard of performance’ means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

“(c) ELECTION.—Regulations promulgated under section 414(b) shall not prohibit a source from electing to become an affected unit under section 417.

“SEC. 419. TERMINATION.

“Starting January 1, 2010, the owners or operators of affected units and affected facilities under sections 412(b) and (c) and 416 and shall no longer be subject to the requirements of sections 412 through 417.

“Subpart 2—Clear Skies Sulfur Dioxide Allowance Program

“SEC. 421. DEFINITIONS.

“For purposes of this subpart—

“(1) The term ‘affected EGU’ means—

“(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it served or serves during 2002 and each year thereafter; and

“(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a gas-fired unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it serves, during each year starting with the year the unit commences services of a generator.

Notwithstanding paragraphs (A) and (B), the term ‘affected EGU’ does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

“(2) The term ‘coal-fired’ with regard to a unit means, for purposes of section 424, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during 1998 through 2002 or, for a unit that commenced operation during 2001–2004, a unit designed to combust coal or any coal-derived fuel alone or in combination with any other fuel.

“(3) The term ‘Eastern bituminous’ means bituminous that is from a mine located in a State east of the Mississippi River.

“(4) The term ‘general account’ means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any person under 40 CFR §73.31(c) (2002), amended as appropriate by the Administrator.

“(5) The term ‘oil-fired’ with regard to a unit means, for purposes of section 424, combusting fuel oil for more than 10 percent of the unit's total heat input, and combusting no coal or coal-derived fuel, in any year during 1998 through 2002 or, for a unit that commenced operation during 2001–2004, a unit designed to combust oil for more than 10 percent of the unit's total heat input and not to combust any coal or coal-derived fuel coal.

“(6) The term ‘unit account’ means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any unit under 40 CFR §73.31(a) and (b) (2002), amended as appropriate by the Administrator.

“SEC. 422. APPLICABILITY.

“(a) PROHIBITION.—Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

“(b) ALLOWANCES HELD.—Only sulfur dioxide allowances under section 423 shall be held in order to meet the requirements of subsection (a), except as provided under section 425.

“SEC. 423. LIMITATIONS ON TOTAL EMISSIONS.

“For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate sulfur dioxide allowances under section 424, and shall conduct auctions of sulfur dioxide allowances under section 409, in the amounts in Table A.

“TABLE A.—TOTAL SO_2 ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS

Year	SO_2 allowances allocated	SO_2 allowances auctioned
2010	4,371,666	45,000
2011	4,326,667	90,000
2012	4,281,667	135,000
2013	4,320,000	180,000
2014	4,275,000	225,000
2015	4,230,000	270,000
2016	4,185,000	315,000
2017	4,140,000	360,000
2018	2,730,000	270,000
2019	2,700,000	300,000
2020	2,670,000	330,000
2021	2,640,000	360,000
2022	2,610,000	390,000
2023	2,580,000	420,000
2024	2,550,000	450,000
2025	2,520,000	480,000
2026	2,490,000	510,000
2027	2,460,000	540,000
2028	2,430,000	570,000
2029	2,400,000	600,000
2030	2,325,000	675,000
2031	2,250,000	750,000
2032	2,175,000	825,000
2033	2,100,000	900,000
2034	2,025,000	975,000
2035	1,950,000	1,050,000
2036	1,875,000	1,125,000
2037	1,800,000	1,200,000
2038	1,725,000	1,275,000
2039	1,650,000	1,350,000
2040	1,575,000	1,425,000
2041	1,500,000	1,500,000
2042	1,425,000	1,575,000
2043	1,350,000	1,650,000
2044	1,275,000	1,725,000
2045	1,200,000	1,800,000
2046	1,125,000	1,875,000
2047	1,050,000	1,950,000
2048	975,000	2,025,000
2049	900,000	2,100,000
2050	825,000	2,175,000
2051	750,000	2,250,000
2052	675,000	2,325,000
2053	600,000	2,400,000
2054	525,000	2,475,000
2055	450,000	2,550,000
2056	375,000	2,625,000
2057	300,000	2,700,000
2058	225,000	2,775,000
2059	150,000	2,850,000
2060	75,000	2,925,000
2061	0	3,000,000

“SEC. 424. EGU ALLOCATIONS.

“(a) IN GENERAL.—Not later than 24 months before the commencement date of the sulfur dioxide allowance requirement of section 422, the Administrator shall promulgate regulations determining allocations of sulfur dioxide allowances for affected EGUs for each year during 2010 through 2060. The regulations shall provide that:

“(1)(A) 95 percent of the total amount of sulfur dioxide allowances allocated each year under section 423 shall be allocated based on the sulfur dioxide allowances that were allocated under subpart 1 for 2010 or thereafter and are held in unit accounts and general accounts in the Allowance Tracking System under section 403(c).

“(B) The Administrator shall allocate sulfur dioxide allowances to each facility's account and each general account in the Allowance Tracking System under section 403(c) as follows:

“(i) For each unit account and each general account in the Allowance Tracking System, the Administrator shall determine the total amount of sulfur dioxide allowances allocated under subpart 1 for 2010 and thereafter that are recorded, as of 12:00 noon, Eastern Standard time, on the date 180 days after enactment of the Clear Skies Act of 2003. The Administrator shall determine this amount in accordance with 40 CFR part 73 (2002), amended as appropriate by the Administrator, except that the Administrator shall apply a discount rate of 7 percent for each year after 2010 to the amounts of sulfur dioxide allowances allocated for 2011 or later.

“(ii) For each unit account and each general account in the Allowance Tracking System, the Administrator shall determine an amount of sulfur dioxide allowances equal to the allocation amount under subparagraph (A) multiplied by the ratio of the amount of sulfur dioxide allowances determined to be recorded in that account under clause (i) to the total amount of sulfur dioxide allowances determined to be recorded in all unit accounts and general accounts in the Allowance Tracking System under clause (i).

“(iii) The Administrator shall allocate to each facility's account in the Allowance Tracking System an amount of sulfur dioxide allowances equal to the total amount of sulfur dioxide allowances determined under clause (ii) for the unit accounts of the units at the facility and shall allocate to each general account in the Allowance Tracking System the amount of sulfur dioxide allowances determined under clause (ii) for that general account.

“(2)(A) $3\frac{1}{2}$ percent of the total amount of sulfur dioxide allowances allocated each year under section 423 shall be allocated for units at a facility that are affected EGUs as of December 31, 2004, that commenced operation before January 1, 2001, and that are not allocated any sulfur dioxide allowances under subpart 1.

“(B) The Administrator shall allocate each year for the units under subparagraph (A) an amount of sulfur dioxide allowances determined by:

"(i) For such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total baseline heat input of such units and converting to tons.

"(ii) For such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total baseline heat input of such units and converting to tons.

"(iii) For all such other units at the facility that are not covered by clause (i) or (ii), multiplying 0.05 lb/mmBtu by the total baseline heat input of such units and converting to tons.

"(iv) If the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i), (ii), and (iii) to the total of the amounts for all facilities under clause (i), (ii), and (iii).

"(v) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv). The Administrator shall add to the amount of sulfur dioxide allowances allocated under paragraph (3) any unallocated allowances under this paragraph.

"(3)(A) 1½ percent of the total amount of sulfur dioxide allowances allocated each year under section 423 shall be allocated for units that are affected EGUs as of December 31, 2004, that commence operation on or after January 1, 2001 and before January 1, 2005, and that are not allocated any sulfur dioxide allowances under subpart 1.

"(B) The Administrator shall allocate each year for the units under subparagraph (A) an amount of sulfur dioxide allowances determined by:

"(i) For such units at the facility that are coal-fired or oil-fired, multiplying 0.19 lb/mmBtu by the total baseline heat input of such units and converting to tons.

"(ii) For all such other units at the facility that are not covered by clause (i), multiplying 0.02 lb/mmBtu by the total baseline heat input of such units and converting to tons.

"(iii) If the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i) and (ii) to the total of the amounts for all facilities under clauses (i) and (ii).

"(iv) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i) and (ii) or, if the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv). The Administrator shall allocate to the facilities under paragraphs (1) and (2) on a pro rata basis (based on the allocations under those paragraphs) any unallocated allowances under this paragraph.

"(b) FAILURE TO PROMULGATE.—(1) If, by the date 18 months before January 1 of each year 2010 through 2060, the Administrator has signed proposed regulations, but has not promulgated final regulations, determining allocations under subsection (a), the Administrator shall allocate, for such year, for each facility where an affected EGU is located, and for each general account, the amount of sulfur dioxide allowances specified for that facility and the general account in such proposed regulations.

"(2) If, by the date 18 months before January 1 of each year 2010 through 2060, the Administrator has not signed proposed regulations determining allocations under subsection (a), the Administrator shall:

"(A) determine, for such year, for each unit with coal as its primary or secondary fuel or residual oil as its primary fuel listed in the Administrator's Emissions Scorecard 2001, Appendix B, Table B1 an amount of sulfur dioxide allowances by multiplying 95 percent of the allocation amount under section 423 by the ratio of such unit's heat input in the Emissions Scorecard 2001, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2001, Appendix B, Table B1 for all units with coal as their primary or secondary fuel or residual oil as their primary fuel;

"(B) allocate, for such year, for each facility where a unit under subparagraph (A) is located the total of the amounts of sulfur dioxide allowances for the units at such facility determined under subparagraph (A); and

"(C) auction an amount of sulfur dioxide allowances equal to 5 percent of the allocation amount under section 423 and conduct the auction on the first business day in October following the respective promulgation deadline under paragraph (1) and in accordance with section 409.

"SEC. 425. DISPOSITION OF SULFUR DIOXIDE ALLOWANCES ALLOCATED UNDER SUBPART 1.

"(a) REMOVAL FROM ACCOUNTS.—After allocating allowances under section 424(a)(1), the Administrator shall remove from the unit accounts and general accounts in the Allowance Tracking System under section 403(c) and from the Special Allowances Reserve under section 418 all sulfur dioxide allowances allocated or deposited under subpart 1 for 2010 or later.

"(b) REGULATIONS.—The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 422 may be met using sulfur dioxide allowances allocated under subpart 1 for 1995 through 2009.

"SEC. 426. INCENTIVES FOR SULFUR DIOXIDE EMISSION CONTROL TECHNOLOGY.

"(a) RESERVE.—The Administrator shall establish a reserve of 250,000 sulfur dioxide allowances comprising 83,334 sulfur dioxide allowances for 2010, 83,333 sulfur dioxide allowances for 2011, and 83,333 sulfur dioxide allowances for 2012.

"(b) APPLICATION.—Not later than 18 months after the enactment of the Clear Skies Act of 2003, an owner or operator of an affected EGU that commenced operation before 2001 and that during 2001 combusted Eastern bituminous may submit an application to the Administrator for sulfur dioxide allowances from the reserve under subsection (a). The application shall include each of the following:

"(1) A statement that the owner or operator will install and commence operation of specified sulfur dioxide control technology at the unit within 24 months after approval of the application under subsection (c) if the unit is allocated the sulfur dioxide allowances requested under paragraph (4). The owner or operator shall provide description of the control technology.

"(2) A statement that, during the period starting with the commencement of operation of sulfur dioxide technology under paragraph (1) through 2009, the unit will combust Eastern bituminous at a percentage of the unit's total heat input equal to or exceeding the percentage of total heat input combusted by the unit in 2001 if the unit is allocated the sulfur dioxide allowances requested under paragraph (4).

"(3) A demonstration that the unit will achieve, while combusting fuel in accordance with paragraph (2) and operating the sulfur dioxide control technology specified in paragraph (1), a specified tonnage of sulfur dioxide emission reductions during the period starting with the commencement of operation of sulfur dioxide control technology under subparagraph (1) through 2009. The tonnage of emission reductions shall be the difference between emissions monitored at a location at the unit upstream of the control technology described in paragraph (1) and emissions monitored at a location at the unit downstream of such control technology, while the unit is combusting fuel in accordance with paragraph (2).

"(4) A request that EPA allocate for the unit a specified number of sulfur dioxide allowances from the reserve under subsection (a) for the period starting with the commencement of operation of the sulfur dioxide technology under paragraph (1) through 2009.

"(5) A statement of the ratio of the number of sulfur dioxide allowances requested under paragraph (4) to the tonnage of sulfur dioxide emissions reductions under paragraph (3).

"(c) APPROVAL OR DISAPPROVAL.—By order subject to notice and opportunity for comment, the Administrator shall—

"(1) determine whether each application meets the requirements of subsection (b);

"(2) list the applications meeting the requirements of subsection (b) and their respective allowance-to-emission-reduction ratios under paragraph (b)(5) in order, from lowest to highest, of such ratios;

"(3) for each application listed under paragraph (2), multiply the amount of sulfur dioxide emission reductions requested by each allowance-to-emission-reduction ratio on the list that equals or is less than the ratio for the application;

"(4) sum, for each allowance-to-emission-reduction ratio in the list under paragraph (2), the amounts of sulfur dioxide allowances determined under paragraph (3);

"(5) based on the calculations in paragraph (4), determine which allowance-to-emission-reduction ratio on the list under paragraph (2) results in the highest total amount of allowances that does not exceed 250,000 allowances; and

"(6) approve each application listed under paragraph (2) with a ratio equal to or less than the allowance-to-emission-reduction ratio determined under paragraph (5) and disapprove all the other applications.

"(d) MONITORING.—An owner or operator whose application is approved under subsection (c) shall install, and quality assure data from, a CEMS for sulfur dioxide located upstream of the sulfur dioxide control technology under paragraph (b)(1) at the unit and a CEMS for sulfur dioxide located downstream of such control technology at the unit during the period starting with the commencement of operation of such control technology through 2009. The installation of the CEMS and the quality assurance of data shall be in accordance with subparagraph (a)(2)(B) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stock, separate monitoring shall be required for each unit.

"(e) ALLOCATIONS.—Not later than 6 months after the commencement date of the sulfur dioxide allowance requirement of section 422, for the units for which applications are approved under subsection (c), the Administrator shall allocate sulfur dioxide allowances as follows:

"(1) For each unit, the Administrator shall multiply the allowance-to-emission-reduction ratio of the last application that EPA approved under subsection (c) by the lesser of—

"(A) the total tonnage of sulfur dioxide emissions reductions achieved by the unit, during the period starting with the commencement of operation of the sulfur dioxide control technology under subparagraph (b)(1) through 2009, through use of such control technology; or

"(B) the tonnage of sulfur dioxide emission reductions under paragraph (b)(3).

"(2) If the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, the Administrator shall multiply 250,000 sulfur dioxide allowances by the ratio of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) to the total amount of sulfur dioxide allowances determined for all units under paragraph (1).

"(3) The Administrator shall allocate to each unit the lesser of the amount determined for that unit under paragraph (1) or, if the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, under paragraph (2). The Administrator shall auction any unallocated allowances from the reserve under this section and conduct the auction by the first business day in October 2010 and in accordance with section 409.

"Subpart 3—Western Regional Air Partnership

"SEC. 431. DEFINITIONS.

"For purposes of this subpart—

"(1) The term 'adjusted baseline heat input' means the average annual heat input used by a unit during the 3 years in which the unit had the highest heat input for the period from the 8th through the 4th year before the first covered year.

"(A) Notwithstanding paragraph (1), if a unit commences operation during such period and—

"(i) on or after January 1 of the fifth year before the first covered year, then 'adjusted baseline heat input' shall mean the average annual heat input used by the unit during the fifth and 4th years before the first covered year; and

"(ii) on or after January 1 of the 4th year before the first covered year, then 'adjusted baseline heat input' shall mean the annual heat input used by the unit during the 4th year before the first covered year.

"(B) A unit's heat input for a year shall be the heat input—

"(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

"(ii) reported to the Energy Information Administrator for the unit, if the unit was not required to report heat input under section 405;

"(iii) based on data for the unit reported to the WRAP State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

"(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the WRAP State.

"(2) The term 'affected EGU' means an affected EGU under subpart 2 that is in a WRAP State and that—

"(A) in 2000, emitted 100 tons or more of sulfur dioxide and was used to produce electricity for sale; or

"(B) in any year after 2000, emits 100 tons or more of sulfur dioxide and is used to produce electricity for sale.

"(3) The term 'coal-fired' with regard to a unit means, for purposes of section 434, a unit combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during the period from the 8th through the 4th year before the first covered year.

"(4) The term 'covered year' means—

"(A)(i) the third year after the year 2018 or later when the total annual sulfur dioxide emissions of all affected EGUs in the WRAP States first exceed 271,000 tons; or

"(ii) the third year after the year 2013 or later when the Administrator determines by regulation that the total annual sulfur dioxide emissions of all affected EGUs in the WRAP States are reasonably projected to exceed 271,000 tons in 2018 or any year thereafter. The Administrator may make such determination only if all the WRAP States submit to the Administrator a petition requesting that the Administrator issue such determination and make all affected EGUs in the WRAP States subject to the requirements of sections 432 through 434; and

"(B) each year after the 'covered year' under subparagraph (A).

"(5) The term 'oil-fired' with regard to a unit means, for purposes of section 434, a unit combusting fuel oil for more than 10 percent of the unit's total heat input, and combusting no coal or coal-derived fuel, an any year during the period from the eight through the 4th year before the first covered year.

"(6) The term 'WRAP State' means Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming.

"SEC. 432. APPLICABILITY.

"(a) PROHIBITION.—Starting January 1 of the first covered year, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

"(b) ALLOWANCES HELD.—Only sulfur dioxide allowances under section 433 shall be held in order to meet the requirements of subsection (a).

"SEC. 433. LIMITATIONS ON TOTAL EMISSIONS.

"For affected EGUs, the total amount of sulfur dioxide allowances that the Administrator shall allocate for each covered year under section 434 shall equal 271,000 tons.

"SEC. 434. EGU ALLOCATIONS.

"(a) IN GENERAL.—By January 1 of the year before the first covered year, the Administrator shall promulgate regulations determining, for each covered year, the allocations of sulfur dioxide allowances for the units at a facility that are affected EGUs as of December 31 of the 4th year before the covered year by—

"(1) for such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

"(2) for such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

"(3) for all such other units at the facility that are not covered by paragraph (1) or (2) multiplying 0.05 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons; and

"(4) multiplying the allocation amount under section 433 by the ratio of the total of the amounts for the facility under paragraphs (1), (2), and (3) to the total of the amounts for all facilities under paragraphs (1), (2), and (3).

"(b) FAILURE TO PROMULGATE.—(1) For each covered year, if, by the date 18 months before January 1 of such year, the Administrator has signed proposed regulations but has not promulgated final regulations determining allocations under paragraph (a), then the Administrator shall allocate, for such year, for each facility where an affected EGU is located the amount of sulfur dioxide allowances specified for that facility in such proposed regulations.

"(2) For each covered year, if, by the date 18 months before January 1 of such year, the Administrator has not signed proposed regulations determining allocations under subsection (a), the Administrator shall:

"(A) determine, for such year, for each affected EGU with coal as its primary or secondary fuel or residual oil as its primary fuel listed in the Administrator's Emissions Scorecard 2001, Appendix B, Table B1 an amount of sulfur dioxide allowances by multiplying 95 percent of the allocation amount under section 433 by the ratio of such unit's heat input in the Emissions Scorecard 2001, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2001, Appendix B, Table B1 for all affected EGUs with coal as their primary or secondary fuel or residual oil as their primary fuel;

"(B) allocate, for such year, for each facility where a unit under subparagraph (A) is located the total the amounts of sulfur dioxide allowances for the units at such facility determined under subparagraph (A); and

"(C) auction an amount of sulfur dioxide allowances equal to 5 percent of the allocation amount under section 433 and conduct the auction on the first business day in October following the respective promulgation deadline under paragraph (1) and in accordance with section 409.

"PART C—NITROGEN OXIDES CLEAR SKIES EMISSION REDUCTIONS

"Subpart 1—Acid Rain Program

"SEC. 441. NITROGEN OXIDES EMISSION REDUCTION PROGRAM.

"(a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 413 or 414, or on the date a unit subject to the provisions of section 413(d), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) The Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: Provided, That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_X burner technology. The Administrator shall implement this paragraph under 40 CFR §76.5 (2002). The maximum allowable emission rates are as follows:

"(A) for tangentially fired boilers, 0.45 lb/mmBtu; and

"(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu. After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) The Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) units applying cell burner technology; and

"(D) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). The Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NO_X burned technology is available: *Provided*, That, no unit that is an affected unit pursuant to section 413 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any. The Administrator shall implement that paragraph under 40 CFR §§76.6 and 76.7 (2002).

"(c) ALTERNATIVE EMISSION LIMITATIONS.—(1) The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

"(A) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_X burner technology; or

"(B) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

"(2) The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator, that the owner or operator—

"(A) has properly installed appropriate control equipment designed to meet the applicable emission rate;

"(B) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

"(C) has specified an emission rate that such unit can meet on an annual average basis. The permitting authority shall issue an operating permit for the unit in question, in accordance with section 404 and title V—

"(i) that permits the unit during the demonstration period referred to in subparagraph (B), to emit at a rate in excess of the applicable emission rate;

"(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in subparagraphs (B) and (C).

"(3) Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_X burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_X control technology capable of achieving the applicable emission limitation. The Administrator shall implement this subsection under 40 CFR part 76 (2002), amended as appropriate by the Administrator.

"(d) EMISSIONS AVERAGING.—(1) In lieu of complying with the applicable emission limitations under subsection (b)(1), (2), or (c), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that—

"(A) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to

"(B) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b)(1) and (2).

"(2) If the permitting authority determines, in accordance with regulations issued by the Administrator that the conditions in paragraph (1) can be met, the permitting authority shall issue operating permits for such units, in accordance with section 404 and title V, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits. The Administrator shall implement this subsection under 40 CFR part 76 (2002), amended as appropriate by the Administrator.

"SEC. 442. TERMINATION.

"Starting January 1, 2008, owner or operator of affected units and affected facilities under section 441 shall no longer be subject to the requirements of that section.

"Subpart 2—Clear Skies Nitrogen Oxides Allowance Program

"SEC. 451. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'affected EGU' means—

"(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it served or serves during 2002 and each year thereafter; and

"(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a gas-fired unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it serves, during each year starting with the unit commences service of a generator.

"(C) Notwithstanding paragraphs (A) and (B), the term 'affected EGU' does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

"(2) The term 'Zone 1 State' means Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas east of Interstate 35, Vermont, Virginia, West Virginia, and Wisconsin.

"(3) The term 'Zone 2 State' means Alaska, American Samoa, Arizona, California, Colorado, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, Hawaii, Idaho, Kansas, Montana, Nebraska, North Dakota, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas west of Interstate 35, Utah, the Virgin Islands, Washington, and Wyoming.

"SEC. 452. APPLICABILITY.

"(a) ZONE 1 PROHIBITION.—(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 1 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

"(2) Only nitrogen oxides allowances under section 453(a) shall be held in order to meet the requirements of paragraph (1), except as provided under section 465.

"(b) ZONE 2 PROHIBITION.—(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 2 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

"(2) Only nitrogen oxides allowances under section 453(b) shall be held in order to meet the requirements of paragraph (1).

"SEC. 453. LIMITATIONS ON TOTAL EMISSIONS.

"(a) ZONE 1 ALLOCATIONS.—For affected EGUs in the Zone 1 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(a), and conduct auctions of nitrogen oxides allowances under section 409, in the amounts in Table A.

"TABLE A.—TOTAL NO_X ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS IN ZONE 1

Year	NO_X allowances allocated	NO_X allowances auctioned
2008	1,546,380	15,620
2009	1,530,760	31,240
2010	1,515,140	46,860
2011	1,499,520	62,480
2012	1,483,900	78,100
2013	1,468,280	93,720
2014	1,452,660	109,340
2015	1,437,040	124,960
2016	1,421,420	140,580
2017	1,405,800	156,200
2018	1,034,180	127,820
2019	1,022,560	139,440
2020	1,010,940	151,060
2021	999,320	162,680
2022	987,700	174,300
2023	976,080	185,920
2024	964,460	197,540
2025	952,840	209,160
2026	941,220	220,780
2027	929,600	232,400
2028	900,550	261,450
2029	871,500	290,500
2030	842,450	319,550
2031	813,400	348,600
2032	784,350	377,650
2033	755,300	406,700
2034	726,250	435,750
2035	697,200	464,800
2036	668,150	493,850
2037	639,100	522,900

“TABLE A.—TOTAL NO$_X$ ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS IN ZONE 1—Continued

Year	NO$_X$ allowances allocated	NO$_X$ allowances auctioned
2038	610,050	551,950
2039	581,000	581,000
2040	551,950	610,050
2041	522,900	639,100
2042	493,850	668,150
2043	464,800	697,200
2044	435,750	726,250
2045	406,700	755,300
2046	377,650	784,350
2047	348,600	813,400
2048	319,550	842,450
2049	290,500	871,500
2050	261,450	900,550
2051	232,400	929,550
2052	203,350	958,650
2053	174,300	987,700
2054	145,250	1,016,750
2055	116,200	1,045,800
2056	87,150	1,074,850
2057	58,100	1,103,900
2058	29,050	1,132,950
2059	0	1,162,000

“(b) ZONE 2 ALLOCATIONS.—For affected EGUs in the Zone 2 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(b), and conduct auctions of nitrogen oxides allowances under section 409, in the amounts in Table B.

“TABLE B.—TOTAL NO$_X$ ALLOWANCES ALLOCATED FOR EGUS IN ZONE 2

Year	NO$_X$ allowance allocated	NO$_X$ allowance auctioned
2008	532,620	5,380
2009	527,240	10,760
2010	521,860	16,140
2011	516,480	21,520
2012	511,100	26,900
2013	505,720	32,280
2014	500,340	37,660
2015	494,960	43,040
2016	489,580	48,420
2017	484,200	53,800
2018	478,820	59,180
2019	473,440	64,560
2020	468,060	69,940
2021	462,680	75,320
2022	457,300	80,700
2023	451,920	86,080
2024	446,540	91,460
2025	441,160	96,840
2026	435,780	102,220
2027	430,400	107,600
2028	416,950	121,050
2029	403,500	134,500
2030	390,050	147,950
2031	376,600	161,400
2032	363,150	174,850
2033	349,700	188,300
2034	336,250	201,750
2035	322,800	215,200
2036	309,350	228,650
2037	295,900	242,100
2038	282,450	255,550
2039	269,000	269,000
2040	255,550	282,450
2041	242,100	295,900
2042	228,650	309,350
2043	215,200	322,800
2044	201,750	336,250
2045	188,300	349,700
2046	174,850	363,150
2047	161,400	376,600
2048	147,950	390,050
2049	134,500	403,500
2050	121,050	416,950
2051	107,600	430,400
2052	94,150	443,850
2053	80,700	457,300
2054	67,250	470,750
2055	53,800	484,200
2056	40,350	497,650
2057	26,900	511,100
2058	13,450	524,550
2059	0	538,000

“SEC. 454. EGU ALLOCATIONS.

“(a) EGU ALLOCATIONS IN THE ZONE 1 STATES.—

“(1) EPA REGULATIONS.—Not later than 18 months before the commencement date of the nitrogen oxides allowance requirement of section 452, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for each year during 2008 through 2058 for units at a facility in a Zone 1 State that commence operation by and are affected EGUs as of December 31, 2004. The regulations shall determine the allocation for such units for each year by multiplying the allocation amount under section 453(a) by the ratio of the total amount of baseline heat input of such units at the facility to the total amount of baseline heat input of all affected EGUs in the Zone 1 States.

“(2) FAILURE TO REGULATE.—(A) For each year 2008 through 2058, if, by the date 18 months before January 1 of such year, the Administrator—

“(i) has promulgated regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances; and

“(ii) has signed proposed regulations but has not promulgated final regulations determining allocations under paragraph (1),

the Administrator shall allocate, for such year, for each facility where an affected EGU is located in the Zone 1 States the amount of nitrogen oxides allowances specified for that facility in such proposed regulations.

“(B) For each year 2008 through 2058, if, by the date 18 months before January 1 of such year, the Administrator—

“(i) has promulgated regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances; and

“(ii) has not signed proposed regulations determining allocations under paragraph (1),

the Administrator shall make allocations, for such year, for each unit in the Zone 1 States listed in the Administrator's Emissions Scorecard 2001, Appendix B, Table B1 as provided in subparagraph (C).

“(C) Allocations of nitrogen oxides allowances for a unit under this subparagraph shall be determined by multiplying 95 percent of the allocation amount under section 453(a) by the ratio of such unit's heat input in the Emissions Scorecard 2001, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2001, Appendix B, Table B1 for all units in the Zone 1 States.

“(D) When the Administrator makes an allocation under subparagraph (C), the Administrator shall—

“(i) allocate for each facility where a unit referred to in subparagraph (C) is located the total of the amounts of nitrogen oxides allowances for the units at such facility, and

“(ii) auction an amount of nitrogen oxides allowances equal to 5 percent of the allocation amount under section 453(a) and conduct the auction on the first business day in October following the respective promulgation deadline referred to in subparagraph (A) and in accordance with section 409.

“(E) For each year 2008 through 2058, if the Administrator has not signed proposed regulations referred to in subparagraph (A) and has not promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances, by the date 18 months before January 1 of such year, then it shall be unlawful for an affected EGU in the Zone 1 States to emit nitrogen oxides during such year in excess of 0.14 lb/mmBtu.

“(b) EGU ALLOCATIONS IN THE ZONE 2 STATES.—

“(1) EPA REGULATIONS.—Not later than 18 months before the commencement date of the nitrogen oxides allowance requirement of section 452, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for each year during 2008 through 2058 for units at a facility in a Zone 2 State that commence operation by and are affected EGUs as of December 31, 2004. The regulations shall determine the allocation for such units for each year by multiplying the allocation amount under section 453(b) by the ratio of the total amount of baseline heat input of such units at the facility to the total amount of baseline heat input of all affected EGUs in the Zone 2 States.

“(2) FAILURE TO REGULATE.—(A) For each year 2008 through 2058, if, by the date 18 months before January 1 of such year, the Administrator—

“(i) has promulgated regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances; and

“(ii) has signed proposed regulations but has not promulgated final regulations determining allocations under paragraph (1),

the Administrator shall allocate, for such year, for each facility where an affected EGU is located in the Zone 2 States the amount of nitrogen oxides allowances specified for that facility in such proposed regulations.

“(B) For each year 2008 through 2058, if, by the date 18 months before January 1 of such year, the Administrator—

“(i) has promulgated regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances; and

“(ii) has not signed proposed regulations determining allocations under paragraph (1),

the Administrator shall make allocations, for such year, for each unit in the Zone 2 States listed in the Administrator's Emissions Scorecard 2001, Appendix B, Table B1 as provided in subparagraph (C).

“(C) Allocations of nitrogen oxides allowances for a unit under this subparagraph shall be determined by multiplying 95 percent of the allocation amount under section 453(b) by the ratio of such unit's heat input in the Emissions Scorecard 2001, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2001, Appendix B, Table B1 for all units in the Zone 2 States.

“(D) When the Administrator make an allocation under subparagraph (C), the Administrator shall—

“(i) allocate for each facility where a unit referred to in subparagraph (C) is located the total of the amounts of nitrogen oxides allowances for the units at such facility, and

“(ii) auction an amount of nitrogen oxides allowances equal to 5 percent of the allocation amount under section 453(b) and conduct the auction on the first business day in October following the respective promulgation deadline referred to in subparagraph (A) and in accordance with section 409.

“(E) For each year 2008 through 2058, if the Administrator has not signed proposed regulations referred to in subparagraph (A) and has not promulgated the regulations under section 403(b) providing for the transfer of nitrogen oxides allowances and section 403(c) establishing the Allowance Tracking System for nitrogen oxides allowances, by the date 18 months before January 1 of such year, then it shall be unlawful for an affected EGU in the Zone 2 States to emit nitrogen oxides during such year in excess of 0.25 lb/mmBtu.

“Subpart 3—Ozone Season NO_X Budget Program

“SEC. 461. DEFINITIONS.

“For purposes of this subpart:

“(1) The term ‘ozone season’ means—

“(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, the period May 1 through September 30 for each year starting in 2003; and

“(B) with regard to all other States, the period May 30, 2004 through September 30, 2004 and the period May 1 through September 30 for each year thereafter.

“(2) The term ‘NO_X SIP Call State’ means Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kennedy, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia and the fine grid portions of Alabama, Georgia, Michigan, and Missouri.

“(3) The term ‘fine grid portions of Alabama, Georgia, Michigan, and Missouri’ means the areas in Alabama, Georgia, Michigan, and Missouri subject to 40 CFR §51.121 (2001), as it would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002).

“SEC. 462. GENERAL PROVISIONS.

“The provisions of sections 402 through 406 and section 409 shall not apply to this subpart.

“SEC. 463. APPLICABLE IMPLEMENTATION PLAN.

“(a) SIPS.—Except as provided in subsection (b), the applicable implementation plan for each NO_X SIP Call State shall be consistent with the requirements, including the NO_X SIP Call State's nitrogen oxides budget and compliance supplement pool, in 40 CFR §§51.121 and 51.122 (2001), as it would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002).

“(b) REQUIREMENTS.—Notwithstanding any provision to the contrary in 40 CFR §§51.121 and 51.122 (2001), as it would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002)—

“(1) the applicable implementation plan for each NO_X SIP Call State shall require full implementation of the required emission control measures starting no later than the first ozone season; and

“(2) starting January 1, 2008—

“(A) the owners and operators of a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D shall not longer be subject to the requirements in a NO_X SIP Call State's applicable implementation plan that meet the requirements of subsection (a) and paragraph (1); and

“(B) notwithstanding subparagraph (A), if the Administrator determines, by December 31, 2007, that a NO_X SIP Call State's applicable implementation plan meets the requirements of subsection (a) and paragraph (1), such applicable implementation plan shall be deemed to continue to meet such requirements; and

“(3)(A) The owner or operator of a boiler, combustion turbine, or combined cycle system may submit to the Administrator a petition to allow use of nitrogen oxides allowances allocated for 2005 to meet the applicable requirement to hold nitrogen oxides allowances at least equal to 2004 ozone season emissions of such boiler, combustion turbine, or combined cycle system.

“(B) A petition under this paragraph shall be submitted to the Administrator by February 1, 2004.

“(C) The petition shall demonstrate that the owner or operator made reasonable efforts to install, at the boiler, combustion turbine, or combined cycle system, nitrogen oxides control technology designed to allow the owner or operator to meet such requirement to hold nitrogen oxides allowances.

“(D) The petition shall demonstrate that there is an undue risk for the reliability of electricity supply (taking into account the feasibility of purchasing electricity or nitrogen oxides allowances) because—

“(i) the owner or operator is not likely to be able to install and operate the technology under subparagraph (C) on a timely basis; or

“(ii) the technology under subparagraph (C) is not likely to be able to achieve its design control level on a timely basis.

“(E) The petition shall include a statement by the NO_X SIP Call State where the boiler, combustion turbine, or combined cycle system is located that the NO_X SIP Call State does not object to the petition.

“(F) By May 30, 2004, by order, the Administrator shall approve the petition if it meets the requirements of subparagraphs (B) through (E).

“(c) SAVINGS PROVISION.—Nothing in this section or section 464 shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation, or standard, relating to a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

“SEC. 464. TERMINATION OF FEDERAL ADMINISTRATION OF NO_X TRADING PROGRAM FOR EGUS.

“Starting January 1, 2008, with regard to any boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, the Administrator shall not administer any nitrogen oxides trading program included in any NO_X SIP Call State's applicable implementation plan and meeting the requirements of section 463(a) and (b)(1).

“SEC. 465. CARRYFORWARD OF PRE-2008 NITROGEN OXIDES ALLOWANCES.

“The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 452(a)(1) may be met using nitrogen oxides allowances allocated for an ozone season before 2008 under a nitrogen oxides trading program that the Administrator administers, is included in a NO_X SIP Call State's applicable implementation plan, and meets the requirements of section 463(a) and (b)(1).

“PART D—MERCURY EMISSIONS REDUCTIONS

“SEC. 471. DEFINITIONS.

“For purposes of this subpart:

“(1) The term ‘adjusted baseline heat input’ with regard to a unit means the unit's baseline heat input multiplied by—

“(A) 1.0, for the portion of the baseline heat input that is the unit's average annual combustion of bituminous during the years on which the unit's baseline heat input is based;

“(B) 3.0, for the portion of the baseline heat input that is the unit's average annual combustion of lignite during the years on which the unit's baseline heat input is based;

“(C) 1.25, for the portion of the baseline heat input that is the unit's average annual combustion of subbituminous during the years on which the unit's baseline heat input is based; and

“(D) 1.0, for the portion of the baseline heat input that is not covered by subparagraph (A), (B), or (C) or for the entire baseline heat input if such baseline heat input is not based on the unit's heat input in specified years.

“(2) The term ‘affected EGU’ means—

“(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2003, a coal-fired unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit that produced or produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it served or serves during 2002 and each year thereafter; and

“(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a coal-fired unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a cogeneration unit that produces electricity for sale equal to or less than one-third of the potential electrical output of the generator that it serves, during each year starting with the year the unit commences service of a generator.

“(C) Notwithstanding paragraphs (A) and (B), the term ‘affected EGU’ does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

“SEC. 472. APPLICABILITY.

“Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility in a State to emit a total amount of mercury during the year in excess of the number of mercury allowances held for such facility for that year by the owner or operator of the facility.

“SEC. 473. LIMITATIONS ON TOTAL EMISSIONS.

“For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate mercury allowances under section 474, and conduct auctions of mercury allowances under section 409, in the amounts in Table A.

“TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS

Year	Mercury allowances allocated	Mercury allowances auctioned
2010	823,680	8,320
2011	815,360	16,640
2012	807,040	24,960
2013	798,720	33,280
2014	790,400	41,600
2015	782,080	49,920
2016	773,760	58,240
2017	765,440	66,560
2018	436,800	43,200
2019	432,000	48,000
2020	427,200	52,800
2021	422,400	57,600
2022	417,600	62,400
2023	412,800	67,200
2024	408,000	72,000
2025	403,200	76,800
2026	398,400	81,600
2027	393,600	86,400
2028	388,800	91,200
2029	384,000	96,000
2030	372,000	108,000
2031	360,000	120,000
2032	348,000	132,000
2033	336,000	144,000
2034	324,000	156,000

“TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED OR AUCTIONED FOR EGUS—Continued

Year	Mercury allowances allocated	Mercury allowances auctioned
2035	312,000	168,000
2036	300,000	180,000
2037	288,000	192,000
2038	276,000	204,000
2039	264,000	216,000
2040	252,000	228,000
2041	240,000	240,000
2042	228,000	252,000
2043	216,000	264,000
2044	204,000	276,000
2045	192,000	288,000
2046	180,000	300,000
2047	168,000	312,000
2048	156,000	324,000
2049	144,000	336,000
2050	132,000	348,000
2051	120,000	360,000
2052	108,000	372,000
2053	96,000	384,000
2054	84,000	396,000
2055	72,000	408,000
2056	60,000	420,000
2057	48,000	432,000
2058	36,000	444,000
2059	24,000	456,000
2060	12,000	468,000
2061	0	480,000

“SEC. 474. EGU ALLOCATIONS.

“(a) IN GENERAL.—Not later than 24 months before the commencement date of the mercury allowance requirement of section 472, the Administrator shall promulgate regulations determining allocations of mercury allowances for each year during 2010 through 2060 for units at a facility that commence operation by and are affected EGUs as of December 31, 2004. The regulations shall provide that the Administrator shall allocate each year for such units an amount determined by multiplying the allocation amount in section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input of all affected EGUs.

“(b) FAILURE TO PROMULGATE.—(1) For each year 2010 through 2060, if, by the date 18 months before January 1 of such year, the Administrator—

“(A) has promulgated regulations under section 403(b) providing for the transfer of mercury allowances and section 403(c) establishing the Allowance Tracking System for mercury allowances; and

“(B) has signed proposed regulations but has not promulgated final regulations determining allocations under subsection (a),

the Administrator shall allocate, for such year, for each facility where an affected EGU is located the amount of mercury allowances specified for that facility in such proposed regulations.

“(2) If, by the date 18 months before January 1 of each year 2010 through 2060, the Administrator has not signed proposed regulations determining allocations under subsection (a), the Administrator shall:

“(A) determine, for such year, for each unit with coal as its primary or secondary fuel listed in the Administrator's Emissions Scorecard 2001, Appendix B, Table B1 an amount of mercury allowances by multiplying 95 percent of the allocation amount under section 473 by the ratio of such unit's heat input in the Emissions Scorecard 2001, Appendix B, Table B1 to the total of the heat input in the Emissions Scorecard 2001, Appendix B, Table B1 for all units with coal as their primary or secondary fuel;

“(B) allocate, for such year, for each facility where a unit under subparagraph (A) is located the total of the amounts of mercury allowances for the units at such facility determined under subparagraph (A); and

“(C) auction an amount of mercury allowances equal to 5 percent of the allocation amount under section 473 and conduct the auction on the first business day in October following the respective promulgation deadline under paragraph (1) and in accordance with section 409.

“(3) For each year 2010 through 2060, if the Administrator has not signed proposed regulations under subsection (a), and has not promulgated the regulations under section 403(b) providing for the transfer of mercury allowances and section 403(c) establishing the Allowance Tracking System for mercury allowances, by the date 18 months before January 1 of such year, then it shall be unlawful for any affected EGU to emit mercury during such year in excess of 30 percent of the mercury content (in ounces per mmBtu) of the coal and coal-derived fuel combusted by the unit.

“PART E—NATIONAL EMISSION STANDARDS; RESEARCH; ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS

“SEC. 481. NATIONAL EMISSION STANDARDS FOR AFFECTED UNITS.

“(a) DEFINITIONS.—For purposes of this section:

“(1) The term ‘commenced,’ with regard to construction, means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction. For boilers and integrated gasification combined cycle plants, this term does not include undertaking such a program or entering into such an obligation more than 36 months prior to the date on which the unit begins operation. For combustion turbines, this term does not include undertaking such a program or entering into such an obligation more than 18 months prior to the date on which the unit begins operation.

“(2) The term ‘construction’ means fabrication, erection, or installation of an affected unit.

“(3) The term ‘affected unit’ means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

“(4) The term ‘existing affected unit’ means any affected unit that is not a new affected unit.

“(5) The term ‘new affected unit’ means any affected unit, the construction or reconstruction of which is commenced after the date of enactment of the Clear Skies Act of 2003, except that for the purpose of any revision of a standard pursuant to subsection (e), ‘new affected unit’ means any affected unit, the construction or reconstruction of which is commenced after the public of regulations (or, if earlier, proposed regulations) prescribing a standard under this section that will apply to such unit.

“(6) The term ‘reconstruction’ means the replacement of components of a unit to such an extent that:

“(A) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new unit; and

“(B) it is technologically and economically feasible to meet the applicable standards set forth in this section.

“(b) EMISSION STANDARDS.—

“(1) IN GENERAL.—No later than 12 months after the date of enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations prescribing the standards in subsections (c) through (d) for the specified affected units and establishing requirements to ensure compliance with these standards, including monitoring, recordkeeping, and reporting requirements.

“(2) MONITORING.—(A) The owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section shall meet the requirements of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each affected unit for the pollutants for which the unit is subject to such standards.

“(B) The Administrator shall, by regulation, require—

“(i) the owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section to—

“(I) install and operate CEMS for monitoring output, including electricity and useful thermal energy, on the affected unit and to quality assure the data; and

“(II) comply with recordkeeping and reporting requirements, including provisions for reporting output data in megawatt hours.

“(ii) the owner or operator of any affected unit subject to the standards for particulate matter under this section to—

“(I) install and operate CEMS for monitoring particulate matter on the affected unit and to quality assure the data;

“(II) comply with recordkeeping and reporting requirements; and

“(III) comply with alternative monitoring, quality assurance, recordkeeping, and reporting requirements for any period of time for which the Administrator determines that CEMS with appropriate vendor guarantees are not commercially available for particulate matter.

“(3) COMPLIANCE.—For boilers, integrated gasification combined cycle plants, and combustion turbines that are gas-fired or coal-fired, the Administrator shall require that the owner or operator demonstrate compliance with the standards daily, using a 30-day rolling average, except that in the case of mercury, the compliance period shall be the calendar year. For combustion turbines that are not gas-fired or coal-fired, the Administrator shall require that the owner or operator demonstrate compliance with the standards hourly, using a 4-hour rolling average.

“(c) BOILERS AND INTEGRATED GASIFICATION COMBINED CYCLE PLANTS.—

“(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any boiler or integrated gasification combined cycle plant that is a new affected unit to discharge into the atmosphere any gases which contain—

“(A) sulfur dioxide in excess of 2.0 lb/MWh;

“(B) nitrogen oxides in excess of 1.0 lb/MWh;

“(C) particulate matter in excess of 0.20 lb/MWh; or

“(D) if the unit is coal-fired, mercury in excess of 0.015 lb/GWh, unless—

“(i) mercury emissions from the unit, determined assuming no use of on-site or off-site pre-combustion treatment of coal and no use of technology that captures mercury, are reduced by 80 percent;

“(ii) flue gas desulfurization (FGD) and selective catalytic reduction (SCR) are applied to the unit and are operated so as to optimize capture of mercury; or

“(iii) a technology is applied to the unit and operated so as to optimize capture of mercury, and the permitting authority determines that the technology is equivalent in terms of mercury capture to the application of FGD and SCR.

“(2) Notwithstanding paragraph (1)(D), integrated gasification combined cycle plants with a combined capacity of less than 5 GW are exempt from the mercury requirement under subparagraph (1)(D) if they are constructed as part of a demonstration project under the Secretary of Energy that will include a demonstration of removal of significant amounts of mercury as determined by the Secretary of Energy in conjunction with the Administrator as part of the solicitation process.

“(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any oil-fired boiler that is an existing affected unit to discharge into the atmosphere any gases which contain particulate matter in excess of 0.30 lb/MWh.

“(d) Combustion Turbines.—

“(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any gas-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain nitrogen oxides in excess of—

“(A) 0.56 lb/MWh (15 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine;

“(B) 0.084 lb/MWh (3.5 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine and either uses add-on controls or is located within 50 km of a class I area; or

“(C) 0.21 lb/MWh (9 ppm at 15 percent oxygen), if the unit is not a simple cycle turbine and neither uses add-on controls nor is located within 50 km of a class I area.

“(2) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any coal-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain sulfur dioxide, nitrogen oxides, particulate matter, or mercury in excess of the emission limits under subparagraphs (c)(1)(A) through (D).

“(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any combustion turbine that is not gas-fired or coal-fired and that is a new affected unit to discharge into the atmosphere any gases which contain—

“(A) sulfur dioxide in excess of 2.0 lb/MWh;

“(B) nitrogen oxides in excess of—

“(i) 0.289 lb/MWh (12 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine, is dual-fuel capable, and uses add-on controls; or is not a simple cycle combustion turbine and is located within 50 km of a class I area;

“(ii) 1.01 lb/MWh (42 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine; is not a simple cycle combustion turbine and is not dual-fuel capable; or is not a simple cycle combustion turbine, is dual-fuel capable, and does not use add-on controls.

“(C) particulate matter in excess of 0.20 lb/MWh.

“(e) Periodic Review and Revision.—

“(1) The Administrator shall, at least every 8 years following the promulgation of standards under subsection (b), review and, if appropriate, revise such standards to reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impacts and energy requirements) the Administrator determines has been adequately demonstrated. When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.

“(2) Notwithstanding the requirements of paragraph (1) the Administrator need not review any standard promulgated under subsection (b) if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.

“(f) Effective Date.—Standard promulgated pursuant to this section shall become effective upon promulgation.

“(g) Delegation.—

“(1) Each State may develop and submit to the Administration a procedure for implementing and enforcing standards promulgated under this section for affected units located in such State. If the Administrator finds the State procedure is adequate, the Administrator shall delegate to such State any authority the Administrator has under this Act to implement and enforce such standards.

“(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard under this section.

“(h) Violations.—After the effective date of standards promulgated under this section, it shall be unlawful for any owner or operator of any affected unit to operate such unit in violation of any standard applicable to such unit.

“(i) Coordination With Other Authorities.—For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each standard established pursuant to this section shall be treated in the same manner as a standard of performance under section 111, and each affected unit subject to standards under this section shall be treated in the same manner as a stationary source under section 111.

“(j) State Authority.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation, or standard relating to affected units that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

“(k) Other Authority Under This Act.—Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements applicable to affected units under any other authority of law, including the authority to establish for any air pollutant a national ambient air quality standard, except that no new affected unit subject to standards under this section shall be subject to standards under section 111 of this Act.

“SEC. 482. RESEARCH, ENVIRONMENTAL MONITORING, AND ASSESSMENT.

“(a) Purposes.—The Administrator, in collaboration with the Secretary of Energy and the Secretary of the Interior, shall conduct a comprehensive program of research, environmental monitoring, and assessment to enhance scientific understanding of the human health and environmental effects of particulate matter and mercury and to demonstrate the efficacy of emission reductions under this title. The purposes of such a program are to—

“(1) expand current research and knowledge of the contribution of emissions from electricity generation to exposure and health effects associated with particulate matter and mercury;

“(2) enhance current research and development of promising multi-pollutant control strategies and CEMS for mercury;

“(3) produce peer-reviewed scientific and technology information to inform the review of emissions levels under section 410;

“(4) improve environmental monitoring and assessment of sulfur dioxide, nitrogen oxides and mercury, and their transformation products, to track changes in human health and the environment attributable to emission reductions under this title; and

“(5) periodically provide peer-reviewed reports on the costs, benefits, and effectiveness of emission reductions achieved under this title.

“(b) Research.—The Administrator shall enhance planned and ongoing laboratory and field research and modeling analyses, and conduct new research and analyses to produce peer-reviewed information concerning the human health and environmental effects of mercury and particulate matter and the contribution of United States electrical generating units to those effects. Such information shall be included in the report under subsection (d). In addition, such research and analyses shall—

“(1) improve understanding of the rates and processes governing chemical and physical transformations of mercury in the atmosphere, including speciation of emissions from electricity generation and the transport of these species;

“(2) improve understanding of the contribution of mercury emissions from electricity generation to mercury in fish and other biota, including—

“(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury from U.S. electricity generation on both local and regional scales;

“(B) long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

“(C) the role and contribution of mercury, from U.S. electricity generating facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations;

“(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

“(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels;

“(3) improve understanding of the health effects of fine particulate matter components related to electricity generation emissions (as distinct from other fine particle fractions and indoor air exposures) and the contribution of U.S. electrical generating units to those effects including—

“(A) the chronic effects of fine particulate matter from electricity generation in sensitive population groups; and

“(B) personal exposure to fine particulate matter from electricity generation; and

“(4) improve understanding, by way of a review of the literature, of methods for valuing human health and environmental benefits associated with fine particulate matter and mercury.

"(c) Innovative Control Technologies.—The Administrator shall collaborate with the Secretary of Energy to enhance research and development, and conduct new research that facilitates research into and development of innovative technologies to control sulfur dioxide, nitrogen oxides, mercury, and particulate matter at a lower cost than existing technologies. Such research and development shall provide updated information on the cost and feasibility of technologies. Such information shall be included in the report under subsection (d). In addition, the research and development shall—

"(1) upgrade cost and performance models to include results from ongoing and future electricity generation and pollution control demonstrations by the Administrator and the Secretary of Energy;

"(2) evaluate the overall environmental implications of the various technologies tested including the impact on the characteristics of coal combustion residues;

"(3) evaluate the impact of the use of selective catalytic reduction on mercury emissions from the combustion of all coal types;

"(4) evaluate the potential of integrated gasification combined cycle to adequately control mercury;

"(5) expand current programs by the Administrator to conduct research and promote lower cost CEMS capable of providing real-time measurements of both speciated and total mercury and integrated compact CEMS that provide cost-effective real-time measurements of sulfur dioxide, nitrogen oxides, and mercury;

"(6) expand lab- and pilot-scale mercury and multi-pollutant control programs by the Secretary of Energy and the Administrator, including development of enhanced sorbents and scrubbers for use on all coal types;

"(7) characterize mercury emissions from low-rank coals, for a range of traditional control technologies, like scrubbers and selective catalytic reduction; and

"(8) improve low cost combustion modifications and controls for dry-bottom boilers.

"(d) Emissions Levels Evaluation Report.—Not later than January 1, 2008, the Administrator, in consultation with the Secretary of Energy, shall prepare a peer reviewed report to inform review of the emissions levels under section 410. The report shall be based on the best available peer-reviewed scientific and technology information. It shall address cost, feasibility, human health and ecological effects, and net benefits associated with emissions levels under this title.

"(e) Environmental Accountability.—

"(1) Monitoring and Assessment.—The Administrator shall conduct a program of environmental monitoring and assessment to track on a continuing basis, changes in human health and the environment attributable to the emission reductions required under this title. Such a program shall—

"(A) develop and employ methods to routinely monitor, collect, and compile data on the status and trends of mercury and its transformation products in emissions from affected facilities, atmospheric deposition, surface water quality, and biological systems. Emphasis shall be placed on those methods that—

"(i) improve the ability to routinely measure mercury in dry deposition processes;

"(ii) improve understanding of the spatial and temporal distribution of mercury deposition in order to determine source-receptor relationships and patterns of long-range, regional, and local deposition;

"(iii) improve understanding of aggregate exposures and additive effects of methylmercury and other pollutants; and

"(iv) improve understanding of the effectiveness and cost of mercury emissions controls;

"(B) modernize and enhance the national air quality and atmospheric deposition monitoring networks in order to cost-effectively expand and integrate, where appropriate, monitoring capabilities for sulfur, nitrogen, and mercury to meet the assessment and reporting requirements of this section;

"(C) perform and enhance long-term monitoring of sulfur, nitrogen, and mercury, and parameters related to acidification, nutrient enrichment, and mercury bioaccumulation in freshwater and marine biota;

"(D) maintain and upgrade models that describe the interactions of emissions with the atmosphere and resulting air quality implications and models that describe the response of ecosystems to atmospheric deposition; and

"(E) assess indicators of ecosystems health related to sulfur, nitrogen, and mercury, including characterization of the causes and effects of episodic exposure to air pollutants and evaluation of recovery.

"(2) Reporting Requirements.—Not later than January 1, 2008, and not later than every 4 years thereafter, the Administrator shall provide a peer reviewed report to the Congress on the costs, benefits, and effectiveness of emission reduction programs under this title. The report shall address the relative contribution of emission reductions from U.S. electricity generation under this title compared to the emission reductions achieved under other titles of the Clean Air Act with respect to—

"(A) actual and projected emissions of sulfur dioxide, nitrogen oxides, and mercury;

"(B) average ambient concentrations of sulfur dioxide and nitrogen oxides transformation products, related air quality parameters, and indicators of reductions in human exposure;

"(C) status and trends in total atmospheric deposition of sulfur, nitrogen, and mercury, including regional estimates of total atmospheric deposition;

"(D) status and trends in visibility;

"(E) status of terrestrial and aquatic ecosystems (including forests and forested watersheds, streams, lakes, rivers, estuaries, and near-coastal waters);

"(F) status of mercury and its transformation products in fish;

"(G) causes and effects of atmospheric deposition, including changes in surface water quality, forest and soil conditions;

"(H) occurrence and effects of coastal eutrophication and episodic acidification, particularly with respect to high elevation watersheds; and

"(I) reduction in atmospheric deposition rates that should be achieved to prevent or reduce adverse ecological effects.

"SEC. 483. EXEMPTION FROM MAJOR SOURCE PRECONSTRUCTION REVIEW REQUIREMENTS AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS.

"(a) Major Source Exemption.—An affected unit shall not be considered a major emitting facility or major stationary source, or a part of a major emitting facility or major stationary source for purposes of compliance with the requirements of parts C and part D of title I. This exemption only applies to units that are either subject to the performance standards of section 481 or meet the following requirements within 3 years after the date of enactment of the Clear Skies Act of 2003:

"(1) The owner or operator of the affected unit properly operates, maintains and repairs pollution control equipment to limit emissions of particulate matter, or the owner or operator of the affected unit is subject to an enforceable permit issued pursuant to title V or a permit program approved or promulgated as part of an applicable implementation plan to limit the emissions of particular matter from the affected unit to 0.03 lb/mmBtu within 8 years after the date of enactment of the Clear Skies Act of 2003, and

"(2) The owner or operator of the affected unit uses good combustion practices to minimize emissions of carbon monoxide.

"(b) Class I Area Protections.—Notwithstanding the exemption in subsection (a), an affected unit located within 50 km of a Class I area on which construction commences after the date of enactment of the Clear Skies Act of 2003 is subject to those provisions under part C of title I pertaining to the review of a new or modified major stationary source's impact on a Class I area.

"(c) Preconstruction Requirements.—Each State shall include in its plan under section 110, as program to provide for the regulation of the construction of an affected unit that ensures that the following requirements are met prior to the commencement of construction of an affected unit—

"(1) in an area designated as attainment or unclassifiable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air pollution in excess of any national ambient air quality standard;

"(2) in an area designated as nonattainment under section 107(d), the State must determine that the emissions increase from the construction or operation of such unit will not interfere with any program to assure that the national ambient air quality standards are achieved;

"(3) for a modified unit, the unit must comply prior to beginning operation with either the performance standards of section 481 or best available control technology as defined in part C of title I for the pollutants whose hourly emissions will increase at the unit's maximum capacity; and

"(4) the State must provide for an opportunity for interested persons to comment on the Class I area protections and preconstruction requirements as set forth in this section.

"(d) Definitions.—For purposes of this section:

"(1) The term 'affected unit' means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

"(2) The term 'construction' includes the construction of a new affected unit and the modification of any affected unit.

"(3) The term 'modification' means any physical change in, or change in the method of operation of, an affected unit that increases the maximum hourly emissions of any pollutant regulated under this Act above the maximum hourly emissions achievable at that unit during the 5 years prior to the change or that results in the emission of any pollutant regulated under this Act and not previously emitted.

"(e) Savings Clause.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt to enforce any regulation, requirements, limitation, or standard relating to affected units that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.".

SEC. 3. OTHER AMENDMENTS.

(a) Title I of the Clean Air Act is amended as follows:

(1) In section 103 by repealing subparagraphs (E) and (F).

(2) In section 107—

(A) By amending subparagraph (A) of subsection (d)(1) as follows:

(i) strike "or" at the end of clause (ii);

(ii) strike the period at the end of clause (iii) and insert ", or";

(iii) add the following clause (iv) after clause (iii):

"(iv) notwithstanding clauses (i) through (iii), an area may be designated transitional for the PM 2.5 national primary or secondary ambient air quality standards or the 8-hour ozone national primary or secondary ambient air quality standard if the Administrator has performed air quality modeling and, in the case of an area that needs additional local control measures, the State has performed supplemental air quality modeling, demonstrating that the area will attain the applicable standard or standards no later than December 31, 2015, and such modeling demonstration and all necessary local controls have been approved into the State implementation plan no later than December 31, 2004.".

(iv) add at the end a sentence to read as follows: "For purposes of the PM 2.5 national primary or secondary ambient air quality standards, the time period for the State to submit the designations shall be extended to no later than December 31, 2003.".

(B) By amending clause (i) of subsection (d)(1)(B) by adding at the end a sentence to read as follows: "The Administrator shall not be required to designate areas for the revised PM 2.5 national primary or secondary ambient air quality standards prior to 6 months after the States are required to submit recommendations under section 107(d)(1)(A), but in no event shall the period for designating such areas be extended beyond December 31, 2004.".

(3) In section 110 as follows:

(A) By amending clause (i) of subsection (a)(2)(D) by inserting "except as provided in subsection (q)," before the word "prohibiting".

(B) By adding the following new subsections at the end thereof:

"(q) REVIEW OF CERTAIN PLANS.—(1) The Administrator shall, in reviewing, under clause (i) of subsection (a)(2)(D), any plan with respect to affected units, within the meaning of section 126(d)(1)—

"(A) consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant nonattainment areas in the other State or States;

"(B) not require submission of plan provisions mandating emissions reductions from such affected units, unless the Administrator determines that—

"(i) emissions from such units may be reduced at least as cost-effectively as emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify, and

"(ii) reductions in such emissions will improve air quality in the other State's or States' nonattainment areas at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, to the maximum extent that a methodology is reasonably available to make such a determination;

"(C) develop and appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006; and

"(D) not require submission of plan provisions subjecting affected units, within the meaning of section 126(d)(1), to requirements with an effective date prior to January 1, 2012.

"(2) In making the determination under clause (ii) of subparagraph (B) of paragraph (1), the Administrator will use the best available peer- reviewed models and methodology that consider the proximity of the source or sources to the other State or States and incorporate other source characteristics.

"(3) Nothing in paragraph (1) shall be interpreted to require revisions to the provisions of 40 CFR 51.121 and 51.122 (2001), as would be amended in the notice of proposed rulemaking at 67 Federal Register 8396 (February 22, 2002);".

"(r) TRANSITIONAL AREAS.—

"(1) MAINTENANCE.—(A) By December 31, 2010, each area designated as transitional pursuant to section 107(d)(1) shall submit an updated emission inventory and an analysis of whether growth in emissions, including growth in vehicle miles traveled, will interfere with attainment by December 31, 2015.

"(B) No later than December 31, 2011, the Administrator shall review each transitional area's maintenance analysis, and, if the Administrator determines that growth in emissions will interfere with attainment by December 31, 2015, the Administrator shall consult with the State and determine what action, if any, is necessary to assure that attainment will be achieved by 2015.

"(2) PREVENTION OF SIGNIFICANT DETERIORATION.—Each area designated as transitional pursuant to section 107(d)(1) shall be treated as an attainment or unclassifiable area for purposes of the prevention of significant deterioration provisions of part C of this title.

"(3) CONSEQUENCES OF FAILURE TO ATTAIN BY 2015.—No later than June 30, 2016, the Administrator shall determine whether each area designated as transitional for the 8-hour ozone standard or for the PM 2.5 standard has attained that standard. If the Administrator determines that a transitional area has not attained the standard, the area shall be redesignated as nonattainment within 1 year of the determination and the State shall be required to submit a State implementation plan revision satisfying the provisions of section 172 within 3 years of redesignation as nonattainment.".

(4) By adding to section 111(b)(1) a new subparagraph (C) to read as follows:

"(C) No standards of performance promulgated under this section shall apply to units subject to regulations promulgated pursuant to section 481.".

(5) By amending section 112 as follows:

(A) Paragraph (1) of subsection (c) is amended to read as follows:

"(1) IN GENERAL.—Not later than 12 months after November 15, 1990, the Administrator shall publish, and shall from time to time, but not less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). Electric utility steam generating units not subject to section 3005 of the Solid Waste Disposal Act shall not be included in any category or subcategory listed under this subsection. The Administrator shall have the authority to regulate the emission of hazardous air pollutants listed under section 112(b), other than mercury compounds, by electric utility steam generating units in accordance with the regime set forth in section 112(f)(2) through (4). Any such regulations shall be promulgated within, and shall not take effect before, the date 8 years after the commencement date of the mercury allowance requirement of section 472. To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.".

(B) Subparagraph (A) of subsection (n)(1) is amended to read as follows:

"(A) The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after November 15, 1990.".

(6) Section 126 is amended as follows:

(A) By replacing "section 110(a)(2)(D)(ii) or this section" in subsection (b) with "section 110(a)(2)(D)(i)".

(B) By replacing "this section and the prohibition of section 110(a)(2)(D)(ii)" in subsection (e)(1) with "the prohibition of section 110(a)(2)(D)(i)".

(C) In the flush language at end of subsection (c) by striking "section 110(a)(2)(D)(ii)" and inserting "section 110(a)(2)(D)(i)" and deleting the last sentence.

(D) By amending subsection (d) to read as follows:

"(d)(1) For purposes of this subsection, the term 'affected unit' means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

"(2) To the extent that any petition submitted under subsection (b) after the date of enactment of the Clear Skies Act of 2003 seeks a finding for any affected unit, then, notwithstanding any provision in subsections (a) through (c) to the contrary—

"(A) in determining whether to make a finding under subsection (b) for any affected unit, the Administrator shall consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant nonattainment areas in the petitioning State or political subdivision;

"(B) the Administrator may not determine that affected units emit, or would emit, any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i) unless that Administrator determines that—

"(i) such emissions may be reduced at least as cost-effectively as emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify; and

"(ii) reductions in such emissions will improve air quality in the petitioning State's nonattainment area or areas at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides to the maximum extent that a methodology is reasonably available to make such a determination.

In making the determination under clause (ii), the Administrator shall use the best available peer-reviewed models and methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other sources characteristics.

"(C) The Administrator shall develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006.

"(D) The Administrator shall not make any findings with respect to an affected unit under this section prior to January 1, 2009. For any petition submitted prior to January 1, 2007, the Administrator shall make a finding or deny the petition by the January 31, 2009.

"(E) The Administrator, by rulemaking, shall extend the compliance and implementation deadlines in subsection (c) to the extent necessary to assure that no affected unit shall be subject to any such deadline prior to January 1, 2012.".

(b) Title III.—Section 307(d)(1)(G) of title III of the Clean Air Act is amended to read as follows:

"(G) the promulgation or revision of any regulation under title IV,".

(c) Noise Pollution.—Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.) is redesignated as title VII and amended by renumbering sections 401 through 403 as sections 701 through 703, respectively.

(d) Section 406.—Title IV of the Clean Air Act Amendments of 1990 (relating to acid deposition control) is amended by repealing section 406 (industrial SO_2 emissions).

(e) Monitoring.—Section 821(a) of title VIII of the Clean Air Act Amendments of 1990 (miscellaneous provisions) is amended by modifying section 821(a) to read as follows:

"(a) Monitoring.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after November 15, 1990, to require that all affected sources subject to subpart 1 of part B of title IV of the Clean Air Act as of December 31, 2009, shall also monitor carbon dioxide emissions according to the same timetable as in section 405(b). The regulations shall require that such data be reported to the Administrator. The provisions of section 405(e) of title IV of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 405. The Administrator shall implement this subsection under 40 CFR part 75 (2002), amended as appropriate by the Administrator.".

By Mr. DOMENICI (for himself, Mr. Kennedy, Mr. Coleman, Mr. Dayton, Mr. Grassley, Mr. Reed, Mr. Cochran, Mr. Dodd, Mr. Warner, Mr. Reid, Mr. Thomas, Mr. Johnson, Mr. Specter, Mr. Harkin, Mr. Lugar, Mr. Daschle, Mr. Graham of South Carolina, Mrs. Murray, Ms. Collins, Ms. Cantwell, Mr. Roberts, Mr. Edwards, Mr. Chafee, Mrs. Lincoln, Mr. Bennett, and Mr. Lautenberg):

S. 486. A bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, I rise today with my friend Senator Kennedy to introduce the "Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003."

I have mixed emotions today, because, while we are once again fighting for parity, my long time partner, Paul Wellstone is not standing across the aisle from me. Unfortunately, my colleagues are to aware of Senator Wellstone's tragic passing last year. So, while I feel a profound sense of sadness, I also have a renewed determination to win a parity victory for the millions of Americans affected by these dreaded diseases.

The time has come to end this blatant pattern of discrimination against people merely because they suffer from a mental illness. The human brain is the organ of the mind and just like the other organs of our body, it is subject to illness. And just as we must treat illnesses to our other organs, we must also treat illnesses of the brain.

Building upon that, I would ask the following question: what if forty years ago our Nation had decided to exclude heart disease from health insurance coverage? Think about some of the wonderful things we would not be doing today like angioplasty, bypasses, and valve replacements and the millions of people helped because insurance covers these procedures.

I would submit these medical advances have occurred because insurance dollars have followed the patient through the health care system. The presence of insurance dollars has provided an enticing incentive to treat those individuals suffering from heart disease. But sadly, those suffering from a mental illness do not enjoy those same benefits of treatment and medical advances because all too often insurance discriminates against illnesses of the brain.

Individuals suffering from a mental illness face this discrimination even though medical science is in an era where we can accurately diagnosis mental illnesses and treat those afflicted so they can be productive. I simply do not understand, why with this evidence would we not cover these individuals and treat their illnesses like any other disease? There simply should not be a difference in the coverage provided by insurance companies for mental health benefits and medical benefits, merely because an individual suffers from a mental illness.

The introduction of our Bill marks a historic opportunity for us to take the next step towards mental health parity. The timing of our Bill is even more important because the second consecutive one year extension of the landmark Mental Health Parity Act of 1996 will sunset later this year.

As my colleagues know, this is an issue I have a long involvement with and I would like to begin with a few observations.

I believe that we have made great strides in providing parity for the coverage of mental illness. However, mental illness continues to exact a heavy toll on many, many lives.

Even though we know so much more about mental illness, it can still bring devastating consequences to those it touches; their families, their friends, and their loved ones. These individuals and families not only deal with the societal prejudices and suspicions hanging on from the past, but they also must contend with unequal insurance coverage.

I would submit the Mental Health Parity Act of 1996 is a good first start, but the Act is also not working. While there may adherence to the letter of the law, there are certainly violations of the spirit of the law. For instance, ways are being found around the law by placing limits on the number of covered hospital days and outpatient visits.

That is why I believe it is time for a change.

Some will immediately say we cannot afford it or that inclusion of this treatment will cost too much. But, the facts simply do not support that conclusion. First, I would direct them to the Congressional Budget Office's, CBO, score of the bill. CBO scored the cost of the bill as 0.9 percent or less than one percent. Second, I would point out the Mental Health Parity Act of 1996 contains a provision allowing companies to no longer comply with the law if their costs increase by more than one percent. And do you know how many companies have opted out because their costs have increased by more than one percent? Less than ten companies throughout our entire country.

With that in mind I would like to share a couple of facts about mental illness with my colleagues: within the developed world, including the United States, 4 of the 10 leading causes of disability for individuals over the age of five are mental disorders; in the order of prevalence the disorders are major depression, schizophrenia, bipolar disorder, and obsessive compulsive disorder; one in every five people—more than 40 million adults—in this Nation will be afflicted by some type of mental illness; and schizophrenia alone is 50 times more common than cystic fibrosis, 60 times more common than muscular dystrophy and will strike between 2 and 3 million Americans.

Let us also look at the efficacy of treatment for individuals suffering from certain mental illnesses, especially when compared with the success rates of treatments for other physical ailments. For a long time, many who are in this field—especially on the insurance side—have behaved as if you get far better results for angioplasty than you do for treatments for bipolar illness.

Treatment for bipolar disorders—that is, those disorders characterized by extreme lows and extreme highs—have an 80 percent success rate if you get treatment, both medicine and care. Schizophrenia, the most dreaded of mental illnesses, has a 60-percent success rate in the United States today if treated properly. Major depression has a 65 percent success rate.

Let's compare those success rates to several important surgical procedures that everybody thinks we ought to be doing: Angioplasty has a 41-percent success rate and Atherectomy has a 52-percent success rate.

I would now like to take a minute to discuss the Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003. The Bill seeks a very simple goal: provide the same mental health benefits already enjoyed by Federal employees.

The Bill is modeled after the mental health benefits provided through the Federal Employees Health Benefits Program, FEHBP, and expands the Mental Health Parity Act of 1996 to prohibit a group health plan from imposing treatment limitations or financial requirements on the coverage of mental health benefits unless comparable limitations are imposed on medical and surgical benefits.

Our Bill provides full parity for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, DSM IV, with coverage being contingent on the mental health condition being included in an authorized treatment plan, the treatment plan is in accordance with standard protocols, and the treatment plan meets medical necessity determination criteria.

Like the Mental Health Parity Act of 1996, the Bill does not require a health plan to provide coverage for alcohol and substance abuse benefits. Moreover, the Bill does not mandate the coverage of mental health benefits, but rather the Bill only applies if the plan already provides coverage for mental health benefits.

In conclusion, the Bill provides mental heath benefits on par with those already enjoyed by Federal employees and members of Congress and I would urge my colleagues to support this important piece of legislation.

I ask unanimous consent that the text of the Bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003".

SEC. 2. AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended to read as follows:

"SEC. 712. MENTAL HEALTH PARITY.

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not impose any treatment limitations or financial requirements with respect to the coverage of benefits for mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits.

"(b) CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

"(2) MEDICAL MANAGEMENT OF MENTAL HEALTH BENEFITS.—Consistent with subsection (a), nothing in this section shall be construed to prevent the medical management of mental health benefits, including through concurrent and retrospective utilization review and utilization management practices, preauthorization, and the application of medical necessity and appropriateness criteria applicable to behavioral health and the contracting and use of a network of participating providers.

"(3) NO REQUIREMENT OF SPECIFIC SERVICES.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide coverage for specific mental health services, except to the extent that the failure to cover such services would result in a disparity between the coverage of mental health and medical and surgical benefits.

"(c) SMALL EMPLOYER EXEMPTION.—

"(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

"(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

"(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) IN-NETWORK AND OUT-OF-NETWORK RULES.—In the case of a plan or coverage option that provides in-network mental health benefits, out-of-network mental health benefits may be provided using treatment limitations or financial requirements that are not comparable to the limitations and requirements applied to medical and surgical benefits if the plan or coverage provides such in-network mental health benefits in accordance with subsection (a) and provides reasonable access to in-network providers and facilities.

"(f) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL REQUIREMENTS.—The term 'financial requirements' includes deductibles, coinsurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by a participant or beneficiary with respect to benefits under the plan or health insurance coverage and shall include the application of annual and lifetime limits.

"(2) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(3) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services, as defined under the terms and conditions of the plan or coverage (as the case may be), for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV-TR), or the most recent edition if different than the Fourth Edition, if such services are included as part of an authorized treatment plan that is in accordance with standard protocols and such services meet the plan or issuer's medical necessity criteria. Such term does not include benefits with respect to the treatment of substance abuse or chemical dependency.

"(4) TREATMENT LIMITATIONS.—The term 'treatment limitations' means limitations on the frequency of treatment, number of visits or days of coverage, or other similar limits on the duration or scope of treatment under the plan or coverage.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning on or after January 1, 2004.

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg–5) is amended to read as follows:

"SEC. 2705. MENTAL HEALTH PARITY.

"(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not impose any treatment limitations or financial requirements with respect to the coverage of benefits for mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits.

"(b) CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

"(2) MEDICAL MANAGEMENT OF MENTAL HEALTH BENEFITS.—Consistent with subsection (a), nothing in this section shall be construed to prevent the medical management of mental health benefits, including through concurrent and retrospective utilization review and utilization management practices, preauthorization, and the application of medical necessity and appropriateness criteria applicable to behavioral health and the contracting and use of a network of participating providers.

"(3) NO REQUIREMENT OF SPECIFIC SERVICES.—Nothing in this section shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide coverage for specific mental health services, except to the extent that the failure to cover such services would result in a disparity between the coverage of mental health and medical and surgical benefits.

"(c) SMALL EMPLOYER EXEMPTION.—

"(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

"(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

"(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) IN-NETWORK AND OUT-OF-NETWORK RULES.—In the case of a plan or coverage option that provides in-network mental health benefits, out-of-network mental health benefits may be provided using treatment limitations or financial requirements that are not comparable to the limitations and requirements applied to medical and surgical benefits if the plan or coverage provides such in-network mental health benefits in accordance with subsection (a) and provides reasonable access to in-network providers and facilities.

"(f) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL REQUIREMENTS.—The term 'financial requirements' includes deductibles, coinsurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by a participant, beneficiary or enrollee with respect to benefits under the plan or health insurance coverage and shall include the application of annual and lifetime limits.

"(2) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(3) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services, as defined under the terms and conditions of the plan or coverage (as the case may be), for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV–TR), or the most recent edition if different than the Fourth Edition, if such services are included as part of an authorized treatment plan that is in accordance with standard protocols and such services meet the plan or issuer's medical necessity criteria. Such term does not include benefits with respect to the treatment of substance abuse or chemical dependency.

"(4) TREATMENT LIMITATIONS.—The term 'treatment limitations' means limitations on the frequency of treatment, number of visits or days of coverage, or other similar limits on the duration or scope of treatment under the plan or coverage.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning on or after January 1, 2004.

SEC. 4. PREEMPTION.

Nothing in the amendments made by this Act shall be construed to preempt any provision of State law, with respect to health insurance coverage offered by a health insurance issuer in connection with a group health plan, that provides protections to enrollees that are greater than the protections provided under such amendments. Nothing in the amendments made by this Act shall be construed to affect or modify section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 5. GENERAL ACCOUNTING OFFICE STUDY.

(a) STUDY.—The Comptroller General shall conduct a study that evaluates the effect of the implementation of the amendments made by this Act on the cost of health insurance coverage, access to health insurance coverage (including the availability of in-network providers), the quality of health care, and other issues as determined appropriate by the Comptroller General. Such study shall also include an estimate of the cost that would be incurred if such amendments were extended in a manner so as to provide coverage for the treatment of substance abuse and chemical dependency.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

Mr. KENNEDY. Mr. President, it is an honor to be here today with Senator DOMENICI to renew the battle in the Senate to end one of the most shameful forms of discrimination in our society discrimination against mental illness. We renew the battle in the name of our friend and colleague Paul Wellstone who did so much to advance this cause we share and whom we miss so dearly now.

Senator PETE DOMENICI and Senator Paul Wellstone led us with great skill in the Senate in this bipartisan battle in the past, and I'm proud to join Senator DOMENICI today to carry on this very important effort in the Senate.

This bill brings first class medicine to millions of Americans who have been second class patients for too long.

We know that millions of Americans across the country with mental illness faced stigma and misunderstanding. Even worse, they have been denied treatment that can cure or ease their cruel afflictions. Too often, they are the victims of discrimination by health insurance companies. It is unacceptable that the nation continues to tolerate actions by insurers that deny medical care for mental illnesses even though the very same insurers fully cover the treatment of physical illnesses that are often more costly, less debilitating and less curable. Mental illnesses are treatable and curable, and it's high time to bring relief to those who experience them.

Equal treatment of the mentally ill is not just an insurance issue, it is a civil rights issue. At its heart, mental health parity is a question of simple justice.

The need is clear. One in five Americans will suffer some form of mental illness this year—but only one-third of them will receive treatment. According to a report of the Surgeon General, at least 4 million children suffer from a major mental illness that results in significant impairments at home, at school, and with their peers. Families must often make painful choices about how to pay for the care their child needs to live a normal life.

The cost is low. As we have seen in state after state and in the Federal Employees Health Benefits Program, insurance parity does not cause soaring insurance premiums. When parity for both mental health coverage and substance abuse coverage was provided for federal employees, they paid only $1 a month more for individual coverage and $2 for family coverage. The Congressional Budget Office has estimated that this bill will raise insurance rates by less than one percent a small cost that will bring health care and financial security to many families.

It is tragic when a child is diagnosed with any illness. It is heart wrenching for parents to watch their children suffer. The tragedy is even greater when an insurance company denies treatment for a child solely because the illness is a mental illness. It's wrong for insurance companies to promote modern medicine for physical diseases, but leave mental health in the dark ages.

It is wrong to force parents to choose between the care their child needs and the other financial needs of the family. I have heard countless stories from mothers and fathers whose children desperately needed the care that their insurance companies refused to provide.

There is hope for the future. Today we were presented with 30,000 petitions signed by young people asking Congress to provide affordable coverage for mental health services. The petitions were signed in concerts held across the country to raise awareness for suicide prevention. PETE DOMENICI and I are here today to bring hope to these parents and to these young people. It is long past time to end insurance discrimination, and guarantee all people with mental illnesses the coverage they deserve.

By Mr. DORGAN (for himself, Mr. BREAUX, Mr. DURBIN, Mr. LEAHY, Mr. HARKIN, and Mr. JOHNSON):

S. 488. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Committee on Finance.

Mr. DORGAN. Mr. President, today, I am joined by Senators BREAUX, DURBIN, LEAHY, HARKIN and JOHNSON in introducing legislation to extend the current federal wind energy production tax credit, PTC, for an additional five years. This tax credit is scheduled to expire at the end of the year. A long-term extension of the credit will give wind energy developers the certainty they need to grow this important domestic industry with its seemingly limitless energy potential.

One of the most promising alternative energy sources on this country's horizon comes from one of nature's most abundant assets: the wind. Over 2,000 megawatts of new wind energy capacity has been added to the nation's electricity grid in just the last 2 years. This new wind generation has pumped over $2 billion into the struggling economy.

Congress has helped promote wind energy by making significant financial investments in Federal research and private-sector development over the last decade. Among other things, Congress has provided a Federal income tax credit for facilities that produce electricity from wind, which allows them to bring state-of-the-art wind turbines to the marketplace at a competitive rate.

More and more utilities that have produced electricity from traditional fossil fuels are now looking to wind energy and other alternative energy sources to meet a larger share of this country's future energy demands. Soaring oil and natural gas prices also remind us of the importance of reducing our reliance on foreign energy sources and keeping a diverse energy supply here at home.

However, despite broad bipartisan congressional support for the wind energy production tax credit, its fate remains cloudy. As I mentioned, the wind energy tax credit is scheduled to expire at the end of the year. Congress will surely extend the credit. But we can't wait until the last day of the session—or even later—to do so.

Unfortunately, this is not merely polemics. Congress has twice allowed the PTC to expire. First, Congress allowed it to expire in July 1999 and failed to reinstate it until December 1999. As a result, wind energy investments plummeted from 661 megawatts installed in 1999 to only 53 megawatts in 2000. Inexplicably, the Congress let the PTC expire a second time—at the end of 2001—and did not reinstate the credit until March of the following year. This failure contributed to another major drop in wind investments dropping from 1696 megawatts installed in 2001 to just 410 megawatts in 2002.

Today, wind energy industry officials tell me that if we do not extend the production tax credit by mid-year, thousands of jobs and billions of dollars in economic activity would be lost. And this shouldn't come as a surprise to my Senate colleagues. For many years, wind energy developers have told us that one of the major stumbling blocks to greater deployment of new wind technologies is the continued uncertainty surrounding the availability of the wind energy production tax credit. Even so, we still provided for just another short-term extension of the tax credit last March. A few short months from now, financial lenders will stop providing needed capital to new wind initiatives. As a result, projects already underway will quickly come to a halt, while new projects will be shelved. Many developers will simply be unable to build and purchase equipment and secure the financing that is needed to bring wind turbine generators on-line by year's end.

When the tax credit last expired, I heard from manufacturers in my state and across the nation about impending layoffs, because of the lack of certainty at that time. A tower developer in my state of North Dakota has again laid off 17 workers, because of the uncertainty this industry still faces, due to the soon-to-expire tax credit. We can help eliminate this uncertainty by extending the production tax credit for a longer term.

If we fail to act promptly to extend the tax credit this time around, North Dakota's wind energy industry would suffer another serious economic blow. I am told that DMI Industries, a major producer of wind turbine towers in North Dakota, would experience a 40-percent drop in business activity, resulting in some $15 million in lost revenue. The company's plan to expand its operation by 75 employees in 2004 would also be derailed. Delay in extending the production tax credit would mean that 100–125 new jobs would not be created in the coming year by LM Glasfiber, which is a major blade manufacturer in Grand Forks.

There is a great deal of discussion in Washington, D.C. about passing a stimulus package to provide a needed boost to our ailing economy. This very effort would be needlessly undermined if we fail to extend the wind energy production tax credit in a timely manner and make it available over the long term.

In North Dakota, we put up several wind turbines last year and launched an 80-megawatt project for North Dakota and South Dakota. At a time when this industry is just beginning to ramp up in the Great Plains, it would be foolish to thwart these efforts by failing to extend this wind energy production tax credit for sufficient time to get substantial new projects off the design boards and up and running.

Again, the bill I'm introducing today would extend the current production tax credit for qualifying wind facilities that are placed in service on or before December 31, 2008. The wind energy production tax credit has enjoyed strong bipartisan support in both the Senate and the House of Representatives in previous years, so we should be able to pass this legislation quickly this year.

I urge my Senate colleagues to cosponsor this legislation and work with me to get it enacted into law as soon as possible. If we fail to act promptly, many new wind energy initiatives will come to a halt at a time when this country can least afford it.

By Mr. DEWINE (for himself, Mr. GRAHAM of Florida, Mr. LUGAR, Mr. DURBIN, Mr. CHAFEE, and Mr. NELSON of Florida):

S. 489. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Finance.

HAITI ECONOMIC RECOVERY OPPORTUNITY ACT OF 2003

Mr. DEWINE. Mr. President, I returned this week from my 12th trip to Haiti. As my colleagues are aware, I have many long-standing concerns about the dire political, economic, and humanitarian situation in Haiti.

In a nation just over an hour's flight from Miami, there is abject poverty, suffering, and disease. We absolutely must pay closer attention to what is happening to our neighbors in our hemisphere. We must be engaged.

That is why I am so pleased to be joining several of my Senate and House colleagues in introducing the "Haiti Economic Recovery Opportunity Act of 2003." I'd like to thank our Senate Cosponsors, who include Senators GRAHAM of Florida, LUGAR, DURBIN, NELSON of Florida, and Representatives Congressmen SHAW and CONYERS for their leadership in getting support for this bill, as well as our other House Cosponsors, Representatives CRANE, RANGEL, WATSON, LEE of California, LEE of Texas, MEEK, GOSS, FOLEY, WATERS, and Delegate CHRISTENSEN of the Virgin Islands.

Our bill would take a major step in improving the economic and political situation in Haiti through an important tool of our foreign policy—and that is trade.

As my colleagues, Senators DURBIN, NELSON, and CHAFEE, and Representative MEEK—all of whom traveled with me to Haiti over the course of this last month—the situation in Haiti is bleak. Haiti is the poorest country in our Hemisphere, with approximately 70 percent of its population out of work and 80 percent living in abject poverty. Less than one-half of Haiti's 7 million people can read or write. Haiti's infant mortality rate is the highest in our hemisphere. And one in four children under the age of five are malnourished.

Roughly one in 12 Haitians has HIV/AIDS and, according to the Centers for Disease Control projections, Haiti will experience up to 44,000 new HIV/AIDS cases this year—that's 4,000 more than the number expected here in the United States, where our population is 35 times that of Haiti's. AIDS already has orphaned over 200,000 children, and this number is expected to skyrocket to between 323,000 and 393,000 over the next ten years.

The violence, corruption, and instability caused by the flow of drugs through Haiti cannot be overstated. An estimated 15 percent of all cocaine entering the United States passes through Haiti, the Dominican Republic, or both.

All of this creates an environment where the logical course of action for many Haitians is simply to flee. We have seen this in the past, and we may see it again. So far this fiscal year, the Coast Guard has interdicted and rescued over 813 Haitian migrants at sea—compared to 1,113 during the entire fiscal year 2000. And, according to the State Department, migrants recently interdicted and repatriated to Haiti have cited economic conditions as their reason for attempting to migrate by sea. I do not think that a mass exodus is imminent, but we cannot ignore any increase in migrant departures from Haiti. In addition to being an immigration issue for the United States, these migrant departures frequently result in the loss of life at sea.

When I visited Haiti last month, we toured a textile assembly factor. What we saw was that this operation was providing about 800 Haitian laborers with jobs and giving them an income to help support their families. This is in a country that went from having 100,000 assembly jobs to only 30,000 today. There is no reason we can't reverse that trend.

The bill we are introducing today attempts to change the economic situation by granting limited duty-free treatment on certain Haitian apparel articles if—and only if—the President is able to certify that the Haitian government is making serious market, political, and social reforms. The bill would correct a glitch or oversight in U.S. trade law that recognized the special economic needs of least developed countries in Africa, but did not recognize those needs for the least developed country in the Western Hemisphere—Haiti.

Specifically, the bill would allow duty-free entry of Haitian apparel articles assembled from fabrics from countries with which the U.S. has a free trade or a regional trade agreement. It also would grant duty-free status on articles, regardless of the origin of the fabrics and yarns, if the fabrics and yarns were not commercially available in the United States.

The bill would cap duty-free apparel imports made of fabrics and yarns from the designated countries at 1.5 percent of total U.S. apparel imports. This limit grows modestly over time to 3.5 percent.

The enactment of this legislation would promote employment in Haitian industry by allowing the country to become a garment production center. While the benefits of bill would be modest by U.S. standards, in Haiti they are substantial. It is estimated that the bill could create thousands of jobs, thereby reducing the unemployment rate and breaking the shackles of poverty. Before the 1991 coup, Haiti was one of the largest apparel suppliers in the Caribbean. Today, Haitian apparel accounts for less than one percent of all apparel imports into the United States.

The type of assembly carried out in Haiti would have minimal impact on employment in the United States. Actually, it would encourage the emigration of jobs from the Far East back to our hemisphere, including the United States, because most Haitian foreign exchange earnings, unlike in the Far East, are utilized to purchase American products. And, the "Trade and Development Act" already includes strong safeguards against transshipment.

In order for Haiti to be eligible for the trade benefits under the bill, the President must certify that Haiti is making progress on matters like the rule of law. This will not be an easy task for the Haitian government. However, I believe that because of the incentives provided in the bill, it would be more and more apparent to them that it is in their interest to reform.

Adopting the Haiti Economic Recovery Opportunity Act of 2002 would be a powerful demonstration of our commitment to helping reverse the downward spiral in Haiti. I encourage my colleagues to join in support of this legislation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 490. A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to reintroduce the Washoe Tribe Land Conveyance Act.

I introduced this bill in both the 106th and 107th Congress, and it passed the Senate unanimously in 2000 and 2002. The bill has also been favorably received in the House: in the 106h Congress, it passed the House with unrelated amendments. Unfortunately, due to a shortage of time, the two versions of the bill were never reconciled and neither version became law.

In 1997, I helped convene the Lake Tahoe Presidential Forum to discuss the future of the Lake Tahoe Basin. At that Forum a diverse group of federal, state, and local government leaders considered the challenges facing the extraordinary natural, recreational, and ecological resources of the Lake Tahoe region. I am pleased to note that the Forum provided the basis for the Lake Tahoe Restoration Act that Senator FEINSTEIN and I introduced and President Clinton signed into law. This law authorizes $300 million of federal investment to protect and rehabilitate the Lake over a ten-year period. In addition, I have been able to steadily increase the federal investment in the Basin. We are well on our way to fulfilling the promises of the Forum.

During the Forum a commitment was made to support the traditional and customary sues of the Lake Tahoe Basin by the Washoe Tribe, most importantly, to provide the Tribe access to the shore of Lake Tahoe for cultural purposes. In short, this is not a controversial bill. It is a good bill, and it is the right thing to do.

The ancestral homeland of the Washoe Tribe of Nevada and California included an area of over 5,000 square miles in and around the Lake Tahoe Basin. My bill ensures that members of the Tribe will have the opportunity to engage in their traditional and customary cultural practices at the Lake in the future as they have done in the past. This will help the tribe meet the needs of spiritual renewal, land stewardship and general reunification of the Tribe with its aboriginal lands—forever. The participants in the Lake Tahoe Presidential Forum endorsed the concept of this bill, and nearly five years later that concept continues to enjoy broad support. The land conveyed by this bill to the Washoe Tribe would be managed in accordance with the Lake Tahoe Regional Plan, would not be commercially developed, and would not preclude or hinder public access around the Lake.

This Act will convey 24.3 acres from the Secretary of Agriculture to the Secretary of the Interior to be held in trust for the Washoe. This is not an expansive tract of land, but it is of profound significance to the Washoe people. I would like to point out a particular provision of the bill and explain the history behind it. Subsection (e) prohibits any type of development on the land. This provision was added at the request of the Washoe Tribe to guarantee that this land remains in its present unspoiled state for traditional and customary cultural uses. Tribal elders have indicated to me that these purposes could not be accomplished if the land were commercially developed, so I am pleased to include a provision ensuring that this land will remain in its natural state. I think this provision serves as a testimonial to the tribe's integrity and to how important the return of this land is to the Washoe people.

Finally, I would like to note that Senator ENSIGN joins me today to introduce this important bill. I know that Senator ENSIGN values and works to protect the wonders of Lake Tahoe. His support for this bill will help ensure that the third time is the charm and that we make good on this important promise to the Washoe Tribe.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WASHOE TRIBE LAND CONVEYANCE.

(a) FINDINGS.—Congress finds that—

(1) the ancestral homeland of the Washoe Tribe of Nevada and California (referred to in this Act as the "Tribe") included an area of approximately 5,000 square miles in and around Lake Tahoe, California and Nevada, and Lake Tahoe was the heart of the territory;

(2) in 1997, Federal, State, and local governments, together with many private landholders, recognized the Washoe people as indigenous people of Lake Tahoe Basin through a series of meetings convened by those governments at 2 locations in Lake Tahoe;

(3) the meetings were held to address protection of the extraordinary natural, recreational, and ecological resources in the Lake Tahoe region;

(4) the resulting multiagency agreement includes objectives that support the traditional and customary uses of National Forest System land by the Tribe; and

(5) those objectives include the provision of access by members of the Tribe to the shore of Lake Tahoe in order to reestablish traditional and customary cultural practices.

(b) PURPOSES.—The purposes of this Act are—

(1) to implement the joint local, State, tribal, and Federal objective of returning the Tribe to Lake Tahoe; and

(2) to ensure that members of the Tribe have the opportunity to engage in traditional and customary cultural practices on the shore of Lake Tahoe to meet the needs of spiritual renewal, land stewardship, Washoe horticulture and ethnobotany, subsistence gathering, traditional learning, and reunification of tribal and family bonds.

(c) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights, the easement reserved under subsection (d), and the condition stated in subsection (e), the Secretary of Agriculture shall convey to the Secretary of the Interior, in trust for the Tribe, for no consideration, all right, title, and interest in the parcel of land comprising approximately 24.3 acres, located within the Lake Tahoe Basin Management Unit north of Skunk Harbor, Nevada, and more particularly described as Mount Diablo Meridian, T15N, R18E, section 27, lot 3.

(d) EASEMENT.—

(1) IN GENERAL.—The conveyance under subsection (c) shall be made subject to reservation to the United States of a nonexclusive easement for public and administrative access over Forest Development Road #15N67 to National Forest System land, to be administered by the Secretary of Agriculture.

(2) ACCESS BY INDIVIDUALS WITH DISABILITIES.—The Secretary of Agriculture shall provide a reciprocal easement to the Tribe permitting vehicular access to the parcel over Forest Development Road #15N67 to—

(A) members of the Tribe for administrative and safety purposes; and

(B) members of the Tribe who, due to age, infirmity, or disability, would have difficulty accessing the conveyed parcel on foot.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—In using the parcel conveyed under subsection (c), the Tribe and members of the Tribe—

(A) shall limit the use of the parcel to traditional and customary uses and stewardship conservation for the benefit of the Tribe;

(B) shall not permit any permanent residential or recreational development on, or commercial use of, the parcel (including commercial development, tourist accommodations, gaming, sale of timber, or mineral extraction); and

(C) shall comply with environmental requirements that are no less protective than environmental requirements that apply under the Regional Plan of the Tahoe Regional Planning Agency.

(2) TERMINATION AND REVERSION.—If the Secretary of the Interior, after notice to the Tribe and an opportunity for a hearing, based on monitoring of use of the parcel by the Tribe, makes a finding that the Tribe has used or permitted the use of the parcel in violation of paragraph (1) and the Tribe fails to take corrective or remedial action directed by the Secretary of the Interior—

(A) title to the parcel in the Secretary of the Interior, in trust for the Tribe, shall terminate; and

(B) title to the parcel shall revert to the Secretary of Agriculture.

By Mr. REID (for himself, Mr. COCHRAN, Mr. DODD, Mr. INOUYE, Ms. LANDRIEU, Mr. LOTT, and Mr. MILLER):

S. 491. A bill to expand research regarding inflammatory bowel disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, I rise today for myself, Mr. COCHRAN, and our other cosponsors to re-introduce the Inflammatory Bowel Disease Act, which will advance our knowledge of this serious health condition and our ability to treat people suffering from it.

Crohn's disease and ulcerative colitis are chronic disorders of the gastrointestinal tract which represent the major causes of morbidity from digestive illness. Because they behave similarly, these disorders are collectively known as Inflammatory Bowel Disease. This devastating, yet seldom discussed illness can cause severe abdominal pain, diarrhea, fever, and bleeding in the gastrointestinal tract. Moreover, complications related to the disease can include arthritis, osteoporosis, anemia, eczema, liver disease, and even colon cancer.

We do not know the cause of Inflammatory Bowel Disease. There is no medical cure. An estimated 1 million Americans, including many children and young adults, suffer from it. In 1990, the total annual medical costs for patients suffering from Crohns Disease and ulcerative colitis amounted to over 1.6 billion dollars.

Recent medical breakthroughs, however, are opening up exciting new pathways for research to understand underlying disease mechanisms and to improve therapies for those who suffer from Inflammatory Bowel Disease. The gene for Crohn's Disease was recently discovered, and other research demonstrates that strong linkages exist between Inflammatory Bowel Disease and functions of the immune system.

Our legislation enhances research on Inflammatory Bowel Disease within the National Institute of Diabetes and Digestive and Kidney Diseases at the National Institutes of Health. Among the promising areas to be advanced are studies that translate findings from basic genetic and animal model research. The bill will also establish an Inflammatory Bowel Disease prevention and epidemiology program at the Centers for Disease Control and Prevention. This program is needed to generate an accurate analysis of the makeup of the IBD population in the United States, thereby obtaining invaluable clues to the potential causes and risks associated with the disease.

The bill also will inform public and private health coverage policy providers by providing for a study of the coverage standards of Medicare, Medicaid, and private health insurance for therapies for Inflammatory Bowel Disease. It will be conducted by the Institute of Medicine of the National Academies of Science. In addition, the bill calls for a General Accounting Office study of the problems patients with Inflammatory Bowel Disease encounter when applying for disability insurance benefits.

This bill will benefit millions of Americans who suffer from or who are at risk of developing Inflammatory Bowel Disease. It promises to alleviate much suffering, to assist patients in accessing sound and effective medical treatment, and to benefit those who are debilitated by Inflammatory Bowel Disease.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inflammatory Bowel Disease Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Crohn's disease and ulcerative colitis are serious inflammatory diseases of the gastrointestinal tract. Crohn's disease may occur in any section of the gastrointestinal tract but is predominately found in the lower part of the small intestine and the large intestine. Ulcerative colitis is characterized by inflammation and ulceration of the innermost lining of the colon. Because Crohn's disease and ulcerative colitis behave similarly, they are collectively known as inflammatory bowel disease. Both diseases present a variety of symptoms, including severe diarrhea, crampy abdominal pain, fever, and rectal bleeding. There is no known cause of inflammatory bowel disease, or medical cure.

(2) It is estimated that up to 1,000,000 people in the United States suffer from inflammatory bowel disease.

(3) In 1990, the total annual medical costs for Crohn's disease patients was estimated at $1,000,000,000 to $1,200,000,000.

(4) In 1990, the total annual medical costs for ulcerative colitis patients was estimated at $400,000,000 to $600,000,000.

(5) Inflammatory bowel disease patients are at high-risk for developing colorectal cancer.

SEC. 3. INFLAMMATORY BOWEL DISEASE RESEARCH EXPANSION.

(a) IN GENERAL.—The Director of the National Institute of Diabetes and Digestive and Kidney Diseases shall expand, intensify, and coordinate the activities of the Institute with respect to research on inflammatory bowel disease with particular emphasis on the following areas:

(1) Genetic research on susceptibility for inflammatory bowel disease, including the interaction of genetic and environmental factors in the development of the disease.

(2) Animal model research on inflammatory bowel disease, including genetics in animals.

(3) Clinical inflammatory bowel disease research, including clinical studies and treatment trials.

(4) Other research initiatives identified by the scientific document entitled "Challenges in Inflammatory Bowel Disease".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $75,000,000 in fiscal year 2004, $100,000,000 in fiscal year 2005, and such sums as may be necessary for fiscal years 2006 and 2007.

(2) RESERVATION.—Of the funds authorized to be appropriated under paragraph (1), not more than 20 percent of such funds shall be reserved to fund the training of qualified health professionals in biomedical research focused on inflammatory bowel disease and related disorders.

SEC. 4. INFLAMMATORY BOWEL DISEASE PREVENTION AND EPIDEMIOLOGY.

(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention shall establish a national program of prevention and epidemiology to determine the prevalence of inflammatory bowel disease in the United States, and conduct public and professional awareness activities on inflammatory bowel disease.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 in fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2007.

SEC. 5. STUDY OF INFLAMMATORY BOWEL DISEASE RELATED SERVICES.

(a) IN GENERAL.—The Institute of Medicine of the National Academics of Science shall conduct a study on the coverage standards of medicare, medicaid, and the private insurance market for the following therapies:

(1) Parenteral nutrition.

(2) Enteral nutrition formula.

(3) Medically necessary food products.

(4) Ostomy supplies.

(5) Therapies approved by the Food and Drug Administration for Crohn's disease and ulcerative colitis.

(b) CONTENT.—The study shall also take into account the appropriate outpatient or home health care delivery settings.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Institute of Medicine shall submit a report to Congress describing the findings of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 6. SOCIAL SECURITY DISABILITY FOR INFLAMMATORY BOWEL DISEASE PATIENTS.

(a) IN GENERAL.—The General Accounting Office shall conduct a study of the problems patients encounter when applying for disability insurance benefits under title II of the Social Security Act. The study will also include recommendations for improving the application process for inflammatory bowel disease patients.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall submit a report to Congress describing the findings of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary.

By Mrs. LINCOLN (for herself, Mr. SPECTER, Mr. ENSIGN, and Ms. LANDRIEU):

S. 493. A bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am pleased to introduce the Medicare Patient Access to Physical Therapists Act of 2003, which allows Medicare beneficiaries direct access to qualified physical therapists without a physician referral, as allowed by State law. I am proud to be joined in this effort today by my friends Senators Specter, Landrieu, and Ensign.

Currently, 35 States, including my home State of Arkansas, allow for direct access to physical therapists without the added cost of a physician referral. Direct access is an important change that physical therapists and their patients are seeking to the Medicare program. The National Rural Health Association, Easter Seals, and the Brain Injury Association of America join with us today in expressing their support for this important legislation.

Currently, seniors and disabled Medicare beneficiaries must first visit a physician before being allowed to visit a physical therapist. This burdensome requirement in Medicare is simply no longer necessary and limits access to timely and medically necessary physical therapists' services. Providing Medicare beneficiaries with direct access to physical therapists should be a critical component of any Medicare reform.

Congress must consistently balance patient safety, accessibility of services from qualified providers, and costs to the Medicare program when evaluating services. State boards that regulate physical therapy confirm that patient safety is not compromised by the elimination of the referral requirement because malpractice incidents and costs are not markedly higher in States that allow direct access.

Second, direct access to physical therapists would allow for improved access to quality health care services, particularly in rural and urban underserved communities. It is a burden for elderly and disabled patients with chronic conditions to drive back and forth to a physician's office simply to obtain another referral for physical therapy. This not only disrupts patient access to timely therapy treatment but creates a needless administrative expense for the Medicare program.

Finally, a study of BlueCross/BlueShield insurance claims in Maryland indicates that services are not over-utilized when a patient has direct access to physical therapists. In fact, the study indicates significantly lower costs when care is initiated without a physician referral. With this in mind, a policy that improves access to physical therapists is a positive reform for the Medicare program and its beneficiaries.

The Medicare program should not impose arbitrary administrative barriers to patients who need physical therapy services, especially when States have an entirely different standard for access. I encourage my colleagues to support this Medicare modernization plan to ensure the best access to physical therapy for America's most vulnerable population—senior and disabled patients.

By Mr. CRAPO:

S. 494. A bill to amend the Internal Revenue Code of 1986 to include agricultural and animal waste sources as a renewable energy resource; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise to introduce legislation that will encourage the expansion of an often overlooked domestic energy resource that offers a source of revenue for our rural communities and an avenue for cleanup of agricultural waste.

It has been well-publicized that our country faces mounting uncertainty in meeting our energy demands. After years of getting little attention, we are now in a period where the development of domestic energy resources has reached a crucial point. I support our efforts to diversify our energy supply resources to ensure our nation's energy security, support our business and agricultural economies, and protect our individual consumers. This time of challenge also offers great opportunities. One of those is the opportunity to encourage a largely untapped resource to provide domestic energy, while also promoting the protection of the environment and rural development. I am speaking about energy derived from agricultural and animal waste sources.

Electricity from biomass and waste sources using modern technology is a renewable resource that can add to our domestic energy supply. The process uses manure and waste products that are heated and converted into biogas that is burned to generate electricity, which is sold into the power grid. This technology is widely accepted in Europe where over 600 systems are in operation today. In this country, the technology is gaining acceptance following numerous successful case studies. This process offers farmers an option for cleaning agricultural waste that is a known source of groundwater contamination and air pollution. The revenue generated from the sale of electricity provides a source of income to offset the cleanup costs, while providing important kilowatts to the power grid.

The bill I am introducing today would extend the 1.5 cent per kilowatt hour production tax credit that is currently available to wind, closed-loop biomass, and poultry waste by making it available to all agricultural and animal waste sources.

There have been other bills introduced that would extend the tax credit to additional renewable sources such as solar energy. I encourage these efforts to broaden the definition of renewable sources.

The use of modern technology to generate electricity from waste should not be overlooked. The tax credit is an important incentive to encourage its wider use. I encourage my colleagues to join me in this important initiative. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES AND EXTENSION TO WASTE ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) of the Internal Revenue Code of 1986 (defining qualified energy resources) is amended by striking subparagraph (C) and inserting the following:

"(C) agricultural and animal waste sources.".

(2) DEFINITIONS.—Section 45(c) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) AGRICULTURAL AND ANIMAL WASTE SOURCES.—The term 'agricultural and animal waste sources' means all waste heat, steam, and fuels produced from the conversion of agricultural and animal wastes, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, and disposal of agricultural and animal products or wastes (such as wood shavings, straw, rice hulls, and other bedding material for the disposition of manure).".

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) of the Internal Revenue Code of 1986 (defining qualified facility) is amended by striking subparagraph (C) and inserting the following:

"(C) AGRICULTURAL AND ANIMAL WASTE FACILITY.—In the case of a facility using agricultural and animal waste to produce electricity, the term "qualified facility" means any facility of the taxpayer which is originally placed in service—

"(i) in the case of a facility using poultry waste, after December 31, 1999, and before January 1, 2007, and

"(ii) in the case of any other facility, after the date of the enactment of this subparagraph and before January 1, 2007.

"(D) COMBINED PRODUCTION FACILITIES INCLUDED.—For purposes of this paragraph, the term 'qualified facility' shall include a facility using agricultural and animal waste to produce electricity and other biobased products such as chemicals and fuels from renewable resources.

"(E) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (C)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph, and

"(ii) subsection (b)(3) shall not apply to any such facility originally placed in service before January 1, 1997.".

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 45 of the Internal Revenue Code of 1986 is amended by inserting "**AND WASTE ENERGY**" after "**RENEWABLE**".

(2) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting "and waste energy" after "renewable".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced after the date of the enactment of this Act.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 68—RECOGNIZING THE BICENTENNIAL OF OHIO'S FOUNDING

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following resolution; which was considered and agreed to:

S. RES. 68

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's founding;

Whereas Ohio was the 17th State to be admitted to the Union and was the first to be created from the Northwest Territory;

Whereas the name "Ohio" is derived from the Iroquois word meaning "great river", referring to the Ohio River which forms the southern and eastern boundaries;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free State, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, "The Mother of Presidents", has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon) created the basis for modern living as we know it;

Whereas Ohio, "The Birthplace of Aviation", has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnick;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers, including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the "knowledge economy" of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for people from all corners of the world, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio will begin celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio;

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State: Now, therefore, be it

Resolved by the Senate, That the Senate—

(1) recognizes the Bicentennial of Ohio's founding and its residents for their important contributions to the economic, social, and cultural development of the United States; and

(2) directs the Secretary of the Senate to transmit a copy of this resolution to the Governor of Ohio.

SENATE RESOLUTION 69—DESIGNATING MARCH 3, 2003, AS "READ ACROSS AMERICA DAY"

Ms. COLLINS (for herself, Mr. REED, and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 69

Whereas reading is a basic requirement for quality education and professional success, and a source of pleasure throughout life;

Whereas Americans must be able to read if the Nation is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 3, 2003, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in a celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 10—DESIGNATING APRIL 2003 AS "HUMAN GENOME MONTH" AND APRIL 25 AS "DNA DAY"

Mr. GREGG (for himself, Mr. KENNEDY, Ms. SNOWE, and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 10

Whereas April 25, 2003, will mark the 50th anniversary of the description of the double-helix structure of DNA by James D. Watson and Francis H.C. Crick, considered by many to be one of the most significant scientific discoveries of the 20th Century;

Whereas, in April 2003, the International Human Genome Sequencing Consortium will place the essentially completed sequence of the human genome in public databases, and thereby complete all of the original goals of the Human Genome Project;

Whereas, in April 2003, the National Human Genome Research Institute of the National Institutes of Health in the Department of Health and Human Services will unveil a new plan for the future of genomics research;

Whereas, April 2003 marks 50 years of DNA discovery during which scientists in the United States and many other countries, fueled by curiosity and armed with ingenuity, have unraveled the mysteries of human heredity and deciphered the genetic code linking one generation to the next;

Whereas, an understanding of DNA and the human genome has already fueled remarkable scientific, medical, and economic advances; and

Whereas, an understanding of DNA and the human genome hold great promise to improve the health and well being of all Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) designates April 2003 as "Human Genome Month" in order to recognize and celebrate the 50th anniversary of the outstanding accomplishment of describing the structure of DNA, the essential completion of the sequence of the human genome, and the development of a plan for the future of genomics;

(2) designates April 25, 2003, as "DNA Day" in celebration of the 50th anniversary of the publication of the description of the structure of DNA on April 25, 1953; and

(3) recommends that schools, museums, cultural organizations, and other educational institutions across the nation recognize Human Genome Month and DNA Day and carry out appropriate activities centered on human genomics, using information and materials provided through the National Human Genome Research Institute and through other entities.

SENATE CONCURRENT RESOLUTION 11—EXPRESSING THE SENSE OF CONGRESS REGARDING THE REPUBLIC OF KOREA'S CONTINUING UNLAWFUL BAILOUTS OF HYNIX SEMICONDUCTOR INC., AND CALLING ON THE REPUBLIC OF KOREA, THE SECRETARY OF COMMERCE, THE UNITED STATES TRADE REPRESENTATIVE, AND THE PRESIDENT TO TAKE ACTIONS TO END THE BAILOUTS

Mr. CRAPO (for himself and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 11

Whereas the government of the Republic of Korea has continually, and in violation of its international trade commitments, supplied financial aid to Hynix Semiconductor Inc. ("Hynix"), a failing semiconductor company;

Whereas the United States has strongly and repeatedly requested that the Republic of Korea refrain from these wrongful trade activities;

Whereas these bailouts have resulted in severe distortion of the world DRAM, semiconductor, and electronics markets to the detriment of major United States and other non-Korean producers;

Whereas the United States has continually provided military, national security, and financial aid to the Republic of Korea, including significant contributions to the International Monetary Fund financial package to prevent the Korean economy from going into bankruptcy;

Whereas Hynix exports the vast majority of its semiconductor production to nations outside of Korea, including to the United States and European nations;

Whereas, it was recently announced that Hynix would receive an additional $4,000,000,000 in debt restructuring, eliminating Hynix's existing debt, an additional $1,550,000,000 in a debt-for-equity swap, and an extension of $2,500,000,000 with respect to other outstanding Hynix loans;

Whereas Hynix's creditor banks are providing another subsidy to Hynix in the form of $188,000,000 in financing to a Chinese company to purchase Hynix's flat computer screen business;

Whereas the largest creditors of Hynix are institutions such as the Korea Development Bank and the Woori Bank, both of which are 100 percent owned by the government of the Republic of Korea; and

Whereas United States and Europe have been forced to initiate anti-subsidy investigations against the Republic of Korea: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that the actions of the Republic of Korea with respect to the bailouts of Hynix Semiconductor Inc. ("Hynix") are severely detrimental to the bilateral friendship and economic relationships between the United States and Korea; and

(2) Congress calls on—

(A) the Republic of Korea to—

(i) immediately cease any further bailouts of Hynix; and

(ii) immediately comply with all of its obligations as a member of the World Trade Organization, including its obligations regarding subsidies;

(B) the Secretary of Commerce and the United States Trade Representative to—

(i) immediately take such actions as are necessary to end any further bailouts of Hynix, including the self-initiation of further trade cases, the initiation of a further government investigation of the financial impact of these bailouts, and the calling of a special subsidies code meeting to raise the legal concerns with this issue; and

(ii) begin consultations with Congress regarding appropriate legislative action to fully deal with the impact of the bailouts of Hynix; and

(C) the President to consult with the European Union regarding joint action with respect to the unlawful subsidies to Hynix that are harming the international DRAM, semiconductor, and electronics markets.

Mr. CRAPO. Mr. President, I rise today to introduce this resolution on behalf of myself and Senator GEORGE ALLEN from Virginia. This resolution underscores a very serious and ongoing problem relating to the illegal subsidies being provided by the Korean

Government to Hynix Semiconductor, one of the companies operating in South Korea. With this resolution, my colleagues and I urge Secretary Evans, our Secretary of the Department of Commerce, and Ambassador Zoellick, U.S. Trade Representative, to use all means at their disposal to combat these illegal subsidies in the strongest ways possible under our trade laws.

Since October 2000, the Government of Korea, acting through the banks that it owns and controls, has provided an astounding $16 billion in subsidies to Hynix, a Korean producer of DRAM semiconductors. Hynix is a company with massive debt resulting from the easy lending practices of the Korean banks during the late 1990s. With these preferential loans, Hynix built substantial new capacity and became the third largest DRAM producer in the world.

Starting in late 2000, Hynix's overdevelopment began to catch up with them and Hynix became unable to repay the principal and interest on these massive loans and bonds. Rather than letting Hynix undergo formal bankruptcy and deal with the financial situation it faced, the Korean Government orchestrated no less than five separate bailouts of Hynix. Had it not done so, Hynix would have had to face a restructuring with substantial asset sales, and would have been simply another competitor in the marketplace in a more balanced and fair playing field.

However, these subsidies have permitted Hynix to stay in business with its unrealistic business practices. Hynix, a company that cannot compete in the market on a balanced playing field, in a fair market environment, continues to run its inefficient DRAM plants at full speed, flooding world markets with subsidized products. Despite the subsidies, Hynix continues to lose money—$8 billion over the last 3 years. Yet the Korean Government continues to pour money into this company.

Just 2 months ago there was yet another bailout, amounting to $4.1 billion. This is almost twice Hynix's revenues in all of the year 2002, which amounted to $2.4 billion.

The Korean Government must not be allowed to continue to underwrite the horrendous operating losses of this company as it has done for the past 3 years. It is time for the Korean Government to stop its illegal subsidies. In the highly competitive DRAM market, subsidies of this sort completely distort production and trade.

Every other DRAM company in the world is being crippled by the subsidized DRAM products that Hynix floods the markets with. This has resulted in the worst and longest downturn in the DRAM sector that has ever been experienced by this sector. Nobody can make money in this business if one of the biggest players is being underwritten by the South Korean government treasury. Subsidies of Hynix have had a huge impact on Micron Technology, the last remaining U.S.-based producer of DRAMs. Just last week, Micron announced it was laying off 10 percent of its worldwide workforce. This translates into 1,100 lost jobs in Idaho alone, and 560 lost jobs in the State of Virginia, which is why my colleague, Senator ALLEN, is joining in this resolution.

This is the first time Micron has had to have layoffs since 1985, and it was only done by the company as a last resort. Hynix subsidies have had a real impact on Micron's bottom line as well. The subsidies have impacted pricing to such an extent that even Micron, one of the most efficient DRAM producers in the world, has lost $2 billion over the past 2 years. We cannot afford to see an important technology like DRAMs lost in the United States because of illegal, predatory foreign government subsidies.

The South Korean government is clearly responsible for the bailouts that have occurred. The creditor bank now owns 67 percent of Hynix, and the government owns the vast majority of the creditor bank. To argue that the government plays no role in this bailout is the height of absurdity.

The Secretary of Commerce and the United States Trade Representative have the power to remedy this situation and put a stop to more bailouts. We need to use the trade laws we have to the fullest extent possible and countervailing duty should be imposed that offsets the full amount of these subsidies. These sorts of subsidies have absolutely no place in today's global economy, particularly as we are engaged in a round of new trade talks aimed at further liberalizing trade regimes around the world. The injurious and anachronistic policies of the government of South Korea must stop.

In this context, already the European Union and the United States Government are engaged in investigations under our trade laws of the predator conduct of the South Korean government in DRAM markets. We expect decisions on these cases sometime in the next couple of months, and hopefully these cases will establish the necessary groundwork for us to be able to deal as we should in the global community with this kind of unacceptable government subsidy.

The U.S. International Trade Commission has already issued its ruling that Micron Technology has been injured by these illegal activities of the South Korean government. We must now move on to determine the extent of these activities and assure that countervailing duties are identified and applied to the DRAMs that Hynix continues to flood the world markets with.

I want to read a part of the resolution to establish what it is we are asking our Congress to do.

After the whereas clauses, it states:

> Resolved by the Senate and House of Representatives concurring, That, No. 1, it is the sense of the Congress that the actions of the Republic of Korea with respect to the bailouts of Hynix Semiconductor, Inc. are severely detrimental to the bilateral friendship and economic relationships between the United States and Korea; and, No. 2, Congress calls on the Republic of Korea to immediately cease any further bailouts of Hynix and to immediately comply with all of its obligations as a member of the World Trade Organization, including its obligations regarding subsidies. The Secretary of Commerce and the U.S. Trade Representative are called on to immediately take such actions as are necessary to end any further bailouts of Hynix, including the self-initiation of further trade cases, the initiation of a further government investigation of the financial impact of these bailouts, and the calling of a special subsidies code meeting to raise legal concerns with this issue and to begin consultations with Congress regarding appropriate legislative action to fully deal with the impact of bailout of Hynix; and, the President is called on to consult with the European Union regarding joint action with respect to the unlawful subsidies to Hynix that are harming the international DRAM semiconductor and electronics markets.

As I have indicated, we face incredibly difficult times in the DRAM and semiconductor industry as a result of one nation's desire to continually prop up its competitors against all other world competitors—a competitor that has shown it cannot effectively compete without continuous government subsidies.

This is one of the core reasons why we are engaged worldwide in negotiations to reduce government subsidies to inefficient competitors, to stop nations from trying to flood the market with their company's products so that they can drive other, more efficient and more effective competitors out of the market and take those markets from other countries where they properly reside.

I encourage all of my colleagues to strongly support this resolution and send a strong message to the government of South Korea that the bailouts of Hynix must stop.

Mr. CRAPO. Mr. President, I was present as the debate took place with regard to the editorial issues that have been raised relating to the Miguel Estrada nomination. The Senator from Nevada raised this issue. In the debate over the Estrada nomination, there are many issues that flow back and forth. One of them is the question of what the public believes, and what the editorial boards across this Nation believe.

The editorial from the New York Times was discussed earlier. I point out that this editorial in the New York Times was one of only a few editorials in the country that supports the position that the Senate should continue with a filibuster of this nomination. In fact, only eight of the editorial boards across this Nation have taken the position of supporting the filibuster of

Miguel Estrada's nomination, while fully 51 editorial boards across the Nation support ending the obstruction of this nomination and conclusion of the filibuster and resulting in an up-or-down vote in the Senate on the Estrada nomination, including the Los Angeles Review Journal which on two separate occasions supported Mr. Estrada.

Thank you, Mr. President. I yield the floor.

SENATE CONCURRENT RESOLUTION 12—HONORING THE LIFE AND WORK OF MR. FRED McFEELY ROGERS

Mr. SANTORUM (for himself and Mr. SPECTER) submitted the following concurrent resolution; which was ordered held at the desk:

S. CON. RES. 12

Whereas Mr. Rogers was born in Latrobe, Pennsylvania, in 1928;

Whereas Mr. Rogers earned a degree in music composition, studied child development at the University of Pittsburgh, attended Pittsburgh Theological Seminary, and was ordained a Presbyterian minister;

Whereas Mr. Rogers created *Mr. Rogers' Neighborhood* and hosted the program through the Public Broadcasting Service (PBS) from 1968 through 2000;

Whereas *Mr. Rogers' Neighborhood* is the longest-running program on PBS;

Whereas *Mister Rogers' Neighborhood* was created and filmed in Mr. Rogers home town of Pittsburgh and Mr. Rogers caring spirit personifies the views he learned in western Pennsylvania;

Whereas *Mr. Rogers' Neighborhood* continues to be an educational program for children emphasizing the value of every individual, and teaching children how they fit into their families, communities, and country;

Whereas *Mr. Rogers' Neighborhood* won four Emmy Awards, plus one for lifetime achievement; and

Whereas Mr. Rogers was awarded a George Foster Peabody Award in 1993: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors Mr. Fred McFeely Rogers for—

(1) dedicating his career to the educational children's program *Mr. Rogers' Neighborhood*;

(2) the accomplishments of this influential program and the emphasis it places on the value of each individual within his or her community; and

(3) the compassionate, moral example he set for millions of American children for over 30 years.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this concurrent resolution to Mrs. Joanne Rogers.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 27, 2003, at 9:30 a.m., in open session to consider the nominations of the Honorable Stephen A. Cambone to be Under Secretary of Defense for Intelligence; Mr. John Paul Woodley, Jr., to be Assistant Secretary of the Army for Civil Works; and Ambassador Linton F. Brooks to be Under Secretary for Nuclear Security and Administrator for Nuclear Security, National Nuclear Security Administration, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 27 at 10:00 a.m. to receive testimony regarding energy production on Federal Lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, February 27, 2003, at 10:00 a.m., to hear testimony on Examining the Administration's Fiscal Year 2004 Health Care Priorities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE FOR FOREIGN RELATIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 27, 2003 at 9:30 a.m. to hold a Hearing on American Public Diplomacy and Islam.

AGENDA

Witnesses

Panel 1: The Honorable Charlotte Beers, Undersecretary of State for Public Diplomacy, Department of State, Washington, DC and the Honorable Kenneth Y. Tomlinson, Chairman, Board of Broadcasting Governors, Washington, DC;

Panel 2: Andrew Kohut, Director, The Pew Research Center for the People & the Press, Washington, DC; the Honorable Kenton Keith, Senior Vice President, Meridian International Center, Washington, DC; and Dr. R. S. Zaharna, School of Communication, American University, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, February 27, 2003 at 11 a.m. for a hearing to consider the nomination of Janet Hale to be Under Secretary for Management, Department of Homeland Security; the Honorable Clark Kent Ervin to be Inspector General, Department of Homeland Security; and Linda M. Springer to be Controller, Office of Federal Financial Management, Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, February 27, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. ALLARD. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, February 27, 2003, from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 27, at 3 p.m., to receive testimony regarding S. 246, a bill to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico; S. 32, a bill to establish institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior west; S. 203, a bill to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining; S. 278, a bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, February 27, 2003, at 2:30 p.m. on U.S. involvement in aerospace research.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be authorized to meet on Thursday, February 27, 2003, at 9:30 a.m., to conduct a hearing on the Federal Highway Administration's FY 2004 budget.

This meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SANTORUM. Mr. President, I ask unanimous consent that at 5:30 on Monday, March 3, the Senate proceed to a vote on the nomination of Marian Horn to be a judge of the U.S. Court of Federal Claims; provided further that following that vote, the President be immediately notified of the Senate's action.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. PRYOR. Mr. President, I rise today to discuss an issue that is important to many people throughout the State of Arkansas and indeed throughout this country. I rise to express my disappointment with the budget as it pertains to law enforcement programs and, in particular, community policing.

I believe the budget shortchanges smaller communities and grossly underfunds programs that have put more police officers on the street, reduced crime in rural areas, curbed drug abuse, and put at-risk youth back on the right track.

Mr. President, this budget cuts funding to the Community Oriented Policing Services—known by its acronym COPS—by 85 percent. That is 85 percent. This program was funded at $1.1 billion in fiscal year 2002. President Bush proposes only $164 million for the COPS program in fiscal year 2004. The administration's budget request for COPS represents a 100 percent cut to the COPS universal hiring program, and a 100 percent cut to the "COPS in school" program. In fact, the only program that is funded under this budget is the COPS technology program, and even that has been cut by 66 percent.

From its inception, COPS has awarded just over $8 billion to local and State law enforcement agencies across the country. With grant money, departments have hired over 110,000 community police officers, in addition to purchasing technological upgrades and equipment.

The COPS Program was established to focus on crime prevention and community engagement. This breaks with traditional notions of law enforcement by moving from reactive responses to proactive problem solving, focusing on the causes of crime and disorder. Community-oriented policing requires much more interaction on the neighborhood and community level than previous policing efforts.

In Arkansas, we have been able to hire over 1,300 additional officers with the $83 million we have received. We have also used that money to combat methamphetamine use and to implement the COPS Program in schools.

A February 3 article in the Arkansas Democrat-Gazette, my State's largest newspaper, stated the reason given by this administration for cutting funding is that COPS has "not produced conclusive results in lowering crime."

I speak today not only as a Senator, but also as the former chief law enforcement officer of Arkansas, and I wholeheartedly disagree with this administration's assessment of these very important programs.

I have worked closely with law enforcement officers of my State to make Arkansas a safer place and a better place to raise a family. They are strong leaders in their communities and demonstrate the character and the courage that define us as a nation. Together, we are able to keep over 1,000 criminals off the street due to their work on the front lines.

Oftentimes, these police officers work in smaller rural communities. They operate under tighter budgets with smaller staffs than most of their urban counterparts. Nonetheless, they put their lives on the line every single day. They make real differences in people's lives, and they do it with professionalism and an attitude of public service. They do it because it is the right thing to do. They do not do it because it is easy or because it is pleasant, and, Lord knows, they do not do it for the money. They are not asking for much in return.

I wish to take this time to thank all law enforcement officials for the work they do. I especially thank Sheriff Marty Montgomery of Faulkner County, Sheriff Ron Ball of Hot Spring County, and Sheriff Chuck Lange of the Arkansas Sheriffs' Association. They are in Washington today as part of their national association's meeting. I thank them not only for their commitment to public service and to keeping our communities safer—combined they have 87 years of law enforcement experience—but I also thank them for sharing with me their insights into the COPS Program and helping to demonstrate just how important the program is to them and other local law enforcement.

You see, Mr. President, to them, this funding could mean the difference between life and death. This past Saturday at 7:30 p.m., Faulkner County sheriff's deputy, Brad Brocker, was called to investigate a suspicious person call in a high drug-use area. When Deputy Brocker arrived on the scene, he was met with three bullets to the heart in the upper chest. Luckily, he was wearing his bulletproof vest, but he risked his life to make his community and, yes, even his Nation, safer and better. But there is more to the story.

The Kevlar vest he was wearing was paid for by Federal grant money, and Deputy Brocker was originally hired as a deputy under the COPS Program. Putting this Federal money back into our communities works. In fact, Faulkner County, with its 90,000 citizens and spanning 700 square miles, has used COPS funding to hire 12 officers in the past few years. Twelve may not sound like a lot, but it constitutes half of the Faulkner County sheriff's police force. It has made a difference.

In the last 7 years, the arrest rates for burglary, robbery, and methamphetamine production have all gone up. Any one of my colleagues who lives in a rural State can surely tell you about their problems with the use and the production of methamphetamine. It has become an epidemic throughout rural America.

Last year alone, the Faulkner County Sheriff's Office seized 44 labs and shut them down for good. Sheriff Montgomery is proud of that accomplishment, as he should be, but he warns that by cutting law enforcement programs, such as COPS, the steps they have taken forward will be lost, and they cannot sustain the manpower and law enforcement presence in their county.

I believe we have a duty to support legislation, programs, and budgets to address the challenges facing law enforcement agencies in rural areas in Arkansas and all across the country, in communities such as Malvern, a small city in southwest Arkansas. Richard Taft is the police chief of the Malvern Police Department. Mr. Taft has 32 years of experience in law enforcement and 10 years as Malvern's police chief. When Chief Taft took over in 1993, the Malvern police force consisted of 14 people responsible for protecting a city of over 10,000 citizens. As Chief Taft put it to me one day: I didn't have enough officers to protect my officers, much less the citizens of Malvern.

In 1993, according to Chief Taft, crime was rampant. Robberies, drive-by shootings, and burglaries occurred on a weekly basis. Since instituting the COPS Program and utilizing its grant funding, crime is down. The Malvern police force today is 22 people strong. With the additional manpower, Malvern has assembled a special crime team with the ability to respond to critical incidents, including chemical spills and missing persons. They did not have that ability before. COPS funding has allowed the Malvern Police Department to free up some of their money for other necessities, such as computers and radios.

Chief Taft says:

> Without the COPS Program, I wouldn't have a police force.

Yet this administration says there is no conclusive evidence that the COPS Program works? I disagree with that. More importantly, there are scores of law enforcement officials who would also stand up to dispute that claim.

In 1993, Little Rock, AR, had the highest violent crime rate per capita in the country. By working with the Federal Government, using the COPS Program, and their own additional hires, the Little Rock Police Department bolstered their force and violent crime has dropped by 60 percent.

Chuck Lange, the head of the Arkansas Sheriffs' Association, knows the significant impact the COPS Program has had statewide—and I am sure sheriffs in other States can tell you the same thing—by putting more police officers on the street. He knows that more officers have helped shorten response time. That is especially important in sprawling rural communities. He knows that time is not a luxury afforded to crime victims. I know it as well. It may be because my grandfather, my great-grandfather, and my great-great-grandfather were all sheriffs of Ouachita County.

Hot Spring Sheriff Ron Ball told me that in his county the COPS Program has enabled him to direct more time and resources to curbing domestic violence.

He knows that if his department doesn't do a better job of protecting the abused, they have nowhere else to turn.

And these law enforcement officers all know and have all told me that if we let these drastic COPS funding cuts stand, rural America will suffer.

The list of law enforcement officials opposed to these cuts is long, but the opposition is not only limited to law enforcement. There are many mayors, community activists, and school administrators who also realize the importance of this program; school administrators like Dr. Benny Gooden.

Dr. Gooden is the superintendent of schools in Fort Smith, AR. He oversees 26 schools with 12,500 students. Dr. Gooden knows how successful the COPS in Schools program has been. He knows that COPS is an asset to this community and to his schools. The presence of friendly, approachable police officers, known as School Resource Officers, on their campuses and in their neighborhoods has had a calming effect on Fort Smith schools.

Since the implementation of the COPS program in Fort Smith schools, Dr. Gooden has witnessed a decline in violent incidents. Over the past few years suspensions have decreased by 65 percent. Expulsions have been reduced by 80 percent. The drop-out rate has been cut in half.

When talking about the positive effect of the COPS in Schools program, Dr. Gooden calls it a powerful relationship; a win-win for both the schools and the community. Because the police officers are in the community and in the schools and are connected to the students and their families, officers can better identify and proactively defuse any potential problems there may be.

Often times problems that are found in schools begin in the neighborhood and in the home. Police officers in Fort Smith recognize this and are in a better position to resolve such problems.

Dr. Gooden has also witnessed, firsthand, the affirmative impact of this program on a child's educational experience. The officers interact with students. Some officers have offices in the schools. They are invited to school activities. These officers do not just show up when there is trouble, they are positive role models for Fort Smith's children and are involved in their lives. They spend time with students and in the community when there is no trouble and that presence, can make all the difference.

These positive results are not limited to Fort Smith nor are they only appreciated by the administrators. As Arkansas Attorney General, I spent a lot of time in schools talking to our young people, and move importantly listening. Over and over the students told me how much they liked having School Resource Officers on campus. It made them feel safer, it provided a needed role model and it oftentimes provided an adult they could talk to. It showed our children that their community cared about them and gave them a much better perspective on law enforcement.

We must also not forget the importance of these police officers as an integral part of our homeland defense and as first responders in the case of terrorist attacks. September 11 changed a lot of things for our country. It woke us to the need of genuine partnerships that involve all segments of our communities, and all levels of government. We all have a role in keeping our community safe, and overall when we talk about homeland security, we need to give serious thought to our law enforcement needs.

Unfortunately, we saw how September 11 strained the resources, and the budgets, of many towns and cities. The administration's law enforcement budget does not help that problem. Our civilian authorities must be able to respond to whatever may confront them in the future, but how can they properly respond, when they are given a budget that cuts deep into their existence? The irony is that I have heard Secretary Ridge speak many times about how important local law enforcement agencies are to homeland security, but at the very moment when our Nation needs them most, we are drastically cutting assistance to them.

The Federal Government must ensure that local governments are given the resources to complete their task and that we share the responsibilities for homeland security wisely and fairly. I know that Democrats and Republicans alike agree with this. I know Secretary Ridge agrees with this. I know that President Bush agrees with this.

President Bush said on February 20 regarding the 2003 omnibus appropriations that he was concerned that the Congress had failed to provide over $1 billion in funds for State and local law enforcement and emergency personnel. He went on to lament that the shortfall for homeland security first responder programs was more than $2.2 billion.

For the record, I share President Bush's concern, but shortchanging our local law enforcement efforts by under funding the critical, popular and effective COPS program is not the answer. I take a line from Chief Taft of the Malvern Police Department put it best when he said: "Doing away with the COPS Program, when we are so concerned with homeland security is the wrong thing to do." I could not agree more.

Much is made of the word "hero." Before September 11, to pick up a magazine or to put on the television, hero was synonymous with professional athletes, movie stars, or musicians. But September 11 reminded us that real heroes are right in our own backyard. While everyone was rushing out of the World Trade Center, EMT, firefighters and police officers were rushing in. That is the definition of "hero."

Local law enforcement officers protect our communities, our homes and our families from the threat of violent crime. Simply put, they stand up for justice. I believe we must do more to stand up for them. They need funding to do their jobs properly and deliver the same quality service that our citizens expect and deserve, whether they live in New York City, or Des Arc, AR.

During the upcoming budget debate, I will support increasing funding for the COPS program and other law enforcement programs. I would urge my colleagues to do the same. I also plan to be a proud co-sponsor of Senator JOE BIDEN's legislation to reauthorize the COPS program.

We need to build on what we know works and develop initiatives that respond to the law enforcement needs of our communities. The COPS program works and deserves adequate funding. These communities who benefit from this program deserve it as well.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I rise to congratulate the Senator from

Arkansas on what I believe is his first speech on the floor of the Senate since his election. It is a privilege to serve with him, the Senator from South Carolina, and the Senator from New Hampshire in the new class of Senators in the 108th Congress.

It is appropriate that the Senator would choose for his subject law enforcement because of his distinguished career as the chief law enforcement officer of Arkansas and having had members of the law enforcement community in his family for many years. He comes to the floor with a record of distinguished service from a distinguished family whose father is a close friend of many who have served in the Senate with distinction for many years.

My colleagues and I congratulate him on his first speech. We look forward to many years of service with him.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Tennessee for his kind words and express to him once again, as I have done privately and personally. I look forward to working with him on the issues that are so important to him, whether they be education or whatever they may be. It is an honor to serve with him.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 6, 2001 in Grand Junction, CO. Eric Valdez, 19, was stabbed to death by Sjon Elmgreen, 19, after leaving a grocery store. The incident began when Elmgreen's fiancee called him to say that two Hispanic teens had just been flirting with her at the grocery store. She later told police that the teens had not been rude or threatening in the store. Nonetheless, Elmgreen and his roommate walked from their home to confront the teens. Elmgreen's fiancee told police that the confrontation turned into a fist fight, during which Elmgreen yelled racial epithets. After the fight, Elmgreen stabbed Valdez.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DISCHARGE OF GAY LINGUISTS FROM THE MILITARY

Mr. FEINGOLD. Mr. President, I wish to speak on the military's recent discharge of several linguists who are critically needed in our Nation's fight against terrorism but who, in the military's eyes, are unfit for the job because of their sexual orientation. The military's treatment of these individuals is not only a grave injustice to these talented men and women who have bravely volunteered to defend our Nation, but it poses a serious threat to our Nation's preparedness.

After the terrorist attacks of September 11, 2001, our Nation's security agencies and all branches of the military recognized that they must increase the recruitment and training of linguists who can speak and interpret languages such as Arabic, Farsi, Korean, Mandarin Chinese, and Russian. Understanding these languages is critical to ensuring our Nation's security. Those who are able to communicate in these languages can translate communications that may be made by terrorists or others intent on doing us harm. In fact, a large portion of the intelligence information retrieved by the U.S. security agencies currently cannot be translated, hindering the ability of the Federal Government to protect our country.

According to a study released by the U.S. General Accounting Office in January 2002, the Army is facing a serious shortfall of linguists in five of the six languages it categorizes as most critical—Arabic, Korean, Mandarin Chinese, Farsi, and Russian. The Army has met only 50 percent of its need for linguists who speak Arabic, 63 percent of its need for Korean speakers, 62 percent of its need for Mandarin Chinese speakers, 32 percent of its need for Farsi speakers, and 63 percent of its need for Russian speakers. This leads to a 44 percent total shortfall in translators and interpreters for 5 of the 6 critical languages. Furthermore, the Army only has 75 percent of the cryptology linguists needed who speak Korean and Mandarin Chinese, and has a 13 percent shortfall of Army Human Intelligence Collectors in five of the languages found to be of critical importance. Spanish is the only language for which the Army has met its linguist needs.

Although the military faces a crisis in the linguistics field, linguists with a high level of proficiency in languages determined critical by the military and security agencies have continued to be discharged from the Armed Forces simply because they are gay, lesbian, or bisexual.

In 1993, the military instituted a plan known as "Don't Ask, Don't Tell, Don't Pursue, Don't Harass," known more commonly as the "Don't Ask, Don't Tell" policy. The basic premise of the "Don't Ask, Don't Tell" policy is that, while military leaders know that gays, lesbians, and bisexuals have always played an important part in America's military, homosexual members of the military are not allowed to be asked about or to tell anyone about their sexual orientation. Furthermore, the Department of Defense generally cannot conduct investigations regarding the sexual orientation of service members, and the Armed Forces has a policy that does not tolerate harassment of anyone based on perceived or actual homosexuality.

The "Don't Ask, Don't Tell" policy has been, by most accounts, a failure. Homosexual military personnel continue to be harassed within all the branches of the Armed Forces. In fact, according to the Servicemembers Legal Defense Network, SDLN, an advocacy organization dedicated to aiding gay, lesbian, and bisexual service members who face discrimination in the armed services, in 2001 the armed services fired more than 1,250 gay, lesbian, and bisexual Americans—more than any other year since 1987. Furthermore, since the initiation of the "Don't Ask, Don't Tell" policy, more than 7,800 American service members have lost their jobs because of anti-gay sentiment.

Not only does the "Don't Ask Don't Tell" policy needlessly discriminate against courageous Americans, it also wastes millions in taxpayer dollars. For example, according to SLDN, the government spent $36 million to replace gays, lesbians, and bisexuals who were discharged from the military in 2001. Even more staggering is the fact that the government has spent over $234 million to train replacements for homosexual service members since the "Don't Ask, Don't Tell" policy was enacted in 1993. Thus, instead of using those millions of dollars on fighting terrorism, the military is spending it to replace linguists that they already have in their ranks.

Not only does the "Don't Ask, Don't Tell" policy waste time, money and linguistic skill, it also initiates discrimination against those who simply want to serve their country. One of these Americans is Alastair Gamble. He had been in training in Arabic for only a few months at the Defense Language Institute when the terrorist attacks of September 11 occurred. After the attacks, he decided that his skills were needed more than ever. He continued his studies and soon was able to converse about military operations, economics, and politics in Arabic. He, however, would not be able to serve his country. Why? Because he was caught one night in his partner's room after hours. Though Gamble admits that he broke the military's policy, he states that many heterosexual couples also broke this same rule on that same night. The heterosexual couples, however, were only reprimanded. In stark contrast, Gamble's infraction led to a search of his room where military officials found evidence that led to the discovery of a relationship with another officer who was studying Korean at the time. Soon both Gamble and his partner were dismissed from the Army, and the American people were denied the service of two young men who were learning badly needed language skills.

Gamble and his partner are not alone. From October 2001 through December 2002, seven other linguists specializing in critical languages were also discharged after telling superiors that they were gay.

Gamble and the eight other linguists should not be treated this way. It is past time for the U.S. military to modernize its attitudes toward soldiers' sexual orientation. It is time for the U.S. military to recognize the contributions of gay, lesbian, and bisexual military officers and enlisted personnel by allowing them to serve in the Armed Forces without fear and prejudice. Currently, security organizations within the United States allow for open service—most notably, the Central Intelligence Agency and the National Security Agency. These openly gay men and women serve our country well. In fact, they sometimes serve along-side military men and women who cannot discuss their sexual orientation.

Not only do United States intelligence agencies allow for open service, but many other nations allow open service as well. Some of our closest allies—Germany, France, the United Kingdom, Australia, the Czech Republic, Sweden, Canada, Belgium, the Netherlands, Spain, Denmark, Norway, Luxembourg, Iceland and Italy—allow open service in their military. In fact, the United States and Turkey are the only two NATO countries that do not allow open military service for gay men.

Nations that allow for open military service have not reported any change in the way the military is run because of their policies. According to a study by Aaron Belkin, the Director of the Center for the Study of Sexual Minorities at the University of California, Santa Barbara, and Jason McNichol, senior officials, commanders, and military scholars within the Australian Defense Forces consistently praise the lifting of the gay ban, which occurred in 1992. The report states that there has been no overall pattern of disruption to the military, recruitment and retention have not suffered, and military performance was not affected because of the ban.

In January 2000, Britain too lifted its ban on gays in the military. According to PlanetOut News, a review of the policy by the British military, released in late 2000, found that there was no discernable impact on the military after it lifted the ban.

If some of our closest allies have been successful in allowing open service in the military, why not the United States?

Our military has been fighting terrorism and may soon go to war against Iraq. We desperately need the specialized language skills of our fellow Americans as resources. Our military should cease the discriminatory and counter-productive policy of discharging competent military personnel simply because of their sexual orientation. I hope that this administration will consider the consequences of the decision to discharge the linguists I have spoken about today and will give gay, lesbian, and bisexual Americans the chance to serve openly in the United States military.

Mr. WARNER. Mr. President, I rise today to contribute to the public discourse and national debate we are witnessing with regard to a potential conflict—if diplomacy fails—with Saddam Hussein's brutal regime in Iraq. All of our offices have been inundated with calls, e-mails, and letters from concerned constituents about the consequences of war with Iraq. It is a timely debate of utmost gravity and importance. It is the essence of our democracy.

I, for one, have been supportive of our President's policies and intentions with regard to Iraq. I am firmly convinced that—should our efforts at the United Nations fail to convince Saddam Hussein to disarm—we must decisively end the menace that he represents to the world and to his own people. He has tyrannized his nation, the region and, indeed, the entire world for over two decades. I am proud that our President has shown the courage to bring this present and growing danger to the world's attention. It is not easy to muster the courage, in the face of widespread apprehension, to confront the truly evil elements of our global community. It is easier and more popular to procrastinate and defer decisions.

Our President is a man of principle however, who will not shrink from the dangers that threaten our Nation. He has carefully laid out a case against Saddam Hussein and has brought to the attention of the world the terrible threat this man and his regime represent to our national and global security. I am proud to stand with him and with my colleagues who have given the President the authority he needs to effectively confront Saddam Hussein, with military force, if necessary.

This morning's Washington Post contained a thoughtful editorial on this important subject: "Drumbeat on Iraq? A Response to Readers." It is an editorial that captures, in a balanced manner, the essence of the debate and is, in fact, responsive to the diverse readership of the Post.

I commend this editorial to my colleagues and my constituents. I further thank the Washington Post for this thoughtful contribution to the national debate on this subject. The prospect of conflict is never a pleasant option. The consequences of inaction in this case are unacceptable. Our President has enhanced the security and safety of our Nation by forcefully confronting those who would bring harm to our shores. We can no longer stand idly by. In the case of Saddam Hussein, I fully agree with the conclusion of this Washington Post editorial that, ". . . a long term peace will be better served by strength than by concessions." We must find the strength, as a nation—hopefully as an international community—to act if this last chance for diplomacy fails.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 27, 2003]

"DRUMBEAT" ON IRAQ? A RESPONSE TO READERS

"I have been a faithful reader of the Washington Post for almost 10 years," a recent email to this page begins, "Recently, however, I have grown tired of your bias and endless drumbeating for war in Iraq." He's not the only one. The national and international debate over Saddam Hussein's weapons of mass destruction, and our editorials in favor of disarming the dictator, have prompted a torrent of letters, many approving and many critical. They are for the most part thoughtful and serious; the antiwar letters in particular are often angry and anguished as well. "It is truly depressing to witness the depths Washington Post editors have reached in their jingoistic rush to war," another reader writes. It's a serious charge, and it deserves a serious response.

That answer, given the reference to "Washington Post editors," probably needs to begin with a restatement of the separation at The Post news and editorial opinion functions. Those of us who write editorials have no influence over editors and reporters who cover the news and who are committed to offering the wariest and most complete journalism possible about the standoff with Iraq. They in turn have no influence over us.

For our part, we might begin with that phrase "rush to war." In fact there is nothing sudden or precipitous about our view that Saddam Hussein poses a grave danger. In 1990 and 1991 we supported many months of diplomacy and pressure to persuade the Iraqi dictator to withdraw his troops from Kuwait, the neighboring country he had invaded. When he failed to do so, we supported the use of force to restore Kuwait's independence. While many of the same Democrats who oppose force now opposed it then also, we believe war was the correct option—though it was certainly not, at the time, the only choice. When the war ended, we supported—in hindsight too unquestiongly—a cease-fire agreement that left Saddam Hussein in power. But it was an agreement, imposed by the U.N. Security Council, that demanded that he give up his dangerous weapons.

In 1997 and 1998, we strongly backed President Clinton when he vowed that Iraq must finally honor its commitments to the United Nations to give up its nuclear, biological and chemical weapons—and we strongly criticized him when he retreated from those vows. Mr. Clinton understood the stakes. Iraq, he said, was a "rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us unnoticed."

When we cite Mr. Clinton's perceptive but ultimately empty comments, it is in part to chide him and other Democrats who take a different view now that a Republic is in charge. But it has a more serious purpose too. Mr. Clinton could not muster the will, or the domestic or international support, to force Saddam Hussein to live up to the promises he had made in 1991, though even then the danger was well understood. Republicans who now line up behind President Bush were in many cases particularly irresponsible: when Mr. Clinton did bomb Iraqi weapons sites in 1998, some GOP leaders accused him of seeking only to distract the nation from his impeachment worries. Through the end of Mr. Clinton's tenure and the first year of Mr. Bush's presidency, Saddam Hussein built up his power, beat back sanctions and found new space to rearm—all with the support of France and Russia and the acquiescence of the United States.

After Sept. 11, 2001, many people of both parties said—and we certainly hoped—that the country had moved beyond such failures of will and politicization of deadly foreign threats. An outlaw dictator, in open definance of U.N. resolutions, unquestionably possessing and pursuing biological and chemical weapons, expressing support for the Sept. 11 attacks: Surely the nation would no longer dither in the face of such a menace. Now it seems again an open question. To us, risks that were clear before seem even clearer now.

But what of our "jingoism," our "drumbeating"? Probably no editorial page sin could be more grievous than whipping up war fever for some political or trivial purpose. And we do not take lightly the risks of war—to American and Iraqi soldiers and civilians first of all. We believe that the Bush administration has only begun to prepare the public for the sacrifices that the nation and many young Americans might bear during and after a war. And there is a long list of terrible things that could go wrong: anthrax dispersed, moderate regimes imperiled, Islamist recruiting spurred, oil wells set afire.

The right question though, is not "Is war risky?" but "Is inaction less so?" No one can provide more than a judgment in reply. But the world is already a dangerous place. Anthrax has been wielded in Florida, New York and Washington. Terrorists have struck repeatedly and with increasing strength over the past decade. Are the United States and its allies ultimately safer if they back down again and leave Saddam Hussein secure? Or does safety lie in making clear that his kind of outlaw behavior will not be tolerated and in helping Iraq become a peaceable nation that offers no haven to terrorists? We would say the latter, while acknowledging the magnitude of the challenge, both during and especially after any war that may have to be fought. And we would say also that not only terrible things are possible: To free the Iraqi people from the sadistic repression of Saddam Hussein, while not the primary goal of a war, would surely be a blessing.

Nor is it useful merely to repeat that war "should only be a last resort," as the latest French-German-Russian resolution states, or that, as French President Jacques Chirac said Monday, Iraq must disarm "because it represents a danger for the region and maybe the world . . . but we believe this disarmament must happen peacefully." Like everyone else, we hope it does happen peacefully. But if it does not—if Saddam Hussein refuses as he has for a dozen years—should that refusal be accommodated?

War in fact has rarely been the last resort for the United States. In very recent times, the nation could have allowed Saddam Hussein to swallow Kuwait. It could have allowed Slobodan Milosevic to expel 1 million refugees from Kosovo. In each case, the nation and its allies fought wars of choice. Even the 2001 campaign against Afghanistan was not a "last resort," though it is now remembered as an inevitable war of self-defense. Many Americans argued that the Taliban had not attacked the United States and should not be attacked; that what was needed was police action against Osama bin Laden. We believed they were wrong and Mr. Bush was right, though he will be vindicated in history only if the United States and its allies stay focused on Afghanistan and its reconstruction.

So the real questions are whether every meaningful alternative has been exhausted, and if so whether war is wise as well as justified. The risks should not be minimized. Everyone agrees, for example, that the United States would be stronger before and during a war if joined by many allies, and even better positioned if backed by the United Nations. If waiting a month, or three months, would ensure such backing, the wait would be worthwhile.

But the history is not encouraging. The Security Council agreed unanimously in early November that Iraq was a danger; that inspectors could do no more than verify a voluntary disarmament; and that a failure to disarm would be considered a "material breach." Now all agree that Saddam Hussein has not cooperated, and yet some countries balk at the consequences—as they have, time and again, since 1991. We have seen no evidence that an additional three months would be helpful. Nor does it strike us as serious to argue that the war should be fought if Mr. Chirac and German Chancellor Gerhard Schroeder agree, but not if they do not. If the war is that optional, it should not be fought, even if those leaders do agree; if it is essential to U.S. national security, their objections ultimately cannot be dispositive.

In 1998 Mr. Clinton explained to the nation why U.S. national security was, in fact, in danger. "What if he fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction? . . . Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use the arsenal."

Some argue now that, because Saddam Hussein has not in the intervening half-decade used his arsenal, Mr. Clinton was wrong and the world can rest assured that Iraq is adequately "contained." Given what we know about how containment erodes over time; about Saddam Hussein's single-mindedness compared with the inattention and divisions of other nations; and about the ease with which deadly weapons can move across borders, we do not trust such an assurance. Mr. Clinton understood, as Mr. Bush understands, that no president can bet his nation's safety on the hope that Iraq is "contained." We respect our readers who believe that war is the worst option. But we believe that, in this case, long-term peace will be better served by strength than by concessions.

Mrs. CLINTON. Mr. President, for thousands of mothers across the U.S., having a child is a momentous occasion filled with happiness and excitement. However, for a smaller percentage of women, childbirth brings about feelings of sadness, fear, and anxiety so overwhelming that they can no longer function normally. Postpartum depression, a mood disorder that is the culprit of these sentiments, severely affects the mental health of new mothers and places a strain on families. This is why I am proud to join my colleagues, Senator DURBIN and Senator FITZGERALD, in introducing the "Melanie Stokes Postpartum Depression Research and Care Act."

I firmly believe that postpartum depression is a national problem: it strikes women regardless of age, race, or economic status. Nearly 80 percent of new mothers experience baby blues, a very common, mild form of depression occurring in the first days or weeks after birth, but 10 to 20 percent suffer from the more severe postpartum depression. This is accompanied by irritability, despair, and anger, which can continue without treatment. The most acute form of depression, postpartum psychosis, can be accompanied by anxiety and fear, but also delusions and hallucinations. It strikes 1 in 1000 women. These two forms of postpartum depression contribute to a mother's sense of worth, inhibits a women's ability to complete her every day activities or enjoy the precious new moments with her child.

Despite these serious effects, there is alarmingly little research on postpartum depression. Additionally, while drops in hormone levels such as progesterone and estrogen have been linked to postpartum mood swings, there is no definite known cause for this disorder. This bill seeks to fill a glaring void in the understanding of this illness and provide treatment and care options for new moms. It establishes research programs to explore the causes, prevention, and prevalence of postpartum depression and psychosis. I also believe that women need real support in terms of comprehensive services at the community level. This legislation provides grants to help moms manage postpartum conditions at hospitals, community health centers, and shelters so they can access home based care, screening services, and other comprehensive treatments.

Motherhood should be a blessing, not a nightmare. Organizations and health professionals all urge families and friends to inundate at risk or new moms with support as she takes on the complex task of raising a child. This bill is our way of supporting these moms. We hope to provide research results and necessary help to ensure a brighter future for new mothers caught in the fearful grip of postpartum depression. I will continue to support efforts to diminish the anguish of postpartum depression and improve efforts to safeguard the mental well-being for new mothers.

Mrs. FEINSTEIN. Mr. President, last night I introduced the "State Criminal Alien Assistance Program Reauthorization Act of 2003," bipartisan legislation to authorize funds to relieve State and county governments of the some of the fiscal burdens associated with the incarceration of undocumented criminal aliens.

I am pleased that Senators McCAIN, KYL, SCHUMER, BOXER, HUTCHISON, BINGAMAN and DOMENICI have joined me in introducing this important measure.

The broad principle on which this bill is based is simple: the control of illegal immigration is a Federal responsibility. When the Federal Government falls short in its efforts to control illegal immigration, it must bear the responsibility for the financial and human consequences of this failure.

More and more, however, the fiscal consequences of illegal immigration are being borne by the States and local counties.

The State Criminal Alien Assistant Program, SCAAP, Reauthorization Act of 2003 would properly vest the fiscal burden of incarcerating illegal immigrants, who are convicted of felonies or multiple misdemeanors, with the Federal Government.

The legislation would do so by authorizing up to $750 million in Fiscal Year 2004 for Federal reimbursement to the States and county governments for the direct costs associated with incarcerating undocumented criminal aliens. It would authorize an additional $850 million in Fiscal Year 2005, and $950 million for the program in Fiscal Years 2006 through 2010.

The number of State and local governments seeking SCAAP funding has jumped 25 percent from the previous year. The combination of the increase, and the fact that all 50 States and the District of Columbia receive some funding from the program, suggests that no State is immune from the fiscal costs associated with crimes committed by illegal aliens.

Therefore, I urge all of my colleagues to work with me to not only ensure that the SCAAP program survives, but also that it is adequately funded.

At a time when the administration is asking State and local governments to do even more with their local funds to enforce the nation's immigration laws, it is at the same time recommending the elimination of a vital source of funding that already falls far short of what states spend to incarcerate criminal illegal aliens.

High impact States, like California, continue to shoulder extraordinary costs for housing illegal aliens in its criminal justice system. The State prisons had an estimated 22,565 criminal aliens it its system out of a total population of 160,728.

In just a 3-month period last year, the State's county jails housed just under 10,000 criminal aliens. Overall, California taxpayers paid more than $2.28 billion in 2001 to cover these costs.

In 2002, California received a SCAAP payment of $220 million—less than 10 percent of the total costs to the State. This year, California taxpayers can expect to spend even more.

The SCAAP reauthorization bill would help California and all other States that are experiencing increasing costs from incarcerating undocumented felons—both low-impact and high-impact states.

Last year, the State of Wisconsin and its counties, for example, received more than $3.5 million in funding; Massachusetts received over $13 million; Pennsylvania received lose over $2.6 million; Virginia received more than $6.4 million; North Carolina received $5.2 million; Michigan received $2.9 million; Minnesota received $1.8 million.

Thus, even states that have not traditionally had to confront the growth in illegal immigration are now bearing the costs of this Federal responsibility.

The administration's opposition to this program is puzzling.

I am particularly disappointed that an Administration headed by a former governor of a State highly impacted by the Federal Government's inability to control illegal immigration, would recommend the elimination of this important program.

Who pays when these costs go uncovered?

In California, the burden will fall on our law enforcement agencies—including sheriffs, officers on the beat, anti-gang violence units, district attorneys offices. At a time when the nation is focused on enhancing security within our borders, within our States and within our local communities, a vital program like SCAAP should not be vulnerable to being short-changed or eliminated.

I note that when the current president was governor of Texas, he was a strong supporter of Federal funding for SCAAP he, too, recognized that controlling illegal immigration was a federal responsibility and that States cannot and should not be expected to handle the national burden on their own.

Certainly, the problems that were faced by Texas then with respect to the incarceration of criminal aliens have grown since then-Governor Bush wrote that letter. In 1997, the year in which the letter was written, the State of Texas incurred more than $129 million in incarceration costs. In fiscal year 2002, those costs soared to more than $1.17 billion.

It is inexplicable to me that this administration would now call for the elimination for the program. I will include the letter then-Governor Bush wrote to Representative Hal Rogers, chairman of the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, for the RECORD.

After years of strongly supporting funding for the SCAAP program, President Bush's recent opposition to the program prompted Congress to cut the program by 56 percent this year, from $565 million to $250 million.

I urge my colleagues to reverse that course in Fiscal Year 2004 and consider restoring the cuts that were made when Congress considers the FY2003 supplemental appropriations request the administration is likely to submit in the next several weeks.

I thank my colleagues who joined me yesterday for their tireless efforts in ensuring that States and local counties receive some compensation for they do their part in securing their communities from criminal aliens who are in the country illegally.

I join them in introducing the SCAAP reauthorization legislation in hopes that it will go further to alleviate some of the fiscal hardships States and local governments incur when they must take on this Federal responsibility.

I ask unanimous consent to print the letter to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF TEXAS
OFFICE OF THE GOVERNOR,
July 10, 1997.

Hon. HAL ROGERS,
Chairman, Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, Committee on Appropriations, Washington, D.C. 20515.

DEAR CHAIRMAN ROGERS: The cost of processing and housing criminal aliens in our state criminal justice system continues to grow. I am writing to ask you to support funding the $650 million authorization to reimburse state and local governments for the costs of incarcerating undocumented criminal aliens. We are thankful for Congress' recognition of this problem in Texas and appreciate the funding we have already received.

The Immigration and Naturalization Service estimates that Texas incarcerates more than 8,000 undocumented aliens each year. At this current rate of incarceration, the annual cost to Texas exceeds $129 million. During fiscal year 1996, Texas received $51.9 million in reimbursement under the State Criminal Alien Assistance Program (SCAAP). Any additional funds dedicated to assist Texas in recapturing the costs of housing these criminal aliens would be greatly appreciated.

Thank you for your time and attention to this matter of importance to Texas. I will appreciate any action you can take on this matter.

Sincerely,
GEORGE W. BUSH,
Governor.

TRIBUTE TO VICTOR BAIRD

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to Victor Baird, who is retiring from his position as acting staff director and chief counsel to the U.S. Senate Select Committee on Ethics after more than 15 years of service.

For the last 2 years, I have had the privilege to serve on the U.S. Senate Select Committee on Ethics, an assignment that has provided me valuable insights into the workings and the ethical guidelines of this body. When I joined the committee, I was a relatively junior member, having served only 2 years in the Senate. I consider myself extremely fortunate that during this time, I have been able to draw on the wisdom and expertise of Victor Baird.

Following a distinguished legal career in Georgia, Victor came to Washington in 1987 to serve as counsel to the Ethics Committee. Over the ensuing 15 years, Victor has brought to the committee a sense of nonpartisan balance, careful legal judgment, historical perspective, and good humor—a collection of qualities that have served the committee well during some challenging times. His advice to committee members and his leadership of the committee staff have been invaluable during the last 15 years, and we owe him a debt of gratitude for his service.

I should note that, although the committee is losing a valuable asset in Victor Baird, we are fortunate in the choice of his successor—Rob Walker. Mr. Walker has served the past 4 years as chief counsel and staff director of the U.S. House of Representatives Committee on Standards of Official Conduct. But prior to that, he served as counsel to the Senate Ethics Committee, where he worked closely with Victor Baird. The Senate Ethics Committee is fortunate to have Rob back. I look forward to working with him, as I am sure that he will continue the tradition of fairness and excellence that his predecessor has established.

So as we say goodbye to Victor Baird, let's also thank him for his steady and dependable service in the committee for these last 15 years, and let's wish him well in his ventures in the years to come.

WAR ON TERROR AND HUMAN RIGHTS IN CHINA

Mr. FEINGOLD. Mr. President, attention is understandably on Iraq this week as we move ever closer to a decision on use of military force there to disarm the regime of Saddam Hussein. But as we contemplate whether such action makes sense in terms of protecting our people from the threat of global terrorism, it is important that we not lose sight of important developments in other parts of the world.

Earlier this week, Secretary of State Powell visited Beijing, reportedly to seek the support of China's leaders in dealing with Iraq and North Korea. This makes sense, since China has the power to veto any U.N. resolution on Iraq and is reputed to have influence with Kim Jong-Il. Our relations with China have warmed since September 11, as its support was deemed important to the success of the "war on terrorism," both in Afghanistan and beyond. Unfortunately, China's leaders appear to have a very different agenda for this war. As the Chinese would say, we are sleeping in the same bed but having different dreams.

Earlier this month, Wang Bingzhang, a Chinese democracy activist who has lived most of the past 20 years in New York as a U.S. legal permanent resident, was sentenced to life in prison following a secret trial on charges of espionage and "leading a violent terrorist organization." Chinese authorities had had him in custody, unbeknownst to his family, since last July, when he was apparently abducted while visiting Vietnam and brought across the border into China. The Chinese authorities have presented no public evidence linking Wang to any violent activities. Since being exiled to Canada in 1979, however, he has advocated peaceful democratic change in China, founding the magazine China Spring in New York in 1982 and serving as an adviser to the outlawed China Democracy Party. He sneaked across the border into China in 1998, when the China Democracy Party was attempting to organize and register itself within the boundaries of Chinese law, and was detained and deported. The Chinese Communists clearly see him as a nuisance, and the "war on terrorism" provided a convenient excuse to silence him.

Last month, Chinese authorities executed a former Tibetan monk, Lobsang Dhondrup, who was accused of carrying out a series of bombings in Sichuan Province. Lobsang was detained near the scene of one of the bombings last April. But the only evidence made public against him was his confession, which was very likely extracted through torture. He was killed immediately after the Intermediate Court for the Ganzi Tibetan Prefecture upheld his death sentence. The same day, the Sichuan Provincial High Court in Chengdu rejected the appeal of Tenzin Delek Ripoche, a senior Tibetan Buddhist monk and social and environmental activist, and reaffirmed his suspended death sentence in connection with the same case. Chinese authorities have provided no public evidence linking Tenzin to the bombings, according to Human Rights Watch.

A third man, Tsereng Dhondrup, was given 5 years for merely circulating petitions in defense of Lobsang and Tenzin. Authorities are thought to be holding 10 other ethnic Tibetans in connection with the bombings but will not release their names or locations.

Mr. President, I do not dispute for a moment that Chinese authorities have the right—indeed the duty—to take firm measures against terrorism within their borders, just as we are doing here. The bombings in Sichuan, which took innocent life, were without question terrorist acts, as were the bombings this week on Beijing university campuses, and they should be condemned. The imperative to combat terrorism does not absolve any nation, however, of its obligation to respect basic human rights, including the right to due process. Whether Lobsang was involved in the bombings in Sichuan we may never know. But Assistant Secretary of State Lorne Craner has expressed "deep concern" as to whether Lobsong received a fair trial, according to the Washington Post. Neither Lobsang nor Tenzin was allowed to choose his own defense attorney. Tenzin was held incommunicado for 8 months, up to the day of his trial, and appeal hearings were closed to the public on the grounds that "state secrets" were involved.

These cases illustrate a deeply cynical misappropriation of the anti-terrorist struggle by a repressive regime to suppress legitimate dissent, persecute restive minority groups, and literally get away with murder. Administration officials maintain that, while seeking China's cooperation in combatting international terrorism, they have at the same time made clear that China should not interpret that as a license to violate basic human rights. But violate them they have, and apparently with increasing frequency.

In the Northeast Chinese Rustbelt city Liaoyang, two labor leaders—Yao Fuxin and Xiao Yunliang—are awaiting sentencing following their January 15 trial for "inciting the subversion of the political authority of the state." The prosecution said they conspired to "overthrow the socialist system." In fact, what they did was organize protest marches last spring for workers laid off from a state-owned plant that went bankrupt in 2001, owing them several months of back wages, as well as pension and other benefits and severance allowances. Workers suspected the plant's management had embezzled funds that should have been used to pay those benefits. The authorities declared the protests illegal and arrested Yao, Xiao, and two other organizers.

According to labor activists in Hong Kong who have been monitoring the case, Yao and Xiao were held for several months without formal charges and were denied access to their lawyer on the grounds that the case involved "state secrets." The initial indication was that they had been arrested for illegal assembly. But when the workers of Liaoyang continued to rally behind their leaders and the case attracted international attention, Chinese authorities asserted that the men had carried out "destructive activities," including car-bombings and destroying public property.

This was something not even the Liaoyang police and prosecutors had alleged. Even the local representative of the official Communist Party labor organization called the allegations "a complete fabrication." Nonetheless, when formal charges were finally announced against the men last month, they were charged not just with illegal assembly but with the much more serious offense of subversion. At their four-hour trial January 15, the prosecution made no attempt to tie Yao and Xiao to any violent activities. Instead, they argued, Yao and Xiao had subverted the authority of the Chinese state by attending preparatory meetings of the then not-yet-banned China Democracy Party back in 1998 and communicating with "hostile foreign elements," such as Agence France Presse and the Wall Street Journal.

Here again, China's rulers have appropriated the language of anti-terrorism to persecute people who have done nothing more than challenge the authority of the Communist Party through peaceful means.

Meanwhile, throughout China, the brutal suppression of the Falungong spiritual movement, which President Jiang Zemin has branded an "evil cult," continues. Charles Li, a U.S. citizen Falungong practitioner, is about to enter his sixth week of detention in Jiangsu Province, where he returned to spend Chinese New Year with his parents. Authorities have not charged him, and he has been allowed only one half-hour meeting with U.S. consular officials. Initial reports indicated he was accused of hijacking television broadcasts to spread the banned Falungong message. But his friends and associates maintain he was not even in China when those incidents occurred. His actual sin appears to be having had the temerity to serve a subpoena on the Mayor of Beijing, when he visited San Francisco last year, under the Alien Tort Claims Act and Torture Victim Protection Act, as was his right as a U.S. citizen on U.S. territory under U.S. law.

Why is it that we are seeing so many egregious violations of basic human rights in China in such a short span of time? Could it be that the senior leadership in Beijing knows that the world's attention is currently focused elsewhere? Could it be they think U.S. criticism of their actions will be muted, since the administration needs their support, or at least their acquiescence, on Iraq and North Korea? Or could it be that President Jiang and his cohorts, who will step down next month, want to clear the dockets so that Hu Jintao and the new crew can begin with a clean slate? Remember that Jiang rode to power on the tide of blood from Tiananmen Square, and he has snuffed out anything that even smelled of political reform ever since.

I hope China's incoming leaders, by virtue of their shared generational experience, will adopt a more enlightened view toward political modernization than their predecessors did. They are less likely to do so if they infer that the rest of the world is not paying attention or doesn't care. We must keep the disinfectant of sunlight focused on them, and anyone else who would deny people their basic freedoms and dignities in the name of "stability," "security" or the "war on terror."

Thank you, Mr. President.

DESIGNATING HUMAN GENOME MONTH AND DNA DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 10 which was introduced today by Senators GREGG and KENNEDY.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 10) designating April 2003 as "Human Genome Month" and April 25 as "DNA Day."

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 10) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 10

Whereas April 25, 2003, will mark the 50th anniversary of the description of the double-helix structure of DNA by James D. Watson and Francis H.C. Crick, considered by many to be one of the most significant scientific discoveries of the 20th Century;

Whereas, in April 2003, the International Human Genome Sequencing Consortium will place the essentially completed sequence of the human genome in public databases, and thereby complete all of the original goals of the Human Genome Project;

Whereas, in April 2003, the National Human Genome Research Institute of the National Institutes of Health in the Department of Health and Human Services will unveil a new plan for the future of genomics research;

Whereas, April 2003 marks 50 years of DNA discovery during which scientists in the United States and many other countries, fueled by curiosity and armed with ingenuity, have unraveled the mysteries of human heredity and deciphered the genetic code linking one generation to the next;

Whereas, an understanding of DNA and the human genome has already fueled remarkable scientific, medical, and economic advances; and

Whereas, an understanding of DNA and the human genome hold great promise to improve the health and well being of all Americans: Now, therefore, be it,

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) designates April 2003 as "Human Genome Month" in order to recognize and celebrate the 50th anniversary of the outstanding accomplishment of describing the structure of DNA, the essential completion of the sequence of the human genome, and the development of a plan for the future of genomics;

(2) designates April 25 as "DNA Day" in celebration of the 50th anniversary of the publication of the description of the structure of DNA on April 25, 1953; and

(3) recommends that schools, museums, cultural organizations, and other educational institutions across the nation recognize Human Genome Month and DNA Day and carry out appropriate activities centered on human genomics, using information and materials provided through the National Human Genome Research Institute and through other entities.

RECOGNIZING BICENTENNIAL OF OHIO'S FOUNDING

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 68 which was introduced earlier today by Senators VOINOVICH and DEWINE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 68) recognizing the bicentennial of Ohio's founding.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 68) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 68

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's founding;

Whereas Ohio was the 17th State to be admitted to the Union and was the first to be created from the Northwest Territory;

Whereas the name "Ohio" is derived from the Iroquois word meaning "great river", referring to the Ohio River which forms the southern and eastern boundaries;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free State, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, "The Mother of Presidents", has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon) created the basis for modern living as we know it;

Whereas Ohio, "The Birthplace of Aviation", has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnick;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers, including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the "knowledge economy" of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for people from all corners of the world, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio will begin celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio;

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State: Now, therefore, be it

Resolved by the Senate That the Senate

(1) recognizes the bicentennial of Ohio's founding and its residents for their important contributions to the economic, social, and cultural development of the United States; and

(2) directs the Secretary of the Senate to transmit a copy of this resolution to the Governor of Ohio.

READ ACROSS AMERICA DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 69 which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 69) designating March 3, 2003, as "Read Across America Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 69) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 69

Whereas reading is a basic requirement for quality education and professional success, and a source of pleasure throughout life;

Whereas Americans must be able to read if the Nation is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 3, 2003, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in a celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

MEASURE READ THE FIRST TIME—H.R. 534

Mr. SANTORUM. Mr. President, I understand that H.R. 534 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning.

Mr. SANTORUM. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read a second time on the next legislative day.

ORDERS FOR MONDAY, MARCH 3, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, March 3. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be Circuit Court judge for the District of Columbia.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. For the information of all Senators, the Senate will resume consideration of the Estrada nomination during Monday's session. As a reminder, the next rollcall vote will occur at 5:30 p.m. on Monday, as under the previous order. That vote will be on the confirmation of a U.S. Court of Federal Claims Judge. Once again, Members are encouraged to come to the floor during Monday's session in order to debate the pending Estrada nomination.

ADJOURNMENT UNTIL MONDAY, MARCH 3, 2003

Mr. SANTORUM. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:54 p.m., adjourned until Monday, March 3, 2003, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 27, 2003:

DEPARTMENT OF STATE

JAMES B. FOLEY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2004, VICE PAULA DOBRIANSKY, TERM EXPIRED.

HAROLD C. PACHIOS, OF MAINE, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2005. (REAPPOINTMENT)

ELIZABETH F. BAGLEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2005, VICE LEWIS MANILOW, RESIGNED.

MARIE SOPHIA AGUIRRE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2003, VICE MARIA ELENA TORANO, TERM EXPIRED.

MARIE SOPHIA AGUIRRE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2006. (REAPPOINTMENT)

BARBARA MCCONNELL BARRETT, OF ARIZONA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2003, VICE HANK BROWN, RESIGNED.

BARBARA MCCONNELL BARRETT, OF ARIZONA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2006. (REAPPOINTMENT)

CHARLES WILLIAM EVERS III, OF FLORIDA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2003, VICE CHARLES H. DOLAN, JR., TERM EXPIRED.

CHARLES WILLIAM EVERS III, OF FLORIDA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING ON JULY 1, 2006. (REAPPOINTMENT)

AFRICAN DEVELOPMENT FOUNDATION

EPHRAIM BATAMBUZE, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING FEBRUARY 9, 2008, VICE HENRY MCKOY, TERM EXPIRED.

THOMAS THOMAS RILEY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 2005, VICE CLAUDE A. ALLEN.

DEPARTMENT OF JUSTICE

MCGREGOR WILLIAM SCOTT, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE PAUL L. SEAVE, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

To be lieutenant general

MAJ. GEN. WALTER L. SHARP, 4862

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. ANN D. GILBRIDE, 3120

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. RICHARD J. WALLACE, 8478

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JON W. BAYLESS JR., 0539
CAPT. JAY A. DELOACH, 5045
CAPT. EDWARD NMN MASSO, 5959
CAPT. WILLIAM H. PAYNE, 6466

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. HAROLD L. ROBINSON, 3368

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. HENRY B. TOMLIN III, 9713

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. KAREN A. FLAHERTY, 4900

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. MARSHALL E. CUSIC JR., 4723

EXTENSIONS OF REMAKRS

IN RECOGNITION OF DONATED DENTAL SERVICES

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. HASTERT. Mr. Speaker, I rise today to recognize the important contributions of Donated Dental Services to the dental health of elderly, disabled and medically compromised individuals across the nation.

The freedom and individual rights at the core of our society come from a shared responsibility for the health and well-being of our communities and for each other. Many members of the dental profession embrace this responsibility by offering their professional services to vulnerable individuals.

Since 1986, some 10,000 volunteer dentists across 32 states have provided an estimated $50 million in comprehensive dental care to 44,000 needy individuals. The large volume of participation in Donated Dental Services clearly signifies a socially responsible and commendable commitment to expanding access to dental services for the underserved.

Through a coordinated effort, Donated Dental Services will soon endeavor to double its humanitarian service potential by adding 10,000 more volunteer dentists from across the country. This effort holds the promise of ensuring thousands more underserved Americans will receive access to dental care, thereby improving their quality of life and general well-being.

I commend the thousands of dentists who volunteer their time with Donated Dental Services, and I congratulate the program for their commitment to increase charitable care for our nation's underserved.

RECOGNITION OF KEVIN "MAX" COLDREN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kevin "Max" Coldren, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Max has been very active with his troop, working on his God & Church award and attending the H. Roe Bartle Scout Reservation for four years where he became brave in the tribe of Mic-O-Say in 2001. Over the four years he has been involved in scouting, he has held numerous leadership positions, serving as assistant senior patrol leader, patrol leader, assistant patrol leader, den chief and bugler. Max also has been honored for his numerous scouting achievements by becoming a brotherhood member of the Order of the Arrow.

For his Eagle Scout project, Max worked with doctors and nurses of Medical Aid for Children of Latin America (MACALA), helping them prepare for their 2003 journey to provide surgical and medical aid to the children of the Dominican Republic. Max and his team of scouts and scouters sorted, counted, packed and prepared for shipment medical supplies required for this mission. In addition, Max collected over 300 stuffed animals for the mission so that each child could receive a gift following surgery.

Mr. Speaker, I proudly ask you to join me in commending Kevin "Max" Coldren for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO CITY OF HOPE HOSPITAL AND BECKMAN INSTITUTE OF RESEARCH

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. BRADY of Pennsylvania. Mr. Speaker. I rise to acknowledge the contributions of Philadelphia's own Sarah and Rubin Herman Chapter of the City of Hope Hospital and Beckman Institute of Research. As this institution celebrates its 40th year, its unwavering commitment to both the community and the medical field remain unparalleled.

The Philadelphia chapter is composed of 70 local women, ages 60–85, who have dedicated countless hours of their time to support fund-raising efforts and events. Last year alone, they raised $35,000 to assist doctors and research scientists in their on-going battle to find a cure for various life-threatening diseases.

The Sarah and Rubin Herman Chapter of the City of Hope Hospital and Beckman Institute maintain an exemplary level of enthusiasm about and dedication to volunteerism. They stand steadfast in their mission to provide hope for a brighter future for the survivors of life threatening diseases and their families. I hope that all of my distinguished colleagues will join me in recognizing the contribution that has been made to Philadelphia, to Pennsylvania and to our great nation.

HONORING DRUG FREE WEEK ESSAY WINNER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. HALL of Texas. Mr. Speaker, I rise today to recognize a special student from Gladewater, TX, Brittany Linder, who was a grand prize winner in the Red Ribbon Week "I am drug-free because . . ." essay contest sponsored by the city of Longview Partners in Prevention. Brittany represents Weldon Intermediate school in the Gladewater independent school district and is a fourth-grade student of Mrs. Cathy Bedair. She is the daughter of John and Blane Linder and the granddaughter of my longtime friend Carolyn Linder.

According to the White House Office of National Drug Control Policy, although recent trends in youth drug use have stabilized, the rates of use remain at high levels. Youth substance abuse, as we know, can lead to many other problems, including the development of delinquent behavior, anti-social attitudes and numerous health risks. These problems not only impact the child but also the child's family, friends, community and ultimately society as a whole.

Brittany speaks to this issue in her essay: "I am drug free because if I take drugs, I would not be able to realize my dreams. I would not be able to be a good teacher, or mother. If I take drugs, I would hurt valuable brain cells and when I found my dreams, I would not be able to do it."

The essay entries from area fourth-graders were judged by LeTouneau University students. Throughout our Nation, dedicated teachers, parents, clergy, law enforcement officers, healthcare providers, local government officials and community volunteers are involved in various drug-prevention programs that raise awareness among our young people of the dangers of drug use and help those already suffering the consequences of such use. Beginning these programs at a young age is one key to their success, and I commend programs such as the Drug Free Week essay contest that seek to instruct and involve our young people in this issue.

Mr. Speaker, I want to congratulate Brittany on her winning essay and commend her for taking a strong stand against the use of drugs.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

INAUGURATION OF PRESIDENT ROH MOO HYUN OF THE REPUBLIC OF KOREA

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. CAPUANO. Mr. Speaker, I rise to inform the House of the inauguration of President Roh Moo Hyun of the Republic of Korea (ROK) on February 25, 2003. His inauguration marks a new opportunity for peace on the Korean peninsula and a stronger relationship with the United States.

President Roh represents a new generation of South Korean leaders that have been entrusted with an awesome responsibility to protect democracy in an age of growing instability and open hostility on the Korean peninsula. South Korea has grown into a country that has successfully transformed into a thriving, democratic nation over the last several decades. I am confident that under the leadership of President Roh, a new generation of Koreans will effectively use their country's untapped human, economic, and political potential to shape an even brighter and more prosperous world.

The new South Korean government also presents an important opportunity for US Korean relations. We must work together to ease the tension that has been permitted to rise on the peninsula in recent months. I know Americans share a common goal with the South Korean people in achieving a safer, more secure world, and promoting peace and prosperity on the Korean peninsula and throughout Asia.

The United States is dedicated to achieving these common goals with South Korea. Both nations must come together to formulate proposals to address the security challenges we are facing. Over the last 50 years, we have joined with South Korea to promote democracy in Asia. I am hopeful that our relationship will continue to grow under President Roh's leadership.

I want to congratulate President Roh and the citizens of South Korea for boldly taking up the challenge to build a better and safer Korea.

INTRODUCTION OF A BILL TO EXPAND NATIVE CONTRACTING IN THE STATE OF ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. YOUNG of Alaska. Mr. Speaker, I am again introducing a bill to expand the Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal government within the State of Alaska.

Many rural Alaska native communities are located within close proximity of refuges that play an important role in the culture of Alaska natives and other residents in rural Alaska. Congress, through Sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 directed the Secretary of the Interior to establish programs whereby Native lands were given preference for siting of conservation service unit facilities and for native hiring. These provisions also recognized that the Natives whose front and back yards were now part of the federal parks and preserves systems should be involved in the administering of the lands because of their special knowledge and expertise concerning the natural or cultural resources of such areas.

P.L. 106–488 authorized two pilot projects in the Bering Straits and NANA Region in northwest Alaska. These include the following preserves: Bering Land Bridge National Preserve; Cape Krusentern National Monument; Kobuk Valley National Park; and Noatak National Preserve. Neither of these projects have been implemented.

Twenty-three years have passed since the 1980 ANILCA amendments were enacted, and the contracting and native hire provisions remain unfulfilled by the Department of the Interior. My bill would remedy this by directing the Department of the Interior to implement sections 1307 and 1308 of the 1980 ANILCA amendments and enter into demonstration projects.

RECOGNITION OF STEPHEN JOHN MOORE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Stephen John Moore, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Stephen has been very active with his troop, earning his Bobcat, Wolf, Bear, and Webelos rankings as well as his God and Me, God and Family, and the Arrow of Light Awards. Over the ten years he has been involved in Scouting, he has held numerous leadership positions, serving as patrol leader, quartermaster, and senior patrol leader. Stephen also has been honored for his numerous scouting achievements by becoming a brotherhood member of the Order of the Arrow.

For his Eagle Scout project, Stephen improved portions of a trail at the Parkville Nature Sanctuary. He constructed a rock bridge, two check dams, and a rocked part of the White Tail Trail, helping walkers get through the park more easily.

Mr. Speaker, I proudly ask you to join me in commending Stephen John Moore for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

MARSHA SHARP EARNS 500TH CAREER VICTORY

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. COMBEST. Mr. Speaker, I rise today to commend Marsha Sharp for her outstanding accomplishments as the head coach of the Texas Tech Lady Raiders. Her efforts have gained her 500 career wins at the helm of this storied basketball program.

Marsha Sharp has become the 22nd women's basketball coach in NCAA Division I history, and just the second in Texas, to achieve 500 wins. Her career record of 500–156 and winning percentage of .762 ranks in the top 10 among all-time Division I coaches. Marsha Sharp's success as a coach and mentor has been nationally renowned during her 20 years at Texas Tech.

Her commitment to excellence has earned many successes for both her and the teams that she has led. Coach Sharp is in her 21st season as the head coach of the Lady Raider Basketball program. She guided the Lady Raiders to the NCAA National Championship in 1993 and has led Texas Tech to the NCAA Tournament 15 times, including 13 straight. She has taken her team to the Sweet 16 nine times and the Elite Eight three times. She has also led her teams to numerous conference titles.

Marsha Sharp's achievements go far beyond wins and conference titles. She has volunteered her precious time for numerous civic activities and non-profit organizations. She helps these worthy groups generate awareness and raise much needed funds. Texas Tech and the Lubbock Community are very privileged to have an individual that is as caring and generous as Coach Sharp.

It is with great pride that I commend Marsha Sharp for her accomplishments as a coach and community leader, and I congratulate her on winning her 500th game as the head coach of the Lady Raiders.

PERSONAL EXPLANATION

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. BASS. Mr. Speaker, I was regrettably absent on Tuesday, February 25, 2003, and consequently missed a recorded vote on H. Res. 98. Had I been present, I would have voted "yea" on rollcall vote No. 33.

And I was also regrettably absent for the recorded vote on H. Res. 46. Had I been present, I would have voted "yea" on rollcall vote No. 34.

HONORING EDWARD MEDEIROS

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. McGOVERN. Mr. Speaker, I rise today to join the citizens of Massachusetts in honoring Mr. Edward Medeiros, former deputy of the Knights of Columbus 40th District in Massachusetts.

Mr. Medeiros has been the leader of five district councils for the past three years. The councils include Monsignor James Coyle Council 82 of Taunton, Massachusetts; Fall River Council 86 of Fall River, Massachusetts; St. Isidore the Fanner Council 4373 of Westport, Massachusetts; St. Joseph Council 4480 of Kingston, Massachusetts; and Cross of Christ Council 12283 of Assonet, Massachusetts.

Furthermore, Mr. Medeiros has served as the Financial Secretary of the Monsignor Augusto Leal Furtado Council 12348 of Somerset, Massachusetts and a member of Rev. Robert H. Buchan Assembly 2314 of Middleboro, Massachusetts. In addition to serving as a District Deputy and Financial Secretary, he has dedicated numerous hours to youth programs, pro-life activities, and church education. Mr. Medeiros was an active organizer and chair of the Fall River Catholic Diocese Charity Ball.

Mr. Speaker, it is fitting that Edward Medeiros is commended for many years of dedication to his community as he celebrates his 50th anniversary as a member of the Knights of Columbus in June. I am sure that the citizens of the 40th District, the people he served in Southeastern Massachusetts as well as my colleagues in the House of Representatives join me in thanking Mr. Medeiros for his years of community service.

TRIBUTE TO CHIEF WARRANT OFFICER CHARLES C. CAULK

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to acknowledge the contributions of a man who has served this country for many years with remarkable dedication and honor. I rise to honor Chief Warrant Officer Charles C. Caulk who is retiring from the United States Army after a phenomenal 43 years of service.

It takes a noble man to serve his country. But a man who dedicates 43 years of his life to protecting and serving the ideals that this country was built upon, is a man that few words can describe. Chief Warrant Officer Caulk's contributions to the armed services have left a lasting impact and will be not forgotten.

It is a privilege to recognize a person whose leadership and commitment to our nation has enriched the lives of countless individuals. I hope that all of my distinguished colleagues will join me in honoring Chief Warrant Officer Caulk's unwavering dedication to both the citizens of our great nation and citizens around the world. His efforts create a resonating hope in the lives of those who do not enjoy the fruits of freedom and democracy.

IN HONOR OF AN OUTSTANDING AMERICAN AND HIS WORK AS PRESIDENT OF THE INTERNATIONAL STANDARDS ORGANIZATION: OLIVER R. SMOOT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. HALL of Texas. Mr. Speaker, I rise today for myself and for Chairman BOEHLERT of the House Committee on Science to recognize Oliver R. Smoot, vice-president for external voluntary standards relations at the Information Technology Industry Council (ITI), as he begins his term as the President of the International Standards Organization (ISO). It is a high honor and a major achievement to be asked to be the leader of the World's standards community but it is not surprising that Ollie Smoot is the one chosen. Mr. Smoot has long been a pillar of the standards community, most recently as President-elect of ISO and as Chairman of the American National Standards Institute, the organization which represents the United States in international standards matters and oversees the establishment of U.S. national standards. The ISO, which was established in 1947, serves as the world's primary entity for the adoption of uniform international standards that are relied by all of us every day. Without international agreement on how we measure, determine quality, and provide for health and safety life as we know it today would not be possible. ISO quietly, but effectively, has spent over 50 years helping over 140 nations reach agreement on the standards that underlie world trade, manufacturing, scientific research, and many other aspects of our lives. Since its founding only three other Americans have held the office of President of this worldwide federation.

We are fortunate that Oliver Smoot is ready, willing, and able to undertake major challenges since his service comes at a pivotal time when the importance of international standards is rapidly increasing. There may never have been a time when ISO faced bigger challenges. As tariffs and other trade barriers wane and world trade increases, the pressures to harmonize standards in many fields increases. As the world becomes more interdependent, the importance of international standards grows. As challenges to ISO's one-country, one vote system of representation mount, having a strong leader at the head of ISO becomes more and more essential. Fortunately, Mr. Smoot has an extensive background in standardization and conformity assessment policies both at the national and international level; he has been a strong leader in numerous ANSI Board-level committees and task forces and has served as chairman of the Institute's Finance Committee and Patent Group. As chairman of the ANSI Organization Member Council, he facilitated ANSI's policy-setting activities affecting more than 250 standard developers, professional societies, trade associations and academic institutions interested in standards, certification and conformity assessment. Balancing the needs of 140 nations can't be that much harder than presiding over the conflicting needs of everyone in the United States who has an interest in standards. If anyone is prepared for the challenge of running the ISO, we assume Oliver Smoot is. He has come a long way from the establishment of the standard "Smoot" as an undergraduate at MIT.

Mr. Smoot will be the guest of honor, on Wednesday the 26th of February at a House of Representatives reception to celebrate his new tenure as President of the ISO. I hope that many of you will take the opportunity at that point to congratulate Mr. Smoot personally. Oliver R. Smoot is a great American who has labored long for the betterment of Science and the global economy and I am pleased that this week he is getting long-deserved recognition of this service.

RECOGNIZING AMERICAN HEART MONTH

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to recognize February as American Heart Month. Each February during American Heart Month, the American Heart Association launches a nationwide campaign to educate the public about cardiovascular disease. Programs and activities are planned throughout the month to reinforce the message that cardiovascular disease is the number one threat to the overall health and lives of Americans. As a member of the Congressional Heart and Stroke Coalition, I rise today to recognize the efforts of the American Heart Association and reaffirm my commitment to fighting heart disease.

Recent advances in heart treatment are promising—new technologies, screenings and medicines all promote healthier hearts and continue to save millions of lives. Despite these discoveries and research advances, heart disease remains the nation's leading cause of death, while stroke is the third leading cause of death. More than 61 million Americans suffer from heart disease, stroke or another cardiovascular disease. Combined, these illnesses are expected to cost the nation $351.8 billion in medical costs in 2003.

Tobacco use, lack of physical activity and poor nutrition all contribute to cardiovascular disease. Smokers have twice the risk for heart attack of nonsmokers. People who are not physically active have twice the risk for heart disease of those who are active, while those who are overweight are also at risk. This February's American Heart Month efforts focus on encouraging individuals to modify these behaviors in order prevent and control cardiovascular disease. American Heart Month is also encouraging citizens to become American Heartsavers by completing training in life-saving CPR and defibrillation and be prepared to act quickly in the case of sudden cardiac arrest.

Recognizing and responding to heart attack symptoms and receiving quick, appropriate care can preclude or limit heart damage. The Centers for Disease Control and Prevention (CDC) currently funds health programs in 29 states and the District of Columbia that develop strategies to reduce the risk of cardiovascular diseases and related risk factors. As we recognize the work of these important programs, let us also honor the doctors, researchers, health professionals, public education professionals, and volunteers for their diligent efforts in preventing, treating, and researching heart disease and for making American Heart Month a success.

INTRODUCTION OF THE ALASKA NATIVE VETERANS LAND ALLOTMENT EQUITY ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. YOUNG of Alaska. Mr. Speaker, in the last Congress, I introduced a bill to set right an unfair situation dealt to Alaska Native Vietnam Veterans who were unaware that their rights to apply for their Native allotment were expiring while they were off in a foreign land fighting for our country. By far, American Indians and Alaska Natives have the highest percentage of answering their call to duty when there is a conflict of war.

My bill would amend the Alaska Native Claims Settlement Act (ANCSA) to provide equitable treatment of Alaska Native Vietnam Veterans in their acquisition of land under the Native Allotment Act. This solution has been a long time in coming and my goal is to have Congress rectify this inequity.

Approximately 2,800 Alaska Natives served in the military during the Vietnam conflict and did not have an opportunity to apply for their native allotment. Even though a prior ANCSA amendment gave Alaska Native Vietnam Veterans an opportunity to obtain their allotment, the Amendment contained three major obstacles providing a roadblock to actually obtaining it.

First, Alaska Native Vietnam Veterans could only apply for land that was vacant and unreserved when their use first began. My bill will increase the available land by authorizing these veterans to apply for land that is federally owned and vacant. This is necessary because most land in Alaska is not available for Alaska Native Vietnam Veterans veteran allotment application under existing law. For example, there is no land available in southeast Alaska because it either is within the Tongass National Forest or has been selected or conveyed to the State of Alaska or ANCSA Corporations.

Second, Alaska Native Vietnam Veterans could only apply if they served in active military duty from January 1, 1969 to December 31, 1971. My bill will expand the military service dates to August 5, 1964 through May 7, 1975, the dates of the entire Vietnam conflict.

Third, Alaska Native Vietnam Veterans had to prove they used the desired allotment land in a continuous and independent manner for five or more years. My bill will replace existing use and occupancy requirements with legislative approval of allotment applications. Many Alaska Native Vietnam Veterans could not meet use and occupancy requirements as a result of military service. This bill changes that so that a deserving Alaska Native Vietnam veteran would not be rejected if that veteran were unable to complete the five years of use of the claimed land, before or after the war.

This is an issue of fairness which is long overdue for my Alaska Native Vietnam Veterans. Never before has the federal government given partial benefits to only ¼ or ½ of any veteran of any war. Fulfill our promise to all Alaska Native Vietnam Veterans and allow them to obtain their Native Allotment under the Native Allotment Act.

RECOGNITION OF JOHN McDONALD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize John McDonald, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 168, and in earning the most prestigious award of Eagle Scout.

John has been very active with his troop, completing 31 merit badges and participating in camp Geiger. Over the ten years he has been involved in scouting, he has held numerous leadership positions, serving as Patrol Leader and Senior Patrol Leader. John also has been honored for his numerous scouting achievements with such awards as the Arrow of Light Award, The Fire'n Chit Award, the Mic-O-Say Brave Award, the Mic-O-Say Warrior Award, the Totin' Chip Award and the World Conservation Award.

For his Eagle Scout project, John built a 35-foot bridge from the street to the Lathrop Community Football Field, over a ditch, in Lathrop, Missouri.

Mr. Speaker, I proudly ask you to join me in commending John McDonald for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN CELEBRATION OF WALTER JEFFERSON LEWIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Ms. LEE. Mr. Speaker, Walter Jefferson Lewis passed away on February 22, 2003. On that day, his family and friends a loving son, brother, and companion and the world lost a passionate lover of art, food, travel, and life itself.

Walter Lewis was born and raised in Schenectady, New York. He went on to study at Syracuse University and Schenectady County Community College, graduating with distinction in the Culinary Arts and Hotel and Business Management.

Walter served his country, spending eleven years in the United States Air Force. During that period, he was stationed in Alaska, California, New Mexico, and Germany. The time spent in those distant posts just whetted his appetite for travel; his journeys took him across much of the globe, and he made lifelong friends wherever he went.

That same passion and zest for life fueled both his occupation and avocation of baking. Walter worked for a number of years managing the bakery department of the Golub Corporation, and he shared his culinary skills with those around him: for him, food, family, and friends were all joyously intertwined.

Walter Lewis will be deeply missed by those of us who knew and loved him. He made a special imprint through his faith, his gifts, and his joy for life. While we mourn his passing, we also celebrate his memory. May he rest in peace!

THE TERRORISTS LIQUIDATION ACT

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. CAMP. Mr. Speaker, The September 11th Victims' Compensation Fund was created under "The Aviation and Transportation Security Act" (P.L. 107–71). This unprecedented move will ensure that every citizen injured in the terrorist attacks at the World Trade Center and the Pentagon or their surviving family members will receive at least $1.6 million in compensation.

It is estimated that this Compensation Fund could cost up to $6 billion of taxpayer money. While I fully support this initiative to help the families of those harmed or killed in the vicious attacks, I believe that we should minimize the cost to the taxpayer. That is why I am introducing the Terrorist Assets Liquidation Act again for the 108th Congress. The bill authorizes the President to use the funds from the liquidated assets of frozen terrorist accounts to refund the Treasury Department for funds used to compensate victims of terrorism.

Our nation has shown great and moving compassion to the victims of September 11th, with generous donations and support to charity groups providing aid and emergency assistance to victims. While it was important to show compassion and recognize our nation's need to help, we should punish those responsible, holding them accountable for their murderous crimes and limit their drain on our nation's taxpayer resources.

RECOGNITION OF BRYANT KAGAY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Bryant Kagay, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 35, and in earning the most prestigious award of Eagle Scout.

Bryant has been very active with his troop, completing 21 merit badges. Over the years he has been involved in Scouting, he has held numerous leadership positions. For his Eagle Scout project, Bryant landscaped around the sign at his church.

Mr. Speaker, I proudly ask you to join me in commending Bryant Kagay for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CHENEY TASK FORCE RECORDS AND GAO AUTHORITY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. WAXMAN. Mr. Speaker, on February 12, I gave a statement on the floor discussing the serious implications of GAO's decision to drop its lawsuit seeking access to the Vice President's energy task force records. Since then, I have received a letter from the Comptroller General responding to my remarks and asking that I make the press release that GAO issued when he decided to drop the lawsuit a part of the RECORD. In accordance with his request, I would like to make both his response and the press release a part of the RECORD.

GENERAL ACCOUNTING OFFICE,
Washington, DC, February 19, 2003.

Hon. HENRY A. WAXMAN,
House of Representatives.

DEAR MR. WAXMAN: I am writing in connection with your floor statement of February 12 concerning my recent decision not to appeal the district court decision in the *Walker* v. *Cheney* case. I appreciate your inserting my recent letter to you in the record and believe that it addresses several important issues. At the same time, I would respectfully request that you consider inserting my related press statement of February 7, 2003, into the record if you have the opportunity to do so. I have enclosed another copy of that statement with this letter.

There are three aspects of your floor statement that are of concern to me. First, as you know, we do not believe that failure to appeal the district court decision precludes us from filing suit against another executive branch party in connection with a different matter in the future. Second, while I did solicit input from a wide range of Congressional leaders from both parties before I made my decision the decision was mine. I was not directed, threatened or unduly pressured to take the action that I did. Just as in the case of my decision to file suit a year ago, my latest decision was based on what I felt was the right thing to do based on all the facts that were available to me. In addition, the input that I did receive was not divided along party lines and there was significant bi-partisan support for my decision not to appeal.

Finally, my decision to seek a vote by at least a full committee of jurisdiction prior to any possible future legal action to obtain records is one that I believe is both prudent and appropriate, given my experience as Comptroller General and in light of the recent district court decision. Specifically, if we are ever "stonewalled" again in connection with a matter that in my professional and independent judgment we should pursue, I would formally request that an appropriate committee of jurisdiction vote regarding whether they would support a related court action. I can assure you that my related recommendation would be based on the merits of the case and not partisan considerations.

I look forward to continuing to work with you in the future on issues of mutual interest and concern.

Sincerely yours,
DAVID M. WALKER,
Comptroller General of the United States.

Enclosure.

GAO PRESS STATEMENT ON WALKER V. CHENEY

After thorough review and analysis of the district court's decision in *Walker* v. *Cheney*, as well as extensive outreach with congressional leadership and others concerning various policy matters and the potential ramifications of the court's decision, for the reasons outlined below, GAO has decided not to appeal the decision.

As Comptroller General Walker has made clear on a number of occasions, GAO would not have filed this suit absent a formal written request from at least one full Senate committee with jurisdiction over this matter. Contrary to the district court's decision, and as re-confirmed in a letter to the Comptroller General dated January 24, 2003, two full committee chairs and two subcommittee chairs of the Senate, acting on behalf of their respective committees and subcommittees, all of which had jurisdiction over this matter, asked GAO to pursue its NEPDG investigation prior to GAO filing suit last year. Importantly, under GAO's governing statute, the agency is required to perform work when requested by a committee. In this case, GAO had made exhaustive efforts to reach an accommodation with the Administration, and only after all such attempts had failed did GAO file suit as its only remaining option. This is precisely the process that Congress directed GAO to follow when it enacted GAO's access statute in 1980.

For a number of reasons, GAO strongly believes the district court's decision is incorrect. In GAO's view, the district court misapplied the Supreme Court's decision in *Raines* v. *Byrd* to GAO. Unlike the legislator-plaintiffs in Raines, who sought to invalidate a statute which had been enacted by the Congress, GAO sought to carry out—not invalidate—the information-gathering responsibilities which Congress assigned to it in GAO's access statute. The district court's decision thus has prevented GAO from discharging its statutory responsibilities in this case. Furthermore, the opinion was based, in part, on a material factual error relating to the role various Senate chairs played as noted above. The opinion also leads to the highly questionable result that private citizens have more authority to enforce their rights to obtain information from the Executive Branch than the Comptroller General of the United States, acting in his official capacity as head of GAO.

Despite GAO's conviction that the district court's decision was incorrect, further pursuit of the NEPDG information would require investment of significant time and resources over several years. At the same time, several private litigants are attempting to obtain much of the same information GAO has been seeking, and this information will be made available to GAO if they are successful in their cases.

Importantly, because the district court's decision did not address the merits, it has no effect on GAO's statutory audit rights or on the obligation of agencies to provide GAO with information. In addition, the court's decision is confined to the unique circumstances posed by this particular case and does not preclude GAO from filing suit on a different matter involving different facts and circumstances in the future.

GAO will continue to fulfill its statutory mission: to support the Congress in the discharge of Congress' constitutional responsibilities and to help assure reasonable transparency and appropriate accountability in government. GAO also will continue to perform its audit, evaluation, and investigative work in a professional, objective, fact-based, non-partisan, non-ideological, fair, and balanced manner.

According to Comptroller General Walker, "In the final analysis, transparency and accountability in government are essential elements for a healthy democracy. In America, all public servants, including constitutional officers, work for the people. While reasonable people can disagree on the proper amount of transparency and the appropriate degree of accountability, in the world's greatest democracy, we should lead by example and base public disclosure on what is the right thing to do rather than on what one believes one is compelled to do. Based on my extensive congressional outreach efforts, there is a broad-based and bi-partisan consensus that GAO should have received the limited and non-deliberative NEPDG-related information that we were seeking without having to resort to litigation. While we have decided not to pursue this matter further in the courts, we hope that the Administration will do the right thing and fulfill its obligations when it comes to disclosures to GAO, the Congress, and the public, not only in connection with this matter but all matters in the future. We hope that GAO is never again put in the position of having to resort to the courts to obtain information that Congress needs to perform its constitutional duties, but we will be prepared to do so in the future if necessary."

JULIE DASH—DIRECTOR'S GUILD AWARD NOMINATION, THE ROSA PARKS STORY

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Ms. WATSON. Mr. Speaker, I rise today to share my pride over the nomination of Ms. Julie Dash for a prestigious Director's Guild Award for her work on The Rosa Parks Story. She was nominated in the category of Outstanding Directorial Achievement in Movies for Television for 2002. The winners will be announced at the 55th Annual DGA Awards Dinner on Saturday, March 1, 2003 at The Century Plaza Hotel in Los Angeles. Ms. Dash is the only female nominated in this category this year.

The Rosa Parks Story stars Angela Bassett, Cicely Tyson and Dexter Scott King, the son of Dr. Martin Luther King, Jr. The film brings to life the peaceful dissent an exhausted Rosa Parks showed on a crowded Montgomery, Alabama bus in 1955, and the Civil Rights Movement that ensued. The movie originally aired on television on February 24, 2002.

It seems appropriate that Ms. Dash would be nominated for this award during Black History Month. African American actors, directors and others in the industry are hard-pressed to find meaningful, quality projects. Given these challenges, I am even more proud of Ms. Dash's achievement today.

Ms. Dash's own story of success is also very inspiring. She was born and raised in New York City, and in 1992 became the first African American woman to have her film, Daughters of the Dust, receive a full-length theatrical release. In 1994 Ms. Dash was chosen as one of the 100 Fearless Women by Mirabella magazine.

She has received numerous awards, including The Sojourner Truth Award from the New York Chapter of the Links, the Maya Deren Award from the American Film Institute, a Candace Award from the National Coalition of 100 Black Women, and the prestigious John Simon Guggenheim Memorial Foundation Fellowship.

I was honored to host a congressional screening of the film, The Rosa Parks Story, last year prior to the film's television debut. I had the good fortune then of meeting Ms. Dash, along with Ms. Cicely Tyson, Ms. Angela Bassett, and many others who were instrumental in the success of this movie. I particularly want to acknowledge the contributions of Mr. Willis Edwards in the production of this film. His work as producer of the film was instrumental in its success.

This film has held meaning and significance for me personally, and it brings me great joy to see Ms. Dash's work recognized by the Director's Guild of America. I wish her the best at the awards ceremony on March 1st!

Thank you. I yield back the balance of my time.

RECOGNITION OF JOE PHILLIP PROTENIC

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Joe Phillip Protenic, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Stephen has been very active with his troop, where one of his favorite activities was a five day canoe trip, where the troop had Sunday morning worship on the river.

For his Eagle Scout project, Joe designed and built a 4'x6' shed at a house built by Habitat For Humanity in Liberty, Missouri. Because the house does not have a walk-out basement, the homeowners are thrilled to have this easily accessible storage space.

Mr. Speaker, I proudly ask you to join me in commending Joe Phillip Protenic for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE ACT TO LEAVE NO CHILD BEHIND

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to submit to my colleagues in the House the Act to Leave No Child Behind. The Act to Leave No Child Behind 2001 was endorsed by more than 1400 groups and organizations around the nation, more than 400 state legislators and mayors, and it has been the focus of numerous community rallies, petition drives and advocacy events in Washington and throughout the country.

Our nation currently faces many great challenges. We are engaged in a war on terrorism—a war we can and must win. We are on the brink of a possible war overseas, in Iraq. If the time comes, we will put aside our differences on the merits and the timing of this war and rally in support of our men and women in the armed forces.

But we cannot afford to neglect our responsibilities at home. We cannot afford to turn our Federal programs into piggy banks that Governors can raid to fill gaping state budget shortfalls. We cannot afford—morally, socially, or economically—to write off the needs of a generation of children.

This bill is intended to remind us of those obligations. We have obligations to ensure that our children have access to quality health care; obligations to provide our children with an education that will prepare for their role in our workforce and our society; obligations to make sure our children have a safe, affordable, and stable place to live.

Together with many of my colleagues in the House and my friend CHRISTOPHER DODD in the Senate, we are introducing this bill today because we can no longer afford to abandon the children and families in this country who struggle daily with poverty, hunger, inadequate health care and education, poor housing and crime.

This bill calls upon the federal government to lead the way with vision and commitment toward a future where all children have quality health care, educational opportunity, family stability and safe communities. No child in this country should grow up poor, or hungry, or sick, or scared.

Now is the time. America must make a choice when it comes to the future of our children. We must decide whether we will invest in the healthy development of all our children or in tax cuts for the wealthiest citizens in this country. We cannot do both. This bill represents a vision and a commitment toward a future where all children have a chance to succeed so that we may use our resources in a constructive way to truly leave no child behind.

This legislation provides every child and their parents with health insurance, lifts every child from poverty through tax credits, work supports, and a new minimum wage, and ends child hunger through the expansion of food programs. This bill makes sure every child is ready for school by fully funding quality early learning programs, and offers significant reforms for our system of public education that increases accountability, reduces classroom size, and guarantees that all children will be taught by qualified teachers in modern and safe classrooms. This legislation also builds affordable housing and safe communities through sensible environmental protections, gun safety laws, and programs to reduce children's exposure to neglect, abuse, and violence.

Mr. Speaker, I urge Members of the House to join me and co-sponsor the Act to Leave No Child Behind.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. KENNEDY of Rhode Island. Mr. Speaker, on February 25, 2003, I was in my Congressional District in Rhode Island and consequently I missed two votes.

Had I been here I would of voted:

Yes on H. Res. 46

Yes on H. Con. Res. 40

At this time I would ask for unanimous consent that my positions be entered into the record following those votes or in the appropriate portion of the record.

IN HONOR OF ANNIE LEE PINCHBACK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. TOWNS. Mr. Speaker, today, we will commemorate the 140th Anniversary of the Emancipation Proclamation with the passage of H. Con. Res. 36. In recognition of today's action, Mr. Speaker, I also want to honor the memory of Annie Lee Pinchback, a matriarch of one of America's historic Black families.

Annie Lee Pinchback was born to the late James Lucius and Elizabeth Booker on November 7, 1911. Known as Mama to all, Annie Lee was educated in the Danville Virginia School System, graduating from West Mollen High School in Danville, Virginia. At an early age, she married the late Mr. William T. Pinchback, a direct descendent of the nation's first African-American Governor, P.B.S. Pinchback. Five children were born out of their union: Mrs. Elizabeth Crosland, Mrs. Gloria Tucker, Mr. James Lucius Pinchback, Mrs. Canzada Allaway and Mr. Harry T. Pinchback. She and her husband relocated to Philadelphia, Pennsylvania to live with her aunt. In later years, she moved to Brooklyn, New York.

For forty years, Annie Lee worked as a seamstress at Admiral Embroidery in the New York City Garment Center. In 1936, she made

Mount Lebanon Baptist Church on the Hill on Howard Avenue and Herkimer Street, her church home. Annie Lee served there as an usher; was a member of the Helping Hand Club; and served as Treasurer of the All-State Club. She also sang in the R.A. Laws Ensemble Choir and the Sanctuary Choir until her health failed her. In 1962, she met the late Worthy Matron, Sister Fannie Johnson and joined the Order of Eastern Star, Maria Chapter #18 O.E.S. of Brooklyn, New York.

While Annie Lee departed this life on November 26, 2002, her memory will live on through her brother and sister as well as her five children, her eighteen grandchildren, forty-six great-grandchildren, and thirteen great-great-grandchildren. I would urge my colleagues to take note of the great life and work of the great woman, Annie Lee Pinchback who is more than worthy of the recognition that we will bestow her today.

RECOGNITION OF CODY EDWARD ROTH

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Cody Edward Roth, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Cody has been very active with his troop, participating in summer camp at H. Roe Bartle Scout Reservation and earning the Warrior in the Tribe of Mic-O-Say. During the years he has been involved in scouting, he has held numerous leadership positions, including that of quartermaster. Cody also has been honored for his numerous Scouting achievements by becoming a brotherhood member of the Order of the Arrow and receiving the Coup of the Long Trail Award.

For his Eagle Scout Project, Cody designed and built a series of steps on a trail at the Parksville Nature Sanctuary. What would have been a muddy, slippery area after rain is now easily accessible.

Mr. Speaker, I proudly ask you to join me in commending Cody Edward Roth for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

SUPPORT FOR IMPACT AID

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. KIRK. Mr. Speaker, as we prepare to go to war, I want to reiterate the importance of supporting our military families through the Impact Aid program. This program is vital to the education of millions of children across the nation.

Impact Aid was created in 1950 when Congress recognized the obligation of the Federal Government to assist school districts and communities that experience a loss in their local property tax base due to the presence of the Federal government. Between 1950 and 1969, the Impact Aid Program was fully funded by Congress. Since that time the funding level has not kept pace with the amount required to cover the Federal Government's tax obligation. In Fiscal Year 2001, the program will pay approximately 46 percent of the total amount required to cover the cost of the two formula driven sections of the Impact Aid Program-Section 8002 (Federal Property) and 8003 (Federally Connected Children).

The result of this shortfall is that the education of our military children and other federally dependant students is suffering. Over 90 percent of funding for education comes from local funds such as property taxes. But what happens if that property is owned by the federal government and is off the tax rolls? Kids report to class with no property tax dollars needed for their school.

In the average $10 million American school district, $9.3 million are raised from state and local taxes. This system works well when the children attending the local school live on property subject to local tax.

This system does not work well when the federal government houses many children on land not subject to tax—such as a military base or Indian reservation. In these schools, the children report to class without financial backing—too many of these kids and the school district can go bankrupt.

Impact Aid is critically important because it benefits all children within a school district, not only the children who reside on military bases, Indian lands or Federal Low Rent housing projects. In the United States, 1,397 school districts receive Impact Aid funding. Enrollment in these schools total 13.08 million students of which 1.19 million are federally impacted. This is a compelling detail, because without Impact Aid all children in these federally impacted school districts suffer.

In my district, 36 percent of all students attending North Chicago's School District 187 are Impact Aid children. School District 187 spends an average of $6,500 per pupil on education, and herein lies the problem. The North Chicago school district receives only $3,250 per pupil from the federal government for their Impact Aid children. With over 1,400 Impact Aid students, District 187 finds itself over $4.5 million short in funding levels. This short fall creates a huge strain on the school district overall, decreasing the quality of education for every child in District 187.

While school administrators and teachers across the country appreciate Impact Aid payments, they are usually late and fail to cover the cost of all children attending school. For example, Highland Park's North Shore School District 112 spends approximately $11,000 a year to educate a student. The Impact Aid program provides just $500 per child. Local taxpayers living on civilian property must then pay the extra $10,500 per year to educate that child. At this rate, many Impact Aid children entering a school can bankrupt an entire school district.

This nearly happened in North Chicago's School District 187. This community is home to Great Lakes Naval Training Center where 50,000 naval recruits are trained annually. Hundreds of children from military housing came into the local school district each year. Several years ago, District 187 nearly went bankrupt under the weight of children coming to school from property that cannot be taxed. Impact Aid payments had been late and inadequate. Thanks to the work of my predecessor, Congressman John Porter, this school system was saved through additional appropriations.

The quickest way to take a soldier or sailor's mind off their mission, is to have them worrying about their children's education. Kids from military families come from some of the hardest working, most patriotic families, but the schools they attend sometimes face bankruptcy. This is because of the way we fund our nation's schools. Impact Aid honors our commitment to military families, and especially Native American Indians. It guarantees that those families who serve to protect our freedom are in turn protected by the federal government.

Our constitution commands that the first job of the federal government is to "provide for the common defense." As we improve the pay and benefits of men and women in uniform, we must also support their kids and the local schools they attend. This may take many years to accomplish but the time is now to support schools that educate the children whose parents wear our nation's uniform.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. RYUN of Kansas. Mr. Speaker, I was unavoidably detained and unable to vote on rollcalls No. 33 and No. 34. Had I been present I would have voted "yes" on both. I ask unanimous consent that this appear in the appropriate place in the RECORD.

RECOGNITION OF BRANDON MICHAEL KIMBLE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brandon Michael Kimble, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Brandon has been very active with his troop, earning the ranks of Tiger Cub, Bobcat, Wolf, Bear and Webelos. Over the ten years he has been involved in scouting, he has held numerous leadership positions, serving as Assistant Patrol Leader, Patrol Leader, and Troop Guide. Brandon also has been honored for his numerous scouting achievements by becoming a brotherhood member of the Order of the Arrow and receiving the God and Me

Award, the God and Family Award, the Arrow of Light, and Brave in the tribe of Mic–O–Say. Additionally, Brandon has earned 38 merit badges, qualifying him for the Eagle Award, the Bronze Eagle Palm, the Gold Eagle Palm, and the Silver Eagle Palm.

For his Eagle Scout project, Brandon helped the city of Parkville, Missouri, comply with the requirements of the Federal Clean Water Act. His project involved spray-painting "drains to streams, don't pollute" on every storm sewer drain in the National and the Bluffs subdivisions in Parkville. It is his hope that this will discourage illegal dumping of chemicals into the storm sewers, thereby lessening the risk of pollution in the receiving streams.

Mr. Speaker, I proudly ask you to join me in commending Brandon Michael Kimble for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CONGRESSIONAL OFFICES ENCOURAGED TO PURCHASE PRODUCTS MADE BY BLIND AND SEVERELY DISABLED INDIVIDUALS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. COBLE. Mr. Speaker, I submit the following for the record: For the past 64 years the Javits-Wagner-O'Day (JWOD) Program has empowered Americans who are blind or severely disabled by providing them with a diverse set of employment opportunities. Today 38,000 disabled Americans are realizing their potential by working in their local communities across the country under this program. These Americans are proud to provide federal and military customers with a wide array of SKILCRAFT® and other JWOD products and services. The JWOD Program prides itself on delivering high quality products and services at a competitive price in the most convenient way possible.

Some of the product categories offered by the JWOD program include office supplies, military specific, safety, maintenance, repair, medical-surgical, janitorial-sanitation, and customization. The services that are provided to the federal and military customer include but aren't limited to call center and switchboard operation, military base and federal office building supply centers, CD–Rom duplication-replication, data entry, document imaging and grounds care.

I rise today in support of the Javits-Wagner-O'Day Program and the opportunities it provides for an underemployed population of hard working Americans. Furthermore, I urge my colleagues to purchase SKILCRAFT and JWOD products from the House-Senate Office Supply stores not only because of their quality and value, but also because of the socioeconomic benefits that can come from supporting the program. By purchasing these products and using these services we are enabling more disabled Americans to have the opportunity to become taxpayers. Today in Greensboro North Carolina, 68 blind Americans are employed under the JWOD Program and are producing items or services for us, the federal customer.

The JWOD Program is administered by the Presidentially-appointed Committee For Purchase From People Who Are Blind or Severely Disabled, with much assistance from National Industries for the Blind (NIB) and NISH, which serves people with a wide range of disabilities. More than 650 local nonprofit agencies associated with NIB and NISH employ people who are blind or disabled to produce the quality products and offer the services authorized for sale to the federal government under the JWOD Program.

The JWOD Program is a great illustration of a successful partnership that has the ability to continuously grow with the changing procurement environment within the federal government.

The Javits-Wagner-O'Day Program works for America.

IN MEMORY OF THOMAS JOHN JANIS, AN AMERICAN HERO

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. EVERETT. Mr. Speaker, I rise this afternoon to honor the career and the ultimate sacrifice made by my constituent, Thomas John Janis, who was killed near Florencia, Colombia on February 13th, while serving to defend his country in the war on narco-terrorism.

Thomas Janis, a native of Chicago, Illinois, was born on November 23, 1946. Tom's distinguished military career began in 1966 when he entered the Army and served as a military policeman. While serving in Korea, Tom became interested in Army Aviation, and by 1969, he graduated from the Warrant Flight Officer Program.

Tom Janis' tours of duty included serving in Vietnam, Panama, Germany, and several installations in the United States in aviation billets. Tom was an accomplished aviator with over 12,000 flight hours and had several assignments as an Instructor Pilot. After 32 years in active service to the country, Tom Janis retired as a Chief Warrant Officer 5 with numerous decorations for valor and service to his credit, including the Bronze Star, four Meritorious Service Medals, an Air Medal with valor, and numerous other commendations.

After leaving the U.S. military, Tom continued his service as a pilot contributing to our nation's drug interdiction and counter-terrorism efforts in South America. On February 13, Tom was piloting a Cessna Caravan on a counternarcotics mission over southern Colombia. His aircraft experienced engine failure, yet he skillfully brought it to the ground without loss of life of any brave men on board his aircraft. Tragically, the crash site was in the center of a zone controlled by FARC narco-terrorists. While seeking to reach a safe area, Tom and a Colombian military colleague were deliberately killed by FARC narco-terrorists. Tom's murder will not go unpunished and his sacrifice will not be forgotten. Appropriately, Tom was buried with full military honors earlier this week at Arlington National Cemetery.

Tom married his hometown sweetheart, Judith G. Gibaszek. As Tom's career progressed, the Janises raised four children—Christopher, Greer, Michael, and Jonathan. Tom's legacy of service lives on as two of his children are also Servicemen—Christopher is an Army Aviator, and Michael is in the Army Reserves. We all grieve Tom's loss and the entire Janis family will be in our prayers through these difficult days. Tom was one of Alabama's best and we shall truly miss him.

WOMEN AND HEART DISEASE

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mrs. BLACKBURN. Mr. Speaker, February is American Heart Month, which attempts to educate people on the dangers of heart disease and other heart- related medical problems. It is in recognition of this important issue and the way in which it affects women that I come to the floor to speak today.

One in two American women will eventually die of heart disease or stroke. One in Two! This is compared with one in twenty-seven who will die of breast cancer. This is a stark and alarming fact that most women have not heard. For my state, that means that every year around 11,500 women in Tennessee die from causes brought on by Heart Disease.

But there are things that women can do to decrease their risk. The first of these is to stop smoking, which is the single greatest risk factor for a heart attack in women. Check your cholesterol level and blood pressure, High blood pressure makes the heart work harder, causing it to enlarge and weaken over time. High blood pressure also increases the risk of stroke, heart attack, kidney failure and congestive heart failure.

In addition, try to get out and exercise. Even modest levels of low-intensity physical activity are beneficial if done regularly and long term. Making exercise a priority is hard for today's busy women, but the rewards are great.

Obesity also puts women at risk for heart disease, even if other risk factors do not exist. This is because excess weight strains the heart and raises blood pressure and cholesterol levels. Even losing ten or more pounds will help lower your risk for heart disease as well as many other health problems.

I urge women to get regularly scheduled check ups and to recognize the signs of heart disease. Take advantage of American Heart Month and visit a health fair in your community. These fairs provide an opportunity to have your cholesterol, glucose and blood pressure checked. In addition, you can get information from specialists on various health related issues such as fitness, heart healthy diets and much more.

Whatever you do, please take the time to visit a health care specialist and find out how you can keep yourself and your family healthy and safe from heart disease.

RECOGNITION OF MATTHEW ALAN VANECEK

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Matthew Alan Vanecek, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Matthew has been very active with his troop, participating in summer camp at H. Roe Bartle Scout Reservation and earning the Brave in the tribe of Mic-O-Say. During the nine years he has been involved in scouting, he has earned 57 merit badges and is brotherhood member of the Order of the Arrow. Matthew also has been honored for his numerous scouting achievements by earning the Bear Claw Award, the God and Me Award, the God and Family Award and the Arrow of Light Award.

For his Eagle Scout project, Matthew planned and built a wooden swing set for the Salvation Army Community Center. The set is built so that it could be moved to other locations if necessary.

Mr. Speaker, I proudly ask you to join me in commending Matthew Alan Vanecek for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

PERSONAL EXPLANATION

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. McDERMOTT. Mr. Speaker, I was unable to vote on yesterday's suspension bills. Had I been capable of voting, I would have voted in support of:

H.R. 46—Honoring the life of Al Hirschfeld.

H.R. 40—Permitting the use of the rotunda of the Capital for a ceremony in remembrance of victims of the Holocaust.

CONGRATULATING THE GREATER COLUMBUS ARTS COUNCIL'S CHILDREN OF THE FUTURE PROGRAM

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. TIBERI. Mr. Speaker, I rise today to recognize and congratulate the Greater Columbus Arts Council's Children of the Future Program.

Children of the Future, a nationally recognized AmeriCorps after-school program, provides constructive, positive alternatives to delinquency in the higher-risk neighborhoods of Columbus, Ohio. It has effectively reduced crime by creating physical and social safe havens for approximately 3,500 Columbus children.

On January 24, 2003, Children of the Future was honored by the Americans for the Arts and the United States Conference of Mayors with the "2003 Award for Excellence in Arts Programs for Youth." This prestigious, national award recognizes the emphasis this arts-based program has placed on the development of life-long skills including: critical thinking, constructive communication and conflict resolution.

I congratulate the Greater Columbus Arts Council's Children of the Future Program for its many accomplishments and outstanding service. This program is truly an asset to the people of Central Ohio.

A SPECIAL TRIBUTE TO THE PERRYSBURG JOURNAL ON THE OCCASION OF ITS 150TH BIRTHDAY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GILLMOR. Mr. Speaker, on March 10, 2003, the Perrysburg Messenger Journal will celebrate its 150th birthday. The Perrysburg Journal, one of the parents of today's Perrysburg Messenger Journal, began publication on March 10, 1853. It was not the first newspaper in Wood County: Eight weeklies in Perrysburg preceded it. But today it is the oldest newspaper in Wood County and the oldest business in Perrysburg.

The eight-pager made its appearance without fanfare because of President Franklin Pierce's Inaugural address. The lengthy railroad laws also crowded out the "saiutatory" editorial Silmon Clark had prepared. Mr. Clark heralded his newspaper with an announcement at the bottom of page 7. Under the flag, he dedicated it to "Agriculture, Commerce, Manufactures." By carrier, the paper cost $1.75 a year; by mail, $1.50. He set up shop "in a room upstairs, north end of the Baird House." Although the Journal was a new publication, Mr. Clark hailed it as the successor to his earlier Fort Meigs Reveille, which he renamed The Perrysburg Star because he said "Reveille" was not a good English word, people couldn't pronounce it, and he was tired of "the cruelty of the attempt."

He ceased publication of the Star in 1852 and he sold the printing office to A. D. Wright. Professor Wright then started the North-Western Democrat. Along with the laws and the political news, the first paper carried pieces on far-ranging subjects, such as current conditions in Rome, census figures for St. Louis, poetry, and platitudes. As was common practice, Mr. Clark borrowed freely from other newspapers, stories not limited to sharing police reports from other parts of the country. Frontier newspapers in the isolated villages and busy river towns were like that in those days. They entertained and they informed. They brought the outside world to eager readers. Perrysburg readers waited for installments of such serials as "Indian Story" and "Walmsby House", or the "Lover's Revenge, a Story Laid in the South of Ireland."

The newspaper also advised and chastised. It contained strongly partisan opinions, national news gleaned from larger papers received by the latest post. It contained literary material or "notices" (advertisements) for goods like Dr. Rojack's Blood Purifier. One had to look for the little bits of local news, which usually had no headlines and were scattered in the columns. The early weeklies of the era were small, hand-set, and often crude, but they had much to do with the crystallization of public opinion that made the West a new factor in American politics, according to a history of the mass media, "The Press in America" by Emery and Emery.

Mr. Speaker, I ask my colleagues to join me in paying tribute to the Perrysburg Messenger Journal on the occasion of its 150th Anniversary. For well over a century now the Journal has provided the news fairly and accurately to the people of Northwestern Ohio. I am proud to offer these sentiments today properly documenting this event in the record of the 108th Congress.

RECOGNITION OF ANDREW JOSEPH GORDON

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Andrew Joseph Gordon, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Andrew has been very active with his troop, where he progressed to the rank of Webelos. He also participated in summer camp at H. Roe Bartle Scout Reservation and earning the status of warrior in the tribe of Mic-O-Say. During the thirteen years he has been involved in scouting, he has earned 41 merit badges and is brotherhood member of the order of the arrow. Andrew also has been honored for his numerous scouting achievements, earning the Bear Claw award, the God & Me Award, and the Arrow of Light award. Andrew has also served in a variety of leadership positions, including Patrol Leader and Assistant Senior Patrol Leader.

For his Eagle Scout Project, Andrew built a rock foot bridge and rocked part of the path at the Parkville Nature Sanctuary in Parkville, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Andrew Joseph Gordon for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

H.R. 1716

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mrs. DAVIS of California. Mr. Speaker, As an initial co-sponsor, I offer my support of H.R. 1716, a bill to make sure that Impact Aid to school districts to provide educational support, is assured as an entitlement. Today, as members of our military are being shipped abroad in large numbers to prepare for a possible war, it is critical for them to know that their children's schools are being supported by their government.

The need for Impact Aid has been clear for over half a century. Begun in 1950, Impact Aid recompenses districts for the loss of a variety of taxes which form the basis of school support. Military land and the military homes located on that land do not contribute to property taxes. Over three-quarters of the military members in my district claim residency in other states and do not pay state income or car registration taxes. In addition, all sales on military installations are exempt from state sales taxes. Property, income, and sales taxes are the money which pays for education.

Because the frequent transfer of military members results in increased transiency in schools, districts which serve large numbers of military children have increased costs.

The school districts located in my congressional district are also known for offering a variety of services to special needs children. When military families have children with a high level of needs, the service provides compassionate assignment flexibility to enable them to stay in the area. This further increases costs for these districts.

After more than half a century of support, it is time to stop making annual judgments about the value of Impact Aid. It is time to openly declare to every member of our armed services that we assure them that support for their children's education is not negotiable. Our commitment must not waiver.

INTRODUCTION OF THE VICTIMS OF CRIME FAIRNESS ACT OF 2003

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. SIMMONS. Mr. Speaker, I rise today to introduce legislation important to victims of crime and their families. The Victims of Crime Act, or VOCA, was a tremendous victory in the fight to aid those affected by crime. It established a trust fund composed of criminal fines, forfeited bail bonds, penalty fees and special assessments collected by the U.S. Attorney's Offices, U.S. Courts and Federal Bureau of Prisons.

Sadly, a spending cap was installed on the VOCA trust fund. This trust fund generates close to $1 billion dollars each year, yet only an average of $535 is actually distributed annually to the states. While state crime victim assistance programs struggle to remain fully funded, the balance just sits there unused. My legislation, the "Victim of Crime Fairness Act of 2003" would eliminate this spending cap and direct the money toward its original intention, helping victims of crime.

Every day we see in our local news stories of homicides, sexual assaults, child abuse, drunk driving accidents, kidnapping and arson. The list goes on and on. I applaud President Bush for his efforts to strengthen and organize security on all fronts for our country. Preventing all crimes, whether they are acts of terrorism or domestic abuse, is the first step in creating a more peaceful world. However, when a crime does occur there is a victim. This victim is stripped of their security, their dignity, and often times their physical capability to function normally in the day-to-day world. Eliminating the spending cap on the VOCA trust fund would allow victim advocates to do their job. It is a fact; helping mend people's lives that have been tragically altered by crime cannot be done for free.

My state of Connecticut loses almost $5 million a year due to the VOCA cap. This money could make all the difference in thousands of peoples lives. Connecticut's State Victim Advocate James Papillo wrote, "The programs funded by the VOCA fund benefit crime victims in Connecticut through direct financial support and crime victim support services. These funds help crime victims when they most need it. Given the substantial reduction in the amount of funds available to the states caused by federal earmarks, and the real need for increased services to crime victims in Connecticut, it is clear that removal of the cap is necessary to ensure that Connecticut will be able to meet the needs of crime victims."

The Victims of Crime Fairness Act of 2003 is common sense legislation. I ask my colleagues to join me in helping victims of crime by eliminating the VOCA fund spending cap.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to express my support of H. Con Res 40, to allow the use of the Capitol rotunda for a ceremony to commemorate victims of the Holocaust. Our Nation's capitol is a symbol of freedom and democracy to so many. This resolution gives us a forum to pay service to the victims of the Holocaust. I pray that such a tragedy should never touch the world again.

A Holocaust memorial is not something to be taken lightly, or to be rushed without its due respect. The Holocaust is a product of authoritarian government and evil intentions, and we must continue to study and remember it, lest it be repeated. Hate, genocide, racial supremacism still occur in parts of the world and I believe that we as Americans can still focus our efforts on stopping them before they grow to an uncontrollable magnitude.

My heart goes out to the victims and survivors of Adolf Hitler's death camps. Every time I reexamine the Holocaust, and pay tribute to what happened, I am still shocked and pained by the organized, methodical killing that went on in Europe.

For the 12 million people that Nazi Germany exterminated, we must remember. For each of the six million Jews killed, we must respond. For the Gypsies, the gays, the political dissenters and any of the righteous people who spoke out against what they thought was evil—for this we commemorate and remember the Holocaust. It can never happen again.

RECOGNITION OF WILLIAM BARRET SIMS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize William Barret Sims, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

William has been very active with his troop, earning the ranks of bobcat, wolf, bear, and webelos as well as participating in summer camp at H. Roe Bartle Scout Reservation and earning the status of warrior in the tribe of Mic-O-Say. During the ten years he has been involved in scouting, he has earned 35 merit badges and is Brotherhood Member of The Order of the Arrow. William also has been honored for his numerous scouting achievements, earning the bear claw award, the God & Me award, the arrow of light award, and the god and church award. William has also served in many leadership capacities, including patrol leader, assistant patrol leader and assistant senior patrol leader.

For his Eagle Scout project, William planned, designed, and with the help of fellow scouts, built an outdoor storage shed for a habitat for humanity home located in Kansas City north, providing much needed storage space for the lawn and outdoor equipment of the homeowners.

Mr. Speaker, I proudly ask you to join me in commending William Barret Sims for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE PATIENT NAVIGATOR, OUTREACH, AND CHRONIC DISEASE PREVENTION ACT OF 2003

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. MENENDEZ. Mr. Speaker, today I'm pleased to be joined by my Colleague from

Ohio, DEBORAH PRYCE, to introduce the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003.

The existence of significant health disparities in this nation is undeniable. For years, research has told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We've done a very good job of identifying this problem—it's high time we do something to solve it.

That's why I'm very excited about the bill we are introducing today and the strong support we've already received for it. The bill is supported by the American Cancer Society, the National Association of Community Health Centers, the National Alliance for Hispanic Health, the National Hispanic Medical Association, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Dean and Betty Gallo Prostate Cancer Center, MHz Networks, Asian and Pacific Islander American Health Forum, Dia de la Mujer Latina, Inc., the Cancer Research and Prevention Foundation, and the National Patient Advocate Foundation.

This bill addresses what I believe are the root causes of health disparities in minority and underserved communities: lack of access to health care in general—and particularly lack of access to prevention and early detection—as well as language and cultural barriers to care.

The bottom line is: the only way to stay healthy is to see a doctor when you are healthy. Yes, there are a number of explanations for the higher rates of disease among minority populations, including higher rates of uninsured, reduced access to care, and lower quality of care. But all of these barriers point to the same underlying problem, minority patients are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival.

The bill we're introducing today will ensure that all Americans, regardless of race, ethnicity, language, income, or geography, will have access to prevention screening and treatment, and that they will have an advocate at their side, helping them navigate through today's complicated health care system.

It does this by building upon the existing infrastructure of the Consolidated Health Center program, the Indian Health Service, the Office of Rural Health Policy, and the National Cancer Institute.

It creates model programs to ensure that people are educated about the importance of prevention screening and early detection. A key component of the proposal is year-round outreach to the target community, in a language that they can understand.

It funds culturally and linguistically competent providers that reach out into the community, build their trust, build relationships, and educate the public, while providing prevention screenings and follow-up treatment.

And it ensures that navigators are available to help patients make their way through the health care system—whether it's translating technical medical terminology, making sense of their insurance, making appointments for referral screenings, following-up to make sure the patient keeps that appointment, or even accompanying a patient to a referral appointment.

The original concept for the legislation comes from Dr. Freeman's "navigator" program, which he created while he was Director of Surgery at Harlem Hospital. Recently, I was fortunate to get to visit Dr. Huerta's local Cancer Preventorium, which replicates Dr. Freeman's navigator concept within a comprehensive model of prevention services. This bill will translate the work of Dr. Harold Freeman and Dr. Elmer Huerta into a legislative model for cancer and chronic disease prevention and treatment for minorities and underserved communities.

The track record of these programs speaks for itself. It's very clear that these are not new ideas or new concepts, they're models that have been proven to work. And it's time that we take what's worked and use it to benefit underserved populations across the country. That's exactly what this legislation will do.

HONORING MR. VICTOR MANUEL ARRAÑAGA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. HONDA. Mr. Speaker, I rise today to honor the achievements of Mr. Victor Manuel Arrañaga and his contributions to his family and community. Mr. Arrañaga was a man who worked hard all his life to better the lives of those around him. He was also a man who instilled important values in his family and practiced those values everyday towards those around him. He died on December 30, 2002.

Mr. Arrañaga grew up in Del Rio, Texas, where he operated the Arrañaga and Sons grocery store with his father, brothers, and sisters. He was known for extending credit with no questions asked and for offering free groceries to those who could not afford to purchase them. In 1967, Mr. Arrañaga moved to San José, California, and began work at Food Villa in Santa Clara. As a dedicated employee for 20 years, he built a reputation for extraordinary customer service and was admired for his sense of humor. Mr. Arrañaga was also a member of the Retail Clerks Local 428 Union.

Mr. Arrañaga was active in the community both in Del Rio and San José. Elected to the Del Rio City Council in 1958, he was the second Latino in the town's history to hold the office. As a city councilman, Mr. Arrañaga formed a partnership with the neighboring border town of Ciudad Acuña, Mexico, in order to strengthen the relationships between the United States and Mexico. While performing his civic duties, he developed the city's first fire station and created high-quality low-income housing in the disadvantaged Del Rio neighborhood of San Felipe. The development's first street was named "Arrañaga Avenue" to recognize his dedicated efforts to the city and the project. Mr. Arrañaga was also an active member of the Lions Club in Del Rio, where he was the first Latino to serve as President and Zone Chairman. He was also a member of the club's recruitment committee. While in San José, he was an active member of the Our Lady Star of the Sea Catholic Church in Alviso, California.

A devoted family man, Victor was married to his wife, Ina, for 54 years. Together they raised seven children, eighteen grandchildren, and eight great-grandchildren. Mr. Arrañaga encouraged his children to pursue higher education and to be active in their communities. He also imparted and practiced his core principles of love, honor, and respect for family to all of those around him.

Mr. Speaker, please join me in remembering and honoring Mr. Victor Manuel Arrañaga for his service to his community and his dedication to his family. He was a man of great integrity and an inspiration to all of us.

CONGRATULATING NORAH JONES ON HER GRAMMY AWARDS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I appreciate the opportunity to share my admiration with you for one of my district's most popular artists, Norah Jones.

During the 45th annual Grammy Awards held on February 24, 2003, Norah Jones was awarded 5 Golden Gramophone statuettes for Album of the Year, Best New Artist, Record of The Year for the single "Don't Know Why," Best Pop Vocal Album, and Best Female Pop Vocal Album.

Norah Jones has shown a strong aptitude for music since childhood. Ms. Jones graduated from the Booker T. Washington High School for the Performing and Visual Arts of Dallas, Texas in 1997.

Norah Jones follows in the footsteps of the many successful Booker T. Washington High School alumni, such as Erykah Badu and Roy Hargrove.

Norah Jones later went on to the University of North Texas to major in jazz piano. Already career-minded, she knew that a solid foundation of jazz piano could pave the way for better things.

Mr. Speaker, Norah Jones is an inspiration to our youth, not only in Texas but across the nation, that their dreams can come true, and that they should reach for the stars.

INTRODUCTION OF THE HOMETOWN HEROES SURVIVOR BENEFITS ACT

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. ETHERIDGE. Mr. Speaker, I rise today to honor our nation's public safety officers for their commitment to our communities and service to our nation. I am re-introducing my bipartisan legislation, the Hometown Heroes Survivor Benefits Act, and I urge my colleagues to join me in support of this important initiative.

Every day, public safety officers protect our families and possessions from fire, keep our streets safe, and are the first to respond to an emergency. Across this nation, our law enforcement officers and corrections officers, firefighters, and emergency medical service workers are dedicated and prepared, and when we call on them, they risk their lives for us.

Heart attacks and strokes are one of the greatest threats to public safety officers, especially firefighters. In fact, almost half of all firefighter deaths are due to heart attacks and strokes. Fighting fires is dangerous, exhausting, and extremely stressful work. Indeed, a firefighter's chances of suffering a heart attack or stroke greatly increases when he or she puts on their turnout gear and rushes into a building to fight a fire. Likewise, law enforcement and corrections officers and EMS workers face daily situations that put stress and strain on the heart.

According to the U.S. Fire Administration, last year 102 firefighters died while on duty, affecting 86 communities in 35 states. In the wake of their tragic losses, many of the families of these brave first responders received financial assistance from the Public Safety Officer Death Benefit, which was created by Congress over 25 years ago to provide these families with help in their time of need. However, some of these families are denied these benefits because of a glitch in the law.

During the last Congress, I introduced the Hometown Heroes Survivors Benefits Act to correct this technicality in the Public Safety Officer Benefit. This bipartisan legislation will allow the families of public safety officers who have died from a heart attack or stroke while on duty, or within 24-hours after participating in a training exercise or responding to an emergency situation, to receive this benefit.

Last year, 113 of our colleagues cosponsored this bill, and the House unanimously passed it. Unfortunately, we were not able to move the bill through the U.S. Senate before adjournment, despite the strong support of several Senators from both parties.

Today I, along with Representatives STENY HOYER, CURT WELDON, MIKE OXLEY, and 40 other members of this House, are re-introducing the Hometown Heroes Survivor Benefits Act. During this time of increased awareness and concern regarding the threat of terrorism, we are calling on our public safety officers to work longer and harder than ever before. This legislation shows our public safety officers and their families that we recognize their selfless contributions to protecting us and our communities, and that we stand with them.

We urge every Member in this House to join our bipartisan coalition by cosponsoring this critical legislation and working with us to pass it into law.

COMMENDING DR. KOICHI NISHIMURA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. HONDA. Mr. Speaker, I rise today to honor the achievements of Dr. Koichi Nishimura and his contributions to the Bay Area and Japanese-American communities. Dr. Nishimura will soon retire from Solectron Corporation after leading the company to its current standing as one of the world's largest electronics manufacturing services company. He has accomplished this through years of hard work and dedication to his friends, neighbors, and colleagues.

Born in 1938 in Pasadena, California, Dr. Nishimura is a Nisei, or second-generation Japanese American. Like many of his fellow Nisei, he has experienced strong Western and Eastern influences. During World War II, Dr. Nishimura spent five years, from age three to seven, at an internment camp in Manzanar. Despite spending his childhood in Southern California, he spoke only Japanese until the first grade.

After earning his bachelor's and master's degrees in electrical engineering from San Jose State University, Dr. Nishimura received his Doctorate in Material Science and Engineering from Stanford University. Upon completion of his education, Dr. Nishimura began his career as a test engineer with IBM. After 23 years with IBM, he was asked to join the then-regional Solectron Corporation. Coming on as the Chief Operating Officer in 1988, he quickly moved to President and then Chief Executive Officer. In 1996, he became Chairman of the Board. Dr. Nishimura has made Solectron Corporation not only the biggest company in the electronics industry, but also the most profitable. Under his leadership, Solectron was twice awarded the prestigious Malcolm Baldrige National Quality Award, becoming the first company in the history of the program to do so.

Dr. Nishimura is very active in both the business and Japanese American communities. Currently, he serves on the Board of Trustees of the Santa Fe Institute. In addition to serving on various boards, he has been a member and the Chairman of Santa Clara University's Leavey School of Business. Dr. Nishimura has dedicated his time and energy to the Malcolm Baldrige Foundation, serving as Vice President, as well as the Tech Museum of Innovation in San Jose, California, having served as a board member. In recognition of his work in the community, he was awarded the Silicon Valley Manufacturing Group's Lifetime Achievement Award in 2001.

Within the Japanese American community, Dr. Nishimura has dedicated his efforts to groups such as the U.S.-Japan Business Council, Japanese Western U.S. Association, Japanese American Citizen League, Asian Americans for Community Involvement, Asian Law Alliance, and the Yu-Ai Kai Senior Community Center in San Jose.

Mr. Speaker, please join me in thanking Dr. Ko Nishimura for his dedication to excellence in Silicon Valley. Through his tireless efforts, he has created a company grounded in sound principles and has dedicated his valuable time to better his community. I congratulate Dr. Koichi Nishimura on his tremendous achievements and wish him continued success.

TRIBUTE TO KUNI HIRONAKA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. MATSUI. Mr. Speaker, I rise in tribute to Kuni Hironaka, one of the region's greatest champions for protecting and promoting Asian American hiring and promotion policies. Kuni played an instrumental role in securing the inclusion of Asian Americans as a protected minority in the affirmative action hiring and promotion process that is used by all federal civilian and military agencies. As his friends and family gather to celebrate Kuni's wonderful achievements, I ask all of my colleagues to join with me in saluting one of Sacramento's most dedicated citizen leaders.

In 1967, Kuni realized that there were only three categories of protected minorities specified for the affirmative action program at McClellan Air Force Base in Sacramento, these were: black, Hispanic, and women. Kuni was particularly alarmed by the fact that there were no Asian foremen on the maintenance side of the workforce and no Asian supervisors on the management side of the workforce. Many Asian employees failed to rise through the ranks despite their considerable experience and education.

Kuni's decision to explore the issue with the civilian Affirmative Action Officer was greeted with an unsatisfactory response. At the expense of jeopardizing his own employment and promotion future at McClellan Air Force Base, he boldly pursued the matter up the chain of command. In the course of standing for his principles and furthering the interests of Asian Americans in the workforce, Kuni would come to bring about change on a national level.

Kuni was appointed by Phil Hiroshima, President of the Japanese American Citizens League (JACL) at the time, to represent the JACL in meetings with top military officials to make the case that the affirmative action category should be expanded not only to include Asian Americans, but also Native Americans as well.

As a result of Kuni's remarkable dedication to the cause and a relentless pursuit of justice, the process of leaving Asian Americans out of the affirmative action hiring and promotion process was eventually examined by the United States Department of Defense. Ultimately, the term "oriental" was changed to Asian American and Pacific Islanders and McClellan Air Force Base began to promote qualified Asian Americans within the maintenance and civil workforce.

Kuni's decision to challenge the establishment to bring about equal treatment for Asian Americans at McClellan Air Force Base had a resounding impact nationally. In addition to military installations, Asians Americans also came to be recognized as a protected minority by all federal civilian and military agencies. Kuni played a crucial role in paving the road for his and future generations of Asian Americans by breaking down the glass ceiling in the workplace.

Kuni truly represents the real spirit of community service. Throughout his life, Kuni has demonstrated the importance of giving back to his community. Kuni's commitment to helping others and improving his community is an inspiration and example to his fellow citizens.

Mr. Speaker, as Mr. Kuni Hironaka's friends and family gather to celebrate and honor his many contributions, I am honored to pay tribute to one of Sacramento's most honorable citizens. His successes are unparalleled, and it is a great honor for me to have the opportunity to pay tribute to his accomplishments. I ask all my colleagues to join with me in wishing my dear, dear friend Kuni continued success in all his future endeavors.

IN MEMORY OF DARYL THOMPSON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. HASTERT. Mr. Speaker, I rise today to pay tribute to a distinguished constituent; a person who was one of the most active, hardworking and dedicated educators in the State of Illinois—Mr. Daryl Thompson. Sadly, Mr. Thompson passed away on January 14, 2003.

Mr. Thompson began a 37-year career at Oswego High School in 1961. In his early years at Oswego High School, Mr. Thompson taught bookkeeping, business law, general business and typing, in addition to serving as the freshman basketball coach, faculty advisor to the school newspaper, and sponsor of the National Honor Society. And, after earning his certificate in education administration, Mr. Thompson was hired as Oswego High School's Vice Principal, and in 1974 was appointed Principal.

Throughout his years as an educator and administrator in Oswego, Mr. Thompson was the recipient of numerous awards and recognitions. To name a few, Mr. Thompson was awarded the Illinois State Board of Education's "Educator for Excellence in Education," Coca-Cola's Educator of the Month, and was selected by the Oswego Ledger-Sentinel as one of the top 50 people of the 20th Century to make a positive impact on Oswegoland. Furthermore, in 1997, a portion of Illinois Route 71, which passes by Oswego High School property, was named the honorary "Daryl Thompson Highway."

Moreover, Mr. Thompson served as a member of the Illinois High School Association's Legislative Commission for 12 years, served as Director of the Illinois Principals Association and was involved with the Oswego Foundation for Excellence in Education.

Nonetheless, we should also remember Mr. Thompson as a dedicated friend and mentor. He will be remembered for his keen sense of humor, thoughtful guidance and his genuine interest in the well-being of the entire community.

Mr. Speaker, I ask my colleagues to join me in honoring Daryl Thompson for his contributions to the Oswego school system and the many students, parents, teachers and fellow administrators whom he touched. His accomplishments deserve our praise and appreciation.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KENNEDY of Rhode Island. Mr. Speaker, on February 26, 2003, I was in my congressional district in Rhode Island and consequently I missed two votes.

Had I been here I would have voted: "yea" on rollcall No. 35, and "yea" on rollcall No. 36.

At this time I would ask for unanimous consent that my positions be entered into the RECORD following those votes or in the appropriate portion of the RECORD.

RECOGNITION OF CARLIN OWEN LESLIE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Carlin Owen Leslie, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Carlin has been very active with his troop, participating in summer camp at H. Roe Bartle Scout Reservation and earning the status of warrior in the tribe of Mic-O-Say. During the ten years he has been involved in scouting, he has earned 33 merit badges and is brotherhood member of the Order of the Arrow. Carlin also has been honored for his numerous scouting achievements, earning the rank of senior patrol leader. He was also the first scout from Troop 314 to become a runner in the Order of the Arrow, and now serves as the head of the Troop 314 OA runners.

For his Eagle Scout project, Carlin restored and repainted a train caboose at Fox Hill Elementary School which is used by the school and the Missouri Department of Conservation as an education lab.

Mr. Speaker, I proudly ask you to join me in commending Carlin Owen Leslie for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO ROBERT MANIECE

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Dr. Robert Maniece is presently serving as interim Superintendent for the Quitman County School District. In 1967, Robert Maniece led a number of black students over to then Marks Junior High, a predominately white school. That action led to the integration of the public school in 1971.

In the same year the Reverend Dr. Martin Luther King visited Marks, he also visited Mississippi's Cotton Street, the street on which Robert and his family lived. This is the place where Dr. King witnessed families so victimized by poverty that he created the Poor People Campaign. Thereafter, Robert and his family members became heavily involved in this fight to rid the Nation of poverty and want. He has traveled to Washington, D.C. many times to participate in the protests and has continued to fight the fight for those in the greatest need.

In 1993, he became Director of Instruction and Professional Development Coordinator for Quitman Mississippi County Schools. In that position, he has led the District from academic probation to one of the best performing schools in all the Mississippi Delta and the State.

CLOSING THE DIGITAL DIVIDE IN EDUCATION AND WORKFORCE

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. WATSON. Mr. Speaker, I rise today to echo my colleagues' concerns with the prevailing digital divide in African American communities.

As our society continues to make leaps and bounds in the digital information age, too many people are still left behind. It is especially evident in the African American communities, where currently only four out of ten African-Americans have access to internet access—30 points behind the national average. This sharp contrast continues to represent a very substantial and real divide in our society.

But the picture is not all gloomy. In 2001, for instance, internet usage among African Americans increased by 31 percent, as compared to 19 percent among whites. High-tech companies have also begun to focus on technological literacy among our nation's students, such as Microsoft's recent initiative to donate a $15 million software grant to Historically Black College and University campuses.

Now it's up to this Congress to do more. The Omnibus Appropriations bill we just passed has under-funded many of the programs aimed to stimulate technological usage and access for more Americans, among them the 21st Century Community Learning Centers, the Community Technology Centers (CTC), and the Technology Opportunities Program (TOP).

We must recommit ourselves to those resources. We must also maintain an open market for competition in the telecommunications industry so that better services can be brought to more communities at lower prices.

I urge my colleagues today to work towards those goals.

NATIONAL PEACE CORPS DAY, FEBRUARY 28, 2003

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. COX. Mr. Speaker, tomorrow is National Peace Corps Day. It is with great pleasure that I send my congratulations to Peace Corps volunteers serving throughout the world as we celebrate the Peace Corps' 42 years of service.

Forty-two years ago, President John F. Kennedy mobilized a generation to work in developing nations around the world in education, community development, agriculture, health care, and public works. Although each volunteer is given a particular role in a community, the most important job is the simple day-today interaction each volunteer has with the people of the villages in which they serve.

Since 1961, over 168,000 Americans have volunteered their expertise, time, and energy to foster development and progress in 136 countries. There is no greater symbol of America's generosity than American volunteers living and working in partnership with the people of developing nations to encourage education and opportunity.

As grass-roots ambassadors, Peace Corps volunteers have conveyed the message of freedom and hope to communities in need of help. In doing so, they have strengthened the ties of international friendship and understanding, and have spread the spirit of sharing that is so fundamental to American society.

It is my deepest hope that we continue to recognize and support the Peace Corps' work. By honoring the Peace Corps, we reaffirm our nation's commitment to strengthen freedom and create opportunities around the world.

I am very happy to join with Peace Corps volunteers, past and present, to celebrate National Peace Corps Day 2003.

WHITE MARLINS AND THE LONGLINE INDUSTRY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SAXTON. Mr. Speaker, I rise today to introduce this important piece of conservation legislation. In the last session of Congress the Resources Committee worked hard to report out, my good friend from Maryland and Subcommittee Chairman, Mr. GILCHREST's bill, H.R. 4749, the Magnuson-Stevens Act Amendments of 2002. While I was pleased with many of the provisions, I felt the bycatch section could be strengthened and was successful in getting a provision added to H.R. 4749 addressing the concerns I still have today, with regard to the amount of bycatch of white marlin by the domestic longline industry, which is why I am introducing this bill today.

This bill creates a closed area in the mid-Atlantic that protects marlin from being caught by longlines, when marlin are the most prevalent in those waters. This area consists of the entire Mid-Atlantic Conservation Zone for Highly Migratory Species and closes the upper zone July 15 through September 1, and closes the lower zone from August 15 through October 1. The bill allows for the maximum fishing effort by the longline industry consistent with the conservation.

I continue to be concerned about this species because stocks domestically and internationally have continued to rapidly decline. On September 4, 2001, an environmental group petitioned the National Marine Fisheries Service (NMFS) to list Atlantic white marlin under the Endangered Species Act of 1973, as amended. On December 19, 2001, NMFS found that the Atlantic white marlin petition presents substantial scientific and commercial information indicating that a listing of Atlantic white marlin may be warranted.

On September 4, 2002, NMFS determined that the species does not warrant being listed at this time. However, the most recent stock assessment indicates the total Atlantic stock population had declined to less than 12 percent of its maximum sustainable yield level; current fishing mortality was estimated to be at least seven times higher than the maximum sustainable level; over fishing had taken place for over three decades and the stock is less productive than previously estimated, with a maximum sustainable yield of less than 1300 metric tons. The bottom line—this species needs an immediate strong conservation measure or it may disappear forever.

I have for many years been very concerned about the dramatic drop in population of this species, and the fact that NMFS even considered listing it confirms my concerns have not been unfounded. I am therefore introducing this piece of legislation as it is critical we continue to make every possible effort to save this species from extinction, which is a distinct possibility should nothing be done to stop the tremendous amount of bycatch.

It is so important we work together to conserve all species, and the dramatic drop in population of white marlin sends a strong message that if we do nothing the potential for other species to be in equal jeopardy is almost guaranteed. Our oceans could well be void of many species we now enjoy and take for granted if we do not take aggressive steps to halt their disappearance now, before it's too late.

It is of the utmost importance that today, more than ever, we work diligently to ensure our world's fisheries populations are maintained at sustainable levels. If we fail to protect them, there are some species that may disappear forever, which would be tragic.

THE "SENATOR PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT OF 2003"

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KENNEDY of Rhode Island. Mr. Speaker, despite the will of the American people, despite the will of bipartisan majorities in Congress, despite the insistence of the President of the United States and the maxims of decency, and fairness, a mental health parity bill has yet to be enacted.

That is why, today, with Senators DOMENICI and KENNEDY, and Congressman Jim RAMSTAD, I am again introducing the Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003. This bill has been named in honor of the late Senator Paul Wellstone who fought hard for the cause of equal opportunity for all Americans.

The Wellstone Parity Act is, at its core, a civil rights bill. It recognizes that the right to basic healthcare for millions of Americans continues to be violated due to lingering bigotry. It reflects the values on which this country was built, principles of inclusion and opportunity for all Americans.

This bill will help tens of millions of our fellow countrymen and women who suffer from mental illnesses gain needed access to treatment. Treatment, which they currently are denied and have been for quite some time. This bill is based on parity provisions in the Federal Employee Health Benefit Plan (FEHBP), which Members of Congress, other federal employees, and their families already have.

Specifically, it requires that group health plans, which choose to provide mental health benefits not impose any treatment limits or financial requirements for mental health care unless comparable treatment limits or financial requirements are imposed for physical health benefits.

With that said, there has, unfortunately, been a lot of misinformation circulated with regards to this bill. Therefore, it is important that I clarify what this bill does not do.

It does not require health plans to cover treatment of mental illnesses. It only applies if they choose to include mental health benefits.

It does not prevent group health plans from managing benefits as a means to contain costs, and to monitor and improve the quality of care. In fact, it specifically protects insurers' right to apply management techniques.

It does not mandate coverage of specific mental health services, nor does it allow endless "Woody Allen-like" psychoanalysis for every beneficiary. This bill unambiguously allows plans to make medical necessity determinations so that care can be provided judiciously.

It does not require parity between two or more employer-sponsored benefits plans. It only requires parity within each individual plan.

It does not require parity for out-of-network benefits, as long as in-network benefits are provided at parity and the plan provides reasonable access to in-network providers and facilities.

Opponents of this bill will say it is too expensive and drives up the cost of healthcare. The data, however, show otherwise. The Congressional Budget Office (CBO) has projected that enactment of a parity bill of this kind would result in premium increases of only 0.9%. The collective experience of many states that have passed parity laws, as well as the FEHBP, closely mirrors the CBO projections.

In fact, the CBO estimate may be too high. The CBO projections did not take into account the billions of dollars of savings employers will gain with reduced absenteeism, fewer disability claims, and lower general health services associated with untreated mental illnesses.

The Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003 is not just an instrument to repeal the prohibition on Americans to gain access to affordable and needed mental health care; it is also a bill that addresses an ever-increasing public health crisis in our nation.

Mental illness is our nation's second leading cause of morbidity and mortality. In the United States, severe mental illnesses are more common than cancer, diabetes or heart disease; one in four Americans will suffer from a serious mental disorder in their lifetime; more than 51 million Americans suffer from a mental disorder in a year; 67% of elderly nursing home residents have a diagnosable mental illness; 67% of the population with AIDS will develop a neuropsychiatric disorder; more than ten million children suffer from a serious emotional disorder and more than 30,000 people commit suicide every year.

Each of these statistics has a human face associated with it. Anna Westin of Chaska, Minnesota suffered from a serious eating disorder that required inpatient hospitalization. When her insurance company told her hospital that her mental health benefits had been exhausted, she was prematurely discharged and sent home. One month later, after receiving this inadequate medical care, she committed suicide. Anna is just one of many Americans victimized by the cruelty of medical discrimination.

Discrimination is a discarded idea from the past. Yet, in certain sectors of our society it continues to thrive like a malignant cancer infecting and feeding off the soul of our nation. For the sake of our parents, our grandparents, our children, our neighbors, and ourselves, we must finally excise this cancer from our society.

In the 19th century, famed novelist and poet Victor Hugo wrote: "There's one thing stronger than all the armies of the world: And that is an idea whose time has come."

The time for mental health parity has arrived. I want to thank my colleagues for the strong bipartisan support this legislation has received, and I look forward to finally removing this dreadful stain of discrimination that defiles the spirit of America.

RECOGNITION OF MATTHEW ISADORE REYES

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Matthew Isadore Reyes, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Matthew has been very active with his troop, participating in summer camp at H. Roe Bartle Scout Reservation and earning the status of Brave in the tribe of Mic-O-Say. During the six years he has been involved in scouting, he has earned 38 merit badges and is Brotherhood Member of The Order of the Arrow. Matthew also has been honored for his numerous scouting achievements, earning the rank of Patrol Leader of the Panther Patrol and Runner at Camp Naish.

For his Eagle Scout project, Matthew built two cedar benches and planted a tree for the Rolling Hills Community Church. He was able to get all of the materials for his project donated.

Mr. Speaker, I proudly ask you to join me in commending Matthew Isadore Reyes for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO IRVIN WHITTAKER

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Irvin Whittaker is a native of Carrollton County. Although many close to Mr. Whittaker felt that education should not be his primary focus, he had a strong desire to complete high school. With money that he saved from sharecropping, Mr. Whittaker moved to Jackson, Mississippi. It was here that he decided to enter Lanier High School. During High School, Mr. Whittaker became part of the active reserves and spent six months in the Army. In 1959, he re-entered high school at Marshall High School where he started to play basketball. While playing he was noticed by a coach and was offered a scholarship to Mississippi Industrial College.

Upon graduating, Mr. Whittaker's professional career in education began. In 1963, he was appointed as a teacher at Old Salem High School in Ashland, Mississippi. Mr. Whittaker was then appointed as principal of Marshal High School where he served until 1968. In 1968, Mr. Whittaker became assistant principal at Amanda Elzy High School. After serving for two years, Mr. Whittaker later became the principal. In 1983, he was asked by the Superintendent of Leflore County Schools to serve as Assistant Superintendent. In 1991, Mr. Whittaker was elected to the office of the County Superintendent, an office which he held until his retirement in 2000.

REMEMBERING REV. EDWARD VICTOR HILL, SR.

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. WATSON. Mr. Speaker, I rise today to express my sadness in the passing of a great community and civic leader, Dr. Edward Victor Hill, Sr.

He was known throughout the United States and the world for his compassionate sermons and teaching. He will be dearly missed.

For the past 42 years, Rev. E.V. Hill has been the pastor of the Mount Zion Missionary Baptist Church in Los Angeles. He grew up in poverty in a Texas log cabin. By the age of 21 he became pastor of the Mount Corinth Missionary Baptist Church in Houston, where he was one of seven black pastors who joined Dr. Martin Luther King in forming the Southern Christian Leadership Conference. Rev. Hill soon became a confidant of Dr. King and a central leader to the civil rights struggle.

Rev. Hill came to Los Angles in 1961 to become the pastor of Mount Zion. By 1972, he was elected as the youngest president of the California State Baptist Convention. Under Rev. Hill's leadership, his congregation became a center of political and social activism in Los Angeles. He fought for government programs that would bring housing and economic development to his communities. He also started a number of church-based programs, among them the creation of senior citizen housing, a credit union, and a service for the hungry called the "Lord's Kitchen."

I send my heartfelt condolences to the Hill family. My thoughts and prayers are with them.

PERSONAL EXPLANATION

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. COX. Mr. Speaker, had I been present on February 26, 2003, I would have voted "yes" on H. Con. Res. 36 to celebrate the 140th Anniversary of the Emancipation Proclamation and commend President Abraham Lincoln's efforts to end slavery.

INTRODUCTION OF THE RECREATIONAL WATERS PROTECTION ACT

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SAXTON. Mr. Speaker, I rise today to introduce the Recreational Waters Protection Act.

I have been working on this issue for some time, and introduced this bill in the last session of Congress because its passage would reduce pollution from recreational boats by encouraging boaters to use and purchase new Type I marine sanitation devices (MSD) instead of discharging their waste into the water because pumpout stations are either unavailable, inoperative or inconvenient to use.

This legislation would harness new technology and establish new standards for Type I marine sanitation devices that are 100 times more stringent than current standards, which have not been revised in over twenty years.

This bill would grant an exemption allowing those who have such Coast Guard certified devices to use them in any state-declared no discharge zones that are designated after the enactment of this bill into law. It would not impact any existing state-declared no discharge zones.

The available evidence shows that the existing NDZ approach does not work to the benefit of the environment. It is highly unlikely that law enforcement efforts will ever be sufficient to make the NDZ approach work, even if sufficient pump-out stations were accessible and operational.

Giving boat owners the opportunity to improve the operation of their vessels and at the same time contribute to improving the aquatic environment through their voluntary installation and use of the new Type I MSDs is clearly preferable to today's situation.

When the Federal Water Pollution Control Act was signed into law, this type of technology did not exist and therefore simply prohibiting dumping via NDZs seemed like the best solution at the time. However, with the overall poor performance with pumpout stations and non-compliance with NDZs, I believe it is time to revisit this bill and these issues and recognize if there is a better, more environmentally conscious way to fight pollution, we ought to be using it, period.

I encourage other members to join me in support of this important piece of conservation legislation.

RECOGNITION OF SARAH DOTY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Sarah Doty, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 300, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting; and 5. spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Sarah organized a golf clinic for middle and high school girls.

Mr. Speaker, I proudly ask you to join me in commending Sarah Doty for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO JAMES E. GRAVES, JR.

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Justice Graves began his distinguished career as the valedictorian of his high school graduating class. He then went on to earn a Bachelor's Degree in Sociology from Millsaps College. Justice Graves then decided to enroll at Syracuse University where he earned his law degree. He also received a Master's of Public Administration from Syracuse University.

Upon finishing law school Justice Graves worked as a staff attorney at Central Mississippi Legal Services. Just prior to being appointed Circuit Justice Judge he was director of the Division of Child Support Enforcement for the Mississippi Department of Human Services. Justice Graves then engaged in private practice of law for more than three years.

His teaching experience includes serving as an instructor at Harvard Law School where he taught for four years. Justice Graves has also served as adjunct professor at Jackson State University where he taught both media law and civil rights law.

Justice Graves is also active in public school activities. He teaches the youth about the legal system as well as coaches mock trial teams which have reached state mock trial finals every year since 1991.

Justice Graves has been the recipient of numerous awards. Some of his recognitions include Humanized Education Award, Parent of the Year, Parent of the entire State of Mississippi, Innovation Award, Distinguished Jurist Award, and the Judge of the Year Award.

TIMBER TAX SIMPLIFICATION ACT

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. COLLINS. Mr. Speaker, I rise today to introduce legislation which corrects an inequity in the Internal Revenue Code which affects the sale of certain assets.

Under current law, landowners who are occasional sellers of timber are often classified by the Internal Revenue Service as "dealers." As a result, the seller is forced to choose between a "lump sum" payment method or a pay-as-cut contract which often results in an under-realization of the fair value of the contract. While electing the pay-as-cut contract option provides access to capital gains treatment, the seller must comply with special rules in Section 631(b) of the Internal Revenue code. The provisions of Sec. 631(b) require these sellers to "retain an economic interest" in their timber until it is harvested. Under the retained economic interest requirement, the seller bears all the risk and is only paid for timber that is harvested, regardless of whether the terms of the contract are violated. Additionally, since the buyer pays for only the timber that is removed or "scaled" there is an incentive to waste poor quality timber, to under scale the timber, or to remove the timber without scaling.

The legislation I am introducing will provide greater consistency by removing the exclusive "retained economic interest" requirement in IRC Section 631(b). This change has been supported or suggested by a number of groups for tax simplification purposes, including the Internal Revenue Service. I urge my colleagues to join in this tax simplification effort and strongly urge its passage.

ON COMBATTING TERRORISM AND PROTECTING CIVIL LIBERTIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, at its recently concluded meeting, the Jewish Council for Public Affairs adopted a number of resolutions. One very important one was the resolution "On Combating Terrorism and Protecting Civil Liberties." The very title of this resolution indicates its importance—that is, the JCPA recognizes that it is important for us to be fully mindful of civil liberties as we adopt the measures needed to protect ourselves against terrorism.

As a Member of Congress, and also as a Jewish American, I welcome the balanced and thoughtful resolution, coming particularly as it does from a group which ranks high on the target list of those who engage in terrorism. In this context, when the JCPA notes that it is "particularly concerned about the treatment of United States citizens, including questions of indefinite detentions, denial of legal counsel and trials that are closed in their entirety," its members provide an excellent example of the approach that all of us should be taking in this critical time—namely, protecting ourselves against violence without infringing on our constitutionally protected freedom and liberties.

RECOGNITION OF KATIE TELGEMEIER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Katie Telgemeier, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1815, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the gold award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Katie updated and refurbished a girls locker room.

Mr. Speaker, I proudly ask you to join me in commending Katie Telgemeier for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO REVEREND DR. EARNEST ANDREW SMITH

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Reverend Dr. Earnest Andrew Smith. Dr. Smith was born in Macon, Georgia on August 25, 1913. His family later moved to Birmingham where Dr. Smith began school. After finishing high school, Dr. Smith entered Rust College in Holy Springs, Mississippi where he graduated in 1937. Dr. Smith continued his education at Oberlin in Ohio and Hartford seminary Foundation in Hartford, Connecticut. Dr. Smith then began to take courses at Drew University and Gammon Seminary. He has received honorary degrees from Gammon Seminary and Lambuth College.

Dr. Smith has many accomplishments. He has been the pastor of three churches as the parish minister, was principal of two high schools and was executive secretary of three different conference programs of Christian education.

In 1957, Dr. Smith was appointed president of Rust College where he managed to keep the door open despite several efforts to close the school. Dr. Smith later served thirteen years as director of the human relations for the Board of church and Society. Upon retirement, Dr. Smith moved to Memphis, Tennessee until he and his wife moved to Benton, Mississippi.

CELEBRATING NATIONAL PEACE CORPS DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. HONDA. Mr. Speaker, I rise today in celebration of National Peace Corps Day on Friday, February 28. It is a special day not only for my fellow returned Peace Corps volunteers, but also for everyone who has been touched by the Peace Corps' global reach. The Peace Corps' mission of compassion and diplomacy is more important than ever to the world population, and so I ask my colleagues to join me in honoring the Peace Corps on this important day.

Since 1961, Peace Corps Volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries. During these 42 years, the Peace Corps has become an enduring symbol of our nation's commitment to progress, opportunity, and development at the grass-roots level in the developing world.

In all, more than 168,000 Americans have responded to our nation's call to serve by becoming Peace Corps Volunteers in 135 countries, and I am proud to say I am one of them. As a young man, I served as a Volunteer in the Republic of El Salvador, building schools and health clinics, learning the language, and developing an enduring bond with the people, culture, and language. The experience instilled in me a profound connection to that country, and a dedication to improving international relations around the world and fulfilling the Peace Corps' third mandate.

Here in Congress, I am firmly committed to ensuring that future generations have the same opportunities that I did to carry out the mission of the Peace Corps. In fact, I believe that we need to dramatically expand and enhance these opportunities given how vital the Peace Corps' mission is in the current global climate. In that effort, I have cosponsored H.R. 250, a bill proposing to increase the number of Volunteers across the globe, reaffirm the Peace Corps' independence, and promote better mutual understanding between those serving and those whom they serve.

Mr. Speaker, the Peace Corps has been a part of my life for almost forty years. I have served as a Volunteer, I have supported important Peace Corps legislation, and now today I rise in honor of National Peace Corps Day. It is a day to honor all Peace Corps Volunteers, past and present, and reaffirm our commitment to helping people help themselves throughout the world.

TRANSITIONAL HOUSING PROGRAM FOR HOMELESS VETERANS

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. McCOLLUM. Mr. Speaker, I, rise today in recognition of the opening of Minnesota's new Transitional Housing Program for homeless veterans, located at the Minnesota Veterans Home in Minneapolis. Today's celebration is an accumulation of hard work, dedication and determination, reflective of Minnesota's commitment to our nation's veterans and a testament to the spirit of the veterans' community in our great state.

Most Americans are not aware of the severity of our veterans' homeless problem. Nearly 25 percent of homeless people are veterans, and many veterans who live in poverty are at risk of becoming homeless. On any given night, 275,000 veterans of the United States armed forces—including thousands in Minnesota—are homeless, and many struggle with alcohol, drug, and mental challenges.

The goal of the new Transitional Housing Program is to provide and coordinate preventive transitional and permanent housing and supportive services for veterans who are experiencing homelessness or who are in danger of becoming homeless. This new program will help assist Minnesota's homeless veterans in gaining the necessary skills required to successfully transition back into mainstream society.

The most effective programs for homeless veterans feature transitional housing with the camaraderie of living in structured, substance-free environments with fellow veterans who are succeeding at bettering themselves. Minnesota's new Transitional Housing Program seeks to employ these methods and provides an important community partnership in improving the lives of those who sacrificed so much for our freedom and democracy.

As we celebrate this new program, I urge my colleagues to remember the thousands of homeless veterans across America that go without help each and every day. We must continue to support the efforts of those who seek to provide these honorable veterans with a better way of life.

NAGORNO KARABAKH LIBERATION MOVEMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. PALLONE. Mr. Speaker, I want bring the attention of my colleagues to an anniversary that occurred this past Thursday, February 20th, 2003. That day marked the 15th anniversary of the modern day liberation movement of the people of the Nagorno Karabakh (NK). Fifteen years ago, in the twilight of the Soviet Union, the people of NK petitioned the Soviet government to correct historical injustices and reunite them with their brethren in Armenia.

The Armenians of NK were placed within the borders of Azerbaijan in 1921, as one of the many ethnic groups that were separated by Joseph Stalin through his "divide and conquer" strategy. Despite the fact that 96% of the population of NK were ethnically Armenian, and NK's stated wish to be part of Armenia—or even be represented as an autonomous region within Azerbaijan—the Armenians of NK were subjected to brutal Soviet Azerbaijani rule for 70 years.

During those seven decades, the Armenians of NK repeatedly stated to each successive Soviet regime their desire to be joined again with Armenia. These peaceful and legal maneuvers were met with violent repression and forced settlement of ethnic Azeris into NK.

Heydar Ailyev, current President of Azerbaijan, ran the Azeri spoke of these policies frankly to reporters on July 22, 2002. He said, "I tried to change Nagorno Karabakh's demography . . . Instead of sending Azeri workers to Baku, I sent a large number of them to Karabakh from surrounding Azerbaijani regions . . . With these and other measures, I was trying to make sure that Azerbaijani population grew in Karabakh while the Armenian population diminished. Those who used to work in Karabakh back then, know what I am talking about." This comment smacks of human rights abuses; working to directly change to demographics of the region while paying no mind to the Armenian or Azeri human condition.

In 1988, when the Armenians of NK heard of the Mikhail Gorbachev's democratization agenda, they began to again move peacefully for reunification with Armnenia. At this time, the Soviet and Azeri armies would not stand even to entertain this request and immediately resorted to violence. Public expressions of determination by the Armenians of NK were met with a campaign of ethnic cleansing, deporting the Armenians of NK and Azerbaijan.

In 1991, as Armenia and Azerbaijan followed most soviet states in succession from the USSR, NK also voted to succeed. In an internationally monitored referendum, the NK population overwhelmingly voted to establish an independent Nagorno Karabakh Republic, currently known as NKR.

Following this referendum in which the country was established, the Azeri army began a full-scale war on the Armenians of NK, which took thousands of lives over three years, but eventually ended up with NKR repelling Azeri forces. This victory was gained with an army that was out-manned and outgunned, but had desire and guile that proved to be overwhelming. This conflict had a terrific human cost, leaving 30,000 dead and over one million displaced. Thankfully, although small skirmishes have broken out from time to time, the peace has been kept since an agreement ceased hostilities in 1994.

Mr. Speaker, I have repeatedly come to the House floor to speak of the plight of the Armenians of NKR. I can now speak from personal experience about NKR, having traveled there with Congressman DOGGET of Texas last August. We had the opportunity to travel to NKR to witness the Presidential elections there, where we served as official monitors. I am proud to say that all election observers that participated in this historic event gave an overwhelmingly positive response. One group in particular, headed by the Baroness Cox from England stated that, "Our overall conclusion is one of congratulations to all the people of Artsakh (NKR) for the spirit in which the elections have been conducted, their commitment to the democratic process and their pride in their progress towards the establishment of civil society."

This process is astounding considering that NKR is not recognized internationally; that they still must deal every day with Azeri aggression, and that their economy is still devastated from the war. The elections were reported to have met, if not exceeded international standards. All this just 9 short years removed from all-out war.

Congress recognized this consistent move towards democracy, granting NKR 20 million dollars in humanitarian assistance in FY '97, and an additional 5 million dollars in FY '03. This assistance has not just been crucial for needs of the people of NKR, but has also fostered the beginnings of an excellent relationship between our two countries.

Mr. Speaker, I would like to end with a final example of what I saw in Armenia in August last year. During the elections, as I visited the capitol city and small villages alike, everyone I spoke to was incredibly excited about the prospect of voting. They viewed the vote not only as a choice of the leader of their country for the next five years, but a statewide referendum on the democratic process and independence of NKR.

I congratulate the people of NKR for the 15th anniversary of the Nagorno Karabakh Liberation movement and their incredible determination to establish a free and open democratic society.

RECOGNITION OF HEIDI TILLY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Heidi Tilly, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 472, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting, and 5. spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Heidi refurbished and painted a playground.

Mr. Speaker, I proudly ask you to join me in commending Heidi Tilly for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO JUDGE TOMIE GREEN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Judge Tomie Green. Judge Green received her primary education from the Jackson public school system. Upon completing, she entered Tougaloo College where she obtained a Bachelor of Arts degree. She then earned a Master of Science degree from Jackson State. Judge Green then received her Doctor of Jurisprudence from Mississippi College School of Law. In April of 1999 Judge Green then continued post-graduate training at the National Institute of Trail Advocacy and the National Judicial College, University of Nevada Reno.

Judge Green served in the Mississippi House of Representatives from 1992–1998. She served as Vice Chair of Ethics and a subchair of the Judiciary Committee. While serving in this position Judge Green aided in passing several monumental laws. Judge Green also participated in the creation of the laws that established the Administrative Office of the Courts, the Mississippi Court of Appeals, and the Mississippi Torts Claim Board.

Judge Green practiced law for fifteen years before taking the bench. On January 4, 1999, Judge Green took the oath of office to become the first woman elected to the Hinds County Circuit Court. She also continues to be an adjunct law professor as Mississippi College School of Law.

TRIBUTE TO VERA RISON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me in recognizing an outstanding humanitarian, Vera Rison. Vera is being honored Thursday night at a Community Tribute and Retirement Dinner in my home town of Flint Michigan.

Vera Rison is one of my dearest friends. I treasure her wisdom, her common sense, and her ability to go to the heart of a dilemma and seek a solution. The many years she spent working at Genesee Memorial Hospital gave Vera insight into the problems faced by average families. She has never stopped working to ease the burdens faced by so many. Through the positions she held as chair of the Service Employees International Union Local 79, director of human resources at Amy Jo Manor Housing Complex, the Genesee County Community Mental Health Board, the Substance Abuse Services Board and the Jobs Central Workforce Development Board, Vera has always maintained her vision and commitment to a better future for everyone.

Through her work as a Genesee County Commissioner and a State Representative, Vera was able to see some of her ideas become concrete, working plans. She sponsored a bill to reduce the number of abandoned houses. She also was the driving force behind the renovation of the Amy Jo Manor Housing Complex. In addition, Vera worked tirelessly for individuals in trouble. She frequently advocated on behalf of persons sentenced to prison. She arranged for basic services to be provided for the handicapped and devoted many hours to ensuring the uninsured received health care.

The Genesee District Library paid Vera an awesome compliment when they named the Beecher branch of their library the "Vera B. Rison Library." It is a tremendous tribute that the library, where all persons of every age can come and improve their minds and lives through knowledge, is named for the woman who spent a lifetime witnessing the potential in all persons and pushed them to achieve their personal best.

Mr. Speaker, I ask the House of Representatives to join me in honoring a dear friend, Vera Rison. She is an inspiration to me and I wish her the best as she starts the next phase of her life.

REMEMBERING MS. ESTHER JONES LEE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. LEE. Mr. Speaker, I rise on this day, during Black History Month, to pay tribute to a trail blazing civic leader, Ms. Esther Jones Lee. I take pride in honoring Ms. Jones Lee for her lifetime of dedication to organizing and empowering the African American community, particularly African American women, in their struggle to secure the purportedly unalienable rights promised to the people of this nation at its founding.

Born in Ann Arbor, Michigan in 1885, the daughter of Ms. Mary Wanzer Jones and the Reverend J.W. Jones, Ms. Jones Lee inherited her family's unyielding commitment to serving God and her community. The monumental integrity and deep compassion that came to characterize Ms. Jones Lee's legacy were deeply rooted in the lessons she learned growing up in her father's ministries. After graduating from high school in Chillicothe, Missouri, Ms. Jones Lee was trained in pedagogy and taught high school in Macon, Missouri. In 1904, Reverend Jones and his family relocated to the San Francisco Bay Area, where he was charged by the American Baptist Association with establishing the McGee Avenue Baptist Church, still a vibrant spiritual community to this day. Married in 1908 to Mr. George E. Lee, Ms. Jones Lee had three children, of whom only one, Ms. Esther Lee Higgs, survived infancy.

In the Bay Area, Ms. Jones Lee provided skillful and passionate leadership to a plethora of organizations and clubs, especially the National Association of Colored Women (NACW), which she served for three terms as president of the state chapter. In 1918, Ms. Jones Lee was appointed by the President of the NACW, Ms. Mary Burnett Talbert, to lead California's efforts in the Anti-Lynching Campaign, working closely with State Senator William Knowland to introduce the successful legislation that outlawed this heinous practice. Ms. Jones Lee also served as: Vice President of Child Welfare for the Civic Center of San Francisco, the predecessor of the Big Sister Movement; President of the Women's Work Baptist Association of the State of California; a founding member of the Fannie Wall Children's Home, the area's first home to care for African American orphans; a founder of the Linden Branch YWCA, the area's first YWCA open to all girls, regardless of race; and head of the Women's Division of Northern California for the 1928 Herbert Hoover Campaign.

During her lifetime, the promises of equality, and justice for all made by our nation's framers were not extended to Ms. Esther Jones Lee. Born into a world in which she could neither vote nor hold public office, she found power by raising her voice and taking action where her conscience deemed it necessary. Inspiring and empowering those whose lives she touched, she rose to positions of leadership from which she challenged the status quo, contributed to policy reform, and advocated for equality. While partaking in the club activities expected of women of their social stature, Ms. Jones Lee and her fellow organizers became fierce, courageous, and compassionate political forces, needing no one's permission but their own. I take great pride in joining Ms. Esther Jones Lee's family and the people of California's 9th Congressional District in honoring her memory and celebrating her legacy.

Mr. Speaker, I'd like to include in the RECORD the following articles regarding Ms. Esther Jones Lee.

[From the Oakland Tribune, May 30, 1926]

ACTIVITIES AMONG NEGROES

(by Delilah L. Beasley)

WELCOMING SPEECHES

Mrs. Esther Jones Lee, as president of the northern section of California, will have the honor of welcoming the distinguished group of women to Oakland and Mrs. Corrine Bush Hicks, of Pasadena, state president of the California Federation of Colored Women's clubs, will welcome them to California on the night given over to state. Notwithstanding, the great task there are citizens in the east who have visited Oakland, notably Miss Hallie Q. Brown, who have faith in the citizens rally to the assistance of these brave women and helping them in this great effort which will mean much as an educational development of the race.

The following are appointments given to California women by the national president, Mrs. Mary McCloud [McCleod] Bethune: Regional chairmen for northern section-Temperance, Miss Masterson of Stockton; kindergarten—Mrs.-L.-J.-Williams, Vallejo, headquarters for the national in Washington, D. C., Mrs. H. B. Tilghman; physical education, Esther Jones Lee, Oakland; state chairmen-Peace and foreign relations, Mrs. Irene Bell Ruggles, San Francisco; citizenship, Mrs. Frank Henry, Oakland; temperance, Mrs. Lillian Smith, Oakland; hygiene, Mrs. L.J. Williams Vallejo; arts and crafts, Mrs. Melba Stafford, Oakland; social work and recreation, Esther Jones Lee, Oakland. She is also is local chairman of arrangements for the national.

[From the California Voice, Friday, December 30, 1960]

FEDERATED WOMEN CLUB NOTES—(CALIFORNIA STATE ASSOCIATION)

Maker of History—This is a brief, historical sketch of a personality of pronounced individuality who helped put over remarkable undertakings in all phases of club, church and community work. Mrs. Esther Jones Lee of 1548 Parker Street, Berkeley, began club work in California in 1913 as a member of Mothers Charity Club. Prior to her residence in California, she worked with the Fannie B. Williams Club in Buxton, Iowa, where she was United States post office clerk. Later she taught school in Macon, Missouri.

Mrs. Lee served in every department of the California State Association and was elected to the presidency of the State Association in 1926, becoming the thirteenth president. Following the election to the presidency, she joined Fannie Jackson Coppin Club.

Mrs. Lee was Chairman of Affairs during the Fifteenth Biennial Convention of the National Association of Colored Women's Clubs, Inc., in 1926. She was one of the California women accorded special credit for her influence in obtaining the keys to the City of Oakland for this gigantic meeting—the largest and finest group of colored women that had ever crossed the Continent. At the next National Convention which convened in 1928 in Washington, D.C., Mrs. Mary McCleod Bethune, the national president, fittingly referred to Mrs. Lee as "the local chairman of the National in Oakland, California." Mrs. Lee was overwhelmingly elected a member of the Board of Control. Mrs. Bethune appointed Mrs. Lee as her special representative to the Y.W.C.A Biennial Convention which was meeting in Sacramento, California.

Mrs. Lee attended the Seventeenth Biennial Convention in Hot Springs, Arkansas in 1930. She was delegated to give the response to the address of the Arkansas governor, local officials and others. During the Hoover-for-president campaign, she was head of the Women's Division of Northern California.

Mrs. Lee has given valuable information on numerous historical facets for the State Association's records—two of them being the inadventent birth of the unit called "Northern Federation," and the founding of Fannie Wall Children's Home, and how and why it was named.

During the presidency of the late National President, Mrs. Mary D. Talbert, 1916 to 1920, Mrs. Lee was appointed regional official for California of the Anti-lynching Campaign.

Mrs. Lee has been prominently identified with the women's work of the General Baptist Association of California, its auxilliaries and also fraternal orders, the honor of Club Mother for 1954 was conferred upon her by Fannie Jackson Coppin Club.

Mrs. Lee's service in important offices on the National State, Regional and local club levels have blazed a trail and laid a foundation upon which we are pursuing and building. The potency of her character, intellect, personal energy and Club fealty, has buided the State Association and Fannie Jackson Coppin Club in paths of high purpose and achievement.

RECOGNITION OF KATHERINE TOMLIN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Katherine Tomlin, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1002, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in girl scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the Career Exploration Pin, which involves researching careers, writing résumés, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Katherine made lap blankets for the hidden Lake Care Center.

Mr. Speaker, I proudly ask you to join me in commending Katherine Tomlin for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO LANDRES CHEEKS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I Would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Retired 1st Sergeant Landres Cheeks graduated from Madison County Training School in 1940. He received his Clerk Typist Certificate in 1946 and his NCO Certificate in 1947, from the United States Army NCO Academy.

Ret. 1st Sergeant Cheeks was a 1st Sergeant for 23 of the 30 years in the U.S. Army. He was a personnel sergeant major, medical Intelligence non-commissioned officer, postal clerk during WWII, facilitated driving testing station for non-commissioned officers, served one tour of duty in Vietnam, served four tours of duty in Germany, and served one tour in France. Cheeks was the first black staff non-commissioned officer of the 69th artillery division in Fort Dix, New Jersey. He was the first black 1st Sergeant of the 33rd station hospital in Bremer haven, Germany and the first black 1st Sergeant of the 54th truck company in Hanau, Germany. Cheeks assisted soldiers in absentee ballot voting from 1951–1974.

During 1974–1992 Sergeant Cheeks was owner of Wynn & Cheeks Grocery Store where he managed accounts payable, accounts receivable, ordered stock, supervised daily operation of the business. Cheeks also registered people to vote in the grocery store.

Retired 1st Sergeant Landres Cheeks was the first black appointed layman to become a Member of the Board of Trustee of Madison General Hospital in Canton, Mississippi during 1985–1988. He also was Chairman of the board of the Madison County Voters League which would organize campaign fundraisers, voter registration, absentee ballot, and provide transportation to polls during 1988–1998.

At the present time, Cheeks juggles being Commander of the Boy Scout and Cub Scout of America, fundraiser for Madison County Women for Progress, and Utility Commissioner, City of Canton.

SUPPORTING INTERNATIONAL WOMEN'S DAY

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. SCHAKOWSKY. Mr. Speaker, today I am introducing a resolution supporting the goals of International Women's Day. International Women's Day is celebrated each year on March 8 by the United Nations and millions of people around the world in recognition of the contributions of women and men throughout history who have worked for gender equality and in acknowledgement of the work that has yet to be done.

I am proud to be joined in this effort by the gentlewoman from Illinois (Mrs. BIGGERT), the gentlewoman from California, our distinguished Democratic Leader (Ms. PELOSI), and the gentleman from California, the ranking Democrat on the International Relations Committee (Mr. LANTOS), and several other members. I also want to acknowledge the assistance my colleague from Illinois, the distinguished Chairman of the International Relations Committee (Mr. HYDE), has given me.

Women all over the world contribute to the security and well-being of their communities, families, and nations. Yet, women still have yet to achieve full political and economic equality and millions of women continue to face discrimination, abuse, and violence in their daily lives. International Women's Day serves as a time to recognize this reality and to join together across cultures, languages, nations, ethnicities, and income levels to celebrate a common commitment for equality and justice.

It is my hope that this Resolution will find unanimous support in the House of Representatives as a demonstration of the commitment members share to working for fairness and justice for all people around the world.

I urge the House leadership to schedule this measure for a vote next week so that the members of the House may join our international partners in recognition of International Women's Day.

IN HONOR OF NATIONAL PEACE CORPS DAY, FEBRUARY 28TH, 2003

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. FARR. Mr. Speaker, this Friday is National Peace Corps day. All over the country, former Peace Corps volunteers are bringing their skills, knowledge and experience to schools and community centers, sharing their experiences from all parts of the world.

Since 1961, more than 168,000 have volunteered in the Peace Corps. I was among the first in the mid-sixties. I spent two unforgettable years working as a Peace Corps volunteer in Medellin, Colombia. I have carried that experience with me ever since.

National Peace Corps Day will be a day of reflection for me. As I think back to my experience—and how it led me into public life and ultimately here to the U.S. Congress—I also think of the new opportunities for the next generation. I think of the fifteen volunteers from my home district who are now all over the world serving as Peace Corps volunteers. In particular, I think of Matthew Allen who began his service in Thailand last April. I remember him talking to me, asking me if going into Peace Corps was the right thing to do. I remember telling him that going into Peace Corps would be one of the most important decisions of his life.

It was for Matthew Allen, and thousands like him, that I introduced a bill last Congress—the Peace Corps Charter Act for the 21st Century—to increase the number of volunteers in the Peace Corps. I would like every American, who is qualified and wants to serve in the Peace Corps, to have the same opportunity that I did.

I have introduced the bill again this Congress—H.R. 250. Among other things, it authorizes sufficient funds to double the number of Peace Corps volunteers by 2007. The President shares this goal and I hope that he will support this legislation. The bill also calls for the Peace Corps to enhance person-to-person contacts with the Middle East. It calls for Peace Corps to provide expanded training in HIV/AIDS treatment for volunteers in Africa and Asia.

H.R. 250 also authorizes the creation of a new fund which supports the third goal of the

Peace Corps—bringing the Peace Corps experience home to communities in America. This is exactly the spirit of National Peace Corps Day.

I would ask my colleagues to join me in celebrating Peace Corps today and everyday. Contact Returned Peace Corps Volunteers in their districts. Ask them to bring the story of Peace Corps to their schools and community centers. I would also ask them to support H.R. 250, so that everyone who is willing and able will have the opportunity to become part of this great American experience.

TRAINING FOR REALTIME WRITERS ACT OF 2003

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KIND. Mr. Speaker, I am pleased to sponsor the "Training for Realtime Writers Act of 2003," which I introduced this afternoon with Representative ISAKSON from Georgia. I also would like to thank Senator HARKIN for introducing the companion bill in the Senate.

Today, over 28 million Americans are deaf or hard of hearing. Approximately 90% of these individuals rely on captioning services to participate in mainstream activities. In addition, research has found that many more people can benefit from watching captioning television, such as those learning English as a second language, illiterate adults, young children learning to read, and remedial readers.

Today the potential audience for captioned television is estimated at nearly 100 million, including the deaf and hard-of-hearing. There are approximately 30 million learning English as a second language, 27 million illiterate adults, 12 million young children learning to read, and 3.7 million remedial readers.

Furthermore, the events of September 11th demonstrate how imperative it is to have more closed captions. The captioning industry was strained to capacity in this effort to ensure that round-the-clock news and information was accessible to the deaf and hard of hearing citizens of our country. Without this service, a segment of our population would have been without critical information during a national crisis.

The Telecommunications Act of 1996 mandated that all television programming be fully captioned by 2006. The mandate is unrealistic, however, given the current number of trained closed captioners. Presently, schools are educating only half as many closed captioners as are needed to provide captioning services, leaving thousands of hours of programming unavailable to the deaf or hard of hearing. Thus, this legislation we are introducing today will provide grants to schools to educate students to become proficient in closed captioning and provide this important service to many people.

It is not right for so many of our citizens to be without access to such significant news or be excluded from mainstream activities due to a lack in captioning services. Let us fulfill the promise we made in the Telecommunication Act of 1996 and help the deaf and hard of hearing and many others by increasing the number of qualified closed captioners. This will ensure access to closed captioning television for everyone who requires such services.

RECOGNITION OF TIFFANY TRITCO

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Tiffany Tritco, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1444, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award Project, Tiffany organized an arts and crafts collection for a special needs camp.

Mr. Speaker, I proudly ask you to join me in commending Tiffany Tritco for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

WAR WITH IRAQ

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. MCDERMOTT. Mr. Speaker, I commend this speech by the leader of the liberal party in the House of Lords.

Baroness Williams of Crosby: My Lords, I too thank the Deputy Leader of the House for the very forceful, although not at all untypical, way in which she addressed the House. We on these Benches share completely the objective of the disarmament of Iraq. There is no question about that.

I want to remind the noble Baroness of the second part of Resolution 1441. It states that Iraq should have, "a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council", and that it has been accordingly decided, "to set up an enhanced inspection regime with the aim of bringing to full and verified completion the disarmament process".

The difference between these Benches, the noble Lord, Lord Howell, and the noble Baroness, Lady Symons, is straightforwardly that we believe that the present draft resolutions pre-empt that process, that it is not yet completed, and that there is still an opportunity to avoid war. Let me say very clearly, in case there is any misunderstanding, that we believe that we, as powerfully as any other part of this House, have an obligation to our troops to make absolutely certain that men and women are not put into war, risking their lives, unless it can be shown to be absolutely necessary to do so. It is to that that I intend to address my remarks. The first question is whether we are convinced that Iraq is an imminent and present threat. There is no question but that it could be a potential threat, although I must dispute briefly with the noble Lord, Lord Howell of Guildford. Not only the CIA in the United States but Ministers in this House have on more than one recent occasion admitted that there is no clear evidence to link Al'Qaeda to the Government of Iraq, much as we might find things easier if that were so. That must be stated very explicitly, because repeating a misconception over and again does not turn that misconception into a truth. Therefore, I doubt whether we can show that Iraq is an imminent threat.

If we are seeking imminent threat, I need only quote from a very senior colleague of mine who is the head of the security unit in the Belfer Center at Harvard University. Ash Carter is a former National Security Agency assistant secretary. He said: "News reports late last week indicated that . . . North Korea is trucking the fuel rods away where they can neither be inspected nor entombed by an airstrike . . . as this loose nukes disaster unfolds and the options for dealing with it narrow, the world does nothing".

That is a much more imminent threat.

Secondly, we are not convinced that containment has failed. I can quote from an authoritative source. These are the words of the Prime Minister himself in November 2000: "We believe that the sanctions regime has effectively contained Saddam Hussein in the last 10 years. During this time he has not attacked his neighbours, nor used chemical weapons against his own people".—[Official Report, Commons, 1/11/00; col. 511 W.]

Nor has he done either in the past three years—since that statement.

Another authoritative source said: "Through a process of inspection and verified destruction, the UNSCOM inspectors have demolished more weapons capability than was destroyed by the allied forces during the Gulf war".—[Official Report, Commons, 17/2/98; col. 900.]

Those are the words of Robin Cook, then the Foreign Secretary. Even much more recently, it has been restated more than once that containment has proved more effective in destroying weapons of mass destruction than any war at any time in the past few years. The third issue is whether we believe that the peaceful options have been exhausted. Again, I quote from two unimpeachable sources. The first is the Congressional Research Service of the United States Congress, which said: "In meetings with Blix and ElBaradei in Baghdad on February 8 and 9, 2003, Iraqi officials handed over documents on anthrax, VX, and missile programs . . . On February 10, Iraq notified the UN that it would permit overflights of American U-2, French Mirage, and Russian Antonov aircraft''.

Let us add to that the report in the Independent today, which said: ``Mr. Blix said the details of the weapons''—

I have described when they were handed over to the inspectors—``were `positive steps which need to be explored further'. Asked if there was any indication by the Iraqis of `substantive progress or proactive co-operation' '', which are exactly the requirements mentioned by the noble Baroness, Lady Symons, Mr Blix, a man of few words, replied, ``Yes''. That was only yesterday. We on these Benches are not persuaded that all peaceful options have been exhausted. We point, not to illusions or statements by Members on these Benches, but to clear and unimpeachable sources such as the Congressional Research Service and the chief inspector, Mr Blix himself. None of this would matter so much if the consequences of war were less serious than they are. I wish to say a few words about them. First, the Financial Times states: ``The coalition of the willing, sounds ever more like a coalition of the reluctant''.

Huge pressures are being brought to bear, not least on moderate Muslim countries such as Turkey, Jordan, Egypt and others, to subscribe to being part of an alliance to destroy the Iraqi regime. Those countries have protested over and over again that they do not wish to be involved in the war.

Let me give two examples. There was a great deal of controversy over Turkey because it was argued that it had been refused Patriot missiles as a result of a disagreeable coalition between France and Germany. It later emerged that Turkey had never asked for Patriot missiles or for any of the other equipment that was sent to it. Turkey had asked for consultation under Article 4 of the NATO treaty. It had not invoked Article 5, which is the article concerning mutual defense. Even now, Turkey is driving a colossally hard bargain. Members of the House will have seen that one part of the bargain is that Turkey should be allowed to bring 55,000 troops into northern Iraq—the Kurdish area, much of which is protected by a no-fly-zone—a situation which, at the very least, is likely to foment great anger and, at worst, could lead to civil war and the disintegration of Iraq. It has also—incidentally, almost—helped to destroy the real prospect of a united Cyprus entering the European Union some time in the next seven or eight years.

The International Crisis Group—I declare an interest as a board member—has discovered that there is tremendous public concern about the possibility of a war against Iraq in the Middle East. In its report, it states: ``ICG interviews throughout the region, in Saudi Arabia, Yemen, Kuwait, Jordan, Egypt and Algeria, indicate that there exists wide and deep scepticism about US motives''. That may be unfair, but it is a fact that we have to take into account when deciding whether the price of war is too high. It also emphasizes the importance of pursuing every other possible alternative.

I need not add the special complication of the wretched situation in the Middle East, referred to in another place yesterday by that distinguished and brave Member of Parliament, Gerald Kaufman, as the daily almost casual slaughter of Palestinians by the IDF and the daily almost casual slaughter of Israelis by terrorists from the West Bank and Gaza. We cannot pretend that this is not a desperately serious complication. With great respect to the noble Baroness, Lady Symons, she and I both know that the reason why the UN resolutions are mandatory on Iraq, and not mandatory on Israel, which has also broken many of them, is because the United States refuses to agree to their being made mandatory on Israel.

I have the greatest respect for the Prime Minister. He has virtually ripped himself into pieces trying to hold the Administration in the United States to the UN process. He is the reason why George Bush went to the United Nations: I pay the Prime Minister great credit for that. But the distinction I have just drawn between Israel and Iraq shows all too clearly that it is not the Prime Minister who is in the driving seat. It is concern about who is in the driving seat that underlies much of the scepticism.

I do not need to mention at length the possible humanitarian consequences of a war. That has been done effectively by the noble Lord, Lord Howell of Guildford. But they are extreme. One has only to consider the desperate plight with regard to food. According to a leaked UN document, 30 per cent of children under five will be at risk of death from malnutrition if the war lasts more than a week or so. There are also warnings about cholera and many other extreme diseases. The warnings come from a United Nations leaked document, called the ``Humanitarian Consequences of the War''.

Before I come to my conclusion, I shall say in the words of a famous politician whom many Labour Members of this House will remember, ``You don't need to look at the crystal if you can read the book''.

What is the book? The book concerns Afghanistan. I shall quote again from two sources, the first of which is The Times of 13 February, which states that ``large parts of the country are once more on the verge of anarchy''.

An article by the senior fellow at the American Council on Foreign Relations—I declare an interest as a member of its international advisory council—states: ``Basic security and stability have still not been achieved''. Worst of all, when the President drew up his budget for 2004, he forgot to put even a penny for the reconstruction of Afghanistan into it. Paul Krugman, of the New York Times, states: ``The Bush team forgot about it. Embarrassed Congressional staff members had to write in $300 million to cover the lapse''.

So much for Afghanistan, already largely forgotten, coming back to anarchy, and neglected by the international community.

I conclude with two thoughts. First, there is clear evidence that the obsession with Iraq is drawing us away from what should be our first priority, which is to attack international terrorism. For that we need the widest possible support. I shall not go on quoting, but it was President Jimmy Carter who said a few days ago that the obsession with Iraq had essentially diverted the American Administration from concern about terrorism. There is more evidence that we are beginning to neglect the remnants—not dead remnants, but live ones—of Al'Qaeda in many other parts of the world. Finally, there is a fundamental thought, to which my colleague Lord Wallace of Saltaire will address himself. There is undoubtedly among European opinion, including the United Kingdom, more than 80 per cent opposition to a war without UN support and considerable opposition to a war even with UN support. That does not reflect anti-Americanism, except perhaps among a small minority. Many of us regard America as one of the most enterprising, imaginative, democratic and open societies in the world. What it reflects is concern with an Administration propelled to some extent by what I can only describe as a fundamentalist Christian and fundamentalist Jewish drive that is almost as powerful as fundamentalist Islam itself. The Administration has set aside the structures of the multilateral community by removing themselves from treaties and conventions, by refusing to sign the Kyoto agreement or agreeing to the biological weapons convention being resumed, and now by embarking on nuclear plans that threaten even the nuclear proliferation treaty. It is who is in the driving seat that frightens many of us: certainly not that great country the United States.

INTRODUCTION OF THE PAUL D. WELLSTONE MENTAL HEALTH PARITY ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. STARK. Mr. Speaker, I rise with my colleagues, Representatives PATRICK KENNEDY, JIM RAMSTAD and many others, to introduce the Paul D. Wellstone Mental Health Parity Act (MHPA) in the House. This bill, well named in memory of a dearly missed Congressional colleague and mental health advocate, ends a major barrier to mental health care by providing full parity in the health insurance coverage of mental illness with physical illness. It is time to heed the call of the 54 million Americans who suffer with the effects of mental illness every day of their lives and change this pernicious form of discrimination.

While the MHPA has received substantial bipartisan support in Congress and is supported in concept by the current administration, there remains a chorus of naysayers; primarily business lobbyists and insurance industry representatives. This chorus chants that this bill removes substantial flexibility by mandating the type of health benefits to offer. Yet examination of the facts refutes their contention. The bill does not require employers to offer mental health coverage or cover specific mental health services, it excludes parity for substance abuse and out-of-network services, and businesses with less than 50 employees are exempt. Flexibility is not impaired.

The chorus of naysayers chants that this legislation would significantly raise health benefit costs and make these benefits too expensive for employers to offer. Again, examination of the facts refutes their contention. A recent Congressional Budget Office (CBO) projection estimated that passage of this bill would increase group health plan premiums by an average of 0.9 percent. Similarly, a PricewaterhouseCoopers analysis of the bill projected a 1 percent increase in costs or an average of $1.32 per month per plan enrollee. These projections are consistent with the actual findings in states that already provide for full mental health parity by law and the experience of the Federal Employee Health Benefits Program that instituted parity for both mental health and substance abuse benefits in 2001. This approximate 1 percent increase is a small price to pay to increase mental health access and end discriminatory mental health insurance coverage practices. Furthermore, this increase in costs does not take into account the experience of several large employers (e.g. Delta Airlines) that found that increased access to mental health benefits led to decreases in other areas of health care costs and decreased employee absence.

In exasperation, the naysayers then chant that this bill covers an excessively broad range of psychiatric conditions which will open the door to the dubious complaints of the "worried well" and lead to over utilization and excessive cost. These contentions deny the reality that the bill requires parity only for those services that are "medically necessary" which is defined by the plan or issuer's criteria. In fact, symptoms that do not cause "clinically significant impairment or distress" will not be covered.

Thus, in retrospect, the concerns of this chorus are not supported by the data. Then, what can be the origin of this resistance to mental health parity?

A thousand years ago, people displaying symptoms of mental illness were stoned or burned at the stakes. The stigma attached to the mentally ill continues today in a more latent, but no less malicious form. It manifests itself by the employer who finds reasons not to hire or the apartment owner who is less likely to lease to the mentally ill. And, I believe it is manifesting itself in this excessive opposition to the efforts of the mentally ill to obtain treatment.

It is time to overcome the stigma associated with mental illness and put an end to this form of discrimination. It is time for the Administration to take an active role in supporting this bill that facilitates access to mental health services for those in need. It is time for Congress to enact the Paul D. Wellstone Mental Health Parity Act. I am pleased to join with my colleagues to again support this long overdue improvement in our health care system. I urge its speedy passage.

THE RENEWABLE FUEL EQUITY ACT

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. HUNTER. Mr. Speaker, today, along with my colleague from Colorado, MARK UDALL, I am reintroducing the Renewable Fuel Equity Act of 2003. The energy crises that struck California in 2001 and resonated across the country taught us many lessons—one of which is the need for our country to expand and diversify the production of energy from renewable resources.

Solar, wind, hydro power, biomass, and geothermal energy are each potentially enormous energy resources and every state has renewable resource potential. Unfortunately, existing renewable energy resources are not spread uniformly across the country. The current tax law creates regional and technological inequities by failing to provide uniform benefits for all renewable energy resources. For example, the Section 45 production tax credit, enacted in 1992, has spurred significant new investment, but it only applies to wind power facilities. Since its inception, the production tax credit has added thousands of megawatts of wind power to our electricity grid. Imagine the impact on our communities if the production tax credit was available to all renewable energy technology.

Clean power production provides greater reliability for our electricity system while promoting cleaner air and water. In addition, according to the Energy Information Agency, expanding renewable power production helps reduce the risk of future price increases for electricity.

Today, renewable power sources provide consumers reliable power that is cost-effective over the long run. Unfortunately, their high, initial capital costs discourages investment in renewables. Providing tax incentives for new renewable power production can make the difference.

The federal production tax credit has demonstrated its effectiveness in spurring investment in new wind power generation. The Renewable Fuel Equity Act would expand this proven incentive to all of the renewable energy resources—wind, biomass, incremental hydro power, solar and geothermal.

For smaller power systems, particularly those not connected to the grid, the production tax credit is not an effective stimulus. Under current law, it does not apply to off-grid systems, and it is too complex for small businesses to use. To address this situation, our bill would make a 20 percent investment tax credit available to all small renewable technologies as an alternative.

Investment in new renewable power is good for the economy and the environment, and providing these tax incentives will spur new investment without cutting Treasury revenues. Studies by the National Renewable Energy Laboratory and others indicate that expanding tax incentives for new renewable power systems are likely to have negligible net costs for the Treasury. This is because renewable power plants are so capital intensive they already pay significantly higher federal income taxes on the power produced.

As the 108th Congress begins the debate over a national energy policy, I believe production and investment tax credits for renewable fuel sources are an important component of any comprehensive policy. Exploiting our renewable fuels is one of our safest, cleanest and most effective ways of ensuring our nations energy independence. I hope that my colleagues will join me in supporting renewable fuel development by cosponsoring this important bill.

RECOGNIZING LACEY McELROY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Lacey McElroy, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1619, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Lacey organized an infant and child book drive for early reading programs.

Mr. Speaker, I proudly ask you to join me in commending Lacey McElroy for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO OPRAH WINFREY

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Ms. Oprah Winfrey. Ms. Winfrey was born in Kosciusko, Mississippi in 1954. Due to her father being in the service, Ms. Winfrey was raised by her grandmother.

Ms. Winfrey began her public career while in college, where she became a co-anchor. In the years of 1977–1984 Ms. Winfrey was the co-host of "Baltimore is Talking". In 1984, she took over ABC's "AM Chicago" where her ratings surpassed the top performer Phil Donahue. Ms. Winfrey then became the performer of her own show where she has become a role model for many. The Oprah Winfrey Show is different from all others because it continues to reinvent itself and continues to make a difference in people's lives. In 1986 the show became syndicated.

Ms. Winfrey later founded Harpo which is her own production company. Her acclaimed performance in the Color Purple in 1985 earned Ms. Winfrey an Academy Award nomination. Ms. Winfrey continues to make endeavors that she believes in.

INTRODUCTION OF THE "CARTER G. WOODSON HOME NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 2003"

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. NORTON. Mr. Speaker, in recognition of Black History Month, I rise today to introduce the Carter G. Woodson Home National Historic Site Establishment Act of 2003, a bill directing the National Park Service (NPS) to take ownership, restore and manage the historic Shaw home of Carter G. Woodson, "the father of Black History." The bill would authorize the NPS to "preserve, protect and interpret for the benefit, education and inspiration of present and future generations," the home where Woodson lived from 1915 to 1950. This legislation also authorizes the NPS to rehabilitate adjacent properties on either side of the home to facilitate tourism. The Association for the Study of African American Life and History (ASALH), which Woodson founded, also would be housed on the site, as it was originally. My good friend Senator MARY LANDRIEU (D–LA) will be the sponsor of this legislation in the Senate.

Congress passed my bill, H.R. 3201, the Carter G. Woodson Home National Historic Site Study Act, in 2000, to begin the process of making the property at 1538 Ninth Street, NW a national historic site within the jurisdiction of the National Park Service. A NPS study, as mandated by the legislation, is required before the NPS can take control of property. The study determined that the Woodson Home is suitable and feasible for designation as a unit of the park system following the transfer of title from its current owner, the ASALH. The bill I introduce today is necessary in order for the NPS to receive the appropriation for extensive renovation of the site.

I am particularly pleased by the proposed rehabilitation of the entire block that is linked to the legislation I introduce today to rehabilitate the Woodson home. The NPS would work with Shiloh Community Development Corporation, established by Shiloh Baptist Church, which owns almost all of the property on the block of the Woodson home. The Shiloh Corporation would convert the block of homes to senior independent living housing, maintaining the historic facade of the row houses.

As Black History Month comes to a close, we open a new chapter in the story of an educator who is most responsible for the annual recognition of the contributions of black Americans in the nation's history and culture. I have introduced this legislation to honor Dr. Carter G. Woodson, a distinguished black American and founder of the Association of Negro Life and History, by authorizing the NPS to maintain in perpetuity his home at 1538 Ninth Street, N.W., here in the District of Columbia, as a National Historic Site under the jurisdiction of the National Park Service. The significance of this home was recognized in 1976, when it was designated as a National Historic Landmark. I introduce this bill today to assure that the nation's pride and purpose in celebrating Black History Month are not marred by neglect of the home of the founder of the commemoration and of the study of black history itself.

Dr. Woodson was a distinguished American historian who established African-American history as a discipline and spent a lifetime uncovering the contributions of African-Americans to our nation's history. He founded and performed his work through the Association for the Study of Negro Life and History (ASNLH), which has since been renamed the Association for the Study of African-American Life and History (ASALH). Among its enduring accomplishments, ASNLH, under Dr. Woodson's leadership, instituted Negro History Week in 1926, to be observed in February during the week of the birthdays of Abraham Lincoln and Frederick Douglass. Today, of course, Negro History Week, which was mostly celebrated in segregated schools, like my own here in the District when I was a child, and in Historically Black Colleges and Universities, has gained support and participation throughout the country among people of all backgrounds as Black History Month.

Dr. Woodson, the son of former slaves, earned a Ph.D. degree from Harvard University in 1912, becoming only the second African-American to receive a doctorate from Harvard after the great W.E.B. DuBois. Woodson's personal educational achievement was extraordinary in itself, especially for a man who had been denied access to public education in Canton, Virginia, where Woodson was born in 1875. As a result, Dr. Woodson did not begin his formal education until he was 20 years old, after he moved to Huntington, West Virginia, where he received his high school diploma two years later. He then entered Berea College in Kentucky, where he received his bachelor's degree in 1897. Woodson continued his education at the University of Chicago, where he earned his A.B. and M.A. degrees, and then he got his Ph.D. from Harvard University.

During much of Dr. Woodson's life, there was widespread ignorance and very little information concerning African-American life and history. With his extensive studies, Woodson almost single-handedly established African-American historiography. Dr. Woodson's research, literally uncovering black history, helped to educate the American public about the contributions of African-Americans to the nation's history and culture. Through painstaking scholarship and historical research, his work helped reduce the stereotypes captured in pervasively negative portrayals of black people that have marred our history as a nation, To remedy these stereotypes, Dr. Woodson in 1915 founded ASNLH. Through ASNLH, Dr. Woodson dedicated his life to educating the American public about the contributions of black Americans to the nation's history and culture. This work in bringing history to bear where prejudice and racism had held sway has played an indispensable role in reducing prejudice and making the need for civil rights remedies clear.

To assure publication, under Dr. Woodson's leadership, ASNLH in 1920 also founded the Associated Publishers, Inc. for the publication of research on African-American history. Dr. Woodson published his seminal work, The Negro in Our History (1922), and many others under Associated Publishers, and the publishing company provided an outlet for scholarly works by numerous other black scholars. ASNLH also circulated two periodicals: the Negro History Bulletin, designed for mass consumption, and the Journal of Negro History, which was primarily directed to the academic community.

Dr. Woodson directed ASNLH's operations out of his home at 1538 Ninth Street, NW., Washington, DC in the historic Shaw neighborhood. From there, he trained researchers and staff and managed the organization's budget and fundraising efforts, while at the same time pursuing his own extraordinary discoveries in African-American history. The three-story Victorian style house, built in 1890, served as the headquarters of ASNLH into the early 70's, well after Dr. Woodson's death in 1950. In 1976, the house was designated as a National Historic Landmark. However, it has been unoccupied since the early 80's, and today, it stands boarded up and sorely in need of renovation. The walls inside the house are crumbling, there is termite infestation, water seeps through the roof during heavy rainstorms, and the house also constitutes a fire hazard jeopardizing adjacent buildings. This house that is a priceless American treasure must not be lost.

Mr. Speaker, passage of the Carter G. Woodson Home National Historic Site Establishment Act of 2003, represents a concrete way for the House to commemorate Black History Month, by preserving the home and legacy of its founder, Dr. Carter G. Woodson. I urge my colleagues to support this important measure.

RECOGNIZING FEBRUARY AS BLACK HISTORY MONTH

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to recognize February as Black History Month. As the month draws to a close, I urge my colleagues to join me as we commemorate and honor the achievements of African-Americans throughout our nation's history.

Black history month, a tradition for seven decades, is celebrated each February in cities and towns across the United States. During this time, we honor and celebrate the contributions African-Americans have made to music, the arts, and academics and we recall the many important milestones in black history. In 1915, Dr. Carter Godwin Woodson recognized the need for our country to gain a more complete and informed understanding of African American history. Dr. Woodson chose the second week of February because two people he felt had dramatically affected the lives of Black Americans were born during that month: Abraham Lincoln and Frederick Douglass. In addition, the month of February is significant for the birthdays of W.E.B. DuBois, Langston Hughes, Eubie Blake and the founding of the NAACP.

I am pleased to join in this celebration and I hope that every person will take a moment to reflect on the life and legacies of individuals like Harriet Tubman, Rosa Parks and Thurgood Marshall. Their fight, and the work of so many others, helped bring social justice to communities throughout the country. As we celebrate this year's theme, "The Souls of Black Folk: Centennial Reflections," we also honor the achievements and legacy of African-Americans and are reminded that we must continue to remember the contributions and sacrifices throughout history.

I encourage all Americans to gain awareness of and appreciation for African-American history.

NATIONAL EYE DONOR MONTH

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. INSLEE. Mr. Speaker, I rise today to bring to the attention of my colleagues and the citizens of this great nation that March is National Eye Donor Month.

I rise also because cornea transplantation is an issue with which I have had some personal experience. One of my sons is one of the 46,000 patients who receive cornea transplants each year, Through the altruistic act of donation, my son's quality of life was substantially improved. These transplant surgeries can relieve patients of glared or blurred vision, painful swelling, and can effectively avoid corneal blindness, something that afflicts over forty thousand Americans every year.

As you may know Mr. Speaker, the first corneal transplant was performed in 1905, and the first eye bank opened in New York in 1944. Since then, eye banks have flourished nationwide and over half a million patients have received the gift of sight. These nonprofit organizations have also been instrumental in the advancement of medical science. Their facilitation and safeguarding of these precious gifts have allowed researchers to promulgate transplant procedures that have resulted in extraordinarily high success rates.

The achievements of eye banks are self-evident. Currently, eye banks meet our nation's need for corneal and sclera tissue. In 2002, 50,857 corneal grafts, given by over 46,000 donors, were supplied by U.S. eye banks. Today, every American who needs a corneal transplant can expect to receive one due to the generous donation of another. It is also important to note that the number of eye and tissue donors is enormous when compared to donors of solid organs. Approximately 10 individuals donate eyes and tissue for every person that donates organs.

Finally, Mr. Speaker, it has been brought to my attention that over one million Americans age 40 and over are currently blind, and that an additional 2.4 million are visually impaired. It is speculated that over the next 30 years, with the retirement of the Baby Boom Generation, this problem will double. I would therefore ask and encourage my colleagues, as well as all Americans, to sign a donor card and to speak with their loved ones about their donation wishes. Under the auspices of the Eye Bank Association of America, the restoration of sight is a miracle that has become reality in our lifetime. I urge this Congress to celebrate their accomplishments, and to become more involved in matters relating to transplantation.

RECOGNITION OF AMANDA TOOMEY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Amanda Toomey, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 3083, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Amanda led a Daisy Troop.

Mr. Speaker, I proudly ask you to join me in commending Amanda Toomey for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of The Gold Award.

TRIBUTE TO SENATOR DAVID JORDAN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today, I rise to pay tribute to Senator David Jordan. Senator Jordan earned a BS degree from Mississippi Valley State University. He went on to earn a MS degree in Chemistry from the University of Wyoming. Senator Jordan then went on to become a teacher.

Senator Jordan has also been very active in fighting for civil rights and politics. He has participated in many boycotts, marches, and class-action suits. Senator Jordan required more time and services in teaching people how to use voting machines. Senator Jordan also fought on behalf of the Second Congressional District during recent redistricting.

Senator Jordan has also served as President of the Greenwood Voter's League and President of the Greenwood City council. He was first elected to the state Senate in 1983. Senator Jordan has had a great deal of success during his time in office.

IMPROVE VETERANS' ACCESS TO PRESCRIPTION MEDICATIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KLECZKA. Mr. Speaker, today I am again introducing legislation, the Veterans Medication Accessibility Act, which would permit veterans to obtain prescription medications from Veterans Affairs (VA) hospitals using prescriptions written by their family doctor. This legislation is identical to H.R. 1717, a bill I introduced in the last Congress.

Our nation's veterans are eligible to receive health care at VA facilities for illnesses and injuries that are not only service-related but also those incurred after their service. Because the VA acknowledges that some veterans have more severe ailments, a veteran is placed in one of seven priority categories when seeking care. Those with serious service-connected disabilities are placed in a high priority category while those in generally good health and with income exceeding a certain amount are placed in a lower priority group for scheduling of care.

Currently, those veterans that do not have service-connected injuries and whose income is above the level that makes them eligible for free care may fill their prescriptions at VA facilities for the low cost of $7 per prescription per 30-day supply. However, in order to obtain these medicates from the VA, these veterans must first receive an outpatient visit with a VA physician.

While I have heard from many veterans who are eager to take advantage of reduced-cost medications, many are not disabled, poor, and do not suffer from a service-connected ailment, which means they must often wait from several months to over a year for their requisite outpatient visit. This places an unnecessary financial burden on our veterans who must pay retail prices to fill their prescriptions while they wait to see a VA primary care physician. This policy can also impose a health burden, as this long wait may discourage veterans from seeking VA medication treatment altogether.

My legislation would allow veterans immediate access to needed medications by allowing them to fill prescriptions written by their family doctor at the VA.

This change would provide our veterans with timely access to low-cost prescription drugs while also reducing the number of outpatient visits that VA physicians must perform each year. VA facilities would then be able to devote more time and care to those veterans who require inpatient services.

I urge my colleagues to cosponsor this important legislation to give our nation's veterans prompt access to the prescription medications that they need and have earned.

INTRODUCTION OF THE FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mrs. MALONEY. Mr. Speaker, ten years ago this month, President Clinton signed into law the Family and Medical Leave Act (PL 103–3), legislation that allows employees to take time off from work to care for a new baby or sick family member. Because of this landmark legislation, more than 35 million Americans have been able to take unpaid leave without the risk of losing their jobs.

Today, I am introducing the Family and Medical Leave Enhancement Act. Building upon the success of the 1993 Family and Medical Leave Act (FMLA), this legislation would allow more people to benefit from FMLA by allowing employees in companies with more than 25 employees to take Family and Medical Leave and would extend employee leave for workers to meet their family's needs. The legislation includes 24 hours of leave (during any 12-month period) for parents and grandparents to go to parent-teacher conferences or to take their children, grandchildren or other family members to the doctor for regular medical or dental appointments.

Currently, the FMLA allows qualified workers to take up to 12 weeks of unpaid leave to care for newborns, seek emergency medical care for themselves, parents, children under 18 or a legal spouse. My legislation would add commonsense enhancements to FMLA.

In 1997, this legislative measure was supported by President Bill Clinton. In February 1997, President Clinton said, "I call upon Congress to expand the family leave law to give parents an additional 24 hours of unpaid leave each year to take a child or an elderly relative to a regular doctor's appointment or to attend parent-teacher conferences at school. In so doing, we'll make our families stronger and our workers more productive, building the kind of country and economy we all want for our children."

On behalf of America's families, I urge my fellow colleagues to join me in support of the Family and Medical Leave Enhancement Act.

INTRODUCTION OF THE CÉSAR ESTRADA CHÁVEZ LANDS LEGACY STUDY ACT

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. SOLIS. Mr. Speaker, I proudly introduce the César Estrada Chávez Land Legacy Study Act. This bill will look for ways to honor César Estrada Chávez, founder of the United Farm Workers and passionate champion of human and civil rights.

Specifically, the bill directs the National Park Service to look for ways to recognize Chávez's contributions to our society through historical sites and park areas. It is the first step in honoring his tremendous accomplishments and the local communities where his footprints were made.

César Chávez was a humble man. Little did anyone know the greatness that he would bestow on future generations.

In his early childhood, César Chávez was raised as a farm worker in Yuma, Arizona. Raised during the Great Depression, his family lost everything and was forced to join the thousands of farm workers that wandered the Southwest to find work. During his youth, the Chávez family migrated throughout the Southwest, working in various farms that fed our country.

The young César Chávez experienced first hand the hardships and injustices of the thousands of farm workers at that time. His home was barely livable and his school hardly fit to be called schoolhouse.

Unfair labor practices—harassment, abuse, long hours, low pay, hazardous working conditions and limited education opportunities kept farm workers from being self-sufficient and empowered citizens.

Witnessing and experiencing this lifestyle, César Chávez sought to make changes in the way farm workers were treated.

He united many others who also suffered similar atrocities with those who empathized with the struggle to become part of the union movement. In 1952, he left the fields and joined the Community Service Organization. There he conducted voter registration drives and campaigns against racial and economic discrimination.

In 1962, he took his vast experience, his compassion, and his brothers and sisters in this multi-ethnic struggle and started the National Farmworkers Association—today's United Farmworkers of America.

The UFW succeeded in organizing the oppressed. They overcame this oppression through boycotts and pickets, and when all else failed, hunger strikes.

Chávez was a student of Mahatma Gandhi's non-violent philosophies. He knew that you cannot unite people through violent means, but you can connect them by joining hands in peaceful demonstration.

Since its inception, the UFW has achieved incredible results through its organization. Fair wages, health care coverage, pension benefits, housing, pesticide regulations, and countless other rights and protections are more a reality because of the UFW and in turn because of its founder—César E. Chávez.

In the past, we have honored other heroes, like Martin Luther King, Jr. and the Civil Rights Movement, through national parks and land. The life of César Chávez and his family provides an outstanding opportunity to demonstrate and interpret the history of agricultural labor in the west through the National Parks Service.

RECOGNITION OF SABRINA WELLS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Sabrina Wells, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 300, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the gold award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Sabrina organized a golf clinic for middle and high school girls.

Mr. Speaker, I proudly ask you to join me in commending Sabrina Wells for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO SHIRLEY HALL NICHOLS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Shirley Hall Nichols. Mrs. Nichols is a native of Leake County in Mississippi. After earning a bachelor's degree from Alcorn State University in 1979, she began working as a paraprofessional at Carthage Elementary School. Later that year she began teaching secondary math at Velma Jackson High School.

In 1997, Mrs. Nichols was given the opportunity to earn a masters degree from Mississippi State University. Mrs. Nichols earned her masters in School Administration in 1999, where she went on to serve as principal of Amanda Elzy Elementary School and later East Elementary/Middle School.

Mrs. Nichols became the first Afro-American to hold the position of Asst. Superintendent of Education in Leake County. She is still active in many educational and community organizations. Mrs. Nichols is currently working towards a doctorate degree at Mississippi State University in school administration.

REGARDING TITLE IX

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mrs. McCARTHY of New York. Mr. Speaker, I rise today in strong support for Title IX. Today Secretary Paige has released a report that I believe drastically weakens the purpose of Title IX.

Mr. Speaker, changes to the Title IX standards as applied to athletics are not warranted or necessary. Modifications to the standards that would limit future opportunities for women in favor of expanded opportunities for men would violate the goal of gender equity. Using the results of an interest survey, as the commission report recommends, would limit women's participation opportunities, and be factually inaccurate.

Mr. Speaker, what we should be doing to ensure equal opportunity is enforcing Title IX and implementing its policies at every level of education. The responsibility of the federal government is to ensure equal opportunity, not to ensure that particular sports teams are added, discontinued, or maintained.

Currently, there are 2.8 million girls participating in high school sports, but there is only room for 150,000 women in college sports. This disparity is obscene. We need to do a better job at providing equal opportunities for all athletes.

Mr. Speaker, enforcing Title IX is just the right thing to do and the reality is that if our colleges and universities want to benefit from federal dollars, then they must provide gender equality at their institutions. Gender equity does not end at the admissions door either, gender equity in athletics is a must.

Mr. Speaker, I hope that this Congress refuses to fall into this trap of pitting sports teams against each other. We must realize it is about civil rights first and foremost.

200TH ANNIVERSARY OF THE CITY OF BUTLER, PA

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. ENGLISH. Mr. Speaker, I rise today to recognize and honor the 200th anniversary of the city of Butler in western Pennsylvania. This charming city has a long and rich history and I am confident that it will enjoy a future filled with continuous growth and prosperity.

Butler, like the rest of our great country, was originally inhabited by the Native-American tribes; the land was used as a hunting ground by Indians from the Iroquois Nation during European settlement. The Venango Trail, which runs through Butler, was commonly traveled by settlers in colonial times and was famously traveled by George Washington in the mid 1700's.

Named for Richard Butler, one of Washington's generals in the Revolutionary War, the town of Butler was officially established in 1803. Over the next two hundred years, the city of Butler flourished and became known for its steel industry. In early March, Butler will celebrate its 200th anniversary. May it celebrate for many years to come.

Mr. Speaker, I hope my colleagues will join me in congratulating the city of Butler, Pennsylvania on their 200th anniversary celebration.

NATIONAL PEACE CORPS DAY

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SHAYS. Mr. Speaker, I join my colleagues in celebrating National Peace Corps Day.

Since its founding in 1961, the Peace Corps has become an enduring symbol of our Nation's commitment to encourage progress, provide opportunities, and promote world peace and friendship at the grass-roots level in the developing world.

To date, more than 168,000 Americans responded to our Nation's call to service by becoming Peace Corps Volunteers in 136 countries. Volunteers serve at the grassroots level in villages and towns around the globe. Living and working within local communities, volunteers serve as teachers, farmers, foresters and small business advisors, dedicated to improving the lives of those around them. In doing so, they make significant and lasting contributions to communities and individuals around the world.

Volunteers, enriched by their experiences overseas, return to the United States with a commitment to service, as well as the skills and interest in world affairs needed to be leaders in the global community. I believe I would not be a Member of Congress today were it not for my experience in the Peace Corps and I believe I am a better person because of this service.

I would also like to recognize the Peace Corp Volunteers currently serving from Connecticut's Fourth District: Allison R. Ball in Micronesia; Megan Banigan in Guatemala; Dario Borghesan in Togo; Emily J. Bristle in Mali; Camilla A. Brooks in the Philippines; Nkechi N. Eneh in Mauritania; Sondra E. Ganelli in Samoa; Emily R. Hamilton in Paraguay; Timothy Mills in Senegal; Peter T. Nasuti in Uzbekistan; Lindsay B. Nemirow in the Dominican Republic; Matthew G. O'Driscoll in Nicaragua; Brooke J. Oppenheimer in Gambia; David M. Ottaviano in Panama; Aimee E. Petras in Morocco; and Deva N. Rama in Guatemala.

National Peace Corps Day honors its Volunteers, past and present, and reaffirms our country's commitment to helping people help themselves throughout the world.

INTRODUCTION OF THE DETENTION OF ENEMY COMBATANTS ACT

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SCHIFF. Mr. Speaker, today I am introducing, with my colleague Mr. FRANK of Massachusetts, the Detention of Enemy Combatants Act to provide authorization for the detainment of "enemy combatants" in the war on terrorism while guaranteeing that they are granted timely access to legal counsel and judicial review.

In the war on terrorism, the term enemy combatant has been broadly defined. In some cases, American citizens have been deemed "enemy combatants" and incarcerated indefinitely without access to counsel or the courts. This has resulted in an unprecedented accretion of power over American citizens.

After the shameful internment of Japanese Americans during World War II, we must be vigilant to protect against the government's decision to detain, perhaps indefinitely, any American without adequate review of the basis of its decision.

Inspired in part by the internment of Japanese Americans and by the anti-spying excesses of the Cold War, Congress in 1971 passed an Act providing that "no citizens shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress." Congress has yet to authorize the detention of citizens in the war on terrorism, yet American citizens have in fact been detained as enemy combatants.

For this reason, my colleague Mr. FRANK and I are introducing the Detention of Enemy Combatants Act, authorizing the government to detain an enemy combatant who is a United States person or resident who is a member of al Qaeda, or knowingly cooperated with a member of al Qaeda in the planning, authorizing, committing, aiding, or abetting of one or more terrorist acts against the United States. Furthermore, our bill requires that detainees be guaranteed timely access to legal counsel and meaningful judicial review to challenge the basis for a detention.

While we must grant broad latitude to our armed forces when it comes to protecting national security, American citizens should not be held indefinitely upon the sole determination of one branch of government without access to counsel or judicial review of those determinations. We must ensure that we do not sacrifice the Constitutional rights we pledged to uphold, and without which, none of us are safe from unwarranted intrusions on our liberty.

Mr. Speaker, in sum, the Detention of Enemy Combatants Act will provide for clear standards and procedures under which American citizens or lawful residents believed to be members of al Qaeda or its supporters may be detained as enemy combatants while also provided due process.

TRIBUTE TO MR. MICHAEL J. QUIRK

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. MILLER of Florida. Mr. Speaker, I rise today to honor one of this nation's most dedicated citizens, Michael J. Quirk. At a time when the President is encouraging all Americans to serve their country in a volunteer capacity, there is no greater example than that of Mr. Quirk. For over 30 years he fought for this nation in the United States military and for the past 22 years, he has continued his dedication to his nation by serving as a volunteer in the United States Coast Guard Auxiliary. On March 8th, 2003, the Coast Guard Auxiliary will honor over a half of a decade of service as Mr. Quirk begins his retirement.

During World War II, Mr. Quirk was a member of the famed 56th Fighter Group of the U.S. Army Air Corps and achieved the status of Double-Ace. Shot down on his 100th mission, he was subsequently held as a prisoner-of-war at Stalag Luft I, Barth, Germany until April, 1945. For his commitment and bravery in the Second World War, he received the Silver Star and was additionally awarded the Purple Heart for wounds he suffered when his plane was shot down.

Mr. Quirk returned to the U.S. in 1945 where he entered Catholic University and pursued his degree. In 1947 though, the call to serve his nation yearned in his heart and he returned to military, joining the U.S. Air Force where he would remain for the next 30 years. Over the course of his career in the U.S. Air Force, he flew with the 4th Fighter Group flying F–80 Shooting Stars, at Langley Air Force Base flying F–86 Sabre jets, in La Paz, Bolivia training Bolivian pilots to fly the P–47, and served at the Central Air Defense Force from 1951–52. In addition, he was the Commander of the 87th Fighter Interceptor Squadron and flew with the 453rd Tactical Fighter Training Wing. After over 30 years of military service, Mr. Quirk retired from the U.S. Air Force as a Colonel in 1977.

Shortly thereafter, Mr. Quirk and his wife Kit joined the U.S. Coast Guard Auxiliary as members of the voluntary division of the U.S. Coast Guard. Rising through the ranks, he was named Commodore of the 8th Coastal Region in 1990.

Mr. Speaker, I would like to offer my sincere and heartfelt congratulations to Mr. Michael J. Quirk on his retirement from the U.S. Coast Guard Auxiliary. His contributions to the United States of America are significant and impressive and I consider him a patriot of the highest order. On this such occasion, we honor one of America's greatest citizens; a committed soldier and dedicated volunteer.

H.J. RES. 4

HON. TIMOTHY J. RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. RYAN of Ohio. Mr. Speaker, I rise today to express my concerns with certain provisions in H.J. Res. 4, specifically the provisions that expand logging in federal forests and prevent any administrative or judicial review of the Tongass Land Management Plan. These changes are detrimental to our environment and our country.

When faced with a decision that may potentially damage our environment, I try to follow the lead of President Theodore Roosevelt, who founded the National Wildlife Refuge System in 1903. I share his philosophy that our environment is essential to our lives and is of the greatest importance. As President Roosevelt said, ". . . the conservation of natural resources is the fundamental problem. Unless we solve that problem it will avail us little to solve all others." And here we are now, 100 years later; I would like to think that we will continue to be a part of the vision that began a century ago.

I am also concerned with the provision that allows FY 2003 Bureau of Land Management funding for exploratory oil drilling in the Arctic National Wildlife Refuge. The Arctic Refuge is one of our country's largest refuges and is among the most pristine and undisturbed ecosystems on Earth. The Refuge belongs to the people of the United States, not to a select few. President Roosevelt's National Wildlife Refuge System created ANWR, "For the purpose of preserving unique wildlife, wilderness and recreational values. . . ." Let us render to our future generations a world more enriched than we have found it.

DAVID P. HANLON

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. ENGLISH. Mr. Speaker, today I would like to pay tribute to the life of David P. Hanlon, beloved principal of McDowell Intermediate High School in Erie, Pennsylvania, who passed away tragically at the age of 46 on January 10, 2003.

Dave Hanlon will be remembered by the Millcreek community as a dedicated and loving husband, father, teacher, coach, and friend.

As Millcreek Township's athletic director and later MIHS Principal, Hanlon was known for his reassuring presence and ability to inspire students.

He would spend little time in his office during the day, preferring instead to walk the halls of McDowell reaching out to students and teachers. But he spent many late nights at his desk implementing his ambitious plans for the school's future. Dave Hanlon was a fixture at McDowell arts and sporting events, and led many school trips including a government class trip that visited the Capitol two years ago.

Because of his contagious enthusiasm for McDowell, it was often said that he bled blue and white, the McDowell Trojans' school colors.

Mike Gallagher, a close friend, once observed that Hanlon's ability to connect with students "changed the way kids view adults in their lives."

The Reverend John Detisch eulogized that "David was a teacher. And what he taught came not so much from the classroom; what he taught came from the heart."

McDowell sophomore Hubbell McGeorge wrote the following about Dave Hanlon's immeasurable impact on students lives:

"The first day back to school after such a tragedy is very hard. It feels like a piece of all of us is missing and can't be fixed. There is, and will be, a hole in the school, the district, and the community for years to come."

Dave Hanlon's dedication to his students was surpassed only by his devotion to his wife Paige and three children, Collin, Peyton, and Braden. On the last day of his life, Dave Hanlon confided to a student about the "perfect life" he had found with his family.

Mr. Speaker, I ask that my colleagues join me in paying tribute to the life of David P. Hanlon, a devoted family man and model educator who will be deeply missed by an entire community.

INTRODUCTION OF FOREST RESTORATION AND FIRE RISK REDUCTION ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. UDALL of Colorado. Mr. Speaker, along with my cousin and colleague, Representative Tom Udall of New Mexico, I am today introducing the Forest Restoration and Fire Reduction Act.

This bill is designed to accelerate efforts to reduce the risks from wildfires to communities—including their water supplies—and to promote locally-based efforts to restore the conditions of our forest lands. It is the result of over four years of involvement with questions of forest management and particularly the dangers of unusually severe wildfires.

Since my election to Congress, I have visited forest lands in Colorado and elsewhere to see first hand the result of over 100 years of national policies emphasizing fire suppression—the accumulation of small diameter trees and thick underbrush. I have also examined areas where work has been done to reduce the likelihood of such fires and to move toward forest conditions that will make it possible for fire to play its historic role as a natural and valuable part of forest ecosystems. And I have studied areas like the lands affected by last year's Hayman Fire—which burned over 130,000 acres near Denver—to learn about the harm to lands, communities, and water supplies that can come from unnaturally hot fires resulting from drought and high winds combined with the build-up of vegetative fuels.

I have also been listening to many Coloradans, other Westerners, scientists, and others with expertise in forest management to learn their views on the conditions of our forests and what if anything they think should be done to improve those conditions.

From what I have learned, I have long been convinced that in some forest regimes, such as the ponderosa forests along Colorado's Front Range, reducing fuel loads through thinning—by controlled burns or mechanical means—can lessen the likelihood of unusually severe fires.

I am also convinced that our limited resources—both of time, people, and money—should be expended on doing that kind of work in the areas where the likelihood of unusually severe wildfires presents the most urgent risk to homes, people and water supplies. Those areas are the lands where homes and municipal water facilities adjoin or intermingle with forest lands. These areas are often called the "wildland/urban interface, but Coloradans usually call them the "red zones." They extend across ownership boundaries, including not only federal lands but lands owned by others as well. In Colorado, the "red zones" encompass over 6 million acres—and there are additional millions of acres of such high priority lands throughout the country.

I have long worked to accelerate thinning projects in Colorado's "red zones." In July of 2000, I introduced a bill—cosponsored by my colleague from Colorado Springs, Representative JOEL HEFLEY—to help get that work underway. It was not enacted, but many of its provisions were incorporated into the National Fire Plan put into place by Congress and the Clinton Administration after that fiery summer. Since then, I have strongly supported the National Fire Plan, but I have been concerned about the way it has been implemented—and particularly about the fact that there has been a continuing failure to put proper emphasis on urgently-needed work in the interface areas—the "red zones." I joined others in asking the General Accounting Office (GAO) to review the implementation of the National Fire Plan, to see what improvements were needed. Based on GAO's report, I again joined with Representative HEFLEY to introduce legislation to make needed changes.

Since then, the Bush Administration has made some of the changes that were needed, but it still is expending too much time and money on thinning projects in low-priority areas. At the outset, only about 25 percent of the lands where thinning was done were in the "red zones." Since then, there has been some improvement, but only a little. And unless there is a dramatic change, the prospect is not good—the President's budget request for fiscal year 2004 actually calls for treating fewer "red zone" acres than was done in fiscal 2002!

The bill my cousin and I are introducing today would make the kind of dramatic change in this part of the National Fire Plan that is so badly needed. It would require that in the future all thinning projects funded as part of the National Fire Plan involve lands in the "red zones," and it would enable funds for those projects to be used not only on Federal lands but on any other lands in those interface areas where such treatments are needed.

Some who share my desire to accelerate needed thinning projects say that the environmental laws and procedures for public involvement are obstacles that must be removed. I disagree. And some claim many projects have been delayed or halted because of opposition, appeals, and litigation instigated by some environmental groups. However, the facts show otherwise. Some groups or individuals indeed have appealed some thinning projects, but that has been more the exception than the rule—and even when there have been appeals, often they have not challenged the entire project, but just portions involving cutting trees or building roads in roadless areas or other sensitive areas—areas that for the most part are not located in the high risk red zones.

I do not think it is necessary—let alone desirable—to exempt fire-risk reduction projects from environmental review, public comments and administrative appeals. While some say this would reduce delays, it could have just the opposite result, by inviting more litigation—the slowest process of all. It would run counter to the sound policy of enabling the public to be involved on decisions about their public lands and would not assist in developing sound forest management.

Instead, the bill we are introducing today builds on the consensus that has developed about the need to thin in the "red zones," while making some procedural adjustments that can expedite the process of resolving appeals.

It would develop support at the front end for projects that are urgently needed, narrowly tailored and scientifically sound. It would do this through the creation of a cooperative program for hazardous fuels reduction projects with both the Forest Service and the Bureau of Land Management. The centerpiece of this program is the creation of statewide advisory councils to work with these agencies in each state on the selection of specific projects. These councils would include broad representation of interests and would include scientific participation. The councils would develop projects in a collaborative fashion so as to avoid opposition, delays and appeals at the back-end when projects are being implemented.

To be eligible under this program, the projects considered by the councils would have to meet certain criteria: they would have to be exclusively located in "red zone" areas and be outside of wilderness areas, roadless areas and other sensitive areas (lands that are typically not in the red zones and that in any event do not present as urgent a risk of unusually severe wildfires). The projects would have to be designed so as to minimize the cutting of large or old growth trees, which have proven to be resilient to fire events and are important to the ecology and diversity of our forested lands.

The bill also would promote appropriate economic reuse of the brush, small trees, and similar material removed from the forests in connection with fuel-reduction projects. It would authorize federal assistance to homeowners seeking to reduce the risk to their "red zone" homes through the use of "defensible space" techniques or similar steps. And it includes provisions to establish collaborative, community-based restoration projects that would work on important tasks such as controlling erosion, implementing recovery plans for threatened or endangered species, restoration of native species of fish and wildlife, road and trail upkeep or obliteration.

I believe that this bill would help us address the urgent fire risk situation on our forests. It keeps faith with the need to involve the public in the management of our precious public lands while also bringing important scientific principles to the table. It focuses scarce resources on the highest priority areas while maintaining opportunities to consider environmental and other potential impacts. In short, I believe that the program developed in this bill, along with the assistance it provides and the oversight it allows, appropriately address some of the most important aspects of current forest management—and I think the bill deserves wide support.

For the information of our colleague, I am attaching a short outline of the bill's main provisions.

Outline of Major Provisions of Draft Forest Restoration and Fire Risk Reduction Act

FINDINGS.—Includes findings concerning results of past fire-suppression policies, need for actions to reduce the risks to communities and municipal water supplies and to restore ecological health of forests through cooperative efforts.

PURPOSES.—Identifies 5 purposes of the bill:

(1) Reduction of wildfire risks to communities and water supplies;

(2) Refocusing of National Fire Plan fuel-reduction spending to highest-priority areas;

(3) Improving communication and joint problem-solving;

(4) Encouraging sustainable communities and forests through collaborative partnerships focused on forest restoration and fire-risk reduction;

(5) Developing, demonstrating, and evaluating forest restoration techniques and projects.

FOCUS ON "RED ZONES".—Requires all future National Fire plan funds for fuel-reduction projects go for work in wildland-urban interface or to protect municipal water supplies.

PROGRAM FOR HAZARDOUS FUEL REDUCTION PROJECTS.—Establishes cooperative community program to enable stakeholders to participate with Forest Service and BLM in planning and carrying out projects to reduce build up of hazardous fuels on forested lands in order to lessen risks to communities and municipal water supplies; establishes eligibility criteria for projects and limits federal share of costs to 80 percent; specifies that no projects can be done in wilderness or wilderness study areas, inventoried roadless areas, or other parts of the Federal lands where removal of vegetation is prohibited or restricted, and requires that limits be set on number and size of trees that can be removed in a project area; sets eligibility requirements and deadlines for any appeals of Forest Service fuel-reduction projects covered by the bill, while allowing waiver of deadlines to promote negotiations.

SELECTION PROCESS FOR FUEL-REDUCTION PROJECTS.—Requires consultation with State Foresters and technical advisory panels to determine priorities for fuel-reduction projects. Specifies panel membership.

MONITORING AND EVALUATION.—Requires project monitoring and evaluation.

ADMINISTRATIVE PROCEDURES.—Provides for public participation and set procedures related to development and review of fuel-reduction projects.

FOREST RESTORATION AND HOMEOWNER ASSISTANCE PROJECTS.—Establishes cooperative program for projects to—Help owners reduce risks of damage from wildfire to homes in wildland-urban interface; protect, restore, and enhance fish and wildlife habitat and promote recovery of threatened and endangered species; control and remove noxious and invasive species; control erosion and maintain or close roads and trails; provide job training and promote creation of new small businesses focused on forest restoration and use of by-products from other projects.

FOREST RESTORATION AND VALUE-ADDED CENTERS.—Provides for establishment of at least one center in each Forest Service region, to provide technical assistance to non-profit organizations, small businesses, and others interested in undertaking forest restoration activities, including environmental assessments and monitoring. Provides for advisory committees to help determine location of centers. Directs Forest Service to provide 75 percent of initial operating costs of centers, up to $1 million annually. Provides for demonstration project of one similar center related to BLM lands and report on whether this should be expanded.

COMPETITIVE SERVICE HIRING PREFERENCES.—Allows Forest Service and BLM to give preference in hiring to people aged 21 or above who have completed at least one year's satisfactory service in a certified youth service or conservation corps.

RESEARCH AND TRAINING.—Provides for Forest Service applied research program to identify ways to minimize adverse effects of restoration methods and treatments and to test and develop value-added products from restoration byproducts.

CELEBRATING THE 100TH ANNIVERSARY OF ROOSEVELT COUNTY, NEW MEXICO

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to mark the 100th anniversary of Roosevelt County, New Mexico, which was formed on February 28, 1903. The citizens of Roosevelt County this year are celebrating the many virtues of their wonderful community. Roosevelt County is a good place to call home. It has outstanding schools, safe streets, family oriented neighborhoods, civic volunteerism and community values that make it an exceptional place to live and raise a family. We have much to celebrate on this centennial.

Roosevelt County was named for the twenty-sixth President of the United States, Theodore Roosevelt, who enlisted New Mexican Rough Riders when he climbed San Juan Hill during the Spanish-American War. The city of Portales is the county seat. Other communities in the county include: Elida, Floyd, Dora, Causey, Arch, Kenna, Lingo, Milnesand, Pep, and Rogers. Roosevelt County is located on the high plains of eastern New Mexico in the heart of cattle country, with ranching, farming, the dairy industry, and the Burlington Northern/Santa Fe Railway comprising important components of the community's economic base. Located 11 miles to the northeast of Portales is Cannon Air Force Base, which adds a very important dimension to the character of the area.

Roosevelt County was cultivated by ranching, farming, the railroad and related businesses over a hundred years ago. In 1902 a few homesteaders settled in; a year later, the homesteaders were arriving more increasingly in the area around Portales. Settlers were drawn to Roosevelt County due to the access of the railroad and the availability of shallow water. A homesteader could take a pick and shovel and dig a well of about 15 feet deep and would have plenty of water for domestic use. Most other settlers outside the Portales Valley had to haul drinking water from a few wells made by ranchers, until they could afford to drill their own. It is hard to imagine the availability of that much water now, which Roosevelt County considers its most precious natural resource.

The name "Portales" fits this charming university town even more today than when it was coined in the 1800s. Named for a nearby campsite where spring waters gushed from a series of cave-like porches across pueblo-style houses, Portales, or "Porches" in Spanish, is an entryway into New Mexico on the eastern border. Portales Springs is the most famous watering hole on the Old Fort Sumner Trail and often welcomed Billy the Kid and his partners during the infamous Lincoln County War.

Agriculture is the major industry of Roosevelt County. The leading crops are Valencia peanuts, alfalfa, cotton, wheat, corn, milo, hay, and potatoes. Valencia peanuts, noted for their sweet taste, are exported all across the United States as well as to several countries around the world. Roosevelt County is home to the only peanut butter manufacturing facility in New Mexico. Additionally, its peanut butter is currently ranked the fifth highest quality peanut butter on the market today by Consumer Reports.

Livestock feeding and dairy farming are also important to the local economy. Other industries include soft drink canners, an ethanol production facility, grain storage and shipping, trucking and milk processing. The dairy industry is the second largest agricultural industry in New Mexico, and our state is the nation's seventh largest producer of milk.

Portales is the proud home to Eastern New Mexico University, the third largest university in the Land of Enchantment, offering over 50 undergraduate and 15 graduate majors. The university offers a broad curriculum of vocational, technical and academic disciplines and is the center of the region's cultural life. The school has brought many opportunities to graduates since 1934. In conjunction with the city, the university sponsors an annual Peanut Valley Festival that provides excitement and entertainment for the community and attracts hundreds of visitors each year. I had the opportunity earlier this week to meet with the president of the university, Dr. Steven Gamble, to receive an update on the progress the institution is making. The residents of eastern New Mexico are fortunate to have such a fine place of higher learning in their midst.

On this grand occasion, I want to express my best wishes to Portales Mayor Orlando Ortega and all the local elected officials throughout Roosevelt County that are determined to make this area an even better place to live and raise families. The elected county officials are as follows: Dennis Lopez, District 1 Commissioner; Charles Davis, District 2 Commissioner; Thomas Clark, District 3 Commissioner; Gene Creighton, District 4 Commissioner; Paul Grider, District 5 Commissioner; Nancy Gentry, Probate Judge; Tom Gossett, County Sheriff; Nancy Belcher, Treasurer; Royene Tivis, Assessor; and Joyce Lee Fraze, County Clerk. I pledge to continue to work with these leaders to promote an atmosphere in which economic development can flourish.

The signs of Roosevelt County's progress are evident. President Bush recently approved the fiscal year 2003 Omnibus Appropriations bill containing $250,000 to continue the development of the Ute Reservoir Pipeline, which is critical for the sustained growth and water needs of this area. We have a long way to go on this project, but this funding is a crucial step forward.

Citizens have also seen fit to finance the construction of the Roosevelt General Hospital. Costing nearly nine million dollars, this facility is serving the health needs of local residents. The new Portales Junior High School was recently built to replace a decaying 75-year-old facility. A new Communications Center is being built at Eastern New Mexico University, and the local library in Portales has recently been upgraded with new technology and a more modern, usable facility. Finally, there is the new Portales Recreation Center, which will serve scores of local youth and give them a safe environment to have fun and learn. All of these improvements were financed by voters through local elections and other contributions from local neighbors.

The people of Roosevelt County have a past to be proud of, and a future that continues to unveil promising opportunities. The pull of the future is only as good as the past that empowers it, and in Roosevelt County a fine and solid history lays a well-lit path for the future.

Mr. Speaker, Roosevelt County is one of the finest regions in the State of New Mexico. This area is symbolic of traditional American values. The residents work hard, are dedicated to their families, support their schools and volunteer to help their neighbors. I ask all my colleagues to join me in wishing all its residents continued success as their community enters its second century.

CELEBRATING OUR HISTORY

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. ROSS. Mr. Speaker, I rise today to help commemorate a month-long learning experience that all of us as Americans should join in celebrating. This month we focus on recalling and embracing a unique part of our American History and the roles of African Americans in shaping what our country is today. History teaches us that every culture and every society endures good and bad, and it is essential that we continue to learn from our past.

From slavery abolitionists like Harriett Tubman to civil rights activists like Dr. Martin Luther King, Jr.—even students like the Little Rock Nine who showed unimaginable courage—we have much to learn from the lives of these past and present leaders. They leave quite a mark on the pages of our history books and in the fabric of our country.

During this month, it is important that we seek to learn more about historical Black figures; it is important because it shows us what great contributions they made even during an era when many people thought Blacks had nothing to offer. Quite to the contrary—the African American community has given us some of our greatest writers, inventors, athletes, philosophers, musicians, and spiritual and community leaders during dark times in our history.

It is during this month that Rosa Parks, Frederick Douglass, Toni Morrison, and baseball great Hank Aaron celebrated their birthdays. It was during this month in 1870 that the 15th Amendment was passed, granting Blacks the right to vote. And this year, during this month, Lieutenant Colonel Michael Anderson, who was lost on the Space Shuttle *Columbia*, died as a pioneer and a living symbol of the progress African Americans have made and the successes yet to come.

Black History Month celebrates people and events that were disregarded for long periods of time. It's time we remember. It's time we make Black history our history.

NATIONAL PEACE CORPS DAY, FEBRUARY 28, 2003

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. RAMSTAD. Mr. Speaker, I rise to commemorate National Peace Corps Day and recognize the Peace Corps for its stellar record of achievement throughout the past five decades. The Peace Corps has become an enduring symbol of our nation's commitment to encourage progress, create opportunity and expand development at the grass-roots level in the developing world.

Since 1961, more than 168,000 Americans responded to our nation's call to serve by becoming Peace Corps Volunteers in 136 countries. There are currently 29 volunteers from my district alone who are deployed all over the world, from Kyrgystan to Guatemala.

Mr. Speaker, Peace Corps Volunteers have made significant and lasting contributions around the world in agriculture, business development, education, health and the environment, and have dramatically improved the lives of individuals and communities around the world.

Peace Corps Volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries for 42 years.

President George W. Bush has issued a call to service for all Americans—both at home and abroad. The President seeks to double the number of Peace Corps Volunteers throughout the world, from the current level of 7,000 to 14,000 volunteers in FY07.

Mr. Speaker, Peace Corps Volunteers, enriched by their experiences overseas, have brought their communities throughout the United States a deeper understanding of other cultures and traditions, thereby bringing a domestic dividend to our nation.

National Peace Corps Day recognizes the work of returned Peace Corps Volunteers as they bring their experiences to work, school, places of worship and recreation, sharing with colleagues, friends and community members how their volunteer service changed and shaped their lives.

Mr. Speaker, National Peace Corps Day honors its Volunteers, past and present, and reaffirms our country's commitment to helping people help themselves throughout the world. I would like to congratulate them for the tremendous, and far too often thankless, work they do to improve the human condition.

INTRODUCTION OF LEGISLATION MAKING AERIAL FIREFIGHTERS ELIGIBLE FOR FEDERAL DEATH BENEFITS

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mrs. CUBIN. Mr. Speaker, in April 1997, John Hirth of Buffalo, Wyoming, and his co-pilot lost their lives when their air tanker crashed near Blandburg, Pennsylvania. They were on a firefighting mission for a government agency, the Pennsylvania Bureau of Forestry.

At the time, John was making an aerial scouting of the fire, referred to as a dry run. Fire conditions were gusty, and turbulent wind patterns resulted from the fire itself.

Immediately after dropping the fire retardant, their tanker encountered smoke which affected visibility.

Just as the air tanker flew out of the smoke, its right wing hit an oak tree which stood above the tree line. The aircraft rolled 90 degrees left and flew into the mountainside a quarter mile from the initial tree strike, exploding on impact and instantly killing John and his co-pilot.

In the mid-1990s, John tried to obtain life insurance through various agencies. He was turned down due to his occupation as an aerial firefighter.

At the time of his death, the business still had to meet payments on the 1997 fire contract operation (which included liability insurance, contract-paid pilots, fuel, oil, parts, etc.), as well as on a second tanker and one sprayer aircraft.

The financial loss from this crash was so devastating that his wife, Connie, did not have the money to pay for her husband's funeral.

While this is heartbreaking to us, it is a very stark reality that many families face when aerial firefighters are lost in the line of duty. There were seven fatalities last year alone involving air tankers and fire suppression helicopters.

The fact is that the vast majority of those pilots lost were serving under a government contract at the time. They were providing aerial fire suppression services for the government when they lost their lives.

My reason for being here today is to correct a provision in law that is blatantly unfair.

I am introducing legislation that will provide some financial security to aerial firefighters and their families.

This legislation recognizes all pilots and crew involved in aerial fire suppression as public safety officers. In doing so, the bill makes these deserving individuals eligible for death benefits under the Public Safety Officers' Benefits Program, also known as PSOB.

Under current law, aerial firefighters who are under contract with the government are not afforded these benefits simply because they work for private companies that contract with the government.

However, without these contract pilots and crew, the federal government would not have the capabilities to deal with wild land fires.

This legislation is a matter of common sense. Aerial firefighters are public safety officers in every sense of the word. With dedication and enthusiasm, they protect our natural resources, our communities, and often our very lives.

Every day, when our men and women in the Armed Forces go out to do their job, they say to us, "I am willing to risk my life for you today." Our local police officers say it as well and, yes my friends, so too do aerial firefighters.

John Hirth was the primary wage earner in his air tanker business and his family. If PSOB had been available to them at the time of John's death, the financial hardships endured by his wife could have been minimized.

It is time we start giving back to aerial firefighters because, if we don't, we will be losing a valuable resource. With no aerial firefighters to protect our natural resources, where will we turn?

I don't think any of us want to face that question, so let's make sure we don't. Please support this legislation. It is the right thing to do.

PLEDGE OF ALLEGIANCE PROTECTION AMENDMENT

HON. FRANK D. LUCAS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. LUCAS of Oklahoma. Mr. Speaker, today, I reintroduced the bill that I introduced last Congress in response to the absurd ruling made by the 9th Circuit Court of Appeals which declared school recitation of the Pledge of Allegiance unconstitutional. Immediately upon hearing of this atrocious decision in June of last year, I began drafting my bill, the "Pledge of Allegiance Protection Amendment," which would amend the U.S. Constitution to protect the right of schools to lead willing students in the recitation of the Pledge of Allegiance.

Mr. Speaker, I believe children in schools across America should start their day the same way we do here in Congress, by reciting the Pledge of Allegiance.

The court decision has set a dangerous precedent that we cannot allow to continue nationwide. I know of no better way to educate our children about the beliefs we stand for in this great country of ours than with the Pledge of Allegiance. The Pledge is an important way of educating our children about the value of patriotism and democracy and a reminder that we are one nation, under God. That is why I believe we need to keep the Pledge in our schools and keep judges who don't value the Pledge out of our courts.

As it stands now, a temporary stay has been placed on the effect of the ruling until the full panel of the Ninth Circuit reviews the case. I would prefer not to have to amend the Constitution unless it is absolutely necessary to do so, and it is my hope that the courts will overturn this ridiculous ruling. However, if they do not, then I have my bill ready to go to protect the Pledge of Allegiance in our schools.

Mr. Speaker, I urge your support of this bill and yield back the remainder of my time.

A SPECIAL TRIBUTE TO MARTHA MOORE ON THE OCCASION OF HER 35TH ANNIVERSARY AS OHIO REPUBLICAN PARTY VICE CHAIRMAN AND OHIO COMMITTEEWOMAN TO THE REPUBLICAN NATIONAL COMMITTEE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding lady from Ohio. Martha Moore was born in Cambridge, Ohio, located in Guernsey County. The daughter of former 15 District Congressman C. Ellis Moore, she was raised in the tradition of commitment to one's family, faith in God, and responsible public service.

Miss Moore attended Wellesley College and received her Bachelor of Arts degree from Muskingum College. She earned her Master of Arts from The Ohio State University. While serving as a professor in the Department of Communications at Muskingum College, she helped to shape the lives of generations of students through her thoughtful tutelage. In 1986, Miss Moore was awarded the Distinguished Alumni Award from Muskingum College and was also inducted into the Guernesy County Hall of Fame.

Miss Moore was first elected to the Ohio Republican State Central and Executive Committee in 1950, and currently serves as committeewoman from the 30th Senate District in Ohio. She previously served as committeewoman from the 15th, 17th, and 18th Congressional Districts. In 1968, Miss Moore was elected Vice Chairman of the Ohio Republican Party (ORP) and Ohio Committeewoman to the Republican National Committee. This year marks the 35th anniversary of her election to both posts. She has been re-elected to both positions at each succeeding organizational meeting of the State Committee.

Miss Moore has been a Delegate or Alternate Delegate to every Republican National Convention since 1972. In 1972, 1976, and 1984, she was selected by the State Committee as Ohio's second choice for President.

As Ohio's National Committeewoman, Miss Moore has served on the Committee on Arrangements since 1984. She has been a member of the Convention's Committee on Call (1972), the Committee on Contests (1976), and the Rules Committee (1980). She was also Chairman of the Subcommittee for Tickets and Badges for the 1992 and 1996 Republican National Conventions.

Ohio is certainly blessed by Martha Moore's continuing service to the American political process. Her wisdom, honesty, and forthrightness are attributes to which all public servants should aspire. She has set an example for everyone on how to live a life of service, putting the greater interests of the community before her own.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Martha Moore. Our communities are served well by having such honorable and giving citizens, like Martha, who care about their well being and stability. On the 35th anniversary of her election to these two preeminent posts, we wish her all the best as we pay tribute to one of our nation's finest citizens.

DISTRIBUTED POWER HYBRID ENERGY ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Distributed Power Hybrid Energy Act. This bill would direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems.

Distributed power is modular electric generation or storage located close to the point of use, well suited for the use of renewable energy technologies such as wind turbines and photovoltaics, and also of clean, efficient, fossil-fuel technologies such as gas turbines and fuel cells.

Distributed power can avoid the need for and cost of additional transmission lines and pipelines, reduce associated delivery losses, and increase energy efficiency. In addition, distributed power can provide insurance against energy disruptions and expand the available energy service choices for consumers.

By their very nature, renewable resources are distributed. Our ability to cost-effectively take advantage of our renewable, indigenous resources can be greatly advanced through systems that minimize the intermittency of these resources. Distributed power hybrid systems can help accomplish this.

"Hybridizing" distributed power systems—combining two or more renewable sources or a renewable and a fossil source—enables us to offset the weaknesses of one technology with the strengths of another. For example, in a hybrid system, the intermittency of wind power can be offset by the reliability and affordability of power generated by a microturbine.

My bill would direct the Secretary of Energy to develop a distributed power hybrid systems strategy identifying opportunities for and barriers to such systems, technology gaps that need to be closed, and system integration tools that are necessary to plan, design, build and operate such systems.

Mr. Speaker, distributed generation represents the most significant technological change in the electric industry in decades. Knowing this, it makes sense to focus our R&D priorities on distributed power hybrid systems that can both help improve power reliability and affordability and bring more efficiency and cleaner energy resources into the mix. My bill would help us do this. I look forward to working with Members of the House to move forward with this important initiative.

For the benefit of my colleagues, I've attached a fact sheet that explains the bill in more detail.

THE DISTRIBUTED POWER HYBRID ENERGY ACT FACT SHEET

The Distributed Power Hybrid Energy Act would direct the Secretary of Energy to develop and implement a strategy for research, development, demonstration, and commercial application of distributed power hybrid energy systems.

BACKGROUND

Distributed power is modular electric generation or storage located close to the point of use. Distributed systems include biomass-based generators, combustion turbines, concentrating solar power and photovoltaic systems, fuel cells, wind turbines, microturbines, engines/generator sets, and storage and control technologies. Distributed resources can either be grid connected or operate independently of the grid. In contrast to large, central-station power plants, distributed power systems typically range from less than a kilowatt (kW) to tens of megawatts (MW) in size.

Distributed power is well suited for the use of renewable energy technologies such as wind turbines and photovoltaics, and also of clean, efficient, fossil-fuel technologies such as gas turbines and fuel cells.

Many benefits can be realized by producing electricity and heat closer to the customer and integrating these distributed energy resources with our traditional central-station generation, transmission, and distribution infrastructure. Combined heat and power systems at industrial plants or commercial buildings can be three times more efficient than conventional central generating stations. When facilities such as hospitals and businesses with computers or other critical electronic technology can get power from either the grid or their own generating equipment, energy reliability and security are greatly improved.

Distributed power can avoid the need for and cost of additional transmission lines and pipelines, reduce associated delivery losses, and increase energy efficiency. In addition, distributed power can provide insurance against energy disruptions and expand the available energy service choices for consumers.

Since 1998, the Department of Energy's Distributed Power Program has been working to reduce barriers to the widespread adoption of distributed energy resources. One area of research that has so far not received the attention it deserves, however, is distributed power hybrid systems.

By their very nature, renewable resources are distributed. Our ability to cost-effectively take advantage of our renewable, indigenous resources can be greatly advanced through systems that minimize the intermittency of these resources. Distributed power hybrid systems can help accomplish this.

"Hybridizing" distributed power systems—combining two or more renewable sources or a renewable and a fossil source—enables us to offset the weaknesses of one technology with the strengths of another. For example, in a hybrid system, the intermittency of wind power can be offset by the reliability and affordability of power generated by a microturbine. Distributed power hybrid systems also have the potential for fuel flexibility—for instance, using biofuels for distributed power systems such as gas turbines and fuel cells. In addition, hybrid systems can be developed to serve multiple uses, such as combined heat and power, offering the opportunity to provide reliable energy services at lower cost.

LEGISLATION

This legislation would direct the Secretary of Energy to develop a distributed power hybrid systems strategy identifying opportunities for and barriers to such systems, technology gaps that need to be closed, and system integration tools that are necessary to plan, design, build and operate such systems. This strategy might provide for the development of system integration tools for developing such systems; tests of distributed power hybrid systems, including field tests with industry and cost-shared demonstrations of such systems to validate performance; data to characterize grid operations, including interconnection requirements; and precise resource assessment tools to map local resources for distributed power hybrid systems.

The legislation calls for the implementation of the plan over five years, along with its integration into the Department of Energy's Office of Distributed Energy Resources. The bill would also require an annual report on the use of and experience with distributed power hybrid systems, in addition to identifying the remaining R&D issues to ensure the successful application of these systems.

To carry out the bill's requirements, the bill would authorize $60 million over fiscal years 2004 through 2008.

IMPORTANCE OF EDUCATION AND AFRICAN-AMERICAN SCIENTISTS

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 12, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I commend my colleague, Mr. CUMMINGS for reserving this special order to celebrate Black History Month, a commemoration that dates back to 1926 when Black Americans celebrated Negro History Week.

Mr. Speaker, it is my hope that the citizens of the United States, especially young African-Americans, recognize how we've grown and developed since then. And also realize and appreciate the important contributions of their forebears and contemporaries to the development of this nation and American society.

I am proud to stand before you today to salute two outstanding citizens from my childhood home of Waco and congressional district of Dallas. James Andrew Harris was born on March 26, 1932 in Waco, Texas. As a graduate of Houston-Tillotson College in Austin with a chemistry degree, Mr. Harris worked in the Nuclear Chemistry Division of the Lawrence Radiation Laboratory at the University of California. There he was part of the team that discovered and identified elements 104-Rutherfordium and 105-Dubnium on the Periodic Table of Elements.

Dr. Otis Boykin was born in 1920 and raised in Dallas. His mother was a homemaker and his father a carpenter. Dr. Otis attended Fisk University and the Illinois Institute of Technology. Unfortunately, his parents could not afford his tuition and he dropped out of college after two years. Thereafter, Dr. Boykin built electrical devices used today in all guided missiles and IBM computers. He also developed a control unit for an artificial heart simulator (pacemaker) that helps millions of cardiovascular patients. Otis Boykin will be remembered as one of the greatest inventors of the twentieth century.

Mr. Speaker, today I am worried that given the current educational settings of our country, future Otis Boykins and James Andrew Harrises will not have the opportunity to pursue their dreams or realize their talents.

I want to focus briefly on what is going to happen in my State of Texas. It is reported that at least $2.7 billion must be cut from Texas public education over the next two years to balance the state budget without a major increase in taxes or fees. The University of Texas at Austin will hire fewer professors, forcing students to scramble for the classes they want. At Texas Women's University, fewer police officers may patrol the campus. Some intercollegiate sports may disappear from Collin County Community College. Tuition will probably rise at Dallas County Community Colleges. Universities, medical schools, community colleges and the Texas Higher Education Coordinating Board collectively must slash $343.8 million in the middle of the school year.

Mr. Speaker, one University of North Texas official summarized the current situation very clearly: "The monster came through our door, and now he's sitting on our lap."

I am further concerned as I read news stories, such as a Washington Post article which recently indicated that Oregon is on the verge of cutting as many as 24 days from its school year. The United States ranks 18th among the industrial nations in school year length. How can we expect American schoolchildren to learn in 180 days as much as Korean children learn in 220? They cannot!

Just a couple of weeks ago we listened to President Bush's well-written, well-delivered State of the Union address. Yes, it was nice to hear words about diversity, higher education, making college more affordable, and leaving no child behind. But words are cheap! What has been done to increase the diversity of our populations in higher education? What is being done to make higher education more affordable? And how will we ensure that no child is really left behind in our elementary and secondary public school education system?

Mr. Speaker we should invest in the education of under-privileged young people here at home. It will improve not only our educational system, but our society as a whole. So many Otis Boykins and James Andrew Harrises will have the opportunity to revolutionize technology that affects people's everyday lives.

Again, thank you to Congressman CUMMINGS for organizing tonight's special orders.

CELEBRATING THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Con. Res. 36—Encouraging the people of the United States to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery. To this end, this legislation serves both to remind us of the tremendous strides this nation has made toward ensuring life, liberty, and the pursuit of happiness for all citizens and to recognize Abraham Lincoln, the sixteenth President of the United States, for his commitment to these ideals.

On September 22, 1862, Abraham Lincoln took a bold step towards eradicating the horrible institution of slavery in this country by issuing a preliminary proclamation, which declared "all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free."

Perhaps the three most significant documents in U.S. history that exemplify America's passion for freedom are the Constitution, the Bill of Rights, and the Emancipation Proclamation. Although each has maintained its rightful place in the annals of American history, only the Bill of Rights and the Constitution have identifiable dates and cultural festivities. Each year, the United States celebrates the Fourth of July, Constitution Day, and Flag Day, all of which have developed into an expression and ceremony of appreciation by the American People with special events emphasizing the historical importance of these significant documents.

However, the Emancipation Proclamation, which is particularly significant to African Americans, has not until recently received its rightful day of national appreciation. With the resurgence of the African American community's celebration of Juneteenth, America is growing in its awareness and appreciation of this highly meaningful document.

Juneteenth, celebrated on June 19, is the name given to emancipation day by African-Americans in Texas. On that day in 1865, six months after the passage of the Thirteenth Amendment, Union Major General Gordon Granger read General Order #3 to the people of Galveston. General Order #3 stated "The people of Texas are informed that, in accordance with a proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of personal rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and hired labor. The freedmen are advised to remain quietly at their present homes and work for wages. They are informed that they will not be allowed to collect at military posts and that they will not be supported in idleness either there or elsewhere."

Large celebrations on June 19 began in 1866 and continued regularly into the early 20th century. In many parts of Texas, ex-slaves purchased land, or "emancipation grounds," for the Juneteenth gathering. One example of this is Emancipation Park in Houston, which was purchased in 1872.

Since this moment in our nation's history, the Juneteenth celebration has spread to the neighboring states of Louisiana, Arkansas and Oklahoma. It has also appeared in Alabama, Florida, and California as African-American Texans migrated.

Frederick Douglass once noted, "A [person] who will not labor to gain his [or her] rights, is a [person] who would not, if he [or she] had them, prize and defend them." With this in mind, I want to remind Congress of the labor of individuals of African descent who have devoted their lives to securing a just and prosperous future for all Americans and the duty we have as citizens to make sure their blood, sweat, and tears are never forgotten and our rights are preserved. This legislation helps to further this sense of obligation.

Mr. Speaker, I urge my colleagues to support this legislation. Through your support for this legislation, we are certain to sustain this great legacy of justice and equality upon which this great nation was founded.

HONORING BILLY LEE

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. CORRINE BROWN of Florida. Mr. Speaker, a longtime friend of mine, Mr. William R. "Billy" Lee, passed away on Friday, January 3rd, 2003, at his residence in Green Cove Springs, Florida. Billy was born in Russell, Florida, on October 28th, 1934, and lived his entire life in Green Cove Springs, Florida, located in my congressional district, Florida's third. A religious man, Mr. Lee was a Baptist by faith, and was a dedicated member of Russell Baptist Church. In fact, Mr. Lee was a former Deacon of the church.

Billy joined the International Association of Machinists in July 27th, 1956, in Local Lodge 1098, in Palatka, Florida. A dedicated union activist, Billy served as the Florida State Council of Machinists Vice President for 10 years before he was elected President in 1998. He served in this capacity until retiring in 1998.

I have always been a devoted friend of the organized labor movement. I have spent a great deal of time here in my 10 years in Washington advocating on behalf of America's working men and women. It has been a privilege for me to be able to work with brave local labor leaders like Billy Lee, in the pursuit of defending the interests of working Americans. In my 20 years as an elected official—I have never voted against the working men and women in this room. I stand as a proud friend of labor and always will be.

In Billy Lee's time as International Association of Machinists President, he served among those brave leaders on the front lines of the fight to achieve greater worker compensation, improved employee health benefits, social security and pension benefits, and better worker rights. The International Association of Machinists, a large and diverse organization, represents 730,000 members across North America. The Northeast Florida branch, with dedicated Members like Billy, fights to carry out the IAM's union's righteous cause, to stand up against big business and fight to protect the workers of America.

Billy was survived by his wife Joyce, his son Michael Ray Lee, daughter Marilyn Lee, and eight grandchildren. A family oriented man, Billy enjoyed fishing, gardening and particularly loved cookouts. Billy Lee was loved and well respected by everyone that knew him. He will be dearly missed by his family, the community, and by those who fought alongside him in the labor movement.

FOREST RESTORATION AND FIRE RISK REDUCTION ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Forest Restoration and Fire Risk Reduction Act, a bill based upon the collaboration with my colleague and cousin, Representative MARK UDALL of Colorado.

In the 134 million-acre interior West, scientific assessments indicate that in pre-industrial times, 50 to 80 million acres burned per year. In the 1900's, however, fire suppression became federal policy. A century of fire suppression, excessive logging and overgrazing of livestock has led, in many areas, to overstocked forests of second-growth trees. These forests are extremely susceptible to the damaging effects of high-intensity fire.

In terms of resource damage, catastrophic wildfire affects our forest's ecosystems by destroying critical habitat, eroding soil, changing air temperature, moisture content and productivity, while at the same time, facilitating the spread of invasive weeds and non-native plants, and generating air pollution. This matter is complicated further by rising fiscal costs that force the increased population and development of "wildland/urban" interface areas. In recent years, the Forest Service generally has expended $500–600 million annually in fire preparedness, suppression, and rehabilitation. Within the past last three years, however, over a billion dollars have been spent.

Inseparably related to current forest management practices is the issue of pervasive drought. As we all know, our nation has been suffering from severe drought conditions for several years now, and so far this year proves to be no different. Rain and snowfall in New Mexico and many of our western states is to date far below averages. As a result of the continuing drought in the west, we have also experienced some of the worst wildfire seasons in modern history. The relatively recent Cerro Grande fire in New Mexico, the Hayman fire in Colorado, and the Rodeo-Chediski fires in Arizona illustrate the severity of the situation. These fires were catastrophic in proportion and inflicted grave environmental, social, and economic impacts on the affected local communities. Consequently, these, and other areas affected by the devastating affects of raging wildfires, face years of restorative efforts and depend upon the development and implementation of a viable fire hazard mitigation program on National Forest System lands to avert such disasters in the future.

In response to these concerns and those I heard from constituents, I have worked closely with Representative MARK UDALL to devise a bill that takes these issues to task. Our "Forest Restoration and Fire Risk Reduction Act" refocuses the implementation of the National Fire Plan (NFP) to areas designated as "wildland/urban interface," the critical zones that are of the highest risk to people, property and water supplies, by redirecting NFP funding and hazardous fuels reduction projects through state selection panels.

A general consensus exists today that thinning our forests—by controlled burns or mechanical means—will lessen the likelihood of unusually severe fires. However, the Bush Administration contends that to facilitate such thinning projects, the environmental laws and procedures for public comment and participation are obstacles that must be removed. I believe that this contention is incomprehensible and conceptually flawed.

The exemption of fire-risk reduction projects from environmental review, public comments and administrative appeals, circumvents established policy of public participation, an important aspect of our democratic process for making decisions affecting public lands. Furthermore, excluding public comment would not assist in developing sound forest management. The bill we are introducing today maintains these sound principles of law and public policy, and makes some relatively innocuous procedural concessions that can expedite the process of resolving appeals.

I anticipate that collaboration between state and federal land managers, and local and tribal communities in both decision and implementation activities may contribute to the development of cost-effective restoration activities, empower diverse organizations to implement activities that value local and traditional knowledge, build ownership and civic pride, and ensure healthy, diverse, and productive forests and watersheds. Such collaboration would result in the efficient restoration of areas distressed by wildfires and help protect our homeowners and businesses from future losses.

I believe, as all of us from the western United States would likely agree, that it is much better to support proactive preventative maintenance programs to reduce fire risks than it is to wait to do something once a fire occurs. We need legislation that will reduce the potential for catastrophic fires and protect our communities, and aid in the restoration of lands that may meet the same unfortunate fate as did those in the Cerro Grande blaze. The "Forest Restoration and Fire Risk Reduction Act" will accomplish these common goals.

A TRIBUTE TO THE LIFE AND ACHIEVEMENTS OF LOUIS L. RAMSAY, JR.

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. ROSS. Mr. Speaker, I rise today to pay tribute to a distinguished constituent and leader in my district, whose professional and civic contributions have helped to shape the business climate in Pine Bluff, Arkansas, and throughout the state.

Louis Ramsay, Jr. was born in 1918 in Fordyce, Arkansas, in rural Dallas County. He grew up attending the Fordyce public schools, and went on to earn pre-law and law degrees from the University of Arkansas. After law school, he joined the Law Firm of Coleman and Gantt, where he became a Partner in 1948. For the past 54 years he has been with the firm now known as Ramsay, Bridgeforth, Harrelson & Starling, where he continues to serve as "Of Counsel." He was elected President of Simmons First National Bank in 1970 and served as Chairman and CEO from 1973–1983. He currently serves as Chairman of the Executive Committee of Simmons First National Corporation. He is the only person in the state's history to have served as President of the Arkansas Bar Association and the Arkansas Bankers Association.

Louis Ramsay was recently honored with an induction into the Arkansas Business Hall of Fame, and I cannot think of a more worthy businessman for this distinction. Ramsay has made it a personal mission to use his standing in the business community to better the entire community. He has worked to improve the state's higher education system through service to the University of Arkansas's campuses, including Pine Bluff. He has served as President of the Pine Bluff Chamber of Commerce, the Pine Bluff Rotary Club, Fifty for the Future of Pine Bluff, and countless other organizations aimed at improving the quality of life in the area.

If we can learn one lesson from the exemplary life and career of Louis Ramsay, it is the value of service. He has served the community of Pine Bluff and the state of Arkansas, he has served our country with distinction in World War II as a pilot in the D-Day invasion of Normandy, and he has served his family and his neighbors as well. I thank Mr. Ramsay for his commitment to improving our state, and I congratulate him on this prestigious distinction.

A SALUTE TO THE GREAT LAKES NAVY BANDSMEN

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. RUSH. Mr. Speaker, I come before the House Chamber this evening pleased and honored to salute the over five thousand African American musicians who, during World War I, played in the band of the Great Lakes Naval Base in Illinois. These highly talented musicians played an important part in our nation's history and this weekend, many of them will be reuniting for the first time in over fifty years.

If you were black and in the Navy before 1942, the only service you could render is that of mess attendant or steward. These positions were lowly and limited. So, in an effort to elevate their position and further integrate America's armed forces, then President Franklin Delano Roosevelt recruited and trained black musicians for service in a Naval band. These men became the members of the Great Lakes Band.

During the war, these extraordinary musicians traveled around the country lifting the spirits of servicemen and civilians with their melodies. In fact, it has been said that there has never been so many good musicians at any one place, at any one time, as there were at Great Lakes.

In spite of their committed and unprecedented service to our country, there is little awareness of their contributions and acknowledgments have been few. Mr. Speaker, that is why, especially as we come to the end of Black History Month, I believe it is highly appropriate, to ask my colleagues to join me in a salute to these extraordinary veterans. Their contributions are far-reaching, long-lasting, and worthy of our praise.

MARTIN LUTHER KING, JR. MEMORIAL

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. WATSON. Mr. Speaker, I rise to encourage my colleagues to cosponsor a bill I have introduced today, which will extend the authority to construct a memorial to Rev. Martin Luther King, Jr. here in our nation's capital.

I must commend Alpha Phi Alpha Fraternity, Incorporated, of which Dr. King was a member, for their tireless efforts in bringing this project to fruition. In 1996, Congress authorized the fraternity to establish a foundation to manage the fundraising and design of a memorial to Dr. King. Alpha Phi Alpha accomplished both tasks by launching the Martin Luther King Jr. National Memorial Project Foundation Fund, Incorporated and developing and appropriate design.

The site for the monument covers four acres on the Tidal Basin between the Presidents Lincoln and Jefferson memorials. Dr. Martin Luther King, Jr. will be the first African American honored as such on the Mall of the nation's capital. Similar to the everlasting work and message of Dr. King, the memorial will last in perpetuity.

Mr. Speaker, it is long overdue that a monument is raised to honor the life and legacy of Dr. King. He made an enormous impact on America's collective moral fiber like no other human being. His principles of non-violence are universal and helped millions of people to overcome what seemed like insurmountable obstacles. It is fitting that his image be placed in the nation's capitol and enjoy the same status and significance as others who have left an indelible imprint on our nation and the world.

I encourage my colleagues to cosponsor this measure.

INTRODUCTION OF THE CLEAN WATER AUTHORITY RESTORATION ACT OF 2003

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. OBERSTAR. Mr. Speaker, today I am introducing legislation to restore protection from destruction and pollution to all of the Nation's waters, including wetlands. This bill will amend the Clean Water Act to reestablish the original intent of Congress in that 1972 law to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

In January 2001, the Supreme Court issued an opinion that denies federal Clean Water Act protection for thousands of acres of waters that serve as habitat for migratory birds. Congress must approve this bill to overturn that decision—the Solid Waste Agency of Northern Cook County v. Army Corps of Engineers (The SWANCC case). This case was decided 5–4 contrary to the intent of Congress and against the grain of nearly 30 years of judicial and administrative precedent.

Unfortunately, since the Court's decision, the Administration has done nothing to rectify this misguided and misinformed undermining of Federal protections over waters of the United States, including wetlands. Where the environmentally responsible position to limit the impact on our nation's environment would have been to narrowly interpret the SWANCC decision and to support Congressional action to overturn this decision, the Administration has, instead, proposed to explore amending its rules and regulations to expand the list of waters not covered by the Clean Water Act. Instead of supporting efforts to correct the damage, the Administration's action continues the abandonment of at least one-fifth of the nation's waters. This is unconscionable.

Until the Supreme Court's decision in the SWANCC case, section 404 of the Clean Water Act served as the primary federal protection for wetlands that serve important habitat, flood control and water quality improvement functions. In the absence of section 404 protection, small, isolated waters, including wetlands, could be filled or drained without regard to the impact on the environment or human needs.

The Supreme Court has adopted a very narrow reading of the intent of Congress in drafting the Clean Water Act and has determined that protection of small water bodies is beyond the reach of the Act. As is stated in the dissenting opinion, "the Court takes an unfortunate step that needlessly weakens our principal safeguard against toxic water." I agree and would further observe that the Court's decision opens an opportunity for waters across the Nation to be destroyed and degraded—and one which this Administration is all too willing to exploit.

A bedrock objective of the Federal Water Pollution Control Act Amendments of 1972 was to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The legislative history and the statutory language of the Clean Water Act make it abundantly clear that Congress intended the broadest possible constitutional interpretation for the provisions of this precedent-setting law.

The essence of the Supreme Court's opinion is that when Congress used the term "navigable waters" in the Clean Water Act, Congress intended that there be some nexus to actual navigation and commerce. Congress, in the Clean Water Act, was very deliberate and careful to define "navigable waters" as, "the waters of the United States, including the territorial seas." Likewise, the legislative history and court decisions prior to SWANCC have given the term "navigable waters" the broadest possible interpretation.

The proposed legislation will eliminate the use of the term "navigable waters" throughout the Clean Water Act and replace it with "waters of the United States." A definition of waters of the United States also would be added to mean coastal waters, territorial seas, all interstate and intrastate bodies of water (including tributaries) to the full extent that they are subject to the power of Congress under the Constitution; specifically including a river, stream, lake, natural pond, mudflat, sandflat, wetland, slough, prairie pothole, wet meadow, playa lake, natural pond, and an impoundment to any of these waters. The proposed definition is a combination of long-standing interpretations of jurisdiction by the Environmental Protection Agency and the Corps of Engineers prior to the January 2001 decision. The bill restores Clean Water Act authority; the bill does not expand that authority.

Trout Unlimited, National Audubon Society, National Wildlife Federation, Sierra Club, American Rivers, Clean Water Network, Natural Resources Defense Council, Earthjustice, Defenders of Wildlife, U.S. Public Interest Group, Association of State Floodplain Managers, The Ocean Conservancy, the Izaak Walton League of America, and Clean Water Network support this legislation.

MILITARY RETIREE DISLOCATION ASSISTANCE ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. JONES of North Carolina. Mr. Speaker, I rise today to reintroduce a common sense piece of legislation to help our military personnel preparing to retire. As my colleagues know, service members and their families will move many times in a typical military career. These permanent changes of station or PCS often involve considerable additional expense, including the loss of rental deposits, connecting and disconnecting utilities, and wear and tear on household goods.

To help defray these additional costs, Congress in 1955 adopted the payment of a special allowance—a dislocation allowance. This was done to recognize that duty station changes and resultant household relocations are due to the personnel management decisions of the armed forces and not the individual service members. This amount was increased in 1986 and again in recent years. This is an important benefit for our military members.

However, as important as this benefit is, there is a category of service members who are not eligible to receive the dislocation allowance—the military retiree. This is despite the fact a vast number are subject to the same expenses as their active duty counterpart. In August 2000, the Marine Corps Sergeant Major Symposium recommended the payment of dislocation allowances to retiring members, who in the opinion of the Sergeants Major, bear the same financial consequences on relocating as those still on active service.

When active duty military members retire they must often seek employment not knowing what opportunities exist in the civilian world, where those opportunities are located, what the pay will be, or what possibilities are available for spousal employment. They are sometimes faced with prospective employers who offer less wages knowing they are in receipt of retirement pay, and falsely believing that retirees don't need the same salary as civilians for the same position. Additionally, the new retiree will have to meet the same financial demands for mortgages, insurance, taxes, and food but on a smaller income.

For those reasons, I am reintroducing the Military Retiree Dislocation Assistance Act. This legislation would help ease the transition into retirement by amending 37 U.S.C. 407 to authorize the payment of a dislocation allowance to all members of the armed forces retiring or transferring to an inactive duty status such as the Fleet Reserve or Fleet Marine Reserve. The vast majority of these new retirees have given our Nation over 20 years of dedicated service. They have helped protect the very freedoms we all hold dear. Rather than simply pushing them out the door upon retirement, we should reward their service by providing modest assistance for their final change of station move. That is exactly what the Military Retiree Dislocation Assistance Act does.

In closing, Mr. Speaker, I would be remiss if I did not acknowledge the Fleet Reserve Association for their outstanding work on this initiative. I am an honorary shipmate of the FRA and proud to be so because of their steadfast commitment to the men and women of the military services, in particular the Navy, Marine Corps and Coast Guard family. FRA spent considerable time and effort towards the introduction and reintroduction of the Military Retiree Dislocation Assistance Act and I look forward to continuing our work together to see this important legislation enacted.

HONORING THE REMARKABLE CAREER OF THE REV. WOODROW MEDLOCK

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GORDON. Mr. Speaker, I rise today to recognize the remarkable career of the Rev. Woodrow Medlock. He has preached the gospel for nearly seven decades and continues to spread God's word with tireless dedication.

Rev. Medlock is an inspiration in my hometown of Murfreesboro, Tennessee. His ministry has touched many lives and spanned many communities. He has founded several local churches and has pastored at many others across the Middle Tennessee region. He has also been involved in the founding of a school and a children's home, as well as other worthy organizations.

Rev. Medlock shows no signs of slowing down, either, as he will turn 90 years young on Friday, February 28. A prime example of Rev. Medlock's untiring service to the Lord is his upcoming trip to Jamaica in April. Once there, he plans to take the good Lord's message to the Carribean island's prisons, nursing homes and orphanages.

The world is a much better place because of Rev. Medlock. His faith and humanity have influenced all who know him. I congratulate Rev. Medlock for all the good he has done and wish him the best in the years to come.

HONORING CESAR CHAVEZ: A FIGHTER FOR ALL AMERICANS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. FILNER. Mr. Speaker, I rise today to introduce H.R. 963, legislation to rename the Southeastern Post Office, in San Diego, California, the "Cesar E. Chavez Post Office."

In San Diego, as well as across the Nation, the name Cesar Chavez symbolizes dignity, admiration, and devotion to equality and human rights. This man dedicated his life to ameliorating human rights in our country. In the 1950s and 60s, when minorities were given little or no respect or rights, Cesar Chavez cleared the path for equality.

In the early 1950s, after fighting in World War II, Chavez began his involvement in battling racial and economic discrimination against Chicanos. As his attention and personal interest focused on the poor working conditions of farm workers, he realized that his dream was to start an organization to aid these workers.

Having been a farm worker himself, he was far too familiar with the inhumane working conditions farm workers were forced to endure. In 1962, he founded the National Farm Workers Association (NFWA), and in 1965, the NFWA joined an AFL-CIO sponsored union boycott against major table and wine grape growers. Through this five year long, successful boycott that rallied millions of supporters, the NFWA merged with the AFL-CIO union and formed the United Farm Workers (UFW).

From the beginning, the UFW followed the principles of nonviolence practiced by Gandhi and Dr. Martin Luther King, Jr. He organized peaceful demonstrations to bring attention to the farm worker's conditions. His slogan, Si se puede!, Yes, we can!, became known worldwide.

National attention to the farm workers came in 1968 when Senator Robert Kennedy visited

Cesar Chavez in California after Chavez led a 25 day fast. Kennedy was right when he called Cesar "one of the heroic figures of our time."

Cesar continued to organize boycotts and strikes around the world against table grape growers in California. His efforts paid off when, in 1975, growers supported then California Governor Jerry Brown's collective bargaining law for farm workers, the 1975 Agricultural Labor Relations Act.

Cesar Chavez is remembered today for his continual efforts and dedication to justice and equality. As Cesar said, "There are many reasons why a man does what he does. To be himself he must be able to give it all. If a leader cannot give it all, he cannot expect his people to give anything." The people of San Diego thank Cesar Chavez for always giving his all.

I urge my colleagues to support this legislation that recognizes such an honorable man by naming a San Diego Post Office in his honor.

NO SUPPORT FOR MIGUEL ESTRADA NOMINATION

SPEECH OF

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 25, 2003

Mr. RYUN of Kansas. Mr. Speaker, I rise today to note that the other body has not acted on the judicial nomination of Mr. Miguel Estrada.

The Constitution provides that the other body has the power to approve the President's choice of judges. This system has worked since the inception of our Nation. But now the other body is being stopped from exercising its power to confirm or not confirm Mr. Estrada. In fact, they are conducting a filibuster to keep a confirmation vote from taking place.

To have a legislative body that is simply afraid to vote is not good for democracy. What do they fear? Is Mr. Estrada unfit? If so, they should simply vote "no."

In America, even our suspected criminals are guaranteed due process under law and a speedy trial. But Mr. Estrada, who the American Bar Association gave its highest rating and who has a top-notch record of fairness and respect for the law, is left to languish without even a hearing.

I urge the American people to call their Senators and tell them to give Mr. Estrada an up-or-down vote. They deserve nothing less than open and fair action.

INTRODUCTION OF THE FAIR MINIMUM WAGE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, today I am honored to be joined by 73 of my colleagues in introducing legislation to increase the minimum wage. The legislation that we are introducing today provides for a $1.50 increase in the minimum wage, in two steps. Our bill raises the minimum wage from its current level of $5.15 per hour to $5.90 sixty days after enactment and raises it again to $6.65 one year thereafter. In addition, the legislation extends the applicability of the minimum wage to the U.S. Commonwealth of the Northern Mariana Islands. Our bill is identical to legislation introduced in the other body by the Democratic Leader, Mr. DASCHLE, and 34 of his colleagues.

The minimum wage has not increased from its present level of $5.15 since 1997. A minimum wage worker who works 40 hours a week, fifty-two weeks a year earns $10,712—almost $7,500 below the poverty level for a family of four, more than $4,300 less than the poverty level for a family of three, and $1,200 less than the poverty level for a family of two. The real value of the minimum wage today is 30 percent below its peak in 1968 and 19 percent below where it stood in 1981 at the start of the Reagan Administration. Even if the minimum wage is increased to $6.65 by 2004, the real value of the minimum wage will still be below its 1981 level. However, by enacting this legislation we will restore purchasing power to minimum wage workers, better enabling them to support themselves and their families and to more fully participate in our economy.

Raising the minimum wage to $6.65 will lift the wages of seven million low-wage workers. While women makeup less than half of the workforce, sixty-one percent of the workers who will benefit from a minimum wage increase are women. One-third of the affected workers who benefit from a minimum wage increase are African American or Hispanic, though those groups together make up less than a quarter of the workforce. A minimum wage increase is especially beneficial to workers in low-wage industries and occupations, including those employed in sales, service, and food preparation, and especially those in retail trade.

A $1.50 increase in the minimum wage will add $3,000 to the annual income of full-time minimum wage workers. For a low-income family of three, $3000 means 15 months of groceries, 7 months of utilities, or tuition for a community college degree. Enacting this legislation will restore purchasing power to minimum wage workers and better enable them to support themselves, their families and the economy. Work should pay. No one who works for a living should have to live in poverty.

Mr. Speaker, a fair increase in the minimum wage is long overdue. The failure of Congress to increase the minimum wage is driving more and more working families into poverty. We owe it to them and to the Nation to act quickly on this legislation.

INTRODUCTORY STATEMENT FOR H.R. 966, DISABLED VETERANS' RETURN-TO-WORK ACT OF 2003

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. BROWN of South Carolina. Mr. Speaker, today on behalf of Mr. RODRIGUEZ, Mr. SMITH, and Mr. EVANS, I am introducing H.R. 966, the Disabled Veterans' Return-to-Work Act of 2003. This bill reinstates a VA pilot program which expired on December 31, 1995.

H.R. 966 would ensure the availability of vocational training to newly eligible VA non-service-connected pension recipients. The program, open to those veterans age 45 years or younger, would provide disabled pension recipients the opportunity to receive training in order to return to the job market. There are many ways our veterans can and do contribute to the economy. Those veterans receiving nonservice-connected pension are in effect discouraged from seeking employment because of the needs-based structure of VA's Pension Program, whereby every dollar they earn is offset from the amount of monthly pension they receive.

Mr. Speaker, I expect the Veterans' Affairs Committee to consider this bill during the 1st Session of the 108th Congress. It is time to reinstate the pilot providing vocational training to certain pension recipients rather than requiring these veterans to rely solely on the VA pension program and health care system for the remainder of their lives. I believe the pilot program indeed will furnish data showing that many of these veterans desire independence from, not dependence on, the current non-service-connected pension program.

CANADIAN PLEA IN AIR INDIA CASE COVERS UP GOVERNMENT INVOLVEMENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. TOWNS. Mr. Speaker, recently, the Canadian courts accepted a plea bargain from Inderjit Singh Reyat in a case related to the bombing of an Air India jet in 1985 that killed 329 people. The plea covers up the clear and strong evidence that the Indian government itself blew up the airplane.

The book Soft Target, written by Canadian journalists Zuhair Kashmeri of the Toronto Globe and Mail and Brian McAndrew of the Toronto Star, shows that the story agreed to by Mr. Reyat matches a story first suggested in 1985 by the Royal Canadian Mounted Police (RCMP). A Sikh named Lal Singh reported that he was offered "two million dollars and settlement in a nice country" for false testimony in the case. He turned down that offer. There are some questions about whether the evidence in Reyat's first trial was valid, according to the National Post.

Canadian Member of Parliament David Kilgour wrote a book called Betrayal: The Spy

Canada Abandoned about a Polish-Canadian double agent who was approached by the Indian government to carry out a second bombing. Soft Target shows that the Indian Consul General in Toronto knew more than the RCMP and the Canadian Security Investigative Service (CSIS) in the early hours of the investigation. Why did his daughter and wife, a friend of his who was an auto dealer, and the director of North American operations for the Indian government all cancel their reservations on the doomed flight at the last minute, Mr. Speaker?

Even if the Indian government's story that a Sikh carried the bomb onto the plane is true, it implicates them. The person they have identified is associated with a Sikh activist named Dr. Jagjit Singh Chohan, who was identified in the book Chakravyuh: Web of Indian Secularism as someone who has been supported by the Indian government and has worked at its behest, including cooperating with them on the attack on the Golden Temple in Amritsar in June 1984. Thus, even the Indian government's own version of the story places the blame squarely on the Indian government.

Back on July 26, 1992, the, India Monitor reported the arrest in Bombay of a Sikh named Manjit Singh in connection with the Air India case. The RCMP, however, said it knew of no Manjit Singh and he was not a suspect. The Indian government has been desperately trying to pin its crime on the Sikhs for years.

The Council of Khalistan has issued an excellent press release on the Reyat case. I would like to place it in the RECORD at this time, Mr. Speaker.

CANADIAN COURTS COVER UP INDIAN COMPLICITY IN BOMBING

REYAT PLEA MATCHES RCMP STORY SUGGESTED IN 1985 QUESTIONING

WASHINGTON, DC., Feb. 12, 2003.—The recent plea bargain by Inderjit Singh Reyat in the 1985 Air India crash is the result of a concerted Indo-Canadian effort to cover up the Indian government's own responsibility for this atrocity that killed 329 innocent people, said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh Nation's struggle for independence.

The book Soft Target, written by respected Canadian journalists Zuhair Kashmeri of the Toronto Globe and Mail and Brian McAndrew of the Toronto Star, clearly established that the Indian government is responsible for the bombing. The book quotes an investigator from the Canadian Security Investigative Service (CSIS) who said, "If you really want to clear up the incidents quickly, take vans down to the Indian High Commission and the consulates in Toronto and Vancouver, load up everybody and take them down for questioning. We know it and they know it that they are involved."

Mere hours after the incident, while the CSIS and the Royal Canadian Mounted Police were still retrieving the passenger list stored in the Air India computer, Indian Consul General Surinder Malik called the Globe and Mail to tell them to look for an "L. Singh" on the passenger manifest. How could Malik have known this? "L. Singh" turned out to be a Sikh named Lal Singh. Lal Singh told an Indian newspaper that he was offered "$2 million and settlement in a nice country" to testify falsely against the three individuals that Canada has charged with the bombing, an offer he refused. Curiously, Consul General Malik knew more details about the case than the police did.

Malik had pulled his wife and daughter off the flight suddenly, claiming that his daughter had a paper to write for school. A Canadian auto dealer who was a friend of Malik's cancelled his reservation on the flight at the last minute, as well. So did Siddhartha Singh, head of North American Affairs for external relations in New Delhi. In addition the sister-in-law of the head of the Canadian wing of Dal Khalsa cancelled her reservations. Dal Khalsa is a political party formed by Zail Singh, who was President of India when Indira Gandhi was Prime Minister. How did all these people affiliated with the Indian government come to cancel their reservations at the last minute?

The story told in court in connection with Inderjit Singh Reyat's plea bargain matches in significant detail the story pressed upon him at the time of his initial arrest in November 1985, which he denied. An RCMP agent named Glen Rockwell told Reyat that he could get off the hook if he said that others hatched the bombing plot and sought his assistance and that he didn't know what he was doing. Reyat replied "I didn't help killing those people. No way." He said that Talwinder Singh Parmar, who has since been murdered by the Indian police, wanted to send some kind of explosive device to India. These details match the "statement of facts" at Reyat's trial.

The Indian Consul General planted a story in the Globe and Mail claiming that Reyat was given a parcel to carry onto the flight by Jagdev Nijjar, whose brother was in the inner circle of Jagjit Singh Chohan, who claims to be a Khalistani leader, but who was exposed in the book Chakravyuh: Web of Indian Secularism by Professor Gurtej Singh IAS in letters showing that he connived with the Indian government in planning the attack on the Golden Temple in Amritsar. Chohan is also tied to Dal Khalsa. If the Indian government really believes that Chohan's followers were involved in the incident, then why wasn't Chohan arrested when he returned to India last year?

A Member of the Canadian Parliament, David Kilgour, confirms the Indian government's involvement. In his book Betrayal: The Spy That Canada Forgot, he writes about a Canadian-Polish double agent who was introduced to Indian government agents. They asked him to join in their plot to carry out a second bombing of an Air India jet, telling him that "the first one worked so well."

The evidence clearly continues to show that the Indian regime blew up its own airliner to damage the Sikh freedom movement," said Dr. Aulakh. "This is consistent with the pattern of Indian government efforts to protect its tyrannical rule over the minorities of South Asia"

The government of India has murdered over 250,000 Sikhs since 1984, more than 200,000 Christians since 1948, over 85,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Manipuris, Dalits (the aboriginal people of the subcontinent), and others. Last March, the Indian government murdered 2,000 to 5,000 Muslims in Gujarat, according to the newspaper The Hindu. Over 52,000 Sikhs are being held as political prisoners. The Indian Supreme Court called the Indian government murders of Sikhs "worse than a genocide." On October 7, 1987, the Sikh Nation declared the independence of its homeland, Punjab, Khalistan. No Sikh representative has ever signed the Indian constitution. The Sikh Nation demands freedom for its homeland, Khalistan.

"Only in a free and sovereign Khalistan will the Sikh Nation prosper. In a democracy, the right to self-determination is the sine qua non and India should allow a plebiscite for the freedom of the Sikh Nation and all the nations of South Asia," Dr. Aulakh said.

RENEWABLE FUEL EQUITY ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. UDALL of Colorado. Mr. Speaker, I rise to join my colleague Mr. HUNTER of California in introducing the Renewable Fuel Equity Act. I'm grateful to my colleague for his leadership on this issue, and I look forward to working with him to build bipartisan support for this important legislation.

We all know we need to expand and diversify our production of energy from renewable resources. The legislation we have introduced today would help us do this by providing tax incentives for new renewable energy development.

Solar, wind, hydropower, biomass and geothermal energy are each potentially enormous energy resources. Every state has renewable energy potential. But the various kinds of renewable resources are not spread uniformly across the country. Current tax law creates regional and technological inequities by failing to provide uniform benefits for all renewable energy resources. For example, the Section 45 production tax credit enacted in 1992 has spurred significant new investment, but it only applies to power plants using wind power.

That's why we need to expand this proven incentive to all renewable energy sources. Clean power production provides greater reliability for our electricity system while promoting cleaner air and water. Renewable energy sources provide reliable power that is cost-effective over the long run, but their high initial capital cost discourages investment. Providing tax incentives for new renewable power production can make the difference.

The Hunter-Udall bill also offers incentives for smaller power systems, particularly those not connected to the grid, as these systems are unlikely to get an effective stimulus from the production tax credit. Under current law, the production tax credit does not apply to off-grid systems, and it is complex for a small farm or business to use. To address such situations, our legislation would make a 20 percent investment tax credit available to all small renewable technologies as an alternative.

Investment in new renewable power is good for the economy and the environment, and studies show that providing these tax incentives will spur new investment without cutting Treasury revenues. The Hunter-Udall bill makes good sense.

I look forward to working with my colleague and with Congress to get this sensible legislation passed.

HONORING THE CITY OF FAYETTEVILLE, NC AND THE FESTIVAL OF FLIGHT

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. ETHERIDGE. Mr. Speaker, today I have the privilege of introducing a resolution on behalf of the North Carolina's unanimous, bipartisan delegation honoring the City of Fayetteville and its Festival of Flight Celebration. We are introducing this resolution so that all in Congress and the entire nation can pay tribute to this city and its accomplishments.

Fayetteville's Festival of Flight will be the largest public event in the state marking the Wright Brothers' historic first flight, and it is one of only four events nationwide endorsed as a full partner by the United States Centennial of Flight Commission. The Festival of Flight will take place May 16–26, 2003, and it will feature a weekend arts festival, a military air show at Pope Air Force Base, a general aviation show at Grannis Field and an exposition with aviation displays and interactive exhibits depicting the past, present and future of flight.

Education is a focus of the Festival of Flight, and the State of North Carolina has developed a year-long curriculum to encourage students' interest in aviation and flight technology. This educational focus will culminate with 1,000 students and teachers being sponsored each day for exclusive access to the Festival's Aviation Exposition.

Mr. Speaker, the Fayetteville Festival of Flight is about dreaming big and reaching for the stars. It is a celebration of 12 historic seconds in 1903 that ushered in the era of modern aviation. Furthermore, it is a testament to the strength of this city, the power of innovation and the hope for the future.

I encourage my colleagues to sign on as cosponsors of this important resolution, and I urge this House to pass it soon.

* * *

RECOGNIZING A NATIONAL DAY OF REMEMBRANCE TO INCREASE PUBLIC AWARENESS OF EVENTS SURROUNDING INTERNMENTS OF JAPANESE AMERICANS DURING WORLD WAR II

SPEECH OF

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 2003

Mr. FARR. Mr. Speaker, I rise today to acknowledge the efforts of the Japanese, German, and Italian American communities in educating the public about their experiences during World War II. I also commend my colleague, Rep. MICHAEL HONDA, for his efforts in redressing the mistreatment of many American ethnic groups during this period and specifically for sponsoring H. Res. 56, the Day of Remembrance Resolution.

Today we reflect upon the forced internment of thousands of American citizens during World War II. On February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066, which authorized the Secretary of War to incarcerate Japanese Americans in designated areas controlled by the military.

Executive Order 9066 was decreed without the issue of formal charges, warrants or trials; this presidential decree denied thousands of citizens the due process of law that is guaranteed by the Constitution. Executive Order 9066 was born out of the misguided fear that some Japanese Americans might harbor anti-American sentiment and could possibly threaten the nation's security during a time of war.

The execution of this law devastated the lives of many Japanese Americans. More than 120,000 Japanese Americans on the West Coast were given one week's notice and told to bring only what they could carry before being forcibly removed from their homes. They were then relocated to internment camps where they lived behind barbed wire and endured such hardships as inadequate medical supplies and insufficient food and water.

Japanese Americans were not the only ethnic group faced with internal prejudice during this period. German and Italian Americans also faced significant intolerance from other Americans during World War II.

Prejudice against ethnic Americans still resonates today. The events of September 11 proved that terrorists threaten our country and our very way of life. Although some terrorists may still inhabit our homeland, we cannot threaten the liberty of every Arab-American in order to get to those that would threaten the United States. In this way, the events of November 19, 1941 are with us as much today as ever.

Today is a day of remembrance and a day of reflection. We must reflect upon the atrocities committed during World War II, upon the internment of Japanese-Americans and upon the prejudice many Americans faced during this time. And we must remember and learn from the mistakes of our past, so that we do not repeat them in the future.

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NASA

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. LAMPSON. Mr. Speaker, after the Space Shuttle *Columbia* tragedy, it is clear that we are now very dependent on the Russian space program as the sole means of support for the Space Station until the Shuttle fleet returns to service.

It is certainly conceivable that the Shuttle fleet could be grounded for some time—after the *Challenger* accident in 1986, the Space Shuttle fleet was grounded for 32 months.

While the *Columbia* investigation is moving forward, there is always a possibility that the root cause of the accident may never be determined with absolute certainty.

In the aftermath of the *Columbia* accident, it may be impossible to maintain the Space Shuttle's viability without help from the Russians.

Payments by NASA to Russia to cover the costs of purchasing additional Soyuz and Progress vehicles appear to be prohibited under the terms of the Iran Nonproliferation Act of 2000.

The Iran Nonproliferation Act provides a narrow exception, allowing the President to request a waiver from Congress only to prevent the imminent loss of life or grievous injury to individuals aboard the International Space Station.

But I believe the Administration needs even more flexibility under the Iran Nonproliferation Act of 2000 to cover the costs of additional Soyuz and Progress vehicles at this time.

Therefore, I am introducing legislation today that amends the Iran Nonproliferation Act of 2000 to allow NASA to purchase additional Soyuz and Progress vehicles if the President notifies Congress they are needed to ensure the safety of the crew aboard the International Space Station and to maintain its operational viability while the Space Shuttle fleet is grounded.

The safety of our astronauts should be paramount. NASA should not be prevented from doing whatever is necessary to ensure that safety is maintained.

* * *

DR. ALLAN H. MELTZER HONORED BY RECEPTION OF THE FIRST IRVING KRISTOL AWARD

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SAXTON. Mr. Speaker, I rise today to congratulate Dr. Allan H. Meltzer upon receiving the first Irving Kristol Award at the annual dinner of the American Enterprise Institute (AEI) last night. Dr. Meltzer's insightful lecture on international economics and the role of the United States in world affairs immediately followed an historic address by President George W. Bush.

Dr. Meltzer was recognized for his important contributions to monetary economics, economic history, and political theory. He has recently written a well-received and definitive history of the first several decades of the Federal Reserve System.

Dr. Meltzer also served as chairman of the International Financial Institution Advisory Commission, which made a series of recommendations for reform of the International Monetary Fund (IMF), World Bank, and other development banks.

He also has testified before Congress many times, including before the Joint Economic Committee on several occasions. The members of the Joint Economic Committee have benefited from Dr. Meltzer's expertise over the years, and I also appreciate his serving as a consultant to our committee. This award from the American Enterprise Institute to this distinguished scholar is well deserved.

NATIONAL PEACE CORPS DAY

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. KIRK. Mr. Speaker, National Peace Corps Day, on February 28, recognizes the important role the Peace Corps has played over the last 42 years and reaffirms our country's commitment to the mission of the Peace Corps, as vital today as it was over 40 years ago.

The first Peace Corps volunteers were sent to Ghana in 1961. When the Peace Corps celebrated its 40th anniversary 2 years ago, the United States also celebrated an important 40-year relationship with Ghana. Today, Ghana is the leading developing nation in west Africa, and thousands of Ghanians now have personal relationships with Americans which they would not have had without the Peace Corps.

Loret Miller Ruppe, the Director of the Peace Corps under President Ronald Reagan, was an impressive visionary and leader. She had the first vision of doubling the number of Peace Corps volunteers, In the army, a division consists of 10,000 soldiers. We now have 12 divisions in the U.S. Army. Loret Ruppe believed we should have at least one division in the Peace Corps. This vision of expanding the Peace Corps was renewed by President Clinton and reaffirmed by President Bush.

I want to commend the new direction of the Peace Corps for working to recruit not just the 22-year-old volunteers, but increasing the number of volunteers who are in their forties or fifties and choosing the Peace Corps as their second or third career. This new type of volunteer brings years of his or her technical expertise to places around the globe which need it most.

The Peace Corps has successfully altered its programs and the countries in which it operates to adapt to our changing times. Most recently the Peace Corps has expanded into Central Asia and the Balkans continuously working to improve the lives of countless people, while also working to improve U.S. relations with these emerging democracies.

National Peace Corps Day recognizes all Peace Corps volunteers, past and present. I would like to express my gratitude to those who have served overseas, committing 2 years of their life to their country and to democracy around the world. I would specifically like to recognize the 38 current volunteers from my district who are serving in six continents around the globe.

RECOGNITION OF LATINO AND IMMIGRANT WORKERS OF THE PHOENIX PROJECT

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. REYES. Mr. Speaker, I rise today to recognize the many Latino and immigrant workers of the Phoenix Project. This project encompassed the restoration of the west front of the Pentagon. We are all familiar with the horrific event that caused the Pentagon to require reconstruction. Perhaps less known, though, are the workers who restored the Pentagon in record time and under budget. When terrorists attacked the United States on September 11, 2001, they hoped to paralyze our country with fear, to break our spirit. The Phoenix Project, however, reflects the exact opposite. Three thousand workers, the majority of whom were from Latin America, descended upon the Pentagon with voracious energy and an unending willingness to help rebuild their newly adopted country.

The work they performed was back-breaking: pouring cement, installing plumbing lines, and hanging limestone slabs. Many traveled great distances to the Washington, DC area to work, living and sleeping in crowded hotel rooms. Despite these hardships, these workers labored tirelessly around the clock and throughout the weeks. It was evident to all that the Phoenix Project workers were incredibly proud to be involved in the restoration and renovation of the Pentagon. Their enthusiasm was infectious and quickly drove the project to completion. According to Walker Lee Evey, Program Manager of the Phoenix Project, "Workers came to the managers and said, 'If you'll tell us to get this building rebuilt in a year, we'll do it. We can do that!' " And do that they did, with determination and pride that is seldom seen.

I myself feel honored to stand here today and commend their actions. I am also proud to introduce a House Resolution today applauding their efforts, which, is being cosponsored by all 20 members of the Congressional Hispanic Caucus. At a time when many Americans are suspicious of immigrants, the Phoenix Project workers put aside hard feelings to fully restore this uniquely American symbol. They serve as a symbol of humanity and hope. Their motivation, devotion, and discipline should be honored by all Americans.

TRIBUTE TO LISA WALLACE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to say goodbye to a long-term staff member and good friend, Lisa Wallace, who is moving on to work for the House Resource Committee. This is an enormous loss for me and my staff because Lisa has been with me for nine years—beginning with my congressional campaign in 1994.

Throughout my years as a member of Congress, Lisa has always gone above and beyond her job responsibilities. As my Administrative Assistant, she has not only provided advice and kept me on schedule—she has been a confidant and a friend.

Lisa first began working with me in the San Joaquin Valley of California. She and I initially spent our time out on the campaign trail driving from meeting to meeting and event to event. I noticed right away that Lisa was intuitive and able to catch on quickly to what was going on around her. This, of course, was critical during the campaign.

Lisa was here in D.C. with me when I signed the Contract With America. During that trip, I thought at times that she was unhappy. Lisa later told me she was simply overwhelmed with D.C., but excited about the prospect of living in this city where people live and breathe politics. It was only the beginning of her Washington, D.C. journey.

During one of the most difficult times in my life, when I learned my father passed away, Lisa was there to comfort me. On a lighter note, she suffered through my single life until I met my beloved wife, Ethie. She was there when I got married and celebrated with Ethie and I when our son, King, was born. Lisa is and will continue to be an important part of my life.

In closing, I am touched to have Lisa Wallace—one of the most reliable, loyal and trustworthy people I know—be a part of my team for the past nine years. I wish Lisa all the best in her bright future.

HONORING SUZY MEYER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Suzy Meyer for her leadership and service to her Southwestern Colorado community. Suzy serves as the editor and general manager of the Cortez Journal, the culmination of a long career in journalism. In addition to being a leader in the business community, Suzy also volunteers her time for numerous community activities. It is truly an honor to acknowledge her accomplishments before this body of Congress and this Nation.

Prior to joining the Journal, Suzy was the longtime editor of the Mancos Times. At the Cortez Journal, Suzy has been instrumental in the planning of the paper's new state-of-the-art production and office facilities. Taking on the business responsibilities of the Journal, Suzy oversaw the transition to the new facility and the expansion of the Journal's commercial printing business. The Journal now prints the Durango Herald and other area publications, and Suzy serves as an officer of the Colorado Press Association. For her efforts, she received the 2002 Chamber of Commerce Citizen of the Year Award.

As a writer, Suzy has won numerous awards and a reputation for addressing serious community issues. For the last fourteen years she has coordinated Cortez's annual Community Christmas Dinner to ensure that none of her neighbors must spend Christmas hungry or alone. She is an elder of the Montezuma Valley Presbyterian Church and has served on the board of "Meals on Wheels" for 15 years.

Mr. Speaker, it is a great privilege to recognize Suzy Meyer for her outstanding citizenship. She has taken the lead on difficult issues and projects in both her professional life and her volunteer service. Her dedication is a credit to this Nation and to her community.

PERSONAL EXPLANATION

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. HOEFFEL. Mr. Speaker, unfortunately, I was absent for votes on Tuesday, February 25 and Wednesday, February 26, 2003, as a result of the passing of my mother, Mrs. Eleanore Hoeffel. Had I been present, I would have cast my votes as follows: Rollcall vote No. 33, "aye"; Rollcall vote No. 34, "aye"; Rollcall vote No. 35, "aye"; and Rollcall vote No. 36, "aye".

PAYING TRIBUTE TO SUNSHINE CLOUD SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to honor the memory of Sunshine Cloud Smith of Mancos, Colorado for her lifetime of dedication to the Southern Ute Tribe. Sunshine was a leader, a veteran, a tribal councilor, a spiritual mentor, and a teacher to everyone who she touched in life. It is truly an honor to recognize her accomplishments before this body of Congress and this Nation.

Sunshine was the granddaughter of Chief Ouray and a relative of Crazy Horse. As a leader, Sunshine was a visionary and opened many new doors and created wonderful opportunities for all women. She went to college at the University of New Mexico, and was married in 1940. Immediately thereafter, Sunshine served as a surgical technician in the United States Women's Army until 1945.

Upon her return to the reservation in 1948, Sunshine was elected to the Tribal Council and served as vice chairman for sixteen years. Her dedication to the tribal council laid the foundation for the tribe's present success. Sunshine has received several awards in recognition of her leadership contributions to Colorado and the Southern Ute Tribe. In 1989, Sunshine was recognized by the Governor of Colorado for her political and cultural contributions to the State. In 1999, Sunshine received the Western heritage Service Award from the Durango Pro Rodeo series. Moreover, she was a founding member of the Southern Ute Committee of Elders.

Mr. Speaker, it is with great respect that I pay tribute to the amazing life of Sunshine Cloud Smith before this body of Congress and this great Nation. Sunshine was a loving and caring mother and grandmother. She passed down many of the traditions and customs of the Southern Utes, and was a spiritual guide for all women of the tribe. Her accomplishments and contributions have truly made a difference. She will be missed by her family, friends and community.

CELEBRATING THE PROMOTION OF MAJOR SEBASTIAN "MIKE" CONVERTINO III TO THE RANK OF LIEUTENANT COLONEL

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. BOEHLERT. Mr. Speaker, I rise today to honor and congratulate one of my constituents, Major Sebastian "Mike" Convertino III. Major Convertino will be promoted to the rank of Lieutenant Colonel on February 28 at a ceremony in the Hall of Heroes at the Pentagon.

Major Convertino, who hails from my hometown of New Hartford, NY, has enjoyed a successful and meritorious career in the United States Air Force. Currently assigned to the Command, Control, Communications, and Computer Systems Directorate Joint Staff at the Pentagon, he began his career in the Air Force as a ROTC cadet at Union College in Schenectady. He received his Bachelor's degree in Electrical Engineering and Computer Science, and began an exciting and praiseworthy career in the Armed Forces.

Major Convertino has been decorated with a series of impressive awards, including: Meritorious Service Medal, Air Force Commendation Medal, National Defense Service Medal, Armed Forces Expeditionary Medal, Armed Forces Service Medal, Humanitarian Service Medal, and NATO Service Medal.

I am proud to have such a dedicated and talented individual hail from my district. Major Convertino represents the kind of outstanding individuals that man our Armed Forces. I wish Mike, his wife Kimberly, and their daughter Alexandra a great deal of success and all the best for the future.

On behalf of the 24th District of New York, as well as the entire House of Representatives, congratulations—you have made us all very proud.

PAYING TRIBUTE TO JACKIE SCHICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize Jacquelyn "Jackie" Mae Schick of Pagosa Springs, Colorado for her years of dedication as a civil servant to the town of Pagosa Springs.

Jackie has given generous amounts of her time and energy over the years as a leader in her community. She has served the Town of Pagosa Springs both as Town Clerk and with the Pagosa Springs Sanitation District, as well as the Colorado City Clerks Association, the International City Clerks Association, and the Chamber of Commerce.

Through her work as a mentor, Jackie contributes significantly to the lives of young people in Pagosa Springs. She has been a member of Eastern Star for forty years and even served as Worthy Matron in 1969. And in order to further reach out to youth, she has supported Pagosa Springs' Youth Recreation Program and sponsored the "Rockies" team for twelve years.

The Town of Pagosa Springs has been forever changed by Jackie's donation of time and leadership in these various capacities. Jackie also supported the 4-H Livestock Auction and worked for the County Extension office as a 4-H Agent from 1961–1962. In recognition of her service, the Pagosa Springs Area Chamber of Commerce will present her with a Lifetime Achievement Award.

Mr. Speaker, it is a great privilege to recognize Jackie Schick for her continuous dedication to the Pagosa Springs community before this body of Congress and this great nation. Her tireless efforts are to be commended as she sets an example for every community member to follow. Whether Jackie is mentoring youth, serving her town, or teaching Secondary School at the Methodist Church, she is making a difference for each and every citizen of Pagosa Springs.

CELEBRATING NATIONAL PEACE CORPS DAY

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Ms. KILPATRICK. Mr. Speaker, I rise to celebrate National Peace Corps Day on February 28, 2003 and to commend the organization and its volunteers for the important work they do around the world. Since 1961, more than 168,000 Americans have taken part in this important mission to volunteer in 136 countries. This mission is important on many levels.

The idea of the Peace Corps began in my home State of Michigan when John F. Kennedy, campaigning for President, proposed the concept in October of 1960 to a group of college students in Ann Arbor. He wanted to see how many of them would be interested in volunteering in developing countries to help in their progress and development. In March of 1961, the Peace Corps was established through an executive order signed by President Kennedy. Today, more than 40 years later, the Peace Corps remains a vital government program that helps to forge strong ties with other countries and to promote global peace.

Peace Corps volunteers give much of themselves during their assignment, and on a human level, there can be no greater service than helping to improve and making a positive difference in the lives of others. As a result of Peace Corps volunteer efforts, the ties between American citizens and those in host countries grow and remain strong long after the Peace Corps assignment has concluded. I know of no Peace Corps volunteer who has returned unchanged or unmoved by the positive work they have performed and the wonderful people they have met.

In my district, currently four volunteers are participating in the Peace Corps. They include: Ms. Kathryn L. Donahue placed in Lesotho; Mr. Brent J. Hayduk in the Ukraine; Ms. Maureen A. Magee in Gambia; and Mr. Seth

W. Pickens in Haiti. I am so proud of them and the other volunteers across our nation. To all volunteers, past, present, and future, I say thank you for your dedication and for the honor you all bring to our country.

PAYING TRIBUTE TO NANCY NIXON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, it is with pride that I recognize Mrs. Nancy Nixon of Ouray, Colorado. Mrs. Nixon has helped her community in many ways, and her love for children is especially evident. She has selflessly devoted her time to giving children an opportunity to learn for more than twenty years.

Mrs. Nixon grew up in Kansas City, and lived in Los Angeles, before she and her husband, John, moved to the beautiful mountain community of Ouray, Colorado in 1975. Nancy and her husband have two children, both of whom are attending college. Since she first moved to Ouray more than twenty years ago, Mrs. Nixon has not stopped helping her community. In 1976, just one year after relocating, she was the first president of the Friends of the Library. She organized and chaired various community events, most notably Ouray Days. Now, Nancy and John and are both active with Ouray's Performing Arts Guild and Arts Council. Helping in her community seems to come as second nature to Nancy, from coaching the Speech Team and working with the swimmers, to organizing the community's parades and rummage sales.

Working with children is one of the many things for which Nancy has a special gift. She has been a teacher in all three levels of Ouray's School District. She was originally hired to teach middle school, but soon after, began to teach at the elementary school level as well. Years later, Nancy taught English in the high school, and now she runs the Ouray School Library. Using her position in the library as a springboard to help children, Mrs. Nixon has created KURA, a non-profit radio station broadcast from the school and involving many students. She has given many hours of encouragement and support to the kids whom she teaches and helps.

Mr. Speaker, it is with much honor that I recognize Mrs. Nancy Nixon before this body of Congress and this nation. Her spirit of caring is one that has given many gifts to Colorado, and will continue to do so. Ouray is lucky to have such a resource among its citizens.

INTRODUCTION OF THE PENSION SECURITY ACT OF 2003

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am pleased today to join Chairman JOHN BOEHNER in the reintroduction of the Pension Security Act. Last year, the House acted quickly in the face of corporate scandals to protect American workers' pensions by passing the Pension Security Act. Unfortunately, the Senate did not consider this bill in the last Congress which makes reintroduction necessary.

Pension protection remains a key priority for all of us, and with the new Congress, we have a real opportunity to send President Bush a comprehensive pension security bill he can sign into law. We should not have to wait for another corporate scandal before we empower workers with new protections that can help them enhance and protect their retirement security. We are committed to addressing the pension security of American workers. Workers must be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

The Pension Security Act gives millions of Americans new tools to help them better manage and expand their retirement savings. The Pension Security Act gives workers new freedom to diversify contributions of company stock three years after receiving it in their 401(k) accounts; expands worker access to high quality, professional investment advice; allows workers to purchase retirement planning services with pre-tax dollars; empowers workers to hold company insiders accountable for abuses; and gives workers better information about their pension plans. It also includes a number of provisions to make it easier for small businesses to start and maintain pension plans and would further protect rank-and-file employees by ensuring that statutory stock options will not be subject to payroll taxes.

Last year, the Committee on Education and the Workforce and the Subcommittee on Employer-Employee Relations held a combined total of three hearings over four days to examine the collapse of Enron and to examine how to better protect pension participants. We heard testimony from Administration officials, pension experts, and rank-and-file employees.

One theme that emerged from the testimony was that pension plan participants need more tools to effectively manage their retirements. Secretary of Labor Elaine Chao stated: "Partnered with the proposed increased ability for workers to diversify out of employer stock, investment advice services will be more critical than ever." We also heard testimony from Tom Padgett, a former Enron employee. During a hearing, Chairman BOEHNER asked Mr. Padgett: "Did you receive any information, or as I would describe it, investment education from your employers or others talking about the need to diversify your account?" Padgett responded without hesitation: "No sir."

Enron, like most U.S. companies today, did not provide its rank-and-file workers with access to investment advice. The Pension Security Act would fix outdated federal laws to allow employers to provide their workers with high-quality, professional investment advice as an employee benefit while making advice providers personally liable for any advice not provided in the employee's best interest. Millions of employees who have seen their 401(k) balances dwindle might have been able to preserve their retirement savings if they'd had access to a qualified adviser who would have warned them in advance that they needed to diversify.

I am concerned, as many of my colleagues are, about protecting workers and preparing them with the tools they need to protect and enhance their retirement savings. Congress made important steps forward last year with the Sarbanes-Oxley Act regarding corporate governance. That law incorporated two provisions from the original version of the Pension Security Act dealing with notice and trading during blackout periods.

Congress also passed the Job Creation and Worker Assistance Act (P.L. 107–147) that expanded the interest rate "window" for valuation of current liabilities in defined benefit plans. Earlier in the 107th Congress, we also passed the Pension Security Act and the Retirement Security Advice Act with bipartisan support. We also passed the landmark reforms authored by my friend and colleague, ROB PORTMAN, that gave workers more pension portability, faster vesting, and a host of other needed changes. These measures were a good start, but we need to do even more for American workers.

I am proud that we are introducing the Pension Security Act as a bipartisan measure and I am hopeful that we can continue to work with our Democrat counterparts to reach consensus on the pension reforms I have just outlined. The nation's employer-based pension system is essential to the security of American workers. We should move quickly to finish the good work we began last Congress and restore confidence in our pension system. I urge my colleagues to join with me in helping America's workers by supporting the Pension Security Act.

HONORING JOE KEESEE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Mr. Joe Keesee for his leadership in Cortez, Colorado's business community. In addition to building a successful small business, Joe has volunteered his time with a wide range of community organizations.

In 1970, Mr. Keesee bought the former Marsell Motors at the corner of Main and Beech streets in Cortez. Over the last thirty-two years, Mr. Keesee turned Keesee Motor Company into one of the top dealerships in the western United States. Mr. Keesee himself has received numerous Ford President's Awards, and his business was named Cortez Business of the Year for 2002.

A model small businessman, Mr. Keesee employs forty-three area residents and was one of the original founders of the Montezuma County Economic Development Council. He has been active in a wide range of civic activities, including the Montezuma County Fair, the Future Farmers of America Scholarship Fund, Partners, the Junior Rodeo, Boy Scouts, United Way, Race for the Cure, and Toys for Tots.

Mr. Speaker, it is a great privilege to recognize Joe Keesee for his service to Southwestern Colorado. His generosity with his time and talent reaches benefits the entire community. His involvement is a credit to small businesses.

INTRODUCTION OF THE PENSION SECURITY ACT OF 2003

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. BOEHNER. Mr. Speaker, I am joined today by many of my colleagues in introducing the Pension Security Act. One year ago, President Bush sent a clear message to Congress that he is committed to preserving American workers' pensions by calling for new safeguards to help workers preserve and enhance their retirement savings. The House responded to the President's call and passed the Pension Security Act on April 11, 2002 with strong bipartisan support. Unfortunately, the Senate did not act on the legislation before adjournment. I am pleased to reintroduce his proposal today.

One of the tragic realities of the corporate scandals of last year is that it rattled the confidence of American workers in the country's pension system—a system that by and large has served employees and their families well. A Pew Research Poll released on February 21, 2002 indicated that 77 percent of Americans believed the Enron case was an important issue, and 47 percent of them believed the worst thing about the Enron case by far was the employees had lost their retirement funds.

Even more tragic is the possibility that much of it could have been avoided. At least some of Enron's workers might have been able to preserve their nest eggs if Washington had taken some basic steps to update our nation's pension laws. We should not have to wait for another Enron or WorldCom before providing workers with new protections that can help them enhance and protect their retirement security.

As more and more employers provide 401(k) plans to their workers, rank-and-file employees are shouldering more of the risk of their investment. Unfortunately these employees rarely have the time or knowledge to actively manage these investments and most have no access to quality investment advice through their employer. Millions of employees who have seen their 401(k) balances dwindle might have been able to preserve their retirement savings if they'd had access to a qualified adviser who would have warned them in advance that they needed to diversify. The Pension Security Act would fix outdated federal laws and allow employers to provide their workers with high-quality, professional investment advice as an employee benefit, but also includes key safeguards to protect the interests of workers and investors.

That is why today, my collegue SAM JOHNSON (R–TX), chairman of the Employer-Employee Relations Subcommittee, and I are reintroducing the President's proposal on behalf of America's workers. Workers must be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

Specifically, the Pension Security Act includes new measures that give employees the freedom to diversify their portfolio and would provide them better information about their pensions. Under the bill, employees may sell company stocks and diversify into other investment options after they have worked for their employer for three years. In addition, it requires companies to give workers quarterly benefit statements that include information about accounts, including the value of their assets, their right to diversify, and the importance of maintaining a diverse portfolio.

In addition, the Pension Security Act includes the provisions of the Retirement Security Advice Act (H.R. 2269), which passed the House in November 2001 with a large bipartisan vote. Current law continues to needlessly deny rank-and-file workers access to quality investment advisers to help them make sound investment decisions. The Pension Security Act encourages employers to make investment advice available to their employees and allows qualified financial advisors to offer investment advice only if they agree to act solely in the interests of the workers they advise. The Senate failed to act on this legislation prior to adjournment, though it passed the House with the support of 64 Democrats.

Lastly, the bill clarifies that companies have a fiduciary responsibility for workers' investments during a blackout period. Under current law, employers are not responsible for the results of workers' investment decisions. This "safe harbor" from liability does not apply during a blackout period. Under the Pension Security Act, employers will be responsible for the consequences of the workers' inability to control their investments if they violate their fiduciary in implementing or administering blackout periods.

Congress has taken some positive steps in the recent past to update our nation's pension laws, and this committee has been central to those efforts. Last year, Congress passed the Sarbanes-Oxley bill regarding corporate accountability, which incorporated two of the provisions in the Pension Security Act dealing with notice and trading during blackout periods. The House also passed the Pension Security Act last year by a margin of 255–163, with the strong bipartisan support of 46 Democrats. We also passed the landmark reforms authored by my friend and colleague, Representative ROB PORTMAN (R–OH), that gave workers more pension portability, faster vesting, and a host of other needed changes. We passed the Retirement Security Advice Act to give rank-and-file workers the same access to professional investment advice that wealthy executives have. But in spite of these efforts, a lot of work still lies ahead. We need to pass the remainder of the President's plan this year.

I am optimistic that common ground can be reached with Democrats because there is bipartisan support in Congress for the reforms I have just outlined. The nation's private pension system is essential to the security of American workers, retirees, and their families. Congress should move decisively to restore worker confidence in the nation's retirement security and pension system, and this reform proposal will do just that. I urge my colleagues to respond to the needs of America's workers by supporting the Pension Security Act.

PAYING TRIBUTE TO KEITH PROPST

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise today and pay tribute to the passing of a Colorado leader by the name, Keith Propst of Merino, Colorado. Keith dedicated his life to championing the causes of America's farmers and ranchers as the President of the Colorado Farm Bureau and I would like to take this opportunity to recognize his life's accomplishments before this body of Congress and this nation.

Keith began life on the family ranch, the Bar Three, which his family started in 1876. Eventually, he took over the ranch where he raised Simmental cows and grew various crops and later began serving his fellow farmers and ranchers in 1950 when he joined the Farm Bureau. The respect he developed among his peers led to his election to the Colorado Farm Bureau Board of Directors and eventually to the Bureau's presidency where Keith made positive and significant contributions to agriculture, water, and property rights. Guided by his character and common sense, he fought hard for what he believed in and also generously donated his time to the community through his role as a 4-H leader, Sunday school teacher, and youth group leader. I truly admired Keith for his willingness to stand up for the West, stand up for Colorado, and defend the Nation's farmers and ranchers, the stewards of America's bounty.

Mr. Speaker, throughout his life, Keith pursued a course of honor and distinction and I am truly honored to stand before this body of Congress and this nation and recognize Keith's life and achievements. His dedication to family, friends, and the causes he championed deserves more than our recognition; it deserves our admiration. At this time of great loss, my thoughts and prayers are with Keith's family and friends. We will miss you, Keith.

PAYING TRIBUTE TO LARRY T. WIESE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you today to honor Larry Wiese of Mesa Verde, Colorado. Larry is the Superintendent of Mesa Verde National Park and I would like to take this moment to pay tribute to his leadership, dedication and service to the community before this body of Congress and this nation.

Larry's leadership abilities allowed him to make many key fire management decisions which contributed to the timely and proactive measures that saved our forests. In 2001, Larry approved an emergency aspect for the Chapin Boundary Fuel Break due to seasonal severity, and prevented the fire from spreading to the headquarters area of Mesa Verde National Park. Additionally, he directed fire operations to develop Park Evacuation Plan and performed monthly drills in 2002 before Long Mesa Fire, while insisting that division chiefs provide input to this plan to enable it to be more successful.

Larry also reviewed and created weekly business oversight review for Fire Program Severity expenditures in 2002 season. He approved partial park closure, restricting public access to lower Chapin Mesa due to extreme fire danger and public safety considerations. In order to provide more safety for park visitors, Larry approved construction of a 12-acre safety zone near headquarters for fire fighter and public safety.

During many fire suppression operations, Larry was an active participant. He attended briefings and communicated park priorities such as public and fire fighter safety and the protection of cultural and historical resources. Larry has proven instrumental in the efforts to protect Mesa Verde National Park. While on the job, he has responded proactively to severe environmental threats. He also has provided leadership and direction to park staff and fire operations throughout the most severe fire season in recorded history.

Mr. Speaker, I am proud to stand before this body of Congress and this great nation to recognize the honorable leadership of Larry Wiese. His proactive steps made the difference in providing for visitor and staff safety, in addition to preserving the cultural, historic, and natural resources we are responsible to protect. Larry's contributions have greatly benefited the people of his community and I am honored to have this opportunity to represent such a fine Coloradan. I wish Larry the best of luck with all of his future endeavors.

PAYING TRIBUTE TO BLOOMFIELD FIRE DEPARTMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the City of Bloomfield Fire Department based in New Mexico for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Bloomfield Fire Department played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado, and today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of the Durango community called upon the Bloomfield Fire Department to protect their loved ones, homes, and property from what would become the worst fire in the area's history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens everyday. The Bloomfield Fire Department contributed 1400 man-hours as they worked for 14 days straight to contain the fire, relying on 35 firefighters, mostly volunteer. Additionally, the community of Bloomfield donated more than 16,000 pounds of supplies to those who were working to contain the Missionary Ridge Fire.

Mr. Speaker, it is with sincere admiration that I recognize the Bloomfield Fire Department before this body of Congress and this nation. I want to commend the brave volunteer firefighters and their support staff for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of this and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the fire season has served as an inspiration to us all and I am honored to pay tribute to their dedication and commitment to their neighbors in Colorado.

PAYING TRIBUTE TO FRED W. KLATT III

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize Fred W. Klatt III of Durango, Colorado. Mr. Klatt has been a dedicated citizen and leader of the Durango community for over 18 years, and it is my honor to pay tribute to his accomplishments before this body of Congress and this nation.

Fred began his career in public office when he was elected to the Durango City Council in 1984, and was elected Mayor in 1987. Following his service to the city, Fred was elected La Plata County Commissioner in 1990, and served the county for over twelve years. While in office, Fred also dedicated his time to several civic boards within the community, including San Juan Forum, La Plata County Humane Society, Durango Area Chamber Resort Association, Durango Library Board and the Durango/La Plata County Airport Commission.

Fred has also been active in Durango's business community where he was the proud owner of Klatt Travel, a local travel agency. Utilizing his service as a County Commissioner and a small business owner, Fred paid special attention to the concerns of small business owners and worked tirelessly in advocating the minimization of government, reducing costs and becoming fiscally efficient to create a stronger county government. For his significant contributions and endeavors within the community, Fred was recognized in 2002 as Durango's Citizen of the Year.

Mr. Speaker, it is with honor that I commend Mr. Fred Klatt before this body of Congress and this great nation for his dedication to and leadership of La Plata County and the City of Durango. His contributions have greatly benefited the people of his community and I am honored to have this opportunity to represent such a fine Coloradan. I wish Fred the best of luck with all of his future endeavors.

A PROCLAMATION RECOGNIZING THE BICENTENNIAL OF THE STATE OF OHIO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. NEY. Mr. Speaker,

Whereas, the people of Ohio are commemorating Ohio's 200th Birthday on March 1, 2003; and

Whereas, they will be celebrating the Bicentennial in Chillicothe, the original capital of the great state of Ohio; and

Whereas, the residents of Ohio have molded a strong tradition of family values and a commitment to a high standard of living for Two Hundred Years; and

Whereas, Ohio, since its inception, has developed into a growing and prosperous community dedicated to its past and future generations;

Therefore, I join with the residents of the 18th Congressional District and all of Ohio in celebrating the Ohio Bicentennial.

TRIBUTE TO MR. LEON EVANS, IN MEMORIAM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. PALLONE. Mr. Speaker, I would like to call the attention of my colleagues to Mr. Leon Evans who passed away Thursday, February 20, 2003 in Neptune, New Jersey. Mr. Evans was a dedicated, loving man and will be greatly missed by his friends and family.

Leon Evans was born on December 29, 1936 to the late Leroy and Virginia Evans in Little Rock, Arkansas. Mr. Evans is a man who recognized the value of education early on in life. First attending school in Little Rock, Arkansas, he continued his education at New Mexico State University, Las Cruces in New Mexico. Later, Mr. Evans furthered his studies at Monmouth University in West Long Branch, New Jersey.

Mr. Evans paid tribute to his county by serving in the United States Army from 1955 until his retirement on September 1, 1975. While in the Army, Mr. Evans was an instructor and fundamental Branch Supervisor at the U.S. Army Signal School in Fort Monmouth, New Jersey.

After Mr. Evans distinguished service in the United States Army he worked at Siemens Communication Systems Inc. Transmission Systems in Mount Laurel, New Jersey and Iselin, New Jersey from 1976 to 1984.

Mr. Evans was self-employed from 1984 through 1987 operating a communications service company. He later worked at Check-Mate Inc., where he provided his services to the Monmouth County area until his death.

In addition to his work ethic, Mr. Evans possessed a strong sense of community as exhibited by the various community memberships he held. Mr. Evan's was a member of Neptune's VFW Post #2639 and American Legion

Post #266. He also served on the Democratic and Environmental Committees for Neptune Township and was a member of the Optimistic Social Club and the Over the Hill Gang.

I would also like to recognize Mr. Evans for his loving devotion to his family. He was married to his beloved wife, Wanda for 47 years. Together they raised five wonderful children, and enjoyed spending time with their seven grandchildren and great grandchild.

Mr. Speaker, Leon Evans had many friends and colleagues who affectionately knew him as hard working, dedicated, patriotic, and a civic-minded individual. His friends and family greatly enjoyed his company and will sorely miss him. On this day, I ask my fellow colleagues to join with me in honoring and remembering this extraordinary individual.

PANTHEON OF BLACK HEROES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. RANGEL. Mr. Speaker, in celebration of Black History Month, I rise to introduce a series of bills—a Pantheon of Black Heroes—recognizing the historic achievements and contributions of African Americans. Several of these heroes resided and worked in the Harlem area, while others inspired or lent inspiration to our community.

The Pantheon of Black Heroes is part of my continuing effort, begun years ago, to officially recognize some of America's best and brightest. Black History Month presents us with another opportunity to highlight the achievements of these men and women. It is our opportunity to ensure that our stories are told as we have lived them, and as we would have them handed down to those who follow us.

I ask that my colleagues join with me in recognizing the vast contributions of these great African Americans.

Arthur Ashe, Ralph Bunche, Roy Campanella, Shirley Chisholm, Katherine Dunham, Marcus Garvey, Althea Gibson, Lionel Hampton, Dorothy Height, Zora Neale Hurston, Jesse L. Jackson, Sr., Dr. Martin Luther King, Jr., Thurgood Marshall, Adam Clayton Power, Jr., A. Philip Randolph, Sugar Ray Robinson, Arthur Schomburg, Betty Shabazz, Madame C.J. Walker, James L. Watson, and Malcolm X.

HOUSE OF REPRESENTATIVES—*Monday, March 3, 2003*

The House met at noon and was called to order by the Speaker pro tempore (Mr. ADERHOLT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 3, 2003.

I hereby appoint the Honorable ROBERT B. ADERHOLT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

O Father of us all and Lord over the nations. Your winds bear a season of uncertainty. The Earth still hides the seeds of future growth. Grant us patience to await the flowering of Your Providence. Guide the course of human events, for You alone know the complication of human history and the true mix of good and evil in our nature. You can direct not only the minds of the Members of Congress; You can untie the knots in international relationships.

May this Nation so live into the blessings You have granted, that we may prove to be both promise and a bridge to other nations. May all find joy and peace in serving You with lasting freedom now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a Concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 10. Concurrent resolution designating April 2003 as "Human Genome Month" and April 25, 2003, as "DNA Day".

The message also announced that pursuant to Public Law 107–273, the Chair, on behalf of the Majority Leader, announces the appointment of the following individuals as members of the Antitrust Modernization Commission:

Steve Cannon, of Virginia.

Makan Delrahim, of the District of Columbia.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 28, 2003.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on February 28, 2003 at 5:15 p.m. and said to contain a message from the President whereby he submits the 2003 Trade Policy Agenda and 2002 Annual Report on the Trade Agreements Program.

With best wishes, I am
Sincerely,

MARTHA C. MORRISON,
Deputy Clerk.

2003 TRADE POLICY AGENDA AND 2002 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–43)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2003 Trade Policy Agenda and 2002 Annual Report on the Trade Agreements Program as prepared by my Administration.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 28, 2003.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STUPAK (at the request of Ms. PELOSI) for today and the balance of the week on account of family matters.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 4, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

858. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Full Approval of Operating Permit Program: Maryland [MD-T5-2002-01a; FRL-7440-2] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

859. A communication from the President of the United States, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

860. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2002 through September 30, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

861. A letter from the Public Printer, Government Printing Office, transmitting the Annual Report for Fiscal Year 2001; to the Committee on House Administration.

862. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cameron Balloons Ltd. (Sky Balloons) Mk1 (BR1) & Mk2 (Mistral) Burners [Docket No. 2000-CE-50-AD; Amendment 39-12951; AD 2002-23-07] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

863. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters [Docket No. 2001-SW-26-AD; Amendment 39-12947; AD 2002-23-03] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

864. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes Equipped with Collins LRA-900 Radio Altimeters [Docket No. 2000-NM-406-AD; Amendment 39-12962; AD 2002-23-18] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

865. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MT-Propeller Entwicklung GMBH Models MTV-9-B-C and MTV-3-B-C Propellers [Docket No. 99-NE-35-AD; Amendment 39-12953; AD 2002-23-09] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

866. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600) Series Airplanes; and Model A310 Series Airplanes [Docket No. 2002-NM-40-AD; Amendment 39-12969; AD 2002-24-04] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

867. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 900EX and Mystere Falcon 900 Series Airplanes [Docket No. 2000-NM-418-AD; Amendment 39-12964; AD 2002-23-20] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

868. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes [Docket No. 2000-NM-417-AD; Amendment 39-12963; AD 2002-23-19] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

869. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002-NM-24-AD; Amendment 39-12965; AD 2002-23-21] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

870. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Henderson Airport; Las Vegas, NV [Airspace Docket No. 02-AWP-4] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

871. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Zanesville, OH [Airspace Docket No. 01-AGL-21] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

872. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Surface Area at Indian Springs Air Force Auxiliary Field; Indian Springs, NV [Airspace Docket No. 02-AWP-2] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

873. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace, St. George, UT [Airspace Docket No. 01-ANM-19] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

874. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace, Hailey, ID [Airspace Docket No. 01-ANM-18] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

875. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Philadelphia, PA [Docket No. FAA-2002-13944; Airspace Docket No. 02-AEA-03] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

876. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Fremont, NE [Airspace Docket No. 02-ACE-5] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

877. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D Airspace; Norfolk NAS, VA [Docket No. FAA-2002-13980; Airspace Docket No. 02-AEA-12] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

878. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Greenville Donaldson Center, SC, Amendment of Class E2 Airspace; Greer, Greenville -Spartanburg Airport SC, and Amendment of Class E5 Airspace; Greenville, SC [Airspace Docket No. 02-ASO-4] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

879. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operating Regulations; Bayou Lafourche, Cutoff, LA [CGD08-03-001] (RIN: 2115-AE47) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

880. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Mississippi River, Burlington, IA [CGD08-02043] (RIN: 2115-AE47) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

881. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Milbank, SD [Docket No. FAA-2002-13819; Airspace Docket No. 02-AGL-10] received January 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

882. A letter from the transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002-NM-24-AD; Amendment 39-12965; AD 2002-23-21] (RIN: 2120-AA64) received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

883. A letter from the Assistant Secretary for Import Administration and the Assistant U. S. Trade Representative for WTO and Multilateral Affairs, Department of Commerce, transmitting a report entitled, "Subsidies Enforcement Annual Report To The Congress"; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGEL:

H.R. 1045. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under part B of the Medicare Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHLERT:

H. Res. 119. A resolution providing amounts for the expenses of the Committee on Science in the One Hundred Eighth Congress; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 893: Mr. Owens.

H.R. 894: Mr. Owens.

H.R. 895: Mr. Owens.

H.R. 896: Mr. Israel, Mr. Frank of Massachusetts, Mr. Frost, Mr. Owens, and Mr. Kildee.

H. Con. Res. 59: Ms. Schakowsky.

H. Res. 111: Mr. George Miller of California, Mrs. Napolitano, Mr. Nadler, Mr. Hinchey, Mr. Grijalva, Mrs. Jones of Ohio, Mr. Pascrell, Mr. Serrano, Mr. Towns, Mr. Udall of New Mexico, Mr. Israel, Mr. Bishop of New York, Mr. Hastings of Florida, Mr. Lantos, Ms. Carson of Indiana, Mr. Markey, Ms. Kaptur, Mr. Inslee, Mr. Reyes, Mrs. Christensen, Mrs. Maloney, Mr. Simmons, Mr. Moran of Virginia, Mr. Etheridge, Ms. DeLauro, Mr. Blumenauer, Mr. Wu, Mr. McNulty, Ms. Kilpatrick, Ms. Slaughter, Mr. Levin, Mr. Ford, Mr. Rodriguez, Mr. Michaud, Mr. Pitts, Mr. Kind, Mr. Dingell, Mrs. Davis of California, Mr. Leach, Ms. Lee, Mr. Skelton, Mr. Scott of Georgia, Ms. Eddie Bernice Johnson of Texas, Mr. Honda, Mr. Weiner, Mrs. Biggert, and Mr. Delahunt.

SENATE—*Monday, March 3, 2003*

The Senate met at 12:02 p.m., and was called to order by the Honorable LARRY E. CRAIG, a Senator from the State of Idaho.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Norris A. Keirn, National Chaplain of the American Legion.

PRAYER

The guest chaplain offered the following prayer:

Eternal Father, You have been our shield and strength from the birth of our Nation to this present day. Our homeland has been preserved in the palm of Your hand. By inspiration of Your Holy Spirit, we have continuously moved to develop a more perfect union that would mirror Your divine purpose.

Through Your guidance, these Senators have been raised to make laws and direct efforts for the enduring betterment of the peoples of this Nation and the world. Grant great wisdom so that Your righteous purposes would be fulfilled. Afford each one the strength of will to be diligent dispensers of truth and justice. Bless them with solidarity that transcends personal views and political affiliations. Grant a bipartisan unity that would bring You glory!

Bless also those who defend this democracy and place themselves in harm's way. Dispatch Your angels to protect and to bring them home with victory over the evil forces that would attempt to destroy freedom. Enable them to break the bondage of oppression as You have so graciously granted in the past. In the Name of our Lord we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LARRY E. CRAIG led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 3, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LARRY E. CRAIG, a Senator from the State of Idaho, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CRAIG thereupon assumed the chair as Acting President pro tempore.

(Mr. CHAMBLISS assumed the chair.)

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Idaho is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, the Senate will spend the day in executive session trying to reach an agreement for a time to vote on the Estrada nomination. The nomination has been pending before the full Senate since February 5. The majority leader has attempted on a number of occasions to reach a time certain for this nomination. Each time there has been an objection by the other side of the aisle.

If Members desire to speak, they are encouraged to do so during today's session.

As a reminder to all Members, there will be a rollcall vote today beginning at 5:30. Under the unanimous consent agreement reached last Thursday, the vote will be on the confirmation of Marian Blank Horn to serve on the U.S. Court of Federal Claims. I thank all Members for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of executive calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The assistant minority leader is recognized.

Mr. REID. The manager of the bill is on the floor and the acting leader, Senator CRAIG, is also here. Senator BINGAMAN is here and wishes to speak. I understand Senator CRAIG wishes to speak for about 15 minutes. I wonder if I may direct attention to the distinguished chairman of the Judiciary Committee, Chairman HATCH. Senator BINGAMAN is here and I would like to see if we can get him in the queue to speak after Senator CRAIG. I know the Senator from Utah is managing this bill and, of course, I am sure he wishes to speak. I wonder if he has any objection to Mr. BINGAMAN speaking.

Mr. HATCH. I have no objection.

Mr. REID. He only wants about 5 to 10 minutes.

Mr. HATCH. I will have no objection, and I have no objection to Senator CRAIG speaking as well.

Mr. REID. Mr. President, I ask unanimous consent that Senator CRAIG be recognized for 15 minutes and then Senator BINGAMAN for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

MASSIVE GOVERNMENT SUBSIDIES TO HYNIX SEMICONDUCTOR

Mr. CRAIG. Mr. President, I rise today to visit with my colleagues about something that is going on in Idaho and across this Nation at this moment that is critical to our economy, and especially critical to the economy of the State of Idaho. The situation that a company in Idaho finds itself in at this moment has resulted in its need to lay off 10 percent of its workforce because of actions taken by the Korean Government to prop up a bankrupt competitor of Micron.

Micron is a company in Idaho that has been in place and is the world's second largest producer of memory chips. As a result of the Korean Government's propping up of the Hynix Semiconductor Corporation, the market now is tremendously softened and layoffs are occurring.

In the mid-1980s, Micron almost went out of business because of dumping by Japanese companies. At that time, I acted in concert with the Bush Government. President Bush at that time worked with the Department of Commerce to put duties on that offset, but eventually that overrode that impact and it allowed that company, Micron, to become the second larger of the semiconductor companies in the world today.

Micron, as I mentioned, is critical to the technological base of the United States. It employs 13.000 people—invaluable high-tech jobs in the U.S. and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

in other parts of the world. It produces D-RAM semiconductors, or random memory chips, a key component in countless electronic systems, from personal computers to satellites to military command and control systems.

Most importantly, Micron is the only remaining producer of D-RAM chips in the United States. There used to be a half dozen of these companies a decade ago, but they all left the business in large part due to the unfair trade practices of other countries such as and including Korea.

Now I believe I must do what I can to address this new situation that is costing U.S. jobs in the United States, is weakening our technology base, and is having a substantial impact on the State of Idaho.

My bill, introduced last week, S. 492, reflects just how far, in my opinion, the Government of Korea has pushed with what I call illegal subsidies, and it reflects just how far I think we must go to respond to that situation.

My bill would impose a duty on Hynix semiconductors as they come into the country. My bill "suspends liquidation" for these Korean semiconductors, which is another way of saying it watches them at the border. Then my bill requires a cash deposit of estimated countervailing duties in the 80-percent range. That is a serious step. Yet it is a legal and an appropriate step and, yes, it is actionable under the WTO, but it focuses us as a country on the problem we are facing with this kind of competition that I believe is illegal and is heavily Government supported.

I am angry, and I say that straightforwardly, at the Government of Korea and their continued unrelenting campaign of illegal subsidies to Hynix in an attempt to bring our domestic producer not only to its knees, but to destroy it altogether and then dominate the semiconductor industry.

Since October of 2000, the Korean Government, acting through the banks it owns and controls, has provided an incredible $16 billion—let me repeat that—the banks of Korea have provided an incredible $16 billion in subsidies to Hynix, the Korean producer of D-RAM semiconductors. How much has our Federal Government subsidized Micron? Nada; not one bit.

I think it is time we at least put up a barrier and test the international trade community to understand whether this is or is not an illegal action. We have that argument before the ITC at this moment. We hope there is a finding soon. But until then, I hope this Senate and the Finance Committee can come on point to recognize the critical environment that is being created by a company such as Hynix and a government backing them that strictly supports them for the purpose of dominating a world market and keeping its people employed.

In the 1990s, Government-controlled banks in Korea lent heavily to Hynix at cheap rates, and Hynix built up massive capacity, over 90 percent of which it exports. Ninety percent of what it produces in Korea leaves for the world market.

The Government of Korea built up this company with one goal in mind: to create an export powerhouse. It succeeded, and Hynix became the No. 3 producer of D-RAM chips in the world.

When Hynix became unable to repay the debt coming due in 2001, the Government of Korea stepped in and essentially wiped out the debt by providing over $16 billion in debt forgiveness and debt restructuring over the past 2½ years. There is no rational economic justification for Government support for Hynix. Hynix has been unable to repay its debt, and it has lost $8 billion over the past 3 years. The subsidies it has received have permitted Hynix to stay in business and continue to run all its D-RAM plants at full capacity, flooding the market with subsidized product.

They cannot make money. They have lost money, $8 billion over the last 3 years; and yet the Government still dumps money into them, and they are dumping money into them at a time when they are out building new capacity. The most recent Hynix bailout came 2 months ago when the Government provided $4.1 billion in debt relief and another $4.1 billion in subsidy. Hynix only had $2.4 billion in sales last year. It just does not add up. Take a chalkboard out and outline that for the world to see, and the world will say that is a Government-controlled, Government-subsidized plant that is not even making a profit and, in fact, is losing large amounts of money.

Hynix will use the debt forgiveness to continue to expand capacity. Just last week—this is almost like a slap in the face to the American workforce and to Micron and its companies—just last week Hynix announced it would begin work on new fabrication lines to produce D-RAMs on state-of-the-art 300 mm wafers which will result in even more subsidized D-RAM from Hynix. They cannot make a profit, they are being subsidized heavily, and they are going to build more capacity. That does not make any sense at all, but then again putting a lot of people out of work in Idaho does not make any sense either when we are asking a company to compete against this producer at well below market prices.

Now we read in the papers that Hynix and other Hyundai companies are being investigated for illegally transferring $500 million to North Korea in 2000. If that is true, that is a real slap in the face of Americans and the American worker. Of course, they did that for lucrative contracts. It did so with the help of South Korean banks and with the approval of the President of South Korea. I say that again. North Korea is being investigated for illegal actions with that country. This is the country that plans to reactivate its nuclear arms program and, we are now told, has just started one of its reactors. I hope the world will not tolerate this situation, and I hope our Senate will speak up to the issue.

Korea is a developed country. It is one of the most developed economies in Asia. The Korean Government has absolutely no business keeping a company going when it would otherwise be bankrupt, and there is no question about it. Like I said, pull a chalkboard out, and run those figures. You have one conclusion: Unless your banker or your best friend—and in this instance, the bank is the best friend. The Government owns the bank and the bank owns the company and you bail them out for $16 billion. The purpose is obvious.

The purpose of my legislation is to urge the Department of Commerce and other U.S. trade agencies to do everything in their power to fix this problem. That is what our trade laws are for. Do I like doing what I am doing? Absolutely not. Will I apologize for trying to protect an American company and a workforce against a heavily subsidized dominating company that wants to control the world marketplace with an undercost product? No, I will not apologize for that whatsoever.

Is the action I take if the Senate were to pass my bill and were it to become law actionable at the WTO? Absolutely, and it ought to be to test whether what we have done is appropriate or whether, in fact, what Korea is doing at this moment is illegal, as I believe it is, and as I think the world marketplace would believe and the World Trade Organization.

Once again, the ITC is reviewing this. We hope by late March that decision will be out there. The European Union is already reviewing Hynix. I am told they are finding them in violation. Why should American workers, Idaho workers, a great American company, one of the great American success stories, have to shut itself down and put itself in financial stress because it is being dumped on in a world market?

Those are the problems we face. That is why I have introduced the legislation. My colleague, Senator CRAPO, has introduced a resolution and has spoken to it. On the House side, Congressman BUTCH OTTER speaks to it. Clearly, Idaho and Idaho's economy will take a tremendous hit because the Koreans are illegally playing the world trade game, heavily subsidized by their banks and by their government.

I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent, the Senator from New Mexico is recognized for 5 minutes.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 1 minute. I do have the approval of the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I compliment my colleague from Idaho. He has called it exactly the way it is. What is going on is a matter of unfair competition. It is a matter of improper governmental subsidization in competition with a company that is doing it all without government subsidization. I personally thank him for his good remarks; I agree with them and I would like to be associated with them.

Mr. CRAIG. I thank my colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

LACK OF SPR POLICY

Mr. BINGAMAN. Mr. President, I appreciate the chance to speak for a few minutes about the Strategic Petroleum Reserve and the lack of action by the administration to deal with the problems we see in our oil markets today. What we are seeing by the administration is not bad policy, as such. What it is is a lack of policy for how we will use the Strategic Petroleum Reserve at a critical time such as the one we are in today. This indecision, this failure to articulate a policy, is hurting consumers and it is hurting our economy.

We have an oil supply crisis on our hands right now. Oil prices hit $40 a barrel last week. Domestic crude and product stocks are at an all-time low and oil prices are now hovering at levels that we have not seen since the gulf war. High energy prices such as this do hurt consumers and the economy. The question is, What has the administration done to minimize this economic pain that Americans are feeling?

The average consumer may not know what the price of oil is on a daily basis, but the average consumer does know the price of gasoline at the pump, and American consumers have had to bear the brunt of several weeks of very high gasoline prices while Saudi Arabia has been ramping up their production to maintain, if not to increase, their market share.

I do not know the connection between our national policy and Saudi Arabia's maintenance of market share. That has not been explained to me. But last fall, after the elections, when crude supply was first impacted and prices began to rise, the administration was urged to act to do a test sale of the Strategic Petroleum Reserve oil by several oil analysts.

A Strategic Petroleum Reserve release on this small scale would have been appropriate then. It would have been a simple statement outlining the administration's SPR policy, and it would have helped to calm jittery markets, which is certainly what we have seen in recent days and weeks. The situation we now face, in which the curtailment of oil supplies is hurting our national economic security, is precisely what we foresaw when Congress created the Strategic Petroleum Reserve. The curtailment has been months in the making. The current crisis in Venezuela has pushed the supply situation to a level that is beyond "severe."

The Strategic Petroleum Reserve was established in 1975, in direct response to the Arab oil embargo. Today, the Strategic Petroleum Reserve contains a total of 599.3 million barrels, almost 60 days' worth of imports. When this body considered the Omnibus Appropriations Act for 2003, I offered an amendment to extend our authority to use the SPR. That authority was set to expire later this year. I am pleased that the Senate adopted that provision and that as a result we have another 5 years of authority during which we can use SPR as a response to oil supply crises.

However, the authority was enacted for a reason. There is a supply problem. We have known this for some time now. In December, 3 million barrels of Venezuelan crude came off the market altogether. This has had a larger supply impact than removing all Iraqi crude will have under a war scenario, which we all, I believe, consider to be very likely.

Prior to December 2002, Venezuela was one of the world's five largest oil exporters. Its net exports averaged 2.4 million barrels per day. During the first 9 months of 2002, oil from Venezuela supplied approximately 14 percent of U.S. net oil imports, or about 1.5 million barrels per day.

The United States depends on Venezuela for substantial volumes of gasoline imports as well as oil imports. A 10-week general strike in Venezuela has resulted in a sharp decrease in Venezuela's exports to the United States. The strike comes at a time when markets are already tight.

On Tuesday, in the Committee on Energy and Natural Resources, we heard testimony from the Secretary of Energy that everything was getting better in Venezuela, that the crisis was passing. Recent events, though, suggest that this may not be the case. A key factor in the uncertainty that is keeping prices up is the uncertainty surrounding the administration's intentions about using the SPR. A clear statement from the administration of the conditions under which oil would be released from the SPR would have an immediate effect on lowering oil prices.

A cryptic phrase that is used by the administration is that they would release oil from the SPR only in the case of "a severe supply disruption." But since the administration will not elaborate on what a severe supply disruption entails, the suspicion is that they will never release oil from SPR absent an all out war in the Persian Gulf that involves major damage to Saudi oilfields. For that reason, the psychology of the market largely discounts the existence of the Strategic Petroleum Reserve at this time, and consumers are paying all-time high prices at the pump.

Gas prices have risen more than 30 cents a gallon since December. Gas prices are high in part because our crude stocks are down. We are operating at minimum operating levels in the refining sector. With high crude prices, increased refining output means even higher prices at the pump.

Demand for gasoline is high as we head into the driving season. Since most spare capacity in the market is in the Middle East, it is going to take awhile to get the oil we need. It does not take much to send prices spiking again. Cold weather can do it. Disruption in supply from Venezuela or Nigeria could do it. War in the gulf could do it.

My colleagues have listened to many speeches over the last year bemoaning the fact we do not have an energy policy. I am not going to ask that we come to closure today on a universal, all-encompassing, comprehensive energy policy. I would settle for a single action by the administration. That would be a clearly enunciated and understandable policy for when we will use the Strategic Petroleum Reserve.

The administration may be sufficiently captive to a minimalist ideology in dealing with this oil crisis, that they never actually plan to use the Strategic Petroleum Reserve, and I hope very much that is not the case.

I call on the President to give us a clear and understandable signal as to what his policy is. Merely saying we will wait for a severe supply disruption is not an adequate response. Consumers deserve more. The costs to our economy may become unacceptable. It certainly is a severe issue weighing down our economy at the present time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 534

Mr. HATCH. Mr. President, as in legislative session, I understand H.R. 534 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning.

Mr. HATCH. I object to further proceeding.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

Mr. HATCH. Mr. President, I ask we now go back into executive session.

The PRESIDENT pro tempore. The Senate is in executive session.

Mr. HATCH. Mr. President, it has now been nearly 4 weeks since we began debating the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. We have heard all of the arguments for and against his nomination. What we have not heard is a good reason why this filibuster should continue. We have not heard any good reason why his nomination should not be brought for an up or down vote.

One of the reasons that some of my Democratic colleagues say they oppose Mr. Estrada is because he allegedly did not answer their questions at his hearing. I do find this complaint unpersuasive, particularly given that (1) the hearing was chaired by a Democratic Senator, (2) the hearing lasted all day, (3) Mr. Estrada answered question after question on a broad variety of topics, and (4) every committee member had the right to ask Mr. Estrada follow-up questions in writing but only two did.

Nevertheless, in a letter dated last Thursday, February 27, 2003, White House Counsel Alberto Gonzales sent a letter to all 100 Senators directing them to additional sources of information on Miguel Estrada. This is an important letter, and I will take a moment to read the letter:

DEAR SENATOR FRIST, SENATOR DASCHLE, SENATOR HATCH, AND SENATOR LEAHY: I write in connection with the nomination of Miguel Estrada. Some Democrat Senators have indicated that they would like to know more about Mr. Estrada's record before a vote occurs. As I stated in my letter of February 12 to Senator Daschle and Senator Leahy, we believe that the Senate has had sufficient time and possesses sufficient information to vote on Miguel Estrada. More important, a majority of Senators have indicated that they posses sufficient information and would vote to confirm him.

But if some Senators believe they must have more information before they will end the filibuster of this nomination, we respectfully suggest that there are three different and important sources of information that have been and remain available and that would appropriately accommodate the request for additional information. We ask that you encourage interested Senators to avail themselves of these sources as soon as possible.

First, as I have written to you previously, individual Senators who wish to meet with Miguel Estrada may and should do so immediately. We continue to believe that such meetings could be very useful to Senators who wish to learn more about Mr. Estrada's record and character.

Second, Senators who have additional questions for Mr. Estrada should immediately pose such questions in writing to him. We propose that additional questions (in a reasonable number) be submitted in writing to Mr. Estrada by Friday, February 28. Mr. Estrada would endeavor to answer such questions in writing by Tuesday, March 4. He would answer the questions forthrightly, appropriately, and in a manner consistent with the traditional practice and obligations of judicial nominees, as he has before.

Third, Senators who wish to know more about Mr. Estrada's performance and approach when working in the United States Government—and, in particular, how that relates to his possible future performance as a Circuit Judge—should immediately ask in writing for the views of the Solicitors General, United States Attorney, and Judges for whom Mr. Estrada worked and ask them to respond by Tuesday, March 4. In particular, interested Senators could immediately send a joint letter to each of the following individuals for whom Mr. Estrada has worked in the United States Government: Judge Amalya Kearse, Justice Anthony Kennedy, former United States Attorney Otto Obermaier, former Solicitor General Ken Starr, former Solicitor General Drew Days, former Solicitor General Walter Dellinger, and former Solicitor General Seth Waxman. In our judgment, these men and women could provide their views on Mr. Estrada's background and suitability to be a Circuit Judge by March 4 without sacrificing the integrity of the decisionmaking processes of the Judiciary, United States Attorney's office, and Solicitor General officer. And their views could assist Senators who seek more information about Mr. Estrada.

We believe that these sources of information, which have been available for some time, would readily accommodate the desire for additional information expressed by some Senators who have thus far supported the filibuster of a vote on this nominee. We ask that you encourage Senators who have objected to the scheduling of a vote to avail themselves of these sources of information. And we respectfully ask that the Senate vote up or down as soon as possible on Mr. Estrada's nomination, which has been pending for nearly two years.

Please do not hesitate to contact me with any questions.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

Mr. HATCH. As far as I know, none of the Senators who have sought more information about Mr. Estrada have availed themselves of any of these sources. This brings to mind the story of the young man who killed both his parents, then threw himself on the mercy of the court because he was an orphan. Here, my Democratic colleagues who are complaining the loudest about not having enough information about Mr. Estrada are the very ones who are apparently not interested in finding out more about him through readily available means. Meanwhile, the filibuster goes on and on.

Another significant letter was circulated on Wednesday of last week, this one signed by more than 50 of our colleagues in the House. This, too, is a powerful letter. Let me read the letter:

WASHINGTON, DC,
February 26, 2003.

Senator TOM DASCHLE,
Senator HARRY REID,
Senator PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATORS: It is our understanding that the major objection raised by the Senate Democratic Leadership and many members of the Senate Democratic Caucus to the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit is that you have not been provided sufficient information about his legal views. Specifically, we understand that you are opposing his nomination because of the Administration's failure to provide you with internal memoranda prepared by Mr. Estrada while he served as Assistant to the Solicitor General.

We are deeply concerned that your objection to the Administration's refusal to produce these memoranda not only breaks with precedent but is also a threat to the ability of Executive Branch Officials, members of the Judiciary, and Members of Congress to receive confidential legal advice.

As you are no doubt aware, the Clinton Administration memoranda you are requesting in the case of Mr. Estrada were not requested for the seven previous nominees to the Courts of Appeals who had worked in the Solicitor General's office. Understandably, the improper appearance of a double standard for this particular nominee has been created. In addition, every living former Solicitor General—Democrat and Republican—signed a joint letter to the Senate Judiciary Committee, stating that the memoranda request would have a debilitating effect on the ability of the Department of Justice to represent the United States before the Supreme Court.

Forcing the disclosure of confidential memoranda in this instance would do serious institutional harm to all three branches of government. For example, should legal memoranda prepared for you by one of your staff be available for review by future senators (or by the Administration) in the event that the staff member were to be nominated or be considered to a judicial or other post? This appears to be the precedent you are attempting to set. As we trust you understand, such a precedent would no doubt impact the type and quality of advice we seek and receive from our staff.

We strongly urge you to reconsider your objections and drop your request for the confidential memoranda of the Clinton Justice Department.

Mr. HATCH. Mr. President, I stood on the Senate floor last week when the debate on Mr. Estrada's nomination entered its third week, and I said that there is a simple solution to the logjam that has become the Senate. It is a straightforward solution that does not require the release of confidential memoranda or questionable claims that Mr. Estrada failed to answer questions before the committee. The solution is for Senators to vote on Mr. Estrada's nomination. Vote for him or vote against him; do what your conscience dictates. Just vote.

One reason I believe we are not voting, and the filibuster continues, is because our friends on the other side of the aisle know Mr. Estrada has enough votes to be confirmed to the Circuit Court of Appeals for the District of Columbia.

I have mentioned before that Mr. Estrada has a substantial and impressive record, despite the claims to the contrary of some of my Democratic colleagues.

One very substantial part of his record consists of the 15 cases he has argued before the United States Supreme Court. In each of these cases, a brief was filed that is publicly available for everyone and anyone to review. And in each of these cases, there is a transcript of Mr. Estrada's argument before the Supreme Court.

The briefs and transcripts of each of Mr. Estrada's 15 Supreme Court cases are right here. As you can see, there is a very substantial record on Mr. Estrada. I invite any one of my Democratic colleagues who have not reviewed or acknowledged this record to do so. You can get a pretty good idea of the cases he argued, the reasoning he used, the legality that he cites, the law he applies—more than almost any other nominee for the Circuit Court of Appeals in the history of the country.

But in case any of my Democratic colleagues are finding themselves short on time these days—after all, perpetuating a filibuster does require a substantial amount of effort—I want to spend a few moments on the cases Mr. Estrada argued before the Supreme Court. A look at these cases and the significance of the legal issues argued in them should dispel any notion that Mr. Estrada has no record.

Let's start with the 1999 case of Strickler v. Greene, which Mr. Estrada argued pro bono on behalf of a death row inmate. He argued that the Commonwealth of Virginia violated the seminal Supreme Court case of Brady v. Maryland by withholding material exculpatory evidence. Although he spent hundreds of hours in his quest to overturn Tommy Lee Strickler's death sentence, he lost the case by a 7-2 margin.

In another case, Richards v. Wisconsin, Mr. Estrada argued on behalf of the United States as amicus curiae that it generally is reasonable for police officers who have a warrant to search a dwelling for evidence of drug trafficking, to enter the dwelling to execute the warrant without a prior announcement of their presence and purpose. A unanimous Supreme Court agreed with him; he won 9–0.

In the case of Old Chief v. United States, Mr. Estrada argued for the United States that the district court properly exercised its discretion, in a prosecution of a convicted felon for possession of a firearm, to admit evidence of the defendant's prior felony conviction even though the defendant offered to stipulate to that fact. He narrowly lost that case by a 5–4 margin.

The case of United States v. Gonzales dealt with 18 U.S.C. §924(c), which provides that "[n]otwithstanding any other provision of law" prison terms under the statute "shall [not] run concurrently with any other terms of imprisonment." Mr. Estrada argued on behalf of the United States that a court may not order that a sentence imposed under §924(c) is to run concurrently with a State-law sentence that the defendant is already serving. He won this case 7-2.

In Montana v. Egelhoff, Mr. Estrada argued for the United States as amicus curiae that the Due Process Clause does not bar a State from preventing a jury in a criminal case from considering evidence of the defendant's voluntary intoxication in determining whether he possessed the mental state required for the crime charge. He won this case 5–4.

In Degen v. United States, Mr. Estrada argued for the United States that the district court had properly invoked the so-called fugitive disentitlement doctrine to bar the petitioner from contesting a civil forfeiture action. A unanimous Supreme Court ruled against him in this case, which, of course, just goes to show that you can't win them all.

Mr. Estrada did score a unanimous victory in Citizens Bank v. Strumph. In that case, Mr. Estrada argued on behalf of the United States as amicus curiae that a bank's temporary refusal to pay a debt upon the debtor's demand was not an exercise of its setoff right in violation of §326 of the Bankruptcy Code, which stays a creditor's right of setoff pending an orderly determination of the debtor's and creditor's rights.

The case of Reno v. Koray considered 18 U.S.C. §3585, which provides that a criminal defendant generally must "be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences." Mr. Estrada argued for the United States that a Federal prisoner does not receive credit on his sentence for time he spent released on bail. He won this case 8–1.

In United States v. Robertson, Mr. Estrada argued on behalf of the United States that the interstate movement of goods and people in connection with the operation of a gold mine is sufficient to justify the conclusion that the activities of the gold mine affect interstate commerce within the meaning of the RICO statute. He won this case 9–0.

In United States v. Mezzanatto, Mr. Estrada argued on behalf of the United States that the Government may use statements made in the course of plea discussions to impeach a criminal defendant's contrary testimony at trial, when the defendant and his counsel expressly agreed before those statements were made that the government would have the right to use them. He won this case 7–2.

In United States v. Alvarez-Sanchez, Mr. Estrada argued for the United States that a delay between a defendant's arrest on State narcotics charges and presentment to a Federal magistrate on subsequent Federal charges did not require suppression of an inculpatory statement to Federal agents that was made while defendant was in custody on the State charges. He won this case 9–0.

The case of Powell v. Nevada considered the rule of County of Riverside v. McLaughlin, which provides that a judicial probable cause determination must be made within 48 hours of a warrantless arrest. Mr. Estrada argued on behalf of the United States as amicus curiae that the rule did not apply retroactively. The Supreme Court ruled against his position 7–2.

In NOW v. Scheidler, Mr. Estrada argued on behalf of the United States as amicus curiae that RICO does not require proof that either the racketeering enterprise or the predicate acts of racketeering were motivated by an economic purpose. It just so happens that in this case, the defendant against whom Mr. Estrada argued was an abortion protestor, and Mr. Estrada argued on the same side as NOW. His position prevailed when an unanimous court agreed with him.

In Austin v. United States, Mr. Estrada argued for the United States that the Eighth Amendment's excessive fines clause does not apply to civil forfeiture proceedings. He lost this case 9–0.

Last but not least, in Deal v. United States, Mr. Estrada argued for the United States that a defendant who is convicted in a single proceeding of multiple violations of 18 U.S.C. §924(c) is not subject to the statute's provisions imposing a more severe sentence for a "second or subsequent conviction." He won this case 6–3.

What these cases show, Mr. President, is that in 6 years Mr. Estrada compiled an impressive record before the Supreme Court. He argued 15 cases, winning 10 of them. In half of those cases, he won in a unanimous decision. There can be no question that Mr. Estrada has a record that anyone would be proud of by any standard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, there are a couple things I will speak about during this period of time: One, I do want to address myself to the issue now before us; that is, the issue of whether or not Miguel Estrada should proceed to the District of Columbia Circuit Court of Appeals. Then I will talk a little while about the events over the weekend as they pertain to the looming war in Iraq.

But as pertains to Mr. Estrada, as long as this person is in front of us on the floor of the Senate, as long as my good friend from Utah keeps taking the floor to ask for a vote on Mr. Estrada, this Senator will continue to take the floor to continue to remind my good friend from Utah of what happened to Bonnie Campbell under the Clinton administration when the Republicans controlled the Judiciary Committee.

My friend, the Senator from Utah said:

> An up-or-down vote, that is all we ask. If the Democrats have enough votes to defeat Miguel Estrada, I am not going to complain about it. I might feel badly about it. I might think it is the wrong thing to do, but they have a right to do that. If my colleagues disagree, and don't like this, they can speak out, they can give their reasoning and vote no. Politics ought to be left out of it.

It is unfortunate we did not hear that when President Clinton's nominees were sent to the Senate for confirmation. In fact, I said the same thing as my friend from Utah said at the time on the nomination of Bonnie Campbell to serve on the Eighth Circuit. Bonnie Campbell is a former attorney general of the State of Iowa, an individual who, by all reckoning, did an outstanding job at the Department of Justice, heading the Office of Violence Against Women.

She was nominated by President Clinton to be on the Eighth Circuit, and we could not even get a vote on her. She received her hearing in May of 2000 and answered whatever questions were propounded to her. She stood willing to produce any and all documents she had ever written for anyone. No, not once did any Republican Senator complain that Bonnie Campbell was not forthcoming. In fact, I am told that not once did a Republican Senator complain that a Clinton nominee did not adequately answer these questions.

So here she was, ready to answer, ready to move on. The hearing was held. She had the ABA stamp of approval. As I said, she had a long and distinguished history in the field of law. There were Members on both sides of the aisle who supported her nomination. Both Senator GRASSLEY and I, from the State of Iowa, supported her nomination.

On September 21, 2000, I said right here:

> If, for some reason, you think she is unqualified—I can't imagine why—then cast your vote, but at least let's bring the nominee to the floor. This, I think, is a black mark on the operations of the Senate, another indication of how the leadership of this Senate refuses to do the people's business, to let things come out on the floor so we can vote things up or down.

On October 3, 2000, I said:

> It is clear who is playing politics with judgeships.
>
> The Republican leadership of the Senate is playing the most bold-faced politics. It is not alleged these nominees are not qualified; it is simply they were nominated by a Democratic President. That is all.

I have not heard one person on the Republican side tell me that Bonnie Campbell is not qualified to be a circuit judge.

Then during the month of October 2000, I brought up Bonnie Campbell's nomination seven times on the floor. I asked unanimous consent to go to it on the executive calendar, and seven times the Republican majority objected.

My friend from Utah has talked about the Democrats' double standard. My first instinct is to call that laughable, but in reality, it is outrageous because so many extremely well-qualified Clinton nominees not only never got an up-or-down vote on the floor, they never got a vote on committee. In many cases, they didn't even get a hearing.

I mentioned this a week or so ago. My friend from Utah said Bonnie Campbell's nomination came too late in the last year of the last administration. Well, I know for a fact two of Senator KYL's district judges were nominated after Bonnie Campbell was nominated, and they were confirmed on October 3, 2000. In fact, I have a list of all the Clinton judicial nominees who were never allowed a vote. There were 79 who were not confirmed—31 circuit, 48 district. Fifty-nine were never even allowed a vote. Allen Snyder, DC Circuit, never given a vote by Republicans; Elena Kagen, DC Circuit, never given a vote by Republicans; Robert Cindrich, Third Circuit, never given a vote by Republicans. I will not read the whole list. There are 59 of them. But obviously one of those is Bonnie Campbell.

As long as Mr. Estrada is going to be here, I will keep reminding people of what they did to someone eminently well qualified who answered all the questions, was open to giving any writings, documents, or whatever anyone had asked of her. Yet she was stopped and wasn't even given a vote.

I ask unanimous consent to print in the RECORD a list of all the judicial nominees who were not confirmed that President Clinton nominated, with a list of how many were never even given a vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEVENTY-NINE CLINTON JUDICIAL NOMINEES NOT CONFIRMED IN CONGRESS FIRST NOMINATED

(31 CIRCUIT/48 DISTRICT—59 OF THESE NEVER ALLOWED VOTES BY REPUBLICAN-CONTROLLED SENATE)

31 CIRCUIT COURT NOMINEES (22 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Merrick Garland, D.C. Circuit.

Allen Snyder, D.C. Circuit, never given a vote by Republicans/not confirmed.

Elena Kagen, D.C. Circuit, never given a vote by Republicans/not confirmed.

Robert Cindrich, 3rd Circuit, never given a vote by Republicans/not confirmed.

Stephen Orlofsky, 3rd Circuit, never given a vote by Republicans/not confirmed.

Robert Raymar, 3rd Circuit, never given a vote by Republicans/not confirmed.

James Beatty, 4th Circuit, never given a vote by Republicans/not confirmed.

Andre Davis, 4th Circuit, never given a vote by Republicans/not confirmed.

Elizabeth Gibson, 4th Circuit, never given a vote by Republicans/not confirmed.

Roger Gregory, 4th Circuit, never given a vote by Republicans/confirmed '01.

J. Rich Leonard, 4th Circuit, never given a vote by Republicans/not confirmed.

James Wynn, 4th Circuit, never given a vote by Republicans/not confirmed.

H. Alston Johnson, 5th Circuit, never given a vote by Republicans/not confirmed.

Enrique Moreno, 5th Circuit, never given a vote by Republicans/not confirmed.

Jorge Rangel, 5th Circuit, never given a vote by Republicans/not confirmed.

Eric Clay, 6th Circuit.

Kent Markus, 6th Circuit, never given a vote by Republicans/not confirmed.

Kathleen McCree Lewis, 6th Circuit, never given a vote by Republicans/not confirmed.

Helene White, 6th Circuit, never given a vote by Republicans/not confirmed.

Bonnie Campbell, 8th Circuit, never given a vote by Republicans/not confirmed.

Marsha Berzon, 9th Circuit.

James Duffy, 9th Circuit, never given a vote by Republicans/not confirmed.

William Fletcher, 9th Circuit.

Barry Goode, 9th Circuit, never given a vote by Republicans/not confirmed.

Ronald Gould, 9th Circuit.

Margaret McKeown, 9th Circuit.

Richard Paez, 9th Circuit.

Christine Arguello, 10th Circuit, never given a vote by Republicans/not confirmed.

James Lyons, 10th Circuit, never given a vote by Republicans/not confirmed.

Timothy Dyk, Fed. Circuit.

Arthur Gajarsa, Fed. Circuit.

(Helene White waited more than 1,500 days, never to be allowed a hearing or a vote.)

(Richard Paez waited more than 1,500 days to be confirmed.)

48 DISTRICT COURT NOMINEES (37 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Steven Achelpohl, District Court, never given a vote by Republicans/not confirmed.

Ann Aiken, District Court.

Richard Anderson, District Court, never given a vote by Republicans/not confirmed.

Joseph Bataillon, District Court, never given a vote by Republicans/not confirmed.

Steven Bell, District Court, never given a vote by Republicans/not confirmed.

John Bingler, District Court, never given a vote by Republicans/not confirmed.

David Cercone, District Court, never given a vote by Republicans/confirmed '02.

Patricia Coan, District Court, never given a vote by Republicans/not confirmed.

Jeffrey Colman, District Court, never given a vote by Republicans/not confirmed.

Valerie Couch, District Court, never given a vote by Republicans/not confirmed.

Legrome Davis, District Court, never given a vote by Republicans/confirmed '02.

Rhonda Fields, District Court, never given a vote by Republicans/not confirmed.

S. David Fineman, District Court, never given a vote by Republicans/not confirmed.

Robert Freedberg, District Court, never given a vote by Republicans/not confirmed.

Dolly Gee, District Court, never given a vote by Republicans/not confirmed.

Melvin Hall, District Court, never given a vote by Republicans/not confirmed.

William Hibbler, District Court.

Faith Hochberg, District Court, never given a vote by Republicans/not confirmed.

Marian Johnston, District Court, never given a vote by Republicans/not confirmed.

Richard Lazzara, District Court, never given a vote by Republicans/not confirmed.

J. Rich Leonard, District Court, never given a vote by Republicans/not confirmed.

Stephen Lieberman, District Court, never given a vote by Republicans/not confirmed.

Matthew Kennelly, District Court.

James Klein, District Court, never given a vote by Republicans/not confirmed.

John Lim, District Court, never given a vote by Republicans/not confirmed.

Harry Litman, District Court, never given a vote by Republicans/not confirmed.

Frank McCarthy, District Court, never given a vote by Republicans/not confirmed.

Donald Middlebrooks, District Court.

Jeffrey Miller, District Court.

Margaret Morrow, District Court.

Sue Myerscough, District Court, never given a vote by Republicans/not confirmed.

Lynette Norton, District Court, never given a vote by Republicans/not confirmed.

Susan Oki Mollway, District Court.

Virginia Phillips, District Court, never given a vote by Republicans/not confirmed.

Robert Pratt, District Court.

Linda Riegle, District Court, never given a vote by Republicans/not confirmed.

Anabelle Rodriguez, District Court, never given a vote by Republicans/not confirmed.

Michael Schattman, District Court, never given a vote by Republicans/not confirmed.

Gary Sebelius, District Court, never given a vote by Republicans/not confirmed.

Kenneth Simon, District Court, never given a vote by Republicans/not confirmed.

Christina Snyder, District Court.

Clarence Sundram, District Court, never given a vote by Republicans/not confirmed.

Hilda Tagle, District Court, never given a vote by Republicans/not confirmed.

Thomas Thrash, District Court.

Cheryl Wattley, District Court, never given a vote by Republicans/not confirmed.

Wenona Whitfield, District Court, never given a vote by Republicans/not confirmed.

Ronnie White, not confirmed by floor vote.

Frederic Woocher, District Court, never given a vote by Republicans/not confirmed.

Mr. HARKIN. I want to address briefly the issue of whether or not this is anti-Hispanic, something like that. I keep hearing this talk that Democrats are going to be accused of being against Hispanics. Again, we do have to point out some history.

Enrique Moreno, Jorge Rangel, and Christine Arguello were all nominated to the circuit courts by President Clinton, but were never afforded a hearing or vote in the Judiciary Committee under Republicans. My colleague from Iowa, Mr. GRASSLEY, was quoted in the Dallas Morning News of January 31 of this year:

> If we deny Mr. Estrada the position on the DC circuit, it would be to shut the door on the American dream of Hispanic Americans everywhere.

Well, let's take a look at the reality and the record. There are more than 1,000 local, State, or Federal judges of Hispanic heritage. Yet President Bush has nominated only one Hispanic to any of the 42 vacant appellate positions. This administration has failed to nominate a single Hispanic judge for any of the circuits covering Texas, California, Arizona, New Mexico, Florida, New York, New Jersey, or Puerto Rico, where there are sizable minorities of Hispanic Americans. In contrast, President Clinton nominated 11 Latinos to these circuit courts and 21 to the district courts—quite a difference.

Again, my friend from Utah said on February 12:

> What gets me is, we are in the middle of a filibuster of a Federal judge when the Constitution says we should give advice and consent, not advice and obstruction, not advice and filibuster, not advice and unfairness.

Again, I wish I would have heard that when Bonnie Campbell had come up before the committee. As long as Mr. Estrada is here, I will continue, as I have today and as I have in the past, to bring up the issue of Bonnie Campbell because obviously it remains a dark mark on the Senate, one that was held up simply for purely partisan political reasons and nothing else.

IRAQ

Mr. President, I rise to talk about some of the events over the weekend as it pertains to the looming war in Iraq. I didn't listen to all of the talk shows, but if you listen to some of them and then you read some of the quotes in the paper by some of the people high up in this administration, particularly meaning Under Secretary Paul Wolfowitz and also Mr. Pearl, you come away with the feeling and the sense that they decided some time ago they were going to go to war against Saddam Hussein and Iraq, regardless. There is really nothing that could be done that would in any way turn away the full force and effect of the U.S. military from a full scale war in Iraq. Because no matter what happens, they have a counter, and they keep coming back to the fact that it is too little, too late, we can't wait any longer for disarmament. But the fact is, over the last 12 years, containment has worked. Even though we did not back it with as much force as we probably should have at that time and the fact that we did withdraw our inspectors in the latter part of the 1990s, when that never should have been done, the fact is, during those 12 years, Saddam Hussein never marched on another country, never started another war, and even though this administration has tried their darnedest, they have never made a link between Saddam Hussein and al-Qaida.

Now they are talking about some guy who got injured in Afghanistan and he came to Baghdad to get his leg treated because he had his leg amputated. He is somewhere around Baghdad, we don't know where. We don't even know if he is there. They suspect he is there and that is proof that Saddam is working with al-Qaida.

Perhaps one of the most outlandish statements was a couple weeks ago when this purported tape of Osama bin Laden came out. Secretary Powell said at that time that—I am paraphrasing—this just goes to show you, once again, the link between al-Qaida and Osama bin Laden and Saddam Hussein, when in fact on the tape whoever is speaking, whether it was Osama bin Laden or not, is basically saying, it is all right to use Saddam Hussein to defeat the Americans, but it is not all right to support Saddam Hussein because he, too, is an infidel, not a true Islamist. Somehow we just ignore that. But there has never been a proven link, even though they have tried awfully hard to find one. So——

Mr. HATCH. Will the Senator yield on that point?

Mr. HARKIN. Sure, I will yield for a question, without losing my right to the floor.

Mr. HATCH. I have been listening to the Senator, and I will rebut his earlier remarks later.

Is the Senator aware of Mr. Zarqawi, who is in Iraq right now, who is definitely connected with the al-Qaida people?

Mr. HARKIN. I ask the Senator, is this the guy who went to get his leg amputated?

Mr. HATCH. He is an operative working within Iraq——

Mr. HARKIN. He was injured in Afghanistan. I don't remember the name.

Mr. HATCH. This is the fellow known to be in Iraq right now—or at least has been in the last number of months—and who is one of the principal operatives for the al-Qaida group, and who has been organizing and doing other matters within Iraq itself, and who appears to have at least the go-ahead from the Iraqi Government.

If the Senator is not aware of that, then I understand why he is making these comments. But that is only one illustration. Is the Senator aware that there may be other illustrations as well?

Mr. HARKIN. Well, I have read about them and heard about them—that there may be some people in and out, or some who may have come in. The most I have heard is the one I think the Senator is talking about, but I think he came there to get his leg fixed or something. No doubt he was well connected with al-Qaida.

But I say to my friend from Utah, the Government of Iraq said they cannot find this guy. Well, our people have said it is ridiculous; of course, you can find him. Well, we cannot find Osama bin Laden in Afghanistan. We have more spy satellites and listening equipment than Iraq ever dreamed of having. I don't know whether this guy is there or not. There have been some in and out of Iraq.

Again, it is very tenuous as to whether or not there are any connections. I am sure the Senator from Utah also knows that there has been a longstanding feud between Osama bin

Laden and his fundamentalists and the Iraqi dictator, Saddam Hussein. I say a pox on both their houses. But the fact is, in the eyes of Osama bin Laden and those fundamentalists, Saddam Hussein is a secular leader, not a true Islamist. What they have always wanted was to get rid of Saddam Hussein to put in power a religious government in Iraq. So there never has been, in all the briefings I have ever had, any love lost between Saddam Hussein and the al-Qaida network. They just have different ideologies and a different way of approaching how they should govern. So, again, they have been trying to make these links between al-Qaida and Saddam Hussein, and they have never done it.

I say to my friend from Utah, there is an interesting piece in the Sunday Washington Post. When they caught Khalid Sheik Mohammed, one of the most dangerous men in al-Qaida, they captured him in Pakistan. On page A–26, there was a picture of all the high-value targets, those who have been involved with al-Qaida. No. 1 is Osama bin Laden. And then there is Khalid Sheik Mohammed, the one they just caught. Then there is Abu Zubaida, still at large. Others have died or have been captured.

What is interesting about all of this—tier 1, tier 2, tier 3, is Osama bin Laden is a Saudi. Zawahiri is Egyptian. Saif Al-Adil is Egyptian. Khalid Sheik Mohammed is Pakistani. Then down here is a Jordanian, a Palestinian, a Saudi, a Yemeni, an Indonesian, a Kuwaiti, and an Egyptian. One thing kind of leaps out at you: Not one of them is an Iraqi.

You would think that if Iraq were so closely tied in with al-Qaida, they might have some operatives in there. Not one is Iraqi. So we are going to go kill a lot of innocent Iraqis, innocent civilians, women and children. Where are the Iraqis in that lineup? You would think, with that list, we would go to war against Egypt. Look at all the Egyptians—or even the Saudis. Look at all the people who are in tier 1, tier 2, and tier 3 of the high-value targets, and more than just a few are Saudis. Maybe that ought to be the target of our invasion.

After all, we know it has been the Saudis who, with their deep pockets, have been funding the fundamentalists in their efforts in that part of the world. It is the Saudis, with their deep pockets, who have been buying and paying for Al-Jazeera television with all of the inflammatory tirades against the United States and Israel that come across that television station. Not Iraq. It wasn't Saddam Hussein paying for that. It was the Saudis paying for it.

So over the weekend we have the capture of Khalid Sheik Mohammed, perhaps, as they say, the brains behind al-Qaida, and the brains behind September 11—the operations chief and mastermind. That is a great capture. I applaud the FBI agents, CIA agents, whoever was involved in tracking this guy down and getting him. They did a great job, and I hope they get whatever commendations and medals that is appropriate for that. But there is someone else that also helped capture Khalid Sheik Mohammed, and that is the Government of Pakistan.

I have taken this floor many times in the past several years to talk about our relations with Pakistan and how through the years, clear back to the founding of Pakistan as a nation, they have been on our side in every war. There isn't one conflict in the world that the U.S. has been involved in that the Pakistani Government and troops have not been on our side. Even in Haiti we had Pakistani soldiers with us. In Korea. In Vietnam. In the gulf war in 1991, Pakistan was there with us. Every single time that we have had a capture and a turnover to us of a terrorist, it has been Pakistan that has helped us.

The first bombers at the World Trade Center caught—almost a dozen years ago now—were turned over to us by Pakistan. The shooter at the CIA in the mid-1990s who killed so many people escaped and went to Pakistan. Pakistan caught him and turned him over to us. The bombers of the embassies in Kenya and Tanzania were caught by Pakistan and turned over to us. And now this is the latest in a long string of terrorists who have killed Americans here at home and abroad. Here is the latest. Khalid Sheik Mohammed was captured in Pakistan.

Yes, with the help of our FBI and CIA, and I don't know what other intelligence agencies, but it mentions the FBI here, but also with the help of the Pakistani Government. It could not have happened unless President Musharraf and others came to our aid and assistance to capture this guy. Yet how do we treat Pakistani Americans? So many Pakistani Americans who are in this country, who have been working, many have children who are Americans, have provided health care in our country in many cases and in many situations. They are university professors, businesses entrepreneurs all over America. Yet we have told them they have to march into INS and get fingerprinted and do all this within a month. In other words, it is treating Pakistani Americans as if they are part of this network of Saudis, Yemenis, Egyptians, Jordanians, and everybody else. One might find a Pakistani in there someplace, I do not know.

The Pakistanis have always helped us out, and they are continuing to help us out today. We need to help them to combat terrorism in their own country.

After the war in Afghanistan was over, there were over a million refugees from Afghanistan and Pakistan. They now think it is probably between 1 and 2 million. We provided little—I can almost say no help to the Pakistanis to take care of these refugees, to help them get resettled, and, as far as I know, we are not doing anything to help them now to get back into Afghanistan to resettle. They remain a burden on the Pakistani Government.

It makes one wonder sometimes just what our response is going to be if, in fact, we do have a war in Iraq and we have an occupation, when we see how we have treated the Pakistanis for all these years.

There were a couple other interesting events this weekend. The Iraqi Government has continued to destroy some of the Al-Samoud missiles. I think it is up to 10 now. They said they destroyed six more missiles. There is an interesting quote in the paper this morning. It said:

> "If it turns out at an early stage this month that America is not going to a legal way, then why should we continue?" Saddam Hussein's scientific adviser, Lt. Gen. Amer al-Saadi, said Sunday.

In other words, what he is saying is—I read the story—we are willing to destroy the missiles, it takes time, but if the United States is going to commit war on us anyway, why should we?

> A Senior U.S. official—

There is always one of those—

> said today the White House remained unimpressed with Iraq's move. "The standard for cooperation demanded by U.N. Resolution 1441 is full and immediate, not grudging and late," the official said. The resolution approved last fall authorized a new round of weapons inspections in Iraq.

You wonder sometimes what the rush to judgment is. If we can continue with more inspectors and Iraq continues to destroy the missiles, and to continue the containment policy on Saddam Hussein, isn't that what we want?

There is another unnamed military source that says these missiles have questionable accuracy anyway. I am told they went over the line by 26 miles.

It was 100 kilometers, and they went over by 26 miles. I had a conversation this weekend with someone who said: These missiles could be used to hit Israel or hit Europe or maybe even America. That is not the case at all. They went 26 miles over the line. Again, it was more than what was allowed and they should be destroyed and they are being destroyed.

I guess the point I am making is why are we in such a rush to say that is not enough: we are going to go to war anyway? As I said at the beginning of my remarks, every time I listen to Mr. Wolfowitz, it seems as if this man has made up his mind: We are going to war no matter what, unless, as I read between the lines of what he is saying, someone assassinates Saddam Hussein and they set up a government and invite us in to run operations, then maybe we will not go to war. That seems to me about the only scenario that would keep a war from happening, according to Mr. Wolfowitz and those around him.

The other important event that happened this weekend was the vote in the Turkish Parliament. The vote was close. We lobbied heavily. We put up, I do not know, I am told $15 billion or $26 billion—take your pick—to get the Turkish Government to allow us to use their territory for our troops, for loading troops, the provisioning of troops, and the movement of troops across Turkish national territory to Iraq. Even with that, the Parliament turned it down. It was a close vote, but they turned it down.

Then I saw a poll—you can get a lot of information off the Web on the weekend when you are working on these issues—there was a poll taken in Turkey. I do not know, I have no knowledge of how accurate this poll is or who took the poll, but it was a public opinion poll that showed that 94 percent of Turkey's citizens were opposed to the war in Iraq—94 percent. Even if the poll is off a little bit, one can understand why the Turkish Parliament was so reticent even in the face of billions of dollars of U.S. money pouring in.

Someone said on the floor last week, this is not the coalition of the willing; it is the coalition of the bought confronting Iraq. If we have to go to those measures, $26 billion is what I was told—I stand corrected if that is not right. Even if it is $15 billion or someplace in between, we are not funding education, we have a problem in Medicare, our deficits are going out of sight, but somehow we have $26 billion to give to Turkey to allow our troops to go across their territory. That should raise some real questions as to what is happening here.

Lastly, one has to question what is it we are about underneath it all?

Again, I read from a speech that President Bush gave last week to the American Enterprise Institute and some of the comments that were made regarding that issue. President Bush said in his speech that we are going to have an Iraqi Government that will be representative of the people and that we would ensure that happened.

I went back because I wanted to check to make sure this was official, so I looked at the White House document that was sent to us on January 20, 2003. It is the report from the President required by the Iraqi resolution that was passed by Congress last fall.

Of course, it was supposed to have been in in 60 days. It was just another 30 days overdue. I read it over. There is an interesting part in the report that President Bush signed and sent to us. I will venture to say that not many Senators have read this report. But it is called the "Future of Iraq." It is in the report of the President sent to us on January 20. I am going to quote from it. It says:

> Should it become necessary for the United States and coalition armed forces to take military action against Iraq, the United States, together with its coalition partners—

Who are getting fewer and fewer, by the way—

> will play a role in helping to meet the humanitarian, reconstruction, and administrative challenges facing the country in the immediate aftermath of a conflict. . . .We will work to transfer authority as soon as practical to the Iraqis themselves, initially in an advisory role. . . .The U.S. is fully committed to stay as long as necessary to fulfill these responsibilities, but is equally committed to leave as soon as the Iraqi people are in a position to carry out these responsibilities themselves.

Interesting. "The U.S. is fully committed"—I do not remember us ever having a debate about that commitment, that we are committed to stay as long as necessary to fulfill these responsibilities, but are equally committed to leave as soon as the Iraqi people are in a position to carry out these responsibilities themselves.

The question is: Who decides that? Who decides when the Iraqi people are in a position to carry out these responsibilities themselves?

There is a quote in the paper from Youssef Ibrahim from the Council on Foreign Relations. He said:

> I think Arabs almost without exception would welcome more democracy and more freedom of expression and to be liberated from the police states they all—in one form or another—live under.

Mr. Ibrahim goes on:

> It does not follow that they would trust America to do this for them. The view over there is totally different from the view expressed here.

Critics also warn that the Bush administration must overcome a credibility gap borne of long memories and unpopular U.S. policies.

University of Maryland Professor Shibley Telhami warned that an invasion of Iraq and subsequent occupation by United States-led forces would feed an image of United States imperialism and undermine the very goals the administration has set.

Keep in mind, if we do, in fact, go to war in Iraq and occupy Iraq and set up this military type of government for however long we want to, it will be the first time ever that the United States has occupied an Arab country, the first time ever that we will be seen by the Arabs as occupiers, as establishing some kind of colonial power in the Arab world. And I think that is going to have severe ramifications.

Army Chief of staff Shinseki told the Senate Armed Forces Committee that several hundred thousand soldiers would be needed to secure postwar Iraq. Assistance from friends and allies would be helpful, he said.

Well, I wonder how much help we will get.

Mr. Wolfowitz is quoted as saying:

> If, when Iraq is liberated, it can come up with a representative government that treats its people decently, I think it can have significant effects throughout the Middle East.

David Mack, vice president of the Middle East Institute, said they make it look like a no-brainer. Put me down as a skeptic. Americans are in such a hurry. The people in the region are not. They are worried that they are jumping over a precipice.

By one estimate, 65 million adults in the Middle East cannot read or write, 14 million are unemployed, and 10 million school-aged children are not enrolled in class.

When I listen to Mr. Wolfowitz and I read the report from President Bush of January 20—I have not seen the movie yet, but I have read the book a couple of times, and I looked at it again this weekend, "The Quiet American" by Graham Greene. You read that and you think about how we got into Vietnam—the same kind of thing. We were going to build a democracy in Vietnam. We were going to end all this internal fighting and take care of the north, and we were going to set up democratic forms of government. That was the first, and then there were several others that followed. How many thousands of Americans lost their lives there? What did it do to our country, for a generation?

Now one goes to Vietnam and we have diplomatic relations. When we look at what is happening in Vietnam, we have to say, what was it all about? It was really about the misguided adventurism of, yes, well-meaning people in this country—I have no doubt that they meant well—to put a pax Americana, sort of a stamp of America, on a country in Southeast Asia, to set up a country that would look like us, mirror us. We were going to do it through military force.

I am sorry, it did not happen then, and it is not going to happen in Iraq. It may happen in Iraq at some point. We can encourage that. But it is not going to come about through a war that is going to kill countless civilians through the establishment of a military occupation and through us trying to impose upon the Iraqis our sense of what good government is. If only that were true. But history shows it is not.

We keep hearing from Mr. Wolfowitz and others what a grave threat Saddam Hussein is to us. They believe the war in Iraq will be quick, maybe 2 or 3 weeks and it will be over with. And that is probably true. I have no doubt that could possibly be true. Then one has to ask, if that is the case, are they really that big a threat?

Iraq has no navy. It has no air force to speak of. Its military is really in shambles. What kind of a threat are they, especially if we can keep inspectors there?

The other thing I wanted to check on was: Is there a limit on the number of inspectors U.N. Resolution 1441 permits? Or any previous resolution? Was there any limit by the surrender resolution in 1991 which first started the inspections? And the answer is no. There is no limit on the number of inspectors that the United Nations is allowed to have in Iraq. So why have 100? Why do we not have 500? Why do we not have 1,000 inspectors, duly trained and qualified, all over that country? Saddam Hussein cannot say, no, that is not allowed, because it is allowed. I submit, those 1,000 or 500 inspectors fully trained in Iraq, even if it takes the next 5 years, is cheaper monetarily than what the war is going to cost us, and certainly cheaper in terms of the loss of human life, both American lives and innocent lives in Iraq. Plus, I believe through that process we will have the support and the admiration of other Arab countries.

A war in Iraq, I believe, will give the backup to the terrorists who are out there. I am not so naive to think that there are not terrorists even yet in this country, and in other parts of the world, who want to do us in. They are there, but it seems like right now they do not have a backup. There is not much of a backup. We are tearing up the network with the recent capture of Khalid Sheik Mohammed in Pakistan. We are destroying this network, and we should keep at it, too. But a war in Iraq then will give, I think, people in the Arab world who today are not feeling us any ill, will give them the reasons to support monetarily, through encouragement, through processors, those terrorists who are out there. It is one thing to be a terrorist by yourself someplace; it is another thing to be a terrorist backed up, backed up, and backed up, like countless other people who are willing to give money and support and intelligence to help in your terrorist activities. To me, that is what could happen if we go to war in Iraq.

Lastly, the civilian causalities. I remember the pictures that came back from 1991 after the war in Kuwait against the Iraqi Army—tanks, trucks, vehicles bombed and burned out, bodies lying all over in the desert. That did not provoke any outpouring of ill-will in the Arab world. It did not provoke any outpouring of a sentiment that somehow all of those people who were killed were somehow innocent. They were not. These were soldiers. These were Iraqi troops, used to invade and plunder Kuwait.

It will be different this time. This time it is not just the Iraqi Army. It will be innocent men and women in Baghdad who will get killed. And those are the pictures that will go around the Arab world. If we are just confronting the Iraqi Army, that is one thing. But with all the cruise missiles and the bombing and everything else that will go on in Baghdad, cruise missiles are very accurate, but sometimes they go astray and sometimes people are not where they are supposed to be. Sometimes they are in the wrong place at the wrong time. That is what will happen, the image of innocent women and children killed by the might of the American military in Baghdad.

That is why the best course of action is to continue the inspections, and if we need to, make 500 inspections, make 1,000 inspections. And then continue the program: planned destruction of weapons of mass destruction and others that Saddam Hussein now possesses in his arsenal. It may take more than a week, it may take more than a month, it may take 6 months or a year or 2 years or 4 or 5 years.

The article asked, what is the hurry? If it means less loss of human life, and it will certainly cost a lot less, it seems to me that would be the wise course of action.

We have a gang down there at the White House, Paul Wolfowitz, Richard Pearle, Negroponte, Elliot Abrams, Poindexter—do these names conjure up memories of the past? Sure does. A lot of the misguided adventures we got into in the 1980s—in Iran, in Central America, places like that—all these names kept popping up at that time because they were all involved in the misguided adventures. Now they got the adventure that will save us all, it will save America in the future—war in Iraq. And occupy Iraq with several hundred thousand troops, stay there as long as necessary to set up a government that somehow looks like ours.

I close my remarks by saying these people ought to go visit Vietnam. I have, several years ago, to find out how the people are getting along there. They seem to be getting along fine. I still may not approve of the kind of government they have. But the people seem to be getting along just fine. Saigon is bustling, Hanoi is bustling, the tourist industry is going up, manufacturing is going up. Again, it might not be the mirror image of our kind of government, but they seem to be doing all right.

So go visit Vietnam, and then go down to this wall down on The Mall and remember the misguided adventures of well-meaning politicians of the past before we commit our military to a massive invasion of Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I notice some of my colleagues are here. I ask unanimous consent, after my few remarks, Senator DORGAN be permitted to speak for up to 25 minutes, and the Senator from South Carolina be permitted to speak for up to a half hour, then Senator SESSIONS for such time as he may use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I will answer some of the questions that have been raised. The more I hear from some of my colleagues, I believe they believe the Clinton nominees, President Clinton's nominees were mistreated. The more I hear them say this, the more I believe, especially after listening to the distinguished Senator from Iowa, that what we are seeing here on Mr. Estrada, the filibuster is more about pay back than about Mr. Estrada.

Senator BOXER, the distinguished Senator from California, even said as much last week when they said, "What goes around comes around."

Let me take a minute or two to set the record straight. I have heard my colleague from Iowa say we Republicans are applying a double standard because some Clinton nominees, such as Bonnie Campbell, were not confirmed. Let me remind my friend that there were more nominees of the first President Bush—54—who were not confirmed than there were Clinton nominees not confirmed at the end of his administration. Two of these nominations were renominated by the current President Bush, John Roberts and Terrence Boyle. John Roberts for Circuit Court of Appeals for the District of Columbia, and Terrence Boyle for the Fourth Circuit Court of Appeals.

John Roberts was reported out of the committee last week with bipartisan support. He has been sitting here for 12 years through three nominations by two different Presidents. He is considered one of the two greatest appellate lawyers in the country today by members of the Supreme Court, as well as others. I look forward to seeing him confirmed. It is about time that he was. Terrence Boyle has been sitting there for 12 years, nominated three times, by two separate Presidents.

President Bush has nominated not only Miguel Estrada for the Federal appellate bench, but these other two qualified nominees who have been sitting there for 12 years. He also nominated, contrary to what the distinguished Senator from Iowa said, two other Hispanic nominees for circuit courts of appeals, one for the Fifth Circuit and one for the Ninth Circuit, as well as Miguel Estrada.

The distinguished Senator from Iowa is trying to make a comparison between Bonnie Campbell and Miguel Estrada. Let me first say, I like Bonnie Campbell. I feel badly she did not make it to the floor. She was not on the floor. There was no filibuster. Her experience was nowhere near that of Miguel Estrada. In fact, to my knowledge, she never tried a case either before a trial court or on appeal. She never argued an appellate case. She never appeared before the U.S. Supreme Court. As a matter of fact, you could go into more and more. But compare her ABA rating with Miguel Estrada's. Her ABA rating was a "majority qualified," which is a step below

Mr. Estrada's rating of "unanimously well qualified," the highest rating the American Bar Association gives. Hers was "qualified" by a majority of the standing committee and "not qualified" by a minority of the standing committee. There is quite a bit of difference between the two nominees, plus the fact that Miguel Estrada is on the floor and there is a filibuster, a totally partisan filibuster being conducted against him.

I hope my colleagues are not going to continue that filibuster, but I understand that is what they intend to do. I hope some of my colleagues on the other side who are thinking more clearly will admit this is a dangerous thing to do. It is a wrong thing to do. I think it is an unconstitutional thing to do. I think it diminishes both the executive and the judicial branches of Government while increasing the power of the Senate, the congressional branch, or legislative branch.

Since the topic has been raised of the committee's confirmation record during the Clinton administration, I want to take a moment to set the record straight. During President Clinton's 8 years in office, he had 377 Federal judges confirmed, just 5 less than President Reagan, who was the all-time champion. But President Reagan had 6 years of a Republican Senate to help him—of his own party. President Clinton only had 2 years of his own party, the Democrats, to help him. There were 6 years where I was chairman, and we still put his judges through as much as we could. If you compare the number confirmed to the number nominated, President Clinton enjoyed an 85-percent confirmation rate on individuals he nominated. That is one of the highest ratings. What is more, President Reagan, like I say, had 6 years of a Senate controlled by his own party, while President Clinton had only 2.

Here is what happened to the 56 Clinton nominees who did not get confirmed during those 8 years. Some of them were multiple nominees. Three were left at the end of the 103rd Congress when the Democrats were in control, so those three cannot count against the Republicans. That leaves 53. Nine were nominated too late in the Congress for the committee to feasibly act on them or they were lacking the appropriate paperwork. That leaves 44. Seventeen of those lacked home State support, which often resulted from the White House's failure to consult with home State Senators. There was no way to confirm those nominations without completely ignoring the senatorial courtesy that we afford to home State Senators in the nominations process. That leaves only 27. One nominee was defeated on the Senate floor, which leaves only 26 remaining Clinton nominees. Of those, some had reasons for not moving that I simply cannot comment on. So in all 6 years that I chaired the committee while President Clinton was in office, there were fewer than 26 nominations left in committee.

Let's compare this record to the first Bush administration when the Democrats controlled the committee. The Democrats failed to confirm 58 Bush 1 nominees over the course of only 4 years. Let's look at the number of nominees pending at the end of the Clinton and Bush 1 administrations. While there were 41 Clinton nominees left in the committee at the end of the 106th Congress when Clinton left office, the Democrats left 13 more, a total of 54 nominees hanging at the end of the first Bush administration. Moreover, of the 41 Clinton nominees left at the end of the 106th Congress, one was renominated and confirmed in the 107th Congress, 12 lacked home State support, and 9 were nominated too late for the committee to act or had incomplete paperwork. That really leaves only 20 nominees who did not go forward during the last year of the Clinton administration.

All this goes to show that any allegation that this committee was somehow unfair to President Clinton's nominees is simply untrue, and payback is not the right thing to do. In fact, I treated the Clinton nominees better than the Democrats treated the Bush 1 nominees and I think better than the current Senate leadership is treating the current President Bush's nominees. I just wanted to set that record straight. You cannot compare the Bonnie Campbell matter with the Miguel Estrada matter. They are completely distinguishable. And with regard to ability, there is no comparison.

Miguel Estrada not only has graduated at the top of his respective college and law school classes, at Colombia and Harvard, but he also was an editor of the Law Review; worked as a clerk for Amalya Kearse, a Carter appointee in the Second Circuit Court of Appeals; worked as a clerk to Anthony Kennedy, currently a Justice in the U.S. Supreme Court; worked in the Solicitor General's Office; was highly respected; has four of the—worked for three, if not four, of the Clinton Solicitors General; worked 4 years for Clinton; 1 year for Bush; argued 15 cases before the U.S. Supreme Court, winning 10 of them even though he has a speech impediment, a disability. It is amazing what this man has been able to do, and it is amazing to me that he has gone through this. I do not see one justifiable reason in the world for this.

On the other hand, I don't understand, sometimes, my colleagues on the other side. I know they do not all agree. We have a total of 55 votes we know will vote for Miguel Estrada. It seems to me that is what we ought to be doing is voting up or down. We should not be setting this awful precedent of a filibuster against any judicial nominee or, for that matter, any person on the Executive Calendar because I believe it does fly in the face of the separation of powers doctrine, to require, from here on in, if this precedent is set, 60 votes to confirm any "controversial" nominee. If that happens, then the Presidency will have been diminished, the judiciary will have been diminished, and we will not be able to get the top people in the country to even take these seats.

Keep in mind, we pay the Chief Justice of the United States Supreme Court $192,000 a year. Any one of these top nominees makes four or five times that or more. So these jobs are not plums as far as their salary. These jobs are taken because people want to give service to the Federal Government. They want to serve the public and they are willing to sacrifice the monetary remuneration they are making as attorneys in order to serve. We ought to keep that in mind.

I would hate to see the day we only get the lesser of the less to be nominated because nobody else of any qualifications would want to go through this type of an awful procedure. I don't want to see the day when the only ones who can make it are those who do not have any records, have written nothing, have never said anything, whom you don't know anything about, and who may be good judges but may very well not be. It is going to be tough even for the American Bar Association to make their evaluations because they won't have anything to make them on, other than the local attorneys who may be practicing law in the same area.

I have said enough. I just wanted to set the record straight.

Also, I totally disagree with the distinguished Senator from Iowa in his comments about the Iraq situation. We do have evidence of al-Qaida people being in Iraq. We do have evidence of organization within Iraq. We do have evidence that I think would rebut almost everything the distinguished Senator from Iowa said. But since my colleagues are on the floor and desire to speak, I do not want to take their time. So I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous agreement, the Senator from North Dakota, Senator DORGAN, is recognized for 25 minutes, to be followed by Senator HOLLINGS of South Carolina for 30 minutes, to be followed by Senator SESSIONS.

The distinguished Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I have voted for over 100 judges nominated by President Bush. In North Dakota, we have had vacancies in both the west and east district judgeships. President Bush nominated two Republicans for those judgeships. I was happy to support them, and to work with President

Bush to make sure that their confirmation went smoothly. One has been confirmed, the other I am convinced will be confirmed, and both will make us proud as Federal judges.

I make that point only to say that I expect to be supportive of most, if not all, of the President's nominees. And I wish that we could have a vote on Mr. Estrada.

Mr. Estrada's nomination is problematic, however, in that he has refused to answer some basic questions. My colleagues, the ranking member of the Judiciary Committee and the minority leader, have indicated by letter that Mr. Estrada needs to be forthcoming, and answer to provide some basic information about his judicial philosophy and temperament. Considering that Mr. Estrada is seeking a lifetime appointment to the bench, one would expect that he would be eager to provide that information.

Judge Hovland, whom the President nominated to the Western District of North Dakota, answered the very questions that Mr. Estrada would not. I was happy to support Judge Hovland. I wish Mr. Estrada would be forthcoming.

When and if he does that, I hope we proceed to vote. And then we can move on to any number of pressing matters.

U.S. INTERNATIONAL TRADE DEFICIT

Mr. President, I want to take the floor to talk about one very pressing matter, which all of us should be concerned with: that is, our country's record trade deficit in 2002.

I spoke on Wednesday about it, and the very next day, the U.S. Trade Ambassador, Bob Zoellick, was on CNN's "Moneyline" with Lou Dobbs, to talk about the deficit.

Mr. Dobbs, whom I really admire, asked Mr. Zoellick the following question:

> What would you say, [Mr.] Ambassador, is the most important [issue for] a country that has a $430 billion trade deficit?

Ambassador Zoellick's answer: Let's negotiate new trade agreements.

He said:

> That's what we've been doing over the last couple years, reversing some of the slowdown in the past. We just completed two new trade agreements with Singapore and Chile. We're trying to move ahead working with the global trade negotiations, working with the Europeans and others.

Then Lou Dobbs noted that manufacturing jobs are being exported abroad.

Again quoting Mr. Dobbs, he said:

> Is there anything that can be done about that or is this a historical trend that is going to continue for years to come?

Ambassador Zoellick said:

> Jobs [have] gone down, but that's because productivity has gone up. So where have those jobs gone? Well, you've got more people in the service industry. You have cable television and others.

OK, so now I understand it, I guess. The Trade Ambassador said we are shipping manufacturing jobs overseas but we have cable television. Hooray for us.

So Mr. Dobbs tried again, asking Ambassador Zoellick to identify the most important trade issue for the United States, and the Ambassador said:

> Well, the most important issue I frankly think is keeping the United States in [a] leadership [role] in global trade. . . .
>
> I just came back from China. I was in Latin America not long ago. And what they look to is U.S. leadership in terms of various negotiations, the global negotiations, the hemispheric negotiations, and individual ones.

That's the biggest trade issue for this country? We have the highest trade deficit in human history—and Mr. Zoellick thinks the answer is to negotiate even more trade deals?

Maybe Mr. Zoellick thinks that the deficit is really not that big of a problem. He would not be alone in that belief.

On February 24, the Wall Street Journal published an editorial entitled "Hooray for the Trade Deficit!" The Journal argued that the trade deficit was propping up the economies of Europe and Japan, and were a sign of our economic strength.

I have no idea what water they have been drinking. But let me quote from the editorial:

> Pundits claim that "financing" the U.S. current account deficit requires that foreigners purchase some $1.5 billion in U.S. assets a day, and warn darkly of the time when that need cannot be met.

And they say:

> But the current account deficit is by definition the inverse of net capital inflow. So it can very easily be argued that U.S. assets are in such demand, even with Treasury yields at historic lows and after three down years in the U.S. stock market, that Americans have to find $1.5 billion a day worth of foreign goods just to spend all the money that's coming in.

I do not understand that at all. Have they not taken the first basic course in economics? I just do not understand that. Total nonsense.

We have been running record trade deficits through all kinds of economic conditions: through the economic boom of the 1990s, through the more recent recession, through a peacetime economy, through a wartime economy. The trade deficit keeps going one way: up, dangerously up.

If the economies of Europe and Japan need our trade deficits to stay healthy, then they ought to get busy revamping their economies, because there is no way this situation is sustainable.

Does anybody really believe our economy is so strong right now, as the Wall Street Journal suggests, that we have to find $1.5 billion a day worth of foreign goods just to spend all the money that is coming in? The fact is, we are mortgaging our children's future with these trade deficits. It is irresponsible, and it ought to stop. If the Wall Street Journal were truly a conservative newspaper, it would be leading the charge to demand that we do something to rectify this trade imbalance.

I have been on the floor of the Senate critical of trade policies in the Clinton administration time after time after time, and I am critical of the trade policies of this administration. The fact is, you cannot tell the difference between Republican and Democratic administrations on trade policies. Year after year after year, we have Trade Ambassadors who talk about the advantage of doing another trade agreement; and every single time we do another trade agreement, our trade deficit ratchets up.

This chart show the merchandise trade deficit we face: $470 billion in 2002, after exploding increases during the nineties.

The Washington Post reported that this trade deficit put "a significant damper on U.S. economic growth." In fact, the fact that the Post article talks about the deficit is very surprising, incidentally, because the Washington Post, of all newspapers, is the most ecstatic about this fast-track trade authority, global trade, and the trade deficits we have inherited. They excuse them away at every significant opportunity.

Yet the Washington Post story said:

> . . . a combination of increasing imports and falling exports clipped more than half a percentage point off the 2.4 percent increase in U.S. gross domestic product last year. . . .

The Post further noted that:

> . . . .nearly one-fourth of the year's [trade] deficit in goods trade was with China, which sold $103 billion more goods to the United States than it bought here.

What does this mean? It means jobs. That is what it means. These numbers describe where the jobs are, who wins and who loses. With respect to the global economy, and with respect to trade agreements, we are losing, we are losing jobs.

That does not mean much to the economic thinkers and the newspaper editorialists and others whose jobs are not in jeopardy, but it means a lot to the millions of people who used to have good jobs that paid well, with good benefits, whose jobs are now gone. Because they cannot compete in global trade when a U.S. manufacturer moves its plant abroad, so they can produce where they can hire 14-year-old kids, work them 14 hours a day, pay them 14 cents an hour, and dump the chemicals into the streams and into the air, and then ship the product back to Toledo or Fargo or Los Angeles or Denver, and then say to the American producer: You cannot compete with this; tough luck; you cannot compete in the global economy.

That is not what we ought to allow in terms of global trade.

We have deficits as far as the eye can see. With China, we have trade deficits of $103 billion; with Canada, deficits of $50 billion.

This chart shows the deficits we have: $50 billion with Canada, $37 billion with Mexico. And, by the way, before we did the United States-Canada-Mexico trade agreement, so-called NAFTA, we had a very small trade deficit with Canada and a small trade surplus with Mexico. Now we have turned both of them into very large trade deficits.

On the chart, you can see virtually the only trading partner with which we have a surplus at this point is Australia. But this administration is going to remedy that because now they are engaged in trade talks with Australia, to set up a free trade agreement with Australia. So we may not have a trade surplus with Australia for long. If those same trade negotiators who negotiated all of our trade agreements are engaged in Australia, we will lose within a week or two and be back to red ink with respect to Australia.

Not only do we have trade deficits with virtually every major trading partner, we have deficits in almost every sector of goods trade. We have a $110 billion deficit in vehicles, $47 billion deficit in consumer electronics, $58 billion deficit in clothing.

Some might say: Well, agriculture is a bright spot because we are a net exporter of agricultural goods. But the fact is, we are losing in agriculture as well. Our modest surplus in agricultural products was reduced 30 percent over just last year. And major areas of agricultural trade are now in deficit. Our surplus in meat declined by $1 billion. We have a deficit in livestock trade which reached $1.5 billion last year. We had a deficit in vegetables and fruits of $2.5 billion last year.

Now, let me talk just a for moment about China.

We have a trade deficit with China.

We did a bilateral trade agreement with China. I don't have any idea who negotiated that either, but the fact is it is a trade agreement that doesn't work. It works for them, but not for us.

After we negotiated a bilateral agreement with China, our negotiators agreed that following a phase-in period, we will allow China to have a tariff on automobiles that is 10 times higher on U.S. automobiles going to China than any Chinese automobiles sold in this country. We agreed we would allow China, a country that has a $100 billion trade surplus with us or we in deficit with them, to impose tariffs on automobiles 10 times higher than the tariffs on Chinese automobiles sent to this country. I don't know who does this kind of negotiating. On whose behalf do they think they are negotiating?

We have a deficit in toys with China, $14 billion in toys. The following Post article describes why. The title is "Worked Until They Drop: Few Protections for China's New Laborers."

This is a story about Li Chunmei, a 19-year-old. She was literally worked to death at a factory in China. They made stuffed animals for the U.S. marketplace. Let me read a couple portions of the article. This is a picture of that young lady.

On the night she died, they said, she had been on her feet for 16 hours running back and forth inside the toy factory carrying toy parts from machine to machine. Long hours were mandatory, and at least 2 months had passed since Li and other workers had enjoyed even a Sunday off—2 months had passed since they were allowed even a Sunday off. Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. They called an ambulance and she died before it arrived. The cause of her death was unknown, but what happened to her last November in this industrial town in southeast Guangdong province is described by family, friends, and coworkers as an example of what China's more daring newspapers call guolaosi. The phrase means overworked to death. They actually have a phrase for being worked to death in China.

This is the playing field for international competition. Children being worked to death. This is what we are competing with.

Aside from this, the tragedy of this, the fact is, our market is open to Chinese goods. Shoes, shirts, trousers, trinkets, toys, every day and every way we are flooded with Chinese goods. But Chinese markets all too often are still closed to ours.

The Farm Bureau, a conservative farm organization, says the Chinese market is really no more open today than it was when China entered the WTO. The Farm Bureau has supported fast track, has been largely supportive of the trade approaches, but the fact is they are critical of the implementation of China's WTO accession, saying:

> At the end of [WTO] negotiations, China was a $2 billion market. We expected substantial growth, but we haven't seen [it] because China hasn't done what it's supposed to do.

That is from Teresa Howes, senior director of trade for the American Farm Bureau. Good for them.

The bottom line is, our agricultural products aren't getting into China. Yet Chinese goods move into our marketplace all the time.

You don't have to travel to China to figure out why we have this kind of trade deficit. Go to Canada. Take a look at our wheat trade with Canada.

The fact is, we have a massive quantity of Canadian grain coming into our country sold by a monopoly, the Canadian Wheat Board, that would be illegal in this country, undercutting farmers, taking money directly out of their pockets, and you can't do much to stop it. We now do have a couple of trade actions, but it has taken forever to get them. I have no idea what the result will be, but the fact is, this has gone on for 8 to 10 years, and our farmers have not gotten effective action to stop it.

Our trade deficit with Europe I mentioned last week. We can't get American beef into Europe. We take Europe to the WTO. We go there and we win. Europe says: So what; it doesn't matter to us. We don't intend to let your beef in.

So our country ratchets up its backbone, stiffens its resolve, and we say: OK, you do that, we will stick it to you. And what does our government do? It imposes import duties on Roquefort cheese, goose liver, and truffles. That will scare the dickens out of the EU, won't it? We will take action against Roquefort cheese, goose liver, and truffles.

I would like to meet those officials in the trade ambassador's office. That was under the previous administration. I don't understand that at all. When will our country decide it is going to stand up for our economic interests?

How about trade with Korea? We have a very large deficit with Korea. Last year Korea sent us 618,000 automobiles. Do you know how many U.S. cars got into Korea? Two thousand eight hundred. Is it because Koreans don't like U.S. automobiles? No. It is because Korea has the strategy to ship their cars to the American marketplace and keep American cars out of theirs. What does that mean? That means jobs. We lose them. Korea gains them. Is it fair trade? Absolutely not. Shame on us for allowing it.

If you don't want to talk about cars and Korea, talk about potato flakes. We raise a lot of potatoes in my part of the country, potato flakes for confection foods. There is a 300 percent tariff on potato flakes to Korea.

I just don't understand how we continue to allow this sort of thing. How does it make sense for our country to allow this to happen?

What about Japan? In Japan we have had a trade deficit of $50 to $60 billion every year forever since I have come to Congress. It keeps going up. Fourteen, 15 years ago we reached a beef agreement with Japan. You would have thought we won the Olympics. The negotiators had fiestas and jubilation, and the Washington Post had huge stories about our beef agreement with Japan. Good for us. Our negotiators were on the ball. But nearly 14 years after the beef agreement, there is still a 40 percent tariff on every pound of American beef going into Japan. They don't have enough T-bone steaks in Tokyo; their market is closed. We can't get more in. We have a 40 percent tariff on every pound. That doesn't make any sense to me.

What is our country doing? We just sit around and chant a mantra, like a religious group on a street corner with a mantra: Free trade, fast track, free trade, fast track, the global economy.

The fact is, the global economy has moved forward much faster than the rules for the global economy. The result is that the American workers and farmers and businesses have been injured because of it. It is just a plain fact. There isn't anyway you can explain it away. A $470 billion trade deficit in the year 2002 in merchandise trade cannot be explained away by anyone.

This is either a priority and crisis or it is not. If you believe it is—and I do—then this country needs to do something about it.

It is not to build walls around our country, but it is to say to the Europeans, the Koreans, the Chinese, the Mexicans, the Canadians, and others, we are open for business. Our market is open to you, but on the basis of fair trade. If your markets are closed to us, don't come to us asking for admission to our marketplace.

If you are going to work 14-year-old kids and pay them 15 cents an hour and work them all day, don't come to our marketplace. We don't allow it. This country fought for 100 years for the basic principle of a safe place in which to work, minimum wages, child labor laws, preventing dumping of chemicals into the streams and the air, the ability and the right to collectively bargain. All of these things were developed through great strife over a century. Now we have people deciding, we can fly our jet around the world and look down and find a more friendly place in which to produce, move our factory there, and not have to worry at all about those issues. And so they moved their factory—and, incidentally, some of those companies decided to renounce their citizenship as well, to become citizens of the Bermuda. Why? Why would they want to become citizens of the Bermuda? To save on their tax bill and not pay taxes in this country.

Bermuda has a navy that has the strength of 26 people; there are 26 people in the Bermudan military. My feeling is if a company renounces their American citizenship to become a citizen of the Bermuda, the next time their assets are threatened anywhere in the world through expropriation, have them call in the Bermudan Navy; see if there is a Bermudan destroyer to move into the region. I don't think so.

What I want is for this country to say, yes, we are the leader in expanded trade, and, yes, expanded trade helps all in the world—but only if it is done on a basis that is not a race to the bottom, and on the basis that it brings everybody up.

The White House doesn't want to talk about it. The President won't talk about it. Neither did President Clinton. The Congress doesn't want to deal with it. Why? Because the minute you do talk about this, they say, well, you are raising this trade issue, you are some sort of xenophobic isolationist stooge who doesn't get it, but we get it; we all see over the horizon. They say, you don't understand the global economy.

What I understand is that when last year we imported $470 billion or more in goods than we sent out, this country is obligated to repay that at some point with a lower standard of living. You can argue that our budget deficit is money that we owe to ourselves. You cannot argue that with a trade deficit. A $470 billion trade deficit means we owe that liability to those living outside this country, which gives them a claim on this country's assets and a claim on a lower standard of living in the future for American citizens.

We must get at the business of solving this problem. I am not saying we should put walls around our country. I want our marketplace to be reasonably open, but I want us to be a leader in developing the basic rules of trade that are fair to this country's interests.

That has not been the case, regrettably. I wish I didn't have to make this speech. I made it repeatedly during the Clinton administration, and I will probably make it during the Bush administration because trade deficits are consistently going one way, and that is up. Jobs are consistently going one way, and that is out.

We were told by the economists in support of those who wanted NAFTA passed—and I voted against it—that what we will get from Mexico under NAFTA is the product of low-skilled labor. Do you know what we get from Mexico now, with the big trade deficit we have with them? We get the product of high-skilled labor. The three largest imports from Mexico are the products of high-skilled, not low-skilled labor: automobiles, automobile parts, electronics. They are all products of high-skilled labor. This is exactly the opposite of what economists and politicians said who pushed this fast-track NAFTA onto this Congress.

What we are doing now, having passed fast track over my objection in recent months, is once again negotiating new trade agreements. When those agreements come back to Congress, nobody in Congress will have any opportunity to offer even one amendment to change an obvious problem in the trade agreement. I think that shortchanges this country. I hope very much the trade ambassador, for whom I have a lot of respect, but a great deal of disagreement with—I hope he and others in this town will understand, including my colleagues, that this is a very serious abiding problem for this country. We cannot ignore it.

This country ignores this growing trade deficit of nearly $1.5 billion a day, 7 days a week, at its own peril. We must solve this problem, and the sooner the better.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMERICA'S TRADE DEFICIT

Mr. HOLLINGS. Mr. President, I thank our colleague from North Dakota because his words are music to my ears. He is a student of competition. He knows there is no such thing as free trade. It is only competitive trade. Every nation necessarily tries to build up its manufacturing, its production, its economic strength not only in finished products, but in agriculture.

The significance of the words of our distinguished colleague, Senator DORGAN, is that he is an agricultural Senator. For years, I have been trying, with the textile industry in my home State, to get some awareness of the fair competition in our textile industry, which is the most productive in the entire world. But since NAFTA, we have lost 58,100 jobs. As we have passed textile bills through the Senate over the past almost 37 years that I have been here, it has been the airline/aircraft industry that has been so strong. Well, Boeing is finally joining me. They have 7½-percent unemployment up in Seattle, WA, and Boeing is manufacturing in China. And our $435 billion trade deficit also includes a deficit in agriculture. No one has been a better protector of the interests of agriculture than the distinguished Presiding Officer.

It is only the second time in our history that we have a deficit in the balance of trade in farm products. That is not news to this Senator from South Carolina. I remembered when we finally, just in the last few years, got a deficit in the balance of trade in cotton with China. So I understand it is going to all agricultural products.

We have the facts and figures. I am ready to join in the debate for us to start treating foreign trade as foreign aid. It was good that the Marshall plan worked, but now we have to rebuild our economy, and that is a very important problem.

But there is one more important thing, and that is this war in Iraq. What we are saying—and I talk advisedly—to that GI is this: Look, we want you to go into Iraq and we hope you come back home safely. The reason we want him or her to come back safely is not for their welfare, but for our welfare. We want them to come back because we are going to give them the bill. My generation is not going to pay for it. The fellow fighting the war is going to have to pay for the war.

For the first time in the history of wars in the United States of America, we said the Army is going to war, but the country is not. The President is not going. The Congress is not going. Oh, we are going to wear that flag on our lapels. Yes, we are patriotic and we will give you patriotic talk anytime you want it.

But as far as actual support, let's find out what the record shows because I had to listen to Bob Novak, the distinguished columnist on TV, the other night when he said: How are we going to pay for it? Just like we did in Vietnam. We borrowed the money.

No, sir, we paid for Vietnam. I was in the room with George Mahone, chairman of the Appropriations Committee. We called over to Marvin Watson and said: Ask the President if we can cut another $5 billion. He said cut it. Why? Because the President of the United States was very sensitive about guns and butter. He wanted to pay for both, and President Lyndon Baines Johnson paid for both. That is the last time we had a balanced budget in the history of this particular Senator being up here—back in 1968. Yes, we paid for guns and butter in Vietnam under President Johnson.

Let's go back to the Civil War.

I was amazed that President Abraham Lincoln instituted not only the income tax to pay for the Civil War, he instituted a tax on dividends. They have the unmitigated gall to say what we need now is a cut of all taxes on dividends when they were giving TRENT LOTT the bum's rush. The party of Lincoln, the party of Lincoln: that is all I heard on my TV at home. Where is Abraham Lincoln when we need him? He taxed dividends and instituted the income tax in 1861. They had to repeal it—they said it was unconstitutional—by 1870, but they paid for that war. They sacrificed.

When you have a mutual sacrifice, then we are all committed. I believe the country is going to war in Iraq, not just the army. I want to pay for it. I put in a 1-percent value-added tax to pay for that war, and I can't get a hearing before the Finance Committee.

I had a hearing before the Finance Committee when Lloyd Bentsen was the chairman. I brought in Dr. Cnossen, the expert who not only instituted that plan in Japan, the United Kingdom, and Canada, but knew all the ins and outs. He was my expert. He testified. As we were leaving the Dirksen Building that day, former Senator John Chafee turned to Chairman Bentsen and said: If we had a secret ballot, we would vote that matter out of the Finance Committee unanimously because we were beginning to run into these astronomical deficits as a result of voodoo 1 under President Ronald Reagan.

In World War I, we raised taxes to pay for the war. During World War II, we had a marginal tax rate of 94 percent to pay for it. In the Korean war, we had a marginal rate of 91 percent. In Vietnam, we had a 77 percent rate. So we paid for wars. But not this Congress: no, no, we are not going to go. That is their war. I do not know whether it is for oil, for democracy, whatever the arguments—get rid of Saddam—but one thing is positive, I say to the Senator from Alabama, this Congress is not going to go. We are going to give the bills to the poor GI who fights the war. I think it is a dirty shame. It is an embarrassment to me that I cannot even get a hearing and nobody to even talk about paying for the war.

This is a time of national sacrifice because it is a time of national commitment, but not a national commitment on the part of this particular war. I can tell you that now. I have a 1-percent tax proposed.

SOCIAL SECURITY

Let me talk about our friend, Alan Greenspan, the Chairman of the Federal Reserve. He came out last week and suggested Congress consider switching to an inflation measurement that would trim billions of dollars from all cost-of-living adjustments provided to the 46 million Social Security recipients.

He said:

> Lawmakers should consider trimming the benefits, raising the retirement age, or other ideas before raising the payroll tax.

Chairman Greenspan also debunked the idea advanced by some conservatives that faster economic growth alone would be able to deal with the shortfalls in the Government's two biggest benefits.

He finally came out against this so-called voodoo or economic growth. The buzzword is growth. It is cut the taxes to grow the economy. We can only go back to what Mr. Greenspan said in 1983 in his annual report from the National Commission on Social Security Reform, section 21. I ask unanimous consent to print that section of the report in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT OF THE NATIONAL COMMISSION ON SOCIAL SECURITY REFORM—JANUARY 1983

SOCIAL SECURITY AND THE UNIFIED BUDGET

(21) A majority of the members of the National Commission recommends that the operations of the OASI, DI, HI, and SMI Trust Funds should be removed from the unified budget. Some of those who do not support this recommendation believe that the situation would be adequately handled if the operations of the Social Security program were displayed within the present unified Federal budget as a separate budget function, apart from other income security programs.

Before fiscal year 1969, the operations of the Social Security trust funds were not included in the unified budget of the Federal Government, although they were made available publicly and were combined, for purposes of economic analysis, with the administrative budget in special summary tables included in the annual budget document. Beginning then, the operations of the Social Security trust funds were included in the unified budget. In 1974, Congress implicitly approved the use of a unified budget by including Social Security trust fund operations in the annual budget process. Thus, in years when trust-fund income exceeded outgo, the result was a decrease in any general budget deficit that otherwise would have been shown—and vice versa.

The National Commission believes that changes in the Social Security program should be made only for programmatic reasons, and not for purposes of balancing the budget. Those who support the removal of the operations of the trust funds from the budget believe that this policy of making changes only for programmatic reasons would be more likely to be carried out if the Social Security program were not in the unified budget. Some members also believe that such a procedure will make clear the effect and presence of any payments from the General Fund of the Treasury to the Social Security program. (Under present procedures, such payments are a "wash" and do not affect the overall budget deficit or surplus.)

Those who oppose this recommendation believe that it is essential that the operations of the Social Security program should remain in the unified Federal budget because the program involves such a large proportion of all Federal outlays. Thus, to omit its operations would misrepresent the activities of the Federal Government and their economic impact. Furthermore, it is important to ensure that the financial condition of the Social Security program be constantly visible to the Congress and the public. Highlighting the operations of the Social Security program as a separate line function in the budget would allow its impact thereon to be seen more clearly.

Mr. HOLLINGS. Mr. President, section 21 said to put Social Security off budget in trust, not to be expended on anything other than Social Security. We spend Social Security trust funds on any and everything but Social Security. Has Mr. Greenspan thought of that solution: Just do not spend the Social Security taxes on every endeavor that we could possibly imagine but Social Security?

I had a dickens of a time trying to get that written into law. It took me 7 years, and finally on November 5, 1990, George Walker Herbert Bush signed into law section 13301 of the Budget Act. It is the law of the land: You shall not report from the Congress or the President a budget including Social Security. But we do, and Alan Greenspan started that nonsense back in the eighties because he wanted to cover taking those moneys to go along with what Vice President Bush at that particular time called voodoo.

Let me get up to voodoo 2 because we ought to understand, when this recession in the economy started. I am not an economist, but I am a politician. I have been chairman of the Budget Committee. I have worked with Alan Greenspan. I went over in 1980, right after the elections, to brief President-elect Reagan on the budget. We walked in the snow over to the Blair House. I will never forget it. President Reagan said he was going to balance the budget in 1 year, and after the briefing he said: Oops, I never realized how bad it was. It is going to take me 3 years. That is when we went from 1-year budgets to 3 years, and then under Gramm-Rudman-Hollings we went to 5 years, and later under Vice President Bush we went to 10 years. I suggest for this irresponsible Congress, let's go to 20. You can project anything and just keep on spending because that is exactly what we are doing.

But let's jump back to September of the year 2000 when Governor Bush, now President Bush, was running. He said he was going to cut taxes. I knew how we had just gotten the best 8 years of economic growth in the history of the United States: with an increase in taxes. We were on the tail end of our recovery. We still had a deficit. We were trying to work toward a balanced budget, and I will give my colleagues the facts and figures.

The point is, when he talked about cutting taxes, I thought, oh, heavens, we can't start that again; we are just getting back into the black. We had not gotten into the black in September 2000 nor in November, the Friday after the Tuesday election, when Vice President nominee CHENEY, our good friend, said: Yes, that is exactly what we are going to do—cut taxes. When Vice President CHENEY made that statement, go back and look at the market in October, November, December, and into January.

The Republicans are trying to say the recession started in March 2000. No, it started in the fall of 2000 because of this tax cut idea and running up these enormous deficits and running up the interest costs and the borrowing.

So what happened was, on January 25, Alan Greenspan appeared before the Budget Committee. What did the gentleman say? We were paying off too much debt. When he said we were paying off too much debt, that was right, title, and interest to this young new President, George W. Bush, coming into office for him to spend up to the ceiling. On February 27, I'll be darned if he didn't do just that. The new President came before the Senate in a joint session on February 27 and said: Here is my budget. I have $2.6 trillion to protect Social Security. I have $2 trillion for domestic and defense programs, and that leaves another $1 trillion for unforeseen circumstances.

We had an unforeseen circumstance on September 11, later that year, but let's go down now and find out when this recession started and when we were really in the black and in the red. I have here the public debt to the penny as reported by the Secretary of the Treasury. The latest we have—February 27, 2003—is $218 billion. That is this fiscal year—including September, October, November, December, January, and February, we got this country another $218 billion in debt.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The debt to the penny

	Amount
Current:	
2/27/2003	$6,446,165,774,125.26
Current month:	
2/26/2003	6,445,970,533,267.53
2/25/2003	6,446,004,668,324.03
2/24/2003	6,446,038,803,864.15
2/21/2003	6,446,140,296,660.54
2/20/2003	6,446,175,354,465.78
2/19/2003	6,442,718,474,145.91
2/18/2003	6,437,926,287,364.49
2/14/2003	6,414,086,191,317.72
2/13/2003	6,414,860,990,193.10
2/12/2003	6,400,775,460,992.07
2/11/2003	6,403,775,445,922.86
2/10/2003	6,400,363,175,585.80
2/7/2003	6,398,607,223,793.01
2/6/2003	6,401,330,573,005.21
2/5/2003	6,387,332,567,273.92
2/4/2003	6,388,239,504,295.45
2/3/2003	6,379,432,578,400.38
Prior months:	
1/31/2003	6,401,376,662,047.32
12/31/2002	6,405,707,456,847.53
11/29/2002	6,343,460,146,781.79
10/31/2002	6,282,527,974,378.50
Prior fiscal years:	
9/30/2002	6,228,235,965,597.16
9/28/2001	5,807,463,412,200.06
9/29/2000	5,674,178,209,886.86
9/30/1999	5,656,270,901,615.43
9/30/1998	5,526,193,008,897.62
9/30/1997	5,413,146,011,397.34
9/30/1996	5,224,810,939,135.73
9/29/1995	4,973,982,900,709.39
9/30/1994	4,692,749,910,013.32
9/30/1993	4,411,488,883,139.38
9/30/1992	4,064,620,655,521.66
9/30/1991	3,665,303,351,697.03
9/28/1990	3,233,313,451,777.25
9/29/1989	2,857,430,960,187.32
9/30/1988	2,602,337,712,041.16
9/30/1987	2,350,276,890,953.00

THE DEBT TO THE PENNY AND WHO HOLDS IT

[Debt held by the public vs. intragovernmental holdings]

	Debt held by the public	Intragovernmental holdings	Total
Current:			
02/27/2003	$3,683,531,753,393.98	$2,762,634,020,731.28	$6,446,165,774,125.26
Current month:			
02/26/2003	3,681,995,211,660.54	2,763,975,321,606.99	6,445,970,533,267.53
02/25/2003	3,680,546,956,577.64	2,765,457,711,746.39	6,446,004,668,324.03
02/24/2003	3,683,950,348,867.13	2,762,088,454,997.02	6,446,038,803,864.15
02/21/2003	3,684,518,370,236.10	2,761,621,926,424.44	6,446,140,296,660.54
02/20/2003	3,684,115,204,633.82	2,762,060,149,831.96	6,446,175,354,465.78
02/19/2003	3,681,097,230,200.83	2,761,621,243,945.08	6,442,718,474,145.91
02/18/2003	3,680,397,155,161.57	2,757,529,132,202.92	6,437,926,287,364.49
02/14/2003	3,662,059,553,599.40	2,752,026,637,718.32	6,414,086,191,317.72
02/13/2003	3,661,984,456,977.19	2,752,876,533,215.91	6,414,860,990,193.10
02/12/2003	3,648,984,143,809.81	2,751,791,317,182.26	6,400,775,460,992.07
02/11/2003	3,649,088,081,850.16	2,754,687,364,072.70	6,403,775,445,922.86
02/10/2003	3,648,737,478,114.74	2,751,625,697,471.06	6,400,363,175,585.80
02/07/2003	3,648,857,135,353.53	2,749,750,088,439.48	6,398,607,223,793.01
02/06/2003	3,648,874,717,654.07	2,752,455,855,351.14	6,401,330,573,005.21
02/05/2003	3,636,289,414,701.92	2,751,043,152,572.00	6,387,332,567,273.92
02/04/2003	3,635,972,465,674.76	2,752,267,038,620.69	6,388,239,504,295.45
02/03/2003	3,635,739,981,303.79	2,743,692,597,096.59	6,379,432,578,400.38
Prior months:			
01/31/2003	3,636,978,106,813.83	2,764,398,555,233.49	6,401,376,662,047.32
12/31/2002	3,647,939,770,383.73	2,757,767,686,463.80	6,405,707,456,847.53
11/29/2002	3,649,352,539,575.36	2,694,107,607,206.43	6,343,460,146,781.79
10/31/2002	3,586,523,556,148.57	2,696,004,418,229.93	6,282,527,974,378.50
Prior fiscal years:			
09/30/2002	3,553,180,247,874.74	2,675,055,717,722.42	6,228,235,965,597.16
09/28/2001	3,339,310,176,094.74	2,468,153,236,105.32	5,807,463,412,200.06
09/29/2000	3,405,303,490,221.20	2,268,874,719,665.66	5,674,178,209,886.86
09/30/1999	3,636,104,594,501.81	2,020,166,307,131.62	5,656,270,901,633.43
09/30/1998	3,733,864,472,163.53	1,792,328,536,734.09	5,526,193,008,897.62
09/30/1997	3,789,667,546,849.60	1,623,478,464,547.74	5,413,146,011,397.34

Mr. HOLLINGS. Mr. President, on January 25, 2001, when Chairman Greenspan spoke, we were $65 billion in the red according to the Secretary of the Treasury. On February 27, 2001, when the distinguished new President gave his speech before the Senate—we were $53 billion in the red.

On April 15, 2001, taxpaying day, we were $94 billion in the red. We had collected all that income tax on April 15 and on April 30, 2001, according to the Secretary of the Treasury, we had a surplus. And remember, they had been babbling all during the Christmas holidays and January and February of $5.6 trillion in surplus money, that we are paying off too much debt. There was all kinds of surplus talk.

Let's go to May 1, 2001. We were $23 billion in the black. On June 1, we were $4 billion in the black. But on June 7, the President signed the $1.5 trillion tax cut, voodoo 2—we had voodoo 1, so he gave us voodoo 2. And what happened? What happened after June 7? By June 28, we were $52 billion in the red, and on September 10, one day before the tragic September 11, we were $99 billion in the red. We only had 20 more days of that fiscal year. If you go into their lingo, their little song and dance routine, they are trying to say they inherited a recession—they did not cause it, but they inherited a recession. They tell you we had corporate corruption, and we had 9/11, and on and on, and everybody is beginning to believe it. They have said it again and again.

The truth is, as I've illustrated with these numbers, George Bush caused this economic downturn, and it is going to stay in a downturn with his newest tax cutting scheme, voodoo 3. Whoever heard of cutting taxes on the dividends, the marriage penalty, and all of these other things they have been coming up with and saying it is going to stimulate the economy? They know there is enough stimulus. They are under subterfuge, hiding, camouflaging tax reform under the auspices of a stimulus. The truth is, on September 30 last year, we ended up $428 billion in the red. President Bush, by his own budget, without the costs in Iraq, has already projected a $554 billion deficit this year, and his budget proposal for next year is $569 billion in the red. That is $1.5 trillion that we have not paid for, that we are infusing as a stimulus to the economy. We know we have to get ourselves on track as quickly as we possibly can.

I ask unanimous consent that section 13301 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) Exclusion of Social Security From All Budgets.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Exclusion of Social Security From Congressional Budget.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in

* * * *

We said it is the law now we are not supposed to use Social Security, and they continue to do so. What we really have, in essence, is Enron accounting. Why do I call it Enron accounting? Well, turn to page 1 of the budget. We will find on page 1 the Bush Administration saying they firmly believe in controlling the deficit and reducing it as the economy strengthens and our national security interests are met. They go on to say that compared to the overall Federal budget and the $10.5 trillion national economy, the budget gap is small by historical standards.

What did Kenny boy Lay do? The same thing. On page 1, he made his stockholders feel good, by saying the company and the corporation are doing fine.

What is the Bush Administration doing? Trying to make all the taxpayers feel good by saying this deficit is small on page one.

But if we turn to page 332 in the Historical Tables, we will see the overall deficit is $554 billion—not what they had, $159 billion on page 1. It is actually $554 billion. So rather than a deficit of 2.7 percent of the GDP, it is 5 percent. In fact, it is 5.2 percent to be accurate.

If they are trying to talk in historical terms, let's talk—we are complaining about everybody in Europe, and we are saying in Europe the trouble with those folks is they are not being responsible. I say to the Senator from Vermont, on page 117 of the same budget tables, we find out that the debt is 64.8 percent of the GDP.

Under the Maastricht Treaty, one cannot be a member of the European Community unless their annual deficit is less than 3 percent. Ours is up to 5 percent. They can be subject to fines if their debt exceeds 60 percent of the GDP. But by the Bush Administration's own facts and figures ours is 64.8 percent. We could not even become members of the European Community, but we are running around criticizing them about not doing this and not doing that.

Let me say about the French—I fought under the French, and they were brave in World War II. Do not give me this stuff. They had a heyday with the PR thing on the weekend shows about the French, that we do not care, we will go in anyway. But the main thing is to realize that we have worked ourselves into a situation, as Senator DORGAN says, where it does not make sense to produce in the United States of America.

As politicians, Republican and Democrat, we say: Before you open up a manufacturing company you have to have a minimum wage, clean air, clean water, Social Security, Medicare, Medicaid, safe working place, safe machinery, plant closing notice, parental leave. Or you can go to China and open your plant there for wages of 58 cents an hour, and there is none of that.

I asked a high-tech friend of mine on the west coast, when he was expanding, to give us a chance and come back to South Carolina. He said he does not produce anywhere in the United States. He said he produces in China for 10 percent of what it would cost in California.

That is the whole situation. The Secretary of Commerce has the duty of listing 500 critical items to our national security. Senator, we have a $5 billion deficit in the balance of trade in those critical items. We will not be able to go to war the next time because we are not producing. We will have to call other nations up and ask them to please send the goods to us so we can gear up and get ready to go to war.

If my friends want to stimulate the economy, let's give $30 billion back to the States. We passed Leave No Child Behind, but we left the money behind. The States are really strained paying educational budgets. We passed the Disabilities Act, but we have never funded it. Now we have homeland security, the first responders. I fought like the dickens to get the seaport security bill funded for a whole year. I got the authorization, but I could not get the money.

The States need it back at the ports, they need it back at the public schools. They need the money. While we think we will stimulate the economy to create jobs, they are doing everything to downsize, fire, let the teachers go, and creating unemployment as fast as we are trying to create employment.

The best stimulus, money that will have to be spent one way or the other, is $30 billion back to the Governors. That is not partisan because the majority of the Governors are Republican. I am trying to help reelect those Republican Governors.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Alabama is recognized under the previous order.

Mr. SESSIONS. I appreciate the comments of Senator HOLLINGS, and I understand clearly, and I am glad he speaks with no accent, which I appreciate.

He has always been very rigorous on this issue. I appreciate that. We need to watch spending around here and need to watch it in all areas. Of course, the amount of money we are spending on this war—it is estimated from $40 to $95 billion—compared to the economic loss and the internal expenditures we have had to put out as a result of the attack of September 11, is very small. So we have to do something and I don't think the Senator suggests otherwise there.

We are here talking about one of the finest nominees to come before the Senate, Miguel Estrada, for the Circuit Court of Appeals for the DC Circuit. Miguel Estrada is a stunningly qualified person. He came here at age 17 from Honduras, top of his class at Columbia, magna cum laude, Phi Beta

Kappa, on to Harvard Law, editor of the Harvard Law Review, clerk for a Second Circuit Court of Appeals, the sister court to the DC court he would be sitting on. He served in the Solicitor General's Office of the Justice Department where he wrote appellate briefs and argued cases before the United States Supreme Court. He has been at one of America's greatest law firms since.

He received the highest possible ratings of his supervisors in the Department of Justice almost his entire time. In the Department of Justice he was being supervised by President Clinton's supervisors. They gave him the highest rating they could give. They even noted how he was disciplined and followed all the policies and procedures of the Department of Justice.

The American Bar Association checked him out. They interviewed lawyers on the other side of his cases; they interviewed judges before whom he practiced; they talked to friends. They came up with a rating, unanimously "well qualified," the highest possible rating the American Bar Association gives. They did not give it by a split vote but unanimously. That is very rare. They do not do that very often. He is exceptionally well qualified.

I heard his testimony before the Senate Judiciary Committee. I thought he was responsive and intelligent and courteous and kept his composure on the tough questioning. Having argued 15 cases before the Supreme Court of the United States places him in a very select group of lawyers. I am sure there are not more than 20 practicing lawyers in America today who have argued 15 cases before the Supreme Court of the United States. You are not selected for that unless people believe you are very good at your business. The average guy cannot walk in and argue a case before the Supreme Court under normal circumstances. We have an exceptionally qualified nominee.

What is this brouhaha all about? What is causing us to be subjected to the first filibuster in the history of the United States involving a nominee for a circuit court of appeals judge, or a district court judge for that matter, in the history of this country? We are not able to identify a single active filibuster, as we have seen today, on a nominee for circuit court of appeals or for the district court. It is stunning this is so in light of the fact we have an individual who lived the American dream, who has been a success in every category of life, whose integrity has never been questioned, and whose professionalism and skill is doubted by no one.

I ask, what is it all about, Alfie? What is this about? The real deal here is the question of the role of judges: To what extent are they empowered to be activists? Should they be able to utilize and employ their own best judgment about matters and read that into the statutes and the Constitution they interpret, or should they be bound by the plain meaning of those statutes? This is a fundamental question.

There is in the law schools of America, in many of the outspoken professors and proponents of law in America, a belief that judges have a duty to act and to make decisions and even so act politically. In fact, they say it is a myth and a falsehood to suggest and even to believe that judges are above politics. They say it is all politics. Why do they say that? This is part of a dangerous trend in America. Is politics in everything?

The Critical Legal Studies Group that has been afoot in law schools over a number of years believes you cannot tell anything about law; that you can take words and statutes and they can mean anything you want them to mean, and they believe those laws were just written by those in power to oppress those not in power. They do not believe there are rules of the game all of us must live by that are critical to our economic development. They believe it is all politics, it is all power, and there is no truth and there is no order fundamentally. Some call it deconstructionism, and others call it the trends in America as opposed to modernism, the idea that there is no truth; one person's opinion is just as good as another; we can say what we want; I'm OK, you're OK. That kind of idea is really at the heart of some of the problems we are having.

I often tell the story of Hodding Carter, who used to work for President Carter. He was on Meet The Press, where he used to be a regular member. He made a comment the other day where he said we liberals have to admit it, we are asking the courts to do for us that which we can no longer win at the ballot box. That is basically what President Bush has been unhappy with. That has been the concern he has expressed with the legal system. He simply wants judges who will follow, first, the Constitution, and then the statutes and lawful acts that are enacted pursuant to the Constitution. If the lawful acts that are adopted violate the Constitution, the Constitution trumps and the court should say so. The Constitution controls much of what goes on in this country, and it ought to be the No. 1 thing. So we follow that.

It is academic when we talk about those words, but there are various cases that come along that point out the matter to us very clearly, none more significant than the ruling in California over the Pledge of Allegiance, striking down the pledge as being unconstitutional because it had the words in it "under God." They said that was an establishment of a religion that is prohibited by the Constitution; that these two words established a religion.

That is beyond my comprehension. It appears to be clearly contrary to the view of the U.S. Supreme Court, although the U.S. Supreme Court, I will admit, tends to be inconsistent on this issue.

I remember when that happened it caused quite a stir, particularly on both sides of the aisle here. But I noticed my friends across the aisle were particularly concerned about it and were vocal. So after the panel in California struck down the Pledge of Allegiance, we met that day. People came down on the floor and spoke out. The majority leader at that time, Senator TOM DASCHLE, said:

> But this decision is nuts. This decision is just nuts.

He talked about it a little bit there. He gave up the floor, and my good friend Senator REID from Nevada, the assistant Democratic leader, spoke and this is what he said:

> I have the good fortune that two of my sons have been law clerks for the chief judge of the Ninth Circuit.

That is where these panel members were, they were a part of the ninth circuit.

> In fact, one of my sons was his administrative assistant. He was a judge from Nevada, served on the very prestigious Ninth Circuit. I have had calls from my sons today. They are embarrassed about what has taken place in that Ninth Circuit. They said: Dad, don't worry about it because the court will meet en banc [the whole court will] and reverse it. These are two of the most liberal members on the Court. They come up at random. It was by chance Goodwin and Reinhardt were thrown together [on this panel] . . .

But it wasn't Goodwin and Reinhardt on the panel. Mr. REID was in error about that. But Mr. REID said:

> I have great faith the court will reverse itself when they sit en banc.

Well, I had hoped so, too. But I spoke on that day. I made clear I was not at all sure the full Ninth Circuit Court would reverse that opinion because I have been studying the Ninth Circuit. I have observed its irrational and activist behavior for some time. I have noted its problems. I was not at all certain it would be reversed. In fact, I said as much. I said:

> I hope on full rehearing en banc the court will reverse the opinion. I am not absolutely sure it will because there are others on the court I have no doubt will join in this opinion.

I made other references to that. So the Ninth Circuit was—it was a test here. Everybody says don't worry about this random opinion.

I have been reminded that Goodwin and Reinhardt were on that panel, along with another judge. It was a three-judge panel.

So I wondered, will they reverse it? The way it works is if a panel of a larger court, the 24 judges on the Ninth Circuit, if a three-judge court rules and that opinion is significant and may implicate the rest of the law, and the full court. 24 judges, might disagree, they have an en banc hearing, they review the panel's decision, and they render an opinion, either affirming it or not affirming it.

What happened here just Friday was that the Ninth Circuit decided not to rehear the ruling made by three-judge panel—in effect, affirming the opinion striking down the constitutionality of the Pledge of Allegiance of the United States, not a totally surprising thing to me.

It is surprising that we are this far along. It is surprising we have gone this far in distorting the original intent of our Constitution concerning the separation of church and State and what that actually means.

People say it says we must have a wall of separation between the church and State. The Constitution never said that. Thomas Jefferson said that late in his life, long after he had left public office. He wrote the Baptist Association and used that phrase—there should be a wall of separation between church and State. No one knew precisely what he meant. It was never ratified by the people. He was not even at the Constitutional Convention, Jefferson wasn't, when the Constitution was written.

What we must do to determine what the Founding Fathers thought is look at that document, look at the Constitution itself. They debated the issue. They were concerned about it. Virginia had an established church. It was the Episcopal Church, the Anglican Church, the Church of England. The Americans didn't like that. They said, We are going to put in our Constitution: no one religion is going to be given a predominance over the other. So they wrote the first amendment and they said Congress—that's us, the U.S. Congress—shall make no law respecting an establishment of a religion nor prohibiting the free exercise thereof.

They forget all about the free exercise clause. They simply say everything that even mentions God in public life is an establishment of a religion. That is a misreading of the Constitution.

Why they have it in their heads that these things should be so closely scrutinized and should be so scrutinized by the courts and struck down by the courts is beyond me. We have been on a trend for a little over 50 years. It was not a function or a problem for the first 150 years of this country's existence, but in recent years it has developed in that way.

As a result of the history of the Supreme Court rulings over the last 50 years, there is a real ambiguity concerning the meaning of the separation of church and State.

I am going to show how I think activism plays a role in these decisions. People make out it does not make any difference here what kind of judges we have on courts, unless they happen to be judges who show restraint, who believe in following the law. They get attacked by our friends over here. But judges who advocate utilizing law and judicial opinions as a method to carry on a political agenda, they are quite all right. Then, when they strike down the Pledge of Allegiance, they run down here and say how awful it is. "We are just shocked." And it is the judges and the philosophy of law that supports them that has led us to this point.

Let me just read what Judge Paez said one time in a written article. Judge Paez has been referred to as a judge who was not fairly treated here. He was confirmed. Thirty-nine Senators voted against him. He does sit on the Ninth Circuit Court of Appeals today. And from what I can tell from this opinion, he joined in the opinion affirming the striking down of the Pledge of Allegiance.

So this is what he wrote about his philosophy as a judge. He said it includes: "an appreciation of the courts to act when they must, when the issue has been generated as a result of the failure of the political process to resolve a certain political question. Because in such instance," he says, "there is no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process."

Do you see what Judge Paez said there? And I opposed his nomination for several reasons. But this was a core reason. What he said was, if the legislature does not act on something we enlightened ones think they should act on, then the courts are empowered to act.

You show me where that is in the Constitution. Let's put it really simply: When a legislature does not act on a matter, that represents a decision of a legislature. It decided not to act. That is a decision of that legislative branch just as certainly as if they had voted to make a change.

Legislatures are not required to act. If they do not do something that judges think ought to be done, where does it become the idea that judges can impose that by reinterpreting the meaning of the statutes and words of the Constitution to impose their agenda? That is a big deal for me.

Now, Judge Reinhardt wrote a part of this recent opinion on the Pledge of Allegiance. Let me tell you what he said. I just picked this up. It jumped right out at me because I am sensitive to this issue. I have to run for election. I have to go back to Alabama and defend what I did and what I voted on, just as the Presiding Officer did in his State. We have to defend what we do. We are accountable.

But judges are given lifetime appointments. Their position is for as long as they live, with good behavior. They would have to virtually be convicted of a felony before they could be removed from office. They can hold their position for as long as they want to hold it. And sometimes they hold it for longer than their health and ability.

But I want to make clear one thing: That most of our Federal judges do an excellent job, and most of them do show restraint. But there has been a continual battle over this philosophy, that you can make statutes say whatever you want them to say, and "good" judges should deliberately use their power to effect the public good as some group of people, whoever they are, think they should.

So there was some political uproar over the striking down of the Pledge of Allegiance, and Judge Reinhardt, on the Ninth Circuit, said we ought not to pay attention to that. But then he said:

> This is not to say that Federal judges should be completely sequestered from the attitudes of the Nation we serve. Even though our service is accomplished not through channeling popular sentiment but through strict adherence to constitutional principles, the Constitution contemplates occasions when we must be responsive to long-term societal trends when determining, for example, that which is cruel and unusual.

So the court says they have been empowered now to determine "long-term societal trends," and that they can use those societal trends now to go back and take words such as "cruel" and "unusual," and give them a new meaning.

Let's talk about that very one. That is the first one he mentioned. I think it is a good one for us to talk about because cruel and unusual punishment is prohibited by our Constitution. You cannot impose cruel and unusual punishment.

A number of years ago, we had two members of the Supreme Court—they are no longer there; both are deceased now—Justice Brennan and Justice Marshall, who concluded that due to evolving social trends, cruel and unusual punishment meant we should not have the death penalty. And they dissented on every single case that came before them imposing death because they believed it violated the constitutional provision concerning cruel and unusual punishment—a breathtaking position to take. I call it the high water mark of judicial activism.

Where did they get this idea there had been evolved standards? It was not from polling data, because the American people overwhelmingly favored the death penalty. It was not from the legislative actions of legislatures around the country, because very few had eliminated any death penalty statutes over the years. In fact, it was a law in a majority of the States in the country. It was a law in the United States of America. So I do not know where they came up with this idea.

They did not like it. Justice Brennan and Justice Marshall decided in their heart that America ought no longer to have a death penalty, so they set about combing the Constitution, and they came up with the idea that it was cruel and unusual.

The Constitution has to be fairly interpreted. It said: cruel and unusual. Even if you considered it cruel, was it unusual? Every State and every Colony in America and the British Empire had the death penalty at the time the Constitution was written.

Within the very corners of the Constitution itself are multiple references—six or more, as I recall—to the death penalty. It talks about capital crimes. It talks about that you cannot deprive one of life, liberty, or property. How do you deprive them of life except by the death penalty without due process of law?

So this was thunderous. So we have this judge voting to strike down the Pledge of Allegiance, saying that he is empowered to utilize "long-term societal trends."

I guess that is the way the EU votes. Maybe we ought to take a vote in the UN. Is that what we want to do? Let's take the EU, and we will let the Europeans decide what our societal trends are.

I will tell you one thing: The murder rate in Great Britain is going through the roof. And since the death penalty has come back into fashion in America, the murder rate has been plummeting. Thousands of people, on a percentage basis, today are alive, not murdered, because of the crackdown on violent crime in this country. I do not think anyone can dispute that. He talks about also, "this broader long-term social conscience" should guide us in deciding how to interpret statutes. Well, of course, that is bogus. Who empowered this lifetime-appointed person to do that?

See, that is an antidemocratic act. Judges, by being given lifetime appointments, are unaccountable. They serve a great function in that they can enforce the law, even though it might be, in the short term, unpopular. But we depend on them very deeply. We depend on them to show restraint, to not impose their views, but to honestly and fairly interpret the law.

We have some real problems here with the Supreme Court, too. The Supreme Court is very confused about the opinions on separation of church and state. But they never went this far.

In fact, according to Judge O'Scannlain, who wrote a dissenting opinion from the refusal of the court to even consider the matter en banc, Justice O'Scannlain details at least four references in previous Supreme Court opinions in the line of cases on which they relied to strike down the school Pledge of Allegiance recitation as affirmatively blessing or okaying the Pledge of Allegiance.

He quotes a number of those cases. Justice O'Connor and others have made that quite clear. So the question is, Does this phrase, "under God," in the Pledge of Allegiance establish a religion or is it a religious act?

Justice O'Scannlain says: Common sense would seem to dictate otherwise, as the public and political reaction should show and make clear. If reciting the pledge is truly a religious act in violation of the establishment clause, then so is the recitation of the Constitution itself or the Declaration of Independence.

We hold these truths to be self-evident, that all people are created equal. They are endowed by their Creator with certain inalienable rights.

That is not something we earned here on Earth, but part of the philosophy of the founding of our country is in the heart of the most famous words in the Declaration of Independence. "Without our aid He did us make." That is how we got here.

That is what a majority of the American people believe. Some 93 percent believe in God. They are not trying to impose their will on everybody. But they do not believe, and I do not believe, the Constitution prohibits any reference in the public sphere to a higher being.

He goes on and says: Are we going to eliminate the Constitution, which makes references to God, the Declaration of Independence, the Gettysburg Address, which uses the phrase "under God"? Are we going to prohibit that? The national motto, "In God We Trust"? How about those words right up there, "In God We Trust," in letters 6 inches high? Are they going to come down here with a chisel? I guess we will bring our friends from the Ninth Circuit over here with a chisel and let's see them chop away at that.

That doesn't make sense, does it? But that is what we have in this opinion. How about the national anthem? Justice O'Scannlain continues:

> Such an assertion would make hypocrites out of our founders and would have the effect of driving any and all references to our religious heritage out of our schools and eventually out of our public life.

I don't think that is an exaggeration at all.

How are we going to stop this?

In this Senate, we have the odd event that we have a paid Chaplain, as we have in the military. Our Chaplain comes in before we start the day, and we have a prayer. I am surprised they haven't sent the 82nd Airborne over here from across the street to stop that. They begin every session of the Supreme Court of the United States with the words: "God save these United States and this honorable court." Every court I have been in uses those words. "God save these United States and save this honorable court" is what the clerk says when he calls the court to order all over America today. But children in the Ninth Circuit, the largest circuit in America, including some 9 million schoolkids, are prohibited now from saying the Pledge of Allegiance.

This opinion was written, although I am not sure legally how much it meant, but after this Congress voted on the matter a few months ago. If Justice Reinhardt believes his evolving social consciousness has gotten to the point that America no longer wants to say "under God," he ought to listen to his elected representatives because right after it happened, we voted by 99 votes last June on the floor of this Senate to reaffirm the Pledge of Allegiance and the words "under God." Every Senator in here voting that day voted for it. Maybe one didn't or one was absent. It is impossible for me to believe that they think this is a result of any societal evolution that causes this.

Justice O'Scannlain goes on and talks about the Engel v. Vitale case which eliminated prayer in schools, the first such case. They said they could not say a prayer written by the State. They said that was inconsistent with the establishment clause. The State wrote a prayer, and the kids were supposed to say it. They could refuse to, but they said it, and they said that was too much. That was the establishment of a religion effect. That could be something we could debate, but certainly there is some basis for that reasoning.

Then he goes on to note, in a footnote, the court said this in Vitale:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York had sponsored [by mandating a State prayer.]

Then the next case in this line of cases came, Abbington School District v. Schempp. They required in Pennsylvania that at least 10 verses from the Holy Bible shall be read without comment at the opening of every public school each day. I guess they would probably put them in jail today for even expressing that. So they read the bible verses every day in the school. This was followed by a recitation of the Lord's Prayer, and finally the class would recite the Pledge of Allegiance. The court struck down the Bible reading and the practice of reciting the school prayer as a State-proscribed religious ceremony but said nothing at all about the Pledge of Allegiance. Why didn't they strike that down?

Here we have the Ninth Circuit going off on a tangent, clearly by implication contrary to the views even of the U.S. Supreme Court, which have gone too far in their hostility to religious expression. Even Justice Brennan, who I noted earlier was the leader of the activist group at the high water mark of activism, said this in that case:

> For Justice Brennan, "religious exercises in the public schools present a unique problem" but "not every involvement of religion in public life violates the Establishment Clause." He warned that "[a]ny attempt to impose rigid limits upon the mention of God . . . in the classroom would be fraught with dangers." Specifically, he wrote that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains illusions to this historical fact."

Historically, it is a fact that we believe in this country, or most Americans believe, this country was founded under God.

Then we had one of the more bizarre cases that came out of Alabama. Apparently out of pique, the Supreme Court became angered that the State of Alabama passed a law that prescribed a moment of silence or meditation before each day as school commenced. Can you imagine that? How horrible this is. It took the attention of the U.S. Supreme Court in Wallace v. Jaffree, 1985. It dealt with the constitutionality of an Alabama statute authorizing a 1-minute period of silence in public schools for "meditation or voluntary prayer."

The Supreme Court said that was unjustified and struck that down. What a ridiculous opinion that was. When I was a lawyer practicing before courts, I never said those kinds of words about courts. I took my lumps if I didn't agree with opinions, and I accepted the rulings of the court. I think we ought to be respectful. Here I am in a coequal branch, and I am an elected politician now and, I am telling you, there is no basis for that opinion.

So the Supreme Court is all confused about this. Some of the problems in the Ninth Circuit are due to their confusion. It is time for them to straighten up and figure this thing out and give us decent principles that will guide us. It is clear under Supreme Court law today that conducting a formal religious observance conflicts with the subtle rules pertaining to prayer and the religious exercise of students. Prayer was considered an overt religious exercise and that "prayer exercises in public schools carry a particular risk of indirect coercion."

But the Court, in a third case, Lee v. Weisman, discussed this very issue again. It took pains in the Lee case, which is the last of the cases I am citing here. The Court took pains to stress the confines of its holding; that is, how the holding was limited, concluding that "we do not hold that every State action implicating religion is invalid if one or a few citizens find it offensive," and that "a relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution."

Now, that is strong and important language. "A relentless and all-pervasive attempt to exclude religion from every aspect of public life could itself become inconsistent with the Constitution." I certainly agree with that. Now, I will point out that the Ninth Circuit, oddly, failed to accept even rehearing by the full Court. Why did they do that? The Senator has expressed some ideas about why. They were not very complimentary and did not suggest it was because of high ideals that they refused to even have the full Court review this panel. But I point out that the Seventh Circuit Court of Appeals, a coequal circuit with the Ninth Circuit, already considered the pledge case, and it has found it did not establish a religion.

So, normally, when a circuit is wrestling with whether or not a case is important and whether or not there is a dispute in the law, they would much more normally ask for and allow a rehearing to occur en banc.

The Seventh Circuit, when they considered it, framed the question precisely this way: "Does 'under God' make the Pledge a prayer whose recitation violates the establishment clause of the first amendment?" They answered that question in the negative. The Supreme Court, according to Justice O'Scannlain, has insisted that interpretations of the establishment clause must comport "with what history reveals was the contemporaneous understanding of its guarantees." "The line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers."

So we are going to interpret the first amendment to prohibit the establishment of a religion and also prohibit Congress from passing any law that would restrict the free exercise of religion. We have to ask ourselves what did it mean when they wrote it? As Judge Fernandez, who dissented on the original opinion, so eloquently points out in his dissent: Only the purist exercise in sophistry could save multiple references to our religious heritage in our national life from Newdow II's—that is the case in California—axe. Of course, the Constitution explicitly mentions God—this is Justice O'Scannlain's opinion quoting Judge Fernandez—as does the Declaration of Independence, the document which marked us as a separate people, declared us independent. The Gettysburg Address, inconveniently for the majority, contains the same precise phrase—"under God"—found to constitute an Establishment Clause violation in the pledge.

After Newdow II, are we to suppose that, were a school to permit—not require—the recitation of the Constitution, the Declaration of Independence, or the Gettysburg Address in public schools, that, too, would violate the Constitution? Were the "Founders of the United States . . . unable to understand their own handiwork?" Were the Founders themselves unable to understand? When they put in the Constitution that we would not establish a religion, did they have any idea we were going to be striking down any references in their own Declaration of Independence to God, or in their own Constitution of which this was just a part? Of course, they didn't.

What that says is, of course, that was not what they intended. They never intended, when they passed the first amendment to the Constitution of the United States of America, that we would eliminate all references to a higher being in America.

Well, as Justice O'Scannlain notes, somewhat ingeniously indeed, that the recitation of the Declaration of Independence would seem to be a better candidate for the chopping block than the pledge, since the pledge does not require anyone to acknowledge the personal relationship with God to which the declaration speaks. So, too, with the National Anthem or our national motto, "In God We Trust."

What about our national celebration of Thanksgiving Day? It goes back to President George Washington's time when Congress stated that there was "to be observed by acknowledgement with grateful hearts the many and signal favours of Almighty God." Congress made Thanksgiving a permanent holiday in 1941, and Christmas has been a national holiday since 1894. Are Newdow's constitutional rights violated when his daughter is told not to attend school on Thanksgiving? On Christmas Day? Must school outings to Federal courts be prohibited, lest the children be unduly influenced by the dreaded intonation "God save these United States and this honorable Court."? Are the schoolchildren not to go to the Supreme Court to hear arguments because it invokes God before Court starts every day?

Justice O'Scannlain says:

> A theory of the Establishment Clause that would have the effect of driving out of our public life the multiple references to the Divine that run through our laws, our rituals, and our ceremonies is no theory at all.

Of course, the Supreme Court, as I mentioned earlier, in several different cases, has directly, and by implication, affirmed the Pledge of Allegiance.

A full hearing of this case, which I am sure the Supreme Court will hear, will make clear this pledge will stand. I hope also they will take it upon themselves to deal with the confusion they have created in this inconsistent body of law.

Even Justice Brennan, that most stalwart supporter of separation of church and State, acknowledges that some official recognition of God is appropriate "if the Government is not to adopt a stilted indifference to the religious life of the people."

The decision reached in this case, I submit, does precisely that: Justice O'Scannlain says it adopts a stilted indifference to our past and present realities as a predominantly religious people.

Justice O'Scannlain goes a little further. He raises another point. Really, when it is all said and done, this opinion does not stand for neutrality in religion; this decision stands for and, in fact, favors atheism over religion. The absolute prohibition of any mention of God in our schools creates a bias against religion. The majority simply cannot credibly advance the notion that it is neutral with respect to belief versus nonbelief. It affirmatively favors nonbelief over belief. One wonders, then, does atheism become the default religion protected by the establishment clause?

We have people who object to putting in one clause in textbooks. I am not one who thinks church people ought to write the creation story or the evolution story in our textbooks. I think it would be appropriate, however, that our textbooks say that many believe the creating of life on this planet was conducted by a higher being. I do not see any problem with that. But some oppose even such a statement as that.

We have a lot of weird actions going on out there today by our courts. We have, as I mentioned—hopefully, we do not have any left—those who believe the Constitution itself, which prescribed how the death penalty should be conducted, prohibited death penalties. We have a problem in America in our legal system. It is the greatest legal system in the world. It is a system that has protected us in extraordinary ways, but we have to have judges who show restraint and who follow the law.

I notice two judges about whom people expressed concern, both nominated by President Clinton and confirmed, both of whom I opposed, although I voted for 95 percent of President Clinton's nominees—they have on separate panels, for example, authored opinions to overturn California's three-strikes-and-you're-out law. That has been on the books for years. As soon as they get on the Federal bench, they say the U.S. Constitution says your three-strikes-and-you're-out law passed by the people of California that has helped precipitate a rapid decline in crime in California and save thousands and thousands of lives is unconstitutional.

I think these are activist opinions. I think they will be reversed. In Andrade v. the Attorney General of California, Judge Paez ruled a lifetime sentence for a seven-time repeat offender was cruel and unusual. Seven times, Mr. President, and that number includes only his Federal offenses. Andrade also had more than a few convictions in State court. While he was on probation for a 1982 conviction, he burglarized three separate residences. Still, a lifetime sentence under the three-strikes-and-you're-out rule was too much for Judge Paez. He found the statute that provided for it unconstitutional.

In Brown v. the Attorney General of the State of California, Judge Berzon held that a 25-year term of imprisonment for two defendants convicted of petty thefts, Ernest Bray and Richard Brown, constituted cruel and unusual punishment. The reality is each defendant deserved their 25-year term of imprisonment. Each had a laundry list of offenses on their record. Defendants Bray and Brown are the type of career criminals that California's three-strikes law attempted to keep off the streets. Bray had four separate robbery convictions. Robbery is the taking of property through force and violence. One of those robberies was a situation in which shots were fired at the victim, and one where the victim was hit and kicked, not even considered by the jury. The jury did not get to consider his other offenses—obstructing and resisting a public officer, and trespass in 1979, possession of a dangerous weapon in 1985, being under the influence of a controlled substance in 1991, and petty theft with a prior conviction while out on bail for the three-strikes offense.

Brown's prior convictions included two counts of second-degree burglary, two counts of assault with a deadly weapon, and a robbery conviction—two counts of assault with a deadly weapon and a robbery conviction. Additionally, he had eight other convictions on his record. Judge Berzon said it was cruel and unusual to put these offenders away for this period of time.

I am glad to see my distinguished colleague from Vermont in the Chamber. I supported a judge from Vermont. He had a good name, William Sessions. He has been on the bench only a few years and he has declared that the way the Federal death penalty is conducted to be unconstitutional. I can tell you how it is conducted.

Mr. LEAHY. Mr. President, I would hope that the distinguished Senator, my good friend from Alabama, would state Judge Sessions' ruling accurately. Judge Sessions has stated he feels the death penalty is constitutional. He has a matter that has been very thoroughly ruled on in a particular case and the way it was handled in that particular case and did it in a way so that the courts of appeals can rule on it, not the least of which has been done by a number of other judges. In fact, among those judges who would rule on it, several were appointed by President Reagan and by former President Bush and the current President Bush.

I am sure if the Senator suggests there might be something political in this, it is being set up in such a way that still the ultimate decision would be decided by a majority of judges appointed by Republican Presidents.

Mr. SESSIONS. I think we should be correct. As I understand his ruling, it was not that the act was unconstitutional. Senator LEAHY is correct, and I do not think I said that, but the way it was carried out raised constitutional implications.

I will note, having been a Federal prosecutor myself for 15 years, I know Janet Reno personally set up a committee to approve any death penalty case in Federal court, and that committee was charged with the responsibility of making sure it was fairly and objectively administered.

She made the final decision on it. I know she opposed the death penalty herself personally. So I do not believe the Federal justice system of handling the death penalty is unfair.

Going further than that, in July of last year, Judge Jed Rakoff of the Federal District Court in Manhattan ruled more broadly that the Federal Death Penalty Act was unconstitutional, saying the death penalty is:

> Tantamount to a foreseeable state-sponsored murder of innocent human beings.

Mr. LEAHY. Mr. President, will the Senator yield briefly for a question?

Mr. SESSIONS. I will be pleased to yield.

Mr. LEAHY. In that case, when that went on appeal to the same court that will be hearing the Sessions case, they overruled the judge the Senator referred to; is that not correct?

Mr. SESSIONS. They absolutely did. That was my next point I was going to make.

Mr. LEAHY. My point being, there are checks and balances in here.

Mr. SESSIONS. Well, the checks and balances did not work in the Ninth Circuit, as Senator REID guaranteed virtually it would when he made remarks suggesting that panel was going to override the three-judge panel.

The problem is, and the reason it is important, is these are rulings that reflect a person's personal views. A judge should not overcome the law. If he wants to go out and write letters and argue that the death penalty is unfair and should be repealed, I guess if he can do that consistent with his ethical standards, that is all right. He certainly can make reasoned remarks on it. I do not think he should use the power of his bench to strike it down.

There are many more examples of recent rulings with which most Americans would not agree. Take for example a recent ruling concerning the Ohio State motto, "With God all things are possible." The Sixth Circuit recently told Ohio its motto was unconstitutional. What about ours, "In God We Trust"?

It would take a Philadelphia lawyer to distinguish why "In God We Trust" is OK and the Ohio motto "With God all things are possible," is not. The Sixth Circuit told Ohio its motto was unconstitutional because it established a religion, and that is really weird.

There are many cases around the country where you cannot have Christmas decorations put up. We have death penalty laws being struck down. We have three-strikes-and-you're-out laws being struck down. If they violate the Constitution, that is all right; they should be stricken. If someone passes a death penalty law in a fashion that is violative of the U.S. Constitution, a Federal court—or a State court, for that matter—should strike it down on the spot. If a three-strikes-and-you're-out law is unconstitutional, it ought to be stricken. But so far as I have been able to ascertain, States are empowered to set penalties for crimes in their States. They can enhance penalties for multiple offenses, and judges can give enhanced penalties for multiple offenses.

In my view, there is no law, no basis, for us declaring that these acts are unconstitutional.

The point of all of that is to say: This is what activism is. This is what President Bush has said in his campaign he does not want. He is not asking the judges he nominates to carry out his agenda politically. He is prepared to fight it out in this Congress and with the American people. He does not want those judges conducting and carrying out their political agendas through the interpretation, misinterpretation, or the reinterpretation of the meanings of words and statutes in our Constitution. It is a very big deal.

I hope the Supreme Court will take seriously its responsibility to guide us out of this thicket it has gotten us in with regard to its confused and inconsistent rulings on the separation of church and state, on the observance of an issue of any kind of reference to God in public life.

I did have a church group that came and visited me. They said they were in the Supreme Court. They were very sincere, wonderful young people. They took their faith seriously and they took a moment over to the side and all huddled around and had a prayer for these United States of America and the legal system of America. The guard in the Supreme Court came along and shooed them out and said they could not be praying in the Supreme Court.

So this is the kind of example of overreaching that we hear about in our schools, in our public affairs, on our courthouse squares, and even in the opinions of Federal judges. We can do better.

We need to appoint judges who are committed to following the law. Miguel Estrada is that kind of person. That is the only thing he stands for. That is the only thing in his record he is known for: that he believes we ought not to abuse the system; that judges ought to show restraint. That is what he will do if confirmed. That is why the American Bar Association unanimously gave him the highest rating they give, which is received by only a very few nominees. That is why President Bush has asked the American people to allow him to do what he ran for office to do. He said this is what we are going to do. This is how I look at the courts and that is what we are going to try to do.

I do not see why anybody should be afraid of a judge who follows the law. What we should be afraid of is judges who believe they have a right to reinterpret the law and impose their own views on all the rest of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending question is the nomination of Miguel Estrada.

Mr. LEAHY. I am sorry. I thought when I came we were having a debate on the Ninth Circuit, which I understand has now put the Pledge of Allegiance case on the fast track to the U.S. Supreme Court, which has a majority of conservative Republicans. I am sure the distinguished Senator from Alabama will be very happy with whatever way they rule on that.

In the meantime, I say to those in my State of Vermont who ask, there has been no challenge to the law in Vermont. We are not within the Ninth Circuit, and I expect children in Vermont will continue to say the pledge as we have been saying it since sometime in the 1950s, I believe, when the words "under God" were added to it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we have spent a lot of time talking about the Pledge of Allegiance, which is important to the American people, and about the Estrada nomination, something that could be settled very quickly if the White House wanted to settle the matter. They have made it very clear that they do not. In fact, they have even gone so far as to publicly reject calls from a distinguished Republican, a Senator in this body, to do so. That has been in keeping with the attitude we have seen more and more on such judicial matters by the White House. They take the attitude that the Senate is irrelevant, that we should simply do whatever they say—and sometimes do.

The Senate majority replaced their majority leader at the request of the White House, something unprecedented. And now they seem willing to also take the attitude that if they confirm someone, just do it without even asking questions about the person.

The fact is, we would probably have this debate over now if they brought forward the writings of Mr. Estrada, which he said under oath he was perfectly willing to bring forward. If it weren't for that, we would have had the hearings and be finished by now.

As I go around the country, my own State or other parts of the country, I have not had an awful lot of people come to me and say: Thank God the Senate is debating one judge.

Since President Bush took office we have confirmed 105 or 106 or 107 of his judges anyway. We are going to spend weeks debating that.

What I hear from people is: Why is there not any discussion about a possible war against Iraq? The British Parliament has had a major debate on it. The Turkish Parliament had a major debate on it. The Canadian Parliament had a major debate on it. Country after country is debating this issue.

What is the Senate, the most deliberative body in the world, the body that considers itself the leading parliamentary body in the world, what have we done?

The impression of the American people is, both Republicans and Democrats, is that the Senate does not want to discuss a war with Iraq. I guarantee that if any one of 100 Senators go home—go into any restaurant, any diner, any gas station, any grocery store in their own State, they will find that most people are asking each other if we are going to war or we are not going to war. They are not discussing whether instead of 105 judges having been confirmed so far for President Bush, it will be 106 judges. That is not what they are concerned about.

On February 26, we listened to the distinguished senior Senator from West Virginia, Mr. BYRD, who pointed out with characteristic clarity and eloquence the President's failure to request a single dime in his fiscal year 2004 budget, which he sent to Congress recently, to finance a war with Iraq. It is almost as if the White House believes we can fight a war and somehow sprinkle fairy dust and the money will just miraculously appear to pay for it.

As I listened to the Senator's remarks, I could not help but be struck again about the cavalier and dismissive way the administration has dealt not only with our allies and friends on the issue of disarming Iraq but also with the Congress and the American people. Essentially their attitude has been: We do not need you. We do not have to tell you, but you better support us.

We have seen administration officials globe trotting, in some cases offering billions of dollars and even trade concessions to the disadvantage of American workers, to other governments, in support of a war against Iraq. They will not ask Congress for a dime to pay for the war, but they are running around the world offering billions of dollars to other countries so they will support us.

When I see the billions of dollars being promised to Turkey and everywhere else, I ask: What about the first responders at home on the front line, protecting our security? They have been promised money. The President gave a good speech in New York City about how the first responders will be prepared to respond to terrorism, and that U.S. Government will be there to support them. But it is the old "the check is in the mail."

I look at my own State of Vermont. Like the State of the distinguished Presiding Officer, it borders Canada. We have unique problems because there we have an international border. We need to do a lot more to protect our borders and to respond, but we do not have the money to do it.

I say to the distinguished Presiding Officer, if there is a terrorist attack, God forbid, against a nuclear power plant on the border between Vermont and New Hampshire, the first calls, the first 9–1–1 calls will not go to the Office of Homeland Security. They will go to the local sheriffs and the local fire departments and the local hospitals. But we are not giving them the money that was promised.

The President acknowledged when he signed the huge omnibus appropriations bill—a bill, incidentally, that was scrubbed carefully all its way through by the White House, that it did not include sufficient funds for local and State governments to protect their citizens against terrorism. That is something Senator BYRD and I and others had been saying for months. There is not enough money in there. I guess the White House thought no one would read it.

Secretary Rumsfeld was asked what is the cost of a war against Iraq? His response was that it is "unknowable."

Senator BYRD mentioned this last week, and then Deputy Secretary Wolfowitz told Congress the same thing.

No one can predict with certainty how long a war will last or precisely what it will cost, not to mention the potentially immense cost of caring for an estimated 2 million refugees and of rebuilding Iraq.

But to say we do not have any idea, that is maybe convenient, but it is totally unacceptable.

The American people should not be asked to send their sons and daughters into battle without an even rudimentary understanding of what the potential costs are, both in dollars and American lives. None of us expect the Pentagon to calculate these costs with precision, but there is no doubt that a war, and its aftermath, would cost tens if not hundreds of billions of dollars, as the President's former economic adviser predicted.

If we are going to commit American taxpayers to a war costing hundreds of billions of dollars, let us say so. If we are going to promise American taxpayers that there will be first responders to protect them in their local communities, let us also be honest and say that we provided the money.

In fact, the cost of a war, at least one in which Saddam Hussein's army is quickly defeated as the administration optimistically predicts, has been estimated by the administration. So what was to prevent the President from at least requesting the best-case scenario, somewhere between $60 billion and $95 billion at last count, in his fiscal year 2004 budget?

I think there is only one explanation. The President does not want to ask the American people whether—in the midst of a recession with no end in sight, with millions of jobs already lost, more jobs lost during this President's term than that of any other President in my lifetime, and more Americans becoming unemployed every week—he did not want to ask the American people whether we can afford to spend tens or hundreds of billions of dollars on a war that fully half the American people do not support.

We did this during Vietnam. Nobody wanted to say what it cost because they knew what the reaction would be.

I want to see Saddam Hussein disarmed as much as anyone. His despotic reign and his obsession with acquiring weapons of mass destruction while his people suffer has been disastrous for his country and for Iraq's neighbors.

But, if we look back over the past several months, this administration's handling of the Iraq issue has been notable for its secrecy, its doublespeak, and its arrogance. One day they are dismissing the United Nations as irrelevant. The next day they are making either threats or billion-dollar deals with allies or members of the Security Council to win their support for a resolution authorizing the use of force.

Depending upon who the messenger is, or whether they are speaking publicly or behind closed doors, the President first said the goal was regime change, then disarmament, and now both, but that one cannot occur without the other.

The President has told the American people he has not yet made a decision to attack Iraq, but his advisers are telling the rest of the world that the decision has been made, and the Security Council of the United Nations doesn't matter because we are going ahead, no matter what. This is the administration's attitude, even while some of our closest allies work to explore alternative options that could avoid war.

The administration's rhetoric and actions have damaged key alliances and weakened our ability to work with allies and friends, not only to disarm Iraq but to solve many other global problems. They have recklessly squandered the reservoir of good will our Nation had around the world in the aftermath of September 11. Never in generations has the world been as united behind the United States as it was after September 11. In only one year, we have squandered that support.

How are we going to pay for this war? Apparently not by requesting the funds in the budget. They have not done that. Again, as Senator BYRD pointed out, the amount of money requested in the budget, to plan and carry out a war, and for its aftermath, is zero.

It is reminiscent of Afghanistan, the country the President said he is committed to for as long as it take to keep it from again becoming a haven for terrorists. The amount of money requested by the administration last year was zero. It is like promising the money for first responders in Texas or Vermont or New Hampshire or anywhere else, and then leaving it out of the budget.

So how will they do? By paying for it with red ink, cranking up the printing presses and adding to the deficit. This President inherited the largest surplus of any President in history. He is now building up the largest deficit of any President in history: Another hundred billion, what is the difference? That is the way they talk.

Yet these are the same people who were giving great speeches just a few years ago about why we need a constitutional amendment to balance the budget. They ought to be darned glad they didn't get what they wished for.

So, a balanced budget doesn't make any difference, the deficit doesn't make any difference, and don't look behind the curtain because we are not going to tell you how much it is going to. Let us hope the President's advisers are right and the war is over in a matter of weeks. Sometimes wars do end quickly.

I remember my son, a young marine, was called up in Desert Storm. Like his fellow marines, this young lance corporal answered, "Aye, aye," and set off with his fellow marines. The war ended very quickly. He was not in harm's way, unlike others who were.

I am proud of him for volunteering to go. I am proud of all America's men and women who will answer the Commander in Chief's call to go. But I believe we ought at least know what we are asking them to do and why.

Let us hope the war is over in a matter of weeks. Let us hope the Iraqi Army does crumble like a house of cards. Let us hope Saddam Hussein does not blow up his oil wells and refineries. Let us hope he does not use his chemical or biological weapons. Let us hope our troops do not become bogged down in hand-to-hand urban combat, and that there will be few Iraqi civilians killed. Let us hope that predictions of massive unrest throughout the Muslim world in protest at the U.S. invasion of Iraq, and increases in the number of terrorist attacks against Americans, will be proven groundless. Let us hope the ethnic and religious factions within Iraq, some of which hate each other, will put aside their differences and join together to build the representative, democratic government the President has promised. And let us hope the President's grand vision, about which we have been given no details, to make the entire Middle East democratic, will be off to a successful start. Let us hope so.

But let us also understand it is possible that any one of these dire predictions could come true and any one of them could be disastrous for our soldiers, for innocent civilians, for the U.S. economy, for our national interests abroad, for the Middle East, for the world, and for the fight against terrorism.

Wars are unpredictable. The real costs of a war against Iraq may not be known until long after this President's term is over.

Who knew, back in 1991, that thousands of gulf war veterans would suffer from unexplained, debilitating medical problems years after the war ended and that many would never be able to work again? Who can say this war will not be the spark that ignites more terrorism against the United States—perhaps not this year or even next year, but in 3 years or 4 years? By that time, it will be too late.

We have to think about these things even if the President would rather not talk about them. We have a duty to ask what are the administration's real motivations for this war. Is it to get rid of weapons of mass destruction from Iraq? If so, why not give the U.N. inspectors the time they need and a plan for enforcing disarmament? Is it to promote democracy in Iraq? If so, then why not begin with Kuwait, which we liberated a decade ago but which even today remains a monarchy, where women still are not allowed to vote?

We have a duty to ask these questions, and to warn the American people of the risks, even if the President will not. And we must do everything we can to be sure that if war comes, it is supported by the broadest possible coalition.

So I commend the senior Senator from West Virginia for his remarks last week, and for the other statements he has made on this issue. He has asked the questions that need to be asked. I hope the administration, finally, will give the answers before the country goes to war, and not after.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

TEXAS INDEPENDENCE DAY

Mrs. HUTCHISON. Mr. President, March 2 is Texas Independence Day. Every year I have been in the Senate, I have carried on the tradition, started by Senator John Tower, of reading on or about March 2—Texas Independence Day—William Barret Travis's letter from the Alamo.

I just want to give a little background because, of course, Texas is the only State that came into our Nation as a nation. Texas was a republic for 10 years, having fought very hard for its independence from Mexico.

In fact, William Barret Travis's letter was dated February 24, 1836. His letter was an appeal for support because he only had 184 men in the Alamo, in the garrison, and, of course, he was vastly outnumbered by the Mexican Army. So he was asking for help. He was pleading for help.

All of this was happening around the time that the duly elected members of the Declaration of Independence Congress were coming to Washington-on-the-Brazos to sign the Texas Declaration of Independence from Mexico.

It was a trying time between February and April of 1836 for these Texans who were trying to gain their independence and who eventually became a part of America.

It was at the Alamo, in San Antonio, TX—Tejas at the time—that 184 Texas rebels, led by William Barret Travis, made their stand against Santa Anna's vastly superior Mexican Army.

These Texas patriots did not even have uniforms. They barely had arms. In fact, they only had about $1,000 to fund this entire army. So they did not waste any money on uniforms. They needed arms, and that is where they spent their money.

On the second day of the siege, February 24, 1836, Travis called for reinforcements with this heroic message:

> Fellow citizens and compatriots: I am besieged by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man—the enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demands with a cannon shot, and our flag still waves proudly from the wall—I shall never surrender or retreat.
>
> Then, I call on you in the name of liberty, of patriotism and of everything dear to the American character, to come to our aid, with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—Victory or Death.
>
> WILLIAM BARRET TRAVIS,
> *Lt. Col., Commander.*

This went out on February 24, 1836. Those 184 brave men held the Alamo, with no reinforcements, until March the 6th of 1836. They held all that time against exactly what William Barret Travis thought would happen. Thousands of Mexicans in the army were gathering steam to attack the Alamo. He never got reinforcements.

The Alamo fell on March 6. Just four days earlier, the men who were elected to the convention signed the Texas Declaration of Independence. My great-great-grandfather was one of those, elected from Nacogdoches County. He was alcalde of Nacogdoches County at the time. He went, along with Thomas Rusk, the first man to hold the seat that I now hold in the Senate, to Washington-on-the-Brazos, and they both signed the Texas Declaration of Independence.

It was during that time that women and children in the Nacogdoches area were being besieged by Indians, and they were concerned that the Mexican Army might also be coming there. So they fled in what is called the Runaway Scrape toward Louisiana. All four of my great-great-grandfather's children died in the Runaway Scrape. All four of his living children died. And yet those brave settlers went back to Nacogdoches and raised nine more children. So they were the kind of stock that settled our State and our country.

It was April 21 that Santa Anna finally was defeated at the battle of San Jacinto, led by Gen. Sam Houston, who was the commander there. So the time period between February and April 21 was key in the Texas independence and the beginning of the new republic. Texas was a republic, an independent nation, for 10 years before they joined the United States as a State in the United States.

So I always try to remember the brave people. Obviously, in my family we have a lot of stories and a lot of lore about that time because my mother grew up in Nacogdoches, and it is the oldest town in Texas, and it is one that is rich in our Texas history and is very much a part of my family and so many of the generations who came before us to settle our great State.

So I am going to continue the tradition as long as I am in the Senate because I think it is worthy of note that we had our own fight for independence and that we have such a unique character in our State.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Texas for her remarks. I think, indeed, they were very interesting. I had no idea about her family lineage and her interest in the particular day. I salute her for her comments on the floor.

FRAUD AND MANIPULATION IN THE WESTERN ENERGY MARKET

Mr. President, I want to take a few minutes, if I may, to make some informal comments on something that has happened today. Today was the deadline for California to submit to the Federal Energy Regulatory Commission the evidence of fraud and manipulation in the western energy market after a 100-day discovery period.

In fact, about 1,000 pages of evidence were submitted to the Commission. The problem is that evidence is not released to the public. This is a real problem.

I serve on the Energy Committee, and have served there since the crisis in 2000 and 2001 in California. The Energy Committee provides oversight to the Federal Energy Regulatory Commission. The Federal Power Act mandates that the FERC must ensure that rates for power are just and reasonable throughout the United States.

It is very difficult to know whether the Federal Energy Regulatory Commission is in fact ensuring that rates are just and reasonable if one can never view the evidence.

I happen to believe that the FERC has greatly improved. Patrick Wood, Bill Massey, Nora Brownell have been very strong in making change. That change is welcomed. It was on May 6 of last year that the major change began. It was then that the FERC ran on its Web site internal memos detailing some of the schemes Enron used in defrauding the marketplace. Get Shorty, Ricochet, Death Star, all became known to the general public directly following the posting of these memos. Since that time, several people have been indicted and pled guilty to fraud.

Additionally, more recently, one company, Reliant, was before the Commission. The Commission put on their Web site the transcript of tape recordings between Reliant managers. Those transcripts indicated instances where Reliant's plant manager and operations manager talked about holding power offline in California to drive prices up.

The operations manager—and this is not a direct quote, it is a paraphrase—said, in so many words: We are going to be manipulating the market tomorrow. So we are going to close down one plant at least for a day and perhaps more.

And the plant manager said: Oh, yes.

Well, that was sort of a dead bang admission of market manipulation. FERC, much to their credit, at the very least, fined Reliant $13.8 million. But they could have sent a much stronger message to the entire energy sector by withdrawing Reliant's ability to sell power at market-based rates. That would have sent a clear and definitive message, yet instead FERC gave Reliant a slap on the wrist.

In California, we have a real problem. One year, the entire cost of energy for the entire State was $7 billion. The next year, it was $28 billion; in other words, a 400-percent increase in 1 year's time of the cost of energy. The following year, it was $27 billion.

I remember when John Bryson, the CEO of Southern California Edison, told me that when they were forced to divest themselves of their plants, the energy generator that came in and bought one of their plants, to which they were one day selling energy at $30 a megawatt-hour, once it went to the other generator, the other generator charged $300 a megawatt-hour. When I heard that, I knew it was a real danger signal that something had really gone wrong. Well, we are a long way down the pike since then.

I ask unanimous consent to print in the RECORD a letter I wrote this morning to the chairman of FERC, Pat Wood, in which I followed up on an earlier letter of February 6, to which I have not had a response, asking the FERC to lift the protective order that currently prevents the public from learning about evidence of fraud and manipulation in the western energy marketplace. I point out that now that the 100-day discovery period has ended, "I write to reiterate this request and ask the commission to make all evidence public."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 3, 2003.

Hon. PAT WOOD,
Chairman, Federal Energy Regulatory Commission, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to follow up on my letter of February 6, 2003 to ask the Federal Energy Regulatory Commission (FERC) to immediately lift the "Protective Order" that currently prevents the public from learning about evidence of fraud and manipulation in the Western Energy Market. Now that this 100-day discovery period has ended, I am writing to reiterate my request and to ask the Commission to make all evidence public—even information FERC has obtained itself.

I would also appreciate the opportunity to review the filing submitted today by California parties detailing new evidence of fraud and manipulation in the Western Energy Market. As a member of the Senate Energy Committee and the senior Senator from California, I believe I have a duty and responsibility to have a full working knowledge of the evidence submitted to FERC.

I also believe that the evidence collected by FERC should not remain confidential. Since most of the information is over two years old, it no longer has any proprietary value. The widespread nature of abuse of the Western Energy Markets and its resulting economic damage on families and businesses require the Commission to allow the public to immediately review all evidence obtained by FERC.

As I stated in my letter last month, I also believe FERC must carefully review all the evidence presented by the California parties and hold hearings if necessary. How can the Commission attempt to remedy the harm done to families and businesses during the energy crisis if FERC cannot determine the extent of abuse in the Western market and its effect on energy prices and supplies?

Thank you for your consideration of this request and your continued attention to energy problems on the West Coast.

Sincerely yours,

DIANNE FEINSTEIN.

Mrs. FEINSTEIN. I also indicate that as the senior Senator from California and as a member of the Energy Committee, I have a specific obligation to render oversight to see that FERC is doing its job. How can anyone possibly render due diligence and oversight if they don't know what is being presented nor have access to what is being presented to the Commission on which they make their judgments?

I have spoken four times now about Miguel Estrada and the general state of the nominations process. I regret where these weeks have taken us, frankly. I hope we can come together to overcome what is increasingly separating the two sides of this great body, marring judgments and actions relating to the Judiciary Committee's hearing process and that process through which we advise and consent on nominees by the President to Federal judgeships.

In order to understand this filibuster over Miguel Estrada, we also have to understand what has led us to this point.

I would like to speak specifically to the nominations debate because this is a key area where the administration has, with few exceptions, acted in many ways as if the Senate simply doesn't matter. If this debate were only about whether or not we should vote on Miguel Estrada, that would be enough. Make no mistake about it.

There are serious questions about this nominee that we can't answer without more information, information that this nominee and the administration have essentially refused to provide.

My colleagues and I have outlined these concerns over and over again over the past few weeks. I have pointed out that the District of Columbia Circuit is a very critical circuit. Every Member of this body knows that and accepts it. It is a circuit that presides over many of the areas of appeal that are of extraordinary concern because they involve laws we have passed in areas such as worker rights, OSHA, Superfund, wetlands, all environmental concerns, and so on and so forth. It has assumed a particular role, if you will, because of the fact that two of President Clinton's nominees to this circuit never had a committee vote—one did not even have a hearing—this is a different kind of filibuster. So there are a number of vacancies on this circuit. And the circuit as it stands is equally divided, Republicans and Democrats equally divided. Therefore, who breaks this equal division is really important because it will swing the court one way or another.

Into this mix comes a very young man, 41 years old. When his nomination came over, it came over with substantial concerns. The Hispanic delegation of the House had sat down and met with Mr. Estrada for an hour and a half. They sent out alerts that they did not believe this was a nominee who really represented the concerns of Hispanic citizens. That in itself is not dispositive. I am the first one to admit that.

This is a young man. He spent a lot of time on his education. It is not necessarily a requirement that someone serve on a number of civic groups. But it was a point.

Immediately, the Hispanic-American community indicated that there was a great and serious split over this nominee. That in itself is not, again, dispositive.

Then we note that he had never been a professor. He had never been a judge. He has no writings and no speeches. So when one turned to look for the due diligence, there was very little to see. We have none of his work product or other memos that would give us an idea of what kind of thinker he is or what kind of judge he would be. And he refused to answer in the public hearing a number of simple, basic questions that go to the heart of whether he could be a truly impartial judge and set aside his advocacy. I mentioned on the floor of the Senate that my office had spoken with Professor Paul Bender, who had been his direct supervisor in the Solicitor General's Office. Mr. Bender told my staff, "Well, I could not give him certain assignments because I could not be assured that he was impartial."

This, again, in itself is not dispositive, but it is a danger signal.

I talked to individuals who had been interviewed by him in a screening capacity when he was a clerk for Justice Kennedy, and each I talked to indicated that in fact there was a kind of litmus test and that they were told they were too liberal.

Again, that is not dispositive. But what all this points out is that we needed—some of us—to find out whether this was a man who could put aside his advocacy, his strong feelings about certain issues, and follow the law with impartial and wise judgments.

I came to the conclusion—and some have faulted me for it—after listening to Jeffrey Sutton, that here was a man who had strong views and beliefs, but who was willing to be very fulsome in his answers to the committee, very forthright in his views, and sent a very clear signal—at least to me—that he would, in fact, separate his personal views and the law that he would be charged and constitutionally pledged to uphold. So I voted for him.

There has been substantial dismay expressed by many of my constituents in California, and I heard them loud and clear when they picketed virtually every one of my offices. Nonetheless, I made that judgment after listening in a public hearing to questions and answers and, at least for myself, came to a conclusion. Only history will tell whether I am right or wrong.

Then, several weeks ago, in a markup in committee, I think another aspect of this situation that perhaps was caused by the strain and the raw nerve endings in the Senate came upon the scene.

The Judiciary Committee rules contain a clause providing "on the request of any member, a nomination or a bill on the agenda of a committee will be held over until the next meeting of the committee, or for one week, whichever occurs later." That appears in the rules of the committee.

I ask unanimous consent that those rules be printed in the RECORD, and I particularly call attention to the rule I have just quoted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON THE JUDICIARY

I. MEETINGS OF THE COMMITTEE

1. Meetings may be called by the Chairman as he may deem necessary on 3 days' notice or in the alternative with the consent of the Ranking Minority Member or pursuant to the provision of Sec. 133(a) of the Legislative Reorganization Act of 1946, as amended.

2. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 48 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. On the request of any member, a nomination or bill on the agenda of the Committee will be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. QUORUMS

1. Nine members shall constitute a quorum of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee or any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

IV. BRINGING A MATTER TO A VOTE

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless he is a member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the Subcommittee chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the Chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

Mrs. FEINSTEIN. Mr. President, this rule is designed to protect Members who need more time to examine an issue, to discuss it with their colleagues, or to prepare amendments. A very relevant factor.

My own office was alerted to the presence of Mr. Roberts and of Mrs. Cook on their hearing agenda the day before the actual hearing. In other words, we learned at 4:46 p.m., Tuesday, January 28, that the next day they would be up for hearing along with Mr. Sutton. I ask unanimous consent that that e-mail be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TENTATIVE NOMINATIONS WITNESS LIST

TENTATIVE AGENDA—SENATE JUDICIARY COMMITTEE HEARING ON JUDICIAL NOMINATIONS, WEDNESDAY, JANUARY 29, 2003 AT 9:30 A.M., DIRKSEN 226

Panel I

The Honorable Dianne Feinstein, United States Senator (D–CA).

The Honorable Mike DeWine, United States Senator (R–OH).

The Honorable John Cornyn, United States Senator (R–TX).

The Honorable John Warner, United States Senator (R–VA).

The Honorable Kay Bailey Hutchison, United States Senator (R–TX).

The Honorable George Voinovich, United States Senator (R–OH).

Panel II

Deborah Cook to be U.S. Court of Appeals Judge for the Sixth Circuit.

John Roberts to be U.S. Court of Appeals Judge for the D.C. Circuit.

Jeffrey Sutton to be U.S. Court of Appeals Judge for the Sixth Circuit.

Panel III

John Adams to be U.S. District Court Judge for the Northern District of Ohio.

Robert Junell to be U.S. District Court Judge for the Western District of Texas.

S. James Otero to be U.S. District Court Judge for the Central District of California.

Mrs. FEINSTEIN. Now, for those of us on this side, that notice—or lack of it—presents a very real problem. Now we knew that Mr. Sutton, Mrs. Cook, and Mr. Roberts had been pending for some time. But the way things actually work is that the real due diligence is done in preparation for the hearing—it is done when the notice comes out.

So we truly need time. And I believe the time to study and do our individual due diligence on each nominee would ease a lot of the raw nerve endings and scar tissue, which is now very evident on this committee.

Because it is the chairman who schedules matters for a vote, it is inevitably members of the minority party who most often need this extra time. As a result, this holdover rule is a rule that is viewed as a protection of minority rights in the Judiciary Committee.

After all, a chairman does not need to hold over a bill. If he doesn't want the committee to consider an issue, he can simply refuse to add the issue to the agenda, or he can pull it off the agenda, if necessary. Many Clinton nominees suffered this fate, and Members have made that clear, I think, time after time in the past couple of weeks.

In any event, this rule has always been interpreted to mean that if a Senator asked for a matter to be held over, the earliest it would come up again was in 1 week. That week comprises 7 days from the meeting at which the rule is invoked.

Now, we have an exchange from 24 years ago between Senators Thurmond and KENNEDY about this rule. I want to read from the transcript of that Judiciary Committee meeting that occurred on January 24, 1979. Let me quote from Senator Thurmond:

> There is one other matter. We have a custom, I guess since the committee was founded, that any Senator can carry over any matter for 1 week, any nomination for 1 week. I assume there is no objection to continuing that.
>
> Chairman Kennedy: I think that is a reasonable request. I think that if it is on a Tuesday to a Tuesday—why don't we just have it on a Tuesday to a Tuesday, so it is 7 days?

Seven days, Mr. President. Now, in my 10 years on the Judiciary Committee, this rule has always been interpreted to mean 7 days. Any matter held over must be held over for 7 days, or until the next markup, whichever occurs later. Obviously, there have been many occasions where a chairman of a committee would have preferred to schedule another markup immediately to move a nominee or a bill forward. After all, a chairman does not schedule a matter for consideration unless he or she is ready to move forward. But regardless of the will of the chairman to move more quickly, there has always been a recognition that rules are rules, and this one has always been followed—until this year.

At the Judiciary Committee markup on Miguel Estrada several weeks ago, the chairman of the committee attempted to interpret the 1-week rule as allowing an issue to be held over for just 6 days rather than 7. Essentially, he decided to interpret 1 week as being 6 days.

Now, before I go into this further, let me say that Senator HATCH is one of my dearest friends in the Senate. He is a fair chairman. I have watched him for a long time. We have worked together on many important issues for the past 10 years. I hold him in the very highest regard. Even on the issue of judicial nominations, I know he did his very best in a very difficult position over the years, when President Clinton was President, to balance the strong will of many of his own caucus against his desire to be fair to President Clinton's judicial nominees, and I believe that very strongly.

If anything, this is an indication of how raw nerve endings really are. That is all at this point in time.

I certainly understand how any chairman might be frustrated by some of us and by perhaps all of us who might attempt to thwart his timetable. But this frustration, again, should not be allowed to manifest itself in circumvention of a clear, defined, and decades-old committee rule. If we allow 1 week to become 6 days, it becomes an hour tomorrow, maybe cloture only requires 20 rather than 60 votes or 40 percent constitute a majority. This is a bit of an exaggeration.

As a matter of fact, it is a major exaggeration, but the Senate and its committees have rules for a reason, and we really cannot function if we do not follow them.

When this 6-day week concept was verbalized, our ranking member, Senator LEAHY, made it clear that 6 days is not a week. The minority would allow the rule to be waived and a markup to occur in 6 days as a matter of cooperation. And so we waived the rule, partially to avoid a confrontation over this interpretation of the longstanding 7-day rule. But although we avoided a crisis that week, the 6-day concept was sort of a foreshadowing of what now seems to be increasingly a plan to ignore committee rules and move forward over the objections of the minority, and people feel very strongly about that.

Last week, we saw this plan come to fruition as two nominees were moved out of the Judiciary Committee over the strong objections of members who wished to continue debate, and despite the clear invocation of a decades-old rule, protecting the right of the minority to continue to debate until at least one of their own agrees it is time to vote.

Senator DASCHLE spoke on this issue last week, and I want to expand briefly on his comments. The judiciary rule in question contains the following language:

> The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote. If there is objection to bringing the matter to a vote without further debate, a rollcall vote of the committee shall be taken and debate shall be terminated if the motion to bring the matter to a vote without further debate passes, with 10 votes in the affirmative, one of which must be cast by the minority.

What does this rule mean? Over the last few decades, it has clearly meant that unless at least one member of the minority agrees to cut off debate and move straight to a vote, no vote can occur. This is what happened and what came up last Thursday.

This is one of the only protections the minority has in our committee. Without it, there could conceivably never be a debate at all. A chairman could convene a markup, demand a vote, and the entire process would take 2 minutes. That is one of the reasons we feel so strongly about this particular rule. We believe this is not how the Judiciary Committee should function, and it is contrary to the rules of the committee.

As I understand it, this rule was first instituted in 1979, again, and it has been followed ever since by all of our chairmen.

I believe only two committees have something like it—Finance and Judiciary. The reason for it, as I understand it, goes back to Senator KENNEDY's days as chair, when it was determined they didn't want to be like other committees, where with Appropriations you will often have a committee in the majority just go off on its own, mark up something, and everybody is forced to accept it.

Let me give you an instance.

During the markup of Bill Lann Lee to be Assistant Attorney General for the Civil Rights Division, there was some fear on our side that Republicans who had the votes to defeat the nomination would move directly to a vote and prevent any debate on the issue at the markup. Democrats, on the other hand, wanted the chance to explain their position and maybe even change some minds on the other side.

During that markup, there was significant discussion about what rule IV, the rule about cutting off debate, really means. At one point, it is interesting to note, Chairman HATCH himself commented that:

> At the appropriate time, I will move to proceed to a vote on the Lee nomination. I assume there will be no objection. It seems to me that he deserves a vote. People deserve to know where we stand on this issue. Then we will, pursuant to rule IV, vote on whether to bring the Lee nomination to a vote. In order to vote on the nomination, we need at least one Democrat to vote to do so.

This is precisely what we are discussing, Mr. President. In order to vote on the nomination, we need at least one Democrat to do so.

Last week, we did not have such a vote. No Democrat was prepared to cut off debate. I know this because it was discussed ahead of time. Even though Senator KENNEDY, who has substantial seniority and was chairman at the time the rule was put forward in 1979, objected and informed the chairman that no Democrat was ready to stop debating, the chairman moved ahead anyway.

I had an opportunity to speak to the chairman after this hearing, as a matter of fact, in the garage of the Hart Office Building. I think he has a very good understanding of the sensitivities and the nerve endings that are scratched raw right at this present time. It is my hope the chairman will take steps so we can restore to the committee the consideration that has always been extended.

Let me say something about Chairman HATCH. I understand how things can get to one in this committee, and I understand on both sides how—and the Chair is smiling—how we can be extraordinarily difficult to preside over. I would never make an adverse personal comment about this chairman because I respect him, I like him, he is a friend, we work together. I just want to see the two sides come together, and I want to see this stop. I want to give the assurance, at least from this Senator, that what I want is ample time to do my due diligence on a given nominee.

Very often letters do not come in until almost the date of hearing. As the hearing date grows close, it seems people begin to know that something is happening. But if you get the official notice for a hearing the day before—and in this case at 4:46 p.m. the day before—for three appellate court nominees, it is extraordinarily difficult.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mrs. FEINSTEIN. Yes, I will.

(Mr. SMITH assumed the chair.)

Mr. LEAHY. Mr. President, I have listened to the comments of the distinguished Senator from California. I strongly compliment her for what she has been saying. Is it not a fact, Mr. President, I ask my friend from California, that simply because a Senator wishes more time to debate a particular nominee that does not mean that Senator is going to vote against the nominee; is that not correct?

Mrs. FEINSTEIN. Well, the Senator is correct.

Mr. LEAHY. I mean, that might be.

Mrs. FEINSTEIN. That is correct.

Mr. LEAHY. If the Senator would yield further for another question, was it not made clear during the markup that she was speaking about, the executive meeting she was speaking about, that it was stated at that meeting there was very clearly an objection to going forward by at least a couple of Senators, and because of that objection rule IV would fall into place, which says debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes in the affirmative, one of which must be cast by the minority? So rule IV would apply such an objection being made, unless there were 10 votes to cut off the debate, with one of those votes coming from the minority; is that not correct?

Mrs. FEINSTEIN. I say through the Chair to the distinguished ranking member, yes, that is correct. I have the rule before me, and that is what it says. The Senator is correct that someone objected, yes.

Mr. LEAHY. I ask my friend from California, and I say this because she has laid out this debate so well and the history of it so well, in this case was it not a fact there were not 10 votes, with one of those 10 votes being the minority, to cut off debate?

Mrs. FEINSTEIN. Through the Chair to the ranking member, yes, that is correct.

Mr. LEAHY. Mr. President, I ask again, through the Chair, to my friend from California, is it not a fact that the chairman then, notwithstanding the fact that there has not been a proper vote to cut off debate, went ahead and held the vote just the same?

Mrs. FEINSTEIN. Through the Chair to the ranking member, that is correct.

Mr. LEAHY. I thank the Chair.

Mrs. FEINSTEIN. I do not take any pleasure in this. When I became a Member of this body, I ran as an independent voice, and I want to be that way. I want to work with both sides, and I have tried to do that. I think we are at a point, though, where some action has to be taken to restore the consideration that has usually been offered to members of this committee, that when they have a problem, a little more time is provided.

I believe very strongly—I have never used my blue slip. I have said I would never use my blue slip prior to a hearing; that I believe everybody is entitled to a hearing, and then we should vote the individual up or down, and that is my view. I do not push my view on anybody else, but that is how I decided I was going to handle my spot on this committee. But if the minority gets rolled, we go into a defensive posture and everybody is compelled then to unify and hold together. I think my colleagues see a lot of this in this filibuster.

I am hopeful in the future there can be a precise time when an official notice is sent out prior to the hearing being scheduled, so that every member of this committee has an opportunity to do their due diligence.

It is interesting to note that the votes in the committee—and I have them. On Mrs. Cook, there were 12 yeas, two nays and five present. The present, or pass, votes submitted by the ranking member, myself, Senators FEINGOLD, DURBIN and SCHUMER, were really, I think, on this point, that we did not have an ample opportunity to do our due diligence and to ask the questions we needed to ask.

On Mr. Roberts, there were 13 yeas, two nays and two present, Senator LEAHY and Senator FEINGOLD, which probably came from the same venue. In other words, they did not feel they had sufficient information to vote.

So I am hopeful that in the future we would be able to settle some of these issues in the committee and just bend over backwards. I remember the day when if a Member had a problem with a judge who had been recommended to the President by a specific Senator, that Member picked up the phone and called that Senator and said: I just want you to know, I have these concerns, and there was this kind of convivial relationship. That is all but gone now.

So the process is extraordinarily formal now, and the formality is carried out, for the most part, in the public hearing. So having notice to that public hearing becomes really all important.

I have pretty much summed up my position and my hope on this. I see the distinguished Senator from Alabama on his feet so I yield the floor.

Mr. SESSIONS. Mr. President, I wanted the Senator to finish, so I thank the Chair. Graceful in her remarks, I think nerves are frayed, and perhaps the senior Senator from California can play a role in bringing some things back.

The Senator talked about collegiality, and some of us were very disappointed that Strom Thurmond's chief judiciary counsel was virtually blocked last year. We finally got it through at the very last minute. So a lot of things have happened. There clearly was a change in the ground rules after Members on the other side asserted that Senator HATCH did not move nominees fast enough for President Clinton and that, of course, we should not filibuster and those sort of things. Then after the election, the ground rules changed and the obstruction of nominees President Bush has sent forward has reached a much higher level. I think no one can doubt that.

So we are frustrated also. I do believe we should have more collegiality in the committee, and I believe we can do better.

One thing I would ask the Senator, without yielding the floor, I would suggest that on the Cook and Roberts matters, the Senator did indicate they had been pending virtually 2 years, well over a year and a half. No hearings had been held on them, but there had been 2 weeks before this markup, or the hearing—2 weeks before they had been noticed, so we put it off another 2 weeks. Perhaps the exact time of the hearing or the exact nature of what the hearing was going to be may not have been given to the Senator, but I believe after the first request the Senator made for a delay, 2 weeks did transpire. I think that would have given people time to be prepared.

Mrs. FEINSTEIN. May I respond to that?

Mr. SESSIONS. I yield for a question or a comment.

Mrs. FEINSTEIN. Through the Chair, to answer the distinguished Senator from Alabama, I asked my counsels when did they first know, and they said, well, informally there was discussion, but the notice—and I said, well, get me a copy of the notice then. I want to see the notice. And it was 4:58 the day before.

That is the problem. I do not know exactly how all the counsels work, but I can tell the Senator that on our side time is important. Giving a little bit of time, I think, could go a very long way to solving the problem we are in, officially, so there are no excuses then. The official notice goes out. Who is on the calendar occurs a substantial period before the hearing so we have time to do what we need to do, particularly when I think there were seven judges on this particular calendar, three of them appellate judges, meaning it is a very big and heavy calendar on which to do your work.

Mr. SESSIONS. I appreciate the comments of the Senator from California. Hopefully, we can do something better.

This side does not intend to be victimized by a racheting up, substantially, of the process of confirmation that did not occur when President Clinton was President. This is what has caused the problem.

I note these nominees. An absolutely superb nominee, Justice Cook, served on the Supreme Court of Ohio. As Senator HATCH has noted so often, Roberts is considered one of the top two appellate lawyers in America, an absolute superb candidate, with 39 arguments before the Supreme Court.

They were denied for over a year, almost 2 years, even a hearing when the Democrats controlled the committee. That is galling. Miguel Estrada was given a hearing a year and a half afterwards, the only one actually given a hearing. But he was not moved forward out of committee.

This is an odd thing to have a concern about frayed nerves when the ground rules were changed. After President Bush was elected, three professors went to the Democratic senatorial conference: Lawrence Tribe, Cas Sunstein, and Marsha Greenburger. They were quoted in the New York Times as saying: We want to change the ground rules. Obviously, one of them is that they did not conduct hearings. Some superb nominees never even had hearings.

Also not mentioned at the time because the Democrats had the majority, was the filibuster. This is the first time, insofar as I know, in the history of this country we have had a filibuster for a district judge or circuit judge. It is not as if Mr. Estrada had any serious problems. There is no ethical problem with this wonderful nominee. He was rated unanimously well qualified by the American Bar Association. He was at the top of his class.

Regarding his experience, he clerked for a Second Circuit judge. The position he would hold, if confirmed, is a sister circuit, the DC Circuit Court of Appeals. DC does handle some national issues and issues with which the Justice Department deals. He served in the Justice Department's Solicitor General's Office. In that position he prepared briefs and made arguments before the courts—often, I am sure, before the DC Circuit Court of Appeals. So he has an intimate connection with that.

Under Rudy Guiliani, he worked in the U.S. Attorney's Office of New York, considered one of the most prestigious offices—at least those in the Southern District of New York think it is the finest. It is competitive. He handled appellate work for them. To the extent to which this nominee has experience with appellate work, it is extraordinary.

I believe there is no justifiable basis for blocking his nomination. I know a Senator earlier expressed concern that we were somehow blocking an ability to take up other matters before the Senate. I would love to move forward. The way we move forward is to give Estrada a vote. We are not asking that people vote for him. We are just asking he be given a vote.

We have an unprecedented filibuster. Senator HATCH concluded that we were facing a filibuster in committee. Now we have a filibuster of Estrada on the floor. The ground rules have changed. We are going to put the burden of proof on the nominee. It was one of the views that Senator SCHUMER has put forward. We consider whatever the politics are, which was never done before, racheting up the pressure on the nominee and then we cannot get a vote in committee. Then we cannot get the vote because every Democrat has to sign off.

Senator HATCH examined the rules, met with the Parliamentarian. I have not studied the rules. He met with the Parliamentarian and he concluded he had the authority to make the ruling that he made. I don't think he wanted to do that. I think he would like to have proceeded as he had before with collegiality and allowing everyone to have their say as long as they wanted. But when you are faced with a systematic alteration of the ground rules, a systematic plan to obstruct a movement of nominees of extraordinary ability for years, who ought to be confirmed, and the courts need them, we are at a point where nerves are frayed.

If the rules are going to be used on one side, rules are going to be used on the other side. The President of the United States is not going to believe he can give up his right to nominate judges and expect them to have a confirmation. It was indicated President Bush maybe was not solicitous enough. But in California I have heard complaints because he has agreed to go along with a commission in California of some sort that gives unprecedented input from Senators from California and others on the nominees. I don't know how that works, but it is pretty unusual. He also reappointed two Democratic nominees, Barrington Parker and Gregory, who had been pending and were not confirmed.

I am not sure President Clinton ever nominated any Republican judges when he took over.

I believe we are in an unfortunate period, that there is a lot of frustration. It is pretty deep on our side. I don't think the Senator would doubt one moment that the tactics utilized by the Democratic minority are different than the tactics utilized when the Republicans were in that position.

Where do we go from here? I don't know. But it is a big deal.

The PRESIDING OFFICER. The Senator from California.

Mr. SESSIONS. I yield for a question.

Mrs. FEINSTEIN. I wanted to make one point, so I will defer.

Mr. SESSIONS. Let me mention a couple of items.

It was suggested one of the Department of Justice members, Paul Bender, raised some question about Miguel Estrada's nomination, but Bender and the other supervisors in the Clinton Department of Justice—remember, he went into the Solicitor General's Office in 1992; surely within a year or so he should have been under the supervision of the Democrats at that time. It probably takes some time to make the change over. Almost his entire career in the Justice Department was under the leadership of Janet Reno and a Democratic Solicitor General. The Democrats gave him the highest possible performance rating.

Mr. Bender, when he was evaluating him, gave him the highest evaluations. I think it odd now that he would come forward and suggest there was a problem. In fact, one of the evaluations given to him specifically noted his loyalty to the policies of the Department of Justice.

It was also said there was some deal about law clerks and screening law clerks for Supreme Court Justice Kennedy. Let me point out I think it is a great honor that Justice Kennedy was so impressed with Miguel Estrada that he asked him to do screening of possible law clerks for him. Justice Kennedy is considered a middle of the road swing Justice who votes with various sides, on various sides, and is not perceived as any kind of right-wing ideologue. He liked Estrada so much that he asked him to help him screen his law clerks. I think that is a matter that is a positive thing.

The PRESIDING OFFICER. There is a standing order for a vote on another nominee at 5:30.

NOMINATION OF MARIAN BLANK HORN, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS

The PRESIDING OFFICER. Under the previous order, the hour of 5:30 p.m. having arrived, the Senate will now proceed to the consideration of Executive Calendar No. 43, which the clerk will report.

The legislative clerk read the nomination of Marian Blank Horn, of Maryland, to be a Judge of the United States Court of Federal Claims.

Mr. HATCH. Mr. President, it is my pleasure today to speak in support of Marian Blank Horn, who has been nominated for a second term on the U.S. Federal Court of Claims. Judge Horn is a distinguished United States Court of Federal Claims Judge whose legal career has been nothing short of stellar.

Judge Horn graduated from Fordham University Law School in 1969, and began her career as an assistant district attorney in Bronx County, NY, before joining Arent, Fox, Kintner, Plotkin and Kahn, where she worked in the litigation division.

From 1973 to 1975, Judge Horn was a project manager for a Study of Alternatives to Conventional Criminal Adjudication which was financed by the U.S. Department of Justice's Law Assistance Enforcement Administration. She also served as an adjunct professor at American University's Washington College of Law, where she taught the Introductory Legal Methods course.

In 1975, Judge Horn joined the Office of General Counsel for the Department of Energy/Federal Energy Administration. From 1979 to 1981, Judge Horn served as the deputy assistant general counsel for Financial Incentives, Office of General Counsel, where she supervised all legal work related to financial incentives at the United States Department of Energy. In addition, she served as legal advisor to the assistant secretaries for Fossil Energy and Resource Applications, as well as the Office of Energy Research.

From 1981 to 1986, she worked in the United States Department of Interior, where she assisted the Associate Solicitor and helped administer the Surface Mining Control and Reclamation Act of 1977. In 1985, Judge Horn was promoted to principal deputy solicitor, where she supervised all the Regional and Field Offices of the Solicitor's Office in the Department and acted as the chief lawyer to the Secretary and Under Secretary of Department of Interior. So you see that Judge Horn already had a very impressive resume in 1986, when she was first confirmed.

Since that time, she has built an excellent reputation as a judge, and I am confident that Judge Horn will continue being a fine member of the Federal Bench.

Mr. LEAHY. Mr. President, today we consider the nomination of Judge Marion Blank Horn to the U.S. Court of Federal Claims. Although this is not a so-called "Article III" court with lifetime appointments, it is an important court with 15-year terms for its members. Judge Horn has been serving on the court for almost 15 years and I do not oppose her re-appointment. What I do take issue with, however, is the Administration's unilateral actions, in spite of the bipartisan cooperation and appointments of other Presidents to this and other courts.

The process for nominating judges to the Court of Federal Claims has traditionally included accommodation and compromise. For more than 2 years Senate Republicans blocked President Clinton's appointment of Larry Baskir to the court until a compromise could be reached. They refused to give him a hearing and refused to allow any of the other vacancies to be filled unless the administration promised to keep conservative Judge Loren Smith as the Chief Judge. Republicans also insisted on the reappointment of another Republican appointee, Judge Christine Miller. Finally, Senator HATCH agreed to allow five Clinton nominees to have hearings and votes if the administration also named his staffer Edward Damich to the court and promised to retain Judge Smith as Chief until his retirement into lifetime senior status at the end of his term appointment. Upon Chief Judge Smith's "retirement," President Clinton named Judge Baskir the Chief Judge. Shortly after his inauguration, President George W. Bush summarily removed Judge Baskir as chief judge and installed Judge Damich as the Chief Judge.

Last fall when the Democrats were in the majority, we took the exceptional action of quickly moving the nomination of Larry Block to the Court of Federal Claims at the request of the ranking Republican, Senator HATCH. At that time, I noted that we would expect fairness and consideration in return, including true bipartisan consultation with respect to Federal Court of Claims nominations. Despite our accommodation on Mr. Block's nomination, the White House refused to act on the nomination of Judge Sarah Wilson who, up until a few months ago, was already serving with distinction on the Court of Federal Claims. Judge Wilson is a well-respected and talented lawyer who graduated from Columbia Law School, clerked for a Federal judge, was a fellow with the Administrative Office of the Courts, and served in the Department of Justice and in a prior White House. Yet, the administration and the Senate Republicans refused to accommodate our request to consider her nomination for a continued position on the court.

It troubles me that despite a long history of compromise and accommodation regarding appointments to this court, there has been no consultation with the Democratic leadership regarding the remaining nominations to the Court of Federal Claims. Instead, the White House proceeded as it does with most things—unilaterally. The same is true with respect to the Parole Commission, the Federal Election Commission and many other bipartisan boards and commissions.

I can count on one hand the number of States that have any sort of bipartisan selection commission for their district court judges. The importance of such organizations is paramount. They ensure that nominees for judicial office are selected based upon professional merit and experience. The recommendations of such commissions have the support of members from their community on both sides of aisle. Accordingly, these bipartisan commissions preserve the independence and integrity of the judicial branch of government and ensure the fair and equal administration and enforcement of justice.

Unfortunately, this President has thwarted the development of bipartisan boards and commissions for judicial appointments. The White House Counsel has indicated publicly that he does not favor bipartisan committees because they "usurp the president's constitutional authority to choose judges." This unilateral and uncompromising view disregards the constitutional role of the Senate. It also fails to acknowledge that these commissions simply make recommendations to the President. They do not make nominations in lieu of the President. The administration's disdain for bipartisan commissions ignores past precedent and tradition.

It is one thing for a President to appoint members of his Cabinet to carry out his political agenda but it should be different with respect to judicial appointments. When a President makes nominations for positions to a co-equal branch of government, he should not be able to tip the scales of justice by packing the courts with ideologues who are selected to implement his political agenda. Recently, Walter Dellinger noted that the President's "slate of nominees, considered as a whole, . . . [is] a list tilted to the right and from which any other views have been carefully culled." I agree that we need to broaden the slate. This could be best accomplished with the creation of new judicial selection commissions who could make recommendations to home State Senators and to the President.

I urge the White House and Chairman HATCH to work with us to assemble the type of bipartisan panel that Senator HATCH helped assemble in 1997 and 1998 to fill the remaining vacancies on the Court of Federal Claims in a way that respects the tradition of compromise and accommodation that has marked appointments to this court. I also look forward to working with Senate Republicans to preserve our constitutional role in advising the President on judicial nominations to all courts through the use of bipartisan selection commissions.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Marian Blank Horn, of Maryland, to be a Judge of the United States Court of Federal Claims? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Missouri (Mr. BOND), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from Florida (Mr. GRAHAM), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) and the Senator from Illinois (Mr. DURBIN) would each vote "aye."

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 38 Ex.]

YEAS—89

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dole
Dorgan
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—11

Bond
Corzine
Dodd
Domenici
Durbin
Graham (FL)
Landrieu
Lieberman
McConnell
Miller
Murkowski

The nomination was confirmed.

The PRESIDING OFFICER (Mr. TALENT). Under the previous order, the President shall be immediately notified of the Senate's actions.

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have heard some of the remarks made on the floor today. I thought I would clarify them, clarify the reality of what really happened. I have had a little bit of criticism by my colleagues from the other side of the floor because we actually had the committee vote last week when it should have voted. So I took the liberty of writing a detailed letter to the distinguished Senator from South Dakota, the distinguished minority leader, who is a dear friend. I know he has been concerned that maybe there was some breach of the rules. So I would like to read this letter into the RECORD so that everybody will understand that there was no breach of the rules last Thursday. Anybody who says there was really doesn't understand the rules, does not understand the obligations of the chairman.

> I am writing in response to your comments on the Senate floor concerning the Judiciary Committee's executive business meeting this past Thursday. I know you are a person of the highest principles who would never intentionally misrepresent the actions of a Committee Chairman, particularly when the action involves an interpretation of that committee's particular rules. I think you may have been provided with some incorrect information, and I would like you to know the truth.
>
> As you know, the Judiciary Committee met at 9:30 a.m. last Thursday to consider several nominations and some legislation. Although the Democrats were cooperative about voting out a few widely-supported District Court nominations and some other nominations, they made it clear that they would attempt to filibuster at least two of the three nominees for the Circuit Courts of Appeal, Deborah Cook, John Roberts and Jay Bybee.
>
> It is important to note that the nominations of Mr. Roberts and Justice Cook had been filibustered in Committee during our last meeting two weeks ago, and had been on the agenda but held over the week before that. I could have forced a vote two weeks ago, but I declined to do so out of deference to my Democratic colleagues, who had assured me that we would vote on the nominations at the next meeting, meaning last Thursday.
>
> From 9:30 a.m. to approximately 12:30 p.m. yesterday, Committee Members engaged in a thorough debate on the three Circuit Court nominations. I allowed every member to talk as long as they wanted. Everyone was allowed to say his or her piece [even though we could have limited debate].
>
> When the speeches ran out at 12:30 or so, I announced it was time for a vote. Senator Kennedy objected. I overruled the objection, and then all of the Democratic Members walked out of the hearing room in order to deny the Committee a quorum. A few minutes later, Senator Specter returned to the Committee room, making a total of nine Republicans present, and then a couple of the Democrats returned and demanded to continue the filibuster even though every democrat who wanted to speak had already done so. As support for their filibuster, they relied upon Rule 4 of the Judiciary Committee rules. That rule allows any Member to move to have an item on the Agenda voted upon. In this case, the nomination on the Agenda was brought to a vote.
>
> As background, you know well that Senate Committee Chairmen have a number of inherent powers that are not expressly stated in Committee rules. For example, the Judiciary Committee Chairman has the power to call and set the agendas for hearings and mark-ups even though those powers are not explicitly granted by Committee Rules. The Chairman also has the inherent power to bring a matter to a vote. The Chairman also has the power to interpret the rules of the Committee, as Senator Leahy has done in the past. The Parliamentarians assured me of this on Wednesday.
>
> Rule 4 of the Judiciary Committee Rules is not the authority by which the Chairman calls for a vote. On the contrary, the clear text of Rule 4 gives a majority of the Committee (which must include Members of both parties) a mechanism to force a vote, presumably when the Chairman does not want to call one. In other words, it ensures that the majority will is not thwarted by an obstreperous Chairman who refuses to allow a vote on an item on the Agenda.
>
> Rule 4 works like this: When a Member wants to end debate and bring a matter to a vote, he or she is entitled to make a motion to hold a vote and the Chairman must entertain it. If anyone objects, then the Committee must vote on the motion (the motion is not debatable). The motion carried only if a majority of the Committee, including at least one Member of the minority party, votes in favor. If the motion carries, the Committee proceeds to a vote on the underlying matter.
>
> The Democrats who raised Rule 4 at the mark-up [last Thursday] turned Rule 4 on its head. They tried to use it to deny a vote, not to force one. Their argument ignores the purpose of Rule 4, the inherent power of the Chairman to call for a vote, the fact that the debate had already ended, and the common sense idea that legislative bodies must have the power to make decisions—even difficult ones. I do not believe that Committee filibusters should be allowed, and I think it is a good and healthy thing for the Committee to have a rule that forces a vote.
>
> I understand your misperception given the fact that you may not—and indeed have no reason to—be fully familiar with the Judiciary Committee's rules, as you do not serve on the Committee. But knowing you as a fair man, I thought my explanation would help clear any misconceptions.
>
> It is unfortunate that I was forced to exercise the Chairman's inherent power to force the Committee to act [last Thursday]. I had given every fair consideration to my Democratic colleagues for debating the nominations. The nominees before the Committee were very well qualified, enjoy home-state support (bipartisan, in the case of Bybee), and were ultimately approved by substantial bipartisan majorities of the Committee.
>
> I know it makes for popular speechmaking to accuse politicians of abusing process and procedure. And as a former Majority Leader of the body, you appreciate the difficult decisions one must make in order to do the business of the people and exercise our constitutional obligations, particularly in the face of

> obstruction by a few. But you and I have worked well together over the years, and I know that you would never make those accusations about me unless you had somehow received inaccurate information.
>
> Unfortunately, that is what seems to have occurred in this case. I appreciate you and your consideration of this letter.
>
> Sincerely,
>
> ORRIN G. HATCH,
> *Chairman.*

That letter makes it very clear that not only were the rules not abused, there was an abuse by the other side in trying to not live up to the rule we have in the committee that any item on the agenda can be put over for a week, and that in the next week there is a vote on that item, unless the chairman and the ranking member agree. In this case, we not only put over Roberts and Cook for a week, we put them over for 2 weeks, because my colleagues asked for it. I agreed to do that in deference to them.

Then, when it came time to vote for them, I walked into the committee room and I was told by the ranking member that they weren't going to vote on Roberts and Cook that day. I said: Oh, no, we are going to vote on them because that is what we agreed to. We are going to vote on them because that is what the rules agree to. So I waited for all Senators to make their comments.

We took 3 hours to hear rather long statements. I think we were very patient with those statements because at least one of them hardly talked about the nominees but talked about a whole raft of other issues involving the committee, which is a right of a Senator. Other Senators gave long statements on the nominees themselves, which was their right to do. But when the statements wound down and there were no further statements to be given, I said: We are going to vote. And that is when people got mad and demanded that we not vote.

At that point, I had to make a decision as committee chairman—which is a legitimate decision—that we are going to vote, that filibusters are not proper in committee, and that we had people on both sides who were willing to vote for these nominees. We had people from the minority and from the majority. All three of them passed out with substantial votes. So there is hardly room here to criticize what was done. Any committee chairman worth his or her salt has to ultimately bring the matters before the committee to a vote. That is what I did. In the case of judicial nominations, I don't believe there should be filibusters under any circumstances against Presidential judicial nominees. I think they should be voted up or down—not only in committee but on the floor of the Senate as well.

These are important positions. We should not treat them as though they are just regular legislative items that can be kicked around at will. These are important positions that literally must be given their chance for a vote. Not only were the rules followed, but we were very gracious and considerate in allowing my colleagues on the other side to make whatever statements they wanted to. I cannot say we have to do that every time. If people are going to come in and make hour-long statements in the future, and do it solely for the purpose of obstruction, then I think there comes a time when a chairman has to exercise his or her prerogative and call for a vote.

If the Democrats don't like the nominees, they should vote them down. I hope the only negative votes will be those that were well considered, decent, honorable, by those who literally had good reason behind a negative vote. But even if they didn't have these good reasons, then they have a right to vote them down. Others have a right to vote them up. If a nominee passes, then the nominee should pass out of committee and come to the floor. Hopefully, we will have a debate for a reasonable length of time and we will vote on nominees, as we should, on the floor of the Senate.

Let no one be deceived; the rules were followed. I chatted with the Parliamentarians beforehand to make sure I was on a good track here and that I was following the best standards of the Senate, even though I certainly had to put my foot down as the chairman. I acted in accordance thereto.

With that, I understand the Senator from New York would like to make a statement.

I yield the floor.

UNANIMOUS CONSENT REQUEST—S. 414

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and begin the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it seems very interesting to me that this request would be made when our friends on the other side, last year, did not even pass a budget, for the first time since the Budget Act was enacted, and did not pass the appropriations bills, by and large.

Mr. REID. Regular order, Mr. President.

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. CLINTON. Mr. President, I appreciate the remarks of my good friend from Utah. I do not agree with them, but he is always someone who is ready to express his heartfelt convictions about any matter. I believe, having now traveled and talked with and heard from so many of my constituents, that it is time for us to face the real issues that are on the minds of the American people.

Obviously, we know Americans today are quite concerned and worried about the continuing defiance of the United Nations by Saddam Hussein and the amassing of 200,000 of our men and women in uniform in the gulf in the event the President must order military action to fulfill the requirements not only of Resolution 1441 but of all the resolutions that Saddam Hussein has defied for over a decade.

I know many of the people I represent are deeply concerned that in the last week we have not been able to get any information from the administration about their projected costs of the military action should it occur in Iraq, and the follow-on costs that would be required for the pacification and rebuilding of Iraq, the efforts to try to create a set of conditions that could provide a better opportunity for a brighter future for the people of Iraq.

Many of my constituents have said: Senator, how much is it going to cost? How long is it going to take? How many of our people will be put at risk? We do not know the answers. I think that is something on which we should be focused.

Certainly, I hear quite a bit of concern about how well prepared we are to defend ourselves at home. Have we put the amount of resources strategically deployed on defense that we have done on offense? As many of my colleagues know, I have been coming to the Chamber now for, I guess, 16 months expressing my deep concerns that the answer to those questions is no; that we have not done for defense what we have done for offense.

I am proud of the extraordinary capacity that our military has, by far the most ready, the most powerful in the history of the world. That is a great comfort and point of pride for every American.

I was up at one of those facilities just today, the Watervliet Arsenal in Albany. It dates back to the War of 1812. It has been producing guns and tubes, mortars and tank equipment for decades. I am very proud it is in a State I represent that has such a tradition of patriotism where the Revolutionary War was largely fought and won.

I am very grateful we have this level of commitment to our military, but I do not hear the same from our mayors, our police chiefs, and our fire chiefs, and I do not think we can honestly say we have done everything we need to do to provide for hometown security, to make sure we get the people on the streets we require.

I met today with three mayors from cities I represent: Mayor Jerry Jennings from Albany, Tony Masiello from Buffalo, and Matt Driscoll from Syracuse. They came to talk about their unmet needs. When the alert goes up and the phone calls start coming in and they are expected to respond, they are not given the tools and resources that high level of responsibility demands.

I know we are in difficult economic times, but I do not think that can stand in the way of the Federal Government fulfilling its responsibility to the mayors, police chiefs, fire chiefs, emergency responders, hospital administrators, and others who make up our front line defense at home. In fact, I think it is imperative that we give the same attention to hometown security that we have been giving to national security because the two are absolutely inextricably linked.

There is no front over there. We do not put people on boats, on troop ships, and send them off somewhere far away. We do not wave goodbye to them at airports as they travel halfway around the world to defend freedom and America's vital interests. When we see a police officer standing on the street, when we go by a firehouse, those are the frontline soldiers. Those are the people who have to respond to whatever happens.

It has been troubling to me that this administration repeatedly has talked about the need for security but time and again has not been willing to give support with the dollars that are desperately required.

I have spoken with people throughout my State. I want to take a moment to share the comments and concerns of just one of the cities and counties I represent. It happens to be the county in which I live, West Chester County in another community, the city of New Rochelle, with a very dedicated group of leaders. Mayor Idoni and others who are totally committed to building New Rochelle and protecting New Rochelle. They have gone to briefings and training sessions to find out what they need to do.

Unfortunately, when I asked if their city had incurred any additional costs due to the recent code orange, this was their response:

> Unfortunately the city of New Rochelle is nowhere able to prepare for or respond to homeland security alert level orange than we are for alert green. Incurring personnel expenses, i.e., overtime, is not fiscally possible. Additionally, all that we would have accomplished would have been to put more people on the street with limited training and virtually no equipment.

These words come from our frontline defenders. These are our generals, our colonels, and our captains. They are the people who are going to direct whatever response we need in the event of some kind of terrorist attack.

Seventeen months have passed since that horrible day in September, and all the while the Federal Government has been asking our mayors to do more with less. According to the U.S. Conference of Mayors, cities have invested $2.6 billion of their own resources to protect our Nation.

In November 2001, after visiting with the people in New York City, who know more about what is needed than literally anybody in our country, and going to Buffalo to meet with the mayor, police, fire officials there, I immediately called for $3.5 billion of direct funding for our first responders. I proposed the homeland security block grant in 2000 and 2002, and it was the first piece of legislation I filed again this year in 2003.

Last week, the administration finally conceded what many of us, along with mayors, police commissioners, fire chiefs, emergency response teams, and others have been saying for the last 2 years: We need more resources at the local level to secure our homeland.

In January, I released a report that showed how 70 percent of our local cities and counties had not received any Federal homeland security funding. I can go through chapter and verse talking about what each community has had to do.

I recall a comment by the Director of the Office of Management and Budget who said in response to my criticism and others: There is not enough money in the galaxy to protect everyone and everybody.

That may be objectively true, but I think we have to do more to try, and I sure think we have to recognize places of increased vulnerability, targets of opportunity.

As we take great comfort in the capture of Khalid Sheik Mohammed in Pakistan, we cannot help but notice amongst the documents apparently recovered and the information that was used as a basis for this apprehension were concerns about additional attacks, I must say once again, focused primarily on New York City and Washington.

I do not think for a minute these are the only targets in the United States. I do believe they are still the two most prominent areas of concern for us and, therefore, need more attention than most places do.

Who would have guessed we would have found a terrorist cell in Lackawanna, NY, a few miles outside of downtown Buffalo? Who would have guessed that people accused of helping to finance terrorism would be arrested in Syracuse, NY? So we need a national plan for local response, and that is why on Friday I called for the establishment of a domestic defense fund within the Office of Domestic Preparedness in the Department of Homeland Security.

Whether it is in New York City, where between February 7 through the 20 the NYPD estimates it spent $1.1 million for personnel costs, or in Los Angeles where an additional $650,000 had to be used to put on personnel to search cars at the airport, or Wilmington, DE, which spent $25,000 a day for police overtime, we know these costs are building up. In this time of an ocean of red ink for our State and local budgets, there are no resources that can be dipped into to make up for these losses our cities and counties are experiencing.

This domestic defense fund would provide direct funding for our local communities, for personnel costs, equipment, and other first responder needs. It would also include the covering of other emergency preparedness costs, whether it is high overtime costs as a result of code orange or extra security if there is a high profile trial like Zacarias Moussaoui, or to help local law enforcement cover the costs they incur if they arrest a sleeper cell such as they did in Lackawanna. We need to be ready to provide these additional funds.

When the Presidents Day blizzard occurred up and down the east coast, cities and States knew that FEMA's disaster recovery fund was in place to help defray these costs. LIHEAP, the Low Income Heating Energy Assistance Program, is set up in the same spirit. When it gets colder and our citizens are at risk of exposure to dangerous temperatures, the Federal Government provides for home heating costs. Right now we have a national alert system and a local response system, but as the threat level approaches orange, our local governments have to dig deep to find the funds to respond. Therefore, we need to do better.

Just as we have done for our men and women in uniform, we have to be willing to provide the funds our men and women on the front lines at home need and deserve.

I understand the administration plans to come forward with a wartime supplemental appropriations bill. In the Senate, my colleagues and I will be pushing also for an emergency supplemental to address our unmet domestic security needs. That should include direct funding for local communities, and it should include the domestic defense fund.

I do not see any way to avoid the necessity of providing the funds that are needed for our homeland-hometown security, and I hope this body, and our colleagues across the Capitol, as well as the administration, will cross party lines and in a bipartisan manner make sure we do everything possible to prepare. We can always hope for the best, but we have to prepare for the worst, and that means we have to pay attention to what we are being told by local first responders. They are the experts. They know what they need. We have to stand ready to assist them, and I hope as we move forward over the next month we will do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed my colleague's remarks, and although we have our differences on some of them, I appreciate her diligence and effort. I have a lot of respect for her.

I will say that continually asking to go off the Estrada matter for other matters really concerns me, because I think it is a failure to recognize that this is one of the most important nominees and one of the most important positions in the country. There is one way to get off of this nomination, and that is to vote up or down, instead of filibustering. Do what has always been done in the past in these matters and bring this issue to a vote. Then we can go to these important economic matters and other matters as well.

I have been concerned, because I remember when the minority leader and the minority whip came on the floor last week and basically said: Why are we not on economic issues?

I did get very upset because I thought that is nice for them to say that, but they were not even willing to do a budget last year because it takes a lot of guts to do a budget. We always did. Last year was the first time in the history of the Budget Act that the majority party refused to do a budget. We know why. Because they made a lot of cheap shots against us when we had to make those tough decisions on the budget. Then all of a sudden they found they were in a position where shots could be taken against them, cheap or otherwise, and they were not able to get together on their side because they had so many factions on their side that did not agree.

So it is easy to criticize, but you better have a better standing to criticize than what I think they have.

Also, the reason we had to have this omnibus appropriations bill after the first of the year is because our colleagues on the other side could not pass the appropriations bills. We did it in a matter of weeks after we came into power this year. I think that is something the Republicans deserve a great deal of credit for. Our colleagues on the other side deserve some criticism for it.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 5, 2002 in Tacoma, WA. Three gay men were attacked and another woman shot in a nightclub parking lot. When the three men walked to the nightclub parking lot, they were confronted by two or three other men in a truck who asked "Are you gay? Are you gay?" The men in the truck said that it was a "straight parking lot" and demanded that the gay men leave. The men in the truck then approached the victims and began beating them. A woman and her husband came to the aid of the victims, and the assailants shot the woman once in the chest. The bullet traveled through her chest and lodged in her cheek. She was treated at a local hospital and was later released.

I believe that Government's first duty is to defend its citizens—to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RECOGNITION OF NATIONAL PEACE CORPS DAY

• Mr. DODD. Mr. President, today I pay tribute to one of our most essential and enduring national endeavors: the Peace Corps.

Last Friday, February 28, was National Peace Corps day. While the Senate was not in session on Friday, I would like to take this opportunity to recognize the Peace Corps—an institution that is certainly deserving of our praise and support.

As my colleagues are aware, it is always with tremendous fondness and pride that I speak of the Peace Corps. It gives me occasion to recall my own years as a volunteer in the Dominican Republic. Indeed, I have often spoken of how these 2 years changed my life. Living and working outside of the United States and seeing the way other nations operated for the first time, I grew to appreciate our Nation more and more, and developed a strong sense of what it means to be an American. I was proud to share my experience as an American citizen with the people I was there to help. Those 2 years were invaluable to me, and truly brought home to me the value of public service.

It was 42 years ago when President Kennedy laid out his vision for the future of American volunteer service. Speaking of a corps of committed and idealistic young volunteers who would travel all over the world "promoting world peace and friendship," he saw public service as an ideal to transcend political rhetoric. Peace Corps volunteers were not to reflect particular Republican or Democratic ideology. Rather, their service would be a manifestation of the core American values we all share.

Since 1961, more than 168,000 Americans have responded to President Kennedy's call, and the Peace Corps now sends more than 7,000 volunteers to 76 different countries every year. This means that there are 7,000 important American liaisons scattered around the world helping people and promoting American values. In fact, the need for such ambassadors—people who truly show the world the best of America—has never been greater. Especially in these difficult and tumultuous times, I believe that an increased Peace Corps presence in regions with significant anti-American sentiment could help to foster greater mutual understanding and tolerance between Americans and the communities they serve.

After all, these volunteers are really the heart and soul of the Peace Corps. They are the ones on the front lines, working hard, making one-on-one connections with the citizens of the countries in which they work. For 42 years, they have brought a wealth of practical experience to communities in Africa, Latin America, Asia, the Middle East, Eastern Europe, and the Pacific. And, I believe it is important to recognize that the enduring success of the Peace Corps is rooted in each volunteer's commitment to leave behind skills that allow people to take charge of their own futures.

The Peace Corps is a truly remarkable institution in America, a symbol of the very best of our ideals of service, sacrifice, and self-reliance. I believe that we must provide sufficient resources for the Peace Corps so that it can increase the number of volunteers in the field and continue its noble mission. National Peace Corps Day honors its volunteers, past and present, and reaffirms our country's commitment to helping our friends and neighbors throughout the world. Mr. President, in recognition of National Peace Corps day and in light of the special service this institution performs for our nation and the global community, I reaffirm my strong support of and commitment to this invaluable institution. I hope my colleagues and fellow Americans will do the same.

I thank the President.•

IN MEMORY OF BARBARA COY

• Mr. ALLARD. Mr. President, my office encountered a loss this past weekend. My first military fellow, Lt. Col. Tim Coy, U.S. Air Force, lost his wife after a battle with cancer. Barbara Louise Coy, age 43, passed away in

Woodbridge, VA. on Saturday, March 1, 2003. She was born on July 30, 1959, at Norton Air Force Base, San Bernardino, CA. She graduated from Hampton High School, Hampton, VA. She accompanied Tim on his many military assignments to Nevada, Wyoming, California, Colorado, and Virginia. She leaves behind her husband of 25 years, Timothy W. Coy, her son, Brian T. Coy, and daughter, Laura M. Coy.

While Tim and his family were only with my office for a year in 1998, he is still like family in the office. And just how an office becomes a family, we all mourn with Tim and his during this difficult time. Our prayers and thoughts are with Tim, Brian, and Laura Coy.●

TRIBUTE TO THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

● Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to the Lexington-Fayette Urban County Government for taking extraordinary actions to protect and restore Kentucky rivers, lakes, streams, and wetlands along with initiating innovative local pollution prevention programs. For their efforts, Environmental Protection Agency Administrator Christie Whitman recently presented the Lexington-Fayette Urban County Government with the Clean Water Partner Award for the 21st Century at EPA headquarters in Washington, DC.

In keeping with President George W. Bush's celebration of the Year of Clean Water, the EPA's Office of Water has recognized the best contributions by local agencies to protect watersheds and uphold the requirements of the Clean Water Act. The success of the Lexington-Fayette Urban County Government should not go unnoticed.

Their accomplishment in developing the Reforest the Bluegrass program enables local citizen volunteers to make improvements to the environment. The program educates volunteers on the importance of riparian buffers in relation to storm water pollution, urban forests, and wildlife diversity.

Mr. President, the men and women of the Lexington-Fayette Urban County Government have earned our admiration and respect for their hard work and determination. I am proud the Commonwealth of Kentucky is served so well by such dedicated public servants. Their example should be followed by others in order to further improve our water quality and environment.●

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

● Mr. LUGAR. Mr. President, I rise today to congratulate a group of young Indiana students who have shown great educative achievement. I would like to bring to the attention of my colleagues the winners of the 2002–2003 Eighth Grade Youth Essay Contest, which I sponsored in association with the Indiana Farm Bureau and Farm Bureau Insurance Companies. These students have displayed strong writing abilities and are outstanding young Hoosier scholars. I will submit their names for the Congressional Record because they demonstrate the capabilities of today's students and are fine representatives of our Nation.

This year, Hoosier students wrote on the theme, "Growing Nutrition Right Here In Indiana." I would like to submit for the Record the winning essays of Caitlin Dunn and Ryan Nigh. As State winners of the Youth Essay Contest, these two outstanding students are being recognized on Friday, February 28, 2003, during a visit to the United States Capitol.

The essays are as follows:

Growing Nutrition Right Here In Indiana

(By Caitlin Dunn—Jay County)

Don't leave the table.
  Stay in your seat.
An event of magic
  Is yours to meet.
With the wave of my wand
  And a magical spell,
The nutrition grown in Indiana
  Will help you stay well!

Our magical journey begins with an ordinary deck of cards. "Pick a card—any card—just don't tell me what it is. You have chosen the ace of spades." This card is remarkable because it holds the most powerful magic of all. It represents the farmer's spade used to tend the bountiful and nutritious crops grown in Indiana.

Indiana farmers create a powerful potion for keeping our bodies healthy:

M—Maintaining a healthy diet from the basic food groups including Indiana beef, pork, poultry, vegetables, fruits, grains, and dairy will increase the body's level of energy and make it easier to live an active lifestyle.

A—Agriculture from Indiana such as corn, tomatoes, cucumbers, snap beans, potatoes, apples, watermelons, cantaloupes, peaches, and blueberries as well as soybeans, wheat, and oats will help the body resist infection and disease.

G—Good eating habits will improve "brain power," creating a better aptitude for learning.

I—An increase in life expectancy can result from decreasing cholesterol with Indiana whole grains and soy protein.

C—Caring for bones and teeth with dairy products from Indiana farms will help prevent osteoporosis and promote a healthy digestive system.

Combine all ingredients and simmer for a lifetime.

Eat properly and unlock the MAGIC. Maintain a healthy diet, consume nutritious Indiana agricultural products, practice good eating habits, increase life expectancy with Indiana whole grains, and care for bones and teeth with Indiana dairy products. Conjure up a little magic in yourself and—ABRACADABRA—live a healthy life with nutrition grown right here in Indiana.

Growing Nutrition Right Here in Indiana

(By Ryan Nigh—Shelby County)

My grandmother has a saying, "You are what you eat!" It is very important to eat healthy foods to have a healthy body and mind. Eating right gives the body more nutrients. It makes the body function better and gives it more energy and coordination. There is less chance for illness and life-threatening diseases, especially heart disease, diabetes, cancer, and osteoporosis. The brain functions better too. Better nutrition, especially breakfast, gives a person better brainpower, concentration, and reasoning.

There are a variety of nutritional products produced in our state: milk products, bread and pasta, fruits and vegetables, and meat. Indiana is fifth in the U.S. in corn production. Much of it is used to feed livestock, which people then eat. Corn is also used for cornmeal, taco shells, chips, and cereal. Indiana is second in popcorn, a favorite snack of many Americans. Bread and pasta come from wheat, milk products from dairy farms, lots of protein from beef cattle, hogs, and poultry grown here in Indiana. Poultry includes ducks (first), chickens (sixth), and turkeys (seventh). Indiana even has some fish farms.

A major product Hoosier farmers grow is soybeans. Besides supplementing animal feeds, soybeans are used in so many foods now that it's hard to find one without soybeans in it. Soybeans are very healthy.

Indiana is not usually known for fruits and vegetables. However, Indiana ranks in the top ten in growing tomatoes, green beans, and cucumbers for processing. And Indiana sweet corn is great too. Hoosiers also raise lots of cantaloupes, watermelons, apples, blueberries, peaches, and walnuts.

All of these good foods are grown in Indiana. If we eat the foods recommended on the food pyramid, we will grow and have healthy bodies. Like Grandma says, "You are what you eat!"

I ask that the names of the Hoosier Essay Contest winners be printed in the Record.

The names follow.

2002–03 Lugar Essay District Winners

District 1: Joshua Surfus (Starke Co.), and Kaylyn Herrold (Fulton Co.).

District 2: Luke Pratt (Allen Co.), and Jillian Jackson (DeKalb Co.).

District 3: Taylor Farrer (Cass Co.), and Angela Hubers (Jasper Co.).

District 4: James Comerford (Miami Co.), and Caitlin Dunn (Jay Co.).

District 5: Justin Yoho (Vermillion Co.), and Jessica Fry (Putnam Co.).

District 6: Matt Howard (Marion Co.), and Samantha Morton (Hamilton Co.).

District 7: Christopher Duncan (Vigo Co.), and Kayla Cash (Vigo Co.).

District 8: Ryan Nigh (Shelby Co.), and Roma Bose (Johnson Co.).

District 9: Logan Verkamp (Dubois Co.), and Anna Blankenberger (Posey Co.).

District 10: Landon Roberts (Washington Co.), and Jessica Ragains (Washington Co.).

2002–03 County Essay Winners

Benton: Wesley Geib, Tri-County Jr. High School.

Cass: Taylor Farrer and Kristen Holcomb, Pioneer Jr. High School.

Clark: Miles Murphy and Kelly Ann Avery, Parkview Middle School.

DeKalb: Wade Buchs and Jillian Jackson, DeKalb Middle School.

Dubois: Logan Verkamp and Krystal Knust, Forest Park Jr. High School.

Fayette: Eric Knotts and Tarrah Emily McCreary, Connersville Middle School.

Franklin: Bradley Bischoff and Chelle Bentz, St. Michael School.

Fulton: Kaylyn Herrold, Caston Jr. High School.

Greene: Bryant Meng and Patricia Dawn Shepard, Linton-Stockton Jr. High School.

Hamilton: Evan Beckner and Samantha Morton, Carmel Jr. High School.

Hendricks: Nick McNulty, Danville Community Middle School and Ryanne Fenimore, St. Malachy Parish School.

Henry: Daniel Snyder and Sarah McCullough, Tri Jr. High School.

Jasper: Randy Lehman, Rensselaer Central Middle School, and Angela Hubers, Demotte Christian School.

Jay: Ben Wellman and Caitlin Dunn, East Jay Middle School.

LaGrange: Carolyn Miller, Westview Jr. High School.

Lake: Kristopher Wonzy and Danielle Ferree, Our Lady of Grace School.

LaPorte: Josh Troxel, Wanatah Public School, and Mary Ellen Przybylinski, Saint Stanislaus School.

Madison: Kaitlin Bohlander, Elwood Middle School.

Marion: Matt Howard, Preston Middle School, and Katrina Wathen, St. Roch School.

Newton: Denise Hickman, North Newton Jr. High School.

Orange: Andrew Jones, Orleans Jr. High School.

Pike: Tyler Simpson and Whitney Helton, Pike Central Middle School.

Posey: Jeremy Wagner and Anna Blankenberger, North Posey Jr. High School.

Putnam: Logan Portish, Cloverdale Middle School, and Jessica Fry, North Putnam Middle School.

Ripley: Dan Rauscher and Brianna Mayfield, Batesville Middle School.

St. Joseph: Michael McMahon and Emily Cook, St. Matthew Cathedral School.

Shelby: Ryan Nigh, Morristown Jr. High School, and Brooke Gilbert, Triton Middle School.

Starke: Joshua Surfus, Knox Middle School, and Natalia Ratican, Oregon-Davis Jr. High School.

Switzerland: Travis Rose and Sara Craig, Switzerland County Middle School.

Tippecanoe: Eliza Scanlon, Wainwright Middle School.

Tipton: Craig Hartman and Danielle Widner, Tri-Central Jr. High School.

Vermillion: Justin Yoho and Tracy Woolwine, North Vermillion Jr. High School.

Vigo: Christopher Duncan and Kayla Cash, Honey Creek Middle School.

Warrick: Logan Springstun and Brooke Carter, Boonville Jr. High School.

Washington: Landon Roberts and Jessica Ragains, West Washington Jr. High School.

Wayne: Branden Mathews and Marissa Uphaus, Centerville Jr. High School.

Wells: Nathan Donaghy and Kristen Meyer, Bethlehem Lutheran School.

White: Cole Bell and Sarah Demerly, Tri-County Jr. High School.•

IN RECOGNITION OF DR. WILLIAM B. DELAUDER'S RETIREMENT

• Mr. CARPER. Mr. President, I rise today in recognition of Dr. William B. DeLauder upon his retirement from Delaware State University. He has served as president of the university for more than 16 years. His leadership over that span of time has lifted this small, historically black land grant college of the 21st century and won him the respect of faculty and students alike, along with the gratitude of our entire State. He has been, and remains, a trusted friend and advisor to me both in my previous role as Governor of Delaware and now as our State's junior United States Senator.

One of Dr. DeLauder's most noteworthy achievements has been the transition of Delaware State College to Delaware State University. I had the privilege of formalizing this transition by signing into law the official name change that signified this accomplishment when I was Governor in 1993 to more accurately reflect the depth and quality of the University's academic offerings. The changes have been profound.

Under President DeLauder the university has undergone a remarkable transformation in academics, student life, fund raising, and in appearance. Alumni returning to visit their alma mater today after an absence of many years are amazed at the appearance of its campus. A beautiful pedestrian campus has replaced the old network of streets that for years divided the old campus into an unattractive series of squares and rectangles. An array of new buildings have been constructed including a modern library, a cutting-edge science center, a home for the School of Management, and a new administrative building. On-campus housing capacity for students has roughly doubled, too. With all of that completed, Dr. DeLauder has begun one final major project—the building of a modern, new stadium and a health and fitness complex.

Those may be the most visible signs of change, but they tell only part of the story. During Dr. DeLauder's 16 year tenure, the university also expanded its academic programs by adding new graduate programs in biology, chemistry, and physics, as well as new undergraduate programs in airway science, computer science and mass communications. The university also increased its number of faculty with doctorates from 44 to 72 percent. Admission standards have been raised, as well. In addition, DSU became the first higher education institution in Delaware to receive national accreditation for its teacher education program during his presidency.

During his tenure, President DeLauder also founded a board of visitors that consists of State government leaders and corporate executives. The board's purpose is to provide support and assistance to the fund raising and development goals of the university. In 1994, he led Delaware State University on its first major fund raising effort. The campaign raised more than $10 million for the enhancement of academic programs, faculty development, and student financial aid.

Dr. DeLauder's accomplishments have been recognized through numerous honors and awards. For example, in March 1994, he received the Thurgood Marshall Award for outstanding contributions to the higher education of African-Americans. In 1995, he received the prestigious leadership award in Delaware presented by the National Conference of Christians and Jews. In November 2001, he was inducted into the Delaware State University Sports Hall of Fame for his support of the school's student-athletes and teams. That same month, he received the prestigious Buchanan award by the Central Delaware Chamber of Commerce. In June of last year, President DeLauder was appointed chairman of the United Way of Delaware's Board of Directors.

Dr. DeLauder earned his bachelor of science degree from Morgan State University and a doctorate in physical chemistry from Wayne State University. He conducted post-doctoral research in physical biochemistry at the Centre of Biophysical Molecularie du C.N.R.S., Orleans-LaSource, France. Bill is married to a delightful woman, the former Vermell Faulk. She has served as an invaluable partner and University First Lady during this time of remarkable change at Delaware State. The DeLauders are blessed with two children, William Jr. and Ellen, and three grandchildren.

Dr. DeLauder is a humble and selfless man who takes pride in his work but is always quick to share the credit for Delaware State College's successes with others. Through his tireless efforts, he has made a profound difference in the lives of thousands of students and enhanced the quality of life for an entire state. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I thank him for the warm friendship that we share, and I congratulate him on a truly remarkable and distinguished career. I wish him, his wife Vermell and their family only the very best in all that lies ahead for each of them.•

2003 TRADE POLICY AGENDA AND THE 2002 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—PM 19

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 2003 Trade Policy Agenda and 2002 Annual Report on the Trade Agreements Program as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 28, 2003.*

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 534. An act to amend title 18, United States Code, to prohibit human cloning.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1322. A communication from the Deputy Chief, Policy and Rules Division, Office of Engirneering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Revisions to Broadcast Auxiliary Service Rules in Part 74 and Conforming Technical Rules for Broadcast Auxiliary Service, Cable Television Relay Service and Fixed Services in Parts 74, 78, and 101 of the Commission's Rules” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1323. A communication from the Deputy Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Service (ET Docket No. 00–258)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1324. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—Closure for Atka Mackerel with Gears Other Than Jig in the Eastern Aleutian District and the Bering Sea Subarea of the BSAI and Opening and Closing Dates for the First and Second Directed Fisheries Within the Harvest Limit Area in Area 542 and 543” received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1325. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Zone Off Alaska—Notification for registered Atka Mackerel vessels of their assignments for the A season harvest limit area fisheries in areas 542 and 543” received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1326. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Groom, Sonora and Spur, Texas (MB Docket 02–226, 02–227, 002–228)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1327. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Hooks, Texas (MB Docket No. 02–203, RM–10466)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1328. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Pampa, Texas (MB Docket No. 02–204)(RM–10314)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1329. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Vici, Oklahoma, Big Lake and Leakey, Texas (MB Docket 02–205, 02–206 & 02–207)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1330. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations Albany, Vermont (MB Docket 02–192)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1331. A communication from the Senior Rulemaking Analyst, Office of Chief Counsel, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Transportation of Explosives From Canada to the United States Via Commercial Motor Vehicle and Railroad Carrier (2110–AA18)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1332. A communication from the Assistant Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations, Cheesequake Creek, NJ (CGD01–03–003) (2115–AE47)(2003–0006)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1333. A communication from the Assistant Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations: Chesapeake Bay, Elizabeth River, Port of Hampton Road, Virginia (CGD05–03–007)” received on February 11, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1334. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Federal Motor Vehicle Safety Standards: Occupant Crash Protection (2127–AI71)” received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1335. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Final Rule to Implement Amendment 69 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutians Area (FMP)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1336. A communication from the Acting Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Establishment of a Joint or Cooperative Institute within the National Oceanic and Atmospheric Administration (NOAA) Office of Oceanic and Atmospheric Research (OAR) Joint and Cooperative Institute Program” received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1337. A communication from the Director , National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report entitled “Northeast Multispecies Harvest Capacity and Impact of Northeast Fishing Capacity Reduction” received on February 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1338. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the National Telecommunication and Information Administration (NTIA) report on calendar year 2002 programs, initiatives and accomplishments ; to the Committee on Commerce, Science, and Transportation.

EC–1339. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled “National Aeronautics and Space Administration (RIN 2700–AC33)” received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1340. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a vacancy for the position of Administrator, Federal Motor Carrier Safety Administration, received on February 24, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1341. A communication from the Acting Chairman, Office of the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the report of a document entitled “Strategic Plan Fiscal Year 2003–2008, Fiscal Year 2004 Performance Plan and Fiscal Year 1999–2002 Performance Reports” received on February 24, 2003; to the Committee on Governmental Affairs.

EC–1342. A communication from the Comptroller General of the United States, General Accounting Office, transmitting, pursuant to law, the Reports, Testimony, Correspondence, and Other Publications of the General Accounting Office for the months of October and December 2002; to the Committee on Governmental Affairs.

EC–1343. A communication from the Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the Annual Report for the Calendar year 2001; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of South Carolina:

S. 495. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain computer professionals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself and Mr. SHELBY):

S. 496. A bill to provide the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MILLER (for himself and Mr. CHAMBLISS):

S. 497. A bill to amend the Internal Revenue Code of 1986 to provide an increased low-income housing credit for property located immediately adjacent to qualified census tracts; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MILLER, Mr. LIEBERMAN, and Ms. LANDRIEU):

S. 498. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De-Laine in recognition of his contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 499. A bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 500. A bill to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself, Mr. COCHRAN, Mr. BAUCUS, Mr. DEWINE, Mr. JOHNSON, and Ms. SNOWE):

S. 501. A bill to provide a grant program for gifted and talented students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 502. A bill to amend the Safe Drinking Water Act to designate perchlorate as a contaminant and to establish a maximum contaminant level for perchlorate; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. Res. 70. A resolution designating the week beginning March 16, 2003 as "National Safe Place Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. SANTORUM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

S. 55

At the request of Mr. JOHNSON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 85

At the request of Mr. LUGAR, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 173

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 173, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 206

At the request of Mr. ROBERTS, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

S. 239

At the request of Mr. FRIST, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 239, a bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

S. 251

At the request of Mr. LOTT, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 265

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 265, a bill to amend the Internal Revenue Code of 1986 to include sports utility vehicles in the limitation on the depreciation of certain luxury automobiles.

S. 267

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 267, a bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 275

At the request of Mr. MCCAIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 275, a bill to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration.

S. 318

At the request of Mr. KERRY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 318, a bill to provide emergency assistance to nonfarm-related small business concerns that have suffered substantial economic harm from drought.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 348

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 348, a bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes.

S. 359

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of electricity to include electricity produced from municipal solid waste.

S. 371

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 371, a bill to amend the Public Health Service Act to ensure an adequate supply of vaccines.

S. 377

At the request of Ms. LANDRIEU, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. DURBIN), the Senator from Virginia (Mr. ALLEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 412

At the request of Mr. KYL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 412, a bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

S. 425

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 425, a bill to revise the boundary of the Wind Cage National Park in the State of South Dakota.

S. 464

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 465

At the request of Mrs. MURRAY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 465, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 470

At the request of Mr. SARBANES, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. CON. RES. 11

At the request of Mr. CRAIG, his name was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress regarding the Republic of Korea's continuing unlawful bailouts of Hynix Semiconductor Inc., and calling on the Republic of Korea, the Secretary of Commerce, the United States Trade Representative, and the President to take actions to end the bailouts.

S. RES. 48

At the request of Mr. AKAKA, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Res. 48, A resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 52, A resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. GRAHAM of South Carolina, Mr. EDWARDS, Mr. MILLER, Mr. LIEBERMAN, and Ms. LANDRIEU):

S. 498. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. DeLaine in recognition of his contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation to present Rev. Joseph A. De Laine the Congressional Gold Medal of Honor for his heroic sacrifices to desegregate our public schools. His crusade to break down barriers in education forever scarred his own life, but led to the landmark Brown v. Board of Education case in 1954.

Eight years before Rosa Parks refused to move to the back of the bus, Reverend De Laine, a minister and principal, organized African-American parents to petition the Summerton, SC, school board for a bus and gasoline so their children would not have to walk 10 miles to attend a segregated school. A year later, in Briggs v. Elliot, the parents sued to end segregation. It was a case that as a young lawyer I watched Thurgood Marshall argue before the Supreme Court as one of the five cases collectively known as Brown v. Board of Education. For this Senator, their arguments helped to shape my view on racial matters.

For his efforts, Reverend De Laine was subjected to a reign of domestic terrorism. He lost his job. He watched his church and home burn. He was charged with assault and battery with intent to kill after shots were fired at his home and he fired back to mark the car. He had to leave South Carolina forever; relocate to New York, where he started an AME Church, and he eventually retired in North Carolina. Not until the year 2000, 26 years after his death and 45 years after the incident in his home was Reverend De Laine cleared of all charges.

Last year, I spoke to the 100 descendants of Briggs v. Elliott, and I ask unanimous consent that my remarks be printed in the RECORD, which show the bravery of Reverend De Laine during a troubled time in our Nation's past, and which point to the immeasurable benefits he has given our Nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIGGS V. ELLIOTT DESCENDANTS RE-UNION BANQUET, SUMMERTON, SOUTH CAROLINA, MAY 11, 2002

I want to give you an insight into exactly what happened to your parents 50 years ago in Summerton, SC, that led to the desegregation of our Nation's schools by the Supreme Court of the United States.

I speak with some trepidation, because right now I can see Harry Briggs' son walking down that dirt road all the way here to Scotts Branch School, and that school bus passing, all for the white children. Yet all your families were asking for was a bus. But they were told: "you don't pay any taxes, so how can you ask for a bus?" What they didn't say is you didn't have a job, whereby you could make a living and be able to pay the taxes. They didn't say that.

I think of the threats, the burnings, the shooting up of Reverend John De Laine's home. I think about how they turned him into a fugitive. He had to leave his home in South Carolina, never to return. Harry Briggs had to leave his home and go to Florida to earn a living. It's not for me to tell the descendants of the Briggs v. Elliott case how they have suffered.

I didn't try this case, don't misunderstand me. My beginnings with Briggs v. Elliott started in 1948 when I was elected to the House of Representatives in Columbia.

The previous year James Hinton, the head of the NAACP in the State gave a speech in Columbia. He talked about the need to get separate but equal facilities. He got Rev. De Laine from Summerton in the audience all fired up. Rev. De Laine, who was the principal here, put together a petition signed by 20 parents, of 46 children, the Summerton 66.

I'll never forget the day after I was sworn into the Legislature the superintendent of schools in Charleston County took me across the Cooper River Bridge, down the Mathis Ferry Road, to the Freedom School, the black school. He said I want to show you what we really do, he used the word at that time, "for a Negro education."

This was a cold November Day, and we went into a big one-room building. That's all they had, one room, with a pot belly stove in the middle. They had a class in this corner, a class in that back corner, a class up front in this corner, and a class here. Of course, they didn't have any desks, and very few books, and one teacher teaching the four classes.

When I went to Columbia I was with a bunch of rebels. I introduced an anti-lynching bill. I had never heard of lynchings down in Charleston, but then they had one. As we debated the bill, a fellow who was the grand dragon of the Klan got up with all these Klansmen in the Gallery, and he mumbled and raised cane. Speaker Blott got some order. But several House members walked out. They said they wouldn't be seated in the Legislature with a fellow like that. We passed the anti-lynching bill.

I'm trying to give you this background, so you'll understand the significance of what your parents did. We had just had the case, whereby blacks could participate in the Democratic primary. And we had just given women the right to vote.

And in 1949 and 1950, I struggled because there was no money in the state for separate but equal schools, or anything else. I said we ought to put in a 3 percent sales tax to pay for things. Governor Thurmond opposed it, and the senators particularly opposed it. But I made the motion for a one-cent tax on cigarettes; a one-cent tax on gasoline; and a one-cent tax on beer. Beer, cigarettes, and gasoline.

We formed a House Committee with six of us to work on it. We worked all summer. It's a long story, but let me cut it and say by December we had it all written. I knew the incoming governor, Governor Byrnes. I felt it would be good to ask him to see if he could help me with this measure.

The second week in January, before he was sworn in, he called me and said: "You've got to come to Columbia, I'm going to include this in my Inaugural address." Over time, I made 79 talks on the proposal, until we finally passed the sales tax, which provided some money for separate but equal schools.

When the Briggs v. Elliott case came up, before Judge Waring in Charleston, he questioned separate but equal. Then in December 1952, the case went to the Supreme Court. Governor Byrnes had served on the State Supreme Court, and he wanted to make sure we won the case. In my mind, he was absolutely sure that under Chief Justice Vinson the State would win it.

But to make sure, he set aside Mr. Bob McC. Figg, who had done all the work, and selected John W. Davis, as the attorney for South Carolina against Thurgood Marshall, who was representing Briggs and the NAACP. Mr. Davis had been the Solicitor General of the United States. He had been the Democratic nominee for president in 1924. He was considered the greatest constitutional mind in the country.

The second thing the Governor did was to call me up and say: "I'm appointing you to go to Washington, because you know intimately this law here that built the schools. You have to go to Washington in case any questions of fact come up."

So we took a train to Washington. We came in at 6 o'clock that morning at Union Station, and we sat down for breakfast. I'll never forget it, because Thurgood Marshall walked in. He and Bob McC. Figg had become real close friends. So he sat down and was eating breakfast with us, and we began swapping stories.

Mr. Marshall said "Bob, you know that black family that moved into that white neighborhood in Cicero, IL. They have so much trouble. There are riots, and everything else going on." And he said: "Don't tell anybody, but I got hold of Governor Adlai Stevenson." Stevenson was the governor of Illinois at the time. And he said: "I sent that family back to Mississippi for safe keeping." And Thurgood added, "for God's sake, don't tell anybody that or it will ruin me." I said: "for God's sake, don't tell anybody I'm eating breakfast with you, or I will never get elected again."

I tell you that story so you can get a feel for 1952, for what it was like 50 years ago.

We had wanted Briggs to be the lead case before the Supreme Court. It was one of five cases that they would hear collectively. But soon after our breakfast, we found out that Roy Wilkens from the NAACP had gotten together with the Solicitor General and moved the Kansas case in front of the South Carolina case. Some reports said the reason was because they wanted a northern case. That was not it. There was another case from the State of Delaware, which was just as north as the State of Kansas.

Kansas was selected because up until the sixth grade, yes, it was segregated. But thereafter it was a local option, and the schools were mostly integrated.

Before the court John W. Davis obviously made a very impassioned, constitutional argument. But Thurgood Marshall made the real argument, there wasn't any question about it. He had been with this case. He had the feel, and everything else of that kind.

I can still hear and see Justice Frankfurter on the Court leaning over and saying, "Mr. Marshall, Mr. Marshall, you've won your case, you've won your case. What happens next"? And Thurgood Marshall said, well, if he prevails, then the state imposed policy of separation by race would be removed. The little children can go to the school of their choice. They play together before they go to school. They come back and play together after school. Now they can be together at school. The State imposed policy of separation by race in South Carolina would be gone.

Another lawyer arguing the case was George E. C. Hayes, and when I heard him that was my epiphany. Mr. Hayes got everyone because he used a jury argument before the Supreme Court. He said: as black soldiers we went to the war to fight on the front lines in Europe, and when we come home we have to sit on the back of the bus.

I had been with the 9th Anti-Artillery Aircraft unit in Tunisia in Africa for a month. And then I was in Italy and Germany and crossed over to what is now Kosovo. So I served. I knew exactly what he was talking about. And I said this is wrong.

The next year Chief Justice Vinson died. It was reported at that time that Justice Frankfurter said for the first time that he believed there was a God in Heaven when Vinson passed away. They appointed Mr. Earl Warren as Chief Justice, who dragged everybody back to the Court to re-argue the case in December of 1953. He didn't want to hear about separate but equal. He wanted the case re-argued on the constitutionality of segregation itself.

Then on May 17, 1953 the decision came down, it was unanimous, segregation was over in this country. So the lawyers immediately got together to discuss how to implement the decision. Since the decision said to integrate schools with all deliberate speed, there was arguments back and forth on how we could comply with this order with all deliberate speed and not start chaos all over the land.

Some school authority down in Charleston came up with the idea that with all deliberate speed meant we would integrate the first grade the first year; we would integrate the first and second grades the second year; the third year would be the first, second, and third grades. Over a 12-year period, we would then have the 12 grades integrated. When the head of the NAACP in New York heard that he said: "Noooo Way. We are not going to be given our constitutional rights on the installment plan." And that ended that. But nothing was done for about 10 years, until Martin Luther King came along.

When I became Governor, I started working on other areas that needed to be integrated, beginning with law enforcement. I'll never forget all the white sheriffs who were against all the blacks. We only had 34 black sheriffs. We have about 500 today.

And we literally broke up and locked up the Ku Klux Klan. I remember on the day I was sworn in as Governor, waiting for me was a green and gold embossed envelope, with a lifetime membership into the Ku Klux Klan. I never heard of such a thing. I asked the head of law enforcement, do we have the Ku Klux Klan in South Carolina? He said, "Ohhh yes. We have 1,727 members." I asked, you have an actual count? And he said: "Ohhh yes, we keep a count of them." He said he could get rid of them, but no Governor had helped him in the past. I said, I'll help you. What do we do? He said: "I need a little money."

So we infiltrated the Klan, and the members began to know, or their bosses at businesses knew because they would say to these people: "You know on Friday night, your man, so and so, has been going to these rallies." The next thing you know, they quit going to the rallies. So by the time we integrated Clemson with Harvey Gantt, it went very, very peacefully. And there were less than 300 Klansmen.

Then, of course, as Senator I took my hunger trips. This is the effect those arguments before the court had on me. I took those trips with the NAACP to 16 different counties. As a result, we embellished the food stamp program, we instituted the women infants and children's feeding program, and the school lunch program. The attendance in schools went way up when we started that.

As your Senator I had the privilege of employing Ralph Everett. He was the first black staff director of any committee in the United States Senate.

We have both Andy Chishom and Israel Brooks as the first black Marshalls of South Carolina. Matthew Perry, the first black district judge of a Federal court ever appointed, I appointed. The first black woman judge to the Federal district court, Margaret Seymour, I appointed her. So we have made a lot of progress along that line.

But to give you a feel for how things have changed, I remember speaking at the C.A. Johnson High School in Columbia, the largest black high school in the entire state, the day after Martin Luther King was assassinated.

At the event, there was a mid-shipman, a senior at the Naval Academy, who stood up and made one of the finest talks I ever heard. I turned to the principal, because it was his son, and I asked: who appointed your son to the Naval Academy? He didn't answer. We walked down the row, and I can see me now, asking him again. He still didn't answer. When I got to my car, I said evidently you don't understand my accent from Charleston. Who appointed your son to the U.S. Naval Academy? He said, "Senator, I didn't want to have to answer that question. We couldn't get a member of the South Carolina delegation to appoint him. Hubert Humphrey appointed him."

What goes around, comes around. Today, I have more minority appointments to West Point, Annapolis, and the Air Force Academies than anybody. Recently I had Chuck Bolden, who is a major general in the marine corps and a former astronaut, ready to return to NASA as the number two person there. But the Pentagon raised the question about taking such a talent during a time of war and moving him to the civilian space program. So we said the heck with it, he's too needed in the military.

That is the effect Briggs v. Elliott had on this public servant. There isn't any question that without the courage of your parents, our society would be a lot worse off today.

I was there a few years back when the Congress of the United States gave the Congressional Gold Medal to Rosa Parks. She deserved it, and we wouldn't take anything from her for not moving her seat. But in the 1950s the worst they could have done to her was to pull her off the bus. These descendants lost their homes. They lost their livelihoods. They almost lost their lives. As far as continuing their life in the State of South Carolina, they could not do it.

Without their courage, without their stamina, without their example in starting the Briggs v. Elliott case, we never would have had a civil rights act. We never would have had a voting rights act. We never would have had all the progress we've made over the many, many years.

So I wanted particularly to come back and to publicly thank each of you descendants. And I want to announce that I am putting forward a bill that would honor posthumously Rev. De Laine with a Congressional Gold Medal.

I need 66 co-sponsors in the Senate. We have to have similar support on the House side. But Cong. Clyburn, he can get way more votes than I can. I don't think he'll have any trouble. We'll try to work it out so that in '04, the 50th anniversary of when the decision came down, we'll be able to make that presentation.

I just want to end by saying because of the courage of your parents, we made far more progress in the United States of America. Our country is a far stronger country. We are more than ever the land of the free and the home of the brave because of Briggs v. Elliott. And I thank you all very, very much.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 499. A bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, 137 years ago, before the term homeland security was even coined, a group of men devoted themselves to securing the frontiers of this Nation. They protected Americans in their homes; they deterred hostile invaders, and they secured the blessings of liberty for a young country. Even more remarkable, they secured these blessings for others, while they could not fully enjoy them themselves.

I am referring to the Buffalo Soldiers. These brave men instituted a tradition of professional military service for African Americans that spans the greater part of American history. African American military service is as old as our Nation. There were black soldiers during the Revolution, a unit of free black men played a pivotal role in the Battle of New Orleans, and the exploits of African Americans during the Civil War have been captured in novels and on film. However, it was not until the Army Reorganization Act of 1866 that soldiering and service to country became a realistic option for African Americans seeking to improve their quality of life. In so doing, they raised the bar of freedom, and revealed the injustice of preventing the defenders of democracy from fully participating in it.

The city of New Orleans, and the State of Louisiana have a rich history. They have given more than their fair share of sons to the service of our Nation. Much of this history is commemorated throughout the State. Yet, these great sons of New Orleans remain unacknowledged in their home. For in Louisiana's great military tradition, surely two of its greatest military contributions were the 9th Cavalry Regiment and the 25th Infantry Regiment.

These two forces, recruited and organized in New Orleans, represent half of all the units of Buffalo Soldiers. The 9th Cavalry alone constituted 10 percent of all the American cavalry. Their list of adversaries reads like a who's who of the Old West—Geronimo, Sitting Bull, Pancho Villa. In movies, when settlers encounter Apaches, the cavalry always comes to the rescue. Yet how many times were the cavalry that rode over the horizon African American? Of course, the reality is that the Buffalo Soldiers comprised some of our Nation's most capable and loyal troops. Despite suffering the worst deprivations known to any American soldiers of the period, they had the lowest desertion rates in the Army. The 9th Cavalry was awarded 10 Congressional Medals of Honor, including a native Louisianan, SGT. Emanuel Stance—a farmer from Carrol Parish.

For these reasons, I am offering legislation that would authorize the creation of a suitable memorial in New Orleans for these gallant soldiers. There is an excellent statue to the Buffalo Soldiers at Fort Leavenworth, KS. It commemorates the 10th Cavalry Regiment stationed there. However, I believe that these men deserve to be recognized in their home city.

Furthermore, it should be in a location where thousands of visitors will have the opportunity to come to appreciate the legacy of the Buffalo Soldiers. I believe that the city of New Orleans is the perfect location.

Mr. President, we have made a number of changes to this legislation after consultations with the American Battle Monuments Commission. I believe these changes should address any concerns that they have expressed. Furthermore, we have an able and dedicated organization of individuals in the State who desperately want to see this project to completion. Last year, I had the pleasure of being in New Orleans with another of this Nation's great military heroes, Senator DANIEL INOUYE. We addressed a group of distinguished veterans from all around the State. Among them was George Jones, President of the Greater New Orleans Chapter of the Buffalo Soldiers Association. They have been working with Eddie Dixon, the artist for the beautiful Fort Leavenworth statue, to develop an appropriate memorial in the city of New Orleans for over a decade. This bill will fulfill that noble ambition.

Mr. President, this Nation has sadly found the need to say thank you to its service men and women after the fact on more than one occasion. Unfortunately, this is another. We are fortunate to have living memories of the 9th and 10th Cavalry Regiments today. The regiments were not disbanded until the conclusion of World War II, where they served with distinction. We should take this opportunity to honor these veterans, and in so doing, honor the principles of liberty, freedom and democracy for which they fought and sacrificed. They have given so much to their Nation, we owe them this public expression of gratitude.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Soldier Commemoration Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) the 9th and 10th Cavalry regiments and the 24th and 25th Infantry regiments, comprised of African-American soldiers referred to as "Buffalo Soldiers", performed outstanding service to the United States during—

(A) the Indian Wars;

(B) the Spanish-American War;

(C) the Philippine Insurrection; and

(D) the raids against Poncho Villa;

(2) in recognition of the contributions of the Buffalo Soldiers to the defense of the United States, soldiers in the 9th and 10th Cavalry regiments were awarded 20 individual Congressional Medals of Honor;

(3) the Buffalo Soldiers established a rich tradition of professional African-American soldiers in the United States Army by granting a commission—

(A) in the 10th Cavalry regiment, to the first African-American professional officer; and

(B) in the 9th Cavalry regiment, to the first African-American graduates of West Point;

(4) while the Buffalo Soldiers served the United States with bravery and fortitude in the harshest environments and under the most difficult conditions, the service of the Buffalo Soldiers has not been sufficiently memorialized;

(5) the Buffalo Soldiers remain emblems of the work of free men in defense of the United States and should be recognized for their contributions; and

(6) because 2 of the 4 African-American regiments were organized in the State of Louisiana and were initially comprised of recruits from the city of New Orleans, the State of Louisiana is an appropriate place to establish a memorial to recognize the contributions of the Buffalo Soldiers.

SEC. 3. DEFINITIONS.

In this Act:

(1) BUFFALO SOLDIER.—The term "Buffalo Soldier" means an African-American soldier that served in—

(A) the 9th Cavalry regiment;

(B) the 10th Cavalry regiment;

(C) the 24th infantry regiment; or

(D) the 25th infantry regiment.

(2) CITY.—The term "city" means the city of New Orleans, Louisiana.

(3) COMMISSION.—The term "Commission" means the American Battle Monuments Commission.

(4) FUND.—The term "Fund" means the Buffalo Soldier Memorial Fund established by section 5(a).

(5) MEMORIAL.—The term "memorial" means the memorial established under section 4(a).

(6) MUSEUM.—The term "museum" means the Louisiana State Museum in the State.

(7) STATE.—The term "State" means the State of Louisiana.

SEC. 4. ESTABLISHMENT OF MEMORIAL.

(a) IN GENERAL.—The Commission may establish a memorial to honor the Buffalo Soldiers—

(1) on Federal land in the city or its environs; or

(2) on land donated by the city or the State.

(b) CONTRIBUTIONS.—The Commission shall solicit and accept contributions sufficient for the construction and maintenance of the memorial.

(c) MAIL.—The Commission shall be considered to qualify for the rates of postage currently in effect under former section 4452 of title 39, United States Code, for third-class mail matter mailed by a qualified nonprofit organization with respect to official mail sent in carrying out this section.

(d) VOLUNTARY SERVICES.—

(1) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept from any person voluntary services provided in furtherance of fundraising activities of the Commission relating to the memorial.

(2) TREATMENT OF VOLUNTEERS.—

(A) IN GENERAL.—Subject to subparagraph (B), a person that provides voluntary services under this subsection—

(i) shall be considered to be a Federal employee for the purposes of chapter 81 of title 5 and chapter 171 of title 28, United States Code; but

(ii) shall not be considered to be a Federal employee for any other purpose by reason of the provision of the voluntary service.

(B) CERTAIN RESPONSIBILITIES.—A person described in subparagraph (A) that is assigned responsibility for the handling of funds or the carrying out of a Federal function shall be subject to—

(i) section 208 of title 18, United States Code; and

(ii) part 2635 of title 5, Code of Federal Regulations (or any successor regulation).

(3) REIMBURSEMENT.—The Commission may—

(A) identify types of incidental expenses incurred by a person providing voluntary services under this subsection for which the person may be reimbursed; and

(B) provide for reimbursement of those expenses.

(4) NO EFFECT ON FEDERAL EMPLOYEES.—Nothing in this subsection—

(A) requires any Federal employee to work without compensation; or

(B) permits the use of volunteer services to displace or replace any services provided by a Federal employee.

(e) TREATMENT OF CERTAIN CONTRACTS.—A contract entered into by the Commission for the design or construction of the memorial shall not be considered to be a funding agreement for the purpose of chapter 18 of title 35, United States Code.

(f) LEGAL REPRESENTATION.—

(1) IN GENERAL.—The Attorney General shall provide the Commission such legal representation as the Commission requires to carry out subsection (e).

(2) PATENT AND TRADEMARK REPRESENTATION.—The Secretary of Defense shall provide representation for the Commission in any administrative proceeding before the Patent and Trademark Office and Copyright Office.

(g) IRREVOCABILITY OF TRANSFERS OF COPYRIGHTS TO COMMISSION.—Section 203 of title 17, United States Code, shall not apply to any copyright transferred to the Commission.

(h) PARTICIPATION IN COMBINED FEDERAL CAMPAIGN.—The Director of the Office of Personnel Management shall include the Commission on the list of agencies eligible for participation in each Combined Federal Campaign carried out the Executive Branch under Executive Order No. 10927 (March 18, 1961), until such time as the Commission certifies to the Director of the Office of Personnel Management that fundraising for the memorial is concluded.

SEC. 5. MEMORIAL FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be used by the Commission to pay the expenses incurred in establishing the memorial, to be known as the "Buffalo Soldier Memorial Fund".

(b) DEPOSITS IN THE FUND.—The Commission shall deposit in the Fund—

(1) amounts accepted by the Commission under section 4(b); and

(2) interest and proceeds credited to the Fund under subsection (d).

(c) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Fund that is not, in the judgment of the Chairman of the Commission, required to meet current withdrawals. Investments may be made only in—

(1) an interest-bearing obligation of the United States; or

(2) an obligation guaranteed as to principal and interest by the United States that the Chairman of the Commission determines has a maturity suitable for the Fund.

(d) CREDITS TO FUND.—The interest on, and proceeds from sale or redemption of, obligations held in the Fund shall be credited to the Fund.

(e) USE OF FUND.—Amounts in the Fund shall be available—

(1) to the Commission—

(A) to pay expenses incurred in establishing the memorial; and

(B) to secure, obtain, register, enforce, protect, and license any mark, copyright, or patent that is owned by, assigned to, licensed to the Commission to aid or facilitate the construction of the memorial; and

(2) to the Commission, or to another agency or entity to which the amounts are transferred under subsection (f)—

(A) for the maintenance and upkeep of the memorial; and

(B) after establishment of the memorial, for such other expenses relating to the memorial as the Commission, agency, or entity considers to be necessary.

(f) TRANSFER OF AMOUNTS IN FUND.—Amounts in the Fund may be transferred by the Commission to an agency or entity to which title to the memorial is transferred under section 6.

SEC. 6. TRANSFER OF POSSESSION AND AUTHORITY FOR MEMORIAL.

On or after the date that is 1 year after the date of establishment of the memorial, the Commission may transfer any amounts remaining in the Fund, and title to and responsibility for future operation and maintenance of the memorial, to, at the option of the Commission—

(1) the National Park Service; or

(2) another appropriate governmental agency or other entity (such as a State or local government agency, or a nonprofit corporation that applies to the Commission to take title to the memorial) that is an organization described in section 170(c) of the Internal Revenue Code of 1986.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. GRASSLEY (for himself, Mr. COCHRAN, Mr. BAUCUS, Mr. DEWINE, Mr. JOHNSON, and Ms. SNOWE):

S. 501. A bill to provide a grant program for gifted and talented students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President, today I am reintroducing legislation intended to help states address the educational needs of gifted and talented students. There are approximately 3 million children in the United States who are considered gifted and talented. It is important to note that gifted and talented children are not simply the kids who do well in school and get good grades. In fact, not all gifted students get good grades and not all students who get straight A's are necessarily gifted learners. What makes a child gifted and talented is how he or she learns. Gifted and talented children actually look at the world differently and often have a different way of interacting socially. As a result, gifted and talented students have different educational needs than other students.

I am reminded of an example from my home state of Iowa. I have learned of a third grade student from Iowa City named Jose. Jose was having trouble in school. He didn't always complete his assignments and he had trouble paying attention in class. He was also a bit of a loner and didn't interact much with his classmates. As a result, his teacher saw him as a problem student and struggled to get him to behave like the other children. Still, it was clear to Jose's parents that he had a hunger to learn. He loved to go to the library and was very inquisitive. Over the summer, Jose's parents had his IQ tested and he was found to have a high level of intelligence. As a result, when he started school again in the fall, his parents asked that he be identified as gifted and receive services. Jose now leaves his regular classroom a couple of times a week for what Iowa City schools call the "extended learning program." As a result, he is finally receiving the stimulation he was lacking at school. Jose now enjoys school more, has made new friends, and is doing great with his regular school work.

Gifted and talented children have enormous potential. Today's gifted and talented child may grow up to become a leader in the field of science or a world-renowned performer. However, this will not happen automatically. Gifted and talented children need to be challenged and their unique skills must be nurtured. Currently, many gifted and talented children do not receive the educational programs and services they need to live up to their potential. In fact, many gifted and talented children lose interest in school; they learn how to expend minimum effort for top grades, have low motivation, and develop poor work habits. Some may abandon their education altogether and drop out of school. This is a tragedy not only for the students, but also for our society.

We hear a lot about how the United States has a shortage of individuals with the skills in math and science that are necessary for our Nation to continue to be competitive in today's global economy. Our security agencies are scrambling to find linguists who know or can quickly learn foreign languages. In fact, one of the findings included in my bill states, "To meet the future economic and national security needs of the United States, it is important that more students achieve to higher levels, and that highly capable students receive an education that prepares them to perform the most highly innovative and creative work that is necessary to secure our Nation's position in the world."

In times of national crisis or uncertainty, the United States has always turned to its best and brightest to solve whatever problems face us. The launch of Sputnik by the Soviet Union brought to national attention for the first time the need to develop the special gifts and talents of young Americans. Once again, we find ourselves in a time of uncertainty, facing new threats and challenges that we are struggling to understand. In order to ensure that our country is prepared to face whatever unforeseen problems will come our way in the future, we must invest now in this vital national resource, gifted students.

My legislation is not intended to make the education of gifted and talented students primarily a Federal responsibility. Education is, and should be, chiefly a State and local responsibility. Nevertheless, the Federal Government does have a role to play. The availability and quality of gifted and talented educational services currently varies widely from State to State. This situation has an especially adverse effect on disadvantaged gifted students whose parents cannot afford to pay for private programs or summer camps. Untimately, gifted and talented students in every public school should have access to specialized educational services that are designed to address their learning needs. Still, my bill would simply provide the seed money to help States begin to expand the availability of gifted education services.

My gifted and talented initiative would distribute grants, based on a State's student population, to each State education agency. States will then provide grants to local school districts on a competitive basis to be used to identify and provide educational services to gifted and talented students from all economic, ethnic, and racial backgrounds, including students with limited English proficiency and students with disabilities. Rather than providing a steady Federal funding stream directly to the local level, on which schools might become dependent, the competitive subgrants will allow States to target school districts that need to jump-start their gifted and talented program. At the same time, the local competitive grant process will encourage State education agencies to more closely examine the needs of gifted children in their respective States.

At least 90 percent of the funds provided to a State must be subgranted to school districts and the funds must supplement, not supplant, funds currently being spent. Additionally, States must make their own commitment to gifted and talented students by matching 10 percent of the Federal funds, either in cash or in kind. All of this is intended to help gifted and talented programs and services take root in each State and in local school districts so that they can grow and develop to fully address the unique educational needs of this special group of students.

I have intentionally included a broad range of authorized uses for the grants in my bill in order to allow States and local school districts the flexibility to address their specific needs. School districts can use these funds to provide professional development for personnel involved in the education of gifted and talented students, including gifted education teachers, general education teachers, and other school personnel like administrators and school counselors. The funds can also be used to provide direct educational services and materials. Or, school districts could use the funds to support items like innovative strategies for teaching gifted students, making materials available through regional centers, or providing high-level course work through distance learning technology.

The Federal involvement in gifted and talented education is not new. The Javits Gifted and Talented Students Education Act has provided valuable information on strategies to meet the needs of gifted students since 1988 through the funding of demonstration grants and the National Research Center on the Gifted and Talented. In the No Child Left Behind Act of 2001, Congress expanded the Javits Act to authorize competitive grants to States to expand the capacity of States to meet the needs of gifted students. These new grants represent some potential to improve the ability of select States to address the needs of gifted and talented children, and I am pleased with the progress we have been able to make thus far. My legislation would build on the existing Javits Act to create a comprehensive approach to expanding the ability of States and school districts nationwide to meet the needs of gifted and talented students.

Congress has rightly placed a renewed emphasis on making sure all children are successful learners. In our efforts to leave no child behind, we must not forget gifted and talented students. I would remind my colleagues of the example I cited earlier. Jose is a success story because his parents saw his potential and pointed it out to school officials, and because he attended a school where quality gifted education services are available. There are many more students like Jose across the country who have either not been identified as gifted or who attend a school where gifted education services are not provided. I would urge my colleagues to join me in seeing that these exceptional young people across our great Nation have the support and services they need to be successful. I ask for your support for the Gifted and Talented Students Education Act of 2003.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT PROGRAM FOR GIFTED AND TALENTED STUDENTS.

(a) SHORT TITLE.—This Act may be cited as the “Gifted and Talented Students Education Act of 2003”.

(b) AMENDMENT.—Subpart 6 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7253 et seq.) is amended by adding at the end the following:

“Chapter B—Grant Program For Gifted and Talented Students

“SEC. 5467. FINDINGS; ESTABLISHMENT OF PROGRAM; AUTHORIZED ACTIVITIES.

“(a) FINDINGS.—Congress makes the following findings:

“(1) Gifted and talented students give evidence of high performance capability in specific academic fields, or in areas such as intellectual, creative, artistic, or leadership capacity, and require services or activities not ordinarily provided by a school in order to fully develop such capabilities. Gifted and talented students are from all cultural, racial, and ethnic backgrounds, and socioeconomic groups. Some such students have disabilities and for some, English is not their first language. Many students from such diverse backgrounds have been historically underrepresented in gifted education programs.

“(2) Elementary school students who are gifted and talented have already mastered 35 to 50 percent of the material covered in a school year in several subject areas before the school year begins.

“(3) Elementary school and secondary school teachers have students in their classrooms with a wide variety of traits, characteristics, and needs. Most teachers receive some training to meet the needs of these students, such as students with limited English proficiency, students with disabilities, and students from diverse cultural and racial backgrounds. However, most teachers do not receive training on meeting the needs of students who are gifted and talented.

“(4) While the families or communities of some gifted students can provide private programs with appropriately trained staff to supplement public educational offerings, most high-ability students, especially those from inner cities, rural communities, or low-income families, must rely on the services and personnel provided by public schools. Therefore, gifted education programs, provided by qualified professionals in the public schools, are needed to provide equal educational opportunities.

“(5) Parents and families are essential partners to schools in developing appropriate educational services for gifted and talented students. They need access to information, research, and support regarding the characteristics of gifted children and their educational, and social and emotional needs, as well as information on available strategies and resources for education in State and local communities.

“(6) There currently is no Federal requirement to identify or serve the Nation's approximately 3,000,000 gifted and talented students.

“(7) While some States and local educational agencies allocate resources to educate gifted and talented students, others do not. Additionally, State laws, and State and local funding, identification, and accountability mechanisms vary widely, resulting in a vast disparity of services for this special-needs population.

“(8) To meet the future economic and national security needs of the United States, it is important that more students achieve to higher levels, and that highly capable students receive an education that prepares them to perform the most highly innovative and creative work that is necessary to secure our Nation's position in the world.

“(9) The performance of twelfth-grade advanced students in the United States on the Third International Mathematics and Science Study (TIMSS) was among the lowest in the world. In each of 5 physics content areas in the study and in each of 3 mathematics content areas in the study, the performance of physics and advanced mathematics students in the United States was among the lowest of the participating countries.

“(10) In 1990, fewer than 2 cents out of every $100 spent on elementary and secondary education in the United States was devoted to providing challenging programming for the Nation's gifted and talented students.

“(b) PROGRAM AUTHORIZED.—

“(1) COMPETITIVE GRANTS TO STATES.—If the amount appropriated under section 5468 for a fiscal year is greater than $7,500,000 but less than $57,500,000, then the Secretary may use such amount to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award grants to local educational agencies under section 5467C for developing or expanding gifted and talented education programs, and providing direct educational services and materials.

“(2) FORMULA GRANTS TO STATES.—If the amount appropriated under section 5468 for a fiscal year equals or exceeds $57,500,000, then the Secretary may use such amount to award grants to State educational agencies, from allotments under section 5467B, to enable the State educational agencies to award grants to local educational agencies under section 5467C for developing or expanding gifted and talented education programs, and providing direct educational services and materials.

“(c) AUTHORIZED ACTIVITIES.—Grant funds provided under this chapter shall be used to carry out 1 or more of the following activities:

“(1) Any activity described in paragraph (2), (4), (6), or (7) of section 5464(b).

“(2) Providing direct educational services and materials to gifted and talented students, which may include curriculum compacting, modified or adapted curriculum, acceleration, independent study, and dual enrollment.

“(d) LIMITATIONS ON USE OF FUNDS.—

“(1) COURSE WORK PROVIDED THROUGH EMERGING TECHNOLOGIES.—Grant funds provided under this chapter that are used for activities described in section 5464(b)(7) may include development of curriculum packages, compensation of distance-learning educators, or other relevant activities, but grant funds provided under this chapter may not be used for the purchase or upgrading of technological hardware.

“(2) STATE USE OF FUNDS.—

“(A) IN GENERAL.—A State educational agency receiving a grant under this chapter may not use more than 10 percent of the grant funds for—

“(i) dissemination of general program information;

“(ii) providing technical assistance under this chapter;

“(iii) monitoring and evaluation of programs and activities assisted under this chapter;

“(iv) providing support for parental education; or

“(v) creating a State gifted education advisory board.

“(B) ADMINISTRATIVE COSTS.—A State educational agency may use not more than 50 percent of the funds made available to the State educational agency under subparagraph (A) for administrative costs.

“SEC. 5467A. ALLOTMENTS TO STATES.

“(a) RESERVATION OF FUNDS.—From the amount made available to carry out this chapter for any fiscal year, the Secretary shall reserve ½ of 1 percent for the Secretary of the Interior for programs under this chapter for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

“(b) STATE ALLOTMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall allot the total amount made available to carry out this chapter for any fiscal year and not reserved under subsection (a) to the States on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

“(2) MINIMUM GRANT AMOUNT.—No State receiving an allotment under paragraph (1) may receive less than ½ of 1 percent of the total amount allotted under such paragraph.

“(c) REALLOTMENT.—If any State does not apply for an allotment under this section for any fiscal year, then the Secretary shall reallot such amount to the remaining States in accordance with this section.

“SEC. 5467B. STATE APPLICATION.

“(a) IN GENERAL.—To be eligible to receive a grant under this chapter, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTENTS.—Each application under this section shall include assurances that—

“(1) the funds received under this chapter will be used to identify and support gifted and talented students, including gifted and talented students from all economic, ethnic, and racial backgrounds, such students of limited English proficiency, and such students with disabilities;

“(2) the funds not retained by the State educational agency shall be used for the purpose of making, in accordance with this chapter and on a competitive basis, grants to local educational agencies;

“(3) the funds received under this chapter shall be used only to supplement, but not supplant, the amount of State and local funds expended for the education of, and related services for, gifted and talented students;

“(4) the State educational agency will provide matching funds for the activities to be assisted under this chapter in an amount equal to not less than 10 percent of the grant funds to be received, which matching funds may be provided in cash or in kind; and

“(5) the State educational agency shall develop and implement program assessment models to ensure program accountability and to evaluate educational effectiveness.

“(c) APPROVAL.—To the extent funds are made available to carry out this chapter, the Secretary shall approve an application of a State if such application meets the requirements of this section.

“SEC. 5467C. DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES.

“(a) GRANT COMPETITION.—A State educational agency shall use not less than 90 percent of the funds made available to the State educational agency under this chapter to award grants to local educational agencies (including consortia of local educational agencies) to enable the local educational agencies to carry out the authorized activities described in section 5467(c).

"(b) COMPETITIVE PROCESS.—Funds provided under this chapter to local educational agencies shall be distributed to local educational agencies through a competitive process that results in an equitable distribution by geographic area within the State.

"(c) SIZE OF GRANT.—A State educational agency shall award a grant under subsection (a) for any fiscal year in an amount sufficient to meet the needs of the students to be served under the grant.

"SEC. 5467D. LOCAL APPLICATIONS.

"(a) APPLICATION.—To be eligible to receive a grant under this chapter, a local educational agency (including a consortium of local educational agencies) shall submit an application to the State educational agency.

"(b) CONTENTS.—Each application under this section shall include—

"(1) an assurance that the funds received under this chapter will be used to identify and support gifted and talented students, including gifted and talented students from all economic, ethnic, and racial backgrounds, such students of limited English proficiency, and such students with disabilities;

"(2) a description of how the local educational agency will meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students; and

"(3) an assurance that funds received under this chapter will be used to supplement, not supplant, the amount of funds the local educational agency expends for the education of, and related services for, gifted and talented students.

"SEC. 5467E. ANNUAL REPORTING.

"Beginning 1 year after the date of enactment of the Gifted and Talented Students Education Act of 2003 and for each year thereafter, the State educational agency shall submit an annual report to the Secretary that describes the number of students served and the activities supported with funds provided under this chapter. The report shall include a description of the measures taken to comply with paragraphs (1) and (4) of section 5467B(b).

"SEC. 5467F. CONSTRUCTION.

"Nothing in this chapter shall be construed to prohibit a recipient of funds under this chapter from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 5467G. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.

"In making grants under this chapter, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

"SEC. 5467H. DEFINITIONS.

"For purposes of this chapter:

"(1) GIFTED AND TALENTED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'gifted and talented' when used with respect to a person or program—

"(i) has the meaning given the term under applicable State law; or

"(ii) in the case of a State that does not have a State law defining the term, has the meaning given such term by definition of the State educational agency or local educational agency involved.

"(B) SPECIAL RULE.—In the case of a State that does not have a State law that defines the term, and the State educational agency or local educational agency has not defined the term, the term has the meaning given the term in section 9101.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Chapter C—Authorization of Appropriations

"SEC. 5468. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $170,000,000 for each of fiscal years 2004 through 2010, of which—

"(1) $7,500,000 shall be available for each fiscal year to carry out chapter A; and

"(2) the remainder shall be available for each fiscal year to carry out chapter 2.".

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

Subpart 6 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7253 et seq.) is amended—

(1) by inserting after the subpart designation the following:

"Chapter A—Jacob K. Javits Gifted and Talented Students Education Program";

(2) in section 5461 (20 U.S.C. 7253), by striking "This part" and inserting "This chapter";

(3) by striking "this part" each place the term appears and inserting "this chapter"; and

(4) in section 5464 (20 U.S.C. 7253c)—

(A) by striking subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

By Mrs. BOXER:

S. 502. A bill to amend the Safe Drinking Water Act to designate perchlorate as a contaminant and to establish a maximum contaminant level for perchlorate; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation to protect drinking water from contamination by the toxic chemical perchlorate. My bill will require the U.S. Environmental Protection Agency (EPA) to establish a standard for perchlorate contamination in drinking water supplies by July 1, 2004. Under EPA's current schedule, 2006 is the earliest date a standard would be finalized.

Perchlorate is a clear and present danger to California's public health. We cannot wait 4 more years to address this threat. EPA needs to get moving and protect our drinking water sooner rather than later.

Drinking water sources for at least 7 million Californians and millions of other Americans are contaminated with perchlorate. Perchlorate is the main ingredient in rocket fuel, which accounts for 90 percent of its use. Perchlorate is also used for ammunition, fireworks, highway safety flares, air bags, and fertilizers. It dissolves readily in many liquids, including water, and moves easily and quickly through cracks and water.

Perchlorate was first discovered in drinking water in 1957, although it was rarely listed as a contaminant of concern as late as the mid-1900s. Since 1997, when California's Department of Health Services developed a new, more sensitive analytical testing method that can detect perchlorate down to 4 parts per billion, perchlorate has been found in soil, groundwater, and surface water throughout the U.S.

Perchlorate poses a variety of serious health risks relating to thyroid function, especially in newborns, children, and pregnant women. Exposure to perchlorate interferes with the thyroid gland's ability to produce the hormones needed for normal prenatal development. This can cause both physical and mental retardation. Perchlorate is also linked to thyroid cancer.

Californians face special threats from perchlorate contamination because so many rockets and missiles were built and tested in the state during World War II and the cold war. Groundwater can become contaminated wherever the chemical is manufactured, used, disposed of, or stored.

Alarming levels of perchlorate have been discovered in Lake Mead and the Colorado River, the drinking water source for millions of Southern Californians. Communities in the Inland Empire, San Gabriel Valley, Santa Clara Valley, and the Sacramento area are also grappling with perchlorate contamination. In addition, more than 20 million Americans in at least 19 states drink water contaminated with perchlorate.

My bill will ensure that EPA acts swiftly to address this threat to our health and welfare. I look forward to working with my colleagues to pass this important piece of legislation.

By Ms. LANDRIEU:

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency; to the Committee on the Judiciary.

Ms. LANDRIEU. Mr. President, I was surprised and disappointed by the Ninth Circuit Court of Appeals' decision not to reconsider its ruling in the case of Newdow versus U.S. Congress. To remind my colleagues, in the Newdow case, a three-judge panel of the Ninth Circuit held that the reference to God in the Pledge of Allegiance was unconstitutional. The Bush administration requested that the Ninth Circuit reconsider its ruling in the case. At the end of last week, the Ninth Circuit meeting en banc refused to reconsider its ruling. The case will likely go to the Supreme Court.

When the court first made its decision in Newdow last year, I introduced a proposed constitutional amendment that simply said that references to God in the Pledge of Allegiance and on our currency did not affect an establishment of religion under the first amendment. In light of the en banc Ninth Circuit's refusal to reconsider its ruling, I am reintroducing my proposed amendment today.

Mr. President, references to God are found in every one of our founding documents from the Declaration of Independence to the Constitution, as well as in the Pledge of Allegiance. The phrase "In God We Trust" appears on all of our currency and on many public buildings. Every day, we begin Senate sessions with a prayer and the pledge. I firmly believe that the Framers of the Constitution and the first amendment did not want to ban all references to God from public discourse when they wrote the establishment clause. What they wanted to prevent was the establishment of an official national religion and to keep the Government from getting intimately involved in the organization of one religion over another.

These references to God are ceremonial. Certainly, they do have meaning, but individuals are free to put whatever meaning on the word they choose. Indeed, I fully respect and support the rights of people not to participate in the pledge or in ceremonial prayer and my amendment will not coerce anyone to recite the Pledge of Allegiance in public or in school.

Mr. President, I had hoped that the Ninth Circuit would reconsider its earlier holding. It has not. The Supreme Court may have the oppoortunity to hear arguments in this case. Should the Supreme Court decide not to hear the case or to overrule the lower court, then Congress should restore the appropriate balanced separation between church and state that I believe was the intent of the Framers.

I urge my colleagues to support this joint resolution.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 7

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. A reference to God in the Pledge of Allegiance or on United States currency shall not be construed as affecting the establishment of religion under the first article of amendment of this Constitution.

"SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 70—DESIGNATING THE WEEK BEGINNING MARCH 16, 2003 AS "NATIONAL SAFE PLACE WEEK"

Mr. CRAIG (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committee to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 655 communities in 41 states and more than 11,000 locations have established Safe Place programs;

Whereas over 61,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the county each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 16 through March 23, 2003 as "National Safe Place Week" and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 5, 2003, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee business, to be followed immediately by a hearing on the President's FY 2004 Budget for Indian Programs.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on March 13, 2003 at 10 a.m. in room SD-366.

The purpose of this hearing is to gain an understanding of the impacts of last year's fires and then look forward to the potential 2003 fire season. The hearing will give all Committee members a solid understanding of the problems faced last year and what problems the agencies and the land may face this last season. Further it will provide the basis for other fire hearings that we may want to undertake at the Subcommittee level as the year goes on.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364, Washington, DC 20510-6150.

For further information, please contact Frank Gladics (202-224-2878) or Jared Stubbs (202-224-7556).

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources. The purpose of this hearing is to conduct oversight on the designation and management of National Heritage Areas, including criteria and procedures for designating heritage areas, the potential impact areas on private lands and communities, federal and non-federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.

The hearing will take place on March 13, 2003 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact: Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

ORDERS FOR TUESDAY, MARCH 4, 2003

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, March 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for up to 2 hours, with the first 30 minutes under the control of Senator ALEXANDER, the second 30 minutes under the control of Senator MURKOWSKI or her designee, and the final 60 minutes under the control of the Democratic leader or his designee.

I further ask unanimous consent that upon the conclusion of morning business, the Senate return to executive session and resume the consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. I ask unanimous consent that the Senate recess from the hour of 12:30 p.m. to 2:15 p.m. for the weekly party caucuses.

Mr. REID. Mr. President, if my friend would yield?

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. HATCH. I am happy to yield.

Mr. REID. Mr. President, I want to commend the majority leader for allowing morning business. We have been so tied up with the Estrada nomination, and I understand why he has not allowed it in the past, but it is really long overdue. We have some people who have been wanting to speak in morning business for some time now. We will do our best to get them here in the morning. I do not know if we can, but we are going to do our best. Again, I appreciate the majority leader consenting to allowing us to do this.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HATCH. Mr. President, for the information of all Senators, following morning business, the Senate will return to the Estrada nomination. Since taking up this nomination almost a month ago, the Senate has thoroughly and vigorously debated Mr. Estrada's qualifications to serve on the DC Circuit Court. Although a solid majority of Senators supports this nomination, several of my colleagues on the other side of the aisle refuse to let this well-qualified man receive an up-or-down vote on confirmation. Those who oppose Mr. Estrada certainly have a right to have their opinions heard, but I think it is more than fair to say that every Senator has had ample opportunity to speak on the nomination. I encourage any Member who still wishes to speak on the nomination to do so during tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:38 p.m., adjourned until Tuesday, March 4, 2003, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 3, 2003:

THE JUDICIARY

MARIAN BLANK HORN, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

EXTENSIONS OF REMARKS

TRIBUTE TO UNITA BLACKWELL

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Unita Blackwell, a living legend who went from picking cotton to a leadership role in the civil rights movement. She was elected Mayor of Mayersville, a small town in the Mississippi Delta. She is the first African American female mayor in the State.

The 68-year-old former activist grew up in the Delta region of the state at a time when conditions there were desperate. She came from a family of sharecroppers and picked cotton into adulthood.

The year that changed her life was 1964—Mississippi Freedom Summer. She joined forces with the freedom riders and with activists working for the Student Nonviolent Coordination Committee (SNCC). The objective was to register African Americans fully 36 percent of the State's population—to vote. She also participated in the struggle to desegregate the delegations that Mississippi sent to the Democratic National Convention.

The effort failed in 1964, but succeeded 4 years later after the national Civil Rights and Voting Rights Acts was passed ending legally mandated segregation in the state and throughout the South. For the first time since Reconstruction, Mississippi sent an integrated delegation to the 1968 Democratic Convention. It was the crowning achievement of Mississippi Freedom Summer.

She is a past national president of the U.S.-China People's Friendship Association and has visited the country a number of times. "The same principles applies to international relations as to relations within countries. It's all about understanding and working together to forge solutions," she says. "Everyone—all over the world—has two eyes, a nose and a mouth; we should get along and treat each other right."

TRIBUTE TO LINCOLN UNIVERSITY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to recognize Lincoln University in Jefferson City, MO, on 137 years of service to the State of Missouri. On January 30, the annual Founders' Day Celebration was held at Richardson Auditorium at the university.

Lincoln University was founded on January 14, 1866, by soldiers and officers of the 62nd and the 65th Missouri Colored Infantry units. They gave a combined $6,400 to establish the educational institution they named Lincoln Institute. The institute was founded with three stipulations: The institution shall be designed for the special benefit of the freed African Americans; it shall be located in the State of Missouri; and its fundamental idea shall be to combine study and labor.

In 1921, the Missouri Legislature passed a bill introduced by Walthall M. Moore, the first Black American to serve in that body, which changed the name from Lincoln Institute to Lincoln University and created a board of curators to govern the University.

Mr. Speaker, Lincoln University's annual Founders' Day Celebration is not only a celebration of another passing year's educational service but a chance once a year to remember the history of this great university. I applaud Lincoln University for its willingness to not forget the past and make sure its students know exactly how their university came to be. I know the Members of the House will join me in congratulating Lincoln University on 137 years of education excellence.

IN HONOR OF THE LAND TRUST OF SANTA CRUZ COUNTY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. FARR. Mr. Speaker, I rise today to honor one of the most loved and supported organizations in my congressional district. Last weekend the Land Trust of Santa Cruz County celebrated its 25-year anniversary, having begun when a small group of dedicated individuals decided in 1978 to help preserve open land.

The Land Trust of Santa Cruz County has worked cooperatively and collaboratively with a wide array of people, organizations, businesses and groups throughout this time to safeguard and protect over 1,250 acres. They have done this through direct purchases of land, donations of land, conservation easements and land management agreements. Mr. Speaker, as many people from my district and in this body are aware, I am a firm believer in the power of collaboration to achieve great ends, and I believe that the work of the Land Trust is one of the greatest examples of this power.

On Friday, February 21, the Land Trust held a benefit dinner to honor the work of those who were early pioneers in this effort. I was proud to join my colleague, ANNA ESHOO, as a member of the Honorary Host Committee, although we could not attend due to other obligations. At this event, several people were honored for their work, and I wish to do so here, as well. First, my good friend and former staff member Fred Keeley received special recognition for his achievements as a member of the California Assembly for the past 6 years; John and Patty Brissenden were two of the first organizers of this organization, and have remained active and committed since then; Ted and Pat Durkee helped found the Land Trust, and have also remained closely associated since its inception; Angie Christmann has been a dedicated volunteer since 1985; La Mina Smith, who accepted the recognition on behalf of the late Al Smith, a local businessman vital to the groups efforts; Diane Porter Cooley, who accepted on behalf of the late Bernice Porter and her donation of conservation easements for a large agriculture area; and the Cummings family, who accepted on behalf of the late Anna Jean Cummings, a cofounder of the Land Trust and its first Executive Director.

I applaud the efforts of the Land Trust and those who support their mission of protection and conservation of this county's greatest natural resources. Mr. Speaker, I hope that my colleagues will join me in celebrating their anniversary, and wish them continued success in the next 25 years.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. HINOJOSA. Mr. Speaker, I regret that I had to travel to my congressional district for an important event on February 27, 2003. Had I been present, I would have voted "yes" on rollcall Nos. 37 and 38, and "no" on rollcall No. 39.

TRIBUTE TO BEVERLY W. HOGAN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Mrs. Beverly W. Hogan. Mrs. Hogan is the current President of Tougaloo College. Mrs. Hogan has a bachelors of art degree in Psychology. Mrs. Hogan then received a Master's degree in public policy and administration from Jackson State University. She has done additional studies at the University of Southern Mississippi, University of Georgia and St. Mary

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

College. Mrs. Hogan is presently pursuing a doctorate in organizational management and leadership at the University of Phoenix.

Before becoming President of Tougaloo College, Mrs. Hogan had twenty-five years of experience in executive management and leadership in which she has many accomplishments. In 1975, she established the first rape crisis center and shelter for battered women. Mrs. Logan has held many prestigious positions within the government of Mississippi. A few of these positions include the Executive Assistant to the President and Vice President of Institutional Development, and a member of the Governors' Association Welfare Prevention Task Force.

One of Mrs. Logan's latest accomplishments includes completing a two-year assignment as a new scholar with the Kettering Foundation. Mrs. Hogan's dedication to her professional and civic contributions has received her recognition. She has received numerous honors, to cite a selected few; she was named the State Administrator of the year in 1986 by the American Society of Public Administration, A Toll Fellow by the Council of State Governments in 1987, and Woman of the Year by the Business and Professional Women Club in 1989.

Mrs. Hogan is also an active member of her community. She volunteers and serves on various boards, including the United Way, Mississippi Women's Political Network, Mississippi Infant Task Force and the Mississippi Symphony Orchestra.

RECOGNIZING NATIONAL PEACE CORPS DAY

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. ROYCE. Mr. Speaker, I rise today in recognition of National Peace Corps Day, which was last Friday, February 28th.

I recently returned from a trip to Africa, where I had a chance to meet with Peace Corps volunteers in Madagascar. The commitment of these men and women, who returned to this country after being evacuated due to its political instability, is extremely impressive.

President Bush has issued a call to service for all Americans—both at home and abroad. The President has offered a bold vision to significantly expand the Peace Corps. Congress should give the President the tools he needs to make his Peace Corps vision a reality.

Mr. Speaker, I have seen the valuable work the Peace Corps is doing in Africa, and throughout the developing world. It deserves our recognition and support. Under the leadership of Director Gaddi Vasquez, the Peace Corps is well poised to address the rapidly evolving challenges of the developing world.

DO-NOT-CALL IMPLEMENTATION ACT

SPEECH OF

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 12, 2003

Mr. STRICKLAND. Mr. Speaker, I rise today in opposition to H.R. 395, the Do-Not-Call Implementation Act of 2003. This bill will authorize the Federal Trade Commission to collect fees from the telemarketing industry in order to implement and enforce a Do-Not-Call registry. The 1994 Telemarketing and Consumer Fraud and Abuse Prevention Act directed the FTC to include in any rulemaking a requirement to curb unsolicited telephone calls that are coercive or abusive to a consumer's right to privacy. The FTC has interpreted this direction to create the Do-Not-Call List. Let me say in the beginning that I support the concept of a national do-not-call list. I support the notion that we should not have to leave our phones off the hook if we don't want to be disturbed during dinner time. However, I fear the Do-Not-Call List proposed by the Federal Trade Commission is far from perfect; in some instances it leaves gaping holes in its protection of consumers, and in others it is far too damaging to an industry that employs tens of thousands of workers all across this country.

Telemarketing firms employ approximately a thousand people in my congressional district. They provide jobs to parents of young children who require flexible hours; they provide jobs to our young people who want to be part of the work force while they develop necessary skills for other occupations. In Gallipolis, Ohio, one call center is the second largest employer in the town, with workers coming across the Ohio River from West Virginia to make calls. Elsewhere in Ohio, in Marietta and Boardman, I have heard from constituents who depend on these jobs for a steady salary and health benefits. These jobs are already threatened by stiff competition from overseas. With the falling cost of international calls, call centers are sprouting up in countries such as India and the Philippines.

I do not believe that enough consideration has been given to the economic impact that the FTC's proposed registry will have on many communities across the United States. The FTC has indeed investigated the impact of telemarketing on consumers. But I am concerned that adequate attention has not been given to the importance of telemarketing jobs, especially to economically distressed communities. I do not agree with forecasters who are spelling a doomsday scenario for the industry if the registry goes into effect, but I am concerned that some of the provisions of the FTC rule do not pass the common sense test. A prime example is the maximum $11,000 fine that the FTC may levy on a company for calling someone on the list.

I also have other concerns about the viability of a National Do-Not-Call List, that is not truly national, but interstate, and not truly a Do-Not-Call List if a business falls outside the jurisdiction of the FTC. I am pleased, though, that the bill includes provisions that will hopefully reconcile the cross-jurisdiction of the FTC, the Federal Communications Commission, and the States.

However, there is a glaring loophole in the FTC's Do-Not-Call List with which I cannot reconcile myself. Calls soliciting political contributions are not covered by the FTC's Do-Not-Call List. With the statutory requirement to prevent "coercive and abusive" telephone calls, I can't think of a greater omission to a Do-Not-Call list than leaving out harassing campaign calls. I had planned to offer an amendment when this bill was before the Committee on Energy and Commerce, on which I sit, that would have made such political calls non-exempt from the FTC's registry, but calls of a political nature are outside of the FTC's jurisdiction and the bill before us was not the best vehicle to address the larger problems of the FTC's jurisdictional limits.

Despite my support for the concept of a national do-not-call list, I cannot support an authorization to collect fees for the FTC's proposed list. I doubt that the issues that I have raised will receive much attention as this bill is rushed through the legislative process. However, I hope that the problems with the FTC's proposed Do-Not-Call list will be revisited by Congress in its oversight of the agency. Specifically, I note that the bill before us requires the FTC to analyze the registry and report to Congress. I sincerely hope that any such report will include analyses of the impact these new regulations will have on legitimate businesses and the economic impact on the communities in which those businesses operate.

TRIBUTE TO ALYCE GRIFFIN CLARKE

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Representative Alyce Griffin Clarke. Representative Clarke was born and raised in the heart of the Mississippi Delta and attended school in Belzoni, Mississippi. Representative Clarke received her Bachelor of Science degree from Alcorn State University. She then went on to earn a Master's of Science degree from Tuskegee University.

Representative Clarke served as the Director of Nutrition and WIC services for Jackson Hinds Comprehensive Health Care for sixteen years. She also is the founder of the "Born-Free" Drug and Alcohol Treatment Center for pregnant women.

In 1985, Representative Clarke made history when she became the first African American women elected to the Mississippi Legislature. She became chair of the Joint Legislative Committee on Performance evaluation and expenditure Review. During the 1994–1995 legislative session, Representative Clarke was instrumental in winning approval of bills aimed at reducing youth crime and classroom violence.

Representative Clarke has received numerous honors which include the Women of the Year from Alcorn State University, National Alumni Association, and Meritorious Award from Alcorn State University.

THE LONE SAILOR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. SKELTON. Mr. Speaker, World War II Navy Veteran, Harry Dunford, of my hometown of Lexington, MO, wrote an excellent article, entitled "The Lone Sailor," which appeared in the Lexington News on February 5, 2003. This article is a fitting tribute to the American sailor. I wish to share Mr. Dunford's writing with the rest of the chamber.

THE LONE SAILOR

Those who have served in the U.S. Navy will immediately recognize the figure of the statue of "The Lone Sailor." There he stands, waiting on a dock for a boat to take him to his ship, waiting for a bus to take him to a train going home on leave. Or, possibly, waiting for a ride to a new duty station. Who knows?

He stands there in his blues. It is obviously cold as he has his peacoat on, the collar turned up against the wind and his hands thrust into his peacoat pockets. His seabag rests beside him and his white cap is set on his head in just such a manner so as to say, "Here is a salt, a 4.0 sailor who has been around awhile." He is gazing outward, perhaps to sea, perhaps for a last glimpse at the ship on which he has served until now. Who knows?

We do know that such a scene has been played out many times by many sailors over the years. The Lone Sailor represents all people who ever served, are serving now or who are yet to serve in the Navy. He is a composite of the U.S. Navy bluejacket, past, present and future.

The U.S. Navy Memorial was opened Oct. 13, 1987, in Washington, D.C. The memorial has been greatly expanded since that time and includes a broad granite plaza which forms the amphitheater. The statue of the Lone Sailor is the centerpiece of the plaza. The Memorial includes many other features, not the least of which is the Navy Log, where sailors past and present can provide information on their service and have it remain online and available for posterity.

Since its inception in 1987, the Lone Sailor statue has been replicated at several places in the U.S. The most recent was dedicated at Vista Point, overlooking the historic Golden Gate Bridge in San Francisco in April 2002. An editorial writer noted that "the statue seems right at home here, where many a sailor paused amid damp fog to sense the last tug of land on his way to the sea."

Additional replicas of the statue are located, appropriately, at Norfolk, Va.; San Diego, Calif.; West Haven, Conn.; Kirkland, Wash. near Seattle; and Great Lakes, Ill. Those of us who have ever been stationed at Great Lakes NTS should readily be able to visualize the Lone Sailor waiting for a train to Chicago or Milwaukee just outside the Main Gate with the wind blowing up a cold gale in the wintertime.

Stanley Bleifeld, sculptor of the Lone Sailor, also sculpted another statue entitled "Homecoming." This statue depicts a sailor and his wife and child in a joyous reunion, and has been placed at many of the locations previously mentioned.

Wouldn't it be great if a replica of the Lone Sailor stood in front of the Union Station in Kansas City, where during World War II and Korea thousands of bluejackets passed on their way to or from their destiny?

CONGRATULATING NAGORNO KARABAKH ON THEIR FREEDOM MOVEMENT'S 15TH ANNIVERSARY

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. NUNES. Mr. Speaker, I rise today to congratulate the people of Nagorno Karabakh on the 15th Anniversary of the Karabakh Freedom Movement. As many in this body know, February 20, 1988 is considered to be the beginning of the modern day national liberation movement of the people of Nagorno Karabakh. On that day, the Nagorno Karabakh legislature officially petitioned the Soviet government to reunite with Armenia. This sparked weeks of demonstrations by tens of thousands of people around Nagorno Karabakh to show their desire to live in freedom. This same commitment to liberty lay at the foundation of the American nation.

Today, Nagorno Karabakh clearly satisfies the international criteria for statehood with a democratically elected government, capable armed forces and an independent foreign policy. With such, they strongly contribute to peace and stability in the South Caucasus region—a goal the United States shares with them.

Over the past number of years, Congress has expressed its support for the Nagorno Karabakh—from the beginning of its struggle to shrug off Soviet totalitarianism to their fight against Azerbaijan's aggression to post-war rehabilitation assistance. I strongly believe this is the right path and will continue to do all I can to give critical assistance to Nagorno Karabakh. Again, I offer my congratulations to Nagorno Karabakh.

TRIBUTE TO ARIE WASHINGTON, SR.

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Mr. Arie Washington, Sr. Mr. Washington is a veteran of World War II, the Korean War, and the Vietnam War. Mr. Washington has devoted 23 years of service to our county's military. His dedication to his service has not gone unnoticed, he has received several honors. Some of these honors include a Silver Star Medal, two Bronze Stars, four Army Commendation Medals, Purple Heart Medal, Meritorious Service Medal, American National Defense Medal, World War II Victory Medal, and a Presidential Unit Citation.

Upon retiring from the military, Mr. Washington taught JROTC for 14 years.

ANNOUNCEMENT OF THE 2003 CONGRESS—BUNDESTAG/BUNDESRAT EXCHANGE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. REGULA. Mr. Speaker, since 1983, the U.S. Congress and the German Bundestag and Bundesrat have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and interact-on issues of mutual interest.

A staff delegation from the U.S. Congress will be selected to visit Germany during May 24 to June 7 of this year. During the 2-week exchange, the delegation will attend meetings with Bundestag/Bundesrat Members, Bundestag and Bundesrat party staff members, and representatives of numerous political, business, academic, and media agencies. Participants also will be hosted by a Bundestag Member during a district visit.

A comparable delegation of German staff members will visit the United States for 2-weeks in July. They will attend similar meetings here in Washington and visit the districts of congressional Members. The U.S. delegation is expected to facilitate these meetings.

The Congress—Bundestag/Bundesrat Exchange is highly regarded in Germany and the United States, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. This exchange is funded by the U.S. Department of State's Bureau of Educational and Cultural Affairs.

The U.S. delegation should consist of experienced and accomplished Hill staff who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag reciprocates by sending senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern to Germany and the United States such as, but not limited to, trade, security, the environment, economic development, health care, and other social policy issues. This year's delegation should be familiar with transatlantic relations within the context of recent world events.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag/Bundesrat staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants are selected by a committee composed of personnel from the Bureau of Educational and Cultural Affairs of the Department of State and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state their qualifications, the contributions they can make to a successful program and some assurances of their ability to participate during the time stated. Applications may be sent to Connie Veillette in Congressman REGULA's office, 2306 Rayburn House Building by noon on Monday, March 31, 2003.

TRIBUTE TO STANLEY J. ROBINSON: LIFE WITH AN ATTITUDE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. WAXMAN. Mr. Speaker, March 2003 is 60 years after March 1943. The measure of Stanley J. Robinson's life is that during the month he will celebrate his 83rd birthday as well as his 60th wedding anniversary. He and wife Karlyn will remember that it was only 25 days after that wedding date of March 2, 1943, that he shipped out to war. The most important china at the wedding was not the porcelain but an assignment to fly across Africa in his B–24 with his crewmates to China. Stanley is part of what Tom Brokaw has described as "The Greatest Generation." Born in Baltimore, Stanley was a bombardier at 23 in and participated in 75 combat missions against Imperial Japan. He was credited with downing a Japanese Zero fighter plane. He was awarded the Distinguished Flying Cross and the Air Medal. Stanley takes pride in the fact that his B–24 did not lose a single person to enemy action, though attacked many times.

Stanley has always said that every day after his return from war is a bonus. He has lived his life with that philosophy, with zest, thoughtfulness, and care for others. In his retirement years he has for the past 18 years served as a volunteer at the Sibley Hospital.

In Judaism, a tradition also exists to mark time beyond expectation. At 83, Stanley will have a Second Bar Mitzvah at the Washington Hebrew Congregation and in the presence of family and friends. On March 8, 2003, he will be called to the Torah. His First Bar Mitzvah was in 1933, at 13 when a child assumes the religious obligations of a man. The informal tradition of the Second Bar Mitzvah is based upon the biblical measure of a life span, 70 years, as Psalm 90:10 says, "The days of our years are threescore years and ten, or even by reason of strength fourscore years; yet is their pride but travail and vanity; for it is speedily gone, and we fly away." This extension of life beyond the biblical expectation, the thirteenth anniversary year after 70, may be observed as an occasion for celebration.

Stanley Robinson and Karlyn David met when he was 17 and she was 15. It was immediately after Yom Kippur and on a street corner in Baltimore, whose precise location is now part of family lore. World War II came. He was in uniform as an officer in the U.S. Army Air Force when they were married six years later, March 2, 1943. They were a handsome pair then and remain so today. He has a full head of pure white hair.

Stanley J. Robinson has deep roots in this area. He has lived in three neighborhoods within the District of Columbia since moving here after the end of World War II. He was in business in the District of Columbia until his retirement at age 65. He was President of Union Wallpaper and Paint Company, which was founded by his father-in-law, Charles David, and operated in the District of Columbia and the suburbs for 50 years. At various times, it had stores downtown on New York Avenue and in Spring Valley, as well as Rockville, Silver Spring, and Alexandria. Union Wallpaper was, during the 1980s, sold to Duron Paint Company, where Stanley was a vice president and also served as president of Duron's Potomac Wallcovering.

Stanley and Karlyn have three daughters, six grandchildren, and two granddaughters-in-law. All three daughters went through high school in the District of Columbia. Their oldest daughter Ellen Robinson Epstein, an oral historian and professional organizer, and her husband David Epstein, an attorney, reside in Chevy Chase. Four of the five Epstein children—Jeremy, Asher, Barak, Dina, and Kira—and two daughters-in-law, Tamar and Julie—reside in the Washington metropolitan area. They are involved in a wide range of activities including working for Microsoft, attending the Robert H. Smith School of Business at the University of Maryland, student teaching in the DC public schools as part of a graduate program in education at GW, working for Hillel International in D.C., and practicing law. One Epstein daughter is an Admissions Officer at Columbia University and the other daughter is a student at the University of Rochester.

The other Robinson daughters are Lynn Rosenfeld, a PhD graduate from the University of Chicago who, with her daughter Hannah, lives in Birmingham. Susan Robinson Levy and her husband Sol have each had careers as producers at ABC television and reside in New York City.

TRIBUTE TO CLAUDINE BROWN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Today I write to pay tribute to Claudine Ferguson. Mrs. Brown was born in Holmes County. After graduating from high school, despite being married and having children, Mrs. Brown finished the Manpower Development and Draughan's Business College in two years.

Mrs. Brown has always stressed the importance of education in her household. She became very involved with her children's school. Mrs. Brown was then elected to serve on the Leflore County School Board, where she served for twelve and one-half years. Mrs. Brown was so successful that she won the write-in seat for serving another term on the School Board.

Mrs. Brown is very active in her community. She is the organizer, founder, and president of the Browning Civic League.

REGARDING NATIONAL AFRICAN AMERICAN HISTORY MONTH

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Ms. SOLIS. Mr. Speaker, I am proud to rise today to commemorate National African American History Month. Since its inception in 1926, this period has provided all Americans with a valuable opportunity to discover, cherish, and reflect on the many accomplishments of African Americans. Their contributions are as vast as they are diverse. From the arts to education to public service to entertainment, African Americans have left an indelible mark on all areas of American culture and history.

During this difficult time in our nation's history, we pay special tribute this month to those African Americans serving in the United States Armed Forces. As they have in every military conflict in American history, African Americans continue to play an essential role in defending our freedoms and protecting our homeland. Over 21 percent of the United States military is African American. In the Army alone, 30 percent of enlistees are African American. We also commend the 2.6 million African Americans veterans who have served our nation with great valor and distinction.

Earlier this month, we lost seven courageous American explorers in the Space Shuttle Columbia tragedy. Among them was Lieutenant Colonel Michael Anderson, one of the African American astronauts in the space program. His successful rise at NASA and his scientific contributions to our world will certainly inspire a new generation of children of color to follow in his tremendous footpaths.

I encourage all Americans this month and throughout the year to recall and treasure the important contributions of African Americans to our nation's history.

COMMEMORATING THE 42ND ANNIVERSARY OF THE PEACE CORPS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. PETRI. Mr. Speaker, I would like to say a few words this afternoon about how important the Peace Corps has become to the

United States' foreign relations since its inception in 1961 by President John F. Kennedy. I served as a Peace Corps volunteer in Mogadishu, Somalia from 1966–67, so I can attest to not just the great work done by my fellow volunteers, but more importantly how Peace Corps volunteers have grown into wonderful ambassadors to their host communities and countries on the United States' behalf.

Volunteers have worked in 136 countries over the past 42 years, with nearly 7,000 volunteers serving in 70 countries today. The work these dedicated men and women do is often hard, but always rewarding. They can be stationed in a city on the African coast, like I was, or a remote village in South America. Ranging from teaching school to agricultural development to health care, Peace Corps volunteers are trained to assist a community in almost every way possible and have become an invaluable part of the communities they serve.

After four decades of participating and teaching in communities on 6 continents, it is obvious that the Peace Corps has been successful beyond any expectations, helping countless communities realize the benefits of peace, freedom and economic prosperity. On its forty-second anniversary, I would like to commend the Corps and all of its volunteers for the unmatched education and service they have provided abroad and at home. I'm excited to see how far we will go in the next 42 years.

TRIBUTE TO DELOISE JONES

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African Americans in Mississippi's Second Congressional District.

Today I rise to pay tribute to Deloise Jones. Mrs. Jones is a native of Jackson, Mississippi. She earned a bachelor's degree in Economics from Tougaloo College. She then went on to earn a master's degree in Early Childhood Education from Jackson State University.

Mrs. Jones began her career as an economist with the Labor Department in Washington, D.C. In 1981, she became an elementary teacher in the Jackson Public School (JPS) District in Jackson, Mississippi where she has served since. In 1994, she served a four-year tenure as president of the Jackson Association of Educators.

Mrs. Jones has received numerous awards and recognitions for her commitment and service in the interest of public education and the teaching profession. These acknowledgments include the Silver Apple Award, which she was presented by JPS Board of Directors in 1983. In 1988, she was appointed as a teacher representative to the Paperwork Reduction Task Force by then Governor Ray Mabus. Most recently was selected as teacher of the year by her colleagues at the elementary school she currently works at.

Mrs. Jones is a valued member of the community and her contributions are greatly appreciated.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 4, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 5

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine the implementation of enhanced 911 (E-911) services for wireless phones.
SR-253

10 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 2004 for operations intelligence.
S-407 Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2004 for the Army Corps of Engineers and Bureau of Reclamation energy and water development programs.
SD-124

Finance
To hold hearings to examine the Administration's Trade Agenda.
SD-215

Governmental Affairs
Business meeting to mark up S. 380, to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service; and to consider pending nominations.
SD-342

Indian Affairs
Business meeting to consider pending calendar business; to be followed by hearings to examine the President's proposed budget for Fiscal Year 2004 for Indian Affairs.
SR-485

10:30 a.m.
Foreign Relations
To hold closed briefings to examine Turkish aid negotiations and developments in Northern Iraq.
SH-219

2 p.m.
Judiciary
To hold hearings to examine the asbestos litigation crisis.
SH-216

3 p.m.
Foreign Relations
To hold hearings to examine convention Between the Government of the United States Of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (the "Convention") (Treaty Doc. 107–19), protocol Amending the Convention Between the Government of the United States Of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (the "Protocol") (Treaty Doc. 107–20), and second Additional Protocol that Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc. 108–03).
SD-419

MARCH 6

9:15 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings to examine Operations Intelligence.
S-407 Capitol

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.
SD-106

Commerce, Science, and Transportation
To hold hearings to examine the Federal Communications Commission's Spectrum Policy Task Force Report and major spectrum issues facing policymakers.
SR-253

Foreign Relations
To hold hearings to examine an agreed framework for dialogue with North Korea.
SD-419

Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold hearings to examine the status of the National Aeronautics and Space Administration's workforce and consider proposed personnel flexibilities to assist the agency in achieving its mission.
SD-342

10 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of State.
SD–192

Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine the Administration's approach to reauthorize the Workforce Investment Act.
SD–430

Energy and Natural Resources
To hold hearings to examine oil, gas, Hydrogen, and conservation, focusing on energy use in the transportation sector.
SH–216

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold closed hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Housing and Urban Development.
SD–138

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, the Blinded Vererans Association, and the Non-Commissioned Officers Association.
345 Cannon Building

2 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine Military Construction and Environmental Programs in review of the Defense Authorization Request for Fiscal Year 2004.
SR–232A

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 212, to authorize the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and S. 220 and H.R. 397, to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.
SD–366

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

MARCH 7

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the employment situation, focusing on U.S. labor markets, unemployment benefits, and the President's proposal for re-employment accounts.
SD–628

MARCH 10

2 p.m.
Aging
To hold hearings to examine America's health care system.
Room to be announced

MARCH 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, Hydrogen, and conservation, focusing on federal programs for energy efficiency and conservation.
SD–366

MARCH 12

10 a.m.
Indian Affairs
To hold hearings to examine Indian health legislation.
SR–485

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 13

9:30 a.m.
Armed Services
To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.
SH–216

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Federal Transit Administration.
SD–538

Energy and Natural Resources
To hold hearings to examine the impact of fires in 2002 and then look forward to the potential 2003 fire season.
SD–366

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reseve Association, and the Air Force Seargents Association.
345 Cannon Building

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold oversight hearings to examine the designation and management of National Heritage Areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, federal and non-federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.
SD–366

MARCH 18

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Mammography Quality Standards Act.
SD–430

MARCH 19

9:30 a.m.
Judiciary
To hold hearings to examine ethical regenerative medicine research and human reproductive cloning.
SD–226

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

Indian Affairs
Business meeting to consider pending calendar business; to be followed by hearings on Indian energy legislation.
SR–485

MARCH 20

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Washington Teacher's Union.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.
345 Cannon Building

MARCH 25

Time to be announced
Health, Education, Labor, and Pensions
To hold hearings to examine pending calendar business.
Room to be announced

MARCH 26

9:30 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

10 a.m.
Indian Affairs
To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.
SR–485

MARCH 27

9:30 a.m.
Armed Services
To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).
SH–216

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine terrorism, focusing on public health response.
SD–430

APRIL 2

10 a.m.
Indian Affairs
Business meeting to consider pending calendar business; to be followed by hearings on Indian Health Care Reauthorization Act legislation.
SR–485

POSTPONEMENTS

MARCH 5

9:30 a.m.
Judiciary
To hold hearings to examine pending nominations.
SD–226

SENATE—*Tuesday, March 4, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Msgr. Clement J. Connolly, Holy Family Church, South Pasadena, CA.

PRAYER

The guest Chaplain, Msgr. Clement J. Connolly, offered the following prayer:

Ever present living God, here words are spoken, decisions are made that shape the lives and times of generations. We are entrusted with the sacred stewardship of legislating decisions for life and death. Not merely the quality of life is ours to measure, but even the length of life, and for a multitude. Once within our time and hearing a prophetic voice proclaimed Your gospel values in "a dream": peace, dignity, equality, community. Was it just a dream or the groaning of a great prayer asking for an Amen?

When we yearn for peace,
When power becomes powerless,
When riches and poverty meet,
When the one language of love unites us,
When the courage of our belief is unfettered from special interests,
When we see ourselves in the face of the other, the lion and the lamb lay down.

Your word is revealed. You, Creator God, are present.

Divine Wisdom, abide here so that every word spoken and every vote cast may be a prayer. The cause and the purpose may always give life, dignity, freedom, honor . . . above and beyond personal or factional preference.

Thus so we pray, One Nation Under God, in the Name of that infinite God, Mystery, Many Faces, Father, Mother, Sister, Brother, Allah, Yahweh, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. BENNETT. Mr. President, on behalf of the majority leader, I announce the schedule for the day. This morning, there will be a period of morning business for up to 2 hours. The first 60 minutes will be under the control of Senator ALEXANDER and Senator MURKOWSKI, and the final 60 minutes will be under the control of the Democratic leader or his designee.

Upon the conclusion of morning business, the Senate will resume the consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit Court. Also, today the Senate will recess from the hours of 12:30 to 2:15 for the weekly party caucuses.

As a reminder, Senators who desire to speak on the nomination are asked to do so during today's session.

I yield the floor.

Mr. REID. While the acting majority leader is in the Chamber, I say through him to the majority leader that I certainly am appreciative of—and I think I speak for the entire Senate—his setting aside time for Senators to give their maiden speeches. Some may think this is a waste of time. From personal experience, when I gave my first speech on the Senate floor, presiding was David Pryor, and listening in his office was CHUCK GRASSLEY. My speech was on the Taxpayers' Bill of Rights, which I worked on my entire time in the House of Representatives. The subcommittee chairman did not like the legislation and would not do anything on it. To make a long story short, Senator Pryor sent me a note and said he liked my speech and liked the legislation I was talking about. Senator GRASSLEY also contacted me that day. They were both senior members of the Finance Committee, and as a result of their support I was able to get that legislation passed, which was landmark legislation, putting the taxpayer on a more equal footing with the tax collector.

I say to Senator ALEXANDER and others who will give their maiden speeches: People listen. These speeches really are meaningful.

I look forward to Senator ALEXANDER's speech. In fact, I will be joining with him in the legislation he is going to introduce.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 2 hours. Under the previous order, the first 30 minutes is under the control of the Senator from Tennessee, Mr. ALEXANDER.

The majority leader is recognized.

MAIDEN SPEECHES

Mr. FRIST. Mr. President, first of all, I thank the new Senators who are here. I heard my distinguished colleague from Nevada talk a little bit about what we are about to embark upon. It is a rich tradition of this body. In the last few years, we have gotten away from having what we call a "maiden speech." It is not the first time we have heard from our freshmen Senators on both sides of the aisle, but it does give Members an opportunity to focus, as we just heard, on issues that are important to individual Senators but also are important to the American people in the broadest sense.

In this body, because we are always on a particular piece of legislation or in Executive Session, this gives us an opportunity to pause for a moment and shine that spotlight and that focus on an initial speech or discussion.

I am delighted we are reaching to the past—not the distant past—to something we have gotten away from in the last several Congresses, and as an initiative by our new Senators are embarking upon what I know will be a great and very meaningful and powerful experience for all of us.

The PRESIDENT pro tempore. The Chair, in my capacity as the Senator from Alaska, asks the floor staff to notify me when such speeches are to be made of any Senator.

Mr. REID. Mr. President, while the majority leader is in the Chamber, I ask unanimous consent that the majority be given a full hour—we have taken some time today—and the Democrats, if necessary, extended 10 minutes also. I ask unanimous consent.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I first thank the majority leader for his comments and his friendship and his encouragement of the new Senators in these first addresses. I thank the Senator from Nevada for his encouragement and his willingness to join me in cosponsoring the legislation that I hope to talk about. I thank my colleagues for taking the time to be here today.

From the Senate's earliest days, new Members have observed, as we just heard, the ritual of remaining silent

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

for a period of time, ranging from several weeks to 2 years. By waiting a respectful amount of time before giving their so-called "maiden speeches," freshmen Senators hoped their senior colleagues would respect them for their humility.

This information comes from our Senate historian, Richard Baker, who told me that in 1906 the former Governor of Wisconsin—I am sensitive to this as a former Governor—Robert La Follette, arrived here, in Mr. Baker's words, "anything but humble." He waited just 3 months, a brief period by the standards of those days, before launching his first major address. He then spoke for 8 hours over 3 days and his remarks in the CONGRESSIONAL RECORD consumed 148 pages. As he began to speak, most of the Senators present in the Chamber rose from their desks and departed. La Follette's wife, observing from the gallery, wrote:

> There was no mistaking that this was a polite form of hazing.

From our first day here, as the majority leader said, we new Members of the 108th Congress have been encouraged to speak up, and most of us have. But, with the encouragement of the majority leader and the assistant minority leader, several of us intend also to try to revive the tradition of the maiden address by a signature speech on an issue that is important both to the country and to each of us. I thank my colleagues who are here, and I assure all of you that I will not do what the former Governor of Wisconsin did and speak for 3 days.

THE AMERICAN HISTORY AND CIVICS EDUCATION ACT

Mr. ALEXANDER. Mr. President, I rise today to address the intersection of two urgent concerns that will determine our country's future, and these are also the two topics I care about the most, the education of our children and the principles that unite us as Americans. It is time we put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American. Especially during such serious times when our values and ways of life are being attacked, we need to understand just what those values are.

In this, most Americans would agree. For example, in Thanksgiving remarks in 2001, President Bush praised our Nation's response to September 11. "I call it," he said, "the American character." At about the same time, speaking at Harvard, former Vice President Al Gore said, "We should fight for the values that bind us together as a country."

Both men were invoking a creed of ideas and values in which most Americans believe. "It has been our fate as a nation," the historian Richard Hofstadter wrote, "not to have ideologies but to be one." This value-based identity has inspired both patriotism and division at home as well as emulation and hatred abroad. For terrorists, as well as those who admire America, at issue is the United States itself—not what we do but who we are.

Yet our children do not know what makes America exceptional. National exams show that three-quarters of the Nation's 4th, 8th, and 12th graders are not proficient in civics knowledge and one-third do not even have basic knowledge, making them "civic illiterates."

Children are not learning about American history and civics because they are not being taught them. American history has been watered down, and civics is too often dropped from the curriculum entirely.

Until the 1960s, civics education, which teaches the duties of citizenship, was a regular part of the high school curriculum. But today's college graduates probably have less civic knowledge than high school graduates of 50 years ago. Reforms, so-called, in the 1960s and 1970s, resulted in widespread elimination of required classes and curriculum in civics education. Today, more than half the States have no requirement for students to take a course—even for one semester—in American government.

To help put the teaching of American history and civics in its rightful place, today I introduce legislation on behalf of myself and cosponsors, Senator REID of Nevada, Senator GREGG, Senator SANTORUM, Senator INHOFE, and Senator NICKLES. We call it the American History and Civics Education Act. The purpose of the act is to create presidential academies for teachers of American history and civics, and congressional academies for students of American history and civics. These residential academies would operate for 2 weeks, in the case of teachers, and 4 weeks in the case of students, during the summertime. Their purpose would be to inspire better teaching and more learning of the key events, the key persons, and the key ideas that shape the institutions and democratic heritage of the United States.

I had some experience with such residential summer academies when I was Governor of Tennessee. It was a good experience. In 1984, we began creating governor's schools for students and for teachers. We had a Governor's School for the Arts. We had a Governor's School for International Studies at the University of Memphis, a Governor's School for Teachers of Writing at the University of Tennessee at Knoxville, which was very successful. Eventually there were eight governor's schools in our State, and they helped thousands of Tennessee teachers improve their skills and inspired outstanding students in the same way. When those teachers and students went back to their own schools during the regular school year, their enthusiasm for teaching and learning the subject they had been a part of in the summer infected their peers and improved education across the board. Dollar for dollar, I believe the governor's schools in our State were the most effective popular education initiatives in our State's history.

We weren't the only State to try it; many did. The first State governor's school I heard about was in North Carolina, started by Terry Sanford when he was Governor in 1963, and then other States have done the same—Georgia, South Carolina, Arkansas, Kentucky, and Tennessee. In 1973, Pennsylvania established the Governor's Schools of Excellence, with 14 different programs of study. Mississippi has done the same. Virginia's Governor's School is a summer residential program for 7,500 of the Commonwealth's most gifted students. Mississippi and West Virginia also have similar programs. They are just a few of the more than 100 governor's schools in 28 States. Clearly, the model has proved to be a good one.

The legislation I propose today applies that successful model to American history and civics by establishing presidential and congressional academies for students and teachers of those subjects.

The legislation would do one more thing. It would authorize the creation of a national alliance of American history and civics teachers to be connected by the Internet. The alliance would facilitate sharing of best practices in the teaching of American history and civics. It is modeled after an alliance I helped the National Geographic Society start in the 1980s. Their purpose was to help put geography back into the school curriculum.

This legislation creates a pilot program, up to 12 presidential academies for teachers, 12 congressional academies for students, sponsored by educational institutions. The National Endowment for the Humanities would reward 2-year renewable grants to those institutions after a peer review process. Each grant would be subject to rigorous review after 3 years to determine whether the overall program should continue or expand or be stopped. The legislation authorizes $25 million annually for the 4-year pilot program.

There is a broad new basis of support for and interest in American history and civics in our country. As David Gordon noted in a recent issue of the Harvard Education Letter:

> A 1998 survey by the nonpartisan research organization Public Agenda showed that 84 percent of parents with school age children say they believe the United States is a special country and they want our schools to convey that belief to our children by teaching about its heroes and its traditions. Similar numbers identified the American ideal as

including equal opportunity, individual freedom, and tolerance and respect for others. Those findings were consistent across racial and ethnic groups.

Our national leadership has responded to this renewed interest. In 2000, at the initiative of my distinguished colleague Senator BYRD, Congress created grants for schools that teach American history as a separate subject within the school curriculum. We appropriated $100 million for those grants in the recent omnibus appropriations bill, and rightfully so. They encourage schools and teachers to focus on the teaching of traditional American history and provide important financial support.

Then, last September, with historian David McCullough at his side, President Bush announced a new initiative to encourage the teaching of American history and civics. He established the "We The People" program at the National Endowment for the Humanities, which will develop curricula and sponsor lectures on American history and civics. He announced the "Our Documents" project, run by the National Archives. This will take 100 of America's most prominent and important documents from the National Archives to classrooms everywhere in the country. This year, the President will convene a White House forum on American history, civics, and service. There we can discuss new policies to improve the teaching and learning of those subjects.

This proposed legislation takes the next step by training teachers and encouraging outstanding students. I am pleased today that one of the leading Members of the House of Representatives, ROGER WICKER of Mississippi, along with a number of his colleagues, is introducing the same legislation in the House of Representatives. I thank Senator GREGG, the chairman of the Committee on Health, Education, Labor, and Pensions, for being here and also for agreeing that the committee will hold hearings on this legislation so we can determine how it might supplement and work with the legislation enacted last year in this Congress and the President's various initiatives.

In 1988, I was at a meeting of educators in Rochester when the President of Notre Dame University asked this question: "What is the rationale for the public school?" There was an unexpected silence around the room until Al Shanker, the president of the American Federation of Teachers, answered in this way: "The public school was created to teach immigrant children the three R's and what it means to be an American with the hope that they would then go home and teach their parents."

From the founding of America, we have always understood how important it is for citizens to understand the principles that unite us as a country. Other countries are united by their ethnicity. If you move to Japan, you can't become Japanese. Americans, on the other hand, are united by a few principles in which we believe. To become an American citizen, you subscribe to those principles. If there are no agreement on those principles, Samuel Huntington has noted, we would be the United Nations instead of the United States of America.

There has therefore been a continuous education process to remind Americans just what those principles are. In his retirement at Monticello, Thomas Jefferson would spend evenings explaining to overnight guests what he had in mind when he helped create what we call America. By the mid-19th century it was just assumed that most Americans knew what it meant to be an American. In his letter from the Alamo, Col. William Barrett Travis pleaded for help simply "in the name of liberty, patriotism and everything dear to the American character."

New waves of immigration in the late 19th century brought to our country a record number of new people from other lands whose view of what it means to be an American was indistinct—and Americans responded by teaching them. In Wisconsin, for example, the Kohler Company housed German immigrants together so that they might be Americanized during nonworking hours.

But the most important Americanizing institution, as Mr. Shanker reminded us in Rochester in 1988, was the new common school. McGuffey's Reader, which was used in many classrooms, sold more than 120 million copies introducing a common culture of literature, patriotic speeches and historical references.

The wars of the 20th century made Americans stop and think about what we were defending. President Roosevelt made certain that those who charged the beaches of Normandy knew they were defending for freedoms.

But after World War II, the emphasis on teaching and defining the principles that unite us waned. Unpleasant experiences with McCarthyism in the 1950's, discouragement after the Vietnam War, and history books that left out or distorted the history of African-Americans made some skittish about discussing "Americanism." The end of the Cold War removed a preoccupation with who we were not, making it less important to consider who we are. The immigration law changes in 1965 brought to our shores many new Americans and many cultural changes. As a result, the American Way became much more often praised than defined.

Changes in community attitudes, as they always are, were reflected in our schools. According to historian Diane Ravitch, the public school virtually abandoned its role as the chief Americanizing institution. We have gone, she explains, from one extreme—simplistic patriotism and incomplete history—to the other—"public schools with an adversary culture that emphasizes the Nation's warts and diminishes its genuine accomplishments. There is no literary canon, no common reading, no agreed-upon lists of books, poems and stories from which students and parents might be taught a common culture and be reminded of what it means to be an American."

During this time many of our national leaders contributed to this drift toward agnostic Americanism. These leaders celebrated multiculturalism and bilingualism and diversity at a time when there should have been more emphasis on a common culture and learning English and unity.

America's variety and diversity is a great strength, but it is not our greatest strength. Jerusalem is diverse. The Balkans are diverse. America's greatest accomplishment is not its variety and diversity but that we have found a way to take all that variety and diversity and unite as one country. E pluribus unum: out of many, one. That is what makes America truly exceptional.

Since 9/11 things have been different. The terrorists focused their cross-hairs on the creed that unites Americans as one country—forcing us to remind ourselves of those principles, to examine and define them, and to celebrate them. The President has been the lead teacher. President Bush has literally taken us back to school on what it means to be an American. When he took the country to church on television after the attacks he reminded us that no country is more religious than we are. When he walked across the street to the mosque he reminded the world that we separate church and state and that there is freedom here to believe in whatever one wants to believe. When he attacked and defeated the Taliban, he honored life. When we put planes back in the air and opened financial markets and began going to football games again we honored liberty. The President called on us to make those magnificent images of courage and charity and leadership and selflessness after 9/11 more permanent in our everyday lives. And with his optimism, he warded off doomsayers who tried to diminish the real gift of Americans to civilization, our cockeyed optimism that anything is possible.

Just after 9/11, I proposed an idea I called "Pledge Plus Three." Why not start each school day with the Pledge of Allegiance—as we did this morning here in the Senate—followed by a faculty member or student sharing for three minutes "what it means to be an American." The Pledge embodies many of the ideals of our National Creed: "one nation, under God, indivisible, with liberty and justice for all." It speaks to our unity, to our faith, to our value of freedom, and to our belief in the fair treatment of all Americans. If more future Federal judges took more classes in American history and civics and learned about those values, we might have fewer mind-boggling decisions like the one issued by the Ninth Circuit.

Before I was elected to the Senate, I taught some of our future judges and legislators a course at Harvard's John F. Kennedy School of Government entitled "The American Character and America's Government." The purpose of the course was to help policymakers, civil servants and journalists analyze the American creed and character and apply it in the solving of public policy problems. We tried to figure out, if you will, what would be "the American way" to solve a given problem, if such a thing were to exist.

The students and I did not have much trouble deciding that America is truly exceptional—not always better, but truly exceptional—or in identifying the major principles of an American creed or the distinct characteristics of our country; such principles as: liberty, equal opportunity, rule of law, laissez faire, individualism, e pluribus unum, the separation of church and state.

But what we also found was that applying those principles to today's issues was hard work. This was because the principles of the creed often conflicted. For example, when discussing President Bush's faith-based charity legislation, we knew that "In God We Trust" but we also knew that we didn't trust government with God.

When considering whether the Federal Government should pay for scholarships which middle and low income families might use at any accredited school—public, private or religious—we found that the principle of equal opportunity conflicted with the separation of church and state.

And we found there are great disappointments when we try to live up to our greatest dreams. For example, President Kennedy's pledge that we will "pay any price or bear any burden" to defend freedom, or Thomas Jefferson's assertion that "all men are created equal," or the American dream that for anyone who works hard, tomorrow will always be better than today.

We often are disappointed when we try to live up to those truths.

We learned that, as Samuel Huntington has written, balancing these conflicts and disappointments is what most of American politics and government is about.

If most of our politics and government is about applying to our most urgent problems the principles and characteristics that make the United States of America an exceptional country, then we had better get about the teaching and learning of those principles and characteristics.

The legislation I propose today, with several cosponsors, will help our schools do what they were established to do in the first place. At a time when there are record numbers of new Americans, at a time when our values are under attack, at a time when we are considering going to war to defend those values, there can be no more urgent task than putting the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American.

Mr. President, I ask unanimous consent to have printed in the RECORD several items: A syllabus from the course that I taught, an article from the National Association of Scholars, and memoranda outlining the various Governors' schools in our State and other States.

I also highly commend to my colleagues a report from the Carnegie Corporation and CIRCLE titled "The Civic Mission of Schools."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the National Association of Scholars]

TODAY'S COLLEGE STUDENTS BARELY MORE KNOWLEDGEABLE THAN HIGH SCHOOL STUDENTS OF 50 YEARS AGO, POLL SHOWS

PRINCETON, NJ, Dec. 18, 2002.—Contemporary college seniors scored on average little or no higher than the high-school graduates of a half-century ago on a battery of 15 questions assessing general cultural knowledge. The questions, drawn from a survey originally done by the Gallup Organization in 1955, covered literature, music, science, geography, and history. They were asked again of a random sample of American college and university students by Zogby International in April 2002. The Zogby survey was commissioned by the National Association of Scholars.

There were variations in the pattern of responses. The contemporary sample of seniors did better than the 1950s high school graduates on four questions relating to music, literature, and science, about the same on seven questions pertaining to geography, and worse on four questions about history.

The answers given by today's seniors were also compared to those provided to the Gallup questions by college graduates in 1955. Although the relatively small number of college graduates in the latter sample limits the degree of confidence one can have in the comparisons, the consistency and size of the knowledge superiority displayed by the 1950s college graduates strongly suggests that it is real.

The overall average of correct responses for the entire general knowledge survey was 53.5% for today's college seniors, 54.5% for the 1955 high school graduates, and 77.3% for the 1955 college graduates.

(Removing three questions about which, for reasons indicated in the full report, the earlier respondents may have had more "extracurricular" sources of knowledge, the figures become 50.3% for the 2002 seniors, 46.4% for the 1955 high school graduates, and 67.8% for the 1955 college graduates.)

In addition, the 2002 college seniors were asked two questions dealing with the reading and musical interests that were asked of national samples of the American population in 1946 and 1957. With respect to interest in high literate and musical culture, the answers fail to show impressive or consistent differences between the two groups.

On a question inquiring whether or not they had a favorite author, 56% of 2002 college seniors, as opposed to 32% of the general population in 1946—the great majority of whom had only an elementary or secondary school education—answered affirmatively. For both groups, however, most of the authors specifically mentioned were writers of popular fiction. When only responses naming "high-brow" and canonical writers were tabulated, the differences between the two groups shrank considerably: 17% of the national sample falling into a "high-brow" classification in 1946, as opposed to 24% of the 2002 college senior sample. Not a particularly large difference given the college senior's great advantage in formal education.

Asked whether or not they would like to collect a fairly complete library of classical music on LPs or CDs, the 1957 sample of owners 33 rpm-capable phonographs (37% of a national survey sample) provided a more affirmative response than did the 2002 college seniors, 39% of the former, and only 30% of the latter, responding "Yes".

On the other hand, the contemporary college seniors were more likely (69%) to have studied a musical instrument than were the members of the population as a whole (44%) in 1957. The type of instrument studied also differed, the 1957 national sample more heavily favoring the violin and piano than did the 2002 college seniors.

"The results," said NAS president Stephen H. Balch, "though somewhat mixed and based on a limited number of questions, are hardly reassuring. America has poured enormous amounts of tax dollars into expanding access to higher learning. Students spend, and pay for, many more years in the classroom than was formerly the case. Our evidence suggests that this time and treasure may not have substantially raised student cultural knowledge above the high school levels of a half-century ago."

"Worst yet," he continued, "the high cultural interest and aspirations of today's college seniors are neither consistently nor substantially more elevated than yesteryear's secondary school graduates. Creating such interests and aspirations has traditionally been considered a core element of the collegiate experience. If the last fifty years have in fact witnessed few gains in this respect, it represents a real disappointment of once widespread hopes."

GOVERNOR'S SCHOOLS APPENDIX

Virginia Governor's Schools for Humanities and Visual & Performing Arts:

Established in 1973;

Takes place in more than 40 sites throughout Virginia;

"The Governor's Schools presently include summer residential, summer regional, and academic-year programs serving more than 7,500 gifted students from all parts of the commonwealth";

Funded by way of the Virginia Board of Education and the General Assembly (no specific figures readily available).

Pennsylvania Governor's Schools of Excellence:

Established in 1973;

Program is broken up into 8 schools (Agricultural Sciences-Penn State University, Global Entrepreneurship-Lehigh University, Health Care-University of Pittsburgh, Information Technology-Drexel University/Penn State University, International Studies-University of Pittsburgh, Teaching-Millersville

University, the Arts-Mercyhurst College, the Sciences-Carnegie Mellon University);

Funded by the Commonwealth of Pennsylvania.

Mississippi Governor's School:

Established in 1981;

Program is hosted by the Mississippi University for Women;

Major academic courses change yearly, however, all courses are designed to provide "academic, creative leadership experiences."

West Virginia Governor's School for the Arts:

"Brings 80 of West Virginia's most talented high school actors, dancers, musicians, singers and visual artists to the West Liberty State College campus for a three-week residential program."

Arkansas Governor's School:

Established in 1980;

Program is hosted by Hendrix College and attended by approximately 400 students yearly;

Areas of focus include "art, music, literature, film, dance, and thought in the sciences, social sciences, and humanities";

This 6–week program is funded by the Arkansas General Assembly.

Governor's schools for Montana, Massachusetts, and Connecticut not found.

Alabama Governor's School:

Established in 1987;

Program is hosted by Samford University;

Academic courses stress fieldwork and problem-solving; the arts, humanities and sciences are also explored;

Major and minor areas of study include, "The Legal Process, American Healthcare, and Urban Geography."

Delaware Governor's School for Excellence:

One-week summer program;

Open to academically and artistically talented sophomores from Delaware high schools;

Students attend either the academic program or the visual and performing arts program.

Kentucky Governor's Scholars Program:

Established in 1983;

Held on the campuses (2003) of Centre College in Danville, Eastern Kentucky; University in Richmond, and Northern Kentucky University in Highland Heights;

Five-week long summer program;

Students may choose from over 20 subjects, including; engineering and cultural anthropology;

Students selected attend the program free of cost.

Kentucky Governor's School for the Arts:

Provides hands-on instruction for Kentucky's dancers, actors, and musicians;

No charge to students because it is paid for by the State;

Open to sophomores and juniors in high school.

Missouri Scholars Academy:

Three-week academic program for Missouri's gifted students;

330 students attend each year;

Held on the campus of University of Missouri-Columbia;

Administered by the Department of Elementary and Secondary Education, in cooperation with University of Missouri officials;

Funds to support the Academy are appropriated by the Missouri Legislature following state Board of Education recommendations;

Academy focuses on liberal arts and numerous extra-curricular activities.

A GLANCE AT TENNESSEE GOVERNOR'S SCHOOLS

GOVERNOR'S SCHOOLS

Background

The Governor's School concept and practice began in North Carolina in 1963 when Governor Terry Sanford established the first one at Salem College, Winston-Salem, North Carolina. The first school was initially funded through a grant from the Carnegie Corporation. Later it came under the auspices of the North Carolina Board of Education of the North Carolina Department of Education.

Upon the establishment of the first school, several states, including Georgia, South Carolina, Arkansas, Kentucky, and Tennessee established similar schools. As of 1996, there were approximately 100 schools in 28 states.

TENNESSEE GOVERNOR'S SCHOOLS

Background

The 1984 Extraordinary Session of the Tennessee General Assembly mandated the Governor's School program as a way of meeting the needs of Tennessee's top students. For many years this program has been included in the Appropriation Bill of the General Assembly.

The Governor's Schools started with 3 schools (100 students each) in 1985:

1. Humanities at U.T. Martin increased to 150 (2000 = 123; 2001 = 113).
2. Sciences at U.T. increased to 150 (2000 = 119; 2002 = 107).
3. Arts at M.T.S.U. increased to 300 (2000 = 226; 2001 = 226).

Added in 1986 International Studies at U. of Memphis originally served 150 (2000 = 115; 2001 = 106).

Added in 1987 Tennessee Heritage at E.T.S.U. originally served 80 (2000 = 57; 2001 = 51).

Added in 1991 Prospective Teachers at U.T. Chattanooga originally served 30 (2000 = 25; 2001 = 22).

Added in 1996 Manufacturing at U.T. originally served 30 (2000 = 26; 2001 = 21).

Added in 1998 Hospitality and Tourism at TSU originally served 60 (2000 = 60; 2001 = 0).

Added in 1999 Health Sciences at Vanderbilt originally served 25 (2000 = 20; 2001 = 0).

Discontinued in 2001 Hospitality and Tourism (per legislature).

Discontinued in 2001 Health Sciences (per legislature).

Added (but not held) in 2002 Information Technology Leadership at T.T.U. originally served 30.

Suspended for 2002 All Governor's School Programs.

During the 2001 Governor's Schools session 646 students attended.

2001 total amount allotted to the Governor's Schools: $1,411,000.00 (1999 = $1,981.08 per student; 2000 = $2,037.61 per student; 2001 = $2,180.83 per student).

Governor's Schools today

Today, there are 8 Governor's Schools across the state, serving several hundred students and teachers each year. Although funding for the schools was cut last year during a budget crisis, support has been restored this year.

As stated earlier, there are currently 8 Governor's Schools across the state. Each school is held on a college campus during the summer months. Listed below is a table of all of the schools, including subject area that is taught, the location, and the dates for the 2003 session.

The School for the Arts—June 15–July 12, 2003—held on the Middle Tennessee State University campus in Murfreesboro, and located only 30 miles from Nashville and the Tennessee Performing Arts Center.

The School for the Sciences—June 15–July 12, 2003—held on the campus of the University of Tennessee in Knoxville, near the Oak Ridge National Laboratories, Tremont Environmental Center, and in the heart of TVA.

The School for the Humanities—June 15–July 12, 2003—held on the campus of the University of Tennessee at Martin, in the center of Shiloh Battleground and the sociological cultures of the Mississippi and Tennessee Rivers.

The School for International Studies—June 15–July 12, 2003—held on the campus of The University of Memphis, in the heart of Tennessee's growing international corporate center, home to Federal Express, Holiday Inns, and Schering-Plough.

The School for Tennessee Heritage—June 15–July 12, 2003—held on the campus of East Tennessee State University-in Johnson City-surrounded by the area where Tennessee's history began and only a few miles from Jonesborough, the state's oldest existing city.

The School for Prospective Teachers—June 15–July 12, 2003—held on the campus of the University of Tennessee at Chattanooga—with access to many schools throughout the area.

The School for Manufacturing—June 15–July 12, 2003—held on the campus of the University of Tennessee in Knoxville—focuses on the importance of manufacturing as an integral part of the culture and economy of Tennessee.

President's School for Information Technology and Leadership—June 15–July 12, 2003—this self-funded school will be held on the campus of Tennessee Technological University in Cookeville. It focuses on developing a complete business plan for an information technology-based business and enhancing student's knowledge of information technology and business leadership.

The Tennessee Governor's Schools offer selected gifted and talented high school students intensive learning experiences in the Humanities, Math and Science, Arts, International Studies, Tennessee Heritage, Prospective Teaching, Manufacturing and Information Technology Leadership. Admission to the various programs are highly competitive, as 1,250 applications have been received thus far for the 2003 year for The School for the Arts, and only 300 spots are available. Additionally, The School for the Sciences has received 800 applications thus far, for 125 spots.

Students in the 10th and 11th grades who are interested in participating in the programs receive information from their school's guidance counselor and then proceed with the application process.

Students selected to attend these highly competitive schools are provided housing and meals for the duration of the program, which is about a month long. Students participate in a variety of courses that are offered. For example, there were 14 academic courses offered to the 115 scholars at the Governor's School for the Humanities in 2001. All of the scholars were enrolled in courses at 9 a.m. and 10:15 a.m. This particular curriculum was designed to expose the scholars to a rich selection of humanities courses including literature, philosophy, religion, ethics, poetry, history and media studies. In addition to the required morning classes, the scholars were given the opportunity to participate in afternoon electives, such as the yearbook staff and the student newspaper. In the evening hours at the Governors School for the Humanities, students were offered a broad-range of humanities-related speakers and activities.

Governor's Schools make a difference

The scholars' satisfaction with the 2001 Governor's School for the Humanities program is reflected in the overall rating of the program, with 94% of the scholars rating the program as either "excellent" or "very good."

This satisfaction is also evident from the feedback the students were asked to write upon completion of the 2001 Governor's School for the Humanities program. Some examples of the feedback from the program are as follows:

"I had the fortunate chance of coming here, and I am glad I came. The cool thing about the people here is that I got along with everyone, and I especially got along very well with my roommate. My favorite class was Lord Chamberlain's Men. I better developed my acting skills and overall understanding of what goes on in a play production. This campus is so beautiful. The people, activities, and atmosphere are unbelievable. I have had the time of my life here, and I would especially come to this campus again for a future GS, but I doubt that is possible. I love the freedom I get from being here. The classes were challenging for me and I believe I am prepared for my classroom experience now. There are some very strange people that came here who I wouldn't even think would be accepted to Governor's School. I have learned to accept all different types of people and their views and lifestyles since coming to GS. I love the fact that Tennessee is rewarding me and everyone here that is smart with the opportunity to become a better person. This experience was wonderful. I speak for a lot of people when I say that I don't want to leave!"

"I honestly would have to say that Governor's School has been one of the best experiences I have ever had. By coming here, I have met so many people from different backgrounds, and I learned to grow as a person. I learned so much in and out of class, both from the staff and students. I really enjoyed all the activities because I had fun and because I was able to be myself. The atmosphere was so receptive and nurturing, and the teachers showed that they wanted us to learn and grow. I feel that the variety of electives offered allowed each person to pick what he/she was interested in and enabled each person to show their talents and abilities. The time in which I was here flew by, but so many wonderful things happened. It sounds funny, but every time I would write or call home, I couldn't help but smile as I told my parents about the fun I was having. This may or may not seem relevant to the Governor's School experience, but it helped me to see that I can go off to college in a year and I will be fine. Overall, I feel that this was a positive growing experience, and I can't wait to take back home all that I have learned. Thank you all so much!"

Other Governor's Schools around the country

The Arkansas Governor's School is a 6-week summer residential program for gifted students who are upcoming high school seniors and residents of Arkansas. State funds provide tuition, room, board, and instructional materials for each student who attends the six-week program on the site of a residential college campus, leased by the State. The Arkansas Governor's School is a non-credit program. Students are selected on the basis of their special aptitudes in one of eight fields: choral music, drama, English/language arts, instrumental music, mathematics, natural science, social science, or visual arts.

The Virginia Governor's School Program provides some of the state's most able students academically and artistically challenging programs beyond those offered in their home schools. With the support of the Virginia Board of Education and the General Assembly, the Governor's Schools presently include summer residential, summer regional, and academic-year programs serving more than 7,500 gifted students from all parts of the commonwealth. There are three types of Governor's Schools that provide appropriate learning endeavors for gifted students throughout the commonwealth: Academic-Year Governor's Schools, Summer Residential Governor's Schools, and the Summer Regional Governor's Schools. The Virginia Department of Education and the participating school divisions fund the Governor's School Program.

The Georgia Governor's Honors Program is a six-week summer instructional program designed to provide intellectually gifted and artistically talented high school juniors and seniors challenging and enriching educational opportunities. Activities are designed to provide each participant with opportunities to acquire the skills, knowledge, and attitudes to become life-long learners. The program is held on the campus of Valdosta State University, in Valdosta, Georgia. The GHP teacher-to-student ratio is usually 1:15.

THE AMERICAN CHARACTER AND AMERICA'S GOVERNMENT: USING THE AMERICAN CREED TO MAKE DECISIONS

(Professor Lamar Alexander, John F. Kennedy School of Government, Harvard University, Spring 2002)

OBJECTIVE OF THE COURSE

To help future decision-makers use the principles of the American Creed to solve difficult, contemporary public policy problems. Students will first explore America's "exceptionalism": how an idea-based national ideology makes the United States different from other countries—including other Western democracies. Then, each session will analyze one value of the "American Creed"—and how it conflicts with other values and/or creates unrealized expectations—in the solving of a specific problem. Students will simulate realistic policy-making situations and produce professional products as assignments: concise memos, outlines and briefings.

RATIONALE FOR THE COURSE

In Thanksgiving remarks President Bush praised the nation's response to September 11. "I call it," he said, "the American Character". At KSG Al Gore said, "We should [fight] for the values that bind us together as a country". Both men were invoking a creed of ideas and values in which most Americans believe. "It has been our fate as a nation," Richard Hofstader wrote, "not to have ideologies but to be one." This value-based national identity has inspired both patriotism and division at home, both emulation and hatred abroad. For terrorists as well as for those who admire America, at issue is the United States itself—not what we do, but who we are.

Yet Americans who unite on principle divide and suffer disappointment when using their creed to solve policy problems. This is because the values of the creed conflict (e.g., liberty vs. equality, individualism vs. community) and because American dreams are loftier than American reality (e.g., "all men are created equal", "tomorrow will be better than today"). Samuel Huntington has said that balancing these conflicts and disappointments is what most of American politics and government is about. That is also what this course is about.

AUDIENCE

The Course is designed for future policy makers, civil servants, and journalists. A general knowledge of American politics is helpful but not required. It should be useful for both U.S. and international students seeking to learn more about the American system of government and how it differs from that of other countries.

INSTRUCTOR

Lamar Alexander, The Roy M. and Barbara Goodman Family Visiting Professor of Practice in Public Service, has been Governor of Tennessee, President of the University of Tennessee, and U.S. Education Secretary. He co-founded Bright Horizons Family Solutions, Inc., now the nation's largest provider of worksite day care. His seven books include Six Months Off, the story of his family's trip to Australia after eight years in the Governor's residence. In 1996 and 2000 he was a candidate for the Republican nomination for President of the United States. For more see www.lamaralexander.com. Office: Littauer 101; Telephone: (617) 384–7354; E-mail: lamar alexander@ksg.harvard.edu.

OFFICE HOURS

Office hours will generally be on Tuesdays and Wednesdays. A sign up sheet will be posted outside Professor Alexander's door. Appointments may also be made by e-mailing kay@lamaralexander.com

COURSE ASSISTANT

Matt Sonnesyn will be course assistant for PAL 223 and may be reached by email at matthew sonnesyn@ksg02.harvard.edu.

EXPECTATIONS

This is a graduate level professional course and will have the corresponding standards and assignments: attendance at all scheduled classes, assignments completed on time, and evaluation according to students' preparation of professional products—crisp and realistic decision memos, memo outlines, and policy briefings. All briefings are conducted in class and all decision memos and weekly outlines are due at the beginning of the corresponding class session. There is no final exam, but there will be a final paper.

GRADING

Briefings (2): team exercise 20 percent. Two times during the course each student will participate in a team briefing on that week's subject.

Memos (2): team exercise 20 percent. Two other times during the course each student will participate in a team preparing a three-page decision memo on that week's subject. The student may select these from among the class topics.

Weekly Outlines (6): 20 percent. Six other times during the course each student will prepare a one-page analysis of the week's problem. (This will be during those weeks when the student is not involved in preparing a team briefing or team memo.) As a result, for ten of the twelve class sessions, each student will have an assignment (other than reading) that requires preparation outside of class—either a team briefing, a team memo, or an individual weekly memo outline.

Class participation and attendance: 15 percent.

Final Paper: 25 percent.

Final grades will be determined by students' overall position in the class as measured by performance on each of the assignments and will conform to the Kennedy School of Government's recommended range of grading distribution.

MATERIALS

The course relies primarily on course packets to be made available for sale at the Course Materials Office. There will be 125–150 pages of reading each week. There are three required textbooks:

(1) Alexis de Tocqueville, Democracy in America, translated and edited by Harvey C. Mansfield and Delba Winthrop, The University of Chicago Press, 2000.

(2) Seymour Martin Lipset, American Exceptionalism, W.W. Norton & Co., 1997 (paperback).

(3) Samuel P. Huntington, "American Politics: The Promise of Disharmony", The Belknap Press of Harvard University, 1981.

All three books are available for purchase at the Harvard Coop. Copies of all three books are on reserve in the KSG library.

Note: Readings from the three required textbooks or readings which are readily available online are not included in the course packet. (Hypertext links to the online readings may be found within the syllabus that is posted on the KSG website.)

ENROLLMENT

The course has a limited enrollment. Auditors are permitted with permission of the instructor.

COURSE OUTLINE AND REQUIRED READINGS

2/5: My "ism" is Americanism—American Exceptionalism. One hundred and one ways Americans are different. So what?

Alexis de Toqueville, Democracy in America, edited by Harvey C. Mansfield and Delba Winthrop, University of Chicago Press, Chicago, 2000, pp. 3–15, 90, 585–587, 225–226.

G.K. Chesterson, What I Saw in America, Dodd, Mead & Co., 1922, pp. 6–12.

Daniel J. Boorstin, "Why a Theory Seems Needless", The Genius of American Politics, 1953, The University of Chicago Press, p. 8–35.

Samuel P. Huntington, "The American Creed and National Identity," American Politics: The Promise of Disharmony, 1981, pp. 13–30.

Albert Hourani, A History of the Arab Peoples, 1991, The Belknap Press of Harvard University Press, Cambridge, pp. 46–58.

Samuel P. Huntington, The Clash of Civilizations, Simon and Schuster, 1996, pp. 40–55, 68–78, 301–308.

Seymour Martin Lipset, American Exceptionalism, pp. 17–34.

2/12: ". . . where at least I know I'm free . . ."—Liberty. Should Congress repeal President Bush's executive order allowing non-citizens suspected of international terrorism to be detained and tried in special military tribunals?

Alexis de Toqueville, ibid., pp. 239–242, 246–249, 301, 639–640.

U.S. Constitution and amendments, 1787. http://memory.loc.gov/const/constquery.html.

John Stuart Mill, "The Authority of Society and the Individual", On Liberty, 1859, Hackett Publishing Co. edition, 1978, pp. 73–91.

Carl Brent Swisher, American Constitutional Development, Greenwood Press, Connecticut, 1954, pp. 276–292, 1017–1025.

Samuel P. Huntington, "The American Creed vs. Political Authority," American Politics: The Promise of Disharmony, 1981, pp. 31–60.

Richard E. Neustadt and Ernest R. May, Thinking in Time, The Free Press, pp. 232–246, 1988.

An Executive Order of President George W. Bush, "Detention, Treatment and Trial of Certain Non-Citizens in the War against Terrorism", November 13, 2001.

Jeffrey Rosen, "Testing the Resilience of American Values", The New York Times Week in Review, Sunday, Nov. 18, 2001, pp. 1 and 4.

Laurence H. Tribe, Statement before U.S. Senate Judiciary Committee, December 4, 2001.

"American Attitudes Toward Civil Liberties", public Opinion survey, by Kasier Foundation, National Public Radio and Kennedy School of Government, December 2001. http://www.npr.org/news/specials/civillibertiespoll/011130.poll.html.

2/19: In God We Trust . . . but we don't trust government with God—Christianity, pluralism and the state. Should Congress enact President Bush's faith-based charity legislation?

Alexis de Toqueville, ibid., pp. 278–288.

John Locke, "A Letter Concerning Toleration", Diane Ravitch and Abigail Thernstrom, The Democracy Reader, NY: HarperCollins, 1992., ibid., pp. 31–37.

Thomas Jefferson, "Notes on the State of Virginia", Ravitch and Thernstrom, ibid., pp. 108–109.

James Madison, "Memorial and Remonstrance against Religious Assessments", 1785, The Writings of James Madison, NY: Putnam, 1908.

"Separation of Church and State in American Bought about by the Scotch-Irish of Virginia", Charles. A. Hanna, The Scotch Irish, Vol. II, 1985, Genealogical Publishing Co., Baltimore, pp. 157–162.

Philip Schaff, America: A Sketch of its Political, Social and Religious Character, 1961, The Belknap Press of Harvard University, pp. 72–83.

Engel vs. *Vitale*, 370. U.S. 421 (1962).

Marvin Olasky, "The Early American Model of Compassion", The Tragedy of American Compassion, Regnery Publishing, Washington, D.C., 1992, pp. 6–23.

Lamar Alexander, "Homeless, not hopeless", We Know What to Do, William Morrow, New York, 1995, pp. 35–51.

Two Executive Orders of President George W. Bush, "Establishment of White House Office of Faith-Based and Community Initiatives" and "Agency Responsibilities with respect to Faith-based Community Initiatives". January 29, 2001.

2/26: "Leave no child behind"—Equal Opportunity. Should the federal government pay for scholarships that middle and low-income families may use at any accredited school— public, private or religious?

Alexis de Toqueville, ibid, pp. 41–42.

Horace Mann, "Report of the Massachusetts Board of Education, 1848" in Daniel J. Boorstin, An American Primer, Meridian, 1995, pp. 361–375.

Charles Leslie Glenn, Jr. The Myth of the Common School, The University of Massachusetts Press, 1988, pp. 146–158.

Lamar Alexander, "The GI Bill for Kids", The John Ashbrook Lecture, presented at Ashland (O.) University, 9/12/92. http://www.lamaralexander.com/articles.htm.

Thomas J. Kane, "Lessons from the Largest School Voucher Program", Who Chooses? Who Loses?, edited by Bruce Fuller and Richard F. Elmore, Teachers College Press, 1996, pp. 173–183.

Michael W. McConnell, "Legal and Constitutional Issues of Vouchers", Vouchers and the Provision of Public Schools, The Brookings Institution, 2000, pp. 368–391.

Eliot M. Mincberg and Judith E. Schaeffer, "Grades K–12: The Legal Problems with Public Funding of Religious Schools", Vouchers and the Provision of Public Schools, pp. 394–403.

Diane Ravitch, "American Traditions of Education", Terry M. Moe, A Primer on America's Schools, Hoover Institution Press, 2001, pp. 1–14.

Paul Peterson, "Choice in American Education", A Primer on America's Schools, pp. 249–283.

Diane Ravitch, "Ex Uno Plures", Education Next, Fall 2001, pp. 27–29

3/5: Equal at the starting line . . . but what about those with shackles?—Individualism. Should the federal government pay for race-based college scholarships?

Alexis de Toqueville, ibid., pp. 326–334, 347–348; 482–488.

The Declaration of Independence, 1776. http://memory.loc.gov/const/declar.html.

Abraham Lincoln, Second Inaugural Address (1865). http://www.bartleby.com/124/pres32.html

Frederick Douglass, "What to the Slave is the Fourth of July?" http://douglass.speech.nwu.edu/doug a10.htm.

Martin Luther King, Jr., address at the Lincoln Memorial in Washington, D.C., August 28, 1963. http://douglass.speech.nwu.edu/king b12.htm

Excerpts from University of California Regents v. Bakke, 438 U.S. 265 (1978).

Testimony of Lamar Alexander, U.S. Education Secretary, Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives, 102nd Congress, 2nd session, Feb. 20, 1992, pp. 39–46, 82–89, 99–102.

Seymour Martin Lipset, "Two Americas", American Exceptionalism, pp. 113–150.

Abigail Thernstrom and Stephen Thernstrom, America in Black and White, New York, Simon & Schuster, 1997. pp. 530–545.

Cornel West, "Malcolm X and Black Rage", Race Matters, Random House, Vintage Books, New York, 2001, pp. 135–151.

3/12: A nation of immigrants . . . but all Americans—E Pluribus Unum. Should illegal aliens have Illinois driver's licenses? discounted tuition at state colleges? free medical care? should their children attend public schools?

Alexis de Toqueville, ibid., pp. 29–30. 32. 34–37, 268.

J. Hector St. John de Crevecouer, "What is an American", Letters from an American Farmer, 1782, Penguin Books edition 1986, pp. 67–90.

Arthur M. Schlesinger, Jr., The Disuniting of America, W.W. Norton, New York, 1991, pp. 9–43.

Carlos E. Cortes, "Limits to pluribus, limits to unum", National Forum, Baton Rouge, Winter, 1992. pp. 6–10.

Samuel P. Huntington, The Clash of Civilizations, Simon and Schuster, 1996, pp. 198–206.

J. Harvie Wilkinson, "The Medley of America", One Nation Indivisible, Addison Wesley, 1997, pp. 3–21.

Griffin Bell, "The Changing Role of Migrants in the United States", Address to the International Leadership Issues Conference of State Legislative Leaders Foundation, Budapest, October 4, 2001.

David Cohen, Chasing the Red, White and Blue, New York, 2001. St. Martin's Press, pp. 218–236, 250–260.

Morris P. Fiorina and Paul E. Peterson. The New American Democracy, Longman. 2002, pp. 99–108.

3/19: Suspending the constitution in order to save it—Rule of Law. Should the governor-elect seize office three days early to prevent the incumbent governor from selling pardons for cash?

Alexis de Toqueville, ibid., pp. 229–231.

US Constitution, 25th Amendment. http://memory.loc.gov/const/constquery.html.

Tennessee Constitution Article 3, Section 12. http://www.state.tn.us/sos/bluebook/online/section6/tnconst.pdf (p. 12).

Tennessee Acts Section 8–1–107.

Lon Fuller, "The Morality that Makes Law Possible", The Morality of Law. Yale Law School Press, 1964. pp. 33–44.

John D. Feerick, The Twenty-Fifth Amendment: Its Complete History and Earliest Applications. Fordham University Press, 1976. pp. 3–23, 193–206.

Bush v. Gore, 2000. http://www.supremecourtus.gov/florida.html.

Al Gore, address to the nation, December 13, 2000. http://www.cnn.com/ELECTION/2000/transcripts/121300/t651213.html.

Paul F. Boller, Jr., "Picking the Day", Presidential Inaugurations, Harcourt, Inc., 2001, pp. 23–31.

James W. Torke, "What Is This Thing Called the Rule of Law?" Indiana Law Review. Volume 34, 2001. pp. 1445–56.

Dotty Lynch, "Back to Abnormal", Sept. 28, 2001, from CBS News Site. http://www.cbsnews.com/now/story/0,1597,312915–412,00.shtml.

Tim McGirk, "Wahid's In, Megawati's Out", Dec. 8, 2001, from Time Asia. http://www.time.com/time/asia/news/interview/0,9754,168569,00.html.

Gordon Silverstein, "Globalization and the Rule of Law", mimeo, The University of Minnesota, 2001.

3/26: Harvard break.

4/2: "Ask not what your country can do for you . . ."—Community. Should all high school graduates perform one mandatory year of community service?

Alexis de Toqueville, ibid., pp. 56–58, 577–78, 489–92.

Robert N. Bellah, et al. Habits of the Heart, University of California Press, 1985, pp. vii-xxxv, 275–296.

Daniel Boorstin, "From Charity to Philanthropy", Hidden History, Vintage, New York, 1989, pp. 193–209.

Barry Alan Shain, The Myth of American Individualism, Princeton University Press, 1994, pp. xiii-xix.

Lamar Alexander, "What's Wrong With American Giving and How to Fix It," Philanthropy, Summer 1997. http://www.lamaralexander.com/articles/03.htm.

Robert D. Putnam, Bowling Alone, Simon & Schuster, 2000. pp. 15–28, 48–64, 116–133, 402–414.

4/9: Why Americans don't trust Washington, D.C.—A government of, by and for the people. Should the U.S. create a citizen congress: cut their pay and send them home six months a year, adopt term limits and two-year federal budgets?

Alexis de Toqueville, ibid. pp. 53–55.

Aristotle, "Politics", from Ravitch and Thernstrom, pp. 9–12.

Edmund Burke, "On Election to Parliament", Ravitch and Thernstrom, ibid. pp. 50–51.

Samuel P. Huntington, "The American Creed and National Identity," American Politics: the Promise of Disharmony, 1981, pp. 36–41.

E.J. Dionne, "The Politics of the Restive Majority", Why Americans Hate Politics, Touchstone, New York, 1991, pp. 329–355.

Lamar Alexander, "Cut Their Pay and Send Them Home," 1994, address to The Heritage Foundation.

Seymour Martin Lipset, American Exceptionalism, pp. 35–46.

Joseph S. Nye, et al, Why People Don't Trust Government, Harvard University Press, 1997, pp. 253–281.

Mark Kim, David King, Richard Zechhauser, "Why State Governments Succeed", mimeo, John F. Kennedy School of Government, Harvard University, 2001.

4/16: "Work! For the night is coming . . ."—Laissez Faire. Should the federal government pay all working Americans "a living wage"?

Alexis de Toqueville, ibid. pp. 506–08, 555–557, 606–608.

Herbert Croly, The Promise of American Life, 1909, Northeastern University Press, pp. 1–26.

Kevin Phillips, "The Triumph of Upper America", The Politics of Rich and Poor, Harper, 1991, pp. xvii-xxiii.

C. Vann Woodward, "The Pursuit of Happiness", The Old World's New World, Oxford University Press, 1991, pp. 40–62.

Seymour Martin Lipset, "Economy, Religion and Welfare", American Exceptionalism, pp. 53–76.

David Neumark and William Washer, "Using the EITC to Help Poor Families: New Evidence and a Comparison with the Minimum Wage", NBER Working Paper #7599 March 2000, pp. 1–4, 24–27. http://papers.nber.org/papers/W7599.

Charles Handy, "DeToqueville Revisited: The Meaning of American Prosperity", Harvard Business Journal, January 2001, pp. 5–11.

David Neumark, "Living Wages: Protection For or Protection From Low-Wage Workers", NBER Working Paper #8393, July 2001, pp. 1–7, 25–27. http://papers.nber.org/papers/W8393.

David Cohen, Chasing the Red, White and Blue, New York, 2001. St. Martin's Press, pp. 52–80.

Harvard Living Wage Statements. http://www.hcecp.harvard.edu/report.htm and http://www.hcs.harvard.edu/~pslm/livingwage/portal.html.

4/23: "Pay any price, bear any burden . . ."—Exporting American Values. Putin shuts down last remaining independent Russian TV station (owned 25% by Ted Turner), expels 100 foreign journalists for "inaccurate reporting" including all Fox News personnel. What does U.S. do?

Alexis de Toqueville, ibid., pp. 217–220.

George Washington's Farewell Address, 1795. http://www.yale.edu/lawweb/avalon/washing.htm.

John F. Kennedy's Inaugural Address, 1961. http://www.bartleby.com/124/pres56.html.

Samuel P. Huntington, American Politics: the Promise of Disharmony, pp. 240–262.

Graham T. Allison, Jr. and Robert P. Beschel, Jr., "Can the United States Promote Democracy", Political Science Quarterly, Volume 107, No. 1, 1992, pp. 81–89.

Henry Kissinger, "The Hinge: Theodore Roosevelt or Woodrow Wilson", Diplomacy, New York Simon & Schuster, 1994, pp. 29–55.

Lamar Alexander, "In War and Peace", We Know What to Do, pp. 95–107.

Samuel P. Huntington, The Clash of Civilizations, pp. 309–321.

Samantha Power, "Bystanders to Genocide", The Atlantic Monthly, September 2000, pp. 84–108.

Walter Russell Mead, Special Providence: American Foreign Policy and How it Changed the World. Alfred A Knopf, New York 2001, pp. xv-xviii, 3–29.

4/30: Anything is possible—Unbridled optimism. Should there be a $1000 limit on individual federal campaign contributions?

Alexis de Toqueville, ibid., pp. 187–189.

Larry J. Sabato, "PACs and Parties" Money, Elections and Democracy: Reforming Congressional Campaign Finance, 1990, Boulder, Colorado, Westview Press.

Todd Eardensohn, A Review of the Alexander for President Campaign Budget (1995-1996).

Samuel P. Huntington, The Clash of Civilizations, Simon and Schuster, 1996, pp. 308–321.

Seymour Martin Lipset, American Exceptionalism, pp. 51–52, 267–292.

Lamar Alexander, "Should Tom Paine Have Filed with the FEC?", January 21, 1998, address to The Cato Institute.

Andrew Del Banco, The Real American Dream, 1999, Harvard University Press, pp. 103–118.

Lamar Alexander, "Put More Money Into Politics", August 27, 1999, The Wall Street Journal. http://www.lamaralexander.com/articles/01.htm.

Alexander, "Keeping the Dream Alive", We Know What to Do, ibid, pp. 165–180.

Mr. ALEXANDER. Mr. President, I thank the majority leader for this time. I yield the floor.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise to say I believe the speech the Senator from Tennessee has given today was an extraordinary speech, which was his first speech on the floor. Actually, it was not his first speech on the floor, but we are calling it his maiden speech. He gave a speech last week that had a huge impact relative to the Estrada nomination, which is the pending business. But this statement today by the Senator from Tennessee highlights effectively and poignantly the importance of teaching civics and history in classes in America. His bill, which he has proposed, of which I am a cosponsor, is a step which is long overdue.

As he so effectively pointed out in his speech, we, as a nation, need to teach our children about our roots and our purpose as a country if we are to continue our creed of bringing one out of many.

So I thank him for his statement. I think it was a superb statement. And I thank him for his legislation, which I hope we will be able to act on promptly and pass and put into operation so we can pass on to our children, through our public school system, the importance of the American culture and history.

The PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of Alaska, asks unanimous consent that he be added as a cosponsor.

Without objection, it is so ordered.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I congratulate the Senator from Tennessee on an outstanding and inspiring speech. I feel tremendously more patriotic now than when I came in the Chamber. And there is no way one can come into this Chamber without feeling patriotic.

I am just hoping that classrooms across America do not wait for the legislation; that they go ahead, get on the Internet, get a copy of the Senator's speech, get a copy of the materials that accompany it, and get busy on this right away.

The Senator is absolutely right. This is a country that began unifying on September 11. It is in a huge process of reunifying, of finding the commonality between the people who have united the American people and made this the kind of country that it is.

I congratulate the Senator for his inspired speech and the work he has done on this bill. I have heard the Senator speak on this bill and have seen his passion on it before.

Mr. President, I also ask unanimous consent to be added as a cosponsor of the bill.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. ENZI. I thank the Senator for all his efforts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I also join in thanking the Senator from Tennessee for his very inspiring comments. I am part of the new class of Senators. I will have an opportunity to give my maiden speech, though obviously I have spoken on the floor before.

I thought this was an important maiden speech. This was the first of the speeches of the new Senators of the 108th, and I think it was the right speech. We are going to discuss a lot of issues in these very challenging times—a time when we are on the edge of war, a time in which the values we hold so dear are challenged by terrorists, are challenged by oppression, and challenged by hate.

We live in a time of great uncertainty about the economy, about jobs, with moms and dads who worry about their economic futures.

So we are going to debate a lot of issues. We are worried about the future of health care and the future of prescription drugs for seniors. We are worried about baby boomers who are going to get old—and do we have a national policy dealing with long-term care?

But at the core of all that we debate is this very fundamental concept that the Senator from Tennessee has raised; that is, What does it mean to be an American? What does it mean to celebrate freedom, to celebrate opportunity, and to be an optimist and have a hopeful spirit?

So I applaud the Senator from Tennessee for, in his maiden speech, setting forth the seminal concept that binds us.

I have noticed, with a little bit of sadness, the very partisan tone of so much of what we do. And I have always believed if we spent more time focusing on the things upon which we agree, rather than things on which we disagree, we would get through those. I think there is great agreement in this body on what we agree on, and that is what it is to be an American.

I think it is important to transmit those values to the next generation so that the next generation can reinforce that to our generation because sometimes we forget.

So, again, I add my voice of thanks to the Senator from Tennessee for raising this issue. It is so appropriate at this point in time.

Mr. President, I also ask unanimous consent that I be added as a cosponsor on the Senator's legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I congratulate my colleague, through the Chair, for his words of inspiration. This concept of unity, this concept of patriotism, this concept of the essence of what being an American is all about, has been a real focus for all of us throughout our lives.

September 11, as my distinguished colleague mentioned, gave us a time to rethink. I think what he has done today by introducing this bill is give us a real focus in this body, to allow us to shine the light on what we feel but which we do not articulate and spell out and communicate to the American people. very well because we debate small issues, big issues, discreet issues, and a lot of rhetoric flies back and forth.

So I appreciate the Senator taking the time to put together this piece of legislation, as well as spelling it out in his maiden speech.

I especially appreciate, in his comments, mentioning the importance of teachers and setting up, in a structured fashion, a forum with which he has direct experience, by which we can give some discipline to and cultivate and encourage and show the national importance of its support.

He mentioned the Pledge of Allegiance. It was not that long ago in this body that we made a decision to revive having the Pledge of Allegiance recited at the opening of each session. That was really just several years ago.

It shows, by somebody taking an initiative, such as my colleague from Tennessee has done, that by giving it definition, you, indeed, can advance down the field and make progress.

In this legislation we have an opportunity to continue with and to, indeed, capture what we know this great Nation is all about, and perpetuate it in a more organized, systematic way.

Mr. President, I ask unanimous consent that I, too, be added as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, my friend, the junior Senator from Tennessee, has this morning introduced legislation that I think is extremely important. I was happy to join with him as the lead cosponsor in that legislation. Certainly the Senator from Tennessee has the qualifications to offer legislation relating to education. He has been Governor of a State. He has been the secretary of education for our country. So when I saw this legislation come across my desk, I thought it was something in which I was interested. After reviewing it more closely, I am happy to be the lead cosponsor on this legislation, the American History and Civics Education Act.

First of all, I agree with the Senator from Tennessee that civics or the duties of citizenship need to be stressed more. The best place it can be stressed is through educating our children, K through 12. It is the same with history. Mr. President, I love the study of history. I read fiction only occasionally. I read nonfiction all the time. I am presently engaged in a tremendously interesting book, written by Evans and Novak, the conservative reporters. Evans has passed away. Novak is still writing, as he has for many years. He is an excellent writer. I didn't realize, until I had occasion to visit with Bob Novak a few weeks ago, that he and Evans had written a history book in 1967 dealing with the life of Lyndon Johnson. I am in the process of reading that book. I am probably about halfway through the book. It is tremendously interesting. For those of us who read the Caro work, I recommend the book by Novak. It is very readable. They were there at the time. The things that went on, for example, in the Civil Rights Act of the late fifties—our colleague Strom Thurmond debated that matter. He stood up himself in a filibuster. Senator HATCH, my friend from Utah, talks about real filibusters. That was a real filibuster. Senator Thurmond alone spoke for more than 24 hours.

It really threw the southern coalition off because they, in effect, made a deal with Lyndon Johnson and Strom Thurmond. It threw a monkey wrench into the so-called deal. Anyway, it is very interesting.

History is living what took place in the past. For us, it is the ability to learn from what has happened in the past to try to do a better job in the future.

My friend from Tennessee, wrote this legislation, and I am happy to work with him on it; it is great. The legislation sets up academies. It sets up programs on the Internet for best teaching practices. The education of America's children must be one of our top priorities.

Our schools have several important goals, including providing students with a foundation for higher education, helping them develop individual potential, and preparing them for successful careers.

America has been a nation of immigrants for hundreds of years, and our schools have helped instill in our diverse population a sense of what it means to be an American and prepare our youth for the responsibilities of citizenship. We need to reaffirm the importance of learning American history and acquiring civic understanding. That is what this legislation is all about.

As I work to make sure Nevada schoolchildren are connected to the Internet and the future, I also want them to be connected with America's past and know the common values in history, binding together all who live in our great Nation.

I commend and applaud the junior Senator from Tennessee, LAMAR ALEXANDER, for offering this legislation. It is important legislation. He said in his statement that Senator GREGG, who chairs the committee of jurisdiction on this legislation, will move the bill to the Senate floor quickly. I hope that happens. I do hope my Republican colleagues will join with me in adequately funding this program so we can establish in grades K through 12 these academies where teachers can go to summer workshops and learn history and how better to teach history. It will only improve our country and our educational system in particular.

Under the previous order, the second 30 minutes shall be under the control of the Senator from Alaska, Ms. MURKOWSKI, or her designee.

The Senator from Alaska.

EXPRESSING SUPPORT FOR THE PLEDGE OF ALLEGIANCE

Ms. MURKOWSKI. Mr. President, I send a resolution to the desk and ask unanimous consent that it be held at the desk.

Before the Chair rules, I add that it is my hope, and the hope of many Members on this side of the aisle, that we can get this resolution cleared for adoption today.

The PRESIDING OFFICER. Without objection, the resolution will be held at the desk.

Ms. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased to be joined by the Republican whip, Senator McCONNELL, in introducing a resolution disapproving last week's Pledge of Allegiance ruling by the full Ninth Circuit Court of Appeals.

The full court refused to review a three-judge panel ruling that bars children in public schools from voluntarily reciting the Pledge of Allegiance.

Last week's decision is symptomatic of a court that has become dysfunctional and out-of-touch with American jurisprudence, common sense, and constitutional values. The full Ninth Circuit decision on the pledge represents a type of extremism carried out by individuals who want to substitute their values in place of constitutional values. What they want to do is simply eradicate any reference to religion in public life. That is not what the First Amendment mandates.

In his dissent from the court's decision, Judge O'Scannlain, writing for six judges, called the panel decision "wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not a 'religious act' as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit, and wrong as a matter of common sense."

He went on to say: "If reciting the pledge is truly 'a religious act' in violation of the Establishment Clause, then so is the recitation of the Constitution itself, the Declaration of Independence, the Gettysburg Address, the National Motto or the singing of the national anthem," verse of which says, 'And this is our motto: In God is our trust.'' I believe the reasoning of Judge O'Scannlain is absolutely correct.

One should not be surprised that the full Ninth Circuit refused to reconsider this ill-conceived decision. The recent history of the Ninth Circuit suggests a judicial activism that is close to the fringe of legal reasoning.

During the 1990s, almost 90 percent of cases from the Ninth Circuit reviewed by the Supreme Court were reversed.

In fact, this is the court with the highest reversal rate in the country. In 1997, 27 of the 28 cases brought to the Supreme Court were reversed—two-thirds by a unanimous vote.

Over the last 3 years, one-third of all cases reversed by the Supreme Court came from the Ninth Circuit. That's three times the number of reversals for the next nearest circuit and 33 times higher than the reversal rate for the 10th Circuit.

Last November, on a single day, the Supreme Court summarily and unanimously reversed three Ninth Circuit decisions. In one of those three cases, the Supreme Court ruled that the circuit had overreached its authority and stated that the Court "exceed[ed] the limits imposed on federal habeas review . . . substitut[ing] its own judgment for that of the state court."

One of the reasons the Ninth Circuit is reversed so often is because the circuit has become so large and unwieldy. The circuit serves a population of more than 54 million people, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million.

According to the Administrative Office of the U.S. Courts, the Ninth Circuit alone accounts for more than 60 percent of all appeals pending for more than a year. And with its huge caseload, the judges on the court just do not have the opportunity to keep up with decisions within the circuit, let alone decisions from other circuits.

In a New York Times article last year it was pointed out that judges on the court said they did not have time to read all of the decisions issued by the court. According to a 1998 report, 57 percent of judges in the Ninth Circuit, compared with 86 percent of Federal appeals court judges elsewhere, said they read most or all of their court's decisions.

Another problem with the Ninth Circuit is that it never speaks with one voice. All other circuits sit as one entity to hear full-court, or en banc, cases. The Ninth Circuit sits in panels of 11. The procedure injects randomness into decisions. If a case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 24 active members.

Last week, some legal experts suggested that the Ninth Circuit's unique 11 member en bank panel system may have contributed to the courts' decision on the pledge. It has been suggested that even a majority of the 24 members of the court might have disagreed with the pledge decision but feared that a random pick of 11 members of the court to hear the case might have resulted in the decision being affirmed.

That is not the way the law should be interpreted by the circuit courts of this country. I believe this decision highlights the need for this Congress to finally enact legislation that will split the Ninth Circuit. It has just become dysfunctional.

Later this week I will be introducing such legislation, and I hope my colleagues on both sides of the aisle will join me in that legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise to join my colleague, the Senator from Alaska, in raising my voice in concern and dismay about the recent decision of the 24-judge U.S. Court of Appeals for the Ninth Circuit declaring the phrase "under God" in the Pledge of Allegiance to be unconstitutional. You have to ask yourself: What is the problem? Is the problem the pledge or is the problem the Ninth Circuit?

The distinguished Senator from Tennessee today in his maiden speech talked about what it is to be an American and made reference to this particular issue. The Pledge of Allegiance does speak to what is great about America, our sense of unity and—to quote the Senator from Tennessee—our sense of faith, our value of freedom. It is who we are as Americans that joins us.

If we reflect on the prayer that opened the session today, the pastor talked about prayer and whether it is Allah or whether it is Jesus, whether it is Yahweh, we are joined with a common sense in faith. Walking through the doors to the Chamber across from where the Presiding Officer sits is the phrase: "In God We Trust." We acknowledge that. We accept that. We understand it is not the State saying this is State-sponsored religion. It is simply our recognition of faith as being part of who we are and that it is OK.

If I would take out a dollar bill, if I had one in my pocket, we would see reference to God. This decision defies common sense. It is because we have a court that substitutes its judgment, its own perhaps personal political perspective in ruling from the bench, and that is not what courts are supposed to be.

I speak as a former Solicitor General of the State of Minnesota. I understand the Constitution. I respect the Constitution. I revere the Constitution. Clearly, our Founders and Framers, in their brilliance, in their foresight, and I believe in their being divinely inspired, understood that it was in God we trust. A decision somehow that says it is unconstitutional truly defies common sense.

If I may, I think this decision highlights the importance of confirming Miguel Estrada to the Second Circuit Court of Appeals. I say that because if you look at the criticism that Mr. Estrada is getting from some of my distinguished colleagues on the other side, they are concerned that he is not articulating his personal political perspective on a given issue.

When Mr. Estrada is asked about legal precedent, he says: I will follow it if it is the established law of the land. That is what judges are supposed to do. They are not supposed to take their own personal political belief, a belief that may defy common sense, and bring it to the fore, in this case the Ninth Circuit Court of Appeals ruling that the phrase "under God" is unconstitutional.

When Mr. Estrada was asked about the divisive issue of abortion—clearly divisive, and I am one who would love to find common ground. I believe in America today there is common ground over banning the horror of partial-birth abortion. Most people find common ground.

On this divisive issue, when Mr. Estrada was probed and pushed to say what his personal beliefs are, he stepped back and said: It is the established law of the land. It is a constitutional right to privacy. It is not within the province or responsibility of a judge to bring their personal political perspective or belief to the table. To do that would constitute judicial activism. That is not what I believe the Constitution intended judges to be. They are supposed to interpret the Constitution.

I truly believe this decision of the Ninth Circuit Court of Appeals, which I am hopeful, if not confident, will be overturned—I am supportive of the efforts of the Senator from Alaska and this body speaking out and saying this is the wrong decision; this does not reflect common sense; this does not reflect American values.

This is the wrong lesson to be sending our children about what it means to be an American and the greatness of America. Clearly, we cannot have courts substituting their judgment. We cannot have decisions that are so devoid of common sense that they cut away at the core of the fabric and the heart of what it means to be an American.

I join in speaking out. I join in support of the resolution that says this is wrong, and the Senate recognizes it is wrong.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I rise to congratulate the Senator from Alaska and to associate myself with the remarks of the Senator from Minnesota. I mentioned a few moments ago that if our future Federal judges had a few more courses in American history and civics, we might not have these decisions.

I see the Senator from Alabama is in the Chamber. I think of the pivot point of the Revolutionary War when all the Europeans on the western side of the mountain in Tennessee were enraged. They were tired of paying taxes to support the bishop of a church to which they did not belong. So they helped fight the Revolution; that is separation of church and state. They did not want to pay taxes to support another church.

Before they went over the mountain to the Battle of King's Mountain in Watauga, they went down on their knees to pray. The great pioneer preacher, Samuel Doke, prayed about the sword of the Lord and Gideon. They knew how to separate church and state and still be a religious country. If they knew it, why don't Federal judges know it? Why don't they know that George Washington went down on his knees at Valley Forge, and that Abraham Lincoln turned the war over to the Lord, and General Pershing advised troops to pray? Did they not see President Bush take America to church after 9/11 and then walk across the street to a mosque?

We know how to be a religious country and separate church and state, and our Federal judges ought to know how to do that. I suggest one more lesson for teaching American history and civics in our public schools, as the Senator from Alaska suggests, is that we have more Federal judges grow up understanding we are a country that can be as religious as any country in the world and still separate church and state.

Those principles can work together.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. ALEXANDER. Yes, of course.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Does the Senator, based on his broad experience in affairs, conclude that this country has the unique history of being a genuinely religious country, but a country that knows how to handle different religions and faiths? As a matter of history, is it not almost unique in the history of the world how we have been able to affirm religious faith and, at the same time, avoid sectarian violence?

Mr. ALEXANDER. The Senator from Alabama is exactly right. One of the most remarkable aspects about America is we have a country that is filled with people from everywhere. If one goes to a naturalization ceremony in any Federal court in America and looks at the men and women coming into our country from everywhere, one will see the variety and diversity of our country. We know how to do that.

Our country is distinguished because despite our diversity, we do not have religious wars in our country. We respect everybody's right. The greatest aspect of our country is not all that diversity; it is the fact we figured out how to turn all that diversity into one country.

Federal judges need to know we have two principles running through this country: We have the Pilgrims who arrived here and saw the shining city on the hill, and we have the great diversity where we are more religious virtually than any country, but we separate church and state. When the chaplain starts every day here with a prayer, he is not establishing a church in the United States of America; he is recognizing the religious nature of our country, and judges should know that.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. I thank the Chair. Madam President, first, I appreciate the remarks of the Senator from Alaska. It was a very effective and thoughtful speech about a very important subject, and that is the Ninth Circuit Court of Appeals and how this Pledge of Allegiance matter highlights the problems we have had there for a long time. I express my appreciation for a wonderful analysis that the Senator from Alaska made. The Senator laid it out very well.

I chair the Subcommittee on Courts of the Senate Judiciary Committee. I have looked at this issue since I have been in the Senate. I was present in Atlanta the day the Eleventh Circuit

Court of Appeals was created. The old Fifth Circuit Court of Appeals was divided. It went from Miami to Texas, from El Paso to Miami. It was too big and it could not work well. The judges themselves believed that a division was necessary. The Congress approved. Not one single judge today who is on the new Eleventh Circuit and was on the old Fifth Circuit, would ever want to try to put that monstrosity back together. And it was not nearly as big as the Ninth Circuit.

We had hearings several years ago during which we called chief judges of several circuits as witnesses. Those judges told us they did not want to see the size of their court get any bigger than 10 or 12 judges. When it got any bigger than that, collegiality broke down, the ability to maintain consistency of opinions broke down, and the ability to promote harmony and consistency in law broke down.

The Senator from Alaska is exactly correct, the Ninth Circuit is a particular problem. It is out of the mainstream of American law, and that is one reason I urged and pleaded with this Senate not to put more left-wing activist judges on the Ninth Circuit. I dealt with the question of Judge Marsha Berzon and Judge Paez. We did not filibuster those nominees. We debated those nominees. I voted against those nominees. Both of them were confirmed. Both of those judges, by all apparent indication, voted for this opinion that struck down the Pledge of Allegiance in this country. Both of those judges, Berzon and Paez, in separate opinions have voted to strike down California's three-strikes-and-you're-out law, the law that broke the back of a surging crime rate in California, and we have seen the crime rate go down. Why? Because they targeted repeat dangerous offenders. In a Rand Corporation study of prisoners in California, the prisoners admitted they were involved in as many as 200 crimes per year. So when you target repeat offenders under the three-strikes-you're-out law, it brings the crime rate down. The Ninth Circuit has real problems. They have no business striking down California's law. California has a right to set the penalty standards in their State.

The problems in the Ninth Circuit are broadly known. Several years ago, the New York Times, in a piece on the problem, noted that a majority of the United States Supreme Court considers the Ninth Circuit to be a rogue circuit, a circuit out of control. One year they reversed the Ninth Circuit 27 out of 28 times. Another year it was 13 out of 17 times. They have the highest reversal rate of any circuit in America. But to have so many cases, there is no way the Supreme Court of the United States can control that circuit, unless it is under control to begin with. We need judges there who follow the law.

This is precisely why, as Senator COLEMAN indicated, we need judges like Miguel Estrada who show restraint. That is what this debate is about. That is what the President is committed to do. He said we are not going to turn criminals loose without a basis. We are not going to be taking down the Pledge of Allegiance. We are not going to be taking down Christmas decorations because of these nutty decisions coming out time and time again. Many of these decisions are under the guise of interpreting the Constitution in ways it has never been interpreted before.

That is what this debate is about. That is why it is important. We need judges who will simply follow the law. Who can be afraid of that? How is our liberty endangered when we have judges who follow the law dutifully? What you have when you have a judge like Judge Reinhardt on the Ninth Circuit, who says that evolving, long-term trends of social conscience enable judges to redefine the meaning of the Constitution to make what they think is correct occur, is very dangerous policy. In fact, that idea undermines democracy.

I could go on and talk about this circuit. I have made probably as many as nine speeches on the floor delineating the problems they have. I strongly believe that reform is needed. I thank the Senator from Alaska for raising that again. Her State is part of the Ninth Circuit. I know she cares deeply about it. We have had a number of proposals to fix it. The way the opponents of reform operate, and the way I have seen them do it, is whatever the proposal is, is not good enough. So they don't deny we need reform, but any time somebody proposes reform, they come along and say it isn't correct, and they turn it into a confused mess.

But it is time for us now to confront this issue, it is time for us to confront the problem of judicial activism in its entirety. Unfortunately, the Pacific coast has drifted further than any from being a disciplined interpreter of the law. So I will just say, Madam President, thank you for your leadership, thank you for your important first speech. I believe it will help us go forward. It is going to encourage me to push the issue in my committee. So I thank the Senator from Alaska. I look forward to working with you and others who sincerely want to improve the rule of law in America, who want to improve consistency in the rule of law to avoid decisions that embarrass this country, and embarrass the rule of law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I congratulate the Senator from Alaska who has kindly taken the chair so I may speak briefly in support of the resolution that she and Senator MCCONNELL have offered this morning.

The reason I do so is that I think we see a remarkable confluence of themes this morning. First, as we know, we are in the fourth week of debate on the nomination of Miguel Estrada to the DC Circuit Court of Appeals, and the debate has often been about what is the proper role for a judge to play under our Government of separated powers, where the legislative branch, executive branch, and judicial branch play distinctive roles, not the same role.

Then we heard from the distinguished Senator from Tennessee this morning offering a bill sponsored on a bipartisan basis, trying to put history and civics back in our classrooms so that American children can grow up knowing what it means to be an American. And then we have this sad, but not totally unexpected, incident of the Ninth Circuit's refusal to reconsider the three-judge panel decision striking the words "under God" from the Pledge of Allegiance. I think these three themes are connected. I want to speak briefly on that.

Madam President, I rise this morning, after an entire month of Senate debate on the nomination of Miguel Estrada to serve on the Federal court of appeals, in continued dismay over what I see as a politicization of our judicial confirmation process. In my view, it is profoundly dangerous to have a judicial confirmation process that, in effect, tells nominees their personal political beliefs will determine whether or not they get to serve as a judge. Such a judicial confirmation process sends exactly the wrong signal and a dangerous message to judges that it is perhaps OK to decide cases based on their personal beliefs, or a political and social agenda and not based on settled law.

Indeed, Miguel Estrada, during the course of these debates, has been criticized. When asked what his judicial philosophy is, he said: I will apply the law as written by the Congress and as decided by precedents of the U.S. Supreme Court. One Senator said: Well, that is not a philosophy. I want to know how Mr. Estrada personally feels about the equal protection clause, about the fourth amendment, the first amendment, and such questions. But, indeed, I think the Senator has it exactly wrong, and Mr. Estrada has it exactly right. It is the judicial philosophy we ought to embrace and look for.

Indeed, I believe the President has chosen a nominee who says I won't impose my own views or my own political agenda, or what I think the law should be; I will submit to the law of the land, which is what Congress has said the law is, through the laws that are passed and signed by the President, and the decisions made by a higher court and the precedents so established.

Madam President, the Ninth Circuit's decision last Friday to strike down, for a second time, the voluntary recitation of the Pledge of Allegiance as unconstitutional demonstrates exactly what will happen when we politicize the judiciary. It demonstrates what happens when we tell judges you can ignore the law, because what is really important is how you personally feel about these issues. The Ninth Circuit's decision on the Pledge of Allegiance is without any basis in law or in fact. It is a blatantly political decision.

As one of the judges noticed in his dissent, "it doesn't take an Article III judge to recognize that the voluntary recitation of the Pledge of Allegiance in public school does not violate the First Amendment." Surely, he is right. Heaven help us if he is not.

The First Amendment of the Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." These words represent a solemn commitment by our Founders, indeed by all of us, that our Government cannot interfere with the ability of an individual to practice his or her faith or express it in a public forum—no more, and no less. Government shall neither establish an official State religion, nor shall Government interfere with the ability of private citizens to exercise their chosen religion.

Notice what the first amendment does not say. It does not say the Government must be hostile to religion. But, indeed, is that not what has happened? I think about our children and what they are exposed to on a daily basis: Sex, violence, degradation of women, other dangerous influences. And we expect them to sort that out in their own way, hopefully under the guidance and tutelage of parents, teachers, and others.

The one thing people cannot talk about, they cannot talk about the Creator, they cannot talk about their religious faith. That is prohibited. And that is absurd.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. Madam President, I ask unanimous consent that morning business be extended by 5 minutes on this side of the aisle and likewise extended on the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. As Justice William O. Douglas explained in his decision in Zorach v. Clauson, "[t]he First Amendment . . . does not say that in every and all respects there shall be a separation of Church and State. . . . Otherwise . . . [p]olicemen who help parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls," such as we observed in this Chamber this morning and do every time the Senate meets, "the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; 'so help me God' in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment."

The Founders of the Constitution did not ratify a Constitution or a Bill of Rights so hostile to religion. To the contrary, the very first day that the first Congress approved the Establishment Clause, it also passed the Northwest Ordinance which declared that "religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

Our Founders thus believed this new Nation could endorse and promote religion and encourage its citizens voluntarily to practice the faith of their own choosing. They are not mutually exclusive.

The Ninth Circuit's decision to strike down the Pledge of Allegiance finds no basis in the text of the Constitution or the original understanding of our Founding Fathers. Indeed, it defies common sense.

I urge this body to support the resolution offered this morning by the Senator from Alaska and the Senator from Kentucky because the Ninth Circuit's decision, like far too many decisions coming from our Federal courts, replaces the Constitution with an altogether new and made-up rule preferred by judges who may personally prefer a government that is actively hostile to all expressions of faith in a public forum.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). Under the previous order, the final 60 minutes shall be under the control of the Democratic leader or his designee.

The Senator from Oregon.

STANDING UP FOR THE CONSUMER

Mr. WYDEN. Mr. President, gasoline prices are soaring through the stratosphere, and the Federal Trade Commission, which is supposed to be standing up for the consumer, ought to stop playing footsie with the oil companies and take steps to protect the American people. I have been trying to get the Federal Trade Commission to do its job now for several years. In fact, I have supplied them with detailed reports outlining anticompetitive practices in the oil industry in hopes that I could get their attention. Unfortunately, they are still sitting on the sidelines.

This morning I will outline what some of those anticompetitive practices are that the oil companies are now using to victimize the American consumer.

The oil companies are redlining. What they have sought to do is keep independent wholesalers known as "jobbers" from competing in markets by refusing to let independent dealers buy better priced gasoline from the local jobbers. This is a technique to wall off whole communities from competition. Redlining is going on today.

The oil companies are also zone pricing. They charge different prices for the same gas at their own branded stores in adjacent neighborhoods, pricing it as high as the market will bear. They have also charged independent dealers higher wholesale prices than they charge the company stores. The end result, the independents cannot compete.

So what we have in communities across the country is two stations that are located next to each other, and because of a Supreme Court decision, oil companies are required to treat those companies similarly situated in the same way. But what the oil companies do very cleverly is divide that community into different zones. Then they can stick it to one of the stations. That station goes out of business. There is a local monopoly and the consumer gets hosed once again.

A third area I have outlined for the Federal Trade Commission is that the oil companies keep the market to themselves. In the past, they have kept down refineries that could have increased supply and introduced new competition. We have given this information to the Federal Trade Commission and, again, they sit on their hands.

Finally, of particular importance to west coast consumers, where up and down the west coast of the United States prices have soared, people are paying $2 a gallon and close to it in many communities. What we have seen in the past is the oil companies have exported gasoline to Asia at a discount and then more than made up for it by sticking consumers with higher prices in the tight west coast market.

The oil companies today would say they are no longer doing this, but the fact of the matter is that oil company representatives told my Oregon colleague, Senator SMITH, who has worked with me so cooperatively on many of these issues, in an open hearing in the Commerce Committee that they would export to Asia once again whenever it was in their commercial interest. So hypothetically, if they were allowed to drill for oil in the national wildlife refuge in Alaska, apart from the environmental considerations, based on the testimony in the Senate Commerce Committee, the oil companies would be taking that oil from the wildlife refuge, selling it to Asia at a discount and sticking it to people in Oregon, Washington, and California.

It seems to me the Federal Trade Commission ought to be taking steps to stand up for the consumer. If they do not think they have the authority to stand up for the consumer at this point, they ought to come to the Senate and tell us what authority they actually need in order to protect the consumer and the gas-buying public. The unfortunate response from the Federal Trade Commission has been to simply sit this issue out.

For example, on July 17, 2002, in a hearing before the Senate Commerce Committee, I outlined once again for the Federal Trade Commission these anticompetitive practices. I went through with them the impact of redlining, of zone pricing, of the pressure that has been put on independent gasoline stations. I asked them to furnish for the record any set of concrete steps they have actually taken to protect the consumer.

We cannot find anything. We cannot find any specific action the Federal Trade Commission took, either before July 17, 2002, when I asked them that question, or since then. I am very troubled because I think the problems we are seeing today, and they are long-term problems, cry out for someone in the Federal Government to stand up for the consumer. It is the job of the Federal Trade Commission to deal with anticompetitive practices. These are long-term, anticompetitive practices that are siphoning the competition out of the gasoline markets in the United States.

I hope the Federal Trade Commission will either do its job under existing law—I think they have the authority to deal with these anticompetitive practices—or if they do not believe they do have the authority they need to protect the consumer, they should come to the Senate and outline what powers they need in order to stand up for the American people.

Essentially, both of the reports that I did and have submitted to the Federal Trade Commission found the very same thing. They found that the oil companies were engaging in anticompetitive practices. I hope now, given the enormous impact these huge gasoline price spikes are having on consumers, the ramifications for business—we had scores of businesses and business associations contact us in the past—that we can get the Federal Trade Commission off the side lines. They have a job to do. They are not doing it with respect to protecting the American people from anticompetitive practices in the gasoline businesses.

I intend to keep coming to the floor and the Senate Commerce Committee until the Federal Trade Commission is prepared to do its job.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan.

MEDICARE

Ms. STABENOW. Mr. President, I rise today to speak about the plan the White House is unveiling today concerning Medicare and prescription drugs. I am surprised and dismayed to see we have basically the same old thing being proposed once again by the administration. While we hear the right words about wanting to make sure every senior has access to prescription drugs, one more time we are seeing the President say one thing and do another.

In January after the State of the Union, many were dismayed to hear that the President's proposal for Medicare prescription drug coverage would basically be one that would say to a senior, if you stay in traditional Medicare, Medicare that has worked for you every day, every year, guaranteed access to your doctor, guarantee that you had health care available to you—if you chose to stay in Medicare, which has been working since 1965, you would not get any assistance with your critical prescription drug costs; you would have to go into a private sector HMO.

Now we hear that is not really the plan, that is not really what was going to happen. Last week, Secretary Thompson came to the Budget Committee. I questioned him about that. No, there was no intention to say that seniors would have to go into a private sector HMO in order to be able to get critical help; everyone would have help.

Today we find out that, again, that is really what they are talking about: Small change, cosmetic change, to attempt to address concerns that have been raised on both sides of the aisle by very prestigious Members of this body who are concerned that every senior has Medicare, every senior has the right to make sure that plan covers prescription drugs and gives them help with their medicine.

What do we see? We see a proposal that says if you stay in the plan that works for every senior—40 million people in Medicare now—if you stay in that plan, we will give you a discount card which the GAO says does not nearly produce the savings spoken about frequently. Less than 10 percent savings. You have to make sure you are going to the right medicine, have the right medicine, and heaven forbid if you need more than one kind of medicine from more than one company because then it does not work so well. But we will give you a discount card. Then maybe down the road a number of years, we will help you, if you have a very large prescription drug bill, with what is called catastrophic help.

To add insult to injury, the discount card is being proposed to take effect in 2004—not even immediately, when we know there are discount cards available on the market now. The major companies all have discount cards. The President is saying the discounts card will not be available until 2004 and the rest of the plan, not until 2006.

The first thing I say today—and I know my colleagues hear the same thing I hear—seniors believe they have waited long enough. We have talked about this issue. I have been involved in efforts to get prescription drug coverage under Medicare since I was in the House of Representatives. Certainly seniors have been speaking about that long before. They want us to provide help now, and they are not interested in something that forces them into another kind of plan, a private sector plan. They want Medicare to simply cover prescription drugs.

Frequently we hear used the words: Choice. This kind of plan will provide more choices for our seniors. If we have more private sector HMOs, there are more choices.

What I hear from my great State of Michigan is not that people want more, different kinds of complicated insurance plans to figure out. That is not the choice they are asking for. The choice they are asking for is the choice to go to the doctor they choose, their own doctor, who can prescribe the medicine they need. That is the choice they want. It is very clear. The seniors of America have already spoken on this issue with their feet. The majority when given the choice of going to an HMO under Medicare+Choice, said no and stayed in traditional Medicare. That is the reality. Seniors were given a choice about whether or not to keep the stable, reliable, Medicare plan that has been in place since 1965 or go to a private sector HMO. They stayed with Medicare.

Now the President is saying: Even though you made that choice, we are going to give you another choice, and we will penalize you this time. Last time, you could choose, stay in traditional Medicare or do Medicare+Choice; this time, because we did not like the choice you made, we are going to say you cannot get comprehensive help if you stay in traditional Medicare. You have to go into a private sector HMO in order to get the help you need and the help you deserve.

When looking at this issue about the private sector HMO approach or Medicare+Choice, we also have a situation where in 12 States there are no private HMO options under Medicare. In my home State, where people did sign up—and I have said before, my mother signed up and had a positive experience under Medicare+Choice with her HMO. But the HMO dropped Medicare beneficiaries. She got dropped a couple of years ago because they believed it was not profitable because of concerns about reimbursements. So now in Michigan only 2 percent of those who are receiving Medicare are in an HMO, and they are not enrolling any new people. You had better live in the eastern part of the State of Michigan or you do not have that as a choice.

If one resides in the great city of Marquette or Iron Mountain in the UP or Sault Sainte Marie or on the west side of the State where the President visited after the State of the Union, in Grand Rapids, MI, to talk about Medicare, in that community where the President visited, we certainly welcome always having a President come to town, but no one listening at that speech would have access to a private sector HMO under Medicare. So we have a situation where it is too little, it is too late, and this is an effort basically to force seniors into an approach the majority of them have already said they do not want.

Another piece I am very concerned about is that as we look at prescription drug coverage, it is not just about comprehensive care under Medicare; it is about lowering prices. It is about lowering prices for everyone: For the business that is paying for prescription drug coverage, that has seen their health care premiums skyrocket, businesses large and small; for families, workers who are affected, as well as for seniors. I am disturbed that this plan does not say anything about more competition to lower prices. In fact, while seniors are waiting until 2004 for a discount card that will have very little effect in lowering their prices—while they are waiting, the fastest way the President could join with us to lower prices would be to simply drop the barrier that stops Americans from going to Canada to get American-made, American-subsidized prescription drugs at half the price.

If we did that today, tomorrow we could drop prices, many of them in half, and in some cases even more. That is a proposal that passed the Senate last summer on a strong bipartisan vote. I am hopeful we will see that happen again this year; that we will once again say we need to drop that barrier.

We are in a free trade economy. We have agreements with Canada. Their health care system, in terms of quality controls and the other issues of safety we are concerned about, is very similar to those of our country. If we want, we can say to seniors, you do not have to get on a bus now and go to a Canadian doctor or Canadian pharmacy to get an American drug at half the price; we will open the border and get you that right here at home.

That is the fastest way to lower prices. The next fastest way is to close loopholes that allow brand name drug companies to stop unadvertised brands from going on the market—often called generic drugs. It is the same drug, frequently, the same formula. The difference is we are not seeing it on television every other minute. We are seeing generic drugs come onto the market that are available and in some cases can lower prices up to 50 percent, or we have seen prices lowered up to 70 percent as a result of the use of generics. There is no mention of that here.

I commend the President in coming forward with a proposal regarding generic drugs that has made some inroads. We appreciate it. They have gone about half the way. Now we would call upon the President to join with us to go all the way to address the issue on generic drugs, and to work with us to pass the bill that has been introduced by my colleagues Senator MCCAIN and Senator SCHUMER, again a bipartisan bill, that would in fact put more competition into the system and lower prices—not only lower prices for our seniors under Medicare but lower prices for those covered in the private sector, thus bringing down the costs to businesses large and small.

I am disappointed we do not have in this proposal an effort to support our States, our Governors—Democrats and Republicans—who indicated last week that health care costs and Medicaid costs are a top priority for them. It is a large part of their budgets as they are struggling under a weakened economy. Many States, including my own Michigan, have been innovative, want to come together with other States to do bulk purchasing of prescription drugs in order to get discounts, bigger discounts than you can get through a discount card, to lower prices. We have seen States such as Maine and Vermont that have come forward with innovative plans to lower prices, each time being challenged by the brand name industry. In every situation the industry is suing or lobbying or doing something to stop competition in innovation in lower prices.

We had a plan as well. Part of our bill, S. 812, which we passed last summer, was a bill to address more generic drugs, at the same time opening the border with Canada, and also supporting the States that have been innovative in coming forward to try to lower prices for their citizens. There is no mention of that in this plan as well.

So we do not see anything addressing any of those issues. We see nothing in here addressing the concerns that there is more advertising money now spent by companies than research money—2½ times more being spent on advertising of the brand name drugs than on researching of new cures. We are seeing that drive up the costs as well, the explosion in sales and marketing and advertising.

Also, there is no mention of the fact that we are paying for a system where the majority of patents now are not for new breakthrough drugs but for what are called "me too" drugs. Basically 65 percent of patents in recent years are patents for drugs that have very little change in health value but just extend the patent so generics cannot go on the market and there is less competition.

There are so many ways we can be working together to lower prices—for employers to create a situation where employees are not being asked to take pay freezes so their employer can pay for the costs of health care; lower the prices for the uninsured, who pay the top price; and particularly our seniors. Right now in our country if you are an American senior and you walk into the local pharmacy and you do not have insurance, Medicare does not cover it. You pay top dollar of anybody in the world for your medicine. That is not an exaggeration. Americans pay top dollar of anybody in the world, and if you are uninsured, you pay the top.

We are back again talking about these issues of how to provide real Medicare coverage and at the same time lower prices for everyone. There were comments about what was going to be proposed by the President. Then there were indications from the administration that, no, in fact they were going to be putting forward something that would help everyone and not force people into private sector HMOs. Unfortunately, again we see one thing being said and another thing being done.

I hope my colleagues in the Senate will come together and we can fashion what really needs to happen. Again, our seniors are not asking for more choices about complicated insurance policies. They are not asking to wade through more options in terms of private sector HMOs. When they had the chance to pick between staying with traditional Medicare or going to an HMO through Medicare+Choice, the vast majority of older Americans and the disabled said no. They said no, we will stay with traditional Medicare.

Now that they have said no voluntarily, the White House has decided to come back and create a situation where, if they need help, they will be forced to go into a plan they said no to when it was voluntary.

I think the people of this country are going to see what this is. I think the seniors are going to understand what this is, and overwhelmingly reject this kind of an effort.

I hope we in the Senate will reject this kind of a proposal and that we will come together and be willing to roll up our sleeves and do the business of simply designing a plan under Medicare where 40 million seniors and disabled have the ability to come together under one plan and have the clout to lower prices and get that group discount for seniors; so they have something that is stable, where everyone knows what the premium is; so everyone knows what is covered; so it is reliable; so it doesn't matter if you live in the upper peninsula of Michigan or Benton Harbor, Saint Joe, or the city of Detroit, you would know and you would have it available to you. You could count on it. That has been the strength of Medicare. It has been there for everyone, and our older Americans can count on it. They are asking for us to simply do the same thing and design prescription drug coverage. Unfortunately, what we are hearing about the White House proposal is woefully inadequate.

I urge my colleagues to immediately reject the proposal and give us an opportunity to work together on something that we know we can do that is best.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SO-CALLED MOSCOW TREATY

Mr. DORGAN. Mr. President, I understand that perhaps today or tomorrow we will have a so-called Moscow Treaty brought to the floor of the Senate for debate. It is a treaty that has its origin in some discussions between our Presidents and the leader of Russia about the issue of nuclear arms and the reduction of nuclear arms.

I want to say I will vote for this treaty, although I must say it is not much of an agreement and not much of a treaty at all. I don't see any reason someone would vote against it. But I make the point that this is an agreement between two countries—both of which have large stocks of nuclear weapons—to reduce their number of nuclear weapons by taking some and putting them in warehouses and storage facilities and at the end of the process both countries can keep the same number of nuclear weapons they had when they started.

No nuclear weapons under this agreement will be destroyed, dismantled, or defused.

And This treaty deals with only strategic nuclear weapons, not theater nuclear weapons. There are thousands and thousands of theater nuclear weapons, such as the nuclear weapons that go on the tips of artillery shells. That is not part of this agreement. It has nothing to do with this agreement.

Strategic nuclear weapons are the very large warheads that one would put on the tip of an ICBM, for example, or to have in the belly of a bomber, or perhaps on the tip of a missile that is in a submarine. Those are the strategic nuclear weapons.

Between our country and Russia, there are perhaps 10,000, maybe 11,000, strategic nuclear weapons. So you have thousands on each side. Should we be reducing them? Of course. Absolutely.

But we have a circumstance now where there is a treaty, or an agreement, with Moscow in which, between now and the year 2012, we all the US and Russia have to do is take nuclear weapons and put them in storage. So each side, in the year 2012, can keep if it wants exactly the same number of nuclear weapons. Not one nuclear weapon that exists today needs to be destroyed in the next 9 years—none.

I do not understand that. I guess it is fine to have agreements just for the sake of having agreements, but of what value?

We have had examples of effective reductions of nuclear weapons and also delivery vehicles. I have mentioned them in the Chamber on many occasions. Let me do so again.

There is a program called the Nunn-Lugar Program, which is named after former Senator Sam Nunn and our current distinguished colleague, Senator LUGAR. It is a program that I very strongly support. It makes a great deal of sense. That program actually destroys nuclear warheads and delivery systems that are made excess through the various arms control treaties.

For example, in my desk I have a piece of metal which I would like to show by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This piece of metal belonged to a Soviet bomber. This was part of a wing strut on a Soviet bomber. Presumably, this bomber, belonging to the Soviet Union, carried nuclear weapons that could have been dropped on a target here in the United States of America.

How is it that a Senator on the floor of the Senate has a metal piece from a Soviet bomber? Well, simple. This bomber had its wings sawed off and its fuselage destroyed. How? The U.S. paid for it. We did not shoot the bomber down. This was not the result of hostilities. This was the result of an agreement between our country and the old Soviet Union, now Russia, to actually reduce delivery vehicles, bombers, missiles, submarines, and to actually reduce the number of nuclear weapons.

So that is how I come to hold in my hand a piece of metal that belonged to a Soviet bomber, and then Russian bomber, that would carry nuclear weapons that would have threatened this country.

Mr. President, I show you this little tube of ground copper. This used to be in a submarine that carried nuclear weapons on behalf of the old Soviet Union and then Russia. Those nuclear weapons were all aimed at this country, thousands of them. Well, this submarine does not carry nuclear weapons anymore. It was dismantled and destroyed. And I have here, on the floor of the Senate, a piece of ground up copper from the wiring of an old Soviet submarine.

That makes a lot of sense to me. We are actually reducing the threat by reducing the number of delivery vehicles, bombers, submarines, missiles, and dismantling the number of warheads.

We have been engaged in that for the last 10 years or so. And I would like to especially say my colleagues, Senator LUGAR and Senator Nunn, proposed a program by which we did not have to sink a Soviet submarine and we did not have to shoot down a Soviet bomber in order to destroy weapons of mass destruction and their delivery vehicles. We paid for their destruction with large circular saws and with devices in shipyards that destroyed their submarine by agreement.

By contrast, the agreement that comes to the floor of the Senate this week is kind of a marshmallow. It does not do anything. It is full of air. It says: Oh, let's have each side put more of their nuclear weapons in storage and then pretend we have reduced the number of nuclear weapons. Well, I thought pretend was all about children's books; it is not about the serious business of nuclear arms control.

There was a rumor, some long while ago, that a terrorist organization had stolen a nuclear weapon and was set to detonate it in a U.S. city. The interesting thing about that rumor was that the intelligence community did not view it as incredible that a nuclear weapon could have been stolen. After all, there where thousands and thousands and thousands in the world, most possessed by two countries—ours and also now Russia.

So our intelligence community did not believe it was an incredible threat. They believed it was entirely possible someone could have stolen a weapon, particularly from the Russian arsenal that does not have great command and control, I have heard and I have been told. And secondly, it was not something beyond the bounds of reality that, having stolen a nuclear weapon, a terrorist organization would know how to detonate it or could detonate it.

If ever there needed to be a sober moment, that was it.

For us to think that the potential stealing of one nuclear weapon, and put in the wrong hands—the hands of terrorists—would threaten this country, or any city in this country, ought to lead us to understand that if we are worried about one nuclear weapon, we ought to be worried about thousands and thousands and thousands of nuclear weapons.

With both strategic and theater nuclear weapons, there are perhaps as many as 25,000 to 30,000 nuclear weapons in this world. And what are we going to do this week? We are going to come and talk about how we shuffle the inventory of nuclear weapons from one place to another, destroying none of them, and then saying: We have an agreement. What a great agreement. By the year 2012, we will have moved nuclear weapons into storage facilities. And the world is safer.

Oh, really? How?

At the same time all of this is occurring, there is a fundamental shift occurring, in addition, with respect to the discussion about nuclear weapons. This administration says: We do not want to continue the antiballistic missile treaty—which has been the center pole of the tent of arms control.

Instead, this administration says: We want to talk about and consider the possibility of developing new designer nuclear weapons; for example, bunker buster nuclear weapons.

This administration, and many in this Congress—too many in this Senate—said: We do not support the Comprehensive Nuclear Test-Ban Treaty—despite the fact that we have not tested a nuclear weapon for well over a decade.

There is a fundamental shift going on. This administration has said: We have not ruled out the use of nuclear weapons in certain circumstances. I will not go into them, but they have been in the newspapers.

I think our responsibility—of all countries in the world—is to be a leader in trying to reduce the number of nuclear weapons in this world, and to try to convince everyone and anyone that no one shall ever again explode a nuclear weapon in anger.

Pakistan and India both have nuclear weapons. They do not like each other. They have been exchanging weapons fire across the border with respect to Kashmir. Both have nuclear weapons. Do we want, in any way, to signal that the use of nuclear weapons, in any circumstance, is appropriate? Do we want to signal that we actually have a desire to begin producing new types of nuclear weapons, such as bunker buster nuclear weapons?

I think this country has chosen the wrong path with respect to these policies. We ought to be debating on the floor of the Senate something that has grip to it, something that says: Look, as a world leader, it is our determination to stop the spread of nuclear weapons, and to stop the spread now. And we are going to do that.

We ought to be saying: It is our judgment that we want to reduce the stockpile of nuclear weapons in this world. And we want to be a leader in doing that. We just have to assume that leadership responsibility.

A PRESCRIPTION DRUG BENEFIT FOR SENIORS

Mr. DORGAN. Mr. President, having said that, I want to mention two additional quick items.

We have had a discussion, and will have a discussion, about the subject of Medicare. It will be a significant issue in this Congress, and should be. We have been talking, for a long while, about the health needs of senior citizens who do not have access to prescription drugs because they are too expensive. Too many senior citizens are told: You must take prescription drugs for these ailments you have; and they discover: Well, I can't take prescription drugs. I don't have the money.

Republicans and Democrats have been debating how to add a prescription drug benefit to the Medicare plan. Today I see the President is going to send us a proposal that says we would like to give everybody a discount card who would qualify under Medicare, and then say to others, if they want to get some real help for real prescription drug coverage, they have to join an HMO or a managed care organization. That doesn't make any sense to me as a matter of public policy. We need to put downward pressure on prescription drug prices first and foremost.

Second, I believe we ought to provide a prescription drug benefit in the Medicare Program. If we were writing that program today, we would do that. I don't think we ought to hinge that on the requirement that someone join an HMO.

I have been in the Chamber telling stories for 3, 4 years about what is happening to HMOs. Some of them are wonderful. But the construct of an HMO says to a senior citizen: By the way, here is your doctor. We will choose your doctor. You don't get to go to the doctor of your choice. Here is the doctor available for you. By the way, in too many circumstances, we have seen that in many of those organizations, major health care is a function of profit and loss.

I told the story, when we debated a Patients' Bill of Rights, about an HMO. A woman fell off a cliff in the Shenandoah Mountains. She was injured badly, had a long fall, broke many bones, had internal injuries. She was taken to a hospital in a coma. As she was wheeled into the hospital room on a gurney, there was a question whether she would survive. She did survive. It took a long while. Month after month, she finally convalesced and survived.

Her HMO told her: We will not pay for your emergency room treatment because you didn't have prior approval for emergency room use.

This is a woman hauled into the emergency room in a coma and was told: You don't get paid for the emergency room because you didn't get prior approval. Is that nuts? Of course it is. That is exactly what happened to this woman because somebody was looking at her in terms of profit and loss. That is not the way someone's person or body should be presented in the medical system. This is not profit and loss. It is about saving lives.

To say to senior citizens we will help them with the cost of prescription drugs but only if they go into an HMO or a managed care organization does not make much sense to me. This Congress can do better than that. We must do better.

TRADE DEFICIT

Mr. DORGAN. Mr. President, I also want to mention something I talked about yesterday. That is on the subject of the trade deficit. My colleagues know that we face a fiscal policy budget deficit of well over $400 billion this year, and we also face at the same time the largest trade deficit in American history, $470 billion; over $400 billion in our budget deficit and $470 billion in our merchandise trade deficit in the past year. That is nearing $1 trillion in combined deficits for our country.

I don't know. I thought that we were about to enter a period of fiscal responsibility. Two years ago we had what was alleged to be surpluses as far as the eye could see. It was good times; following the 1990s, budget surpluses nearly forever. The fact is, now we see budget deficits that exhaust all of our patience as far as the eye can see; spending money we don't have, in some cases on things we don't need, year after year after year. It won't go away because we ignore it. We ignore it at our peril. We ought to deal with both.

We are preparing for armed conflict. Our thoughts and prayers go with those who wear this country's uniform. We face severe and stiff challenges in foreign policy with North Korea, Iraq, the threat of terrorism against our homeland, and the war against terrorism abroad.

At the same time that exists, we have an economy that is stuttering and in trouble. Then we are told that on top of fiscal policy, budget deficits of over $400 billion in this year, at a time when we increased defense spending by $45 billion, increased homeland security spending by over $30 billion, we are told at the same time by the President that he wants a tax cut of $675 billion over the next 10 years on a permanent basis.

I don't understand how that adds up. Then, in addition to that fiscal policy dealing with the Federal budget, we have these abiding trade deficits. Those deficits at their root are about jobs.

It is about jobs that used to be here that are no longer. Millions of people are out of work and their jobs are elsewhere. We have a large trade deficit with China. Most people don't know that our trade deficit with China is now over $100 billion a year. China sends us all their trinkets, trousers, shirts, shoes. They flood our market with Chinese goods. Then we try to get goods into China, and their markets are not very open to ours.

Our trade negotiators negotiated an agreement with China and everybody said we have a bilateral agreement with China. I don't know who negotiated it. I would love to get names and pictures so I could give them credit.

They apparently, in a room with the Chinese, negotiated a circumstance that said, in the future, when we have trade with automobiles from the United States and China—and incidentally this is a country with 1.3 billion people who will need a lot of cars—when we have an agreement with China on the trade of automobiles, we will agree, our negotiators said, to allow China to have a tariff that is 10 times higher in China on automobiles than we will have on Chinese cars coming to the U.S.

Our Government said: We will agree to have a tariff on U.S. cars being sold in the country of China that is 10 times higher than the tariff that would be imposed on a Chinese car sold in the United States. Does that make sense? It doesn't.

My point is, the root of all of this is about jobs, about economic opportunity. Our economy is not going to get well unless it has some resurrection of strength in the manufacturing sector. We are, every day in every way, trading away manufacturing jobs.

The trade ambassador said: We are losing manufacturing jobs, but we have cable television.

I don't understand that at all. Where does a statement like that come from? We lose some manufacturing plant and pick up some cable television signals? Good for cable television. But the fact is, it is not a replacement for manufacturing. No country will remain a strong international economic competitor if its sector dissipates. That has been happening.

I talked yesterday about the workers abroad with whom American workers are required to compete: Those who make 14 cents an hour—and, yes, they do—at age 14, working 14 hours a day—yes, they do employ those people in some parts of the world. Then the product of their labor is sent to Pittsburgh, Denver, Los Angeles, Fargo, Topeka. It goes on the store shelf, and it is all about profit.

People say: Isn't that wonderful for the consumer to have a lower priced product? It is not such a lower priced product. It is just that the people who used to have the income to buy it lost their job when the plant went overseas.

I also made a mistake yesterday. I mentioned the companies that renounced their American citizenship to save on taxes. They not only moved their plant overseas, but they renounced their American citizenship so they could save on taxes. I talked about them becoming Bahamian citizens. I should have said Bermuda. I guess some of them become citizens of the Bahamas, but it is more typical that they became citizens of Bermuda. The Bahamas has a navy with 26 people—I guess that is the Bermuda Navy. I want to correct that. The Bermuda Navy has 26 people.

So if an American company that wants to become a citizen in Bermuda and renounce its citizenship runs into trouble someplace, and some disparate country out there decides to expropriate the assets of this company that used to be American, but is now Bermudan, my feeling is, when they say let's call out the navy, I think they should call Bermuda and say call out your 26-member navy.

One of these companies actually had one ship grounded on a sand bar near Cuba. Would you please call out the navy to help? That is what we ought to tell them to do the next time they need assistance.

We have public policies both in fiscal policy dealing with the Federal budget and in trade policies that are in desperate need of attention. There is no attention paid to it at all at this moment, except for some of us in the Congress who want to see if we can do a U-turn on some of these policies and put us back on track towards more economic growth and more jobs for this country. The sooner we get to that real debate, the better.

This economy of ours can't run on paper. It can't run on promises. This economy needs a shot in the arm by a Congress that is willing to stand up to these issues and say: Our fiscal policy doesn't add up.

I come from a very small school. My senior class was 9; 40 kids in all four grades of high school in a town of 350 people that I came from. But there is only one way they teach math. They taught math the same way in that small school they teach it in the biggest and best school in the United States. That is, 1 and 1 equals 2, not 3.

I studied hard and I learned that. Some in this town with advanced degrees have decided that 1 plus 1 is 3. In fact, you can find it in the budget documents. The fact is, the American people all understand it is a mirage. None of this adds up. This is a tough time and it requires tough choices. I wish it weren't. I wish it was a time when we had unparalleled economic growth, when the economy was rebounding, the stock market was moving up, and everybody was employed. But the fact is that is not the case.

We face serious, abiding economic challenges. This President needs to send a program to this Congress and this Congress has a requirement, it seems to me—if this President won't act, the Congress has a requirement to act to say we need to put this country back on track. The current circumstances simply do not add up.

I used to teach economics in college for a couple years. Everyone talks about the business cycle. We have been hit with things in this economy that are pretty unparalleled. Some of us warned about this 2 years ago when the President proposed a $1.7 trillion tax cut. Some of us said maybe we ought to be a little conservative here. What if the bottom falls out and we run into tough times, or turbulence, or get some bad economic news? They said not to worry. We have blue skies as far as you can see, straight ahead—budget surpluses forever, the President said. We passed that—not with my vote—long-term permanent tax cut, and then immediately we found out we were in a recession. We got hit with the terrorist attack of 9/11, and we were at a war with terrorists; and we now have the largest budget deficits we have seen. We had the largest corporate scandals in history. All of this is coming together at the same time, at the same intersection, and the budget surpluses turned into deficits, and the deficits got bigger and bigger.

The President says the antidote is to give more tax cuts and make them permanent. It seems to me he requires all of us to say we all like tax cuts. It would be nice if nobody had to pay any taxes. Count me in. I expect my constituents would appreciate the fact they would not have to pay taxes. Part of the cost of what we do together as citizens in building roads, schools, and providing for the common defense—part of the cost of that is the taxes we must pay. What the President is proposing in his budget is, by the way, let's be a bit short next year—about $400 billion short—and we will charge it over to the kids. We will let the kids assume that role of paying for it. We will consume more than we are willing to raise, and we will let the kids pay it off some time later. That doesn't add up, either.

By the way, the President also says, well, the economy is fundamentally sound, we don't need to do much right now in terms of stimulus. The fact is, when we teach about the contraction and expansion side of the economy in the business cycle, you teach about confidence. The expansion and contraction side of the business cycle is all about confidence. If people are confident in the future, they do the following: Buy a house, buy a car, take a trip. They do the things that manifest their confidence in the future because they have a job and they feel good about the future. And that confluence of individual acts around the country creates the expansion side of the business cycle. But when they are not confident about the future, they do the opposite. They defer the purchase of that appliance for their home, or that automobile they were looking to purchase, or the home, or the trip. When they defer that purchase, the economy contracts. It is all about the confidence with which the people view the future.

At the moment, the people are not confident about the future. There is not a lot we can do about the mechanics of the economy, because now the lead stories are about war, so there will never be confidence until we get through this period. We cannot ignore what is happening in our country with fiscal policy, trade policy, and a whole series of issues that some apparently feel we should pretend are all right but, in fact, are not all right—are seriously amiss.

That brings me back to the point I started with. The agreement that will be on the floor of the Senate this week dealing with the Moscow Treaty is just another piece of pretend policy. Everybody will vote for it. Why wouldn't you? What is wrong with it? But it does nothing. It says the U.S. and Russia are going to reduce the number of nuclear weapons, not by getting rid of them, but by putting them into storage. So what does that do to make the world safer? The answer is nothing. Most people know it.

There is the other piece of responsibility that is required—yes, of this President and of this Congress—and that is to provide world leadership and reduce the number of nuclear weapons, reduce the threat of nuclear war; and stop the spread of nuclear weapons around the world. It is the President's and our responsibility here in Congress. We ought not to pretend that we are taking action that really has very little impact with respect to fiscal policy, trade policy, nuclear arms control policy, because that will not ensure the future of this country and will not give our children confidence about the future of this country or this world.

So, Mr. President, my hope and expectation is that we can make tough decisions and come together and decide, yes, if it is heavy lifting, it requires all of us to do it together. I am tired of "let's pretend." That is what is happening all too often both at the White House and also here in the Congress. Let's pretend on nuclear arms policy. Let's pretend on fiscal policy and trade policy. That, in my judgment, is a foolish approach. We need to do better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. It is my understanding that morning business is going to end in a couple minutes; is that right?

The PRESIDING OFFICER. In about 2 minutes.

Mr. REID. Mr. President, I direct a question to my friend from Virginia. The Senator from Virginia is here and wishes to speak; is that right?

Mr. ALLEN. Yes, on the issue of Miguel Estrada.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. REID. Mr. President, before my friend starts, we have other people who wish to speak who can come this afternoon. I am curious as to roughly how long the Senator wishes to speak.

Mr. ALLEN. I suspect 15 to 20 minutes.

Mr. REID. I thank the Senator.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise once again to support Miguel Estrada's nomination to serve on the United States Court of Appeals for the District of Columbia. Miguel Estrada is being treated unfairly by Senators on the other side of the aisle who continue to practice such blatant obstructionism in an effort to score petty partisan points. Indeed, the obstructing Senators are shirking, in my view, their duty by avoiding a vote on this gentleman, Miguel Estrada, who was nominated 22 months ago by President Bush.

This is not mere payback; it is an escalation in a bitter battle by the Senate Democrats to keep judges off this court who properly construe the Constitution and respect the laws duly enacted by the elected legislature. That is disappointing, and it is dangerous.

The Senate Democrats' filibuster is a recipe for endless gridlock and a terrible disservice to the American people and the administration of justice.

Our protracted debate on the nomination of Miguel Estrada to the Court of Appeals for the District of Columbia makes clear the importance of sound reasoning judges on our circuit courts. For example, look at the recent denial of a rehearing decision by another circuit court, the Ninth Circuit Court of Appeals. I object to the decision by the Ninth Circuit Court of Appeals which will strip the Pledge of Allegiance from classrooms and over 9,600,000 students in Western United States. This decision is a miscarriage of justice.

The majority opinion lacks a clear reading of the constitutional intent and the legal precedent, and there is clearly a lack of common sense. This decision, frankly, is an abuse of power by the majority of those judges who sit on the Ninth Circuit Court of Appeals.

We all know well the history of our Nation and the fundamental ideas of freedom, particularly those of religious freedom, which in Virginia we call the first freedom. It was because of the desire to worship freely, to escape religious persecution in European countries that many came to settle in the American Colonies, from Pilgrims to French Huguenots. From New England to Virginia to South Carolina, many came to settle in this country to get away from Europe, ruled in large part by monarchs who served not by any talent, quality, or the consent of the people, but, as they called it, divine right. That divine right was generally conferred upon them by the exclusive monopoly of one church. So there was a co-conspiracy of a monarchy and an exclusive religion.

In the Virginia Colony, it was the Anglican Church that was forced upon the people. Baptists, in particular, were forced to pay to that established church. Indeed, when they talk about the Danbury letter to the Baptists, the Baptists were very happy when Thomas Jefferson was elected President. If one looks at what is in the Virginia statute of religious freedom, which was the predecessor of part of the first amendment of the Bill of Rights in the U.S. Constitution, one gets a better sense of what religious freedom and the so-called establishment clause is all about.

I will read from article I, section 16, in the Virginia Constitution that still remains and, of course, is built upon Mr. Jefferson's statute of religious freedom which was also involved in the Virginia Declaration of Rights which became eventually the first amendment to the Constitution.

It reads:

> That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

That, in my view, is the full historical context, from the founding documents since Virginia first passed the Statute of Religious Freedom, of what the first amendment should be.

Obviously, the first amendment of our Constitution is but a few sentences, but this gives the historical and the legal grounding of the Statute of Religious Freedom.

We all know well the words written by Thomas Jefferson proclaiming our independence from the religiously oppressive British monarchy. These words allowed our young Nation to:

> Assume the powers of the Earth, the separate and equal station to which laws of nature and of nature's God.

These are words that tell all of us, as Americans, that all men are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. These words still stir our hearts. They inspire us to continue to build that shining city on a hill, to be that beacon of freedom, religious or otherwise, for people all around the world.

Our Constitution, the hallowed document, can be summed up by one word and one idea: Freedom. The Constitution and the institution and the formation of this Government to protect those God-given rights and those freedoms states that Congress shall make no law respecting the establishment of religion.

While some conveniently use this to perpetrate actions such as those we saw out in San Francisco last week, it is often forgotten that the Constitution just as clearly states that the Congress shall make no law prohibiting the free exercise thereof.

I feel confident that the scholarly Miguel Estrada, who was editor of the Harvard Law Review, would have views similar to the dissent written by Judges O'Scannlain and Ferdinand Fernandez. As Judge O'Scannlain notes in his well-reasoned and thoughtful dissent, this decision of the Ninth Circuit Court is wrong on many levels. It is wrong because reciting of the Pledge of Allegiance is simply not a religious act, as the two-judge majority asserts. The decision is wrong as a matter of Supreme Court precedent as properly understood. The decision is wrong because it denies the will of the people of California as expressed in section 52720 of the California education code, and it is wrong as a matter of common sense.

I trust the Supreme Court of the United States will grant a writ of certiorari and promptly hear and decide this case. I, of course, hope they will reverse it. Parenthetically, I support the resolution of Senator LISA MURKOWSKI of Alaska expressing support for the Pledge of Allegiance, and I ask unanimous consent that I be added as a cosponsor of that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. In the realm of public education, the Supreme Court—and the Presiding Officer of the Senate right now is well aware of precedent in the various decisions the Supreme Court has made when dealing in the realm and the issue of public education and prayer, or the religious tests. There are at least three different but interrelated tests used to analyze alleged violations of the establishment clause—in other words, the establishment of a religion. It is a three-pronged test, first articulated in the case of Lemon v. Kurtzman, called the Lemon test, and that is to determine whether that public activity had a primarily secular purpose. Here, the Pledge of Allegiance is primarily a patriotic event and purpose.

The second test is called the endorsement test. Here, there is no endorsement of any denomination of any religion. So that test is passed.

The third test is called the coercion test, and there is no coercion here for students.

The Supreme Court of the United States has commented that the presence of "one nation under God" in the Pledge of Allegiance is constitutional. The Supreme Court will have an opportunity to clearly resolve this because sometimes there are judges who have to be reversed on many occasions before they understand the plain intent of the law, of previous opinions and the history of our country.

I will not discuss how the Ninth Circuit erred in the applications of the facts of this case to the establishment clause, but I do commend to my colleagues the dissent of Judge O'Scannlain, which I hope will give guidance to the Justices of the U.S. Supreme Court when they do review this case.

As a resource, I direct the attention of my colleagues to some outstanding historical analysis prepared by a gentleman from Texas, David Barton, and an organization called Wall Builders.

If reciting the pledge is truly a religious act, in violation of the establishment clause, then so the recitation of our Constitution itself would be, which refers to the "year of our Lord" and our Declaration of Independence, which contains multiple references to God. Our Founders claimed the right to dissolve the political bands based on the laws of nature and of nature's God.

The most famous passage, of course, is the "all men are created equal" and they are "endowed by their Creator with certain unalienable rights." Subsequently, the signatories "appeal to the Supreme Judge of the world to rectify their intentions"; our national motto, which is "in God we trust"; and the singing of the national anthem, a verse which says: "And this motto: In God we trust."

Furthermore, the Supreme Court, even the Ninth Circuit Court of Appeals, opens sessions with a call that says, "God save the United States and this honorable court."

There is an undeniable and historical relationship between God and our Founders and the Government leaders throughout our history. In fact, it was Congress in 1837, acting on the will of the people, that authorized the motto "In God We Trust" to be printed on our currency. We can cite the actions of the entire body of Founding Fathers. For example, in 1800 when Washington, DC, became the Nation's Capital and the President moved to the White House and Congress into the Capitol, Congress approved the use of the Capitol Building as a church building for Christian worship services. In fact, Christian worship services on Sunday were started at the Treasury Building and at the War Office.

A scant review of the legislative history in States and the Federal Government and the intent of our Founders, from George Washington to Thomas Jefferson, lays out the utter absurdity—no; actually, the arrogance—of this Ninth Circuit Court of Appeals and this decision.

Each of us who has the high privilege to sit in this Chamber is very well aware of the circumstances by which the phrase "one nation under God" became a part of the pledge in 1954. It was the will of the Congress, the will of the people, that put it there, and today it is a will, unfortunately, of a few unelected judges who seek to remove it.

The State of California is not unique in encouraging students to engage in appropriate patriotic exercise. My Commonwealth of Virginia has a statute requiring the daily recitation of the Pledge of Allegiance in every classroom. It is thoughtfully crafted. The Virginia statute provides that:

> No student shall be compelled to recite the Pledge if he, his parent or legal guardian, objects on religious, philosophical or other grounds to his participating in this exercise. Students who are thus exempt from reciting the Pledge shall remain quietly standing or sitting at their desk while others recite the Pledge. . . .

As Governor of the Commonwealth of Virginia, I was proud to have been able to sign into law a commonsense provision to develop guidelines for reciting the Pledge of Allegiance in public schools in 1996.

While we can go on about this, the point is that the pledge is a patriotic exercise. Thomas Jefferson, who authored the Statute of Religious Freedom, had no intention of allowing the Government to limit, restrict, regulate, or interfere with public religious practices. He believed, along with the other Founders, that the first amendment had been enacted only to prevent the Federal establishment of a national denomination. This patriotic pledge establishes no religious denomination.

These Ninth Circuit Court judges discredit, in my view, the judiciary. This is an example of government overreach in a very different and harmful way. It is judicial activism at its very worst. It is activism by unelected judges who, through this decision, and decisions such as this, usurp the policymaking role given to this body and to the people of the States, the rights that are guaranteed to all of us and the people in the States by the U.S. Constitution.

Let me take a moment to put this decision into context. The Ninth Circuit Court of Appeals has a long recent record of issuing decisions that are clearly out of step with most Americans—I daresay, reality—and out of the bounds of American jurisprudence.

The court has become famous—maybe I should say infamous—for several decisions. The Ninth Circuit Court is the most overturned appeals court in the country. The decisions issued by this court have been reversed by the U.S. Supreme Court more frequently and by a larger margin than any other court of appeals in the Nation. In recent years, the reversal rate has hovered around 80 percent.

In one recent session of the Supreme Court alone, an astonishing 28 out of 29 appeal decisions of the Ninth Circuit Court of Appeals were overturned—97 percent were overturned.

What is the next decision out of this Ninth Circuit Court of Appeals? Will they ban the singing of "God Bless America" in our schools? Will they redact our founding documents, some of which are the greatest documents in all the history of mankind and civilization? Will the Congress, the Supreme Court, and State legislatures across the land be prohibited from opening their sessions by saying the pledge because that somehow might offend the sensibilities of someone watching a legislative body open with the Pledge of Allegiance?

The fact is, this is not an argument of God or no God. It is not an argument about separation of church and state. It is not an argument of the establishment of a religious denomination. Saying the pledge is no more a religious act than is purchasing a candy bar with a coin that says "In God We Trust."

Let us understand the fact is this, and I think most Americans agree: The Pledge of Allegiance should remain in our schools and other public functions. As it is today, it should be a voluntary matter of personal conscience. On this issue and so many others, the Ninth Circuit Court of Appeals is out of touch and flatout wrong. This errant decision clearly points out the need to put commonsense, reasonable, well-grounded judges on the Federal bench, rather than dangerous activists who ignore the will of the people of the States, who ignore common sense, and apparently disagree with or are pitifully ignorant of the foundational principles of these United States.

This is a wake-up call, a wake-up call for those on the other side of the aisle who are holding up the confirmation of people like Miguel Estrada, while at the same time maybe signing on to Senator MURKOWSKI's resolution or maybe at the same time coming down to the floor to rail against activist decisions such as the one that came out of the Ninth Circuit last week.

I have come to this floor many times, as I know the Presiding Officer has, to advocate for Mr. Estrada. The fact is, he is qualified. He has earned the unanimous highest rating from the American Bar Association, the rating that my friends on the other side of the aisle have previously, on other nominees, described as a gold standard for judicial nominees.

Mr. Estrada embodies the modern-day American dream that we so fondly talk about. He, like many others who came to this country in recent decades, came from a Latin American country. He, like those who came to Jamestown, VA, in 1607, or in a later year, Cajuns, Irish, Scottish, German, Scandinavian, Italian, Polish, Korean, Vietnamese, Pakistani, Indian, Lebanese, Persians, or even my own mother, all came to this country to seek out a better life. He has overcome tremendous obstacles. He has worked hard. He has embraced the opportunity that became available to better himself and found a fulfilling life in this land of opportunity.

Now Miguel Estrada stands at the precipice of service on an important DC Court of Appeals. He is ready, qualified, and more than able to take the next step, and for no other reason than scoring political points his nomination is being obstructed, delayed, and denied.

Let me say very clearly, those who deny Mr. Estrada a vote by this body are doing more harm than they realize. For Miguel Estrada and every other person who believes the American dream can happen, that shining city on the hill is dimmed today because of the partisan games taking place in this body. I respectfully encourage those on the other side of the aisle to take a lesson today. Do the right thing. Work your will and constitutional responsibilities. Have the gumption to take a stand and cast your vote.

I have no problem in taking a stand in explaining why I support Miguel Estrada. For those who are opposed, have the gumption to vote no and then explain your vote rather than perpetrating this irresponsible, duplicitous filibuster, which is thwarting the will of the majority of the Senators.

Concerning both the Pledge of Allegiance and the confirmation of Miguel Estrada, the power of the dream and the promise of America is rooted in one idea: that the direction of our Nation is and will always be determined by the consent and will of the people. The consent and will of the people is not being effectuated by the irresponsibility of a few, whether they be judges on the Ninth Circuit Court of Appeals or the Senate. Senators need to exercise their responsibilities to advise and consent on nominees.

I hope and pray the U.S. Supreme Court will reverse this egregious decision to ban the Pledge of Allegiance in the Western States of our country. I also hope and pray that Senators will exercise their duty, take a stand, vote yes or no, explain it to their constituents, and the will and the consent of the majority of the people of this country will be effectuated.

I close by saying, God bless America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the procedure in the Senate, one of long standing, is that we as Senators have the right to keep what we believe is our ability to have our voices heard. In this instance we have said now for some time, if the majority wants to go forward on Miguel Estrada, we should have him come back before the Judiciary Committee, answer questions, and with him bring the memos from the Solicitor's office. They have been supplied on other occasions. It has been mentioned in the RECORD specifically how it was done.

I am not here, though, to debate the qualifications of Miguel Estrada. I am here to talk about my becoming a vocal critic of the American Bar Association rating process for judicial nominees. I have to say, frankly, I have never been a big fan of the American Bar Association. I know they do some good things. I have lost significant respect for the operation of rating judges. I do this not in any way to denigrate Miguel Estrada. My statement I make today is in no way to denigrate Miguel Estrada.

I have said before, Miguel Estrada graduated from Harvard. He could have graduated at the bottom of his class at Harvard and he still would be one of the more credible, more qualified people to go to law school. It is hard to get into Harvard. But he did not graduate at the bottom. He was one of 71 editors they had at the Law Review, and he was one of their better students. This is in no way to denigrate the academic qualifications of Miguel Estrada. It is to talk about and to criticize the American Bar Association.

What the Estrada case has done is lifted the veil on how the ratings of the American Bar Association are made, revealing partisanship that has no place in a process that should be as impartial as the judges it helps to select. My criticism goes beyond the specific Estrada case. It demonstrates that we cannot rely on the American Bar Association to give us impartial ratings.

This may surprise some, but I will say I support the Republicans' stand on what should be done with the American Bar Association as it relates to judges.

I think we can and should take them out of the process. I don't think we need them. I am a convert to that.

Some asked why didn't I say I felt that way when Republicans did it initially. I didn't have enough knowledge to do that. I recognize I was wrong.

So we have this funnel for all Presidential nominees, and when we were a country of a few million people, that funnel was able to put everybody through very quickly. But the bigger the country becomes and the more judges we authorize, the more Cabinet officers, the more subcabinet people we authorize, this funnel becomes clogged.

The ABA is only one additional way of clogging that as it relates to judges. I feel we should get rid of them.

The Estrada case most starkly reveals that the ABA process is fatally flawed, that its gold seal is, indeed, tarnished. The gold seal of impartiality has been replaced by a stealth seal of partiality. In my view, the ABA rating should not be relied on until the process is fixed.

Unfortunately, as I will discuss in a moment, the ABA is defending this flawed process and its inherently flawed recommendation for Mr. Estrada. It defends both in the face of a case that very clearly violates its own conflict of interest rules.

As many of my colleagues know, the ABA delegates that review of potential nominees to one individual ABA member of the ABA committee for each circuit. In effect, one person is given responsibility to recommend to the committee this person's qualifications. That individual interviews colleagues who know the nominee, evaluates each nominee, and reports to the ABA with a recommended rating for the nominee.

The ABA has three ratings: Not qualified, qualified, and well qualified. Mr. Estrada received a well-qualified rating. The ABA Committee member who recommended Mr. Estrada for that rating was Mr. Fred Fielding. Given the sensitive nature of these recommendations, ABA rules specifically prohibit ABA committee members like Mr. Fielding from engaging in partisan activities while working for the ABA. The rules note that:

> [T]he integrity and credibility of its process and the perception of these processes are of vital importance.

The ABA rules go on to implement this important principle by providing:

> No member of the Committee shall participate in the work of the Committee if such participation would give rise to the appearance of impropriety or would otherwise be incompatible with the purposes served and functions performed by the Committee.

The rules then get even more specific:

> As a condition of appointment, each member agrees while on the Committee and for at least one year thereafter not to seek or accept [a] federal judicial appointment and agrees while on the Committee not to participate in or contribute to any federal election campaign or engage in partisan political activity. Partisan political activity means that a member, while on the Committee, agrees not to host any fund-raiser or publicly endorse a candidate for federal office. . . .

The rule concludes:

> In view of the confidence reposed in the Committee and the vital importance of the integrity and credibility of its processes, these constraints are strictly enforced.

These rules were not enforced in the case of Mr. Estrada. Mr. Fielding violated them. While on the ABA Committee, Mr. Fielding played a high-level role in President Bush's transition team. He helped the President and the White House counsel clear the President's highest level executive branch appointments in 2000 and 2001. Certainly these are far more partisan roles than hosting a fund-raiser or endorsing candidates for Federal office.

While on the ABA Committee, Mr. Fielding accepted an appointment from President Bush to an international center that settles trade dispute, a job that pays $2,000 a day plus expenses; $2,000 a day, $14,000 a week, that's a lot of money.

While on the ABA Committee, Mr. Fielding helped co-found the partisan Committee for Justice to run ads against Senators who oppose Mr. Estrada. Mr. Fielding's partisan activities, in fact, span back decades. He served as deputy counsel to President Nixon. He served on the Reagan-Bush campaign in 1980, the Thursday night group. He served on the Lawyers for Reagan advisory group, the Bush-Reagan transition in 1980–1981. He served as the conflict of interest counsel, ironically enough.

He served in the Office of Counsel to the President, as deputy counsel to President Reagan. He served on the Bush-Quayle campaign in 1988; as campaign counsel to Senator Quayle; as Republican National Conventional legal advisor; as campaign counsel to Senator Quayle; and as deputy director of the Bush-Quayle transition team. He served on the Bush-Quayle campaign in 1992; as senior legal advisor and conflict of interest counsel to the Republican National Committee. He served as the legal advisor to the Dole-Kemp campaign in 1996. Just from these statements it would appear he should understand something about conflict of interest.

The ABA couldn't have picked a Republican with better partisan credentials than Mr. Fielding. And Mr. Fielding didn't just give Mr. Estrada a well-qualified rating, every rating Mr. Fielding has handled for President Bush to the D.C. Circuit has resulted in a "well-qualified." All of those ratings, in my view, should be held suspect.

By contrast, Mr. Fielding did not give any of President Clinton's nominees to the D.C. Circuit—nominees who had similar qualifications as Mr. Estrada—a well-qualified rating.

What has the ABA had to say about all of this? On Thursday, February 26, 2003, the head of the ABA, Alfred P. Carlton, Jr. sent a letter to Senators FRIST and DASCHLE. I was deeply disappointed by its content.

In that letter, the ABA declares that our criticism of Mr. Estrada's case is "unfair" The ABA goes on to say that we seek to:

> Impugn the integrity of members of the Committee and of its process during the current Senate debate. . . .

I was also a little disappointed that Mr. Carlton failed to tell me about this letter when he met privately with me a day after the letter had been sent. I didn't ask for that meeting. He asked for it.

In that meeting, I strongly encouraged the ABA to strengthen its rules and disavow the process that led to Mr. Estrada's recommendation and possibly scores more of tainted recommendations. Mr. Carlton told me he would consider such a step.

I also encouraged Mr. Carlton to write to Senators FRIST and DASCHLE and tell them that the ABA would clean up its act. Mr. Carlton also told me he would consider sending such a letter.

He not only failed to mention that just the day before he had sent the leaders a letter, but also that the letter was a strongly worded defense of an indefensible process.

If the head of the ABA cannot be straight with me, what hope do we have for this process? The letter he sent the leaders reveals that we shouldn't have much hope.

The ABA says in the letter that we have been critical of Mr. Fielding's role based solely on the fact that he co-founded the Committee for Justice. The ABA letter implies that this fact is not problematic because the Committee for Justice was formed after Mr. Fielding made his glowing recommendation of Mr. Estrada. The letter fails to mention several things: First, that even this post-Estrada activity violates ABA's clear rules. Second, that Mr. Fielding was engaged in the Bush transition partisan activities at the time he was making his Estrada recommendation. The letter concludes that our attacks on this process are "baseless" . . .

If this is so, then the ABA's own rules are baseless. The ABA cannot claim that our criticism of the way Mr. Estrada's recommendation was handled is baseless when that recommendation violates the ABA's own rules. Is the ABA disavowing its own rules? Does it find them baseless?

Conflict of interest rules such as the ones that ABA has adopted are not just designed to prevent the actual exercise of a bias in a way that influences an outcome. These rules are also adopted to prevent the appearance of a conflict.

Preventing the appearance of impropriety is important to assure the Senate and the American people that the process of evaluating our judges is as impartial as people expect judges to be.

Before we rely upon the judgment of the ABA in evaluating nominees for lifetime judicial appointments, the ABA should not just pledge to enforce existing rules but should strengthen those rules. They should revise them to provide that individuals so heavily steeped in partisan activities not be permitted to serve in these crucial roles at all. That is, the rules should be expanded to prevent partisans from passing judgment on judicial nominees. This shouldn't be limited merely to the time period during which the individual is serving on the ABA Committee.

It strains credulity to believe that someone who occupied partisan roles in the last several Republican administrations could be viewed as impartial in this case. If Mr. Fielding had started the committee for Justice after he left the committee would the specter of bias really be any less? Mr. Fielding moved seamlessly from passing judgment on Mr. Estrada to becoming a leading advocate for his nomination.

The fact that the advocacy followed the judgment doesn't render the judgment any less suspect. Much has also been made of the fact that the full ABA Committee endorsed Mr. Fielding's view of Mr. Estrada's qualifications. This doesn't cleanse the Fielding recommendation of its taint. Mr. Fielding is an important person, a powerful man.

Mr. President, the hour of 12:30 is nearly here. I guess he left—I saw my friend from Kansas here. I just have a couple of more minutes and it will run past 12:30. I ask unanimous consent I be allowed to finish my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is impossible for us to know one way or another whether members of the committee felt pressure to endorse Mr. Fielding's view. It is certainly possible. And that possibility—like Mr. Fielding's clear conflict of interest—is the problem in this case.

There are thousands of lawyers in the United States, thousands who are not steeped in partisan politics—Democrat or Republican. That is very obvious because the poorest contributors to campaigns of any group in America are lawyers. So most of them are not involved at all in politics.

We rightly cast a skeptical eye on judicial nominees who are heavily involved in partisan activities. We do that because we want those who would define the breadth and depth of our constitutional protections to be impartial and without bias.

Regardless of what side of the aisle you are on—Democrats or Republican—we should be able to agree that those who occupy the most partisan roles of either party should not be part of the ABA process.

This does not, in the words of the ABA, impugn those partisans. It is to say that the fact of those partisan activities creates a clear appearance of impropriety. It is that appearance that is impossible to avoid. It is that appearance—and the doubt that it creates in the underlying process—that is the heart of all conflict of interest rules.

This issue goes well beyond the nomination of Miguel Estrada. His nomination has simply brought to light a fatally flawed process that should not be relied upon in the case of any of our nominees.

As I have said before, I now agree with the majority that the ABA should be out of the process. I hope that the ABA will rethink the staunch defense it made of its flawed process and flawed recommendations. I hope that the head of the ABA will not continue to be disingenuous when he meets with Members privately. Perhaps then the ABA would merit the trusted role that it has long held by that, in my view, it no longer deserves.

RECESS

The PRESIDING OFFICER. The hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA—Continued

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I rise to speak on a few matters of importance to us related to the nomination of Miguel Estrada, which is what we are now focused on, as well as some of the issues we should be focused on which we are not doing because the majority leader has determined we will continue to debate Estrada.

Last week, something happened in the Judiciary Committee that more of our colleagues should know about because a lot of us find this very confounding.

First, I have tremendous respect for and, indeed, consider the senior Senator from Utah my friend. I know he cares deeply about the issues and about the Senate. What we are seeing in the Judiciary Committee is going to do some significant harm—I hope not irreparable harm—not only to the Judiciary Committee but to the whole body. Up until last week, when we were moving closer and closer and closer to the edge of violating the rules the Judiciary Committee has worked upon, there were a lot of traditions on our committee. It is an important committee, a committee steeped in great legal tradition. If you look at the pictures on the wall of the various chairs of the committee, it goes long and deep.

But we have seen changes, first, in my judgment, when three court of appeals nominees were brought to a hearing at the same time. A court of appeals is an extremely important court. Every judge appointed to that court has a lifetime appointment. So the last chance there is to vet who they are, what their views are, how they think, comes in the advise and consent process on the floor of the Senate and, in the first instance, in the Judiciary Committee.

Many of us protested to the chairman of the committee that to have three courts of appeals witnesses, none of whom was without controversy, come before us on a single day did not make much sense. He said, well, that is how he wanted to do it. Although in fairness to Chairman HATCH, he was apologetic and said he would not do it again. But when we asked that we change it prospectively because these are important positions and important nominees, he said, no, he wanted to go forward.

We went until 9 that night. I was there. Chairman HATCH was gracious. I had a previous engagement at 7:30 that I had to go to and came back. By 9:30, with the members of the committee who had stayed that long quite exhausted, we had only really finished asking questions of one nominee, Jeffrey Sutton, to the Sixth Circuit.

I asked Senator HATCH if we could bring the two other witnesses back. He said he didn't want to inconvenience them. With all due respect, I expressed my disagreement. To inconvenience a nominee for the court of appeals, whether it be the Sixth Circuit or the DC Circuit, Mr. Roberts and Judge Cook, to ask them to spend an extra day here in return for what is a lifetime appointment didn't seem to me to be too much.

If normal workers, people who apply for jobs, are asked to come back by their prospective employer for a second interview or because something happened and that employer couldn't see them that day, they would hardly say it would inconvenience them, if they wanted the job.

But we seem to be running on a different schedule. So two of the nominees never got questioned. I asked them some written questions. I much prefer to ask oral questions. Answers given before the committee in the give and take are much better.

For instance, some people asked why didn't I ask written questions of Miguel Estrada, because I questioned him for 90 minutes. His answers were so obtuse and unenlightening, simply saying he will follow the law, he can't answer that because he hasn't seen the briefs, asking any written questions would have made no sense, to get those same answers back.

In any case, we did that. And then, of course, there was the hearing for Miguel Estrada, and we have rehearsed and rehearsed that over and over and over again, where questions were simply not answered. To say he was before the committee for a lengthy number of hours, and he answered some 100, or 500, or however many questions, doesn't tell the story. We all know that, because the answers he gave were to the effect: I cannot answer that; without the briefs, I cannot answer that; because it might be in a pending case before me, I cannot answer that.

Those are not real answers. With all due respect, in this Senator's judgment, I have never seen such stonewalling when a nominee was faced with so many different questions. And we continue to debate the Estrada nomination on the floor, not because the minority wants to debate it—we are happy to move on—but because the majority has chosen to debate it by filibuster, which is not ours but, rather, theirs. I hear we are going to move to the Moscow Treaty this week—that being the choice of Majority Leader FRIST—which is proof that we don't have to stay and debate the issue of Miguel Estrada. The schedule is in the hands of Senator FRIST.

What happened in the Judiciary Committee last Thursday was even more disappointing. We have had a rule that has existed in the Judiciary Committee for quite a long period of time. I am not sure of the number of years, but it is certainly over a decade. That rule is not something that is whimsy or simply tradition, such as the issue that we should never have three judges before us—I have just been informed that rule has been on the books since 1979. That is a written rule of the Judiciary Committee. It has been abided by by chairpeople, Democrats and Republicans, repeatedly throughout that period of time. I will repeat that this is not a tradition, it is not something that is sort of fuzzy. This is not even like blue slips. That is another place where the committee just changed. I didn't mention that, but I will take a minute to mention that.

We have always had a tradition of blue slips where, if a Senator from a home State objected certainly to a district court judge, that judge would not go forward. Many colleagues on the other side of the aisle have used the blue slip with success, from their point of view, repeatedly in the nineties, particularly when President Clinton was President, and when they controlled the Senate, or when they didn't control it. That is a tradition simply cast aside by the majority.

So we have the way we conduct hearings, blue slips, and everything dealing with judicial nominees.

As I said, we were getting closer and closer to the edge of no longer having comity on the committee, abiding by traditions. It almost seems as if it is, like "Alice in Wonderland," first the verdict, then the trial; the majority determined the result they wanted and changed the rules to fit the result: We want a lot of nominees put on the bench quickly. OK, we will stack them up in hearings and not give every Senator a chance to ask all the questions he or she wants. We have a nominee whose views, in all likelihood, were questioned and gone over thoroughly at the White House, but we don't want the public or the Senate to know, so we will instruct him not to answer questions in any dispositive or enlightening way. We have nominees we could never get through, in terms of comity—bipartisan comity—so we will get rid of the blue slip rule, or weaken it significantly.

As I said, all of those were traditions of the committee. I have been told over and over again that this body is very mindful of traditions, but they seem to be falling one by one—we have had more traditions falling in this month and a half that we have been under new leadership than in all the time I can remember being here. That is only 4 years.

But last Thursday, we had an unprecedented action. That action was that a rule of the committee—not a tradition, not something subject to anybody's interpretation—was just steamrolled over—ignored, forgotten, et cetera. That is one of the reasons we may need courts. That rule, which was written and ratified by the members of the Judiciary Committee when we organized this year, is a simple one. Rule 4 says:

> The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote.

The rule goes on to say:

> If there is objection to bring the matter to a vote without further debate, a rollcall of the committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes in the affirmative, one of which must be cast by the minority.

I will repeat that:

> . . . debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes in the affirmative, one of which must be cast by the minority.

That is crystal clear. What it says is that if you want to cut off debate in the Judiciary Committee, you need one member of the minority party to vote to cut off that debate. It is obvious why it was put in the rules: so there would be some form of comity, so that the majority party—even if they had 15 members of the Judiciary Committee and the minority party only had 5—could not shut off debate. It doesn't relate to the actual vote itself. It relates to how long one is entitled to debate.

Well, last Thursday, when the committee was expected to vote on the three nominees I mentioned earlier, two of whom were not questioned because they were all stacked up to be debated at one point—I believe it was Senator LEAHY and Senator KENNEDY who were there; I was not because I was in the Banking Committee hearing Chairman Greenspan. But Senator LEAHY and Senator KENNEDY invoked rule 4 and said, "We want to continue debate." At that point in time, Chairman HATCH called for a vote.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield.

Mr. DURBIN. I ask the Senator this basic question because there are some trying to follow this debate. Being lawyers and having been on Capitol Hill for a while working in this environment, we have a tendency to speak in terms that perhaps the average person may not understand. I want the Senator from New York to help me come to the basic question about why any average person following debate on the floor of the Senate in America should even care about the compliance with rules because I think the Senator has made this point.

The Senator said that now, with the new Republican majority in the Senate, with the Miguel Estrada nomination, they are violating the traditions of the Senate in terms of questions to be asked for those seeking lifetime appointments to the Federal judiciary. The chairman, ORRIN HATCH of Utah, of the Judiciary Committee has now said he is going to change the way Senators from a given State can approve of the nominees before they come up for consideration before the committee.

Senator HATCH, in one of his first acts as chairman, scheduled three controversial nominees for one day, in an unprecedented scheduling, which, frankly, called into question whether there would be enough time to ask important questions. And now, as late as last week, Senator HATCH has said he is going to virtually ignore the established rules of the Senate Judiciary Committee that have been in place through Democrats and Republicans, to cut off debate in the committee.

My basic question to the Senator is: Why is this important to the average citizen following this debate? Why should they care if Members of the Senate are twisted in knots over procedure and tradition? What is the bottom line here? Why is this significant? Is this the clash of titanic Senate egos, or is there something more at stake in this issue?

Mr. SCHUMER. I thank my colleague for asking the question which, as usual, from his lawyer-like mind, is able to pierce through the legalisms and reach the core of the debate that people can understand; it is an excellent question.

This is not simply a clash of egos, or even two lawyers arguing a point for the sake of it. The bottom line here is that this is what our country is all about in terms of protecting the rights of average people. The bottom line is that the Founding Fathers, and then Congresses from the very beginning—from 1789—understood the power a Federal judge has over an individual. The power of the judge is much closer to the power of a king—who also has a lifetime appointment—by definition, than is the power of a President or a Senator or a Congressman, because that judge is appointed for life and can just make up his or her mind and decide that should be done.

What we have had through the years of tradition is a very careful vetting of who should become a judge. The rules are simply a device to determine who those people are in terms of back-and-forth questioning, of hearings, of votes, et cetera.

The Founding Fathers certainly shied away from the idea of the President simply appointing judges. They knew the awesome power judges had, and they wanted to make sure there would be a thorough airing of who this person was before that person ascended to this lifetime appointment to a powerful position.

Every one of the rules the Senator mentioned goes to whether a person can organize in a union; whether a person can be discriminated against because of the color of his or her skin or their religion or their sex; whether a corporation can violate the Clean Water and Clean Air Acts and affect our lungs and affect our children's health; whether, for instance, an issue I know my friend from Illinois has been very much involved in, whether a meat packing company can decide how clean their plant ought to be, given there are Federal laws that govern them. The judges have all this kind of power.

The very reason we debate these issues and have these rules is we want to make sure the people who become judges will, indeed, follow the law and not simply get up there and say: I promise you I will follow the law. We have been there.

Mr. DURBIN. Will the Senator yield for another question?

Mr. SCHUMER. I will be happy to yield.

Mr. DURBIN. If this is not an ego trip between titanic Senate egos as to who is going to prevail, I ask the Senator from New York, what is the agenda here? Why would the Republicans in the new majority of the Senate Judiciary Committee change the rules, change the traditions, change the approach, take away power of individual Members of the Senate to ask questions of nominees, to have the time to try to come to understand the values they are going to bring to the judiciary, to have time to at least debate the nominations? What is the larger question here? What is it that is driving this kind of radical transformation of the Senate Judiciary Committee?

At this moment in our history, having just come off the last Presidential election so closely decided, followed by a congressional biennial election which, again, was closely decided, what is it that is driving this effort, does the Senator believe, on the Senate Judiciary Committee to make such radical changes in the way we choose Federal judges?

Mr. SCHUMER. I thank my colleague for the question. It is a very good question. Of course, it would involve us going into the heads of our colleagues, both on the other side of the aisle and the White House, in figuring this out. But I will tell my colleague what I think.

For some reason, the other side fears an open debate. For some reason, the White House and the other side do not want their nominees fully questioned. They have gone through every device and, as of last Thursday, even breaking the Senate rules. If the average citizen broke the rules, whether it be the driving rules, the parking rules, the rules of how you have to maintain your house or your sidewalk, there would be some recourse. I do not know what the recourse is here, but to abjectly break the rules and just say, I am breaking it, tough rocks, Jack, is so against the traditions we have had. For some reason, they do not want these nominees to be questioned. Why is that? We can only speculate, but I will tell my colleague what I think. I think some of these nominees' views are probably, and in some cases certainly, so far out of the mainstream that they do not want those views to become public because then it would either be, at minimum, an embarrassment for them, because this is not how President Bush was elected or most of the Senators were elected. We have mainstream conservatives and mainstream liberals, but very few Americans say: Have such a change in the way the courts and the Government functions that we should go back to the days of the 1930s or the 1890s.

There is a movement called the Federalist movement which basically has been devoted to cutting back dramatically on Federal power, giving that power to the States, giving that power to corporations, giving that power to others. I did not hear any mandate in the elections of 2000 or 2002 to go back to the 1930s, to go back to the 1890s, the way, say, I believe Justice Scalia, who has gone through the process, thinks. In fact, not only was there no mandate, there was no discussion. So when one asks oneself the very good question my friend from Illinois has asked me, which is, Why are they so afraid of questions of nominees, of debate, it is not certainly because they are afraid we are going to slow it down. We asked for 1 extra day of debate for Judge Cook and for Mr. ROBERTS. We did not get it. All we want from Miguel Estrada is some answers to questions and some papers, which they could have sent months ago. So this is, clearly, not just an issue of delay. If it were simply an issue of delay, we could work out an agreement, put in a time limit, and vote.

In my judgment, it is clear they do not want these questions answered. They do not even want them asked. That is why we are cutting off debate. Why? My guess—and it can only be a guess—is because the nominees to the judiciary, at least some of them, are so far over that if their real views were ascertained, the American people would be aghast.

Mr. DURBIN. If the Senator will yield for another question, yesterday in Chicago a reporter came up to me on the Miguel Estrada nomination. He said: Senator, isn't it a fact the reason you are blocking the Miguel Estrada nomination is because he is pro-life and you are pro-choice? You disagree on the abortion issue.

I ask the Senator from New York who sat through the Judiciary Committee with me over the last few years, is it not a fact that with over 100 nominees from the White House that President Bush has successfully guided through this Senate, is it not a fact the overwhelming majority of those disagree with our position on choice, on abortion, and yet they have gone through this committee, almost all of them, without controversy, many of them with routine rollcall votes? I ask the Senator from New York, does this difference of opinion come down to whether or not we are going to receive conservative nominees from the Bush White House and now we have the Democrats in the Senate Judiciary Committees stopping conservative nominees; is that what is at issue here?

Mr. SCHUMER. I do not believe so at all. I do believe—and this is another excellent question—a President should be given some degree of flexibility and latitude because the Constitution says the President should nominate judges. We advise and consent.

If choice were the issue, then I probably would have voted against—I think of the 106 nominees who have come before us, more or less, I have voted for 100. My guess is of those 100, given they were nominated by President Bush who made commitments to the pro-life groups, that they would agree with them and try to get judges to "think like Scalia and Thomas," that the overwhelming majority were pro-life. In fact, I know some of them were because I have read their decisions. I have read what they said in lower courts. I voted for them. I do not believe in a litmus test. I believe very few Members of this Chamber on either side of the aisle believe in a litmus test.

My guess—and I cannot speak for others—when on issue after issue a judge would have such extreme views that he would take the courts and the rulings so far out of the mainstream that Americans would be aghast, that ideological-type judges, whether on the far left or the far right, instead of doing what the Constitution says, interpret the law, rather make law because they feel so strongly that they have to pull the country in a direction way beyond, those are the few judges we—at least I—have objected to. Again, I have to use my judgment. Obviously, this is not an objective meter here, but that is what we have done.

I say to my colleague, the irony is this: Our good friend from Utah and many of the others on the other side of the aisle played the same watchdog role when President Clinton was President, and we have quote after quote from Senator HATCH, from Senator SESSIONS, from Senator Ashcroft, from the leaders of the Judiciary Committee back in the nineties, that they had to be on guard against what they called "activist judges."

To them, activist meant too far left. To me, activist means either too far left or too far right. An activist judge—I sort of sympathize with that comment. An activist judge means that because they feel strongly, instead of just interpreting the law and trying to figure out what Congress meant, they will impose their own views.

Mr. DURBIN. May I ask the Senator from New York—I think it is important in this debate that we take this general and theoretical analysis of judges and their impact on America and try to make it something closer to home so the average person following this debate understands what is at stake.

I can recall—and I am sure we were both Members of Congress at the time—when we passed the Americans with Disabilities Act.

Mr. SCHUMER. Right.

Mr. DURBIN. This was amazing legislation because it was so strongly bipartisan. TOM HARKIN, Democrat of Iowa, then Senator Bob Dole of Kansas, they came through and said, on a bipartisan basis, let us extend freedoms and opportunities to people in America who have been denied those opportunities; let us pass a Federal law—Congress passes it, and the President signs it—and establish opportunities for disabled Americans.

I think this is a good illustration of what happens with the Court when it goes too far in one direction. I ask the Senator from New York if he could give us an illustration of what happened with the Americans with Disabilities Act when it came to the highest court in the land when they had a chance to take a look at it and say whether we will protect disabled Americans and whether Congress had gone too far or not far enough, so that people can put in context what we are debating. Can the Senator give us an illustration of what happened with this law?

Mr. SCHUMER. Yes. The bottom line is the Court, despite the fact that Congress, on a bipartisan basis—by the way, supported by George H.W. Bush, the 41st President of the United States, who signed it into law—somehow comes up with an interpretation that parts of the law are beyond the Constitution and millions of disabled people are deprived of rights. That did not just happen for disabled people. In that case, which was the Garrett case, I believe my colleague is referring to, they said the States did not have to abide by this. Even though it was clear that the intent of Congress was that everyone had to abide by it, they said the States could discriminate against disabled people.

I know my colleague from Illinois was involved in a law that says someone cannot bring a gun into school. Again, somehow the Supreme Court comes to the determination that a person can, or that the law that we passed, which seemed to be a general mainstream consensus law—because some of these folks tend to be ideologues, they came up with some God-forsaken reason that that could not happen.

Another one on which I worked long and hard, along with our colleague from Delaware, Senator BIDEN, and our colleague from California, Senator BOXER—I know the Senator from Illinois was very supportive—was something called the Violence Against Women Act, which for the first time said that the Federal Government could be involved in helping women who were abused by their spouses. Before that, it was a sort of dirty little secret hidden under the rug. The law had amazing effect.

I know this one better than I know the Garrett case, but it is the same type of thing. It affects average people. For the first time, women were able to get hotlines, find out whom they could call when they were abused. Shelters sprung up. When a woman was beaten in the past, all too often there would be nowhere to go and she would have to go home to the same husband who beat her before.

On issue after issue, we helped women who were abused come out of hiding and seek help and become productive citizens again, having a huge effect not only on them but on their children. Studies show that if a child is abused, which this act would have affected, or the child's mom was abused by the husband, they are much more likely to be criminals. So it affected all of us. All of a sudden, the Supreme Court says that Congress's finding that this law affected commerce in the United States was undone and throws out part of the Violence Against Women Act.

So this is not an abstract argument, this is not a bunch of lawyers just arguing how many angels can fit on the head of a pin, this is not partisanship—to me, at least. I have devoted my life to government. I was elected when I was 23. I want to make the Government help people. I want people to believe Government is on their side. When nonelected judges come in and take years of work that Congress does—whether it affects disabled people, kids in school, the cleanliness of the water we drink, how a meatpacker has to obey certain laws, or the Violence Against Women Act—and throws it out on reasoning that 10 years before would have been regarded as crazy, the very least we owe our constituents, in my judgment, is the obligation—it is not simply a right, it is an obligation—to question nominees for the bench.

Mr. DURBIN. If I may ask the Senator another question?

Mr. SCHUMER. Please.

Mr. DURBIN. I will yield the floor to him after this. At the same hearing, Chairman HATCH basically rejected a rule that I think has been in place almost 20 years in the Senate Judiciary Committee——

Mr. SCHUMER. If I might interrupt the Senator. Since 1979.

Mr. DURBIN. So for 14 years this had been the rule under Democrats and Republicans.

Mr. SCHUMER. Twenty-four.

Mr. DURBIN. Twenty-four—I am sorry. This has been the rule.

Mr. SCHUMER. He is not on the math committee. He is on the Judiciary Committee.

Mr. DURBIN. Right. Math was a minor. Law was a major.

But in this situation, where a decision was made that we can no longer debate these nominees, we also had before us a nominee from Ohio, a justice on the Ohio Supreme Court, Deborah Cook, whom I had a chance to ask a few questions of in that marathon hearing where three controversial nominees were scheduled for the same day. I do not know if the Senator from New York was present. But I sent a written question to this justice and asked her point blank: Tell me a little about your thinking, about your judicial philosophy, particularly the concept of strict construction of the Constitution—that is a cliche almost, but it is a catch phrase that is used to try to judge whether someone is far to the right, far to the left, or whatever it happens to be.

Justice Cook, in her reply to me, said that she did not characterize herself as a strict constructionist, but she went on to say that those who were strict constructionists—and I wish I had the direct quote in front of me—were less likely to decide in favor of such things as Brown v. The Board of Education, Miranda v. Arizona, and Roe v. Wade.

My staff has been kind enough to give me this question.

I asked her the following:

> Do you think the Supreme Court's most important decisions—Brown, Miranda and Roe—are consistent with strict constructionism?

This is her answer, a judicial nominee:

> If strict constructionism means that rights do not exist unless explicitly mentioned in the Constitution, then the cases you mention likely would not be consistent with that label.

I said in the committee and I say here, that is a painful answer for me to hear, to think that those who believe that a strict construction of the Constitution would not lead them to integrate America's schools, to protect a woman's privacy, or to give to criminal defendants the most basic rights, knowledge of their constitutional rights—painful for me to read this, but painfully honest.

The point I make to the Senator from New York, and then I will let him finish: Is that not what we are looking for? Are we not looking for candor and honesty from the nominees to reach a conclusion on an up-or-down vote?

In a situation where candidates, nominees, such as Miguel Estrada, refuse to answer the traditional questions asked by Republicans of Democratic nominees, where Senators from a home State do not have a voice in whether a judicial nominee comes before the committee, when three controversial nominees are put in a hearing in one day on the Judiciary Committee, where the chairman of the Judiciary Committee eliminates the protection of the right to debate nominees, do we not have a closing down of this kind of candor, openness, and honesty that we are seeking, moving instead towards secrecy and stealth? Does this not get to the heart of the issue as to whether or not the judges we select for lifetime appointments to the highest courts of the land are people whom we know, who answer questions honestly before they are given that terrific opportunity to serve our Nation?

Mr. SCHUMER. If I might answer, I think my colleague has hit the nail on the head. This is so important. What we have come to is the fact that nominees are often told not to answer questions.

There is an article in the Legal Times where one of the leading conservative judges of the court of appeals instructed nominees not to answer questions. Why would someone say, do not answer questions; fudge on the questions? I think I know why, as we talked about before. Because if they gave their honest answers, they would become so controversial that many of them would not pass. But imagine the alternative: Not asking the question, or not getting the question answered, and then this nominee who has views way beyond the mainstream gets on the court and starts doing things. Do you know what would happen? Our constituents would come to us and say: Do something.

We would try, but it would be very difficult. We would probably have people on the other side saying: Well, I didn't know he thought like that. Yet when we have the opportunity to ask that nominee questions, to try and get some idea of how he thinks, we are denied the answers—either because we did not have time, as in the case of the three nominees, or in the case of not allowing discussion to go on in the Judiciary Committee, or because we had the time—with Miguel Estrada we had plenty of time, but the nominee refused to answer the questions, simply saying: I will follow the law.

We have been through that. It is legendary that when Clarence Thomas was up for the Supreme Court, people wanted to know his view on Roe v. Wade. For me, it is an important issue, but it is not a litmus test. Of the 100 people I voted for judge, most are against Roe v. Wade, but I don't have a litmus case.

But for a nominee to the Supreme Court to say he had never discussed it before while in law school—lawyers always discuss these cases—struck many as disingenuous. I was not in the Senate then, but people vowed they were not going to let that happen again; that was a mockery of the process. This is too solemn a process.

Before I yield to my friend from Utah, and I appreciate him yielding to me and yielding to all Members, and I will yield to him, speaking for myself, this transcends any one nominee. We are beginning to see a complete vitiation of the process whereby nominees will be nominated by the White House and rubberstamped by the Senate. In my judgment, nothing that we do here could do more damage to the fundamental underpinnings of our Republic than that.

I remind my colleagues, that is not what the Founding Fathers intended. The very first nomination to the Supreme Court was, I believe, Rutledge—I always forget if it was Randolph or Rutledge; my daughter was in the play "1776" and she played Rutledge, and I was constantly calling her Randolph, much to her chagrin. But in any case, Rutledge was defeated because the Senate had the temerity, I guess, in the opinion of my good friend from Utah, to ask Rutledge's judgment on something very controversial at the time, the Jay Treaty. The Jay Treaty was not what judges rule on, but the Founding Fathers—by the way, we just heard at our lunch that a large percentage of the first Senators were members of the Constitutional Conference, so they certainly knew what they wanted to do.

If they were questioning Rutledge on the Jay Treaty, then certainly asking Miguel Estrada how he feels about the commerce clause and the right to privacy and the 11th amendment and the first amendment and all of these things could hardly be out of bounds.

In fact, I would argue if the Founding Fathers were watching this debate, they would say: Yes, that is what we intended.

With that, I yield to my friend from Utah for a question only.

Mr. HATCH. I ask the Senator, is it possible the Senator could put together the questions he believes Miguel Estrada has not answered appropriately, and I will do my best to get him to answer them? If not appropriately, as defined by the Senator, but at least in more detail than the Senator seems to be indicating here.

I know he answered a lot of questions appropriately, and I believe all of them appropriately, but I would be glad to assist the Senator if he will give me a list of questions the Senator would like to have Miguel Estrada answer. I will do my best to see he answers them for the Senator, and hopefully that will have the Senator feel a little bit better and cause him to vote for him.

Mr. SCHUMER. I thank the Senator for his question, and I think it is a good-faith statement to break this deadlock which I hope we will do because we have made the arguments over and over again.

Let me make an alternative suggestion and see what the Senator thinks and then I yield to him. Why don't we bring Miguel Estrada back for a second day of questioning? I find written questions never to bring out the same analysis, the same understanding of how a person thinks. That is why we do not conduct trials by written question. Miguel Estrada may say something, and I will want to immediately ask him, well, what about this, and to take another week and ask another question and another question and another question, I am sure within a short amount of time my colleagues on the other side of the aisle will be saying we are being dilatory.

If we could have another hearing of Miguel Estrada and if he could let us see the documents he authored as attorney general, I think it was my good friend's junior colleague from Utah who suggested we do that, and then we would set—I cannot speak for my whole caucus, but I will state what I would be for. I would be for setting a time certain when we vote for him, another day of hearings, ask Miguel Estrada to come back for a day.

It cannot be too much to ask when one is 42 years old and, may God grant him a long and healthy life.

Mr. HATCH. Will the Senator yield?

Mr. SCHUMER. And to ask him for a day of questions and to give up these documents which are very important, then we can settle this whole issue.

I yield.

Mr. HATCH. As the Senator knows——

Mr. SCHUMER. For a question only.

Mr. HATCH. As the Senator knows, he cannot give up those documents. He has no control over them. And the administration will not and neither would any other administration.

Would the Senator be willing to get the Democrats to agree to an up-and-down vote if we had one more day of hearings where the Senators could ask additional questions? I am not saying we are going to do that. I am just saying would we have an up-and-down vote.

We cannot produce those documents because they are privileged. I think the Senator knows that. But if you had one more day of hearings where you could ask the questions, could we get the Democrats to agree to an up-and-down vote if you did that? I cannot say I can do that, but I certainly would look at it.

Mr. SCHUMER. Let me try to answer my colleague.

Mr. HATCH. I know the Senator cannot speak for all the Democrats, but if all the Democrats would agree, or if you can get the majority leader to agree and the Democrats to agree to stop the filibuster, I might consider that—not because I don't think he answered the questions the first time; he did, in a very thick transcript—as a gesture.

I would have to look at this. I would have to talk to the administration, the people on our side, and Miguel Estrada himself, but if I was assured we would have an up-and-down vote where people could vote whatever way they wanted to, I would give some consideration to that, subject to my talking to our leadership on this side and talking to the White House. But there is no question they cannot give up these documents. He has no authority over those documents and the administration will not give up those documents no matter what we do. But I guess you would at least have an opportunity to ask additional questions, in spite of the fact that the distinguished Senator who conducted the hearing said it was conducted fairly, that he asked every question he wanted to ask, that he had the right to ask any other questions he wanted to, that he could have filed written questions, in addition.

But the Senator has said if he could have one more day of hearings, because written questions do not cut it as well as oral testimony, if he could have one more day of hearings, I would consider this, and I would talk to my side and I would talk to Mr. Estrada and the White House if I knew there would be an up-and-down vote, the filibuster would end, this threat to the process would end. I would certainly give every consideration to it and try to do that.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from New York.

Mr. SCHUMER. Let me try to answer my colleague. Again, I have the same caveat he does, even more so. I cannot speak for my Democrat colleagues. I am not even chairman of anything.

I would say this to my colleague and make a couple of points. The best evidence of how Miguel Estrada feels—given that he has not written articles, he has not been a judge where we can see his record—are these documents. We have debated this over and over again. There is no privilege. There is no anything else.

Senator LEAHY and Senator DASCHLE, in a letter to my colleague—and I will be delighted to yield when I have finished my answer—have laid out the conditions by which we believe we would at least get some bit of evidence to see who Miguel Estrada really is. That is not in terms of his history, which has been repeated over and over again on the floor, and a wonderful history it is, but in terms of how he thinks and how he would think and how he would rule as a judge.

So the best evidence is not hearsay evidence; it is the written evidence. But let me just say in regard to the hearing—and here is my problem with the offer and why the written evidence is so important—let us say Miguel Estrada again refuses. He sits for 10 hours and refuses to answer—or answers, let's characterize it, in the same way.

I ask him—DIANNE FEINSTEIN asks him his feelings on Roe v. Wade, and he says I can't tell you that.

And Senator DURBIN, for instance, asks him how he feels, widely or narrowly, the commerce clause should be interpreted, and he says: Because I might rule on a case about the commerce clause, I can't answer that.

By the way, I have checked with a whole bunch of legal ethicists, and the canons—you know, what the lawyers say you are allowed to do when you are nominated to be a judge—have nothing to do with broad questions like that. They deal with specific cases.

So let us say we get, as we would characterize it, or as I would, stonewalled, no answers on anything.

As my colleague well knows, when I asked Miguel Estrada about previous cases he liked or didn't like, he said: Well, I would have to read the briefs.

I have asked subsequent witnesses how they feel on cases and they have given answers to me. I had an interview with someone the President is thinking of nominating in my State. I asked her what is a case you like, what is a case you don't like? She was very forthcoming—you know, that had already been ruled on. So we would be in a complete——

Mr. HATCH. Will the Senator yield?

Mr. SCHUMER. I would be happy to yield in a minute. We would be giving away the store without accomplishing our goal if we agreed, before we heard the answers, that we would agree to a date certain on the vote.

Perhaps we should have the hearing, see how he answers those questions, and then see where we are. If he is much more forthcoming, whatever his answers are, we might be able to make some progress. But if he gives the same exact answers as he gave 3 weeks ago, I for one could not agree to just having a vote on him unless we get the best evidence, the written evidence, which the administration will not give up. You are right. It is not Miguel Estrada, but it is the administration which has nominated him. So they are not sort of players from far away; they are part of this whole process. Other administrations, Democrat and Republican, have given up the same types of documents.

I don't want to get into a debate about that now, but that is our confirmed view.

So an alternative which I cannot even—I would have to talk to my colleagues about—would be: Let us have another day of hearings and then let us see what happens there and see where we go. But I think it would not make any sense, any sense whatsoever, to say today, or tomorrow, we will have a vote as long as he comes back. Because what if he does the same exact thing he did last time, which I know you find was fulsome and reliable—not reliable, but fulsome and elucidating testimony, but I found to be completely evasive.

I am happy to yield to my colleague for the purposes of another question only.

Mr. HATCH. Sure. Let us be honest about it. If you are going to ask him how he feels about a case or how he feels about the commerce clause, I have to admit I don't think those are legitimate questions. What he feels is not important. What he is going to do as a judge is important.

I am hardly going to bring him back for another day, after we had one of the longer hearings for a Circuit Court of Appeals nominee, after it was conducted by the distinguished Senator from New York and the Democrats, when my colleagues on the other side have said it was a fair hearing, questions were asked—I am hardly going to bring him back for another day unless we have some sort of agreement we are going to have a vote.

Mr. SCHUMER. I'm sorry, I couldn't hear the Senator.

Mr. HATCH. I say I am hardly going to bring him back just on the speculation he is going to answer questions the way you think he ought to answer them when in fact he answered questions the way all of his predecessors have answered them. Basically, they were answered this way:

With regard to Roe v. Wade, he basically said regardless of my personal feelings, I am going to uphold the law. That is the law. That is what everybody has said who appeared before my committee when I was chairman during the 6 years of the Clinton administration. They didn't come out and say yes, I am for Roe v. Wade. If they had, I would not have held that against them because I presumed they were, anyway. But the fact of the matter is virtually every one of them basically said: Regardless of my personal views, I am going to uphold the law, which is what he said.

I guess what I am asking is—if you will give me a list of your questions that you asked, that you feel there was not a forthright answer—I don't know of any where there wasn't a forthright answer; it may not have been what you wanted—I will be happy to take those back to him again and get you answers that would be more detailed, if that is what you want.

Or, as an alternative, would it be possible for us to have 1 day of hearings where we encourage him to answer questions in more detail, because that is what you appear to want—even though I thought his answers were more than adequate—and I would attempt to do that. Of course, with the approval of my side; if I can. I would work in good faith to do that.

But I would certainly want to have the filibuster ended, because this is a damaging thing to this institution, and it would be my way—if I could do it and pull it off—of saying, look, we'll try to accommodate our friends on this side, but let's be fair and let us have a vote up or down.

It may be that vote will go the way you want it to go. You may vote for him in the end. I don't know. But the point is, I would try to do that in order to get this off of this filibuster, which I find extremely dangerous, and even beyond consideration of Miguel Estrada. It is something I had to stop, as chairman during my 6 years, because we had a few on our side who felt we should filibuster people like Marsha Berzon and Judge Paez and even Margaret Morrow.

As you know, as much as I have been maligned by at least one Senator on your side, they would not have been sitting on the Ninth Circuit Court of Appeals if it hadn't been for me, and I think some of the accusations that have been made have been very unfair about the time I was chairman.

Mr. SCHUMER. Let me reclaim my time because I am running out.

Mr. HATCH. But let me make that offer. I will either get him to offer more detailed answers in writing or I will get him—I will do my very best to have him answer more detailed answers in a 1-day hearing.

Mr. SCHUMER. Reclaiming my time, Mr. President.

Mr. HATCH. But I would want to have a vote.

Mr. SCHUMER. I make a counterproposal to my colleague. Either we have him come back for 1 day, and the administration, his nominator, releases the papers as Senator DASCHLE and Senator LEAHY have asked, and we agree to a vote ahead of time; the papers and a day of hearings—again, I can only speak for myself that that would satisfy me—or, in an effort to break the deadlock, we have the day of hearings without any commitment. Because, in all candor—you know, the Senator from Utah is a very fine lawyer and probably a lot better than I am. But I am not going to give away the store for a pig in a poke.

If we were to agree to a vote right now and Miguel Estrada were to come before us and just verbatim give the exact same answers he gave before, we would not have accomplished anything.

So I say to my colleague, in an effort to break the deadlock which we all want to break, believe me, let us have Mr. Estrada come back for a day of hearings, no preconditions. There will be lots more people paying attention to those hearings now. And let the American people make a judgment as to whether he is being forthcoming or not. Maybe his answers will change and they will say he is. Then we will decide where we go from there.

Because I will say this: This is one place I disagree with what my colleague said. To say, poor Mr. Estrada, he sat through 9 hours of hearings and to ask him to do it again is not fair seems to me to be—we are lawyers. Probably right now Mr. Estrada, who is earning a great salary because he is an excellent lawyer, sits through far more than 9 hours to try to win a single case. This, appointment to the second most important court in the land, is a lot more serious than any one single case Mr. Estrada is arguing.

Mr. HATCH. Will the Senator yield?

Mr. SCHUMER. So I say to my colleague, to achieve a lifetime appointment on this very serious court, Mr. Estrada ought to be willing to sit—I am not saying we should do this—for a week or a week and a half. He is 42 years old. He is likely to be on the bench for 30 years, God willing he has good health. So that should not be the consideration.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. Will the Senator yield?

Mr. SCHUMER. I yield to my colleague from Illinois.

Mr. DURBIN. Mr. President, I want to make this as brief as I can. I commend the Senator from Utah coming to the floor. I would like to ask this question of the Senator from New York.

I think you have taken a reasonable position. Having practiced law for a number of years, as the Senator from Utah did, and I believe the Senator from New York, you know, in the discovery process, when the other side refuses to turn over a document, goes into this long fight, you begin to suspect, on your side of the case, there is something very important in that document.

These documents of Miguel Estrada have become the crux, the center point, of the debate about what this man has said and done and thought as assistant to the Solicitor General in the Department of Justice. So I think the Senator from New York is right in insisting that be part of any compromise ending this deadlock.

I also hope we will insist, on the Democratic side, that if we are going to end this deadlock, we return to the regular order of the Judiciary Committee, that we do not put three controversial nominees on the calendar in the same day, that we do not ignore the blue slips required of each Senator from the State, that we do not violate the rules of the Senate that have been in place for 24 years in relation to debate in the committee.

I think all of those would be a good-faith effort to go back to the regular order and establish some comity and understanding between us, which I hope will guarantee that we will not face this kind of situation in the future.

Mr. SCHUMER. Answering my colleague's question, he is exactly right. I am not someone who has practiced law, like my colleague from Illinois and my colleague from Utah—I was elected to the assembly right after law school—but every good lawyer knows, even every good law student knows, that hearsay evidence is not as good as written evidence.

So when we hear all these people say—I have heard my good colleague from Utah say: This one and this one and this one say he is great, and this one and this one say he will follow the law. If my colleague truly believes that, then he has nothing to hide in terms of giving up these documents because they will show that Miguel Estrada will follow the law.

The problem is, we have just as many people who worked with him in the Solicitor General's Office who said: Oh, no, this guy is so far over that he writes his own laws, and he would write his own laws.

Mr. HATCH. Name one. Name one person. Give me a name.

Mr. SCHUMER. I don't know which is true and which isn't.

His superior.

Mr. HATCH. Who? Bender?

Mr. SCHUMER. Bender, who was his immediate superior.

Mr. HATCH. That is the only name you can come up with?

Mr. SCHUMER. I am going to reclaim my time.

Mr. HATCH. Give me a break.

Mr. SCHUMER. He was his immediate superior. But the bottom line is this: My colleague from Utah immediately discounts Mr. Bender because he does not agree with his view on certain issues. OK. If, if, if, if Mr. Bender is wrong, the documents will show it. If Mr. Bender is right, the documents will show it.

Mr. HATCH. Will the Senator yield?

Mr. SCHUMER. Not yet. I will in a minute.

But the bottom line is, as my colleague from Illinois stated, when somebody will not release documents, that you know can be released, then you say to yourself, What is in there?

Again, we are not just dealing with one case. We are not dealing with just one situation. We are dealing with a lifetime appointment to the second most important court in the land.

Why won't Mr. Estrada or the administration—which is his sponsor, his mentor in this particular situation—why won't he give up these documents?

I will tell you what most people think when they hear about it. And I have talked to my constituents, the few who ask me about this. They say he is hiding something. Do I know he is hiding something? Absolutely not. I have not seen the documents. But I tell you one thing: The great lengths that the administration and my colleagues on the other side have gone to not give up these documents makes one suspect there is something there they do not want people to see.

So the documents are crucial. And I, for one, believe we cannot agree to a date certain to vote until those documents are given up or unless Mr. Estrada somehow answers the questions in a truly dispositive way.

By the way, I say to my colleague, he said everyone else answered questions the same way. Absolutely not. And we have shown, in case after case, in nominee after nominee—the very nominee after Mr. Estrada, when I asked him the same exact question, was far more forthcoming than saying, "I can't," or "I will follow the law."

So the bottom line is, I would repeat my tentative offer—because I would have to check with my colleagues—let's have a day of hearings of Mr. Estrada and see where that leaves us, see if he gives the same answers. And let everyone see him answer the questions the way we saw him. And let's see if they think he is being forthcoming. And let's see if they think—when he is asked crucial questions that will affect people's live—he gives answers that satisfy people that he be appointed to the second most powerful court in the land. That is a way to resolve this.

Shakespeare once said: Me thinks the lady doth protest too much. There has been so much protestation about figuring out Miguel Estrada's record—not his legal qualities, not his story of being the son of an immigrant coming to America when he was 17, not speaking English. That is all great. He deserves a pat on the back for that. But that alone, in my judgment, does not entitle him to appointment to the second highest court in the land with a lifetime appointment.

I will be happy to yield to my colleague in 1 minute. But, again, it is certainly worth, with all due respect, the chairman's time, and all of our time, to hear him again. And maybe he will be somewhat more forthcoming. And then maybe we can come up with a compromise.

Several Senators addressed the Chair.

Mr. SCHUMER. I yield to my colleague from Massachusetts for a question.

Mr. KENNEDY. I thank the Senator for really——

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. SCHUMER. Yes.

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. SCHUMER. I yield to my colleague from Massachusetts for a question only.

Mr. KENNEDY. Without losing his right to the floor.

Mr. SCHUMER. Without losing my right to the floor.

Mr. KENNEDY. Mr. President, first of all, I thank the Senator from New York for his presentation today. I want to ask him a question or two.

In looking at his position in the broader context—which I think is fair to do, which is important for the American people to understand—the debate on what institution should have the power for nominating judges was an issue that was before the Constitutional Convention.

I heard earlier in the debate that the Senator from New York pointed out this was an issue that was considered by the Constitutional Convention—to just have the sole power with the President—and that was overwhelmingly defeated—overwhelmingly defeated.

I ask the Senator whether he would not agree with me that at least it appears there are some Members of this body who still believe it is the President who has the sole power and kind of exercise of responsibility that the Senator from New York and others have attempted to provide in exercising an informed and balanced judgment in fulfilling their constitutional role of advice and consent.

Does the Senator not agree with me that any fair reading of the debates of the Constitutional Convention put a prime responsibility on the Senate of the United States to exercise good judgment? And, further, would he not agree with me that if there is not going to be a response to Senators' inquiries, so they cannot have the information to carry forward and make a judgment, then this is a failure of the nominee in meeting their responsibility under the Constitution, being nominated by the President of the United States?

Would the Senator not agree with me that this is a constitutional issue? We hear a great deal about what is constitutional and that the Senator from New York and others are basically undermining the Constitution by refusing to let the Senate make its will. On the other hand, I think the Senator, as I understand it, is doing exactly what the constitutional Founders intended the Senate to do: and that is, to have a shared responsibility and give a balanced and informed judgment in meeting the requirements of the advice and consent provisions of the Constitution.

I am just asking the Senator if he does not agree with me that we ought to have some understanding among at least ourselves as to what the role is because often we hear those voices saying, what are you objecting to? The President has nominated him. Why aren't you just going along? I would be interested in the Senator's answer.

Mr. SCHUMER. The Senator is right on the money. The bottom line is, the Founding Fathers wanted the Senate to be actively involved in the process. It is my understanding, as I read the Federalist papers and the deliberations of the Founding Fathers, for a good period of time they were so afraid of the President, so much like a king, having too much power and knowing that judges would have lifetime appointments and have absolute power, at least on the cases they rendered, that for a long period of time they wanted the Senate to appoint the judges.

Mr. KENNEDY. Without the President involved?

Mr. SCHUMER. Without the President involved, exactly. I can't remember if it was Madison or somebody else, but they argued it would be too diffuse, that the buck will have to stop somewhere, so they were going to have the President nominate. But to keep the President's power in check, the very thing they intended—my good friend from Massachusetts is exactly on the money—was that the Senate play an active role.

Let me repeat, many of the very first Senators who debated whether the first nominee, Mr. Rutledge, should become a judge on the Supreme Court were members of the Constitutional Convention. We heard today that of the first eight who showed up, six were members of the Constitutional Convention. I don't know how many out of the original 22 because I think there were just 11 States that had ratified the Constitution then. And guess what debate they had in rejecting Mr. Rutledge? They debated his views on the Jay treaty, which was a treaty involving France and England and all sorts of foreign entanglements, as they used to refer to it in those days.

Let me say that if the Jay Treaty was legitimate grounds to determine whether the Senate should consent, then certainly someone's views on the commerce clause and the first amendment and the second amendment and the fourth amendment and the 11th amendment and the right to privacy and the right to free speech should be.

Let's just get some corroboration for my colleague's excellent question. Here is what our good friend from Utah said when the shoe was on the other foot, when President Clinton was nominating people, and many of our colleagues on the other side were worried they would be too activist, which meant too many people who would let their own liberal views trump accurate interpretation of the law. I have great respect for the Senator from Utah. He knows this stuff inside out.

He said:

> Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.

Well, one day of hearings and no other record, is that extensive when one is considering a lifetime appointment? I would argue not. It is not even close to extensive enough.

Let me read another quote from Senator HATCH:

> The careful scrutiny of a judicial nominee is one important step in the process, a step reserved to the Senate alone . . . I have no problem with those who want to review these nominees with great specificity.

Well, I hope the Senator who had no problem then when Senator SESSIONS and Senator Ashcroft and other Senators on the Judiciary Committee wanted to ask a whole lot of questions—and believe me they did, of the people they were worried about, the Paezes and the Bersons, not to mention them, but all the nominees who never got hearings. Great specificity? Nine hours of hearings for the second most important job on the judicial side of the Government? Nine hours, when the answers, when talking about his history, Miguel Estrada was specific. It is not a character trait. It is only when he was asked his views on matters of great judicial importance, this is with great specificity, to simply say, on question after question: I will follow the law, is that answering questions with great specificity?

Mr. KENNEDY. Would the Senator yield on that point?

Mr. SCHUMER. I am happy to yield.

Mr. KENNEDY. Was the Senator trying to elicit from the nominee the outcomes of particular cases or was he inquiring of the nominee to have the nominee's general understanding of the particular provisions, constitutional provisions which are the basis for protecting individual rights and liberties? If you listen to the debate, some would say the members of the Judiciary Committee who were asking questions were trying to basically unethically demand answers of the nominee as to the outcome of particular cases. Nothing could be further from the truth. As I understand, what the Senator is talking about now is to try and gain an understanding about whether the nominee had an understanding of the core provisions of the Constitution and the protections of those core provisions and understood the context with which they were at least passed or considered and interpreted over time.

Mr. SCHUMER. I thank the Senator for his question. He is exactly right once again in terms of his question. No one said: How will you rule on this case that is now in the lower courts in DC. No one said, there is a case in Texas about a meat packing company that refuses to go along with what the FDA wants them to or the Department of Agriculture wants them to. No one asked even close to that degree of specificity.

When one asks, what is your view on the commerce clause and how expansively or narrowly it should be interpreted, what is your view on the first amendment—I asked him, for instance, how it would affect his view on campaign finance spending. These are not questions of specific cases. In fact, the Senator was off the floor when I mentioned that I have made inquiries of some of the legal ethicists in our country who make a living by interpreting the canons of the ABA, what a lawyer can and cannot do. Not one of them thought any of the questions even came close in terms of the level of specificity.

One might think that was just a ruse, that that was a way to avoid giving one's opinions. And when one sees the article that was in the Legal Times in 1986, where it was reported that at a Federalist society meeting, Judge Silberman, already a member of the DC Court of Appeals, suggested to prospective nominees that Ronald Reagan might nominate, don't answer the questions, that was the beginning. That was the seed we are now seeing bear its evil fruit, which is to stonewall. And basically the Senator was exactly right in his previous question, at least in my opinion, going back to the view that the President should appoint.

Do you know what these hearings would be? They would be hearings for show.

Mr. KENNEDY. Will the Senator yield for another point?

Mr. SCHUMER. I am happy to yield.

Mr. KENNEDY. I can remember the time when the nominees for the Supreme Court, nominated by Democrat or Republican Senators, when Senators actually gave the questions to the nominees. I used to do that for years and years so that the nominee would have an opportunity to think about these issues and be able to talk about the fundamental protections of the Constitution and constitutional rights. This was never viewed to be a game in the Judiciary Committee. It was to try to elicit from the nominee their understanding and the nature of their kind of commitment to core values. That was always the case.

Now we find, as the Senator has historically interpreted, we can never get the responses, the answers. I mentioned the other day about understanding what the roles are of these two institutions. There is an extremely important and vital responsibility on every Member of this body in exercising their judgment. It is a shared responsibility. I can understand the chairman of the Judiciary Committee would rather have it so it is just the President's responsibility. But that defies history and what our Founding Fathers wanted. This is a shared responsibility.

I again ask the Senator, how are we going to ever fulfill our responsibilities under the Constitution when the nominees are basically going blank, refusing to respond to members of the committee? I further ask the Senator, is he not concerned this is beginning to be a trend, in terms of nominees we are having now before the committee, where they believe they just don't have to respond?

Mr. SCHUMER. Yes.

Mr. KENNEDY. Would the Senator agree this isn't just a matter for the Senators from New York and Massachusetts, this is a matter for the American people? That is what our Founding Fathers, who were the architects of the greatest Constitution in the history of the world, intended: If we fail to exercise our rights on this, we fail our responsibilities under the Constitution? I feel that way very strongly. I just inquire of the Senator.

Mr. SCHUMER. I thank my colleague. Again, I completely agree with him on every one of the questions he has asked. I would like to cite for my colleagues this article I mentioned. It was in the Legal Times of April 22, 2002. Here is a quote from the article:

> President George Bush's judicial nominees received some very specific confirmation advice last week: "Keep your mouth shut."

That statement in that article makes a mockery, as my good friend from Massachusetts has stated in his question, of the U.S. Constitution. "Keep your mouth shut." One has to ask: Why should you keep your mouth shut? It is not because there is anything unethical you did. I don't think Miguel Estrada has done anything unethical. It is not because you are ashamed of your history or of something that happened in your past. Why are these nominees being told to keep their mouth shut, if this article is true?

We all know why. Because the people who are advising them are afraid if they gave their whole views, they would be rejected not only by the Senate but by the American people. And then there would have to be something different. The Senator is exactly right. We are on the road to mutilating our Constitution. I believe in this document. The older I get, the more in awe I am of the Constitution. The Founding Fathers called this country "God's noble experiment." I believe that.

America took my family as refugees from Europe a hundred years ago—a little more than that. They were discriminated against; they could not have any kind of job; but they were given a chance. My father never graduated from college and his son is a Senator. This is an amazing place. It is not just in the way my teenage children would say it, but in the biblical sense, an awesome place, where the angels tremble before God in awe.

Part of that awe that we so cherish is the fact that we try to fulfill what the Founding Fathers wanted and wished. For an immediate political purpose, to put before the courts people who might be out of the mainstream, to make a mockery of the process by having three controversial court of appeals nominees appear on the same day so that two could not be questioned, to change by fiat the blue slip rule, which had been in existence for quite a while, and not debate and vote on what should happen on the blue slip rule—but to just change it—to then take a rule that had been in the Judiciary Committee since the Senator was on the Judiciary Committee before in 1979——

Mr. KENNEDY. It was before.

Mr. SCHUMER. The rule was even before he was chairman. It said you could debate an issue and not shut off debate, unless one member of the minority side—by the way, it wasn't written for a 10-to-9 minority; it could have been written for a 19-to-1 minority. On the Judiciary Committee some comity would have to reign. To take all these, and then this hearing, this nomination, where Miguel Estrada, being the good student he is, basically kept his mouth shut, I don't care how many thick books they put on the table. Read the answers, I say to my friends in America. Compare them to the answers of other judges, and then look at the fact that the only records we have of Miguel Estrada, his work as an Assistant Solicitor General, where we could determine how he thinks, other than by what he said at the hearing, where he didn't answer dispositively on anything in terms of his views—and the administration all of a sudden says we are not giving up such documents—it makes you scratch your head and wonder.

So I say to my colleague—and I will relinquish the floor in a minute—to me, this is not a fight over Miguel Estrada or Mr. Jeffrey Sutton or Judge Cook or John Roberts or Mr. Bybee or Mr. Tymkovich or any of the others: this is a fight for the sacredness of our Constitution. This is not the first time people who are a lot smarter than I am have tried to figure out ways around the Constitution and just say they are invoking the Constitution. That has happened repeatedly throughout our history.

But I believe, based on the patriotism that burns within me, based on my belief that this America still is "God's noble experiment," it is our job to try to keep the flame of that Constitution burning brightly. Part of that flame is to have a full vetting of nominees for the one nonelected part of the Government, the article III part of the Government; and to rush nominees through and say they don't have any more time for a 40-year lifetime appointment, to say that they can answer every question by basically obfuscating, I believe in my heart of hearts is not what Madison or Hamilton or Jay or Washington or any of the Founders intended.

I yield for a final question to my colleague from Massachusetts.

Mr. KENNEDY. I thank the Senator. This will be my last intervention at this time. I wanted to ask whether this understanding and this presentation is your understanding, again, about the Constitutional Convention. I will take a moment. I ask him whether this is his understanding as well.

On May 29, 1787, the convention began its work on the Constitution with the Virginia Plan, introduced by Governor Randolph, which provided "that a National Judiciary be established, to be chosen by the National Legislature." Under this plan, the President had no role at all in the selection of judges.

When this provision came before the convention on June 5, several members were concerned that having the whole legislature select judges was too unwieldy. James Wilson suggested an alternative proposal that the President be given sole power to appoint judges.

That idea had no support. Rutledge of South Carolina said that he "was by no means disposed to grant so great a power to any single person."

A week later, Madison offered a formal motion to give the Senate the sole power to appoint judges, and this motion was adopted without a single objection. On June 19, the convention formally adopted a working draft of the Constitution, and it gave the Senate the exclusive power to appoint judges.

July of 1787 was spent reviewing the draft Constitution. All the decisions having been made, this issue was revisited three different times. On July 18, the convention reaffirmed its decision to grant the Senate the sole, exclusive power. James Wilson again proposed "that the judges be appointed by the Executive," and again his motion was defeated.

The issue was considered on July 21 and the Convention again agreed to the exclusive Senate appointment of judges.

In a debate concerning the provision, George Mason called the idea of executive appointment of Federal judges a "dangerous precedent."

Not until the final days of the Convention was the President given power to nominate. On September 4, 2 weeks before the Convention's work was completed, the committee proposed the President should have a role in selecting judges. It stated:

> The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . judges of the supreme Court. . . ."

The debates made clear, however, that while the President had the power to nominate the judges, the Senate still had a central role. Governor Morris of Pennsylvania described the provision as giving——

Mr. SCHUMER. Will the Senator yield?

Mr. KENNEDY. Let me read this. Governor Morris of Pennsylvania described the provision as giving the Senate the power "to appoint Judges nominated to them by the President." The Constitutional Convention adopted this reworded provision giving the President the power, with the advice and consent of the Senate, to nominate and appoint judges.

It could not be clearer what our role is. It could not be clearer as to what the constitutional Founders wanted us to do.

I commend the Senator from New York for fulfilling that responsibility with regard to nominees. There are others who believe we ought to be a rubberstamp. The Senator from New York is speaking now to his responsibilities as outlined by our Founding Fathers. I welcome the opportunity to join with him. I commend him for his contribution to this debate.

Mr. SCHUMER. I thank my colleague. Again—and I am going to yield the floor; we have had it a long time—that sums it up: The central role is the Senate. Can the Senate engage in a central role, not the President—and we hear all the people who are criticizing what we are doing, saying the President should be able to choose. Those very same people want to be strict constructionists.

My colleague from Massachusetts, in outlining what happened at the Constitutional Convention, shows who are the real strict constructionists in this Senate today. It is those of us who are trying to make sure the Senate has some real say in who the judges are—not a hearing at nine at night, not failure to answer questions, not somebody who will not give up their whole record. This is a job for which we would have lines from here to Baltimore if we offered it to every lawyer in America. How many of them would say: I won't give up my records, or I won't come and answer your questions. This is a standard that perverts the views of the Founding Fathers.

Again, I say to the American people, why is it Miguel Estrada and those supporting him are so afraid that we learn of his views? If they are mainstream, if they are moderate, if they are not way off the deep end, would not release of documents, would not his answering questions without evasion vindicate him? But instead, we have had a 3-, 4-, 5-week battle to get simple answers out of a man who seeks to be appointed to the second most powerful court in the land that will affect every one of the 280 million Americans who are living today, their lives and the lives of their children and the lives of their grandchildren. My colleague is exactly right.

Mr. KENNEDY. Will the Senator agree, if I can ask him one other question, particularly seeing our leaders on the floor, would the Senator not agree with me that actually this is the wrong priority for the Senate to be debating for weeks and weeks when we have serious economic challenges facing this country, and I see our Democratic leader trying to get his proposal before the Senate, and the Republicans saying no; or to try and get a prescription drug program before the Senate. I do not know whether the Senator has had an opportunity to see the President's proposal which effectively says to the senior citizens they will no longer have the choice of their own doctor if they want to get the prescription drug they need. A prescription drug program should be part of the Medicare system and should not be a gift to the HMOs and the private insurance companies.

Would not the Senator finally agree with me that we have had this debate, and we ought to be debating the country's business in terms of our economic recovery, the issues of prescription drugs, or even the issue of going to war with Iraq?

Mr. SCHUMER. I thank my colleague for that question. First, I say to him, certainly, and let the American people who are watching today and everybody else understand the reason we have been on the issue of Miguel Estrada is not the choice of the Senator from Massachusetts, the Senator from New York, or our Democratic leader. It is the choice of the Republican side. It is the choice of the Senator from Tennessee.

Any moment—we do not control the floor; we are in the minority—any moment our friend from Tennessee, the majority leader, should say, Let's start debating how we are going to start getting jobs for the American people, more than 2 million of whom have lost jobs, any time the majority leader from Tennessee should say, let's debate prescription drugs, we would be off this issue of Miguel Estrada and debating those issues. I say to my colleague, as long as our colleagues insist on debating Miguel Estrada, I for one, and I speak, I think, for many of us, will not let the Constitution be rolled over, will not allow the very discussion that the good Senator from Massachusetts outlined, where it is clear the Senate should have more power than the President in appointing judges, be made a laughingstock. This document, the Constitution, is far too sacred.

It is my preference, to be honest, that the majority leader, the Republican leader from Tennessee say: Let's start debating other issues. It is his choice. But as long as he does not, I will be here at 10 of 4 in the afternoon or 10 of 4 in the middle of the night to defend this Constitution and prevent it from becoming a laughingstock because of some temporary whim of a small number of people in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the majority leader is here to propound a request. Let me make a couple of remarks, and I ask unanimous consent that I be able to retain the floor after he finishes with his request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, all I can say is the Pharisees of the meridian of time would have loved these arguments. In fact, they are very worthy of that type of reasoning that existed during the meridian of time of our society. To stand here and talk like they are supporting and sustaining the Constitution when they are saying Republicans think the President should have the sole power, nobody is arguing that. That is what you call another red herring along with their requests for documents that they know no self-respecting administration will give, as evidenced by the seven former Solicitors General, four of whom are Democrats, who said those documents should not be given because they would interfere with the work of the Solicitor General, the people's representative.

The fact of the matter is that the Founding Fathers—and I have enjoyed this wonderful discussion by the Pharisees of modern times, because to say we are arguing that only the President has some role here is not only ridiculous, it is ridiculously sublime. It is almost unbelievable for me to hear this as constitutional argument. Why, they would be thrown out of the Supreme Court and asked never to come back again by the liberals on the Supreme Court.

Madison himself offered a resolution to have a supermajority vote by the Senate, and it was rejected 6 to 3—rejected 6 to 3. The appropriate language is right here in article II of the Constitution. If we are going to talk about the Constitution, let's talk about the Constitution, not a bunch of gibberish. It says, talking about the President:

> He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur;—

That is a supermajority vote written in the Constitution, where supermajority votes should show up.

> and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by Law vest the Appointment. . . .

But it says, "by and with the advice and consent of the Senate."

Here are my colleagues acting holier than thou, acting as constitutional experts, who are arguing that they should be able to sustain a filibuster that would require a supermajority vote out of that clause, which says advice and consent, which very clearly made it clear they are talking about an up-or-down vote. When Madison tried to get a supermajority vote, he was voted down. Madison, the Founder of the Constitution, was voted down 6 to 3.

These specious arguments, in my opinion, are not worthy of the Senate. There is a lot more I have to say, and I will complete my remarks after the majority leader takes the floor to make a unanimous consent request. I have never heard such arguments before as have been made throughout this afternoon, and I intend to answer some of them. It is not worthy of our time to answer all of them, but I am certainly going to answer some of them.

I respect my colleagues. It can be truthfully said I love my colleagues. People know that. And especially these two who have been arguing back and forth. But, again, they would have made wonderful Pharisees in the meridian of time because they would beat an issue to death even though the issue does not exist.

In this particular case, some of these arguments never existed in constitutional law or principle.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—S. RES. 71

Mr. FRIST. Mr. President, as in legislative session, I ask unanimous consent that at 4:20 p.m. today, the Senate proceed to the consideration of S. Res. 71 regarding the recent decision relating to the Pledge of Allegiance; provided further that no amendments be in order to the resolution or preamble, and that there then be 10 minutes for debate equally divided between the two leaders or their designees; that upon the use or yielding back of that time, the Senate proceed to a vote on adoption of the resolution without any intervening action or debate. I further ask unanimous consent that if the resolution is adopted, the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask the majority leader if it is his intention to schedule any additional votes today after we have had the vote on this particular resolution.

Mr. FRIST. Mr. President, that would be the final vote of the day, and that would be at 4:30.

Mr. DASCHLE. I thank the majority leader.

ELECTING WILLIAM H. PICKLE, OF COLORADO, AS SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. FRIST. Mr. President, as in legislative session, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant bill clerk read as follows:

A resolution (S. Res. 72) electing William H. Pickle of Colorado as the Sergeant at Arms and Doorkeeper of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 72) was agreed to, as follows:

Resolved, That William H. Pickle of Colorado be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate effective March 17, 2003.

Mr. FRIST. Mr. President, I welcome and introduce to my colleagues, which the Democratic leader and I have had the opportunity to do to our respective caucuses today, Bill Pickle, to be our new Sergeant at Arms, effective March 17. Currently, Bill is the Federal director at the Denver International Airport. He was the first director appointed when the Transportation Security Administration was created last year. Prior to that point, he served briefly as the Deputy Inspector General at the Department of Labor.

His real experience and career is with the Secret Service, which he served for a period of 26 years. He served in a number of senior manager positions, the most recent ones being Deputy Director for Training and Human Resources, Special Agent in charge of the Vice Presidential Division, and head of the Secret Service Congressional Affairs Office.

Bill is a highly decorated Vietnam veteran. He served with the first Air Cavalry Division from 1968 to 1969 as an infantry sergeant and medevac helicopter doorgunner. Mr. Pickle attended American University, as well as Metro State College in Denver, and holds a degree in political science. He is married and has two children.

Again, I welcome him to this body.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, first let me commend the distinguished majority leader for his choice in this proper position. In this time of uncertainty and with the experiences that the Senate has endured over the course of the last couple of years in particular, we are all the more sensitive about the role and the responsibilities of the Sergeant at Arms.

The Senate owes a big debt of gratitude to Al Lenhardt, the man who has filled this position so admirably for the last couple of years. He has endured, he has led, he has inspired. So we say farewell to Mr. Lenhardt, and we acknowledge once again the extraordinary contribution he has made not only to the Senate but to his country. I am proud of his work. I am proud to call him a friend.

I am pleased that Bill Pickle has agreed to take on this enormous responsibility. He comes extraordinarily well qualified. His experiences will serve him well as he begins to undertake the responsibilities and the expectations of the Senate as we look to the many challenges the Senate faces in dealing with security and the many other issues that will be on his desk as he holds this position. I congratulate him. I wish him well. I know I can say without equivocation that unanimously our caucus expresses our willingness to work closely with him as he begins his work in the Senate.

I thank the distinguished majority leader, and I yield the floor.

Mr. FRIST. Mr. President, I also want to add my appreciation to Al Lenhardt, our current Sergeant at Arms. I have had the opportunity to work with Al closely in that he came right before the time when anthrax first struck Washington, DC. I have had the chance to work with him on an intimate basis through that challenge and also over the last year and a half as he brought a current state-of-the-art discipline to that position to give the protection we depend on each and every day.

I had the opportunity to share my gratitude directly with the Democratic leader yesterday in his office as we met with Al and Bill Pickle.

UNANIMOUS CONSENT AGREEMENT—THE MOSCOW TREATY, DOCUMENT NO. 107–8

Mr. FRIST. Mr. President, I ask unanimous consent that at 12 tomorrow the Senate proceed to Executive Session to consider Calendar No. 1, the Moscow Treaty; provided further it be considered under the following limitation: The treaty be considered advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification; all recommended committee conditions and declarations be considered agreed to and provided further that all amendments to the resolution of ratification be relevant; further, that following the disposition of the relevant amendments and the conclusion of the debate on the resolution, the Senate then immediately proceed to a vote on the adoption of the resolution of ratification, as amended, with no further intervening action or debate, and that following the vote the President then be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I want to turn to a final matter of business for me, and it concerns the subject of the Estrada nomination. I want to take a couple of minutes to comment on where we are today. This nomination, as my colleagues know, has been pending on the floor since February 5. It has been just about a month ago that the distinguished chairman of the Judiciary Committee brought forth this nomination. Over that period of time, we have had ample opportunity to have a very good debate. We have had a thorough discussion, and we have had thoughtful discussion, and we have had reasonable discussion. Both sides of the aisle, indeed, have been patient, recognizing the importance of this nomination.

We have listened very carefully to the arguments of the other side of the aisle to see if there is any way possible we could get an up-or-down vote, a vote to confirm or not to confirm, but to have the vote. The response to that has been a filibuster, which has been ongoing now, for an exceptional nominee.

Again, after a lot of time, a lot of focus, a lot of patience, a lot of thorough discussions, I feel it is time to give more definition to where we are in this nomination. Over this last month we have had 12 session days dedicated to the nomination. We have had active debate and discussion for over 85 hours. We have put forth 17 separate unanimous consent requests which have been denied. We have seen mounds of editorial support accumulate from across the country. The latest count, from 29 States and the District of Columbia, 72 editorials calling for the end of the filibuster and/or support of Miguel Estrada; only ten supporting the other side. We have had the McConnell-Miller letter which was signed by 52 Senators, indicating strong support for Miguel Estrada. We have had offers by the White House to make Miguel Estrada available to Senators who might want to visit with him one on one.

I outline that to demonstrate we are doing everything possible to achieve a very simple goal. That goal, consistent with the Constitution, consistent with the advice and consent, is to have an up-or-down vote on this nominee, allowing each Senator to express their will, either yes or no.

As I said, the time has come, after being patient, to give increased definition to the debate for people to actually stand up and be counted. I have been denied the only other means I have to reach a vote, and that is through unanimous consent. Thus I have to rely on my only alternative now. That is to generate a vote so that people in this body and indeed the American people can know where each Member stands. That vote will be filing cloture. I do want to point out that filing of cloture is intended to identify where individuals stand and in no way means any walking away from this nomination. In fact, it is just the opposite. If cloture fails, it is the real beginning, I believe, of this important debate that has been underway now for almost 30 days, but which we permitted to continue in order to have that up-or-down vote. If cloture is successful, which I hope, we will be able to go immediately to the vote and we will be able to have this nominee confirmed. If Democrats go on record through this vote as supporting an active filibuster, we and their constituents will be able to address each one of them and ask for an explanation.

Filing of cloture represents, in my mind, an active campaign to ensure this fine nominee ultimately is voted upon and thus will win because we know we have the majority votes for him to be confirmed. Thus, this is our first step.

By filing this cloture motion we will be, if unsuccessful, racheting up the attention level for this well-qualified nominee. Members will have that opportunity to decide whether this man deserves that up-or-down vote I referred to. Members will get a chance to say whether the President of the United States deserves to have his nominee, the President's nominee, acted upon, voted upon, in this Senate—again, an opportunity for the President's nominee to have an up-or-down vote.

CLOTURE MOTION

With that said, I now send a cloture motion with 51 signatures to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States circuit judge for the District of Columbia circuit.

Bill Frist, Orrin Hatch, Trent Lott, Bob Bennett, Peter Fitzgerald, Kay Bailey Hutchison, Lisa Murkowski, Conrad Burns, John Warner, John E. Sununu, Lindsay Graham, Jeff Sessions, Gordon Smith, Elizabeth Dole, James Talent, Saxby Chambliss, Christopher Bond, Susan Collins, Wayne Allard, Lamar Alexander, Norm Coleman, Pat Roberts, Craig Thomas, Larry E. Craig, Olympia Snowe, John McCain, James Inhofe, Jon Kyl, Lincoln Chafee, Rick Santorum, Judd Gregg, Don Nickles, George Allen, Richard G. Lugar, Charles Grassley, George V. Voinovich, Mike Crapo, Michael B. Enzi, Thad Cochran, Mike DeWine, Arlen Specter, Sam Brownback, Ben Nighthorse Campbell, Richard Shelby, Ted Stevens, Chuck Hagel, John Cornyn, Pete Domenici, John Ensign, Mitch McConnell, Jim Bunning.

Mr. FRIST. For the information of all Senators, this vote will occur Thursday morning. We will alert Members to the precise timing of this vote.

At this time, I ask unanimous consent the live quorum under rule XXII be waived.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. I listened carefully to the words of the distinguished majority leader and certainly understand his decision to file cloture. Many of us had anticipated a cloture motion would be filed. We are more than ready to have one or more votes when and if they are scheduled. Those votes, of course, would not be necessary were the information we requested from the beginning provided. We have simply asked that Mr. Estrada fill out his application for this lifetime employment, as every other one of his predecessors has, providing information about his record, providing information about his position, providing information in ways that will allow Senators a far better appreciation of the vote they are taking on this important matter prior to the time he begins serving on the second highest court in the land.

We welcome the vote. As I said, we will welcome subsequent votes if they are filed. We believe the constitutional obligation we have as Senators requires we demand the same degree of compliance to the rules, the same degree of willingness to cooperate that all those who have served in the past and have provided that information have been willing to provide in their cases, as well.

We will certainly anticipate that vote, the recognition that this debate goes on unnecessarily. It would not have to take 30 days. It would not have had to take 12 legislative days. It would not have had to take 85 hours for Mr. Estrada to be more forthcoming, more willing to provide the information his predecessors have provided.

I understand the actions just announced by the majority leader. But I will say it really does not change anything. The only thing that will change the circumstances we currently face is if Mr. Estrada becomes more cooperative and he fulfills his obligations under the Constitution, as his predecessors have so ably done for so many years.

I yield the floor.

Mr. HATCH. Mr. President, one thing it does establish is that there really is a filibuster by our colleagues on the other side. They have been denying this right up to now, so that is why we have to have a cloture vote to show that there is a filibuster; for the first time in history, a true filibuster against a circuit court of appeals nominee.

That is a constitutional issue and it is an important constitutional issue. I was really blown away by my colleague's assertion that we are trying to just make an imperial President. That is not at all the case. We know the Senate has an obligation to look at these judges. As a matter of fact, whenever we say we treated their judges better than they are treating Miguel Estrada, they are using a double standard on Miguel Estrada, and they say their judges were not controversial.

Give me a break. I will be willing to ask Miguel Estrada to give detailed answers to every question that was asked of Marsha Berzon, every question that was asked of Judge Paez, every question that was asked of Margaret Morrow. Those hearings lasted minutes. This lasted a solid day, more than most nominees in the history of the country for the Circuit Court of Appeals.

By the way, for those on the other side who keep trying to imply—I was interested in my words that were put up. What was wrong with those words? They were absolutely true. We should not have activist judges on the bench.

I disagree with their characterization that activist means anything but activist. I agree with Senator SCHUMER's discussion on activism. I don't like activism from the left and I don't like it from the right. I don't think it is right in either case. Activism is ignoring the law; using your judicial position to make laws from the bench that you were never nominated and confirmed to make.

Judges are not elected to make laws. The purpose of judges is to interpret the laws made by those of us who have to stand for reelection. We are the ones who make the laws. The President and the executive branch also can make laws.

But where in the Constitution, or in anything said by the Founding Fathers, does it say that a minority of the Senate has a right to prevent a vote up or down on a President's nominee? Nowhere.

In that provision I read, where does it say you can have a supermajority vote? In fact, the only supermajority vote mentioned in article II is the clause I read from, that is a two-thirds vote for the ratification of treaties. But in that same paragraph it said the Senate has a right to advise and consent on nominees.

Those words they put up of mine regarding activist judges, I don't see anything wrong with those words. They apply today, and I have always gone by them. But to imply that their judges were not treated properly when we put through 377 Clinton judges, the second all-time record in the history of the Senate, in the history of the nomination process, 5 less than the all-time champion Ronald Reagan, while 6 years the Judiciary Committee was in the control of the Republicans, the opposition party, where President Reagan had 6 years of his own party to assist him—and to act like that was not a remarkable job of fairness to President Clinton, again makes my point that these are modern-day Pharisees who would distort anything in order to make their arguments.

I would like to get to a couple of things that have really been a little irritating to me. I have heard a lot of whining about last week's Judiciary Committee markup where I had to rule we are not going to filibuster in committee and we were going to have votes up and down on the circuit court nominees.

I have also heard arguments that to have three nominees in one hearing is just awful. It has never been done before. I am going to talk about those two things just for a minute or two, because I think it is important to understand.

First of all, on that rule, I checked with our parliamentarians, two of them, in this body. They upheld me and told me I was right in the interpretation of the rules that I made. But the rule they are hiding behind is rule 4. They are saying that rule 4 prevented me from being able to call for a vote unless I got at least one member of the other side to agree.

By the way, each one of those judges had at least two members of the other side in agreement, so there is nothing to complain about, even then. But the text of rule 4 says this:

> The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote.

A nondebatable motion. There was no motion made. There was a point of order raised which I overruled. There was an objection raised, which I overruled. Listen to this again:

> The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote.

There has to be a motion. That didn't happen.

> If there is objection to bringing the matter to a vote, without further debate a rollcall vote of the committee shall be taken and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes cast in the affirmative, one of which is cast by the minority.

That is the rule that allows any Senator to make a motion to bring any matter to a vote, so long as that Senator has all of his own party and one, at least one from the other. It is not a rule that can be used to stop the chairman from having a vote and from ending debate, which had clearly ended, and to stop a filibuster in the committee.

So all this whining and crying about that is a total misinterpretation of the very expressly worded rule. You would think they were mistreated. Not at all. They were treated very fairly. They just want to be able to slow down this process so President Bush's judges do not get hearings, they don't get markups in committee, and when they come to the floor they are going to filibuster some of them—maybe all of them, for all I know.

By the way, their argument there is specious. It is wrong. It is irrelevant. It is a misinterpretation of the very rule they are citing. And it is unworthy because I happen to know that they checked with the parliamentarians who said I was right in what I did. And I was right in what I did.

With regard to their other argument attacking me for putting three circuit court of appeal nominees on one hearing, I put those three up in the spring of 2001. I was told by the Democrats they didn't want to go forward, that they would like me to give them a little more time. I agreed.

In the intervening time, Senator JEFFORDS decided to go independent and vote with the Democrats, and the committee chairmanship changed. So I was unable to bring them up at that time. They will have been sitting here for almost 2 years. These are some of the top appointees in the history of the judiciary. I might add that John Roberts has been sitting there for 12 years, three nominations by two different Presidents. It just plain is not right.

I might also add that, having been attacked for holding what a number of Members on the other side of the aisle called an unprecedented hearing because the agenda included three circuit court nominees, you might be interested to hear I have subsequently found out that January 29 hearing was the 13th time since President Carter's administration that this committee has considered more than two circuit nominees in a single hearing. The 13th time—not unprecedented, I would say. Hardly at all.

But that is not all I learned. One of those 13 hearings was chaired by Senator KENNEDY, who was then the committee chairman, on June 25, 1979. I was there. That included seven circuit judges.

What they throw out is: Well, they weren't controversial. I assure you that every Carter circuit judge was controversial. But there was a comity in the Senate then and there was also a 62-vote majority of the Democrats in the Senate versus 38 Republicans. But there was a comity, that people just didn't raise the kind of ridiculous arguments that are being raised today in the Judiciary Committee. I assure you, those were controversial nominees, but nobody complained about that because of the comity and also because of the overwhelming control of the Democrats. They knew they could get away with it, and they did. And nobody really raised a fuss about it.

They were all nominated by President Carter and all for the same circuit court of appeals. Talk about balance, which is what we are hearing right now from the other side.

Three weeks later, on July 18, 1979, Chairman KENNEDY held another hearing with four more Carter circuit nominees—all controversial—maybe not all but controversial ones again.

Then, on September 21 of that year, he held yet another multiple circuit hearing that included three circuit nominees. All three hearings occurred within a 4-month period. So it is all right for them to hold multiple circuit court nominee hearings, but it is an unprecedented thing for us. I agree, it probably is, because I do not know that we have ever been in charge long enough to do that before we held three.

But I know this. I held, I think, 11 or 13 two-nominee hearings when I was chairman, and Mr. Clinton, their President, was President. I certainly do not mean to single out my friend Senator KENNEDY, so I should also point out that when Senator BIDEN was chairman of this committee, he held two hearings that included three circuit nominees each: one on July 21, 1987, another on October 5, 1990. Senator Thurmond held five such hearings when he was chairman. And Senator Eastland, back in November 1977, who was chairman at that time, held a hearing for three circuit judges in one hearing. So much for the precedented.

Senator KENNEDY's advice and consent argument, while interesting, is wrong on the law and wrong on the facts. His argument ignores the basic underpinnings of the Senate's role in the advise and consent process.

In fact, I would submit that the other side's effort to demand Mr. Estrada's personal views on certain legal issues is itself an unconstitutional threat to the separation of powers inherent in our system of government and to the Framer's desire to maintain an independent judiciary.

It has never been the case that the Senate is constitutionally entitled to an answer to any question it chooses to ask a nominee while exercising its advise and consent responsibility. The reason for this is clear: the Framers sought to ensure that the judicial branch would remain independent of the legislative branch.

According to Federalist Papers 78, judicial independence "is an excellent barrier to the despotism of the prince" and "in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body."

For this reason, the Constitution prohibits Congress from reducing Federal judges' salaries, guarantees that judges will remain on the bench "during good Behavior," and allows Congress to remove them only by impeachment. These protections were born of the Framers' fear that the federal legislature, like King George III before it, would pressure judges into reaching outcomes of which it approved, or that otherwise were consistent with its interests.

The Framers' intent to insulate Federal judges from the political influence of the legislative branch also informed their decision to restrict the role of the Senate in the confirmation process.

The Senate's limited function is apparent from the Constitution's very text. To state the obvious, the President holds the power to nominate candidates to the Federal bench, while the Senate's role is restricted to providing "advice and consent."

The Constitution assigns the Senate a limited role in the selection of judicial nominees: it simply allows that body to ratify the President's choices, or decline to do so. Put simply, the President selects, then the Senate reviews and reacts.

As Alexander Hamilton explained in the Federalist No. 66:

> There will, of course, be no exertion of choice on the part of the senate. They may defeat one choice of the Executive, and oblige him to make another: but they cannot themselves choose—they can only ratify or reject the choice he may have made.

This is not to say that the Senate must act as a "rubber stamp" to a President's choices for the judiciary. As has been the case throughout history, the Senate is entitled to detailed information about a nominee's background, career and qualifications for the bench. And Mr. Estrada has provided ample information to allow the Senate to determine his qualifications.

First, it bears repeating that the American Bar Association unanimously rates Mr. Estrada "Well qualified" for this position. The Democrats' "gold standard."

Second, Mr. Estrada testified for a full day in the Senate Judiciary Committee on a range of subjects, and then answered within followup questions for committee members. It should be mentioned that only two members of the committee decided to pose such questions.

Third, Mr. Estrada has received broad bipartisan support from lawyers who know him best, including former Clinton Solicitor General Seth Waxman,

Vice President Gore's former Chief of Staff Ron Klain, former Clinton Justice Department officials Randolph Moss and Bob Litt, as well as 14 former colleagues of his in the Solicitor General's Office. All have written glowing recommendations of Mr. Estrada.

Fourth, the Senate is free to review the briefs and other publicly available written work Mr. Estrada performed on behalf of clients in the more than 15 Supreme Court cases he has handled during his career. The record is voluminous.

All of this information is more than adequate to address Mr. Estrada's qualifications. however, this body must, in order to maintain the proper constitutional balance, refrain from seeking just the sort of information Mr. Estrada's opponents now demand: his personal views on legal issues.

Many distinguished Democrats have themselves noted that seeking personal views simply is inappropriate:

Justice Thurgood Marshall made this point in 1967, when he refused to answer questions at his confirmation hearing about the Fifth Amendment:

> I do not think you want me to be in the position of giving you a statement on the fifth amendment, and then, if I am confirmed and sit on the Court, when a fifth amendment case comes up, I will have to disqualify myself.

Lloyd Cutler, President Clinton's former White House Counsel who also was at the other end of Pennsylvania Avenue at the same time as the Senator from New York, disagrees with efforts to discern a nominee's ideology during the confirmation process. According to Mr. Cutler:

> It would be a tragic development if ideology became an increasingly important consideration in the future. To make ideology an issue in the confirmation process is to suggest that the legal process is and should be a political one. That is not only wrong as a matter of political science; it also serves to weaken public confidence in the courts. Just as candidates should put aside their partisan political views when appointed to the bench, so too should they put aside ideology. To retain either is to betray dedication to the process of impartial judging.

Former Senator Albert Gore, Sr. also believed that efforts to discern a nominee's personal views was inappropriate. Former Senator Gore noted the following in connection with the 1968 nomination of Abe Fortas:

> [A] judge is under the greatest and most compelling necessity to avoid construing or explaining opinion of the Court lest he may appear to be adding to or subtracting from what has been decided, or may perchance be prejudging future cases.

The Senate Judiciary Committee agreed with Senator Gore, noting the following in a Committee Report on the Fortas nomination that year:

> Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution.

Finally, the ABA's Model Code of Judicial conduct also prohibits a nominee from discussing his personal views. Canon 5A(3)(D) of the ABA's Model Code of Judicial Conduct states that prospective judges "shall not . . . make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office . . . [or] make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court."

Mr. Estrada's opponents in essence are asking him to violate this ethical cannon.

Mr. Estrada possesses an excellent record—one which merits confirmation. Efforts by the other side to deny him confirmation in the face of this excellent record are unfair and degrading to the confirmation process.

The arguments made by the other side are not constitutional, they are political. The other side knows that the Constitution prohibits this body from intruding on the independence of the judiciary, and from forcing candidates to provide us with their personal views on legal issues. I hope the Senate will reject these unconstitutional efforts and that we will vote soon to confirm Miguel Estrada.

During the course of this debate, there have been many serious misrepresentations of the record on Mr. Estrada. I want to address in some detail one of the more serious distortions, which concerns the answers that Mr. Estrada gave to questions that members of the Judiciary Committee asked him.

The charge being leveled against Mr. Estrada is that he did not answer questions put to him in general, and did not answer questions about his judicial philosophy in particular. This charge is pure bunk.

It is important to remember the circumstances under which this hearing took place. The hearing was held on September 26, 2001. It was chaired by my Democratic friend, the senior Senator from New York. It lasted all day. Both Democratic and Republican Senators asked scores of questions, which Mr. Estrada answered. And if any Senator was dissatisfied with Mr. Estrada's answers, every member of the committee had the opportunity to ask Mr. Estrada followup questions—although only two of my Democratic colleagues did.

Now, a number of the questions Mr. Estrada was asked sought, directly or indirectly, to pry from him a commitment on how he would rule in a particular case. Previous judicial nominees confirmed by the Senate have rightly declined to answer questions on that basis, just as Mr. Estrada did.

Let me give you some examples.

In 1967, during his confirmation hearing for the Supreme Court, Justice

Thurgood Marshall responded to a question about the Fifth Amendment by stating:

> I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed and sit on the Court, when a fifth amendment case comes up, I will have to disqualify myself.

During Justice Sandra Day O'Connor's confirmation hearing, the Senator from Massachusetts, the former chairman of the Judiciary Committee, defended her refusal to discuss her views on abortion. He said:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group.

Likewise, Justice John Paul Stevens testified during his confirmation hearing:

> I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say that there have been many times in my experience in the last five years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit.

Justice Ruth Baker Ginsburg also declined to answer certain questions, stating:

> Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative Chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously.

Like these previous nominees, all of whom the Senate confirmed, Mr. Estrada refused to violate the code of ethics for judicial nominees by declining to give answers that would appear to commit him on issues that he will be called upon to decide as a judge. But again and again, he provided answers, in direct response to questions, that make his judicial philosophy an open book.

Let me share some specific examples.

Responding to a question to identify the most important attribute of a judge, Mr. Estrada answered that it was to have an appropriate process for decision making. That, he said, entails having an open mind, listening to the parties, reading their briefs, doing all of the legwork on the law and facts, engaging in deliberation with colleagues and being committed to judging as a process that is intended to give the right answer. These are not extreme views. I don't think we could ask more from any judge.

When asked about the appropriate temperament of a judge, he responded that a judge should be impartial, open minded and unbiased, courteous yet firm, and one who will give ear to people that come into his courtroom. These are the qualities of Miguel Estrada. He testified that he is and would continue to be the type of person who listens with both ears and be fair to all litigants.

Mr. Estrada was asked a number of questions about his views and philosophy on following legal precedent. Let me highlight a bit of that exchange:

Question:

> Are you committed to following the precedents of higher courts faithfully and giving them full force and effect even if you disagree with such precedents?

Answer:

> Absolutely, Senator.

Question:

> What would you do if you believe the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or the best judgment of the merits?

Answer:

> My duty as a judge and my inclination as a person and as a lawyer of integrity would be to follow the orders of the higher court.

Question:

> And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to what sources would you turn for persuasive authority?

Answer:

> In such a circumstance my cardinal rule would be to seize aid from any place where I could get it—related case law, legislative history, custom and practice, and views of academics on analysis of the law.

This exchange illustrates clearly Miguel Estrada's respect for the law and his willingness and ability to faithfully follow the law. He further testified, in response to other questions:

> I will follow binding case law in every case. Even in accordance with the case law that is not binding, but seems instructive on the area, without any influence whatsoever from any personal view I may have about the subject matter.

This is what we expect judges to do. I can see no good reason why anyone would be opposed to a nominee who promised to follow the law.

When asked about the role of political ideology in the legal process, Mr. Estrada replied with a response that, in my view, was entirely appropriate and within the mainstream of what all Americans expect from their judiciary. He said:

> [A]lthough we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case with an open mind and listen to the parties. And, to the best of his human capacity, to give judgment based solely on the arguments on the law. I think my basic idea of judging is to do it on the basis of law and to put aside whatever view I might have on the subject to the maximum extent possible.

When asked about his views on interpreting the Constitution, Mr. Estrada was forthright and complete in his responses. For example, in an exchange regarding the literal interpretation of the words of the Constitution, Mr. Estrada responded:

> I recognize that the Supreme Court has said on numerous occasions in the area of privacy and elsewhere that there are unenumerated rights in the Constitution. And I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the Court. But I think the Court has been quite clear that there are unenumerated rights in the Constitution. In the main, the Court has recognized them as being inherent in the right of substantive due process and the Liberty Clause of the 14th Amendment.

Mr. Estrada was asked questions about the appropriate balance between Congress and the courts. His answers make clear his view that judges must review challenges to statutes with a strong presumption of the statutes' constitutionality. For example, in responding to a question about environmental protection statutes, he stated:

> Congress has passed a number of statutes that try to safeguard the environment. I think all judges would have to greet those statutes when they come to court with a strong presumption of constitutionality.

At the same time, he recognized that, as a circuit court judge, he would be bound to follow the precedent established by Lopez and other Supreme Court cases.

So, it is clear from the record that Mr. Estrada did answer the questions put to him at his hearing. His judicial philosophy is an open book. But if my Democratic colleagues are still inclined to vote against him—as misguided as I believe that choice to be—they should do so. Vote for him or vote against him: do what your conscience dictates. Just votes. And stop the unfairness of this filibuster.

And let me make one more point. Even if my colleagues still believe, despite the facts and precedent, that Mr. Estrada should answer more questions, well they have their chance. In a February 27 letter, White House Counsel Al Gonzales made the following offer.

Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 27, 2003.

DEAR SENATOR FRIST, SENATOR DASCHLE, SENATOR HATCH, and SENATOR LEAHY: I write in connection with the nomination of Miguel Estrada. Some Democrat Senators have indicated that they would like to know more about Mr. Estrada's record before a vote occurs. As I stated in my letter of February 12 to Senator Daschle and Senator Leahy, we believe that the Senate has had sufficient time and possesses sufficient information to vote on Miguel Estrada. More important, a majority of Senators have indicated that they possess sufficient information and would vote to confirm him.

But if some Senators believe they must have more information before they will end the filibuster of this nomination, we respectfully suggest that there are three different and important sources of information that have been and remain available and that would appropriately accommodate the request for additional information. We ask that you encourage interested Senators to avail themselves of these sources as soon as possible.

First, as I have written to you previously, individual Senators who wish to meet with Miguel Estrada may and should do so immediately. We continue to believe that such meetings could be very useful to Senators who wish to learn more about Mr. Estrada's record and character.

Second, Senators who have additional questions for Mr. Estrada should immediately pose such questions in writing to him. We propose that additional questions (in a reasonable number) be submitted in writing to Mr. Estrada by Friday, February 28. Mr. Estrada would endeavor to answer such questions in writing by Tuesday, March 4. He would answer the questions forthrightly, appropriately, and in a manner consistent with the traditional practice and obligations of judicial nominees, as he has before.

Third, Senators who wish to know more about Mr. Estrada's performance and approach when working in the United States Government—and, in particular, how that relates to his possible future performance as a Circuit Judge—should immediately ask in writing for the views of the Solicitors General, United States Attorney, and Judges for whom Mr. Estrada worked and ask them to respond by Tuesday, March 4. In particular, interested Senators could immediately send a joint letter to each of the following individuals for whom Mr. Estrada has worked in the United States Government: Judge Amalya Kearse, Justice Anthony Kennedy, former United States Attorney Otto Obermaier, former Solicitor General Ken Starr, former Solicitor General Drew Days, former Solicitor General Walter Dellinger, and former Solicitor General Seth Waxman. In our judgment, these men and women could provide their views on Mr. Estrada's background and suitability to be a Circuit Judge by March 4 without sacrificing the integrity of the decisionmaking processes of the Judiciary, United States Attorney's office, and Solicitor General's office. And their views could assist Senators who seek more information about Mr. Estrada.

We believe that these sources of information, which have been available for some time, would readily accommodate the desire for additional information expressed by some Senators who have thus far supported the filibuster of a vote on this nominee. We ask that you encourage Senators who have objected to the scheduling of a vote to avail themselves of these sources of information. And we respectfully ask that the Senate vote up or down as soon as possible on Mr. Estrada's nomination, which has been pending for nearly two years.

Please do not hesitate to contact me with any questions.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

Mr. HATCH. To my knowledge, no Senators have taken advantage of this offer, which makes me question how serious they are about the merits of Mr. Estrada's nomination, which brings me to another point. Mr. Estrada's hearing was held under Democratic control of the committee on September 26, 2002. If there was any question about the quality of Mr. Estrada's testimony, they could have held another hearing, since they controlled the committee for another 3 months.

My colleague from New York has stated that, according to an article that appeared in the Legal Times in April 2002, D.C. Circuit Judge Laurence Silberman has advised President Bush's judicial nominees to "keep their mouths shut."

In fact, as the rest of the article explains, Judge Silberman simply explained that the rules of judicial ethics prohibit nominees from indicating how they would rule in a given case or on a given issue—or even appearing to indicate how they would rule.

As the same article reported, Judge Silberman stated:

> It is unethical to answer such questions. It can't help but have some effect on your decisionmaking process once you become a judge.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDGE NOMINEES TOLD TO SPEAK VERY SOFTLY

ON A PANEL LAST WEEK, SILBERMAN OFFERED SAME ADVICE HE GAVE ANTONIN SCALIA

(By Jonathan Groner)

President George W. Bush's judicial nominees received some very specific confirmation advice last week: Keep your mouths shut.

The warning came from someone who has been a part of the process: Laurence Silberman, a senior judge on the U.S. Court of Appeals for the D.C. Circuit, told an audience of 150 at a Federalist Society luncheon that he served as an informal adviser to his then-D.C. Circuit colleague Antonin Scalia when Scalia was nominated to the Supreme Court in 1986.

"I was his counsel, and I counseled him to say nothing [at his confirmation hearings] concerning any matter that could be thought to bear on any cases coming before the Court," Silberman said.

Silberman said his advice led to Scalia's speedy confirmation by keeping the nominee out of trouble on Capitol Hill. He also explained that the advice was intended to be rather far-reaching.

Scalia called Silberman at one point, the latter recalled, and told him he was about to be questioned about his views about *Marbury* v. *Madison*, the nearly 200-year-old case that established the principle of judicial review.

"I told him that as a matter of principle, he shouldn't answer that question either," Silberman said. He explained that once a prospective judge discusses any case at all, the floodgates open and he would be forced to discuss other cases.

"It is unethical to answer such questions," Silberman said. "It can't help but have some effect on your decision-making process once you become a judge."

In contrast, Silberman said, "my friend Bob Bork" ventured into the legal thickets and suffered for it. Bork "thought he could turn the confirmation process into a Yale Law School classroom," Silberman explained.

The Supreme Court nomination of Robert Bork, also a D.C. Circuit judge, was defeated in 1987, party because Bork expressed controversial views in this writings and on the stand.

Silberman went on to say that for many nominees, landing a judgeship might not be the best result. Referring to a recent Supreme Court decision not to review a case brought by judges seeking pay raises, Silberman said that anyone who is not already wealthy "faces an immediate decline in his or her real income" if seated on the federal bench.

"The first prize is not to get a hearing," he noted. "The second prize is to get a hearing and not to be confirmed. The third prize is to get confirmed."

Other panelists at the Federalist Society's discussion on judicial independence were Sen. Joy Kyl (R-Ariz.), former presidential counsel Fred Fielding of Wiley Rein & Fielding, and moderator Stuart Taylor Jr. of National Journal.

Mr. HATCH. This advice is consistent with Canon 5A(3)(d) of the ABA's Model Code of Judicial Conduct, which states that prospective judges:

> shall not . . . make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office . . . [or] make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court.

Justice Thurgood Marshall made the same point in 1967, when he refused to answer questions about the Fifth Amendment during his confirmation hearing for the Supreme Court. He said:

> I do not think you want me to be in the position of giving you a statement on the fifth amendment, and then, if I am confirmed and sit on the Court, when a fifth amendment case come up, I will have to disqualify myself.

Mr. President, my remarks make it very clear that they were controversial nominees and these arguments are not worth the time they have taken to make them. I think it is time to quit making the very same type arguments and start talking about the truth.

The truth is, we have a filibuster on our hands. One of the Democratic Senators even said on network TV 2 weeks ago they are not filibustering. Well, now we know they are. So let's let everybody in the country know that a double standard is being applied to Miguel Estrada.

EXPRESSING SUPPORT FOR THE PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. Res. 71.

Mr. REID. Mr. President, I have no objection to the Senator, the chairman of the Judiciary Committee, using his 5 minutes any way he wants. I will reserve the 5 minutes for Senator LEAHY and the majority leader.

Mr. HATCH. Mr. President, I see the distinguished Senator from Alaska is in the Chamber.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. HATCH. I reserve my time.

Mr. REID. Mr. President, this resolution, which resolves that the Senate strongly——

The PRESIDING OFFICER. Will the Senator permit the clerk to report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 71) expressing support for the Pledge of Allegiance.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I support what I am confident the Senate's position will be, to strongly disapprove the decision of the panel of the Ninth Circuit in the Newdow case and the decision of the full court not to consider this case en banc.

The reason I wanted the floor for a few minutes this afternoon is there have been statements made today by the majority that the whole problem with the Pledge of Allegiance case has been caused by Democratic appointees. There could not be anything further from the truth.

The original Ninth Circuit panel opinion holding that the Pledge of Allegiance violated the first amendment was authored by a person who was appointed by a Republican President. Several Ninth Circuit judges, nominated by Republican Presidents, such as Judges Trott, Rymer, and Nelson, did not join in the dissent that criticized the original petition. Before the Ninth Circuit, they were holding a hearing to determine if they would rehear this. That would have been something that would support the position we are taking here on the Senate floor today.

Now, Mr. President, listen to this. The majority of the judges who we know voted to rehear the case en banc—and the only reason we are able to determine this is because of dissenting opinions filed, because the hearing was, in effect, off the record—were, in fact, Clinton appointees. Six out of nine dissenting judges were Clinton nominees.

So, Mr. President, simple arithmetic says there were 24 active sitting judges who were allowed to vote on this rehearing. If we had seven of the Republican nominees, there would have been a majority, and there would have been a rehearing. I repeat, if we had seven judges, who were appointed by Republicans, together with the six judges who were appointed by President Clinton, there would have been a rehearing.

So let's decide this matter, not on what we do not know but what the facts are. Six of the nine dissenting judges were Clinton nominees. These six judges, appointed by Clinton, either authored or joined dissenting opinions that advocated for a rehearing of the Newdow case by an en banc panel.

So, Mr. President, I disagree with what the Ninth Circuit did, but let's not blame it on judges appointed by Democratic Presidents. In fact, the reverse is true.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 249

Ms. MURKOWSKI. Mr. President, I have a technical amendment at the desk to S. Res. 71. I ask unanimous consent that it be in order at this time, and I send it to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Ms. MURKOWSKI) proposes an amendment numbered 249:

On page 3, line 7 of the resolution strike "again" and insert "either"

On page 3, line 9 of the resolution strike "and, if unable to intervene," and insert "or"

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 249) was agreed to.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the list of 43 cosponsors be added to my resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, I think all of us can agree that last week's decision by the full Ninth Circuit refusing to review an earlier decision that bars children in public schools from voluntarily reciting the Pledge of Allegiance was fundamentally wrong.

Unfortunately, citizens in the States who are within the Ninth Circuit's jurisdiction have had to contend for decades with the court's dysfunctional jurisprudence. The pledge decision highlights how out of touch this court is from common sense and constitutional values. We who live within the court's jurisdiction know that the judges on this court too often ignore the law and the Constitution and, instead, seek to substitute their values for constitutional values.

I think Judge O'Scannlain, writing for six judges in dissent, said it best. He called the panel decision:

> wrong, very wrong—wrong because reciting the Pledge of Allegiance is simply not a "religious act" as the two-judge majority asserts, wrong as a matter of Supreme Court precedent properly understood, wrong because it set up a direct conflict with the law of another circuit, and wrong as a matter of common sense.

The judge went on to say: "If reciting the pledge is truly 'a religious act' in violation of the Establishment Clause, then so is the recitation of the Constitution itself, the Declaration of Independence, the Gettysburg Address, the National Motto or the singing of the National Anthem," a verse of which says: "And this our motto: In God is our trust."

I have no doubt that the Supreme Court will hear the appeal of this case. And if one considers that the Ninth Circuit is the court with the highest reversal rate in the country, I expect the Court will summarily overturn this ill-conceived decision.

I urge all of my colleagues to support the resolution.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. MURKOWSKI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from Alaska for her work in this regard and for getting so many cosponsors in such a short period of time.

A panel in the Ninth Circuit declared the Pledge of Allegiance to be unconstitutional. This is so, two of the three judges decided, because it contains the words "under God." It did not matter to the judges that these two words endorse no particular religion or denote any specific being. Nor did it matter to the majority that no student is required to recite these words—much less any other portion of the Pledge of Allegiance. And worse yet, the majority completely failed to explain how its remarkable ruling could be squared with out government's long-established reference to God in other areas.

The United States Supreme Court begins each session with the phrase: "God save the United States of America and this Honorable Court." "God Bless America" is routinely sung at many Government functions. And this body not only elects a Chaplin, but also has begun every session for 207 years with a prayer.

This activist ruling is—as so many of the Ninth Circuit's rulings have been—bad law. It is flatly inconsistent with a unanimous, decade-old ruling of the Seventh Circuit, where the court held that "schools may lead the Pledge of Allegiance daily, so long as pupils are free not to participate." The Ninth Circuit disagreed, citing the supposed "coercive effect" on a child from being required to listen every day in school to the phrase "one nation under God." And from this purported coercion, the Ninth Circuit went on to divine unconstitutionality. This is truly a remarkable feat of judicial activism.

This country was founded on religious freedom by founders, many of whom were deeply religious. For this reason, the first amendment does not prohibit religion, but an "establishment" of religion. In fact, it also plainly guarantees to each American the freedom of religion and the free exercise of religion. As every court prior the Ninth Circuit's decision has recognized, the mere reference to a higher being does not amount to a religious act or a formal religious observance.

The Ninth Circuit is the biggest and most ungainly federal circuit court of appeals. It is also a court that is seriously out of balance, with 17 of its 24 active judges appointed by Democratic Presidents. The Ninth Circuit is also the most reversed circuit court of appeals in the nation—by a wide margin. I would like to say that rulings like Newdow represent an anomaly, but I can't do that because there have been so many other recent rulings in the Ninth Circuit that were unanimously reversed by the Supreme Court.

I fully expect the Supreme Court to review this decision and, yet again, reverse the Ninth Circuit and set this ludicrous ruling right. While we wait for that to happen, however, millions of students in the Ninth Circuit will be prevented from pledging allegiance to our flag and our Nation. It is truly regrettable that they will be prevented from doing so at a time when our Nation is under attack by terrorists and when we particularly need everyone to come together and support our President and our troops all over the world.

It is about time we let the Ninth Circuit Court of Appeals know, as the most reversed court in the country, that they really ought to think twice before they do something like this. Just think about it. The Constitution does not prohibit religion; it prohibits the establishment of religion. In fact, it plainly guarantees to each American the freedom of religion and the free exercise of religion.

As every court prior to the Ninth Circuit decision has recognized, the mere reference to a Higher Being does not amount to a religious act or a formal religious observance. The Ninth Circuit is the largest and most ungainly Federal circuit court of appeals.

It is also a court that is seriously out of balance, with 17 out of its 24 active judges appointed by Democratic Presidents. Thirteen of those 17 were appointed by President Clinton. And the Ninth Circuit is also the most reversed circuit court of appeals in the Nation—by a wide margin.

The PRESIDING OFFICER. Time controlled by the Senator from Utah has expired.

Mr. HATCH. Let me just say, this is a very important resolution. It shows how important it is to have good judges on the bench rather than activists. This decision was made by activists.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the resolution, S. Res. 71, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), and the Senator from Kentucky (Mr. MCCONNELL) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY) would each vote "Aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—6

Domenici
Edwards
Graham (FL)
Kerry
Landrieu
McConnell

The resolution (S. Res. 71), as amended, was agreed to, as follows:

S. RES. 71

Whereas a 3-judge panel of the Ninth Circuit Court of Appeals has ruled in Newdow v. United States Congress that the words "under God" in the Pledge of Allegiance violate the Establishment Clause when recited voluntarily by students in public schools;

Whereas the Ninth Circuit has voted not to have the full court, en banc, reconsider the decision of the panel in Newdow;

Whereas this country was founded on religious freedom by the Founding Fathers, many of whom were deeply religious;

Whereas the First Amendment to the Constitution embodies principles intended to guarantee freedom of religion both through the free exercise thereof and by prohibiting the Government establishing a religion;

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and first published in the September 8, 1892, issue of the Youth's Companion;

Whereas Congress, in 1954, added the words "under God" to the Pledge of Allegiance;

Whereas the Pledge of Allegiance has for almost 50 years included references to the United States flag, the country, to our country having been established as a union "under God" and to this country being dedicated to securing "liberty and justice for all";

Whereas Congress in 1954 believed it was acting constitutionally when it revised the Pledge of Allegiance;

Whereas the 107th Congress overwhelmingly passed a resolution disapproving of the panel decision of the Ninth Circuit in Newdow, and overwhelmingly passed legislation recodifying Federal law that establishes the Pledge of Allegiance in order to demonstrate Congress's opinion that voluntarily reciting the Pledge in public schools is constitutional;

Whereas the Senate believes that the Pledge of Allegiance, as revised in 1954 and as recodified in 2002, is a fully constitutional expression of patriotism;

Whereas the National Motto, patriotic songs, United States legal tender, and engravings on Federal buildings also refer to "God"; and

Whereas in accordance with decisions of the United States Supreme Court, public school students are already protected from being compelled to recite the Pledge of Allegiance: Now, therefore, be it

Resolved, That the Senate—

(1) strongly disapproves of a decision by a panel of the Ninth Circuit in Newdow, and the decision of the full court not to reconsider this case en banc; and

(2) authorizes and instructs the Senate Legal Counsel either to seek to intervene in the case to defend the constitutionality of the words "under God" in the Pledge, or to file an amicus curiae brief in support of the continuing constitutionality of the words "under God" in the Pledge.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that I be recognized for 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

THE CITY OF CHICAGO AND SIS DALEY

Mr. DURBIN. Mr. President, today marks the 166th birthday of the city of Chicago, and it would have been the 96th birthday of a great Chicago legend, Eleanor "Sis" Daley. I would like to talk about each briefly.

On March 4, 1837, Chicago was incorporated as a city with a population of 4,170 by the Illinois State Legislature. Today, Chicago is one of our Nation's largest and most vibrant cities, with 2.9 million residents, and it remains a vital center of business, finance, education, the arts, sports, and tourism.

Chicago's early history is a great American story of a great city, from

Father Marquette to du Sable, a Haitian immigrant, in the 17th and 18th centuries, to Fort Dearborn, Northwestern University, Abraham Lincoln's Presidential nomination, the Chicago fire, and the World's Columbian Exposition in the 19th century.

In fact, "City of The Century," a book and a documentary, detailed this city's humble beginnings and chronicled the development of the "city that works." Chicago's modern history is synonymous with one family, the Daley family. Mayor Richard J. Daley was elected a record six consecutive terms and served 21 years in city hall. His son, Richard M. Daley, was reelected Chicago mayor last week and will shortly begin his 15th year in office. A Daley has been mayor of Chicago for 34 of the past 50 years.

The family glue was well-known to be Eleanor "Sis" Daley, the current mayor's mother and the wife of the former mayor for over 40 years. Today would have marked Sis Daley's 96th birthday. She shared a birthday with the city of Chicago. Sadly, Sis Daley passed away in her Bridgeport home on February 16, leaving behind 6 surviving children—Mayor Richard M. Daley, former U.S. Commerce Department Secretary Bill Daley, Cook County Commissioner John Daley, and Michael, Patricia, and Mary Carol; in addition, 20 grandchildren, including John Daley, a member of my Governmental Affairs Committee staff; a number of great grandchildren, and many admirers.

Much has been said and written about Sis Daley in recent weeks, a devoted mother, a loyal fan of the Chicago White Sox. She was really devoted to her family more than anything. She raised all seven kids in what was originally a bungalow in Bridgeport, a section of Chicago which was built by her and her husband in 1939. During her husband's first election night victory in 1955, the mayor-elect and his wife Sis abruptly ended the celebration party, packed up the kids, and headed home at 10:15 and said, it is bedtime at the Daley home.

Sis Daley was not afraid to speak her mind when it was necessary. When an unflattering book about her husband appeared in a local grocery store in 1971, she was offended and she asked the store manager to remove it, after she turned around the book so people could not read the cover. He and the entire chain removed it, but not before it became a national story, bringing a lot more money to the author, but Sis Daley had stood up for her family, as she did every single day.

In 1972, she very publicly appealed for the restoration of the main Chicago library building, an 83-year-old structure targeted for demolition by the mayor, her husband. The building was saved, and today it serves as the Chicago Cultural Center. She greeted queens and presidents, politicians and stars, never forgetting where she came from.

The last time I saw her was with her son Bill Daley, at a little gathering for Hillary Clinton in the city of Chicago. It was great to see that warm Irish smile on her face. In turn, Eleanor "Sis" Daley will never be forgotten in Chicago and in the hearts and minds of her family and those who knew her. It is fitting that the city of Chicago shares its birthday with Sis Daley.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAKISTAN'S COOPERATION IN THE WAR ON TERRORISM

Mr. BROWNBACK. Madam President, I draw the attention of my colleagues to an event that happened yesterday which was very impressive—catching a key terrorist in Pakistan. It was the front page top story in virtually all of our newspapers around the country, probably around the world, with his picture. This is a person we have sought for some period of time. This was a big catch.

I do not want to focus on the individual. What I want to focus on is the cooperation we received from Pakistan and from the Pakistani authorities in making this possible. This capture could lead us to many more terrorists in the al-Qaida network who plague us, and it is very important for us.

I particularly want to thank the Pakistani authorities, the Pakistani Government, President Musharraf, and others who helped in this cooperation to get this done.

President Musharraf and his government, in facing a population in Pakistan that is frequently not pro United States, has worked very closely and very carefully with us in dealing with terrorists and now has yielded one of the largest, if not the largest, terrorist captures we have had in recent times, if not in recent memory altogether. That is something we should take note of, and we should be appreciative of those who have cooperated with us. Not all governments around the world cooperate with the United States. Not all are in as difficult a situation as Pakistan is where a substantial portion of the population does not want their government to be working with the United States, and yet we had the two come together taking on the issue of terrorism, even though it is difficult in their own country to do it, and we netted a major terrorist capture. We still want and we are still looking for, if he is alive, which he apparently probably is, Osama bin Laden, but second to him, this is probably the largest capture we could ask to have taken place.

I appreciate the indulgence of my colleagues. I do say thank you to the Government of Pakistan for its help in this capture of a major operative in the war on terrorism.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

2003 WOMEN IN SPACE CONFERENCE

Mr. DASCHLE. Madam President, I want to announce a very exciting event taking place this evening in my hometown of Aberdeen.

Tonight, in conjunction with the 2003 Women in Space Conference, Northern State University will host NASA astronaut, Dr. Karen Nyberg. Originally from neighboring Minnesota, Dr. Nyberg received her undergraduate degree at the University of North Dakota and her doctorate in mechanical engineering from the University of Texas. After finishing her education she worked for NASA, where she was granted a patent for work done on a robot assembly. Dr. Nyberg also worked extensively on improving the internal thermal control system of the space suits used by the astronauts. In July of 2000, she was selected in to the astronaut program, and she is awaiting an assignment on a future space flight as a mission specialist.

The tragic loss of the *Columbia* space shuttle on February 1 demonstrated to all Americans the dangers inherent to space exploration. However, the exciting opportunities space exploration presents require us to push forward, take risks and broaden our horizons by emulating the courage and fortitude demonstrated by the crew of the *Columbia*. As the President stated in his address to the nation, "Mankind is led into the darkness beyond our world by the inspiration of discovery and the longing to understand. Our journey into space will go on."

Thank you, Dr. Nyberg, for taking the time to visit Aberdeen and share your experiences and knowledge. To all the attendees and organizers, I wish you the best and congratulate you on what I am sure will be a successful and inspiring conference.

A KOREAN GOVERNMENT BAILOUT

Mr. HATCH. Madam President, I rise today as a longstanding proponent of free international trade. I am confident that if given the chance, U.S. companies that operate in the global marketplace will set the standard by which all international business will be conducted. This fact has been proven over-and-over again. Many great American owned companies are conducting business all over the world. I am a strong believer that these U.S. companies that operate in the global marketplace have a direct and positive impact world wide on consumers by allowing them competitive pricing and variety of choices in an increasingly discerning global market.

This benefit to society, however, is only as good as the business practices employed by foreign-owned companies. U.S. companies must operate in a competitive market that requires them to continue to innovate, cut costs, and effectively market their products. This is not always the case in certain industries in some foreign markets. In particular, I'd like to point out an important problem facing one of the largest employers in my State of Utah. Micron Technologies, the largest U.S. producer of D-RAM semiconductors, long has been plagued with unfair competition from its principal Korean competitor, Hynix, a company that has time and time again employed illegal government financed bail-out schemes to keep them in business.

This is not the first time that Micron has faced difficulties due to unfair trade practices. In the mid-1980s, Micron almost went out of business because of dumping by Japanese companies. Several of us in the Senate worked successfully to help put a stop to the illegal dumping. Ultimately, the Department of Commerce imposed duties that offset this dumping and Micron was not only able to survive, but eventually to become the second largest producer of semiconductors in the world today.

Micron has a very large facility in Lehi, Utah, that has employed over 500 of Utah's skilled laborers. This facility has the capacity of employing well over 5,000 people—a feat that will never be realized if the Korean Government is allowed to continue to subsidize Hynix.

It is important to point out that, just last December, Hynix received yet another direct financial bailout from the government of Korea. This practice must simply not be allowed to continue. Companies that operate in the global marketplace must be assured that they will be able to compete on a level playing field—and not against government-subsidized companies that may produce a substandard product, but are allowed to continue their operations because of an artificial infusion of operating capital. These illegal subsidies are costing the U.S. jobs and are weakening our technology base.

Let's examine the underlying facts about the trade distorting practices that Micron faces when competing in the world market.

Since October 2000, the government of Korea, acting through the banks that it owns and controls, has provided an astounding $16 billion in subsidies to Hynix, a Korean producer of D-RAM semiconductors and the principal global competitor to Micron Technologies.

Hynix is a company with massive debts resulting from the easy lending practices of Korean banks during the late 1990s. With these preferential loans, Hynix built substantial new capacity and became the third largest D-RAM producer in the world.

Starting in late 2000, Hynix became unable to repay the principal and interest on these loans and bonds. Rather than letting Hynix undergo formal bankruptcy, which would have resulted in substantial asset sales and restructuring, the Government of Korea orchestrated no less than five separate bailouts.

These subsidies have permitted Hynix to stay in business and that company continues to run all its D-RAM labs full out, flooding the market with subsidized products. Despite all these subsidies, Hynix continues to lose money—by all accounts, roughly $8 billion over the past three years.

And yet, the Korean government continues to pour money into this company. Just two month ago, there was another bailout amounting to $4.1 billion. This is almost twice Hynix's revenues in all of 2002, which only amounted to $2.4 billion.

The Korean government must not be allowed to continue to underwrite the horrendous operating losses of this company as it has done for the past three years.

In the highly competitive D-RAM market, subsidies of this sort act as a trade distorting measure. Every other D-RAM company in the world is being crippled by the subsidized D-RAM that Hynix floods the market with. This has resulted in the worst and longest downturn the D-RAM sector has ever experienced.

Just last week, Micron announced that it was laying off ten percent of its worldwide workforce. This translates into 1,800 lost jobs in the United States. Hynix subsidies have had a real impact on Micron's bottom line as well—the subsidies have impacted pricing to such an extent that even Micron, one of the most efficient D-RAM producers in the world, has lost two billion dollars over the past two years. We cannot afford to see an important technology like D-RAMs lost in the United States, because of foreign government subsidies.

These sorts of subsidies have absolutely no place in today's global economy, particularly as we are engaged in a new round of trade talks aimed at further liberalizing trade regimes around the world.

All indications are that Hynix will use the debt forgiveness to continue to expand capacity. Just last week, Hynix announced that it would begin work on a new fabrication line to produce D-RAMs on state-of-the-art 300 mm wafers, which will result in even more subsidized D-RAM from Hynix. Now, we read in the papers that Hynix and other Hyundai companies are being investigated for illegally transferring about $500 million to North Korea in 2000, in return for lucrative contracts, and it did so with the help of South Korean banks and with the approval of the President of South Korea. This is the country that plans to reactivate its nuclear arms program.

In closing, I feel it incumbent upon me to point out that many Members of the United States Senate are paying close attention to the Korean Government's business practices as they relate to Hynix. Korea is one of the most developed economies in Asia and is a good friend to the United States in a wide variety of ways. But the government of Korea must realize that this type of illegal subsidy runs contrary to all the rules in the WTO and is not permitted under U.S. trade law. I call upon the Secretary of Commerce and the U.S. Trade Representative to help put an end to these illegal acts.

Mr. FEINGOLD. Madam President, I want to speak briefly on the clear violation of Judiciary Committee rules that occurred last week in our executive business meeting. It was a sad moment for our committee and does not bode well for the harmonious functioning of the committee this year. I believe that a discussion of this issue is also relevant to our debate of Miguel Estrada. In both cases we are talking about rules that protect the rights of the minority in this body from being run over by the majority. And in both cases we are talking about the use of those protections by the minority not to stonewall or block action by the majority indefinitely but to seek information about nominees that has not been forthcoming.

Let me quickly review the background of what happened last Thursday. All of this goes back, of course, to our duty under Article II, Section 2 of the Constitution, which specifically provides that the President shall appoint judges to our courts "by and with the Advice and Consent of the Senate." The Senate's role is not just a matter of historical tradition, or comity with the Executive Branch, it is constitutionally mandated. All of us on the Judiciary Committee, and in the full Senate take this responsibility very seriously.

One of the ways that we exercise our constitutional responsibilities in this area, on behalf of the Senate and our colleagues who are not on the committee, is to closely examine the records of judicial nominees. We do that in part by holding hearings so that nominees can be questioned about their records, their judicial philosophy, their previous writings, their judicial opinions if they are currently or have been judges on other courts, and their views on legal issues. These hearings are not a mere formality, they are crucial to the role of the Judiciary Committee in carrying out the Senate's constitutionally mandated responsibilities.

This year, it appears that there is an effort underway to push through nominations in the shortest possible time. Prior to the President's Day recess, the committee held three nominations hearings in three weeks. By February 12, the committee had held hearings on five circuit court nominees. This is an extraordinary pace, particularly when you consider that the earliest that the committee had held hearings on five circuit court court nominees during President Clinton's term was April 29. In some years, that milestone wasn't passed until June, July, or even September, and in 1996, the committee never held a hearing on a 5th nominee to the circuit courts.

So this effort really gives the impression of a forced march. Our constitutional responsibilities are being subjugated to a schedule that seems to be aimed at forcing nominations through as quickly as possible, without regard to the Senate's prerogatives.

The Democrats on the committee have not tried to block all of the nominees. We voted on Miguel Estrada, and Jeffrey Sutton, and Jay Bybee in the ordinary course of business on the committee. But when it came to two other nominees, Justice Deborah Cook, a nominee for the Sixth Circuit and John Roberts, nominated to the D.C. Circuit, we tried to draw a line.

The reason we made that effort was that Justice Cook and Mr. Roberts were both considered in a single hearing on January 29th, along with Jeffrey Sutton, who was reported to the floor just prior to the recess. Actually, it is misleading to say they were considered in that hearing. They were all sitting at the witness table, but the vast majority of the questioning was directed to Mr. Sutton. There simply was not sufficient time for members of this committee to examine the other nominees.

A number of Senators asked repeatedly that further hearings be scheduled so that Senators could examine Justice Cook and Mr. Roberts. We even made the offer to have a single additional hearing for these two important nominees, even though we would prefer to examine a single controversial nominee at a time. We were rebuffed at every turn, even when it became abundantly clear that the single hearing would not suffice to let members of this committee examine the records of all of these nominees.

The single hearing that was held on January 29, 2003, on these three nominees was unprecedented. Never before has the committee held one hearing on three circuit court nominations over the objections of the minority. Indeed, it is highly unusual for the committee to hold a single hearing on even two controversial nominees, as a 1985 agreement among Senators DOLE, BYRD, THURMOND, and BIDEN demonstrates. That agreement was that only one controversial nomination would be considered at a time. It gave the minority some control over the pace of nominations, without of course giving it any kind of veto.

A number of Democrats on the committee raised the need for an additional hearing on Justice Cook and Mr. Roberts publicly during the hearing and privately during the breaks. We have repeated that request to the chairman of the committee on many occasions subsequently.

Early last week, when it become clear that the chairman would not schedule a second hearing so that Justice Cook and Mr. Roberts could receive proper consideration by the committee, we tried another approach. The nominees had said they are available to meet with us to answer any questions we have. So we sent a letter to the White House and requested that the two nominees make themselves available for a meeting to answer further questions. In order to be able to proceed quickly in the committee following such a meeting, we suggested a joint meeting that Senators could attend at different times based on their individual schedules. We stated that we would have a transcript of the meeting prepared so that we could refer back to the nominees' answers, and that the meeting would be open to the public.

The response from the White House, which has repeatedly offered to have nominees meet with us privately was an immediate "No." The immediate and unqualified refusal to our reasonable request seem to be part of the forced march. The Administration seems to be saying, "We are to going to jam these nominees through, our way, regardless of how reasonable your request is."

So that left us with only one option: To delay the vote on these two nominees until agreement could be reached on a further hearing, or some substitute for it. Some Senators on the Democratic side were simply not prepared to vote on Justice Cook or Mr. Roberts. We did not believe the committee has been given adequate opportunity to assess the qualifications and examine the record of Justice Cook and Mr. Roberts.

So when the chairman of the committee asked for a vote on Justice Cook, we objected. The proper course under our committee's longstanding Rule IV was for the chairman to hold a vote on a motion to end debate on the matter. The Rule provides that debate will be ended if that motion carries by a majority vote, including one member of the minority. In this case, our side was united in opposing ending the debate, so the motion would have failed. It is, in effect, as the chairman of the committee himself recognized in 1997 when the Rule was invoked in connection with the Bill Lann Lee nomination, a kind of filibuster rule in the committee. The vote to end debate is like a cloture vote, and it cannot succeed unless at least one member of the minority votes for it.

Now I have heard the argument, made by the chairman of the committee in a letter to the Democratic leader, that this rule was designed to allow a majority of the committee to force a so-called "rogue chairman" to hold a vote on a matter when he doesn't want to, but not to limit the chairman's ability to call for a vote over the objections of the minority. That is clearly an erroneous interpretation. It conflicts with text of the rule, the practice of the committee for 24 years under five separate chairmen, including the current chairman, and with the history of the rule itself.

The rule was adopted in 1979 when Senator KENNEDY chaired the committee. The committee at that time had 10 Democrats and 7 Republicans. Until that time there was no way to end debate in the committee. Recent years had seen controversial matters such as the Equal Rights Amendment stalled in committee. The Civil Rights era had seen the committee headed by a segregationist chairman block civil rights legislation by allowing it to be filibustered and never voted on. Chairman KENNEDY sought a new committee rule to allow him to bring a matter to a vote. His original proposal was simply to let a majority vote of the committee end debate. On January 24, 1979, he proposed such a committee rule.

Republicans on the committee, including Senator Thurmond who was the ranking member, and Senators SIMPSON, DOLE, COCHRAN, and HATCH, spoke up to protest that the minority should retain the right to debate a matter for as long as it felt it needed to. The next week, the committee reached agreement and adopted Rule IV, which has been in effect ever since. The compromise ended the ability of one or a few Senators to tie up the committee indefinitely. But it gave the majority the power to end debate if it could convince one member of the minority to agree. That was the compromise reached, and that is the rule we have had for over two decades.

The chairman's argument that the rule places no limit on his ability to end debate is clearly answered by this history. It is clearly wrong. The committee rule was violated when Justice Cook and Mr. Roberts were reported over the objection of some members without a "cloture vote" in the committee. There is simply no question about this.

It is very disappointing to have to discuss and debate committee rules on the floor of this body. This might seem like a petty matter. But it isn't. Honoring the rules of the Senate and the rules of the committees gives credibility and legitimacy to the work we do here. Rules are the hallmark of a democracy. In many ways our rules are analogous to the rule of law in our society. We have to respect those rules or we have nothing left.

In situations like these, I often think of the words of the great philosopher Sir Thomas More as portrayed in the play "A Man for All Seasons." More questions a man named Roper whether he would level the forest of English laws to punish the Devil. "What would you do?" More asks. "Cut a great road through the law to get after the Devil?" Roper affirms. "I'd cut down every law in England to do that." To which More replies:

> And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down . . . d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

It is clear from the history of Rule IV that it was insisted on by Republican Senators then in the minority to preserve their rights in committee. They should not cut down that forest just to have their way now that they are in the majority. We cannot permit that kind of results-oriented approach to the rules of the committee or of this body. The rules of this body, like the laws of this country, protect all of us. We must stand up to efforts to ignore them. What happened in the committee last week did not reflect well on this body. I sincerely hope that the chairman will reconsider his rulings and return some comity to our proceedings.

Let me just finally say that I voted Present on both Justice Cook and Mr. Roberts. I have not made a final decision on their nominations. I could very well support one or both of them here on the floor. But I think the committee must hold a proper hearing on them, giving all Senators a better opportunity to be well informed on these nominees before exercising their constitutional responsibilities.

THE FARM BILL

Mr. HARKIN. Madam President, I rise today to discuss an issue that has arisen out of a technical problem in the farm bill Congress passed last year.

Section 10806(b) of the Farm Security and Rural Investment Act of 2002 amended the Federal Food, Drug and Cosmetic Act by placing limitations on the use of the term "ginseng" as the common or usual name for plants classified within the genus Panax. The purpose of this provision was to address confusion that had arisen from products derived from different plants being labeled as "Siberian ginseng", and the like.

However, I must note that the use of the term "ginseng" for plants classified in a genus other than Panax was not illegal under Federal labeling laws in place prior to the passage of the Farm Security and Rural Investment Act of 2002. In these types of situations where a labeling change is proposed, the Food and Drug Administration recognizes that, in order to assure an orderly and economical industry adjustment to new labeling requirements, a sufficient lead time is necessary to permit planning for the use of existing label inventories and the development of new labeling materials.

Unfortunately, the ginseng provision Congress included in the farm bill lacked a specific effective date that would have allowed FDA's typical transition period to occur. As one of the lead authors of the farm bill, and as chair of the Senate Agriculture Committee at the time, I want to be clear this was simply an oversight on the part of the Senate and House in writing that portion of the farm bill that needs to be corrected as soon as possible.

I proposed to correct this omission in the Omnibus Appropriations bill for FY 2003, PL 108–7, and supply an effective date of May 13, 2003 for Section 10806(b) Ginseng Labeling of the Farm Security and Rural Investment Act of 2002. Unfortunately, in the rush to complete work on that bill, the provision was left out even though no one had any objections to it.

Because it is important to address this as soon as possible, I want my colleagues to know that I plan to offer my amendment to supply an effective date for the ginseng provision again, either on the supplemental legislation we are likely to receive soon or other legislation moving on the floor of the Senate. It is my hope we can move quickly to correct this oversight.

THE HEINZ AWARDS 2003

Mr. SPECTER. Madam President, after the sudden and untimely death of our colleague—and my friend—Senator John Heinz, in 1991, his wife, Teresa Heinz, set about devising a suitable and characteristic memorial to his memory. As she has said, such a task is especially difficult when the goal is to honor someone as complex and multifaceted as Senator Heinz was. She realized that no static monument or self-serving exercise in sentimentality would do, and that the only tribute befitting Senator Heinz would be one that celebrated his spirit by honoring those who live and work in the same ways he did.

Those of us who had the privilege of knowing Senator Heinz remember, with respect and affection, his tremendous energy and intellectual curiosity; his commitment to improving the lives of people; and his impatience with procedural roadblocks when they stood in the way of necessary progress. For Senator Heinz, excellence was not enough; excellence was taken as a given. What made the difference was the practical—and, yes, pragmatic—application of excellence to the goal of making America a better nation and the world a better place. Although John Heinz thought and worked on a grand scale, he understood that progress is more often made in small increments: one policy, one program, even one person, at a time. We also remember the contagious enthusiasm and palpable joy with which he pursued his goals and lived his life.

Teresa Heinz created the Heinz Awards to celebrate and carry on these qualities and characteristics—five awards in each of five categories in which John was especially interested and active during his legislative and public career: Arts and Humanities; the Environment; the Human Condition; Public Policy; and Technology and the Economy. In each of these areas, the Heinz Awards recognize outstanding achievements. In fact, the annual Heinz Awards are among the largest individual achievement prizes in the world.

The six men and women who are being honored with this year's Heinz Awards—the ninth annual Awards—have just been named and were honored last night. They are a distinguished and accomplished group of men and women whose lives and work have truly made a difference.

This year the Arts and Humanities Heinz Award is being presented to Dr. Bernice Johnson Reagon. Dr. Reagon's deep commitment to civil rights and song has led her down the path of activism, the arts, and academics. Dr. Reagon's experiences in Albany, Georgia during times of segregation led to her founding the women's vocal ensemble, Sweet Honey in the Rock, which is celebrating 30 years of struggle, action, and triumph. As a curator at the Smithsonian Institution, Dr. Reagon has worked tirelessly to ensure that the tradition and story of African-Americans in the 18th, 19th, and 20th centuries are not forgotten. In addition, Dr. Reagon spearheaded the museum's efforts to preserve the oral history of the Civil Rights Movement culture and African-American sacred music and worship traditions.

This year the Heinz Award in the Environment is being shared by Dr.

Mario J. Molina and Dr. John D. Spengler. Dr. Molina, an expert on ozone depletion at the Massachusetts Institute of Technology, shared the 1995 Nobel Prize in Chemistry for his work on the effects of chlorofluorocarbons (CFCs) and was one of the most vocal scientists that led the charge to have CFCs banned in 1979. He is currently one of the most influential and respected voices in environmental policy.

Dr. Spengler of Harvard University's School of Public Health is being commended for his efforts in understanding the consequences of indoor and outdoor air pollution on public health. His findings that indoor air quality had a tremendous impact on overall health guided the focus of air quality standards toward a holistic approach, as opposed to a singular focus on outdoor air pollution. As the vice chairman of a National Research Committee that ultimately recommended the 1986 airliner smoking ban, Dr. Spengler solidified his reputation as an expert in his field as well as a dedicated advocate for public health. Dr. Spengler currently serves as an adviser to the Environmental Protection Agency and the World Health Organization.

Dr. Paul Farmer receives the Heinz Award for the Human Condition. As a physician and medical anthropologist, Dr. Farmer, of Harvard Medical School, has unfailingly committed himself to the study of HIV and tuberculosis treatment around the world. Dr. Farmer has spent the better part of his career opening the world's eyes to the abject inequalities in public health as well as developing practical programs that deliver life-saving services. His efforts in public health have led the World Health Organization to reconsider its position on treating HIV/AIDS and tuberculosis.

The Heinz Award for Public Policy is being awarded to Ms. Geraldine Jensen of Toledo, Ohio. Ms. Jensen founded the Association for Children for Enforcement of Support (ACES), the largest child support enforcement organization in the United States with over 50,000 members nationwide. After a divorce that left her and her children with very few opportunities, Ms. Jensen rallied single parents experiencing the same hardships to stand up for themselves and their children and demand justice. A committed advocate for children and families, Ms. Jensen's work has resulted in the passage of three federal laws on child support and safeguards to ensure that fewer children will become victims of poverty.

Dr. Paul MacCready receives the Heinz Award for Technology, the Economy and Employment. Named the "Engineer of the Century" in 1980 by the American Society of Mechanical Engineers, Dr. MacCready invented and built the first flying machine powered solely by a human, the Gossamer Condor. Dr. MacCready, however, did not stop there. He also helped to create non-fossil fuel automobiles, the first solar powered car, and the first viable mass-market electric car, among his many other inventions. A generation later, Dr. MacCready's ideas on the relationship between advancing technology and preserving the earth's resources continue to impact the field of engineering and will no doubt continue to do so for years to come.

I know that every Member of this body joins me in saluting Teresa Heinz for creating such an apt and appropriate way of honoring the memory of our late colleague; and also in congratulating these distinguished Americans, recipients of the ninth annual Heinz Awards, for the way their lives and contributions have—and continue to—carry on the spirit and the work of Senator John Heinz.

ADDITIONAL STATEMENTS

BLACK HISTORY MONTH 2003

• Mr. DURBIN. Madam President, I rise today in honor and recognition of Black History Month. Inspired by an Illinois native, Dr. Carter G. Woodson, the month of February allows Americans an opportunity to honor and celebrate the achievements African Americans have made to our country.

Earning his bachelors and master's degrees from the University of Chicago, Dr. Woodson feared that the history of African Americans was quickly fading into obscurity. Realizing that past contributions by African Americans needed to be documented and taught, Dr. Woodson devoted his time popularizing Black history amongst the masses. He concluded, "if a race had no recorded history, its achievements would be forgotten and, in time, claimed by other groups." In 1915, Dr. Woodson founded the Association for the Study of Afro-American Life and History, ASNLH, and in 1916 they released the first publication of the Journal of Negro History, a publication for which Dr. Woodson served as editor and director until his death in 1950.

In 1926, Dr. Woodson established Negro History Week, which expanded to Black History Month in 1976. Thanks to the efforts and achievements of Dr. Woodson and others, each year our Nation celebrates the history of African Americans and the contributions they have made for the entire month of February.

I am proud to say my home State of Illinois is rich in African-American History and I would like to share some of the great accomplishments African-American Illinoisans have made to our country. Beyond the well known Illinoisans like Miles Davis and James Cleveland who transcended racial lines in the music industry, there exist lesser-known Illinoisans who have made tremendous impacts on our society.

Take for example Dr. Mae C. Jemison, the first African-American woman in space. Raised in Chicago, Dr. Jemison graduated from Morgan Park High School in 1973. At age 16, she entered Stanford University on scholarship where she graduated with a Bachelor of Science degree in chemical engineering, and fulfilled the requirements for an A.B. in African and Afro-American Studies. On September 12, 1992, Dr. Jemison flew into space aboard the space shuttle Endeavor, becoming the first woman of color to venture into space. Along with this tremendous accomplishment, Dr. Jemison has focused on improving the status, quality, and image of the scientist, specifically encouraging women and minorities to pursue careers in science. For example, she founded The Jemison Group, Inc., to research, develop, and implement advanced technologies suited to the social, political, cultural, and economic context of the individual, especially for the developing world.

Along with Dr. Jemison, there are countless others in Illinois that have had a tremendous impact on the lives of many Americans. One such example is those affiliated with the Illinois Theater Center in Chicago. In honor of Black History Month each February, the Illinois Theater Center produces an African-American play. This year is no different, with the Theater presenting a play titled "Master Harold and the Boys". The drama is the work of South Africa's leading playwright, and was recently chosen as "One of the Most Significant Plays of the 20th Century" by the National Royal Theater in London. Set in Port Elizabeth, South Africa in 1950, it depicts the coming-of-age of a white teenager and his relationship with the two black men who work as waiters at his parents' restaurant.

Dr. Jemison, and those of the Illinois Theater Center continue to carry on Dr. Woodson's goal of popularizing Black history. Black History Month allows others, like myself, to commend these remarkable individuals on their tireless efforts and accomplishments. However, while we honor the great strides made by African Americans in overcoming obstacles and color barriers, we must also look ahead and recognize the great obstacles that still hinder African Americans today.

One such obstacle is the issue of HIV/AIDS. Although African Americans make up about 12 percent of the U.S. population, they accounted for half of the new HIV cases reported in the United States in 2001. African Americans have accounted for nearly 315,000 of the more than 816,000 AIDS cases reported since the beginning of the epidemic. By the end of December 2001, more than 168,000 African Americans had died from AIDS. These astonishing statistics remind us that the issue of HIV/AIDS infiltrates all borders and is not exclusive to developing nations.

Earlier this month the Center for Disease Control and Prevention noted that the 25 States that track HIV cases reported an increase in new diagnoses. As the number of HIV cases increase, prevention programs must continue to develop in cities across the United States. One particular prevention program, the AIDS Foundation of Chicago, works to reduce the risk of HIV among African Americans living in shelters and other transitional living facilities throughout the greater Chicago area. The program trains shelter staff and volunteers to be HIV and STD prevention peer educators and provides personalized HIV counseling, testing and referral services to those at risk for HIV. Programs like these will help fight this terrible epidemic.

To fulfill the dreams of visionaries like Dr. Woodson and Dr. Jemison, progress must be made in breaking down barriers that continue to hinder African Americans. All of these great Illinoisans, and the countless others, struggled against violence and bigotry, but each managed to demonstrate through their distinctive talents that racism and bigotry are un-American. I urge all Americans to learn more about the history of African Americans in this country, and acknowledge the contributions of African Americans to our great Nation.●

SALUTE TO BLACKSMITH PHILIP SIMMONS

● Mr. HOLLINGS. Madam President, I am inserting an article from a recent Post and Courier about one of my home State's legendary blacksmiths, Philip Simmons. He is a 90-year-old retiree, who was told 70 years ago that the car would kill the market for blacksmiths. Yet, to this day, he still passes his knowledge of the art on to young people, and I think we can all be inspired by his enthusiasm for an old American art that he won't let be lost.

The citizens of my state have the opportunity to see and enjoy Mr. Simmons' work all over Charleston. In 1975, he forged a piece for the Smithsonian that all Americans can take delight in. As he continues to stay active and show his work, I hope my colleagues in the Senate join this admirer of a great American in wishing him health and happiness in the years to come.

I ask to print the article in the RECORD.

The article follows:

[From the Post and Courier, Feb. 19, 2003]

INSPIRES OTHERS

(By Penny Parker)

Master blacksmith Philip Simmons hasn't slowed down much since turning 90 last June. He still takes any chance he gets to pass on his enthusiasm for ornamental iron working to future generations.

As special guest of the Charleston Trident Home Builders Association, he will be doing just that at this year's Lowcountry Home and Garden Show at the Charleston Area Convention Center. Simmons will be at the show from 10 a.m. to noon on Saturday and from 2 to 4 p.m. on Sunday.

Simmons and students from the School of the Building Arts (SoBA) will be on hand at the Home and Garden Show to offer insight into the building arts of the past, and the importance of passing on this knowledge to future generations. Simmons will answer questions and sign copies of his books and posters, which will be on sale during the show. Plant hangers with his named inscribed on them and jewelry made from his designs will be available as well. New items this year include Christmas ornaments, wrapping paper and a 2003 calendar also features "Good Friday" by Jonathan Green on the cover.

Proceeds from the sales of these items go towards the Philip Simmons Foundation and its effort to build the Philip Simmons Blacksmith Museum at the Camden Towers Cultural Arts Center, which is set to be completed in 2004.

Simmons was born on Daniel Island on June 9, 1912, and moved to the Charleston peninsula when he was 8 years old. He became an apprentice for blacksmith Peter Simmons (no relation) at the age of 13. he started out shoeing horses and repairing and making wagon wheels in Peter Simmons' shop on Calhoun Street. Once cars became the more popular mode of transportation, he switched to making trailers, but big businesses such as Sears soon put an end to that venture.

In 1938, he switched to ornamental iron work when a client commissioned him to make a gate from a set of plans. The rest is history.

Over the years, he as fashioned more than 500 decorative pieces of ornamental wrought iron gates, fences, balconies and window grills. His work can be seen throughout Charleston, in Columbia and even at the Smithsonian Institute in Washington, D.C.

In 1982, the National Endowment for the Arts awarded him its National Heritage Fellowship, the highest honor the United States can bestow on a traditional artist. This was followed by a similar award from the South Carolina state legislature for "life-time achievement" and commissions for public sculptures by the S.C. State Museum and the City of Charleston. Simmons was inducted into the S.C. Hall of Fame in Myrtle Beach on Jan. 31, 1994.

Pieces of Simmons' work have been acquired by the National Museum of American History at the Smithsonian Institute, the Museum of International Folk Art in Santa Fe, N.M., the Richland County Public Library and the Atlanta History Center. Two gardens in Charleston have been dedicated in Simmons' name, one at his church, St. John's Reformed Episcopal Church at 91 Anson St., and a children's garden at 701 East Bay St., near his house and workshop.

While the awards and accolades mean a great deal to Simmons, one of his big thrills now comes from teaching his craft and passing on the artistry of ornamental iron work to a new generation of craftsmen.

"I don't want it (ornamental wrought iron work) to become a lost art," he says. "I can't work anymore, but I can teach. A lot of young people see the need to keep these old crafts going, and they want to learn."

Simmons teaches workshops at SoBA and has students come to his shop for hands-on lessons also. He gladly welcomes visitors to his workshop on Charleston's East Side because he sees it as a way to pass on the old way of working with wrought iron.

"I bring people to look at the shop all the time," he says. "It reminds them of the past. You had to use these hands. There were no machines.

"The machines can cut the wood and the iron, but it's not the same. It's not the art. You can create so many things with that forge. You can really knock yourself out."

Of all the pieces Simmons has crafted, he says his favorite piece is the one he made at the Smithsonian Institute in 1975 and which has been on display there ever since. "The one at the Columbia (State) Museum and the one at the (Charleston International) Airport are the prettiest. The Smithsonian one with the fish, the moon and the stars might not be the prettiest, but it shows the country what is going on in South Carolina. So many people have seen it and can learn my craft. That's the piece I love the best, not for looks, but for its purpose in serving this country."

Simmons adds that although many people tried to tell him that the car would kill the market for blacksmiths, he never thought of leaving the field. "In the '30s and '40s, people told me that blacksmith was a dying art. I would shake my head and say, 'OK.' That didn't stop me. I didn't close up shop and go work at the Navy Yard or something. I kept on going, and made a great living at it. Not rich, but live well and take care of my family. Now I want to get people excited about it and pass it on.

"Craftsmen enjoy making things people have never seen. It's a joy. That's what keeps me going.

"I'd be in there beating on that forge right now if my health were good. But I do enjoy passing it on."●

THE BURMESE JUNTA'S PERSISTENT USE OF CHILD SOLDIERS

● Mr. MCCONNELL. Madam President, I recently read an article that appeared in the Washington Post on February 10, 2003 by Ellen Nakashima that details particularly repulsive human rights abuses committed by the Burmese military junta, whose brutal totalitarian misrule has shattered the lives of its citizens and ruined Burma's economy. I am grateful for Ms. Nakashima's excellent reporting, and am pleased to draw attention to this important issue. I will ask that Ms. Nakashima's article, entitled "Burma's Child Soldiers Tell of Army Atrocities," be printed in the RECORD following my remarks.

Reports of widespread use of child soldiers, forced labor, and human rights abuse come as no surprise to anyone with even casual knowledge of recent Burmese history. Tragically, these recent reports are not "news," but rather business as usual in one of the world's most repressive countries.

While the corrupt military junta has recently been conducting a propagandistic offensive to convince naive Western diplomats that Burma can be a responsible member of the international community, the continual flow of evidence regarding Burma's gross abuses of human rights illustrates how hollow recent Burmese "reform" has been. Anyone duped into believing that the junta's decision to loosen the shackles that bind Aung San Suu Kyi, the democratically elected leader of Burma who has spent nearly a decade under house arrest, represents a liberalization of the junta should think again. Proof that the Burmese junta continues its repression of democracy came yesterday when the Defense Ministry announced that it had detained seven members of Aung San Suu Kyi's National League for Democracy Party, NLDP, members. Their treasonous crime appears to be distributing anti-government leaflets.

The Burmese junta maintains power through its gratuitous use of military force against ethnic minorities and political dissidents. Now, the evidence is overwhelming that the junta exploits children as young as 11 years old in pursuit of greater coercive military power. Human Rights Watch reports that Burma's army of 350,000 includes nearly 70,000 boys under the age of 18.

If these children are fortunate enough to survive the physical and emotional abuse heaped on them by their military superiors during their "training," they are then forced into combat, often against domestic Karenni and Shan minorities. As part of the ethnic cleansing and intimidation campaigns the Burmese junta has conducted against these ethnic minorities for decades, these children soldiers are often encouraged to torture, rape, and kill innocent villagers. In one instance, Burmese military commanders ordered some of these child soldiers to force Karenni villagers to clear a minefield by walking through it. The children were subsequently ordered to shoot villagers who refused to walk through the minefield.

Recently, the Burmese junta has sought to improve its standing in the international community by touting its supposedly more intense efforts to curb the production and trafficking of heroin. Mr. President, this claim is laughable. American State Department officials should not be deluded into believing that Burma has become a partner in the war against drugs. Burmese child defectors from the army who now live in refugee camps in Thailand have corroborated reports that the Burmese military has fueled its soldiers by making them take amphetamines, washed down with whiskey, before going into combat. Countries that force drugged children into deadly combat should not be considered allies by the United States in any war.

In response to Human Rights Watch's report, a Burmese military spokesman denied that Burma "recruits" underage soldiers and incredulously asserted that Burma's military is an all-volunteer army. Such brazen lies should convince no one that the Burmese government has changed its repressive ways.

If Than Swe, as head of the Burmese government, is committed to upholding international standards of human rights, it can begin by enacting meaningful and verifiable economic, political, and judicial reforms. It should release the seven NLDP members it has unjustly arrested and all other political prisoners, and it should allow Aung San Suu Kyi to meet and communicate freely with Burmese citizens throughout the country, as well as with international representatives. Until the Burmese junta agrees to hold free and fair elections to allow the Burmese people the opportunity to choose their own leaders, it must be aware that American sanctions will continue.

I ask that the article to which I referred be printed in the RECORD.

The article follows:

[From the Washington Post, Feb. 10, 2003]

BURMA'S CHILD SOLDIERS TELL OF ARMY ATROCITIES

(By Ellen Nakashima)

He was taught how to hold an assault rifle and aim it at an enemy. He was taught how to pull a trigger, aim at the next enemy and pull the trigger again. He learned all this, he says, by the time he was 12, when he was officially declared a soldier of Burma and sent to the front lines of a long-running civil war.

Now 14, the taciturn boy Kyaw Zay Ya lives in a rebel-held village in Burma near the Thai border, one of the few places in the country willing to protect him from service in what human rights monitors call the largest child army in the world.

According to New York-based Human Rights Watch, Burman's army of 350,000 includes as many as 70,000 youths under 18. A study the group issued last October found that rebel groups fighting the army also use child soldiers, though in far smaller numbers.

The numbers would make the military-ruled Burma, also known as Myanmar, the worst violator of international laws against using children in armed conflicts, Human Rights Watch contends.

The Burmese government has denied that its army takes in recruits under 18, and says that its force is all volunteer. But people interviewed in safe houses and camps along the border disputed those contentions.

In a two-hour talk here, Kyaw said he was press-ganged into the army at age 11, took part in combat repeatedly and felt "afraid and very far from home."

Another young man, Naing Win, said he was 16 when he was ordered into a nasty firefight. To fuel the soldiers, he said, the commander made them take amphetamines, washed down with whiskey. The troops, Naing recalled, "got very happy."

In the encounter, each soldier was ordered to lob five grenades at the enemy. Naing, whose forehead bears a shrapnel scar, said he was sufficiently high on the drugs that at one point he was throwing stones. With one grenade, he forgot to remove the pin that allows it to explode, then he was ordered to run forward exposed to enemy fire, retrieve the grenade, take out the pin and throw it again. The battle killed his best friend, 15.

Another time, after his unit had won a battle against ethnic Karenni rebels, his commander wanted the area cleared of mines. But 40 Karenni villagers were made to walk through the mined zone, he said. In the ensuing explosions, some died and some lost their legs. Those who survived were lined up. Naing said he and several other soldiers were ordered to shoot them. They did.

"I'm very sorry," he said.

For much of Burma's history since it gained independence in 1948, the national army has been fighting guerrilla armies fielded by ethnic groups that want control of their own affairs and regions. Currently, army operations consist largely of low-intensity conflicts against a handful of opposition groups, notably the Shan State Army, the Karen National Liberation Army and the Karenni Army.

The army has a major advantage in numbers over these groups, none of which has more than 15,000 troops, according to Karen and Karenni officials and Human Rights Watch, but they say the army still employs underage soldiers.

"Children are picked up off the street when they are 11 years old," said Jo Becker, child advocacy director for Human Rights Watch. "Many have no chance to contact their families and see their parents again. Everyone we had talked to had been beaten during the training. Most were desperately unhappy."

The Burmese government denies the charges. "I am totally flabbergasted at the assertions in the Human Rights Watch report," said Col. Hla Min, deputy head of the Defense Ministry's International Affairs Department in the capital, Rangoon. "The Myanmar Defense Forces does not recruit underage and, in fact, MDF is a voluntary army. Today, after 98 percent of all the insurgents have made peace with the government, there is not much need for recruitment as accused by certain quarters."

In a faxed reply to a query, he stated that the Burmese troops are now engaged in work similar to that of the U.S. Civilian Conservation Corps during the Great Depression.

U Kyaw Tint Swe, Burma's ambassador to the United Nations, said in a statement to the U.N. Security Council on Jan. 14 that "there is no credible evidence of the use and recruitment of children by the Myanmar armed forces."

U.S. policy is that people can enlist in the military at age 17, but must be at least 18 to serve on front lines.

In an interview, a 19-year-old named Aung, who asked that his full name not be used, said he was taken into the army in 1998 at age 14 after seven years in an army-run prep camp, named Ye Nyunt. There he and others learned to march in straight rows, clean guns and recognize land mines. Aung was 9 when he first picked up a gun, a standard army-issue G–3. The gun was taller than he was, he recalled.

Aung though that after he finished his studies, he would become an army captain. But one June day in 1998, when he was 14, a general showed up at the school. All boys older than 13 who had not finished the 10th grade were pulled aside. He and his schoolmates thought they were just being sent to another class. Instead, they were trucked to a holding center in Mandalay. "I got to the army by force," he said, "not voluntarily."

Aung said he first saw battle at the age of 15, and he was sick for three days afterward. But he grew used to it: In the following two years, he took part in seven major firefights and countless minor skirmishes, he said.

The worse battle lasted from early morning into the evening, in the village of Loi Lin Lay in 1999. The fighting began at the back of the village and by afternoon had moved to the front, where he and his friend, another 15-year-old, were deployed. By nightfall, most of his Burmese counterparts were dead.

"During the fighting, you don't have time to think," he says. "Only shoot."

He said he felt powerless to resist. In the army, "if a bad person gives an order, you have to follow it. If he says burn the village, you have to burn it. If he says kill a person, you have to do it."

Naing Win, the boy soldier who recounted use of amphetamines, said in an interview that he was picked up at a train station near Mandalay when he was 15. Authorities found he had no identification card and gave him a choice: Join the army or go to prison. He was forced into a truck with 40 other people, 16 of whom were boys. They were taken to an army base, then to a holding camp for recruits.

If a boy refused to eat his food, was late or missed a task, the other soldiers would often be forced to beat the victim with bamboo strips or a whip, Naing said. There were other forms of punishment, the former soldiers said, such as jumping in the sand like frogs for 10 minutes, or lying flat on the ground and staring at the sun.

One boy was stripped naked, his hands and legs tied, Naing recalled. After 20 or 30 blows, his skin was bloody. An officer rubbed salt into the wounds on his back. The boy screamed in pain. Hours later, he was dead.

But not all officers were harsh, said Kyaw, who recounted being plucked for military service from a bus stop near Rangoon at age 11. One officer let the boys watch videos, including James Bond movies. Others would arrange surreptitious meetings between a youngster and his parents.

In the field, they had duties that included rounding up villagers in rebel areas to serve as porters, the former soldiers said. Those who balked or could not keep up were beaten or killed. Naing said he also witnessed Karenni villagers being raped. A general told the soldiers that raping women serves "to give the soldiers energy."

"Some of my friends said, 'It's okay. They're not Burmese. They're Karenni.'" Once, he said, he saw a teenage girl being raped repeatedly in an open field in the evening. First came the battalion leader, then a bodyguard, then ordinary soldiers. She was screaming and crying. She was left to die, he said.

All three of the former soldiers said they eventually deserted.

Naing fled in 1995, after six years in the army. He married a Karenni woman and joined the Burma Patriotic Army, a group of 30 fellow deserters whose aim is to oppose the central government in Rangoon. He said he has pretty much abandoned hope of seeing his family in Mandalay province again, unless there is a change in government. He still dreams about his friend who was killed.

Aung escaped in May 2001. Today, he lives in a Thai town near the border and works odd jobs. He is waiting for the political situation to change, so that he can return home to Rangoon province. The only way he expects that to be possible is if "people in the outside world put a lot of pressure on the government."

And last September, after three years in uniform, Kyaw was bathing alone in a stream near a waterfall. No one was watching. He bolted. After walking for four hours, he reached a Karen village, where soldiers tied his hands an punched him, thinking he might be a spy. After he convinced a Karen officer that he was a true deserter, he was given refuge in a border village.

He does not dare to go home. "They will put me in prison," he said. He has no desire to resume studying. His only desire is to be a kickboxer one day, like his favorite Burmese boxers Shwe da Win and Wan Chai. He says he does not think much about the army. He has no nightmares. "I don't dream," he said.●

COMMENDING LINDA MORGAN

● Mr. HOLLINGS. Madam President, I want to pay tribute to an outstanding public servant, Linda Morgan, as she prepares to leave the Surface Transportation Board next month. She has been a Commissioner of the Board, and its predecessor, the Interstate Commerce Commission, since 1994, much of that time as Chairman. As such, she demonstrated real leadership, presiding when there were difficult years for the railroad industry as many companies merged.

I know Linda's excellent work firsthand. She served for 15 years as a professional staff member with the Senate Committee on Commerce, Science, and Transportation, and I was proud to name her the first female General Counsel to the Committee. It is fair to say that Linda Morgan is responsible for much of the legislation that established the framework for today's surface transportation system.

Last month, the Washington Post interviewed Linda, seeking out her views on the railroad industry. I think it would do all members of this body well to read what this dedicated model of public service had to say.

I ask to print the following article in the RECORD.

The article follows:

[From the Washington Post, Feb. 27, 2003]

RAILROAD REGULATOR LINDA MORGAN RESIGNS

(By Don Phillips)

Linda J. Morgan, the federal official who saw the railroad industry through a decade of turbulent mergers, said she will resign from the Surface Transportation Board on April 8, almost nine months before her term expires.

Morgan, a Democrat who had a cordial relationship with Bush administration officials, had been asked to remain as chairman until the administration could name a replacement, a process that took a year. Roger P. Nober, a Transportation Department official, was named chairman of the three-person board in December. Morgan's departure as a member had been expected. She said she will not decide on a future career until after she leaves.

Chairman of that board and its predecessor, the Interstate Commerce Commission, since March 23, 1995, Morgan presided over the Union Pacific-Southern Pacific merger in 1996 that resulted in a meltdown in rail service nationwide, and the 1999 division of Conrail between Norfolk Southern and CSX Transportation, which created serious service problems that were not solved for months. Those systems have recovered from their problems and service appears to be improving.

The Surface Transportation Board, in addition to approving rail mergers, also has some powers in regulating the commercial end of the railroad industry.

Morgan said she believes that the railroad industry has emerged from the merger period better, because the companies learned to pay closer attention to their customers and to day-by-day operations.

"This period without mergers has been good for the industry," she said. "For a time, mergers were the answer to everything."

But Morgan said she fears for the future of freight rail because the railroads, shippers, Congress and states are polarized over whether government should impose conditions to guarantee greater competition, which would cause freight rates to fall. Such "open access" proposals could hurt customers more than they help, she said.

Everyone is trying to gain narrow advantage rather than engaging in a debate on what role railroads should play in the future, she said.

Morgan said that freight railroads, although more successful than ever, do not yet earn enough to pay for the cost of maintaining and expanding their infrastructure. But she said the railroads may have a difficult time investing in infrastructure they would need to move more freight in the future, if some customers and Congress continue to push for even lower rates.

"Railroads can't be all things to all people," she said. "They can't be giving people lower rates but then sustaining the network they have in place today and opening up their line to commuters for some sort of low cost. You can't do it all. Somehow the finances have to make sense."

Unless there is a comprehensive and sensible debate, Morgan said, Congress and shippers may some day find that their only two choices are to let the industry shrink or to let the federal government take over the railroads or railroad infrastructure at a high cost.

"The customers want lower rates," she said. "But do they also understand that over time, over some period of time, if all these rates keep coming down, then there won't be the revenue coming into the system to sustain the network that exists today in the private sector? Then will that mean the customers will lose service that they don't want to lose, and will they be prepared for that?

"Will members of Congress understand that if we go in certain directions from a policy position, and that ends up with a situation where there are not enough revenues coming into the system to sustain this rail network in the private sector, will they then be prepared to do what's necessary to do the next thing? . . . I want to make sure that everybody understands that is the challenge for the industry."●

PROFESSOR ANTHONY JONES

● Mr. DURBIN. Madam President, I rise today to recognize Professor Anthony Jones, president of the School of the Art Institute of Chicago. Professor Jones has been awarded the honor of Commander of the British Empire by Her Majesty Queen Elizabeth for services in the promotion of British art in the United States. King George V created the Commander of the British Empire honor in 1917 to reward services to the World War effort by civilians at home and service personnel in support positions. The orders are now awarded in both military and civil divisions for public service or other distinctions.

Originally from Wales, Tony Jones is an internationally-known arts administrator, broadcaster, writer and historian of art design. Professor Jones studied at the University of London and the Newport College of Art, and came to the United States as a Fulbright Scholar. He earned his graduate degree from Tulane University in New Orleans, LA.

Before coming to Chicago, Tony Jones had been Director of the Glasgow School of Art. He created the "Welsh Chapels" exhibition of the National Museum of Wales, and is the author of "Chapel Architecture in the Merthyr Valley" and "Welsh Chapels." In 1999, his research on the architectural parallels of Glasgow and Chicago was examined in the BBC documentary "A Tale of Two Cities: Glasgow and Chicago." Professor Jones is a recognized authority on the development of art, design and architecture in the Modern Age, especially the work of the architect and designer Charles Rennie Mackintosh and the Celtic Revival movement designer Archibald Knox.

Professor Jones's accomplishments have earned him international recognition. In addition to his positions as Senior Fellow of the Royal College of Arts in London, where he also served as Director, and as Fellow of the Royal Society of Arts, he was appointed Honorary Director of Japan's Osaka University of the Arts in 2001 and was conferred the Austrian Cross of Honor for Science and the Arts in 2002. Here in the United States, Professor Jones was elected Honorary Member of the American Institute of Architects and has won the National Council of Arts Administrators Award for Distinguished Service in the Arts. He currently serves as the president of the School of the Art Institute of Chicago and as president of the Alliance of Independent Colleges of Art and Design.

Professor Jones was granted the honor of Commander of the British Empire in recognition of his long years of distinguished service to the arts and culture, international education, and the promotion of British arts in the United States. The honor will be awarded by Her Majesty Queen Elizabeth at an investiture ceremony at Buckingham Palace later in the Spring.

It is my privilege to congratulate Professor Jones on the occasion of this prestigious award and to acknowledge his extensive contributions to the arts. He is an asset to the arts and education communities in Illinois and across the globe.●

RETIREMENT OF LTC TED PUSEY

● Mr. REED. Madam President, I wish to recognize and pay tribute to LTC Edward B. "Ted" Pusey, Liaison Officer in the Army's Office of the Chief of Legislative Liaison, who retired February 28. Colonel Pusey's career spans 27 years of Army service during which he has distinguished himself as a soldier, leader and friend of the United States Senate.

Born in Washington, DC in 1953, Lieutenant Colonel Pusey graduated from Wofford College in 1976 and was commissioned as a lieutenant in the Armor Branch of the US Army. During his career, he commanded at many levels and served in staff positions at the highest levels of the Army, always ably leading and training America's soldiers at home and overseas. His duty locations over the years included Fort Riley, KS; Mainz, Germany; Fort Leavenworth, KS, as the Executive officer for the Army's School of Advanced Military Studies; Fort Stewart, GA, with the 24th Mechanized Division as both a Battalion and Brigade Operations Officer, as a Battalion Executive Officer and as a Brigade Adjutant during Operations Desert Shield and Desert Storm ; and, finally, in the Pentagon and Senate in the Office of Legislative Liaison. Lieutenant Colonel Pusey also served as a Tactics instructor at the Royal Armoured Corps Centre in Bovington Camp, England. He has always been placed in positions of responsibility throughout his Army career.

Since October 1995, Ted Pusey has served with distinction in the Army's Office of Legislative Liaison where he has superbly represented the Army Chief of Staff and Secretary and promoted the interests of soldiers and civilians of the Army. His professionalism, mature judgment and interpersonal skills earned him the respect and confidence of the Members of Congress and Congressional staff with whom he worked. In over 8 years on Capitol Hill, Ted Pusey has been a true friend of not only the Army he loves, but also of the United States Senate and the Congress. Serving as the primary point of contact for all Senators, their staffs, and committees, he helped Congress understand Army policies, actions, operations and requirements in a prompt, coordinated and factual manner. Additionally, he provided invaluable assistance to Members and their staffs while planning, coordinating and accompanying Senate delegations traveling worldwide. His substantive knowledge of the key issues, insight, and ability to effectively advise senior members of the Army leadership directly contributed to the successful representation of the Army's interests before Congress.

Throughout his career, Ted Pusey has demonstrated his profound commitment to our Nation, his selfless service to the Army, and a deep concern for soldiers and their families. Committed to excellence, he has been a consummate professional who, in over 27 years of service, has personified those traits of courage, competency and integrity that our Nation has come to expect from its professional Army officers.

I ask that my colleagues join me in thanking LTC Ted Pusey for his honorable service to the Army of the United States. We wish him and his family all the best in the future.●

MEASURE HELD AT DESK

The following resolution was ordered held at the desk by unanimous consent:

S. Res. 71. A resolution expressing the support for the Pledge of Allegiance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1344. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–1345. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia, Ukraine and Norway; to the Committee on Foreign Relations.

EC–1346. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–1347. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $25,000,000 or more to Japan; to the Committee on Finance.

EC–1348. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to Japan; to the Committee on Foreign Relations.

EC–1349. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule that amends 42.72(b) of Part 22 of the Code of Federal Regulations, eliminating the extended visa validity benefit previously granted to certain aliens who qualify under section 154 of the Immigration Act 1990, received on February 14, 2003; to the Committee on Foreign Relations.

EC–1350. A communication from the President of the United States, transmitting, pursuant to the Authorization for Use of Military Force Against Iraq Resolution of 2002, the report to Congress, received on February 14, 2003; to the Committee on Foreign Relations.

EC–1351. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Jamaica Bay and Connecting Waterways, NY [CGD01–02–143] (2115–AE47) (2003-

0011)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1352. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Annisquam River and Blyman Canal, MA [CGD 01–03–06] (2115–AE47) (2003–0010)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1353. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Upper Mississippi River, Mile Marker 14.5 to 16.0, Cairo, IL [COPT Paducah, KY 03–003] (2115–AA97)(2003–0014)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1354. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments: Coast Guard transition to Department of Homeland Security; technical amendments reflecting organizational changes (2115–ZZ02)(2003–001)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1355. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 3 regulations) [CGD08–03–006] [CGD08–03–004] [CGD08–03–005] (2115–AE47)(2003–0012)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1356. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Notifications of Arrival in U.S. Ports (USCG–2002–11865) (2115–AG35)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1357. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; (Including 141 regulations) (2115–AA97)(2003–0013)" received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1358. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the interim report entitled "Interim Evaluation Report: Congressionally Mandated Evaluation of State Children's Health Insurance Program" received on February 28, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1359. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Administrative Wage Garnishment" received on February 27, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1360. A communication from the Secretary of Defense, transmitting, pursuant to law, the report relative to the establishment of the position of Under Secretary of Defense for Intelligence; to the Select Committee on Intelligence.

EC–1361. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Air Force, case no. 00–05, which total $2,693,812.07; to the Committee on Appropriations.

EC–1362. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Livestock Indemnity Program (0560–AG33)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1363. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Farm Labor Programs Account Servicing Policies—Reduction of Amortized Shared Appreciation Recapture Authorization Rate (0560–AG43)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1364. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tobacco Loss Assistance Program (0560–AG61)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1365. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Certified Mediation Program (0560–AE02)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1366. A communication from the Chief, Regulatory Review and Foreign Investment Disclosure Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hard White Wheat Incentive Program (RIN 0560–AG71)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1367. A communication from the Administrator, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled Apple Market Loss Assistance Payment Program III (0560–AG85)" received on February 28, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1368. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly, Treatments (Doc. No. 02–129–2)" received on February 27, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1369. A communication from the Federal Highway Administration, Regulations Officer, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Design Build Contracting (2125–AE79)" received on February 28, 2003; to the Committee on Environment and Public Works.

EC–1370. A communication from the Chief Counsel, St. Lawrence Seaway Development Corporation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Seaway Regulations and Rules: Automatic Identification System (2135–AA15)" received on February 28, 2003; to the Committee on Environment and Public Works.

EC–1371. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Fuel Solutions TM Cask System Revision (RIN 3150–AH13)" received on February 27, 2003; to the Committee on Environment and Public Works.

EC–1372. A communication from the Director, Regulations and Forms Development, Immigrations and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Readjustment of Immigration Benefit Application Fees (RIN 1115–AH00) (INS No. 2260–3)" received on February 27, 2003; to the Committee on the Judiciary.

EC–1373. A communication from the Director, Regulations and Forms Services Division, Immigrations and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Abbreviation or Waiver of Training for State or Local Law Enforcement Officers Authorized to Enforce Immigration Low During a Mass Influx of Aliens (RIN 1115–AF84) (INS No. 2241–02)" received on February 27, 2003; to the Committee on the Judiciary.

EC–1374. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Emergency Acquisition in Regions Subject to Economic Sanctions (DFARS Case 2002–DO31)" received on February 28, 2003; to the Committee on Armed Services.

EC–1375. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Fish, Shellfish and Seafood Products (DFARS Case 2002–DO34)" received on February 28, 2003; to the Committee on Armed Services.

EC–1376. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contractor Performance of Security Guard Functions (DFARS 2002–DO42)" received on February 28, 2003; to the Committee on Armed Services.

EC–1377. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Army (Civil Works), received on February 24, 2003; to the Committee on Armed Services.

EC–1378. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense, received on February 20, 2003; to the Committee on Armed Services.

EC–1379. A communication from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Office of the Secretary, Department of the Air Force, transmitting, pursuant to law, the report relative to a multi-function cost comparison of the base support functions at Keesler Air Force Base (AFB), Mississippi, received on February 29, 2003; to the Committee on Armed Services.

EC–1380. A communication from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Office of the Secretary, Department of the Air Force, transmitting, pursuant to law, the report relative to a multi-function cost comparison of the Base Operating Support Functions at Homestead

Air Reserve Station (ARS), Florida, received on February 19, 2003; to the Committee on Armed Services.

EC–1381. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report relative to the percentage of funds that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors; to the Committee on Armed Services.

EC–1382. A communication from the Assistant Secretary of Defense, Health Affairs, Department of Defense, transmitting, pursuant to law, the report relative to the effectiveness of the Department of Defense Mental Health Wraparound Demonstration Program; to the Committee on Armed Services.

EC–1383. A communication from the Secretary of Homeland Security, transmitting, Office of the Secretary, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Restrictions on Lobbying (RIN 1601–AA12)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1384. A communication from the Director, Retirement and Insurance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Long Term Care Insurance Regulation (3206–AJ71)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1385. A communication from the President, Federal Financing Bank, transmitting, pursuant to law, the management report of the Federal Financing Bank (the FFB) for fiscal year 2002; to the Committee on Governmental Affairs.

EC–1386. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the report of the Social Security Administration (SSA) annual inventory of commercial activities; to the Committee on Governmental Affairs.

EC–1387. A communication from the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the Government National Mortgage Association (Ginnie Mae) management report for fiscal year ended September 30, 2002; to the Committee on Governmental Affairs.

EC–1388. A communication from the Administrator and Chief Executive Officer, Department of Energy, transmitting, pursuant to law, the 2002 Annual Report of the Bonneville Power Administration, received on February 24, 2003; to the Committee on Governmental Affairs.

EC–1389. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the report relative to the management controls of the Securities and Exchange Commission for the fiscal year ending September 30, 2003; to the Committee on Governmental Affairs.

EC–1390. A communication from the Secretary of Labor, transmitting, pursuant to law, the Fiscal Year 2002 Annual Report on Performance and Accountability, received on February 27, 2003; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 342. A bill to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes (Rept. No. 108–12).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. Grassley, and Mr. Lieberman):

S. 503. A bill to amend the Internal Revenue Code of 1986 to allow increase the minimum tax credit where stock acquired pursuant to an incentive stock option is sold or exchanged at a loss; to the Committee on Finance.

By Mr. ALEXANDER (for himself, Mr. Reid, Mr. Gregg, Mr. Santorum, Mr. Nickles, Mr. Inhofe, Mr. Stevens, Mr. Enzi, Mr. Coleman, Mr. Frist, Mr. Dodd, and Mr. Cornyn):

S. 504. A bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself, Mr. Rockefeller, Mr. Jeffords, Ms. Snowe, Mr. Lieberman, Mr. Smith, Mr. Kerry, Mr. Ensign, Mrs. Clinton, Mr. Crapo, Mr. Dorgan, Ms. Collins, and Mr. Chafee):

S. 505. A bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mrs. Clinton, Mr. Kennedy, and Mr. Schumer):

S. 506. A bill to amend the Richard B. Russell National School Lunch Act to ensure the safety of meals served under the school lunch program and the school breakfast program; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself, Mrs. Feinstein, Mr. McCain, Mr. Kerry, Mr. Smith, and Mr. Reid):

S. 507. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Finance.

By Mr. GRAHAM of South Carolina (for himself and Mr. Hollings):

S. 508. A bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mr. Fitzgerald, Mr. Lugar, Mr. Harkin, Ms. Cantwell, Mr. Wyden, and Mr. Leahy):

S. 509. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself and Ms. Collins):

S. 510. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. Ensign, Mr. Leahy, and Mr. Reid):

S. 511. A bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mrs. Lincoln, and Mr. Durbin):

S. 512. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid on behalf of Federal employees under Federal student loan repayment programs; to the Committee on Finance.

By Mr. BAYH:

S. 513. A bill to amend the Internal Revenue Code of 1986 and the Securities Exchange Act of 1934 to provide for the treatment of corporate expatriation transactions, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MURKOWSKI (for herself, Mr. McConnell, Mr. Gregg, Mr. Hatch, Mr. Allen, Mr. Alexander, Mr. Allard, Mr. Bennett, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Chafee, Mr. Chambliss, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Cornyn, Mr. Craig, Mr. Crapo, Mr. DeWine, Mrs. Dole, Mr. Ensign, Mr. Fitzgerald, Mr. Graham of South Carolina, Mr. Hagel, Mrs. Hutchison, Mr. Inhofe, Mr. Kyl, Mr. Lott, Mr. Lugar, Mr. McCain, Mr. Nickles, Mr. Roberts, Mr. Santorum, Mr. Shelby, Mr. Smith, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Sununu, Mr. Talent, Mr. Thomas, Mr. Warner, Mr. Sessions, and Ms. Landrieu):

S. Res. 71. A resolution expressing the support for the Pledge of Allegiance; ordered held at the desk.

By Mr. FRIST:

S. Res. 72. A resolution electing William H. Pickle of Colorado as the Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to..

By Ms. CANTWELL (for herself, Mrs. Murray, Mr. Reid, and Mr. Brownback):

S. Res. 73. A resolution remembering and honoring the heroic lives of astronauts Air Force Lieutenant Colonel Michael Anderson and Navy Commander William "Willie" McCool; considered and agreed to.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. NICKLES, the name of the Senator from Arizona (Mr. Kyl) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 157

At the request of Mr. CORZINE, the names of the Senator from Nevada (Mr.

REID) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 157, a bill to help protect the public against the threat of chemical attacks.

S. 251

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 255

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada (Mr. REID) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 255, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 274

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 300

At the request of Mr. KERRY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 324

At the request of Mr. LEVIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 324, a bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 372

At the request of Mr. THOMAS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 372, a bill to amend the National Environmental Policy At of 1969 to require that Federal agencies consult with State agencies and county and local governments on environmental impact statements.

S. 374

At the request of Mr. BAUCUS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 378

At the request of Mr. DASCHLE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 378, a bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 457

At the request of Mr. LEAHY, the names of the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), the Senator from Arizona (Mr. MCCAIN), the Senator from Washington (Mrs. MURRAY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 468

At the request of Ms. STABENOW, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 468, a bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay.

S. 470

At the request of Mr. SARBANES, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 498

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 498, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 501

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 501, a bill to provide a grant program for gifted and talented students, and for other purposes.

S.J. RES. 7

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S.J. Res. 7, A joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. Res. 62, A resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALEXANDER (for himself, Mr. REID, Mr. GREGG, Mr. SANTORUM, Mr. NICKLES, Mr. INHOFE, Mr. STEVENS, Mr. ENZI, Mr. COLEMAN, Mr. FRIST, Mr. DODD, and Mr. CORNYN):

S. 504. A bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American History and Civics Education Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) AMERICAN HISTORY AND CIVICS.—The term "American history and civics" means the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States.

(2) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the National Endowment for the Humanities.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) KEY DOCUMENTS.—The term "key documents" means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(5) KEY EVENTS.—The term "key events" means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(6) KEY IDEAS.—The term "key ideas" means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(7) KEY PERSONS.—The term "key persons" means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(8) NONPROFIT EDUCATIONAL INSTITUTION.—The term "nonprofit educational institution"—

(A) means—

(i) an institution of higher education; or

(ii) a nonprofit educational research center; and

(B) includes a consortium of entities described in subparagraph (A).

(9) STATE.—The term "State" means each of the 50 States and the District of Columbia.

SEC. 3. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—From amounts appropriated under subsection (j), the Chairperson shall award grants, on a competitive basis, to nonprofit educational institutions to establish Presidential Academies for Teaching of American History and Civics (in this section referred to as "Academies") that shall offer workshops for teachers of American history and civics—

(1) to learn how better to teach the subjects of American history and civics; and

(2) to strengthen such teachers' knowledge of such subjects.

(b) APPLICATION.—

(1) IN GENERAL.—A nonprofit educational institution that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall—

(A) include the criteria the nonprofit educational institution intends to use to determine which teachers will be selected to attend workshops offered by the Academy;

(B) identify the individual the nonprofit educational institution intends to appoint to be the primary professor at the Academy; and

(C) include a description of the curriculum to be used at workshops offered by the Academy.

(c) NUMBER OF GRANTS.—Except as provided in subsection (e)(2)(B), the Chairperson shall award not more than 12 grants to different nonprofit educational institutions under this section.

(d) DISTRIBUTION.—In awarding grants under this section, the Chairperson shall ensure that such grants are equitably distributed among the geographical regions of the United States.

(e) GRANT TERMS.—

(1) IN GENERAL.—Grants awarded under this section shall be for a term of 2 years.

(2) GRANTS AFTER FIRST TWO YEARS.—Upon completion of the first 2-year grant term, the Chairperson shall—

(A) renew a grant awarded under this section to a nonprofit educational institution for one more term of 2 years; or

(B) award a new grant to a nonprofit educational institution having an application approved under this section for a term of 2 years, notwithstanding the 12 grant award maximum under subsection (c).

(f) USE OF FUNDS.—

(1) WORKSHOPS.—

(A) IN GENERAL.—A nonprofit educational institution that receives a grant under this section shall establish an Academy that shall offer a workshop during the summer, or during another appropriate time, for kindergarten through grade 12 teachers of American history and civics—

(i) to learn how better to teach the subjects of American history and civics; and

(ii) to strengthen such teachers' knowledge of such subjects.

(B) DURATION OF WORKSHOP.—A workshop offered pursuant to this section shall be approximately 2 weeks in duration.

(2) ACADEMY STAFF.—

(A) PRIMARY PROFESSOR.—Each Academy shall be headed by a primary professor identified in the application submitted under subsection (b) who shall—

(i) be accomplished in the field of American history and civics; and

(ii) design the curriculum for and lead the workshop.

(B) CORE TEACHERS.—Each primary professor shall appoint an appropriate number of core teachers. At the direction of the primary professor, the core teachers shall teach and train the workshop attendees.

(3) SELECTION OF TEACHERS.—

(A) IN GENERAL.—

(i) NUMBER OF TEACHERS.—Each year, each Academy shall select approximately 300 kindergarten through grade 12 teachers of American history and civics to attend the workshop offered by the Academy.

(ii) FLEXIBILITY IN NUMBER OF TEACHERS.—An Academy may select more than or fewer than 300 teachers depending on the population in the region where the Academy is located.

(B) TEACHERS FROM SAME REGION.—In selecting teachers to attend a workshop, an Academy shall select primarily teachers who teach in schools located in the region where the Academy is located.

(C) TEACHERS FROM PUBLIC AND PRIVATE SCHOOLS.—An Academy may select teachers from public schools and private schools to attend the workshop offered by the Academy.

(g) COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a teacher who attends a workshop offered pursuant to this section shall not incur costs associated with attending the workshop, including costs for meals, lodging, and materials while attending the workshop.

(2) TRAVEL COSTS.—A teacher who attends a workshop offered pursuant to this section shall use non-Federal funds to pay for such teacher's costs of transit to and from the Academy.

(h) EVALUATION.—Not later than 90 days after completion of all of the workshops assisted in the third year grants are awarded under this section, the Chairperson shall conduct an evaluation to—

(1) determine the overall success of the grant program authorized under this section; and

(2) highlight the best grantees' practices in order to become models for future grantees.

(i) NON-FEDERAL FUNDS.—A nonprofit educational institution receiving Federal assistance under this section may contribute non-Federal funds toward the costs of operating the Academy.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2004 through 2007.

SEC. 4. CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—From amounts appropriated under subsection (j), the Chairperson shall award grants, on a competitive basis, to nonprofit educational institutions to establish Congressional Academies for Students of American History and Civics (in this section referred to as "Academies") that shall offer workshops for outstanding students of American history and civics to broaden and deepen such students' understanding of American history and civics.

(b) APPLICATION.—

(1) IN GENERAL.—A nonprofit educational institution that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall—

(A) include the criteria the nonprofit educational institution intends to use to determine which students will be selected to attend workshops offered by the Academy;

(B) identify the individual the nonprofit educational institution intends to appoint to be the primary professor at the Academy; and

(C) include a description of the curriculum to be used at workshops offered by the Academy.

(c) NUMBER OF GRANTS.—Except as provided in subsection (e)(2)(B), the Chairperson shall award not more than 12 grants to different nonprofit educational institutions under this section.

(d) DISTRIBUTION.—In awarding grants under this section, the Chairperson shall ensure that such grants are equitably distributed among the geographical regions of the United States.

(e) GRANT TERMS.—

(1) IN GENERAL.—Grants awarded under this section shall be for a term of 2 years.

(2) GRANTS AFTER FIRST TWO YEARS.—Upon completion of the first 2-year grant term, the Chairperson shall—

(A) renew a grant awarded under this section to a nonprofit educational institution for one more term of 2 years; or

(B) award a new grant to a nonprofit educational institution having an application approved under this section for a term of 2 years, notwithstanding the 12 grant award maximum under subsection (c).

(f) USE OF FUNDS.—

(1) WORKSHOPS.—

(A) IN GENERAL.—A nonprofit educational institution that receives a grant under this section shall establish an Academy that shall offer a workshop during the summer, or during another appropriate time, for outstanding students of American history and civics to broaden and deepen such students' understanding of American history and civics.

(B) DURATION OF WORKSHOP.—A workshop offered pursuant to this section shall be approximately 4 weeks in duration.

(2) ACADEMY STAFF.—

(A) PRIMARY PROFESSOR.—Each Academy shall be headed by a primary professor identified in the application submitted under subsection (b) who shall—

(i) be accomplished in the field of American history and civics; and

(ii) design the curriculum for and lead the workshop.

(B) CORE TEACHERS.—Each primary professor shall appoint an appropriate number of core teachers. At the direction of the primary professor, the core teachers shall teach the workshop attendees.

(3) SELECTION OF STUDENTS.—

(A) IN GENERAL.—

(i) NUMBER OF STUDENTS.—Each year, each Academy shall select approximately 300 eligible students to attend the workshop offered by the Academy.

(ii) FLEXIBILITY IN NUMBER OF STUDENTS.—An Academy may select more than or fewer than 300 eligible students depending on the population in the region where the Academy is located.

(B) ELIGIBLE STUDENTS.—A student shall be eligible to attend a workshop offered by an Academy if the student—

(i) is recommended by the student's secondary school principal (or other head of such student's secondary school) to attend the workshop; and

(ii) will be a junior or senior in a public or private secondary school in the academic year following attendance at the workshop.

(C) STUDENTS FROM SAME REGION.—In selecting students to attend a workshop, an Academy shall select primarily students who attend secondary schools located in the region where the Academy is located.

(g) COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a student who attends a workshop offered pursuant to this section shall not incur costs associated with attending the workshop, including costs for meals, lodging, and materials while attending the workshop.

(2) TRAVEL COSTS.—A student who attends a workshop offered pursuant to this section shall use non-Federal funds to pay for such student's costs of transit to and from the Academy.

(h) EVALUATION.—Not later than 90 days after completion of all of the workshops assisted in the third year grants are awarded under this section, the Chairperson shall conduct an evaluation to—

(1) determine the overall success of the grant program authorized under this section; and

(2) highlight the best grantees' practices in order to become models for future grantees.

(i) NON-FEDERAL FUNDS.—A nonprofit educational institution receiving Federal assistance under this section may contribute non-Federal funds toward the costs of operating the Academy.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2007.

SEC. 5. NATIONAL ALLIANCE OF TEACHERS OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—From amounts appropriated under subsection (e), the Chairperson shall award a grant to an organization for the creation of a national alliance of elementary school and secondary school teachers of American history and civics.

(2) PURPOSE.—The purpose of the national alliance is—

(A) to facilitate the sharing of ideas among teachers of American history and civics; and

(B) to encourage best practices in the teaching of American history and civics.

(b) APPLICATION.—An organization that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(c) GRANT TERM.—A grant awarded under this section shall be for a term of 2 years and may be renewed after the initial term expires.

(d) USE OF FUNDS.—An organization that receives a grant under this section may use the grant funds for any of the following:

(1) Creation of a website on the Internet to facilitate discussion of new ideas on improving American history and civics education.

(2) Creation of in-State chapters of the national alliance, to which individual teachers of American history and civics may belong, that sponsors American history and civics activities for such teachers in the State.

(3) Seminars, lectures, or other events focused on American history and civics, which may be sponsored in cooperation with, or through grants awarded to, libraries, States' humanities councils, or other appropriate entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2004 through 2007.

By Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. LIEBERMAN, Mr. SMITH, Mr. KERRY, Mr. ENSIGN, Mrs. CLINTON, Mr. CRAPO, Mr. DORGAN, Ms. COLLINS, and Mr. CHAFEE):

S. 505. A bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes; to the Committee on Finance.

Mr. HATCH. Madam President, I rise today to introduce the CLEAR ACT, which is short for the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2003.

Joining me in this effort are Senators JOHN ROCKEFELLER and JIM JEFFORDS, who have been my partners in this legislation and its earlier versions since the 106th Congress. We are also being joined by an impressive and bipartisan lineup of original cosponsors, which includes Senators OLYMPIA SNOWE, JOHN KERRY, GORDON SMITH, JOE LIEBERMAN, JOHN ENSIGN, HILLARY CLINTON, MIKE CRAPO, BYRON DORGAN, SUSAN COLLINS, and LINCOLN CHAFEE.

I believe the CLEAR ACT is the most comprehensive and effective plan we have seen in this country to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it does so without any new Federal mandates. Instead, it offers powerful market incentives to promote the combination of advances we must have in technology, in infrastructure, and in alternative fuels if our goal of bringing fuel cell vehicles to the mass market is to become a reality.

As many of my colleagues know, fuel cell vehicles are the most promising long-term automotive technology, offering breakthrough fuel economy of up to three times today's levels with zero emissions. For a variety of reasons, the commercial production of fuel cell vehicles is a number of years away. Many things need to change in the automotive marketplace before widespread use of these vehicles of the future becomes a reality. With the CLEAR ACT, we can achieve this goal much faster, while in the meantime we can reap the benefits of cleaner air and a reduced dependency on foreign oil.

Bridging the gap between today's conventional vehicles and the day when all of us will be driving fuel cell vehicles are alternative fuel and advanced technology vehicles, such as hybrid electrics. These vehicles are available today, but not yet widely accepted in the marketplace.

Currently, consumers face three basic obstacles to accepting the use of these alternative fueled and advanced technology vehicles. These obstacles are the higher cost of these vehicles as compared with their conventional counterparts, the cost of the alternative fuel, and the lack of an adequate infrastructure of alternative fueling stations. Mr. President, the CLEAR ACT would lower all three of these barriers.

First, we provide a tax credit of 50 cents per gasoline-gallon equivalent for the purchase of alternative fuel at retail. This would bring the price of these cleaner fuels much closer in line with conventional automotive fuels. And, to give customers better access to alternative fuel, we extend an existing deduction for the capital costs of installing alternative fueling stations. We also provide a 50-percent credit for the installation costs of retail and residential refueling stations.

Finally, we offer CLEAR ACT credits to consumers who purchase alternative fuel and advanced technology vehicles. These credits would lower the price gap between these cleaner and more efficient vehicles and conventionally fueled vehicles of the same type. To make certain that the tax benefit we provide translates into a corresponding benefit to the environment, we split the vehicle tax credit into two. The amount the consumer receives in a CLEAR ACT credit would depend, first, on the level of technology used in the vehicle and, second, on the fuel efficiency and emissions reduction of the vehicle. In this way, we are confident that the CLEAR ACT will create the greatest social benefit possible for every tax dollar.

The transportation sector in the U.S. accounts for nearly two-thirds of all oil consumption, and we are 97-percent dependent on petroleum for our transportation needs. Is it any wonder that 50 percent of our urban smog is caused by mobile sources? If we want to clean our air and address our Nation's energy dependency, we must focus on the transportation sector. And we must focus first on those technologies and alternative fuels that are already available and abundant domestically. The CLEAR ACT is the shortest path to achieving these goals.

Air pollution and energy independence are issues of critical concern in my home State of Utah. According to a study by Utah's Division of Air Quality, on-road vehicles in Utah account for 22 percent of particulate matter. This particulate matter can be harmful to citizens who suffer from chronic respiratory or heart disease, influenza, or asthma. Automobiles also contribute significantly to hydrocarbon and nitrogen oxide emissions in my State. These two pollutants react in sunlight to form ozone, which in turn reduces lung function in humans and hurts our resistance to colds and asthma. In addition, vehicles account for as much as 87 percent of carbon monoxide emissions. Carbon monoxide can be harmful to persons with heart, respiratory, or circulatory ailments.

While Utah has made important strides in improving air quality, it is a fact that each year more vehicular miles are driven in our State. It is clear that if we are to have cleaner air, we must encourage the use of alternative fuels and technologies to reduce vehicle emissions.

Another key aim of the CLEAR ACT is greater energy independence. Whether during the energy crisis in the 1970s, during the Persian Gulf war, or during our current energy challenge, every American has felt the sting of our dependence on foreign oil. And I might add that our dependency on foreign oil has steadily increased to the point where we now depend on foreign sources for about 60 percent of our oil. When enacted, the CLEAR ACT will play a key role in helping our Nation improve its energy security by increasing the diversity of our fuel options and decreasing our dependency on gasoline.

Our Nation's energy strategy will not be complete without an incentive to increase the use of alternative fuels and advanced car technologies. In the future we will not use gasoline-fueled vehicles to the same extent we do today. The technology is here today to help transform us to the benefits of the future much sooner. We just need to find a way to lower those barriers to widespread consumer acceptance, which will in turn put the power of mass production to work to lower the incremental cost of this technology. In short, our legislation would bring the benefits of cleaner air and energy independence to our citizens sooner.

I am very proud to offer this groundbreaking and bipartisan legislation. It represents the input and hard work of a very powerful and effective coalition the CLEAR ACT Coalition. This coalition includes the Union of Concerned Scientists, Ford Motor Company, the Natural Resource Defense Council, Toyota, Environmental Defense, Honda, the Alliance to Save Energy, the Natural Gas Vehicle Coalition, the Propane Vehicle Council, the Methanol Institute, and others. The CLEAR ACT reflects the untiring effort and expertise of the members of this coalition, and for this we owe them our gratitude.

I urge my colleagues in the Senate to join me, the CLEAR ACT's cosponsors, and this coalition in this forward-looking approach to cleaner air and increased energy independence.

I ask unanimous consent that a summary of the CLEAR ACT be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CLEAR ACT OF 2003 (CLEAN EFFICIENT AUTOMOBILES RESULTING FROM ADVANCED CAR TECHNOLOGIES)

OVERVIEW

The primary purpose of this bill is to enhance national energy security and promote cleaner air by reducing the consumption of petroleum and advancing alternative fuels. Transportation accounts for nearly ⅔ of all oil consumption and is almost 97 percent dependent on petroleum.

This legislation will set the stage for a consumer-based and technology-led transformation of the transportation marketplace. All major vehicle manufacturers are introducing new technology and alternative fuel vehicles into the marketplace. These new technologies reduce petroleum consumption and improve air quality as a result of breakthrough improvements in fuel economy or from the use of non-petroleum alternative fuels. Accelerated acceptance by consumers of these new technologies is needed to increase production volumes and make them cost competitive with conventional vehicles.

Providing tax incentives for a limited time to consumers will help offset the higher costs associated with new technology and alternative fuel vehicles. As the vehicles gain consumer acceptance and production volumes increase, the cost differential between these and conventional vehicles will be reduced or eliminated.

KEY COMPONENTS OF THE CLEAR ACT

Tax incentives for new technology and alternative fuel vehicles under this legislation go directly to the consumer. These incentives are based both on technology and performance.

Fuel Cell Vehicles. Fuel cell vehicles are the most promising long-term technology offering breakthrough fuel economy of up to 3 times today's levels with zero emissions. The CLEAR ACT offers a $4,000 base credit ($8,000 for fuel cell vehicles placed in service before 2009) along with an additional credit of up to $4,000 depending on fuel economy performance. These credits are available for ten years.

Hybrid Electric Vehicles. Electronics that integrate electric drive with an internal combustion engine offer near-term improvements in fuel economy. The CLEAR ACT offers a credit of up to $1,000 for the amount of electric drive power along with an additional credit of up to $3,000 depending upon fuel economy performance. These credits are available for 6 years.

Dedicated Alternative Fuel Vehicles. Vehicles solely capable of running on alternative fuels promote energy diversity and significant emissions reductions. Natural gas, LPG, and LNG are the most commonly used fuels for dedicated alternative fuel vehicles. The CLEAR ACT provides a base credit of up to $2,500 with an additional $1,500 credit for vehicles certified to "Super Ultra Low Emission" (SULEV) standards. "Flex-fuel" vehicles are not eligible since they can operate on either gasoline or E85 (ethanol) and are available in the market without any incremental cost.

Battery Electric Vehicles. Vehicles that utilize stored energy from "plug-in" rechargeable batteries offer zero emissions and are not dependent upon petroleum-based fuels. The CLEAR ACT offers a base credit of $4,000 and an incremental credit of $2,000 for vehicles with extended range or payload capabilities.

Medium and Heavy Duty Vehicles. Medium and heavy duty applications of the same vehicle technologies utilized for passenger vehicles offer similar benefits related to energy efficiency, diversity, and emission reductions. The CLEAR ACT offers credits for individual weight categories and amounts vary with the largest vehicles over 26,000 pounds (e.g., large metro buses) receiving up to $40,000 for fuel cell or battery electric, $32,000 for alternative fuel, or $24,000 for hybrid applications.

Alternative Fuel Incentives. Alternative fuels such as natural gas, LNG, LPG, hydrogen, B100 (biomass) and methanol are primarily used in alternative fueled vehicles and fuel cell vehicles. To encourage the installation of distribution points to support these applications, a credit of up to 50 cents for every gallon of gas equivalent is provided to the retail distributor. This credit is available for 6 years.

Alternative Fuel Infrastructure. Complimentary to the credit for the fuel itself, the CLEAR ACT extends the existing $100,000 tax deduction for 10 years and also provides a 50 percent credit for actual costs of up to $30,000 for the installation of alternative fuel sites available to the public.

BROAD COALITION SUPPORT

A broad and diverse group that includes representatives from the environmental community, automobile manufacturers, and alternative fuel groups support the CLEAR ACT. Environmental coalition support comes from the Union of Concerned Scientists, Natural Resources Defense Council, Environmental Defense, and the American Council for an Energy Efficient Economy. Ford Motor Company, Honda, and Toyota are among the key automotive industry supporters. Industry coalitions include the Natural Gas Vehicle Coalition, the Propane Vehicle Council, the American Methanol Institute, and the Electric Drive Transportation Association.

By Mr. DURBIN (for himself, Mrs. CLINTON, Mr. KENNEDY, and Mr. SCHUMER):

S. 506. A bill to amend the Richard B. Russell National School Lunch Act to ensure the safety of meals served under the school lunch program and the school breakfast program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Madam President, today I am introducing legislation that would dramatically improve the safety of food served in our Nation's schools. This bill, known as the Safe School Food Act, would fill gaps in the inspection, testing, procurement and preparation of food served to our schoolchildren, and provide school officials with the necessary tools and information to help them prevent food-borne illness among our most vulnerable population.

Each day, more than 27 million children eat meals provided through the National School Lunch Act. Despite increased attention in recent years to the safety of food provided to schoolchildren, there is evidence of serious problems with our school lunch system—between 1990 and 2000, there were nearly 100 reported outbreaks of food-borne illness in our schools affecting thousands of children, with several outbreaks resulting in significant health consequences. Since food-borne illness is preventable, these statistics indicate we are not doing enough to protect our children's health when they consume food served at our schools.

Currently, 17 percent of the food served in schools is donated by the Federal Government and undergoes stringent U.S. Department of Agriculture food-safety standards for inspections and pathogen testing. Suppliers' food safety records also are reviewed before they are granted contracts to provide food to the USDA donated commodity program. However, the remaining 83 percent of food consumed at schools is purchased locally and is not subject to these more stringent USDA donated commodity standards. State education officials also do not have access to the safety records of food suppliers to make the same informed decisions as their counterparts at the Federal level.

If a tainted product enters the food supply, it is often difficult for local education officials to quickly determine if they have that food in their schools' kitchens due to a complex web of food manufacturers, distributors, and brokers who deal with schools. A food producer's tainted food may be repackaged by a distributor, leaving a school unaware it is serving the product. And many Americans may be surprised to discover that our Federal food agencies do not even have the authority to mandate the recall of contaminated food in schools. Such recalls are currently voluntary.

The Safe School Food Act would address these gaps in our School Lunch Program and provide schools with the tools and information on how to more safely purchase and prepare food served to our children.

Improving Inspections: This legislation will ensure stringent inspection and pathogen testing for USDA meat, poultry, seafood, eggs, and produce donated to the School Lunch Program, and gives the USDA Secretary the authority to require similar pathogen testing as necessary for foods purchased directly by the schools. Cafeterias also would be inspected more frequently, inspection exemptions would be eliminated, and those inspection reports would be made available to the public.

Purchasing Safe Food: By incorporating USDA food safety guidelines in their procurement contracts to the maximum extent possible, schools will have the tools to help ensure the safety of the food they serve. And by providing State education officials with food-safety histories of the companies they purchase from, schools can make more informed decisions in the purchasing process.

Planning and Serving Safe Meals: The USDA will provide training and assistance to schools in the preparation of required plans to address the food-safety risks of meals they prepare.

Providing Notice and Recalling Unsafe Food: Each State will have an up-to-date list of the vendors and suppliers who provide food to their schools to enable easier tracking of food that may be tainted. If a food product that has been distributed to schools is found to be unsafe, the USDA Secretary will have the authority to require a mandatory recall of the product if voluntary efforts are unsuccessful. Designated food safety coordinators in each State will assist with recalls, as well as safety training and information-sharing issues.

Mr. President, I urge my colleagues to join me in this effort to improve the safety of the food served in our schools. The health of our schoolchildren is at stake.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe School Food Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) the national school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) is a federally-assisted meal program that—

(A) operates in more than 97,000 public and nonprofit private schools; and

(B) provides nutritionally balanced, low-cost or free lunches to more than 27,000,000 children each school day;

(2) children are among the populations most vulnerable to foodborne illness, which sickens an estimated 76,000,000 individuals in the United States each year;

(3) nearly 100 reported outbreaks of foodborne illnesses occurred in schools between 1990 and 2000;

(4) Department of Agriculture procurement policies and procedures—

(A) help ensure the safety of foods donated to schools, which comprise about 17 percent of the school lunch supply; but

(B) do not apply to the remaining 83 percent of food served under the national school lunch program, which is purchased locally by schools;

(5) it is essential to maintain public confidence in—

(A) the safety of the food supply in the schools of the United States; and

(B) the ability of the Federal Government and State governments to exercise adequate oversight of foods served in the schools of the United States; and

(6) public confidence can best be maintained by—

(A) improving Department of Agriculture procurement and testing standards, and extending the standards, to the maximum extent practicable, to foods purchased by schools;

(B) preparing and implementing plans to prevent identified food safety risks in the preparation of school meals; and

(C) improving food safety training, information sharing, and coordination between the Federal Government and States.

SEC. 3. IMPROVEMENTS TO THE SAFETY OF SCHOOL LUNCHES.

Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (h)—

(A) in paragraph (1)—

(i) by striking "Except as provided in paragraph (2), a" and inserting "A";

(ii) by striking "shall, at least once" and inserting the following: "shall—

"(A) at least twice";

(iii) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(B) post the report on the most recent inspection in a publicly visible location; and

"(C) make the report available to the public on request.";

(B) by striking paragraph (2) and inserting the following:

"(2) STATE AND LOCAL GOVERNMENT INSPECTIONS.—Nothing in paragraph (1) prevents any State or local government from adopting or enforcing any requirement for more frequent food safety inspections of schools."; and

(C) by adding at the end the following:

"(3) AUDITS AND REPORTS BY STATES.—Each State shall annually audit and submit to the Secretary a report on the food safety inspections of schools conducted under paragraphs (1) and (2).

"(4) AUDIT BY THE SECRETARY.—The Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3)."; and

(2) by adding at the end the following:

"(k) PROCUREMENT OF SAFE FOODS.—

"(1) ACTION BY SCHOOL FOOD AUTHORITIES.—Subject to paragraph (3), the Secretary shall require that a school food authority incorporate into the procurement contracts of the school food authority, to the maximum extent practicable, provisions to help ensure the safety of foods purchased by schools for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

"(2) RULEMAKING BY THE SECRETARY.—Not later than May 1, 2004, the Secretary shall promulgate final regulations to implement paragraph (1) that require—

"(A) each vendor that provides food products to be served by a school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to supply to the Secretary the name and contact information for each school food supplier of the vendor; and

"(B) as appropriate, pathogen testing during production of foods described in that paragraph.

"(3) GUIDANCE.—The Secretary shall provide guidance to school food authorities on ensuring the safety of food purchases not subject to the regulations promulgated under paragraph (2).

"(l) FOOD SAFETY PLANNING.—

"(1) IN GENERAL.—Each school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall monthly prepare a plan that assesses—

"(A) the food safety risks inherent in the preparation and serving of meals; and

"(B) the appropriate methods to prevent or eliminate the identified food safety risks.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall provide training and technical assistance to State educational agencies to assist in preparation of the food safety plans required by paragraph (1).

"(B) USE OF FOOD SERVICE MANAGEMENT INSTITUTE.—In carrying out subparagraph (A), the Secretary shall use, to the maximum extent practicable, a food service management institute established under section 21(a)(2).

"(m) AUTHORITY TO RECALL FOOD PRODUCTS SERVED IN SCHOOL MEALS.—

"(1) DEFINITIONS.—In this subsection:

"(A) CLASS I RECALL.—The term 'Class I recall', with respect to a food product, means a recall that involves a health hazard situation where there is a reasonable probability that the use of, or exposure to, the food product will cause serious, adverse health consequences or death.

"(B) FOOD PRODUCT.—The term 'food product' means a commodity donated to, or a food product purchased by, a school for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

"(2) VOLUNTARY ACTIONS.—If the Secretary finds that there is a reasonable probability that human consumption of a food product that was, or may have been, distributed to schools would present a threat to public health, the Secretary shall provide each appropriate person (as identified by the Secretary) that prepared, processed, distributed, or otherwise handled the food product with an opportunity—

"(A) to recall and collect the food product;

"(B) to provide to the Secretary a list of individuals to whom the food product was sold or distributed; and

"(C) in consultation with the Secretary, to provide timely notification of the finding of the Secretary to the State food safety coordinator designated under section 12(q) of each State in which the food product was, or may have been, distributed, which notification shall include sufficient information to identify the affected food product.

"(3) MANDATORY ACTIONS.—

"(A) ORDER.—If any appropriate person identified by the Secretary under paragraph (2) does not carry out the actions described in that paragraph within the time period and in the manner required by the Secretary, the Secretary shall, by order, require, as the Secretary determines to be necessary, the person—

"(i)(I) to cease immediately distribution of the food product to schools; and

"(II) to promptly recall and collect the food product;

"(ii) to provide immediately to the Secretary a list of individuals to whom the food product was sold or distributed; and

"(iii) to make immediately the notification described in paragraph (2)(C).

"(B) INFORMAL HEARING.—The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of issuance of the order, on the actions required by the order.

"(C) VACATING OF ORDER.—If, after providing an opportunity for a hearing under subparagraph (B), the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(4) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—In the case of an activity under paragraph (2) or (3) carried out with respect to a food product regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Secretary shall coordinate with the Secretary of Health and Human Services to ensure that the activity is carried out.

"(5) NOTIFICATION TO SCHOOLS AND VENDORS.—

"(A) PROVISION OF VENDOR CONTACT INFORMATION TO STATE EDUCATIONAL AGENCY.—Not later than August 1, 2004, and as appropriate thereafter, a school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall provide to the appropriate State educational agency current contact information for each vendor, and each school food supplier of the vendor, that will provide food products to be served by the school.

"(B) NOTIFICATION BY STATE EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—A State educational agency that receives notification under paragraph (2)(C) or (3)(A)(iii) with respect to a food product shall, within 24 hours after receipt of the notification, notify each vendor and each school to which the food product was, or may have been, distributed.

"(ii) CONTENTS OF NOTIFICATION.—The notification shall include—

"(I) the finding of the Secretary under paragraph (2); and

"(II) sufficient information to identify the affected food product.

"(C) ACTION BY VENDORS ON RECEIPT OF NOTIFICATION.—Each vendor that receives notification under paragraph (2)(C), paragraph (3)(A)(iii), or subparagraph (B) shall—

"(i) immediately cease distribution of the food product; and

"(ii) isolate the affected product to avoid accidental distribution.

"(D) ACTION BY SCHOOLS ON RECEIPT OF NOTIFICATION.—Each school that receives notification under paragraph (2)(C), paragraph (3)(A)(iii)), or subparagraph (B) shall—

"(i) immediately cease serving the food product; and

"(ii) isolate the affected product to avoid accidental use.

"(6) NOTIFICATION TO THE PUBLIC.—

"(A) IN GENERAL.—If a State educational agency finds that a food product subject to a Class I recall has been consumed under a program operated by a school under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the State educational agency shall provide public notification in accordance with subparagraph (B).

"(B) CONTENTS OF NOTIFICATION.—The notification shall include—

"(i) the finding of the Secretary under paragraph (2); and

"(ii) sufficient information to identify the recalled food product and the date when and location where the recalled food product was served.

"(7) ENFORCEMENT.—

"(A) IN GENERAL.—A violation of this subsection may be prosecuted, as applicable—

"(i) by the Secretary under—

"(I) section 12 of the Poultry Products Inspection Act (21 U.S.C. 461);

"(II) section 406 of the Federal Meat Inspection Act (21 U.S.C. 676); or

"(III) section 12 of the Egg Products Inspection Act (21 U.S.C. 1041); or "(ii) by the Secretary of Health and Human Services under section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333).

"(B) NO EFFECT ON STATE PROSECUTIONS.—Nothing in this paragraph prevents a State from prosecuting any violation of State law.

"(n) INFORMATION SHARING ON FOOD SAFETY LAW COMPLIANCE.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish an advisory committee (referred to in this subsection as the 'Committee') to assist in establishing an information-sharing database, or implementing another method, to provide each State food safety coordinator designated under section 12(q) and other appropriate persons with up-to-date information regarding food safety concerns relating to food manufacturing, processing, and packing facilities that produce any food purchased or acquired for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including recalls by and enforcement actions against the facilities.

"(2) COMPOSITION.—The Committee shall include representatives of—

"(A) school food authorities;

"(B) State educational agencies;

"(C) State agricultural agencies;

"(D) consumer groups;

"(E) State public health officials; and

"(F) food manufacturing, processing, and packing facilities.

"(3) COMPENSATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a member of the Committee shall not receive any compensation for the service of the member on the Committee.

"(B) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Committee.

"(4) TECHNICAL ASSISTANCE.—The Secretary shall provide for the availability to each State food safety coordinator of training and technical assistance on use of any database or method described in paragraph (1).

"(5) REPORT.—Not later than May 31, 2004, the Committee shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing actions taken to carry out this subsection.

"(6) FUNDING.—Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (Public Law 108–7), and any successor section, shall not apply to expenses of the Committee.".

SEC. 4. DESIGNATION OF STATE FOOD SAFETY COORDINATORS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

"(q) DESIGNATION OF STATE FOOD SAFETY COORDINATORS.—Each State educational agency shall designate an individual to serve as the State food safety coordinator to ensure within the State the safety of food served under a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).".

SEC. 5. PROCEDURES AND ACTIONS TO ENSURE THE SAFETY OF DONATED COMMODITIES.

Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in the first sentence of subsection (d)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) require, at a minimum, for any commodity that is used under a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773)—

"(A) daily inspection under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) of any donated commodity that is covered by—

"(i) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

"(ii) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); or

"(iii) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

"(B) daily inspection of any seafood commodity that is covered by the inspection program carried out by the National Marine Fisheries Service under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

"(C) quarterly, on-site audits under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) of each establishment that produces a donated fresh or processed fruit or vegetable.";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following:

"(g) ACTIONS TO ENSURE THE SAFETY OF DONATED COMMODITIES.—With respect to commodities purchased by the Secretary for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall—

"(1) in the case of ground uncooked meat products—

"(A) collect samples at least 4 times per day during production; and

"(B) conduct at least daily composite testing for compliance with the microbiological limits established by the Secretary on—

"(i) Escherichia coli (E. coli) O157:H7 in effect on October 1, 2002; and

"(ii) Salmonella in effect on October 1, 2002, unless the Secretary develops a more appropriate scientific and health-based standard;

"(2)(A) collect and test samples at least 4 times per day during production from food contact surfaces of ready-to-eat meat and poultry product plants; and

"(B) if the result of a test under subparagraph (A) is positive for Listeria spp., conduct product sampling for compliance with the microbiological limit on Listeria monocytogenes issued by the Secretary on May 23, 1989 (54 Fed. Reg. 22345); and

"(3) reject any lot of food products that fails to meet the requirements of paragraph (1) or paragraph (2), as applicable.".

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. KERRY, Mr. SMITH, and Mr. REID):

S. 507. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Finance.

Ms. SNOWE. Madam President, I rise today to introduce the EFFECT Act, the Energy Efficiency through Certified Technologies Act, which has bipartisan support as I am pleased to be joined by cosponsors Senator FEINSTEIN of California, Senator MCCAIN of Arizona, Senator KERRY of Massachusetts, Senator GORDON SMITH of Oregon, and Senator REID of Nevada.

As a member of the Finance Committee, I strongly believe that we must develop responsible tax credit incentive policies that will increase the efficiencies of the homes we build and live in and the buildings in which we work. We did an admirable job last year providing sound tax incentives in the omnibus energy bill, and it is regrettable that bill did not get out of conference and these incentives are not available for our consumers to use. That is especially true as the storm clouds gather in the Middle East and the price of oil, for instance, reaches $40 a barrel.

This bill provides tax incentives for advanced levels of energy efficiency and peak power saving technologies in the buildings in which we live, work, and learn. Buildings consume some 35 percent of energy nationwide and are responsible for the emissions of a comparable percentage of pollution; importantly, they account for more than one-half of the Nation's energy costs.

Incentives provided through the tax system are necessary to complement existing energy efficiency policies at the Federal and State levels. The issue is, incentive programs already being operated cannot provide multiyear commitments of money. Such commitments are absolutely vital in inducing industries to invest in these technologies. The 1-year commitments that are offered by many current programs are insufficient to promote dramatic new energy efficiency technologies even when they are very cost effective.

Our goal in introducing the legislation is to accelerate the commercial success of technologies that are already cost effective but are currently impeded by market barriers. These barriers can be overcome by financial incentives. Savings of up to 50 percent add up to reductions in climate pollution emissions of 65 million metric tons of carbon annually after 10 years, accompanied by consumer energy bill reductions of $30 billion per year and the creation of almost 500,000 new jobs as well as stimulation in the growth of small businesses.

The bill provides for a 6-year—and, in some cases, 3-year—sunset for the incentive. Incentives are provided for commercial buildings both new and remodeled, including schools and other public buildings and rental housing; for air-conditioning, heating, and water heating equipment which can reduce peak power demand quickly; for new homes and the retrofitting of existing homes; and for solar electricity.

The incentives provided for in this legislation are based on three principles: One, independent third-party certification is required so that energy savings are certified and the Government is getting real energy savings for the tax money invested; two, the incentives are workable, not bureaucratic, and are built on programs that have already been shown to work with minimal bureaucratic intervention or effort; and, three, the incentives sunset in order to provide a transition to a market system that already promotes energy efficiency.

The incentives are performance-based so that the consumer and producer have the motivation to reduce costs and to introduce new technologies to achieve energy goals in more cost-effective ways than existing technologies. The documentation required for certification has value in the marketplace in allowing property markets to reflect enhanced property values based on energy efficiency.

Many American homes, for instance, were built years before energy-efficient technologies were developed. This is certainly true in an older State such as my home State of Maine and an incentive for a retrofit such as simply putting in certifiable high-energy-efficient doors and windows, such a low-emissivity glass, will save a great deal of energy loss because of the huge amount of seepage that now occurs through the existing windows.

This bill will also leverage cost-effective investments in saving peak powers as well as energy—110,000 megawatts after 10 years. It is one of the few public policies that can be enacted that can help avert peak power shortages in the next 4 or 5 years. It will lower energy costs for consumers and businesses and promote competition and innovation.

The bottom line is, we have the opportunity to raise the bar for our future domestic energy systems. Solutions exist in available technologies, and most of all in the entrepreneurial spirit of the American people. I look forward to working with the chairmen of the Finance Committee, as I did last year, to mark up tax incentives that reflect the provisions of this legislation, and with the Energy Committee chairmen to further our Nation's energy efficiency goals that will save on our energy usage—and this will be reflected in the energy bills consumers must pay—and thus allow us to use less electricity, and less oil and natural gas to produce that energy.

I am pleased to be joined by Senators representing States throughout the country and urge others to seriously consider this legislation and join us in working towards our goal for achieving greater energy efficiency in the near future.

Mrs. FEINSTEIN. Madam President, I rise in support of the Efficient Energy through Certified Technologies Act which I have cosponsored along with Senator OLYMPIA SNOWE of Maine.

The EFFECT Act will provide tax incentives to encourage homeowners and businesses to improve the energy efficiency of their buildings and equipment. This legislation will stimulate the economy, cut energy bills, reduce energy usage, and reduce pollution.

This bill was originally introduced in the 107th Congress to address the Western energy crisis which, as we all know, created exorbitantly high prices for power and rolling blackouts. This legislation incorporates improvements based on last year's Senate energy tax bill.

While conditions in the West have improved because there are more plants coming online and families and businesses have reduced their energy usage, it is important to take steps to continue to increase our energy efficiency and reduce energy consumption.

Simply put, there are only two things one can do when there is not enough power to go around: increase supply or decrease demand.

Without a doubt, the quickest way to address future demand and supply imbalances is to provide incentives to increase energy efficiency to reduce demand.

This bill creates economic incentives for Americans to increase energy efficiency by establishing the following tax deductions and tax credits for commercial and residential properties using specific energy efficient technologies:

A tax deduction of $2.25 per square foot for newly constructed or remodeled commercial buildings, including schools and other public buildings as well as rental housing, that achieve a 50-percent reduction in total annual energy costs, compared to existing national standards.

A $2,000 tax credit to builders of new homes that use 50 percent less energy than a national model standard.

A performance-based tax credit of as much as $6,000 for installing solar technology.

A tax credit of as much as $300 if businesses install a super-efficient, new electric heat pump, a new central air-conditioner, or a new gas or electric water heater.

A tax credit of as much as $500 if homeowners, tenants, or landlords retrofit their homes to achieve a 30 percent or 50 percent reduction in annual energy costs.

The benefits of increasing energy efficiency are immense.

First, increasing energy efficiency will cut heating, cooling, and electricity costs. Homeowners and businesses spend over $250 billion each year on heat, air-conditioning, and related energy costs for their businesses and homes. If we can reduce energy costs by increasing energy efficiency, money will be freed to fuel the economy in other areas and create new jobs. Furthermore, increasing energy efficiency will reduce the impact of future energy price spikes that harm families and businesses. And the incentives will cause businesses to invest in producing more efficient equipment and services beginning immediately after the bill is enacted.

Second, increasing energy efficiency will reduce air pollution. Energy generation to heat, cool, and light our homes and offices produces 35 percent of the air pollution emitted nationwide. If we increase efficiency, then less energy will be needed to power our buildings, and consequently, we will be able to reduce emissions from powerplants.

Third, increasing energy efficiency will help maintain the reliability of our Nation's electricity supply. Since most of our peak electricity demand comes from heating, cooling, or lighting needs, increasing energy efficiency will lower the probability of blackouts or brownouts.

In fact, with this legislation in place, peak electricity demand in the summer would be reduced by tens of thousands of megawatts nationwide after a decade—or the equivalent output produced by hundreds of large powerplants.

This could result in over 10,000 MW of savings over the summer just in our State and much more on the Western grid that California shares with neighboring States.

Meanwhile, this legislation will also create a market for firms to develop more energy-efficient products, such as air-conditioners, heat pumps, lighting equipment, windows, insulation, water heaters, and solar panels.

Just think how conditions could have improved in California during the Western energy crisis if we had been able to reduce our energy consumption instead of purchasing power at exorbitant rates from out-of-State suppliers.

According to the Department of Energy, California is already one of the most energy-efficient States in the Nation—ranking fourth in overall energy efficiency and second in electricity efficiency.

Nevertheless, Californians responded to the crisis and further increased their energy efficiency. This legislation will take energy efficiency to the next level and create the opportunity for all families and businesses nationwide to make energy efficient improvements.

Instead of waiting for the next energy emergency to occur, we should take steps now to reduce energy consumption across the board.

The bill introduced in the 107th Congress had the support of California Governor Gray Davis, the California Energy Commission, the Sacramento Municipal Utility District, the Natural

Resources Defense Council, Union of Concerned Scientists, the California Building Industry Association, most California utilities and many other organizations and businesses. We expect similar widespread support for the bill we are reintroducing today.

This bill is an important step to help reduce demand. It provides financial incentives to offset some of the costs of building new energy-efficient buildings and homes, and improving existing structures to make them more energy efficient.

I urge my colleagues to support this important legislation.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. LUGAR, Mr. HARKIN, Ms. CANTWELL, Mr. WYDEN, and Mr. LEAHY):

S. 509. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Madam President, yesterday the State of California submitted a filing to the Federal Energy Regulatory Commission which provides a wholesale indictment of energy companies and shows how a number of energy firms engaged in deceptive trading practices to drive up prices in the Western Energy Market. I have called on FERC to make this evidence public and I want to reiterate my request again.

I am also introducing a bill with Senators FITZGERALD, HARKIN, LUGAR, CANTWELL, WYDEN, and LEAHY to close a loophole which allows energy trades to take place electronically, in private, with no transparency, record, audit trail or any oversight to guard against fraud and manipulation.

But before I reintroduce this bill, I want to reiterate the important revelations that have been uncovered in the past year and detail what we know about yesterday's filing at FERC.

Last week I came to the floor to update the Senate on recent evidence of fraud and manipulation in the energy sector. Today I want to pick up where I left off and introduce the Energy Market Oversight Act.

Mr. President, I draw my colleagues' attention to a filing made at FERC. This "Public Version" is a 27-page summary of the filing with confidential information removed, but it provides a detailed overview of the fraud and manipulation carried out by energy companies during the Western energy crisis.

In addition to testimony by expert witnesses, 348 exhibits, transcripts of depositions, tapes of trader telephone conversations, emails, and other data, the California parties submitted a 161-page brief to FERC. The document I have inserted into the RECORD includes the Table of Contents, the Introduction and Overview, and the Conclusion of this 161-page document. To be clear, it is part, but not all of the brief filed by the State of California.

Mr. President, the filing submitted by the State of California yesterday shows that there was an extensive and coordinated attempt by energy companies to engage in the following schemes to drive up prices in the Western Energy Market:

1. Withholding of Power—driving up prices by creating false shortages;
2. Bidding to Exercise Market Power—suppliers bid higher after the California ISO declared emergencies, knowing the State would need power and be willing to pay any price to get it;
3. Scheduling of Bogus Load, aka "Fat Boy" or "Inc-ing"—suppliers submitted false load schedules to increase prices;
4. Export-Import Games, aka "Ricochet or "Megawatt Laundering"—suppliers exported power out of California and imported it back into the State in an attempt to sell power at inflated prices;
5. Congestion Games, aka "Death Star"—suppliers created false congestion and were then paid for relieving congestion without moving any power;
6. Double-Selling—suppliers sold reserves, but then failed to keep those reserves available for the ISO;
7. Selling of Non-Existent Ancillary Services, aka "Get Shorty"—suppliers sold resources that were either already committed to other sales or incapable of being provided;
8. Sharing of Non-Public Generation Outage Information—the largest suppliers in California shared information from a company called Industrial Information Resources that provided sellers detailed, non-public information on daily plant outages;
9. Collusion Among Sellers—sellers were jointly implementing or facilitating Enron-type trading strategies;
10. Manipulation of the Nitrous Oxide (NO_X) Emission Market—sellers manipulated the market for NO_X emissions in the South Coast Air Quality Management District through a series of wash trades that created the appearance of a dramatic price increase that may have been fabricated. For example, Dynegy, together with AES and others, entered into a series of trades of NO_X credits in July and August of 2000 by which Dynegy would sell a large quality of credits and then simultaneously buy back a smaller quantity of credits at a higher per credit price.

We can assume that the thousands of pages filed by the California parties at FERC detail these examples of market abuse. At this point we cannot know all of the instances because the specifics remain confidential, but we have plenty to go on.

Yesterday I wrote another letter to FERC Chairman Pat Wood asking the Commission to lift its "Protective Order" to make this information public so that families and businesses harmed during the Western Energy Crisis can know the extent of fraud and manipulation that occurred.

I believe the filing yesterday presents a key decision for FERC. Clearly the Commission cannot ignore this mountain of new evidence submitted—especially since it comes at a time when other disclosures have been made to show pervasive fraud and manipulation in the Western Energy Market.

Last month Jeffrey Richter, the former head of Enron's Short-Term California energy trading desk, pled guilty to conspiracy to commit fraud as part of Enron's well known schemes to manipulate Western energy markets. Richter's plea follows that of head Enron trader Tim Belden in the fall of 2002. Belden admitted that he schemed to defraud California during the Western energy crisis and also plead guilty to conspiracy to commit wire fraud.

The Enron plea came on the heels of FERC's release of transcripts from Reliant Energy that reveal how their traders intentionally withheld power from the California market in an attempt to increase prices. This is one of the most egregious examples of manipulation and it is clear and convincing evidence of coordinated schemes to defraud consumers.

Let me read just one part of the transcript to demonstrate the greed behind the market abuse by Reliant and its traders.

On June 20, 2000 two Reliant employees had the following conversation that reveals the company withheld power from the California market to drive prices up:

Reliant Operations Manager 1: "I don't necessarily foresee those units being run the remainder of this week. In fact you will probably see, in fact I know, tomorrow we have all the units at Coolwater off." (The Coolwater plant is a 526 Megawatt plant.)

Reliant Plant Operator 2: "Really?"

Reliant Operations Manager 1: "Potentially. Even number four. More due to some market manipulation attempts on our part. And so, on number four it probably wouldn't last long. It would probably be back on the next day, if not the day after that. Trying to uh . . ."

Reliant Plant Operator 2: "Trying to shorten supply, uh? That way the price on demand goes up."

Reliant Operations Manager 1: "Well, we'll see."

Reliant Plant Operator 2: "I can understand. That's cool."

Reliant Operations Manager 1: "We've got some term positions that, you know, that would benefit."

Six months after this incident, as the Senate Energy Committee was attempting to get to the bottom of why energy prices were soaring in the West, the President and CEO of Reliant testified before Congress that the State of California "has focused on an inaccurate perception of market manipulation."

Reliant's President and CEO went on to say, "We are proud of our contributions to keep generation running to try to meet the demand for power in California. Reliant Energy's plant and technical staffs have worked hard to maximize the performance of our generation.''

These transcripts prove otherwise and reveal the truth about market manipulation in the energy sector.

Despite this clear and convincing evidence of fraud, on January 31 of this year, the Federal Energy Regulatory Commission chose to only give Reliant a slap on the wrist for this behavior. The company paid only $13.8 million to sweep this criminal behavior under the rug and settle with FERC.

Let me turn to some other recent examples that demonstrate how other energy companies manipulated the Western Energy Market as Reliant did. On December 11th, FERC finally released audio tapes that show how traders at Williams conspired with AES Energy plant operators to keep power offline and drive prices up.

The tapes depict how on April 27, 2000, Williams outage coordinator Rhonda Morgan encouraged an AES operator at the company's Alamitos plant to extend a plant outage because the California grid operator was paying ``a premium'' for power at the time. The Williams employee stated, ``that's one reason it wouldn't hurt Williams' feelings if the outage ran long.''

Later that day, Eric Pendergraft, a high-ranking AES employee called to confirm with Ms. Morgan that Williams wanted the plant to stay offline by saying, ``you guys were saying that it might not be such a bad thing if it took us a little while longer to do our work?'' ``I don't want to do something underhanded,'' Ms. Morgan responded, ``but if there is work you can continue to do . . .'' At this point Mr. Pendergraft interrupted to cut off their suspicious conversation, saying, ``I understand. You don't have to talk anymore.''

Clearly, this is evidence of a calculated intent to withhold power to raise prices. I find it unconscionable.

Let's turn to some other examples.

On January 27, 2003, Michelle Marie Valencia, a 32-year-old former senior energy trader for Dynegy was arrested on charges that she reported fictitious natural gas transactions to an industry publication.

On December 5, 2002, Todd Geiger, a former vice president on the Canadian natural gas trading desk for El Paso Merchant Energy, was charged with wire fraud and filing a false report after allegedly telling a trade publication about the prices for 48 natural gas trades that he never made in an effort to boost prices and company profit.

These indictments are just the latest examples of how energy firms reported inaccurate prices to trade publications to drive energy prices higher.

Industry publications claimed they could not be fooled by false prices because deviant prices are rejected, but this claim was predicated on the fact that everyone was reporting honestly—which we now know they weren't doing.

CMS Energy, Williams, American Electric Power Company, and Dynegy have each acknowledged that its employees gave inaccurate price data to industry participants. On December 19th Dynegy agreed to pay a $5 million fine for its actions.

In September an Administrative Law Judge at FERC issued a landmark ruling concluding that El Paso Corporation withheld natural gas from California and recommended penalty proceedings against the company. Since the El Paso Pipeline carries most of the natural gas to Southern California, this ruling has tremendous implications. The FERC Commissioners are expected to take up this case for a final judgement soon.

These have been the latest revelations in a series of energy disclosure bombshells that began on Monday, May 6th when the Federal Energy Regulatory Commission posted a series of documents on their website that revealed Enron manipulated the Western Energy Market by engaging in a number of suspect trading strategies.

These memos revealed for the first time how Enron used schemes called ``Death Star,'' ``Get Shorty,'' ``Fat Boy,'' and ``Ricochet'' to fleece families and businesses in the West.

The filing made yesterday to FERC shows how other companies did engage in these Enron-type trading strategies. The brief submitted by the State of California and others states that suppliers ``were jointly implementing or facilitating Enron-type trading strategies.''

Let us turn to other types of fraudulent trades that many energy firms have admitted to.

Dynegy, Duke Energy, El Paso, Reliant Resources Inc., CMS Energy Corp., and Williams Cos. all admitted engaging in false ``round-trip '' or ``wash trades.''

What is a ``round-trip'' trade, one might ask?

``Round-trip'' trades occur when one firm sells energy to another and then the second firm simultaneously sells the same amount of energy back to the first company at exactly the same price. No commodity ever actually changes hands, but when done on an exchange, these transactions send a price signal to the market and they artificially boost revenue for the company.

How widespread are ``round-trip'' trades? Well, the Congressional Research Service looked at trading patterns in the energy sector over the last few years and reported, ``this pattern of trading suggests a market environment in which a significant volume of fictitious trading could have taken place.''

Yet, since most of the energy trading market is unregulated by the government, we have only a slim idea of the illusions being perpetrated in the energy sector.

Consider the following recent confessions from energy firms about ``round-trip'' trades:

> Reliant admitted 10 percent of its trading revenues came from ``round-trip'' trades. The announcement forced the company's President and head of wholesale trading to both step down.
>
> CMS Energy announced 80 percent of its trades in 2001 were ``round-trip'' trades.

Remember, these trades are sham deals where nothing was exchanged, yet the company booked revenues from the trades.

> Duke Energy disclosed that 1.1 billion dollars-worth of trades were ``round-trip'' since 1999—roughly two-thirds of these were done on InterContinental Exchange, which means that thousands of subscribes would have seen these false price signals.
>
> A lawyer for J.P. Morgan Chase admitted the bank engineered a series of ``round-trip'' trades with Enron.
>
> Dynegy and Williams have also admitted to this round-trip trading.
>
> And although these trades mostly occurred with electricity, there is evidence to suggest that ``round-trip'' trades were made in natural gas and even broadband.

By exchanging the same amount of a commodity at the same price, I believe these companies have not engaged in meaningful transactions, but deceptive practices to fool investors and possibly drive energy prices up for consumers.

It is therefore imperative that the Department of Justice, FERC, the SEC, the Commodities Futures Trading Commission and every other oversight agency conduct an aggressive and vigorous investigation into all of the energy companies who participated in Western Energy Market.

Beyond that I believe Congress must re-examine what tools the government needs to keep a better watch over these volatile markets that are little understood. In the absence of vigilant government oversight of the energy sector, firms have the incentive to create the appearance of a mature, liquid, and well-functioning market, but it is unclear whether such a market exists.

The ``round-trip'' trades, the Enron memos, and the filing at FERC raise questions about illusions in the energy market.

To this end, I believe it is critical for the Senate to act soon on the legislation I offered last April to regulate online energy trading.

I am re-introducing this legislation to subject electronic exchanges like Enron On-Line to the same oversight, reporting and capital requirements as other commodity exchanges like the Chicago Mercantile Exchange, the New York Mercantile Exchange and the Chicago Board of Trade.

I am pleased Senator FITZGERALD, Senator HARKIN, Senator LUGAR, Senator CANTWELL, Senator WYDEN, and Senator LEAHY have again signed on to this legislation. I am proud of the work we did in the 107th Congress and I hope we can complete action on this bill soon.

Without this type of legislation, there is insufficient authority to investigate and prevent fraud and price manipulation since parties making the trade are not required to keep a record.

Right now, energy transactions are regulated by the Federal Energy Regulatory Commission (FERC) when there is actual delivery.

For example, if I buy natural gas from you, and you deliver that natural gas to me, FERC has the authority to ensure that this transaction is transparent and reasonably priced.

However, many energy transactions no longer result in delivery. A giant loophole has opened where there is no government oversight when these transactions are done on internet exchanges.

In 2000, Congress passed the Commodity Futures Modernization Act in 2000 which exempted energy and metals trading from regulatory oversight and excluded it completely if the trade was done electronically.

So today, as long as there is no delivery, there is no price transparency. Again, this lack of transparency and oversight only applies to energy. It does not apply if you are selling wheat or pork bellies or any other tangible commodity.

And it did not take long for Enron Online, and others in the energy sector, to take advantage of this new freedom by trading energy derivatives absent any regulatory oversight.

Thus, after the 2000 legislation was enacted, Enron OnLine began to trade energy derivatives bilaterally without being subject to proper regulatory oversight. It should not surprise anyone that without the transparency, prices soared.

Just yesterday Warren Buffett published a warning in Fortune Magazine saying that "Derivatives are financial weapons of mass destruction." In his annual warning letter to shareholders about what worries him about the financial markets, Warren Buffett called derivatives and the trading activities that go with them "time bombs."

In the letter, Warren Buffett states, "In recent years some huge-scale frauds and near-frauds have been facilitated by derivatives trades. In the energy and electric utility sectors, for example, companies used derivatives and trading activities to report great 'earnings'—until the roof fell in when they actually tried to convert the derivatives-related receivables on their balance sheets into cash."

We clearly saw this with Enron.

Was Enron and its energy derivative trading arm, Enron-On-Line the sole reason California and the West had an energy crisis? No.

Was it a contributing factor to the crisis? I certainly believe that it was. Unfortunately, because of the energy exemptions in the 2000 CFMA, which took away the CFTC's authority to investigate, we may never know for sure.

In the 107th Congress, this legislation was debated during consideration of the Senate Energy Bill and it was the subject of a hearing in the Agriculture Committee, but time ran out before the legislation could be marked up and passed.

Since that time, Senators LUGAR and HARKIN have made significant improvements to the legislation and we have added stronger penalties for market abuse and wrongdoing.

Today I am pleased to note that the following companies and organizations are supporting this legislation:

The National Rural Electric Cooperative Association,
The Derivatives Study Center,
The American Public Gas Association,
The American Public Power Association,
The California Municipal Utilities Association,
The Southern California Public Power Authority,
The Transmission Access Policy Study Group,
The U.S. Public Interest Research Group,
The Consumers Union,
The Consumers Federation of America,
Calpine,
Southern California Edison,
Pacific Gas and Electric, and
FERC Chairman Pat Wood.

I ask unanimous consent that the letters of support from these organizations and companies be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, February 21, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for bringing to my attention your proposed legislation on, inter alia, the penalty provisions in the Federal Power Act (FPA) and the Natural Gas Act (NGA), refund provisions in the FPA, and federal oversight of financial transactions involving energy commodities. Your amendment would expand the penalties allowed under the FPA and NGA, and also allow oversight by the Commodity Futures Trading Commission (CFTC) of financial transactions involving energy commodities.

I support your proposed changes to the FPA and NGA. Increased penalty authority will help ensure compliance with the requirements of these statutes. Also, your proposed changes to the FPA refund provisions will allow greater protection of utility customers.

Finally, you know how strongly I feel about customers having access to the broadest range of useful market information. Greater transparency is needed in energy markets. Thus, I support providing for, or clarifying, CFTC or other Federal regulatory oversight of trading platforms that are relied on for price discovery. However, the details of your proposed changes to the Commodity Exchange Act would be better addressed by the CFTC or others and I would defer to them with respect to any changes to the Commodity Exchange Act.

Best regards,

PAT WOOD III,
Chairman.

PG&E CORPORATION,
San Francisco, CA, January 8, 2003.

Hon. THAD COCHRAN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COCHRAN: Congratulations on your assumption of the Chairmanship of the Agriculture, Nutrition, and Forestry Committee. We are writing to communicate our support for an important bipartisan legislative proposal considered by the Committee last year to provide oversight of energy derivatives trading markets.

As you know, the Committee considered last summer a proposal introduced by Senator Feinstein and co-sponsored by Senators Harkin and Lugar, S. 2724, to repeal the current exemption of energy derivatives trading from the jurisdiction of the Commodity Futures Trading Commission ("CFTC"). The proposal was similar to legislation offered earlier in the year by Senator Feinstein as an amendment to the Senate Energy Bill. Enclosed for your information is a letter that was sent from our corporation to Senator Feinstein last year concerning her amendment.

The legislation, which we hope Congress will consider again this year, would re-establish authority over energy derivatives trading to the CFTC, which has the most relevant oversight capability, having regulated such trading prior to 2000. As a market participant, we believe that Senator Feinstein's legislation will encourage transparency of market information and ensure market stability, which in turn would enable market participants to better manage risk, reduce price volatility for electricity consumers and preserve ultimately the viability of this marketplace.

We appreciate your considering our views on this important issue, and look forward to working with you in the 108th Congress.

Sincerely,

DAN RICHARD,
Senior Vice President, Public Affairs.

CALPINE,
San Jose, CA, February 5, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing to let you know of Calpine's continuing support for additional oversight of certain energy derivative markets, as intended by the legislation you plan to introduce again this year. While we do not believe that energy trading was a primary cause of the California energy crisis, we do believe there is a crisis of confidence in the energy markets and that your legislation will assist in restoring much needed public confidence in the energy sector.

Specifically, we support the bill's strengthening of the CFTC's anti-fraud and anti-manipulation authority and its provision for increased cooperation and liaison between the CFTC and the FERC. We are also pleased that your legislation addresses concerns about the oversight and transparency of electronic trading platforms. It is important that such facilities, which play a significant price discovery role in the energy trading markets, be subject to appropriate reporting and oversight by the CFTC.

However, I also understand that typical over the counter bilateral trading operations, such as those that operate from a trading desk where various potential counterparties are separately contacted by phone or email, are not intended to be treated as electronic trading facilities under your bill. This is an important distinction and one that may need further clarification as the bill proceeds through the legislative process.

Calpine would like to thank you for your leadership in advocating reasonable measures to ensure the integrity of important energy trading markets and we stand ready to provide you with any information or assistance that you may need.

Sincerely,

Joseph E. Ronan, Jr.,
Senior Vice President,
Government and Regulatory Affairs.

Edison International,
Rosemead, CA, February 4, 2003.

Hon. Dianne Feinstein,
U.S. Senate,
Washington, DC.

Dear Senator Feinstein: Thank you for asking Edison International for our views on your Exempt Commodities Transactions Act, soon to be reintroduced in the 108th Congress. As you know, Edison shares your concern over manipulation of the California electricity market by some market participants, which contributed to the serious problems the state faced from out-of-control energy prices. Your legislation would provide transparency in the electricity derivatives trading market, an industry that is currently exempted from regulation under the Commodity Futures Modernization Act of 2000 (CFMA).

I support your legislation, with a suggestion for your consideration to further refine it. Our company and others use energy derivatives trading to protect and hedge the revenue from our power plants. This is in contrast to companies that conduct middleman financial trading with no or few power plants and trade to make money on financial arbitrage. There should be guidance in the final language which recognizes the difference between these two types of businesses, particularly regarding further capital requirements. Otherwise companies that trade in order to hedge physical assets may be required to pay twice—once in order to obtain capital for the assets and a second time in order to meet any capital requirements to back their trades.

Thank you again for your efforts on behalf of California consumers and businesses.

Sincerely,

John E. Bryson,
Chairman, President and
Chief Executive Officer.

American Public Gas Association,
Fairfax, VA, January 22, 2003.

Re amending the Commodities Exchange Act.

Hon. Dianne Feinstein,
Hart Senate Office Building, U.S. Senate,
Washington, DC.

Dear Senator Feinstein: The American Public Gas Association (APGA) is very pleased that you and Senator Lugar have again taken the lead to amend the Commodity Exchange Act (CEA). The provisions you propose, which amend the CEA, are significant steps towards ensuring that natural gas prices are determined in a competitive and informed marketplace. We applaud your efforts to undo special exclusions and exemptions granted in the closing hours of the 106th Congress, especially when those exclusions and exemptions were specifically rejected by the Senate Agriculture Committee.

The Commodity Futures Trading Commission (CFTC) plays a front-line role in promoting a competitive natural gas marketplace. Closing the gaps that impede effective federal oversight of the natural gas marketplace is essential in order to foster competitive commodity futures markets and protect market users and the public from fraud, manipulation, and abusive practices. APGA fully supports your provisions to clarify and restore the CFTC's ability to monitor activity in off-exchange, or over-the-counter (OTC), derivatives markets that trade substantial volumes of natural gas derivatives. Your limited and measured steps ensure a fair balance between free market activities and the necessary protections from bad conduct; which undermines the confidence and integrity of market participants and consumers.

Eliminating those special exclusions and exemptions, which were already rejected three years ago in the committee of jurisdiction, will help the CFTC meet its obligation to make sure that no important trading activities fall between the cracks leaving some energy markets without a federal agency with oversight authority. The consumers served by public gas utilities across the country will benefit from your efforts because they are less likely to be victimized by activities that occur in a market where the CFTC exercises oversight.

Again, public gas utilities and the hundreds of communities that we serve commend you for your thoughtful and deliberate leadership on this very important issue. While there may be some who will oppose this amendment, one need not look far to see whether the opposition is looking out for the best interests of Wall Street or Main Street. We pledge to work with you in any way we can to pass this much-needed amendment. Please let me know how I can assist you.

Sincerely,

Bob Cave,
President.

American Public Power Association,
Washington, DC, March 4, 2003.

Hon. Dianne Feinstein,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Dear Senator Feinstein: On behalf of the American Public Power Association (APPA), I want to express support for the intent and thrust of your legislation entitled the "Energy Market Oversight Act" and to commend you for your leadership in addressing these important consumer protection issues.

APPA represents the interests of more than 2,000 publicly owned electric utility systems across the country, serving approximately 40 million citizens. APPA member utilities include state public power agencies and municipal electric utilities that serve some of the nation's largest cities. However, the vast majority of these publicly owned electric utilities serve small and medium-sized communities in 49 states, all but Hawaii. In fact, 75 percent of our members are located in cities with populations of 10,000 people or less.

It is my understanding that your legislation would provide the Commodity Futures Trading Commission (CFTC) with jurisdiction over trading in energy derivatives and other financial products. APPA is particularly supportive of language in your bill that would increase the Federal Energy Regulatory Commission's (FERC) ability to investigate market manipulation and penalize such behavior.

Some of APPA's members may have concerns regarding the impact the bill may have on public power, and I look forward to working with you and your staff in an effort to resolve these concerns. I would also like to join the California Municipal Utilities Association (CMUA) in raising an issue that I believe is consistent with the intent of your bill. CMUA has attempted to get the California ISO to do a benchmarking study comparing their costs to other ISOs throughout the United States. The California ISO has informed CMUA that they cannot conduct such a study because they cannot get the information from other ISOs. To address this problem, while keeping with your bill's goal of increasing transparency, I would use you to add a provision to the bill that would require FERC to gather such information as is necessary from each ISO to compare their cost of services on an annual basis.

APPA looks forward to working with you and your staff on this legislation and other issues in the 108th Congress.

Sincerely,

Alan H. Richardson,
President and CEO.

New York Mercantile Exchange,
New York, NY.

Senator Dianne Feinstein,
Hart Senate Office Building,
Washington, DC.

Dear Senator Feinstein: As a result of concerns surrounding the Enron bankruptcy, numerous congressional committees, regulators, and financial institutions are closely examining the broad impact of the collapse on American markets, investors and employees. Much attention has been paid to corporate governance, financial and accounting standards, and market practices, with considerable focus on the energy marketplace. On behalf of the New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange"), we wish to applaud your efforts to bring more accountability and greater transparency to this nation's vitally important energy marketplace.

NYMEX is the world's largest forum for the trading and clearing of energy futures contracts. As a federally chartered marketplace, it is overseen by the independent federal regulatory agency, the Commodity Futures trading Commission ("CFTC"). NYMEX serves a diverse domestic and international customer base by bringing price transparency, market neutrality, competition and efficiency to energy markets, and provides businesses with the financial tools to deal with market uncertainty.

After studying your legislative proposal, we have concluded that it is very worthy of support for the following reasons:

The proposal would refine the definition of trading facility as applied to energy derivatives markets and would further require that any such market not otherwise regulated by the CFTC would be accountable to them.

In addition, the proposal would give the CFTC vitally important tools to monitor such markets, including large trader reporting and net capital standards.

The proposal would also ensure that the CFTC has the authority and ability to obtain access to information critical to market oversight and to make market information public to the extent that the Commission determines that it is in the public interest to do so.

With numerous reports of reduced confidence in market integrity in the wake of the Enron bankruptcy, never has it been more important to restore faith in the great American resource, our competitive markets. S. 517's provisions relating to addressing regulatory gaps in the CFTC regulatory "umbrella" can provide an important and meaningful improvement in market oversight, and is an important step in building faith and confidence in a competitive energy marketplace.

We strongly support your efforts to enhance market transparency and accountability, and we look forward to working with you in this important endeavor.

Sincerely,

VINCENT VIOLA,
Chairman.
J. ROBERT COLLINS,
President.

SOUTHERN CALIFORNIA
PUBLIC POWER AUTHORITY,
February 28, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the Southern California Public Power Authority (SCPPA), I would like to express our support for your proposed legislation, the "Energy Market Oversight Act," which would provide more authority to the Federal Energy Regulatory Commission (FERC) and the Commodity Futures Trading Commission (CFTC) to oversee the trading in energy derivatives and other financial transactions and to investigate and punish market manipulation.

SCPPA is a non-profit, joint action agency formed in 1980 to represent the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon; and the Imperial Irrigation District. The community-owned utilities that make up SCPPA's membership serve approximately five million citizens from northern Los Angeles County to the Mexican border.

We support the intent of your legislation because we believe it will enhance safeguards for consumers and foster a more fully functioning competitive market. As you are well aware, lack of effective market monitoring and market transparency combined to allow for manipulation of the markets, to the extreme detriment of California consumers. We believe that federal legislation that promotes more effective monitoring and remedies for fraud and market abuses will improve the climate for investment in new generation, increase consumer confidence, and reduce market volatility.

We are encouraged that this legislation increases the civil and criminal penalties for manipulation, allows for prompt investigatory action by FERC, and allows for an earlier refund effective date when rates are not "just and reasonable." We think these actions will provide an improved regulatory deterrent, as well as a means for swift and complete refunds to consumers.

SCPPA commends you for taking a leadership role on these critical issues and looks forward to working with you to address a few issues of particular concern to our municipal utility members.

Sincerely,

BILL CARNAHAN,
SCPPA Executive Director.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Arlington, VA, January 29, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I would like to take this opportunity to express the appreciation of the National Rural Electric Cooperative Association for our efforts to restore transparency and integrity to the energy markets. We are pleased that you have introduced legislation with Senators Lugar, Harkin, Fitzgerald and others (the Energy Market Oversight Act) that reestablished the ability of the Commodity Futures Trading Commission to police all energy derivatives markets for fraud and commodity price manipulation.

Today, consumers and investors have little confidence that the energy markets are operating fairly and for the benefit of all. Much blame for the current crisis in confidence can be placed on the so-called ENRON exemption, adopted in 2000, as part of the legislation that deregulated the over-the-counter derivatives market for energy commodities.

The legislation created a gap in the regulation of energy derivatives where price and trade manipulation can occur unchecked by adequate regulatory oversight. Although the Commodity Futures Trading Commission (CFTC) has authority to prosecute fraud and price manipulation that occurs on the commodity exchanges, the CFTC has no clear authority to pursue violations of the Federal anti-fraud and anti-manipulation laws in the over-the-counter energy market.

Energy derivatives contracts, whether traded on well-regulated commodities exchanges or in the over-the-counter market, play an important role in determining the costs and availability of electricity and other energy products to consumers. But, consumers suffer when much of the market for energy derivatives lacks transparency and operates without accountability for manipulation and fraud, which is the case for the over-the-counter markets.

Recent headlines underscore the need for this important legislation. The news has been filed with the indictments of energy traders for manipulation of the energy markets and admissions by energy companies that they have engaged in deceptive market practices, including wash trades on an unregulated over-the-counter exchange.

Consumer-owned electric co-ops now purchase more than 50% of their electric power on the market and are exposed to the risks that an unstable market creates. As the representative of America's 900 consumer-owned electric co-op utilities, the NRECA believes that it is vitally important to restore confidence in the energy markets by ensuring that market participants have access to reliable and credible information.

Your legislation represents an important step in creating more transparent energy markets. I want to thank you for your leadership on this critical issue and offer the support of America's electric cooperatives in this effort to restore credibility to the nation's energy markets. We look forward to working with you and your staff to improve the legislation as it moves forward.

Sincerely,

GLENN ENGLISH,
Chief Executive Officer.

WASHINGTON, DC,
February 7, 2003.

DEAR SENATOR FEINSTEIN: We are writing to express our support for the Energy Market Oversight Act being offered by yourself and Senators Lugar, Cantwell and Leahy. This important legislation will assure that over-the-counter derivatives markets in "exempt" commodities such as energy will be covered by federal prohibitions on fraud and manipulation. This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, "energy markets are in severe financial distress." Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Derivatives are highly leveraged financial transactions, and this allows investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

Derivatives are often combined into highly complex structured transactions that are difficult—even for seasoned securities traders and finance professionals—to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact of the level of trust in energy markets.

This legislation would help ensure that over-the-counter derivatives markets operate with proper federal oversight which will make the markets more stable and transparent. It is appropriate to place this oversight authority with the Commodity Futures Trading Commission which, as the principal federal regulator of derivatives transactions since its founding in 1975, will provide oversight, surveillance and enforcement of anti-fraud and anti-manipulation laws. The CFTC has the experience to handle these complex financial transactions and to develop the best rules to implement these protections. The legislation also requires the cooperation of the Federal Energy Regulatory Commission, the entity charged with overseeing the energy markets, in providing a stable and honest market for the investing public.

At a time when these energy markets are deeply distressed and the investing public looks skeptically at derivatives trading and firms engaged in derivatives trading, we should take decisive steps to ensure that the public is protected from Enron-like abuses. This amendment is just such a step, and we support it.

Thank you for introducing this important legislation.

Sincerely;

ADAM J. GOLDBERG,
Policy Analyst, Consumers Union.
MARK N. COOPER,
Director of Research, Consumer Federation of America.
EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.
RANDALL DODD,
Director, Derivatives Study Center.

TRANSMISSION ACCESS
POLICY STUDY GROUP,
February 25, 2003.

Re Energy Market Oversight Act.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I understand that you will be introducing shortly a stand-alone bill, entitled The Energy Market Oversight Act, which is similar to the amendment you offered last season to S. 517, the Energy Policy Act of 2002. This bill would, among other things, place derivative products for energy under the jurisdiction of the Commodities Future Trading Commission (CFTC), and enhance the Federal Energy Regulatory Commission's (FERC) remedial and penal authority.

On behalf of the Transmission Access Policy Study Group (TAPS), I would like to express our support for the policy objective of your proposed legislation: better protecting consumers from manipulation in the volatile energy markets. We look forward to working with you to refine the bill as it moves through the legislative process. Expanding the CFTC and FERC role in preventing and redressing energy market abuses is one of a number of avenues for enhanced consumer and market power protection that should be included if an electricity title moves forward this year. TAPS representatives would like to sit down with your staff and discuss the details of your bill and related matters, when convenient.

The other key related components of any electricity title are (i) strong consumer protections, as were offered in the Cantwell amendment (SA 3234) to the Energy Policy Act of 2002, (ii) expanding FERC's merger review authority as was done in S. 517, (iii) a strong market transparency requirement, and (iv) further strengthening FERC powers to remedy and penalize abuses of market power and market manipulation. Finally, we would strongly urge you to oppose repeal of the Public Utility Holding Company Act this year. Repealing PUHCA would lead to massive consolidation in the industry, increasing dramatically opportunities for manipulation of the market.

Very truly yours,

ROY THILLY,
TAPS Chairman.

Mrs. FEINSTEIN. Mr. President, here is an explanation of what this bill does: It applies anti-fraud and anti-manipulation authority to all exempt commodity transactions—an exempt commodity is a commodity which is not financial and not agricultural and mainly includes energy and metals.

The bill sets up two classes of swaps. For those made between "sophisticated persons," basically institutions and wealthy individuals, that are not entered into on a "trading facility"—for example, an exchange—anti-fraud and anti-manipulation provisions apply and wash trades are prohibited.

The following regulations would apply to all swaps made on an "electronic trading facility" and a "dealer market", which includes dealers who buy and sell swaps in exempt commodities, and the entity on which the swap takes place: anti-fraud and anti-manipulation provisions and the prohibition of wash trades apply; if the entity on which the swap takes place serves a pricing or price discovery function, increased notice, reporting, bookkeeping, and other transparency requirements; and the requirement to maintain sufficient capital commensurate with the risk associated with the swap;

Except for the anti-fraud and anti-manipulation provisions, the CFTC has the discretion to tailor the above requirements to fit the character and financial risk involved with the swap or entity. While the CFTC could require daily public disclosure of trading data like open and closing prices, similar to the requirements of futures exchanges, it could not require real-time publication of proprietary trading information or prohibit an entity from selling their data.

The CFTC may allow entities to meet certain self-regulatory responsibilities-as provided in a list of "core principles." If an entity chose to become a self-regulator, these core principles would obligate the entity to monitor trading to prevent fraud and manipulation as well as assure that its other regulatory obligations are met.

The penalties for manipulation are greatly increased. The civil monetary penalty for manipulation is increased from $100,000 to $1 million. Wash trades are subject to the monetary civil penalty for each violation, and imprisonment up to 10 years.

The FERC is required to improve communications with other Federal regulatory agencies. A shortcoming in the main anti-fraud provision of the CEA is also corrected by allowing CFTC enforcement of fraud to apply to instances of either defrauding a person for oneself or on behalf of others.

It requires the FERC and the CFTC to meet quarterly and discuss how energy derivative markets are functioning and affecting energy deliveries.

It grants the FERC the authority to use monetary penalties on companies that don't comply with requests for information. It is essentially the same authority that the SEC has.

It makes it easier for FERC to hire the necessary outside help they need including accountants, lawyers, and investigators for investigative purposes.

It eliminates the requirement that FERC receive approval from the Office of Management and Budget before launching an investigation or price discovery of electricity or natural gas markets involving more than 10 companies.

It increases the penalty amounts to $1 million instead of the current $5,000 for violations of the Federal Power Act and the Natural Gas Act; five years instead of the current two for violations of the statute; and, $50,000 per violation per day instead of the current $500 for violations of rules or orders under the Federal Power Act and Natural Gas Act.

The Commission's authority to impose civil penalties is broadened to all sections of Part II of the Federal Power Act and the penalty amount is increased from $10,000 to $50,000 per violation per day.

It modifies Section 206 of the Federal Power Act to allow for an earlier refund effective date to increase the opportunity for refunds as a deterrent to fraudulent and manipulative behavior in the energy markets.

This legislation is not going to do anything to change what happened in California and the West. But it does provide the necessary authority for the CFTC and FERC which will help protect against another energy crisis.

When regulatory agencies have the will but not the authority to regulate, Congress must step in and ensure that our regulators have the necessary tools. Unfortunately, sometimes an agency has neither. In this case I am glad to have the support of FERC and I hope that the CFTC will reconsider and support this legislation.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 510. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with my colleague Senator COLLINS, to introduce legislation, the Commercial Truck Highway Safety Demonstration Program Act, to create a safety pilot program for commercial trucks.

This bill would authorize a safety demonstration program in my home State of Maine that could be a model for other States. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal interstate truck weight limit of 80,000 pounds.

I believe that safety must be the No. 1 priority on our roads and highways, and I am very concerned that the existing interstate weight limit has the perverse impact of forcing commercial trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from Federal weight limits on the Maine Turnpike, the 100-mile section of Maine's interstate in the southern portion of the State, and it was signed into law as part of TEA–21. I have also shared my concerns with the Department of Transportation and the Senate Environment and Public Works Committee to urge them to work with me in an effort to address this challenge.

In addition, the Main Department of Transportation is in the process of conducting a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, which will focus on the safety impact of higher limits, infrastructure issues, air quality issues, and economic issues as well, in order to secure the data necessary to ensure that commercial trucks operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate System, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads don't.

The legislation I am submitting today would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, States, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Mr. President, I rise to join with my senior colleague from Maine in sponsoring the Commercial Truck Highway Safety Demonstration Program Act, an important bill that addresses a significant safety problem in our State.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds north to Houlton. Heavy trucks are forced onto smaller, secondary roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads, nearly all of which have two lanes, rather than four. Consequently, many Maine communities along the interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine's interstate highways.

The problem Maine faces because of the disparity in truck weight limit is perhaps most pronounced in our State capital. Augusta is the Maine Turnpike's northern terminus where heavy trucks that are prohibited from traveling along the northern segment of Interstate 95 enter and exit the turnpike. The high number of trucks that must traverse Augusta's local roads, and particularly its two rotaries, creates a hazard for those who live and work in as well as visit the city.

The Maine Department of Transportation estimates that the truck weight disparity sends 310 vehicles in excess of 80,000 pounds through Augusta every day. These vehicles, which are sometimes transporting hazardous materials, must pass through Cony Circle, one of the State's most dangerous traffic circles and the scene of 130 accidents per year. The fact that the circle is named for the 1,200 student high school that it abuts adds to the severity of the problem.

A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce the highway miles and travel times necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network and local roads will be better preserved without the wear and tear of heavy truck traffic. Most important, however, a uniform truck weight limit will keep trucks on the interstate where they belong, rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the Interstate Highway System would be set at 100,000 pounds for 3 years. During the waiver period, the Secretary would study the impact of the pilot program on safety, and would receive the input of a panel that would include State officials, safety organizations, municipalities, and the commercial trucking industry. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's Interstate Highway System.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and on to local roads. The legislation Senator SNOWE and I are introducing is a commonsense approach to a significant safety problem in my State. I hope my colleagues will support passage of this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 71—EXPRESSING THE SUPPORT FOR THE PLEDGE OF ALLEGIANCE

Ms. MURKOWSKI (for herself, Mr. MCCONNELL, Mr. GREGG, Mr. HATCH, Mr. ALLEN, Mr. ALEXANDER, Mr. ALLARD, Mr. BENNETT, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mrs. DOLE, Mr. ENSIGN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. HAGEL, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. NICKLES, Mr. ROBERTS, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. WARNER, Mr. SESSIONS, and Ms. LANDRIEU) submitted the following resolution; which was ordered held at the desk

S. RES. 71

Whereas a 3-judge panel of the Ninth Circuit Court of Appeals has ruled in *Newdow v. United States Congress* that the words "under God" in the Pledge of Allegiance violate the Establishment Clause when recited voluntarily by students in public schools;

Whereas the Ninth Circuit has voted not to have the full court, en banc, reconsider the decision of the panel in *Newdow*;

Whereas this country was founded on religious freedom by the Founding Fathers, many of whom were deeply religious;

Whereas the First Amendment to the Constitution embodies principles intended to guarantee freedom of religion both through the free exercise thereof and by prohibiting the Government establishing a religion;

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and first published in the September 8, 1892, issue of the Youth's Companion;

Whereas Congress, in 1954, added the words "under God" to the Pledge of Allegiance;

Whereas the Pledge of Allegiance has for almost 50 years included references to the United States flag, the country, to our country having been established as a union "under God" and to this country being dedicated to securing "liberty and justice for all";

Whereas Congress in 1954 believed it was acting constitutionally when it revised the Pledge of Allegiance;

Whereas the 107th Congress overwhelmingly passed a resolution disapproving of the panel decision of the Ninth Circuit in *Newdow*, and overwhelmingly passed legislation recodifying Federal law that establishes the Pledge of Allegiance in order to demonstrate Congress's opinion that voluntarily reciting the Pledge in public schools is constitutional;

Whereas the Senate believes that the Pledge of Allegiance, as revised in 1954 and as recodified in 2002, is a fully constitutional expression of patriotism;

Whereas the National Motto, patriotic songs, United States legal tender, and engravings on Federal buildings also refer to "God"; and

Whereas in accordance with decisions of the United States Supreme Court, public school students are already protected from being compelled to recite the Pledge of Allegiance: Now, therefore, be it

Resolved, That the Senate—

(1) strongly disapproves of a decision by a panel of the Ninth Circuit in *Newdow*, and the decision of the full court not to reconsider this case en banc; and

(2) authorizes and instructs the Senate Legal Counsel again to seek to intervene in the case to defend the constitutionality of the words "under God" in the Pledge, and, if unable to intervene, to file an amicus curiae brief in support of the continuing constitutionality of the words "under God" in the Pledge.

SENATE RESOLUTION 72—ELECTING WILLIAM H. PICKLE OF COLORADO AS THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 72

Resolved, That William H. Pickle of Colorado be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate effective March 17, 2003.

SENATE RESOLUTION 73—REMEMBERING AND HONORING THE HEROIC LIVES OF ASTRONAUTS AIR FORCE LIEUTENANT COLONAL MICHAEL ANDERSON AND NAVY COMMANDER WILLIAM "WILLIE" McCOOL

Ms. CANTWELL (for herself, Mrs. MURRAY, Mr. REID, and Mr. BROWNBACK) submitted the following resolution; which was considered and agreed to:

S. RES. 73

Whereas mankind lost 7 heroes with the tragic explosion of the Space Shuttle Columbia on February 1, 2003;

Whereas the families and friends of the 7 astronauts, the National Aeronautics and Space Administration, the entire Nation, and people around the world who followed the historic mission will deeply miss the 7 crew members of the Space Shuttle Columbia;

Whereas the astronauts made an important contribution as models of bravery, courage, and excellence for men, women, and children around the world;

Whereas 2 of these heroes, Air Force Lieutenant Colonel Michael Anderson and Navy Commander William "Willie" McCool, are particularly close to the hearts of residents of the State of Washington;

Whereas Lieutenant Colonel Anderson was a beloved son of the Spokane community since moving there at the age of 11, and a cherished hero for men, women, and children in Washington;

Whereas Lieutenant Colonel Anderson was a hero, long before accepting the challenge of the Columbia mission, for leading a life characterized by courage, achievement against many odds, and sacrifice for this country;

Whereas the story of Lieutenant Colonel Anderson is even more remarkable in light of the barriers to success that young African-Americans in this country have had to overcome;

Whereas this remarkable story has long been shared at the childhood church of Lieutenant Colonel Anderson and throughout the Spokane African-American community, and has inspired a generation of children;

Whereas throughout his early education in Spokane area public schools, Lieutenant Colonel Anderson focused on voyaging to space as an astronaut and became an exceptional science student;

Whereas since becoming an astronaut in 1994, Lieutenant Colonel Anderson took to heart the special responsibility of serving as a role model for children around the country and back home;

Whereas after his 1998 flight on the Space Shuttle Endeavor to the Mir Space Station, Lieutenant Colonel Anderson returned to Cheney High School in Spokane and told a crowd of enthralled students that dreams such as his of becoming an astronaut can be achieved with hard work and clear goals;

Whereas Lieutenant Colonel Anderson embodied excellence and provided a triumphant example of accomplishment for Americans of all colors, races, and backgrounds;

Whereas the Washington family lost another dear friend in Commander McCool, who made Anacortes, Washington his home during 2 periods of service at Naval Air Station Whidbey Island;

Whereas community members remember Commander McCool for his kindness, professionalism, and love of his children;

Whereas Commander McCool continued to pay visits to the Anacortes community and was a cherished member of the community; and

Whereas Lieutenant Colonel Anderson and Navy Commander McCool will be missed but never forgotten: Now, therefore, be it

Resolved, That the Senate remembers and honors the heroic lives of astronauts Lieutenant Colonel Michael Anderson and Commander William McCool.

AMENDMENTS SUBMITTED & PROPOSED

SA 249. Ms. MURKOWSKI proposed an amendment to the bill S. Res. 71, expressing the support for the Pledge of Allegiance.

TEXT OF AMENDMENTS

SA 249. Ms. MURKOWSKI proposed an amendment to the bill S. Res. 71, expressing the support for the Pledge of Allegiance; as follows:

On page 3, line 7 of the resolution strike "again" and insert "either"

On page 3, line 9 of the resolution strike "and, if unable to intervene," and insert "or"

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Tuesday, March 4, 2003. The purpose of this hearing will be to review the Federal Government's initiatives regarding the school lunch and school breakfast programs.

COMMITTEE ON ARMED SERVICES

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 4, 2003, at 9:30 a.m., in closed session to receive a classified briefing on current operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ALLEN. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 4, 2003, at 10 a.m. to conduct a hearing on "The Administration's Proposed Fiscal Year 2004 Budget for the Department of Housing and Urban Development."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on March 4, 2003, at 10 a.m. on the nomination of Dr. Charles McQueary to be Under Secretary for Science and Technology, Department of Homeland Security; Jeffrey Shane to be Under Secretary of Transportation for Policy, Department of Transportation; Emil Frankel to be Assistant Secretary of Transportation, Department of Transportation; and Robert Sturgell, Deputy Administrator, Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, March 4 at 10 a.m. to receive testimony on the financial condition of the electricity market.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 4, 2003 at 9:30 a.m. to hold a hearing on the Millennium challenge Account: A New Way to Aid.

Witnesses

Panel 1: The Honorable Alan Larson, UnderSecretary of State of Economic, Business & Agricultural Affairs, Department of State, Washington, DC, The Honorable John Taylor, Under Secretary for International Affairs, Department of the Treasury, Washington, DC.

The Honorable Andrew S. Natsios, Administrator, Agency for International Development, Washington, DC.

Panel 2: Dr. Steven Radelet, Senior Fellow, Center for Global Development, Washington, DC;

Ms. Mary E. McClymont, President and CEO, Interaction, Washington, DC;

Ms. Susan Berresford, President, Ford Foundation, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The War Against Terrorism: Working Together to Protect America" on Tuesday, March 4, 2003, at 9:30 a.m. in Dirksen Room 106.

Tentative Witness List

The Honorable John D. Ashcroft, Attorney General of the United States, Department of Justice, Washington, DC;

The Honorable Thomas J. Ridge, Secretary, Office of Homeland Security, Washington, DC;

The Honorable Robert S. Mueller, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, March 4, 2003, for a hearing to consider the nomination of: Mr. Bruce E. Kasold to be a Judge, U.S. Court of Appeals for Veterans' Claims; and Brigadier General John W. Nicholson, USA (ret.), to be Under Secretary Memorial Affairs, Department of Veterans Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 4, 2003 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, March 4 at 2:30 p.m. to receive testimony on S. 164, a bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of César Estrada Chávez and the Farm Labor Movement; S. 328 a bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area," and for other purposes; S. 347 a bill to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes; S. 425 a bill to revise the boundary of the wind Cave National Park in the State of South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. FRIST. I ask unanimous consent the Senate proceed en bloc to the immediate consideration of the following bills: Calendar No. 12, S. 111; Calendar No. 13, S. 117; Calendar No. 14, S. 144; Calendar No. 15, S. 210; Calendar No. 16, S. 214; Calendar No. 17, S. 233; and Calendar No. 18, S. 254.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask unanimous consent that where applicable the committee amendment be agreed to, the bills as amended be amended, the bills be read a third time and passed, the motions to reconsider be laid on the table, any statements relating to the bills be printed in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

DETERMINING THE NATIONAL SIGNIFICANCE OF THE MIAMI CIRCLE

The Senate proceeded to consider the bill (S. 111) which had been reported from the Committee on Energy and Natural Resources, to direct the Secretary of Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes, with an amendment to strike all after the enacting clause.

The bill (S. 111), as amended, was read the third time and passed as follows:

S.111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RESOURCE STUDY.

(a) STUDY.—Not later than 3 years after the date funds are made available, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall conduct a special resource study to determine the national significance of the Miami Circle archaeological site in Miami-Dade County, Florida (hereinafter referred to as "Miami Circle"), as well as the suitability and feasibility of its inclusion in the National Park System as part of the Biscayne National Park. In conducting the study, the Secretary shall consult with the appropriate American Indian tribes and other interested groups and organizations.

(b) CONTENT OF STUDY.—In addition to determining national significance, feasibility, and suitability, the study shall include the analysis and recommendations of the Secretary on—

(1) any areas in or surrounding the Miami Circle that should be included in Biscayne National Park;

(2) whether additional staff, facilities, or other resources would be necessary to administer the Miami Circle as a unit of Biscayne National Park; and

(3) any effect on the local area from the inclusion of Miami Circle in Biscayne National Park.

(c) SUBMISSION OF REPORT.—Not later than 30 days after completion of the study, the Secretary shall submit a report on the findings and recommendations of the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the United States House of Representatives.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FLORIDA NATIONAL FOREST LAND MANAGEMENT ACT OF 2003

The bill (S. 117) to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes, was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Florida National Forest Land Management Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(2) STATE.—The term "State" means the State of Florida.

SEC. 3. SALE OR EXCHANGE OF LAND.

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of Federal land in the State described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcels of Federal land in the State referred to in subsection (a) consist of—

(1) tract A–942a, East Bay, Santa Rosa County, consisting of approximately 61 acres, and more particularly described as T. 1 S., R. 27 W., sec. 31, W½ of SW¼;

(2) tract A–942b, East Bay, Santa Rosa County, consisting of approximately 40 acres, and more particularly described as T. 1 S., R. 27 W., sec. 38;

(3) tract A–942c, Ft. Walton, Okaloosa County, located southeast of the intersection of and adjacent to State Road 86 and Mooney Road, consisting of approximately 0.59 acres, and more particularly described as T. 1 S., R. 24 W., sec. 26;

(4) tract A–942d, located southeast of Crestview, Okaloosa County, consisting of approximately 79.90 acres, and more particularly described as T. 2 N., R. 23 W., sec. 2, NW¼ NE¼ and NE¼ NW¼;

(5) tract A–943, Okaloosa County Fairgrounds, Ft. Walton, Okaloosa County, consisting of approximately 30.14 acres, and more particularly described as T. 1 S., R. 24 W., sec. 26, S½;

(6) tract A–944, City Ball Park—Ft. Walton, Okaloosa County, consisting of approximately 12.43 acres, and more particularly described as T. 1 S., R. 24 W., sec. 26, S½;

(7) tract A–945, Landfill-Golf Course Driving Range, located southeast of Crestview, Okaloosa County, consisting of approximately 40.85 acres, and more particularly described as T. 2 N., R. 23 W., sec. 4, NW¼ NE¼;

(8) tract A–959, 2 vacant lots on the north side of Micheaux Road in Bristol, Liberty County, consisting of approximately 0.5 acres, and more particularly described as T. 1 S., R. 7 W., sec. 6;

(9) tract C–3m–d, located southwest of Astor in Lake County, consisting of approximately 15.0 acres, and more particularly described as T. 15 S., R. 28 E., sec. 37;

(10) tract C–691, Lake County, consisting of the subsurface rights to approximately 40.76 acres of land, and more particularly described as T. 17 S., R. 29 E., sec. 25, SE¼ NW¼;

(11) tract C–2208b, Lake County, consisting of approximately 39.99 acres, and more particularly described as T. 17 S., R. 28 E., sec. 28, NW¼ SE¼;

(12) tract C–2209, Lake County, consisting of approximately 127.2 acres, as depicted on the map, and more particularly described as T. 17 S., R. 28 E., sec. 21, NE¼ SW¼, SE¼ NW¼, and SE¼ NE¼;

(13) tract C–2209b, Lake County, consisting of approximately 39.41 acres, and more particularly described as T. 17 S., R. 29 E., sec. 32, NE¼ SE¼;

(14) tract C–2209c, Lake County, consisting of approximately 40.09 acres, and more particularly described as T. 18 S., R. 28 E., sec. 14, SE¼ SW¼;

(15) tract C–2209d, Lake County, consisting of approximately 79.58 acres, and more particularly described as T. 18 S., R. 29 E., sec. 5, SE¼ NW¼, NE¼ SW¼;

(16) tract C–2210, government lot 1, 20 recreational residential lots, and adjacent land on Lake Kerr, Marion County, consisting of approximately 30 acres, and more particularly described as T. 13 S., R. 25 E., sec. 22;

(17) tract C–2213, located in the F.M. Arrendondo grant, East of Ocala, Marion County, and including a portion of the land located east of the western right-of-way of State Highway 19, consisting of approximately 15.0 acres, and more particularly described as T. 14 and 15 S., R. 26 E., sec. 36, 38, and 40; and

(18) all improvements on the parcels described in paragraphs (1) through (17).

(c) Legal Description Modification.—The Secretary may, for the purposes of soliciting offers for the sale or exchange of land under subsection (d), modify the descriptions of land specified in subsection (b) based on—

(1) a survey; or

(2) a determination by the Secretary that the modification would be in the best interest of the public.

(d) Solicitations of Offers.—

(1) In general.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may solicit offers for the sale or exchange of land described in subsection (b).

(2) Rejection of offers.—The Secretary may reject any offer received under this section if the Secretary determines that the offer—

(A) is not adequate; or

(B) is not in the public interest.

(e) Methods of Sale.—The Secretary may sell the land described in subsection (b) at public or private sale (including at auction), in accordance with any terms, conditions, and procedures that the Secretary determines to be appropriate.

(f) Brokers.—In any sale or exchange of land described in subsection (b), the Secretary may—

(1) use a real estate broker; and

(2) pay the real estate broker a commission in an amount that is comparable to the amounts of commission generally paid for real estate transactions in the area.

(g) Concurrence of the Secretary of the Air Force.—A parcel of land described in paragraphs (1) through (7) of subsection (b) shall not be sold or exchanged by the Secretary without the concurrence of the Secretary of the Air Force.

(h) Cash Equalization.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), if the value of non-Federal land for which Federal land is exchanged under this section is less than the value of the Federal land exchanged, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land.

(i) Disposition of Proceeds.—

(1) In general.—The net proceeds derived from any sale or exchange under this Act shall be deposited in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(2) Use.—Amounts deposited under paragraph (1) shall be available to the Secretary for expenditure, without further appropriation, for—

(A) acquisition of land and interests in land for inclusion as units of the National Forest System in the State; and

(B) reimbursement of costs incurred by the Secretary in carrying out land sales and exchanges under this Act, including the payment of real estate broker commissions under subsection (f).

SEC. 4. ADMINISTRATION.

(a) In General.—Land acquired by the United States under this Act shall be—

(1) subject to the Act of March 1, 1911 (commonly known as the "Weeks Act") (16 U.S.C. 480 et seq.); and

(2) administered in accordance with laws (including regulations) applicable to the National Forest System.

(b) Applicable Law.—The land described in section 3(b) shall not be subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Withdrawal.—Subject to valid existing rights, the land described in section 3(b) is withdrawn from location, entry, and patent under the public land laws, mining laws, and mineral leasing laws (including geothermal leasing laws).

NOXIOUS WEED CONTROL ACT OF 2003

The Senate proceeded to consider the bill (S. 144) which had been reported from the Committee on Energy and Natural Resources, to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control and eradicate harmful, nonnative weeds on public and private land, with an amendment to strike all after the enacting clause.

The bill (S. 144), as amended, was read the third time and passed, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Noxious Weed Control Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) Noxious weed.—The term "noxious weed" has the same meaning as in the Plant Protection Act (7 U.S.C. 7702(10)).

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) State.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Island, and any other possession of the United States.

(4) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) Weed management entity.—The term "weed management entity" means an entity that—

(A) is recognized by the State in which it is established;

(B) is established by and includes local stakeholders, including Indian tribes;

(C) is established for the purpose of controlling or eradicating harmful, invasive weeds and increasing public knowledge and education concerning the need to control or eradicate harmful, invasive weeds; and

(D) is multijurisdicational and multidisciplinary in nature.

SEC. 3. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish a program to provide financial assistance through States to eligible weed management entities to control or eradicate weeds. In developing the program, the Secretary shall consult with the National Invasive Species Council, the Invasive Species Advisory Committee, representatives from States and Indian tribes with weed management entities or that have particular problems with noxious weeds, and public and private entities with experience in noxious weed management.

SEC. 4. ALLOCATION OF FUNDS TO STATES AND INDIAN TRIBES.

The Secretary shall allocate funds to States to provide funding to weed management entities to carry out projects approved by States to control or eradicate noxious weeds on the basis of the severity or potential severity of the noxious weed problem, the extent to which the Federal funds will be used to leverage non-Federal funds, the extent to which the State has made progress in addressing noxious weed problems, and such other factors as the Secretary deems relevant. The Secretary shall provide special consideration for States with approved weed management entities established by Indian Tribes, and may provide an additional allocation to a State to meet the particular needs and projects that such a weed management entity will address.

SEC. 5. ELIGIBILITY AND USE OF FUNDS.

(a) REQUIREMENTS.—The Secretary shall prescribe requirements for applications by States for funding, including provisions for auditing of and reporting on the use of the funds and criteria to ensure that weed management entities recognized by States are capable of carrying out projects, monitoring and reporting on the use of funds, and are knowledgeable about and experienced in noxious weed management and represent private and public interests adversely affected by noxious weeds. Eligible activities for funding shall include—

(1) applied research to solve locally significant weed management problems and solutions, except that such research may not exceed 8 percent of the available funds in any year;

(2) incentive payments to encourage the formation of new weed management entities, except that such payments may not exceed 25 percent of the available funds in any year; and

(3) projects relating to the control or eradication or noxious weeds, including education, inventories and mapping, management, monitoring, and similar activities, including the payment of the cost of personnel and equipment that promote such control or eradication, and other activities to promote such control or eradication, if the results of the activities are disseminated to the public.

(b) PROJECT SELECTION.—A State shall select projects for funding to a weed management entity on a competitive basis considering—

(1) the seriousness of the noxious weed problem or potential problem addressed by the project;

(2) the likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future;

(3) the extent to which the payment will leverage non-Federal funds to address the noxious weed problem addressed by the project;

(4) the extent to which the weed management entity has made progress in addressing noxious weed problems;

(5) the extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;

(6) the extent to which the project will reduce the total population of a noxious weed;

(7) the extent to which the project uses the principles of integrated vegetation management and sound science; and

(8) such other factors that the State determines to be relevant.

(c) INFORMATION AND REPORT.—As a condition of the receipt of funding, States shall require such information from grant recipients as necessary and shall submit to the Secretary a report that describes the purposes and results of each project for which the payment or award was used, by not later than 6 months after completion of the projects.

(d) FEDERAL SHARE.—The Federal share of any project or activity approved by a State or Indian tribe under this Act may not exceed 50 percent unless the State meets criteria established by the Secretary that accommodates situations where a higher percentage is necessary to meet the needs of an underserved area or addresses a critical need that can not be met otherwise.

SEC. 6. LIMITATIONS.

(A) LANDOWNER CONSENT; LAND UNDER CULTIVATION.—Any activity involving real property, either private or public, may be carried out under this Act only with the consent of the landowner and no project may be undertaken on property that is devoted to the cultivation of row crops, fruits, or vegetables.

(b) COMPLIANCE WITH STATE LAW.—A weed management entity may carry out a project to address the noxious weed problem in more than one State only if the entity meets the requirements of the State laws in all States in which the entity will undertake the project.

(c) USE OF FUNDS.—Funding under this Act may not be used to carry out a project—

(1) to control or eradicate animals, pests, or submerged or floating noxious aquatic weeds; or

(2) to protect an agricultural commodity (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) other than—

(A) livestock (as defined in section 602 of the Agricultural Trade Act of 1949 (7 U.S.C. 1471); or

(B) an animal- or insect-based product.

SEC. 7. RELATIONSHIP TO OTHER PROGRAMS.

Assistance authorized under this Act is intended to supplement, and not replace, assistance available to weed management entities, areas, and districts for control or eradication of harmful, invasive weeds on public lands and private lands, including funding available under the "Pulling Together Initiative" of the National Fish and Wildlife Foundation, and the provision of funds to any entity under this Act shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code (commonly known as the Payments in Lieu of Taxes Act).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act there is authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2003 through 2007, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.

GALISTEO BASIN ARCHAEOLOGICAL SITES PROTECTION ACT

The bill (S. 210) to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes, was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Galisteo Basin Archaeological Sites Protection Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Galisteo Basin and surrounding area of New Mexico is the location of many well preserved prehistoric and historic archaeological resources of Native American and Spanish colonial cultures;

(2) these resources include the largest ruins of Pueblo Indian settlements in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements; and

(3) these resources are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations.

(b) PURPOSE.—The purpose of this Act is to provide for the preservation, protection, and interpretation of the nationally significant archaeological resources in the Galisteo Basin in New Mexico.

SEC. 3. GALISTEO BASIN ARCHAEOLOGICAL PROTECTION SITES.

(a) IN GENERAL.—The following archaeological sites located in the Galisteo Basin in the State of New Mexico, totaling approximately 4,591 acres, are hereby designated as Galisteo Basin Archaeological Protection Sites:

Name	Acres
Arroyo Hondo Pueblo	21
Burnt Corn Pueblo	110
Chamisa Locita Pueblo	16
Comanche Gap Petroglyphs	764
Espinoso Ridge Site	160
La Cienega Pueblo & Petroglyphs	126
La Cienega Pithouse Village	179
La Cieneguilla Petroglyphs/Camino Real Site.	531
La Cieneguilla Pueblo	11
Lamy Pueblo	30
Lamy Junction Site	80
Las Huertas	44
Pa'ako Pueblo	29
Petroglyph Hill	130
Pueblo Blanco	878
Pueblo Colorado	120
Pueblo Galisteo/Las Madres	133
Pueblo Largo	60
Pueblo She	120
Rote Chert Quarry	5
San Cristobal Pueblo	520
San Lazaro Pueblo	360
San Marcos Pueblo	152
Upper Arroyo Hondo Pueblo	12
Total Acreage	4,591

(b) AVAILABILITY OF MAPS.—The archaeological protection sites listed in subsection (a) are generally depicted on a series of 19 maps entitled "Galisteo Basin Archaeological Protection Sites" and dated July, 2002. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall keep the maps on file and available for public inspection in appropriate offices in New Mexico of the Bureau of Land Management and the National Park Service.

(c) BOUNDARY ADJUSTMENTS.—The Secretary may make minor boundary adjustments to the archaeological protection sites by publishing notice thereof in the Federal Register.

SEC. 4. ADDITIONAL SITES.

(a) IN GENERAL.—The Secretary shall—

(1) continue to search for additional Native American and Spanish colonial sites in the Galisteo Basin area of New Mexico; and

(2) submit to Congress, within three years after the date funds become available and thereafter as needed, recommendations for additions to, deletions from, and modifications of the boundaries of the list of archaeological protection sites in section 3 of this Act.

(b) ADDITIONS ONLY BY STATUTE.—Additions to or deletions from the list in section 3 shall be made only by an Act of Congress.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—

(1) The Secretary shall administer archaeological protection sites located on Federal land in accordance with the provisions of this Act, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), and

other applicable laws in a manner that will protect, preserve, and maintain the archaeological resources and provide for research thereon.

(2) The Secretary shall have no authority to administer archaeological protection sites which are on non-Federal lands except to the extent provided for in a cooperative agreement entered into between the Secretary and the landowner.

(3) Nothing in this Act shall be construed to extend the authorities of the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Repatriation Act to private lands which are designated as an archaeological protection site.

(b) Management Plan.—

(1) In general.—Within three complete fiscal years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, a general management plan for the identification, research, protection, and public interpretation of—

(A) the archaeological protection sites located on Federal land; and

(B) for sites on State or private lands for which the Secretary has entered into cooperative agreements pursuant to section 6 of this Act.

(2) Consultation.—The general management plan shall be developed by the Secretary in consultation with the Governor of New Mexico, the New Mexico State Land Commissioner, affected Native American pueblos, and other interested parties.

SEC. 6. COOPERATIVE AGREEMENTS.

The Secretary is authorized to enter into cooperative agreements with owners of non-Federal lands with regard to an archaeological protection site, or portion thereof, located on their property. The purpose of such an agreement shall be to enable the Secretary to assist with the protection, preservation, maintenance, and administration of the archaeological resources and associated lands. Where appropriate, a cooperative agreement may also provide for public interpretation of the site.

SEC. 7. ACQUISITIONS.

(a) In General.—The Secretary is authorized to acquire lands and interests therein within the boundaries of the archaeological protection sites, including access thereto, by donation, by purchase with donated or appropriated funds, or by exchange.

(b) Consent of Owner Required.—The Secretary may only acquire lands or interests therein with the consent of the owner thereof.

(c) State Lands.—The Secretary may acquire lands or interests therein owned by the State of New Mexico or a political subdivision thereof only by donation or exchange, except that State trust lands may only be acquired by exchange.

SEC. 8. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the archaeological protection sites are hereby withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws and all amendments thereto;

(2) from location, entry, and patent under the mining law and all amendments thereto; and

(3) from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act shall be construed—

(1) to authorize the regulation of privately owned lands within an area designated as an archaeological protection site;

(2) to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands;

(3) to modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or

(4) to restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

FORT BAYARD NATIONAL HISTORIC LANDMARK ACT

The Senate proceeded to consider the bill (S. 214) which had been reported from the Committee on Energy and Natural Resources, to designate Fort Bayard historic district in the State of New Mexico as a national historic landmark, and for other purposes, with an amendment to strike all after the enacting clause.

The bill (S. 214), as amended, was read the third time and passed, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Bayard National Historic Landmark Act".

SEC. 2. FORT BAYARD NATIONAL HISTORIC LANDMARK.

(a) Designation.—The Fort Bayard Historic District in Grant County, New Mexico, as listed on the National Register of Historic Places, is hereby designated as the Fort Bayard National Historic Landmark.

(b) Administration.—

(1) Designation of the Fort Bayard Historic District as a National Historic Landmark shall not prohibit any actions which may otherwise be taken by the property owner with respect to the property.

(2) Nothing in this Act shall affect the administration of the Fort Bayard Historic District by the State of New Mexico.

SEC. 3. COOPERATIVE AGREEMENTS.

(a) In General.—The Secretary, in consultation with the State of New Mexico, may enter into cooperative agreements with appropriate public or private entities, for the purposes of protecting historic resources at Fort Bayard and providing educational and interpretive facilities and programs for the public. The Secretary shall not enter into any agreement or provide assistance to any activity affecting Fort Bayard State Hospital without the concurrence of the State of New Mexico.

(b) Technical and Financial Assistance.—The Secretary may provide technical and financial assistance with any entity with which the Secretary has entered into a cooperative agreement under subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

COLTSVILLE STUDY ACT OF 2003

The bill (S. 233) to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coltsville Study Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) Hartford, Connecticut, home to Colt Manufacturing Company (referred to in this Act as "Colt"), played a major role in the Industrial Revolution;

(2) Samuel Colt, founder of Colt, and his wife, Elizabeth Colt, inspired Coltsville, a community in the State of Connecticut that flourished during the Industrial Revolution and included Victorian mansions, an open green area, botanical gardens, and a deer park;

(3) the residence of Samuel and Elizabeth Colt in Hartford, Connecticut, known as "Armsmear", is a national historic landmark, and the distinctive Colt factory is a prominent feature of the Hartford, Connecticut, skyline;

(4) the Colt legacy is not only about firearms, but also about industrial innovation and the development of technology that would change the way of life in the United States, including—

(A) the development of telegraph technology; and

(B) advancements in jet engine technology by Francis Pratt and Amos Whitney, who served as apprentices at Colt;

(5) Coltsville—

(A) set the standard for excellence during the Industrial Revolution; and

(B) continues to prove significant—

(i) as a place in which people of the United States can learn about that important period in history; and

(ii) by reason of the close proximity of Coltsville to the Mark Twain House, Trinity College, Old North Cemetery, and many historic homesteads and architecturally renowned buildings;

(6) in 1998, the National Park Service conducted a special resource reconnaissance study of the Connecticut River Valley to evaluate the significance of precision manufacturing sites; and

(7) the report on the study stated that—

(A) no other region of the United States contains an equal concentration of resources relating to the precision manufacturing theme that began with firearms production;

(B) properties relating to precision manufacturing encompass more than merely factories; and

(C) further study, which should be undertaken, may recommend inclusion of churches and other social institutions.

SEC. 3. STUDY.

(a) In General.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior (referred to in this Act as the "Secretary") shall complete a study of the site in the State of Connecticut commonly known as "Coltsville" to evaluate—

(1) the national significance of the site and surrounding area;

(2) the suitability and feasibility of designating the site and surrounding area as a unit of the National Park System; and

(3) the importance of the site to the history of precision manufacturing.

(b) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with Public Law 91–383 (16 U.S.C. 1a-1 et seq.).

SEC. 4. REPORT.

Not later than 30 days after the date on which the study under section 3(a) is completed, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

KALOKO-HONOKŌHAU NATIONAL HISTORICAL PARK ADDITION ACT OF 2003

The bill (S. 254) to revise the boundary of the Kaloko-Honokōhau National Historical Park in the State of Hawaii, and for other purposes, was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kaloko-Honokōhau National Historical Park Addition Act of 2003".

SEC. 2. ADDITIONS TO KALOKO-HONOKŌHAU NATIONAL HISTORICAL PARK.

Section 505(a) of Public Law 95–625 (16 U.S.C. 396d(a)) is amended—

(1) by striking "(a) In order" and inserting "(a)(1) In order";

(2) by striking "1978," and all that follows and inserting "1978."; and

(3) by adding at the end the following new paragraphs:

"(2) The boundaries of the park are modified to include lands and interests therein comprised of Parcels 1 and 2 totaling 2.14 acres, identified as 'Tract A' on the map entitled 'Kaloko-Honokōhau National Historical Park Proposed Boundary Adjustment', numbered PWR (PISO) 466/82,043 and dated April 2002.

"(3) The maps referred to in this subsection shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

REMEMBERING AND HONORING THE HEROIC LIVES OF ASTRONAUTS AIR FORCE LIEUTENANT COLONEL MICHAEL ANDERSON AND NAVY COMMANDER WILLIAM "WILLIE" McCOOL

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 73, submitted earlier today by Senators CANTWELL and MURRAY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution, S. Res. 73, remembering and honoring the heroic lives of astronauts Air Force Lieutenant Colonel Michael Anderson and Navy Commander William "Willie" McCool.

Mr. REID. Madam President, I would like to be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating to this measure be printed in the RECORD, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 73) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 73

Whereas mankind lost 7 heroes with the tragic explosion of the Space Shuttle Columbia on February 1, 2003;

Whereas the families and friends of the 7 astronauts, the National Aeronautics and Space Administration, the entire Nation, and people around the world who followed the historic mission will deeply miss the 7 crew members of the Space Shuttle Columbia;

Whereas the astronauts made an important contribution as models of bravery, courage, and excellence for men, women, and children around the world;

Whereas 2 of these heroes, Air Force Lieutenant Colonel Michael Anderson and Navy Commander William "Willie" McCool, are particularly close to the hearts of residents of the State of Washington;

Whereas Lieutenant Colonel Anderson was a beloved son of the Spokane community since moving there at the age of 11, and a cherished hero for men, women, and children in Washington;

Whereas Lieutenant Colonel Anderson was a hero, long before accepting the challenge of the Columbia mission, for leading a life characterized by courage, achievement against many odds, and sacrifice for this country;

Whereas the story of Lieutenant Colonel Anderson is even more remarkable in light of the barriers to success that young African-Americans in this country have had to overcome;

Whereas this remarkable story has long been shared at the childhood church of Lieutenant Colonel Anderson and throughout the Spokane African-American community, and has inspired a generation of children;

Whereas throughout his early education in Spokane area public schools, Lieutenant Colonel Anderson focused on voyaging to space as an astronaut and became an exceptional science student;

Whereas since becoming an astronaut in 1994, Lieutenant Colonel Anderson took to heart the special responsibility of serving as a role model for children around the country and back home;

Whereas after his 1998 flight on the Space Shuttle Endeavor to the Mir Space Station, Lieutenant Colonel Anderson returned to Cheney High School in Spokane and told a crowd of enthralled students that dreams such as his of becoming an astronaut can be achieved with hard work and clear goals;

Whereas Lieutenant Colonel Anderson embodied excellence and provided a triumphant example of accomplishment for Americans of all colors, races, and backgrounds;

Whereas the Washington family lost another dear friend in Commander McCool, who made Anacortes, Washington his home during 2 periods of service at Naval Air Station Whidbey Island;

Whereas community members remember Commander McCool for his kindness, professionalism, and love of his children;

Whereas Commander McCool continued to pay visits to the Anacortes community and was a cherished member of the community; and

Whereas Lieutenant Colonel Anderson and Navy Commander McCool will be missed but never forgotten: Now, therefore, be it

Resolved, That the Senate remembers and honors the heroic lives of astronauts Lieutenant Colonel Michael Anderson and Commander William McCool.

ORDERS FOR WEDNESDAY, MARCH 5, 2003

Mr. FRIST. Madam President, I ask unanimous consent when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, March 5. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period of morning business until the hour of 11 a.m., with the time equally divided between the two leaders or their designees; provided further that at 11 a.m. the Senate then resume executive session and the consideration of the Estrada nomination: that the time until 12 noon be equally divided between the chairman and ranking member or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I wonder if it would be helpful—unless I am reading this wrong—it would be helpful if either the majority or minority have the first 45 minutes of the morning business time; otherwise we have people waiting around trying to find out when to speak. We have no problem as to when we do it, either first or last, but if we can do that, that would be helpful.

Mr. FRIST. My understanding is you would have the first half and we would have the second half.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow there will be a period of morning business to allow Senators to introduce legislation and also to make statements. At 11 a.m. we will once again resume the Estrada nomination.

As a reminder to our colleagues, the cloture motion was filed on the Estrada nomination earlier this afternoon. That cloture vote will occur on Thursday morning and Members will be notified as soon as a specific time is locked in for the vote.

Under a previous unanimous consent agreement, the Senate will begin consideration of the Moscow Treaty at noon tomorrow. Relevant amendments are in order to the resolution of ratification, and therefore Senators should expect rollcall votes during tomorrow's session.

While I regret that such action had to be taken, in terms of the filing of cloture, I believe it is in the best interests of the Senate to move this process forward.

ADJOURNMENT UNTIL 9:30 A.M TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:26 p.m., adjourned until Wednesday, March 5, 2003, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, March 4, 2003*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 4, 2003.

I hereby appoint the Honorable JEFF MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. ROYBAL-ALLARD) for 5 minutes.

UNDERAGE DRINKING

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to talk to my colleagues about an important subject that has a significant impact on our national public health and on our children: underage drinking. My interest in this topic began as a member of the subcommittee of the Committee on Appropriations with jurisdiction over ONDCP, the Office of National Drug Control Policy.

During my first year on the committee, I was surprised to discover that although Congress had appropriated $2 billion to conduct a media campaign directed at the illegal use of drugs by children, ONDCP had inexplicably left out their illegal use of alcohol. I was surprised by that because while drinking under the age of 21 is illegal in all 50 States, over 10 million kids in the United States consume alcohol illegally, starting on average at age 13.

The research on the damage caused by underage drinking is dramatic, and let me cite just two examples: The first is based on research by the National Institutes of Health that found that young people who begin drinking before the age of 15 are four times more likely to become alcoholics than those who begin drinking after the age of 21. The second, and perhaps most compelling finding, is the one with a direct relationship to illegal drug use based on the study by the National Center on Addiction and Substance Abuse at Columbia University, known as CASA. This study found that underage drinkers are 22 times more likely to use marijuana and 50 times more likely to try cocaine than kids who do not drink under the age.

In 1999, the gentleman from Virginia (Mr. WOLF) and I attempted to add underage alcohol use to the ONDCP's youth antidrug media campaign. The Mothers Against Drunk Driving, the Center for Science in the Public Interest, the National Crime Prevention Council, and a number of other organizations long associated with these issues, supported our efforts. Unfortunately, very powerful interests in the alcohol industry lobbied against the amendment to include warnings to parents and kids about the dangers of underage drinking, and our amendment was defeated by the Committee on Appropriations.

Since that time, the gentleman from Virginia (Mr. WOLF), the gentleman from Tennessee (Mr. WAMP), and I have introduced legislation to establish a separate national media campaign to reduce and to prevent underage drinking. Over 80 of our colleagues, both Republicans and Democrats, have sponsored this bill. Unfortunately, we have not been successful in passing the bill to date, but we will continue to make this fight.

The importance of this fight was again highlighted last week when the National Center on Addiction and Substance Abuse at Columbia University, CASA, reported extremely troubling findings newsworthy enough to have appeared in the media across the Nation. CASA at Columbia University reported that teenagers account for nearly 20 percent of the alcohol consumed in the United States every year. Adding to this troubling finding is the fact that Dr. Susan Foster, who led the CASA study, published in the Journal of the American Medical Association, said that she believed that these new estimates were very conservative.

The President of CASA, Joseph Califano, a former secretary of the Department of Health, Education and Welfare and co-author of the CASA study, reported that approximately 5 million high school students admitted that at least once a month they consume five drinks on one occasion. This is extremely alarming since research suggests that alcohol, especially in large amounts, can harm the still developing teenage brain, not to mention the huge toll alcohol abuse has on the Nation, due to car accidents, injuries, high-risk sexual behavior and alcohol poisoning.

To address this looming crisis, Mr. Califano and three former U.S. surgeons general; Dr. Julius Richmond, who served under Jimmy Carter; Dr. David Satcher, who served under President Bill Clinton; and Dr. Antonia Novello, who served under George W. Bush; issued a nationwide call to action, asking parents, the public health community, and the alcohol industry to join forces to stop this looming tragedy among our youth. Among their recommendations were that information about the dangers of excessive and underage drinking be included on labels as is now done for cigarettes. They also recommend that the nutritional content of alcohol products including calories appear on the labels. Mr. Califano and the surgeons general further recommend that Federal and State governments mount a public health campaign to curb alcohol abuse, particularly among children, teens, and college students.

Mr. Speaker, we need to do everything we can to stop the illegal spending of $22.5 billion on illegal alcohol in this country, and we will continue to work together with the gentleman from Virginia (Mr. WOLF), the gentleman from Tennessee (Mr. WAMP) and others to make sure that we address the serious crisis.

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by the National Institutes of Health that found that young people who begin drinking before the age of 15 are four times more likely to become alcoholics than those who begin drinking after the age 21. The second, and perhaps the most compelling finding, is the one with a direct relationship to illegal drug use based on a study by the National Center on Addiction and Substance Abuse at Columbia University—CASA. This study found that underage drinkers are 22 times more likely to use marijuana and 50 times more likely to try cocaine than kids who do not drink.

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In order to create a barrier to the purchase of alcohol, particularly among teens, who illegally spend $22.5 billion a year on alcohol, the former surgeons-general recommend increasing state and federal taxes on alcohol, so kids can't afford to spend a lot of money on illegal drinking. I believe these are common-sense recommendations that will help to curtail the severe problem in which 20 percent of our Nation's alcohol is consumed illegally by our children. Morally and practically we cannot afford to continue losing our children to alcohol abuse. Working together, buttressed by the best scientific evidence, I believe we can identify effective methods to protect our kids. I, with Congressman FRANK WOLF and Congressman ZACH WAMP, and the many other colleagues who have joined us will continue to work on this issue until we successfully address this public health crisis in our Nation.

I thank my colleagues for their interest in this important matter affecting our Nation's children and our Nation's future.

TRIBUTE TO COLONEL ILAN RAMON

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

Mr. PENCE. Mr. Speaker, today marks the 30th day since the Shuttle *Columbia* disaster, and thus the end of what is for Jews around the world a traditional 30-day mourning period for the untimely death of Israeli astronaut Colonel Ilan Ramon. It is my privilege to rise here on the blue carpet of the House of Representatives as friends and family and leadership gather at this very hour in Jerusalem with the bereaved and with the family and children of Colonel Ramon to remember a life of extraordinary accomplishment.

Colonel Ramon's journey into space occurred in the midst of continued suffering in his homeland, a horrendous period of violence, and his bravery helped lift the spirits of his countrymen. No one understood the significance of his expedition more than Colonel Ramon himself. Before launching from the Kennedy Space Center on January 16, 2003, Ramon remarked "Being the first Israeli astronaut, I feel I am representing all Jews and all Israelis. I'm the son of a Holocaust survivor. I carry on the suffering of the Holocaust generation, and I'm kind of proof that despite all the horror they went through, we are going forward."

Mr. Speaker, Colonel Ramon rose from the lowest depths to the highest heights and brought his country, his people, and the entire world with him. He graduated as a fighter pilot from the Israel Air Force flight school and commanded a squadron of pilots in the raid on the Iraqi nuclear reactor at Osirak in 1981, saving Israel and the world from the threat of a nuclear Iraq led by Saddam Hussein.

Colonel Ramon died together with Christians from America and with a Muslim from Pakistan. He died living out the prophetic dream of unity in one purpose that is shared by all those who embrace the Abrahamic tradition of faith. His life is a testimony to the great idea that one man can truly change the world, that a child from any background, any faith, any social status can indeed turn out to be an Ilan Ramon.

Mr. Speaker, Colonel Ilan Ramon did more than die a hero as part of *Columbia* seven. He lived as a hero. May his memory be blessed and his family comforted among the mourners of Zion and Jerusalem and America this day.

CORPORATE ACCOUNTABILITY TAX GAP ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Texas (Mr. DOGGETT) is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Mr. Speaker, an old maxim "the more you know, the better your decision," underlies my introduction of the "Corporate Accountability Tax Gap Act." We need this legislation because of the growing gap between what corporate America claims as giant profits to lure investors—called "book" profits and what it reports as little income to the Internal Revenue Service—called "tax" profits.

While not compelling closure of this gap, this bill would require publicly traded corporations to report, and in some cases, to explain the discrepancy. Like the canary in the coal mine, a little bit of transparency in accounting would be a "WorldCom," "Enron," and all those other corporate scandals "early warning system" to avoid a repeat of this past three long years of stock market losses and to root out abusive tax shelter schemes.

To those who say "what you don't know can't hurt you," I submit as Exhibit A a new 2,800-page report on the Enron scandal that has been reviewed before the Senate Finance Committee.

Those 2,800 pages represent essentially about 2,800 reasons why "trust" is no longer a substitute for "verify" when it comes to corporate income. This report on Enron's financial and tax shenanigans is longer than any Charles Dickens novel but no less bleak.

This report released by the Joint Committee on Taxation documents that in four years Enron glowingly bragged of $2.3 billion in income to its shareholders, while at the same time it was reporting $3 billion in losses, not income, to the IRS.

The $5 billion Enron credibility gap is not unique. In the last year for which we have data, there was an estimated $159 billion gap between book earnings that corporations report to investors and taxable earnings reported to the IRS.

Too often investors read a rosy earnings report, while at tax time, Uncle Sam hears only regrets written in red ink. In the words of Wall Street Journal columnist Alan Murray, "it's increasingly clear that lying to shareholders and lying to the IRS are just opposite sides of the same coin."

The "Crooked E" had many enablers, but ultimately much of the blame belongs right here in this Congress, which was unwilling to make the changes necessary to prevent Enron-type debacles. Last year, the Senate Finance Committee demanded the Enron report and held hearings. In the House, unfortunately, the Committee on Ways and Means washed its hands of the entire matter. It was not interested in inspecting the Enron reports. It refused to hold a hearing, much less report a bill out of committee. The Republican leadership feared that if we lifted that rock just a little, the public would be outraged by what crawled out concerning corporate misconduct.

I ask today that my colleagues help me lift the rock, just a little, by supporting the "Corporate Accountability Tax Gap Act."

In this Enron report, one tax promoter touts itself as an "Architect of value." This architect, though, only built facades, created only virtual value to defraud investors and the government alike.

□ 1245

This report shows that Enron patterned some of its tricks after what other corporations were doing. Indeed, in only the last few days we have had a spate of corporate scandals, including the grocer Ahold and the phone company Sprint, which indicates that much more work remains to be done.

Certainly not all of the book/tax gap comes from accounting gains, but a Harvard Business School study last year determined that more than half of the gap could not be explained by common tax deductions. Tricky leasing games and off-balance sheet transactions can hide financial difficulties while artificially inflating earnings.

If a corporation's biggest profit center is its tax department, the investors need to know it.

Under my bill, publicly-traded companies would disclose the bottom-line net income tax that they paid as well as the federal income tax expense they reported to the Securities and Exchange Commission. The gap between the two would be exposed for all to see and to explore.

Continued secrecy is not in the public interest. A host of Enron executives have demonstrated the truth of former Chief Justice Earl Warren's remark that "it would be difficult to name a more efficient ally of corruption than secrecy."

Finally, my bill would commit the Treasury Department, working together with Congress, to report promptly on a study of this troubling book/tax gap and recommend further appropriate changes. The scope of the problem and the harm it can inflict on hard-working investors, especially seniors with limited retirement income, have motivated strong public interest and an endorsement from Citizens Works and Taxpayers for Common Sense.

Allowing a few to dodge their fair share of support for our national security and other needs means increasing the burden on honest Americans. Restoring investors' confidence in the market means arming them with more than glossy, self-serving, shareholder reports. Protecting hard-working Americans' investments means approving the "Corporate Accountability Tax Gap Act" to assist the public in deciding whether financial reports are based on facts or fairy tales.

CARGO PILOT SECURITY MEASURES

The SPEAKER pro tempore (Mr. MILLER of Florida). Pursuant to the order of the House of January 7, 2003, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, at few other times has national security been more important. In the 107th Congress, we enacted many pieces of legislation that sought to strengthen the weakness of our homeland security. That weakness was apparent on 9–11. Yet, Mr. Speaker, a lot remains.

I rise today to address the security of our airline pilots and the fact that there seems to be serious differences in the scope of security that exist between different types of pilots, namely the cargo pilots.

Tens of thousands of cargo pilots are not able to enjoy the same level of security that has been put into place for many of the pilots of our Nation's passenger airlines. Little attention has been given to thousands of cargo jets that dot American skies each day. Terrorists are going to look for the path of least resistance, much like water; and it is merely a matter of time before men realize that their chances for success are higher in the cargo wing of an airport, where security is significantly more relaxed.

With the passage of the homeland security bill, passenger pilots were given the right to carry arms, but for some reason this same security measure has not been afforded to our Nation's cargo pilots.

If compromised, some cargo jets could become significantly more dangerous than those of the planes used on September 11. With increased fuel payloads and oftentimes dangerous cargos in their hulls, the impact from one of these jets would be devastating.

In recent months I have received several letters from cargo pilots in my district. These men and women are concerned that they are not getting the same attention as their passenger airline counterparts.

Cargo pilots fly the skies alone without the protection of Federal sky marshals or the possible support of a flight crew or hundreds of passengers. These pilots are in dire need of a last-ditch defense that will protect the cockpit, their cargo, and potentially thousands of lives on the ground.

The pilots of major cargo carriers, like UPS and Federal Express, are concerned and have voiced the fact that they no longer feel safe. Many of these jets weigh upwards of 800,000 pounds and carry over 50,000 gallons of fuel. The impact created by one of these planes would be unimaginable.

I feel that the message has been sent to potential terrorists who realize this and that we need to do something to protect innocent lives.

The FAA desires one level of security for all pilots, and I feel it necessary we should provide it for the cargo pilots. Political maneuvering by the cargo industry has shielded them from the level of security screening mandated for the passenger terminal. The entire burden for the security of the aircraft rests on two or three pilots who are in that cockpit.

There is little cargo pilots can do to defend the aircraft against a terrorist attack. Stripping these men and women of the ability to carry firearms in the post 9–11 environment is not right.

It is time that we address this obvious loophole in cargo security. In a maneuver that seemingly took place at the eleventh hour, the word "passenger" was inserted in the House bill's provision for arming pilots, and a similar change took place in the Senate version shortly thereafter. The effect of this single-word change is that it exempts all cargo carriers from the Federal mandate to arm pilots in a bill intended to enhance the pilot's ability to protect the airplane.

I feel that this back-room deal defies the initial intent of the bill and the will of our Congress. This body voted overwhelmingly to mandate firearms for all airplane pilots, not just those in the passenger service. We displayed our bipartisan support for this mandate with votes of 310 to 113 in the House and 87 to 6 in the Senate.

Mr. Speaker, it is time to fix this disparity and close the loophole once and for all so that all pilots in this country enjoy the same level of security.

BUSH BUDGET AND HEALTH CARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentlewoman from California (Ms. SOLIS) is recognized during morning hour debates for 5 minutes.

Ms. SOLIS. Mr. Speaker, today I rise to discuss an issue important to my community, and that happens to be health care.

I am concerned by the President's health care proposal for this year's budget. The President's Medicaid proposal will not help the poor, the sick, the elderly and the disabled, in my opinion. In fact, the President's proposal weakens the health care safety net for millions, millions of people.

Currently, Medicaid is an entitlement as we know it, which means that States receive funding based on the number of people in their State who qualify for this coverage. The Bush proposal would encourage States to eliminate Medicaid funding for many people insured by the program in return for a small amount of so-called fiscal relief.

This proposal requires States to choose between short-term fiscal help and damaging long-term financial constraints. It raises out-of-pocket costs and reduces medically-necessary benefits to the poor, and it fails to address the increasing problem of the uninsured.

We have all heard from our States and our Governors about the budget cuts that they are soon going to be implementing and the impact it will have on Medicaid.

For example, in my own State of California, our Governor has proposed cutting optional programs like adult dental care, physical therapy, and diabetes management, a bill that I carried in the House when I was a member of the Senate.

So one would think during these difficult times our priority would be on reinforcing Federal support for Medicaid programs. Instead, at this time when States are seeing rising rates of Medicaid enrollment for young children and families, this administration wants to change the rules of the game.

We have unemployment rates in my district as high as 9 percent. Nine percent. That is astronomical. And you are seeing this administration taking a position to scale back the help to the working poor and low-income families and disabled people who rely on Medicaid.

Let me be clear: I support flexibility in Medicaid programs. But to me flexibility means that the States should have the opportunity to help more people in need, to design programs which fit the needs of their residents, and to come up with creative solutions covering most of the uninsured, if not all. Flexibility does not have to mean that we put everything in block grants and cut off services.

As Chair of the Congressional Hispanic Caucus Health Task Force, I want to take this opportunity to talk a little bit about what the Bush Medicaid block grant proposal will do to the Latino community.

Nationwide, 37 percent of non-elderly Latinos are uninsured, a rate that is double that of whites. Medicaid is a critical source of health care for Latinos. Forty percent of poor Latinos are covered by this program.

If we scale back Medicaid coverage, we are going to be scaling back the health care for many young families, Latino families; and as we know, when we scale back access to health care in the guise of saving money, it ends up costing us more in the long run. When people do not have access to doctors in order to prevent disease, we end up paying much higher costs when people have to go to the emergency room, which is happening right now in my district.

Uninsured children are 70 percent more likely than insured children not to receive medical coverage for common illnesses like ear infections. Thirty percent are less likely to receive medical attention when they are injured. It simply does not make sense to scale back Medicaid at a time when we have over 40 million people without health insurance in this country.

In addition, the Medicaid proposal in the administration's budget either largely ignores or endangers the health priorities of the Latino community. The budget misses a critical opportunity to lift the ban on health care for legal immigrant children and pregnant women.

The President's budget also reduces funding for environmental health programs at the CDC by $2 million. These programs help us combat and prevent diseases caused by toxic substances in our neighborhoods. This is very critical in my community, where we are faced with heavy air pollution and water contamination and we have many children facing high rates of asthma.

Bush's budget does not prioritize the well-being only of the Latino community, but of millions and millions of people. In fact, the President's budget proposal represents a substantial setback for the Hispanic Americans and their aspirations for a future that includes greater economic opportunity, quality education for their children, and access to better health care.

For example, the President's budget also fails to reform the unemployment insurance system for which many Latinos are ineligible due to the program's restrictive rules that prevent part-time and low-wage workers from qualifying for employment insurance. After all, they have earned it. They worked, but they are not eligible to receive this benefit.

In terms of education, the President proposes budget cuts in programs that have proven to lead to academic gains for Hispanics. The 21st Century Community Learning Centers Program provides funding to community-based organizations and schools to sponsor after-school programs. He plans to cut this. In his budget this year, 570,000 children will not receive this benefit.

Mr. Speaker, I ask my colleagues to work with us so that we can ensure that all Americans have access to quality health care, education, and a clean environment.

TIME FOR AMERICA TO SLOW DOWN AND CONSIDER OPTIONS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, the recent cavalcade of events surrounding the actions of the United States in Iraq and other foreign affairs has compounded the apprehension that many have felt these last 8 months. It is time for the United States collectively to slow down, take a deep breath, step back and consider our options.

Comments I have received from constituents at home, from my Web site, as well as just simply reading the many conflicting poll results, suggest that most Americans would appreciate a reflective pause.

Terrorism is the greatest threat to Americans at home and abroad, despite the recent obsession with Iraq. Notwithstanding the performance by the Department of Homeland Security, which resembled a "Saturday Night Live" skit with talk of duct tape and plastic, terrorism is still serious business.

I am not opposed to the United States using force when appropriate. I think most of us now wish we had done so to deal with the genocide in Rwanda. Previously, I supported military action in the Balkans when some of the now-hawkish Republican colleagues of mine would not support force to stop genocide in the former Yugoslovia.

□ 1300

It is clear that we have mishandled the northern situation; that we have been less than diligent with Pakistan; that we have missed opportunities to retire weapons and nuclear material from the former Soviet Union. Moreover, the administration clearly did not provide adequate money for reconstructing Afghanistan in its most recent budget.

It is in an effort to highlight this situation that I have chosen to cosponsor a resolution offered by my colleague, the gentleman from Oregon (Mr. DEFAZIO), to rescind Congress' authorization of force passed last year. Even though this proposal is unlikely to be approved by the House, it is important to send the right signal to the administration. It is not too late to be more strategic and to learn from our past mistakes.

Most important, especially if we are going to follow the route the administration is pursuing, a proper foundation is critical. If we expect multilateral cooperation and accountability from our friends, allies, and other world powers, we must demonstrate those characteristics ourselves. It would be outrageous if, as part of a deal with Turkey to secure their support, we end up selling out the Kurds in Iraq, the only people that have a modicum of self-determination.

Should we go to war, the American people are unprepared by the administration for the probable consequences of the inevitable United States short-term victory. Even supporters of the Bush policy admit that a post-Saddam situation in Iraq will very likely resemble Yugoslavia without Tito. There, after hundreds of thousands of lives were lost and billions of dollars spent, we still have 20,000 troops in the Balkans and the region remains a basket case. Our past actions should give people pause.

The United States gains little by rushing to war with Iraq. We should continue to work with our allies, pursue a program of coercive inspections, and marshall a much broader coalition in support of our effort.

Just as critically, we must try to stop the situation with North Korea from spinning out of control while reconnecting with South Korea. More time and money and effort should be expended on the Nunn-Lugar program to invest in decommissions of weapons of mass destruction in the former Soviet Union. Pakistan and its activities with the North Koreans and potential links to terrorists need to be elevated in our awareness and policy issues. Nuclear and other weapons of mass destruction are much less likely to come from Iraq than they are from North Korea, from dissident elements in Pakistan, or remnants of the former Soviet Union.

Most important, we need to acknowledge that the threats posed to America at home and abroad come primarily from terrorism. We should provide resources for the cash-strapped States and localities that have been dealing every day since September 11 with the consequences and potential for terrorism at home. This is beyond homeland security, this is hometown security, and deserves priority.

Our actions overseas should be appraised carefully as to the impact on our efforts to track down terrorists and prevent future attacks. It is important that the administration and Congress level with the American people that this is an expensive, arduous, complex task. It will require money, commitment, and, most important, patience over the long haul.

We certainly should be clear about the costs of any action in Iraq, and prepare the American public for the likely consequences our policy will have in that volatile part of the world. Americans may be conflicted about Iraq and anxious as to terrorism, but I know they are willing, as never before in my lifetime, to come together for the protection of their communities and the greater good of our country and peace in the world. Should we not take advantage of their interest and intention, we will regret this lost opportunity for years to come.

THE BUSH ADMINISTRATION HAS NO PLANS TO PROVIDE REAL PRESCRIPTION DRUG BENEFITS FOR SENIORS

The SPEAKER pro tempore (Mr. MILLER of Florida). Pursuant to the order of the House of January 7, 2003, the gentleman from California (Mr. GEORGE MILLER) is recognized during morning hour debates for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, this morning, President Bush announced his prescription drug benefit plan for senior citizens in this country. When it was all said and done, at the end of the speech it became clear that there really is no plan for prescription drugs from the Bush administration for the seniors in this country.

The President said he wanted to give seniors more rights to choose and it be more flexible, but the fact is, there is nothing to choose and nothing to be flexible about. He promised comprehensive benefits, but he refused to define what a comprehensive benefit was. He said he wanted to protect against high drug costs, but he refused to say what a high drug cost was. He said he wanted to provide catastrophic care, and yet he refused to say what that catastrophic figure would be so that the seniors could take benefit of it.

Why is that so? Because the prescription drug benefit announced by the President today is no different than the one that was announced just a few months ago; that is, he does not use prescription drugs to benefit the seniors of this country that need it to maintain their health, to prevent diseases and illnesses, and to help them recover from illnesses; rather, he uses prescription drugs to beat down the Medicare system.

The plan he announced today is the same as he announced before: seniors must leave the Medicare system. In order to get a prescription drug benefit, they must leave the Medicare system that has served millions and millions of seniors so well over the last 40 years. It has provided them the health care they would not have otherwise been able to have; and it also kept millions of them out of poverty, because it provided that health care. It has improved all of the health statistics with respect to seniors.

Now the President says if they want a prescription drug benefit, they have to leave that system. They have to go into the HMO system. In the last several years, millions of senior citizens went into the HMO system. They enticed them with glasses, hearing aids, with prescription drug benefits. Only later did the seniors find out, as they read in the newspaper, that their HMO was going bankrupt, that their HMO was withdrawing service from that area. Millions of rural seniors have found out that the HMOs are not available to them if they do want to take advantage of them. Hundreds of thousands of seniors in northern California participated in the HMOs. Now those HMOs have gone, and they are looking for health care somewhere else.

Why would we do that again? Why would we rerun that history of trying to bait and trick the seniors out of the Medicare system, where every day they have health care coverage, where every day they are able to choose their doctor, where every day they are able to choose their physician, where every day their physicians should be able to do what is best for them?

The President wants to use prescription drugs to trick the seniors out of that system. That is not the answer. That is not the answer. Later this morning, the Democrats introduced a prescription drug benefit. It has no tricks, it has no sleight-of-hand, it has no gaps, it has no secret thresholds, it has no small print. It simply says that we will provide a prescription drug benefit to the seniors of this country in the Medicare system, all of those who are eligible, for $25 a month with a deductible of $100 a year and co-insurance. The beneficiary will pay 20 percent of all drugs, and Medicare will pay 80 percent. After one reaches $2,000, the government will pick up the rest.

That is the prescription drug benefit that essentially Federal employees and Members of Congress enjoy. That is what the President stood here and said he wanted for America's seniors; but that is not the plan, that is not the plan that the President offers to America's seniors. Instead, what he offers them is a plan to dismantle the Medicare system, to do away with it; and for those who stay in the Medicare system, he offers them a discount card, a discount card. That is not a prescription drug benefit.

So for those seniors who leave and join an HMO, lose the choice of their doctors, lose the choice of their pharmacy, lose the choice of their drugs; for those seniors, they will get a prescription drug benefit of minimal coverage, of minimal coverage. When the

HMO goes bankrupt or refuses to see them, they will come back and they will not have their drug coverage.

He wants to make whether or not your drugs are covered based on where you get your health care as opposed to what your illness is, as opposed to what the doctor says you need, as opposed to what all of the indices say you might need for a particular illness. His determination is whether or not you are in Medicare.

That simply does not comport with the health care needs of America's seniors. America's seniors today need prescription drugs, just as they need coverage for doctors' visits, for surgery, for outpatient and inpatient care. It is part of the continuum of health care.

The President should not, the President should not do a bait and switch with America's seniors so that they can get a prescription drug benefit. Every Medicare beneficiary should be covered for prescription drugs, and that is what the Democratic bill does that was introduced today.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 10 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 2 p.m.

PRAYER

The Reverend Norris A. Keirn, National Chaplain, the American Legion, offered the following prayer:

Eternal Father, You have been our shield and strength from the birth of our Nation to this present day. Our homeland has been preserved in the palm of Your hand. By inspiration of Your Holy Spirit, we have continuously moved to develop a more perfect union that would mirror Your divine purpose.

Through Your guidance these representatives have been raised to make laws and direct efforts for the enduring betterment of the peoples of this Nation and world. Grant great wisdom so that Your righteous purposes would be fulfilled. Afford each one the strength of will to be diligent dispensers of truth and justice. Bless them with solidarity that transcends personal views and political affiliations. Grant a bipartisan unity that would bring You glory.

Bless also those who defend this democracy and place themselves in harm's way. Dispatch Your angels to protect and to bring them home with victory over the evil forces that would attempt to destroy freedom. Enable them to break the bondages of oppression as You have so graciously granted in the past.

In the name of the Lord we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. CULBERSON). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nebraska (Mr. BEREUTER) come forward and lead the House in the Pledge of Allegiance.

Mr. BEREUTER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

VIOLENCE AGAINST WOMEN

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise honored to wear the special scarf today to highlight the global fight to stop violence against women.

We know that women account for 85 percent of the victims of domestic violence, but only half of all female victims of violence report an injury, and of those, only 20 percent seek medical assistance.

I will shortly be reintroducing legislation to provide women over 18 with domestic violence screening and treatment services. Routine screening by a health care provider for domestic violence would unlock options a woman might not otherwise pursue and allow her to see that shelter and advocacy services may be useful to her.

Mr. Speaker, this year, Lifetime Television recognizes the importance of including men in the dialogue to combat violence. This is critical.

I encourage my colleagues to participate in the week's events and reiterate the need for fathers, coaches and other male role models to teach boys early and teach them often that there is no place for violence in a relationship.

SIMPLIFIED FAMILY CREDIT

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, in the coming weeks I intend to introduce a bill to create the simplified family credit, real tax relief for working families with children. My proposal would help grow the economy, simplify the IRS code by merging an array of tax benefits, the earned income tax credit with approximately 4.3 million families eligible Americans, including 1.7 families with children, who, today, do not get, because of the complexity of the code, the child tax credit, the additional child credit, and the dependent exemption into a single credit, thereby shrinking well over 2,000 pages of the IRS Tax Code down to 12 easy questions.

This would also go a long way toward significantly reducing the marriage penalty, rewarding work and making the Tax Code more child friendly. Regardless of what political party we come from, we should all agree that these goals and that the Tax Code ought to reflect these values.

Despite the prospect of a war with Iraq, a stubborn recession, 2 million more unemployed Americans, urgent health care needs for the additional 4 million American that are without health care, we insist on debating a tax cut for the wealthiest in this country rather than focusing on those who need it most. A simplified credit in contrast is less, and far more responsive to the needs of working families.

PERMANENT PEACE

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, our Nation seems to be stumbling not just toward war with Iraq, but permanent war. We cannot end terror with bullets alone. If so, when do we stop shooting? When we find bin Laden? When we find Saddam? Or is there no end to war?

Instead, we should be talking about a permanent peace. We should be asking how to sustain societies before they crumble instead of asking how to destroy those that have already lost their way.

We should be asking how to educate children so they do not become terrorists instead of asking how we are going to kill those children once they do become terrorists.

We should be asking how to strengthen the United Nations instead of threatening to make it irrelevant.

As a Nation, we must emphasize finding alternatives to war. It is a matter of priorities.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings on motions to suspend the rules on which a recorded vote or on which the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

CONGRATULATING LUTHERAN SCHOOLS

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 106) congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes.

The Clerk read as follows:

H. RES. 106

Whereas the Nation's Lutheran schools deliver high-quality education and challenge students to reach their potential;

Whereas there are 4,841 Lutheran early childhood centers, elementary schools, and secondary schools in the United States served by 40,076 teachers;

Whereas the Nation's total Lutheran school student enrollment is 572,877;

Whereas Lutheran schools produce students strongly dedicated to their faith, values, and morals by providing an environment that encourages honesty, trust, respect, and responsibility; and

Whereas the week beginning on March 2, 2003, has been established as National Lutheran Schools Week for the purpose of recognizing the vital contributions of the Nation's Lutheran early childhood education centers, elementary schools, and secondary schools: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals of National Lutheran Schools Week, which is celebrated by several synods that have educational institutions, for the purpose of recognizing their academic achievement; and

(2) congratulates Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 106.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 106. This resolution honors Lutheran schools and their students, parents, teachers, administrators and congregations for their ongoing contributions to education.

I would like to thank the sponsor of the legislation, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from Ohio (Mr. BOEHNER), the Chairman of the Committee on Education, and the Workforce for bringing this resolution to the floor today.

In 1524, Martin Luther said that a city's best and greatest welfare, safety and strength consists rather in its having abled, learned, wise, honorable and well-educated citizens. Lutheran churches and schools have long been active in meeting this mission by providing education opportunities as early as 1640 in what is now Delaware, my home State.

In Delaware, I am proud of the contributions of the nine Lutheran schools, the names of which I will submit here for the RECORD.

Concordia Lutheran Preschool, 3003 Silverside Rd, Wilmington, DE 19610, 302.478.3876.

Faith Lutheran Preschool, 2265 Red Lion Rd, Bear, DE 19701-1849, 302.834.3417.

Our Redeemer Preschool, 10 Johnson Rd, Newark, DE 19713, 302.737.617.

Little Ones Lutheran Preschool, 7 Bay Vista Road, Rehoboth Beach, DE, 302.226.7860.

St. John's Elementary School, 1156 Walker Rd, Dover, DE 19904, 302.734.3767.

St. John's Early Learning Center and Day Care, 119 Lotus St, Dover, DE 19901, 302.734.1211.

Hope Lutheran Child Care, 230 Christiana Rd., New Castle, DE 19720, 302/328–7909.

St. Paul's Lutheran School, 701 S. College Ave., Newark, DE 19713, 302/368–0553.

Zion Lutheran Preschool/Kindergarten, 2101 Lancaster Ave., Wilmington, DE 19805, 302/655–7874.

Lutheran schools deliver high quality education where individuals are challenged to reach their full academic potential. The Lutheran school system is the largest Protestant school system in the United States and consists of 4,841 early childhood centers, elementary schools and high schools, over 40,000 teachers and more than 570,000 teachers.

Lutheran schools serve a diverse population. For example, in the schools affiliated with the Evangelical Lutheran Church of America, one-third of the students and one-quarter of the staff are persons of color, many of whom are not Lutheran. In Lutheran Church-Missouri Synod affiliated schools, 44 percent of elementary school students and 37 percent of high school students are not Lutheran.

Lutheran schools produce students strongly dedicated to their faith, values and morals by providing an environment that encourages honesty, trust, respect and responsibility.

National Lutheran Schools Week, celebrated this year from March 2 to March 8, recognizes the vital contributions of America's Lutheran early childhood education centers and elementary and secondary schools. We congratulate Lutheran schools, students, parents, teachers, administrators and congregations across the Nation for their ongoing contributions to education and urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself as much time as I may consume, and I rise in support of this resolution.

Mr. Speaker, I want to thank my colleague the gentleman from Nebraska (Mr. BEREUTER) for introducing this resolution because it is a good resolution, and it gives me an opportunity to highlight the importance and value of education in our Nation.

H. Res. 106 recognizes the contribution of Lutheran schools to the mix of fine educational opportunities available to American children. We are very fortunate in the United States to have such a diverse system of education.

The goal of the education system in America, both public and private, is to give every child in every State the opportunity to succeed, and that recipe for success, Mr. Speaker, certainly includes Lutheran schools, as well as other religious schools, non-religious private schools and, of course, our public schools. It is this variety, this diversity that makes our education system a success and makes America a strong, strong Nation.

Mr. Speaker, as we recognize the educational contributions that Lutheran schools make to our Nation, let us recognize, too, the importance and value of all the many different types of schools in America and the contributions they make to the lives of our children and our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the resolution. I thank the gentleman for yielding me this time, and I thank the leadership of the committee for bringing this resolution to the floor in such a timely fashion.

Mr. Speaker, as a graduate of a Lutheran Elementary School myself, St. Paul's Lutheran School of Utica, Nebraska, and an individual well acquainted with the many first-rate Lutheran educational institutions in his congressional district, this Member rises today to congratulate Lutheran schools, students, parents, teachers, administrators and congregations across the Nation for their ongoing contributions to education.

Lutherans have long been active in providing education for children. As mentioned by the distinguished gentleman from Delaware (Mr. CASTLE), the first Lutheran school was established in the colonies in 1640 by Swedish Lutherans, and it was located in the State of Delaware. There is evidence that Lutherans from Salzburg, Austria, started schools in what is now the southern part of the United States in the 1730s.

Pastor Henry Muhlenberg, known as the patriarch of the Lutheran Church and father of two members of the 1st Congress, one the first Speaker of the House, established a significant number of Lutheran churches and schools in Pennsylvania.

□ 1415

By 1800, some 400 Lutheran schools dotted the east coast from New York to Georgia.

Today, our Nation has a total of 4,842 Lutheran schools, which are served by 40,076 teachers. This Member is proud of the 122 Lutheran early-education centers, elementary schools, and secondary schools in Nebraska, as well as the three Lutheran colleges and universities in this Member's district, and those Lutheran schools located throughout the Nation which deliver high-quality education opportunities and challenges students to reach their full academic and spiritual potential.

Not only are Lutheran schools known for their academic quality but for their ability to aid in their students' moral development. These institutions provide spiritual guidance to students, instilling fundamental values that are crucial to personal development. Through their education, Lutheran schoolchildren gain an appreciation of the importance in their lives of family values, community service, and in their religious faith. This in turn has helped shape students of Lutheran schools into good civic and educational leaders for America, past, present and future.

Mr. Speaker, in closing, this Member urges his colleagues to support the resolution honoring the contributions of Lutheran schools in American education: and I thank the cosponsors of the resolution, which are numerous.

Ms. WOOLSEY. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I thank the chairman for bringing this piece of legislation rapidly to the floor. As my kids went to school yesterday, I got a chance to drop them off and in front was a big banner saying "Lutheran Schools Week." So I got to do it officially yesterday and I get to do it, I guess, officially now on the floor today; but I rise today in recognition of National Lutheran Schools Week, which began on March 2 of this week.

Mr. Speaker, I am a graduate of a Lutheran school, Holy Cross Lutheran School, in my hometown of Collinsville, Illinois. My father also attended this school. And a known fact is that my first grade teacher was my father's first grade teacher, a patriarch of education in Collinsville, Miss Bohland. It is a story I like to tell quite a lot. I also had a fifth grade teacher, Mrs. Richter, who taught me and who I tried to keep from retiring so that I could tell the same story for my sons, or so they could tell the same story. But she retired to an enjoyable life and is still very active in the church.

That is really something to be said, when you have that longevity in a teacher in a grade school. Two generations. And it is something that makes Lutheran schools a critical aspect of our society. My three sons now attend. David is 10, Joshua is 7, and Daniel will be attending next year in the preschool program, but who does get involved in the Sunday school program on Sunday and the weekends. My wife even teaches music at Holy Cross Lutheran School with the church programs and the choirs and all that stuff. So Lutheran schools have been a key component of my life for many, many years.

Before I became a Member of Congress, I returned to Illinois to teach government history at a Lutheran high school, Metro-East High School in Edwardsville, Illinois. As a teacher, I had the opportunity to instill the fundamental values and morals of the Christian faith, which is involved in the total educational aspect of the school. Parental involvement is key in Christian education; and Lutheran doctrine talks a lot about law and gospel, how we are condemned by the law but saved through God's saving grace, which is a critical aspect of the Christian faith, but it ties very neatly into the educational program.

In teaching kids to achieve all they can achieve, we know that you can never get 100 percent all the time; and there are failures along the way. That is where in the law and gospel aspect of education, the foundational principle of what makes Lutheran schools an exciting place to be, is that the constant love and compassion and actually the gospel aspect of forgiveness is involved in the educational setting.

Today, approximately 572,877 students attend Lutheran schools; and over 40,000 teachers provide an environment that encourages honesty, trust, respect, and responsibility. This also is a benefit to society because that are half a million kids that are not burdening, if we would call it a burden, to society. It is not an additional cost to the public school system. So the parents who choose Lutheran education, or perhaps Catholic education or other types of private schooling, take these kids out of the public school arena where more of the tax dollars can then work in public education, which I think is an additional benefit. Sometimes we forget that.

I am proud of the education that the students are able to receive from dedicated parents and teachers because of the efforts of Lutheran educators. Students throughout my district in central and southern Illinois receive spiritual guidance through an outstanding learning environment. I would like to congratulate the Lutheran schools, parents, teachers, administrators, and congregations across the Nation for their outstanding work in educating our youth.

One of the primary aspects of Martin Luther, when he changed the course of history, in essence the Protestant revolution, was education of the great masses, actually the education of children and youth. That is why the Lutheran faith education has a critical pillar in what we do on a day-to-day basis.

Mr. Speaker, I thank the gentleman for yielding me this time, and I also thank the sponsor for bringing this legislation forward.

Ms. WOOLSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS), a new member of the Committee on Education and the Workforce.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman for yielding me this time, and I too want to join with my colleagues in congratulating Lutheran schools, students, parents, teachers, and members of the congregation for outstanding contributions they have made and continue to make in education.

In my congressional district, they are indeed the mainstay for early childhood education. Lutheran Family Services provides any number of early childhood education programs; and we are fortunate to have one of the top high schools in the State, Trinity Lutheran, in our congressional district, where practically all of the young people who come through end up going to college. It has been, and continues to be, an outstanding institution.

I want to commend and congratulate all of those who are a part of the Lutheran congregations for the outstanding contributions that they have made and continue to make to education.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume to simply say that we support this resolution, and I am proud to be here doing that.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume to thank the sponsor of the legislation and the other cosponsors with him, as well as all those who came to the floor to speak today about this subject of a great deal of significance in terms of education in this country; part of the overall global education that means so much to our young people. I encourage everybody to support this legislation.

Mr. VITTER. Mr. Speaker, I rise today to honor Lutheran Schools for their continuing contributions to educating young Americans. Lutheran schools impact not only the intellectual life of our Nation's youth but also their moral, physical, and social lives.

The Lutheran schools in Louisiana deliver high-quality education and challenge students to reach their potential. The administrators and faculty provide students an environment that encourages honesty, trust and responsibility.

This year more than half a million students in the United States will be enriched by their Lutheran school education. America's Lutheran schools are internationally acclaimed for their academic excellence and can boast a student-teacher ration of 14 to 1.

During National Lutheran Schools Week and throughout the year, I salute the Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education.

Mr. KIND. Mr. Speaker, I thank the gentleman from California for allowing me to offer my comments congratulating Lutheran schools.

In his 1524 letter, "to the councilmen of all cities in Germany that they establish and maintain Christian schools," Martin Luther wrote, "My dear sirs, if we have to spend such large sums every year on guns, roads, bridges and dams, and countless items to ensure the temporal peace and prosperity of a city, why should not more be devoted to the poor neglected youth—at least enough to engage one or two competent men to teach school?"

Since this very humble request, the Lutheran Church's role in educating our young has flourished. There are currently 4,821 Lutheran schools operating in America, instructing over half a million students. These schools not only provide a traditional education, but also produce students strongly dedicated to their faith, values, and morals by providing an environment that encourages honesty, trust, respect, and responsibility.

In a world which faces such grave social, political, and economic choices as ours today, it is especially important to remember the words of Martin Luther and recognize the contribution that the Lutheran Church has made to education in our own Nation and around the world. I congratulate our Lutheran schools and I thank them for all that they have done for the spiritual and educational well-being of our youth.

Mr. CASTLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and agree to the resolution, H. Res. 106.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CASTLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING AN ANNUAL VISITING NURSE ASSOCIATION WEEK

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 54) expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

The Clerk read as follows:

H. CON. RES. 54

Whereas visiting nurse associations (VNAs) are nonprofit home health agencies that, for over 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are more than 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering over 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of an annual National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community need; and

Whereas the second week in May is an appropriate week to establish as National Visiting Nurse Association Week: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, House Concurrent Resolution 54, introduced by my distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY), expresses the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

Mr. Speaker, visiting nurses provide an invaluable medical service to countless people across our great country. For more than 120 years, these admirable citizens have helped to promote health and to prevent disease by providing skilled nursing care in the homes of millions of sick Americans each and every year. These caring nurses treat illnesses of all varieties, from the initial symptoms of the common cold and flu to the gravest stages of heart disease, of AIDS, and of cancer.

I would like to just give an example of one such person. Her name is Marcia Nowc, and she lives in my district, the Tenth Congressional District of Michigan; and she truly epitomizes the hard work and selflessness demonstrated by visiting nurses across our great country.

Her profession is nursing, and while she makes her living doing this, she also volunteers for an organization called Neighbors Caring for Neighbors Outreach Clinic. This clinic provides medical services, laboratory tests and x-rays to some of our most vulnerable families and individuals, often free of charge, thanks to the volunteer efforts of visiting nurses, like Mrs. Nowc. Nurse Nowc's volunteer activities are supported by 16 churches in Macomb County, Michigan; and oftentimes visiting nurses, just in their everyday work, truly demonstrate how faith-based initiatives can provide an essential support system within our communities.

Many of these visiting nurses literally work miracles every day because they give so generously of their time and of their spirit and because they recognize the dignity of every citizen and the possibilities of every life. Many times visiting nurses provide care to those that might be considered on the outer fringe. Perhaps they are underinsured; they may be the working poor or may even be homeless.

Visiting nurse associations are nonprofit home health agencies located throughout the United States that aim to enhance the quality of life of all through comprehensive home and community health services. Often, these organizations provide in-home services that are available 24 hours a day, 7 days a week to Americans in need. It is truly worthwhile for this House to honor the compassion and the sense of obligation exhibited by visiting nurses for well over a century.

It is not an exaggeration to say that America's visiting nurses are some of our Nation's greatest treasures and greatest traditions. Therefore, Mr. Speaker, I urge all Members to support the adoption of House Concurrent Resolution 54.

Mr. Speaker, I reserve the balance of my time.

□ 1430

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MARKEY), the sponsor of this legislation.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Pennsylvania (Mr. PETERSON) for all of the gentleman's excellent work on this legislation.

This is the kind of thing that kind of mystifies the American public sometimes, they do not understand that 80 percent of everything that we do, we agree. Most of the time they only focus on the 20 percent where we disagree. For the vast majority of issues, there is a consensus in terms of what our country should be doing and where we agree. Today I am proud, with these other great Members, to offer this resolution to establish an annual National Visiting Nurse Association Week in honor of the army of health care heroes, who every day comfort, care for and assist our loved ones.

I appreciate the support and the dedication of the Visiting Nurse Associations. Every Member of Congress does, as does every American. Visiting Nurse Associations of today are founded on the principle that the sick, the disabled and the elderly benefit most from health care when it is offered in their own homes.

They are nonprofit home health agencies that provide cost-effective and compassionate home and community-based health care to individuals, regardless of their condition or ability to pay for services.

Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing health care into the homes of over 4 million Americans every year.

In the face of rising costs and drastic changes in our health care system, visiting nurse associations have continued to deliver high quality health services for over 120 years.

When Henry Wadsworth Longfellow read of the work of Florence Nightingale, he penned a poem, Santa Filomena, that spoke of the keep appreciation owed by all of us to those dedicated to service in the ultimate caring profession, the visiting nurse. He wrote of her as he could have written of every other visiting nurse.

"Whene'er a noble deed is wrought, whe'ever is spoken a noble thought, our hearts, in glad surprise, to higher levels rise.

"The tidal wave of deeper souls into our inmost being rolls, and lifts us unawares out of all meaner cares."

Mr. Speaker, today I would like to say my own thank you to our Visiting Nurse Associations. Through their work and their philosophy of nursing, they teach us every day about human kindness, the strength of human character, and the true definition of what it means to care. I thank them for their sharp minds, their watchful eyes, their nerves of steel; and, of course, their hearts of gold.

In recognition of their hard work and dedication that visiting nurses bring to the nursing profession, and the comfort and quality care that they provide to patients, I ask Congress to please support this resolution to set aside one week each year to recognize and honor visiting nurses across the country. Democratic, Republican, liberal, conservative, each of us owes them an enduring debt.

Mrs. MILLER of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am delighted to join the gentleman from Massachusetts (Mr. MARKEY) and the gentlewoman from Michigan (Mrs. MILLER) today on this resolution establishing a national Visiting Nurse Associations Week.

As we were growing up, doctors visited homes and nurses visited homes. Today it is seldom that a doctor visits a home unless it is a personal friend; but the visiting nurses just keep right on trucking.

Serving communities around the country for over 120 years, congressional recognizing and gratitude for these nonprofit health agencies is long overdue. The nearly 500 VNAs across the country collectively provide home and community-based services to over 4 million Americans each year. Founded in the 1890s, VNAs have continuously served as charitable providers in their local communities, creating a safety net for the poorest and most chronically ill and functionally disabled individuals. VNAs serve the majority of Medicaid home health beneficiaries and represent nearly one-half of all nonprofit home health agencies in the United States. On average, Medicare and Medicaid represent approximately 82 percent of VNAs' revenue, and this percentage is even greater in rural areas such as my rural congressional district.

Mr. Speaker, this fact is significant because rural America has always been shortchanged in the Medicare payment system. My rural providers are asked to provide the same level of care with less Federal dollars, even though wage rates have largely equalized between rural and urban areas due to the current workforce shortage. The Medicare home health reimbursement was slashed by 15 percent last October, and the 10 percent rural add-on is set to expire this April. Home health providers, including VNAs, are being crippled by these cuts and I will continue to fight as co-chairman of the Home Health Working Group to resist them. In the meantime, I am pleased to introduce this resolution with my colleague from Massachusetts to demonstrate our continued support for these under-recognized heroes.

In a country struggling with staggering health care costs, the Visiting Nurse Association continually and successfully works to achieve its mission of cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for those services. They are a leading provider of mass immunizations in the Medicare program and constitute over 50 percent of all Medicaid home health admissions. The association relies heavily upon volunteer nurses and reinvests any budget surplus into charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs.

This resolution will establish an annual National Visiting Nurse Associations Week in order to increase public awareness of the charity-based organization. They unquestionably deserve recognizing for their noble services; and by establishing this resolution, Congress would support the continuation of their mission.

I want to particularly mention, too, Ruth Ann Nerlich, who has been a part of VNA in Venango County as long as I have been aware. When I served in the State legislature, she was the go-to person State-wide. She was the person that best understood and best sold the message of home health care delivered by the VNA. And also Betsy Roberts of Elk County, who for decades has been a leader in providing home health care.

I want to conclude my comments with when the Balanced Budget Act was passed, there were problems in this country, mainly with for-profit home health care agencies which were really taking advantage of the system. Unfortunately, Congress, at that time, squeezed the system equally, and the Visiting Nurse Associations, scattered around much of this country, were not fat and wasteful. They raised millions of dollars to give free care to those who could not pay. They were made up of boards of local people, in health care and out of health care, who cared about and helped deliver the services that they provided.

So when the Balanced Budget Act cut them and squeezed them about 30 percent, it squeezed some of them out of business. Some of the VNAs in my district today, the only reason they stayed in business, they borrowed money to continue providing those services. They have debt to service today.

Mr. Speaker, it is vital that this 15 percent cut is taken away, and it is vital that the 10 percent add-on that was proven was needed for home health care is continued on past April.

With that, I am proud to recognize these individuals and the invaluable contributions of our VNAs by cosponsoring this legislation, and urge the support of my colleagues.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the National Visiting Nurse Association of America, VNAA, is the official association for not-for-profit, community-based home health organizations known as Visiting Nurse Associations. VNAs care for patients of all ages, from infants to the elderly, and offer comprehensive services that begin with maternal-child health programs and end with hospice care. VNAs provide a broad range of essential home health care and support services to patients in the security and comfort of their homes. These services include skilled nursing, rehabilitation, physical and occupational therapies, speech-language pathology, home medical equipment, and behavioral and mental health counseling, to name just a few.

Many VNAs provide homemaker services that help patients remain independent in their home while reducing the burden on family members. These services can include cooking, housekeeping, shopping, transportation, personal care, and a variety of other essential nonmedical services.

These services are critical at a time when the latest projections from the U.S. Bureau of Labor Statistics, published in the November 2001 Monthly Labor Review, estimated that more than 1 million new and replacement nurses will be needed by the year 2010. The U.S. Department of Labor projects a 21 percent increase in the need for nurses nationwide from 1998 to 2008, compared with a 14 percent increase for all other occupations.

Furthermore, according to a July 2001 report released by the General Accounting Office titled Nursing Workforce: Emerging Nurse Shortages Due to Multiple Factors (GAO–01–944), "a serious shortages of nurses is expected in the future as democratic pressures influence both supply and demand. The future demand for nurses is expected to increase dramatically as the baby boomers reach their sixties, seventies and beyond."

As baby boomers age, the role of visiting nurses is more important, as patients spend less time in the hospital and demand the same quality of services at home. VNAs contribute to the well-being of the Nation, and I urge my colleagues to support this resolution as we pay special tribute to those who come into our homes, into our places of being, and bring not only their technical and professional services, but also bring the individuality of their care.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Con. Res. 54, expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

Our health care system is in a state of crisis. Our health care costs are rising exponentially, but it seems that these added expenses are not translating into rising access to quality compassionate care for the American people. Instead, it seems that too often, profits are driving our health care system—rather than the needs of the sick, our children, and the elderly.

Pharmaceutical companies are making record profits, while people in America are choosing between food and the prescription drugs their doctors have prescribed. Reimbursements for Medicare and Medicaid treatments are so low that many health providers are turning away sick patients. Due to massive tax cuts for the wealthy, the Administration has not left adequate funds to help financially-strapped State and local governments to continue health care programs for the poor and underserved. For example, this has led to the recent closure in my District of two mental health clinics, that serve 1,400 adults and 240 children. Yes, this is a crisis.

But in the midst of that crisis, there are some shining examples of groups that truly seem to embody what health care can and should be. The Visiting Nurse Associations (VNAs) fall into that noble category. Visiting Nurse Associations are non-profit agencies that, for over 120 years, have been working toward their mission of providing cost-effective and compassionate health care to millions of individuals per year, regardless of their condition or ability to pay.

Nurses from VNAs go into communities and individual homes, providing primary care of all sorts, and prevention such as immunizations. Such care dramatically improves quality of life for seniors and the disabled who would prefer to live in their own homes, in their own neighborhoods, but need a bit of help from a visiting professional. Besides providing comfort and dignity to those in need, VNAs also save us millions of dollars in hospital and long-term care costs.

I am very pleased with the excellent work of the VNA of Houston. Their 50 nurses partner with social workers, physical therapists, home health aids, occupational therapists and speech therapists, in order to provide services to some 1,600 to 1,700 hundred patients per day in the area of Harris and the surrounding counties. This kind of care is the way of the future—helping people stay in the comfort of their homes, where they want to be.

I am sometimes frustrated when I ask members of the medical community, why they do not spend more time pushing prevention and education. They often reply that doctors don't have the time to talk to their patients for that long, or that a doctor's time is too expensive to spend on education. I am bothered by this, because as most people know, nurses and physician's assistants and auxiliary health professionals, are often much better communicators than their physician colleagues anyway. Expanding our utilization of nurses is a cost-effective way of improving American health.

The problem is that we have a nursing shortage. Our clinics and hospitals are being forced to squeeze too much out of the nursing staffs they have. The added workloads are driving many qualified nurses out of the field, and may be jeopardizing treatment for some patients. We need to find ways to recruit more nurses and to maintain the ones we have.

For example, I have introduced HR 87, which would alter H–1C non-immigrant visa requirements, in order to make it easier to bring in qualified foreign nurses to fill in some of the gaps in our own nursing workforce. I would like to see some action on that bill soon.

Today's bill, H. Con. Res. 54, represents another way of improving our pool of nurses. By establishing an annual National Visiting Nurse Association Week, not only will we be honoring an excellent and deserving group of health care professionals, but we will also be raising awareness of the important role they serve in our communities. I hope that by focusing Congressional and public attention on Visiting Nurse Associations, we will inspire more bright young people to go into that noble profession.

I commend our nation's visiting nurses, and my colleague from Massachusetts for seeking to honor them. I support H. Con. Res. 54.

Mr. BACA. Mr. Speaker, our nation is facing a catastrophic nursing shortage. The average age of nurses in America is 43 years of age. Nurses are leaving the profession in droves, and fewer people are choosing to enter the profession. We have to do more to not only retain the nurses that we have but also to increase their numbers. We need to send the message that nursing is a rewarding and much needed profession. We need to do our best to make sure that nurses get the recognition that they deserve so that we can turn around the shortage. Nurses need to know that they are needed. I support H. Con. Res. 54 because it helps bring more recognition, not only to the individualized profession of visiting nurses, but also to the profession as a whole.

Visting nurses deserve all of the recognition that can be afforded. They are a valuable group of professionals that travel to the homes of some of the sickest individuals to ensure that they are receiving much-needed health care in the comfort and privacy of their own home. By supporting Visiting Nurses Associations we are supporting a system of health care that is compassionate and that allows patients to receive care while maintaining their dignity. In my district, The Visiting Nurses Association of the Inland Counties works hard to bring care to patients all over the area. I know that they are working to obtain the necessary grant money to implement essential technology so that they could treat more patients while offering the individualized care that every patient deserves. I applaud the effort of the nurses and I applaud the Congress for bringing recognition to their noble work.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of House Concurrent Resolution 54, honoring the Visiting Nurse Association.

In 1902, 13 young women met in Cleveland to form a local organization that would become one of the earliest pioneers of a new concept called community health nursing. From those women the Visiting Nurse Association of Cleveland was born.

These nurses understand that most people prefer the comfort and security of their home to recover and rehabilitate from an illness or injury. Making home health care an essential part of health care today. The Visiting Nurse Association touches the lives of nearly every American in some way.

While the size of the Visiting Nurse Association has grown tremendously, the quality of health care that they provide to people regardless of their ability to pay, continues to be superb. The organization serves over 15,000 people a year in Ohio. I would like to honor the visiting Nurse Association for the hard work and dedication they continue to provide to those in need.

Mr. FOLEY. Mr. Speaker, I rise today in support of H. Con. Res. 54, a bill expressing the sense of the Congress that we should establish an annual National Visiting Nurse Association Week.

As you know, Mr. Speaker, the visiting nurse associations are nonprofit home health agencies that, for over 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services. There are more than 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year—with 95,000 visits in Florida alone—and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home.

In my home state, the Visiting Nurse Association of Florida serves 13 counties with a complete array of home health services. With headquarters in Stuart since 1976, VNA last year provided more than $346,000 in charitable care to the most vulnerable in our communities.

The establishment of an annual National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in nursing homes, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs. I encourage all of my colleagues to join me today in support of this important resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 54.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING THE LEGACY OF FRED ROGERS AND HIS DEDICATION TO CREATING A MORE COMPASSIONATE WORLD

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 111) honoring the legacy of Fred Rogers and his dedication to creating a more compassionate, kind, and loving world for children and adults.

The Clerk read as follows:

H. RES. 111

Whereas on February 27, 2003, neighborhoods across the Nation were saddened by the death of Fred McFeely Rogers, creator and star of ``Mister Rogers' Neighborhood'';

Whereas Mr. Rogers was born in Latrobe, Pennsylvania, in 1928, and moved to Pittsburgh in 1953, where he pursued his education at the University of Pittsburgh while attending Pittsburgh Theological Seminary;

Whereas in 1963, Mr. Rogers was ordained as a Presbyterian minister;

Whereas his landmark show ``Mister Rogers' Neighborhood'' inspired, taught, and encouraged children, families, and adults since its first nationwide broadcast on February 19, 1968, with messages of love, peace, and comfort;

Whereas Mr. Rogers created over 200 of his own songs for his show, which always began in a comfortable family living room as he changed into his trademark cardigan sweater and sneakers, to encourage the healthy emotional growth of children and their families through imagination and friendship;

Whereas Mr. Rogers encouraged millions of children across the world to love themselves and their neighbors and to deal with complex emotional issues in a safe, reassuring way;

Whereas on July 9, 2002, in recognition of the contributions of Mr. Rogers, President George W. Bush presented him with the Presidential Medal of Freedom at a White House ceremony and said, ``Fred Rogers has proven that television can soothe the soul and nurture the spirit and teach the very young'';

Whereas the final show of ``Mister Rogers' Neighborhood'' aired in August 2001, after having completed 33 television seasons and nearly 1,000 episodes;

Whereas Mr. Rogers received many awards and honors for his efforts, including lifetime achievement awards from the Daytime Emmys and the Television Critics Association, designation as one of the ``50 greatest TV stars of all time'' by TV Guide, a star on the Hollywood Walk of Fame in 1998, and induction into the Television Hall of Fame in 1999; and

Whereas Mr. Rogers always remained humble and true to his philosophy, saying ``I have really never considered myself a TV star. . . . I always thought I was a neighbor who just came in for a visit'': Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors Fred Rogers for his legendary service to the improvement of the lives of children, his steadfast commitment to demonstrating the power of compassion, and his dedication to spreading kindness through example; and

(2) expresses condolences and sympathies to his wife Joanne, his two sons, and his two grandsons.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. MURPHY) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here to both mourn the loss of a great American, Mr. Fred Rogers, who died last week at the age of 74, and also to celebrate what he has done, what he has meant to so many Americans and people around the world, and remember his legacy with joy and hope, and look forward to the continued impact that he will have on the lives of so many.

Mr. Rogers was born in Latrobe, Pennsylvania, and he studied child development at the University of Pittsburgh. He was ordained as a Presbyterian minister. His television program, which debuted in 1964, continues on today, even though the last tape was taped in 2001 and aired last year or so. His program lives on, and I want to make a few comments about the man we all know as Mr. Rogers.

☐ 1445

There is a magic that is Fred Rogers that really is not magical at all. He is not the creation of boardrooms or animators or high-tech special effects. He is who he is and nothing less. It is the transparency of being himself, with no pretense or facade, that enabled him to connect with millions around the world of all ages, of all walks of life.

When people think of Mr. Rogers, oftentimes the first thing that comes to mind is his television program of nearly 40 years for young children, though people of today know him well. We are recognizing him here in this Chamber not just for these generations of today, but so that future generations who read the RECORD in the years to come will be able to know about the moment, this moment in time and what we valued.

I had the pleasure of working at least a little bit with Fred Rogers in one area that was a shared passion of ours and that was quality early childhood education. He recognized that quality education makes an impact on the child's neurological development that lasts a lifetime. I might say when I had the time to sit down and meet with Fred, as anybody else would say the same thing, you sat in his office that had a piano, that had some soft furniture and a puppet or two, and you could not help within just a few moments of finding that you slowed down with your life, that he began to talk directly to you, and you felt things that perhaps you had forgotten in your own life of what was really important. He studied child development while he was studying for his degree as a Presbyterian minister and later worked regularly with Dr. Margaret McFarland, also an expert in child development. Their regular meetings was what created the programs that we now know.

Fred believed that childhood is not just a time you get through, because so many things happen during that time. He had tremendous respect for viewers, knowing that most were young children, all with their own needs but also knowing that he touched the child in all of us, seniors, adults, parents, those with disabilities, everyone.

When one watched his show, you watched him enter the room and you saw him change into his sweater and change his shoes and talk; you immediately entered the world, or rather through his simple magic with his show, he entered the world of children. He was childlike without being childish. He remained the adult, mature and wise, caring and comforting, safe and nurturing. Though his program earned awards that made him the envy of all in television, he was never an actor. He was a communicator, saying above all else, You are special and so is everyone else in this world. The puppets he created in his Neighborhood of Make Believe would never have made it through today's TV boardrooms. Indeed he was asked to spice up his show with more action. He responded by working to build up public television.

The station WQED in Pittsburgh has been inundated with calls and e-mails that pour in by the minute, not just expressing condolences but people telling their stories, for example, a sports talk radio show in South Carolina finding that their show was taken over by people with their memories of Fred Rogers. Or a young woman who told me that when she was a child living in the neighborhood that Fred Rogers is from, one day she went up and knocked on his door hoping to see him.

He had a magic which was so important to all of us, and it is sad to see that go. But it is important for the children of the world to know that that program shall live on. The messages that Fred sent will continue, about people being special, about parents' love for their children, about being caring, and also the staff that I have come to know with "Mr. Rogers' Neighborhood," such folks as Hedda Sharapan, David Newell, Bill Isler and many, many more will continue on with his legacy.

Our thoughts and our prayers are with his wife, Joanne, and with all whose lives he has touched. The joy will come in knowing that he will continue to touch so many more.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Pennsylvania (Mr. DOYLE), the sponsor of this resolution.

Mr. DOYLE. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for his kindness and consideration.

Please don't think it's funny
When you want the ones you miss.
There are lots and lots of people
Who sometimes feel like this.'

Mr. Speaker, I borrowed that opening verse from one of the original songs written by Fred McFeely Rogers during his long and legendary career. He wrote over 200 such songs to help explain complex, confusing, and often frightening issues to children in a gentle, noncondescending, and reassuring manner. That is what Mr. Rogers did best, make generations of children in this Nation and beyond feel special, important, and most of all, loved.

Mr. Rogers always started his shows by changing into his familiar cardigan and comfy tennis shoes to give children a sense of comfort and consistency. As I don this cardigan, I know there are lots and lots of people in this Chamber and the world who will forever miss the neighborly comfort, love, and wisdom Mr. Rogers gave while wearing a sweater like this one on the show. It is in his honor that I have introduced House Resolution 111, and I sincerely hope all my colleagues join with me in celebrating the legacy of Fred Rogers.

Fred was born in Latrobe, Pennsylvania, about a half hour east of Pittsburgh, and lived nearly his entire life in the city I am proud to represent, Pittsburgh. Pittsburgh will always be Mr. Rogers' neighborhood. It was in Pittsburgh in 1954 that Mr. Rogers began his lifelong involvement with children's television, coproducing a 7-year run of "The Children's Corner," which at the time was broadcast on the Nation's first community-sponsored educational television station, WQED in Pittsburgh. In addition to his duties as producer, Mr. Rogers also performed musical numbers for the show and manipulated the puppets. Such famous puppets as Daniel Striped Tiger, King Friday XIII, and Henrietta Pussycat from his show went on to live in what is perhaps the most famous neighborhood in the world, "Mr. Rogers' Neighborhood."

From his early and humble start in February of 1968, Mr. Rogers and all of his neighbors have the distinction of being the longest-running program ever on PBS, with nearly 900 episodes and 33 seasons to their credit. Although not comfortable in the spotlight, Mr. Rogers nevertheless has received much well-deserved recognition for his efforts, including the distinction as being one of "TV Guide's" 50 greatest TV stars of all time, four Emmys, and induction to the Television Hall of Fame. His messages of self-worth, respect, and understanding have long served as a calm refuge and important contrast in a world of children's television filled with frenetically paced and often violent cartoons.

My friends, we have had more than our share of destruction, violence, and fear in these uncertain times. World events play out very differently in the eyes of a child, and in our rush to give voice to our own personal opinions on the happenings of the day, sometimes we overlook the importance of taking the time to explain issues to our children in a calm and easy manner and thus help ease the trepidations of a child growing up in today's world.

Fred Rogers realized the importance of taking the time to communicate with children, a fact that was at the very heart of his goals and beliefs. Although he was an ordained Presbyterian minister, he never preached to his audience. But then again, he never had to. His message of unconditional love, peace, self-respect, and respect for one's neighbor is universal. He once said, "When you are helping children feel safe, you are helping them use their energies for moving forward, toward a more hopeful future for themselves and for our society."

Mr. Rogers helped children confront difficult real-world issues such as divorce, disease, and adoption by listening to them and engaging them on these topics, by talking to them in a manner that respected a child's developing intellect. I truly hope that the important messages that Mr. Rogers shared with us and our children continue on for the next generation of future Congressmen and- women, and I am confident that his legacy will continue, as I have heard that PBS is encouraging all local PBS stations to continue running the rebroadcasts of "Mr. Rogers' Neighborhood." His legacy will also continue in the works of the nonprofit organization founded by Mr. Rogers, Family Communications, Incorporated of Pittsburgh.

In the words of Mr. Bill Isler, president of Family Communications, Mr. Rogers was a composer, minister, author, puppeteer, brother, husband, father, grandfather and a friend to every child in the entire human family. Those of us who worked with Fred Rogers share both the privilege and responsibility of continuing his work so that no child anywhere grows up without being told, "You are special."

In closing, Mr. Speaker, I want to leave you with something Mr. Rogers once said in regards to helping children understand and cope with terrible news events on television. He said:

> When I was a boy and would see scary things on the news, my mother would say to me, 'Look for the helpers. You always find people who are helping.' To this day, that is where I focus my attention, to the many caring people in this world.

Our world lost one of the greatest and most caring helpers when Mr. Rogers was called home, but his teachings and messages have instilled in us the responsibility, duty, and ability to carry on his legacy by being one of the helpers that our children look for and need.

Thank you, Mr. Rogers. We will always miss your special, caring way of helping and comforting us all. You will always be, for the children.

Mr. MURPHY. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Rogers is someone that all Pennsylvanians were so proud of. Our hearts are sad today because of his leaving us, but he left behind a heritage that we are all so proud of and will always remember in such a wonderful fashion.

I think in Pennsylvania, in western Pennsylvania, if you are traveling around today, at the Eat'n Park restaurants on their lighted signs, they say it all: "Fred Rogers, we miss you." He studied childhood development at the University of Pittsburgh. Then he went on to be an ordained Presbyterian minister. His landmark show, "Mr. Rogers' Neighborhood," inspired, taught and encouraged children, families and adults since its first nationwide broadcast on February 19, 1968, with messages of love, peace and comfort.

Mr. Rogers created over 200 of his own songs for his show, which always began in a comfortable family living room as he changed into his trademark cardigan sweater and sneakers, to encourage the healthy emotional growth of children and their families through imagination and friendship.

He encouraged millions of children across the world to love themselves and their neighbors and to deal with complex emotional issues in a safe and reassuring way. On July 9, 2002, in recognition of the contributions of Mr. Rogers, President George W. Bush presented him with the Presidential Medal of Freedom at a White House ceremony and said, "Fred Rogers has proven that television can soothe the soul, nurture the spirit and teach the very young." We all know that does not happen on television every day on many programs, but it did on his.

The final show of "Mr. Rogers' Neighborhood" aired in August 2001 after completing 33 television seasons and nearly 1,000 episodes. He was always called on whenever we faced a crisis in this country that would put fear in the hearts of children, September 11 the most recent. But he had a calmness and a kindness and a love that changed the atmosphere in any room he entered. Yes, as the Eat'n Park signs say today: "Fred Rogers, we miss you."

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the gentleman from Pennsylvania (Mr. DOYLE) and all Pennsylvanians and all people of good will throughout America as we pay tribute honoring the legacy of Fred Rogers and his dedication to creating a more compassionate, kind and loving world for children and adults. I quote:

> "It's a beautiful day in the neighborhood,
> A beautiful day for a neighbor.
> Would you be mine? Could you be mine?

While singing this simple refrain, Fred McFeely Rogers would change out of his sport coat and into his zip-up cardigan, slip off his dress shoes and slip on a pair of blue sneakers and become Mr. Rogers of "Mr. Rogers' Neighborhood."

"Mr. Rogers' Neighborhood" was a daily whisper in children's ears. It whispered peace, serenity, honesty, comfort, and trust into small and developing ears that listened attentively about issues big and small. Mr. Rogers spoke to children about the virtues of civility, sharing, tolerance, obedience, and self-worth.

□ 1500

He talked with musicians, such as cellist Yo-Yo Ma, asking questions from a child's perspective, like how he learned to play the cello, had it been too big for him.

As the creator and host of the popular television show, Rogers became one of America's most beloved figures. His evolution as a children's television personality began in the 1950's, many years before public TV station WQED in Pittsburgh produced the first "Mister Rogers' Neighborhood." Rogers had been a puppeteer and voice character on the WQED show called "The Children's Corner."

Fred Rogers made his first on-camera appearance in the 1960's while working for the Canadian Broadcasting Corporation in Toronto. It was there that he produced a 15-minute daily program called "Misterogers." By the mid 1960's, the shows were lengthened to 30 minutes and were moved to Pittsburgh. A Washington Post article on Rogers stated that "Rogers often said he was guided by listening to children, discovering who they were and what was important in their lives. By providing answers to children's questions and addressing their uncertainties in their expanding world, he sought to aid their emotional development as individuals."

As the Nation stands on the brink of war and the threat of terrorism as a constant reminder of the cruel world in which we live, who is listening to the children and addressing their uncertainties? Who on national television will be that reassuring and calming presence for the next generation of children?

On February 27, Fred Rogers, the gentle and soft-spoken host of "Mister Rogers' Neighborhood" died of stomach cancer at his home in Pittsburgh at the age of 74. Rogers received four daytime Emmy awards, a Peabody award, a lifetime achievement award of the National Academy of Television and Sciences, the Presidential Medal of Freedom, and more than two dozen honorary degrees for doing what too few of us have sought to do, make a commitment to enrich the lives of children. He was truly a gentle giant, and I urge my colleagues to support H. Res. 111, "Honoring the Legacy of Fred Rogers."

Mr. Speaker, I yield back the balance of my time.

Mr. MURPHY. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise with my colleagues in thanks for the life of Fred Rogers, for the heart of Fred Rogers, and for the wonderful efforts of Fred Rogers throughout his lifetime, especially for the children of the world. I have the neighborhood trolly from his program with me, and I think it symbolized a large part of who Fred Rogers really was. He was a uniter in a world of dividers. He was a believer in a world of skeptics. He was kind in a world of cynics. Fred Rogers set the example that every parent probably wishes they could set for their children, one that says, I like you for who you are, no matter your differences, no matter your failings. As he used to say, "It's you that I like." He invited everybody to the neighborhood, Mr. McFreely, others, the king, the queen, all the funny little characters that children grew to love over the years, and interestingly enough, I am of the generation who enjoyed Fred Rogers as children and now our children are enjoying Fred Rogers, and hopefully through television generations to come will be able to enjoy and come to love Fred Rogers as we all did.

His loss is a great loss. His mission was a great mission. Where so many seek riches in this world, Fred Rogers sought to teach people to love and he succeeded. He leaves a legacy of love, of goodness, of kindness again in a world that lacks that all too often. I am fortunate to have lived in Pittsburgh and to have met Fred Rogers several times. Unfortunately, I did not get to know him terribly well. He was the kind of man one did not have to know terribly well to understand, to take a little bit of him with one as they went about their day.

I have three nieces and a nephew who now benefit from Fred Rogers and from his message and his love. I hope that we will all carry that with us through our trials and our difficulties throughout our lives and remember when we meet somebody, to think "there is something about you that I like."

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

I would like to add this final quote from Fred Rogers. He said, "We live in a world in which we need to share responsibility. It's easy to say 'it's not my child, not my community, not my world, not my problem.' Then there are those who see the need and respond. I consider those people my heroes."

Mr. Rogers has been a hero to us all.

I urge the adoption of this measure, House Resolution 111.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today as a mother and as a grandmother to honor Fred McFeely Rogers, known to millions of children and their parents simply as "Mister Rogers."

Since first broadcasting "Mister Rogers' Neighborhood" on Pittsburgh's public television station in 1966, Mister Rogers brought his message that "everybody's special" to children and adults around the world. Fred Rogers spoke to thousands of children every day, gently teaching each of them about the importance of acceptance—acceptance of others and acceptance of themselves. No matter what challenge children face in their lives it is always "a beautiful day in the neighborhood" that Mr. Rogers created for them.

Mister Rogers also acted as a role model for parents, suggesting creative ways for parents to listen—and to listen—to their children. Fred Rogers did not rely on fast-paced cuts and high-budget thrills to keep a child's attention. He wrote the scripts, was the host, operated the puppets, and even wrote the songs for each show. Mister Rogers' formula for making kids care about what he had to say was to listen to them.

Mister Rogers' co-workers at PBS honored his memory by carrying on his work. They quickly updated his website to offer advice to parents on how they can constructively talk to their children about his death. We can all honor his memory in much the same way: by carrying on his message, "There's only one person in the world like to you," and then respecting those differences that make each of us so unique.

My condolences go out to Fred Rogers' family and I thank him for his work to improve the lives of children.

Mr. KIND. Mr. Speaker, I rise today to commemorate the legacy of Fred Rogers, the man loved by generations of children for his many years as television's "Mr. Rogers." Perhaps no other American has done as much to foster the public's interest in child education and advocacy. He touched the lives of millions of children during his show's 33 seasons on the air, and I feel privileged to honor his life here today. I thank the gentleman from Pennsylvania for bringing this resolution to the floor.

For 33 years Mr. Rogers invited America into his living room and gave us a tour of his neighborhood. Mr. Rogers infused his world with a creative mixture of fact and fiction, introducing his young viewers to both the real world and a world of make believe. Children saw the insides of bakeries, police stations and glass-blowing factories. Meanwhile, they also learned the values of sharing, compassion, and community from the puppets who became characters in their daily imaginary lives. Fred Rogers showed us that not only is education important; it can also be fun.

On July 9, 2002, President Bush awarded Mr. Rogers the Presidential Medal of Freedom. I call on this body to offer its recognition of the life of a man whose personal mission to improve the lives of children made a difference in all of our lives.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to take this time to express my condolences to the family, friends and millions of children who have been influenced by the lovely man, Fred Rogers. He passed away on February 27, 2003, but this in no way means that his teachings and influence will end here.

Fred Rogers, known best as Mr. Rogers, with his safe neighborhood, was instrumental in teaching children for decades. He encouraged learning in innovative way through his TV show. Young children adored this man, his empathic lessons of being nice to your neighbor, and helped children enter school ready to learn and ask questions.

Fred Rogers taught our children how to make this world more compassionate, kind and loving. We remember him as someone who brought out the positive side of television, using it as a vehicle to teach children basic skills.

Mr. Rogers had a worldwide appeal for children, and many of his lessons preached tolerance and acceptance for those around you that may initially appear different. He used gentle themes and a friendly voice to convey his messages. Mr. Rogers had the ability to express his ideas and children were able to act on in their homes and lives. Such an example and contributor to American television deserves our utmost praise. My own children, Erica and Jason, were drawn to Mr. Rogers' knowledge and kindly approach—they learned alot!

I am a proud supporter of House Resolution 111, to honor his legacy. I do offer my most sincere condolences to his wife, Joanne, their two sons and two grandsons. Fred Rogers is certainly worthy of this honor.

Mr. LARSON of Connecticut. Mr. Speaker, in a world where too often neighbors have become strangers, the meaning of "Love thy neighbor" has dwindled. Fred Rogers never lost that spirit. He accepted us into his neighborhood, into his home, and presented our children with a message that you should be loved for who you are.

"The whole idea," said Mr. Rogers, "is to look at the television camera and present as much love as you possibly could to a person who needs it."

Fred Rogers recognized the power of television to carry out that message of caring, and become involved in children's broadcasting during its infancy. In the early 1950s he began working in public television at WQED, the first community public television station in the nation. On his lunch breaks, he attended Pittsburgh Theological Seminary and graduated magna cum laude with the Class of 1962 with his Master's in Divinity. The day after graduation he was called to Canada to begin MISTEROGERS, the show that would evolve into Mister Rogers' Neighborhood on his return to Pittsburgh a year later.

Mr. Rogers' teaching did not end at the close of each broadcast, or even when he left the studio. Through Family Communications, Inc., Fred Rogers was able to foster girls' involvement in math and science, educate children about the dangers of prejudice, and teach pre-schoolers anger management. Through Safe Havens Training Project, Mr. Rogers was able to educate childcare workers on how to deal with children that witnessed violence, proving them a place where they could feel safe.

Fred Rogers also remained active in the ministry, educating a new generation of ministers at the Pittsburgh Theological Seminary's Summer Youth Institute. Mr. Rogers would spend an afternoon with the teenagers, hoping to impart to them the importance of the doctrine of love and caring that he had made the center of his life.

Mr. Rogers was a teacher, an educator, and a presence in many of our children's lives. The neighborhood will miss him.

Mr. MURPHY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and agree to the resolution, H. Res. 111.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MURPHY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 111.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 7 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. OTTER) at 6 o'clock and 30 minutes p.m.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 2003.

Hon. J. Dennis Hastert,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective February 27, 2003, I hereby resign from the Committee on Science due to my appointment to the Committee on Education and the Workforce.

Sincerely,

TIMOTHY BISHOP,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 3, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective March 3, 2003, I hereby resign from the Committee on Small Business due to my appointment to the Committee on Armed Services.

Thank you for your assistance in this matter. If you have any questions, please contact me at (202) 225-5261.

Sincerely,

TIM RYAN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 106, by the yeas and nays;

H. Con. Res. 54, by the yeas and nays; and

H. Res. 111, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONGRATULATING LUTHERAN SCHOOLS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 106.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and agree to the resolution, H. Res. 106, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 27, as follows:

[Roll No. 40]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Becerra
Combest
Crowley
Dooley (CA)
Feeney
Ford
Gephardt
Graves
Gutierrez
Hart
Honda
Houghton
Jackson-Lee (TX)
Jefferson
LaTourette
McHugh
Millender-McDonald
Mollohan
Oberstar
Serrano
Snyder
Stupak
Sweeney
Terry
Towns
Vitter
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OTTER) (during the vote). The Chair would advise that there are 2 minutes left in this vote.

□ 1849

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 40, I was detained with constituents is the reason I missed the vote. Had I been present, I would have voted "yea."

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was unavoidably detained on rollcall vote No. 40 attending to my constituents with the American Legion. H. Res. 106, if I had been present, Mr. Speaker, I would have voted an enthusiastic "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series of votes will be conducted as 5-minute votes.

ESTABLISHING AN ANNUAL VISITING NURSE ASSOCIATION WEEK

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 54.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 54, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 23, as follows:

[Roll No. 41]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—23

Becerra
Combest
Crowley
Dooley (CA)
Feeney
Gephardt
Graves
Gutierrez
Herger
Houghton
Jefferson
LaTourette
Lewis (CA)
Mollohan
Oberstar
Sanders
Serrano
Snyder
Stupak
Sweeney
Terry
Vitter
Wexler

The SPEAKER pro tempore (during the vote). The Chair would advise that there are 2 minutes left in this vote.

□ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING THE LEGACY OF FRED ROGERS AND HIS DEDICATION TO CREATING A MORE COMPASSIONATE WORLD

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 111.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and agree to the resolution, H. Res. 111, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 22, as follows:

[Roll No. 42]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon

Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—22

Becerra
Combest
Crowley
Dooley (CA)
Feeney
Gephardt
Graves
Gutierrez
Houghton
Jefferson
LaTourette
Mollohan
Oberstar
Sanders
Serrano
Snyder
Stupak
Sullivan
Sweeney
Terry
Vitter
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OTTER) (during the vote). The Chair reminds Members there are 2 minutes remaining in this vote.

☐ 1904

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRAVES. Mr. Speaker, my flight was inevitably delayed leading to circumstances beyond my control. Therefore I was not able to be present for the record votes on Tuesday, March 4, 2003.

Had I been present I would have voted in the affirmative for: H. Res. 106—Congratulating Lutheran schools, students, parents, teachers, administrators, and congregations across the Nation for their ongoing contributions to education, and for other purposes; H. Con. Res. 54—Honoring Visiting Nurses Association; and H. Res. 111—Honoring the legacy of Fred Rogers and his dedication to creating a more compassionate, kind, and loving world for children and adults.

MAKING IN ORDER AT ANY TIME ON WEDNESDAY, MARCH 5, 2003, CONSIDERATION OF H.J. Res. 27, COMMENDING MEMBERS OF U.S. ARMED FORCES

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time on Wednesday, March 5, 2003, to consider in the House H.J. Res. 27; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER AT ANY TIME ON THURSDAY, MARCH 6, 2003, CONSIDERATION OF H.R. 13, MUSEUM AND LIBRARY SERVICES ACT OF 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time without intervention of any point of order on Thursday, March 6, 2003, to consider in the House H.R. 13; that the bill be considered as read for amendment; that the bill be debatable for 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and that the previous question be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 332

Mr. BARRETT of South Carolina. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 332.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE BALANCE ACT OF 2003

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, a massive digital revolution is unfolding before our very eyes. Like most breakthroughs in the past, this revolution has provoked deep concern and suspicion within the entertainment industry. In response Congress enacted the Digital Millennium Copyright Act.

However, the law is flawed. It threatens fair use and First Amendment rights by imposing strict liability on the circumvention of technical restrictions. It has the potential to destroy the First Sale doctrine and to extend copyright terms in perpetuity. And in practice, it has chilled technological development and competition. That was especially evident last week when a Federal judge, citing the DMCA, issued an injunction chilling competition in the market for printer cartridges which have nothing to do with copyrights.

Today I am introducing the BALANCE Act of 2003 which seeks to restore the traditional balance of copyright law. I hope this bill will help move all parties toward the ultimate goal, a robust digital marketplace where DRM protects copyright holders, where the IT industry has freedom to create new and exciting devices and where consumers are given a broad array of lawful alternatives that are affordable, reliable, secure, and respectful of their legal rights and expectations.

A JUDGE'S OPINION

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, as a Texas State district judge for 20 years, I am aware, very aware, of the attorney-client privilege. This is one privilege that has withstood the challenge of liberal courts and is broader than the fifth amendment's protection against self-incrimination.

In the case of Swendler versus U.S., the Supreme Court ruled that the attorney-client privilege is so important it extends beyond the grave. We all recall Vince Foster, Clinton's deputy chief of staff, who investigated Travelgate. After killing himself, the Republican special prosecutor sought records from his attorney but was not able to get them because the Courts ruled that the attorney-client privilege survives the client's death to promote a full and frank communication between client and counsel.

Similar records are now being sought from Miguel Estrada today, and he is being refused confirmation because of those records.

Mr. Speaker, what is wrong with this picture? In this judge's opinion, Miguel Estrada deserves to sit on the bench of the D.C. Circuit Court of Appeals and should not be kept from it because he keeps sacred one of its oldest privileges.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TITLE IX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, in 1972 Title IX became law. Title IX prohibits discrimination in education programs or educational activities based on gender. This has resulted in significant gains in women athletic participation. It has been a great thing for a great many people. From 1972 to 1999, there has been a tenfold increase in women's athletic participation at the high school and the college level. At the NCAA level, the increase was from 30,000 to 157,000 athletes, roughly a 500 percent increase.

However, there is another side, Mr. Speaker, to Title IX. Between 1985 and 2001, we lost 57,000 male college athletes. During that same period, we gained 52,000 female athletes at the college level, almost the same in number. Between 1992 and 1999, there were 386 men's collegiate teams that were eliminated.

□ 1915

Mr. Speaker, 171 of those were men's wrestling teams. The most common reason given for the elimination of these programs was to comply with title IX.

Recently, the Secretary of Education established a 15-member commission to establish a study of opportunity in athletics. The purpose was to examine title IX and its impact on athletics.

This committee made 23 recommendations. Many of those recommendations were accepted with unanimous consent. However, there were eight recommendations that were not unanimous. Some people are now saying that since they were not unanimous, they should not be implemented. I would like to just retrace four or five of these.

First, one proposal was that the Secretary of Education be given some flexibility in implementing title IX. Currently, if 60 percent of a student body is male and 40 percent is female, then that means that 60 percent of the scholarships should go to males and 40 percent to females; and there is only 1 percent variance, so that means 59 percent would be the minimum.

We feel that this is impossible to implement because sometimes athletes quit, and sometimes they sign a letter of intent and do not show up. So a 1 percent variance is not workable, and the Secretary of Education needs variability.

Secondly, a recommendation was that private funds be able to be used if a sport was to be dropped because of noncompliance with title IX. For instance, if a wrestling program was about to be dropped because of noncompliance, then it would allow people to go out and raise money privately to keep that program going. It would not eliminate women's sports or women's opportunities; it would simply keep a sport going that is rapidly disappearing. That makes sense, but there are those who oppose this.

Another proposal is that slots on team rosters be treated the same as actual athletes. For instance, if there were 20 scholarships on the women's rowing team available, but only 10 women went out for the sport, the question is do you allow that as 20 opportunities, or do you say you just count the 10 women? If you just count the 10 women, that means you have to get rid of 10 men somewhere because of the slots not being occupied. That does not make sense. As long as the opportunity is there, we think they should be counted as certainly athletes who are in compliance.

Fourthly is the use of interest surveys to indicate school ·compliance with title IX. This is one of the three major problems in title IX, is the interest of the underrepresented sex being met? So the proposal is to allow interest surveys to be used, so if, for instance, there is no interest in a given school in women's rifle, then we should not have to offer women's rifle. That would make sense. But, again, this is being opposed by a few people because they feel that somehow this will undo title IX.

Lastly, there is the issue of walk-ons, something I know about to a fairly great extent. Currently, walk-ons are excluded because of the head counts. So if there were 200 female athletes at a school and 200 male, and the student body was equally divided 50–50, that would mean if you had 100 people who wanted to walk on who were male, who would pay their own way to school, pay for some of their own equipment, that they would not be allowed out unless there were 100 female walk-ons also. Statistical studies show that women simply do not walk on anywhere near the same proportion as men, so we have thousands of young men everywhere who are excluded from competition because of title IX. There will be no more Rudys. There are no more Rudys, in many cases. Again, that does not make any sense.

Mr. Speaker, I had two daughters who competed in athletics. I have two granddaughters. I hope they compete as well. I also had a son who competed and two grandsons whom I hope will compete. I coached 2,000 young men. So I am certainly not opposed to female participation. But we need to restore fairness and balance to title IX, and I urge my colleagues to support a letter we are circulating to this effect.

SUPPORT THE KOBY MANDELL ACT OF 2003

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from New Jersey (Mr. ANDREWS) is recognized for 5 minutes.

Mr. ANDREWS. Mr. Speaker, I rise tonight to speak on a subject that is very much on the hearts and minds of the American people, especially in these last 18 to 20 months, and that is terrorism.

Terrorism is the deliberate use of violence against civilians for the purpose of achieving a political end. Terrorism is very much on the front page of our newspapers, but it is not new to America at all. Terrorism has historical consequences, it has human consequences, and we must make sure that it has future punitive consequences as well.

This week we commemorate a sad anniversary, the 30th anniversary of the terrorist slaughter of two leading diplomats of our Nation. Thirty years ago this week, a group of Palestinian-based terrorists burst into the Saudi Arabian Embassy in Khartoum, Sudan, and held captive a group of diplomats, including some Americans. Evidence would suggest that upon orders from the leader of what was then known as the Palestinian Liberation Organization, what is now known as the Palestinian Authority, Mr. Arafat, a decision was made by these terrorists to first torture and then execute two American diplomats.

According to a National Security Agency report at the time, the murders were carried out by members of the Palestinian terrorist group known as Black September. According to a CIA report at that time, Black September was a cover term for Mr. Arafat's Fattah movement, and the murders were carried out at his orders.

This has very human consequences. Two diplomats serving their country who were murdered 30 years ago need to be remembered.

Cleo Noel was a native of Oklahoma. He graduated from the University of Missouri, earned his masters degrees from the University of Missouri and Harvard; and he had a distinguished career in the State Department.

The other murdered diplomat was George Moore, a native of Ohio who graduated from the University of Southern California where he also earned a masters degree. Mr. Moore also had a distinguished career with the State Department, and in fact was the highest-ranking African American in the Foreign Service at the time of his murder.

Terrorism must have future punitive consequences. Our Nation has been awakened to this great threat. Very recently on the 20th of February of this year the Justice Department achieved a major victory in our war on terrorism when it issued indictments for eight members of a terrorist organization known as the Palestinian Islamic Jihad, a group responsible for the murder of at least 100 civilians.

But we must have a more systematic approach to be successful in finding and bringing to American justice those who commit these acts of terror. The murderers of Cleo Noel and George Moore have never faced American justice over these last 30 years for the terrorism that they committed.

In order to give us more opportunity, more authority, to wage this war on terrorism, I have introduced the Koby Mandell Act of 2003, named after an American citizen whose life was snuffed out while outside of our country in Israel.

The purpose of this legislation is to create within the Department of Justice a permanent unit that will aggressively seek out those who have committed acts of terror against American citizens, wherever they happen to be in the world, so that American citizens can enjoy the protection of our law enforcement system wherever they may travel, most particularly in cases where the host countries are unwilling or unable to properly administer justice to those who commit such acts of atrocity.

This was the case in the case of our two martyred diplomats. The Government of Sudan released them very shortly after their arrest. They were turned over to what was then called the Palestinian Liberation Organization, and nothing happened: no trial, no meaningful prosecution, no punishment. The word went out that the price of an American life, the price of a life of an American diplomat, was nothing.

We believe differently. We respect the value of every human life, of every person of every country. We understand our obligation and our responsibility to stand forward and protect the lives of the people who have entrusted us with the governance of this Nation.

In cases where other nations are unwilling to mete out justice, we must do so. I would urge my colleagues to enlist as cosponsors of this important legislation.

ACTING UNILATERALLY NOT IN BEST INTEREST OF UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

Mr. HOEFFEL. Mr. Speaker, I rise this evening to state that unilateral military action by the United States against Iraq at this time is not in our best national interest.

Certainly Saddam Hussein must be disarmed and Iraq must be rid of weapons of mass destruction. Equally clear is our power to act unilaterally and successfully against Iraq, or any other country for that matter. I am proud we have that power, and we must sustain it. But the question is not whether we will prevail against Iraq. We will, with or without help. The real question is whether it is in our best national interest to unilaterally use our awesome power against Iraq. I believe it is not.

We may not need help to win a war, but we will need help the day after the war is won, and that help must come from a multinational or a United Nations effort. We need our friends to help with peacekeeping, with rebuilding and with international credibility, and that support will be absent if we take unilateral action.

This is not about winning United Nations permission to protect ourselves. We do not need that permission. This is about winning United Nations support to protect all civilized countries from the Iraqi threat. President Bush must forge a strong coalition through continued diplomacy before using American military power. If he does not, we will be isolated and less secure, and that is not in our national interest.

President Bush very skillfully won unanimous Security Council support last fall to restart the arms inspections, and he deserves great credit for that. After the initial success, however, the administration has not been able to maintain that unity and cannot even muster unity today among the five permanent nations of the Security Council.

What is the problem here? We are talking about an isolated country with a fourth-rate military and a leader who is a murderous tyrant that has no support and no friends in the United Nations. Yet the Security Council is split. Why is that? I believe it is because of the inept, bungled, cowboy diplomacy of the President of the United States and his senior advisers.

Six months ago, after a great deal of soul searching, I voted to give the President military authority to use force to rid Iraq of the weapons of mass destruction. The President asked for that authority and said he would exhaust all diplomatic options before using it. And his strategy worked. The inspections were restarted.

I am convinced that while those inspections have not been met with enough cooperation, the inspectors' presence in Iraq has made Saddam Hussein less dangerous for the time being.

The administration has had much less success since then, and the root cause is simple: cowboy diplomacy from this administration. Every diplomatic thrust has been met with rhetoric that belies and often contradicts the diplomatic efforts. Administration spokesmen speak nearly every day with rhetoric that implies we are bent on war, with or without U.N. support, with or without our traditional and closest allies. The implication is that diplomacy is just something to take up time and distract attention until all of our troops are in place.

The Bush administration spent much of its pre-9–11 days acting unilaterally on a variety of fronts, the environment, the ABM Treaty and many other ways, even though promising a new foreign policy run with humility during the 2002 election campaign.

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In that broader sense, it comes as no surprise that so many of our allies are not joining us now.

Then last week, in the middle of this diplomatic standoff, the administration released its plans for a post-Saddam Iraq, which included the possibility of a civilian American government. I think that is a great mistake. It will certainly be necessary, if we invade Iraq, for there to be military occupation to keep people from murdering each other for a time. That occupation will be essential; but we should not impose an American civil government.

We should be looking for a multinational or a United Nations program to provide an interim civil government, and certainly our goal has to be to establish a representative and stable Iraqi government itself. The Bush plan smacks of colonialism, and could give ammunition to those who question our motives in seeking to disarm Hussein in the first place.

It is dangerous to conduct a unilateral invasion of Iraq. It will undermine our credibility and legitimacy that this country has built up over decades of global leadership. We must realize that when we question the motives of countries like Germany and France, they question ours. We must work with them.

I call on the Bush administration to renew its efforts to secure a broad multinational coalition or U.N. mandate to disarm Iraq.

NATIONAL SOLUTION NECESSARY FOR CRISIS OF MEDICAL LIABILITY COSTS AND OVERREACHING LAWSUITS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise today to protest the increase of medical liability costs in an environment where it has become all too commonplace to name the innocent in lawsuits, drive good doctors from the practice of medicine, and play games with the health care of vulnerable patients.

This crisis has reached my home State of Texas, and even reached the cities and towns that I now represent in Congress. For instance, my neighbor, Dr. John Marsden, a vascular surgeon in my district, must pay $6,600 per month for his medical liability coverage. That is nearly $80,000 a year just to purchase insurance to stay in business. I do not think we would find it acceptable if other kinds of businesses had to absorb that kind of overhead.

After being named in numerous unfounded lawsuits where there has been no affirmative finding in favor of the plaintiff, Dr. Marsden notes that if he sustains another increase in his medical liability rates, he will be forced to leave his medical practice. If he ceases his surgical practice, the city of Lewisville and the outlying areas of my county would no longer have ready access to a vascular surgeon, severely impacting the health of Dr. Marsden's elderly and institutionalized patients. They would then have to travel a longer distance to receive health care, or perhaps even a life-saving operation.

Another surgeon in my district, Dr. Hatton, has an equally similar situation. Dr. Bill Hatton is a surgeon at the Medical Center of Lewisville. In 1994, he performed an operation, a gall bladder operation, on a pregnant woman. At the time, he found she also suffered from appendicitis. The appropriate operation was done and the woman was sent home to recover from her surgery.

Four weeks later, the same woman was admitted to the hospital. She had signs and symptoms of infection. She had a very high fever. It was feared that she could be suffering from peritonitis, an inflammation of the lining of the abdominal cavity, and that the cause was a breakdown of the surgical site inside her abdomen. The symptoms were so severe the patient was in what was called high output congestive heart failure. If nothing was done, the mother would surely die. However, in trying to save the mother, the child's life would be put in jeopardy.

Surgery was performed on the woman, expecting that there was this problem at the appendectomy site, but no evidence of an anastomotic leak was found. The child was delivered but, sadly, died of extreme prematurity; but the mother, after the operation, immediately improved, and within 24 hours, was nearly well and was discharged from the hospital a few days later.

After these tragic events, an attorney sued Dr. Hatton on behalf of the shocked and saddened family of this young woman. Every practitioner involved in the case was sued, but Dr. Hatton was the ultimate target. The case went to trial and Dr. Hatton prevailed. What the attorney should have recognized at the point of the depositions, had he not been blinded by greed, was the fact that, in this tragic and sad case, there was no negligent party.

However, that attorney continued to drag Dr. Hatton through a long and arduous legal battle, and delayed the time that that family could eventually heal from their psychological wounds. This was a costly, time-consuming, and an emotional process for both the doctor and the family, all for the agenda of a third party.

There are thousands of other doctors with similar stories. The crisis is at a breaking point. Doctors are being driven from their practices, leaving the Nation with a serious health professional shortage. The legal environment in which doctors must work is lopsided to favor a very narrow special interest group, that of the trial lawyer. Patients are losing access to specialized care that they need because doctors are being driven out of business.

Trial lawyers prey on vulnerable patients and doctors rarely in pursuit of justice, but frequently in pursuit of material gain. Nearly every State in the country now faces this crisis. A national solution is needed now. Fortunately for us, H.R. 5, which we will debate this week, will immediately address this problem by providing the national solution that is needed when it comes to the floor. I urge passage of H.R. 5.

GOVERNMENT PENSION OFFSET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I rise today to talk with my colleagues on a very controversial provision within the Social Security Protection Act which the House will be considering on the floor tomorrow. This legislation includes a number of important provisions to defend Social Security against fraud and abuse, and ensure that disabled beneficiaries are protected.

Unfortunately, this legislation fails to offer any protections to an equally important population: public employees who suffer at the hands of an unfair provision known as the government pension offset. In States where some public employees are not covered by Social Security, such as Texas, the government pension offset reduces spousal benefits by two-thirds, and, in some cases, eliminates these benefits altogether.

This provision unfairly penalizes public servants such as schoolteachers, firefighters, and police officers who educate our children, protect us from harm, and care for us during emergencies. This is a particular burden for widows, especially our public school teachers who had planned their retirement benefits thinking they would receive a full spousal benefit, because their spouses did pay into the Social Security trust fund. The only way they can escape this unfair penalty is by working their last days in a job covered by Social Security and their retirement system.

Unfortunately, so many school districts and some law enforcement agencies in Texas do not have both their pension plan plus Social Security. Unfortunately, the legislation we are considering tomorrow would prevent teachers from using this benefit, forcing them to work 5 more years in order to receive a full spousal benefit. In other words, they would have to leave their jobs at the school district which may not be part of the Social Security system, because in 1983 Congress allowed public employees not to be included, to then work for a school district that is both under the teacher retirement system in Texas and Social Security for 5 years.

We should not punish teachers by stripping away this right unless we address the underlying problem, the unfair government pension offset, the GPO. The widow's benefit is vital to many individuals in my district, especially public school teachers, who have worked their whole lives trying to educate our children. It is not by their choice that they happen to work in a school district that does not pay Social Security; it is school district decisions by the board Members.

I have received literally hundreds of phone calls and messages from constituents who are hurt by this provision. They planned their retirement thinking that they would receive a pension benefit or spousal benefit if their husbands or wives die.

Let us be clear: Most of the impact of this provision is on women. At the time they chose their profession, teaching may have been the best opportunity for females; but they retire, to find that they are not eligible for their husband's benefit, their widow's benefit, because they receive a public pension that was not covered under Social Security. By that time, it is too late.

I could give many examples of people who have worked many years teaching our children, working as a custodian in our school districts, or helping serve food to our children whose husband passed away and they find out, well, sorry, you do not pay Social Security, even though your husband did all those years, and now you do not receive but a very small amount, or none, of Social Security widow's benefits.

H.R. 743, that is on the floor tomorrow, will make it harder for teachers and other public servants to get the benefits they deserve, but it does nothing to address the unfair system that created this situation in the first place.

I encourage my colleagues to stand up for public servants by opposing this legislation tomorrow, and to work instead to eliminate the government pension offset, the GPO. I am a strong supporter of legislation introduced by my colleagues, the gentlemen from California, Mr. MCKEON and Mr. BERMAN, which would eliminate the government pension offset and the windfall elimination provision, another quirk in Social Security that hurts public employees. That is legislation we should be considering tomorrow, but we are not.

I know my colleague, the gentleman from Louisiana (Mr. JEFFERSON), has been a champion on this issue and is planning on introducing legislation which would provide a remedy for the government offset. We should consider these bills before we consider H.R. 743.

I urge my colleagues and the leadership to act on these bills and finally solve the government pension offset problem.

AFFIRMATIVE ACTION PLANS STILL VITAL FOR JUSTICE IN UNIVERSITY ATTENDANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MEEK) is recognized for 5 minutes.

Mr. MEEK of Florida. Mr. Speaker, I want to share that today is the third anniversary of the march on Tallahassee in Tallahassee, Florida. It took place in 2000, to stand not only for justice by affirmative action in this State, but ultimately this country.

The adoption of affirmative action programs in the '60s reflected our Nation's aspirations to overcome long-entrenched injustices and become a society of equal opportunity, or at least to make sure that everyone has the opportunity in higher education that would like to have it.

Now, not only the President but the Governor of the State of Florida, Jeb Bush, has put forth a brief to the Supreme Court fighting against equal opportunity for all. I think it is important that we as Americans come together at a time such as this and commend those that have come forward.

One of the things that the State of Florida talked about as it relates to moving away from affirmative action was moving away from equal opportunity, not only for race or gender, but also moving away from what we believe makes us Americans.

I think it is important for us to note that some of these programs are more harmful than helpful. In Florida, they have the Talented 20 program. If this was to become the law of the land and philosophy of the land, if the Supreme Court does not uphold the Michigan decision, it is important, it is important that we make sure that we have as many inclusionary opportunities as possible, especially for those that are attending school for the first time.

In Florida, under the Talented 20 program, if you have school A, and school A is a school where the GPA of top 20 percent stops at a 3.5, and school B, where the top 20 shuts off at 3.3; say you have 2 students, they play soccer together, two girls, and you have one student in school A that will have a 3.4 GPA, and the one in school B has a 3.4 GPA, this school A student does not go to school and this one does, based on the capability of other students in their school.

The top 20 cuts off at different locations, different areas in every school; so a child should not be penalized on the fact that they go to a school that has more magnet programs or Rhodes scholars, future Rhodes scholars, whatever the case may be. They should not be penalized. When we move away from the practice of affirmative action, using race among many factors, we get into a very gray area that is going to end up hurting more Americans than helping them.

As we start looking at the fact that, I must say, my President and yours was able to get into school under a legacy, I think it is important that we remember that everyone did not have the opportunity to have a parent or someone that was able to get a dormitory named after them to be able to get into school. That means every American.

I share with people constantly that it is very, very important that we remember that education is the number one key to help individuals provide for their families. I tell individuals when I go to speak at Rotary Clubs or at the Kiwanis Club, if they have a wife or daughter, which qualifies every man in this country, then they should be for affirmative action.

The Michigan case is supported by General Schwarzkopf and many others that are noted throughout the military, because diversity makes our country great and strong. I think it is important that Members, not only of this Congress but definitely of the Supreme Court and just everyday Americans, need to understand that if we have to get a football or a basketball, or we have to take our kids to an arts program where they can learn how to sing or what have you, dance well, to get into our institutions of higher education, I think that is the wrong thing.

Universities and institutions of higher learning would like to be able to have the opportunity to say that this child, based on the fact that they have great ability, will be a great asset, not only to our university but also to our society. I think it is important. I think it should not be just based on sports, and it should not be based on the fact that someone can sing or run. I think it is important that we remember that children and young people that want to move on into higher education should be able to do so based on their academic ability, and not on the academic ability of others.

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So I think we really need to really look close to these fast, quick programs, affirmative action, things that are untested, unproven, and look at what the University of Michigan has put forth.

I commend the brief that has been put forth by Members of Congress supporting affirmative action, of supporting the Michigan case in the Supreme Court. I think we, as Americans, it brings us together. It does not divide us. When we start looking at voices and hearing voices that are willing to use race and use divisive kinds of languages like preference, things of that nature, divides us as Americans. I think it is important we redefine preference.

Mr. Speaker, I urge Members of the House to really look close as we look at this national debate over inclusion, this national debate of education on behalf of fair play, making sure that every young person in our country has an opportunity to quality education and the best universities that we have that serve us. We do not want to go back to the day like my mother, who served in this House, in this Congress, who had to go to the University of Michigan not by choice but just on the fact that she could not get into an institution in Florida to be able to receive a master's degree. I do not think that we will get to that point because I know that Americans will stand up, and I am glad. And I commend the University of Michigan and the corporations and our men and women that are sponsoring them.

ECONOMIC MYTH OF WAR

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, I want to talk tonight about an economic myth. There is a myth that has been around a long time and that is that war benefits an economy.

The argument goes that when a country is at war it will create jobs and creat economic growth. This is a myth. During the time of World War II and following, they claim that the Depression ended, finally ended with the start of the second world war. And this is not true either because a lot of men were drafted and put into the military. Unemployment rates obviously went down, but there was no improvement in the economy.

Economic growth and really the ending of the Depression did not end until after World War II. So it is wrong to think there is an economic benefit coming from any kind of a war.

There are a lot of shortcomings from a war. During wartime it is much more common to have inflation, and the money presses are running so we can expect inflation from the military build up and the possible war that we are facing. Also, during wartime there is a bigger challenge to the currency of that nation that is at war, and already we see that the dollar in the past year has been down 20 percent. Although there are many other reasons for a weak dollar, the war is contributing to the weakness in the dollar.

Also, during wartime the country can expect that taxes will go up. I know we are talking about cutting taxes, and I am all for cutting taxes; but in real terms taxes will go up during wartime. And it is inevitable that deficits increase. And right now our deficits are exploding. Our national debt is going up nearly $500 billion per year at an analyzed rate.

The other shortcoming economically of wartime is that funds, once they are either borrowed, inflated or taxed, once the government spends these, so much of this expenditure is overseas, and it takes away from domestic spending. So this is a strong negative for the domestic economy. Another thing that arises during wartime so often is the sentiment for protectionism and a weak economy, difficulties with currencies in wartime will really build an incentive for protectionists measures, and we are starting to see that, which I think is a danger.

During wartime, trade is much more difficult; and so if a war comes, we can expect that even our trade balances might get much worse. There are a lot of subjective problems during wartime too. The first thing that goes is confidence. Confidence in general. Right now there is less confidence in the stock market and literally hundreds of billions of dollars lost in the stock market in the last year or two, again, due to other reasons; but the possibility of war contributes to this negative sentiment toward the stock market.

It is hard to judge the future. Nobody can know the future because of the unintended consequences of war. We do not know how long the war will last. How much it will spread? So there are a lot of uncertainties about this. There is fear. Fear comes from the potential of war or during wartime and a lot of confusion. And unfortunately, also when wars are not fought for national security reasons, the popularity of the war is questioned, that this may alienate our allies. And I believe we are seeing some of that already.

There is no doubt that during wartime the government expands in size and scope. And this of course is a great danger. And after war, the government rarely shrinks to its original size. It grows. It may shrink a little, but inevitably the size of the government grows and there is a tremendous incentive to increase the size and scope of government during wartime. This is a danger because when government gets bigger, the individual has to get smaller; therefore, it diminishes personal individual liberty.

So these are the costs that we cannot ignore. We have the costs of the war. We have the cost of potential loss of life, but there is a tremendous economic cost that even the best economists could not calculate what this war may cost us.

War should always be fought as the very, very last resort. It should never be done casually, and it should be done only when absolutely necessary. And when it is, I believe it should be fought to be won. It should be a declared war. It should be a war not fought under U.N. resolutions or for U.N. resolutions, but for the sovereignty and the safety and the security of this country. Under those conditions, it is explicit in our Constitution that only those wars that are fought in that manner should be declared by the Congress. And that is something that concerns me a whole lot because we have not declared a war outright since 1945; and if you look carefully, we have not won very many since then and wars tend to linger.

We are lingering in Korea. That is a mess over there. We have been there for 58 years, have spent hundreds of billions of dollars, and we are still messed up because we went in there under U.N. resolutions and we did not fight to victory. The same with Persian Gulf War I. We went in there without a declaration of war. We went in there under the U.N., and we are still there and who knows how long we will be there. So there are a lot of costs, hidden costs and some are overt. But the greatest threat, the greatest cost to war is the threat to individual liberty. So I just caution my colleagues that we should move much more cautiously and hope and pray for peace.

INTERNATIONAL DEVELOPMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, my colleague, the gentleman from the State of Utah, we bring good news. The good news is Colorado has got snow, and we are almost back to average. We are having a great year out there in Colorado.

I saw in one of the Eastern press papers lately that the Rocky Mountains, in our ski areas out there, are suffering because of our lack of snow and we have had great snow out there. That is the good news that I bring to you.

I want to bring another piece of good news to my colleagues that happened to the State of Colorado. In Colorado we have an area called the Four Corners. It is the only area of the country where four States touch in one spot, down near Cortez or Durango, Colorado, to give you a vicinity earmark so you know where I am talking about. The United States Navy, I had the privilege of being invited by the United States Navy to go to the Pascagoula, Mississippi shipyard. I have never been to a shipyard. In Colorado we do not have a lot of Naval presence. But the Navy decided to name one of their new ships after the national park down in the Four Corners. And the name of that national park is Mesa Verde, mesa verde meaning "green table."

It is a beautiful area. It is the only national park in the Nation that protects man-made objects, not objects just of nature. So to have a ship named in honor of that park, and I got to go down to the keel ceremony, Northrup Grumman is the builder of it, and I got to meet a lot of their employees down there. Great people. I had a great trip and I considered it to be a great privilege to be involved in the keel ceremony. So we in Colorado are proud about that, and of course we are proud of our members that serve in our military forces.

There a number of subjects that I want to visit about this evening, all dealing, of course, with the international situation that we face today.

First of all, let me talk about the success we had over the weekend. I notice we have had a lot of criticism of late of the Federal Bureau of Investigation, a lot of criticism of the Central Intelligence Agency, a lot of criticism of the President of the United States, President Bush, and what I would call the A-Squad Team down there, criticism of the A-Squad Team that nothing is happening with terrorism, that for some reason terrorism has been forgotten.

I can tell you we had a great victory over the weekend, in fact, a huge victory over the weekend. I think I can quote my colleague, the gentleman from the State of Florida (Mr. GOSS), who said this was like freeing Paris in World War II. That is how significant it was. And that is that we were able to arrest, right below bin Laden, our second-highest target, Mohammed.

Now this Mohammed guy is a bad guy. And to get our hands on him, and we were even more fortunate, we also thought we had arrested one of his bodyguards. In fact, it turned out that this so-called bodyguard was not a bodyguard in fact, but was in fact a financier for the al Qaeda network. So we really hit a bull'seye over the weekend.

Now I find it very interesting that some commentators come out and say, oh, my gosh, we have arrested one of their top guys. This means more terrorist attacks. I do not know what we take out of a comment like. That because we go and arrest one of the lead terrorists in the world, one of the key people involved in September 11, one of the most horrific murderers in the world, that because we arrested him that that could perhaps mean we will have an uptake in terror activity, and their remarks are as if maybe we should not have arrested him, that we have might have offended some of his colleagues that intend to do harm to the United States or to the allies of the United States.

And then tonight, of course, comes up the subject of how do you question a suspect like that? And I hear some people out there saying, oh, my gosh, it is torture to deprive him of sleep. Keep in mind what this individual knows, and keep in mind on the one hand what the individual knows and on the other hand the public good. What this individual knows, I suspect is he knows of different attack schemes, different timing of attack schemes, different methods that they are going to attack the United States or its allies. And over here on the public good we have riding this issue, one, hundreds, thousands, tens of thousands, hundreds of thousands, maybe millions of lives are dependent on whether or not we can get this information and take a preemptive strike, stop this terror strike before it occurs. And today I hear commentation on the fact that, my gosh, you better not deprive this suspect of his sleep. That is torture.

And I say to myself, What do you mean? This guy, this suspect who we know is one of the lead architects, if not the lead architect, of the September 11, you are going to say we are torturing him because we deprive him of sleep to get answers out of him, to get information out of him in hopes of preventing another September 11 or even a larger attack? Of course it brings up the debate of torture. At what point in time should torture be allowed or should it be allowed? And I think you have got to weigh that out. Think about it, and I know a lot of people, right when you use the word torture, it is a word that if you ask 100 people, do they have a positive or negative feeling about the word torture. Out of 100 people you will get 100 people who will say they have a negative feeling about the word. So right off the bat you are on the defensive side.

So I am asking some of my colleagues tonight to not draw a rapid conclusion, but put in your own mind to what extent should we be allowed to use different methods, and what type of methods should we be allowed to use on a suspect we know probably has information that if we do not get that information in a timely fashion could very easily result in the deaths of hundreds of thousands, perhaps even more, a more significant amount, even one, of innocent human beings out there that could be the victims of this kind of terrorist strike.

□ 2000

I can tell my colleagues that I would be interested for my colleagues to hear what they have to say. I am not going to carry the debate on tonight other than to tell my colleagues that I think the United States and its allies are perfectly obviously within international law and obviously within the national interests of this country to deprive a suspect of his sleep, to deprive a suspect of certain other privileges that he might enjoy as a prisoner, to see if, in exchange, we can get information from him to avoid a future attack on the United States.

It does amaze me, there is a group of people out there that protested globalization, and before that protest, they were out there protesting global warming. Now they have joined up in some of the protests. They are just professional protestors looking for a place to go and now we are going to see it.

The day after we make the arrest, now we are seeing some of these people pop up and saying, oh, my gosh, the United States is treating this suspect badly. Of course, they do not know how we are treating this suspect, but just to get the word out, they are just arousing people about it. On a commentary I heard tonight, well, they are depriving him of sleep. Give me a break. Look at the reality of the situation we are playing.

This is not a nice guy's game. This is not Mr. Nice Person. This is about human life. This is about mass destruction. This is about innocent people. This is about unprovoked attacks upon innocent people. This is about a group of individuals who are very sick in their means to reach an end. This is about people who become the victims of that means to reach an end, and if that does not broaden the parameter of what my colleagues think we ought to be entitled to do to solicit information from an individual, then I do question whether or not you have a place at the table to debate.

I want to move from that and, of course, talk about the subject at hand. I do not usually like to stand in front of my colleagues and read, and I especially do not like to read a commentary that is of much length, but I would ask my colleagues just to bear with me this evening. I want to read about two pages of content of what I think sums up very well the situation we face in Iraq, and after I discuss that, I then want to go through some of the points.

I have met with some peace protestors. Let us just say protestors. I am not sure peace is the accurate description, but protestors. I have met with people on different sides of the issue, and several questions have been asked of me by these individuals, and I thought this would probably be an appropriate forum to discuss some of those questions, which were legitimate questions, and by the way, the right to protest is very legitimate in our government. In fact, it is part of the checks and balances. So I thought I would go through some of those and give my responses to those under the current situation that we have.

Let me first of all, though, begin by reading this commentary, and I hope my colleagues bear with me. I hope they listen to the words because we know in the history of the world that history tends to repeat itself. Not exactly. History does not repeat itself exactly, but history is a good barometer of the weather, and we all know our barometer does not give us the exact weather pattern, but most of the time what the barometer says is the kind of weather we see. It is the same with history. A good study of history gives us a good study of the future, not an exact study of the future, but a good study of the future.

I think this article of a little history, much of this history before many of us were even born is worth considering. Again, bear with me.

The author of this is Alister Cook of Britain: "I promised to lay off topic A—Iraq—until the Security Council makes a judgment on the inspectors' report and I shall keep that promise.

"But I must tell you that throughout the past fortnight, I've listened to everybody involved in or looking on to a monotonous din of words, like a tide crashing and receding on a beach—making a great noise and saying the same thing over and over. And this ordeal triggered a nightmare, a daymare, if you like.

"Through the ceaseless tide I heard a voice, a very English voice of an old man—Prime Minister Chamberlain saying: 'I believe it is peace for our time.'" I believe it is peace for our time—"a sentence that prompted a huge cheer, first from a listening street crowd and then from the House of Commons and next day from every newspaper in the land.

"There was a move to urge Mr. Chamberlain should receive the Nobel Peace Prize.

"In Parliament, there was one unfamiliar old grumbler to growl out: 'I believe we have suffered a total and unmitigated defeat.'" One voice, one lone voice in the House of Commons. I think we have suffered a total and unmitigated defeat.

"He was, in view of the general sentiment, very properly booed down.

"This scene concluded in the autumn of 1938 the British prime minister's effectual signing away of most of Czechoslovakia to Hitler."

So we are leaving the transcript for a moment.

It was when Hitler demanded that Czechoslovakia be signed over to him, and it was Chamberlain who said it is a time for peace and they adopted the doctrine of appeasement, give him Czechoslovakia and people cheered, cheered, and they booed the one dissenting voice which was the gentleman of which I just spoke. Let me go back to the text now.

"The rest of it, within months, Hitler walked in and conquered.

"'Oh dear,' said Mr. Chamberlain, thunderstruck. 'He has betrayed my trust,'" speaking of Hitler. Chamberlain said, "He has betrayed my trust."

"During the last fortnight a simple but startling thought occurred to me-every single official, diplomat, president, prime minister involved in the Iraq debate was in 1938 a toddler, most of them unborn. So the dreadful scene I've just drawn will not have been remembered by most listeners.

"Hitler had started betraying our trust not 12 years, but only two years before, when he broke the First World War peace treaty by occupying the demilitarized zone of the Rhineland.

"Only half his troops carried one reload of ammunition because Hitler knew that the French morale was too low to confront any war just then, and 10 million of 11 million British voters had signed a so-called peace ballot." Ten million of 11 million British voters had signed the peace ballot.

"It stated no conditions, elaborated no terms, it simply counted the number of Britons who were 'for peace.'

"The slogan of this movement was 'Against war and fascism'—chanted at the time by every Labour man and Liberal and many moderate Conservatives—a slogan that now sounds as imbecilic as 'against hospitals and disease.'

"In blunter words a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him."

Let me repeat that paragraph. "In blunter words a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him.

"At that time the word 'pre-emptive' had not been invented, though today it's a catchword.

"After all, the Rhineland was what it said it was—part of Germany. So to march in and throw Hitler out would have been pre-emptive—wouldn't it?

"Nobody did anything and Hitler looked forward with confidence to gobbling up the rest of Western Europe country by country—'course by course,' as growler Churchill put it.

"I bring up Munich and the mid-30s because I was fully grown, on the verge of 30, and knew we were indeed living in the age of anxiety.

"And so many of the arguments mounted against each other today, in the last fortnight, are exactly," exactly "what we heard in the House of Commons debate and read in the French press.

"The French especially," and please note this sentence that I am pulling out of here. "The French especially urged, after every Hitler invasion," negotiate, negotiate, negotiate.

"They negotiated so successfully as to have their whole country defeated and occupied.

"But, as one famous French leftist said: 'We did anyway manage to make them declare Paris an open city—no bombs on us!'

"In Britain the general response to every Hitler advance was disarmament and collective security."

Collective security, keep in mind, have my colleagues heard that buzz word lately? "Collective security meant to leave every crisis to the League of Nations. It would put down aggressors, even though, like the United Nations, it had no army, navy or air force.

"The League of Nations had its chance to prove itself when Mussolini invaded and conquered Ethiopia.

"The League didn't have any shot to fire. But still the cry was chanted in the House of Commons—the League and collective security is the only true guarantee of peace.

"But after the Rhineland, the maverick Churchill decided there was no collectivity in collective security and started a highly unpopular campaign for rearmament by Britain, warning against the general belief that Hitler had already built an enormous mechanized army and superior air force.

"But he's not used them, he's not used them—people protested."

Keep in mind this and let me reemphasize this sentence. "But he's not used them, he's not used them—people protested.

"Still for two years before the outbreak of the Second War, you could read the debates in the House of Commons and now shiver at the famous Labour men—Major Attlee was one of them—who voted against rearmament and still went on pointing to the League of Nations as the saviour.

"Now, this memory of mine may be totally irrelevant to the present crisis. It haunts me.

"I have to say I have written elsewhere with much conviction that most historical analogies are false because, however strikingly similar a new situation may be to an old one, there's usually one element that is different and it turns out to be the crucial one.

"It may well be so here. All I know is that all the voices of the '30s are echoing through 2003."

There is a history to the League of Nations. Many, many years ago, there was a concept that the world could live in peace. They could hold hands. The war was not necessary. I saw tonight on TV a lady, she says, if we do not get rid of war, in the next few years, war will get rid of us. That is a great quote. Tell me how it is done, and back then, I mean people throughout the history of mankind have tried to figure out how do we avoid conflict. We try and figure out how to avoid conflict every day on the streets of our communities with our police officers. How do we avoid conflict?

But we face up to the fact that there be circumstances where conflict is inevitable. We face up to the fact that in certain circumstances, violence is necessary. I am sure that wakes up a lot of my colleagues. Violence is necessary? Of course, if we have a bank robbery in process and the bank robber walks out and shoots somebody, how do my colleagues think we stop him? A police officer stops him, hopefully peacefully, but if the police officer does not, our society gives the right to our local police officer. I do not care if it is a town of 200 people or if it is a town in New York City. We give a right to our local police officers to act with violence, to stop because we look at the larger public good. What is the larger public good?

For the League of Nations, people thought, and I think with good merit, hey, let us try this concept of the League of Nations. It will be collective security. We will act as a body, and what happened after World War I, the Germans signed on to an agreement. They would not use poison gas anymore, we promise. So the nations said all right, well, we need to have inspections; we want to come over and check out your country to make sure you are not having these gases anymore, that these gases are not being produced. So Germany says, okay, they sign the agreement.

Pretty soon, no inspections. Pretty soon, no cooperation. So what do they do? They turn it over to the League of Nations, say, okay, you are our collective security. In theory we have collective security. Go in and solve it. What does the League of Nations do? They issue resolutions. They have great talk. The French, as usual, say negotiate, negotiate, negotiate. Guess what happens? League of Nations becomes a paper tiger. The League of Nations cannot do it, and in some circumstances, we can look at exactly at the United Nations.

Keep in mind the make-up of the United Nations. The United Nations has 189 different countries. How many of those countries supported U.S. policy and what percentage of the time have they ever supported U.S. policy? I mean, the United Nations is an outfit that just appointed Libya, Libya. Remember Libya? All of those people that want peace and believe in human rights, which all of us believe in but are real strong advocates of human rights, Libya ought to come right up at the top of their radar one of the most abusive countries of human rights.

□ 2015

Guess what the United Nations just did? They named Libya head of the Human Rights Commission at the United Nations.

My point here is this: we see in the 1930s the way that they dealt with Hitler. They appeased him. They said he will never use those weapons on us. The French said negotiate, negotiate, negotiate. We face a similar situation today, a similar situation if we do not do something with Iraq. And let me just say that, with credit to a man I think is a very brave and a strong leader, President Bush, as well as DICK CHENEY, Dr. Condoleezza Rice, and Colin Powell, these people are very focused on the future of this country. That team down there wants this country to be strong, not necessarily military, but they want this country to have a beautiful, positive future. They want peace as much as anybody wants peace. But they also know that we have to have security; that under some circumstances, no matter how deeply we desire security and peace, we cannot get it because there are people out there who wish us ill will. No matter how good we are to them.

So let us bring this back to the present situation in Iraq, and that is what I want to move on to next, to talk specifically about what our situation is in Iraq. And I want to bring up some of the questions that were asked of me by some of these people who are protesting the United States actively enforcing the U.N. resolutions and saying that Saddam Hussein cannot continue down his path of production and storage of weapons of mass destruction.

So let us start. I have often said that Saddam Hussein is like a cancer, and I think that is a good comparison. Now, there are a lot of different ways people deal with cancer. Some people will say to the doctor, when the doctor first gives them the diagnosis of cancer, they say let us go in and cut it out now. Doctor, I want to go to the hospital today, I want to go in chemotherapy today, I want to go into surgery today, I want to do whatever is necessary to aggressively and preemptively take out that cancer if we can possibly do it.

Other people take the attitude that this just cannot be happening to me. I am going to go home and go to sleep, and tomorrow I am going to wake up and find out it was a bad dream. Other people say, Doc, I do not think we need to take that kind of radical approach and attack the cancer. I think we have to be a little gentler about our approach. What I want to do, Doctor, is to go home and pray about it. Now, do not get me wrong. Prayer is, in my own personal belief and opinion, a very strong medicine. But a lot of times we need more than prayers. The prayer is kind of a supplement that we have.

Other people ignore it completely. They say, Doctor, I do not believe you. I do not believe cancer is that kind of threat. I think you have overstated the health problem for me, and I will go down my own path.

The other day I saw a cartoon that illustrates, I think very well, exactly what I am saying about the situation with Iraq, or what this Nation is saying about the situation with Iraq, and thank goodness what the President and the executive branch believe about Iraq. I refer my colleagues here to my left. Here is the doctor. We can see the patient is named "The World," and growing out of his back is a growth, and it is the face of Saddam Hussein. And the doctor says, "It's cancer. But I am sure it will go away if you leave it alone."

That is what I am saying here. We have a cancer. Now, I know nobody wants to go to war. The previous speaker up here on the floor, the doctor, the gentleman from Texas (Mr. PAUL), he said we do not want to go to war because it impacts our economy. Of course it impacts our economy. But even that is insignificant compared to the biggest impact that all of us face. In fact, most of us in these Chambers have some member of our family right now serving in the Armed Services, whether it is in the support service in the United States or whether it is on the front line in Kuwait or waiting in the harbor in Turkey to deploy into Iraq, if that becomes necessary. We all have a lot invested in this situation.

None of us wants to see a conflict. But the fact is none of us really want to go through the pain of chemotherapy. None of us really want to go through maybe losing a foot to cancer. The fact is it is not going to go away. We have to act aggressively. And the United States has always reserved the right to act in its own national interest, and the only way the United States can do that is to act boldly and decisively. We are dealing with nothing less than a very horrible cancer; and it is a cancer that if we do not do something about it today, we know where it will be in a few years when we go back to the doctor's office, so to speak.

If we do not act, we will have a North Korea on our hands. People say, why do you not deal with North Korea? We are dealing with North Korea. That is a big problem. The situation is we should have dealt with North Korea about 8 years ago. How did we deal with North Korea? Just the same as Europe dealt with Hitler in 1938. We appeased North Korea. We offered North Korea a payment. We offered them free oil. All they had to do was raise their right hand and say they would not use the oil for military purposes. We helped them build nuclear reactors, and all they had to do was raise their right hand and say they would not use it for military purposes, but for the generation of electricity. That is how we dealt with the threat in North Korea. And look what has happened; now it is the biggest threat.

I think all of us in this House representing the people of this fine Nation have an inherent obligation to the next generation behind us. It is an inherent obligation to the next generation behind us to make sure that we deliver to them a country that is strong and secure. President Bush knows his numbers have dropped in the polls. Does anyone think Churchill did not recognize that he was booed in the House of Commons when he suggested they not appease Hitler? Sometimes it is a lonely world out there doing the right thing. But that is what is required of leadership.

The fact is we have an obligation to get rid of this cancer. The other fact is we are not going to get rid of it by saying let us not go to war; let us just look the other way. Let us just go back to the United Nations, which has been dealing completely with defeat, completely ineffectually for the last 12 years to try to get this cancer, to get this guy to disarm.

Saddam is not going to disarm. The disarmament, by the way, that we have seen up to this point in time, is ironically, in large part, the very weapons that he has denied he has. And the only reason that that has occurred to this point is because of the military might that the United States has put right on his border, the United States and its allies. And I want to speak for a moment about that too, in a second. The United States and its allies. Does anyone think Saddam Hussein would be doing this if we did not have military forces all around his country? Does anyone think he would be cooperating because the United Nations called him on the phone and said, "Saddam, we want you to cooperate. We want you to disarm. This is the United Nations calling, and we want you to disarm, Saddam." Does anyone think he is cooperating because of that? Of course not. He is cooperating because he is looking down the barrel of a gun, and that gun happens to be our gun. We are bound and determined to disarm that regime.

And, yes, the world will be safer. And, yes, it is in the national interest of the United States. And, yes, it is in the interest of the United Nations. But who is going to act? It appears more and more every day that the United States and its willing coalition are going to be the ones that have to step forward and carry the heavy weight on this job. Not uncommon for this country. This country carried the heavy weight in World War I. We carried the weight in World War II. This country carried the heavy weight in Vietnam, in my opinion; and in the Persian Gulf this country carried the heavy weight. We do not mind. I do not think it is fair. I think we should have burden-sharing. But the fact is we are a great country, and as a leader we are expected to lead. Sometimes that is required.

Now, let me just leave here a moment and talk a moment about the allies and this willing coalition. I talked to somebody today who says the United States is going to go it alone. I said, the United States is not going to do this alone. In fact, I believe that the United States will have a larger coalition if we have to go to war. The United States under the leadership of our President and that leadership team we have got down there, will have put together a larger coalition than we had in Persian Gulf War Number One. That is right, that is what I said, a larger coalition this time than we had last time.

Now, by reading the international media, by looking at the protester signs out there on the street, one would think America and Europe have split the sheets forever. There is a big split in Europe. We have a lot of countries in Europe that support the United States. We have a lot of countries in Europe that believe that of the entire world the United States is the bus they want to get on, the United States offers the most hope in the future, and the United States is who they are willing to stand by in the foxhole.

Now, sure, we may have a country like Poland or Hungary that does not have a lot to offer militarily. But they do not care. They would go out there with a rubberband and stand next to us. That is how gutsy some of those people are. We have some major European powers that are supporting the United States. Take a look at Spain. Take a look at Italy. Of course, Great Britain has always been a long-time ally. Well, maybe not always, a few hundred years ago. But as of late, the last hundred years or so.

Talk about Tony Blair. There is a guy that has guts. There is a guy whose photo ought to be hung in the Profiles in Courage hallway. Because he knows, by their own history, by the history that Churchill defined, by saying the doctrine of appeasement, give them what they want and they will go away, or as the doctor would say, wait long enough and it will go way. Tony Blair, President Bush, DICK CHENEY, Condoleezza Rice, and Colin Powell know that it will not go away. We all know this danger is not going to go away.

We have an opportunity today to do something about Iraq. We have that opportunity so that we are not dealing with a second North Korea here in just a few short years.

Let me move on.

Mr. Speaker, can I get a time check, very briefly?

The SPEAKER pro tempore (Mr. BISHOP of Utah). The gentleman from Colorado (Mr. MCINNIS) has 29 minutes remaining.

Mr. Speaker, I mentioned earlier in my comments about some of the questions that have been asked of me by some of the people that are participating in these protests, and I thought it would be appropriate to go through some of these that I can recall being asked one by one. Because, I think I said earlier, these are legitimate areas of debate. They are legitimate questions.

Now, I am not sure in my discussions with these people whether they wanted to hear what I had to say. I think they had predetermined their thoughts. But nonetheless, they asked the questions; so let us go through the questions.

First question: Does Iraq pose a threat to our security?

I would bet that 10 years ago, 15 years ago, before North Korea began the construction of their nuclear facilities, I bet there were a lot of people that said, why do we have American forces in North Korea? Do they pose a threat to our security? Today, especially the younger generation of South Korea, people are again asking the question, does North Korea pose a threat to our security? Take a look at it.

Does Iraq pose a threat to our security? Maybe not today, although I happen to think that they can. I will tell my colleagues why I think today they pose a threat to our security. In my opinion, if Saddam Hussein can develop a nuclear or biological or chemical weapon and put it on a missile, his number one target would be Jerusalem or Tel Aviv. He will hit Israel with that weapon. And that has a significant impact on the security of the United States of America because, in my opinion, Israel will retaliate, a massive retaliation; and we could easily have the next nuclear war in the Middle East, all started because of the fact that some in this country, when we had an opportunity to disarm a madman, to disarm Saddam Hussein's regime, insisted we look the other way; that we thought as the French thought with Hitler, you can negotiate, negotiate and negotiate.

Iraq is a threat today. And for those of who do not think it is a threat today, mark my word, just as I mentioned in the poster I had up here earlier of the cancer, mark my word, it will come back to haunt maybe not our generation, because many of us will be out of office here in a few years, but it will be back to haunt our children. And every one of us owe it not only to the children but to the children of the people we represent to make sure that even if we do not think it is a threat today, and we know it will be a threat, we have got the opportunity to fix it today. There is a problem, and we can fix it today.

□ 2030

Next question: Are we rushing to war? Boy, do I hear that. Why do we rush into war? Bush wants to take us into war.

Mr. Speaker, we are not rushing to war. Look at what we have dealt with, and let me just show Members. Again, referring to the poster, these are the United Nations resolutions from 1990 to 2003: 678, 687, 707, 949, 1060, 1134, 1154, 1205. Members get the message. Every one of these resolutions had very intense debate and was directed to Iraq over a 12-year period of time to disarm. Every one of these resolutions was like a League of Nations' attempt to hold hands, talk peacefully, and that this guy would listen to the international community.

I often hear comments he just cares about the sovereignty of his country, or this is all about oil. If Saddam Hussein cared about the people, about the people that he rules over, and it is not a democracy. In his last race, he had no "no" votes against him in the country. If he cared about those people, he would disarm and become a member of the international community. He would use those oil reserves for the benefit of his people. He could make Iraq one of the wealthiest countries the world has ever known. He could provide his citizens with freedom, with schools, with the finest universities, with the finest things that money can buy. But that is not his intent. He has no intent of listening to the international community.

Those people who are saying we are rushing into war, where have they been the last 12 years. We have tried economic sanctions. We have tried resolution after resolution. We have moved our forces to their borders and demanded that he disarm, and now he is throwing out a couple of pebbles every once in a while to pretend like he is disarming. The fact is, we should have taken care of this in the Persian Gulf War, number one. We should have gone into Baghdad and switched that regime to a regime that cared about the people of Iraq. Why could we not do? Because we listened to the community of the United Nations which said, wait a minute, free Kuwait, leave Saddam Hussein alone. He will not be a threat anymore. After all, he has promised us that he is going to get rid of those weapons of mass destruction.

Speaking of those weapons of mass destruction, there is a question that says: What weapons does he really have? These people say to me, I do not want you telling me what weapons he has. We cannot trust you on what weapons you think Saddam Hussein has. We want a verifiable source that tells us weapons, Saddam Hussein. What is a better source than Saddam Hussein himself.

This is what Saddam Hussein says he has: 2.8500 tons of mustard gas. Mustard gas will shrivel a population up into a pile of ashes. Sarin nerve gas, 795 tons. A thumbnail full of sarin gas can wipe out a subway. VX nerve gas, 3.9 tons, a deadly gas. Tabun nerve agent, 210 tons: anthrax 25,000 tons. Remember the envelopes we got here in the Nation's capital here last year, little drops of powder, not tons, not pounds, not ounces, fractions of ounces in a little envelope, and look what it did. It killed people in this country. He has got 25,000 tons of it. Uranium, 400 tons: plutonium, 6 grams.

He is the one that told us what weapons of mass destruction he has. He is the one that has not brought those weapons forward to show us in good faith, in keeping with the resolutions that he himself signed, that the United Nations themselves, resolution after resolution after resolution, put forward for him to get rid of.

What is the next question I am often asked? Will attacking Iraq yield more terrorism in retaliation? I actually have had people come up to me and say we should not go after Saddam Hussein because some of the people will get mad at us and they will carry out further terror strikes against this country. I am in disbelief. I said to this person over the weekend, whose name was John, John, you are telling me that in our community, we should say to a police officer before you arrest a suspect, we need to determine whether that suspect's family or friends will be mad at us and they might commit more crimes if we arrest the criminal? You name for me, John, one city in this country, one community in this country, one village in this country, that instructs its police officers before they make an arrest to determine whether or not making that arrest will result in members of the suspect's family or friends of the suspect will commit more crimes against the community, therefore, you should not arrest him.

That is not how we do it in our communities, and we cannot do it that way on an international basis. They showed that they will do whatever they can to destroy America. They showed that when they ran their boat into the USS *Cole*. These people will do anything they can through any method to destroy us, and they take special enjoyment in doing this when we assist them, when we, through the doctrine of appeasement or our own citizens, say they are harmless. Give them what they want.

It happened in 1938 in Hitler, it has happened throughout history, and it is going to happen here.

Next question. Should the United States seek permission from the United Nations? I think the United Nations is an institution that has a proper place in society. I think where the United Nations serves most effectively is in nation-building. What I mean by that, in Ethiopia, for example, where they have massive starvation. I think the United Nations is an appropriate agency to go in and teach people how to farm and assist these economies. I think the United Nations has a place in our worldwide fight against AIDS, which is a horrible disease every country faces. The United Nations has a delivery system, not necessarily the most effective delivery system, but they have a place there.

But does the United Nations, which really does not have an Army or Navy or Air Force, can the United Nations be depended upon to go to battle when battle is necessary. It did not happen in the Cold War. They did not take sides in the Cold War. In the Korean War, they issued a resolution that had the United States do it for them. With Iraq, they knew they had to face up to Iraq, and the way they handled it, they, time and time again, issued resolution, resolution, resolution. Keep in mind what I was talking about in 1938 what they talked about there. Every British citizen thought something had to be done about Hitler. They were willing to do anything to get rid of Hitler except fight him. That is what it said in that article that I read.

Next question. Should the United States act unilaterally? First of all, the United States is not going to have to act unilaterally. The coalition that we have built will exceed the coalition that we had in the first Persian Gulf War. We will have at our side many countries, and many European countries will be standing at our side. So the United States will not have to act unilaterally. It will not be necessary, and the United States is not acting unilaterally.

Will it become necessary for the United States to act without the United Nations? That may be necessary. We are not about to let the United Nations sit by as a paper tiger and look the other direction as this cancer spreads. We do not want to see a repeat of history of 1938 where the League of Nations turned the other way and hoped Hitler would be a good boy and go on and modify his behavior to become a part of the world community. We may have to act without the United Nations, but it is not because we did not give the United Nations every chance. For 12 years, the United Nations has had an opportunity to resolve this, and they have not done it.

I notice with some humor that they constantly refer to the second resolution that they are debating right now and will vote on shortly. Where did they come up with the idea second resolution? Try 17th or 18th resolution. Try 12th year. We have given the United Nations every opportunity to disarm. Do you think the United Nations would have put forces on these borders if it had not been for the leadership of this President and the leadership of the United States Congress? The answer is, no.

Should the United States act preemptively? Of course we need to act preemptively. When it meets certain standards, the United Nations needs to reach out. We cannot defend this country against terrorism completely. We cannot do it. We cannot put a glass bubble over our country. It is like trying to protect your camp when somebody is on the top of the mountain taking sniper shots. At some point, you have to reach out and attack the sniper.

In the United States, we cannot wait for terrorists to come to the United States and commit an act of terrorism before we are authorized to go after them. We have to reach out and get them. That is what we are doing throughout the world. We have every right to act preemptively, just as every community in this Nation allows their police officers to act preemptively, allows their police officers to go out, and if there is a crime in progress, and there are certain standards that police officer can meet, that officer has the right to act preemptively. We do not say to our police officers the first shot, the criminal gets the first shot, and we should not say to the world community that the terrorist or Saddam Hussein or North Korea gets the first shot. Our country is not going to allow these countries to take the first shot if we can avoid it. We always retain the right to preempt.

Finally, is North Korea a more important issue? They are all important issues, but that is the way that the question was asked to me. Of course it is an important issue; but, if we do not do something about Iraq today, Iraq will be North Korea 10 years from now. What we are doing today, if we do not stand up and deal with this today as our obligation requires us to do it, we are handing the problem over to the next generation. Unfortunately, the problem will not be in the same proportion. The problem will have grown greatly unproportionately, and the problem that we hand over to the next generation will be much more horrific to deal with. Many, many more human lives, many more innocent human lives will be lost as a result of deferring the action on this.

We are going to have to deal even more significantly with North Korea, but it does not mean that we turn a blind eye to the next North Korea that is coming down the pike. We know who it is and where it is; and we know we can do something about it, and I am here to tell Members that we are going to do something about it. This United States Congress had enough courage several months ago to stand up and give the President of the United States, on a bipartisan basis, Democrat and Republican, give the President the authority to take this country and stop and fix the problem. We can fix it.

Let me say to Members one other question that is not on my poster, and that question is Iraq, who are they hurting? We should just leave them alone. The United States is being a bully. Why do we need to go after Iraq. Saddam Hussein is a madman, and forget the fact that women have no rights. Every woman's organization in the world ought to be standing up and ought to be walking in the streets of the world by the hundreds of thousands. Every man and woman should be protesting the way he treats women. Ask how many women ever get an opportunity of individualism or education. There is nothing in that country that is fair. But some people stand aside and say what have they ever done.

Mr. Speaker, this is what Iraq has done with its weapons of mass destruction: August 1983, mustard gas, 100 Kurds, they killed them.

October 1983, mustard gas, 3,000 Iranian Kurds, they killed them.

February, 1984, mustard gas, another 2,500 people killed.

March 50–100 Iranians killed.

1985, 3,000 Iranians killed, mustard gas.

1986, mustard gas, 8,000–10,000 killed.

1987, mustard gas, 5,000 people killed.

Time after time after time this man, this dictator, illustrates to the world that he will go and use any weapon that is necessary, not only against his enemies or perceived enemies, but his own citizens.

□ 2045

In this great country of ours, do you remember back in the war protests, I think it was Ohio State, where 14 students or maybe four, I think four students were killed by the National Guard? This country went nuts. Our own National Guard killing our own citizens, four of our own citizens? Yet some of these very people that I am sure, my age, that will remember that, that protested about that remain unfortunately and dishonorably silent about the horrible and egregious murders that this guy is carrying forward.

This is not an innocent country, this man. We can do more for the Iraqi people, not under an American colony. We are not trying to make Iraq an American colony. We are not going over there and saying they should adopt our democracy. But we do say one thing to the people of Iraq. We say to the people of Iraq, you will be better off. You are entitled to some individual rights. You are entitled to some enjoyment of human life. And we say to all the neighboring countries, including our friends Israel, Saudi Arabia, other countries, you are entitled to live without the threat of these weapons being rained down on your communities one day. And we say to the citizens of our own Nation, you are entitled to know that the next generation is not going to have to cure the problem that this generation ignored.

Let me say in summation, I know, and I think it is healthy that we have protests out there. I think it is. I know that some people have come out. I am amazed by some of the local city councils and communities that come out with resolutions. I do not remember a Member of Congress, I do not remember sending resolutions to some of these communities to fix their streets, but some of them have felt it sufficient to send us resolutions about not going to war with Iraq. I know there is a lot of feeling out there. But, please, take a look at what happened in 1938. Take a look at the history, more recent history, of what Saddam Hussein has done during his dictatorship of that country, the tens and probably hundreds of thousands of people. By the way, this has nothing to do with religion. We will do a little quiz here. Do you know what man in history has killed more Muslims than any other man known in history? You guessed it. Saddam Hussein. Responsible for more Muslim deaths than any other man in history.

This is a country that is a country that has a great deal of strength, built of its people, built of debate. These protests make it healthy. We have all examined this. None of us want to rush off to war. Nobody is rushing off to war. But everybody in the world must know that when the United States pulls its sword from its shield, it means business. It takes a lot for this country to do it. I think we have exercised extreme patience. For 12 years we have begged the United Nations to do something about it. For 12 years we have sat on the bench waiting for the quarterback to run a play, the United Nations. For 12 years they have done nothing but fumble and fumble and fumble. Somebody has got to step onto the field. The United States and its allies, which I want to stress again, we will exceed the number of allies we had in the first Persian Gulf War. We will go onto that field and we will do what needs to be done. And, mark my word, 15 years from now or 20 years from now, the next generation will look back and say, thank goodness they took care of that problem because we do not know what would have happened if they had ignored it like Europe ignored Hitler in 1938.

MEDICARE PRESCRIPTION DRUG BENEFIT PROGRAM

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, this evening I would like to discuss the need for a prescription drug benefit for seniors. I would also like to take some time to contrast what the Democrats proposed today and essentially what the Democrats have been saying as a matter of principle, what they would like a prescription drug benefit for seniors to be like and contrast that with what President Bush has proposed in terms of a prescription drug plan. I have to say that I must stress that I do not really believe that the President's proposal is one that really provides any significant benefit or prescription drug plan to seniors. I hesitate to even discuss it as a benefit program because I do not really think that there are many people, if any, that would benefit in a significant way from it. What the Democrats proposed today is very similar to what they tried to pass in the Congress, in the House, in the last session of Congress. Basically, it is simply an extension of Medicare.

Those of you who are familiar with Medicare know that right now if you are over 65, you are eligible for a Medicare program that essentially pays most of your hospital bills and also pays for your doctor bills if you agree to pay a premium of so much a month. It is somewhere in the neighborhood of 40 or $50 a month. What the Democrats are saying is that we would simply expand Medicare to include a new part D, similar to the existing part B that covers your hospital bills; and the principle would be very similar to what you do now with your hospital bills.

Under the Democratic proposal, beneficiary seniors would pay a premium of about $25 a month. They would have a deductible of $100 a year. If, for example, your prescription drug that you have to buy on January 1st or 2nd is $100, you would have to pay that out of pocket, but then after that $100 expenditure out of pocket, the deductible, the rest of your prescription drugs for the remainder of the year would be paid for by the Federal Government, 80 percent, and there would be a 20 percent copay or coinsurance payment.

This is exactly what you have now for part B to cover your doctor bills. Then you would pay out of pocket for your essential coinsurance, in other words, up to $2,000. After that, if you had additional coinsurance because you had tremendous drug bills, 100 percent of the cost of the drugs would be paid for by the Federal Government. So most importantly, essentially, what is happening here is that for most people, most of their drugs, 80 percent of their cost would be paid for by the Federal Government with a 20 percent copay.

Before I get into the specifics, because I do want to do that, I want everyone to understand how significant this is and how important it is for seniors to have something that is just like what we do now under Medicare for their doctor bills, as opposed to what the President has proposed. The President spoke today before the American Medical Association, the AMA, the association of physicians. Basically, what he said is that he would provide for seniors who are in the traditional Medicare program, which is about 85 percent of the seniors, only a couple of things in terms of a drug benefit.

First of all they would get a prescription drug discount card which he claims would reduce their cost of prescription drugs by about maybe 10 or 15 percent, although I have to say that that is strictly voluntary. There is no reason why that kind of prescription discount card would really effectuate those kinds of savings. Then he said that if your prescription drug bills are above a certain amount, a catastrophic amount, say, $5,000 or $6,000, the Federal Government would pay for them. But for all the seniors who do not have tremendous, catastrophic drug bills and who remain in the traditional Medicare program, the only thing that they would be able to get is the use of a drug discount card, which most of them can get today on their own.

They do not need the Federal Government to do it. In other words, there is no guaranteed benefit that you are going to get any kind of Federal benefit to pay for your prescription drugs. The President makes two exceptions to that. On the one hand he says if you are below a certain income, and he does not define at this point what that income is, but if you are a low-income senior, below a certain income, he would give a $600-a-year subsidy to help you pay for drugs. The other option is that if you join an HMO, if you agree to join an HMO or some other kind of private insurance, not your traditional Medicare program, then you can get your prescription drugs paid for in a significant amount. It is not clear how much. Basically, it might be 50 percent, it might be 60 percent of the cost, we do not know exactly, but you have to join an HMO in order to be able to have any kind of guaranteed prescription drug plan.

I want to say, Mr. Speaker, that I think that the way the President is going about this is very unfair, and it is not going to be helpful to most seniors. I say that because if you do not provide a guaranteed benefit under the traditional Medicare program the way the Democrats have laid out, similar to what we do now with part B for your doctor bills, then the likelihood that most seniors are going to really benefit in any way is almost nil. I say that because we have the experience of seniors trying to join HMOs in some parts of the country, including my home State of New Jersey; and generally speaking that has been an utter failure. Most seniors, first of all, do not want to join HMOs because their choices of doctors and hospitals are severely limited. So one of the reasons why so few, less than 15 percent of seniors are in HMOs is because they want to have a choice of their doctors. They want to go to the doctor that they have been going to for years. They want to go to the hospital that is nearby. They do not want to have to be limited in what doctors or hospitals they go to. But in addition to that, there are a lot of parts of the country where there is no HMO. States, in fact, where there is no HMO available. So you do not even have the option.

Beyond that is the fact that in many States, including my own of New Jersey, and I can give you some examples, even when seniors initially joined HMOs, the HMOs eventually dropped them or they provided a prescription drug benefit initially that might have been fairly generous, maybe provided 60 percent of the cost of the coverage, but eventually increased the amount that the seniors had to pay out of pocket so much that the benefit was not even worth anything. In fact, there was a report that came out just a couple of weeks ago by Public Citizen's Congress Watch; and in that report they did a survey across the country that basically confirmed that Medicare privatization does not work for seniors. The report says that in my home State of New Jersey, nearly 80,000 of the seniors who were in an HMO in the last 2 years were dropped after basically the private HMOs concluded that it was simply not profitable to have them as part of the program.

The main thing I am trying to get across here, Mr. Speaker, is that even if you opted under the President's proposal for an HMO because that was the only way you were going to be able to get some kind of drug plan, there is no guarantee under the President's proposal what that HMO is going to provide you with in terms of a drug plan. So not only will most seniors not want to join the HMO, first of all, many seniors will not even be able to find the HMO. But even if they can find one, they lose the choice of doctors and hospitals; and even with that, there is nothing under the President's proposal that says that the HMO has to provide a specific type of prescription drug coverage or has to say that 80 percent or 60 percent of the cost is going to be paid for by the HMO. There is no guarantee. There is no benefit that is guaranteed. That is what we need. Seniors need to know that if they pay a premium, like the Democratic proposal, $25 a month, that they have a defined deductible, $100, that they have a defined copay, 20 percent, and the Federal Government is going to pay 80 percent of the cost.

The other thing that we do with the Democratic plan, which is totally different from the Republican plan, is we say in the legislation that the Secretary of Health and Human Services, who now represents about 40 million Medicare beneficiaries, has to negotiate with the drug companies to reduce the cost. We estimate that because he has the purchasing power, negotiating power of these 40 million or so seniors, that he is probably in a position to reduce costs for the prescription drugs maybe by as much as 30 percent. So you have a built-in discount, if you will, on your drugs that is required by the law before you even get to the point where the benefit program kicks in and you are paying 20 percent and you are getting 80 percent of your cost paid for by the Federal Government. So what the Democrats have proposed is really a good deal. The Republican plan, by contrast, really is no deal at all.

I wanted to go into some more specifics, if I could, about what the Democrats proposed today because I think it is important. This is a very important issue for seniors. I know a lot of seniors are asking what this is going to be about, whether we are going to have success, what the different proposals are; and if I could just go through a little more detail. As I said, House Democrats are committed to providing a comprehensive benefit that is affordable and dependable for all beneficiaries with no gaps or no gimmicks in coverage, exactly like what you do for your hospital bills. The Medicare contractors, those who contract, the drug companies, with the Department of Health and Human Services basically have to guarantee price reductions.

□ 2100

The Secretary has the authority to use the collective purchasing power of Medicare's 40 million. In addition, the proposal reduces drug prices for everyone by stopping big drug company patent abuses.

I should mention that as well, Mr. Speaker. I did not. That in democratic legislation we plug up some of the loopholes with the patent laws that make it easier for generics to come to market. So actually, everyone would benefit, not just seniors, because they would be able to get lower-priced generics, whereas now they are not able to because of patent extensions or abuses of the patent system by the named brand drug companies. So this is something that would actually benefit everyone, not just senior citizens.

The most important thing, though, Mr. Speaker, I have to stress, is that under the Democratic proposal, seniors do not have to leave traditional Medicare to get their drug coverage. They do not have to join the HMO, they do not have to give up the choice doctors or the choice of hospitals.

The Republicans talk a lot, and even the President has talked a lot about choice, and somehow suggested that the nice thing about the Republican proposal is that seniors have a choice. They have a choice of staying in traditional Medicare, they have a choice of joining an HMO. But again, those kinds of choices which hinge on whether they get the coverage are not the kind of choices that I find that the senior citizens in my district want. They want a choice of doctors. They want a choice of hospitals. They want to know that they do not have to give those choices up in order to get a prescription drug benefit.

Secretary Thompson was on the Today Show this morning, and I just want to read one quote, and then I would like to yield some time to the gentleman from Texas (Mr. RODRIGUEZ) who has come down so often on the floor to talk about senior issues and health care issues in particular. But Secretary Tommy Thompson of the Health and Human Services Department was on the Today Show this morning, and this was quote that I took down. It says "Seniors are going to have choices. They are going to be able to stay on their own current plan and get prescription drug coverage with high out-of-pocket expenses if, in fact, they want to do so without additional cost, or they can go with an enhanced plan which is going to cost seniors a few dollars, but it is going to be a great program. It is going to be the same program that I have, that Senators have, that Congress has, that the President has."

What I do not understand is what if one cannot afford it, what if one does not have the option of paying more or what if one does not want to go into the HMO? Again, it goes back to the same old thing. Choice is not really an issue unless they have the ability to make the choice that is actually to their benefit, and the problem with the choices that the Secretary is providing and that President is talking about, they are choices that limit their other choices.

If they join the HMO, then they get the drug coverage. We do not know what drug coverage they are going to get, but they get something, but then their choices of doctors or hospitals are limited, and I know when we talk to senior citizens, they do not particularly like the idea that they have to join an HMO in order to get the drug coverage because the experience that they have had with HMOs has generally been pretty bad, and there are a lot of places where one cannot even join the HMO anyway.

So, Mr. Speaker, I would say, let us stop with the gimmicks. Let us stop with the suggestion that somehow the Republican proposal is going to give seniors something. It is not giving them anything unless they trade off something that is just as important, and I do not think that is a fair way to go about treating people who are senior citizens.

I yield now to the gentleman from Texas (Mr. RODRIGUEZ) who has spent a significant amount of time on this issue and has been in the forefront on all healthcare issues including the need for a prescription drug benefit.

Mr. RODRIGUEZ. Mr. Speaker, first of all, I want to thank the gentleman for being here tonight and taking the time to talk to our constituents throughout this country about a critical issue, and that is prescription drug coverage. I still have a lot of my seniors that are still battling to pay, and we have been playing games. We have been playing games back and forth. So I am really angry at the proposal that has come before us, and I want to take this little time to talk a little bit about what the administration has proposed.

Mr. Speaker, today I came over to rise today to express my great concerns over the administration's answer to the prescription drug coverage and to their plan, one that he promises our Nation and he promised it during the presidential campaign, and he talked about addressing the problem of prescription drug coverage. However, I believe our seniors deserve better. They deserve more than the recent proposal that we have received from the administration. Today the President spoke before the American Medical Association and unveiled the major points of his plan. The President would create a prescription drug benefit for seniors who opt to leave the traditional Medicare program and enroll in private plans to get coverage. First, that presupposes that they have additional money to be able to pay about $300 a month for that additional coverage. B, when we look at Hispanics, almost 48 percent, close to 50 percent, the only thing they have is Social Security, and they have no other form of income. So it becomes a little difficult.

Secondly, we have HMOs in my area, and I represent a lot of rural area. So PacifiCare, a lot of those companies have chosen not to provide access to care in the rural areas. So I have my rural constituency that have no options there and they are not going to be able to be served on this, and the reason they have had difficulties is because the profits have not been there for the private sector, and we understand that in this area one of the other difficulties is that also, in order for the senior to be able to qualify, they have to leave Medicare, which means that they would lose their ability to choose their own doctor. They also would not be guaranteed access to needed prescriptions.

The seniors would also even lose the access to their local pharmacies. So we have got to consider those things that are very important in those rural communities in terms of their pharmacies, in terms of seeing their own doctors. In addition, on top of that, it would be a complicated plan with enrollees having to dish more out of their own pockets and huge gaps in coverage.

So when we have seniors on fixed income, to expect them to pay more for Medicare, where even the private companies are choosing to shy away because they cannot make the profits from our seniors because it is understood that when they become a senior, a lot of them get sick, and yet when they are healthy, they will take care of them, but as soon as they get sick, they will find a way to get rid of them. So this plan just does not work.

The President's plan also calls for $400 million for the next 10 years, and we know this falls short of what is needed to adequately address the problem, and the Congressional Budget Office, and the President knows this, projects that the total drug spending by the Medicare population will grow from $95 billion, not million, but $95 billion, in 2003 to $284 billion by 2013. When we boil this down, it means that seniors and disabled beneficiaries will be paying a lot more over time to cover the prescription drug cost.

Mr. Speaker, I have joined as original cosponsor of a House Democratic bill, which we call the Medicare Prescription Drug Benefit and Discount Act. This bill provides guaranteed relief for Medicare beneficiaries struggling to cover their expenses. In 1999, for example, 38 percent of seniors and Medicare beneficiaries with disabilities had no drug coverage. According to the recent studies also, the average annual out-of-pocket drug spending was $996 in 2003.

And remember, this is, on the average, almost $1,000 on the average per senior. So that means that there are beneficiaries living on fixed incomes who pay more than that figure right now. There are some that pay up to $4,000 to $5,000, and this is of the sickest and most vulnerable population in this country. The House Democratic bill established a part D prescription drug benefit under the Medicare program. It is a guaranteed benefit with a reasonable premium and cost-sharing plan. The plan gives the Secretary the authority to use the collective powers of the 40 million Medicare beneficiaries to negotiate fair drug prices.

And I would like to make one last point. Our States are right now in the middle of a budget crisis and are looking to the Federal Government for relief. The Medicare prescription drug benefit will provide vital help to these States. Not only will it help them to take care of that dilemma, but it also addresses a problem that we are encountering. Here we are, we are elected to come up here to address problems. We have a problem before us and what are we doing? We are playing games.

So we have the opportunity to address this problem by putting sufficient resources behind it and, secondly, helping the States take care of the most critical problem that they are encountering with their own budgets, and we could help them with that, and at the same time, help our seniors that are the most vulnerable. And we know that the private sector has difficulty making a profit on them because the reality is, as I had just indicated, for the average senior it is close to $1,000 per year in terms of prescription drug coverage.

So there is no way that the private sector and the insurance companies understand that. That is why they are shying away from the President's proposal because they know it is a sham. They know it is a little game that is being played. They know they are not serious about really addressing the problem that exists out there. And I have spoken to many of my State legislators from back home, and I know that they do not want to cut vital programs, but they will be making difficult decisions in the months to come.

One of the proposals that we have in Texas is considering the elimination of the CHIP program, and this has been brought up in Texas because of the fact that they do not have sufficient resources. That is the worst thing that could happen.

So I ask my colleagues, and I want to thank the gentleman again for coming before us, here we have a unique opportunity to revitalize the economy again and answer that problem in terms of putting some resources into the economy and addressing the problem of our seniors and helping the States to help with their budgets and their costs of which the highest cost that each of those States have usually is in the area of health.

So we have an opportunity to address this issue, and I was really extremely disappointed with the President and his proposal. It is a proposal that does not address the needs out there, and he had talked about it during the campaign when he was running for President about meeting that need. That was 2 years ago. He is going to be coming up again 2 more years from now, and this problem is still before us. We have a unique opportunity to address that now and to work on a bipartisan effort to try to respond to that, and I am hoping that we can make that happen. And once again, I thank the gentleman very much for being out here tonight and talking about this important issue.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from Texas. He brought up a bunch of points that I think are really important to stress, if I could just dwell on them a little bit. First of all, I think it is really important that we stress to everyone that the President was criticized by even some of our Republican colleagues because he basically, in his State of the Union address a couple of months ago now, said that the way they are going to get a prescription drug benefit under Medicare was if they joined an HMO under a private plan. A lot of people, even on the other side of the aisle, criticized that because they realized that seniors did not want to or could not, practically speaking, join HMOs or would not really benefit from it because it was not defined what kind of drug benefit they would get. The HMO would essentially decide. So I was hoping today when he talked about this plan and defined it a little better that there was going to be something for people that were in traditional Medicare. But the only thing he came up with was a discount card which was nothing because they can go get one now.

Mr. RODRIGUEZ. It is a sham.

Mr. PALLONE. And he said that he was going to have some catastrophic above $5,000 or $6,000 out of pocket, but that is only going to be a very small percentage of seniors that have that kind of catastrophic drug coverage, and even there he did not define what it was going to be. But the one thing that he came up that was new was this idea if they are very low income, they get a $600 subsidy.

Now again, that is meaningless because, as the gentleman knows, for most seniors the $600, first of all, we do not know how low their income has to be to get it, but for most seniors that is not going to be enough, either because their drug bills are very expensive, and what the Democrats have proposed, of course, is just a guaranteed benefit across the board for everyone. Regardless of income, they are going to get 80 percent of their bills paid for by the Federal Government.

And the one thing that I forgot to mention that I did want to mention was that in the same way, under part B now for hospital bills, if one falls below a certain income, the Federal Government pays the premium. That will be true for this program as well. So right now if their doctor bills under part B, if their income is low enough, they do not have to pay that part B premium, and if their income is a little better, then they would pay that premium on a sliding scale, because I have a lot of my constituents that do not pay that $40, $50 a month for the premium for their doctor bills because they are low income, or maybe they are only paying $20 or $30 on a sliding scale because they cannot afford it.

□ 2115

We do the same thing here. Low-income people, with the Democratic plan, that premium, that $25, if you cannot afford it, it is paid for by the Federal Government.

The other thing that the gentleman said, and I think it is so important because I know in my home State this is so crucial, is under the Democratic proposal, because it is covering everybody, regardless of income, the money that States are putting out now, if they are already providing some kind of prescription drugs, they will have saved, because they will not have to put out that money.

For example, in my State, which is hurting right now, we have cut back on the CHIP program. We do not cover single adults. We do not even cover the parents now of a lot of the kids who are eligible for the CHIP program. Why we have had to cut back is because we want to continue to pay for a low-income prescription drug program which we now have, State financed.

But this money, if the Democratic plan is adopted, that money will go back and the States will not have to pay for that. So there is a significant savings to the States at a time when they are hard hit to pay for Medicaid, CHIP, and all of these other programs, that they will save that money and will not have to cut back on health insurance for children and other people who really cannot afford it. So there is a big savings there, a big benefit for the States. I forgot about that.

Mr. RODRIGUEZ. Mr. Speaker, if the gentleman will continue to yield, one of the things that I think that we forget is that one of the reasons why we have Medicare, and as I recall one of the stories about President LBJ, that I remember him having a lot of difficulties with the medical association and with the insurance companies over establishment of Medicare. I remember there is a little story where he brought in the insurance people, and the story goes that as he is talking to them, he says, "You know well that you take care of them when they are young and they are healthy, and as soon as they get old, that they are costing you." And we see the statistics here that most seniors on the average spend $996 per year for prescriptions.

He told them, "You know you cannot make a profit on them, and we know that, and that is why you have been dumping them. You are dropping them off your plans." He said, "I will do you a favor. Let the Federal Government come forward with a plan that will respond to the needs of our seniors, because you are not meeting their needs." Finally they let go and allowed that to happen.

The industry right now also understands that they cannot make a profit on our seniors, because they know that our seniors are the most vulnerable in this country in terms of the ones that more likely will get ill and sick. Yes, there are seniors there that are healthy, and they will continue to make a profit on them. But as soon as they get sick, they are not going to make a profit.

That is why in my counties, and I can tell you about some of my HMOs that were not making profits in certain of my counties, they chose not to drop certain individuals; but they dropped the whole county. They are going to do the same here and choose not to participate.

That is why I think if LBJ were here, he would have established Medicare with prescription drug coverage back then, if we had been using prescription drugs for access to health care the way we do now. So it is important for us that if we really want to provide access to our seniors, then we need to look at affordable prescription drug coverage, but also access to prescription drug coverage.

The other issue I know we have not talked about is our pharmaceutical companies and the obligation they have to provide affordable drugs, which we have had a difficult fight over. But the reality is now that the proposal that the administration has come forward with is again little games that are being played at the expense of our seniors, and I am sick and tired of that. I am tired, because our seniors are sincere when they come to us. They are sincere. They have tears in their eyes when the housewife says, I sometimes go without eating or without my prescriptions because I am buying them for my husband.

We ought to be ashamed of ourselves in this country if we do not work in terms of coming up with a plan that allows for appropriate, accessible prescription drug coverage for our seniors. This is not right. I am hoping we can go across the aisle and get Republicans and Democrats to come forward with a plan that responds to these needs.

When the President comes up again for reelection in 2 years for the Presidency, I want to ask him, and hopefully he will be able to take credit for coming up with a plan that responds to our seniors. At this point with what he has got, it is nothing; and it is not going to work when he comes up for reelection. I am hoping we can come up with a plan.

Once again, I want to thank the gentleman for being here tonight. I wanted to come up here and say my 2 cents worth, because I know when I get home, my seniors are concerned; and every time I go to church, they talk to me about those concerns, and I want to keep fighting until the day we can make it happen and be able to have access to good prescription drug coverage for our seniors in this country.

Mr. PALLONE. Mr. Speaker, reclaiming my time, I appreciate the gentleman's comments. I do not want to keep prolonging the gentleman, because I see we have other speakers; but the bottom line is that the reason that Medicare came into existence from the beginning is because the private insurance market was not covering senior citizens.

This effort to try to bring HMOs into the Medicare program has not completely failed, but essentially it has been a failure, because less than 15 percent of the seniors are able to find an HMO or tap into an HMO that they want to use. So the notion that the President puts out that somehow privatization, taking money and going into the private insurance markets is going to work, it is not based on the historical fact. It is not based on what we have had to do in order to get seniors coverage.

The other thing that the gentleman from Texas mentioned that I thought was so important is he talked about the limitations that HMOs often put on the senior or the participant in an HMO program, not only in terms of choice of doctors or hospital, but also access to local pharmacies, that you cannot use your local pharmacy, or maybe you cannot use certain drugs. In other words, they will not allow you to use certain drugs because they are too expensive.

In the Democratic program, we make it clear that you can go to your local pharmacy, because this is just like what you do with your doctor. You have a choice of doctors; you have a choice of pharmacies. You can go to any pharmacy, and they have to participate in the program.

The same is true with regard to the type of prescription you get. You are guaranteed that you can buy the prescription drug that you need. There are not going to be limits on what kinds of brands or whatever you are going to be able to access.

I see some of my other colleagues are here. The gentleman from North Carolina, I appreciate the fact that he came down here. I yield to the gentleman.

Mr. BALLANCE. Mr. Speaker. I wanted to thank my colleague, the gentleman from New Jersey (Mr. PALLONE), for this opportunity. I want to add my voice to that of my colleagues on this very, very important issue.

When I was running for this office, and I am a new Member, a little over 1 year ago when I started, and as I traveled around rural, poor eastern North Carolina, almost one-quarter of our State, my district covers 23 counties, the number one or number two, certainly the number three issue that always came up was that of a prescription drug benefit.

We kept talking to our constituents, and many of them were seniors. And I happen to believe that all across the country, this entire body put itself before our citizens for reelection, there were a lot of promises made on both sides of the aisle that when we get back to Washington we are going to enact a prescription drug benefit, many of us would say, for seniors.

I have a tremendous number of seniors in my district, particularly when it comes to those who are active and involved. I want to say in my prior life in the State legislature, we wrestled with similar issues that were important to seniors; and I always felt if you make a promise, you ought to keep it. And as I add my voice to that of my colleagues tonight, I really think of all of the voices all across northeastern North Carolina, across the rest of North Carolina and across this country, people who are hurting, who need help, who are demanding help. Many of these people, as the gentleman knows, are unable to afford their prescriptions. People are cutting pills in half and going without and taking one every other day, when they should be taking one every day.

Now, the President has proposed a plan that will not benefit these seniors, will not give them what we promised them. It will give them the label on the box, but the box is empty.

I am so proud that the Democrats have come up with a plan, and, very frankly, it ought to be bipartisan. It ought to be nonpartisan, because, frankly, once we get elected, we ought to turn our attention to the people we represent. Our voices ought to mingle together like a choir, like a symphony, as we seek to produce those things that we have promised.

As I say, the time has come to deliver; and I am here tonight to support what I believe and what I see and what I have read to be an outstanding plan promised by the Democrats. It would ensure that even hard-to-reach rural communities, just like my district, are included equally in this much-needed and much-demanded prescription drug plan.

The premiums, as has already been said, would be affordable. The deductibles would be reasonable, and they would be similar to coinsurance.

I heard the gentleman from New Jersey (Mr. PALLONE) talk about $25 a month, up to $100 a year, and then an 80/20 plan. I think that is imminently reasonable and fair.

The other thing, this plan is inclusive. It reaches everyone. It is a simple plan. It is straightforward. It gives seniors and those with disabilities the coverage and the drugs they need, and that not only they need, but they have been promised. The plan covers catastrophic coverage. It takes special note to include the poorest Americans, people earning between 150 and 175 percent of poverty level. That is about $13,500 a year. As I said, the coverage is fair and cost-effective, and in some cases it even has a sliding scale.

On the other hand, the plan that is proposed by the President would be very, very harmful to people in my district; and I consider it my responsibility, in particular, to speak up for those in rural eastern North Carolina and to say is this really a plan, or is this an empty promise?

This plan favors strongly HMOs. However, as we know from our history, HMOs are not particularly fond of rural and economically struggling communities; and, therefore, is this plan going to produce what it is promising, or is it going to leave our people holding a bag with nothing in it?

For years now we have been saying older Americans are being forced to choose between food and medication that they need. This plan would force seniors to choose between their doctors and prescription drug coverage.

Should Medicare benefits opt out of the President's plan, their only chance for drug coverage would be a discount card that we have also heard about tonight that gives a meager 12.4 percent discount. We know that that is little more than you can get with your bonus card at a supermarket. This is hardly the kind of relief that we need to give to our seniors.

The administration today claims their plan would provide eligible recipients with the same coverage afforded to Members of Congress and Federal employees. However, our researchers at the Congressional Research Service value the President's proposal as well under half of what it provides to Members of Congress. The Democratic plan would provide coverage to everyone the entire year with affordable costs to Medicare beneficiaries.

□ 2130

This institution, known as the United States Congress, has a great history. There have been times that we have responded to issues that have arisen throughout the country. We know how to respond. We have the ability to respond. The question today is, do we have the courage? It only takes a little bit of courage to give an honest answer and to keep our commitment.

Mr. Speaker, I strongly encourage my colleagues to act now on a favorable plan.

Mr. PALLONE. I want to thank the gentleman from North Carolina, Mr. Speaker. He made a couple of points that I just wanted to elaborate on because I think they are so important.

The gentleman talked about the need for simplicity. It is true, the seniors, and not to say that the seniors cannot figure things out or that they are not sophisticated enough, but it is difficult for them oftentimes to figure out all these gimmicks.

If we look at the President's plan, there are a lot of gimmicks. It basically talks about this discount card. I have a lot of the drug companies in my district in New Jersey. They have all kinds of discount cards, but we have to figure out whether we are going to buy a discount card and how much of a percent we are going to get. There is no guarantee that we are going to get a particular percent.

The other thing is the gimmicks the HMOs are using. I remember when we first started the Medicare+Choice, where seniors were allowed to go into an HMO and use their Medicare to go into it. I started to see these advertisements in the local papers in New Jersey. One in particular said, if you came to a diner on Route 9 in Sayreville, one of my towns, on a given night, they would give you a free lobster dinner if you came and listened to the plan that was being offered.

All these senior citizens that I knew, because they came later to my town meetings and forums, went there because they got the gimmick of the free lobster dinner. It sounds funny, and I am kind of laughing; but it was sad because they ended up signing up. They did not know exactly what they were signing up for, what kind of benefit they were really getting with the HMO. They later found out that they had to pay a lot of money out of pocket, they were not allowed to go to the local pharmacy, and they were not allowed to have a choice of doctors.

It is very wrong, in my opinion, to put seniors into the position where they can be essentially tricked, because it is not simple. Our plan, the Democratic plan, is simple. It is just like what we get with doctors. As the gentleman did, he explained it in 30 seconds. We need that, not because seniors are stupid, but because they just—they should not have to face all these obstacles and all these difficulties in deciding what kind of a plan to take, because a lot of times they are lured into these things based on false premises.

I have seen it myself. I gave the example of the lobster dinner, and I can give a lot of other examples that are similar to that. The other thing that the gentleman mentioned which I think is so important, if we listen to the President and Secretary Thompson today, they keep talking about how they want to put seniors into a plan that is similar to the Federal Employees Health Benefit Program, what we have in Congress and what Federal employees have.

What they forget to mention is that what they have in mind is not exactly like what we get. They are talking essentially about a voucher system, where they give a senior citizen a lot of money like a voucher, and they go out and try to use it to get into an HMO or some kind of a private plan. That is not what we have. We have a choice of all kinds of plans.

I would venture to say that what the Democrats have proposed is more like what Congressmen or senior citizens get, because there is a guarantee that we are going to have a certain kind of prescription drug program.

I do not want people to get this idea that what they are proposing, what the President has proposed, is similar to what government employees get. It is not. Government employees do not have to make these choices in order to get the guaranteed benefit the way that the Republicans are proposing. They do not have to make those choices, and end up not having prescription drugs or having prescription drugs. It is not exactly the same thing.

Mr. BALLANCE. If the distinguished gentleman would just further yield, Mr. Speaker, I would say there has been a lot of talk about compassion. This is a great time for it to be shown. Anyone who has been in the senior centers that I have been in, that the gentleman has been in, that others of our colleagues have been in, and are going to go in again, we look around the room and look at these people who are there, and they are doing the best they can to get along in the world.

We are here, and we are their voices. I just hope the gentleman will continue to raise his voice and others will raise their voices on their behalf, and hopefully we can get a plan that will be beneficial to them.

Mr. PALLONE. I appreciate the gentleman and thank him for coming down.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who has joined me so many times on this same issue. We may look a little weary, but we are trying, and we are going to get out there and talk about this prescription drug plan.

Ms. JACKSON-LEE OF Texas. Mr. Speaker, I thank the distinguished from New Jersey for yielding to me. It is refreshing to hear from the gentleman from North Carolina (Mr.

BALLANCE), who has brought such a wealth of experience from the State legislature, and brings to the floor tonight his vast experience about seniors in North Carolina, which shows that this is so widespread.

Those of us who started in local government, and as the gentleman knows, I started in city council, saw these issues even before we came to Congress. That is why we are here night after night. We thank the gentleman for his leadership.

Mr. Speaker, I want to share an added story. It goes to the point of how one's position or issues can be misconstrued. I hope my colleague does not think I am going far awry, but it is an important point because sometimes even Members are misinterpreted.

One of my radio stations, KPRC 950 AM, called desperately this morning while I was in a Committee on the Judiciary hearing, wanting to get my response to the idea of the words "under God" in the Pledge of Allegiance.

Maybe because I have been so vocal on the question of going to war in Iraq, which is certainly a total different issue, it is a question of choices and options; and, frankly, I am going to discuss the fact that when we make choices and spend huge sums of money on war, there are questions about how we can spend dollars on needed prescription drug benefits; but they wanted to interview me about the words "under God," and did I not object to those words being in the Pledge.

It so happens that I am a rabid and avid believer that those words should be in the Pledge and should be allowed to be in the Pledge, and have voted accordingly, and have defended it on the basis that it is protected by the first amendment; meaning that as we say the Pledge, we are not mandated to say it, it is by choice; and therefore, anyone who chooses not to say it can; and if they choose to say it, it can be said readily, as it is. We will see what the court does with it, but I believe that "under God" is appropriate.

This is what happens when you mislead, or someone hears incorrectly what someone says or believes. I am getting to what I understand or perceive has been said this morning about the proposed Medicare prescription drug plan offered by the administration. It appears to be one that is tied to Medicaid, or Medicare, rather, and it is not.

I would like to hear from the President to clarify that, because it appears that there was the impression given that this is all right, it is a guaranteed Medicare prescription drug benefit; and Mr. Speaker, it is not. What it actually does is it forces seniors out of the Medicare program into HMOs, unlike the program proposed by the Democrats, which clearly indicates that we are going to provide the safety net of a guaranteed prescription drug benefit under Medicare; an old shoe, if you will, and I do not want to interpret that as being a bad shoe, but something that we are familiar with and comfortable with; and we are going to strengthen the Medicare system. I think that is the way we should explain what we are trying to do.

Some would say, well, you are not fixing the Medicare system. The administration's proposal is new and fresh, and it is fixing it. No, we are going to strengthen a Medicare program that has actually worked. The difficulties in the Medicare program this Congress some years ago fixed when we attacked Medicare fraud; and when I say "fixed," we went after it. We are still monitoring Medicare fraud. I know the Committee on Commerce constantly is in review of Medicare fraud, and looking at ways the system can be more efficient.

We want to do that. That is absolutely the right way to go. But one of the problems with Medicare has been that it has been weak and faltering because we have not had the resources to strengthen a very strong program. Why is it strong? Because since 1965, the actuarial tables will show that there has been a decided difference in the length of life of Americans pursuant to the passage of the Medicare Act in 1965; but now we come to a crisis.

I see my good friend, the gentleman from Arkansas. I have listened to him time and time again. We both come from semi-rural areas, only because Texas is a big neighborhood, I call it. We have people coming in and out of our cities, but we claim ruralness even in our cities. The problem is, these are our neighbors. Over and over again, each of us has been to our respective senior citizen areas. I have unincorporated areas in my district and they are semi-rural, even though I represent parts of the city of Houston.

Seniors are living in these areas, sometimes left as widows or widowers in their homes. They want to be in their homes. They are able to stay because the mortgage is based upon a house that was bought 30, 40, 50 years ago. When they come to me, they are literally in tears, because I am forcing them to sell that house and maybe even move in not even with a child but a relative, or someplace that compromises the quality of life that they are used to. Why? Because they have to make choices between prescription drug benefits or paying for prescription drugs and, as well, rent and food.

So the President's plan is not a guaranteed prescription drug benefit. Seniors, listen to what we are saying. It is a proposal that forces them to go into an HMO. I do not want to be in one more meeting with close to 600 or 1,000 seniors when we are all there trying to find a solution to the HMOs who closed up shop in Houston, Texas, six of them at one time, leaving seniors without any kind of care whatsoever. We managed to grab one back in, and we are hanging on by for a string right now.

Basically, what the President's plan is forces them upon the insurance process that just a few years ago collapsed when it left many of our jurisdictions; and, in particular, left seniors, without, if you will, the idea of coverage.

The other thing is it forces Medicare into privatization, or it privatized Medicare. We have seen that that does not work because, again, I point back to the closing of the HMOs. The reason they closed was not because we were not nice, if you will, subscribers, enrollees: they closed because they were not making money because there were so many of us; when I say that, too many of the seniors. It was costly because seniors were using it. Well, that is what preventative medicine is all about. That is what Medicare did, it allowed seniors to have care so they could live longer. So it does that.

We found out that privatization did not work, just to continue what I have said, because that is why we went into the Medicare system, because pre-Medicare we had a much shorter lifespan for seniors in America or Americans, a much shorter lifespan. That is because they were not intervening sufficiently early enough to either treat or prevent the disease. So privatization is not what we want to see.

Four hundred billion dollars is what I understand is the President's proposal, certainly woefully inadequate in terms of the beneficiaries that need to participate, and the cost of prescription drugs. So this is inadequate.

Again might I say, I know that the debate is, of course, about our proposal: it is $800 billion. I am not ashamed of that, because I am sick and tired of not bringing home, if you will, the substance of what we have been promising to our seniors. It would have been less costly if we had done it 6 years ago when we were discussing it; but obviously we are projecting into the future, and it is time to do it now.

Clearly, with a $600 billion permanent tax cut, we could substitute the $800 billion proposal that we would have in order to ensure that we would be able to provide for these seniors.

The President's proposal also has gaps in coverage. Because we are dealing with an arbitrary budget number, beneficiaries will be forced to face a gap in coverage, and spend thousands of dollars just when they need the help most.

Specifically, I want to say this is what this means. It means that the President's plan does not specify how much seniors would have to spend before they would become eligible for catastrophic drug coverage. I think the other point is, what is catastrophic drug coverage?

So this plan is one that needs a lot of help. It also begs the question. It is like the radio interview that I was going to give this morning suggesting that I did not believe in the words "under God" in the Pledge. I do not think it is documented anywhere that I have ever said that, and it had to be corrected.

So it is important that we correct the message and the substance of the President's plan. It is a forced privatization. It is utilizing HMOs, who may be good in every sort of way, but we have shown that if they do not make a profit, they leave. Also, it does not answer the question of when a senior is very, very sick, whether or not they are able to get prescription drugs that they need.

So I thank the gentleman very much, I say to the gentleman from New Jersey (Mr. PALLONE). I hope that we can find common ground and make the right choice, and spend the appropriate dollars effectively. I would like to see us use those dollars that we might be using for going to war for this. Certainly I would like to see it be the last option.

More importantly, I think it is crucial that seniors understand what choices they are being forced to make. I thank the gentleman for his leadership on this issue. All of us want to be able to deliver help to our seniors, no matter where we live. I think that is a very important challenge we all have to work on.

□ 2145

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman and particularly with her insight there with regard to the HMOs which are not available in many places. She is exactly right.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I would like to thank the gentleman from New Jersey (Mr. PALLONE), the gentlewoman from Texas (Ms. JACKSON-LEE), a State that neighbors my State, and the gentleman from North Carolina (Mr. BALLANCE), who was here tonight to talk about such an important issue.

Back in the year 2000, there was an election and everyone talked about the need to truly modernize Medicare to include medicine for our seniors. Two years went by and nothing happened. Then we had another election in the year 2002. Everyone talked about the need to truly modernize Medicare to include medicine for our seniors, and nothing happened. There are a few of us that are not going to rest until we see a Medicare prescription drug plan for America's greatest generation, our seniors.

We hear folks on both sides of the aisle talk about how seniors have to choose between their medicine and their light bill and paying their rent and their groceries. I am here tonight, Mr. Speaker, to state that that is not rhetoric. It is true. I am a small town family pharmacy owner, and before coming to Congress I saw too many seniors come through the doors of our small family pharmacy with a handful of prescriptions after going to the doctor, which Medicare covered, and having tests run on them, which Medicare covered; and then the doctor included the medicine they needed to get well. And they would come through the door of the pharmacy with a handful of prescriptions, and sometimes even one prescription, but sometimes they could not afford that one prescription or they could not afford to take it properly.

I live in Prescott, Arkansas, a town of about 3,400 people. We do not even have a hospital anymore. But living in a small town I see seniors that come through the doors of the family pharmacy we owned back home, that could not afford their medicine; and being from a small town, I would learn that a week later that they were in the hospital 16 miles up the road in Hope, Arkansas, running up a 10 or $20,000 Medicare bill simply because they could not afford their medicine or could not afford to take it properly.

This is America. We can do better than that by our seniors.

A few months ago, I ran into another senior citizen, a retired pharmacist in my district who happened to have been the relief pharmacist at the pharmacy my mom and dad used when I was growing up in the 1960s. She said back in those days which was not that long ago, she said if I had a prescription that cost $5, I would go ahead and fill the next one in line while I built up enough courage to go out and tell the patient that their medicine was going to cost $5. And I think that graphically demonstrates and tells a story about how today's Medicare was really created for yesterday's medical care.

Health insurance companies are in the business of making a profit. They have got it. They understand it. They now cover medicine. They now know it holds down the costs of doctor visits, needless hospitals stays, and needless surgeries. No one has accurately portrayed how much money we will save in Medicare part A and part B if we truly modernize Medicare to include medicine for our seniors.

Now, the President has another plan, and we have heard about his plan to provide seniors with a discount card. Anybody that watches late night TV, you can buy them every night on TV for $7.95. And if you buy one and take it to a pharmacy, chances are you will pay more money for your prescription; and when you have a savings, you will save 50 cents to $3. A senior with a $600-a-month drug bill on six medications, let us give them the benefit of the doubt and say they save $3 a prescription, saving $18 dollars on a $600 drug bill does not help seniors choose between their medicine and their light bill and their groceries and so forth and so on.

And now the President says we will give you some prescription drug coverage if you will sign up for this HMO and let us tell you who your doctor is going to be. That is wrong. And I am not going to rest until our seniors can walk into the pharmacy of their choice, pull out their Medicare card, and be treated just like they are when they go to the doctor and when they go to the hospital.

HALTING ILLEGAL IMMIGRATION

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, it will be interesting as times goes by and as we begin the debate on the budget, which will come up in a relatively short order, it will be very interesting to hear our friends on the other side who have spoken so long and eloquently tonight about the issue of prescription drugs and the problem with the President's plan. It will be interesting to hear how they address the problem with the budget. My guess is, it is just a guess, of course, when the budget is presented, it will be attacked by our friends on the other side of the aisle for being too high and having too much of a deficit attached to it.

I ask, I wonder, Mr. Speaker, if it would not be appropriate for all of us to think about the fact that the plan that is being put forward by the other side is one that would, oh, say a trillion dollars I think is the last we have seen that would attach to it in terms of cost. And my guess is again we will not hear much about that when we discuss the budget.

At any rate, tonight I do want to talk more about a different issue than the budget. I want to talk about, of course, the issue of national security and the issue of immigration and how the two actually connect to each other.

A great deal of debate is ongoing in the country about the activities that the United States will be involved with in a relatively short time perhaps in Iraq, whether or not we should be and whether or not the President is right to, in fact, address this issue in the way that he is choosing to do so. And that debate is appropriate and it is healthy in our Republic. Some aspects of it are healthy. But the one thing that I seldom hear being discussed by anyone, frankly, on either side of the issue of the United States involvement in Iraq is the actual threat that is posed by the action that we will take in that part of the world, the threat to our homeland, the threat to American citizens here in the United States. And the threat is real.

No one, for instance, believes that our armies will be defeated in Iraq. No one thinks that we will fail in the desert of Iraq. Saddam Hussein does not think that we will fail there. No one believes that that is where the final victory in this huge endeavor we are involved with will be won. It is very possible, it is even predictable, I think, that various aspects of this battle against terrorism will be fought in a variety of places around the world, and we will experience casualties in places other than the desert of Iraq. And those casualties may very well be here in the continental United States.

We know that Saddam Hussein and others have called for a greater level of terrorist activities be committed against American interests should we commence hostility in Iraq. And we know that that may very well be the commencement of hostility, that is, may very well be a catalyzing agent that will bring together many of the disparate forces in that part of the world in what is often referred to as a jihad against the United States, and we must be prepared for it. And we have heard how FEMA has put out various pieces of information and on the FEMA Web site people can go to it and figure out how to protect their homes and figure out what to do if they are at their business and something happens, some sorts of attacks occur, biological, chemical or nuclear. And we are preparing the Nation for this eventuality. We talk about it a great deal, and we should because it is a true possibility. It is, in fact, a probability.

Now, we know that and we talk about that on the floor of the House, and we encourage Americans to be vigilant, and we ask them to take measures to protect themselves against these kinds of terrorist activities which we anticipate in the United States of America on our ground. It is amazing to me then that there is such a silence, almost one would say a deaf silence, emanating out of this body, out of the administration, certainly out of any sort of aspect of the media by and large, I guess I should say, some aspect of the media. Do pay attention to what I am going to say and suggest that it is, in fact, something Americans should be made aware of.

But we hear very little discussion about the fact that our borders are porous and across them come people not just looking for a job, although many and in fact most do come that way and for that purpose. But many others come looking to do us great damage. And we talk about, we do pay lip service to things like the creation of the Homeland Defense agency and the reconfiguration of the INS and the Border Patrol within that umbrella agency we are calling Homeland Defense; and that I suppose is supposed to salve the concerns, that is supposed to make us all feel better and more secure: the fact that we are arranging the deck chairs, and that new boxes are being constructed with new names in them to oversee agencies with really important-sounding titles, all dealing with homeland security.

But, Mr. Speaker, I just came back from a trip to the border, to the southern border; and I will tell you and I will tell anyone who will listen that our borders are not secure, that our homeland is not secure, even though we have an agency for that purpose. It is not secure. It is incredibly vulnerable. People still by the thousands come across those borders at their will. Again, most I am sure are doing nothing more than looking for the kind of life, a better life that our, perhaps your grandparents, certainly mine, came here for. They are coming illegally; and, therefore, they should not be given any sort of sustenance here. We should not encourage that. We should not reward that kind of activity. And I do hope that we will begin to understand that you cannot create a sieve on the border that allows only those people who are looking for a better life to come through it illegally, while simultaneously stopping those people who are coming here to kill us. I do not know how to construct such a sieve. I do not believe anyone does.

□ 2200

Yet that is exactly what we are trying to do today. We are trying our best, and the government really should be given credit, certainly the administration, for the diligence that they have exhibited heretofore, that we have been able to see actually, perhaps stop certain activities and events from occurring, and we should praise the efforts of our various intelligence gathering services and parts of the homeland security agency, because there are things that I am sure could have happened to the United States, very bad things that have been stopped by their diligence, and I commend them for it.

Their job is overwhelming. It is made immensely more difficult because the borders are porous. We have embarked upon this interesting strategy that says we are going to try to find the people who have gotten into the United States and are here trying to do what they were sent to do, the literally thousands that we have been told are here in these sleeper cells, just awaiting orders to execute some act of terrorism against the United States, and we apply a great deal of our resources to that end, to trying to find them once they are here and stop them from doing what it is they are going to do.

We do not do what is, I think, most logical thing, the thing that our constituents ask us to do every time I think almost any of us go home and have a town meeting. Somebody usually, certainly in my town meetings, will bring up the issue of border security and ask why we are not trying to stop them at the borders, why we do not try to stop the people from coming into the United States and doing bad things, why is it that we are concentrating on trying to do something about the ones that are here now, and here is the answer. It is an ugly answer, but it is the answer.

The answer, Mr. Speaker, is that if we were to actually do what is necessary to prevent people from coming into this country to create havoc and to commit acts of terrorism, we would essentially end illegal immigration, and therefore, we will not do that. We will not secure the border. We will not defend American lives or property because it would end illegal immigration, and Mr. Speaker, there are many people in this body, there are people throughout the government that recognize the political peril that might develop as a result of doing what I suggest.

There are large segments of the American population who could be offended by us securing our own borders. I do not understand how that could be. I do not understand how any American, any American regardless of the hyphen, what word we put before the hyphen, I do not understand how any American could say please do not defend our borders because if you do, fewer of my countrymen would be able to come in. Because if you feel that way, then that it is your countrymen that we are keeping out, then you are not an American, of course. You are connected, at least mentally, to another country. Politically, emotionally, linguistically, whatever, you are connected to another country and your concerns about our borders should not be taken into consideration.

Anyone who believes themselves to be an American, it seems to me, would be willing to say, and in fact, they do in huge number, please protect the border, please stop people from coming into this country to do us great harm because it may be me, it may be my family that is the casualty and the casualties of the next terrorist activity, and because they have some sort of connection to our country, to the United States of America, because they want to see us survive, and they recognize that the world in which we live today is the world that does not, in fact, exist easily with things like open borders.

The world in which we live, the kind of world we have lived in this United States for a couple of hundred years where we felt so secure from the problems of other countries, the oceans protected us and that we could defend ourselves by sending armies to other countries, that world is gone. It no longer really exists.

Our Nation is at risk because our borders are porous, and no matter how many times somebody stands on the floor of this House or in front of the cameras at press briefings and says something like we are doing everything possible to defend the people of this country, no matter how many times they say it, it simply is not true. It is not true.

I can tell my colleagues that anyone who lives on the border, northern or southern, will tell you that the border is porous and across that border is coming thousands, thousands of people over the course of a year, millions of people, and that they will also tell you, by the way, Mr. Speaker, that their lives are being essentially destroyed, that their way of life is being destroyed, that their ranches and farms and homes along that border are being destroyed, literally and figuratively, destroyed.

We spoke to rancher after rancher in Cochise County on the border with Mexico, and they talked about having lived there for generations and how something different was happening in the last 4 or 5 years where they have always had the issue of, in the past, illegal immigrants coming across their border or that border and on to their land, and it is a few here and there, and they would give them food. They would give them jobs many times frankly, and these people would either move on or move back to Mexico at certain points in time, and it really was not much of a problem frankly.

Something, they keep saying, has happened in the last 4 or 5 years, something very odd and very disconcerting, and what they say is that it is not just one or two people coming across. It is, in fact, hordes of people, thousands of people coming across the border, destroying the fences, depositing litter throughout the land and in areas that were heretofore pristine in nature. They are now essentially the local landfill, but there is no EPA to govern the problem and to constrict the use of this particular land.

People will come to what are called pick-up sites, Mr. Speaker, and they are all over the land in this area. There are places where people will cross into the United States illegally, continue on foot to a particular spot inside the United States where there is a road, and they will congregate there, sometimes in the hundreds. Over a period of time, maybe thousands will congregate in this particular area, waiting for their truck, semis, various other forms of transportation to get there, pick them up and take them into the interior of the United States.

The land becomes essentially destroyed where these sites are. There is so much trash that a person literally has to be careful as they walk through there because of what they might step on or what they might touch. I mean thousands and thousands and thousands and thousands of water bottles and trash and plastic bags because people are told they must discard everything. They must discard their backpacks, jackets, coats, shirts, whatever, get into these whatever kind of transportation is made available to them with as little as possible because they need more room. So they do not let them take in anything that they are carrying and they have to just simply drop it at that point.

The land is devastated. If this happened anywhere else in the United States, the Sierra Club would be going crazy. We would be hearing from them on the floor of this House every single day. Somebody would be getting sued. I guarantee my colleagues that. The cameras from ABC, NBC and CBS would be there every night saying, look what these people are doing to our land: they are destroying this property.

Yet, I really have not seen that kind of exposure of this particular problem. I have certainly not heard the Sierra Club or any of the environmentalist organizations out there in the United States condemn this activity and try to do something about it and suggest that maybe the government ought to take some action.

The trash that is deposited is not only unsightly and becoming something that becomes very dangerous at certain points in time, but it is also, of course, something that these ranchers have to put up with, and it becomes an economic liability for them because cattle eat the trash. They try to consume the plastic, and of course, it will kill them in a short period of time.

The human feces that is deposited in this area, oftentimes a rainstorm will occur in that, especially in that part of the country it occurs quickly. These arroyos fill up. The human waste is washed down. It gets into the water supply for cattle and eventually for human beings. It is a very dangerous situation, very ugly situation.

I talked to ranchers who spend most of their day trying to repair their fences instead of actually conducting the ranching operations that are necessary to keep them afloat. Many of these ranchers are in bankruptcy.

Then, of course, there are the even more dangerous aspects of this, because the people coming across the border, many of them are carrying drugs, illegal narcotics into the United States. They come with backpacks, 60 to 80 pounds on their back. Sometimes they come guarded by people carrying M–16s or various other automatic weapons. They come across the land in, again, droves, thousands. We have pictures of them.

These are very dangerous people. These are people who do not simply drop everything and run when they are confronted by either a rancher or a border patrol. They will want to many times shoot it out with them, and they have done so.

Even some of the people who are not necessarily directly connected to the drug trafficking have become very different in their nature, very aggressive, very antagonistic to the ranchers in the area, have threatened them physically, have assaulted them, have broken into their homes, their barns, the buildings on their ranches, have vandalized the wells, have threatened the family members. Person after person we speak to is armed. Children go to school armed. 13- and 14-year-old kids. Their parents are afraid to send them that far alone or unarmed.

Ranchers have to keep shotguns or other firearms by their door, and as one rancher said to me, nobody should have to live like this. We have lived here for generations. Nobody ever locked their doors. Nobody ever locked their cars. This was the idyllic and picturesque rural life that most people thought existed in this country.

Everything has changed on the border. The government of Mexico has decided to move as many people into the United States as possible, as I was told by Juan Hernandez, who was the head of something called the Ministry for Mexicans Living in the United States, a newly-created ministry in Mexico. He was at that time the minister, and when I asked him the purpose of such an agency, I had never heard of such an agency before, he said, well, no, it is new, and I am the first minister, and the purpose is essentially to increase the flow of people into the United States from Mexico. I said, why do you want to do that? And he said there are several reasons.

He was very, very candid. I must tell my colleagues I was astounded by how candid he was when he said, well, the reason why we are trying to get as many people into the United States as possible is so that eventually we will be able to affect American policy vis-a-vis Mexico just by the number of people who exist there. He said, of course, these people send money home to Mexico. It is called remittance and it accounts for almost 30 percent of their GDP. It is a very important function. It is a very important part of the Mexican government and the Mexican economy.

It also serves another purpose, although he did not claim this, but it is certainly accurate to say that because of Mexico's enormous growth rate in the last 25 years, having doubled their population, they are now, and because they are still looking, they still have an economy is that is anything but robust. They have a huge unemployment problem and they have lots and lots of very young people who are unemployed, and as certainly we know, what that means throughout anywhere, any country, it means instability.

□ 2215

And so they want to move these people out of Mexico and into the United States.

Some people would even suggest that there are other reasons, that term "reconquista" is more than just an idle phrase; that people actually believe that they can reconquer that part of the United States, the southern part of the United States, by simply moving people into it. Well, there are many reasons why we are seeing this enormous number of people coming across the border, and Mexico may very well have their reasons for encouraging the flow into the United States. But we have absolutely no reason to accept this state of affairs except for the fact that we fear the politics. We fear the political reaction to any action we take to secure the border, both northern and southern.

Well, that is simply not good enough for me, Mr. Speaker. That is not a good enough reason for us to abandon our borders. Because it is imperative, I think, for any nation, in order to call itself a nation, to be able to control its own borders; and we do not do that. We do not wish to do that, and we suffer the consequences: increased costs for American citizens.

There is always this debate as to whether or not massive immigration of legal and illegal workers, low-paid, low-skilled workers into the United States is a benefit to the country. Well, I will tell you to whom it is a benefit. It is a benefit to those who hire low-skilled, low-wage workers and pay them very little. Those folks do, in fact, get a profit from this migration activity and from the fact that our borders are porous, and they can therefore hire people who are desperate. That is profitable for them, but it is costly for the United States.

Many very reputable studies have been conducted that are designed to identify the actual costs. A lady at Vanderbilt University, a very well-respected economist, has stated often that the result of massive immigration into the United States of low-skilled, low-wage people creates profits for some, but costs for the many. And there is absolutely no way that the United States benefits in the aggregate from having millions of people here for whom housing is necessary, schooling is necessary, hospitals are necessary, and prisons are necessary.

Twenty-five percent of the prison population in Federal prisons is made up of people who are noncitizens in this country. It varies from State to State as to how many noncitizens end up in State facilities or in local lockups, but it is a significant number. And these are very expensive costs. And they are not paid back by the "taxes that are paid by the people coming in." First of all, even if they were paying taxes, of course, we would recognize these are low-skilled, low-wage people.

At one of these pickup sites I mentioned before, Mr. Speaker, that we were going through a couple of weeks ago on the border, we saw some paper, well, there was paper and stuff everywhere; and I happened to look down and there was a 1040, a Federal income tax form that someone had filed, and it was deposited in the rest of this trash heap in this pickup site. I picked it up and we were looking at it and it was a Mr. Delgado. And Mr. Delgado had filed taxes, a tax form for the previous year, in which he claimed, and I cannot remember now because I do not have it with me, but I think it was $8,000 or $9,000 in income that he had paid $1,100 or $1,200 in taxes. But of course he also claimed $2,400 in unearned income tax credit. So he got a refund, of course, of almost double what he paid.

And this is not unusual. It is costing us not just the money that every city and State and the Federal Government has to put out for all the services and the infrastructure, but it costs us in terms of the tax claims that are made by the people who come in here and work often illegally. And my colleagues know as well as I do how this happens. Tax ID numbers are assigned. The IRS could not care less whether a person is legal or illegal. They will assign a tax ID number, and that is really all one needs to then make a claim for an income tax credit.

So there is that one side of the immigration issue. There is this economic dilemma that we face and certainly an economic hardship that is placed on Americans to support massive immigration into this country. Then there is this other side, there is this thing we call the national security implications of massive immigration.

And before I go to that, Mr. Speaker, I do want to talk about something else that is occurring. We are about to perhaps embark upon some action in the Middle East, and we are looking for friends around the world. We are very interested in getting countries in the Middle East to help us out. We have heard a lot about Turkey and the fact that we had offered them, well estimates go from $12 billion to $30 billion in aid, essentially a bribe, to have them allow us to station troops there. Their parliament recently turned down that request from the United States to station troops there, so this has caused a lot of consternation.

But they are not the only government that is trying to hold the United States up in order for them to agree to allow us to do what we think we need to do for our national interest and for the interest of, in fact, the civilized world. Our friends to the south have been negotiating with the United States, because of course we need their vote on the Security Council in this resolution that is coming up. It is widely reported that some bargaining has been going on between the administration and Vincente Fox's government. The issue is, well, what is in it for us, is the way I think it has been put. What is in it for Mexico? What are we willing to give them to get their vote on the Security Council?

This is the same government, Mr. Speaker, the same country whose president came here and addressed a joint session and talked about the need for trust. He used that word over and over and over again, I remember. We have to trust each other. We have to trust Mexico especially, he said. Well, in that vein, then, he is suggesting that some quid pro quo is necessary for them to support our resolution, or the British resolution in the Security Council; and what they are asking for is another push for amnesty for all the people living here illegally, all the people from Mexico living here illegally.

I do not know, Mr. Speaker, I do not know what arrangements have been made to get their vote; but I would suggest that this is not the action of a friend, of a nation that we are supposed to be able to trust. And I also assure you, Mr. Speaker, that I will certainly do everything in my power to stop any effort to provide amnesty for anyone here illegally, Mexicans or anyone else. It is the worst kind of public policy.

Just before I came on the floor, I was talking to someone who was telling me about the fact that he is engaged, and he is trying to get the person to whom he is engaged here in the United States. It is a lengthy and difficult process, and he is of course doing it the right way. It is going to cost money. It is certainly going to cost a lot of time, and it is a big inconvenience. And I wonder what we would tell him and anyone else who is actually trying to do it the right way if we were to in fact then grant amnesty to the, what, 10 to 13 million people here who have done it the wrong way. What message does that send to all of the law-abiding citizens of this country and/or law-abiding prospective citizens to this country? It tells them they were suckers; and that is it, that they should have simply snuck in.

Why would someone not just sneak in? Why would anyone go through the hassle? And by the way, when we go down to the border, the border patrol will say every time, please do not even mention amnesty. Because every time we say amnesty up here, this flood they are trying to deal with turns into a tidal wave. It is terrible public policy, Mr. Speaker, and I will do anything I can to try to stop it.

Again, I do not know what arrangements have been made. I know it has been widely reported that this is the kind of thing that is going on. The fact that the borders are porous is more than just an obstacle to those of us who want to adhere to the rule of law and encourage people to come into this country legally, to enhance the idea of national sovereignty. It is more than just a little obstacle along those lines. It is also a very severe and significant threat to the existence of the United States of America.

Across these borders come people, as I have said before, with ill intent, and they can come across at their will. And many people are coming from areas of the world that are certainly known to spawn the terrorists about whom we are so greatly concerned. In fact, on the border they also have a term for that. They always refer to these people coming across, this new phenomena, by saying there are so many OTMs. That simply means "other than Mexicans," coming across the southern border.

But it is not unique to the southern border. I guarantee it is happening on our northern border also. Many people are being reported, hundreds, sometimes more, who are actually coming from countries in the Middle East. And what we are noticing recently is quite a number of people coming up through Brazil in what is something called the tri-border region in South America. This is an interesting phenomenon, Mr. Speaker. A very interesting phenomenon, because it is something we hear very little about.

In a paper, from which I am going to quote here, it is called "Tres Fronteras," which means "three borders," and that is why I say we refer to it now mostly as the tri-border area. It is Paraguay, Argentina, and Brazil in South America. It was submitted by Lawrence J. Martines, a member of the IACSP, the Association of Former Intelligence Officers, and a variety of other organizations. It is entitled "The Nexus of Islamic Terrorism in Latin America."

It starts off: "Ciudad Del Este, Paraguay once held the title of the contraband capital of South America. A seedy border town surrounded by jungle, where the borders of Argentina, Brazil and Paraguay meet. Millions of dollars in drugs have passed through Ciudad Del Este down the Parana River to the Rio de la Plata and eventually reaching the Atlantic seaboard. Upriver came illegal booze, jewelry, and black-market cigarettes. The narcotraficantes and all-purpose smugglers fueled the economy of the region. According to a U.S. State Department document, thanks to Ciudad Del Este, impoverished Paraguay had both a higher consumption of whiskey than Scotland and a record supply of foreign cigarettes and jewelry.

□ 2230

"In the mid-1980s, a demographic shift began in South America," and this is the part that is quite interesting and something hardly anyone talks about. "Muslim immigrants from the Middle East and Southwest Asia began flooding into the region, including the Tres Fronteras. By 2001 the Muslim population south of the Panama Canal had skyrocketed to an estimated 6 million. Over a million currently live in Brazil, while Argentina plays host to 700,000. Much of the remainder live in Paraguay, Chile, Peru and Bolivia. In Ciudad Del Este, over 23,000 Muslims, mostly Lebanese, Syrians and Iranians, now control the economic and political life of the area which extends across the border to the city of Foz do Iguacu on the Brazilian side of Parana.

"Following the September 11, 2001 terrorist attacks on the United States, and under major prodding from the CIA, police officers from the three adjoining nations swept into the area to scour for evidence that the tri-border region may have evolved into a haven for Islamic extremists. Paraguayan police rounded up numerous Arab immigrants and Paraguayan citizens who they claimed to have links to international terror groups. Among those arrested was Alejandro Weiss, the former Paraguayan consul to the United States of America. It was discovered that consul Weiss had sold over 300 passports, visas and cargo shipment authorizations at $8,000 a piece. These documents went to Lebanese, Syrian and Egyptian citizens suspected of terrorist connections. These individuals and their cargoes have since melted into the rapidly growing Arab community within the tri-border region.

Skipping to the end, On November 21, Otto Reich, the Assistant Secretary of State for the Western Hemisphere made the following statement. "We have information that there are numerous people helping the Hizballah organization in the tri-border area. This includes financially helping terrorist groups in the Middle East."

"Footnote: When taking a hard look at Islamic extremists in Latin America, one should not ignore Mexico. Within the last year, a former Mexican immigration official in Ciudad Juarez was imprisoned because of his involvement in smuggling hundreds of Iraqis and Palestinians into the United States of America since 1996. These Arabs apparently traveled up the land bridge from South America. Further, within the same time frame, Matamoros police arrested a migrant smuggler accused of sneaking numerous Pakistanis into the southwestern United States.

"One must conclude from all this Islamic extremist activity south of border that we must increase vigilance at our back door. The threat is clearly aimed at our homeland via the geography of our hemispheric neighbors. Continued sneaking of terrorists into America through our porous southern flank is a given, unless there is a major military or law enforcement presence implemented there in the very near future."

While we were down there and in other briefings I have had from Border Patrol agents and from the INS, they will show you the number of people that they have arrested, and they identify them by country of origin. Over the last year and a half, it is fascinating to see what is happening, because there is the typical number from Mexico, and then they go through all of the other countries from which we are grabbing people that are coming into the country illegally.

In the last year and a half it was weird because Brazil just went off the charts. What is the idea there? What is happening is this. Brazil and the tri-border area is home to this group of Islamic extremists, they provide the transportation network that brings these people up through Mexico and into the United States. They come from all over the Middle East, they come through that tri-border area. They are culturated to a certain extent, and then moved into the United States. We have gotten all of these people with these Brazilian passports. It is a very odd thing.

But the point I am making is this: The folks that are coming into this country are not just looking for a job cutting your lawn or replacing your roof. Some of them, many of them, are coming to replace you, your very existence. They are coming across porous borders, and the only way that it can ever be dealt with is, I reiterate, to provide a major military or law enforcement presence on that border, northern and southern. It means the commitment of our military assets to a task that one would think would be the most logical task, the first task, to protect the homeland. Homeland defense.

There are 37,000 American troops on the border between North and South Korea. South Koreans tell us that they do not want them. There are demonstrations all of the time against American troops there. Mr. Speaker, I would certainly look long and hard at any proposal to bring those troops back home and put them on the border where I know they are wanted, and that is our border between Mexico and the United States and Mexico and Canada.

There are Muslim groups in Canada. When we were on the northern border, we were told about a Muslim group in Calgary, Canada. Odd as that might sound, that is what we were told by the Forest Service officials that were playing host to our group. And the reason they identified this group was this group was responsible, perhaps not all 25,000, but the Muslim population in Calgary that was responsible for the transportation of the narcotics of the drugs into the United States. They put them together here to make methamphetamines. And then the money that was garnered from this illegal trafficking in narcotics went back to this group in Calgary, Canada, and was then used to support terrorist organizations all over the world.

We were told that there is something like 100,000 Muslims in other major cities in Canada, including Vancouver. Again, an odd thing. Muslims in Canada and Brazil, yes, it is happening. It is documented. It is pretty peculiar, I agree, but it is a fact of life. It is not a fact that we want too much exposure on however because if most people in the United States understood this, knew this, there would be a call to do something about it, and their government would supposedly respond to that. I do not know that they would do it, but I know there would be a call to do it.

Mr. Speaker, I have never seen a greater divide between what the people of this country want and what this government is willing to give them than in this area of immigration reform. The people want it. We are not willing to give it. Why? Because of the politics of the issue.

What do we do instead? We not only open the borders and keep them open, but we encourage even more people to come across. States are now providing various amenities, benefits to people to come here and live illegally. The Mexican consul in the United States is going around lobbying cities and States to get them to accept the matricular consular. It is a card handed out to Mexican nationals. They have every right to do that, but then the Mexican consul has gone out and asked cities and States to accept these cards as an ID for the provision of benefits and services, and many cities and States have agreed to do that.

That means that we are running a variety of immigration systems in this country. The Federal Government is saying here is what we give you. It is called a green card when you come into the United States legally, or a visa. And a city is saying I do not care about that, I will take this card given by the Mexican consul.

Mr. Speaker, I wonder if an American consul official would go to a State official in Mexico or Canada and say would you please help me help people that are here illegally violate the Federal law, would you please help us. Well, there would be an international incident. The governments of Mexico and Canada would file a protest saying what are your consuls doing in my country trying to get people to break the law. That is exactly what is happening in America. Yet we have taken no action against it.

□ 2245

We have not even filed a protest. In fact, we do not want this to be known. It is happening in State after State. Colorado, my State, to its great credit, has passed through the House and through at least one committee in the Senate a bill to ban any acceptance of the matricular consular by the State and any local entity in Colorado. I hope States throughout the United States take this example and move forward quickly. I have introduced legislation to stop the Federal Government from doing this. Why would there even be opposition to this? Why would we be saying that we would accept for identification purposes anything but a U.S. or State government issued document? But we are doing it to accommodate illegal immigrants into this country because, Mr. Speaker, that is the only people that in fact need this card. The only people who need a card for identification purposes are people who are here illegally. Otherwise, you have something from our government. It is called, as I say, a green card or a visa. But if you are here illegally, you do not have that so you need this other card, and we are accommodating that. States and cities are doing it. Even the Federal Government is abetting it because we have not spoken out against it. We have not demanded that the Mexican consul stop this activity.

The State House in Washington last week, I think, passed a bill giving instate tuition. If Washington goes ahead, they will join several other States, Utah, Texas, California, I cannot remember, I think there is another State, that have done that. I wonder if they recognize, and, by the way, this is something I hope that they hear, Mr. Speaker, that in 1996 this Congress passed a law saying that if any State does that, if they give instate tuition to illegal residents in this country, then they have to give that same rate to everybody who applies, all outstate applicants have to be given the rate that they give to an illegal alien applying. So that will end outstate tuition for anybody wanting to go to Utah, California, Texas and Washington, anybody in the United States who chooses to leave their State and apply to any of these States for college; and if they are told that their costs are going to be much higher than the State resident, they could sue. I would certainly encourage them to do so because, of course, this is an activity that is designed to thwart the will of the Congress and the Nation.

How many immigration systems are we going to run in this country? And they are given driver's licenses and they are out lobbying for this. And everybody will say, But these people are just coming for jobs. Come on. It is good for the country. No, Mr. Speaker, there are major, negative implications to massive illegal immigration. Where are the ears to hear this? Why have we not as a body risen up and reflected the will of our constituents and demanded that these governments stop trying to infiltrate into the United States, stop trying to send their people in here illegally? There is a process to come into the United States legally. It is not the act of a friendly nation to encourage people to come across our borders illegally.

Michelle Malkin, I cannot say enough about her as an author and observer of the political scene, has written a book called "Invasion" to describe this phenomenon, and it is an invasion. It is the accurate word to describe what is happening to us. In order to stop it, we need to put our military on our borders to defend our Nation against this invasion. I do not know, Mr. Speaker, how we can look our constituents in the eye, any of us, when we go home if we have not done everything possible to defend the country. That includes using the military assets of this country for that purpose.

We do not have to place people arm in arm across the border. Technology now allows us to, in fact, monitor large tracts of land, be able to address the issue when it occurs, someone crossing a border; we have sensors that can identify a person as opposed to a deer or an animal coming across. We have drones, unmanned aerial vehicles we can use on our borders. I have seen it work. We tried it on the northern border for a 2-week stint, 100 Marines using three drones and two radar stations controlling 100 miles of border in some of the most rugged areas of the country. We can do it. It is not an issue of resources. People will say, it just costs too much. A Member of the other body indicated, and he is from Arizona, that we could not put troops on our borders because we are about to go to war. I would suggest that there is a problem there, because we are at war in a way, in his own State, I should say. Therefore, those troops could be, I think, appropriately used there.

Mr. Speaker, this is an issue that I know is uncomfortable for many to deal with; but it is nonetheless a real issue, something that needs to be dealt with by this body and by the American people. I appreciate the time that has been given me this evening to bring it to the attention of this body.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP of Utah). The Chair reminds the body that characterizations of Members of the other body in this Capitol should not be used in debate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of personal business.

Mr. SNYDER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. ANDREWS, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. MEEK of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. FRANKS of Arizona) to revise and extend their remarks and include extraneous material:)

Mr. HENSARLING, for 5 minutes, March 5.

Mr. OSBORNE, for 5 minutes, today.

Mr. PAUL, for 5 minutes, March 5.

Mr. GINGREY, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. BEAUPREZ, for 5 minutes, March 5.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BERMAN, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,970.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 5, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

884. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 00-02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

885. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 00-05, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

886. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 97-08, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

887. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 97-06, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

888. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 01-07, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

889. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 01-05, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

890. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 00-04, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

891. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 99-09E, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

892. A letter from the Secretary, Department of Transportation, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

893. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants: New Hampshire; Plan for Controlling Emissions from Existing Commercial and Industrial Solid Waste Incinerators [NH-50-7174a; FRL-7447-6] received February 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

894. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Emissions from New Marine Compression-Ignition Engines at or above 30 Liters per Cylinder [AMS-FRL-7448-9] received February 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

895. A letter from the Director, Defense Security Cooperation Agency, transmitting a report on the status the Foreign Military Financing Account Direct Loans, the Foreign Military Loan Liquidating Account Direct Loans and the Military Debt Reduction Account Direct Loans as of 30 September 2002, pursuant to 22 U.S.C. 2765(a); to the Committee on International Relations.

896. A letter from the Director, Defense Security Cooperation Agency, transmitting a report containing an analysis and description of services performed by full-time USG employees during Fiscal Year 2002, pursuant to 22 U.S.C. 2765(a); to the Committee on International Relations.

897. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 04-03 which informs you of our intent to sign Amendment Number One to the NATO Improved Link Eleven Memorandum of Understanding (MOU) between the United States, Canada, France, Germany, Italy, and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

898. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Norway [Transmittal No. DTC 285-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

899. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 287-02], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

900. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Italy [Transmittal No. DTC 284-02], pursuant to 22 U.S.C. 2776(c) and 22 U.S.C. 2776(d); to the Committee on International Relations.

901. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 286-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

902. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Cooperative Threat Reduction Act of 1993 and the FREEDOM Support Act, pursuant to Public Law 103—160, section 1203(d) and Public Law 102—511, section 502; to the Committee on International Relations.

903. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Dayton, OH [Docket No. FAA-2002-14045; Airspace Docket No. 02-AGL-13] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

904. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Indianapolis, IN; Correction [Docket No. FAA-2002-13817; Airspace Docket No. 02-AGL-09] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

905. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Circleville, OH [Docket No. FAA-2002-14179; Airspace Docket No. 02-AGL-08] received January 27, 2003; to the Committee on Transportation and Infrastructure.

906. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, OH [Docket No. FAA-2002-14005; Airspace Docket No. 02-AGL-14] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

907. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Sparta, WI; Modification of Class E Airspace; Sparta, WI [Docket No. FAA-2002-14046; Airspace Docket No. 02-AGL-15] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

908. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002-NM-85-AD;

Amendment 39-13003; AD 2002-26-15] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

909. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series Airplanes; and Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 2002-NM-53-AD; Amendment 39-12996; AD 2002-26-08] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

910. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Beech Models 36, A36, A36TC, B36TC, 58, and 58A Airplanes [Docket No. 2002-CE-07-AD; Amendment 39-13012; AD 2003-01-01] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

911. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400 and -400D Series Airplanes [Docket No. 2002-NM-46-AD; Amendment 39-13018; AD 2003-02-02] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

912. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), and DC-9-83 (MD-83) Airplanes, and Model MD-88 Airplanes [Docket No. 2000-NM-166-AD; Amendment 39-13009; AD 2002-26-20] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

913. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Co. CF6-80A Series Turbofan Engines [Docket No. 2002-NE-44-AD; Amendment 39-13016; AD 2003-01-05] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

914. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Series Airplanes [Docket No. 2001-NM-250-AD; Amendment 39-13013; AD 2003-01-02] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

915. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A-1, 205B and 212 Helicopters [Docket No. 2002-SW-14-AD; Amendment 39-13015; AD 2003-01-04] received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

916. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2001-NM-290-AD; Amendment 39-13004; AD 2002-26-16] (RIN: 2120-AA64) received January 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

917. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Point Hope, AK [Docket No. FAA-2002-14076; Airspace Docket No. 02-AAL-6] received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

918. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Flint, MI [Docket No. FAA-2002-13820; Airspace Docket No. 02-AGL-11] received January 8, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

919. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Annisquam River and Blynman Canal, MA [CGD01-03-006] received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

920. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Jamaica Bay and Connecting Waterways, NY [CGD01-02-143] (RIN: 2115-AE47) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

921. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Upper Mississippi River, Mile Marker 14.5 to 16.0, Cairo, IL [COTP Paducah, KY 03-003] (RIN: 2115-AA97) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

922. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Notification of Arrival in U.S. Ports [USCG-2002-11865] (RIN: 2115-AG35) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

923. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operating Regulations; Inner Harbor Navigation Canal, New Orleans, LA [CGD08-03-004] (RIN: 2115-AE47] (RIN: 2115-AE47) received February 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GREEN of Wisconsin (for himself, Mrs. Maloney, Mr. Weiner, Mrs. Jo Ann Davis of Virginia, Mr. Michaud, Ms. Berkley, Mr. Kildee, Ms. Lee, Ms. Jackson-Lee of Texas, Ms. Norton, Mr. Conyers, Ms. Woolsey, Mr. Wynn, Mr. Serrano, Mr. Bishop of New York, Mr. Israel, Mr. Wu, Mr. McHugh, Mr. Kennedy of Minnesota, Mr. Brown of Ohio, Mr. Holden, Mr. Hinchey, Mr. Lynch, Ms. DeLauro, Ms. Corrine Brown of Florida, Mr. Abercrombie, Mr. Kucinich, Mrs. Tauscher, Mr. Ackerman, Ms. Linda T. Sánchez of California, Ms. Solis, Mr. Spratt, Mr. Owens, Mr. Dooley of California, Ms. Roybal-Allard, Ms. Baldwin, Mr. Matheson, Mrs. Johnson of Connecticut, Mrs. Lowey, Mrs. Jones of Ohio, Ms. Hart, Mr. DeFazio, Mr. Allen, Mr. Dicks, Mr. Scott of Virginia, Mr. Tierney, Mr. Langevin, Ms. Schakowsky, Ms. Bordallo, Mr. Baird, Mr. Van Hollen, Ms. Slaughter, Mr. Levin, Mr. Nadler, Ms. Eddie Bernice Johnson of Texas, Mr. Sanders, Mr. Olver, Ms. McCollum, Mr. LaTourette, Mr. Price of North Carolina, Mr. Crowley, Mr. Holt, Mr. Moran of Virginia, Mr. Schiff, Mr. Udall of New Mexico, and Mr. Meehan):

H.R. 1046. A bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; to the Committee on the Judiciary.

By Mr. CRANE:

H.R. 1047. A bill to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; to the Committee on Ways and Means.

By Mr. BROWN of South Carolina (for himself, Mr. Rodriguez, Mr. Smith of New Jersey, and Mr. Evans):

H.R. 1048. A bill to amend title 38, United States Code, to increase the amount of assistance for certain disabled veterans for specially adapted housing and automobile and adaptive equipment; to the Committee on Veterans' Affairs.

By Mr. WILSON of South Carolina (for himself and Mr. Stearns):

H.R. 1049. A bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. BALDWIN (for herself, Mr. Brown of Ohio, and Ms. Carson of Indiana):

H.R. 1050. A bill to amend the Internal Revenue Code of 1986 to increase the age limit for the child tax credit; to the Committee on Ways and Means.

By Mr. BEREUTER:

H.R. 1051. A bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Resources.

By Mr. BLUMENAUER (for himself, Mr. Foley, Mr. Inslee, Ms. Woolsey, Mr. Frank of Massachusetts, Mr. Honda, Mr. McDermott, Mr. Delahunt, and Mr. Gutierrez):

H.R. 1052. A bill to amend the Internal Revenue Code of 1986 to extend the transportation fringe benefit to bicycle commuters; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 1053. A bill to amend the Internal Revenue Code of 1986 to provide a 7-year recovery period for depreciation of potato storage facilities; to the Committee on Ways and Means.

By Mr. CAMP (for himself, Mrs. Bono, and Mr. Ramstad):

H.R. 1054. A bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes; to the Committee on Ways and Means.

By Mr. CLYBURN (for himself, Mr. Spratt, Mr. DeMint, Mr. Brown of South Carolina, Mr. Wilson of South Carolina, and Mr. Barrett of South Carolina):

H.R. 1055. A bill to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the "Dr. Roswell N. Beck Post Office Building"; to the Committee on Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Mr. Burton of Indiana, Mr. Waxman, Mr. McHugh, Mr. Tierney, Mr. Hoyer, Mr. Lewis of Kentucky, Mr. Davis of Illinois, Ms. Norton, Mr. Moran of Virginia, Mr. Wolf, Mr. Rush, Mr. Terry, Mr. Cummings, Mr. Owens, Mr. Allen, Ms. DeLauro, Mr. Farr, Mr. Frank of Massachusetts, Mr. Frost, Mr. Markey, Mr. Ryan of Ohio, Mr. Sanders, Mr. Serrano, Mr. Weiner, Mr. Wynn, and Ms. Watson):

H.R. 1056. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid on behalf of Federal employees under Federal student loan repayment programs; to the Committee on Ways and Means.

By Mr. DEMINT (for himself, Mr. Ackerman, Mr. Aderholt, Mr. Akin, Mr. Andrews, Mr. Bachus, Mr. Baker, Mr. Barrett of South Carolina, Mr. Bereuter, Mrs. Biggert, Mr. Blunt, Mr. Boehlert, Mr. Boswell, Ms. Ginny Brown-Waite of Florida, Mr. Burr, Mr. Burton of Indiana, Mr. Camp, Mr. Cannon, Mr. Chabot, Mr. Clay, Mr. Costello, Mr. Cramer, Mr. Crane, Mrs. Jo Ann Davis of Virginia, Mr. Delahunt, Mr. Lincoln Diaz-Balart of Florida, Mr. Doolittle, Mrs. Emerson, Mr. English, Mr. Everett, Mr. Ferguson, Mr. Filner, Mr. Fletcher, Mr. Forbes, Mr. Ford, Mr. Fossella, Mr. Frank of Massachusetts, Mr. Franks of Arizona, Mr. Gilchrest, Mr. Gordon, Ms. Granger, Mr. Gutknecht, Mr. Hastings of Washington, Mr. Hayworth, Mr. Hefley, Mr. Holden, Mr. Hostettler, Mr. Hyde, Mr. Inslee, Mr. Isakson, Mr. Israel, Mr. Istook, Mr. Jackson of Illinois, Mrs. Jones of Ohio, Mr. Jones of North Carolina, Mr. Keller, Mrs. Kelly, Mr. Kildee, Mr. Kirk, Mr. Kline, Mr. Kolbe, Mr. LaHood, Mr. Larson of Connecticut, Mr. Lipinski, Mr. LoBiondo, Mr. Manzullo, Mr. Matheson, Mrs. McCarthy of New York, Mr. McHugh, Mr. McInnis, Mr. McIntyre, Mr. McNulty, Mr. Mica, Ms. Millender-McDonald, Mr. Miller of Florida, Mr. Moran of Virginia, Mrs. Musgrave, Mrs. Myrick, Mr. Nethercutt, Mr. Norwood, Mr. Oberstar, Mr. Olver, Mr. Osborne, Mr. Otter, Mr. Oxley, Mr. Paul, Mr. Pence, Mr. Pickering, Mr. Pitts, Mr. Platts, Ms. Pryce of Ohio, Mr. Quinn, Mr. Renzi, Mr. Reyes, Mr. Rogers of Michigan, Ms. Ros-Lehtinen, Mr. Ryun of Kansas, Ms. Schakowsky, Mr. Schrock, Mr. Sensenbrenner, Mr. Serrano, Mr. Shays, Mr. Simmons, Mr. Smith of New Jersey, Mr. Souder, Mr. Stearns, Mr. Stupak, Mr. Tancredo, Mrs. Tauscher, Mr. Taylor of North Carolina, Mr. Taylor of Mississippi, Mr. Terry, Mr. Tiahrt, Mr. Tiberi, Mr. Towns, Mr. Udall of Colorado, Mr. Vitter, Mr. Walden of Oregon, Mr. Walsh, Mr. Weldon of Pennsylvania, Mr. Weldon of Florida, Mr. Wexler, Mr. Whitfield, Mr. Wicker, Mr. Wilson of South Carolina, and Mr. Wolf):

H.R. 1057. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 1058. A bill to provide for an exchange of certain private property in Colorado and certain Federal property in Utah; to the Committee on Resources.

By Mr. FROST:

H.R. 1059. A bill to amend title 10, United States Code, to provide increased access to military commissary stores for members of the Ready Reserve, persons who would be eligible for military retired pay (but for the fact that they are under 60 years of age), and their dependents; to the Committee on Armed Services.

By Mr. GALLEGLY:

H.R. 1060. A bill to provide for an exchange of lands with the United Water Conservation District of California to eliminate private inholdings in the Los Padres National Forest, and for other purposes; to the Committee on Resources.

By Mr. GALLEGLY (for himself, Mr. Gibbons, Mr. Souder, Mr. Lewis of California, Mr. Cannon, and Mr. Rehberg):

H.R. 1061. A bill to remove a restriction on the authority of the Secretary of Agriculture and the Secretary of the Interior to enter into agreements with any Federal agency to acquire goods and services directly related to improving or using the wildfire fighting capability of those agencies; to the Committee on Agriculture, and in addition to the Committees on Resources, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS:

H.R. 1062. A bill to require the Secretary of the Interior to make reimbursement for certain damages incurred as a result of bonding regulations adopted by the Bureau of Land Management on February 28, 1997, and subsequently determined to be in violation of Federal law; to the Committee on Resources.

By Mr. GIBBONS:

H.R. 1063. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ISRAEL:

H.R. 1064. A bill to amend title 18, United States Code, to authorize Bureau of Prison personnel to carry firearms off duty; to the Committee on the Judiciary.

By Mr. ISRAEL:

H.R. 1065. A bill to amend title II of the Social Security Act to allow the Commissioner of Social Security reasonable discretion in applying the 10-year marriage requirement for entitlement of divorced spouses to spousal benefits in cases in which the divorce is in whole or in part the result of severe spousal or child abuse; to the Committee on Ways and Means.

By Ms. LOFGREN (for herself and Mr. Boucher):

H.R. 1066. A bill to amend title 17, United States Code, to safeguard the rights and expectations of consumers who lawfully obtain digital entertainment; to the Committee on the Judiciary.

By Mr. MILLER of Florida:

H.R. 1067. A bill to provide for the establishment of a memorial at the site in Alaqua, Florida, of the accidental bombing of a home by an aircraft of the United States Army Air Corps on August 11, 1944, which killed Alfred Cosson, James Cosson, James Cosson, Jr., and Winnie Lee Cosson and wounded five other family members; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Ms. DeGette, Mr. Becerra, Mr. Weldon of Pennsylvania, Mr. Rangel, Ms. Hart, and Mr. Cunningham):

H.R. 1068. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy, and to provide for a demonstration project on Medicare coverage of pancreatic islet cell transplantation for beneficiaries with type 1 diabetes who have end-stage renal disease; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OLVER (for himself, Mr. Bass, Mr. Markey, Mr. McGovern, Mr. Meehan, Mr. Tierney, and Mr. Bradley of New Hampshire):

H.R. 1069. A bill to establish the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire, and for other purposes; to the Committee on Resources.

By Mr. PETRI (for himself, Mr. Lipinski, Mr. Mica, Mr. Rehberg, Mr. Kleczka, Mr. Baker, Ms. Eddie Bernice Johnson of Texas, Mr. Brown of South Carolina, Mr. LaTourette, Mr. Honda, Mr. Burgess, and Mr. Baird):

H.R. 1070. A bill to amend title 49, United States Code, relating to improving transportation and security of household goods, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. REYES (for himself, Mr. Rodriguez, Mr. Filner, Mr. Pastor, Mr. Grijalva, Mr. Udall of New Mexico, Mr. Ortiz, and Mr. Hinojosa):

H.R. 1071. A bill to establish the Southwest Regional Border Authority; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON:

H.R. 1072. A bill to prohibit post-conflict assistance for Iraq from being expended with any French firm; to the Committee on International Relations.

By Mr. SENSENBRENNER (for himself and Mr. THOMAS):

H.R. 1073. A bill to repeal section 801 of the Revenue Act of 1916; to the Committee on the Judiciary.

By Mr. SIMMONS:

H.R. 1074. A bill to extend the deadline for commencement of construction of a project in Connecticut, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SWEENEY (for himself and Mr. WALDEN of Oregon):

H.R. 1075. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to dietary supplements containing natural or synthetic ephedrine group alkaloids, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TOOMEY (for himself and Mr. KANJORSKI):

H.R. 1076. A bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions; to the Committee on Ways and Means.

By Mr. WATT (for himself, Mr. SHAYS, Mr. FRANK of Massachusetts, Ms. WATERS, Mr. SIMMONS, Mr. PRICE of North Carolina, Mr. HONDA, Mr. GUTIERREZ, Mr. MEEKS of New York, Ms. LEE, Mr. GONZALEZ, Mr. FORD, Mr. CLAY, Mr. SCOTT of Georgia, Mr. DAVIS of Alabama, Mr. PAYNE, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, Ms. NORTON, Mr. CASE, Ms. JACKSON-LEE of Texas, and Mr. JACKSON of Illinois):

H.R. 1077. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes; to the Committee on Financial Services.

By Mr. WICKER:

H.R. 1078. A bill to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes; to the Committee on Education and the Workforce.

By Mr. HUNTER (for himself, Mr. SKELTON, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. BRADLEY of New Hampshire, Mr. BUYER, Mr. COLE, Mrs. DAVIS of California, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Mr. EVANS, Mr. EVERETT, Mr. FORBES, Mr. FOSSELLA, Mr. GIBBONS,Mr. GINGREY, Mr. HAYES, Mr. HILL, Mr. ISRAEL, Mr. JONES of North Carolina, Mr. KLINE, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. LOBIONDO, Mr. MCHUGH, Mr. MCINTYRE, Mr. MCKEON, Mr. MARSHALL, Mrs. MILLER of Michigan, Mr. MILLER of Florida, Mr. ORTIZ, Mr. REYES, Mr. RODRIGUEZ, Ms. LORETTA SANCHEZ of California, Mr. SCHROCK, Mr. SMITH of Washington, Mr. SNYDER, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mr. THORNBERRY, Mr. TURNER of Ohio, Mr. WELDON of Pennsylvania, Mrs. WILSON of New Mexico, and Mr. WILSON of South Carolina):

H.J. Res. 27. A joint resolution recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States; to the Committee on Armed Services.

By Mr. JACKSON of Illinois:

H.J. Res. 28. A joint resolution proposing an amendment to the Constitution of the United States regarding the right to vote; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois (for himself, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. HINCHEY, Mr. PAYNE, Mr. RUSH, Mr. TOWNS, Mr. THOMPSON of Mississippi, Mr. LEWIS of Georgia, Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. OWENS, Ms. MILLENDER-MCDONALD, Ms. WATSON, Ms. KILPATRICK, Mr. CLAY, Mr. KUCINICH, Ms. LEE, Mr. DAVIS of Illinois, Mr. ACEVEDO-VILÁ, Mr. CONYERS, and Mr. FATTAH):

H.J. Res. 29. A joint resolution proposing an amendment to the Constitution of the United States regarding the right of all citizens of the United States to a public education of equal high quality; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States regarding the right of citizens of the United States to health care of equal high quality; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States relating to equality of rights and reproductive rights; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 32. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to decent, safe, sanitary, and affordable housing; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to a clean, safe, and sustainable environment; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 34. A joint resolution proposing an amendment to the Constitution of the United States relative to taxing the people of the United States progressively; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to full employment and balanced growth; to the Committee on the Judiciary.

By Mr. WILSON of South Carolina (for himself, Mr. WELDON of Pennsylvania, Mr. LANTOS, Mr. BEREUTER, Ms. ROS-LEHTINEN, and Mr. ROHRABACHER):

H. Con. Res. 77. Concurrent resolution commemorating the 60th anniversary of the historic rescue of 50,000 Bulgarian Jews from the Holocaust and commending the Bulgarian people for preserving and continuing their tradition of ethnic and religious tolerance; to the Committee on International Relations.

By Mr. OBERSTAR:

H. Res. 120. A resolution to commend the Aircraft Owners and Pilots Association on its proactive commitment to the security of general aviation; to the Committee on Transportation and Infrastructure.

By Mr. LEVIN (for himself and Mrs. MILLER of Michigan):

H. Res. 121. A resolution endorsing increased efforts to preserve and protect Lake St. Clair as a vital part of the Great Lakes system; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REGULA (for himself, Mr. BROWN of Ohio, Mr. BOEHNER, Mr. GILLMOR, Mr. HOBSON, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KUCINICH, Mr. LATOURETTE, Mr. NEY, Mr. OXLEY, Mr. PORTMAN, Ms. PRYCE of Ohio, Mr. RYAN of Ohio, Mr. STRICKLAND, Mr. TIBERI, and Mr. TURNER of Ohio):

H. Res. 122. A resolution recognizing the bicentennial of the admission of Ohio into the Union and the contributions of Ohio residents to the economic, social, and cultural development of the United States; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. BRADY of Texas, Mr. BLUNT, Mr. ADERHOLT, Mrs. MUSGRAVE, Mr. LUCAS of Oklahoma, Mr. HENSARLING, Mr. KING of Iowa, and Mr. BASS.

H.R. 21: Mr. SCHROCK.

H.R. 39: Mr. POMBO, Mr. GALLEGLY, Mr. GIBBONS, Mr. PLATTS, Mrs. CUBIN, Mr. RADANOVICH, Mr. SIMPSON, Mrs. EMERSON, Mr. ISTOOK, Mr. BRADY of Texas, Mr. PICKERING, Mr. DUNCAN, Mr. HALL, Mr. DOOLITTLE, Mr. SMITH of Texas, Mr. TANCREDO, Mr. TAUZIN, Mr. GREEN of Texas, Mr. HERGER, Mr. PEARCE, Mr. OXLEY, Mr. OTTER, Mr. REHBERG, Mr. HASTINGS of Washington, Mr. THORNBERRY, Mr. SHIMKUS, Mr. CANNON, Mr. VITTER, Mr. BACHUS, Mr. SOUDER, Mr. LEWIS of California, Mr. ROHRABACHER, Mr. BARTON of Texas, Mr. RENZI, Mr. BAKER, Mr. BONILLA, Mr. BROWN of South Carolina, Mr. SCHROCK, Mr. SESSIONS, Mr. JOHN, Mr. NETHERCUTT, Mr. RYUN of Kansas, Mr. CULBERSON, Mr. CARSON of Oklahoma, Mr. STENHOLM, Mr. MCCRERY, and Mr. GOODE.

H.R. 57: Mr. ADERHOLT, Mr. BROWN of South Carolina, Mr. SCOTT of Georgia, Mr. PORTER, Mr. BURNS, Mr. BLUNT, Mr. AKIN, Mr. SULLIVAN, and Mr. GARRETT of New Jersey.

H.R. 65: Mr. ANDREWS.

H.R. 109: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 111: Mr. LEWIS of Georgia and Mr. EMANUEL.

H.R. 119: Mr. NETHERCUTT.

H.R. 121: Ms. MCCOLLUM.

H.R. 135: Mr. ROYCE.

H.R. 140: Mr. LEWIS of Kentucky.

H.R. 151: Mr. FALEOMAVAEGA and Mrs. CHRISTENSEN.

H.R. 168: Mr. CALVERT, Mr. DAVIS of Tennessee, and Mr. ENGLISH.

H.R. 192: Ms. KILPATRICK, Mr. MEEK of Florida, Ms. SLAUGHTER, Mr. ACKERMAN, Mr. PRICE of North Carolina, Mr. HOLT, and Mr. MATHESON.

H.R. 196: Ms. NORTON, Mr. MEEHAN, Mr. CARDOZA, Mr. LANTOS, Mr. CONYERS, Mr. RANGEL, Mr. OWENS, Ms. CORRINE BROWN of Florida, and Ms. SCHAKOWSKY.

H.R. 198: Mr. SESSIONS.

H.R. 199: Ms. GINNY BROWN-WAITE of Florida and Mr. DEMINT.

H.R. 217: Mr. DEUTSCH, Mr. LATOURETTE, Mr. CUMMINGS, Mrs. CAPPS, Ms. MCCOLLUM, Mr. BLUMENAUER, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. MORAN of Virginia, and Ms. MCCARTHY of Missouri.

H.R. 218: Mrs. BONO, Mr. PENCE, and Mr. FLETCHER.

H.R. 260: Ms. MCCOLLUM.

H.R. 284: Mr. FARR, Mr. JOHN, Mr. LEWIS of Kentucky, Mr. TIBERI, Mr. JONES of North Carolina, Mr. PRICE of North Carolina, Mr. SCHROCK, Mr. WATT, Mr. WELDON of Pennsylvania, Mr. REHBERG, Mr. WELLER, Mr. SCHIFF, Mr. DEAL of Georgia, Mr. JEFFERSON, Mr. SCOTT of Georgia, Mr. TOM DAVIS of Virginia, Mr. BACHUS, Ms. HARRIS, Mr. LARSON of Connecticut, Mr. EVERETT, Mrs. MYRICK, and Mr. TAUZIN.

H.R. 294: Mr. FROST.

H.R. 302: Ms. LORETTA SANCHEZ of California.

H.R. 303: Mrs. EMERSON, Mr. PUTNAM, Mr. PEARCE, Mr. COLE, Mr. LEWIS of Kentucky, Mr. MOORE, Mr. NEAL of Massachusetts, Ms. SOLIS, Mr. MARIO DIAZ-BALART of Florida, Mrs. CUBIN and Mr. HOLT.

H.R. 308: Mr. SERRANO and Mr. PASCRELL.

H.R. 315: Mr. HOSTETTLER.

H.R. 318: Mr. GILCHREST.

H.R. 331: Mr. RAHALL and Mr. MILLER of Florida.

H.R. 391: Mr. CANNON, Mr. FLAKE, Mr. CARTER, Mr. BURTON of Indiana, and Mrs. CUBIN.

H.R. 412: Mr. ACKERMAN, Mr. DAVIS of Tennessee, Ms. KILPATRICK, and Mr. ANDREWS.

H.R. 436: Mr. CROWLEY, Mr. FARR, and Mr. MURTHA.

H.R. 442: Mr. HOLT, Mr. LIPINSKI, Mr. HOEFFEL, Mr. FARR, Mr. KUCINICH, Mr. LATOURETTE, Mr. ACKERMAN, Mr. BLUMENAUER, Mr. CASE, Ms. WATSON, Mr. SANDERS, Mr. SIMMONS, Mr. SCHIFF, Ms. NORTON, and Mr. GUTIERREZ.

H.R. 459: Mr. CANTOR, Mr. ISAKSON, and Mr. OTTER.

H.R. 466: Mrs. JOHNSON of Connecticut, Mr. LEWIS of Georgia, Ms. SOLIS, Mr. MCDERMOTT, Mr. BLUMENAUER, Mr. FRELINGHUYSEN, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. OWENS, Mr. RANGEL, Mr. JACKSON of Illinois, and Mr. GORDON.

H.R. 478: Mr. PAUL.

H.R. 490: Ms. WOOLSEY, Mr. WELLER, Ms. GINNY BROWN-WAITE of Florida, Ms. MCCOLLUM, and Mr. BAIRD.

H.R. 496: Ms. GINNY BROWN-WAITE of Florida and Mr. TERRY.

H.R. 501: Mr. CLYBURN and Ms. LEE.

H.R. 518: Mrs. JONES of Ohio, Mr. FROST, and Mr. CASE.

H.R. 522: Mr. EMANUEL and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 572: Mr. TERRY.

H.R. 573: Ms. DUNN.

H.R. 574: Mr. PORTER.

H.R. 588: Mr. NEY.

H.R. 589: Mr. BERMAN, Mr. CASTLE, Ms. HART, Mr. GREEN of Texas, Ms. SOLIS, Mr. EMANUEL, Mr. NADLER, Mr. MENENDEZ, Mr. LARSON of Connecticut, Mr. RUPPERSBERGER, Ms. KAPTUR, Mrs. CAPPS, Mr. HOLT, Mr. PASTOR, Mr. BLUMENAUER, and Mrs. DAVIS of California.

H.R. 593: Mr. DUNCAN and Mr. MEEK of Florida.

H.R. 594: Mr. MANZULLO, Mr. TAUZIN, Mr. ACKERMAN, Mr. ROYCE, Mr. KUCINICH, Mr. FARR, Mr. RYAN of Ohio, Mr. BELL, and Mr. KILDEE.

H.R. 626: Mr. KUCINICH.

H.R. 648: Mr. SESSIONS.

H.R. 655: Mr. GARRETT of New Jersey.

H.R. 661: Mr. LATHAM.

H.R. 687: Mr. GOODLATTE, MR. SMITH of Texas, and Mr. DEAL of Georgia.

H.R. 713: Mr. LEACH.

H.R. 714: Mr. RENZI.

H.R. 721: Mr. CUNNINGHAM.

H.R. 722: Mr. HINOJOSA, Mr. WELLER, Mr. TANCREDO, Mr. KOLBE, Mr. PAUL, Mr. WELDON of Pennsylvania, Mr. CANNON, Mr. SMITH of New Jersey, Ms. WATSON, Mr. MANZULLO, and Mrs. JOHNSON of Connecticut.

H.R. 725: Ms. JACKSON-LEE of Texas and Mrs. CHRISTENSEN.

H.R. 735: Mr. LATHAM, Mr. OWENS, Mrs. TAUSCHER, Mr. QUINN, Mr. SCHROCK, Mrs. MILLER of Michigan, and Mr. SHAYS.

H.R. 737: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. BOSWELL.

H.R. 738: Mr. MCHUGH, Mr. SPRATT, Mr. ENGEL, Mr. MARKEY, Mr. BERMAN, Mr. STARK, Mr. INSLEE, Mr. KUCINICH, Ms. MCCOLLUM, and Mr. MCDERMOTT.

H.R. 740: Mr. OWENS, Mr. THOMPSON of Mississippi, Mrs. CHRISTENSEN, and Mr. KUCINICH.

H.R. 741: Mr. FROST, Mr. OWENS, and Mrs. CHRISTENSEN.

H.R. 742: Mr. BRADY of Pennsylvania, Mr. ACEVEDO-VILÁ, Mr. DEFAZIO, Mr. PASTOR, Mr. TERRY, Mr. LAHOOD, Mr. PAUL, Mr. CARSON of Oklahoma, Mr. COSTELLO, and Mr. MICA.

H.R. 743: Ms. CARSON of Indiana, Mr. CASE, Mr. SMITH of New Jersey, Mr. ALLEN, Mr. BRADLEY of New Hampshire, Mr. ROTHMAN, Mr. ROYCE, Mr. MARIO DIAZ-BALART of Florida, and Mr. MCCOTTER.

H.R. 759: Mr. SOUDER, Mr. GARRETT of New Jersey, Mr. GIBBONS, Mr. GUTKNECHT, Mrs. JO ANN DAVIS of Virginia, Mrs. MUSGRAVE, and Mr. SCHROCK.

H.R. 760: Mr. MICA, Ms. ROS-LEHTINEN, and Mr. LUCAS of Oklahoma.

H.R. 771: Mr. KLINE, Mr. SHADEGG, Mr. CHOCOLA, Mr. HOEKSTRA, and Mr. TIAHRT.

H.R. 784: Mr. MENENDEZ and Mr. DINGELL.

H.R. 785: Ms. BERKLEY.

H.R. 786: Mr. FROST, Mr. SAM JOHNSON of Texas, Mr. MCCOTTER, and Mrs. MUSGRAVE.

H.R. 794: Mr. PEARCE.

H.R. 801: Mrs. MALONEY.

H.R. 813: Mr. ALLEN.

H.R. 815: Mr. SMITH of New Jersey and Mr. DEUTSCH.

H.R. 817: Mr. KENNEDY of Rhode Island and Ms. LORETTA SANCHEZ of California.

H.R. 838: Mr. LIPINSKI.

H.R. 839: Mr. CANTOR, Mr. DAVIS of Alabama, and Mr. ANDREWS.

H.R. 857: Mrs. CAPPS and Mr. ROTHMAN.

H.R. 859: Mr. PAUL and Mr. KING of Iowa.

H.R. 870: Mr. ALLEN and Mr. TIBERI.

H.R. 871: Mr. OSBORNE, Mr. POMBO, and Mr. HILL.

H.R. 872: Mr. PAUL.

H.R. 876: Mr. DUNCAN, Mr. NETHERCUTT, and Mr. HOSTETTLER.

H.R. 878: Mr. CRENSHAW, Mr. HEFLEY, Mr. BRADLEY of New Hampshire, Mr. GILLMOR, Mr. ROYCE, Mr. MCCOTTER, and Mr. DUNCAN.

H.R. 896: Mr. DOGGETT and Ms. WOOLSEY.

H.R. 898: Mr. PRICE of North Carolina, Mr. KENNEDY of Rhode Island, Mr. GEORGE MILLER of California, and Mr. FORD.

H.R. 919: Mr. HASTINGS of Florida, Mr. KING of New York, Mr. MATHESON, Mr. SCHIFF, Mr. KILDEE, Mr. SHERMAN, Mr. OWENS, Mr. ROTHMAN, Mr. GARRETT of New Jersey, Ms. MCCARTHY of Missouri, and Mr. GORDON.

H.R. 953: Ms. LOFGREN, Ms. MCCARTHY of Missouri, Mr. MOORE, Mr. ROSS, Mr. SULLIVAN, and Mr. WU.

H.R. 973: Mr. LATOURETTE and Mr. MANZULLO.

H.R. 983: Mrs. TAUSCHER, Mr. TOWNS, Mr. CUNNINGHAM, Mr. ROYCE, Mr. HINCHEY, and Mr. FOSSELLA.

H.R. 1013: Mr. TOWNS.

H.R. 1029: Ms. WATSON, Mr. CONYERS, Mr. MCGOVERN, and Mr. KUCINICH.

H.R. 1043: Mr. SCHIFF, Mr. MCGOVERN, Ms. MCCOLLUM, Mr. LYNCH, Mr. ENGLISH, and Ms. GINNY BROWN-WAITE of Florida.

H.J. Res. 4: Mr. TERRY, Mr. GIBBONS, Mr. ANDREWS, Mr. MICHAUD, Mr. ROGERS of Kentucky, and Mr. BACA.

H.J. Res. 9: Mr. STEARNS.

H.J. Res. 22: Mr. BARRETT of South Carolina and Mr. GARRETT of New Jersey.

H. Con. Res. 18: Mr. CASE.

H. Con. Res. 24: Mr. FOSSELLA, Mr. JONES of North Carolina, Mr. AKIN, and Mr. VITTER.

H. Con. Res. 26: Mr. LOBIONDO, Mr. MEEK of Florida, Mr. BISHOP of New York, Mr. FRANK of Massachusetts, and Mr. ROYCE.

H. Con. Res. 38: Mr. SHAW and Mr. DELAHUNT.

H. Con. Res. 39: Ms. JACKSON-LEE of Texas, Ms. MCCOLLUM, and Mr. SANDERS.

H. Con. Res. 54: Mr. BACA, Mr. LEVIN, and Mr. MCCOTTER.

H. Con. Res. 57: Mr. FATTAH, Mr. STARK, Mr. RANGEL, Mr. CASE, Mr. KILDEE, Mr. OWENS, Mr. MEEKS of New York, Mr. BLUMENAUER, Mr. PAYNE, Mr. SMITH of Washington, Mr. MENENDEZ, and Mr. ANDREWS.

H. Res. 27: Mr. KUCINICH and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 59: Ms. LOFGREN and Ms. GINNY BROWN-WAITE of Florida.

H. Res. 72: Mr. MCDERMOTT.

H. Res. 76: Mr. SCHIFF, Mr. NADLER, and Mrs. MALONEY.

H. Res. 106: Mr. HILL, Mrs. BIGGERT, Mr. VITTER, and Ms. MCCARTHY of Missouri.

H. Res. 109: Mr. HYDE, Mr. ROYCE, Mr. ACKERMAN, and Mr. FLAKE.

H. Res. 111: Mr. DEUTSCH, Mr. FILNER, Ms. WATSON, Mr. CASE, Mr. BOYD, Mr. BROWN of Ohio, Mr. FARR, Mrs. WILSON of New Mexico, Mr. CAPUANO, and Mr. ENGEL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 332: Mr. BARRETT of South Carolina.

EXTENSIONS OF REMARKS

RECOGNITION OF MELANIE KIENTZY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Melanie Kientzy, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1230, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl scouting; and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Melanie set up a video library for the area agency on aging.

Mr. Speaker, I proudly ask you to join me in commending Melanie Kientzy for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

AMIRA ANUAR AS THE DISTRICT WINNER OF THE 2003 CAST ESSAY CONTEST—BOUNDLESS SCIENCE FOR BOUNTIFUL AGRICULTURE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to rise today to extend my sincere congratulations to Amira Anuar of West Haven, Connecticut as Connecticut's Third Congressional District winner of the Council for Agriculture Science and Technology's annual essay contest. This year's theme, "Boundless Science for Bountiful Agriculture," gave youngsters a chance to learn about the importance of agriculture and the innovative science and technologies that are making a difference in our world. I am pleased to submit Amira's essay, entitled "Dynamic DNA" to the CONGRESSIONAL RECORD and recognize her for this outstanding achievement.

Let it be a well known fact that science has no limit to its endless possibilities. We can make miracles happen with the technology of brilliant scientists. Genetic DNA manipulation has helped the world of science accomplish countless numbers of near impossible tasks. What is DNA? DNA is a hereditary material that controls all cell activities and contains information for making new cells.

We can use DNA exploitation technology to increase agriculture's production. Genetic manipulations have fueled the growth of agriculture. Using the technology, farmers, ranchers and herders can control the reproduction of their crops and livestock. How do they do this? They do it by following a brief amount of steps.

Animals can have foreign genes implanted into their DNA structure that can help them do things they couldn't do with out it. To do that, the foreign genes have to be implanted into a fresh fertilized egg before it develops. First, you have to identify the wanted and helpful genes in the donor cells of a foreign animal. Next, you use restriction enzymes to cut the genes out of its DNA. It is clipped in to the DNA molecules of a bacterium which will carry the traits. Once it is ready, the carrier will transplant the genes into a host embryo. The embryo will either duplicate or immediately be inserted into a pregnant mother or egg so it will develop.

These genes can do many things to help the animals. They can help to fight diseases, grow stronger, or withstand harsh environments. For example, an antifreeze producing gene that was extracted from a cold water flounder can be inserted into certain kinds of salmon so they can be raised in chillier climates.

Not only can genetics help animals, but they can be beneficial to plants as well. The process is almost the same for a plant as it is for an animal. You find the target gene, cut it, and transplant it into the carrier where it is then inserted into a plant.

Although the processes are very similar, the benefits to plants are very different. Fruits can have a strong resistence to bruising. A crop defense against disease or pests can be made stronger. Soybean can be made into a healthier food source. Green plants can have more efficient photosynthesis. All that and more can occur. It's all thanks to DNA manipulation and genetic exploitation.

The manipulation of genetics has propelled agriculture bounty. It's no wonder agriculture is leading the way with its cutting edge gene manipulation techniques.

HUMAN CLONING PROHIBITION ACT OF 2003

SPEECH OF

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. EDWARDS. Mr. Speaker, on February 27, 2003, Congress passed H.R. 534 that would ban human cloning. I oppose human cloning, but it appears that I inadvertently voted against the legislation banning such cloning when my intention was to support the ban. Last year, I voted for a bill to prohibit cloning and my position has not changed.

I support a prohibition on human cloning. Our society has not even begun to evaluate the moral, ethical, and medical implications of petri dish factory lines creating genetically identical humans. There is something sacred about the fact that every human being is unique. I cannot support the technology that would ultimately allow people to create exact genetic duplicates of themselves, because I believe that once the technology is available, it would just be a matter of time before someone succumbed to the temptation of, in effect, trying to recreate himself.

We can continue to make enormous progress in medical research without opening the Pandora's box of creating embryos and babies with the identical genetic makeup of other human beings. A human cloning ban will not prohibit stem cell research, which holds the promise of solving major diseases such as Alzheimer's without artificially creating exact genetic duplicates of other humans.

Just because researchers can do something does not mean society should allow it. Researchers can create biological and chemical weapons in laboratories, but civilized society has agreed that it is best to prohibit such activities. The profound implications of creating human genetic duplicates, in my opinion, warrant a prohibition on such technology.

HONORING LORRAINE AND DON IRVINE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Lorraine and Don Irvine for their outstanding achievements and participation as ambassadors for the Rotary Group Exchange Program in New Zealand. Their accomplishments for the Rotary Group Exchange Program will be celebrated in Invercargill, New Zealand, on March 15, 2003.

The Rotary Group Study Exchange Program has served as a successful exchange program

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for decades. A Rotarian team leader is chosen from each district that helps pick a team of four or five non-Rotarians between the ages of 25 and 40 to visit the other district in a cultural and occupation exchange for four to five weeks. While visiting, each team presents a program to various Rotary Clubs about their home district, its attractions, economic base, climate, geography, and so on. In addition, approximately one day a week is spent by each team member in a similar working environment to their occupation at home to learn how similar occupations are performed in that country.

Don Irvine is a past president of the Invercargill North Rotary Club and has been very active in the Rotary Group Exchange Program for a number of years. Mr. Irvine also served as a Group Study Exchange team leader in 1999 when he led a team to Essex, England. Don and his wife, Lorraine, have made great contributions to America. Their promotion of good will and understanding between all cultures and nations serves as a guiding light to all.

Mr. Speaker, I am pleased to honor Lorraine and Don Irvine for their meritorious achievements and their desire to share the great culture of America with others. I urge my colleagues to join me in wishing Lorraine and Don Irvine many years of happiness.

RECOGNITION OF DEVON KILGORE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Devon Kilgore, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1381, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Devon organized nursing center interactions.

Mr. Speaker, I proudly ask you to join me in commending Devon Kilgore for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

TRIBUTE TO MICHAEL BARENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Ms. DELAURO. Mr. Speaker, it is from the mouths of our youngest citizens that we hear the voice of the future of our great nation. Our children, through their imagination, creativity and pure honesty, often bring a unique perspective to some of the most debated issues of our time.

I recently received the following essay, entitled "If I Were President," from Michael Barent, a ten-year-old who is in the fifth grade at Deer Run Elementary School in East Haven, Connecticut. As I read it, it was apparent that even at such a young age, Michael knows the direction in which he would like to see his country led.

"If I were President, I would work hard for all the citizens of the United States. If I were President, I would improve education, keep the citizens safe, and protect our environment.

First of all, I would improve education. I would do that by building more schools and hiring more teachers. I would also improve them by giving all of the schools new books. Also, I would get more computers. Finally, there would be more subjects for the students to choose from.

Second, I would keep the citizens safe. I would do this by putting border guards at every town and city on the border of the United States. Also, I would not go to war with Iraq until I had proof that they have or don't have nuclear weapons.

Finally, I would protect our environment. I would do that by telling car companies to make cars that would take in carbon dioxide and put out oxygen. I won't allow people to cut down many trees and green plants so we could get the oxygen we need. I would build more buildings that filter the water we drink. Also, there would be more solar power and wind power, but less power plants.

This is what I would do if I were President. I would improve education, keep the citizens safe, and protect our environment."

I have often been impressed with the messages that I hear from the voices of our youngest citizens. I am proud to stand today to thank Michael for sharing his thoughts with me and to extend my congratulations to him on a job well done. Michael is sure to have a bright future ahead of him.

TRIBUTE TO MABEL PETERSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. THOMPSON of Mississippi. Mr. Speaker, in commemoration of Black History Month, I would like to take this opportunity to recognize the many accomplishments of distinguished African-Americans in Mississippi's Second Congressional District.

Mrs. Mabel Peterson was born on November 2, 1924. Upon graduating from Bowman High School, Mrs. Peterson married Robert Holmes. They had two children. Mrs. Peterson then decided to run for judge, where she won.

As a judge, Mrs. Peterson is known for practicing nothing but fairness. She has been known to often help people pay fines that she has charged. Mrs. Peterson admits that her favorite duty of being a judge is marrying couples. Mrs. Peterson served as a judge for twenty years.

On December 31, 2000, Mrs. Peterson retired to spend more time with her grandchildren and her husband. This past January, Mrs. Peterson was selected as the senior citizen of the month.

PANCREATIC ISLET CELL TRANSPLANTATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. NETHERCUTT. Mr. Speaker, I am pleased to introduce the Pancreatic Islet Cell Transplantation Act of 2003.

I know first-hand about the difficulty involved in managing this disease, as my daughter was diagnosed with diabetes when she was 6. I have hope in the rapid pace of research in this area and believe that one day soon there will be a cure for my daughter and the millions of Americans with diabetes. The legislation we are introducing today is an important step toward this goal.

It is a promising time for research on diabetes, and those suffering from the disease and their families are filled with hope. One of the most exciting recent advances, and the focus of this legislation, is pancreatic islet cell transplantation. Many have hailed the breakthrough in this area as the most important advance in diabetes research since the discovery of insulin in 1921.

In 2000, researchers in Edmonton, Canada, were successful in isolating islets from donor pancreases and transplanting those cells into a person with diabetes through an injection. These injected islets then begin to function and produce insulin, and this procedure appears to offer the most immediate cure for diabetes. This procedure has become known as the Edmonton Protocol and of the approximately 200 patients who have been transplanted using variations of this protocol, nearly 80 percent remain insulin independent beyond 2 years. The research is moving forward quickly, and researchers around the world are trying to replicate and expand on this success and make it appropriate for children.

I am proud that exciting advances are underway in the State of Washington. Recently, a clinical research team at the JDRF Center for Human Islet Transplantation in Seattle performed the first three human islet transplants in the Northwest. All of these individuals were suffering the effects of advanced diabetes complications prior to receiving the transplant, and all three have now achieved critical post-transplant success in the management of their blood sugar levels. I am heartened to know that the Seattle program team plans to continue its research in the future.

The Pancreatic Islet Cell Transplantation Act of 2003 contains four provisions that I believe will help move this research forward. The first section of the bill provides a regulatory incentive to organ procurement organizations (OPOs) to procure additional pancreases. One of the major challenges in promoting research on and transplantation of islet cells is the shortage of pancreases. Approximately 2,000 pancreases are donated each year, and only approximately 500 of those donated are available for use in islet cell transplants. Clearly, this is not nearly a large enough supply considering that millions of Americans have diabetes. While OPOs do receive credit from CMS for pancreases retrieved and used for whole pancreas transplants, they do not receive credit for pancreases retrieved and used for islet cell transplantation. This creates a disincentive for OPOs to retrieve pancreases for research or islet transplantation. My legislation attempts to provide an incentive to OPOs by directing CMS to provide credit to OPOs for pancreases retrieved and used for research and islet transplantation.

The second section of this legislation creates a federal inter-agency committee to coordinate efforts in the area of islet transplantation and to make recommendations to the Secretary of Health and Human Services on regulations and policies that would advance this exciting area of research.

The goal of the human clinical trials is to demonstrate success over a longer period of time, and move islet cell transplantation from an experimental procedure to standard therapy covered by insurance and appropriate for all individuals with diabetes. The third section of this legislation directs the Institute of Medicine to conduct a study on clinical outcomes and comprehensive cost-utility analysis that will be important in moving toward this goal.

The fourth section of this bill creates a Medicare demonstration project. A significant percentage of individuals with type I diabetes has kidney failure and becomes Medicare eligible before the age of 65. Insufficient data exists to determine the efficacy of a simultaneous islet-kidney transplant or an islet transplant after a kidney transplant for individuals with type I diabetes. By directing the Secretary of HHS to create a demonstration project to test Medicare coverage for individuals with type I diabetes, we can assess the value of simultaneous islet-kidney transplants or islet transplant after a kidney transplant.

I encourage all of my colleagues to join with me in supporting this important legislation.

RECOGNITION OF ASHLEY MORGAN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ashley Morgan, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 3248, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Ashley organized a basketball camp for elementary and middle school girls.

Mr. Speaker, I proudly ask you to join me in commending Ashley Morgan for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

IN RECOGNITION OF GENIE RICE AND CIVITAS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to CIVITAS, Citizens Committed to Improved Neighborhood Life in the Upper East Side and East Harlem on the occasion of their annual benefit. As founding President of CIVITAS, Genie Rice will be honored for her many years of tireless service to CIVITAS and commitment to the community.

Founded in 1981, the first chair, August Heckscher, looked to the Roman Republic for a name that embodies the spirit of citizen involvement that founders envisioned as the guiding principle of the new community organization. In ancient Rome, CIVITAS referred to that quality of a citizen that caused that person to be deeply involved in the life and fate of the city. The members of CIVITAS have dedicated themselves to protecting and enhancing the quality of life in the Upper East Side and East Harlem.

CIVITAS has steadfastly fostered, mobilized and coordinated civic activism in Manhattan's Upper East Side and East Harlem by focusing on promoting, preserving and protecting residential neighborhoods. Currents projects include cosponsoring a remapping of East Harlem with Community Board 11 and tree planting on East 86th Street. Among the issues that CIVITAS has identified as being crucial to ensuring that the community remains lively and livable are: (i) urban planning, including limits on residential towers, coherent zoning, attractive public and private spaces and a reasoned approach to the siting, size and permit use of community facilities; (ii) infrastructure, including good public transit; (iii) the environment, and (iv) landmark preservation.

An effective and dedicated community advocate, Genie Rice has served as CIVITAS President since 1982 and has played a key role in many important projects, including initiation of the remapping of East and Central Harlem. Devoted to the improvement of the community, Ms. Rice organized focus groups with East Harlem property owners to encourage rehabilitation of dilapidated buildings. In 1992, Ms. Rice served as Committee Chair at the New School's Environmental Simulation Center to model and discuss zoning options for East Side Avenues. Ms. Rice worked tenaciously for 8 years in a successful advocacy effort to pass these zoning modifications for Upper East Side avenues and other high-density Manhattan avenues.

When a developer arrogantly added 12 stories to his building, in violation of the zoning law, at 108 E. 96th Street, Genie Rice, CIVITAS and I were at the forefront of the effort to bring it down. We won a historic decision forcing the developer to remove the 12 stories, the first of its kind in the city. Ms. Rice is an active member of many other community organizations including Friends of the Upper East Side Historic Districts, the 7th Regiment Armory Conservancy and the New York League of Conservation Education Fund.

The many members and friends of CIVITAS have made it an extraordinary and invaluable community organization. I am proud of my involvement as a member of CIVITAS. CIVITAS's contributions over the years have truly preserved the quality of life of Upper East Side and East Harlem residents.

In recognition of these outstanding contributions, I ask my colleagues to join me in honoring CIVITAS and Ms. Genie Rice on the occasion of their annual benefit reception.

RESOLUTION COMMENDING AOPA FOR AIRPORT WATCH

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of this resolution to commend the Aircraft Owners and Pilots Association's (AOPA) for its contribution to the Airport Watch Program.

General aviation and private pilots have a proud and patriotic history of working to keep America secure. During the Second World War, private pilots in the Civil Air Patrol were our eyes in the sky, watching over our coasts for Nazi Uboats and patrolling our borders for enemy saboteurs. As we fight this new war on terrorism, we must remember general aviation's proud history. We must make sure to employ the GA community as an ally, not to treat it with suspicion.

The Airport Watch Program is contemporary example of general aviation working to keep this country secure. The Airport Watch Program is a collaborative effort between AOPA and the Transportation Security Administration (TSA) to enhance security at our Nation's 5,400 public use airports. Airport Watch will enlist the help of those most familiar with airports and pilots to be our eyes and ears. Modeled after the highly successful neighborhood watch programs, Airport Watch will enlist the help of the more than 550,000 general aviation pilots by giving every pilot an important role to monitor community airports.

Airport Watch also encourages pilots to report any suspicious airport activity to a TSA-sponsored toll free hotline (1–866–GA Secure) staffed by the federal government's National Response Center. Additionally, the program includes warning signs for airports, informational literature, and training videotapes to educate pilots and airport employees on how security of their airports and aircraft can be enhanced.

This groundbreaking program is just one example of AOPA's leadership in promoting national security while preserving freedom of the skies. Further, this partnership between government and private citizens represents what can be achieved when we work together to address the security of the homeland.

Again, I want to commend the Aircraft Owners and Pilots Association for designing this proactive security program. I strongly support this resolution and urge its approval.

INTRODUCTION OF SECURING CONSUMERS' ASSURANCE IN MOVING ACT OF 2003

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. PETRI. Mr. Speaker, today, I am introducing the Securing Consumers' Assurance in Moving Act of 2003 (the SCAM Act) in order to put more cops on the beat in policing the interstate household goods industry and to provide more information for consumers facing an interstate move.

While the vast and overwhelming majority of moving companies operate in a fair, open and honest way, I am sure all Members are aware of the increasing problem with so-called "rogue" movers who prey upon consumers. Since the ICC was abolished in 1996, there have been fewer resources available for consumer protection enforcement at the Department of Transportation which now oversees the moving industry. Over the course of the last several years, this issue has been the subject of hearings and continuing oversight by the Subcommittee on Highways, Transit and Pipelines, and I believe it is now time to act.

We have all heard the horror stories of moves gone wrong. One of the most egregious practices is the "hostage goods" situation, where a mover low-balls an estimate, loads the consumer's goods onto his truck, drives off, and then refuses to deliver the goods until paid an amount in cash that can be up to 4 or 5 times the amount of the original estimate—in strict violation of Federal regulation. I have heard from some who have gone months without knowing where their goods are located. And yet there is little the consumer can do.

A major issue which has emerged is the authority of states to take action, since various courts have ruled that they have no jurisdiction over interstate moves—citing primarily the Carmack amendment. This policy was enacted in 1906 and simply sets forth a uniform liability scheme for loss and damage to avoid uncertainties over differing state laws.

A lot has changed since 1906 and Congress has never really had a debate on what role states or individuals should have regarding consumer protection and the moving industry. I understand that the moving industry has concerns regarding the application of consumer protection laws, claiming that it will be difficult to operate with 50 different state laws. However, states have been enforcing consumer protection laws—which are aimed at those businesses engaged in fraud and deceptive practices—for many years now and somehow other businesses which are not exempt have survived and thrived.

Certainly within the trucking industry, the movement of an individual's household goods is unique from commercial shipments. A consumer may utilize a moving company once or twice in a lifetime and entrusts virtually all his worldly goods to a mover—which gives a lot of leverage to the moving company. Although the President has requested funds for another 7 personnel to oversee household goods, I believe it will never be possible for the federal government to provide adequate oversight over those who take advantage of consumers—it is more appropriate that the states also be able to get involved against those who operate now with near immunity from effective oversight.

The bill I am introducing has three major goals—allowing for Federal-State partnerships to enhance enforcement; establishing new fines for certain behavior; and increasing opportunities for consumer education for those contemplating a move,

Specifically, the bill would: Clarify that an individual or states can use consumer protection laws against interstate movers; require DOT to establish a working group of state attorneys general, consumer protection administrators and law enforcement to coordinate information and enforcement efforts; require DOT to establish a database of consumer complaints with a procedure for public access to the database; require DOT to review current federal regulations regarding insurance coverage and determine whether revisions are necessary to provide adequate protection to consumers; establish a civil penalty of $10,000 and potential 6-month suspension of operating authority, and create criminal penalties, for movers who hold goods hostage in violation of the 110% rule; create a $25,000 civil penalty for brokers or movers operating without authority; and establish a $10,000 civil penalty for a broker who provides an estimate before entering into an agreement with a carrier; require that movers and brokers include additional information regarding DOT registration numbers, consumer rights and responsibilities, and broker-carrier relationships on Web sites; and increase disclosure requirements for brokers who arrange for the shipment of household goods.

Mr. Speaker, it is an unfortunate but necessary step that I am taking today in introducing this legislation. For too long the scales have been tipped in favor of those few within the moving industry who abuse consumers—it is time to even the scales.

RECOGNITION OF RACHEL NEWELL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Rachel Newell, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 472, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the Career Exploration Pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award Project, Rachel refurbished and painted a playground.

Mr. Speaker, I proudly ask you to join me in commending Rachel Newell for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

IN RECOGNITION OF THE PARTHENON CHAPTER OF THE ORDER OF AHEPA (AMERICAN HELLENIC EDUCATIONAL PROGRESSIVE ASSOCIATION)

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to the Andreas T. Stamboulidis Parthenon Chapter of the Order of AHEPA on the occasion of their annual dinner dance. For their extraordinary service and commitment to the community, Senator Frank Padavan, James Efthimiades, Stephen Cherpelis and George Doulaveris will be honored. They are truly "Axie", worthy of this honor.

Established to fight prejudice and racism, AHEPA is philanthropic organization that has been serving the Hellenic community since its inception 80 years ago. The many dedicated members of AHEPA have provided the community with an understanding of the Hellenic heritage and an awareness of its contribution to the evolution of democratic ideals in the United States and Greece.

AHEPA's many contributions to the community include the establishment of educational scholarships, relief drives to aid the victims of warfare, persecution and national disaster, sponsorship of sports tournaments, support for women and children, the elderly, and the disabled. Through all of their community outreach efforts, AHEPA has striven to promote appreciation of Greek culture and further advance understanding between the Hellenic-American, American and the Hellenic community abroad.

The Andreas T. Stamboulidis Parthenon Chapter is exemplary of the AHEPA objective. Founded by the late Andrew Stamboulidis twenty-two years ago, the Parthenon Chapter has raised and contributed over $35,000 toward the Holy Cross School and Community Center. For the Parthenon Chapter's extraordinary support of the school, one of the classrooms is named after founder Andreas T. Stamboulidis. Mr. Stamboulidis typified the ideals and aspirations of AHEPA.

It is a true pleasure to honor this chapter and its members, including Theodore Stamas and my good friend Manny Mavroidis. As the founder and co-chairperson of the Hellenic Caucus in Congress it has been my pleasure and honor to work with many of the members of AHEPA. Since its inception, the Parthenon Chapter of AHEPA has become an important and invaluable member of the community.

In recognition of the Andreas T. Stamboulidis Parthenon Chapter of the Order of AHEPA's many contributions to the community, I ask my colleagues to join me in saluting this organization and all of tonight's honorees on the occasion of their annual dinner dance.

TRIBUTE TO MR. ANDREW E. CRAWFORD, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. PAYNE. Mr. Speaker, it is with both sadness and pride that I rise today to recognize the life of an amazing young man, Mr. Andrew E. Crawford, Jr., a highly valued member of my staff who tragically lost his life a few months ago.

Born in Trenton, New Jersey on February 11, 1978 Andrew was a loving son and friend, gifted student, and dedicated staff member. Spending his early years in schools in both Pennsylvania and New Jersey, Andrew was both an outstanding athlete and student. An exceptional wrestler, Andrew found a way to balance both his athletic talent and scholastic success, being named to the "Who's Who Among American High School Students". Andrew was a true role model for his classmates, always taking the time for friends who confided in him and sought his guidance. Andrew continued his studies at William Patterson University, majoring in Communications. While there, Andrew became an active participant within the college community as a Resident Assistant, news announcer on the campus radio station, a member of the Brothers of Awareness Christian Fellowship, and the gospel chorus.

Upon completing his studies, Andrew joined my staff as Special Assistant in my district office in Elizabeth, New Jersey. Responsible for special projects and programs within the 10th Congressional district as well as serving as a liaison between myself and elected officials within Union County, Andrew was an extremely reliable and dedicated man. His laughter and positive spirit were contagious and he will be truly missed by myself and all who knew and loved him.

Mr. Speaker, I know that all of my colleagues here in the U.S. House of Representatives join me today in recognizing Andrew, a spirited young man whose life and spirit will never be forgotten. While his earthly life was short, his achievements and contributions were very significant. Please join me in sending our heartfelt condolences to his family: his mother Catherine, his father Andrew, Sr., and siblings Candice and Alexander.

TRIBUTE TO JILL THOMPSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. SKELTON. Mr. Speaker, it has come to my attention that a lifelong resident of Lexington, MO, will be celebrating 25 years of service to the Lafayette County Health Department on March 12, 2003. Mrs. Jill Thompson has demonstrated a strong commitment to the area and has helped to ensure a brighter future for the community.

Mrs. Thompson graduated from Lexington High School and attended Research School of Nursing in Kansas City receiving her diploma in 1971. Jill began her 25 year journey with the Lafayette County Health Department in March of 1978 as a Registered Nurse working part-time. Her dedication and hard work earned her the position of Administrator of the Lafayette County Health Department in 1988. She has been the Administrator ever since and has helped expand the department and its services.

Mrs. Thompson's devotion to the Lafayette County community does not stop at the Health Department. She is a member of many organizations such as Cancer Assistance Relief, Treasurer; Sounds of the Heart, Treasurer; Charles Lyons Memorial Foundation; MoAlpha, Chair of the Rural Public Health Committee; West Central Missouri AHEC; Lexington R–V School District Health Advisory Committee; County Health Improvement Project; Lafayette County InterAgency; Lafayette Emergency Preparedness Committee; Mohakca; and P.E.O. Chapter HX.

Mrs. Jill Thompson has distinguished herself as a community leader in Lexington and Lafayette County, Missouri. She has and continues to make her friends and family proud. I am certain that my colleagues will join me in wishing Jill Thompson, her husband, Larry, and their three children Craig, Chad and Kristin all the best.

RECOGNITION OF ASHLEY FOWLER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ashley Fowler, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, troop 971, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positivevalues, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout leadership award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Ashley made baby quilts for Hope House.

Mr. Speaker, I proudly ask you to join me in commending Ashley Fowler for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

PERSONAL EXPLANATION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. NEY. Mr. Speaker, on February 27, 2003, I was unable to be present for rollcall votes 38–39 on H.R. 534, the Human Cloning Prohibition Act due to urgent family business, Had I been present I would have voted "no" on rollcall vote No. 3, and "yes" on rollcall vote No, 39, final passage of H.R. 534."

HUMAN CLONING PROHIBITION ACT OF 2003

SPEECH OF

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

Mr. WU. Mr. Chairman, I rise today to state that I am strongly pro-choice. I am strongly pro stem cell research. I have profound discomfort in opposing many of my former professors by supporting the Weldon/Stupak bill. But, difficult as it may be, I have no hesitation in following both my heart and my head in this matter. I urge support of the Weldon/Stupack bill, and reluctantly urge defeat of the Greenwood/Deutsch substitute bill.

I think this is a time to pause. This is a subject that behooves caution, and we must take time to let our ethics catch up with our technology. Our technology has gotten to the point where we are talking about genetic mixes, chimeras of human and animal cells, and other procedures with which Americans have a reasonable and profound discomfort.

Many scientists say it is incredibly dangerous to stop any form of experimentation. However, I submit to you that we do stop certain forms of experimentation. We no longer permit certain kinds of head trauma experiments on non-human primates that potentially could protect us in vehicle accidents. The nuclear test ban treaty is nothing but a cessation of certain forms of experimentation. And many scientists were in favor of the destruction of the last stocks of smallpox, which would have stopped experimentation on that virus.

There are times when it is important to pause, to pull back, and to deeply consider an issue before proceeding. I differ with the chairman in that perhaps in five or ten years our science and our ethics may lead us to a different conclusion than the ban on cloning we are debating today. Perhaps both our science and our ethics will lead us to the same conclusion we reach today. We should come back and force Congress to reexamine and address this issue again in five or ten years.

On the issue of cloning, no one can make a sure and permanent claim to truth and rectitude.

MASSHEALTH COALITION OPPOSES BUSH MEDICAID PLAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, in our efforts to do our jobs, we are aided by private organizations, which share our commitment to the public, and have first-hand experience with how the policies we enact work in practice. Three of the organizations to which I am indebted for their advice and their important public roles are the Massachusetts Hospital Association, the Home and Health Care Association of Massachusetts, and the Massachusetts Extended Care Federation. They are together, extremely important institutions both for the services they provide and for the economic role they play. I was therefore particularly impressed when they sent along a copy of the letter they sent on February 20 to Massachusetts Governor Mitt Romney, in which these three responsible and important organizations say with regard to the President's Medicare reform proposal, "our coalition firmly opposes the President's proposed plan since it would have long term detrimental effects on MassHealth recipients and providers." As their letter concludes, "the nearly 1 million Massachusetts residents covered by MassHealth deserve federal action to address the current crisis that does not put additional financial pressure on our state, nor diminish the guarantee of coverage for our most vulnerable patients." Mr. Speaker, I have for some time thought that the President's policy of fighting two wars and financing that with three tax cuts inevitably means serious social harm in our country in many areas. This letter from these three organizations, which play such an important role in the health and welfare of our citizens, underlines that point and I ask that the letter be printed here.

MASSACHUSETTS HOSPITAL ASSOCIATION, HOME HEALTH CARE ASSOCIATION OF MASSACHUSETTS, INC.,

February 20, 2003.

His Excellency MITT ROMNEY,
Office of the Governor, State House,
Boston, MA.

DEAR GOVERNOR ROMNEY: On behalf of the Massachusetts institutions dedicated to patient care, we must voice our grave concerns with President Bush's Medicaid reform proposal, which the National Governors Association (NGA) plans to discuss next week. Though the plan is promoted by the Administration as an answer to states' current financial problems, we urge caution in embracing this or similar future proposals. The proposal offers short-term federal relief for increasing state financial risk over the long term. Our coalition firmly opposes the President's proposed plan since it would have long-term detrimental effects on MassHealth recipients and providers.

MAINTAIN THE FEDERAL/STATE PARTNERSHIP

We believe that both federal and state governments have an obligation and responsibility to maintain their financial commitment to the Medicaid program. The Administration's reform proposal would sever the federal and state financial partnership and replace it with a fixed federal commitment and state maintenance of effort. This plan would destabilize the financial foundation of the Medicaid program since federal financial participation would no longer extend to costs that grow beyond its fixed contribution. If Massachusetts cannot shoulder the burden of future cost growth, it will be faced with further reducing provider payments and/or limiting coverage and benefits.

We also strongly oppose any proposal that would force states to radically transform their Medicaid programs in order to receive federal fiscal relief. The President's proposed plan would require reduced federal payments in later years in order to repay additional federal support given now. Massachusetts would bear the ultimate risk of any cost increases that grow beyond the fixed federal commitment. States that need immediate relief and new programmatic flexibility should not have to risk the mission of their Medicaid program.

PROMOTE FINANCIAL INTEGRITY

Unfortunately, the Administration's proposal seeks fundamental change to the Medicaid program and ties any fiscal relief for states to the acceptance of such proposed changes. It weakens the guarantee of coverage for vulnerable populations and dismantles the Disproportionate Share Hospital Payment (DSH) program, which is our nation's primary source of support for safety net hospitals that serve the most vulnerable Americans. Indeed, last year Massachusetts received $290 million in federal Medicaid DSH funds.

Further, the Administration's approach would cap federal spending using fiscal year (FY) 2002 spending as the base year, updated yearly by a non-specified trend factor. Like DSH funding that was initially capped in 1991, this new proposal caps a state's Medicaid spending at last year's level of spending—penalizing states that have yet to expand benefits and coverage, and severely limiting the ability of all states to expand coverage during better economic times or even to weather growth in Medicaid eligibility due to increasing unemployment during recession. This new cap proposal also has the potential to mirror the further reductions to DSH spending that took effect in the Balanced Budget Act of 1997.

PROTECT ACCESS TO CARE

The President's reform proposal simply translates into a program that over time will barely meet the needs of the mandatory population by putting pressure on states to reduce coverage for non-mandatory populations and to reduce payments to providers. This proposal has the potential to damage core services delivered by health care providers to all MassHealth patients in Massachusetts:

Hospitals, reeling from Medicaid reimbursement rates that are close to 30 percent below the cost of delivering care, cannot sustain further hits without compromising their mission and cutting vital services. Reductions in Medicaid enrollment will exacerbate hospital difficulties by increasing uncompensated care costs and decreasing Medicare Disproportionate Share Payments.

Nursing homes already receive Medicaid rates that average $20 per day below cost in Massachusetts. Over the past four years, 91 homes with 6,200 beds have been forced to close.

Medicaid also pays home health agencies between 28 to 35 percent below what it costs to provide care. Additional reductions will likely result in agencies either becoming insolvent or putting other patients on the caseload at risk by continuing to provide care.

PROVIDE FISCAL RELIEF

Instead, Massachusetts and other states require immediate and meaningful federal support. Such support should be in the form of an increase in the Medicaid federal medical assistance percentage (FMAP) and the elimination of the scheduled fall-off in federal Medicaid DSH funding. Members of Congress have introduced legislation to enact these proposals and we urge your support of these bills.

The nearly 1 million Massachusetts residents covered by MassHealth deserve federal action to address the current crisis that does not put additional financial pressure on our state, nor diminish the guarantee of coverage for our most vulnerable patients. We look forward to working with your administration on alternative mechanisms to meet the current and long-term challenges associated with MassHealth.

Sincerely,

RONALD HOLLANDER,
President, Massachusetts Hospital Association.
ABRAHAM MORSE,
President, Massachusetts Extended Care Federation.
PATRICIA KELLEHER,
Executive Director, Home & Health Care Association of Massachusetts, Inc.

RECOGNITION OF CHERYL HALSEY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Cheryl Halsey, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 985, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 15 Hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Cheryl created handicapped parking at more than ten city buildings.

Mr. Speaker, I proudly ask you to join me in commending Cheryl Halsey for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

ANNIVERSARY OF THE WALWORTH MASONIC LODGE, NUMBER 286

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. RYAN of Wisconsin. Mr. Speaker, today I rise in recognition of the 100th anniversary of the Walworth, Wisconsin Masonic Lodge 286. Throughout this period, the Masons of Lodge 286 have made invaluable contributions to their community and to Wisconsin.

Faith, honor, integrity, responsibility for one's actions, the absolute right to intellectual and spiritual freedom, and self-control are the Masons' core values and principles. After the first Grand Lodge was founded in England in 1717, Masonry's rich history was solidified in America by such patriots as Benjamin Franklin, George Washington, Paul Revere, and John Hancock. Many would argue that the Masons and Masonry played a significant role in the Revolutionary War and an even more important part in the Constitutional Convention. For 100 years the Masons of the Walworth, Wisconsin Lodge 286 have worked to maintain this tradition and standard of excellence.

Charitable giving is also a large part of Masonry. Along with scholarship and loan funds to assist young people in furthering their education, Masons support many community-based charitable projects. These projects range from donating to children's hospitals and burn institutes built by Shriners, to simple and much needed services such as buying shoes and clothing for disadvantaged children. They have participated in charitable giving with other lodges in Wisconsin through the Wisconsin Masonic Foundation. Founded in 1925, the Foundation has been committed to educating our youth through an educational scholarship fund; caring for our elderly through the Wisconsin Masonic Home Endowment Fund; and doing good works through the Special Donor Advised Funds Program, which allows special donors to have naming rights as well as advisory capabilities related to the fund's intended purpose. Masons have constantly worked to make the world a better place.

Mr. Speaker, the Masons of the Walworth, Wisconsin Lodge 286 have served as a model for all Masons for 100 years. Their commitment to God and country, emboldened by their brotherhood, has set a high standard for all Masonic lodges.

H.R. 1048—DISABLED VETERANS ADAPTIVE BENEFITS IMPROVEMENT ACT OF 2003

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. BROWN of South Carolina. Mr. Speaker, as Chairman of the Subcommittee on Benefits of the House Veterans' Affairs Committee, I am introducing H.R. 1048, the Disabled Veterans Adaptive Benefits Improvement Act of 2003. Mr. CIRO RODRIGUEZ, Ranking Member of the Subcommittee on Benefits, as well as Chairman CHRIS SMITH and Ranking Member LANE EVANS join me as original sponsors.

The Disabled Veterans Adaptive Benefits Improvement Act of 2003 would increase the one-time reimbursement VA may provide to certain severely disabled veterans to assist their purchase of an automobile from $9,000 to $11,000. According to the American Association of Motor Vehicle Administrators, the average cost of a new automobile in 2001 was estimated to be $21,605.

The bill would also increase the grant to help eligible veterans make adaptations to their homes, which are necessary because of the nature of their disability. The bill would raise the Specially Adapted Housing Grant from $48,000 to $50,000 for the most severely disabled veterans and from $9,250 to $10,000 for other severely disabled veterans.

Mr. Speaker, this bipartisan legislation is the right thing to do for our severely disabled veterans so that they may live their lives in the most independent manner possible. I look forward to our colleagues' support of our efforts.

TRIBUTE TO MR. PATRICK DiDOMENICO

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. WALSH. Mr. Speaker, I rise today to honor the life of Mr. Patrick DiDomenico. From 1973 until just recently, Pat served as an elected official for the Town of Clay, New York, first in the role of town counselor and then town supervisor for the past 20 years. This makes him the longest continuously serving town supervisor in Onondaga County history. His long life of public service came to an end on February 8th of this year after a battle with cancer. He was only 65 years old.

Pat DiDomenico leaves behind his love for family and the town of Clay. I knew Pat as a genuinely kind and compassionate man who, when he wasn't smiling, was fighting hand and glove for the betterment of the town of Clay. He always marveled local colleagues with his steadfast ability to create astonishing opportunities and results from meager beginnings and often lopsided opposition. Under Pat's leadership the town of Clay has grown from a small rural community to a suburban township of 60,000 residents. His guidance is a testament to his skillful leadership of small town development. This is exemplified as Clay became the fastest growing town in New York State, growing from 36,274 in 1970 to 58,805 in 2000.

With the excitement of Clay's development, Pat made it a point to create fiscal prosperity for the town while easing the economic burdens of new growth. This is seen in the closing of Clay's landfill and the Three Rivers Project, which has transformed an old industrial area into a prospering tourist and commercial region for the town. His fingerprints can be found on all the major projects taken on by the town, foremost the development of Route 31, the Great Northern Mall and the recent completion of the new town hall. His visionary leadership was the primary root that has branched out into a town the size of many small cities.

Mr. Speaker, it is an honor to have known and worked with a leader who fought so hard for a town he loved so much. Pat is one of the best civic leaders I have ever had the privilege to know in all my years of public service.

It is my honor to recognize Mr. Pat DiDomenico for his endless years of service on behalf of the people of Clay and Onondaga County. We owe him a huge debt of gratitude for all he has done. I extend my heartfelt sympathies to his family and friends, including wife Patricia and children Anthony, Patrick and Nicole. Pat's leadership will be missed, but his life will not be forgotten.

RECOGNITION OF DAWN HARDY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Dawn Hardy, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1166, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Dawn created a self-esteem awareness program.

Mr. Speaker, I proudly ask you to join me in commending Dawn Hardy for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

THE HONORABLE JOHN MILLER SWORN IN AS DIRECTOR OF THE STATE DEPARTMENT'S OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. WOLF. Mr. Speaker, our former colleague, the Honorable John Miller, who served as a member of the House of Representatives from the State of Washington from 1984–92, was sworn in today by Vice President DICK CHENEY as the director of the State Department's Office to Monitor and Combat Trafficking in Persons. John also serves in the Bush Administration as a senior adviser to the Secretary of State.

Sex trafficking is a growing problem of slavery both abroad and at home. John Miller is an excellent choice by the President for this job and we wish him well in this important position.

I insert for the RECORD the remarks John gave at his swearing-in ceremony.

Speech given by the Honorable John R. Miller at his swearing in as Senior Advisor to the Secretary of State and Director of the Office to Monitor and Combat Trafficking in Persons, at the Capitol on March 4, 2003

Vice President Cheney, I feel honored and appreciative that someone who I respect as much as you has taken the time to swear me in. Thank you.

It is so good to see many of my former colleagues in Congress. House Majority Leader Tom Delay, House Minority Leader Nancy Pelosi, Congressman Frank Wolf and Chris Smith who have been such leaders on the slave trading issue, my class mates Howard Coble, Jim Saxton, Joe Barton, and from the neighboring district to mine in Seattle, Jim McDermott . . . thank you all for joining my family and me on this occasion.

Undersecretary Paula Dobriansky, thank you for your kind words and thank you for your work on human rights over the years and for your support, your counsel and your guidance.

And my thanks to all of you today who come as friends, or relatives, or advocates in this cause.

Most of all, I want to thank my wife, June, and our son, Rip, for supporting me in this effort.

When one takes on a challenge of modern day slavery, one benefits from the work of others, past and present. Some came long before, such as the English opponent of the slave trade, William Wilberforce, the American abolitionist, William Lloyd Garrison; the Quakers with their Underground Railroad, or the men and women of the Salvation Army who started the fight against sex slavery in the 19th century.

Others whose shoulders I stand upon are less well known and more recent. But they are here in attendance today. I see Laura Lederer, who outside and now inside government, has labored to raise the public consciousness of trafficking around the world through her research, writing and speeches.

I see Amy O'Neill-Richard, who, with her seminal study on trafficking of women, influenced many inside government to understand that modern day slavery is a great emerging womens' issue.

I see Michael Horowitz, my friend and also welcome critic, who has been present and active at the creation of just about every important piece of human rights legislation this past decade.

I also see here many committed people from my office. Would you all please raise your hands. These are the people who travel thousands of miles and labor thousands of hours in their efforts to fight the slave trade.

The dimensions of the modern day slavery challenge that we face are vast. There are not thousands or hundreds of thousands but over a million people who are trafficked and enslaved every single year. That's right-over a million every single year.

Many of our fellow Americans believe slavery ended here after the Civil War. And, indeed, slavery based on color did end then in our country. But we know that today slavery based on color still exists in countries such as Mauritania.

We know that today slavery based on bonded labor still exists on the farms of India, in the brick kilns of Pakistan and in the charcoal camps of Brazil.

We know that today slavery based on military impressment of children goes on from Sri Lanka to Uganda.

And most of all, we know that today the fastest growing and And most of all, most hideous form of modern day slavery, sex slavery, reaches into most countries of the world, including these United States. We know that sex slavery makes billions for organized crime every year. We know at the same time it physically, mentally, and spiritually ruins millions of children and women.

Mr. Vice President, the struggle we wage to abolish modern day slavery will decide the fate of millions of human beings. But this struggle is also tied to the United States' role in the world. We live in a time when many people abroad do not know or have forgotten the idealism that led Americans to sacrifice over and over so that others might enjoy the God-given, inalienable right to liberty enunciated in our Declaration of Independence. They do not know what moves America: what makes us tick.

Now with many grave challenges facing us at home and abroad, the President and Congress have asked that we take on the ultimate issue of liberty: freeing people from slavery. It is an issue that cries out for national and international leadership. And as is so often the case, while many nations will cooperate in this fight, one nation must lead the way. Which country will put its power and resources into this fight to help the world's weakest achieve freedom? Which country will risk alienating others by reporting openly what's going on and holding out the possibility of aid sanctions to encourage action? There is only one answer to the question of which country must lead: it is the United States of America.

We lead not because we are perfect—we have our imperfections—including on this issue. We lead because we alone have the idealism, the power, the history and the commitment to freedom to lead the world in this new abolitionist struggle.

Yes, some abroad and even at home will view this effort with alarm and cynicism. They do not understand that on this as on many issues, our interests are reflected in our values. They will also ignore the fact that the fight against slavery is premised not only on our own values but universal values and UN covenants. Such people will still ask why are you trying to impose American values on the world? Two hundred years ago similar people asked the English evangelist and member of Parliament, William Wilberforce, as he fought to end the slave trade based on color, why are you trying to impose British values on the world? But Wilberforce persisted and persevered and millions who emerged from slavery to live in freedom thanked him and Great Britain. And just as today the people of Eastern Europe thank us for freeing them from Soviet tyranny, in the future, if we are successful, millions of men in forced peonage and millions of women and children forced into prostitution and sex slavery will thank the United States for their freedom.

Just last week President Bush issued an executive order that showed anew his determination that the U.S. lead the fight to abolish modern day slavery. President Bush became the first American President to challenge government agencies to make the fight against modern day slavery a priority in planning and deeds.

I am proud to serve an administration and a President who will make this issue of human rights and freedom an integral part of United States foreign policy.

I accept this position humbly, Mr. Vice President, and I ask for the prayers and help of those in this room and elsewhere. I have learned enough in my few weeks here to know that I truly need such prayers and help.

This struggle will not be short or easy. Wilberforce only succeeded in abolishing the 19th century slave trade after over 25 years. We will need his spirit and the spirit of our own nineteenth century abolitionists if we are to defeat this modern scourge.

But we all should know this: As we pursue this struggle, we will serve God, we will serve mankind, and we will serve our country well. And that is all we can and should ask of ourselves.

Thank you.

HONORING MICHAEL J. QUIRK—A TRUE AMERICAN HERO

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. BOYD. Mr. Speaker, I rise today to honor Michael J. Quirk for his service to his country and as a volunteer with the United States Coast Guard Auxiliary. At a time when the President is encouraging all Americans to serve our nation in a volunteer capacity the United States Coast Guard Auxiliary will recognize Michael J. Quirk on his retirement from the Coast Guard Auxiliary with over 22 years of service. What is truly remarkable about Commodore Quirk is that prior to his involvement in the US Coast Guard Auxiliary, he had also well and faithfully served our nation in the military for over thirty years.

In World War II, Commodore Quirk was a member of the famed 56th Fighter Group of the US Army Air Corps and achieved the status of Double-Ace. On his 100th mission he was shot down and was held as a prisoner-of-war until April 1945 at Stalag Luft I, Barth, Germany. For his World War II service he received the Silver Star among other decorations and the Purple Heart for wounds received when his plane was shot down.

Following his return to the States in 1945, he entered Catholic University and, while pursuing his degree instructed Air National Guard to fly the P–47 . . . the plane he flew in Europe.

In 1947, after the service was formally established, Quirk returned to the service of his country with the US Air Force and over a thirty-year career saw service with the 4th Fighter Group flying F–80 Shooting Stars; Langley Air Force Base where he flew F–86 Sabre jets; La Paz, Bolivia training Bolivian pilots to fly the P–47; the Central Air Defense Force from 1951–52; Commander of the 87th Fighter Interceptor Squadron; 453rd Tactical Fighter Training Wing; Seventh Air Force Headquarters, Tan Son Nhut Air Base, RVN; and completed his Air Force career at the Tactical Air Warfare Center, Eglin AFB, Florida, retiring as a Colonel in 1977.

Soon after his retirement from the US Air Force, he and his wife Kit joined the US Coast Guard Auxiliary, the volunteer force of the United States Coast Guard, and rose through various positions in further service to the nation and served at Commodore of the 8th Coastal Region in 1990–1991.

On his retirement from the US Coast Guard Auxiliary with over 22 years of volunteer service, the nation joins the US Coast Guard Auxiliary and the US Coast Guard in saluting this great American.

TRIBUTE TO ABEL VICTOR OLAZABEL

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. NAPOLITANO. Mr. Speaker, it is with deep sadness that I rise today to honor the life of Abel Victor Olazabel. On the occasion of his funeral, I offer my sincerest condolences to his family. Abel was a true American hero, providing valiant service to our nation during World War II, and he will be sorely missed.

Abel served with the 40th Infantry Division, 2nd Battalion, Company G, 160th Infantry. This famous division included many Latino soldiers from South East Los Angeles County, including Abel who lived in Hacienda Heights. As a staff sergeant, Abel led his troops through some of the most challenging combat on the Pacific front. Working toward the American liberation of the Philippines, Abel's division fought courageously and suffered many casualties.

After landing with the first wave of Allied soldiers in the Lingayen Gulf, Abel's division fought tirelessly in the Zambales Mountains. Following this phase of combat, they were sent to Luzon Island, where a ferocious attack occurred. After much bloodshed, Abel's division defeated enemy troops in this key battle. For his extraordinary acts of bravery and patriotism, including leading a rescue party to find and save a unit on Panay Island, Abel earned further distinction.

Throughout the war, Abel demonstrated numerous acts of heroism in combat and assisted many wounded among his own men. He received a Presidential Unit Citation for surviving overwhelming enemy attacks and defeating enemy soldiers. He was also awarded a Combat Infantry Medal.

Abel Victor Olazabel was a model of courage, generosity and patriotism. I ask that my colleagues join me in honoring this outstanding hero.

RECOGNITION OF EVELYN HOWARD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Evelyn Howard, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1230, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Evelyn created a web site on college admissions at geocite.com.

Mr. Speaker, I proudly ask you to join me in commending Evelyn Howard for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. ORTIZ. Mr. Speaker, due to official business in my district, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 37 "no," rollcall No. 38 "no," and rollcall No. 39 "yes."

NAACP IMAGE AWARD NOMINATIONS, THE ROSA PARKS STORY

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Ms. WATSON. Mr. Speaker, today I rise to share the good news of the nomination of The Rosa Parks Story for an NAACP Image Award. It is nominated in the category of Outstanding Television Movie, Miniseries or Dramatic Special. Ms. Angela Bassett is also nominated for an award for Outstanding Actress for her portrayal of Rosa Parks. The film was directed by Ms. Julie Dash, who was also nominated for a Director's Guild of America award earlier this year. The Image Awards will be held this Saturday, March 8, and will air on television Thursday, March 13.

The Rosa Parks Story stars Angela Bassett, Cicely Tyson and Dexter Scott King, the son of Dr. Martin Luther King, Jr. The film brings to life the peaceful dissent an exhausted Rosa Parks showed on a crowded Montgomery, Alabama bus in 1955, and the Civil Rights Movement that ensued. The movie originally aired on television on February 24, 2002.

It is difficult for African American actor, directors and others in the industry to seek recognition for their hard work. The NAACP Image Awards is a premier event that acknowledges achievements of talented African Americans involved in the industry.

I was honored to host a congressional screening of the film, The Rosa Parks Story, last year prior to the film's television debut. I had the good fortune then of meeting Ms. Angela Bassett, Ms. Cicely Tyson, Ms. Julie Dash and many others who were instrumental in the success of this movie. I particularly want to acknowledge the contributions of Mr. Willis Edwards. His work as Executive Producer of the film was instrumental in its success.

This film has held meaning and significance for me personally, and it brings me great joy to see this work nominated for an NAACP Image Award. I wish all those who were involved the best at the awards ceremony on March 8th!

CELEBRATING THE 225TH ANNIVERSARY OF THE TOWN OF FRANKLIN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to the Town of Franklin, Massachusetts on the occasion of its 225th anniversary, March 2, 2003.

Founded on March 2, 1778, the Town of Franklin was the first in our nation to be named after Benjamin Franklin and is home to America's first public library. Franklin is also home to the nation's only continuously operating one room schoolhouse. Today, Franklin has grown into a vibrant community of over 30,000 people and remains a great place to live, work and raise a family.

Mr. Speaker, I am proud to represent this fine community of dedicated individuals who, over the years, have worked hard to build their town into what it is today. Whether it is providing a first class public education for all their children or valuing their senior citizens, the people of Franklin are what "community" is all about. Every summer, residents line the streets for Franklin's annual 4th of July parade. The town commemorates our independence in the spirit of its great namesake, Benjamin Franklin, with a festive celebration at its historic town common.

Mr. Speaker, I am confident that my colleagues in the U.S. House of Representatives join me in congratulating the Town of Franklin for its 225 years.

TRIBUTE TO DR. MARION JACK BROOKS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. FROST. Mr. Speaker, I rise today to pay tribute to a local pioneer and doctor in Fort Worth, Texas. Dr. Marion Jack Brooks died on Monday, March 3, 2003, at his home in the city's Morningside community. He was 83 years old and a true local success story. He graduated from the former I.M. Terrell High School near downtown and was a founding member of Morningside United Methodist Church.

Dr. Brooks began practicing medicine in North Texas during the 1950's. He and his brother Dr. Donald Brooks opened their own clinic that is still family owned and operated, on Fort Worth's famous Evans Avenue. During those days, when segregation was an awful reality in Texas and the entire South, black families who resided in the city could always count on Dr. Brooks to provide medical care for the children and the sick in their households.

Mr. Speaker, it is also important that I note the many contributions that this great man made outside the field of medicine. Like many of our institutions that existed before the days of the Great Society, hospitals and medicine were not immune to the realities that African-Americans faced based solely on their skin color.

When his patients needed treatment, Dr. Brooks was forced to treat them out of a basement at the old St. Joseph's Hospital. He was outspoken until local hospitals decided to do the right thing and change their policies. He also led a march from Fort Worth to Austin that coincided with Dr. Martin Luther King's famous pilgrimage on our nation's capitol. He also was active in local politics and was a driving force behind the Tarrant County Precinct Council.

Dr. Brooks will be missed by his friends, family and community. He leaves behind a great legacy that will live on through his work in the sciences, the Sickle Cell Anemia Association of Texas, and an annual scholarship awards presentation for which he is the namesake.

AFRICAN AMERICAN HISTORY MONTH, 2003

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I chose to celebrate African American History Month 2003 by acknowledging African Americans who have served with distinction in the United States Armed Forces. Each day of the month, I distributed brief biographies to my colleagues, which honored the accomplishments of generals and privates, paratroopers, cooks, and nurses, who have contributed to our rich history.

I chose this theme because the integration of the Armed Forces was a momentous event in our national and military history. Although the pressures generated by the civil rights movement compelled the U.S. military to reexamine its traditional practices of segregation, in fact, African Americans have been integral in the service to this nation since its beginnings.

I hope that my colleagues and their staffs have taken a few moments each day this month to read the stories of these inspiring men and women. Some distinguished themselves with their impressive accomplishments; the first African American General in the Air Force, the first African American in space, and the first African American Chairman of the Joint Chiefs of Staff. Some, in a moment of gallantry and courage, sacrificed their lives in the line of duty or for their fellow soldiers. Following are the names of the men and women I chose to honor during African American history month.

General Benjamin O. Davis, Jr., Tuskegee Airman. Graduating from West Point in 1936, Benjamin O. Davis, Jr. became one of only two black general officers in the U.S. Army at the time—the other was his father. With his promotion to Brigadier General, Davis became the first African American General in the U.S. Air Force. He retired in 1970, and served under President Nixon as Assistant Secretary of Transportation for Environment, Safety, and Consumer Affairs.

Colonel Guion S. Bluford, Jr. Guion S. Bluford, Jr. has the honor of being the first African American in space. Bluford has also served as a mission specialist on STS 61–A (*Challenger*) in 1985 and on STS–39 (*Discovery*) in 1991.

Sergeant Major Christian A. Fleetwood. Fleetwood served in the U.S. 4th Colored Troops and was one of thousands of African Americans who fought in the Civil War. At the battle of Chapin's Farm, Virginia, in July 1864, Fleetwood valiantly defended the American flag and was awarded the Medal of Honor for his heroism. In 1948, his daughter donated his Medal of Honor to the National History Museum, making him the first African American veteran to be honored by the Smithsonian.

Ensign Jesse LeRoy Brown. Brown was the first African American to achieve the status of Naval Aviator. He was awarded the Distinguished Flying Cross for his service during the Korean War. In 1973 the USS *Jesse L. Brown*, a 3963 ton Knox class ship, was named in honor of Ensign Jesse L. Brown.

Private William Cathy. In 1866, with little employment opportunities, Williams disguised herself as a man, assuming the name William Cathy and enlisted with Company A, 38th United States Infantry. Williams was determined 'fit for duty' following a limited medical test and within months she had become a "Buffalo Soldier" serving with one of the six black units. Williams served for two years.

Sergeant William H. Carney. During a siege at Fort Wagner, South Carolina, on July 18, 1863, Sergeant William Carney displayed the courage that won him the Congressional Medal of Honor, making him the first African American to receive the prestigious medal. Despite being shot twice, Carney planted the colors announcing, "Boys the old flag never touched the ground."

Dorie Miller. On May 27, 1942, Dorie Miller was presented with the Navy Cross for extraordinary courage in battle. Miller served on the USS *West Virginia* when the battleship was attacked by the Japanese at Pearl Harbor. Miller valiantly aided the mortally wounded Captain of the ship, manning a 50 caliber Browning anti-aircraft machine gun, which he had not been trained to operate. Miller continued to fire until he ran out of ammunition. In addition to the Navy Cross, Miller earned the Purple Heart Medal.

Colonel Charles Young. In 1889, Charles Young became the third African American to graduate from the United States Military Academy at West Point. He served with the Buffalo Soldiers of the 9th and 10th Cavalries, and the 25th Infantry. When the Army created the Military Information Division, he was one of the first military attaches, serving in Port Au Prince, Haiti. Young was the highest ranking African American officer in the Army when World War I started.

General Daniel James, Jr. Daniel "Chappie" James, one of the Tuskegee airmen, was commissioned in 1943. An outstanding fighter pilot, he flew over 100 combat missions in Korea and over 300 in Vietnam. In September 1975, he became the first African American in the history of the United States military to attain the rank of 4-star General.

Moses Jones. On May 11, 1898, the Revenue Cutter *Hudson* joined two U.S. Navy gunboats at the Battle of Cardenas Bay in Cuba. When one of the Navy gunboats was hit and began drifting towards shore, the *Hudson* and its crew, despite being directly in the line of fire, managed to tow the gunboat to safety. The courage of the crew was recognized by a joint resolution of Congress and Moses Jones received the silver Medal of Honor.

Sergeant First Class William Maud Bryant. Sergeant Bryant was a member of Company A, 5th Special Forces Group, in the Republic of Vietnam in 1969. He received the Medal of Honor for conspicuous gallantry and intrepidity in action. When his battalion came under heavy fire and was surrounded by 3 enemy regiments, SFC Bryant charged an enemy automatic weapons position, overrunning it, and single-handedly destroyed its 3 defenders.

General Clara L. Adams-Ender. Clara L. Adams-Ender was commissioned as a second lieutenant in 1961. In 1967, she became the first woman in the Army to qualify and be awarded the Expert Field Medical Badge. In 1976 Adams-Ender received a Master of Military Arts and Sciences from the U.S. Army Command and Staff College in Fort Leavenworth, Kansas. Adams-Ender was promoted to the rank of Brigadier General in 1987, and appointed Chief of the Army Nurse Corps.

General Calvin Waller. Lt. Gen. Calvin Waller served as deputy commander of the allied forces during the Persian Gulf War. Waller died of a heart attack in 1996, leaving behind an enduring legacy. Waller's service during the Gulf War was invaluable. In 1998, the Army honored Waller, when a 100,000 square foot personnel center at Fort Lewis, Washington was named Waller Hall in his honor.

Private First Class Milton Lee Olive, III. Pfc. Olive was a member of the 3d Platoon of Company B in Vietnam. He and four other soldiers were moving through the jungle together when a grenade was thrown into their midst. Pfc. Olive saw the grenade, and then saved the lives of his fellow soldiers by grabbing the grenade in his hand and falling on it to absorb the blast with his body. "For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty", PFC Olive was posthumously awarded the Congressional Medal of Honor.

Private First Class Malvin L. Brown. Private First Class Malvin L. Brown, was a medic and member of Headquarters Company, 555th Parachute Infantry Battalion. The 555th or "Triple Nickles," was the nation's first all-black parachute infantry test platoon, company, and battalion. In 1945 the Army dispatched the 555th to the Western U.S. to combat fires set by Japanese fire bomb balloons and by lightning. In attempting to climb out of his harness and lower himself with a rope, PFC Brown slipped or lost his grip and crashed into a rock bed 150 feet below. He was the first airborne firefighter, or "smokejumper", killed in the line of duty.

General Julia Jeter Cleckley. Jeter Cleckley has served with the military for 27 years. In September of 2002, she became the first African-American woman to be promoted from full colonel to flag officer in the Army National Guard. She was also the first minority woman to become a branch chief at the National Guard Bureau; the first African-American woman to be promoted to colonel in the Active Guard and Reserve Program, and the first woman to serve on the Army Guard director's special staff as the chief of Human Resources.

Salem Poor. Details of what took place at the Battle of Charleston, today known as the Battle at Bunker Hill are scarce, however it is clear that Poor's conduct was exceptional. A petition to the Continental Congress was signed by fourteen of his officers in an attempt to cite him for his heroism. The petition read, "A Negro called Salem Poor of Colonel Frye's regiment, Captain Ames' company, in the late battle at Charleston, behaved like an excellent officer, as well as an excellent soldier. It would be tedious to go into more detail regarding his heroic conduct. We only beg leave to say, in the person of this Negro centers a brave and gallant soldier." Despite the petition, Poor was never officially recognized for his actions. In 1975, two hundred years after the Battle of Bunker Hill, Salem Poor was honored on a stamp by the U.S. Postal Service.

Sergeant Cornelius H. Charlton. Charlton served during the Korean War. When his platoon was heavily attacked, he took control, rallying the troops and spearheading an attack up a heavily defended hill. Sgt. Charlton took control of two hostile positions and killed six enemy troops. Though wounded, he continued the advance and managed to damage a gun emplacement. Charlton was then hit by another grenade, this time mortally wounded. In recognition of his heroism, Cornelius Charlton was posthumously awarded the Congressional Medal of Honor in 1952. In 1999 the U.S. Navy named a Cargo ship the USNS *Charlton*, in honor of Sergeant Charlton.

General Colin L. Powell. Current Secretary of State Powell was a professional soldier for 35 years, during which time he rose to the rank of 4-star General. His last assignment, from October 1, 1989 to September 30, 1993, was as the 12th Chairman of the Joint Chiefs of Staff, the highest military position in the Department of Defense. He was the first African American to hold this position. During this time, he oversaw 28 crises, including Operation Desert Storm in 1991. After being unanimously confirmed by the U.S. Senate, he was sworn in as the 65th Secretary of State on January 20, 2001.

RECOGNITION OF KELLY HULT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kelly Hult, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 971, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: (1) earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; (3) Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; (4) Designing a self development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Kelly organized a father/daughter hike for a service unit.

Mr. Speaker, I proudly ask you to join me in commending Kelly Hult for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

WILLIS EDWARDS, RECIPIENT OF CHRISTOPHER AWARD

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Ms. WATSON. Mr. Speaker, it gives me great pleasure to rise today and share the news that a good friend and colleague of mine, Mr. Willis Edwards, received a prestigious Christopher Award for his work as an Executive Director of the film, The Rosa Parks Story. The awards ceremony was held last month, on February 27th, in New York City.

The Rosa Parks Story stars Angela Bassett, Cicely Tyson and Dexter Scott King, the son of Dr. Martin Luther King, Jr. The film brings to life the peaceful dissent an exhausted Rosa Parks showed on a crowded Montgomery, Alabama bus, in 1955, and the Civil Rights Movement that ensued. The movie originally aired on television on February 24, 2002.

It is difficult for African American actors, directors and others in the industry to receive recognition for their hard work in the entertainment industry. I am pleased that the Christopher was able to recognize and acknowledge the outstanding performance and talent of Mr. Edwards as well as others involved in the film.

I was honored to host a congressional screening of the film, The Rosa Parks Story, last year prior to the film's television debut. I had the good fortune then of meeting Ms. Angela Bassett, Ms. Cicely Tyson, Ms. Julie Dash and many others who were instrumental in the success of this movie. Ms. Julie Dash was nominated for a prestigious Director's Guild of America Award earlier this year for her work directing the film.

The film received two nominations for an NAACP Image Award for Outstanding Television Movie, Miniseries or Dramatic Special, and for Ms. Angela Bassett's performance as Ms. Rosa Parks.

This film has held meaning and significance for me personally, and it brings me great joy to see Mr. Willis Edwards' work acknowledged with a Christopher Award.

TRIBUTE TO MR. EVAN HANKIN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. McGOVERN. Mr. Speaker, I rise today to recognize Mr. Evan Hankin on the celebration of his 60th birthday. A resident of Newton, Massachusetts, Mr. Hankin will celebrate this milestone on March 17, 2003.

The son of Toby and Sidney Hankin and a native of Buffalo, New York, Mr. Hankin received his undergraduate degree from The University of Buffalo and followed up his undergraduate degree by pursuing and receiving a Masters of Business Administration from Boston College. The husband of Barbara Hankin for 34 years and the father of Markos and Stefan Hankin, he is an active member of the art and cultural communities in Massachusetts.

In addition to being a loving husband and father, Mr. Hankin is also the President of Hankin Construction Company, based in Woburn, Massachusetts. For many years, Hankin Construction built new schools in many towns and cities across Massachusetts, as well as providing the restoration of some of the Commonwealth's great historical landmarks. A union contractor, Mr. Hankin has made a commitment to ensuring that his employees are happy and the job is done right.

Mr. Speaker, I ask my colleagues to join me today in wishing Mr. Evan Hankin a happy 60th birthday.

CONGRATULATIONS TO DUNCANVILLE PANTHERETTES, GIRLS BASKETBALL 5–A CHAMPIONS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. FROST. Mr. Speaker, I want to recognize and congratulate the remarkable Duncanville Pantherettes girls basketball team for winning the 2003 Texas Division 5–A championship.

This weekend, Patherette fever was running high across North Texas as Duncanville battled Georgetown for the state title. Duncanville's defense was overwhelming as they held their opponents to a meager 27 points, a record low total for a UIL Class 5–A title game. The Pantherettes dominated their foes all season en route to a 39–1 record and talk of a repeat is already rampant.

This year's championship team builds upon a remarkable record for girls basketball at Duncanville. This is the Pantherettes' 6th basketball title and 15th appearance in the state championship.

Winning the state championship is a fitting culmination to the careers of Duncanville's seven seniors, five of whom have signed to play basketball in college and four signed with Division I teams. Those are big shoes to fill, but Duncanville's underclassmen say they are ready to lead the Pantherettes back to Austin next year.

Congratulations to coach Cathy Self-Morgan and the other Duncanville staff who guided a super group of girls through a historic season. The 2003 Duncanville Pantherettes have earned the chance to savor this victory and reflect on all their achievements together. I look forward to following the Pantherettes as they try to return to Austin next year.

SUPPORTING AFFIRMATIVE ACTION

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my deep and continued commitment to affirmative action.

Like many of my colleagues, I am baffled by the fact that almost thirty years since the enactment of the Civil Rights Act and the full implementation of affirmative action, many still question its importance and significance.

It astounds me that a country that brags on its riches in diversity of people can not equally boast on their diversity in university class rooms and company board rooms. Affirmative action is not a hand out! It is an all access pass for people who have long been denied the chance to achieve their potential because of an American society steeped in institutionalized racism and sexism.

Mr. Speaker, as you may know, there has been a recent uproar over the issue of affirmative action. In the past such states as Texas, California, and more recently my home state of Florida has prematurely abolished affirmative action, deeming it no longer necessary. Now, we are faced with this issue again. However this time, it's Michigan.

In 1999, the state of Florida brought an end to affirmative action under a plan named the One Florida Initiative. This initiative not only sparked hundreds of protest, but also ignited a march in Tallahassee, Florida's capital. Former state senator and current U.S. Congressman KENDRICK MEEK led this demonstration.

Mr. Speaker, as much as I wish affirmative action was an expired concept from an archaic time, the fact is, it is not. It is still needed. We as a Nation will no longer need affirmative action when we address the inequalities found at the heart of the educational system and corporate America. Then and only then should we discuss its abolishment.

RECOGNITION OF ELIZABETH CLARK

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Elizabeth Clark, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 985, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include, (1) Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, (2) earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, (3) earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, (4) designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and (5) spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Elizabeth created handicapped parking for more than ten city buildings.

Mr. Speaker, I proudly ask you to join me in commending Elizabeth Clark for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

IN HONOR OF DR. SAMUEL GWINN

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to congratulate Dr. Samuel W. Gwinn of Newark, Delaware on his induction into the National 4–H Hall of Fame. His long-time service to the Cooperative Extension and 4–H programs has touched the lives of numerous children in Delaware.

Dr. Gwinn, 83, served as Director of the Delaware Cooperative Extension for 22 years before retiring in 1984. His legacy with 4–H began when he joined the club as a 10-year-old. After participating in the club's activities as a child, he decided to help the club serve the future generations of children. In 1949, Dr. Gwinn established an overnight 4–H camp at Camp Barnes in Frankford, Delaware. To this day, the camp continues to attract hundreds of 4–H campers in the summer. In the 1970's, Dr. Gwinn helped create the Delaware 4–H Foundation that raises money to support 4–H activities for children. Throughout his career of service, Dr. Gwinn has served as a mentor to many colleagues who refer to him as the "Dean of Extension" and "Mr. 4–H."

Dr. Gwinn performed a great service by dedicating his career to enriching and giving back to Delawareans the experience that was given to him. It is people like Dr. Gwinn who ensure that the State of Delaware and the nation will continue to keep the American Dream alive and growing. I am proud to honor Dr. Gwinn's achievements and congratulate him on being the first Delawarean to be inducted into the 4–H Hall of Fame. His recognition, Mr. Speaker, is duly deserved.

PERSONAL EXPLANATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. HYDE. Mr. Speaker, on February 27, 2003, I was unavoidably absent for several rollcall votes, due to influenza and a physician's advice to rest.

Had I been present, I would have voted "nay" on rollcall votes 37 (Greenwood Substitute Amendment) and 38 (Motion to Recommit) and "yea" on rollcall vote 39 (Final Passage of H.R. 534—Human Cloning Prohibition Act).

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall Nos. 29, 30, 31, and 32, on February 13, 2003, I was unable to cast my vote because I was on Speaker-authorized travel with CODEL COLLINS to Kyrgyzstan, Uzbekistan, and Kuwait.

Had I been present, I would have voted the following:

Rollcall 29, the Motion to Recommit on the Personal Responsibility, Work, and Family Promotion Act, I would have voted "nay."

Rollcall 30, on Passage of the Personal Responsibility, Work, and Family Promotion Act, I would have voted "yea."

Rollcall 31, the Motion to Recommit on the Making Further Continuing Appropriations for the Fiscal Year 2003, and for other purposes, I would have voted "nay."

Rollcall 32, on Passage of the Making Further Continuing Appropriations for the Fiscal Year 2003, and for other purposes, I would have voted "yea."

TRIBUTE TO MS. FIFINE GLAWS

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. BONO. Mr. Speaker, along with my colleagues, Representatives JAN SCHAKOWSKY and SILVESTRE REYES, I would like to take this opportunity to honor Cannon elevator operator Ms. Fifine Glaws, who passed away over the President's Day weekend.

Fifine, a native of Boston, followed her family, including three siblings, to the Washington area in 1970. She began work at the Capitol in March 1983.

Each day, for close to 20 years, Fifine would make the trip from her group home in Rockville, MD to the Hill. However, unlike that of many other commuters, Fifine's trek was not an easy one. As her brother, Peter Glaws, told the Washington Post (Feb 20, 2003, page B1), Fifine "faced adversity every day and conquered it every day. . . . She had much less to deal with in terms of capacity and had a very simplistic approach to life—that if you were expected to do something, you did it."

Not only did Fifine do her job, she brought a sense of kindness and consideration to an establishment more used to divisiveness and self-importance. Fifine would never let an opportunity to compliment riders of fifth floor elevator number five pass by. Her customary "You look nice today" would raise spirits and brighten moods even in the darkest of hours.

So often, those of us in the Capitol Hill community rush about our business and don't take a moment to reflect upon how great this institution is. Fifine kept this in mind every day. Her appreciation for her job and the U.S. Congress was second to none.

In an April 21, 1997 interview with the Washington Post, Fifine stated: "I love the congressmen," she said. "They have a lot of work to do and don't always have time to talk. I give them time to work, but I always talk to them. I love my job."

Fifine, we greatly appreciate you for taking the time to talk with us and thank you for a job well done. Our prayers and thoughts are with you and your family. We will miss you greatly.

TRIBUTE TO MICHAEL DURHEN CHRISTIAN

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. CRAMER. Mr. Speaker, I rise today to honor Lieutenant Commander Michael Durhen Christian. Michael was a prisoner of war in Vietnam from April 24, 1967, to March 4, 1973. Today marks the 30th anniversary of his release.

Mike was a highly decorated soldier, touting two Silver Stars, three Bronze Stars, four Air Medals, the Legion of Merit, and the Navy Commendation Medal. But perhaps what Michael is most well known for is the flag he made while in the Hao Lo POW Camp.

In the last year of his imprisonment, Mike began collecting bits of fabric. He fashioned a needle out of bamboo, used the thread from his blanket, and made an American flag that he sewed to the inside of his jacket. Mike's flag was a source of pride and comfort for many of the soldiers. Mike would hold up his flag, and they would salute.

When the guards at the POW Camp eventually found the flag, Mike was beaten and tortured for hours. When he was returned to the cell, Mike immediately gathered his remaining cloth and began to sew again. Leo Thorness, Congressional Medal of Honor recipient and survivor of the Hao Lo POW Camp stated "Now, whenever I see the flag, I think of Mike and the morning he first waved that tattered emblem of a nation. It was then, thousands of miles from home in a lonely prison cell, that he showed us what it is to be truly free."

Mike attended Butler High School in Alabama and still has family in our community. In September 1983, Mike lost his life in a house fire. Mr. Speaker, I am proud to recognize LCDR Christian today. His patriotism and service to this country serve as an example to all Americans.

INTRODUCTION OF BIKE COMMUTER ACT

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. BLUMENAUER. Mr. Speaker, today, Congressman MARK FOLEY and I are introducing legislation to extend commuter benefits to bicyclists. This important legislation includes bicycles in the definition of transportation covered by the qualified transportation fringe benefit.

Currently, employers may offer a Transportation Fringe Benefit to their employees for commuting to work. Employees who take advantage of this program may receive a tax exemption benefit totaling $180 for participating in qualified parking plans or $100 for transit or van-pool expenses. Employees may also opt to take cash compensation instead, which is subject to employment taxes. The Bike Commuter Act would extend these same Transportation Fringe Benefits to employees who choose to commute by bicycle.

It's time to level the playing field for bicycle commuters. Bicycling is one of the cleanest, healthiest and environmentally friendly modes of transportation that exists today. At a time when communities across the country are seeking to reduce traffic congestion, improve air quality, and increase the safety of their neighborhoods, bicycles offer a wonderful alternative to driving for the more than 50 percent of the working population who commute five miles or less to work. The Federal Government should do its part to support these goals by providing transportation benefits to people who choose to commute in a healthy, environmental, and neighborhood-friendly fashion.

According to the Bureau of Transportation Statistics, bicycles are second only to cars as a preferred mode of transportation, demonstrating their potential for commuter use. Many Americans own one or more bicycles, but limit their use to recreational purposes. This legislation is an important step in making the Federal Government a better partner for more livable communities.

LETTER OF RESIGNATION BY JOHN BRADY KIESLING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. STARK. Mr. Speaker I commend to the attention of my colleagues the following letter of resignation written by American diplomat John Brady Kiesling. Mr. Kiesling served in the U.S. State Department as Political Counselor at the American Embassy in Greece before resigning his post on Thursday, February 27—ending twenty years of public service. Mr. Kiesling's letter is an eloquent expression of principal in opposition to war with Iraq and America's heavy-handed approach to foreign policy under the leadership of President Bush.

US DIPLOMAT JOHN BRADY KIESLING,
February 27, 2003.

Secretary of State COLIN L. POWELL,
Letter of Resignation.
ATHENS

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart. The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam.

The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allfes wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials? Has "oderint dum metuant" really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security, and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

LAWYERS COMMITTEE FOR HUMAN RIGHTS ISSUES REPORT ON THE RISE OF ANTISEMITISM IN EUROPE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mr. BERMAN. Mr. Speaker, I rise to commend the Lawyers Committee for Human Rights for producing the report entitled "Fire and Broken Glass: The Rise of Antisemitism in Europe," which underscores the commitment of the Lawyers Committee to speak up against human rights abuses wherever they occur, and whatever form they take.

In the report, the Lawyers Committee states forthrightly that "antisemitism is racism. Antisemitic acts need to be confronted more forcefully and treated as serious violations of international human rights." The Lawyers Committee observes that the responsibility of reporting and confronting antisemitism should not be shouldered by Jewish organizations alone; "their involvement does not relieve governments, the United Nations . . . or private human rights groups of their obligations to address antisemitism as an integral part of their work."

In pointed remarks concerning the failure of European governments to address the problem, executive director Michael Posner writes, "Too often European leaders have downplayed antisemitic acts as inevitable side-effects of the current crisis in the Middle East. We reject this reasoning as an abdication of responsibility. Criticism of Israeli policies and practices is not inherently antisemitic. But when such criticisms and related actions take the form of broadside attacks against 'Jews' or the 'Jewish State,' they become racist."

The report cites recent instances of antisemitism in Europe, laments the failure of European governments to accurately report and engage in action to combat these hate crimes, and makes a series of recommendations for steps the European governments should take. The text of the report follows.

Foreword

A year ago the United Nations convened the third World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, in Durban, South Africa. The conference was intended to highlight particularly serious patterns of racism and racial discrimination around the world and to shape appropriate global responses. The meeting succeeded in raising public attention with respect to some particularly egregious situations—not least the plight of 250 million victims of caste discrimination (among them the Dalits of India—the so-called "broken people," or "untouchables").

Further, the conference provided a long overdue acknowledgment of the criminal nature of slavery ("that slavery and the slave trade are a crime against humanity and should always have been") and recommendations for the repair of its lasting consequences for people of African descent around the globe.

The conference also made clear that racism and racial discrimination need to be placed more squarely on the international human rights agenda. But what was positive in the conference process was seriously undermined when the World Conference itself became the setting for a series of antisemtic attacks. Directed primarily against representatives of Jewish groups, these attacks were fueled by the heated debates at the meeting concerning Israeli practices in the West Bank and Gaza Strip. But the racist anti-Jewish animus displayed represented considerably more than criticism of Israeli policies and practices.

Most of the offensive behavior occurred during meetings of nongovernmental organizations (NGOs) and individual participants in a forum that paralleled the intergovernmental conference. Throughout the five-day NGO forum, antisemitic cartoons and materials were distributed widely and on display, tolerated by the forums's nongovernmental organizers. Representatives from Jewish organizations were denied access to some meetings—either physically excluded or shouted down and attacked when they were present and tried to speak. Efforts to put antisemitism on the nongovernmental agenda were roundly defeated by an assembly of representatives and individual participants in procedures that were neither democratic nor principled.

Rather than serving as a forum for correcting racial and religious intolerance and hate, the public meetings and exhibition halls of the Durban conference became a place where pernicious racism was practiced and tolerated. Important recommendations adopted by the conference despite this environment, with a real potential to advance the fight against antisemitism—and other forms of racism—have as a consequence received inadequate attention. Some of these recommendations, concerning government monitoring and reporting on racist violence, are discussed here.

The outbursts at Durban reflect a growing trend toward antisemitic expression and violence in many parts of the world. As this report makes clear, there is an alarming rise in antisemitic violence in Europe: but it is on the rise in other parts of the world as well. Unfortunately, with the notable exception of Jewish organizations and a number of other human rights and antiracist groups and institutions, the world communiuty—governments, intergovernmental organizations, and nongovernmental organizations alike—has not responded adequately to this growing problem. Antisemitism is racism. Antisemitic acts need to be confronted more forcefully and treated as serious violations of international human rights.

This report highlights the inadequacy of efforts by European governments to systematically monitor and report on antisemitic threats and violence—and to develop effective measures to stop it. We define antisemitism as hatred or hostility toward or discrimination against Jews as a religious, ethnic or racial group. Governments and intergovernmental organizations need to routinely incorporate facts about antisemitic assaults, arson, vandalism, desecration of cemeteries, and the proliferation of antisemitic materials on the internet into a wide range of existing human rights reporting mechanisms. Though some Jewish organizations, like the Anti-Defamation League and the American Jewish Committee, are doing excellent reporting on these issues, their involvement does not relieve governments, the United Nations and its regional organizations, or private human rights groups of their obligations to address antisemitism as an integral part of their work.

In the pages that follow, we outline the scope of antisemitism, in Europe and examine some of the efforts by European governments and institutions to monitor and confront the problem. In our view these efforts are insufficient. Too often European leaders have downplayed antisemitic acts as inevitable side-effects of the current crisis in the Middle East. We reject this reasoning as an abdication of responsibility. Criticism of Israeli policies and practices is not inherently antisemitic. But when such criticisms and related actions take the form of broadside attacks against "Jews" or the "Jewish State," they become racist.

In this report we make a series of recommendations as to how these abuses can better be investigated and reported in the future. These recommendations are intended as a starting point for a much larger discussion about how anti-semitism and other forms of racism can better be addressed as a more central element of the global human rights debate. At the end of last year's Durban meeting, we wrote that "[t]he subjects of this conference are the human rights issues of the 21st century. Racism, racial discrimination, xenophobia and intolerance affect each of us in our own communities. All of us—governments, the UN, NGOs—must find constructive way to discuss and combat these problems."

Events of the last year only underscore the continuing importance of meeting that challenge, and, with regards to antisemitism, history emphasizes the urgency of doing so with force and with vigor. Michael Posner, Executive Director, August 2002.

Fire and Broken Glass—The Rise of Antisemitism in Europe

On July 12, the online wire of the Associated Press included a story out of the Welsh city of Swansea, where a synagogue had been vandalized the night before. According to the story, which was not picked up by any major American newspaper, a group of youths broke into the synagogue, destroyed one of the temple's Torah scrolls, drew a swastika on the wall, and attempted to burn the building down before fleeing.

The Swansea break-in, the second such vandalism of a British synagogue in three months, is being investigated by local authorities as a hate crime—a crime driven by anti-Jewish animus. This desecration of synagogues occurred within a broader pattern of anti-Jewish attacks in Britain and across Europe. In April 2002 alone the Jewish community in Britain reported fifty-one incidents nationwide, most of them assaults on individuals.

Elsewhere in Europe firebombs and gunfire were directed at Jewish targets. At around midnight on March 31, two firebombs were thrown into a synagogue in the Anderlecht district of Brussels, Belgium's capital and the seat of the European Union. The interior of the synagogue was badly damaged. In the previous month, a rash of graffiti had appeared on Jewish owned shops in Brussels declaring "Death to the Jews." On April 22, up to eighteen gunshots were fired at another synagogue, this one in Charleroi.

As gasoline bombs were thrown in Brussels late on Sunday night, March 31, fires still smoldered from a series of attacks across France that weekend. In Strasbourg, the seat of the Council of Europe, the doors to a synagogue were set alight that Saturday; while in Lyon, an estimated fifteen attackers wearing hoods crashed two cars through the main gate of a synagogue earlier the same day and set fires there.

On March 31 alone, a pregnant Jewish woman and her husband were attacked in a Lyon suburb, requiring her hospitalization; a Jewish school in a Paris suburb was badly damaged by vandals; and in Toulouse, shots were fired into a kosher butcher shop. That night, a synagogue in Nice was attacked with a firebomb, and in Marseille attackers set alight and burned to the ground the Or Aviv synagogue. Despite the deployment of police to centers of the Jewish community, the violence in Marseille continued. A week after the synagogue attack, the Gan-Pardess school was set on fire, its windows broken with stones, and its walls daubed with anti-Jewish graffiti.

Anti-Jewish attacks have continued at a high level in France since late 2000, when attacks were reported on forty-three synagogues and three Jewish cemeteries in the last three months of the year alone. A synagogue in the Paris suburb Trappes was burned to the ground, while synagogues were damaged by fire in Villepinte, Clichy, Creil, Les Lilas, and the synagogue in Les Ulis was attacked on three occasions. Then, as now, officials downplayed the racist, antisemitic nature of the attacks, suggesting they were an inevitable side-effect of the crisis in the Middle East, where protests and violence had broken out in what became known as the second intifada.

A surge of anti-Jewish violence in Russia was also a part of the mosaic of racist violence across Europe in 2002. In the incident most widely reported in Western news media, Tatyana Sapunova was badly injured on May 27 by a rigged explosive charge, when attempting to take down a roadside sign near Moscow that declared "Death to Jews." Other booby-trapped signs bearing similar messages were reported elsewhere in the country. In a welcome and unprecedented gesture, Russian president Vladimir Putin honored Tatyana Sapunova for her civic courage in a July 11 ceremony, and condemned racial and religious intolerance.

The incidents in Swansea, Brussels, Strasbourg, Marseille, Moscow, and other European towns and cities earlier this year occurred as a number of organizations worldwide—most prominently the Anti-Defamation League (ADL) in the United States—

have drawn increasing attention, both here and abroad, to the rise of antisemitism in Europe, a problem that appears to be intensifying.

HATE CRIMES—THE INFORMATION DEFICIT

The emphasis of this report is on the proliferation of violence against persons and property in Europe that is driven by anti-Jewish animus—and the failure of governments to accurately report and effectively engage in concerted action to combat this racist violence. In both east and west, European governments have done too little to monitor, report, and act on the many levels required. The failure of some governments in Western Europe to do even basic reporting on hate crimes targeting the Jewish community (and other minorities) is a principal focus of this report. Yet timely, accurate, and public information on racist violence is essential for effective action to suppress such violence.

By addressing only the information deficit that clouds the real scope and nature of antisemitic violence in Europe, the Lawyers Committee for Human Rights does not want to understate the broader issues arising in the fight against antisemitism and other racist intolerance. Yet the educational and other programs required to address antisemitism in the long term can be effective only if accompanied by immediate action to acknowledge and to combat violent criminal acts motivated by anti-Jewish hatred.

Similarly, while this report is about anti-Jewish violence in Europe, its recommendations apply to the broader plague of racist violence that affects many of Europe's minority communities. Racist violence against minorities such as the Roma, and in particular against Europeans and immigrants of North African, Middle Eastern, and South Asian origin, also requires urgent attention by European governments, nongovernmental organizations, and the international community. Accessible disaggregated data is required in order to report accurately on racist violence, to identify particularly vulnerable groups, and to generate effective antiracism measures. The fight against racism should not itself be balkanized, as if in a competition between advocates for each of the groups bloodied by racism. Nor should particularly egregious forms of racism be overlooked.

Europe's extreme nationalist groups show a frightening fervor and consistency—and a disturbing unity—in their promotion of violent antisemitism. The same racist extremists who attack synagogues may also attack Turkish immigrants in Berlin, French citizens of North African origin in Paris, or South Asians in Britain's towns and cities. A similar unity is required of the antiracist effort in Europe to combat this. The rise in violence against Jewish communities across Europe is part of a broader pattern of racist violence—but the severity, pan-European scope, and historical roots of this violence requires particularly urgent attention as a part of this larger effort to combat racism. In view of the calamitous record of antisemitism in Europe, every effort must be made to ensure that this scourge is not permitted to gather momentum again.

The increasing incidence of racially-motivated attacks against Jews and Jewish institutions across Europe has been well-documented by nongovernmental bodies, most notably the ADL, along with the American Jewish Committee (AJC), the Simon Wiesenthal Center (SWC), and the Stephen Roth Institute for the Study of Contemporary Anti-Semitism and Racism at Tel Aviv University. Similarly, the U.S. government has taken notice, with the Helsinki Commission—the American government's liaison agency with the Organization for Security and Cooperation in Europe (OSCE)—holding a high-profile hearing on May 22 to address the issue, and with both the House of Representatives and the Senate subsequently passing unanimous resolutions echoing the Commission's concerns.

Yet, whereas nongovernmental organizations have released a considerable amount of material on the increasing incidence of attacks, many European governments have been less forthcoming in documenting the upsurge in antisemitic violence. The French government, which, for much of early 2002, made few public statements about the rising tide of anti-Jewish violence, has yet to release official statistics on such incidents in 2002. In a June 2002 statement, a French spokesman acknowledged that "A series of inexcusable assaults—physical, material and symbolic—has been committed in France against Jews over the past 20 months," while suggesting this was simply a spill-over of the Middle East conflict into Europe (most of the incidents were laid to "poorly integrated youths of Muslim origin who would like to bring the Mideast conflict to France"). The involvement of extremist nationalist groups in anti-Jewish violence, a longstanding source of antisemitism in France and elsewhere in Europe, has found little reflection in these public statements.

Similarly, the governments of Belgium, Germany, the United Kingdom, and Russia, where a majority of the other attacks have been concentrated, have made public statements condemning the upsurge in violence. But these governments have released little detailed documentation of anti-Jewish violence, and have, according to nongovernmental observers, done too little to abate the rising tide.

Systems for collection, analysis, and reporting information from European capitals differ widely. While most governments release limited information on antisemitic acts, what statistical data is available generally allows only the identification of broad trends. Statistics on registered incidents appear to vastly underestimate the extent of the problem—with some exceptions.

The criteria applied in data collection and statistical analysis and reporting by NGOs also vary widely. In some cases, reporting on antisemitism—and other manifestations of racism—blur criminal acts of violence with incidents of hate speech, a tendency that is echoed in the news media. This notwithstanding human rights organizations and the independent media in Western Europe often report on violent anti-Jewish incidents. Their reporting points clearly to a severe and pernicious rise in this violence that cannot be attributed to any one factor.

Governments, despite periodically adhering to multilateral pledges to combat racism and antisemitism, and acknowledging treaty obligations to do so, find little tangible pressure to undertake close monitoring and reporting. The reality is that public information is required in order to generate the political will to address the problem and to inform decisions on how best to do so.

A PATTERN OF INTIMIDATION AND VIOLENCE

The Swansea incident and others in many parts of Europe are part of a prolonged surge of violent threats and attacks on individuals and community institutions solely because they are Jewish. This racist violence has included physical assaults on individuals—and fire-bombings, gunfire, window smashing, and vandalism of Jewish homes, schools, synagogues and other community institutions. Vandals have desecrated scores of Jewish cemeteries across the region, daubing anti-Jewish slogans, threats, and Nazi symbols on walls and monuments, while toppling and shattering tombstones.

Jews and people presumed to be Jewish have been assaulted in and around centers of the Jewish community, in attacks on Jewish homes, and in more random street violence. Attackers shouting racist slogans have thrown stones at children leaving Hebrew-language schools and worshippers leaving religious services. In street violence attackers shouting racist slogans have severely injured people solely because they were thought to have a Jewish appearance.

How are anti-Jewish, antisemitic acts distinguished from random violence in a violent world? Sometimes the nature of the target alone is sufficient reason to conclude that an arson attack, stone throwing, or other violence is motivated by discriminatory animus (a synagogue or a kosher shop, for example, is set alight; a Jewish cemetery is desecrated). In many cases, even when the target of an attack is less clearly singled out because of a real or imputed Jewish identity, the self-identification of the attackers with neo-Nazi extremist groups, assailants' statements at the time of an attack, expressly anti-Jewish graffiti, or other elements give reason to believe them antisemitic. Such acts are manifestations of both racist violence and religious intolerance, directed at the Jewish people as a whole.

Hate speech—spoken, broadcast and published—provides a motor and a backdrop to anti-Jewish violence. In Europe, this is particularly chilling, as hate speech often involves immediate incitement to racist violence while openly harking back to the racist terror of the Holocaust. Extremist political groups openly endorse the past horrors of the Holocaust or implicitly do so by denying its reality, even where European law makes such statements punishable as crimes.

Threatening racist speech often also provides the immediate context of physical acts of violence. Racist speech may provide evidence of motivation by which some acts of vandalism or related violence can be distinguished from random acts. Thugs who both break windows and daub swastikas on walls make their anti-Jewish animus explicit. Public officials and senior political leaders have themselves made racist anti-Jewish statements, disparaging the Jewish religion and members of this faith as a people. Other public officials remain silent concerning attacks on Jews and symbols of the Jewish community, or attribute racist violence and threats to common crime or political protest.

The resulting environment, particularly where anti-Jewish attacks occur with relative impunity, is a climate of fear and encouragement for further hatred and violence.

Even where public security agencies act promptly to halt and punish anti-Jewish violence—and other violent racist attacks on minorities—they may address this violence as just one aspect of a larger pattern of racist violence and xenophobia. Shamefully, anti-Jewish attacks are too often left largely to the Jewish community itself to document and protest.

THE REGIONAL MONITORING BODIES

Most European governments publish little official information on anti-Jewish and other racist violence, while monitoring and reporting norms vary significantly from country to country. Across the region, there is a paucity of official information concerning individual attacks on the Jewish minority and there is little meaningful statistical data. With some exceptions, detailed statistical information is either not compiled or is compiled without differentiating between attacks on distinct minorities.

In some cases, monitoring and reporting blurs racist violence and offensive speech into a single category. This practice is not limited to European institutions: the Department of State's annual Country Reports on Human Rights Practices often does the same in reporting on antisemitic and other racist "incidents." Considerably more is published by official bodies in the E.U. on racist and intolerant speech, in turn, than on the detail of antisemitic attacks on persons and property.

Concern for improved data collection has frequently been expressed as a necessary step toward the identification of discrimination in public policy, in particular as concerns criminal justice and the equitable provision of public services. Such data is also required to identify government failings to fulfill obligations to protect minority groups against discriminatory action, and in particular violence, by private citizens. The posture of the state toward racist violence against a particular group can be put in the spotlight by disaggregated data on the full spectrum of violent crime—showing in some situations that police condone or encourage private violence against minorities. Impunity for attacks on certain minorities, in turn, can be a factor in the generation of further such violence. Data accurately reflecting the reality of racist violence, by public officials or others, provide crucial benchmarks by which to independently assess the need for remedial action.

Several European intergovernmental institutions were created expressly to monitor and combat racism, and are available to assist governments in the region in the implementation of legislative, criminal justice, educational, and other antiracism measures.

The Council of Europe's European Commission on Racial Intolerance, ECRI, provides a range of ambitious programs intended to make European anti-discrimination norms a reality, including express measures to monitor and combat antisemitic speech and violence. ECRI has one member appointed by each member state, serving in an individual capacity. Its stated aim is "to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights," and it is an effective voice to this end. But it cannot alone compensate for the failings of its member governments.

In its annual report covering the calendar year 2001, ECRI identified racial discrimination—including antisemitism—as a blight on Europe. Of particular concern was "the problem of racist violence which has erupted on several occasions in a number of countries"—a considerable understatement. ECRI stressed "[a] rise in the spread of antisemitic ideas," while deploring a trend in which "[a]cts of violence and intimidation against the members and institutions of the Jewish communities and the dissemination of antisemitic material are increasing in a number of countries." ECRI has not, however, issued a general recommendation on antisemitism.

ECRI's country by country reporting is based on a procedure in which draft reports are submitted on a confidential basis to member governments for discussion and reviewed in the light of this dialogue. The statistical reflection of racist incidents in the country reports is limited by the systems for data collection and dissemination of each of the member governments—even when generally critical conclusions may be drawn. In its March 2000 report on Belgium, for example, ECRI highlighted the absence of official reporting on incidents and complaints of discrimination, while giving little alternative information on the extent of antisemitism—and other forms of racism—resulting in acts of violence in the country:

"The scarce use made of antiracist laws and civil remedies in cases of racial discrimination [is] reflected in the current lack of detailed information on complaints of racist and xenophobic acts, the number of complaints of racial discrimination filed with the courts, the results of the proceedings instituted in these cases and the compensation granted, where appropriate, to the victims of discrimination. ECRI expresses its concern at this situation, since accurate and comprehensive statistics constitute indispensable tools to plan policies and strategies in the fields of combating racism and intolerance and to monitor their effectiveness. It therefore encourages the authorities to develop an adequate system of statistical data to cover the above mentioned areas."

Notwithstanding the noncompliance by Belgian authorities with ECRI's recommendations, unofficial sources reported some 2,000 antisemitic incidents in Belgium in the nine months since the September 11 attacks on the United States (the reports did not distinguish violent crimes from other incidents). As a corollary, there was no reference whatsoever to antisemitism in the Department of State's report on Belgium.

In addition to the failure of governments to report on antisemitic and other racist violence, ECRI has identified the absence of common criteria with which to monitor and report attacks against members of particular minorities as an obstacle to its antiracism work in many parts of the region.

In 1997 the European Union created a new institution, the European Monitoring Centre on Racism and Xenophobia (EUMC), to combat racism, xenophobia and antisemitism in Europe. EUMC, like the Council of Europe's ECRI, has pressed for better data collection, transparency, and analysis of incidents of racist violence by European governments. EUMC has also published comparative surveys of anti-discrimination legislation in member states, prepared by independent experts. In its 1999 annual report, echoing ECRI, it called for special action in the area of information collection, analysis, and dissemination:

"The various reports in Europe on racism in 1999, whether the subject of the national media, the official authorities or NGOs, reveals that no country of the European Union is immune from it. To gain an accurate and comprehensive picture, however, requires a certain degree of uniformity and/or common definition among the Member States on the subject of racial/ethnic minorities and the methods of data collection. At present this does not exist. The EUMC is still therefore lacking a complete set of tools to monitor racism effectively.

"Another important area hampering reporting is that criteria used to draw up statistics differ in the EU Member States."

In its 1999 recommendations, EUMC also stressed the importance of "collecting and publishing accurate data on the number and nature of racist and xenophobic incidents or offences, the number of cases prosecuted or the reasons for not prosecuting, and the outcome of prosecutions." In gathering data at the European level, EUMC encouraged governments to draw upon both their own resources and those of nongovernmental organizations, research bodies, and international organizations. "Statistical, documentary or technical information," in turn, was to be collated in a form facilitating effective courses of action.

In its most recent annual report, published on December 18, 2001, EUMC expressed concern at the continuing crisis of racism in Europe and found that little progress had been made toward systems of consistent and comprehensive monitoring and reporting. Systems of recording racially motivated crimes in police statistics still varied widely between member countries, and under-reporting of violence appeared to be the norm.

In commenting on trends in 2000, EUMC's 2002 report observed that "extensive increases in racial violence," including antisemitic attacks, were reported in France, Germany, Spain, Sweden and the UK. In contrast, "racist crimes" were simply not identified separately in crime statistics from Belgium, Greece, Ireland and Portugal. Statistics reported, in turn, were "challenged by human rights organizations" in some countries, notably in Italy, Spain, and Germany, where police records "are minimal in comparison with statistics collected by NGOs":

"Italian NGOs recorded 259 racist murders between 1995 and 2000, whereas the Italian police authorities recorded not a single case. For statistics on racist attacks, the Italian NGO records show more than ten times as many crimes as the official figures. In Germany the NGOs recorded five times as many racist murders as the police. Racist propaganda or 'incitement to hatred towards ethnic minorities' is well documented by the police authorities in some of the Member States."

As a step to meet the information challenge, EUMC acted to create its own network of monitoring and reporting in member states, with the acronym RAXEN—Reseau européen d'information sur le racisme et la xénophobie (European information network on racism and xenophobia), which began its work in 2000. RAXEN was tasked with defining common criteria for data collection, to be proposed to member governments. But its efforts to this end, and to improve collection, are still at an early stage.

Both ECRI and EUMC, the preeminent European agencies combating racism, have addressed the rise of antisemitism intensively since the year 2000, and addressed some of the difficulties of monitoring and combating these and other racist trends in the region. The sister agencies have made extraordinary efforts toward public education to counter racism and to promote effective measures to criminalize and punish racist acts through the justice system. Harmonization of data collection and dissemination concerning racist acts has been central to the recommendations of both organizations.

The reports published by ECRI and EUMC on racism in member states illustrate the disparities of national reporting on racism in general and on antisemitic expression and violent crime in particular countries. Reporting by the United States government on human rights practices and on religious intolerance around the world, in turn, echoes these failings, often repeating almost verbatim European reports limited largely to generalities, and tending to emphasize often illusory improvement.

Reporting on antisemitism and other forms of racism prepared by nongovernmental organizations often provides detailed information on specific acts of violence and instances of racist expression which serve as a check on government failings. This information, however, is often difficult to interpret on a comparative basis, as the criteria applied to reporting on incidents of different kinds are not always clear or consistent.

The annual reports of EUMC since 1999 have included capsule descriptions of racism and xenophobia in member countries, while stressing the inadequacy of the government reporting on which the system depends. In the 1999 report, detailed references to anti-Jewish violence were uneven, closely reflecting the strengths and weaknesses of member governments' reporting regimes. A section on the United Kingdom, for example, made no reference to antisemitism. In coverage of Germany, in contrast, EUMC reported the desecration of forty-seven Jewish cemeteries in 1999—while stressing that this was an improvement, a decline from the toll a year before. No other reference to expressly antisemitic acts in Germany appeared—as victimized groups were not distinguished clearly in the statistics provided on racist violence.

In its 2002 report, on the year 2000, EUMC provided further detail on antisemitic acts in Germany, noting that the system of data collection there "is broader and more detailed than in many other EU Member States." Police reports on violent crimes "with right-wing extremist motives" totaled 939, "out of which 874 were assaults, 48 arson or bomb attacks, 2 were cases of murder and 15 attempted murders" Twenty-nine violent antisemitic crimes were recorded, including an arson attack on a synagogue in Efurt, and the desecration of fifty-six graves in Jewish cemeteries.

ECRI addressed antisemitism in the United Kingdom only briefly in its second country report, providing no detail apart from an expression of concern at "the occurrence of antisemitic incidents and the circulation of antisemitic literature. . . ." The Department of State's 2002 country report on the United Kingdom, in turn, cited no official sources on antisemitism there. It said only that, the Board of Deputies of British Jews, a nongovernmental organization, had reported 310 "anti-Semitic incidents in 2001, in contrast to 405 in 2000," while stressing that public expressions of antisemitism "are confined largely to the political or religious fringes." No further detail was provided. (The country report was equally vague about attacks on Muslims in the wake of September 11, referring to "isolated attacks . . . throughout the country.")

France has been the object of particular criticism for its response to antisemitism. Some observers have protested that the government responded slowly to the rise of attacks in late 2000, initially advising the Jewish community "to remain quiet and inconspicuous." As noted, antisemitic attacks increased dramatically there, particularly in Paris and its suburbs, with a high level of violence sustained throughout 2001 and into 2002.

Although France was last the object of an ECRI country report in June 2000, ECRI's findings on monitoring and reporting there reflect continuing obstacles to effective antiracism action to counter anti-Jewish attacks. The ECRI report, produced in consultation with the French government, at that time placed antisemitism firmly within a larger millieu of racist intolerance propagated by far right political groups, while stressing that reports of antisemitic violence and harassment had decreased. Citing the findings of the official human rights commission, however, it found that almost half of the total number of acts of intimidation recorded were of an antisemitic character.

The ECRI report did not refer expressly to acts of violence in its breakdown of acts of intimidation. But ECRI highlighted the difficulties posed for monitors in France, where government agencies by law do not distinguish between ethnic or racial groups in their records:

"As noted in ECRI's first report, due to the French Republican egalitarian approach, there is officially no categorization of ethnic or racial groups in statistics. The main categories used are therefore "foreigners" and "citizens", while ethnic monitoring is contrary to the Constitution and expressly prohibited by the Criminal Code. ECRI emphasizes that, given the consequent difficulties to the collection of accurate data on the incidence of racial discrimination as well as on social indicators concerning parts of the French population, a reconsideration of this approach would be beneficial."

EUMC's 1999 reporting on France, in turn, cited only broad statistics from the report of the official National Consultative Commission on Human Rights (Commission Nationale Consultative des Droits de l'Homme, CNCDH), on a rise of "racist and anti-Semitic violence," from 27 incidents in 1998 to 36 in 1999. It said four people were "injured as a result of anti-Semitism." In its annual report for 2000, the EUMC continued to highlight the inadequacies of government reporting. The CNCDH's annual report for 2001 provided statistics as well as detail on some individual cases of antisemitic violence. The commission noted that its statistical findings are based on Ministry of Interior information, which distinguishes "antisemitism from other forms of racism," and that particular attention has been given to antisemitism in particular since the dramatic rise in incidents in late 2000. The statistics, however, are clearly based on only a small set of the most extreme cases of violence during the year.

In the most recent annual report of the CNDCH, released in March 2002 and covering 2001, the commission stressed the gravity of antisemitic violence in France, while apparently reflecting the weakness of the Ministry of Interior's data collection. The report documents just twenty-nine such incidents—all high profile cases, and most involving dramatics attacks on Jewish schools and synagogues. These included fifteen assaults on synagogues and other places of prayer—most involving firebombs—and arson attacks on four Jewish schools. Three incidents of stone throwing at worshippers leaving synagogues were also registered in the chronology included in the report. Just two incidents cited involved physical assaults on individuals. In contrast, nongovernmental organizations reported hundreds of incidents.

Recent actions of the French government, particularly the new interior minister, Nicolas Sarkozy, give some cause for hope. Minister Sarkozy, who met in mid-July with Rabbi Abraham Cooper and Dr. Shimon Samuels of the Simon Wiesenthal Center, vowed that he would do everything necessary to stop criminal attacks against the Jewish community in France, adding that these antisemitic attacks have all been hate crimes. Sarkozy has also vowed to change the culture of the police and has instructed them to deal with these attacks as hate crimes. As part of these measures, his office has reportedly promised to release monthly statistics on all criminal acts in France.

INTERNATIONAL STANDARDS AND IMPLEMENTATION

The building blocks of international human rights law were shaped in the wreckage of World War II and the searing reality of Europe's death camps and racist ideologies. "[D]isregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," declaims the preamble of the Universal Declaration of Human Rights (1948), in introducing its common understanding of the rights and freedoms to be enjoyed by all people. The Universal Declaration has as its bedrock principle the equality of all human beings—and the entitlement of all to fundamental rights and freedoms without discrimination of any kind.

From these foundations the international community crafted tools through which to put into practice the principles of equality and non-discrimination, notably the treaties by which governments accept binding obligations. The International Covenant on Civil and Political Rights, ICCPR (1966) transformed the anti-discrimination principles of the Universal Declaration into treaty law. Article 2 of the ICCPR requires each state party:

"To respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The treaty, to which 148 states are now party, requires governments to report on the measures adopted to give effect to the rights recognized, and established the Human Rights Committee to review these reports. The committee, known as treaty body, issues comments and recommendations on government reports and also issues general comments interpreting the provisions of the covenant. The first Optional Protocol to the ICCPR (with 102 states party) recognizes the competence of the committee to receive and consider individual complaints of violations of rights protected by the covenant by states party to the protocol.

A companion treaty to the ICCPR addresses racial discrimination alone. The International Convention on the Elimination of All Forms of Racial Discrimination, CERD (1996), defines racial discrimination broadly—in consonance with modern questioning of the very concept of race. Racial discrimination:

"Shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on a equally footing, of human rights and fundamental freedom in the political, economic, social, cultural or any other field of public life."

The convention, to which 162 states are party, obliges governments "to nullify any law or practice which has the effect of creating or perpetuating racial discrimination." To this end, it obliges governments to condemn and eliminate racial discrimination by both public officials and private individuals, and to oppose discriminatory practices even in the absence of discriminatory intent.

The interpretation and implementation of the convention lie with the Committee on the Elimination of Racial Discrimination, which receives periodic reports from governments on their implementation of the treaty. General recommendations issued by the committee concerning articles of the convention have provided essential guidance for measures to combat discrimination. Government action as well as inaction can violate obligations under the convention—there is no excuse for complacency or indifference by a government toward either public or private discrimination, particularly when this involves violence.

The provisions of international treaty law barring racial discrimination are further buttressed in Europe by regional human rights instruments, notably the European Convention on Human Rights (1953), and strong European institutions for the protection and promotion of human rights. European commitment to combating discrimination was further reinforced by the adoption of Protocol No. 12 to the European Convention on Human Rights, which was opened for signature on November 4, 2000. There is no lack of a legal foundation for strong governmental measures to halt and deter anti-Jewish violence and violence against Europe's other minorities. European governments and intergovernmental bodies have acknowledged, however, that further national and regional initiatives are required to impel stronger protections in practice.

European nations made a strong commitment to the improvement of national and international efforts to document and respond to patterns of racist violence and expression in the regional conference held in Strasbourg in October 2000 in preparation for the World Conference Against Racism, Xenophobia, and Related Intolerance. The commitments made in the European Conference against Racism highlighted the link between effective measures to combat antisemitism—and other forms of racism—and comprehensive monitoring and reporting of racist incidents.

The European Conference, for example, recommended the collection and publication of data on the number and nature of racist, xenophobic, or related incidents or offenses or suspected "bias crimes" as a building block of measures to combat racism. It further called for data to be collected and published on the number of cases prosecuted, and the outcome—or the reasons for not prosecuting. The Strasbourg forum also stressed the need for data to be broken down to include information on the race, ethnicity, or descent (and gender) of the persons reported harmed. The information required, in turn, was to be collected in accordance with human rights principles, and protected against abuse through data protection and privacy guarantees.

The European Conference also highlighted the scourge to antisemitism as meriting particular attention, stating in its conclusions:

"The European Conference, convinced that combating antisemitism is integral and intrinsic to opposing all forms of racism, stresses the necessity of effective measures to address the issue of antisemitism in Europe today in order to counter all manifestations of this phenomenon."

The Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, also declared solemnly in the General Report of the European Conference that "racism, xenophobia, antisemitism, and intolerance pose a mortal danger to human rights," and singled out the advocates of discrimination as a particular concern. The statement observed that the "very dangerous game" of "seeking out and pinpointing scapegoats," and fueling the "hatred of difference" finds particular expression in antisemitism:

"[T]here are those who use antisemitic prejudice, whether implicitly or openly, to further their political interests. We are all aware of the destructive effects of anti-Semitism on democracy. We cannot divorce the fight against anti-Semitism from the fight against all forms of racism, for it is one and the same struggle."

Many of the Strasbourg meeting's recommendations were ratified and elaborated upon in the program of action agreed upon at the World Conference in Durban—a slate of useful recommendations that emerged despite the acrimony of the final stage of the conference process. Recommendations for action at the national level to combat racist violence, for example, included: "Enhancing data collection regarding violence motivated by racism, racial discrimination, xenophobia and related intolerance." The means to this end were elaborated at length in a section on "data collection and disaggregation, research and study," in which the conference urged governments:

"To collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;"

The full text of this section of the World Conference program of action is included as an appendix to this report.

The Durban action document also reminded governments of their reporting requirements at the international level—as parties to the Convention on the Elimination of All Forms of Racial Discrimination. This included both periodic reporting to the committee, and reporting on progress made to respond to the recommendations of the committee. To this end, governments were encouraged "to consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow up on [the commission's] observations and recommendations."

The impact of the practical recommendations made in Strasbourg and in the final documents of the World Conference itself has been severely undermined by the backwash of post-Durban recriminations. To a large extent they remain unread outside small circles of relevant technical staff in United Nations and regional antiracism programs. Yet their relevance in the fight against antisemitism and other forms of racism may ultimately be shown at the national level, as important contributions to public policy development.

ADDRESSING THE INFORMATION DEFICIT

The Lawyers Committee for Human Rights has identified several important steps to improve the recognition and reporting of anti-Jewish violence, and recommends that governments:

Acknowledge at the highest level the extraordinary dangers posed by antisemitic violence in the European context;

Establish clear criteria for registering and reporting crimes motivated by racial animus, sometimes described as bias crimes or hate crimes;

Make public reports of racially motivated crimes through regular and accessible reports;

Distinguish clearly in reporting between acts of violence, threatening behavior, and offensive speech;

Make transparent government norms and procedures for registering and acting upon racially motivated crimes and offenses;

Cooperate fully with Europe's regional inter-governmental organizations charged with combating racism, xenophobia, and antisemitism, and with the human rights mechanisms of the United Nations; Cooperate fully with nongovernmental organizations concerned with monitoring and taking action against racist violence and intimidation.

The Lawyers Committee believes there is an important role for the United States to play in encouraging its European allies of the Council of Europe, the European Union, and the member countries of the Organization for Security and Cooperation in Europe to improve their monitoring and public reporting of antisemitic acts and other forms of racist violence.

In pursuing this goal, the United States should also improve its own reporting and action on racist violence world-wide. To this end, the standards of the Department of State's annual Country Reports on Human Rights Practices, and in particular the Annual Report on Religious Freedom should be raised in order to report more accurately and comprehensively on antisemitism in Europe and on government actions and omissions in addressing this scourge. These reports should not simply accept that a lack of official government information on antisemitic violence is the whole story; nor should they reflect clearly misleading reporting from official sources without balancing this with reports from nongovernmental organizations. Particular care should be taken not to emphasize only vague improvement when the basis for such an analysis can not be quantified.

To this end, Congress should insist that staffing and resources be reinforced in the Department of State's Bureau of Democracy, Human Rights, and Labor, and that the Bureau's guidelines for preparing these reports require an accurate reflection of the nature and patterns of racist violence and of government actions to combat them.

HOUSE OF REPRESENTATIVES—*Wednesday, March 5, 2003*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

In Your mercy, Lord, look upon the House of Representatives and hear our prayer. As many Christians enter a spring penitential season of prayer and fasting, all are reminded that we seemingly come from nothingness and soon return to the dust of the Earth. Life is short. Each of us has limited time before You to prove oneself a contributor of goodness or a drain on society. By Your Spirit, move us to repentance for our sins and to learn from our mistakes of the past.

As people of faith, may we live what we believe and hold ourselves accountable to all those we love and serve by our deeds. May each day, all life long, deepen our conversion of heart; for in Your light we see light now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. NADLER) come forward and lead the House in the Pledge of Allegiance.

Mr. NADLER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 111. An act to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes.

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 210. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

S. 214. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

S. 233. An act to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System.

S. 254. An act to revise the boundary of the Kaloko-Honokōhau National Historical Park in the State of Hawaii, and for other purposes.

COMMEMORATING 1-YEAR ANNIVERSARY OF THE MASSACRES IN GUJARAT, INDIA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to commemorate the 1-year anniversary of the massacres in Gujarat, India, by Hindu extremists and extend my sympathies to those families who have suffered so terribly at the hands of the extremists.

Extremism is on the rise in a number of countries including India where leading figures and officials have directly or indirectly supported attacks against and massacres of moderate Muslims, Dalits, also called "untouchables," Christians, and other minorities. The perpetrators of these crimes must be brought to justice.

I have a number of excellent reports here and in my office from human rights organizations like Human Rights Watch, ASSIST, Amnesty International, local Indian NGOs detailing the attacks in Gujarat; and I urge Members to read these reports, respond to the issues facing the people of India today. We must support those who would further democracy and the rule of law and freedom in India, not stifle and suppress it; and these violent extremists must be brought to justice.

OPPOSITION TO SECTION 418 IN THE SOCIAL SECURITY PROTECTION ACT

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Madam Speaker, I rise in opposition today to the provision of section 418 within H.R. 743, which would have closed a so-called "loophole" relating to the government pension offset. Since this provision was not removed from the measure, I am forced to oppose this entirely.

The government pension offset unfairly reduces the retirement benefits of public employees, our teachers who have dedicated their lives to serving their communities and our children. Many of those impacted expect to receive the Social Security benefits their spouses earned and often remain unaware of the offsets until they reach retirement age. Educators are shocked to learn that their decision to enter the education profession, often at a considerable financial sacrifice, has caused them to also lose the benefits that they had counted on. The resulting loss of income forces some into poverty and desperation.

I ask that we vote "no" on H.R. 743.

FAMILY CARE TAX CREDIT ACT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Madam Speaker, providing help to our working families is one of the main reasons I am in Washington today. I am proud of what we have accomplished, partial elimination of the marriage tax penalty, as well as expansion of the child tax credit; but I believe we should go a step further.

Currently, we give tax credit to families who pay for day care and other services, but families who have a parent taking care of their children are left on their own. That is why I have introduced the Family Care Tax Credit Act to give a fair and balanced approach to the child care tax credits by giving help to all middle-class families of children. Many parents in Kansas tell me that they would like to stay home with their children or to care for a loved one, but they cannot overcome the financial barriers caused by this tax bill. My plan would simply remove one of those barriers.

President Bush's economic stimulus package is a good start, but I think we could and should do more.

EXPANDED AND IMPROVED MEDICARE FOR ALL ACT

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, today the New York Times reported that 75 million people went without health insurance in 2001 or 2002. Our failing economy and rising health care costs are failing working families who make up the majority of uninsured Americans. While costs continue to go up, we are not getting what we are paying for. Government expenditures has accounted for 60 percent of total U.S. health care costs. Our government spends more money per person than countries that provide universal health care. Our citizens are so close to paying for a universal health care system, but so far from getting it.

The gentleman from Michigan (Mr. CONYERS) and I have introduced a bill to ensure that all Americans have access to a universal high standard of medical care. This bill, Medicare for All, would help patients get the health care they need. It would help physicians, nurses, and other health professionals to get back to practicing medicine instead of filling out paperwork. I encourage my colleagues to cosponsor H.R. 676, a bill to finally bring universal guaranteed quality health care to all Americans.

A TRIBUTE TO AN AMAZING MAN FROM LAKELAND, FLORIDA

(Mr. PUTNAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUTNAM. Madam Speaker, I rise today to honor an extraordinary man, a man who lived to see his wish come true. Lakeland's John McMorran, who passed away as the oldest-living American at the ripe old age of 113, got his wish to live in 3 centuries.

John McMorran, the fourth-oldest living person in the world, was born in a log cabin in Port Huron, Michigan, on June 19, 1889, the same year the Eiffel Tower was built. In 1990 he moved to Lakeland in my district to be near his family. The son of farmers, he held a variety of jobs until he retired at 84. He worked at a Detroit munitions factory earning a dollar a day during World War I. Kind, happy, hard working, well put together were just some of the words used to describe him. He is survived by a vast network of family and friends who loved him.

Madam Speaker, I believe John McMorran said it best himself. When asked what his secret was to long life, he responded by saying: "I drink a cup of coffee before every meal and I stay away from cheap whiskey."

God bless John and his family, Madam Speaker.

DOMESTIC VIOLENCE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, I rise today to discuss a silent, yet deadly, epidemic facing the country: domestic violence. Every 9 seconds a woman is battered in the United States. In 2001, 80,000 women and children in New York State alone requested help from domestic violence programs, and these were only the documented cases. Many more cases go unmentioned as women, fearing to come forward, leave the assaults unreported.

The most common form of domestic abuse is physical: but many men abuse their wives and partners emotionally, sexually, and economically; and women are not the only victims. Between 3.3 and 10 million children annually witness the abuse that occurs between their parents, and so the domestic violence cycle is passed on from generation to generation.

For many years domestic violence has been viewed as a woman's problem, but that is not the case. Domestic violence is a woman's problem, a man's problem, the community's problem. The time is long overdue for men to take a stand and say that domestic violence is unacceptable. We must have full funding for the Violence Against Women Act to protect women who are victims. The President has said so, but his 2004 budget proposes a $19 million cut in funding for domestic violence. We demand full funding for the Violence Against Women Act. We commend the groups who work so tirelessly to extend this message.

HONORING C.M. WILLIAMS

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I rise today honoring an exceptional public servant from the Commonwealth of Virginia, Mr. C.M. Williams. Mr. Williams has served in local government for 40 years and as Stafford County administrator, a county with a population of more than 100,000, since 1984.

Mr. Williams has used his position well for the benefit of the Virginians that he serves. For example, he played a key role in preserving Virginia's historic treasures as executive officer of the George Washington Boyhood Home Foundation. Additionally, Mr. Williams was instrumental in obtaining funding for the Stafford Regional Airport, as well as in establishing the James Monroe Center for Graduate and Professional Studies at Mary Washington College.

Mr. Williams has long been a notable public servant and citizen, even serving as president of the Virginia Association of County Administrators. I commend him for his dedication to Virginia and wish him well in all that he pursues as he steps down to enjoy retirement.

DOMESTIC VIOLENCE

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP of New York. Madam Speaker, I rise today to speak about the importance of fully funding the Violence Against Women Act of 2000, otherwise known as VAWA.

Domestic violence is a crisis that plagues far too many families in our communities. In New York State alone, the State division of criminal justice service has received 55,558 police reports of family domestic violence offenses in 1999. This alarming number reflects only the incidences where a police report was actually filed. Domestic violence knows no boundaries, crossing all economic, race, and other barriers to disrupt families.

VAWA funds critical programs that assist millions of battered women and children nationwide. Congress took the right steps last year by fully funding the VAWA programs administered by the Department of Justice; however, several critical programs in the Department of Health and Human Services were funded at amounts well below what was needed and what was authorized in VAWA 2000. Some VAWA programs were not funded at all. We just found out that the President's fiscal 2004 budget would cut $19.2 million from crucial VAWA programs. I urge my colleagues to join me in opposing these cuts. At a time when States face a looming budget crisis and a broad spectrum of important programs are slated for funding cuts, I believe that we owe it to families caught in the devastating cycle of domestic abuse to fully fund all VAWA programs.

SUPPORTING THE SOCIAL SECURITY PROTECTION ACT

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARRETT of New Jersey. Madam Speaker, I rise today in support of H.R. 743, the Social Security Protection Act of 2003. This is a piece of legislation that strengthens Social Security for all those hard workers who have worked their entire lives paying their payroll taxes and protects those beneficiaries who rely on others to manage their affairs and their benefits. Our Nation's retirement system gives economic security to those hard workers, and they deserve a secure retirement system. Therefore, as Members of Congress, one of our first priorities must be to protect and ensure that Social Security benefits are there for our seniors.

☐ 1015

Thankfully, this piece of legislation does just that. Many beneficiaries, it seems, are unable to manage their own affairs and depend on other representatives to take care of them for it. Unfortunately and sadly, there are others that are not so reputable and considerate in taking care of those affairs, and therefore, we are fortunate indeed to have H.R. 743, which will crack down on the wrongdoings and strengthen oversight and enhance penalties and collection for the benefits misuse.

If we are going to ensure Social Security and the promises of Social Security to our seniors, we must enact this legislation for our future benefits for our seniors of this Nation.

A SAFEPLACE FOR AMERICANS WITH DISABILITIES PROVIDING MUCH-NEEDED SERVICES

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Madam Speaker, for over 25 years, a concerned group of Austinites now operating as SafePlace have delivered invaluable services to victims of domestic violence. Special thanks go to Kelly White for her leadership and to Laura Wolf for her development work during these tough economic times.

I joined them yesterday here in the Capitol to hear the moving words of Kimberley Wisseman and announce the involvement of SafePlace with the Office for Victims of Crimes in expanding services across the country at 10 different sites, from Tucson to Worcester, to assist individuals with disabilities, who have about twice the rate of victimization from domestic violence as those who are without disabilities.

Despite our concerted efforts to address domestic violence, the Department of Justice reported just last week that there were almost 600,000 cases of violence against women in America during 2001. Of these, at least one in five involve domestic violence. That is why it is so very important that we here in Congress act to provide full federal funding under the Violence Against Women Act to support local efforts like SafePlace, to give them the resources to both counsel and assist those who are victims of domestic violence, but, equally important, to prevent it in the future.

END DOUBLE TAXATION OF DIVIDENDS

(Mr. CHOCOLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHOCOLA. Madam Speaker, President Bush said in his State of the Union address, "The best and fairest way to make sure that Americans have more money is not to tax it away in the first place."

Fundamental tax reform will allow all Americans to keep more of their own money instead of sending it to Washington, and abolishing the double tax on dividends is an important first step.

Under current tax law, income earned by corporations is taxed twice, both at the corporate level and the individual level. Ending the doubling taxation of dividends would benefit millions of Americans who invest in successful companies, either directly or through retirement accounts like IRAs.

Eliminating this extra tax burden will provide $20 billion in tax relief to Americans this year alone, resulting in higher levels of economic output and job creation, again starting this year.

Fixing this flaw in the Tax Code is particularly good for seniors. Almost half of all savings from the dividend exemption would go to taxpayers 65 and older. The average savings for the 9.8 million seniors receiving dividends would be $936.

Madam Speaker, it is fair to tax companies profits. It is unfair to tax that profit again when it is distributed to individuals. For the good of our economy and the good of all Americans, Congress should move quickly to end the double taxation of dividend income.

RECOGNIZING THE SECOND ANNUAL STOP VIOLENCE WEEK IN WASHINGTON

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today in support of those fighting domestic violence in our communities.

Historically we have viewed domestic violence as a woman's issue, and statistics tend to support that school of thought. Nearly one-third of American women report being physically or sexually abused by a husband or boyfriend at some point in their lives, every 2 minutes a woman is raped in the United States, and more than 500,000 women are stalked every year.

But as we all become more educated on the causes and the effects of such actions, we realize that this is a problem that is not gender-biased, but one that touches every aspect of our society. It affects families, children, friends and even coworkers.

More and more, men are joining the voices in the fight against domestic violence, and I applaud them for having the insight to understand that this is more than a woman's issue and that it is everybody's responsibility. And I applaud organizations like the National Coalition Against Domestic Violence for continuing to raise awareness of this issue and for all who join them to protect women across this country and in the world.

STOP VIOLENCE WEEK IN WASHINGTON

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, I rise in support of the Stop Violence Week in Washington.

The Violence against Women Act has rescued countless women from the vicious cycle of family violence, but there is so much more to be done. That is why we cannot abandon our commitment to protecting women from domestic abuse and sexual assault here at home and around the globe. We cannot let the campaign to wage war with Iraq drown out our war against domestic violence and sexual assault.

While the world we live in today seems to be constantly changing, too many women, both in and outside the United States, continue to spend their days living in fear and wondering what might happen to them if they even try to end their abusive relationships. These women are counting on us to fund the programs to ensure that they have access to the emotional and legal support services needed for victim recovery. To forget their needs is not an option.

SUPPORT THE HOMETOWN HEROES SURVIVOR BENEFITS ACT

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Madam Speaker, our Nation's firefighters, law enforcement officers and EMS workers are truly our hometown heroes. When we call them, they risk their lives for all of us.

The Federal Public Safety Officers Benefit provides the families of public safety officers who are killed in the line of duty with a one-time financial benefit. Yet too often the families of public safety officers who are killed by or die of a heart attack or stroke while performing their duties are denied these benefits.

Last week, with the gentleman from Pennsylvania (Mr. WELDON), the gentleman from Maryland (Mr. HOYER) and over 70 of my colleagues, I reintroduced this Hometown Heroes Survivor Benefit Act to correct this technicality in the law. H.R. 919 is a bipartisan bill to provide the benefits to the families of public safety officers who are killed by heart attack or stroke while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation.

Madam Speaker, this is exactly the type of bipartisan legislation that should pass this House, and I urge all my colleagues to join me in honoring our hometown heroes by supporting H.R. 919.

COME HOME TO AMERICA

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Madam Speaker, today I join with a number of concerned shareholders to encourage Tyco to come home to America. Formerly a resident of New Hampshire, Tyco renounced its U.S. corporate citizenship in 1997 and left for Bermuda. For many of these corporate expatriates, the sunny climate of Bermuda is not the main draw; it is the lacks regulatory structure and the low taxes that lure these former U.S. companies to island tax havens.

For Tyco, it has meant the ability to avoid $400 million in U.S. taxes. Joint Tax has estimated that if all these corporate expatriates were to pay their Federal income taxes again, as legislation I have filed would require, listen to this, we would save $4 billion in tax revenue.

Certainly, as we discuss the "shared sacrifices" during a wartime economy, should these corporations not contribute as well? We are sending our children, men and women off to Iraqi shores, and we are asking these corporate patriots to go to Bermuda?

Today, Madam Speaker, I urge shareholders to approve proposal article number 7, despite the opposition of Tyco's management, and, Madam Speaker, I urge the Republican leadership to bring up my bill, the Corporate Patriot Enforcement Act, so we can tell all of these corporate expatriates, come home to America.

DOMESTIC VIOLENCE AND WELFARE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, I rise today to speak about the need to address domestic violence against women within the context of our welfare system.

One in every three welfare recipients has experienced domestic violence in the 12 months prior to receiving welfare assistance. Making women choose between financial security and physical safety is appalling. The provisions in the bill which urge marriage and have programs to get people married, which will encourage some women either to stay in a abusive relationship or marry an abuser, is not the way welfare should be moving for economic security. This is no way to promote that.

Women have the right to financial stability and physical safety for themselves and for their children. Welfare's means for promoting success and economic stability should come through education and training and other responsible ways.

Education is the number one predictor of future opportunities in the work force. We should be putting our limited and valuable resources toward these proven vehicles of helping women, instead of throwing it away on unproved programs to urge people to get married. There is no question we are going to put more women in harm's way with those kinds of programs.

DEDICATE RESOURCES TO ENDING ALL VIOLENCE AGAINST WOMEN

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHAKOWSKY. Madam Speaker, you will hear throughout this Stop Violence Week the horrifying statistics of how many women are abused by their partners in their own homes, how many women are raped by men that they know, and how many women and girls worldwide face violence on a daily basis. Yet, despite this crisis at home and abroad, the administration's budget cuts funding for Violence Against Women programs by nearly $20 million.

There continues to be no funding for transitional housing for victims who are fleeing violence and need services and support to get back on their feet. The Department of Justice has yet to establish a strong and independent Violence Against Women Office, despite the fact that Congress passed legislation in the last Congress requiring this. And now the Attorney General wants to establish new regulations making it harder for women who face gender-based persecution in their countries to seek asylum in the United States.

We must work hard to end all violence against women, and it is time that we dedicate the resources needed to achieve this goal.

RESTORE CUTS MADE TO VIOLENCE AGAINST WOMEN ACT PROGRAMS

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, I rise today to illustrate the great necessity for services to victims of domestic violence and sexual assault.

According to the Department of Justice, every year in the United States, 4.9 million people are victimized by their intimate partners. In order to break free of violence, these victims seek assistance through the National Domestic Violence Hotline, local shelter programs, rape crisis centers and transitional housing programs.

The Violence against Women Act of 2000, VAWA, authorized funding for these essential programs. In his State of the Union address, the President listed domestic violence services as important and worthy of Federal funding. Yet the President's 2004 budget cuts over $19 million from VAWA programs. This cut may seem minimal. However, for victims of domestic violence it could mean the literal difference between life and death.

I stand before you today and ask that Congress restore the cuts made to the VAWA programs in the President's budget in order to preserve essential services to victims of domestic violence and their children. Without full funding for these programs, women's lives are literally in jeopardy.

FIGHTING HEART DISEASE

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Madam Speaker, this is Women's History Month, where we underscore the contributions of women across this world, and we also underscore, Madam Speaker, the challenges that women face.

My subject matter this morning, Madam Speaker, is about heart disease. Cardiovascular disease is the Nation's leading killer among men and women of all racial backgrounds. Approximately 1 million Americans die of cardiovascular disease every year.

□ 1030

It is estimated that cardiovascular disease cost Americans almost $330 billion in 2002 for cardiovascular disease-related medical costs and disability.

In the United States, twice as many women die of heart disease and stroke as all forms of cancer, including breast cancer. In my home State of Indiana, a study was conducted regarding heart disease in women during 1991 through 1995. Findings revealed that close to 45,000 women in Indiana died from diseases of the heart during the study period. Overall, close to 85,000 people in

Indiana died from diseases of the heart during the last 5 years.

I was delighted to participate in the Sister to Sister Women's Heart Day on Capitol Hill. It is the kind of information, education, and support that we all need.

THE JOURNAL

The SPEAKER pro tempore (Mrs. MYRICK). Pursuant to clause 8, rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 39, not voting 22, as follows:

[Roll No. 43]

YEAS—373

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
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Barrett (SC)
Bartlett (MD)
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Berry
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Bilirakis
Bishop (GA)
Bishop (NY)
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Blackburn
Blumenauer
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Boucher
Boyd
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Brown (OH)
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Burgess
Burns
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Camp
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Cantor
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Carter
Case
Castle
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Clyburn
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Cole
Collins
Combest
Conyers
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Cramer
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Culberson
Cummings
Cunningham
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Davis, Tom
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Dooley (CA)
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Doyle
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Dunn
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Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
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Gallegly
Garrett (NJ)
Gerlach
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Gingrey
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Gordon
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Hall
Harman
Harris
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Hinchey
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Hoekstra
Holden
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Hostettler
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Hoyer
Hulshof
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Kingston
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Knollenberg
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Latham
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Leach
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Lewis (CA)
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Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
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McCollum
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McInnis
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Payne
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Petri
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Portman
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Pryce (OH)
Putnam
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Rahall
Rangel
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Rehberg
Renzi
Reyes
Reynolds
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Rothman
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Rush
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Ryan (WI)
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Simpson
Skelton
Slaughter
Smith (MI)
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Spratt
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Stearns
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Tanner
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Thornberry
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Tierney
Toomey
Towns
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Upton
Van Hollen
Velázquez
Vitter
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Watson
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Moran (KS)
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Oberstar
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Peterson (MN)
Ramstad
Rodriguez
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DeLay
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Grijalva
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Oxley
Rogers (AL)
Sanders
Snyder
Stupak
Sweeney
Terry
Waters
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MYRICK) (during the vote). The Chair would remind all Members there are less than 2 minutes remaining in this vote.

□ 1052

Mr. WU changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. ALEXANDER. Mr. Speaker, on rollcall No. 43, the Approval of the Journal, had I been present, I would have voted "yea."

Mr. CARDOZA. Mr. Speaker, on rollcall No. 43, I was unavoidably detained during the rollcall vote. Had I been present I would have voted "yea."

Mr. GRIJALVA. Mr. Speaker, on rollcall No. 43, I was in committee mtg. Had I been present, I would have voted "yea."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

ELECTION OF MEMBER TO COMMITTEE ON ARMED SERVICES

Ms. DELAURO. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 123) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 123

Resolved, That the following named Member be and is hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON ARMED SERVICES: Mr. Ruppersberger (to rank immediately after Mr. Alexander).

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Armed Services:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective March 5, 2003, I hereby take a leave of absence from the

Committee on Armed Services due to my appointments to the Permanent Select Committee on Intelligence and the Committee on Government Reform.

Sincerely,

C.A. DUTCH RUPPERSBERGER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. DELAURO. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 124) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 124

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON ARMED SERVICES: Mr. Ryan of Ohio (to rank immediately after Mr. Alexander).

(2) COMMITTEE ON EDUCATION: Mr. Bishop of New York (to rank immediately after Mr. Ryan of Ohio).

(3) COMMITTEE ON FINANCIAL SERVICES: Mr. Sanders (to rank immediately after Ms. Waters).

(4) COMMITTEE ON GOVERNMENT REFORM: Mr. Sanders (to rank immediately after Mr. Kanjorski), Mr. Cooper (to rank immediately after Ms. Norton).

(5) COMMITTEE ON RESOURCES: Mr. George Miller of California, Mr. Markey, Mr. Hinojosa, Mr. Rodriguez, Mr. Baca, Ms. McCollum.

(6) COMMITTEE ON SCIENCE: Mr. Cardoza (to rank immediately after Mr. Matheson), Ms. Jackson-Lee of Texas (to rank immediately after Mr. Davis of Tennessee), Ms. Lofgren (to rank immediately after Ms. Jackson-Lee of Texas).

(7) COMMITTEE ON SMALL BUSINESS: Mr. Faleomavaega (to rank immediately after Mr. Ballance), Ms. Linda T. Sánchez.

Ms. DELAURO (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. SHAW. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance the program protections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Protection Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.
Sec. 102. Oversight of representative payees.
Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year or fleeing prosecution, custody, or confinement.
Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.
Sec. 105. Liability of representative payees for misused benefits.
Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

TITLE II—PROGRAM PROTECTIONS

Sec. 201. Civil monetary penalty authority with respect to knowing withholding of material facts.
Sec. 202. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.
Sec. 203. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.
Sec. 204. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.
Sec. 205. Refusal to recognize certain individuals as claimant representatives.
Sec. 206. Penalty for corrupt or forcible interference with administration of Social Security Act.
Sec. 207. Use of symbols, emblems, or names in reference to social security or medicare.
Sec. 208. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.
Sec. 209. Authority for judicial orders of restitution.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.
Sec. 302. Extension of attorney fee payment system to title XVI claims.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.
Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.
Sec. 404. Availability of Federal and State work incentive services to additional individuals.
Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.
Sec. 412. Nonpayment of benefits upon removal from the United States.
Sec. 413. Reinstatement of certain reporting requirements.
Sec. 414. Clarification of definitions regarding certain survivor benefits.
Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.
Sec. 416. Coverage under divided retirement system for public employees in Kentucky.
Sec. 417. Compensation for the Social Security Advisory Board.
Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.
Sec. 422. Technical correction relating to retirement benefits of ministers.
Sec. 423. Technical corrections relating to domestic employment.
Sec. 424. Technical corrections of outdated references.
Sec. 425. Technical correction respecting self-employment income in community property States.

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42

U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

"(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).".

(2) Misuse of benefits defined.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.".

(b) Title VIII Amendments.—

(1) Reissuance of benefits.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(1) is not an individual; or

"(2) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).".

(2) Misuse of benefits defined.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

"(j) Misuse of Benefits.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.".

(3) Technical amendment.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking "for his or her benefit" and inserting "for his or her use and benefit".

(c) Title XVI Amendments.—

(1) Reissuance of benefits.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: "In any case in which a representative payee that—

"(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

"(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).".

(2) Exclusion of reissued benefits from resources.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking "and" at the end;

(B) in paragraph (13), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.".

(3) Misuse of benefits defined.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

"(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.".

(d) Effective Date.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) Certification of Bonding and Licensing Requirements for Nongovernmental Organizational Representative Payees.—

(1) Title II amendments.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in paragraph (9))";

(B) in paragraph (3)(F), by striking "community-based nonprofit social service agencies" and inserting "certified community-based nonprofit social service agencies (as defined in paragraph (9))";

(C) in paragraph (4)(B), by striking "any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee" and inserting "any certified community-based nonprofit social service agency (as defined in paragraph (9))"; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

"(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.".

(2) Title XVI amendments.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking "a community-based nonprofit social service agency licensed or bonded by the State" in subclause (I) and inserting "a certified community-based nonprofit social service agency (as defined in subparagraph (I))";

(B) in subparagraph (D)(ii)—

(i) by striking "or any community-based" and all that follows through "in accordance" in subclause (II) and inserting "or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance";

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking "subclause (II)(bb)" and inserting "subclause (II)"; and

(C) by adding at the end the following new subparagraph:

"(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.".

(3) Effective date.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) Periodic Onsite Review.—

(1) Title II amendment.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

"(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

"(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

"(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

"(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(i) the number of such reviews;

"(ii) the results of such reviews;

"(iii) the number of cases in which the representative payee was changed and why;

"(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(v) the number of cases discovered in which there was a misuse of funds;

"(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

"(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(viii) such other information as the Commissioner deems appropriate.".

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

"(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

"(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

"(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

"(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

"(A) the number of such reviews;

"(B) the results of such reviews;

"(C) the number of cases in which the representative payee was changed and why;

"(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(E) the number of cases discovered in which there was a misuse of funds;

"(F) how any such cases of misuse of funds were dealt with by the Commissioner;

"(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(H) such other information as the Commissioner deems appropriate.".

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

"(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

"(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

"(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

"(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

"(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

"(I) the number of the reviews;

"(II) the results of such reviews;

"(III) the number of cases in which the representative payee was changed and why;

"(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

"(V) the number of cases discovered in which there was a misuse of funds;

"(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

"(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

"(VIII) such other information as the Commissioner deems appropriate.".

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

"(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

"(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and";

(2) in subparagraph (B), by adding at the end the following new clause:

"(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 202(x)(1)(A)(iv),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.";

(3) in subparagraph (C)(i)(II), by striking "subparagraph (B)(i)(IV),," and inserting "subparagraph (B)(i)(VI)" and striking "section 1631(a)(2)(B)(ii)(IV)" and inserting "section 1631(a)(2)(B)(ii)(VI)"; and

(4) in subparagraph (C)(i)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

"(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

"(V) such person is person described in section 202(x)(1)(A)(iv).".

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(E) obtain information concerning whether such person is a person described in section 804(a)(2); and";

(2) in subsection (b), by adding at the end the following new paragraph:

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(A) such person is described in section 804(a)(2),

"(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(C) the location or apprehension of such person is within the officer's official duties."; and

(3) in subsection (d)(1)—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

"(E) such person is a person described in section 804(a)(2).".

(c) Title XVI Amendments.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

"(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

"(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and";

(2) in clause (iii)(II)—

(A) by striking "clause (ii)(IV)" and inserting "clause (ii)(VI)"; and

(B) by striking "section 205(j)(2)(B)(i)(IV)" and inserting "section 205(j)(2)(B)(i)(VI)";

(3) in clause (iii)—

(A) by striking "or" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

"(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

"(V) such person is a person described in section 1611(e)(4)(A)."; and

(4) by adding at the end the following new clause:

"(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

"(I) such person is described in section 1611(e)(4)(A),

"(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

"(III) the location or apprehension of such person is within the officer's official duties.".

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) Report to the Congress.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) Title II Amendments.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Secretary" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner".

(b) Title XVI Amendments.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking "A" and inserting "Except as provided in the next sentence, a"; and

(2) in the second sentence, by striking "The Commissioner" and inserting the following: "A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner".

(c) Effective Date.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) Title II Amendments.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking "paragraph (9)" and inserting "paragraph (10)";

(3) in paragraph (6)(A)(ii), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(4) by inserting after paragraph (6) the following new paragraph:

"(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

"(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(b) Title VIII Amendment.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

"(l) Liability for Misused Amounts.—

"(1) In general.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

"(2) Limitation.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking "section 205(j)(9)" and inserting "section 205(j)(10)"; and

(2) by striking subparagraph (H) and inserting the following:

"(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

"(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.".

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.".

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

"(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.".

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following new paragraph:

"(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking "who" in the first sentence and inserting "who—";

(B) by striking "makes" in the first sentence and all that follows through "shall be subject to" and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading,

"(B) makes such a statement or representation for such use with knowing disregard for the truth, or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to";

(C) by inserting "or each receipt of such benefits or payments while withholding disclosure of such fact" after "each such statement or representation" in the first sentence;

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation" in the second sentence; and

(E) by inserting "or such a withholding of disclosure" after "such a statement or representation" in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking "who" the first place it appears and inserting "who—"; and

(B) by striking "makes" and all that follows through "shall be subject to," and inserting the following:

"(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI that the person knows or should know is false or misleading,

"(2) makes such a statement or representation for such use with knowing disregard for the truth, or

"(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to,".

(b) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking "In the case of amounts recovered arising out of a determination relating to title VIII or XVI," and inserting "In the case of any other amounts recovered under this section,".

(c) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking "charging fraud or false statements".

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions".

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "violation occurred".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking "Prisoners" and all that follows and inserting the following: "Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees";

(2) in paragraph (1)(A)(ii)(IV), by striking "or" at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

"(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual."; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

"(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

"(i) the beneficiary—

"(I) is described in clause (iv) or (v) of paragraph (1)(A); and

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the beneficiary is within the officer's official duties.".

(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer—

"(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI."; and

(2) in the heading, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RELATING TO REFERENCES".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.".

SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

"ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

"SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.".

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

(1) in subparagraph (A), by inserting " 'Centers for Medicare & Medicaid Services'," after " 'Health Care Financing Administration',", by striking "or 'Medicaid', " and inserting " 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan'," and by inserting " 'CMS'," after " 'HCFA',";

(2) in subparagraph (B), by inserting "Centers for Medicare & Medicaid Services," after "Health Care Financing Administration," each place it appears; and

(3) in the matter following subparagraph (B), by striking "the Health Care Financing Administration," each place it appears and inserting "the Centers for Medicare & Medicaid Services,".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

"(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

"(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

"(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

"(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) Amendments to Title II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.".

(b) Amendments to Title VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking "(i) Restitution.—In any case where" and inserting the following:

"(i) Restitution.—

"(1) In general.—In any case where"; and

(2) by adding at the end the following new paragraph:

"(2) Court order for restitution.—

"(A) In general.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(B) Related provisions.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

"(C) Stated reasons for not ordering restitution.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.".

(c) Amendments to Title XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

"(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

"(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.".

(d) Special Account for Receipt of Restitution Payments.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

"(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.".

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) In General.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting ", except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences" after "subparagraph (B)"; and

(2) by adding at the end the following new sentence: "In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.".

(b) Effective Date.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) In General.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "section 206(a)" and inserting "section 206";

(B) by striking "(other than paragraph (4) thereof)" and inserting "(other than subsections (a)(4) and (d) thereof)"; and

(C) by striking "paragraph (2) thereof" and inserting "such section";

(2) in subparagraph (A)(i), by striking "in subparagraphs (A)(ii)(I) and (C)(i)," and inserting "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)", and by striking "and" at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

"(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'section 1631(a)(7)(A) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

"(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

"(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

"(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'."; and

(4) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

"(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

"(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

"(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

"(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

"(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

"(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

"(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

"(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

(c) STUDY REGARDING FEE-WITHHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

(i) their training, qualifications, and competency,

(ii) the type and quality of services provided, and

(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking "conducted under subsection (a)" and inserting "initiated under subsection (a) on or before December 17, 2004"; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.".

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking "(42 U.S.C. 401 et seq.)," and inserting "(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,".

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

"(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.".

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b–20(c)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

"(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

"(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

"(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

"(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.".

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking "secure or regain" and inserting "secure, maintain, or regain".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

"An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking "or (1)(E)".

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "she was married";

(4) by inserting "(1)" after "(c)"; and

(5) by adding at the end the following new paragraph:

"(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving wife,

"(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

"(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior wife continued to remain institutionalized up to the time of her death, and

"(E) the individual married the surviving wife within 60 days after the prior wife's death.".

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting "except as provided in paragraph (2)," before "he was married";

(4) by inserting "(1)" after "(g)"; and

(5) by adding at the end the following new paragraph:

"(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

"(A) the individual had been married prior to the individual's marriage to the surviving husband,

"(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

"(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

"(D) the prior husband continued to remain institutionalized up to the time of his death, and

"(E) the individual married the surviving husband within 60 days after the prior husband's death.".

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking "clause (5) of subsection (c) or clause (5) of subsection (g)" and inserting "clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting "Kentucky," after "Illinois,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

"Compensation, Expenses, and Per Diem

"(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service ending with".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking "if, on" and inserting ""if, during any portion of the last 60 months of such service ending with".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted "employment" as defined in section

210 of such Act, and all such service subsequently performed by such individual has constituted such "employment".

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security"; and

(2) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) In General.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) Effective Date.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) Amendment to Internal Revenue Code.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) Amendment to Social Security Act.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) Conforming Amendment.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) Correction of Terminology and Citations Respecting Removal From the United States.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) Correction of Citation Respecting the Tax Deduction Relating to Health Insurance Costs of Self-Employed Individuals.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) Elimination of Reference to Obsolete 20-Day Agricultural Work Test.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) Social Security Act Amendment.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;".

(b) Internal Revenue Code of 1986 Amendment.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from California (Mr. MATSUI) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Social Security, as everyone in this Chamber knows, touches the lives of virtually every American and serves as a vital safety net for those who retire, become disabled or die. Nearly $500 billion in Social Security and supplemental security income benefits were paid last year to about 50 million retired and disabled workers their families and SSI recipients. These costs represent close to one-fourth of all Federal outlays last year. More importantly, as baby boomers approach retirement age, Social Security's and SSI's combined benefit outlays are expected to double by the time children born this year finish high school. Programs as important, as comprehensive as these require our constant vigilance. We must act today to address inadequate protections for beneficiaries and the programs in order to avoid potentially tragic consequences in the future.

This is why I urge all Members to support the Social Security Protection Act of 2003. This is a bipartisan bill introduced earlier this month by myself and the gentleman from California (Mr. MATSUI) along with other Members of Congress. The Protection Act will give the Social Security Administration the additional tools needed to fight activities that drain resources from Social Security and undermine the financial security of beneficiaries.

First, this bill protects the one in eight Social Security and SSI beneficiaries who cannot, for physical or mental reasons, handle their own funds. For these persons, the Social Security Administration appoints an individual or organization called a representative payee to manage their benefits. While most representative payees are conscientious and they are honest, some violate the trust placed in them.

The Social Security Inspector General reported that in the late 1990's over 2,400 representative payees missed about $12 million in benefits. This bill raises the standard for persons and organizations serving as representative payees and imposes stricter regulation and monetary penalties on those who mismanage benefits.

Second, this bill picks up where legislation enacted in 1996 let off in ending benefit payments to those who committed crimes. That legislation denied SSI benefits to fugitive felons. However, these criminals are still allowed to receive Social Security benefits. The Congressional Budget Office estimates that they will pay $526 million out of the Social Security trust fund to these law-breakers over the next 10 years. This is not right, and this legislation denies them these benefits.

The Protection Act also provides tools to further safeguard Social Security programs. Our goals are to help shield Social Security employees from harm while conducting their duties, expanding the Inspector General's ability to stop perpetrators of fraud through new civil monetary penalties, and prevent people from misrepresenting themselves as they provide Social Security-related services.

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On top of this, the bill helps individuals with disabilities by, one, making it easier for them to obtain legal representation while applying for benefits by improving the attorney fee withholding process; two, enhancing provisions of the Ticket to Work Program; and, three, encouraging more employers to hire individuals with disabilities by expanding eligibility for the Work Opportunity Tax Credit.

Finally, the bill contains several provisions aimed at correcting inequities in the law regarding benefit coverage and receipt, as well as making technical corrections to the law.

It is our and the agency's duty to protect Social Security programs and the beneficiaries. This bill is the accumulation of bipartisan efforts towards that, and as well as the cooperation and support of the Social Security Administration and the Social Security Inspector General. That is why the 107th Congress's version of the bill, the Social Security Protection Act of 2002, passed this House by an overwhelming bipartisan support of 425 to 0 and passed the Senate as amended under unanimous consent.

I urge the Members today to finish the good work begun in the 107th Congress and vote in favor of the Social Security Protection Act. We must enact these changes quickly to protect the most vulnerable beneficiaries and to stop Social Security from hemorrhaging precious dollars through fraud and benefit misuse.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, I wish to commend the Chair of the Subcommittee on Social Security, the gentleman from Florida (Mr. SHAW), for the bipartisanship in which we were able to put this legislation together. As many know, and as the gentleman from Florida (Mr. SHAW) mentioned, we passed this bill last year, in the last Congress, but unfortunately, it was dropped during the waning hours of the joint House-Senate conference committees in the month of October. So now we are bringing the bill back.

It essentially has four parts to it. We added one provision which has become somewhat controversial. As the gentleman from Florida (Mr. SHAW) says, it has strengthening of the representative pay provisions of the law. Obviously, when someone is mentally disabled or one is a child, one needs a representative payee. This bill strengthens that law to protect the recipient, the beneficiary.

Second, it provides anti-fraud provisions in the legislation, including denying benefits to fugitive felons and also those who have violated their parole.

Thirdly, it provides for SSI recipients more of the advantages of having a lawyer or others represent that person as they are going through the administrative process, essentially by creating the same kind of withholding of benefits by the attorney or other representative of the claimant as we currently have in the Social Security System. So SSI beneficiaries will have the same kind of rights as the Social Security recipients. And, in addition, it caps attorneys' fees, the processing fees, to $75. So it will make it much easier for people to actually go through the administrative procedures.

It has 18 technical provisions in the legislation, or in the bill last year. The one area in which we have added to it is it closes a loophole in which some have attempted to get around the GPO, the government pension offset provisions that are currently in the law. The gentleman from Florida (Mr. SHAW) has indicated to me and to others that he intends to have hearings on the whole issue of the government pension offset issue. And as a result of that, I am very satisfied with this legislation.

As I indicated, Mr. Speaker, many of my colleagues have problems with it on my side of the aisle. They intend to speak on this issue today. I would urge a "yes" vote on it, but I certainly can understand some of those that might have some differences of opinion on that one provision.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I insert for the RECORD two documents. The first is bipartisan summary report language, including a detailed summary of current law and an explanation of each provision and the reasons for the change. The second is a list of organizations, including AARP, that provided letters of support for this bill, with those letters attached.

"THE SOCIAL SECURITY PROTECTION ACT OF 2003" SUMMARY

TITLE I—PROTECTION OF BENEFICIARIES

Subtitle A—Representative Payees

Section 101. Authority to Reissue Benefits Misused by Organizational Representative Payees

PRESENT LAW

The Social Security Act requires the reissuance of benefits miscued by any representative payee when the Commissioner finds that the Social Security Administration (SSA) negligently failed to investigate and monitor the payee.

EXPLANATION OF PROVISION

In addition to cases where the SSA negligently failed to investigate and monitor the payee, the provision also requires the Commissioner to re-issue benefits under Titles II, VIII and XVI in any case in which a beneficiary's funds are misused by a representative payee that is not an individual (regardless of whether it is a qualified organization such as a state/local agency or a community nonprofit social service agency) or an individual payee representing 15 or more beneficiaries.

The new provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the "use and benefit" of the beneficiary, and authorizes the Commissioner to define "use and benefit" in regulation.

In crafting a regulatory definition for "use and benefit," the Commissioner should take special care to distinguish between the situation in which the representative payee violates his or her responsibility by converting the benefits to further the payee's own self interest, and the situation in which the payee faithfully serves the beneficiary by using the benefits in a way that principally aids the beneficiary but which also incidentally aids the payee or another individual. For instance, cases in which a representative payee uses the benefits entrusted to his or her care to help pay the rent on an apartment that he or she and the beneficiary share should not be considered misuse.

The effective date applies to any cases of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995. This protects the interests of beneficiaries affected by cases of egregious misuse that have been identified in recent years.

REASON FOR CHANGE

There have been a number of highly publicized cases involving organizational representative payees that have misused large sums of monies paid to them on behalf of the Social Security and Supplemental Security Income (SSI) beneficiaries they represented. In most instances, these organizations operated as criminal enterprises, bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. If the Social Security Administration is not shown to be negligent for failing to investigate and monitor the payee, affected beneficiaries may never be repaid or may be repaid only when the representative payee committing misuse makes restitution to the SSA.

Requiring the SSA to reissue benefit payments to the victims of misuse in these cases protects beneficiaries who are among the most vulnerable, because they may have no family members or friends who are willing or able to manage their benefits for them. These are cases in which misuse of benefits may be the hardest to detect. Moreover, extending the provision to cases involving individual payees serving fewer beneficiaries may lead to fraudulent claims of misuse. These claims, which often turn on information available only from close family members, would be difficult to assess. Similarly, extension of this provision to these cases could potentially encourage misuse or poor money management by these individual representative payees, if they believe the SSA could eventually pay the beneficiary a second time.

Section 102. Oversight of Representative Payees

PRESENT LAW

Present law requires community-based nonprofit social service serving as representative payees to be licensed or bonded. Payees are not required to submit proof of bonding or licensing, and they are not subject to independent audits. In addition, there is no provision requiring periodic onsite reviews of organizational payees (other than the accountability monitoring done for State institutions that serve as representative payees).

EXPLANATION OF PROVISION

The new provision requires community-based nonprofit social service agencies serving as representative payees to be both bonded and licensed (provided that licensing is available in the State). In addition, such representative payees must submit yearly proof of bonding and licensing, as well as copies of any independent audits that were performed on the payee since the previous certification.

The new provision also requires the Commissioner of Social Security to conduct periodic onsite reviews of: (1) a person who serves as a representative payee to 15 or more beneficiaries; (2) community-based nonprofit social service agencies serving as representative payees; and (3) any agency that serves as the representative payee to 50 or more beneficiaries. In addition, the Commissioner is required to submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the reviews conducted in the prior fiscal year.

The bonding, licensing, and audit provisions are effective on the first day of the 13th month following enactment of the legislation. The periodic on-site review provision is effective upon enactment.

REASON FOR CHANGE

Strenthening the bonding and licensing requirements for community-based nonprofit social service agencies would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the organization's business practices, and bonding provides some assurances that a surety company has investigated the organization and approved it for the level of risk associated with the bond. Requiring annual certification as to the licensing and bonding of the payee, as well as submission of audits performed, should help prevent a payee from dropping their licensing or bonding subsequent to the SSA approving them as payee.

On-site periodic visits should be conducted regularly to reduce misuse of funds. To the degree possible, appropriate auditing and accounting standards should be utilized in conducting such reviews.

Section 103. Disqualification from Service as Representative Payee of Persons Convicted of Offenses Resulting in Imprisonment for More Than One Year, or Fleeing Prosecution, Custody or Confinement.

PRESENT LAW

Sections 205, 807, and 1631 of the Social Security Act disqualify individuals from being representative payees if they have been convicted of fraudulent conduct involving Social Security programs.

EXPLANATION OF PROVISION

The new provision expands the scope of disqualification to prohibit an individual from serving as a representative payee if he or she has been convicted of an offense resulting in imprisonment for more than one year, unless the Commissioner determines that payee status would be appropriate despite the conviction. It also disqualifies persons fleeing prosecution, custody, or confinement for a felony from being representative payees. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

The new provision requires the Commissioner, in consultation with the SSA Inspector General, to submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate evaluating existing procedures and reviews conducted for representative payees to determine whether they are sufficient to protect benefits from being misused.

This provision is effective on the first day of the 13th month beginning after the date of enactment, except that the report to Congress is due no later than 270 days after the date of enactment.

REASON FOR CHANGE

Prohibiting persons convicted of offenses resulting in imprisonment for more than one year and persons fleeing prosecution, custody or confinement for a felony from serving as representative payees decreases the likelihood of mismanagement or abuse of beneficiaries' funds. Also, allowing such persons to serve as representative payees could raise serious questions about the SSA's stewardship of taxpayer funds. The agency's report will assist Congress in its oversight of the representative payee program.

Section 104. Fee Forfeiture in Case of Benefit Misuse by Representative Payees

PRESENT LAW

Certain qualified organizations are authorized to collect a fee for their services. The fee, which is determined by a statutory formula, is deducted from the beneficiary's benefit payments.

EXPLANATION OF PROVISION

The new provision requires representative payees to forfeit the fee for those months during which the representative payee misused funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction. This provision applies to any month involving benefit misuse by a representative payee as determined by the Commissioner or a court of competent jurisdiction after 180 days after the date of enactment.

REASON FOR CHANGE

Payees who misuse their clients' funds are not properly performing the service for which the fee was paid; therefore, they should forfeit such fees. Permitting the payee to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's needs.

Section 105. Liability of Representative Payees for Misused Benefits

PRESENT LAW

Although the SSA has been provided with expanded authority to recover overpayments (such as the use of tax refund offsets, referral to contact collection agencies, notification of credit bureaus, and administrative offsets of future federal benefit payments), these tools cannot be used to recoup benefits misused by a representative payee.

EXPLANATION OF PROVISION

The new provision treats benefits misused by any representative payee (except a federal, state or local government agency) as an overpayment to the representative payee, thus subjecting the representative payee to current overpayment recovery authorities. Any recovered benefits not already reissued to the beneficiary pursuant to section 101 of this legislation would be reissued to either the beneficiary or their alternate representative payee, up to the total amount misused. This provision applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security or a court of competent jurisdiction makes a determination of misuse after 180 days after the date of enactment.

REASON FOR CHANGE

Although the SSA has been provided with expanded authority to recover overpayments, these tools cannot be used to recoup benefits misused by a representative payee. Treating misused benefits as overpayments to the representative payee would provide the SSA with additional means for recovering misused payments.

Section 106. Authority to Redirect Delivery of Benefit Payments When a Representative Payee Fails to Provide Required Accounting

PRESENT LAW

The Social Security Act requires representative payees to submit accounting reports to the Commissioner of Social Security regarding how a beneficiary's benefit payments were used. A report is required at least annually, but may be required by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner of Social Security to require a representative payee to receive any benefits under Titles II, VIII, and XVI in person at a Social Security field office if the representative payee fails to provide a required accounting of benefits. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits to the field office. This provision is effective 180 days after the date of enactment.

REASON FOR CHANGE

Accounting reports are an important means of monitoring the activities of representative payees to prevent misuse of benefits. Redirecting benefit payments to the field office would enable the agency to promptly address the failure of the representative payee to file a report.

Subtitle B—Enforcement

Section 111. Civil Monetary Penalty Authority with Respect to Wrongful Conversions by Representative Payees

PRESENT LAW

Section 1129 of the Social Security Act authorizes the Commissioner to impose a civil monetary penalty (of up to $5,000 for each violation) along with an assessment (up to twice the amount wrongly paid), upon any person who knowingly uses false information or knowingly omits information to wrongly obtain Title II, VIII or XVI benefits.

EXPLANATION OF PROVISION

The new provision expands civil monetary penalties authority under section 1129 to include misuse of Title II, VIII or XVI benefits by representative payees. A civil monetary penalty of up to $5,000 may be imposed for each violation, along with an assessment of up to twice the amount of misused benefits. This provision applies to violations committed after the date of enactment.

REASON FOR CHANGE

Providing authority for SSA to impose civil monetary penalties along with an assessment of up to twice the amount of misused benefits would provide the SSA with an additional means to address benefit misuse by representative payees.

TITLE II—PROGRAM PROTECTIONS

Section 201. Civil Monetary Penalty Authority with Respect to Knowing Withholding of Material Facts

PRESENT LAW

Section 1129 of the Social Security Act, 42 U.S.C. §1320a–8, authorizes the Commissioner of Social Security to impose civil monetary penalties and assessments on any person who makes a statement or representation of a material fact for use in determining initial or continuing rights to title II, VIII, or XVI benefits that the person knows or should know omits a material fact or is false or misleading. In order for the penalty or assessment to be imposed, the law requires an affirmative act on the part of the individual of making (or causing to be made) a statement that omits a material fact or is false or misleading.

Section 1129A, 42 U.S.C. 1320a–8a, provides administrative procedures for imposing penalties of nonpayment of title II and XVI benefits (6 months for the first violation) for making false statements.

EXPLANATION OF PROVISION

By including the phrase ``or otherwise withholds disclosure of'', in section 1129 and 1129A, civil monetary penalties and assessments and sanctions could also be imposed for failure to come forward and notify the SSA of changed circumstances that affect eligibility or benefit amount when that person knows or should know that the failure to come forward is misleading. This provision applies to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

REASON FOR CHANGE

Currently the SSA cannot impose civil monetary penalties and assessments on a person who should have come forward to notify the SSA of changed circumstances that affect eligibility or benefit amount, but did not. To be subject to civil monetary penalties and assessments under the current law, an individual must have made a statement that omitted a material fact or was false or misleading. Examples of the types of individuals intended to be covered under this amendment to section 1129 and 1129A include (but are not limited to): (1) an individual who has a joint bank account with a beneficiary in which the SSA direct deposited the beneficiary's Social Security checks; upon the death of the beneficiary, this individual fails to advise the SSA of the beneficiary's death, instead spending the proceeds from the deceased beneficiary's Social Security checks; and (2) an individual who is receiving benefits under one SSN while working under another SSN.

This amendment is intended to close this loophole in the current law, but it is not intended to expand section 1129 and 1129A to include those individuals whose failure to come forward to notify the SSA was not done for the purpose of improperly obtaining or continuing to receive benefits. For instance, it is not intended that the expanded authority be used against individuals who do not have the capacity to understand that their failure to come forward is misleading.

Section 202. Issuance by Commissioner of Social Security of Receipts to Acknowledge Submission of Reports of Changes in Work or Earnings Status of Disabled Beneficiaries

PRESENT LAW

Changes in work or earnings status can affect a Title II disability beneficiary's right to continued entitlement to disability benefits. Changes in the amount of earned income can also affect an SSI recipient's continued eligibility for SSI benefits or his or her monthly benefit amount.

The Commissioner has promulgated regulations that require Title II disability beneficiaries to report changes in work or earnings status (20 CFR §404.1588) and regulations that require SSI recipients (or their representative payees) to report any increase or decrease in income (20 CFR, §§416.704-416.714).

EXPLANATION OF PROVISION

The new provision requires the Commissioner to issue a receipt to a disabled beneficiary (or representative of a beneficiary) who reports a change in his or her work or earnings status. The Commissioner is required to continue issuing such receipts until the Commissioner has implemented a centralized computer file that would record the date on which the disabled beneficiary (or representative) reported the change in work or earnings status.

This provision requires the Commissioner to begin issuing receipts as soon as possible, but no later than one year after the date of enactment. The Committee on Ways and Means is aware that the SSA has developed software known as the Modernized Return to Work System (MRTW). This software will assist SSA employees in recording information about changes in work and earnings status and in making determinations of whether such changes affect continuing entitlement to disability benefits. The software also has the capability of automatically issuing receipts. The SSA has informed the Committee on Ways and Means that this software is already in use in some of the agency's approximately 1300 local field offices, and that the SSA expects to put it into operation in the remainder of the field offices over the next year. The Committee on Ways and Means expects that the SSA field offices that are already using the MRTW system will immediately begin issuing receipts to disabled beneficiaries who report changes in work or earnings status, and that the SSA will require the other field offices to begin issuing receipts as these offices begin using the MRTW system over the next year. For disabled Title XVI beneficiaries, if the SSA issues a notice to the beneficiary immediately following the report of earnings that details the effect of the change in income on the monthly benefit amount, this notice would serve as a receipt.

REASON FOR CHANGE

Witnesses have testified before the Social Security Subcommittee and the Human Resources Subcommittee of the House Ways and Means Committee that the SSA does not currently have an effective system in place for processing and recording Title II and Title XVI disability beneficiaries' reports of changes in work and earnings status. Issuing receipts to disabled beneficiaries who make such reports would provide them with proof that they had properly fulfilled their obligation to report these changes.

Section 203. Denial of Title II Benefits to Persons Fleeing Prosecution, Custody, or Confinement, and to Persons Violating Probation or Parole

PRESENT LAW

The "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," (PRWORA) P.L. 104-193, included provisions making persons ineligible to receive SSI benefits during any month in which they are fleeing to avoid prosecution, custody, or confinement for a felony, or if they are in violation of a condition of probation or parole. However, this prohibition was not extended to Social Security benefits under Title II.

EXPLANATION OF PROVISION

The new provision denies Social Security benefits under Title II to persons fleeing prosecution, custody or confinement for a felony, and to persons violating probation or parole. However, the Commissioner may, for good cause, pay withheld benefits. Finally, the Commissioner shall assist law enforcement officials in apprehending such persons by providing them with the address, Social Security number, photograph, or other identifying information.

This provision is effective the first day of the first month that begins on or after the date that is nine months after the date of enactment.

REASON FOR CHANGE

There are concerns that Social Security benefits, not just Supplemental Security Income and other welfare benefits, are being used to aid flight from justice or other crime. The Congressional Budget Office has estimated that persons fleeing to avoid prosecution for a felony or to avoid custody or confinement after conviction for a felony, or in violation of a condition of probation or parole, will receive $526 million in Title II Social Security benefits over the next 10 years. The Social Security Inspector General (SSA IG) recommended changing the law to prohibit fugitive felons and other criminals from receiving benefits.

The provision gives the Commissioner authority to pay withheld Title II benefits if there is "good cause." The Commissioner would be required to develop regulations within one year of the date of enactment. This "good cause" discretion is authorized for the Commissioner in cases of Title II benefits, where it was not authorized or intended for programs affected under the similar provision in PRWORA, because workers earn the right to receive benefits for themselves and their families through their career-long Title II payroll tax contributions.

The good cause exception will provide the Commissioner with the ability to pay benefits under circumstances in which the Commissioner deems withholding of benefits to be inappropriate—for example, but not limited to, situations when Social Security beneficiaries are found to be in flight from a warrant relating to a crime for which a court of competent jurisdiction finds the person not guilty, or if the charges are dismissed; if a warrant for arrest is vacated; or if probation or parole is not revoked. In such circumstances, it is expected that the Commissioner would pay benefits withheld from the beneficiary for which he or she was otherwise eligible but for the prohibition in this provision.

In testimony received at a February 27, 2003 hearing, the Subcommittee was made aware of instances with respect to the SSI program where there may be mitigating circumstances relating to persons with outstanding warrants for their arrest. In addition, PRWORA implementing instructions have been found to vary between agencies. For example, the Department of Agriculture's Food and Nutrition Service has issued instructions that in order to be considered "fleeing," the individual must have knowledge a warrant has been issued for his or her arrest and that the State agency should verify the individual has such knowledge. In addition, once the person has knowledge of the warrant, either by having received it personally or by being advised of its existence by the State agency, he or she is technically "fleeing" at that time. Finally, the instructions strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied. The Social Security Administration's procedures do not include such instructions.

The SSA IG is conducting an audit on implementation of the fugitive felon provision for the Supplemental Security Income program, which will shed light on the types of crimes beneficiaries committed, law enforcement's pursuit of such criminals, the length of time benefits were suspended, the SSA's handling of these cases, and other issues. The Subcommittee will continue to closely monitor these issues and encourages the Commissioner to review the agency's implementing instructions in light of these circumstances and what constitutes flight under federal law.

Section 204. Requirements Relating to Offers to Provide for a Fee a Product or Service Available Without Charge From the Social Security Administration

PRESENT LAW

Section 1140 of the Social Security Act prohibits or restricts various activities involving the use of Social Security and Medicare symbols, emblems, or references that give a false impression that an item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. It also provides for the imposition of civil monetary penalties with respect to violations of the section.

EXPLANATION OF PROVISION

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. The new provision requires persons or companies offering such services to include in their offer a statement that the services they provide for a fee are available directly from the SSA free of charge. The statements would be required to comply with standards promulgated through regulation by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility. The amendment applies to offers of assistance made after the 6th month following the issuance of these standards. The new provision requires that the Commissioner promulgate regulations within 1 year after the date of enactment.

REASON FOR CHANGE

Several individuals and companies offer Social Security services for a fee even though the same services are available directly from the SSA free of charge. For example, the SSA's Inspector general has encountered business entities that have offered assistance to individuals in changing their names (upon marriage) or in obtaining a Social Security number (upon the birth of a child) for a fee, even though these services are directly available from the SSA for free. The offer from the business entities either did not state at all, or did not clearly state, that these services were available from the SSA for free. These practices can mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services or products, who may not be aware that the SSA provides these services for free.

Section 205. Refusal to Recognize Certain Individuals as Claimant Representatives

PRESENT LAW

An attorney in good standing is entitled to represent claimants before the Commissioner of Social Security. The Commissioner may prescribe rules and regulations governing the recognition of persons other than attorneys representing claimants before the Commissioner. Under present law, attorneys disbarred in one jurisdiction, but licensed to practice in another jurisdiction, must be recognized as a claimant's representative.

EXPLANATION OF PROVISION

The new provision authorizes the Commissioner to refuse to recognize as a representative, or disqualifying as a representative, an attorney who has been disbarred or suspended from any court or bar, or who has been disqualified from participating in or appearing before any Federal program or agency. Due process (i.e., notice and an opportunity for a hearing) would be required before taking such action. Also, if a representative has been disqualified or suspended as a result of collecting an unauthorized fee, full restitution is required before reinstatement can be considered. This provision is effective upon the date of enactment.

REASON FOR CHANGE

This provision would provide additional protections for beneficiaries who may rely on representatives during all phases of their benefit application process. As part of their ongoing oversight of claimant representatives, the Committee on Ways and Means intends to review whether options to establish protections for claimants represented by non-attorneys should be considered.

Section 206. Penalty for Corrupt or Forcible Interference with Administration of the Social Security Act

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

The new provision imposes a fine of not more than $5,000, imprisonment of not more than 3 years, or both, for attempting to intimidate or impede—corruptly or by using force or threats of force—any Social Security Administration (SSA) officer, employee or contractor (including State employees of disability determination services and any individuals designated by the Commissioner) while they are acting in their official capacities under the Social Security Act. If the offense is committed by threats of force, the offender is subject to a fine of not more than $3,000, no more than one year in prison, or both. This provision is effective upon enactment.

The Committee on Ways and Means expects that judgment will be used in enforcing this section. Social Security and SSI disability claimants and beneficiaries, in particular, are frequently subject to multiple, severe life stressors, which may include severe physical, psychological, or financial difficulties. In addition, disability claimants or beneficiaries who encounter delays in approval of initial benefit applications or in post-entitlement actions may incur additional stress, particularly if they have no other source of income. Under such circumstances, claimants or beneficiaries may at times express frustration in an angry manner, without truly intending to threaten or intimidate SSA employees. In addition, approximately 25% of Social Security disability beneficiaries and 35% of disabled SSI recipients have mental impairments, and such individuals may be less able to control emotional outbursts. These factors should be taken into account in enforcing this provision.

REASON FOR CHANGE

This provision extends to SSA employees the same protections provided to employees of the Internal Revenue Service under the Internal Revenue Code of 1954. These protections will allow SSA employees to perform their work with more confidence that they will be safe from harm.

The Internal Revenue Manual defines the term "corruptly" as follows: "'Corruptly' characterizes an attempt to influence any official in his or her official capacity under this title by any improper inducement. For example, an offer of a bribe or a passing of a bribe to an Internal Revenue employee for the purpose of influencing him or her in the performance of his or her official duties is corrupt interference with the administration of federal laws." (Internal Revenue Manual, [9.5] 11.3.2.2, 4-09-1999).

Section 207. Use of Symbols, Emblems or Names in Reference to Social Security or Medicare

PRESENT LAW

Section 1140 of the Social Security Act prohibits (subject to civil penalties) the use of Social Security or Medicare symbols, emblems and references on any item in a manner that conveys the false impression that such item is approved, endorsed or authorized by the Social Security Administration, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services) or the Department of Health and Human Services.

EXPLANATION OF PROVISION

The new provision expands the prohibition in present law to several other references to Social Security and Medicare. This includes, but is not limited to, "Death Benefits Update," "Federal Benefits Information," and "Final Supplemental Plan." This provision applies to items sent after 180 days after the date of enactment.

REASON FOR CHANGE

The SSA Inspector General has found these phrases appearing in mailings, solicitations, or flyers, which, when used with the SSA's words, symbols, emblems, and references may be particularly misleading and more likely to convey the false impression that such item is approved, endorsed, or authorized by the SSA, the Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), or the Department of Health and Human Services. Expansion of this list helps to ensure that individuals receiving any type of mail, solicitations or flyers bearing symbols, emblems or names in reference to Social Security or Medicare are not misled into believing that these agencies approved or endorsed the services or products depicted.

Section 208. Disqualification from Payment During Trial Work Period Upon Conviction of Fraudulent Concealment of Work Activity

PRESENT LAW

An individual entitled to disability benefits under Title II is entitled to a "trial work period" to test his or her ability to work. The trial work period allows beneficiaries to have earnings from work above a certain amount ($570 a month in 2003) for up to 9 months (which need not be consecutive) within any 60-month period without any loss of benefits. Presently, section 222(c) of the Social Security Act does not prohibit a person entitled to disability benefits under Title II from receiving disability benefits during a trial work period, even if convicted by a federal court for fraudulently concealing work activity during that period.

The SSA's Inspector General has pursued prosecution of Title II disability beneficiaries who fraudulently conceal work activity by applying several criminal statutes, including section 208(a) of the Social Security Act, and sections 371 and 641 of Title 18 of the United States Code (Crimes and Criminal Procedures).

EXPLANATION OF PROVISION

Under the new provision, an individual convicted by a federal court of fraudulently concealing work activity from the Commissioner of Social Security would not be entitled to receive any disability benefits in any trial work period month and would be liable for repayment of those benefits, in addition to any restitution, penalties, fines or assessments otherwise due.

Under this provision, concealing work activity is considered to be fraudulent if the individual (1) provided false information to the SSA about his or her earnings during that period; (2) worked under another identity, including under another person's or a false Social Security number; or (3) took other actions to conceal work activity with the intent to receive benefits to which he or she was not entitled.

This provision is effective with respect to work activity performed after the date of enactment.

REASON FOR CHANGE

Under current law, if an individual is convicted of fraudulently concealing work activity, the dollar loss to the government is calculated based on the benefits that the individual would have received had he or she not concealed the work activity. During the trial work period, disability beneficiaries continue to receive their monthly benefit amount regardless of their work activity. Therefore, the SSA does not include benefits paid during a trial work period in calculating the total dollar loss to the government, even if the individual fraudulently concealed work activity during that period. As a result, the dollars lost to the government may fall below the thresholds set by the United States Attorneys in cases involving fraudulent concealment of work by Title II disability beneficiaries. In such situations, the case would not be prosecuted, even if the evidence of fraud were very clear.

This provision rectifies the situation by establishing that individuals convicted of fraudulently concealing work activity during the trial work period are not entitled to receive any disability benefits for trial work period months prior to the conviction (but within the same period of disability).

Section 209. Authority for Judicial Orders of Restitution

PRESENT LAW

A court may order restitution when sentencing a defendant convicted of various offenses under titles 18, 21, and 49 of the United States Code. However, violations of the Social Security Act (42 U.S.C.) are not included among those for which the court may order restitution.

EXPLANATION OF PROVISION

This provision amends the Social Security Act to allow a federal court to order restitution to the Social Security Administration for violations of the Social Security Act. Restitution in connection with benefits misuse by a representative payee would be credited to the Social Security Trust Funds for cases involving OASDI recipients and to the General Fund for cases involving Supplemental Security Income and Special Veterans benefits. Other restitution funds, credited to a special fund established in the Treasury, would be available to defray expenses incurred in implementing title II, title VIII, and title XVI. If the court does not order restitution, or only orders partial restitution, the court must state the reason on the record. This provision is effective with respect to violations occurring on or after the date of enactment.

REASON FOR CHANGE

This provision would enhance a judge's ability to compensate the programs and punish persons convicted of violations including, but not limited to, improper receipt of Social Security payments and misuse of Social Security numbers.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

Section 301. Cap on Attorney Representative Assessments

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires the SSA to pay attorney fees for Title II claims directly to the attorney out of the claimant's past-due benefits. The SSA charges an assessment, at a rate not to exceed 6.3% of approved attorney fees, for the costs of determining, processing, withholding, and distributing attorney fees.

EXPLANATION OF PROVISION

The new provision imposes a cap of $75 on the 6.3% assessment on approved attorney representative fees for Title II claims. The cap is indexed annually for inflation. This provision is effective after 180 days after the date of enactment.

REASON FOR CHANGE

Testimony was given at a House oversight hearing in May 2001 on the SSA's processing of attorney representative's fees that the amount of the fee assessment is unfair to these attorneys, who provide an important service to claimants. The attorneys who receive fee payments from the agency have their gross revenue reduced by 6.3%. As a result of this revenue loss and the time it takes for the SSA to issue the fee payments to attorneys, a number of attorneys have decided to take fewer or none of these cases. The cap on the amount of the assessment would help ensure that enough attorneys remain available to represent claimants before the Social Security Administration.

The Committee on Ways and Means continues to be concerned about the agency's processing time for attorney representatives fee payments and expects the SSA to further automate the payment process as soon as possible.

Section 302. Extension of Attorney Fee Payment System to Title XVI Claims

PRESENT LAW

If there is an agreement between the claimant and the attorney, the Social Security Act requires attorney fees for Title II claims to be paid by the SSA directly to the attorney out of the claimant's past-due benefits (subject to an assessment to cover the SSA's costs). However, attorney fees for Title XVI claims are not paid directly by the SSA out of past-due benefits. Instead, the attorney must collect the fee from the beneficiary.

EXPLANATION OF PROVISION

The provision would extend direct fee payment to attorneys out of past-due benefits for Title XVI claims. It would also authorize the SSA to charge a processing assessment of up to 6.3% of the approved attorney fees, subject to a cap of $75 that is indexed for inflation.

In addition, in cases where the States would be reimbursed for interim assistance they had provided to a beneficiary awaiting a decision on a claim for SSI benefits, the State would be paid first, and the attorney would be paid second out of the past-due benefit amount.

The provision also requires the General Accounting Office to conduct a study of claimant representation in the Social Security and Supplemental Security Income programs. The study will include an evaluation of the potential results of extending the fee withholding process to non-attorney representatives.

This provision applies with respect to fees for representation that are first required to be certified or paid on or after the first day of the first month that begins after 270 days after the date of enactment. The provision would sunset with respect to respect to agreements for representation entered into after 5 years after the implementation date. The GAO report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of enactment.

REASON FOR CHANGE.

Withholding the attorney fee payments from the SSI benefit claim would improve SSI applicants' access to representation, as more attorneys would be willing to represent claimants if they are guaranteed payment.

Payment of States first and attorneys second would ensure that States providing interim assistance to individuals would not receive less reimbursement, while also providing a method of ensuring that attorneys receive payment and continue to provide representation.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Section 401. Application of Demonstration Authority Sunset Date to New Projects

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. These projects can test: (1) alternative methods of treating work activity of individuals entitled to disability benefits; (2) the alteration of other limitations and conditions that apply to such individuals (such as an increase in the length of the trial work period); and, (3) implementation of sliding scale benefit offsets. To conduct the projects, the Commissioner may waive compliance with the benefit requirements of Title II and Section 1148, and the HHS Secretary may waive the benefit requirements of Title XVIII. The Commissioner's authority to conduct demonstration projects terminates on December 17, 2004, five years after its enactment in the "Ticket to Work and Work Incentives Improvement Act of 1999" (P.L. 106–170, "Ticket to Work Act").

EXPLANATION OF PROVISION

The new provision clarifies that the Commissioner is authorized to conduct demonstration projects that extend beyond December 17, 2004, if such projects are initiated on or before that date (i.e., initiated within the five-year window after enactment of the Ticket to Work Act). This provision is effective upon enactment.

REASON FOR CHANGE

The current five-year limitation on waiver authority restricts the options that may be tested to improve work incentives and return to work initiatives, as several potential options the Commissioner may test would extend past the current five-year limit. Developing a well-designed demonstration project can require several years, and the current five-year authority might not allow sufficient time to both design the project and to conduct it long enough to obtain reliable data.

Section 402. Expansion of Waiver Authority Available in Connection with Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

Section 234 of the Social Security Act provides the Commissioner with general authority to conduct demonstration projects for the disability insurance program. In addition, Section 302 of the Ticket to Work Act directs the Commissioner to conduct demonstration projects for the purpose of evaluating a program for Title II disability beneficiaries under which benefits are reduced by $1 for each $2 of the beneficiary's earnings above a level determined by the Commissioner. To permit a thorough evaluation of alternative methods, section 302 of the Ticket to Work Act allows the Commissioner to waive compliance with the benefit provisions of Title II and allows the Secretary of Health and Human Services to waive compliance with the benefit requirements of Title XVIII.

EXPLANATION OF PROVISION

The new provision allows the Commissioner to also waive requirements in Section 1148 of the Social Security Act, which governs the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program), as they relate to Title II. This provision is effective upon enactment.

REASON FOR CHANGE

This additional waiver authority is needed to allow the Commissioner to effectively test the $1-for-$2 benefit offset in combination with return to work services under the Ticket to Work Program. Under the $1-for-$2 benefit offset, earnings of many beneficiaries may not be sufficient to completely eliminate benefits. However, under section 1148 of the Social Security Act, benefits must be completely eliminated before employment networks participating in the Ticket to Work Program are eligible to receive outcome payments. Therefore, employment networks are likely to be reluctant to accept tickets from beneficiaries participating in the $1-for-$2 benefit offset demonstration, making it impossible for the SSA to effectively test the combination of the benefit offset and these return to work services. Additionally, section 1148 waiver authority was provided for the broad Title II disability demonstration authority under section 234 of the Social Security Act, but not for this mandated project.

Section 403. Funding of Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

PRESENT LAW

The Ticket to Work Act provides that the benefits and administrative expenses of conducting the $1-for-$2 demonstration projects will be paid out of the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Hospital Insurance and Federal Supplementary Medical Insurance (HI/SMI) trust funds, to the extent provided in advance in appropriations act.

EXPLANATION OF PROVISION

The new provision establishes that administrative expenses for the $1-for-$2 demonstration project will be paid out of otherwise available annually-appropriated funds, and that benefits associated with the demonstration project will be paid from the OASDI or HI/SMI trust funds. This provision is effective upon enactment.

REASON FOR CHANGE

For demonstration projects conducted under the broader Title II demonstration project authority under section 234 of the Social Security Act, administrative costs are paid out of otherwise available annually appropriated funds, and benefits associated with the demonstration projects are paid from the OASDI or HI/SMI trust funds. This provision would make funding sources for the $1 for $2 demonstration project under the Ticket to Work Act consistent with funding sources for other Title II demonstration projects.

Section 404. Availability of Federal and State Work Incentive Services to Additional Individuals

PRESENT LAW

Section 1149 of the Social Security Act (the Act), as added by the Ticket to Work Act, directs the SSA to establish a community-based work incentives planning and assistance program to provide benefits planning and assistance to disabled beneficiaries. To establish this program, the SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. In fulfillment of this requirement, the SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. BPAO projects now exist in every state.

Section 1150 of the Act authorizes the SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Under this section, services provided by participating P&A systems may include: (1) information and advice about obtaining vocational rehabilitation (VR) and employment services; and (2) advocacy or other services that a disabled beneficiary may need to secure or regain employment. The SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

To be eligible for services under either the BPAO or PABSS programs, an individual must be a "disabled beneficiary" as defined under section 1148(k) of the Act. Section 1148(k) defines a disabled beneficiary as an individual entitled to Title II benefits based on disability or an individual who is eligible for federal SSI cash benefits under Title XVI based on disability or blindness.

EXPLANATION OF PROVISION

The new provision expands eligibility for the BPAO and PABSS programs under sections 1149 and 1150 of the Act to include not just individuals who are "disabled beneficiaries" under section 1148(k) of the Act, but also individuals who (1) are no longer eligible for SSI benefits because of an increase in earnings, but remain eligible for Medicaid under section 1619(b); (2) receive only a State supplementation payment (a payment that some States provide as a supplement to the federal SSI benefit); or (3) are in an extended period of Medicare eligibility under Title XVIII after a period of Title II disability has ended. The new provision also expands the types of services a P&A system may provide under section 1150 of the Act. Currently P&A systems may provide "advocacy or other services that a disabled beneficiary may need to secure or regain employment," while the new provision allows them to provide "advocacy or other services that a disabled beneficiary may need to secure, maintain, or regain employment."

The amendment to section 1149, which affects the BPAO program, is effective with respect to grants, cooperative agreements or contracts entered into on or after the date of enactment. The amendments to section 1150, which affect the PABSS program, are effective for payments provided after the date of the enactment.

REASON FOR CHANGE

The Committee on Ways and Means recognizes that Social Security and SSI beneficiaries with disabilities face a variety of barriers and disincentives to becoming employed and staying in their jobs. The intent of this provision, as with the Ticket to Work Act, is to encourage disabled individuals to work.

The definition of "disabled beneficiary" under section 1148(k) of the Act does not include several groups of beneficiaries, including individuals who are no longer eligible for SSI benefits because of an earnings increase but remain eligible for Medicaid under section 1619(b); individuals receiving only a State supplementation payment; and individuals who are in an extended period of Medicare eligibility. The Committee on Ways and Means believes that BPAO and PABSS services should be available to all of these disabled beneficiaries regardless of Title II or SSI payment status. Beneficiaries may have progressed beyond eligibility for federal cash benefits, but may still need information about the effects of work on their benefits, or may need advocacy or other services to help them maintain or regain employment. Extending eligibility for the BPAO and PABSS programs to beneficiaries who are receiving a State supplementation payment or are still eligible for Medicare or Medicaid, but who are no longer eligible for federal cash benefits, will help to prevent these beneficiaries from returning to the federal cash benefit rolls and help them to reach their optimum level of employment.

The Committee on Ways and Means also intends that PABSS services be available to provide assistance to beneficiaries who have successfully obtained employment but who continue to encounter job-related difficulties. Therefore, the new provision extends the current PABSS assistance (which is available for securing and regaining employment) to maintaining employment—thus providing a continuity of services for disabled individuals throughout the process of initially securing employment, the course of their being employed and, if needed, their efforts to regain employment. This provision would ensure that disabled individuals would not face a situation in which they would have to wait until they lost their employment in order to once again be eligible to receive PABSS services. Payments for services to maintain employment would be subject to Section 1150(c) of the Social Security Act. The Committee on Ways and Means will continue to monitor the implementation of PABSS programs to ensure that assistance is directed to all areas in which beneficiaries face obstacles in securing, maintaining, or regaining work.

Section 405. Technical Amendment Clarifying Treatment for Certain Purposes of Individual Work Plans Under the Ticket to Work and Self-Sufficiency Program

PRESENT LAW

Under section 51 of the Internal Revenue Code (IRC), employers may claim a Work Opportunity Tax Credit (WOTC) if they hire, among other individuals, individuals with disabilities who have been referred by a State vocational rehabilitation (VR) agency. For an individual to qualify as a vocational rehabilitation referral under section 51(d)(6)(B) of the IRC, the individual must be receiving or have completed vocational rehabilitation services pursuant to: (i) "an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973;" or (ii) "a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code." (IRC, section 51(d)(6)(B).

The WOTC is equal to 40% of the first $6,000 of wages paid to newly hired employees during their first year of employment when the employee is retained for at least 400 work hours. As such, the maximum credit per employee is $2,400, but the credit may be less depending on the employer's tax bracket. A lesser credit rate of 25% is provided to employers when the employee remains on the job for 120–399 hours. The amount of the credit reduces the company's deduction for the employee's wages.

The Ticket to Work Act established the Ticket to Work and Self-Sufficiency Program (Ticket to Work Program) under section 1148 of the Social Security Act. Under this program, the SSA provides a "ticket" to eligible Social Security Disability Insurance beneficiaries and Supplemental Security Income beneficiaries with disabilities that allows them to obtain employment and other support services from an approved "employment network" of their choice. Employment networks may include State, local, or private entities that can provide directly, or arrange for other organizations or entities to provide, employment services, VR services, or other support services. State VR agencies have the option of participating in the Ticket to Work Program as employment networks. Employment networks must work with each beneficiary they serve to develop an individual work plan (IWP) for that beneficiary that outlines his or her vocational goals and the services needed to achieve those goals. For VR agencies that participate in the Ticket to Work Program, the individualized written plan for employment (as specified under (i) in paragraph one above) serves in lieu of the IWP.

Under current law, an employer hiring a disabled individual referred by an employment network does not qualify for the WOTC unless the employment network is a State VR agency.

EXPLANATION OF PROVISION

The new provision allows employers who hire disabled workers through referrals by employment networks under section 1148 of the Social Security Act to qualify for the WOTC. Specifically, it provides that, for purposes of section 51(d)(6)(B)(i) of the IRC of 1986, an IWP under section 1148 of the Social Security Act shall be treated as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.

This provision is effective as if it were included in section 505 of the Ticket to Work Act.

REASON FOR CHANGE

The Ticket to Work Program was designed to increase choice available to beneficiaries when they select providers of employment services. Employers hiring individuals with disabilities should be able to qualify for the WOTC regardless of whether the employment referral is made by a public or private service provider. This amendment updates eligibility criteria for the WOTC to conform to the expansion of employment services and the increase in number and range of VR providers as a result of the enactment of the Ticket to Work Act.

Subtitle B—Miscellaneous Amendments

Section 411. Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

PRESENT LAW

The Social Security Act requires the SSA to file a hearing transcript with the District Court for any SSA hearing that follows a court remand of a SSA decision.

EXPLANATION OF PROVISION

The new provision clarifies that the SSA is not required to file a transcript with the court when the SSA, on remand, issues a decision fully favorable to the claimant. This provision is effective with respect to final determinations issued (upon remand) on or after the date of enactment.

REASON FOR CHANGE

A claimant whose benefits have been denied is provided a transcript of a hearing to be used when the claimant appeals his case in Federal District court. If the Administrative Law Judge issued a fully favorable decision, then transcribing the hearing is unnecessary since the claimant would not appeal this decision.

Section 412. Nonpayment of Benefits Upon Removal From the United States

PRESENT LAW

In most cases, the Social Security Act prohibits the payment of Social Security benefits to non-citizens who are deported from the United States. However, the Act does not prohibit the payment of Social Security benefits to non-citizens who are deported for smuggling other non-citizens into the United States.

EXPLANATION OF PROVISION

The new provision requires the SSA to suspend benefits of beneficiaries who are removed from the United States for smuggling aliens. This provision applies with respect to removals occurring after the date of enactment.

REASON FOR CHANGE

Individuals who are removed from the United States for smuggling aliens have committed an act that should prohibit them from receiving Social Security benefits.

Section 413. Reinstatement of Certain Reporting Requirements

PRESENT LAW

The Federal Reports Elimination and Sunset Act of 1995 "sunsetted" most annual or periodic reports from agencies to Congress that were listed in a 1993 House inventory of congressional reports.

EXPLANATION OF PROVISION

The new provision reinstates the requirements for several periodic reports to Congress that were subject to the 1995 "sunset" Act, including annual reports on the financial solvency of the Social Security and Medicare programs (the Board of Trustees' reports on the OASDI, HI, and SMI trust funds) and annual reports on certain aspects of the administration of the Title II disability program (the SSA Commissioner's reports on pre-effectuation reviews of disability determinations and continuing disability reviews). The provision is effective upon enactment.

REASON FOR CHANGE

The reports to be reinstated provide Congress with important information needed to evaluate and oversee the Social Security and Medicare programs.

Section 414. Clarification of Definitions Regarding Certain Survivor Benefits

PRESENT LAW

Under the definitions of "widow" and "widower" in Section 216 of the Social Security Act, a widow or widower must have been married to the deceased spouse for at least nine months before his or her death in order to be eligible for survivor benefits.

EXPLANATION OF PROVISION

The new provision creates an exception to the nine-month requirement for cases in which the Commissioner finds that the claimant and the deceased spouse would have been married for longer than nine months but for the fact that the deceased spouse was legally prohibited from divorcing a prior spouse who was institutionalized due to mental incompetence or similar incapacity. The provision is effective for benefit applications filed after the date of enactment.

REASON FOR CHANGE

This provision allows the Commissioner to issue benefits in certain unusual cases in which the duration of marriage requirement could not be met due to a legal impediment over which the individual had no control and the individual would have met the legal requirements were it not for the legal impediment.

Section 415. Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings are Subject to the Laws of a Totalization Agreement Partner

PRESENT LAW

In cases where there is an agreement with a foreign country (i.e., a totalization agreement), a worker's earnings are exempt from United States Social Security payroll taxes when those earnings are subject to the foreign country's retirement system.

EXPLANATION OF PROVISION

The new provision clarifies the legal authority to exempt a worker's earnings from United States Social Security tax in cases where the earnings were subject to a foreign country's retirement system in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions on those earnings. The provision establishes that such earnings are exempt from United States Social Security tax whether or not the worker elected to make contributions to the foreign country's retirement system.

The provision is effective upon enactment.

REASON FOR CHANGE

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. In most cases, the worker (whether subject to the laws of the United States or the other country) is compulsorily covered and required to pay contributions in accordance with the laws of that country. In some instances, however, work that would be compulsorily covered in the U.S. is excluded from compulsory coverage in the other country (such as Germany). In such cases, the IRS has questioned the exemption from U.S. Social Security tax for workers who elect not to make contributions to the foreign country's retirement system. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

Section 416. Coverage Under Divided Retirement System for Public Employees in Kentucky

PRESENT LAW

Under Section 218 of the Social Security Act, a State may choose whether or not its State and local government employees who are covered by a public pension may also participate in the Social Security Old-Age, Survivors, and Disability Insurance program. (In this context, the term "public pension plan" refers to a pension, annuity, retirement, or similar fund or system established by a State or a political subdivision of a State such as a town. Under current law, State or local government employees not covered by a public pension plan are, with a few exceptions, required to pay Social Security payroll taxes.)

Social Security coverage for employees covered under a State or local government public pension plan is established through an agreement between the State and the federal government. All States have the option of electing Social Security coverage for employees by a majority vote in a referendum. If the majority vote is in favor of Social Security coverage, then the entire group, including those voting against such coverage, will be covered by Social Security. If the majority vote is against Social Security coverage, then the entire group, including those voting in favor of such coverage and employees hired after the referendum, will not be covered by Social Security.

In certain States, however, there is an alternative method for electing Social Security coverage. Under this method, rather than the majority of votes determining Social Security coverage for the whole group, employees voting in the referendum may individually determine whether they want Social Security coverage, provided that all newly hired employees of the system are required to participate in Social Security. After the referendum, the retirement system is divided into two groups, one composed of members who elected Social Security coverage plus those hired after the referendum, and the other composed of those who did not elect Social Security coverage. Under Section 218(d)(6)(c) of the Social Security Act, 21 states currently have authority to operate such a divided retirement system.

EXPLANATION OF PROVISION

The new provision permits the state of Kentucky to join the 21 other states in being able to offer a divided retirement system. This system would permit current state and local government workers in a public pension plan to elect Social Security coverage on an individual basis. Those who do not wish to be covered by Social Security would continue to participate exclusively in the public pension plan. This provision is effective retroactively to January 1, 2003.

REASON FOR CHANGE

The governments of the City of Louisville and Jefferson County merged in January 2003, and formed a new political subdivision. Under the provision, once the new political subdivision holds a referendum on Social Security coverage among its employees, each employee would choose whether or not to participate in the Social Security system in addition to their public pension plan. All employees newly hired to the system after the divided system is in place would be covered automatically under Social Security.

Currently, some employees of the new government are covered under Social Security, while others are not. In order to provide fair and equitable coverage to all employees, a divided retirement system, such as that currently authorized in 21 other states, was seen as the best solution. It would allow those who want to keep Social Security coverage or obtain Social Security coverage to do so, without requiring other current employees to participate in Social Security as well.

Without this provision, upon holding a referendum on Social Security coverage, a majority of votes would determine whether or not the group would participate in Social Security. Since the number of non-covered employees exceeds the number of Social Security-covered employees in the new government, those employees currently covered by Social Security could lose that coverage. The Kentucky General Assembly has adopted a bill that will allow the new divided retirement system to go forward following enactment of this provision.

Section 417. Compensation for the Social Security Advisory Board

PRESENT LAW

The Social Security Advisory Board is an independent, bipartisan Board established by the Congress under section 703 of the Social Security Act. The 7-member board is appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs. Section 703(f) of the Social Security Act provides that members of the Board serve without compensation, except that, while engaged in Board business away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government who are employed intermittently.

EXPLANATION OF PROVISION

The new provision establishes that compensation for Social Security Advisory Board members will be provided, at the daily rate of basic pay for level IV of the Executive Schedule, for each day (including travel time) during which the member is engaged in performing a function of the Board. This provision is effective on January 1, 2003.

REASONS FOR CHANGE

Other government advisory boards—such as the Employee Retirement Income Security Act Advisory Council, the Pension Benefit Guaranty Corporation Advisory Committee and the Thrift Savings Plan Board—provide compensation for their members. This provision allows for similar treatment of Social Security Advisory Board members with respect to compensation.

Seciton 418. 60-Month Period of Employment Requirement for Application of Government Pension Offset Exemption

PRESENT LAW

The Government Pension Offset (GPO) was enacted in order to equalize treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spouse and survivor benefits. Where what is known as the "dual-entitlement" rule reduces a spouse or survivor benefit dollar-for-dollar by the worker's own Social Security retirement or disability benefit, the GPO reduces the Social Security spouse or survivor benefit by two-thirds of the government pension.

However, under what's know as the "last day rule," State and local government workers are exempt from the GPO if, on the last day of employment, their job was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System (CSRS), a system that is not covered by Social Security, to the Federal Employee Retirement System (FERS), a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO.

EXPLANATION OF PROVISION

The new provision requires that State and local government workers be covered by Social Security during their last 5 years of employment in order to be exempt from the GPO. The provision is effective for applications filed on or after the first day of the first month after the date of enactment. However, the provision would not apply to individuals whose last day of employment for the State or local governmental entity occurred before the end of the 90-day period following the date of enactment. It would also not apply to person whose last day of employment occurred after the end of the 90-day period following the date of enactment, if during the 90-day period following the date of enactment the person's job was covered by Social Security and remained so until their last day of employment.

REASON FOR CHANGE

In August 2002, the GAO published a report titled "Social Security Administration: Revision to the Government Pension Offset Exemption Should Be Considered" (GAO–02–950). At the request of Committee on Ways and Means, Subcommittee on Social Chairman E. Clay Shaw, Jr., the GAO investigated use of the "last day" exemption to avoid being subject to the GPO. The investigation found that over 4,800 individuals in Texas and Georgia used the last day exemption, with over 3,500 in Texas using it in 2002.

In testimony provided to the Subcommittee on Social Security February 27, 2003, the GAO stated that the exemption "allows a select group of individuals with a relatively small investment of work time and only minimal Social Security contributions to gain access to potentially many years of full Social Security spousal benefits." GAO also clarified in testimony that a spouse who worked in the private sector, paid payroll taxes for an entire career, and earned a Social Security retirement or disability benefit as a worker would not receive a full spousal benefit. The GAO stated that current usage of last day exemption could cost the Social Security trust funds $450 million, and that considering the potential for abuse of the exemption and the likelihood of increased use, timely action is needed. This provision to conform their treatment to that of federal workers was among the recommendations provided by the GAO to address potential abuse of the exemption. A provision addressing the GPO last-day exemption was also included in President Bush's budget request for 2004.

Subtitle C—Technical Amendments

Section 421. Technical Correction Relating to Responsible Agency Head

PRESENT LAW

Section 1143 of the Social Security Act directs "the Secretary of Health and Human Services" to send periodic Social Security Statements to individuals.

EXPLANATION OF PROVISION

The new provision makes a technical correction to this section by inserting a reference to the Commissioner of Social Security in place of the reference to the Secretary of Health and Human Services. This provision is effective upon enactment.

REASON FOR CHANGE

The "Social Security Independence and Program Improvements Act of 1994" (P.L. 103–296) made the Social Security Administration an independent agency separate from the Department of Health and Human Services. This provision updates Section 1143 to reflect that change.

Section 422. Technical Correction Relating to Retirement Benefits of Ministers

PRESENT LAW

Section 1456 of the "Small Business Job Protection Act of 1996" (P.L. 104–188) established that certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes under the Internal Revenue Code. However, under Section 211 of the Social Security Act, these retirement benefits are treated as net earnings from self-employment for the purpose of acquiring insured status and calculating Social Security benefit amounts.

EXPLANATION OF PROVISION

The new provision makes a conforming change to exclude these benefits received by retired clergy from Social Security-covered earnings for the purpose of acquiring insured status and calculating Social Security benefit amounts. This provision is effective for years beginning before, on, or after December 31, 1994. This effective date is the same as the effective date of Section 1456 of P.L. 104–188.

REASON FOR CHANGE

P.L. 104–188 provided that certain retirement benefits received by ministers and members of religious orders are not subject to payroll taxes. However, a conforming change was not made to the Social Security Act to exclude these benefits from being counted as wages for the purpose of acquiring insured status and calculating Social Security benefit amounts. This income is therefore not treated in a uniform manner. This provision would conform the Social Security Act to the Internal Revenue Code with respect to such income.

Section 423. Technical Correction Relating to Domestic Employment

PRESENT LAW

Present law is ambiguous concerning the Social Security coverage and tax treatment of domestic service performed on a farm. Domestic employment on a farm appears to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employees).

EXPLANATION OF PROVISION

The new provision clarifies that domestic service on a farm is treated as domestic employment, rather than agricultural labor, for Social Security coverage and tax purposes. This provision is effective upon enactment.

REASON FOR CHANGE

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. According to the SSA, in 1994, when Congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of the threshold for agricultural labor. However, the current language is unclear, making it appear as if farm domestics are subject to both thresholds.

Section 424. Technical Correction of Outdated References

PRESENT LAW

Section 202(n) and 211(a)(15) of the Social Security Act and Section 3102(a) of the Internal Revenue Code of 1986 each contain outdated references that relate to the Social Security program.

EXPLANATION OF PROVISION

The new provision corrects outdated references in the Social Security Act and the Internal Revenue Code by: (1) in Section 202(n) of the Social Security Act, updating references respecting removal from the United States; (2) in Section 211(a)(15) of the Social Security Act, correcting a citation respecting a tax deduction related to health insurance cost of self-employed individuals; and (3) in Section 3102(a) of the Internal Revenue Code of 1986, eliminating a reference to an obsolete 20-day agricultural work test. This provision is effective upon enactment.

REASON FOR CHANGE

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, re-designated or amended. However, necessary conforming changes have not always been made. Consequently, Social Security law contains some outdated references.

Section 425. Technical Correction Respecting Self-Employment Income in Community Property States

PRESENT LAW

The Social Security Act and the Internal Revenue Code provide that, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all of the management and control of the trade or business.

EXPLANATION OF PROVISION

Under the new provision, self-employment income from a trade or business that is not a partnership, and that is operated by a married person in a community property State, is taxed and credited to the spouse who is carrying on the trade or business. If the trade or business is jointly operated, the self-employment income is taxed and credited to each spouse based on their distributive share of gross earnings. This provision is effective upon enactment.

REASON FOR CHANGE

Present law was found to be unconstitutional in several court cases in 1980. Since, then, income from a trade or business that is not a partnership in a community property State has been treated the same as income from a trade or business that is not a partnership in a non-community property State—it is taxed and credited to the spouse who is found to be carrying on the business.

This change will conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States.

LETTERS OF SUPPORT RECEIVED FOR H.R. 743, SOCIAL SECURITY PROTECTION ACT OF 2003

DISABILITY ADVOCATES

National Alliance for the Mentally Ill.

Consortium for Citizens with Disabilities.

ATTORNEY ORGANIZATIONS

National Organization of Social Security Claimants' Representatives.

ADMINISTRATIVE LAW JUDGES

Association of Administrative Law Judges.

LAW ENFORCEMENT

Grand Lodge Fraternal Order of Police.

Fraternal Order of Police, Louisville Lodge 6.

Long Beach, CA Police—Chief of Police.

Wayne County, MI (includes Detroit)—Sheriff.

Chartiers Township Police—Houston, PA—Chief of Police.

Borough of Churchill Police—Pittsburgh, PA—Chief of Police.

Brecknock Township Police—Mohnton, PA—Chief of Police.

Milton, PA Police—Chief of Police.

AARP,
Washington, DC, March 5, 2003.

Hon. ROBERT MATSUI,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE MATSUI: On behalf of AARP and its 35 million members, I wish to commend you and Representative Shaw for introducing H.R. 743, the "Social Security Program Protection Act of 2003." This comprehensive legislation is important to claimants, beneficiaries and the overall Social Security program.

We are pleased that the legislation would protect beneficiaries against abuses by representative payees. For many years, AARP recruited volunteers as representative payees so that Social Security beneficiaries who needed a representative payee but could not find one would not lose any benefits. These programs were quite successful but were limited in scope.

AARP has had a longstanding interest in curbing deceptive mailings targeted at older Americans. This legislation builds upon prior legislation and could discourage other mailers from scaring older people about their Social Security and Medicare benefits.

The legislation would strengthen the Ticket to Work Act and conduct pilot projects to improve work incentives for those with a disability. These changes would send a strong signal that our society values the contributions of all its citizens.

Thank you again for your leadership in moving H.R. 743 in the House.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

NAMI,
Arlington, VA, March 3, 2003.

Hon. E. CLAY SHAW,
Chairman, Subcommittee on Social Security, Committee on Ways & Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN SHAW: On behalf of the 220,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI) I am writing to offer our support and urge swift House consideration of HR 743, the Social Security Protection Act of 2003. As the nation's largest organization representing individuals with severe mental illnesses and their families, NAMI urges the House to pass this bipartisan legislation to protect the interests of vulnerable beneficiaries of Social Security's disability income and support programs.

HR 743 is the product of near universal bipartisan support. This legislation contains many long overdue protections for the most disabled and vulnerable Americans and their families. As you know, individuals with severe mental illnesses represent a large and growing percentage of Social Security's cash assistance benefit programs (SSI and SSDI). The beneficiary protections and program integrity provisions in HR 743 will help ensure that the performance of the SSI and SSDI programs improve. Of particular to NAMI are the sections in HR 743 that will provide badly needed protections for recipients whose benefits are mishandled or fraudulently diverted by institutional representative payees. NAMI is especially supportive of these protections given the high percentage of SSI beneficiaries with severe persistent mental illnesses who receive benefits through a representative payee.

NAMI is also pleased with provisions in HR 743 that will require Social Security to issue receipts to SSDI beneficiaries when they forward earnings reports to agency. This new protection will be of tremendous help to SSDI beneficiaries seeking to use the Trial Work Period program to re-enter the workforce. Finally, NAMI is pleased that HR 743 contains needed technical corrections to improve with the implementation of the 1999 Ticket to Work and Work incentives Improvement Act (TWWIIA).

HR 743 is the product of years of bipartisan work. Similar legislation passed the House 425–0 and cleared the Senate without dissent in the 107th Congress. In NAMI's view, the House should act swiftly in 2003 to pass this important legislation that everyone agrees is needed to protect people with severe disabilities that rely on SSI and SSDI benefits for their most basic needs.

Sincerely,

RICHARD C. BIRKEL, Ph.D.,
Executive Director.

Consortium for
Citizens with Disabilities,
Washington, DC, March 4, 2003.
Hon. E. Clay Shaw,
Hon. Robert Matsui,
House of Representatives, Washington, DC.

Dear Representatives Shaw and Matsui: On behalf of the Consortium for Citizens with Disabilities Task Forces on Social Security and Work Incentives Implementation, we are writing to express our support for the speedy passage of H.R. 743, the Social Security Protection Act of 2003.

We appreciate the hard work and the perseverance of the Subcommittee on Social Security in addressing this important legislation over the course of two Congresses and again in this 108th Congress. Your leadership and commitment last year resulted in the passage of the Social Security Program Protection Act of 2002, H.R. 4070, in the House by a vote of 425 to 0. Clearly, the issues addressed in the bipartisan Social Security Protection Act are important to people with disabilities who must depend on the Title II and Title XVI disability programs. We urge House passage of H.R. 743.

H.R. 743 is a very important bill for people with disabilities. We believe that it should be enacted as soon as possible. People with disabilities need the protections of the representative payee provisions. People with disabilities who are attempting to work need the statutory changes to the Ticket to Work program in order to better utilize the intended work incentive provisions enacted in 1999. In addition, beneficiaries with disabilities need the provision requiring the Social Security Administration to issue written receipts, and to implement a centralized computer file record, whenever beneficiaries report earnings or a change in work status. These important provisions have not been controversial—in fact, they have enjoyed significant bipartisan support—and have simply fallen prey to the legislative process over the last two Congresses. We appreciate your interest in moving H.R. 743 quickly so that these important protections can become available to beneficiaries as soon as possible.

One of the most important sections of H.R. 743 for people with disabilities is the section dealing with improved protections for beneficiaries who need representative payees. Approximately 6 million Social Security and Supplemental Security Income beneficiaries have representative payees, often family members or friends, who receive the benefits on their behalf and have a responsibility to manage the benefits on behalf of the beneficiaries.

H.R. 743 includes important provisions strengthening SSA's ability to address abuses by representative payees. The provisions would:

Require non-governmental fee-for-services organizational representative payees to be bonded and licensed under state or local law;

Provide that when an organization has been found to have misused an individual's benefits, the organization would not qualify for the fee;

Allow SSA to re-issue benefits to beneficiaries whose funds had been misused;

Allow SSA to treat misused benefits as "overpayments" to the representative payee, thereby triggering SSA's authority to recover the money through tax refund offsets, referral to collection agencies, notifying credit bureaus, and offset of any future federal benefits payments; and

Require monitoring of representative payees, including monitoring of organizations over a certain size and government agencies serving as representative payees.

In addition, H.R. 743 would extend the direct payment of attorneys fees in SSI cases on a voluntary basis. Advocates believe that such a program will make legal representation more accessible for people with disabilities who need assistance in handling their cases as they move through the extremely complex disability determination and appeals systems.

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security and Work Incentives Implementation Task Forces focus on disability policy issues in the Title XVI Supplemental Security Income program and the Title II disability programs. We look forward to the House passage and final enactment of H.R. 743.

Sincerely,

Co-chairs, Social Security and Work Incentives Implementation Task Forces

Marty Ford
The Arc and UCP Public Policy Collaboration.

Ethel Zelenske
National Organization of Social Security Claimants' Representatives.

Cheryl Bates-Harris
National Association of Protection and Advocacy Systems.

Susan Prokop
Paralyzed Veterans of America.

Melanie Brunson
American Council of the Blind.

Paul Seifert
International Association of Psychosocial Rehabilitation Services.

National Organization of Social
Security Claimants' Representatives,
Midland Park, NJ, February 26, 2003.
Hon. E. Clay Shaw, Jr.,
Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, Washington, DC.

Dear Mr. Chairman: On behalf of the National Organization of Social Security Claimants' Representatives ("NOSSCR"), we offer our support for the important goals of H.R. 743, the Social Security Protection Act of 2003.

Specifically, we support the protections in Title I for beneficiaries who have representative payees and support provisions which, for the first time, require the Social Security Administration to issue receipts to beneficiaries when they report earnings or a change in work status. Additionally, Title III of this measure contains two important provisions NOSSCR strongly supports. These provisions are designed to ensure access to legal representation for those Social Security and Supplemental Security Income ("SSI") claimants who seek to be represented as they pursue their claims and appeals. First, the bill limits the assessment of the user fee to $75.00 or 6.3 percent, whichever is lower. Second, the bill extends the current Title II fee withholding and direct payment procedure to the Title XVI program, giving SSI claimants the same access to representation as is currently available to Social Security disability claimants. Together, these provisions make changes that will help claimants obtain representation as they navigate what can often be confusing and difficult process.

We are dismayed, however, by the addition of a sunset provision for the extension of withholding to the Title XVI program. Enactment of an attorneys' fee payment system with an "end date" will undercut its very purpose: to enable more SSI claimants seeking a lawyer to hire one. The sunset provision shortchanges SSI claimants who desire legal representation. We are not aware of any policy justification for this provision, and we urge its deletion from the bill.

NOSSCR appreciates your continued interest in improving the Social Security and SSI programs and ensuring the best possible service delivery. We look forward to your Subcommittee's consideration of this legislation.

Very truly yours,

Nancy G. Shor,
Executive Director.

Association of
Administrative Law Judges,
Milwaukee, WI, February 28, 2003.
Re: The Social Security Protection Act of 2003 (HR 743).
Hon. Clay Shaw, Jr.,
Chairperson, Subcommittee on Social Security, Washington, DC.

Dear Chairperson Shaw: I write on behalf of the Association of Administrative Law Judges. We represent about 1000 administrative law judges in the Social Security Administration and in the Department of Health and Human Services which comprise about 80% of the administrative law judges in the Federal government. I am writing in regard to H.R. 743, a bill to provide additional safeguards for Social Security and Supplement Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

We support the goals of H.R. 743. In particular, we support the attorney fee payment system improvements provided for in the bill, but we believe that the legislation should not include any "sunset" provisions. We further support the provisions in the legislation for the elimination of transcript requirements in remand cases fully favorable to the claimant.

We also favor the provision in the legislation that directs the Social Security Administration to issue receipts to acknowledge submissions of earnings by beneficiaries.

Thank you for your work on this important legislation.

Sincerely,

Ronald G. Bernoski,
President.

Grand Lodge,
Fraternal Order of Police,
Washington, DC, January 10, 2003.
Hon. Ron Lewis,
House of Representatives,
Washington, DC.

Dear Representative Lewis: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong support for H.R. 134, which would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As you know, in November of 2000, the citizens of Jefferson County and the City of Louisville, Kentucky voted to merge their communities and respective governments into a single entity, known as Greater Louisville. This merger went into effect on 6 January 2003. Jefferson County and the City of Louisville operated two very different retirement programs for their police officers and, now that the merger has occurred, Federal law requires the new government to offer a single retirement plan. We share your concern that this requirement may dramatically increase the cost of retirement for the public safety officers who now serve Greater Louisville, and thus jeopardize the retirement security of many of the community's police, fire, and emergency personnel.

The Kentucky State Lodge of the Fraternal Order of Police has been successful in its effort in the State's General Assembly and now need the Federal government to act by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as a "divided retirement system." This will allow the police officers of Greater Louisville to decide for themselves whether or not they want to participate in Social Security or remain in their traditional retirement plan. While future employees will be automatically enrolled in Social Security, no current officers would be forced into a new retirement system as a result of the merger.

It is critical that the Congress act quickly on this matter. The F.O.P. is ready to assist you in getting this bill through the House expeditiously.

On behalf of the more than 300,000 members of the Fraternal Order of Police, I want to thank you for your hard work on this effort. Please let us know how we can be of further assistance by contacting me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

FRATERNAL ORDER OF POLICE,
LOUISVILLE LODGE 6,
Louisville, KY, February 19, 2003.

Hon. RON LEWIS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LEWIS: I am writing on behalf of the members of Fraternal Order of Police, Louisville Lodge #6. We want to advise you of our support for HR 134. We believe that this bill would add Kentucky to the list of those States permitted to operate a separate retirement system for certain public employees.

As I am sure you are aware that last November our community voted to unite Jefferson County and the City of Louisville, Kentucky. We have a newly formed entity known as Greater Louisville. This merger was effective January 6th 2003. Jefferson County and the City of Louisville are now operating on two very different retirement systems in respect to their police officers. Now that the merger has taken effect, Federal law requires the new government to offer one single retirement plan for everyone.

The Kentucky State F.O.P. Lodge has been successful in its effort in the State's General Assembly and now need the Federal Government to act by adding Kentucky to the list of twenty-one (21) States permitted to operate what is known as a "divided retirement system." This will give every police officer the choice whether to participate in Social Security or remain in their current/traditional retirement plan.

We believe that it is critical and important that Congress act on this matter as quickly as possible. On behalf of our membership, we wish to thank you for your efforts with this matter. Please let us know if we can be of any assistance in the future.

Sincerely,

DAVID JAMES,
President.

CITY OF LONG BEACH
POLICE DEPARTMENT,
Long Beach, CA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: It has come to my attention that you will soon be holding hearings on House of Representatives Bill 743. I am writing to let you know that I fully support this Bill, especially as it relates to expanding the denial of Social Security benefits to all of those who are fugitives from justice.

My department has worked successfully with the Social Security Administration's Office of the Inspector General (SSA OIG) in apprehending fugitives who collect Supplemental Security Income payments. By working with the SSA OIG to remove a source of income for the fugitive, law enforcement departments like mine are finding it easier to locate and apprehend fugitives.

I urge you to fully support the provisions of H.R. 743 that make all fugitives ineligible for any type of Social Security benefit from the United States Government.

Sincerely,

ANTHONY W. BATTS,
Chief of Police.

OFFICE OF THE SHERIFF,
WAYNE COUNTY,
Detroit, MI, February 25, 2003.

Subject: House Bill HR 473.

Hon. E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to officially endorse and support House Bill HR 473 that provides for the expansion of the Fugitive Felons Project to include the Title II program. My department works closely with the Social Security Inspector General's office in identifying Title 16 SSI welfare recipients who are fugitive felons and are residents of Wayne County.

Over the past two years several hundred fugitive felons have been arrested because of the close working relationship between the Sheriff's Department and the Social Security Inspector General's office. By expanding the fugitive felon provision to include the Title II program, I believe the number of arrests will increase significantly.

If I may be of assistance to you in this matter, please contact me at (313) 224-2233.

Sincerely yours,

WARREN C. EVANS,
Sheriff.

CHARTIERS TOWNSHIP
POLICE DEPARTMENT,
Houston, PA, February 26, 2003.

Congressman E. CLAY SHAW Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN E. CLAY SHAW Jr.: I am writing you today, to strongly endorse House Bill #473. I would especially endorse Section 203 that covers the Title II Fugitive Felons expansion. I believe Law Enforcement efforts would be greatly enhanced by its passage.

Sincerely,

JAMES M. HORVATH,
Chief.

THE BOROUGH OF CHURCHILL
POLICE DEPARTMENT,
Pittsburgh, PA, February 28, 2003.

To: Congressman E. Clay Shaw Jr.

Subject: Endorsement for H.R. 743.

I am writing to show my support for the above bill. I believe that it would be in the best interest of the American public to give this tool to Law Enforcement officials. I believe that it will help up in the investigation of Terrorists.

RICHARD H. JAMES,
Chief of Police.

BRECKNOCK TOWNSHIP
POLICE DEPARTMENT,
Mohnton, PA, February 27, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW: I would like to take this opportunity to endorse the expansion of the Fugitive Felons Project to include the Title II program in Section 203 of HR 473. It will be another valuable tool in the fight against crime.

Thank you for your consideration.

JOHN V. MINTZ,
Chief of Police.

MILTON POLICE DEPARTMENT,
Milton, PA, February 25, 2003.

Congressman E. CLAY SHAW, Jr.,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN SHAW Jr.: This letter is in support of your efforts under House Bill H.R. 743, amending the Social Security Act and the Internal Revenue Code of 1986. This should provide law enforcement at all levels a powerful tool in the location of fugitives from justice. On many occasions in my law enforcement experience I have found persons receiving benefits of the Social Security System while outstanding warrants or other paper was pending on them.

Thank you for your introduction of this needed legislation.

Sincerely yours,

PAUL YOST,
Chief.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a valued member of the subcommittee.

Mr. HERGER. Mr. Speaker, I rise in support of the Social Security Program Protection act. I would like to thank Chairman SHAW and the other members of the Committee on Ways and Means who have worked tirelessly to improve Social Security programs that provide a crucial safety net for many of our Nation's neediest disabled and elderly individuals. These changes have been designed to ensure that the right benefits go to the right people, a principle which should guide our efforts on behalf of the taxpayers we serve.

I am especially pleased that the bill before us includes a provision designed to keep convicted fugitive felons from getting Social Security checks. These efforts built upon the criminal welfare prevention provisions which I introduced and which were enacted into law more than 3 years ago. By all accounts, these laws have been effective in stopping illegal, fraudulent Social Security payments to prisoners.

We have also stopped hard-earned taxpayer dollars from being used to subsidize addicts with disability checks. Overall, we have saved the taxpayers and beneficiaries literally billions of dollars.

Other provisions in the legislation before us, such as granting the Social

Security Administration the tools it needs to weed out waste and fraud, will further protect vulnerable beneficiaries.

Mr. Speaker, this bill passed with overwhelming bipartisan support in the last Congress. I urge all my colleagues to join me today in supporting it once again.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN), a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to express my strong opposition to section 418 of the Social Security Protection Act.

Under section 418, an individual would be required to work in a Social Security-covered job for his or her last 5 years of employment to be exempt from the GPO. Both the increase in time and the offset itself are absolutely ridiculous.

Under a provision of current law, known as the "last day rule," an individual is exempt from GPO if he or she worked in a job that was covered by Social Security on the last day of employment. According to the GAO, extending the employment requirement to 5 years will save only $18 million per year, greatly to the detriment of public workers, especially our school teachers.

Section 418 was not included in the version of this legislation that the House passed, with my support, during the 107th Congress. This is not the same bill as last year. I support the other provisions of this legislation, but cannot support H.R. 743 as introduced. Technical corrections are necessary. This is a correction that will strike at the very heart of public school teachers in Texas and public employees in other parts of the country.

Mr. Speaker, I hope this legislation will finally focus Congress' attention on the need to repeal the government pension offset. I urge the Committee on Ways and Means to examine the GPO and its harmful impact on seniors in my district and all across the country.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), another valued member of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the subcommittee for yielding me this time, and I rise in strong support of the Social Security Protection Act of 2003.

Now, the gentleman who preceded me in the well, the gentleman from California, spoke of the initiatives this committee and this House adopted to crack down on fraud and abuse, specifically the abuse of Social Security payments going to convicted felons. We have a chance now to expand that, to deny fugitive felons and payroll violators from receiving Social Security benefits and help individuals with disabilities.

This is the key thing for me, my colleagues, because so many folks in the Fifth Congressional District of Arizona have come to me to extol the virtues of something this Congress did back in 1999, as we put people back to work with our Ticket to Work incentives that year. And while we have granted tickets to work across the country to emphasize the ability in disability and put people back to work, an important piece of clarifying language is in this provision. It clarifies that the Work Opportunity Tax Credit would be available to employers who hire a disabled beneficiary who is referred from any employment network, not just the State rehabilitation agency.

So we actually expand the pool of people who can go to work and add further incentives in our Ticket to Work. So, on one hand, if we are talking about Social Security protection, we move to bar those who would take advantage of fraud and abuse. We crack down there. And yet for the most deserving among us, people who genuinely want to get back in the workforce, who have been met with limitations heretofore, we expand their opportunities to find work. We expand the opportunities for those who are willing to put them to work.

It creates the type of balance necessary. It is the ideal type of perfecting and expanding legislation that is meant when we say we step up to protect this vital program. It shows reasoned balance and perfection in what is all too often an imperfect world as we strive to further strengthen and protect and perfect our process of Social Security.

If nothing else were there but this expansion of the Work Opportunity Tax Credit and the Ticket to Work Program, I would stand in favor of this bill. But it does so much more. I would invite all of my friends in the House to join us in supporting this legislation.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from the State of Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time and for all of his good work.

I am particularly saddened today, Mr. Speaker, that I have to come to the floor and vigorously oppose this legislation because just last year, 2002, I enthusiastically supported the Social Security Act of 2002 for the very reason that we do need to fix some of the abuses and we need to respond to the needs of shoring up Social Security.

But the Texas branch of our teachers association has characterized this hidden provision in 418 as a poison pill for Texas school employees—hardworking teachers and others who are working in our school districts lose their benefits. Many school districts offer teachers nonSocial Security government pensions. So, until now, many teachers have been forced to take advantage of the last day option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits.

This is a ridiculous system and the appropriate way to fix it would have been to repeal the GPO. In fact, I have cosponsored H.R. 594, with my colleague, the gentleman from California (Mr. MCKEON), and 132 others, just to do that. This bill closes the option to protect those hardworking teachers.

For example, I received a call from one woman in my district who was a teacher earlier in her life. She wanted to come back today and help the teachers to teach the children to the system. But as a widow she cannot do so because of this terrible structure in our Social Security legislation.

Mr. Speaker, this is a bad bill that has this hidden provision. It will hurt teachers, firefighters, and police persons and I ask my colleagues to vote against it.

Mr. Speaker, I am saddened to come to the floor today to speak out against H.R. 743, The Social Security Protection Act of 2003. Social Security represents a covenant between the U.S. Federal Government and the American people. It is a promise that if a person works hard, and contributes into this investment program, that when it comes time for them to retire—their government will ensure that a fair benefit is there for them. It seems that too often, criminals take advantage of the trust between the Social Security Administration and the seniors and disabled Americans it serves. They misuse Social Security benefits. Such activity is worse than just stealing, because it threatens the confidence that the American people have in their government. That confidence is the foundation of our democracy.

So last Congress, I joined with every voting Member of this House in support of The Social Security Act of 2002. It was an excellent piece of bipartisan legislation, which would have made great strides towards cutting down on the abuse of the Social Security system. Most of the major provisions of that bill are reflected in the bill before us today, and I still support them. The bills would both protect Social Security recipients by mandating reissue of funds when their payments are misused. Representative payees who misuse a person's benefits would be forced to reimburse those funds, plus would be subject to fines of up to $5000 if they knowingly provided false or misleading information.

For further protection, representative payees for over 15 individuals would be required to be licensed and bonded, and would be subject to periodic reviews. The bills would allow the Commissioner to withhold benefits from fugitive felons, and persons fleeing prosecution. The bills also provide for numerous improvements to the present system, which would reduce fraud and abuse of the program.

The bill passed unanimously in the House last Congress, and similar legislation cleared the Senate. But unfortunately this important legislation got hung up at the end of last year. With such support and progress, this should have been an easy piece of work to get through this year, and a score for the American taxpayers. Instead, a wrench has been thrown into the works, through the addition of a small section that has provoked a deluge of phone calls into my office from, it seems like, every schoolteacher in my district.

The Texas branch of the American Federation of Teachers describes Section 418 as "poison for Texas school employees." That section relates to the Government Pension Offset. At present, if an individual receives a government pension based on work that was not covered by Social Security, his or her Social Security spousal or survivor benefit is reduced by an amount equal to two-thirds the government pension. This provision of current law is called the Government Pension Offset (GPO). However, under the "last day rule," an individual is exempt from the GPO if he or she works in a job covered by Social Security on the last day of employment.

Many school districts offer teachers non-Social Security government pensions, so until now many teachers have been forced to take advantage of the "last day" option. Just before they retire, they get a job in a business with a Social Security pension for a day, in order to receive their deserved benefits. This is a ridiculous system, and the appropriate way to fix it would have been to repeal the GPO. In fact, I have co-sponsored H.R. 594 with my colleague from California, BUCK MCKEON, and 132 others to do just that.

Instead, the bill before us today closes the option. I am usually all for saving money, but now is no time to be "sticking-it" to teachers—just as we are trying to leave no child behind, just as we have a shortage of qualified teachers in many areas. This could drive many people away from careers in teaching.

For example, today I received a call from one woman in my District who was a teacher earlier in her life. Her husband recently passed away and she has been contemplating going back into teaching. But she has been warned that she could actually jeopardize her financial future by going to work. As a widow, she will be entitled to her husband's social security benefits. However, if she starts to teach in a school district with a government non-Social Security pension, she could lose $360 per month in retirement benefits—over $4000 per year.

Why should she risk it? If H.R. 743 passes today, it won't be only she that loses. It will be our Nation's children who lose—an experienced, intelligent teacher.

The GPO issue needs to be addressed, but not today. Right now, we are giving money to criminals who are beating our system and undermining confidence in the future of Social Security and the government as a whole. We need to protect Social Security, and we need to do it soon. But I will wait until we can do it without attacking our teachers, and penalizing our children.

I will vote "no" on H.R. 743, and urge my colleagues to do the same.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to say to the gentlewoman from Texas that this levels the playing field and treats the people, or the teachers in Texas as other teachers throughout the entire country.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), another valued member of the Committee on Ways and Means.

Mr. HULSHOF. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in support of H.R. 743, the Social Security Protection Act.

There are a lot of issues that are addressed that are important to Americans with disabilities that depend upon Title II and Title XVI. Individuals facing the challenges of life with a disability need these protections that are proposed on the representative payee provisions.

There are about 6 million Americans that receive Social Security and supplemental security income. These beneficiaries often have family members or loved ones who act on their behalf, and yet there are some of those receiving these benefits that go to services, a fee for this service of being a representative payee. If someone receives a fee for this service, now they must be bonded and licensed. And if this representative payee chooses to pray on the disability or the elderly, society's most vulnerable, then tough civil monetary penalties will result. These changes are important and necessary.

Another provision deserving mention, Mr. Speaker, is contained within section 401 through 405. In 1999, this body enacted some breakthrough changes for individuals with disabilities, specifically the Ticket to Work and Work Incentive Improvement Act. The Ticket to Work rolled over barriers that prevented countless employable individuals with disabilities from rejoining the workforce.

□ 1115

Yet now we need to make some technical corrections. For instance, one of the things in the original Ticket to Work bill was a demonstration project which allowed the commissioners of Social Security to look at other ways to employ those that want to rejoin the workforce. One of the technical corrections is that we extend the 5-year limit on designing and implementing these worthy demonstration projects.

I am especially interested personally in abolishing this so-called "income cliff." That is, if an individual is employable and works and achieves earnings up to a certain amount, if that individual makes $1 more than that, they fall off the cliff and lose all of their Social Security disability benefits. I encourage this sliding scale, for every $2 earned, maybe losing $1 of disability benefits. Yet we need to make those technical corrections to the bill so employer networks will accept these beneficiaries that are participating in this $1 for $2 offset demonstration project. So these are worthy changes.

Let me quickly address the issue of my colleagues from Texas. There was a recent study that the General Accounting Office came back to our committee in August of last year with, at the request of the chairman, and found this last-day exemption, this loophole, found that nearly 5,000 individuals in two States were taking advantage of this loophole in order to get around the requirements of law.

What we do is simply implement the changes of the GAO. What the General Accounting Office found was that we were allowing, current law was allowing a select group of individuals with really a small investment of work time and only minimal Social Security contributions to really gain access to potentially many years of full Social Security benefits. I recognize this is a tough situation for those Members from those particular States; but as the chairman alluded after the last speaker, this is something that brings those States in line with the other 48 States. Again a difficult but necessary, important change. These changes are overdue. I urge adoption of H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, there are over 40,000 teachers across the State of Texas who could be adversely affected by this legislation. This bill includes provisions which I consider to be catastrophic for Texas teachers and many other government employees. Provisions in the legislation would, in effect, reduce the amount of combined benefits that the Texas teachers could depend upon after retirement, even for many teachers who have paid into both Social Security and the Texas teacher retirement system.

I realize that many in this body characterize section 418, the section that would extend the last-day exemption to 6 years, as an issue of fundamental fairness. With that, I cannot entirely disagree. Those who are able to take advantage of a loophole in the law represent a small minority of Americans who pay into Social Security and a government pension; and there are other ways in which we can fix that, and we do have legislation that is pending.

I do not object to this legislation on the grounds that it seeks to create an equitable system of payment for all citizens. I object to a process whereby Members of the Texas delegation and other delegations are not able to offer amendments or debate this bill on the floor of the House. This legislation will have broad implementations for teachers in Texas and will most likely force a mass exodus of experienced teachers from our public schools. Under this legislation, teachers will still be able to retire this year and use the last day exemption provision to draw their retirement.

What impetus does an experienced teacher have to stay in the classroom and continue teaching if the government is, in effect, going to significantly reduce his or her retirement payment after this year? If we are to attract and retain qualified, caring teachers, then hidden procedures such as that in section 418 must be debated and considered in an open forum where amendments and debate are not stifled. Now is not the time to force experienced, caring teachers into retirement and demonstrate to the younger generation of educators our indifference to the livelihood of our Nation's educators.

Mr. Speaker, I ask that we pull section 418, make the bill like it was last year, or defeat H.R. 743.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, a few years ago a lady came to my office in my district whose husband had died before he had ever collected a single penny of Social Security. He had worked his entire life paying into the Social Security system thinking when he died, his wife would receive a survivor's benefit from his Social Security payments that would help keep her secure during her retirement.

She sat in my office near tears explaining to me that because she had spent her career in teaching and because she receives a monthly Texas State teacher's retirement benefit, she would never see one penny from Social Security. To learn that she would have received a survivor's benefit if she had been drawing a retirement benefit from a private, rather than a public, retirement fund only added insult to her injury.

Mr. Speaker, this is unfair and the government pension offset must be repealed. For the 6 years that I have been in Congress, I have cosponsored the legislation to end this unfair result caused by this provision we call the GPO. Last year 186 Members on both sides of the aisle cosponsored legislation to repeal this government pension offset. In spite of that support, the bill never has passed, never has received a full hearing in the committee. And in spite of the support in this Congress, section 418 of the bill before us moves in exactly the opposite direction.

Mr. Speaker, I urge my colleagues to protect our teachers, to reject this bill today, to send it back to the Committee on Ways and Means with the understanding that the GPO should be repealed.

Mr. MATSUI. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

This is an issue so important to some of us who represent districts in Texas and Georgia, and it is important nationwide because there has been legislation in the last 4 years that had a majority of the U.S. House of Representatives as cosponsors to repeal the offset for public employees, for teachers, firefighters and police officers. The gentleman from Arizona (Mr. HAYWORTH) was a cosponsor of the bill 2 years ago, and now we are gathering signatures again. It is a system that is wrong, and it needs to be changed; but in my 5 years, we have not had a chance to address it on the floor of the House of Representatives.

I know my colleagues talk about the 1 day as a loophole. Well, it may be a loophole, but it is also complying with the law. It is interesting, we are going to close a loophole and allow firefighters, police officers and teachers to go to work 1 day in a system that has Social Security and their retirement system and be eligible for Social Security. Yet we are willing to open up millions of loopholes for corporations to be able to walk through.

I regret to say Enron is from the area I am from in Houston, and they have not paid Federal taxes in 6 years. We do not mind opening loopholes big enough for corporations to drive trucks through, but for a school teacher who wants to get her husband's Social Security benefits because she has taught for 30 years teaching our children, we are closing up that loophole. They get penalized on their widow's benefits. We are talking about widows' benefits and not somebody that is double dipping, and I know previously that is what the committee wanted to do.

Mr. Speaker, I am opposed to H.R. 743, and I hope that Members will look at it to change it. Some public employees are not covered by Social Security, and in Texas it is particularly our police officers, firefighters and teachers. Our school districts can be part of Social Security or not. The individual employee, whether they are a cafeteria worker or custodian or a teacher, they do not have a choice. All they want to do is serve our children, and yet they are getting penalized.

My example is the best one I can think of. My wife and I have been married 33 years. She has been a teacher in Texas for 26 years. If I died tomorrow, she would be penalized on all the benefits that I have put into Social Security. I have paid the maximum for I-do-not-know-how-many years. She would be penalized because she is a public schoolteacher in Texas.

H.R. 743 has a great many good things in it, but this is so bad we ought to have enough votes on the floor to be able to defeat it and bring it back without this provision in it, or at least bring it back and debate it fully on the floor with an opportunity to amend it.

Full spousal benefit ought to be if I paid into Social Security, my wife as a widow when I pass away ought to get the same benefit no matter whether she is a stay-at-home housewife or actually worked as a schoolteacher. We should not punish teachers and firefighters and police officers by stripping away this right unless we address the underlying problem of the government pension offset.

Closing a loophole, that is what the current law is. And in Texas I have a good example. I have a teacher in my wife's school district who was 73 years old. Her husband died in her early sixties. She was receiving his Social Security widow's benefit. She could not retire because of the cut she would take in her Social Security benefit from her husband. They were married many years so she was entitled to it. What she did, she went and worked in a school district that had Social Security and teacher retirement for that 1 day at 73 years old. How long do we want people to have to work?

It is just outrageous what the law has made people have to do. Teachers across our country are chronically underpaid. We give lots of lip service on the floor. Yesterday we passed a resolution about Lutheran educators. I am talking about public school teachers who teach our children every day. Is it perfect? Of course not. But this is the only thing we can do on the Federal level because teachers' salaries are set by the school districts and by the States. But this is something we can do to say we are not going to slap them in the face. We are going to make sure that if someone is a teacher and has taught all those years, and their husband has been under Social Security and they pass away, and I say husband because most of the teachers are women. They are the ones in their retirement years who have less than we do as men, and yet we are taking that away from them. Again, that is just outrageous.

We find it harder and harder to attract teachers. Let us make sure if teachers are married to someone who pays into Social Security, they can get their widow's benefit without being punished for it. This issue is close to the heart for a lot of us in Texas.

Mr. SHAW. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I remind Members who are going to vote on this issue who are zeroing in on this one small part of this bill, where we have a two-worker family both paying into Social Security, one dies, the survivor either gets their earned benefit or the survivor benefit, whichever is greater.

But in Texas where you have one spouse who has paid nothing into Social Security but paid all into their pension plan, they would receive, if they worked 1 day under the Social Security system, they would receive their full pension and survivor benefits. All we are trying to do is to say if someone works 5 years under Social Security, they can get both. But if they work 1 day, they cannot get both.

This is trying to level the playing field for the millions of teachers, firefighters and others across this country who have paid into Social Security, to level the playing field so the people who never paid into Social Security are not getting a better deal. It is as simple as that.

Mr. Speaker, I reserve the balance of my time.

□ 1130

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio (Mrs. JONES), a member of the Committee on Ways and Means.

Mrs. JONES of Ohio. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to speak in support of the legislation, but not with regard to the government offset. It is very, very important that we make sure that we take care of the persons on Social Security that have representatives speaking on their behalf. This legislation will provide stricter requirements with regard to those who represent people in the Social Security Administration on behalf of recipients.

This is my first opportunity as a member of the Committee on Ways and Means, the Subcommittee on Social Security, to be on the floor to speak on behalf of an issue. I am pleased to stand in support of this legislation with regard to all the provisions with regard to Social Security. I thank the chairman and the ranking member for all the work they have done in this particular regard.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BRADY), a valued member of the Ways and Means subcommittee.

Mr. BRADY of Texas. Mr. Speaker, we are right to be concerned about our teachers. They are overworked. They are underpaid. We are concerned about them. I think had it not been for study over the last year or so, I would be giving the exact same speech today as my Democratic colleagues from Texas because we are all concerned. It turns out this is not exactly the case I thought it was.

Recently we held a hearing on this legislation. We wanted to hear from our Texas teachers, so we requested the chairman invite our Texas State Teachers Association, our Texas Federation of Teachers and the Association of Texas Professional Educators to testify. Unfortunately, they were not able to because of various reasons, the snow being one of them, but we submitted their testimony on their behalf and urged members of the subcommittee to study it.

During the hearing, it was shown that teachers in government pensions are not being singled out. They are not. The government pension offset affects more than just teachers. It affects more than 5 million people in all sorts of State, local and Federal Government pensions who do not pay into Social Security. This is important to know because a lot of my teachers feel like they are being targeted, being singled out.

My main concern during the hearing that I expressed that my teachers are so upset about, that a widower who has worked a lifetime to earn their government pension, like a Texas teacher, will keep less of their deceased spouse's Social Security than a widower who has worked and paid into Social Security. The Social Security Administration conclusively proved this is not the case. It turns out it is just the opposite.

Teachers in TRS are able to keep the same, or more, of their spouse's Social Security benefits than other widowers who have worked, like nurses or waitresses. That is because the government pension offset law reduces their husband's or their deceased spouse's Social Security by two-thirds of their pension. But for other widowers, for waitresses, nurses and others who paid into Social Security, their husband's benefits are reduced even more, 100 percent of their own benefit.

What I think confuses teachers and many is that if someone has not worked, they have worked inside the home all their life, have not earned Social Security, they keep all of their husband's or their deceased spouses's benefits because they depend upon it more. Social Security is extremely complicated. There is a great deal of misinformation going around the Internet and by well-meaning individuals and organizations these days.

What frustrates me most is that teachers were not told about this situation years ago. They feel they have paid into Social Security for years and they do not get the help when they need it the most. It would have been so much better if this would have been reformed years ago, where you put aside your own contribution to Social Security into a traditional retirement account, where that money grew for you over the years, you could take it with you, it was yours to own and you would not be surprised by some government formula done 20 years ago. That is where we need to head.

How we can help teachers today and others I think is to focus on the windfall elimination provision. It sounds complicated, but the principle is, for me, if you have worked hard and paid into Social Security and you have worked hard and paid into a government pension, you should receive more of both. I am thinking here of teachers who have contributed their hard-earned pay into Social Security through a second job, teachers who have contributed to Social Security in another State before moving to Texas or Georgia, thinking of future teachers who already have a career, we would like to get them into the classroom to help but they are afraid of losing their retirement benefits. I believe the best and the most timely solution to help these people, these teachers, and others who have earned two pensions, is to modernize the windfall elimination provision to make it more fair.

I have asked our subcommittee chairman, the gentleman from Florida (Mr. SHAW), to hold hearings on the windfall elimination provision. This is where I think we can take a formula that is outdated, I think a bit arbitrary, and focus on the principles if you have paid into Social Security and you have paid into your government pension, that you keep more of the Social Security that you have paid into.

Mr. MATSUI. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. GILCHREST). The gentleman from Texas is recognized for 5½ minutes.

Mr. DOGGETT. Mr. Speaker, I must begin by saying that I find the comments of the last speaker, the gentleman from Texas (Mr. BRADY), to be very troubling. Each of the three organizations that he identified, the Association of Professional Texas Educators, the Texas State Teachers Association, and the American Federation of Teachers, oppose this bill. They have submitted written testimony when at least one of those organization's representatives was stranded in Austin because of an ice storm.

It is fine to talk about teachers; this Republican leadership though has a chance to act. Today they talk about leveling the playing field. It is just that they want to level the playing field down instead of leveling the playing field up. The Texas teachers who have tried to protect themselves from this terrible government pension offset have confronted a Republican leadership that has been in control here for the last eight years. What have they done about the windfall elimination provision or the government pension offset during that time? They filed a bill that a lot of us have cosponsored. They could have had a hearing in the subcommittee last week on that bill. But what did they choose to do? They took a bill that passed unanimously, that I voted for, that the gentleman from California (Mr. MATSUI) voted for, that every Member of this Chamber voted for last year, and they added a provision to it, on page 70 of the bill, section 418, a provision that is not even clearly identified in the summary of the bill. This bill has the effect of taking away a right that Texas teachers and teachers in other parts of this country have utilized and which they enjoy a perfect right to utilize.

It is legal and proper for teachers to do this, and the reason they must act for themselves is that this Congress, under Republican leadership, has failed to act for them. This self-help should be of little surprise when all they hear is talk up here and when the Republican leadership will not even set this for a hearing.

Yes, they had a hearing on a bill that passed unanimously last year. They just tucked in a little provision they did not tell us about that hurts the teachers of Texas and many other States. Then what did they do after they held a hearing when our teachers were stuck in an ice storm but they were so eager to move forward that they would not wait for them to get to Washington? Did they bring it up for a vote in the subcommittee? No, they did not. Did they bring it up for a vote in the full committee on Ways and Means? No, they did not. Instead they brought it directly to the floor today in a surprise move announced only a couple of legislative days after this was taken up in committee. Now they propose to bring it up under a procedure where debate is limited and we cannot even offer an amendment to take out this offending provision.

Yes, I think we should do something about felons getting Social Security checks. I am ready to vote for that. But why do we have to treat our teachers like felons and deny them the benefits that they have rightly earned?

The loss of a spouse is difficult enough to bear. But when a widow or a widower has devoted their lifetime to public service as a teacher often at low wages, they get another cruel surprise. When these former educators lose their husband or wife, the Social Security Administration does not send them a letter to console them in their mourning, it reduces the spousal Social Security benefit by two-thirds of the teacher's pension. That is what these teachers are concerned about.

To the average retired teacher in Texas, or anywhere else, this means a loss of about $360 a month. For an elderly retiree, you can call it an "offset," but for them it is mighty upsetting. Confronted with this unfair offset and the technique that teachers have had to rely on as self-help to fix this injustice, the Republican leadership has not been willing to correct the problem. Instead, they want to target the cure. What a contrast, too, with the rest of their legislative package.

The Republicans could have fixed this injustice in a separate bill or they could have fixed this injustice in the bill that they are going to be taking up tomorrow, that began as a very appropriate, unanimously supported bill much like this one. It is called the "Armed Forces Tax Fairness Act," and it is designed to treat our Armed Forces fairly as they serve in harm's way throughout the world.

But what began as a bill to help our Armed Forces has been debased with measures that would allow foreigners to bet on horse races tax-free, certainly good news to the Turks and the French; it would exempt fishing tackle boxes from an excise tax; and exempt bows and arrows from a similar tax.

I support tax fairness for our military because they secure our country. But I also support retirement security for our teachers because they build the foundation upon which our democracy rests. The Republican leadership is today tackling the issue of tackle boxes, but it tells our teachers to "Go fish." They will cut bow and arrow taxes but put a bulls-eye on teachers. Surely we can also fix the injustice that this offset inflicts on America's educators.

We ask for a "no" vote on this bill and we have a message to this entire Congress that has not been heard, apparently by even some of our own representatives, but certainly not by the sneaky tactics that got this provision in the bill. That message, is, "Don't mess with Texas." [Doggett holds bumper sticker] Don't mess with Texas teachers. Vote "no" on this bad bill.

Mr. SHAW. Mr. Speaker, I would remind the other speaker that what we did was picked up the language that the Democrat-controlled Senate passed by unanimous consent in the last Congress and put it in this bill and now have brought it to the floor.

Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, clearing up a couple of misconceptions there, I would love to be able to tell my Texas teachers, whom I love, what they want to hear. But I respect them too much to do that. I want to tell them the truth. The fact of the matter is, this was not snuck in. This was passed in the Senate last session. And this Republican House, with Texas lawmakers from both sides said, let us discuss this in open debate and make sure it is the right way, which is exactly what we are doing. Both parties have had a chance to work on this issue since 1983. We have not come up with a solution yet. We are working to do that.

Finally, I want our Texas teachers to be treated fairly. I want our Texas waitresses and nurses and other moms to be treated fairly, too.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to remind the House, even though we have been talking about the Texas situation over most of the time that has been allocated to this bill, exactly what this bill does and exactly why it is and does receive such high bipartisan support. This holds representative payees accountable for mismanaging benefits and increases representative payee oversight. We support that and you support that. It denies Social Security benefits to fugitive felons. That is right. I support that. You support that. It deters fraud by creating new civil penalties for Social Security fraud. All of us agree to that. It helps individuals with disabilities gain access to representation. These are the people that need it most. We agree with that. You agree with that. It helps disabled beneficiaries return to work. This is something that I think that this Congress has done with a ticket to work, and I think have done it in the best tradition of this House, in a very bipartisan way.

Now we come to a little bump in the road. It does involve Texas. I think the gentleman was quite right to put the sign up, "Don't Mess with Texas," because that is a Texas problem. But Texas has discovered a loophole which folds into their pension plan which is unfair to the rest of the country. The General Accounting Office has told us that this is going to amount to about a half a billion dollars in savings once this goes into place, just simply by treating Texas like the rest of the country.

□ 1145

This is not anti-Texas, and it is not intended to punish anybody. As a matter of fact, those that are already receiving those double benefits and the disability benefits as well as their earned pension plans will continue to do so. They plan for their retirement. So we do not take that away; but we do put fairness into the law, and we say that people who do not pay into Social Security should not get a better deal than those who did pay into Social Security.

With that, Mr. Speaker, I ask for a "yes" vote.

Mr. UDALL of Colorado. Mr. Speaker, I support this bill because it includes many necessary provisions to protect Social Security beneficiaries.

However, I do have concerns about one provision, and would have preferred for the bill to be considered under a procedure allowing for amendments.

The troublesome provision is the one related to the "government pension offset" part of the Social Security Act.

I understand the rationale for that provision, which would make application of the offset provision more uniform. However, I think it would be better for this provision to be considered separately, as part of a measure to make other revisions to the government pension offset.

I think the offset should be revised, because as it stands it works a hardship on many people. That is why I am cosponsoring a bill (H.R. 887) which would assure that the offset will not reduce Social Security benefits below $2,000 per month. I hope the House will soon take up that much-needed legislation.

Mr. ORTIZ. Mr. Speaker, the original intent of this bill was a worthy one: to reimburse Social Security benefits if they are misused by people representing the recipient.

That's not controversial . . . but the provision reducing the spousal Social Security benefits for countless teachers, school support personnel, police officers, firefighters, and other public servants is most certainly controversal—and I intend to oppose the entire bill since it contains this provision that will adversely affect teachers and others across Texas. These are people we should be protecting.

We need to understand that targeting pensions of teachers and other school employees will discourage qualified individuals from entering the classroom at exactly the time when the nation is experiencing a shortage of teachers. We say we are committed to education . . . yet in this bill we are profoundly uncommitted to educators.

The teachers across the state of Texas are largely women and are not wealthy people. They depend on the benefits of both them and their spouses; nearly all are part of two-income families. We are being monumentally unfair to them by changing the rules late in the game.

Since we are ramrodding this bill through the House with non-controversial bills today, be on notice that our opposition efforts will not end here.

I am a co-sponsor of HR 594, a bill introduced in the 108th Congress that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

Mr. Speaker, I am deeply disappointed that this provision was included in an otherwise good bill.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of H.R. 743. First, I would like to acknowledge Mr. MATSUI for working diligently on the Social Security Act of 2003.

As we all know, H.R. 743 will extend the direct fee withholding program payment to attorneys who represent supplemental security income claimants, thus encouraging more attorneys to represent them.

It is vital that we pass legislation that addresses the major concerns of our seniors, the blind, and the disabled.

This legislation imposes greater standards on individuals and organizations that serve as representative payees for Social Security and supplemental security income recipients; this legislation will make non-governmental representative payees liable for "misused" funds and subject them to civil monetary penalties; H.R. 743 will reduce the fee assessments from the Social Security Administration that charges attorneys for fee withholding.

Overall, the Social Security Act of 2003 will be beneficial to recipients and those who serve as representatives for recipients.

Furthermore, H.R. 743 will make a number of technical changes designed to reduce Social Security fraud and abuse.

Mr. Speaker, I will close my statement for the record with supporting H.R. 743.

Mr. REYES. Mr. Speaker, I rise today in recognition of the hard work of our nation's teachers, particularly in El Paso, Texas, which I proudly represent. My community, like many other communities across the country, are suffering from a teacher shortage. Our schools lack teachers in many important areas of study, such as math, science, and special education. Meanwhile, teacher salaries are still insufficient and it is difficult to recruit qualified personnel when salaries are not atttractive.

I know full well the effort and hard work that teachers dedicate to their students. My wife was a teacher for many years and my daughter, who just completed her doctorate degree in education, is currently an administrator at a local school district. I believe the teaching profession is one of the most honorable professions. I credit our teachers with laying the foundation for the future of our country and the world. In addition to teaching children the basic skills they need, teachers are an important guiding force for our children. After parents, they are one of the greatest influences on children. We therefore need to make sure we have well-qualified and well-paid teachers educating students.

As you know Mr. Speaker, passage of this bill before us would reduce the spousal Social Security benefits for countless teachers. H.R. 743 also affects school support personnel, police officers, firefighters, and other public servants. At a time when multi-billion dollar tax breaks are being given to our country's top income earners, our teachers and other public servants would be penalized through this bill. These are people we should be protecting. We should not make them pay for the tax cuts we give those who are more fortunate. This bill negatively affects teachers and other public servants in my state of Texas. For that reason I will be voting against this bill.

Mr. Speaker, I have co-sponsored H.R. 594, a bill introduced by my colleague Mr. MCKEON that will eliminate the Government Pension Offset and the Windfall Elimination Provisions that target our teachers and other public servants by denying them the opportunity to retain their full spousal Social Security benefits.

I strongly urge my colleagues to oppose H.R. 743 and continue to support our teachers.

Mr. ROYCE. Mr. Speaker, I am firmly committed to protecting Social Security for current recipients and for those who will be retiring in the near future. So, I want to thank the Chairman of the Subcommittee on Social Security, Mr. Shaw for his efforts to strengthen the financial security of our Nation's retirement system. I support the Social Security Protection Act, and I was pleased to support this bill when it passed the House unanimously last year. It is unfortunate that the House and Senate couldn't work out a final version before the end of the 107th Congress.

This bill stops fugitive felons from receiving benefits. The CBO estimates we will pay over $500 million to fugitive felons over the next 10 years from the Social Security trust funds.

The Social Security Administration appoints representative payees for many beneficiaries to help manage their financial affairs when they are not able. This bill protects these beneficiaries from representative payees who may misuse their benefits.

Mr. Speaker, this bill helps put the Security back in Social Security and I look forward to its passage.

Mr. HINOJOSA. Mr. Speaker, I rise in strong opposition to H.R. 743. I do so, not because I oppose ending Social Security fraud and abuse, but because of a section that is damaging to state and municipal employees. Section 418 is bad for teachers, police officers, fire fighters and other state and local workers in Texas who receive government pensions that are currently being reduced because of the Government Pension Offset provision of the Social Security Act. Section 418 would require experienced public servants to quit their jobs prematurely and work for the private sector for the 5 years before they retire in order to avoid the offset. We all know that our Nation has a critical shortage of teachers and public safety personnel. This provision will only exacerbate the problem.

The teachers of Texas have been writing and calling my office to protest this long-standing offset provision that is taking away Social Security benefits that they and their spouses have earned. At a time when federal and state budgets for education are being slashed, this is just one more slap in the face to those who are working hard to educate our children. We need to let them know that education is a national priority and that we value their dedication.

Instead of this bill that will provide no relief for these hardworking public servants, I urge the majority to bring H.R. 594, introduced by Congressman MCKEON and which I proudly co-sponsor, to the House floor for a vote. This legislation would repeal both the Government Pension Offset and the "Windfall Elimination Provision", another portion of the Social Security Act that is penalizing state and local government employees.

I encourage my colleagues to move quickly to bring real relief to teachers and other public employees by considering H.R. 594 or failing that, by bringing H.R. 743 to the floor under regular order so that this damaging Section 418 provision can be removed. Our public servants deserves no less.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to register my strong support for the Social Security Protection Act of 2003 (H.R. 743).

While I recognize there are differences between Republicans and Democrats on how to address the long-term solvency problems facing Social Security, I am pleased to see that we can work together to address other important issues facing the program.

H.R. 743 is a common-sense bill that provides the Social Security Administration with the necessary resources and tools to fight fraud and abuse. Along with other provisions in the bill, this will save taxpayers $656 million over ten years. In addition, the legislation improves the landmark Ticket to Work law to help people with disabilities find work.

H.R. 743 also adds Kentucky to the list of states that offer divided retirement systems. In January, the former governments of the City of Louisville and Jefferson County merged. Since the merger was approved by the people of Jefferson County in November 2000, local and state officials have been working together to ensure that the transition was without problems. All indications are that it has been a success.

One important issue, however, that needs to be addressed is how to provide Social Security and Medicare coverage to hazardous duty employees working for the county and the city. Since January 6, 2003, all officers are considered a single group for Social Security coverage purposes. Prior to the merger some police officers and firefighters contributed to

Medicare, but not Social Security. Some contributed to both; others neither.

As we can see, ensuring fair and equal coverage presents a serious challenge to the new government. After working with all interested parties, it was agreed that a divided retirement system is the solution. Currently 21 states use this system.

Under a divided retirement system, each employee will decide whether or not to pay into Social Security. All new employees hired after the system is in place would automatically be enrolled in Social Security.

The Kentucky Division of Social Security has started the education process with representatives from the Social Security Administration and the groups that represent the hazardous duty employees. Last year, the Kentucky General Assembly adopted a bill that allows this system to go forward as soon as Congress approves this legislation and President Bush signs it into law.

In closing, I would like to thank Chairman SHAW and Ranking Member MATSUI for including this important provision in H.R. 743 and urge my colleagues to support the bill.

Mr. SHAW. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and pass the bill, H.R. 743, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DOGGETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 743.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

Mr. CRANE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

The Clerk read as follows:

H.R. 1047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title: table of contents

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1101. Bitolylene diisocyanate (TODI).
Sec. 1102. 2-Methylimidazole.
Sec. 1103. Hydroxylamine free base.
Sec. 1104. Prenol.
Sec. 1105. 1-Methylimadazole.
Sec. 1106. Formamide.
Sec. 1107. Michler's ethyl ketone.
Sec. 1108. Vinyl imidazole.
Sec. 1109. Disperse blue 27.
Sec. 1110. Acid black 244.
Sec. 1111. Reactive orange 132.
Sec. 1112. Mixtures of acid red 337, acid red 266, and acid red 361.
Sec. 1113. Vat red 13.
Sec. 1114. 5-Methylpyridine-2,3-dicarboxylic acid.
Sec. 1115. 5-Methylpyridine-2,3-dicarboxylic acid diethylester.
Sec. 1116. 5-Ethylpyridine dicarboxylic acid.
Sec. 1117. (e)-O(2,5-Dimethylphenoxy methyl)-2-methoxy-imino-n-methylphenylacetamide.
Sec. 1118. 2-Chloro-N-(4¼chlorobiphenyl-2-yl) nicotinamide.
Sec. 1119. Vinclozolin.
Sec. 1120. Dazomet.
Sec. 1121. Pyraclostrobin.
Sec. 1122. 1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester sodium salt.
Sec. 1123. Saccharose.
Sec. 1124. Buctril.
Sec. 1125. (2-Benzothiazolythio) butanedioic acid.
Sec. 1126. 60–70 Percent amine salt of 2-benzo-thiazolythio succinic acid in solvent.
Sec. 1127. 4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1).
Sec. 1128. Mixtures of rimsulfuron, nicosulfuron, and application adjuvants.
Sec. 1129. Mixtures of thifensulfuron methyl, tribenuron methyl and application adjuvants.
Sec. 1130. Mixtures of thifensulfuron methyl and application adjuvants.
Sec. 1131. Mixtures of tribenuron methyl and application adjuvants.
Sec. 1132. Mixtures of rimsulfuron, thifensulfuron methyl and application adjuvants.
Sec. 1133. Vat black 25.
Sec. 1134. Cyclohexanepropanoic acid, 2-propenyl ester.
Sec. 1135. Neoheliopan hydro (2-phenylbenzimidazole-5-sulfonic acid).
Sec. 1136. Sodium methylate powder (Na methylate powder).
Sec. 1137. Globanone (cyclohexadec-8-en-1-one).
Sec. 1138. Methyl acetophenone-para (melilot).
Sec. 1139. Majantol (2,2-dimethyl-3-(3-methylphenyl)propanol).
Sec. 1140. NeoHeliopan MA (menthyl anthranilate).
Sec. 1141. Allyl isosulfocyanate.
Sec. 1142. Frescolat.
Sec. 1143. Thymol (alpha-cymophenol).
Sec. 1144. Benzyl carbazate.
Sec. 1145. Esfenvalerate technical.
Sec. 1146. Avaunt and steward.
Sec. 1147. Helium.
Sec. 1148. Ethyl pyruvate.
Sec. 1149. Deltamethrin.
Sec. 1150. Asulam sodium salt.
Sec. 1151. Tralomethrin.
Sec. 1152. N-Phenyl-N¼-(1,2,3-thiadiazol-5-yl)-urea.
Sec. 1153. Benzenepropanoic acid, alpha-2-dichloro-5-[4 (difluoromethyl)-4.5-dihydro-3-methyl-5-oxo-1H-1,2.4-triazol-1-yl]-4-fluoro-ethyl ester.
Sec. 1154. (Z)-(1RS, 3RS)-3-(2-Chloro-3,3,3 triflouro-1-propenyl)-2.2-dimethyl-cyclopropane carboxylic acid.
Sec. 1155. 2-Chlorobenzyl chloride.
Sec. 1156. (S)-Alpha-hydroxy-3-phenoxybenzeneacetonitrile.
Sec. 1157. 4-Pentenoic acid, 3,3-dimethyl-, methyl ester.
Sec. 1158. Terrazole.
Sec. 1159. 2-Mercaptoethanol.
Sec. 1160. Bifenazate.
Sec. 1161. A certain polymer.
Sec. 1162. Ethylphenol.
Sec. 1163. Ezetimibe.
Sec. 1164. p-Cresidinesulfonic acid.
Sec. 1165. 2,4 Disulfobenzaldehyde.
Sec. 1166. m-Hydroxybenzaldehyde.
Sec. 1167. N-Ethyl-n-(3-sulfobenzyl)aniline, benzenesulfonic acid, 3[(ethylphenylamino)methyl].
Sec. 1168. Acrylic fiber tow.
Sec. 1169. Yttrium oxides.
Sec. 1170. Hexanedioic Acid, polymer with 1,3-benzenedimethanamine.
Sec. 1171. N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine.
Sec. 1172. Aluminum tris (O-ethyl phosphonate).
Sec. 1173. Mixture of disperse blue 77 and disperse blue 56.
Sec. 1174. Acid black 194.
Sec. 1175. Mixture of 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-and disperse blue 77.
Sec. 1176. Copper phthalocyanine substituted with 15 or 16 groups which comprise 8-15 thioaryl and 1-8 arylamino groups.
Sec. 1177. Bags for certain toys.
Sec. 1178. Certain children's products.
Sec. 1179. Certain optical instruments used in children's products.
Sec. 1180. Cases for certain children's products.
Sec. 1181. 2,4-Dichloroaniline.
Sec. 1182. Ethoprop.
Sec. 1183. Foramsulfuron.
Sec. 1184. Certain epoxy molding compounds.
Sec. 1185. Dimethyldicyane.
Sec. 1186. Triacetone diamine.
Sec. 1187. Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate].
Sec. 1188. Certain power weaving textile machinery.
Sec. 1189. Certain filament yarns.

Sec. 1190. Certain other filament yarns.
Sec. 1191. Certain ink-jet textile printing machinery.
Sec. 1192. Certain other textile printing machinery.
Sec. 1193. D-Mannose.
Sec. 1194. Benzamide, N-methyl-2-[[3-[(1e)-2-(2-pyridinyl)-ethenyl]-1H-indazol-6-yl)thio]-.
Sec. 1195. 1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis(trifluoromethyl)phenyl]methyl](methoxycarbonyl)amino]-2-ethyl-3,4-dihydro-6-(trifluoromethyl)-, ethyl ester, (2R,4S)-(9CI).
Sec. 1196. Disulfide,bis(3,5-dichlorophenyl)(9C1).
Sec. 1197. Pyridine, 4-[[4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-1H-midazol-1-yl] methyl]-ethanedioate (1:2).
Sec. 1198. Paclobutrazole technical.
Sec. 1199. Paclobutrazole 2SC.
Sec. 1200. Methidathion technical.
Sec. 1201. Vanguard 75 WDG.
Sec. 1202. Wakil XL.
Sec. 1203. Mucochloric acid.
Sec. 1204. Azoxystrobin technical.
Sec. 1205. Flumetralin technical.
Sec. 1206. Cyprodinil technical.
Sec. 1207. Mixtures of lambda-cyhalothrin.
Sec. 1208. Primisulfuron methyl.
Sec. 1209. 1,2 Cyclohexanedione.
Sec. 1210. Difenoconazole.
Sec. 1211. Certain refracting and reflecting telescopes.
Sec. 1212. Phenylisocyanate.
Sec. 1213. Bayowet FT-248.
Sec. 1214. p-Phenylphenol.
Sec. 1215. Certain rubber riding boots.
Sec. 1216. Chemical RH water-based.
Sec. 1217. Chemical NR ethanol-based.
Sec. 1218. Tantalum capacitor ink.
Sec. 1219. Certain sawing machines.
Sec. 1220. Certain sector mold press manufacturing equipment.
Sec. 1221. Certain manufacturing equipment used for molding.
Sec. 1222. Certain extruders.
Sec. 1223. Certain shearing machines.
Sec. 1224. Thermal release plastic film.
Sec. 1225. Certain silver paints and pastes.
Sec. 1226. Polymer masking material for aluminum capacitors (UPICOAT).
Sec. 1227. OBPA.
Sec. 1228. Macroporous ion-exchange resin.
Sec. 1229. Copper 8-quinolinolate.
Sec. 1230. Ion-exchange resin.
Sec. 1231. Ion-exchange resin crosslinked with ethenylbenzene, aminophosponic acid.
Sec. 1232. Ion-exchange resin crosslinked with divinylbenzene, sulphonic acid.
Sec. 1233. 3-[(4 Amino-3-methoxyphenyl) azo]-benzenesulfonic acid.
Sec. 1234. 2-Methyl-5-nitrobenzenesulfonic acid.
Sec. 1235. 2-Amino-6-nitro-phenol-4-sulfonic acid.
Sec. 1236. 2-Amino-5-sulfobenzoic acid.
Sec. 1237. 2,5 Bis [(1,3 dioxobutyl) amino] benzene sulfonic acid.
Sec. 1238. p-Aminoazobenzene 4 sulfonic acid, monosodium salt.
Sec. 1239. p-Aminoazobenzene 4 sulfonic acid.
Sec. 1240. 3-[(4 Amino-3-methoxyphenyl) azo]-benzene sulfonic acid, monosodium salt.
Sec. 1241. ET-743 (Ecteinascidin).
Sec. 1242. 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]amino]-1,3,5-triazin-2-yl] amino]-1-methylethyl]amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydrox¼-, sodium salt.
Sec. 1243. 1,5-Naphthalenedisulfonic acid, 3-[[2-(acetylamino)-4-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl] amino]-6-fluoro-1,3,5-triazin-2-yl]amino]phenyl]azo]-, disodium salt.
Sec. 1244. 7,7¼-[1,3-Propanediylbis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis-, sodium salt.
Sec. 1245. Cuprate(3-),[2-[[[[3-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-2-(hydroxy-.kappa.O)-5-sulfophenyl]azo-.kappa.N2]phenylmethyl]azo-.kappa.N1]-4-sulfobenzoato(5-)-.kappa.O], trisodium.
Sec. 1246. 1,5-Naphthalenedisulfonic acid, 2-[[8-[[4-[[3-[[[2- (ethenylsulfonyl) ethyl]amino]car bonyl]phenyl] amino]-6-fluoro-1,3,5- triazin-2-yl]amino]-1- hydroxy-3,6-disulfo-2- naphthalenyl]azo]-, tetrasodium salt.
Sec. 1247. PTFMBA.
Sec. 1248. Benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl) amino]carbonyl]-, methyl ester.
Sec. 1249. Imidacloprid pesticides.
Sec. 1250. Beta-cyfluthrin.
Sec. 1251. Imidacloprid technical.
Sec. 1252. Bayleton technical.
Sec. 1253. Propoxur technical.
Sec. 1254. MKH 6561 isocyanate.
Sec. 1255. Propoxy methyl triazolone.
Sec. 1256. Nemacur VL.
Sec. 1257. Methoxy methyl triazolone.
Sec. 1258. Levafix golden yellow E-G.
Sec. 1259. Levafix blue CA/Remazol blue CA.
Sec. 1260. Remazol yellow RR gran.
Sec. 1261. Indanthren blue CLF.
Sec. 1262. Indanthren yellow F3GC.
Sec. 1263. Acetyl chloride.
Sec. 1264. 4-Methoxy-phenacychloride.
Sec. 1265. 3-Methoxy-thiophenol.
Sec. 1266. Levafix brilliant red E-6BA.
Sec. 1267. Remazol BR. blue BB 133%.
Sec. 1268. Fast navy salt RA.
Sec. 1269. Levafix royal blue E-FR.
Sec. 1270. p-Chloro aniline.
Sec. 1271. Esters and sodium esters of parahydroxy benzoic acid.
Sec. 1272. Santolink EP 560.
Sec. 1273. Phenodur VPW 1942.
Sec. 1274. Phenodur PR 612.
Sec. 1275. Phenodur PR 263.
Sec. 1276. Macrynal SM 510 and 516.
Sec. 1277. Alftalat AN 725.
Sec. 1278. RWJ 241947.
Sec. 1279. RWJ 394718.
Sec. 1280. RWJ 394720.
Sec. 1281. 3,4-DCBN.
Sec. 1282. Cyhalofop.
Sec. 1283. Asulam.
Sec. 1284. Florasulam.
Sec. 1285. Propanil.
Sec. 1286. Halofenozide.
Sec. 1287. Ortho-phthalaldehyde.
Sec. 1288. Trans 1,3-dichloropentene.
Sec. 1289. Methacrylamide.
Sec. 1290. Cation exchange resin.
Sec. 1291. Gallery.
Sec. 1292. Necks used in cathode ray tubes.
Sec. 1293. Polytetramethylene ether glycol.
Sec. 1294. Leaf alcohol.
Sec. 1295. Combed cashmere and camel hair yarn.
Sec. 1296. Certain carded cashmere yarn.
Sec. 1297. Sulfur black 1.
Sec. 1298. Reduced vat blue 43.
Sec. 1299. Fluorobenzene.
Sec. 1300. Certain rayon filament yarn.
Sec. 1301. Certain tire cord fabric.
Sec. 1302. Direct black 184.
Sec. 1303. Black 263 stage.
Sec. 1304. Magenta 364.
Sec. 1305. Thiamethoxam technical.
Sec. 1306. Cyan 485 stage.
Sec. 1307. Direct blue 307.
Sec. 1308. Direct violet 107.
Sec. 1309. Fast black 286 stage.
Sec. 1310. Mixtures of fluazinam.
Sec. 1311. Prodiamine technical.
Sec. 1312. Carbon dioxide cartridges.
Sec. 1313. 12-Hydroxyoctadecanoic acid, reaction product with *N,N*-dimethyl, 1,3-propanediamine, dimethyl sulfate, quaternized.
Sec. 1314. 40 Percent polymer acid salt/polymer amide, 60 percent butyl acetate.
Sec. 1315. 12-Hydroxyoctadecanoic acid, reaction product with *N,N*-dimethyl- 1,3-propanediamine, dimethyl sulfate, quaternized, 60 percent solution in toluene.
Sec. 1316. Polymer acid salt/polymer amide.
Sec. 1317. 50 Percent amine neutralized phosphated polyester polymer, 50 percent solvesso 100.
Sec. 1318. 1-Octadecanaminium, N,N-dimethyl-N-octadecyl-, (sp-4-2)-[29H,31H-phthalocyanine-2-sulfonato(3-)-.kappa.N29,.kappa.N30,.kappa.N31,.kappa.N32]cuprate(1-).
Sec. 1319. Chromate(1-),bis¦1- ¦(5-chloro–2-hydroxyphenyl) azo¦–2-napthal enolato(2-)¦-,hydrogen.
Sec. 1320. Bronate advanced.
Sec. 1321. N-Cyclohexylthiophthalimide.
Sec. 1322. Certain high-performance loudspeakers.
Sec. 1323. Bio-set injection RCC.
Sec. 1324. Penta amino aceto nitrate cobalt III (coflake 2).
Sec. 1325. Oxasulfuron technical.
Sec. 1326. Certain manufacturing equipment.
Sec. 1327. 4-Aminobenzamide.
Sec. 1328. Foe hydroxy.
Sec. 1329. Magenta 364 liquid feed.
Sec. 1330. Tetrakis.
Sec. 1331. Palmitic acid.
Sec. 1332. Phytol.
Sec. 1333. Chloridazon.
Sec. 1334. Disperse orange 30, disperse blue 79:1, disperse red 167:1, disperse yellow 64, disperse red 60, disperse blue 60, disperse blue 77, disperse yellow 42, disperse red 86, and disperse red 86:1.
Sec. 1335. Disperse blue 321.
Sec. 1336. Direct black 175.
Sec. 1337. Disperse red 73 and disperse blue 56.
Sec. 1338. Acid black 132 and acid black 172.
Sec. 1339. Acid black 107.
Sec. 1340. Acid yellow 219, acid orange 152, acid red 278, acid orange 116, acid orange 156, and acid blue 113.
Sec. 1341. Europium oxides.
Sec. 1342. Luganil brown NGT powder.

Sec. 1343. Thiophanate-methyl.
Sec. 1345. Hydrated hydroxypropyl methylcellulose.
Sec. 1346. Polymenthylpentene (TPX).
Sec. 1347. Certain 12-volt batteries.
Sec. 1348. Certain prepared or preserved artichokes.
Sec. 1349. Certain other prepared or preserved artichokes.
Sec. 1350. Ethylene/tetrafluoroethylene copolymer (ETFE).
Sec. 1351. Acetamiprid.
Sec. 1352. Certain manufacturing equipment.
Sec. 1353. Triticonazole.
Sec. 1354. Certain textile machinery.
Sec. 1355. 3-Sulfinobenzoic acid.
Sec. 1356. Polydimethylsiloxane.
Sec. 1357. Baysilone fluid.
Sec. 1358. Ethanediamide, N- (2-ethoxyphenyl)-N¼- (4-isodecylphenyl)-.
Sec. 1359. 1-Acetyl-4-(3-dodecyl-2, 5-dioxo-1-pyrrolidinyl)-2.2.6.6-tetramethyl-piperidine.
Sec. 1360. Aryl phosphonite.
Sec. 1361. Mono octyl malionate.
Sec. 1362. 3.6.9-trioxaundecanedioic acid.
Sec. 1363. Crotonic acid.
Sec. 1364. 1.3-Benzenedicarboxamide. N. N¼-bis (2.2.6.6-tetramethyl-4-piperidinyl)-.
Sec. 1365. 3-Dodecyl-1-(2.2.6.6- tetramethyl-4-piperidinyl) -2.5-pyrrolidinedione.
Sec. 1366. Oxalic anilide.
Sec. 1367. N-Methyl diisopropanolamine.
Sec. 1368. 50 Percent homopolymer, 3-(dimethylamino) propyl amide, dimethyl sulfate-quaternized 50 percent polyricinoleic acid.
Sec. 1369. Black CPW stage.
Sec. 1370. Fast black 287 NA paste.
Sec. 1371. Fast black 287 NA liquid feed.
Sec. 1372. Fast yellow 2 stage.
Sec. 1373. Cyan 1 stage.
Sec. 1374. Yellow 1 stage.
Sec. 1375. Yellow 746 stage.
Sec. 1376. Black SCR stage.
Sec. 1377. Magenta 3B-OA stage.
Sec. 1378. Yellow 577 stage.
Sec. 1379. Cyan 485/4 stage.
Sec. 1380. Low expansion laboratory glass.
Sec. 1381. Stoppers, lids, and other closures.
Sec. 1382. Triflusulfuron methyl formulated product.
Sec. 1383. Agrumex (o-t-butyl cyclohexanol).
Sec. 1384. Trimethyl cyclo hexanol (1-methyl-3,3-dimethyl cyclohexanol-5).
Sec. 1385. Myclobutanil.
Sec. 1386. Methyl cinnamate (methyl-3-phenylpropenoate).
Sec. 1387. Acetanisole (anisyl methyl ketone).
Sec. 1388. Alkylketone.
Sec. 1389. Iprodione 3-(3-5, dicholorophenyl)-N- (1-methylethyl)-2.4-dioxo-1-imidazolidinecarboxamide.
Sec. 1390. Dichlorobenzidine dihydrochloride.
Sec. 1391. Kresoxim-methyl.
Sec. 1392. MKH 6562 isocyanate.
Sec. 1393. Certain rayon filament yarn.
Sec. 1394. Benzenepropanal, 4-(1.1-dimethylethyl)-alpha-methyl.
Sec. 1395. 3,7-Dichloro-8-quinoline carboxylic acid.
Sec. 1396. 3-(1-Methylethyl)-1H-2.1.3-benzothiadiazin-4(3H)-one 2.2 dioxide, sodium salt.
Sec. 1397. 3.3¼,4-4¼-Biphenyltetra carboxylic dianhydride, ODA, ODPA, PMDA, and 1.3-bis(4-aminophenoxy)benzene.
Sec. 1398. Oryzalin.
Sec. 1399. Tebufenozide.
Sec. 1400. Endosulfan.
Sec. 1401. Ethofumesate.
Sec. 1402. 4,4'-O-Phenylenebis (3-thioallophanic acid), dimethyl ester (thiophanate-methyl) formulated with application adjuvants.
Sec. 1403. Night vision monoculars.
Sec. 1404. Certain automotive sensor magnets.
Sec. 1405. Levafix brilliant red e-6ba.
Sec. 1406. Solvent yellow 163.

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1501. Extension of certain existing duty suspensions.
Sec. 1502. Effective date.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Sec. 1601. Certain tramway cars.
Sec. 1602. Liberty Bell replica.
Sec. 1603. Certain entries of cotton gloves.
Sec. 1604. Certain entries of posters.
Sec. 1605. Certain entries of posters entered in 1999 and 2000.
Sec. 1606. Certain entries of 13-inch televisions.
Sec. 1607. Neoprene synchronous timing belts.
Sec. 1608. Entries of certain apparel articles pursuant to the Caribbean Basin Economic Recovery Act or the African Growth and Opportunity Act.
Sec. 1609. Certain entries prematurely liquidated in error.

CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 1701. Hair clippers.
Sec. 1702. Tractor body parts.
Sec. 1703. Flexible magnets and composite goods containing flexible magnets.
Sec. 1704. Vessel repair duties.
Sec. 1705. Duty-free treatment for hand-knotted or hand-woven carpets.
Sec. 1706. Duty drawback for certain articles.
Sec. 1707. Unused merchandise drawback.
Sec. 1708. Treatment of certain footwear under Caribbean Basin Economic Recovery Act.
Sec. 1709. Designation of San Antonio International Airport for customs processing of certain private aircraft arriving in the United States.
Sec. 1710. Authority for the establishment of integrated border inspection areas at the United States-Canada border.
Sec. 1711. Designation of foreign law enforcement officers.
Sec. 1712. Amendments to United States insular possession program.
Sec. 1713. Modification of provisions relating to drawback claims.

Subtitle C—Effective Date

Sec. 1801. Effective date.

TITLE II—OTHER TRADE PROVISIONS

Sec. 2001. Extension of nondiscriminatory treatment to Serbia and Montenegro.
Sec. 2002. Modification to cellar treatment of natural wine.
Sec. 2003. Articles eligible for preferential treatment under the Andean Trade Preference Act.
Sec. 2004. Technical amendments.

TITLE I—TARIFF PROVISIONS

SEC. 1001. REFERENCE; EXPIRED PROVISIONS.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

(b) EXPIRED PROVISIONS.—Subchapter II of chapter 99 is amended by striking the following headings:

9902.29.06 ....
9902.29.09 ....
9902.29.11 ....
9902.29.12 ....
9902.29.15 ....
9902.29.18 ....
9902.29.19 ....
9902.29.20 ....
9902.29.21 ....
9902.29.23 ....
9902.29.24 ....
9902.29.28 ....
9902.29.29 ....
9902.29.32 ....
9902.29.36 ....
9902.29.43 ....
9902.29.44 ....
9902.29.45 ....
9902.29.46 ....
9902.29.50 ....
9902.29.51 ....
9902.29.52 ....
9902.29.53 ....
9902.29.54 ....
9902.29.57 ....
9902.29.60 ....
9902.29.65 ....
9902.29.66 ....
9902.29.67 ....
9902.29.72 ....
9902.29.74 ....
9902.29.95 ....
9902.30.04 ....
9902.30.16 ....
9902.30.17 ....
9902.30.18 ....
9902.30.19 ....
9902.30.31 ....
9902.30.58 ....
9902.30.63 ....
9902.30.64 ....
9902.30.65 ....
9902.30.90 ....
9902.30.91 ....
9902.30.92 ....
9902.31.12 ....
9902.31.13 ....
9902.31.14 ....
9902.31.21 ....
9902.32.01 ....
9902.32.08 ....
9902.32.11 ....
9902.32.13 ....
9902.32.14 ....
9902.32.16 ....
9902.32.29 ....
9902.32.30 ....
9902.32.31 ....
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9902.32.43 ....
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9902.32.54 ....
9902.32.56 ....
9902.32.70 ....
9902.32.94 ....
9902.32.95 ....
9902.33.01 ....
9902.33.02 ....
9902.33.03 ....
9902.33.04 ....
9902.33.05 ....
9902.33.06 ....
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9902.33.08
9902.33.09
9902.33.10
9902.33.11
9902.33.12
9902.33.16
9902.33.19
9902.33.66
9902.33.90
9902.34.02
9902.38.08
9902.38.11
9902.38.12
9902.38.25
9902.38.26
9902.38.28
9902.39.04
9902.39.12
9902.61.00
9902.64.04
9902.64.05
9902.84.10
9902.84.12
9902.84.20
9902.84.43
9902.84.46
9902.84.77
9902.84.79
9902.84.81
9902.84.83
9902.84.85
9902.84.87
9902.84.89
9902.84.91
9902.85.20
9902.85.21
9902.98.03
9902.98.04
9902.98.05
9902.98.08

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1101. BITOLYLENE DIISOCYANATE (TODI).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.01	Bitolylene diisocyanate (TODI) (CAS No. 91–97–4) (provided for in subheading 2929.10.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1102. 2-METHYLIMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.02	2-Methylimidazole (CAS No. 693–98–1) (provided for in subheading 2933.29.90) ..	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1103. HYDROXYLAMINE FREE BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.03	Hydroxylamine (CAS No. 7803–49–8) (provided for in subheading 2825.10.00)	0.6%	No change	No change	On or before 12/31/2005	”.

SEC. 1104. PRENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.04	3-Methyl-2-buten-1-ol (CAS No. 556–82–1) (provided for in subheading 2905.29.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1105. 1-METHYLIMADAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.05	1-Methylimidazole (CAS No. 616–47–7) (provided for in subheading 2933.29.90) ..	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1106. FORMAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.06	Formamide (CAS No. 75–12–7) (provided for in subheading 2924.19.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1107. MICHLER'S ETHYL KETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.07	4,4¼-Bis-(diethylamino)-benzophenone (CAS No. 90–93–7) (provided for in subheading 2922.39.45)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1108. VINYL IMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.08	1-Ethenyl-1H-imidazole (CAS No. 1072–63–5) (provided for in subheading 2933.29.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1109. DISPERSE BLUE 27.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.09	Disperse blue 27 (9,10-anthracenedione, 1,8-dihydroxy-4-[[4-(2-hydroxyethyl)phenyl]amino]-5-nitro-) (CAS No. 15791–78–3) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1110. ACID BLACK 244.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.10	Acid black 244 (chromate(2-), [3-(hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N2]-1-naphthalenesulfonato(3-)] [1-[[2-(hydroxy-.kappa.O)-5-[4-methoxyphenyl)-azo]phenyl]azo-.kappa.N2]-2-naphthalenesulfonato(2-)-.kappa.O]-, disodium) (CAS No. 30785–74–1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1111. REACTIVE ORANGE 132.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.11	Reactive orange 132 (benzenesulfonic acid, 2,2¼-[(1-methyl-1,2-ethanediyl)-bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl) amino]-4,1-phenylene]azo]]bis[5-[(4-sulfophenyl)azo]-, sodium salt) (CAS No. 149850–31–7) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1112. MIXTURES OF ACID RED 337, ACID RED 266, AND ACID RED 361.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.12	Mixtures of acid red 337 (2-naphthalenesulfonic acid, 6-amino-5-[[2-[(cyclohexylmethylamino)-sulfonyl]phenyl]azo]-4-hydroxy-, monosodium salt) (CAS No. 32846–21–2), acid red 266 (2-naphthalenesulfonic acid, 6-amino-5-[[4-chloro-2-(trifluoromethyl)phenyl]azo]-4-hydroxy-, monosodium salt) (CAS No. 57741–47–6), and acid red 361 (2-naphthalenesulfonic acid, 6-amino-4-hydroxy-5-[[2-(trifluoromethyl)phenyl]azo]-, monosodium salt) (CAS No. 67786–14–5) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1113. VAT RED 13.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.13	Vat red 13 ([3,3¼-bianthra[1,9-cd]pyrazole]-6,6¼(1H,1¼H)-dione, 1,1¼-diethyl-) (CAS No. 4203–77–4) (provided for in subheading 3204.15.80)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1114. 5-METHYLPYRIDINE-2,3-DICARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.14	5-Methylpyridine-2,3-dicarboxylic acid (CAS No. 53636-65-0) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1115. 5-METHYLPYRIDINE-2,3-DICARBOXYLIC ACID DIETHYLESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.15	5-Methylpyridine-2,3-dicarboxylic acid, diethyl ester (CAS No. 112110-16-4) (provided for in subheading 2933.39.61)	1.8%	No change	No change	On or before 12/31/2005	”.

SEC. 1116. 5-ETHYLPYRIDINE DICARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.16	5-Ethylpyridine-2,3-dicarboxylic acid (CAS No. 102268-15-5) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1117. (E)-O(2,5-DIMETHYLPHENOXY METHYL)-2-METHOXY-IMINO-N-METHYLPHENYLACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.17	(E)-O-(2,5-Dimethylphenoxy- methyl)-2-methoxyimino-N-methylphenylacetamide (dimoxystrobin) (CAS No. 145451-07-6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1118. 2-CHLORO-N-(4¼CHLOROBIPHENYL-2-YL) NICOTINAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.18	2-Chloro-N-(4¼-chloro-[1,1¼-biphenyl]-2-yl)- nicotinamide (nicobifen) (CAS No. 188425-85-6) (provided for in subheading 2933.39.21)	4.4%	No change	No change	On or before 12/31/2005	”.

SEC. 1119. VINCLOZOLIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.19	3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione (vinclozolin) (CAS No. 50471-44-8) (provided for in subheading 2934.99.12)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1120. DAZOMET.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.20	Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione (CAS No. 533-74-4) (dazomet) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1121. PYRACLOSTROBIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.21	Methyl N-(2-[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxymethyl]-phenyl) N-methoxy-carbanose (pyra-clostrobin) (CAS No. 175013-18-0) (provided for in subheading 2933.19.23)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1122. 1,3-BENZENEDICARBOXYLIC ACID, 5-SULFO-1,3-DIMETHYL ESTER SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.22	1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester, sodium salt (CAS No. 3965-55-7) (provided for in subheading 2917.39.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1123. SACCHAROSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.23	Saccharose to be used other than in food for human consumption and not for nutritional purposes (provided for in subheading 1701.99.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1124. BUCTRIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.24	Mixtures of bromoxynil octanoate (CAS No. 1689-99-2) with application adjuvants (buctril) (provided for in subheading 3808.30.15)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1125. (2-BENZOTHIAZOLYTHIO) BUTANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:heading:

“	9902.01.25	(Benzothiazol-2-ylthio)succinic acid (CAS No. 95154-01-1) (provided for in subheading 2934.20.40)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1126. 60–70 PERCENT AMINE SALT OF 2-BENZO-THIAZOLYTHIO SUCCINIC ACID IN SOLVENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.26	(Benzothiazol-2-ylthio)succinic acid (60–70 percent) in solvent (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1127. 4-METHYL-g-OXO-BENZENEBUTANOIC ACID COMPOUNDED WITH 4-ETHYLMORPHOLINE (2:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.27	4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054-89-0) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1128. MIXTURES OF RIMSULFURON, NICOSULFURON, AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.28	Mixtures of rimsulfuron (N-[[(4,6-dimethoxypyrimidin-2-yl)-amino]carbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 122931-48-0), nicosulfuron (2-(((((4,6-dimethoxypyrimidin-2-yl)- amino)carbonyl)-amino)sulfonyl)-N,N-dimethyl-3-pyridinecarboxamide (CAS No. 111991-09-4), and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1129. MIXTURES OF THIFENSULFURON METHYL, TRIBENURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.29	Mixtures of thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)- amino]carbonyl]- amino]sulfonyl]- 2-thiophenecar- boxylate (CAS No. 79277-27-3), tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)- methylamino]-carbonyl]- amino]sulfonyl]- benzoate) (CAS No. 101200-48-0) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1130. MIXTURES OF THIFENSULFURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.30	Mixtures of thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)- amino]carbonyl]- amino]sulfonyl]-2-thiophenecarboxylate) (CAS No. 79277-27-3) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1131. MIXTURES OF TRIBENURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.31	Mixtures of tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino]- carbonyl]amino]- sulfonyl]-benzoate) (CAS No. 101200-48-0) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1132. MIXTURES OF RIMSULFURON, THIFENSULFURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.32	Mixtures of rimsulfuron (N-[(4,6-dimethoxypyrimidin-2-yl)- aminocarbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide) (CAS No. 122931-48-0); thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6- methyl-1,3,5- triazin-2-yl)-amino]car bonyl]- amino]sulfonyl]-2-thiophenecarboxylate) (CAS No. 79277-27-3); and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1133. VAT BLACK 25.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.33	Anthra[2,1,9-mna]naphth[2,3-h]acridine-5,10,15(16H)-trione, 3-[(9,10-dihydro-9,10-dioxo-1-anthracenyl)- amino]- (Vat black 25) (CAS No. 4395-53-3) (provided for in subheading 3204.15.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1134. CYCLOHEXANEPROPANOIC ACID, 2-PROPENYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.34	Cyclohexanepro-panoic acid. 2-propenyl ester (CAS No. 2705-87-5) (provided for in subheading 2916.20.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1135. NEOHELIOPAN HYDRO (2-PHENYLBENZIMIDAZOLE-5-SULFONIC ACID).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.35	2-Phenylbenzimidazole-5-sulfonic acid) (CAS No. 27503-81-7) (provided for in subheading 2933.99.79)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1136. SODIUM METHYLATE POWDER (NA METHYLATE POWDER).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.36	Methanol, sodium salt (CAS No. 124-41-4) (provided for in subheading 2905.19.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1137. GLOBANONE (CYCLOHEXADEC-8-EN-1-ONE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.37	Cyclohexadec-8-en-1-one (CAS No. 3100-36-5) (provided for in subheading 2914.29.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1138. METHYL ACETOPHENONE-PARA (MELILOT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.38	p-Methyl acetophenone (CAS No. 122-00-9) (provided for in subheading 2914.39.90)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1139. MAJANTOL (2,2-DIMETHYL-3-(3-METHYLPHENYL)PROPANOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.39	2,2-Dimethyl-3-(3-methylphenyl)- propanol (CAS No. 103694-68-4) (provided for in subheading 2906.29.20)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1140. NEOHELIOPAN MA (MENTHYL ANTHRANILATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.40	Menthyl anthranilate (CAS No. 134-09-8) (provided for in subheading 2922.49.37)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1141. ALLYL ISOSULFOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.41	Allyl isothiocyanate (CAS No. 57-06-7) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1142. FRESCOLAT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.42	5-Methyl-2-(1-methylethyl)-cyclohexyl-2-hydroxypropanoate (lactic acid, menthyl ester) (Frescolat) (CAS No. 59259-38-0) (provided for in subheading 2918.11.50)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1143. THYMOL (ALPHA-CYMOPHENOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.43	Thymol (CAS No. 89-83-8) (provided for in subheading 2907.19.40)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1144. BENZYL CARBAZATE.

Subchapter II of chapter 99 is amended by inserting in the numerical sequence the following new heading:

"	9902.01.44	Benzyl carbazate (Hydrazine-carboxylic acid, phenylmethyl ester (CAS No. 5331-43-1) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1145. ESFENVALERATE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in the numerical sequence the following new heading:

"	9902.01.45	(S)-Cyano(3-phenoxyphenyl)-methyl (S)-4-chloro-α-(1-methylethyl benzeneacetate (Esfenvalerate) (CAS No. 66230-04-4) (provided for in subheading 2926.90.30)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1146. AVAUNT AND STEWARD.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.46	Mixtures of indoxacarb ((S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl]amino] carbonyl]indeno-[1,2e][1,3,4]-oxadiazine-4a-(3H)carboxylate) (CAS No. 173584-44-6) and application adjuvants (provided for in subheading 3808.10.25)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1147. HELIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.47	Helium (provided for in subheading 2804.29.00)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1148. ETHYL PYRUVATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.48	Ethyl pyruvate (CAS No. 617-35-6) (provided for in subheading 2918.30.90)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1149. DELTAMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.49	(S)-α-Cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclo-propanecarb-oxylate (Deltamethrin) in bulk or in forms or packings for retail sale (CAS No. 52918-63-5) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1150. ASULAM SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.50	Mixtures of methyl sulfanilycarbamate, sodium salt (Asulam sodium salt) (CAS No. 2302-17-2) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005 ".

SEC. 1151. TRALOMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.52	Tralomethrin (1R,3S)3[(1¼RS)-(1¼,2¼,2¼,2¼-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid, (S)-alpha-cyano-3-phenoxybenzyl ester (CAS No. 66841–25–6) in bulk or in forms or packages for retail sale (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1152. N-PHENYL-N¼-(1,2,3-THIADIAZOL-5-YL)-UREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.53	N-Phenyl-N¼-1,2,3-thiadiazol-5-ylurea (thidiazuron) in bulk or in forms or packages for retail sale (CAS No. 51707–55–2) (provided for in subheading 2934.99.15 or 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1153. BENZENEPROPANOIC ACID, ALPHA-2- DICHLORO-5-[4 (DIFLUOROMETHYL)- 4,5-DIHYDRO-3-METHYL-5-OXO-1H-1,2,4-TRIAZOL-1-YL]-4-FLUORO-ETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.54	alpha-2-Dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid, ethyl ester (carfentazone-ethyl) (CAS No. 128639–02–1) (provided for in subheading 2933.99.22)	4.9%	No change	No change	On or before 12/31/2005	”.

SEC. 1154. (Z)-(1RS, 3RS)-3-(2-CHLORO-3,3,3 TRIFLOURO-1-PROPENYL)-2,2-DIMETHYL-CYCLOPROPANE CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.55	(Z)-(1RS,3RS)-3-(2-Chloro-3,3,3-trifluro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylic acid (CAS No. 68127–59–3) (provided for in subheading 2916.20.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1155. 2-CHLOROBENZYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.56	2-Chlorobenzyl chloride (CAS No. 611–19–8) (provided for in subheading 2903.69.70)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1156. (S)-ALPHA-HYDROXY-3-PHENOXYBENZENEACETONITRILE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.57	(S)-alpha-Hydroxy-3-phenoxybenzeneacetonitrile (CAS No. 61826–76–4) (provided for in subheading 2926.90.43)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1157. 4-PENTENOIC ACID, 3,3-DIMETHYL-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.58	4-Pentenoic acid, 3,3-dimethyl-, methyl ester (CAS No. 63721–05–1) (provided for in subheading 2916.19.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1158. TERRAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.59	Etridiazole [5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole] (CAS No. 2593–15–9) (provided for in subheading 2934.99.90) and any mixtures (preparations) containing Etridiazole as the active ingredient (provided for in subheading 3808.20.50)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1159. 2-MERCAPTOETHANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.60	2-Mercaptoethanol (CAS No. 60–24–2) (provided for in subheading 2930.90.90)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1160. BIFENAZATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.61	Bifenazate (Hydrazinecarb-oxylic acid, 2-(4-methoxy-[1,1- biphenyl]-3-yl)-1-methylethyl ester (CAS No. 149877–41–8) (provided for in subheading 2928.00.25)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1161. A CERTAIN POLYMER.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.62	Fluoropolymers containing 95 percent or more by weight of the monomer units tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1162. ETHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.63	Ethylphenol (CAS No. 123–07–9) (provided for in subheading 2907.19.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1163. EZETIMIBE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.64	2-Azetidinone, 1-(4-fluorophenyl)-3-[(3S)-3-(4-fluorophenyl)-3-hydroxypropyl]-4-(4-hydroxyphenyl)-, (3R,4S)-(Ezetimibe) (CAS No. 163222-33-1) (provided for in subheading 2933.79.08)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1164. P-CRESIDINESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.65	p-Cresidinesulfonic acid (4-amino-5-methoxy-2-methylbenzene- sulfonic acid) (CAS No. 6471-78-9) (provided for in subheading 2922.29.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1165. 2,4 DISULFOBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.66	2,4-Disulfobenzaldehyde (CAS No. 88-39-1) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1166. M-HYDROXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.67	m-Hydroxybenzal-dehyde (CAS No. 100-83-4) (provided for in subheading 2912.49.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1167. N-ETHYL-N-(3-SULFOBENZYL)ANILINE, BENZENESULFONIC ACID, 3[(ETHYLPHENYLAMINO)METHYL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.68	N-Ethyl-N-(3-sulfobenzyl)aniline (benzenesulfonic acid, 3-[(ethyl-phenylamino)-methyl]-) (CAS No. 101-11-1) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1168. ACRYLIC FIBER TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.69	Acrylic fiber tow (polyacrylonitrile tow) consisting of 6 sub-bundles crimped together, each containing 45,000 filaments (plus or minus 0.06) and 2-8 percent water, such acrylic fiber containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and average filament denier of either 1.48 decitex (plus or minus 0.08) or 1.32 decitex (plus or minus 0.089) (provided for in subheading 5501.30.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1169. YTTRIUM OXIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.21	Yttrium oxides having a purity of at least 99.9 percent (CAS No. 1314-36-9) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1170. HEXANEDIOIC ACID, POLYMER WITH 1,3-BENZENEDIMETHANAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.71	Hexanedioic acid, polymer with 1,3-benzene-dimethanamine (CAS No. 25718-70-1) (provided for in subheading 3908.10.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1171. N1-[(6-CHLORO-3-PYRIDYL)METHYL]-N2-CYANO-N1-METHYLACETAMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.72	(E)-N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine (Acetamiprid) (CAS No. 135410-20-7) whether or not mixed with application adjuvants (provided for in subheading 2933.39.27 or 3808.10.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1172. ALUMINUM TRIS (O-ETHYL PHOSPHONATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.73	Aluminum tris- (O-ethylphosphonate) (CAS No. 39148-24-8) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1173. MIXTURE OF DISPERSE BLUE 77 AND DISPERSE BLUE 56.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.74	Mixtures of disperse blue 77 (9,10-anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-) (CAS No. 20241-76-3) and disperse blue 56 (9,10-anthracenedione, 1,5-diaminochloro-4,8-dihydroxy-) (CAS No. 12217-79-7) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1174. ACID BLACK 194.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.75	Acid black 194 (chromate(3-), bis[3-(hydroxy-.kappa.O)-4-[[2-(hydroxy.kappa.O)-1-naphthalenyl]azo-.kappa.N1]-7-nitro-1-naphthalenesulfonato(3-)]-, trisodium) (CAS No. 57693-14-8) (provided for in subheading 3204.12.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1175. MIXTURE OF 9,10-ANTHRACENEDIONE, 1,5-DIHYDROXY-4-NITRO-8-(PHENYLAMINO)-AND DISPERSE BLUE 77.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.76	Mixtures of 9.10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-(CAS No. 3065–87–0) and 9,10-anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- (Disperse blue 77) (CAS No. 20241-76–3) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1176. COPPER PHTHALOCYANINE SUBSTITUTED WITH 15 OR 16 GROUPS WHICH COMPRISE 8-15 THIOARYL AND 1-8 ARYLAMINO GROUPS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.77	A copper phthalocyanine substituted with 15 or 16 groups which comprise 8-15 thioaryl and 1-8 arylamino groups (provided for in subheading 3204.19.40) ...	Free	No change	No change	On or before 12/31/2005	".

SEC. 1177. BAGS FOR CERTAIN TOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.78	Bags (provided for in subheading 4202.92.45) for transporting, storing, or protecting goods of headings 9502–9504, inclusive, imported and sold with such articles therein	Free	No change	No change	On or before 12/31/2005	".

SEC. 1178. CERTAIN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.79	Image projectors (provided for in subheading 9008.30.00) capable of projecting images from circular mounted sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter	Free	No change	No change	On or before 12/31/2005	".

SEC. 1179. CERTAIN OPTICAL INSTRUMENTS USED IN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.80	Optical instruments (provided for in subheading 9013.80.90) designed for the viewing of circular mounted sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter	Free	No change	No change	On or before 12/31/2005	".

SEC. 1180. CASES FOR CERTAIN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.81	Cases or containers (provided for in subheading 4202.92.90) specially designed or fitted for circular mounts for sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter the foregoing imported and sold with such articles therein	Free	No change	No change	On or before 12/31/2005	".

SEC. 1181. 2,4-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.82	2,4-Dichloroaniline (CAS No. 554–00–7) (provided for in subheading 2921.42.18)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1182. ETHOPROP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.83	O-Ethyl S,S-dipropyl-phosphorodithioate (Ethoprop) (CAS No. 13194–48–4) (provided for in subheading 2930.90.44)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1183. FORAMSULFURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.84	Mixtures of benzamide, 2-[[[[(4.6-dimethoxy-2-pyrimidinyl)- amino]carbonyl]-amino]sulfonyl]-4-(formylamino)- N,N-methyl- (foramsulfuron) (CAS No. 173159-57–4) and application adjuvants (provided for in subheading 3808.30.15)	3%	No change	No change	On or before 12/31/2005	".

SEC. 1184. CERTAIN EPOXY MOLDING COMPOUNDS.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.85	Epoxy molding compounds, of a kind used for encapsulating integrated circuits (provided for in subheading 3907.30.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1185. DIMETHYLDICYANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.86	Dimethyldicyane (2,2¼-dimethyl-4,4¼-methylenebis- (cyclohexylamine)) (CAS No. 6864–37–5) (provided for in subheading 2921.30.30)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1186. TRIACETONE DIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.87	2,2,6,6-Tetra-methyl-4-pip-eridinamine (Triacetone diamine) (CAS No. 36768–62–4) (provided for in subheading 2933.39.61)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1187. TRIETHYLENE GLYCOL BIS[3-(3-TERT-BUTYL-4-HYDROXY-5-METHYLPHENYL) PROPIONATE].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

“	9902.01.88	Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl)propionate] (CAS No. 36443-68-2) (provided for in subheading 2918.90.43)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1188. CERTAIN POWER WEAVING TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.89	Power weaving machines (looms), shuttle type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m, entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams (provided for in subheading 8446.21.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1189. CERTAIN FILAMENT YARNS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.90	Synthetic filament yarn (other than sewing thread) not put up for retail sale, single, of decitex sizes of 23 to 850, with between 4 and 68 filaments, with a twist of 100 to 300 turns/m, of nylon or other polyamides, containing 10 percent or more by weight of nylon 12 (provided for in subheading 5402.51.00)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1190. CERTAIN OTHER FILAMENT YARNS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.91	Synthetic filament yarn (other than sewing thread) not put up for retail sale, single, of decitex sizes of 23 to 850, with between 4 and 68 filaments, untwisted, of nylon or other polyamides, containing 10 percent or more by weight of nylon 12 (provided for in subheading 5402.41.90)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1191. CERTAIN INK-JET TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.92	Ink-jet textile printing machinery (provided for in subheading 8443.51.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1192. CERTAIN OTHER TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.93	Textile printing machinery (provided for in subheading 8443.59.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1193. D-MANNOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

“	9902.01.94	D-Mannose (CAS No. 3458-28-4) (provided for in subheading 2940.00.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1194. BENZAMIDE, N-METHYL-2-[[3-[(1E)-2-(2-PYRIDINYL)-ETHENYL]-1H-INDAZOL-6-YL)THIO]-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.95	Benzamide, N-methyl-2-[[3-[(1E)-2-(2-pyridinyl)-ethenyl]-1H-indazol-6-yl)thio]- (CAS No. 319460-85-0) (provided for in subheading 2933.99.79)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1195. 1(2H)-QUINOLINECARBOXYLIC ACID, 4-[[[3,5-BIS-(TRI FLUOROMETHYL) PHENYL] METHYL] (METHOXYCARBONYL) AMINO]-2-ETHYL- 3,4-DIHYDRO-6- (TRIFLUOROMETHYL)-, ETHYL ESTER, (2R,4S)-(9CI).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.96	1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis-(trifluoromethyl)- phenyl]methyl]-(methoxycarbonyl)amino]-2-ethyl-3,4-dihydro-6-(trifluoromethyl)- ethyl ester, (2R,4S)- (CAS No. 262352-17-0) (provided for in subheading 2933.49.26)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1196. DISULFIDE,BIS(3,5-DICHLOROPHENYL)(9C1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.97	Bis(3,5-dichlorophenyl) disulfide (CAS No. 137897-99-5) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1197. PYRIDINE, 4-[[4-(1-METHYLETHYL)-2-[(PHENYLMETHOXY)METHYL]-1H- MIDAZOL-1-YL] METHYL]- ETHANEDIOATE (1:2).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.98	Pyridine, 4-[[4-(1-methylethyl)-2-[(phenylmethoxy)- methyl]-1H-imidazol-1-yl]-methyl]-ethanedioate (1:2) (CAS No. 280129-82-0) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1198. PACLOBUTRAZOLE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.99	(RS,3RS)-1-(4-Chlorophenyl)-4,4-dimethyl-2-(1H-1,2,4-triazol-1-yl)pentan-3-ol (paclobutrazol) (CAS No. 76738-62-0) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1199. PACLOBUTRAZOLE 2SC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.01	Mixtures of (RS,3RS)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1H-1,2,4-triazol-1-yl)pentan-3-ol (paclobutrazol) (CAS No. 76738–62–0) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1200. METHIDATHION TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.02	S-[(5-Methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl)methyl] O,O-dimethyl phosphorodithioate (CAS No. 950–37–8) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1201. VANGUARD 75 WDG.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.03	Mixtures of 2-pyrimidinamine, 4-cyclopropyl-6-methyl-N-phenyl- (cyprodinil) (CAS No. 121552–61–2) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1202. WAKIL XL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.04	Mixtures of (R)-2-[(2,6-dimethylphenyl-methoxy)acetyl-amino]propionic acid, methyl ester (mefenoxam) (CAS No. 70630–17–0), 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile (fludioxonil) (CAS No. 131341–86–1), and 2-cyano-2-methoxyimino-N-(ethylcarbam-oyl)acetamide (cymoxanil) (CAS No. 57966–95–7) with application adjuvants (the foregoing mixtures provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1203. MUCOCHLORIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.05	2-Butenoic acid, 2,3-dichloro-4-oxo- (mucochloric acid) (CAS No. 87–56–9) (provided for in subheading 2918.30.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1204. AZOXYSTROBIN TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.06	Benzeneacetic acid, (E)-2-[[6-(2-cyanophenoxy)-4-pyrimidinyl]oxy]-alpha-(methoxymethyl- ene)-, methyl ester (pyroxystrobin) (CAS No. 131860–33–8) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1205. FLUMETRALIN TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.07	2-Chloro-N-[2,6-dinitro-4-(tri-fluoromethyl)-phenyl]-N-ethyl-6-fluorobenzene-methanamine (flumetralin) (CAS No. 62924–70–3) (provided for in subheading 2921.49.45)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1206. CYPRODINIL TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.08	2-Pyrimidinamine, 4-cyclopropyl-6-methyl-N-phenyl- (cyprodinil) (CAS No. 121552–61–2) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1207. MIXTURES OF LAMBDA-CYHALOTHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.09	Mixtures of cyhalothrin (cyclopropanecarboxylic acid, 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-, cyano(3-phenoxyphenyl)-methyl ester, [1.alpha. (S*),3.alpha. (Z)]-(.+-.)- (CAS No. 91465–08–6) and application adjuvants (provided for in subheading 3808.10.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1208. PRIMISULFURON METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.10	Benzoic acid, 2-[[[[[4,6-bis- (difluoromethoxy)-2-pyrimidinyl]- amino]carbonyl]-amino]sulfonyl]-, methyl ester (primisulfuron methyl) (CAS No. 86209–51–0) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1209. 1,2-CYCLOHEXANEDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.11	1,2- Cyclohexanedione (CAS No. 765–87–7) (provided for in subheading 2914.29.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1210. DIFENOCONAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.12	1H-1,2,4-Triazole, 1-[[2-[2-chloro-4-(4-chlorophenoxy)-phenyl]-4-methyl-1,3-dioxolan-2-yl]methyl]- (difenoconazole) (CAS No. 119446–68–3) (provided for in subheading 2934.99.12)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1211. CERTAIN REFRACTING AND REFLECTING TELESCOPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.13	Refracting telescopes with 50 mm or smaller lenses and reflecting telescopes with 76 mm or smaller lenses (provided for in subheading 9005.80.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1212. PHENYLISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.14	Phenylisocyanate (CAS No. 103–71–9) (provided for in subheading 2929.10.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1213. BAYOWET FT-248.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.15	Tetraethylammonium perfluoroctane- sulfonate (CAS No. 56773–42–3) (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1214. P-PHENYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.16	p-Phenylphenol (CAS No. 92–69–3) (provided for in subheading 2907.19.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1215. CERTAIN RUBBER RIDING BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.17	Horseback riding boots with soles and uppers of rubber, such boots extending above the ankle and below the knee, specifically designed for horseback riding, and having a spur rest on the heel counter (provided for in subheading 6401.92)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1216. CHEMICAL RH WATER-BASED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.18	Chemical RH water-based (iron toluene sulfonate) (comprising 75 percent water, 25 percent p-toluenesulfonic acid (CAS No. 6192-52-5) and 5 percent ferric oxide (CAS No. 1309–37–1)) (provided for in subheading 2904.10.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1217. CHEMICAL NR ETHANOL-BASED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.19	Chemical NR ethanol-based (iron toluene sulfonate) (comprising 60 percent ethanol (CAS No. 64-17-5), 33 percent p-toluenesulfonic acid (CAS No. 6192–52-5), and 7 percent ferric oxide (CAS No. 1309-37-1)) (provided for in subheading 2912.12.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1218. TANTALUM CAPACITOR INK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.20	Tantalum capacitor ink: graphite ink P7300 of 85 percent butyl acetate, 8 percent graphite, and the remaining balance of non-hazardous resins; and graphite paste P5900 of 92-96 percent water, 1-3 percent graphite (CAS No. 7782–42–5), 0.5-2 percent ammonia (CAS No. 7664–41–7), and less than 1 percent acrylic resin (CAS No. 9003–32–1) (provided for in subheading 3207.30.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1219. CERTAIN SAWING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.91	Sawing machines certified for use in production of radial tires, designed for off-the-highway use, and for use on a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8465.91.00 or 8466.92.50) –	Free	No change	No change	On or before 12/31/2005	".

SEC. 1220. CERTAIN SECTOR MOLD PRESS MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.89	Sector mold press machines to be used in production of radial tires designed for off-the highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1221. CERTAIN MANUFACTURING EQUIPMENT USED FOR MOLDING.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.88	Machinery for molding, or otherwise forming uncured, unvulcanized rubber to be used in production of radial tires designed for off-the-highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1222. CERTAIN EXTRUDERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.85	Extruders to be used in production of radial tires designed for off-the-highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.20.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1223. CERTAIN SHEARING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.81	Shearing machines used to cut metallic tissue certified for use in production of radial tires designed for off-the highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8462.31.00 or 8466.94.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1224. THERMAL RELEASE PLASTIC FILM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.26	Thermal release plastic film (with a substrate of polyolefin-based PET/conductive acrylic polymer, release liner of polyethylene terephthalate PET/polysiloxane, pressure sensitive adhesive of acrylic ester-based copolymer, and core of acrylonitrile-butadiene-styrene copolymer) (provided for in subheading 3919.10.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1225. CERTAIN SILVER PAINTS AND PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.27	P6100–52 percent silver Ag paint; P7400–52.8 percent silver Ag paint; P7402–61.6 percent silver Ag paste; and P7500–52.8 percent silver Ag paint (provided for in subheading 2843.10.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1226. POLYMER MASKING MATERIAL FOR ALUMINUM CAPACITORS (UPICOAT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.28	Polymer masking material for aluminum capacitors (UPICOAT of 40 percent solute denatured polymide and 60 percent solvent diethyleneglycol dimethylethers (CAS No. 111-96-6)) (provided for in subheading 2909.41.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1227. OBPA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.29	10, 1'0-Oxybisphenoxarsine (CAS No. 58-36-6) (provided for in subheading 2934.99.18)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1228. MACROPOROUS ION-EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.30	Macroporous ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, thiol functionalized (CAS No. 113834-91-6) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1229. COPPER 8-QUINOLINOLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.31	Copper 8-quinolinolate (oxine-copper) (CAS No. 10380-28-6) (provided for in subheading 2933.49.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1230. ION-EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.32	Ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, iminodiacetic acid, sodium form (CAS No. 244203-30-3) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1231. ION-EXCHANGE RESIN CROSSLINKED WITH ETHENYLBENZENE, AMINOPHOSPONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.33	Ion-exchange resin comprising a copolymer of styrene crosslinked with ethenylbenzene, aminophosphonic acid, sodium form (CAS No. 125935-42-4) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1232. ION-EXCHANGE RESIN CROSSLINKED WITH DIVINYLBENZENE, SULPHONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.34	Ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, sulfonic acid, sodium form (CAS No. 63182-08-1) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1233. 3-[(4 AMINO-3-METHOXYPHENYL) AZO]-BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.35	3-[(Amino-3-methoxyphenyl)-azo]benzene sulfonic acid (CAS No. 138-28-3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1234. 2-METHYL-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.36	2-Methyl-5-nitrobenzenesulfonic acid (CAS No. 121-03-9) (provided for in subheading 2904.90.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1235. 2-AMINO-6-NITRO-PHENOL-4-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.37	2-Amino-6-nitro-phenol-4-sulfonic acid (CAS No. 96-93-5) (provided for in subheading 2922.29.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1236. 2-AMINO-5-SULFOBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.38	2-Amino-5-sulfobenzoic acid (CAS No. 3577-63-7) (provided for in subheading 2922.49.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1237. 2,5 BIS [(1,3 DIOXOBUTYL) AMINO] BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.39	2,5-Bis[(1,3-dioxobutyl)-amino]benzene-sulfonic acid (CAS No. 70185-87-4) (provided for in subheading 2924.29.71)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1238. P-AMINOAZOBENZENE 4 SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.40	4-[(4-Amino-phenyl)azo]-benezenesulfonic acid, monosodium salt (CAS No. 2491-71-6) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1239. P-AMINOAZOBENZENE 4 SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.41	4-[(4-Amino-phenyl)azo]-benzenesulfonic acid (CAS No. 104-23-4) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1240. 3-[(4 AMINO-3-METHOXYPHENYL) AZO]-BENZENE SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.42	3-[(4-Amino-3-methoxyphenyl)-azo]benzenesul-fonic acid, monosodium salt (CAS No. 6300-07-8) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1241. ET-743 (ECTEINASCIDIN).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.43	[6R-(6a,6ab,7b, 13b,14b,16a, 20R*)]-5-Acetyloxy-3′,4′, 6,6a,7,13,14,16-octahydro-6′,8,14-trihydroxy-7′,9-dimethoxy-4,10,23-trimethylspiro[6, 16-b][3]benzazocine-20,1′(2H)-isoquinolin-19-one (ecteinascidin) (CAS No. 114899-77-3) (provided for in subheading 2934.99.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1242. 2,7-NAPHTHALENEDISULFONIC ACID, 5-[[4-CHLORO-6-[[2-[[4-FLUORO-6-[[5-HYDROXY-6-[(4-METHOXY-2-SULFOPHENYL)AZO]-7-SULFO-2-NAPHTHALENYL]AMINO]-1,3,5-TRIAZIN-2-YL] AMINO]-1-METHYLETHYL]AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]-3-[[4-(ETHENYLSULFONYL)PHENYL]AZO]-4-HYDROXY-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.44	2,7-Naphthalene- disulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]-amino]-1,3,5-triazin-2-yl]- amino]-1-methylethyl]-amino]-1,3,5-triazin-2-yl]-amino]-3-[[4-(ethenylsulfonyl)-phenyl]azo]-4-hydroxy, sodium salt (CAS No. 168113-78-8) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1243. 1,5-NAPHTHALENEDISULFONIC ACID, 3-[[2-(ACETYLAMINO)-4-[[4-[[2-[2- (ETHENYLSULFONYL) ETHOXY] ETHYL] AMINO]-6-FLUORO-1,3,5-TRIAZIN-2-YL]AMINO]PHENYL]AZO]-, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.45	1,5-Naphthalenedi- sulfonic acid, 3-[[2-(acetylamino)-4-[[4-[[2-[2-(ethenylsulfonyl)- ethoxy]-ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]- amino]-phenyl]azo]-, disodium salt (CAS No. 98635-31-5) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1244. 7,7′-[1,3-PROPANEDIYLBIS[IMINO(6-FLUORO-1,3,5-TRIAZINE-4,2-DIYL)IMINO[2-[(AMINOCARBONYL)AMINO]-4,1-PHENYLENE]AZO]]BIS-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.46	7,7′-[1,3-Propanediylbis-[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)-amino]-4,1-phenylene]azo]]bis-, sodium salt (CAS No. 143683-24-3) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1245. CUPRATE(3-), [2-[[[[3-[[4-[[2-[2- (ETHENYLSULFONYL) ETHOXY] ETHYL]AMINO]-6-FLUORO-1,3,5-TRIAZIN-2- YL]AMINO]-2-(HYDROXY-.KAPPA.O)-5-SULFOPHENYL]AZO-.KAPPA.N2] PHENYLMETHYL]AZO-.KAPPA.N1]-4-SULFOBENZOATO (5-)-.KAPPA.O], TRISODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.47	Cuprate(3-), [2-[[[[3-[[4-[[2-[2- (ethenylsulfonyl)- ethoxy]-ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]-amino]-2-(hydroxy-.kappa.O)-5-sulfophenyl]azo-.kappa.N2]- phenylmethyl]azo-.kappa.N1]-4-sulfobenzoato(5-)-.kappa.O], trisodium (CAS No. 106404-06-2) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1246. 1,5-NAPHTHALENEDISULFONIC ACID, 2-[[8-[[4-[[3-[[[2-(ETHENYLSULFONYL) ETHYL] AMINO]CARBONYL]PHENYL] AMINO]-6-FLUORO-1,3,5-TRIAZIN-2-YL]AMINO]-1-HYDROXY-3,6-DISULFO-2-NAPHTHALENYL]AZO]-, TETRASODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.48	1,5-Naphthalenedi/sulfonic acid, 2-[[8-[[4-[[3-[[[2/(ethenylsulfonyl)-ethyl]-amino]carbonyl]- phenyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-1-hydroxy-3,6-disulfo-2-naphthalenyl]-azo]-, tetrasodium salt (CAS No. 116912-36-8) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1247. PTFMBA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.49	p-(Trifluro-methyl)benzaldehyde (CAS No. 455-19-6) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1248. BENZOIC ACID, 2-AMINO-4-[[(2,5-DICHLOROPHENYL)AMINO] CARBONYL]-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.51	Benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)-amino]carbonyl]-, methyl ester (CAS No. 59673-82-4) (provided for in subheading 2924.29.71)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1249. IMIDACLOPRID PESTICIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.52	Mixtures of imidacloprid (1-[(6-Chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidini- mine) (CAS No. 138261-41-3) with application adjuvants (provided for in subheading 3808.10.25)	5.7%	No change	No change	On or before 12/31/2005	".

SEC. 1250. BETA-CYFLUTHRIN.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.54	beta-Cyfluthrin (CAS No. 68359-37-5) (provided for in subheading 2926.90.30)	4.3%	No change	No change	On or before 12/31/2005	".

SEC. 1251. IMIDACLOPRID TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.55	Imidacloprid (1-[(6-Chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine) (CAS No. 138261-41-3) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1252. BAYLETON TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.56	Triadimefon (1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone) (CAS No. 43121-43-3) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1253. PROPOXUR TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.57	Propoxur (2-(1-methylethoxy)-phenol methyl-carbamate) (CAS No. 114-26-1) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1254. MKH 6561 ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.58	A mixture of 30 percent 2-(carbomethoxy)-benzenesulfonyl isocyanate (CAS No. 13330-20-7) and 70 percent xylenes (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1255. PROPOXY METHYL TRIAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.59	A mixture of 20 percent propoxy-methyltriazolone (3H-1,2,4-triazol-3-one, 2,4- dihydro-4-methyl-5-propoxy-) (CAS No. 1330-20-7) and triazolone (3H-1,2,4-triazol-3-one, 2,4- dihydro-4-methyl-5-propoxy-) (CAS No. 1330-2-7) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1256. NEMACUR VL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.60	Fenamiphos (ethyl 4-(methylthio)-m-tolyl-isospropylphos- phoramidate) (CAS No. 22224-92-6) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1257. METHOXY METHYL TRIAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.61	2,4-Dihydro-5-methoxy-4-methyl-3*H*-1,2,4-triazol-3-one (CAS No. 135302-13-5) (provided for in subheading 2933.99.97)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1258. LEVAFIX GOLDEN YELLOW E-G.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.62	Reactive yellow 27 (1H-Pyrazole-3-carboxylic acid, 4-[[4-[[(2,3-dichloro-6-quinoxalinyl)car-bonyl]amino]-2- sulfophenyl]- azo]-4,5- dihydro-5-oxo-1- (4-sulfophenyl)-, trisodium salt) (CAS No. 75199-00-7) (provided for in subheading 3204.16.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1259. LEVAFIX BLUE CA/REMAZOL BLUE CA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.63	Cuprate(4-), [2-[[3-[[substituted]-1,3,5-triazin-2-yl]amino]-2-hydroxy-5-sulfophenyl]- (substituted)azo], sodium salt (CAS No. 156830-72-7)(provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1260. REMAZOL YELLOW RR GRAN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.64	Benzenesulfonic- acid, 2-amino-4-(cyanoamino)-6-[(3-sulfo-phenyl)amino]-1,3,5-triazin-2-yl]amino]-5-[[4-[[2-(sulfoxy)- ethyl]sulfonyl]- phenyl]azo]-, lithium sodium salt (CAS No. 189574-45-6) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1261. INDANTHREN BLUE CLF.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.65	Vat blue 66 (9,10-Anthra-cenedione, 1,1′-[(6-phenyl-1,3,5-triazine-2,4-diyl)diimino]- bis[3-acetyl-4- amino-) (CAS No. 32220-82-9) (provided for in subheading 3204.15.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1262. INDANTHREN YELLOW F3GC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.66	Vat yellow 33 ([1,1′-Biphenyl]- 4-carboxamide, 4′,4‴-azobis[N-(9,10-dihydro-9,10-dioxo-1-anthracenyl)-) (CAS No. 12227-50-8) (provided for in subheading 3204.15.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1263. ACETYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.67	Acetyl chloride (CAS No. 75-36-5) (provided for in subheading 2915.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1264. 4-METHOXY-PHENACYCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.68	4-Methoxyphena-cyl chloride (CAS No. 2196-99-8) (provided for in subheading 2914.70.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1265. 3-METHOXY-THIOPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.69	3-Methoxy-thiophenol (CAS No. 15570-12-4) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1266. LEVAFIX BRILLIANT RED E-6BA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.70	Reactive red 159 (2,7-naphthalenedisulfonic acid, 5-(benzoylamino)- 3-[[5-[[(5-chloro-2,6-difluoro-4-pyrimidinyl)-amino]methyl]- 1-sulfo-2- naphthalenyl]-azo]-4-hydroxy-, lithium sodium salt) (CAS No. 83400-12-8) (provided for in subheading 3204.16.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1267. REMAZOL BR. BLUE BB 133 PERCENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.71	Reactive blue 220 (cuprate(4-), [4,5-dihydro-4- [[8-hydroxy-7-[[2-hydroxy-5-methoxy-4-[[2-(sulfoxy)ethyl]- sulfonyl]- phenyl]azo]-6- sulfo-2-naphthalenyl]azo]-5-oxo-1-(4-sulfophenyl)-1H-pyrazole-3- carboxylato(6-)]-, sodium) (CAS No. 90341-71-2) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1268. FAST NAVY SALT RA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.72	Benzenediazonium, 4-[(2,6- dichloro-4-nitrophenyl)azo]-2,5-dimethoxy-, (T-4)-tetra- chlorozincate(2-) (2:1) (CAS No. 63224-47-5) (provided for in subheading 2927.00.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1269. LEVAFIX ROYAL BLUE E-FR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.73	Reactive blue 224 (ethanol, 2,2′-[[6,13-dichloro-3,10-bis[[2-sulfoxy)-ethyl]amino]- triphenodioxaz-inediyl]bis(sul-fonyl)]bis-, bis(hydrogen sulfate) ester, potassium sodium salt (CAS No. 108692-09-7) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1270. P-CHLORO ANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.74	p-Chloroaniline (CAS No. 106-47-8) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1271. ESTERS AND SODIUM ESTERS OF PARAHYDROXYBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.75	Methyl 4-hydroxybenzoate (CAS No. 99-76-3); propyl 4-hydroxybenzoate (CAS No. 94-13-3); ethyl 4-hydroxybenzoate (CAS No. 120-47-8); butyl 4-hydroxybenzoate (CAS No. 94-26-8); benzyl 4-hydroxybenzoate (CAS No. 94-18-8); methyl 4-hydroxybenzoate, sodium salt (CAS No. 5026-62-0); propyl 4-hydroxybenzoate, sodium salt (CAS No. 35285-69-9); ethyl 4-hydroxybenzoate, sodium salt (CAS No. 35285-68-8); and butyl 4-hydroxybenzoate, sodium salt (CAS No. 36457-20-2) (all the foregoing provided for in subheading 2918.29.65 or 2918.29.75)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1272. SANTOLINK EP 560.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.76	Phenol-formaldehyde polymer, butylated (CAS No. 96446-41-2) (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1273. PHENODUR VPW 1942.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.77	Phenol, 4,4′-(1-methylethylidene)bis-, polymer with (chloromethyl)-oxirane and phenol polymer with formaldehyde modified with chloroacetic acid (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1274. PHENODUR PR 612.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.78	Formaldehyde, polymer with 2-methylphenol, butylated (CAS No. 118685-25-9) (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1275. PHENODUR PR 263.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.79	Phenol, polymer with formaldehyde (CAS No. 126191-57-9) and urea, polymer with formaldehyde (CAS No. 68002-18-6) dissolved in a mixture of isobutanol and n-butanol (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1276. MACRYNAL SM 510 AND 516.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.80	Neodecanoic acid, oxiranylmethyl ester, polymer with ethenylbenzene, 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate and 2-propenoic acid (CAS No. 98613-27-5) (provided for in subheading 3906.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1277. ALFTALAT AN 725.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.81	1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid and 2,2-dimethyl-1,3-propanediol (CAS No. 25214-38-4) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1278. RWJ 241947.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.82	(+)-5-[[6-[(2-Fluorophenyl)- methoxy]-2- naphthalenyl]-methyl]-2,4-thiazolidinedione (CAS No. 161600-01-7) (provided for in subheading 2934.10.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1279. RWJ 394718.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.83	1-Propanone, 3-(5-benzofuranyl)-1-[2-hydroxy-6-[[6-O-(methoxycarbonyl-beta-D-glucopyranosyl]-oxy]-4-methylphenyl- (CAS No. 209746-59-8) (provided for in subheading 2932.99.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1280. RWJ 394720.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.84	3-(5-Benzofuranyl)-1-[2-β-D-glucopyranosyloxy- 6-hydroxy-4-methylphenyl]-1-propanone (CAS No. 209746-56-5) (provided for in subheading 2932.99.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1281. 3,4-DCBN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.85	3,4-Dichlorobenzonitrile (CAS No. 6574-99-8) (provided for in subheading 2926.90.12)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1282. CYHALOFOP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.86	Propanoic acid, 2-[4-(cyano-2-fluorophenoxy)-phenoxy]butyl ester(2R) (CAS No. 122008-85-9) (provided for in subheading 2926.90.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1283. ASULAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.87	Methyl sulf-anilylcarbamate, sodium salt (asulam sodium salt) (CAS No. 2302-17-2) imported in bulk form (provided for in subheading 2935.00.75), or imported in forms or packings for retail sale or mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1284. FLORASULAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.88	Mixtures of florasulam ([1,2,4]- triazolo[1,5-c]- pyrimidine-2-sulfonamide, N-(2,6-difluorophenyl)-8-fluoro-5-methoxy-) (CAS No. 145701-23-1) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1285. PROPANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.89	Propanamide, N-(3,4-dichlorophenyl)-(CAS No. 709-98-8) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1286. HALOFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.90	Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl)-hydrazide (halofenozide) (CAS No. 112226-61-6) (provided for in subheading 2928.00.25) ...	Free	No change	No change	On or before 12/31/2005	".

SEC. 1287. ORTHO-PHTHALALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.92	1,2-Benzenedicarboxaldehyde (CAS No. 643-79-8) (provided for in subheading 2912.29.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1288. TRANS 1,3-DICHLOROPENTENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.02.93	Mixed cis and trans isomers of 1,3-dichloro-propene (CAS No. 10061-02-6) (provided for in subheading 2903.29.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1289. METHACRYLAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.94	Methacrylamide (CAS No. 79-39-0) (provided for in subheading 2924.19.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1290. CATION EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.95	2-Propenoic acid, polymer with diethenylbenzene (CAS No. 9052-45-3) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1291. GALLERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.96	N-[3-(1-Ethyl-1-methylpropyl)-5-isoxazolyl]-2,6-dimethoxybenz-amide (isoxaben) (CAS No. 82558-50-7) (provided for in subheading 2934.99.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1292. NECKS USED IN CATHODE RAY TUBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.97	Necks used in cathode ray tubes (provided for in subheading 7011.20.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1293. POLYTETRAMETHYLENE ETHER GLYCOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.02.98	Polytetramethylene ether glycol (tetrahydro-3-methylfuran, polymer with tetrahydrofuran) (CAS No. 38640-26-5) (provided for in subheading 3907.20.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1294. LEAF ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.02.99	cis-3-Hexen-1-ol (CAS No. 928-96-1) (provided for in subheading 2905.29.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1295. COMBED CASHMERE AND CAMEL HAIR YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.01	Yarn of combed cashmere or yarn of camel hair (provided for in subheading 5108.20.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1296. CERTAIN CARDED CASHMERE YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.02	Yarn of carded cashmere of 6 run or finer (equivalent to 19.35 metric yarn system) (provided for in subheading 5108.10.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1297. SULFUR BLACK 1.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.03	Sulfur black 1 (CAS No. 1326-82-5) (provided for in subheading 3204.19.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1298. REDUCED VAT BLUE 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.04	Reduced vat blue 43 (CAS No. 85737-02-6) (provided for in subheading 3204.15.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1299. FLUOROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.05	Fluorobenzene (CAS No. 462-06-6) (provided for in subheading 2903.69.70)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1300. CERTAIN RAYON FILAMENT YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.06	High tenacity multiple (folded) or cabled yarn of viscose rayon (provided for in subheading 5403.10.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1301. CERTAIN TIRE CORD FABRIC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.07	Tire cord fabric of high tenacity yarn of viscose rayon (provided for in subheading 5902.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1302. DIRECT BLACK 184.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.08	Direct black 184 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1303. BLACK 263 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.09	5-[4-(7-Amino-1-hydroxy-3-sulfo-naphthalen-2-ylazo)-2,5-bis(2-hydroxyethoxy)-phenylazo]isophthalic acid, lithium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1304. MAGENTA 364.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.10	5-[4-(4,5-Dimethyl-2-sulfo-phenylamino)-6-hydroxy-[1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naphthalene-2,7-disulfonic acid, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1305. THIAMETHOXAM TECHNICAL.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.11	Thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl)-tetrahydro-5-methyl-N-nitro-1,3,5-oxadiazin-4-imine) (CAS No. 153719-23-4) (provided for in subheading 2934.10.90)	2.6%	No change	No change	On or before 12/31/2003	".

(b) CALENDAR YEAR 2004.—

(1) IN GENERAL.—Heading 9902.03.11, as added by subsection (a), is amended—

(A) by striking "2.6%" and inserting "2.54%"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2004".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

(c) CALENDAR YEAR 2005.—

(1) IN GENERAL.—Heading 9902.03.11, as added by subsection (a) and amended by this section, is further amended—

(A) by striking "2.54%" and inserting "3.2%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1306. CYAN 485 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.12	2-[(Hydroxyethyl-sulfamoyl)-sulfophthalo-cyaninato] copper (II), mixed isomers (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1307. DIRECT BLUE 307.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.14	Direct blue 307 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1308. DIRECT VIOLET 107.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.16	Direct violet 107 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1309. FAST BLACK 286 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.17	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)-azo]-6-sulfo-1-naphthalenyl]-azo]-, sodium salt (CAS No. 201932-24-3) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1310. MIXTURES OF FLUAZINAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.18	Mixtures of fluazinam (3-chloro-N-(3-chloro-2,6-dinitro-4-(trifluoromethyl)-phenyl-5-(trifluoromethyl)-2-pyridinamine) (CAS No. 79622-59-6) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1311. PRODIAMINE TECHNICAL.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.19	Prodiamine (2,6-dinitro-N1,N1-dipropyl-4-(trifluoromethyl)-1,3-benzenediamine (CAS No. 29091-21-2) (provided for in subheading 2921.59.80)	0.53%	No change	No change	On or before 12/31/2003	".

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.03.19, as added by subsection (a), is amended—

(A) by striking "0.53%" and inserting "Free"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1312. CARBON DIOXIDE CARTRIDGES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.20	Carbon dioxide in threaded 12-, 16-, and 25-gram non-refillable cartridges (provided for in subheading 2811.21.00)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1313. 12-HYDROXYOCTADECANOIC ACID, REACTION PRODUCT WITH *N,N*-DIMETHYL, 1,3-PROPANEDIAMINE, DIMETHYL SULFATE, QUATERNIZED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.21	12-Hydroxyoctadecanoic acid, reaction product with *N,N*-dimethyl- 1,3-propanediamine, dimethyl sulfate, quaternized (CAS No. 70879-66-2) (provided for in subheading 3824.90.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1314. 40 PERCENT POLYMER ACID SALT/POLYMER AMIDE, 60 PERCENT BUTYL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.22	40 Percent Polymer acid salt/polymer amide, 60 percent Butyl acetate (provided for in subheading 3208.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1315. 12-HYDROXYOCTADECANOIC ACID, REACTION PRODUCT WITH *N,N*-DIMETHYL-1,3-PROPANEDIAMINE, DIMETHYL SULFATE, QUATERNIZED, 60 PERCENT SOLUTION IN TOLUENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.23	12-Hydroxyoctadecanoic acid,-reaction product with *N,N*-dimethyl-1,3-propanediamine, dimethyl sulfate, quaternized (CAS No. 70879-66-2), 60 percent solution in toluene (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1316. POLYMER ACID SALT/POLYMER AMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.24	2-Oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester (provided for in subheading 3824.90.91)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1317. 50 PERCENT AMINE NEUTRALIZED PHOSPHATED POLYESTER POLYMER, 50 PERCENT SOLVESSO 100.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.25	50 Percent amine neutralized phosphated polyester polymer, 50 percent solvesso 100 (CAS Nos. P–99–1218, 64742–95–6, 95–63–6, 108–67–8, 98–82–8, and 1330–20–7) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1318. 1-OCTADECANAMINIUM, *N,N*-DI-METHYL-*N*-OCTADECYL-, (SP-4-2)-[29H,31H-PHTHA-LOCYANINE-2-SULFONATO(3-)-.KAPPA.N29,.KAPPA.N30,.KAPPA.N31,.KAPPA.N32]CUPRATE(1-).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.26	1-Octa-decanaminium, *N,N*-dimethyl-*N*-octadecyl-, (Sp-4-2)-[29H,31H-phthalocyanine-2-sulfonato(3-)-.kappa.N29, .kappa.N30, .kappa.N31, .kappa.N32] cuprate(1-) (CAS No. 70750-63-9) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1319. CHROMATE(1-)BIS[1-[(5-CHLORO–2-HYDROXYPHENYL)AZO]–2-NAPTHAL ENOLATO(2-)]-,HYDROGEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.27	Chromate(1-)-bis[1-[(5-chloro-2-hydroxy phenyl)azo]-2-naphthalenolato-(2-)]-,hydrogen (CAS No. 31714–55–3) (provided for in subheading 2942.00.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1320. BRONATE ADVANCED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.29	Mixtures of bromoxynil octanoate (3,5-dibromo-4-hydroxybenzo-nitrile octanoate (CAS No. 1689–99–2) with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1321. N-CYCLOHEXYLTHIOPHTHALIMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.30	N-Cyclohexylthiophthalimide (CAS No. 17796–82–6) (provided for in subheading 2930.90.24)	3%	No change	No change	On or before 12/31/2005	".

SEC. 1322. CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.20	Loudspeakers not mounted in their enclosures (provided for in subheading 8518.29.80), the foregoing which meet a performance standard of not more than 1.5 dB for the average level of 3 or more octave bands, when such loudspeakers are tested in a reverberant chamber	Free	No change	No change	On or before 12/31/2005	".

SEC. 1323. BIO-SET INJECTION RCC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

"	9902.03.33	Polymeric apparatus, comprising a removable cap, an injection port attached to an air vent filter and a fixed needle of plastics and a base for attaching the whole to a vial with a 13 mm or 20 mm flange, of a kind used for transferring diluent from a prefilled syringe (without needle) to a vial containing a powdered or lyophilized medicament and, after mixing, transferring the medicament back to the syringe for subsequent administration to the patient (provided for in subheading 3923.50.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1324. PENTA AMINO ACETO NITRATE COBALT III (COFLAKE 2).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.34	Mixtures of (acetato)pent-ammine cobalt dinitrate (CAS No. 14854–636–8) with a polymeric or paraffinic carrier (provided for in subheading 3815.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1325. OXASULFURON TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.35	Benzoic acid, 2-[[[[(4,6-dimethyl-2-pyrimidinyl)- amino]carbonyl]-amino]sulfonyl]-, 3-oxetanyl ester (CAS No. 144651–06–9) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1326. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.83	Machine tools for working wire of iron or steel certified for use in production of radial tires, designed for off-the-highway use, and for use on a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8463.30.00 or 8466.94.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1327. 4-AMINOBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.37	4-Aminobenzamide (CAS No. 2835-68-9) (provided for in subheading 2924.29.76)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1328. FOE HYDROXY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.38	N-(4-Fluorophenyl)-2-hydroxy-N-(1-methylethyl)-acetamide (CAS No. 51041-17-7) (provided for in subheading 2924.29.71)	5.2%	No change	No change	On or before 12/31/2005	".

SEC. 1329. MAGENTA 364 LIQUID FEED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.39	5-[4-(4,5-Dimethyl-2-sulfo-phenylamino)-6-hydroxy- [1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naph- thalene-2,7-disulfonic acid, sodium ammonium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1330. TETRAKIS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.40	Tetrakis ((2,4-di-tert-butylphenyl)-4,4-biphenylene diphosphonite) (CAS No. 38613-77-3) (provided for in subheading 2835.29.50)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1331. PALMITIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.41	Palmitic acid, with a purity of 90 percent or more (CAS No. 57-10-3) (provided for in subheading 2915.70.00)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1332. PHYTOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.42	3,7,11,15-Tetramethylhexadec-2-en-1-ol (CAS No. 7541-49-3) (provided for in subheading 2905.22.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1333. CHLORIDAZON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.43	Chloridazon (5-Amino-4-chloro-2- phenyl-3(2H)-pyridazinone) (CAS No. 1698-60-8) put up in forms or packings for retail sale or mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1334. DISPERSE ORANGE 30, DISPERSE BLUE 79:1, DISPERSE RED 167:1, DISPERSE YELLOW 64, DISPERSE RED 60, DISPERSE BLUE 60, DISPERSE BLUE 77, DISPERSE YELLOW 42, DISPERSE RED 86, AND DISPERSE RED 86:1.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.45	Propanenitrile, 3-[[2-(acetyloxy)- ethyl]-[4-[(2,6-dichloro-4-nitrophenyl)azo]- phenyl]amino]- (disperse orange 30) (CAS No. 5261-31-4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.46	Acetamide, N-[5-[bis[2-(acetyloxy)- ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)- azo]-4-methoxyphenyl]- (disperse blue 79:1) (CAS No. 3618-72-2) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.47	Acetamide, N-[5-[bis[2-(acetyloxy)- ethyl]amino]-2-[(2-chloro-4-nitrophenyl)-azo]phenyl]- (disperse red 167:1) (CAS No. 1533-78-4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.48	1H-Indene-1,3(2H)-dione, 2-(4-bromo-3-hydroxy-2-quinol-inyl)- (disperse yellow 64) (CAS No. 10319-14-9) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.49	9,10-Anthra- cenedione, 1-amino-4-hydroxy-2-phenoxy- (disperse red 60) (CAS No. 17418-58-5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.50	1H-Naphth[2,3-f]isoindole-1,3,5,10(2H)-tetrone, 4,11-diamino-2-(3-methoxypropyl)- (disperse blue 60) (CAS No. 12217-80-0) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.51	9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- (disperse blue 77) (CAS No. 20241-76-3) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.52	Benzenesulfonamide, 3-nitro-N-phenyl-4-(phenylamino)- (disperse yellow 42) (CAS No. 5124-25-4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.53	Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)-4-methyl- (disperse red 86) (CAS No. 81-68-5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
"	9902.03.54	Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)- (disperse red 86:1) (CAS No. 69563-51-5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1335. DISPERSE BLUE 321.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.55	1-Naphthalenamine, 4-[(2-bromo-4,6- dinitrophenyl)- azo]-N-(3-methoxypropyl)- (disperse blue 321) (CAS No. 70660-55-8) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1336. DIRECT BLACK 175.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.56	Cuprate(4-), [m-[5-[(4,5-dihydro-3-methyl-5-oxo- 1-phenyl-1H-pyrazol-4-yl)azo]-3-[[4′/1-[[3,6-disulfo-2-hydroxy.kappa.O-1-naphthal- enyl]azo-.kappa.N1]-3,3′/1-di(hydroxy-.kappa.O)[1,1′-biphenyl]-4-yl]azo-.kappa.N1]-4-(hydroxy-.kappa.O)-2,7-naphtha- lenedisulf-onato(8-)]]di-, tetrasodium (direct black 175) (CAS No. 66256–76–6) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1337. DISPERSE RED 73 AND DISPERSE BLUE 56.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.03.57	Benzonitrile, 2-[[4-[(2-cyanoethyl)- ethylamino]-phenyl]azo]-5-nitro- (disperse red 73) (CAS No. 16889–10–4) (provided for in subheading 3204.11.10)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.58	9,10-Anthra-cenedione, 1,5-diaminochloro-4,8-dihydroxy- (disperse blue 56) (CAS No. 12217–79–7) (provided for in subheading 3204.11.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1338. ACID BLACK 132 AND ACID BLACK 172.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.03.59	[3-(Hydroxy- kO)-4- [[2-(hydroxy- .kappa.O)-1-naphthalenyl]azo-.kappa.N1]-1-naphthal-enesulfonato (3)]-[1-[[2-(hydroxy-.kappa.O)-5-[(2-methoxyphenyl)-azo]phenyl]-azo-kappa.N1]-2-naphthalenolato (2-)-.kappa.O]-, disodium (acid black 132) (CAS No. 57693–14–8) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.60	Chromate(3-), bis[3-(hydroxy- .kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N1]-7-nitro-1-naphthal-enesulfonato(3-)]-, trisodium (acid black 172) (CAS No. 57693–14–8) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1339. ACID BLACK 107.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.61	Chromate(2-), [1-[[2-(hydroxy-.kappa.O)-3,5-dinitro- phenyl]azo-.kappa.N1]-2-naphthal- enolato(2-)-.kappa.O][3-(hydroxy.kappa.O)-4-[[2 (hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N1]-7- nitro-1-naphthalenesulfonato(3-)]-, sodium hydrogen (acid black 107) (CAS No. 12218–96–1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1340. ACID YELLOW 219, ACID ORANGE 152, ACID RED 278, ACID ORANGE 116, ACID ORANGE 156, AND ACID BLUE 113.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.62	Benzenesulfonic acid, 3-[[3-methoxy-4-[(4-methoxyphenyl)- azo]phenyl]azo]-, sodium salt (acid yellow 219) (CAS No. 71819–57–3) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.63	Benzenesulfonic acid, 3-[[4-[[4-(2-hydroxybutoxy)phenyl]azo]-5-methoxy-2-methyl- phenyl]azo]-, monolithium salt (acid orange 152) (CAS No. 71838–37–4) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.64	Chromate(1-), bis[3-[4-[[5-chloro-2-(hydroxy.kappa.O)- phenyl]azo-.kappa.N1]-4,5-dihydro-3-methyl-5-(oxo-.kappa.O)-1H-pyrazol-1-yl]benzenesul- fonamidato(2-)]-, sodium (acid red 278) (CAS No. 71819–56–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.65	Benzenesulfonic acid, 3-[[4-[(2-ethoxy-5-methylphenyl)- azo]-1-naphthalenyl]azo]-, sodium salt (acid orange 116) (CAS No. 12220–10–9) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.66	Benzenesulfonic acid, 4-[[5-meth- oxy-4-[(4-methoxy- phenyl)azo]-2-methylphenyl]azo]-, sodium salt (acid orange 156) (CAS No. 68555–86–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".
"	9902.03.67	1-Naphthalene- sulfonic acid, 8-(phenylamino)-5-[[4-[(3- sulfophenyl)- azo]-1- naphthalenyl]-azo]-, disodium salt (acid blue 113) (CAS No. 3351–05–1) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1341. EUROPIUM OXIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.22	Europium oxides having a purity of at least 99.99 percent (CAS No. 1308–96–7) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1342. LUGANIL BROWN NGT POWDER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.76	Acid brown 290 (CAS No. 12234–74–1) (provided for in subheading 3204.12.20) ...	Free	No change	No change	On or before 12/31/2005	".

SEC. 1343. THIOPHANATE-METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.77	4,4′-*o*-Phenylenebis-(3-thioallophanic acid), dimethyl ester (thiophanate-methyl) (CAS No. 23564–05–8) (provided for in subheading 2390.90.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1345. HYDRATED HYDROXYPROPYL METHYLCELLULOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.80	2-Hydroxypropyl methyl cellulose (CAS No. 9004-65-3)(provided for in subheading 3912.39.00)	0.4%	No change	No change	On or before 12/31/2005	".

SEC. 1346. POLYMETHYLPENTENE (TPX).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.86	Polymethylpentene (TPX) (CAS No. 68413-03-6) (provided for in subheading 3902.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1347. CERTAIN 12-VOLT BATTERIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.87	12V lead-acid storage batteries, of a kind used for the auxiliary source of power for burglar or fire alarms and similar apparatus of subheading 8531.10.00 (provided for in subheading 8507.20.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1348. CERTAIN PREPARED OR PRESERVED ARTICHOKES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.89	Artichokes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen (provided for in subheading 2005.90.80)	13.8%	No change	No change	On or before 12/31/2005	".

SEC. 1349. CERTAIN OTHER PREPARED OR PRESERVED ARTICHOKES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.90	Artichokes, prepared or preserved by vinegar or acetic acid (provided for in subheading 2001.90.25)	7.5%	No change	No change	On or before 12/31/2005	".

SEC. 1350. ETHYLENE/TETRAFLUOROETHYLENE COPOLYMER (ETFE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.91	Ethylene-tetra- fluoroethylene copolymers (ETFE) (provided for in subheading 3904.69.50)	4.9%	No change	No change	On or before 12/31/2005	".

SEC. 1351. ACETAMIPRID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.92	N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine (CAS No. 135410-20-7) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1352. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.84.94	Extruders, screw type, suitable for processing polyester thermoplastics in a cast film production line (provided for in subheading 8477.20.00)	Free	No change	No change	On or before 12/31/2005	
	9902.84.95	Casting machinery suitable for processing polyester thermoplastics into a sheet in a cast film production line (provided for in subheading 8477.80.00)	Free	No change	No change	On or before 12/31/2005	
	9902.84.96	Transverse direction orientation tenter machinery, suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)	Free	No change	No change	On or before 12/31/2005	
	9902.84.97	Winder machinery suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)	Free	No change	No change	On or before 12/31/2005	
	9902.84.98	Slitting machinery suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1353. TRITICONAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.99	E-5-(4-Chlorobenzylidene)-2,2-dimethyl-1-(1H-1,2,4-triazol-1-ylmethyl)cyclopentanol. (CAS No.131983-72-7) (provided for in subheading 2933.99.12)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1354. CERTAIN TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.88	Weaving machines (looms), shuttleless type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m, entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams (provided for in subheading 8446.30.50)	2.7%	No change	No change	On or before 12/31/2005	".

SEC. 1355. 3-SULFINOBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.01	3-Sulfinobenzoic acid (CAS No. 15451-00-0) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1356. POLYDIMETHYLSILOXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.02	Polydimethylsiloxane (CAS No. 63148-62-9) (provided for in subheading 3910.00.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1357. BAYSILONE FLUID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.03	An alkyl modified polydimethylsiloxane (CAS No. 102782–93–4) (provided for in subheading 3910.00.00)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1358. ETHANEDIAMIDE, N- (2-ETHOXYPHENYL)-N′- (4-ISODECYLPHENYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.05	Preparations based on ethanediamide, N-(2-ethoxyphenyl)-N′-(4-isodecylphenyl)- (CAS No. 82493–14–9) (provided for in subheading 3812.30.60)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1359. 1-ACETYL-4-(3-DODECYL-2, 5-DIOXO-1-PYRROLIDINYL)-2,2,6,6-TETRAMETHYL-PIPERIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.06	1-Acetyl-4-(3-dodecyl-2,5-dioxo-1-pyrrolidinyl)-2,2,6,6-tetramethylpiperidine (CAS No. 106917–31–1) (provided for in subheading 2933.39.61)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1360. ARYL PHOSPHONITE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.07	Reaction products of phosphorus trichloride with 1,1′-biphenyl and 2,4-bis(1,1-dimethylethyl)phenol (CAS No. 119345–01–6) (provided for in subheading 3812.30.60)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1361. MONO OCTYL MALIONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.08	mono-2-Ethylhexyl maleate (CAS No. 7423-42-9) (provided for in subheading 2917.19.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1362. 3,6,9-TRIOXAUNDECANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.09	3,6,9-Trioxaundecanedioic acid (CAS No. 13887–98–4) (provided for in subheading 2918.90.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1363. CROTONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.10	(E)-2-Butenoic acid (Crotonic acid) (CAS No. 107–93–7) (provided for in subheading 2916.19.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1364. 1,3-BENZENEDICARBOXAMIDE, N, N′-BIS-(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.11	1,3-Benzenedicarboxamide, N,N′-bis-(2,2,6,6-tetramethyl-4-piperidinyl)- (CAS No. 42774–15–2) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1365. 3-DODECYL-1-(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-2,5-PYRROLIDINEDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.12	3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)-2,5-pyrrolidinedione (CAS No. 79720–19–7) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1366. OXALIC ANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.13	Ethanediamide, N-(2-ethoxyphenyl)-N′-(2-ethylphenyl) (CAS No. 23949–66–8) (provided for in subheading 2924.66.08)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1367. N-METHYL DIISOPROPANOLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.14	1,1′-(Methylamino)dipropan-2-ol (CAS No. 4402–30–6) (provided for in subheading 2922.19.95)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1368. 50 PERCENT HOMOPOLYMER, 3-(DIMETHYLAMINO) PROPYL AMIDE, DIMETHYL SULFATE-QUATERNIZED 50 PERCENT POLYRICINOLEIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.15	Mixture (1:1) of polyricinoleic acid homopolymer, 3-(dimethylamino) propylamide, dimethyl sulfate, quaternized and polyricinoleic acid (provided for in subheading 3824.90.40.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1369. BLACK CPW STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.16	2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4-[[-4-[(2- or 4-amino-4 or 2-hydroxyphenyl)azo]phenyl]amino]-3-sulfophenyl]azo]-5-hydroxy-6-(phenylazo), trisodium salt) (CAS No. 85631-88-5) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1370. FAST BLACK 287 NA PASTE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.17	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo]-1-naphthalenyl]azo]-, trisodium salt, in paste form (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1371. FAST BLACK 287 NA LIQUID FEED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.18	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo]-1-naphthalenyl]azo]-, trisodium salt, in liquid form (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1372. FAST YELLOW 2 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.19	1,3-Benzenedicarboxylic acid, 5,5′- [[6-(4-morpholinyl)-1,3,5-triazine-2,4-diyl]bis(imino-4,1-phenyleneazo)]bis-, ammonium/sodium/hydrogen salt (direct yellow 173) (provided for in either subheading 3204.14.30 or 3215.19.00.)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1373. CYAN 1 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.21	Copper [29H,31H-phthalo- cyaninato(2-)-N29,N30,N31,N32]-, aminosulfonylsulfo derivatives, tetramethylammonium salts (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1374. YELLOW 1 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.24	1,5-Naphthalenedisulfonic acid, 3,3′- [[6-[(2-hydroxyethyl)amino]-1,3,5-triazine-2,4-diyl]bis[imino(2-methyl-4,1-phenylene)azo]]bis-, tetrasodium salt (CAS No. 50925-42-3) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1375. YELLOW 746 STAGE.

Subchapter II of chapter 99 of is amended by inserting in numerical sequence the following new heading:

"	9902.04.26	1,3-Bipyridirium, 3-carboxy-5′-[(2-carboxy-4-sulfophenyl)azo]-1′,2′-dihydro-6′-hydroxy-4′-methyl-2′-oxo-, inner salt, lithium/sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1376. BLACK SCR STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.27	2,7-Naphthalenedi- sulfonic acid, 4-amino-3-[[4-[[-4-[(2 or 4-amino-4 or 2-hydroxyphenyl)- azo]- phenyl]amino]-3-sulfophenyl]- azo]-5-hydroxy-6-(phenylazo)-, trisodium salt (CAS No. 85631-88-5) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1377. MAGENTA 3B-OA STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.28	2-[[4-Chloro-6-[[8-hydroxy-3,6-disulfonate-7-[(1-sulfo-2-naphthalenyl)azo]-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]-5-sulfobenzoic acid, sodium/lithium salts (CAS No. 12237-00-2) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1378. YELLOW 577 STAGE.

(a) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.29	5-[4-[4-[4-(4,8-Disulfonaphthalen-2-ylazo)-phenylamino]-6-(2-sulfoethylamino)-1,3,5-triazin-2-ylamino]- phenylazo-[isophthalic acid, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1379. CYAN 485/4 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.30	Copper, [29H,31H-phthalo-cyaninato (2-)- xN29,xN30, xN31,xN32]-aminosulfonyl-[(2-hydroxyethyl)amino]- sulfonylsulfo derivatives, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1380. LOW EXPANSION LABORATORY GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.32	Laboratory, hygienic, or pharmaceutical glassware, whether or not graduated or calibrated, of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^{-7} per Kelvin within a temperature range of 0 to 300°C (provided for in subheadings 7017.20.00 and 7020.00.60).	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1381. STOPPERS, LIDS, AND OTHER CLOSURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.33	Stoppers, lids, and other closures of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^{-7} per Kelvin within a temperature range of 0 to 300°C, produced by automatic machine (provided for in subheading 7010.20.20) or produced by hand (provided for in subheading 7010.20.30).	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1382. TRIFLUSULFURON METHYL FORMULATED PRODUCT.

(a) CALENDAR YEARS 2003 AND 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.01	Mixtures of methyl 2-[[[[[4-(dimethylamino)- 6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]- amino]sulfonyl]-3-methylbenzoate (CAS No. 126535–15–7) and application adjuvants (provided for in subheading 3808.30.15)	1%	No change	No change	On or before 12/31/2004	”.

(b) CALENDAR YEAR 2005.—

(1) IN GENERAL.—Heading 9902.05.01, as added by subsection (a), is amended—

(A) by striking “1%” and inserting “Free”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2005”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1383. AGRUMEX (O-T-BUTYL CYCLOHEXANOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.02	o-tert-Butyl-cyclohexanol (CAS No. 13491–79–7) (provided for in subheading 2915.39.45)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1384. TRIMETHYL CYCLO HEXANOL (1-METHYL-3,3-DIMETHYLCYCLOHEXANOL-5).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.03	3,3,5,Trimethyl-cyclohexan-1-ol (CAS No. 116–02–9) (provided for in subheading 2906.19.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1385. MYCLOBUTANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.91	alpha-Butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (myclobutanil) (CAS No. 88671–89–0) (provided for in subheading 2933.99.06)	1.9%	No change	No change	On or before 12/31/2005	”.

SEC. 1386. METHYL CINNAMATE (METHYL-3-PHENYLPROPENOATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.04	Methyl cinnamate (methyl-3-phenylpropenoate) (CAS No. 103-26–4) (provided for in subheading 2916.39.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1387. ACETANISOLE (ANISYL METHYL KETONE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.05	p-Acetanisole (CAS No. 100–06–1) (provided for in subheading 2914.50.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1388. ALKYLKETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.53	1-(4-Chlorophenyl)- 4,4-dimethyl-3-pentanone (CAS No. 66346-01-8) (provided for in subheading 2914.70.40)	3.5%	No change	No change	On or before 12/31/2005	”.

SEC. 1389. IPRODIONE 3-(3-5, DICHOLOROPHENYL)-N-(1-METHYLETHYL)-2,4-DIOXO-1-IMIDAZOLIDINECARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.51	Iprodione (3-(3-5, dicholorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide) (CAS No. 36734–19–7) (provided for in subheading 2933.21.00)	4.1%	No change	No change	On or before 12/31/2005	”.

SEC. 1390. DICHLOROBENZIDINE DIHYDROCHLORIDE.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.28	3,3′-Dichlorobenzi-dine dihydrochloride (CAS No. 612–83–9) (provided for in subheading 2921.59.80)	6.3% + 0.2 cents/kg	No change	No change	On or before 12/31/2003	”.

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.03.28, as added by subsection (a), is amended—

(A) by striking “6.3% + 0.2 cents/kg” and inserting “5.1%”; and

(B) by striking “On or before 12/31/2003” and inserting “On or before 12/31/2005”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1391. KRESOXIM-METHYL.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.78	Methyl (E)- methoxyimino- [alpha-(o-tolyloxy)-o-tolyl]- acetate (kresoxim methyl) (CAS No. 143390-89-0) (provided for in subheading 2925.20.60)	3.3%	No change	Free	On or before 12/31/2003	".

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.03.78, as added by subsection (a), is amended—

(A) by striking "3.3%" and inserting "2.4%"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1392. MKH 6562 ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.06	2-(Trifluoro- methoxy)-benzenesulfonyl isocyanate (CAS No. 99722-81-3) (provided for in subheading 2930.90.29)	0.7%	No change	No change	On or before 12/31/2005	".

SEC. 1393. CERTAIN RAYON FILAMENT YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.07	High tenacity single yarn of viscose rayon (provided for in subheading 5403.10.30) with a decitex equal to or greater than 1,000	Free	No change	No change	On or before 12/31/2005	".

SEC. 1394. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.08	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80-54-6) (provided for in subheading 2912.29.60)	2.3%	No change	Free	On or before 12/31/2003	".

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.05.08, as added by subsection (a), is amended—

(A) by striking "2.3%" and inserting "1.7%"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1395. 3,7-DICHLORO-8-QUINOLINE CARBOXYLIC ACID.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.09	3,7-Dichloro-8-quinolinecarb-oxylic acid (quinclorac) (CAS No. 84087-01-4) (provided for in subheading 2933.49.30)	3.9%	No change	Free	On or before 12/31/2003	".

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.05.09, as added by subsection (a), is amended—

(A) by striking "3.9%" and inserting "3.3%"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1396. 3-(1-METHYLETHYL)-1H-2,1,3-BENZOTHIADIAZIN-4(3H)-ONE 2,2 DIOXIDE, SODIUM SALT.

(a) CALENDAR YEAR 2003.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.10	3-(1-Methyl- ethyl)-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide, sodium salt (bentazon, sodium salt) (CAS No. 50723-80-3) (provided for in subheading 2934.99.15)	1.8%	No change	Free	On or before 12/31/2003	".

(b) CALENDAR YEARS 2004 AND 2005.—

(1) IN GENERAL.—Heading 9902.05.10, as added by subsection (a), is amended—

(A) by striking "1.8%" and inserting "2.6%"; and

(B) by striking "On or before 12/31/2003" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2004.

SEC. 1397. 3,3′,4-4′-BIPHENYLTETRACARBOXYLIC DIANHYDRIDE, ODA, ODPA, PMDA, AND 1,3-BIS(4-AMINOPHENOXY)BENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.05.11	3,3′,4,4′-Biphenyltetracarboxylic dianhydride (CAS No. 2420-87-3) (provided for in subheading 2917.39.30)	Free	No change	No change	On or before 12/31/2005	
"	9902.05.12	4,4′-Oxydianiline (CAS No. 101-80-4) (provided for in subheading 2922.29.80)	1.5%	No change	No change	On or before 12/31/2005	
"	9902.05.13	4,4′-Oxydiphthalic anhydride (CAS No. 1823-59-2) (provided for in subheading 2918.90.43)	Free	No change	No change	On or before 12/31/2005	
"	9902.05.14	Pyromellitic dianhydride (CAS No. 89-32-7) (provided for in subheading 2917.39.70)	Free	No change	No change	On or before 12/31/2005	
"	9902.05.15	1,3-Bis(4-aminophenoxy)- benzene (CAS No. 2479-46-1) (provided for in subheading 2922.29.29 or 2922.29.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1398. ORYZALIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.16	Oryzalin (benzenesulfonamide, 4-(dipropylamino)-3,5-dinitro-) (CAS No. 19044–88–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1399. TEBUFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.17	N-tert-Butyl-N′-(4-ethylbenzoyl)-3,5-dimethylbenzoylhydrazide (tebufenozide) (CAS No. 112410–23–8) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1400. ENDOSULFAN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.18	6,7,8,9,10,10-Hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide (thiosulfan) (CAS No. 115–29–7) (provided for in subheading 2920.90.10)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1401. ETHOFUMESATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.19	2-Ethoxy-2,3-dihydro-3,3-di-methyl-5-benzofuranyl-methanesulfonate (ethofumesate) (CAS No. 26225–79–6) in bulk or mixed with application adjuvants (provided for in subheading 2932.99.08 or 3808.30.15)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1402. 4,4′-O-PHENYLENEBIS(3-THIOALLOPHANIC ACID), DIMETHYL ESTER (THIOPHANATE-METHYL) FORMULATED WITH APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.20	4,4′-o-Phenylenebis(3-thioallophanic acid), dimethyl ester (Thiophanate-methyl) formulated with application adjuvants (CAS No. 23564–05–8), formulated with application adjuvants (provided for in subheading 3808.20.15)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1403. NIGHT VISION MONOCULARS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.21	Hand-held night vision monoculars, other than those containing a micro-channel plate to amplify electrons or having a photocathode containing gallium arsenide (provided for in subheading 9005.80.60)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1404. CERTAIN AUTOMOTIVE SENSOR MAGNETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.31	Sensor magnets, of metal, the foregoing comprising sintered neodymium, cylindrical in shape, not to exceed 15.25 mm in diameter and 25.4 mm in length, the foregoing with or without metal mounting lug; magnets of sintered aluminum-nickel-cobalt metal, either rectangular or cylindrical in shape, the foregoing not over 12.7 mm in diameter, height or width and not over 25.4 mm in length; rectangular magnets of sintered neodymium or of sintered samarium-cobalt metal, measuring not over 10.2 mm in any dimension (provided for in subheading 8505.11.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1405. LEVAFIX BRILLIANT RED E-6BA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.26	2,7-Naphthalenedi-sulfonic acid, 5-(benzoylamino)-3-[5-[[(5-chloro-2,6-difluoro-4-pyrimidinyl)-amino]methyl]-1-sulfo-2-naphthalenyl]-azo]-4-hydroxy-, lithium sodium salt (reactive red 159) (CAS No. 83400–12–8) (provided for in subheading 3204.16.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1406. SOLVENT YELLOW 163.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.27	Solvent yellow 163 (CAS No. 13676–91–0) (provided for in subheading 3204.19.20)	Free	No change	No change	On or before 12/31/2005	".

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1501. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS.

(a) EXISTING DUTY SUSPENSIONS.—Each of the following headings is amended by striking out the date in the effective period column and inserting "12/31/2005":

(1) Heading 9902.30.90 (relating to 3-amino-2′-(sulfato-ethyl sulfonyl) ethyl benzamide).

(2) Heading 9902.32.91 (relating to MUB 738 INT).

(3) Heading 9902.30.31 (relating to 5-amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide).

(4) Heading 9902.29.46 (relating to 2-amino-5-nitrothiazole).

(5) Heading 9902.32.14 (relating to 2Methyl-4,6-bis[(octylthio) methyl]phenol).

(6) Heading 9902.32.30 (relating to 4-[[4,6-bis(octylthio)-1,3,5-triazin-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol).

(7) Heading 9902.32.16 (relating to calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate]).

(8) Heading 9902.38.69 (relating to nicosulfuron formulated product ("Accent")).

(9) Heading 9902.33.63 (relating to DPX-E9260).

(10) Heading 9902.33.59 (relating to DPX-E6758).

(11) Heading 9902.33.61 (relating to carbamic acid (U-9069)).

(12) Heading 9902.29.35 (relating to 1N-N5297).

(13) Heading 9902.28.19 (relating to an ultraviolet dye).

(14) Heading 9902.32.07 (relating to certain organic pigments and dyes).

(15) Heading 9902.29.07 (relating to 4-hexylresorcinol).

(16) Heading 9902.29.37 (relating to certain sensitizing dyes).

(17) Heading 9902.85.42 (relating to certain cathode-ray tubes).

(18) Heading 9902.30.14 (relating to a fluorinated compound).

(19) Heading 9902.29.55 (relating to a certain light absorbing photo dye).

(20) Heading 9902.32.55 (relating to methyl thioglycolate).

(21) Heading 9902.29.62 (relating to chloro amino toluene).

(22) Headings 9902.28.08, 9902.28.09, and 9902.28.10 (relating to bromine-containing compounds).

(23) Heading 9902.32.62 (relating to filter blue green photo dye).

(24) Heading 9902.32.99 (relating to 5-[(3,5-dichlorophenyl)-thio]-4-(1-methylethyl-1)-(4-pyridin lmethyl)-1H-imidazole-2-methanol carbamate).

(25) Heading 9902.32.97 (relating to (2E,4S)-4-(((2R,5S)-2-((4-fluorophenyl)-methyl)-6-methyl-5-((5-methyl-3-isoxazolyl)-carbonyl y)amino)-1,4-dioxoheptyl)-amino)-5-((3S)-2-oxo-3-pyrrolidinyl)-2-pentenoic acid, ethyl ester).

(26) Heading 9902.29.87 (relating to Baytron M).

(27) Heading 9902.39.15 (relating to Baytron P).

(28) Heading 9902.39.30 (relating to certain ion-exchange resins).

(29) Heading 9902.28.01 (relating to thionyl chloride).

(30) Heading 9902.32.12 (relating to DEMT).

(31) Heading 9902.29.03 (relating to PHBA (p-hydroxybenzoic acid)).

(32) Headings 9902.29.83 and 9902.38.10 (relating to iminodisuccinate).

(33) Heading 9902.38.14 (relating to mesamoll).

(34) Heading 9902.38.15 (relating to Baytron C-R).

(35) Heading 9902.29.25 (relating to ortho-phenylphenol (OPP)).

(36) Heading 9902.38.31 (relating to Vulkalent E/C).

(37) Heading 9902.31.14 (relating to desmedipham).

(38) Heading 9902.31.13 (relating to phenmedipham).

(39) Heading 9902.30.16 (relating to diclofop methyl).

(40) Heading 9902.33.40 (relating to R115777).

(41) Heading 9902.29.10 (relating to imazalil).

(42) Heading 9902.29.22 (relating to Norbloc 7966).

(43) Heading 9902.38.09 (relating to Fungaflor 500 EC).

(44) Heading 9902.32.73 (relating to Solvent Blue 124).

(45) Heading 9902.29.73 (relating to 4-amino-2,5-dimethoxy-N-phenylbenzene sulfonamide).

(46) Heading 9902.32.72 (relating to Solvent Blue 104).

(47) Heading 9902.34.01 (relating to sodium petroleum sulfonate).

(48) Heading 9902.29.71 (relating to isobornyl acetate).

(49) Heading 9902.29.70 (relating to certain TAED chemicals).

(50) Heading 9902.29.58 (relating to diethyl phosphorochidothioate).

(51) Heading 9902.29.17 (relating to 2.6-dichloroaniline).

(52) Heading 9902.29.59 (relating to benfluralin).

(53) Heading 9902.29.26 (relating to 1.3-diethyl-2-imidazolidinone).

(54) Heading 9902.29.06 (relating to diphenyl sulfide).

(55) Heading 9902.32.93 (relating to methoxyfenozide).

(56) Heading 9902.32.89 (relating to triazamate).

(57) Heading 9902.29.80 (relating to propiconazole).

(58) Heading 9902.32.92 (relating to β-Bromo-β-nitrostyrene).

(59) Heading 9902.29.61 (relating to quinoline).

(60) Heading 9902.29.25 (relating to 2-phenylphenol).

(61) Heading 9902.29.08 (relating to 3-amino-5-mercapto-1,2,4-triazole).

(62) Heading 9902.29.16 (relating to 4,4-dimethoxy-2-butanone).

(63) Heading 9902.32.87 (relating to fenbuconazole).

(64) Heading 9902.32.90 (relating to diiodomethyl-*p*-tolylsulfone).

(65) Heading 9902.28.16 (relating to propiophenone).

(66) Heading 9902.28.17 (relating to meta-chlorobenzaldehyde).

(67) Heading 9902.28.15 (relating to 4-bromo-2-fluoroacetanilide).

(68) Heading 9902.32.82 (relating to 2.6, dichlorotoluene).

(69) Heading 9902.80.05 (relating to cobalt boron).

(70) Heading 9902.72.02 (relating to ferroboron).

(71) Heading 9902.32.85 (relating to 4.4′ difluorobenzophenone).

(72) Heading 9902.29.34 (relating to certain light absorbing photo dyes).

(73) Heading 9902.29.38 (relating to certain imaging chemicals).

(74) Heading 9902.28.18 (relating to 3.5-dibromo-4-hydoxybenzonitril).

(75) Heading 9902.29.64 (relating to cyclanilide technical).

(76) Heading 9902.29.98 (relating to fipronil technical).

(77) Heading 9902.38.04 (relating to 3,5-dibromo-4-hydoxybenzonitril ester and inerts).

(78) Heading 9902.29.23 (relating to P-nitro toluene-o-sulfonic acid).

(b) OTHER MODIFICATIONS.—

(1) CERTAIN CATHODE-RAY TUBES.—Heading 9902.85.41 is amended—

(A) by striking "1%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(2) ETHALFLURALIN.—Heading 9902.30.49 is amended—

(A) by striking "3.5%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(3) DMDS.—Heading 9902.33.92 is amended—

(A) by striking "2933.59.80" and inserting "2933.59.95"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(4) CERTAIN POLYAMIDES.—Heading 9902.39.08 is amended—

(A) by striking "forms of polyamide-6, polyamide-12, and polyamide-6,12 powders (CAS Nos. 25038–54–4, 25038–74–8, and 25191–04–1) (provided for in subheading 3908.10.00)" and inserting "ORGASOL® polyamide powders (provided for in subheading 3908.10.00 or 3908.90.70)"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(5) BUTRALIN.—Heading 9902.38.00 is amended by striking "3808.31.15" and inserting "3808.30.15".

(6) PRO-JET CYAN 1 RO FEED; PRO-JET FAST BLACK 287 NA PASTE/LIQUID FEED.—

(A) IN GENERAL.—Paragraph (2) in each of sections 1222(c) and 1223(c) of the Tariff Suspension and Trade Act of 2000 are amended by striking "January 1, 2001" and inserting "January 1, 2002".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if such amendments had been enacted immediately after the enactment of the Tariff Suspension and Trade Act of 2000.

(7) 2-METHYL-4-CHLOROPHENOXYACETIC ACID.—Heading 9902.29.81 is amended—

(A) in the general rate of duty column, by striking "2.6%" and inserting "1.8%"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(8) STARANE F.—Heading 9902.29.77 is amended—

(A) in the general rate of duty column, by striking "Free" and inserting "1.5%"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(9) TRIFLURALIN.—Heading 9902.29.02 is amended—

(A) by striking "3.3%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2005".

(10) CERTAIN REDESIGNATIONS.—(A) The second heading 9902.29.02 (as added by section 1144 of the Tariff Suspension and Trade Act of 2000) is redesignated as heading 9902.05.30.

(B) The second heading 9902.39.07 (as added by section 1248 of the Tariff Suspension and Trade Act of 2000) is redesignated as heading 9902.05.31.

SEC. 1502. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2003.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

SEC. 1601. CERTAIN TRAMWAY CARS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of the enactment of this Act, the Customs Service shall liquidate or reliquidate the entry described in subsection (c) as free of duty.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to a request for a liquidation or reliquidation of the entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) AFFECTED ENTRY.—The entry referred to in subsection (a) is the entry on July 5, 2002, of 2 tramway cars (provided for in subheading 8603.10.00) manufactured in Plzen, Czech Republic, for the use of the city of Portland, Oregon (Entry number 529–0032191–1).

SEC. 1602. LIBERTY BELL REPLICA.

The Secretary of the Treasury shall admit free of duty a replica of the Liberty Bell imported from the Whitechapel Bell Foundry of London, England, by the Liberty Memorial Association of Green Bay and Brown County, Wisconsin, for use by the city of Green Bay, Wisconsin and Brown County, Wisconsin.

SEC. 1603. CERTAIN ENTRIES OF COTTON GLOVES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of the enactment of this Act, the Customs Service—

(1) shall reliquidate each entry described in subsection (c) containing any merchandise

which, at the time of original liquidation, had been classified under subheading 6116.92.64 or subheading 6116.92.74; and

(2) shall reliquidate such merchandise under subheading 6116.92.88 at the rate of duty then applicable under such subheading.

(b) Refund of Amounts Owed.—Any amounts owed by the United States pursuant to a request for the reliquidation of an entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
0397329-2	02/02/00
0395844-2	12/15/99
0394509-2	09/27/99
0393293-4	08/11/99
0391942-8	06/21/99
0389842-4	04/01/99
0387094-4	12/21/98
0386845-0	12/16/98
0385488-0	10/28/98
0384053-3	09/01/98
0382090-7	06/04/98
0381125-5	04/11/98
0289673-4	01/26/98
0288778-2	12/10/97
0288085-2	11/07/97
0386624-0	08/02/97
0284468-4	04/29/97
0283060-0	03/10/97
0281394-5	11/27/96
0274823-2	01/10/96
0274523-8	12/22/95
0274113-8	11/30/95
0273038-8	10/13/95
0272524-8	09/14/95
0272128-8	08/23/95
0271540-5	07/27/95
0270995-2	07/03/95
0270695-8	06/09/95
0269959-1	05/09/95
0269276-0	04/04/95
0265832-4	11/02/94
0264841-6	09/08/94

SEC. 1604. CERTAIN ENTRIES OF POSTERS.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 4911.91.20 at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 4911.91.40 on the date of entry.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (c) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
F1126496605	09/24/00
F1117735656	10/18/00
90100999235	02/14/01
90101010321	04/23/01
90101001700	02/28/01
28100674408	04/25/01
28100671081	04/09/01
28100670398	04/06/01
F1126187352	06/19/00
F1126530833	10/05/00
28100678433	05/18/01
90100999235	04/14/01
90101001700	02/28/01

SEC. 1605. CERTAIN ENTRIES OF POSTERS ENTERED IN 1999 AND 2000.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall—

(1) not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (c) containing any merchandise which, at the time of the original liquidation, was classified under subheading 4911.91.20 at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 4911.91.40 on the date of entry; and

(2) within 90 days after such liquidation or reliquidation—

(A) refund any excess duties paid with respect to such entries, including interest from the date of entry; or

(B) relieve the importer of record of any excess duties, penalties, or fines associated with the excess duties.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to any entry described in subsection (c) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act.

(c) Entries.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
582-0002495-7	September 2, 1999
582-0093847-9	November 19, 1999
582-8905213-4	March 8, 1999
582-2250697-3	February 21, 2000
582-0197509-0	February 18, 2000
582-1296965-2	February 20, 2000
582-0212609-9	March 1, 2000
582-0215607-0	March 3, 2000
582-0242091-4	March 24, 2000
582-0046610-9	October 12, 1999
582-0251198-5	March 31, 2000
582-0002495-7	September 2, 1999
528-0088559-7	November 16, 1999
582-0093847-9	November 19, 1999
582-0068164-0	October 29, 1999
582-0163876-3	January 20, 2000
582-0136646-4	December 22, 1999
582-0126598-9	December 15, 1999
582-0111417-9	December 3, 1999
445-2163068-9	November 14, 1999
445-2161190-3	September 6, 1999
445-2163176-0	November 18, 1999
445-2164563-8	January 13, 2000
445-2166869-7	April 12, 2000
445-2162118-3	October 10, 1999
U16-0101858-7	May 2, 2000
182-0167758-2	November 1, 2000

SEC. 1606. CERTAIN ENTRIES OF 13-INCH TELEVISIONS.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under the following subheadings with respect to which there would have been no duty or a lesser duty if the amendments made by section 1003 of the Miscellaneous Trade and Technical Corrections Act of 1999 had applied to such entry or withdrawal:

(1) Subheading 8528.12.12.
(2) Subheading 8528.12.20.
(3) Subheading 8528.12.62.
(4) Subheading 8528.12.68.
(5) Subheading 8528.12.76.
(6) Subheading 8528.12.84.
(7) Subheading 8528.21.16.
(8) Subheading 8528.21.24.
(9) Subheading 8528.21.55.
(10) Subheading 8528.21.65.
(11) Subheading 8528.21.75.
(12) Subheading 8528.21.85.
(13) Subheading 8528.30.62.
(14) Subheading 8528.30.66.
(15) Subheading 8540.11.24.
(16) Subheading 8540.11.44.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of the enactment of this Act, and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a), are as follows:

Entry number	Date of entry	Date of liquidation
110-17072538	11/03/98	09/17/99
110-17091314	11/23/98	10/08/99
110-17091322	11/23/98	10/08/99
110-17216804	12/31/98	11/12/99
110-20748215	04/20/99	03/03/00
110-20762802	04/28/99	03/10/00
110-20848544	05/12/99	03/31/00
110-20848569	05/18/99	03/31/00
110-20988456	06/22/99	05/04/00
110-20993563	06/22/99	05/15/00
110-20997705	06/22/99	05/05/00
110-63822017	06/09/97	05/05/00
110-63822041	06/09/97	
110-63822082	06/09/97	
110-68575370	07/11/97	05/22/98
110-68575610	07/11/97	05/22/98
110-15093163	10/05/98	08/20/99
110-15173551	11/02/98	09/17/99
110-17091132	11/07/98	09/24/99
110-17217265	12/05/98	10/15/99
110-20762364	04/12/99	02/18/00
110-63822025	06/09/97	
110-75485118	02/12/98	12/28/98
110-75492643	02/12/98	12/28/98
110-75793447	07/07/98	05/21/99
110-20993704	06/20/99	05/05/00
110-66600972	06/07/97	04/17/98
110-66603414	06/14/97	
110-66603448	06/07/97	04/17/98
110-66617810	06/21/97	05/01/98
110-66618099	06/23/97	05/08/98
110-68156429	07/12/97	05/22/98
110-68165818	07/19/97	05/29/98
110-68165826	07/19/97	05/29/98

Entry number	Date of entry	Date of liquidation
110-68171576	07/26/97	06/05/98
110-68175767	08/02/97	06/12/98
110-68177029	08/02/97	06/12/98
110-68217833	08/16/97	06/26/98
110-68220167	08/16/97	07/06/98
110-68220183	08/19/97	07/06/98
110-68233418	08/24/97	07/10/98
110-68234424	08/25/97	07/10/98
110-70008550	09/20/97	07/31/98
110-70014707	09/20/97	07/31/98
110-70014723	09/20/97	07/31/98
110-70014731	09/30/97	07/31/98
110-70014756	09/20/97	07/31/98
110-70014798	09/20/97	07/31/98
110-70100464	10/11/97	08/21/98
110-70106651	10/19/97	09/04/98
110-70106669	10/19/97	09/04/98
110-70112584	10/25/97	09/04/98
110-70113970	10/25/97	09/04/98
110-70113996	10/25/97	09/04/98
110-70115199	10/25/97	09/04/98
110-70190978	11/08/97	09/18/98
110-70192990	11/08/97	09/18/98
110-70198906	11/15/97	09/25/98
110-70198914	11/15/97	09/25/98
110-70204233	11/29/97	10/09/98
110-70204266	11/22/97	10/02/98
110-75399046	12/19/97	10/30/98
110-75399103	01/04/98	11/20/98
110-75481455	01/24/98	12/04/98
110-75485563	01/24/98	12/04/98
110-75494953	02/07/98	12/18/98
110-04901383	07/11/97	05/22/98
110-33326985	07/07/97	05/22/98
110-63019333	07/11/97	05/22/98
110-63821993	06/07/97	04/17/98
110-66600378	06/20/97	05/01/98
110-66601004	06/20/97	05/01/98
110-66603380	06/20/97	05/01/98
110-66625441	07/07/97	05/22/98
110-66626951	07/07/97	05/22/98
110-68175825	08/04/97	06/19/98
110-68182938	08/11/97	06/26/98
110-68184140	08/11/97	06/26/98
110-68184918	08/11/97	06/26/98
110-68184926	08/11/97	06/26/98
110-68184934	08/11/97	06/26/98
110-68184942	08/11/97	06/26/98
110-68229994	09/08/97	07/24/98
110-68230000	09/08/97	07/24/98
110-68230232	09/03/97	07/17/98
110-70009715	09/22/97	08/07/98
110-70024698	10/07/98	08/21/98
110-70028764	10/13/97	08/28/98
110-70028772	10/13/97	08/28/98
110-70103625	10/30/98	09/11/98
110-70186810	11/13/97	09/25/98
110-70190937	11/26/97	10/09/98
110-70192362	11/19/97	10/02/98
110-70199151	11/26/97	10/09/98
110-70204555	12/04/97	10/16/98
110-70204563	12/04/97	10/16/98
110-70206360	12/06/97	10/23/98
110-75399079	01/07/98	11/20/98
110-75492627	02/11/98	12/28/98
110-75492635	02/11/98	12/28/98
110-14975204	09/15/98	07/30/99
110-20848643	05/19/99	05/31/00
110-20988472	06/20/99	05/05/00
110-20993589	06/20/99	05/05/00
110-75485126	02/11/98	12/28/98
110-75793405	07/16/98	05/28/99
110-75793611	08/04/98	06/18/99
110-75931278	08/16/98	07/02/99
110-75938893	08/16/98	07/23/99

SEC. 1607. NEOPRENE SYNCHRONOUS TIMING BELTS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate the entries described in subsection (c).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of the entries under subsection (a), with interest accrued from the date of entry, shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRIES.—The entries referred to in subsection (a) are the following:

Entry number	Date of entry	Date of liquidation
469/00133193	07/06/89	11/22/91
469/00136022	07/28/89	11/22/91
469/00143135	09/26/89	02/09/90
469/00148969	11/08/89	03/02/90
469/00152565	12/06/89	03/30/90
469/00154785	12/28/89	11/29/91
469/00159461	02/01/90	11/22/91
469/00161921	02/26/90	11/22/91
469/00170237	04/24/90	11/22/91
469/00173546	05/21/90	11/22/91
469/00176218	06/06/90	03/13/92
469/00137038	08/08/89	11/29/91
469/00152599	12/06/89	03/30/90
469/00152607	12/06/89	04/06/90
469/00159610	02/06/90	11/29/91
469/00169205	04/17/90	08/10/90

SEC. 1608. ENTRIES OF CERTAIN APPAREL ARTICLES PURSUANT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT OR THE AFRICAN GROWTH AND OPPORTUNITY ACT.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Customs Service shall liquidate or reliquidate as free of duty and free of any quantitative restrictions, limitations, or consultation levels entries of articles described in subsection (d) made on or after October 1, 2000.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of any entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) ENTRIES.—The entries referred to in subsection (a) are—

(1) entries of apparel articles (other than socks provided for in heading 6115 of the Harmonized Tariff Schedule of the United States) that meet the requirements of section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (as amended by section 3107(a) of the Trade Act of 2002 and section 2005(c) of this Act); and

(2) entries of apparel articles that meet the requirements of section 112(b) of the African Growth and Opportunity Act (as amended by section 3108 of the Trade Act of 2002 and section 2005(b) of this Act).

SEC. 1609. CERTAIN ENTRIES PREMATURELY LIQUIDATED IN ERROR.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, reliquidate those entries described in subsection (c), in accordance with the final decision of the International Trade Administration of the Department of Commerce, and the final results of the administrative reviews, for entries made on or after December 1, 1993 and before April 1, 2001.

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a), are as follows:

Entry number	Date of entry	Date of liquidation
669-26046013	02/09/94	07/12/96
112-62707166	02/12/94	05/14/99
669-26046716	03/05/94	07/12/96
669-26046997	03/16/94	07/12/96
669-26047094	03/22/94	07/12/96
669-26047508	04/03/94	07/12/96
225-41000430	04/11/94	07/29/94
669-26047862	04/19/94	07/12/96
669-26048027	04/22/94	07/12/96
669-26048050	04/22/94	07/12/96
669-26048068	04/22/94	07/12/96
669-26049199	06/05/94	07/12/96
051-01380045	06/14/94	06/21/96
225-21019541	07/02/94	Unknown
669-26050742	07/20/94	07/12/96
669-26051294	08/16/94	07/19/96
669-26051377	08/17/94	07/12/96
669-26051401	08/23/94	07/19/96
051-01378452	09/01/94	08/16/96
669-26051906	09/06/94	07/19/96
669-26052714	10/05/94	07/19/96
669-26054629	01/02/95	07/12/96
669-26054918	01/21/95	07/12/96
669-00985582	02/17/95	09/17/99
225-41030148	05/01/95	01/20/95
112-85106669	06/07/95	02/25/00
112-80968196	08/03/95	11/17/95
669-26059347	09/02/95	07/12/96
112-79650961	09/27/95	12/29/95
669-28017335	10/06/95	06/14/96
112-05038720	05/01/96	08/02/96
112-17629326	01/06/97	04/18/97
112-17629326	03/12/97	04/18/97
669-01225053	06/12/97	10/15/99
669-01223637	06/25/97	10/08/99
669-01225418	06/25/97	10/08/99
669-01225913	06/27/97	10/08/99
669-01227380	07/03/97	10/08/99
669-01232166	07/07/97	10/08/99
669-01230533	07/09/97	10/08/99
669-01236357	07/30/97	10/08/99
100-47966294	08/08/97	08/26/99
669-01241811	08/13/97	10/08/99
669-01245838	08/27/97	10/08/99
669-01247933	09/04/97	10/15/99
669-01251448	09/21/97	10/08/99
669-01254020	09/24/97	10/08/99
669-01256801	10/01/97	10/08/99
669-01259466	10/15/97	10/08/99
669-01260753	10/15/97	10/08/99
669-01261363	10/16/97	10/08/99
669-01262650	10/22/97	10/08/99
669-01263856	10/24/97	10/08/99
669-01267337	11/06/97	10/08/99
669-01269200	11/12/97	10/08/99
669-01271784	11/20/97	10/08/99
669-01271800	11/23/97	10/08/99
669-01272907	11/30/97	10/08/99
669-01273673	11/30/97	10/08/99
669-01274119	11/30/97	10/08/99
669-01276585	12/04/97	10/08/99
669-01278763	12/14/97	10/15/99
669-01283441	12/30/97	10/08/99
669-01296948	01/09/98	10/08/99
669-01292186	01/22/98	10/08/99
669-04201964	01/23/98	10/08/99
112-14206987	01/23/98	02/22/99
669-01295130	02/01/98	10/08/99
669-01296955	02/05/98	10/08/99
669-01297649	02/12/98	10/08/99
669-01298530	02/12/98	10/08/99
669-01302126	02/21/98	10/08/99
669-01302134	02/21/98	10/08/99
669-01302530	02/21/98	10/08/99
669-01303546	02/21/98	10/08/99
669-01304569	02/27/98	10/08/99

Entry number	Date of entry	Date of liquidation	Entry number	Date of entry	Date of liquidation
669-01305947	03/05/98	10/08/99	669-01332081	May-98	10/08/99
669-01306978	03/07/98	10/08/99	112-35098876	05/08/98	04/02/99
669-01306986	03/07/98	10/08/99	669-01332081	05/16/98	10/08/99
669-01307554	03/12/98	10/08/99	669-01335357	05/26/98	10/08/99
669-01312711	03/14/98	10/08/99	700-07050910	05/30/98	03/24/00
669-28050047	03/20/98	04/02/99	110-54366892	06/03/98	04/16/99
669-01312703	03/21/98	10/08/99	112-38590861	09/09/98	07/23/99
669-01318072	04/07/98	10/08/99	112-01742119	04/20/99	08/09/96
669-01324781	04/24/98	10/08/99	110-64694523	10/07/99	10/01/99
669-01325218	04/25/98	10/08/99			
669-01327586	04/30/98	10/08/99			
669-01330283	May-98	10/08/99			

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 1701. HAIR CLIPPERS.

(a) IN GENERAL.—Heading 8510 of chapter 85 is amended—

(1) by striking subheading 8510.20.00 and inserting the following, with the article description for subheading 8510.20 having the same degree of indentation as the article description for subheading 8510.10.00, and with the article descriptions for subheadings 8510.20.10 and 8510.20.90 having the same degree of indentation as the article description for subheading 8510.90.55:

"	8510.20	Hair clippers:				
	8510.20.10	Hair clippers to be used for agricultural or horticultural purposes	4%	Free (A, CA, E, IL, J, MX)	45%	
	8510.20.90	Other	4%	Free (A, CA, E, IL, J, MX)	45%	";

and

(2) by striking subheading 8510.90.30 and inserting the following subheadings and superior text thereto, with such superior text having the same degree of indentation as the article description for subheading 8510.90.55:

"		Parts of hair clippers:				
	8510.90.30	Parts of hair clippers to be used for agricultural or horticultural purposes	4%	Free (A,CA,E, IL,J,MX)	45%	
	8510.90.40	Other parts of hair clippers	4%	Free (A,CA,E, IL,J,MX)	45%	".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

SEC. 1702. TRACTOR BODY PARTS.

(a) CERTAIN TRACTOR PARTS.—Heading 8708 is amended by striking subheading 8708.29.20 and inserting the following new subheadings, with the superior heading for subheadings 8708.29.21 and 8708.29.25 having the same degree of indentation as the article description for subheading 8708.29.15:

"		Body stampings:				
	8708.29.21	For tractors suitable for agricultural use	Free		Free	
	8708.29.25	Other	2.5%	Free (A, B, CA, E, IL, J, JO, MX)	25%	";

(b) STAGED RATE REDUCTIONS.—Any staged reduction of a rate of duty proclaimed by the President before the date of the enactment of this Act, that—

(1) would take effect on or after such date of enactment; and

(2) would, but for the amendment made by subsection (a), apply to subheading 8708.29.20 of the Harmonized Tariff Schedule of the United States, applies to the corresponding rate of duty set forth in subheading 8708.29.25 of such Schedule (as added by subsection (a)).

SEC. 1703. FLEXIBLE MAGNETS AND COMPOSITE GOODS CONTAINING FLEXIBLE MAGNETS.

Heading 8505 of chapter 85 is amended—

(1) by striking subheading 8505.19.00 and inserting the following new subheadings, with the article description for subheadings 8505.19.10, 8505.19.20, and 8505.19.30 having the same degree of indentation as the article description for subheading 8505.11.00:

"	8505.19.10	Flexible magnet	4.9%	Free (A, CA, E, IL, J, MX)	45%	
	8505.19.20	Composite goods containing flexible magnet	4.9%	Free (A, CA, E, IL, J, MX)	45%	
	8505.19.30	Other	4.9%	Free (A, CA, E, IL, J, MX)	45%	".

SEC. 1704. VESSEL REPAIR DUTIES.

(a) EXEMPTION.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) in paragraph (1), by striking the comma at the end and inserting a semicolon;

(2) in paragraph (2), by striking ", or" at the end and inserting a semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(4) the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas.

Declaration and entry shall not be required with respect to the installation, equipment, parts, and materials described in paragraph (4).".

(b) AMENDMENT TO HTS.—Subchapter XVIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by striking "U.S. Note" and inserting "U.S. Notes" and by adding after U.S. note 1, the following new note:

"2. Notwithstanding the provisions of subheadings 9818.00.03 through 9818.00.07, no duty shall apply to the cost of equipment, repair parts, and materials that are installed in a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, and declaration and entry shall not be required with respect to such installation, equipment, parts, and materials.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001.

SEC. 1705. DUTY-FREE TREATMENT FOR HAND-KNOTTED OR HAND-WOVEN CARPETS.

(a) AMENDMENT OF THE TRADE ACT OF 1974.—Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended by adding at the end the following new paragraph:

"(4) CERTAIN HAND-KNOTTED OR HAND-WOVEN CARPETS.—Notwithstanding paragraph (1)(A), the President may designate as an eligible article or articles under subsection (a) carpets or rugs which are hand-loomed, hand-woven, hand-hooked, hand-tufted, or hand-knotted, and classifiable under subheadings 5701.10.16, 5701.10.40, 5701.90.10, 5701.90.20, 5702.10.90, 5702.42.20, 5702.49.10, 5702.51.20, 5702.91.30, 5702.92.00, 5702.99.10, 5703.10.00, 5703.20.10, or 5703.30.00 of the Harmonized Tariff Schedule of the United States.".

(b) Conforming amendment.—Section 503(b)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2463(b)(1)(A)) is amended by striking "Textile" and inserting "Except as provided in paragraph (4), textile".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to any article entered, or withdrawn from warehouse for consumption, on or after the date on which the President makes a designation with respect to the article under section 503(b)(4) of the Trade Act of 1974, as added by subsection (a).

SEC. 1706. DUTY DRAWBACK FOR CERTAIN ARTICLES.

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end the following new subsection:

"(y) Articles Shipped to the United States Insular Possessions.—Articles described in subsection (j)(1) shall be eligible for drawback under this section if duty was paid on the merchandise upon importation into the United States and the person claiming the drawback demonstrates that the merchandise has entered the customs territory of the United States Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.".

SEC. 1707. UNUSED MERCHANDISE DRAWBACK.

(a) In General.—Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) in paragraph (1), by striking "because of its" and inserting "upon entry or"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "because of its" and inserting "upon entry or"; and

(B) in subparagraph (C)(ii)(II)—

(i) by striking "then upon" and inserting "then, notwithstanding any other provision of law, upon"; and

(ii) by striking "shall be refunded as drawback" and inserting "shall be refunded as drawback hereunder".

(b) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to any drawback claim filed on or after that date and to any drawback entry filed before that date if the liquidation of the entry is not final on that date.

SEC. 1708. TREATMENT OF CERTAIN FOOTWEAR UNDER CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended as follows:

(1) In paragraph (1)(B), to read as follows:

"(B) footwear provided for in any subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.80, 6402.99.90, 6403.59.60, 6403.91.30, 6403.99.60, 6403.99.90, 6404.11.90, and 6404.19.20 of the HTS of the United States that was not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;".

(2) In paragraph (3)(A)—

(A) in clause (i), by striking "Subject to clause (ii)" and inserting "Subject to clauses (ii) and (iii)"; and

(B) by adding at the end the following:

"(iii) Certain footwear.—Notwithstanding paragraph (1)(B) and clause (i) of this subparagraph, footwear provided for in subheadings 6403.59.60, 6403.91.30, 6403.99.60, and 6403.99.90 of the HTS shall be eligible for the duty-free treatment provided for under this title if—

"(I) the article of footwear is the growth, product, or manufacture of a CBTPA beneficiary country; and

"(II) the article otherwise meets the requirements of subsection (a), except that in applying such subsection, 'CBTPA beneficiary country' shall be substituted for 'beneficiary country' each place it appears.".

SEC. 1709. DESIGNATION OF SAN ANTONIO INTERNATIONAL AIRPORT FOR CUSTOMS PROCESSING OF CERTAIN PRIVATE AIRCRAFT ARRIVING IN THE UNITED STATES.

(a) In General.—Section 1453(a) of the Tariff Suspension and Trade Act of 2000 is amended by striking "2-year period" and inserting "4-year period".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on November 9, 2002.

SEC. 1710. AUTHORITY FOR THE ESTABLISHMENT OF INTEGRATED BORDER INSPECTION AREAS AT THE UNITED STATES-CANADA BORDER.

(a) Findings.—Congress makes the following findings:

(1) The increased security and safety concerns that developed in the aftermath of the terrorist attacks in the United States on September 11, 2001, need to be addressed.

(2) One concern that has come to light is the vulnerability of the international bridges and tunnels along the United States borders.

(3) It is necessary to ensure that potentially dangerous vehicles are inspected prior to crossing these bridges and tunnels; however, currently these vehicles are not inspected until after they have crossed into the United States.

(4) Establishing Integrated Border Inspection Areas (IBIAs) would address these concerns by inspecting vehicles before they gained access to the infrastructure of international bridges and tunnels joining the United States and Canada.

(b) Creation of Integrated Border Inspection Areas.—

(1) In general.—The Commissioner of the Customs Service, in consultation with the Canadian Customs and Revenue Agency (CCRA), shall seek to establish Integrated Border Inspection Areas (IBIAs), such as areas on either side of the United States-Canada border, in which United States Customs officers can inspect vehicles entering the United States from Canada before they enter the United States, or Canadian Customs officers can inspect vehicles entering Canada from the United States before they enter Canada. Such inspections may include, where appropriate, employment of reverse inspection techniques.

(2) Additional requirement.—The Commissioner of Customs, in consultation with the Administrator of the General Services Administration when appropriate, shall seek to carry out paragraph (1) in a manner that minimizes adverse impacts on the surrounding community.

(3) Elements of the program.—Using the authority granted by this section and under section 629 of the Tariff Act of 1930, the Commissioner of Customs, in consultation with the Canadian Customs and Revenue Agency, shall seek to—

(A) locate Integrated Border Inspection Areas in areas with bridges or tunnels with high traffic volume, significant commercial activity, and that have experienced backups and delays since September 11, 2001;

(B) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border are vested with the maximum authority to carry out their duties and enforce United States law;

(C) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border shall possess the same immunity that they would possess if they were stationed in the United States; and

(D) encourage appropriate officials of the United States to enter into an agreement with Canada permitting Canadian Customs officers stationed in any such IBIA on the United States side of the border to enjoy such immunities as permitted in Canada.

SEC. 1711. DESIGNATION OF FOREIGN LAW ENFORCEMENT OFFICERS.

(a) Miscellaneous Provisions.—Section 401(i) of the Tariff Act of 1930 (19 U.S.C. 1401(i)) is amended by inserting ", including foreign law enforcement officers," after "or other person".

(b) Inspections and Preclearance in Foreign Countries.—Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended—

(1) in subsection (a), by inserting ", or subsequent to their exit from," after "prior to their arrival in";

(2) in subsection (c)—

(A) by inserting "or exportation" after "relating to the importation"; and

(B) by inserting "or exit" after "port of entry";

(3) in subsection (e), to read as follows:

"(e) Stationing of Foreign Customs and Agriculture Inspection Officers in the United States.—The Secretary of State, in coordination with the Secretary and the Secretary of Agriculture, may enter into agreements with any foreign country authorizing the stationing in the United States of customs and agriculture inspection officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States, or that have gone directly from that country to the United States, comply with the customs and other laws of that country governing the importation or exportation of merchandise. Any foreign customs or agriculture inspection official stationed in the United States under this subsection may exercise such functions, perform such duties, and enjoy such privileges and immunities as United States officials may be authorized to perform or are afforded in that foreign country by treaty, agreement or law."; and

(4) by adding at the end the following:

"(g) Privileges and Immunities.—Persons designated to perform the duties of an officer of the Customs Service pursuant to section 1401(i) of this title shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any actions taken by the designated person in the performance of such duties.".

(c) Conforming Amendment.—Section 127 of the Treasury Department Appropriations Act, 2003, is hereby repealed.

(d) Effective Date.—This section, and the amendments made by this section, take effect on the date of the enactment of this Act.

SEC. 1712. AMENDMENTS TO UNITED STATES INSULAR POSSESSION PROGRAM.

(a) Production Certificates.—Additional U.S. Note 5(h) to chapter 91 is amended—

(1) by amending subparagraphs (i) and (ii) to read as follows:

"(i) In the case of each of calendar years 2003 through 2015, the Secretaries jointly, shall—

"(A) verify—

"(1) the wages paid by each producer to permanent residents of the insular possessions during the preceding calendar year (including the value of usual and customary health insurance, life insurance, and pension benefits); and

"(2) the total quantity and value of watches and watch movements produced in the insular possessions by that producer and imported free of duty into the customs territory of the United States; and

"(B) issue to each producer (not later than 60 days after the end of the preceding calendar year) a certificate for the applicable amount.

"(ii) For purposes of subparagraph (i), except as provided in subparagraphs (iii) and (iv), the term 'applicable amount' means an amount equal to the sum of—

"(A) 90 percent of the producer's creditable wages (including the value of usual and customary health insurance, life insurance, and pension benefits) on the assembly during the preceding calendar year of the first 300,000 units; plus

"(B) the applicable graduated declining percentage (determined each year by the Secretaries) of the producer's creditable wages (including the value of usual and customary health insurance, life insurance, and pension benefits) on the assembly during the preceding calendar year of units in excess of 300,000 but not in excess of 750,000; plus

"(C) the difference between the duties that would have been due on each producer's watches and watch movements (excluding digital watches and excluding units in excess of the 750,000 limitation of this subparagraph) imported into the customs territory of the United States free of duty during the preceding calendar year if the watches and watch movements had been subject to duty at the rates set forth in column 1 under this chapter that were in effect on January 1, 2001, and the duties that would have been due on the watches and watch movements if the watches and watch movements had been subject to duty at the rates set forth in column 1 under this chapter that were in effect for such preceding calendar year."; and

(2) by amending subparagraph (v) to read as follows:

"(v) Any certificate issued under subparagraph (i) shall entitle the certificate holder to secure a refund of duties equal to the face value of the certificate on any articles that are imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of such refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.".

(b) Jewelry.—Additional U.S. Note 3 to chapter 71 is amended—

(1) by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively;

(2) by inserting after paragraph (a) the following new paragraph:

"(b) Notwithstanding additional U.S. Note 5(h)(ii)(B) to chapter 91, articles of jewelry subject to this note shall be subject to a limitation of 10,000,000 units."; and

(3) by striking paragraph (f), as so redesignated, and inserting the following:

"(f) Notwithstanding any other provision of law, any article of jewelry provided for in heading 7113 that is assembled in the Virgin Islands, Guam, or American Samoa by a jewelry manufacturer or jewelry assembler that commenced jewelry manufacturing or jewelry assembly operations in the Virgin Islands, Guam, or American Samoa after August 9, 2001, shall be treated as a product of the Virgin Islands, Guam, or American Samoa for purposes of this note and General Note 3(a)(iv) of this Schedule if such article is entered no later than 18 months after such jewelry manufacturer or jewelry assembler commenced jewelry manufacturing or jewelry assembly operations in the Virgin Islands, Guam, or American Samoa.".

(c) Effective Date.—The amendments made by this section shall apply with respect to goods imported into the customs territory of the United States on or after January 1, 2003.

SEC. 1713. MODIFICATION OF PROVISIONS RELATING TO DRAWBACK CLAIMS.

(a) Merchandise Not Conforming to Sample or Specifications.—Section 313(c) of the Tariff Act of 1930 (19 U.S.C. 1313(c)), is amended to read as follows:

"(c) Merchandise Not Conforming to Sample or Specifications.—

"(1) Conditions for drawback.—Upon the exportation or destruction under the supervision of the Customs Service of articles or merchandise—

"(A) upon which the duties have been paid,

"(B) which has been entered or withdrawn for consumption,

"(C) which is—

"(i) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation, or

"(ii) ultimately sold at retail by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and for any reason returned to and accepted by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and

"(D) which, within 3 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of the Customs Service,

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.

"(2) Designation of import entries.—For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1) (A) and (B) under the supervision of the Customs Service. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.

"(3) When drawback certificates not required.—For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3).".

(b) Time Limitation on Exportation or Destruction.—Section 313(i) of the Tariff Act of 1930 (19 U.S.C. 1313(i)), is amended—

(1) by striking "No" and inserting "Unless otherwise provided for in this section, no"; and

(2) by inserting ", or destroyed under the supervision of the Customs Service," after "exported".

(c) Use of Domestic Merchandise Acquired in Exchange for Imported Merchandise of Same Kind and Quality.—Section 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)), is amended—

(1) by striking "(k)" and inserting "(k)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for a drawback product of the same kind and quality shall be treated as the use of such drawback product if no certificate of delivery or certificate of manufacture and delivery pertaining to such drawback product is issued, other than that which documents the product's manufacture and delivery. As used in this paragraph, the term 'drawback product' means any domestically produced product, manufactured with imported merchandise or any other merchandise (whether imported or domestic) of the same kind and quality, that is subject to drawback.".

(d) Packaging Material.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)), is amended to read as follows:

"(q) Packaging Material.—

"(1) Packaging material under subsections (c) and (j).—Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1), or imported and duty paid, or substituted, and claimed for drawback under subsection (j)(2), shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material.

"(2) Packaging material under subsections (a) and (b).—Packaging material that is manufactured or produced under subsection (a) or (b) shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material.

"(3) Contents.—Packaging material described in paragraphs (1) and (2) shall be eligible for drawback whether or not they contain articles or merchandise, and whether or not any articles or merchandise they contain are eligible for drawback.

"(4) Employing packaging material for its intended purpose prior to exportation.—The use of any packaging material for its intended purpose prior to exportation shall not be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c), or paragraph (1)(B) or (2)(C)(i) of subsection (j).".

(e) Limitation on Liquidation.—Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) Liquidation.—

"(1) Entries for consumption.—Unless an entry of merchandise for consumption is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 751(a)(3), an entry of merchandise for consumption not liquidated within 1 year from—

"(A) the date of entry of such merchandise,

"(B) the date of the final withdrawal of all such merchandise covered by a warehouse entry,

"(C) the date of withdrawal from warehouse of such merchandise for consumption if, pursuant to regulations issued under section 505(a), duties may be deposited after the filing of any entry or withdrawal from warehouse, or

"(D) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been filed, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer of record.

Notwithstanding section 500(e), notice of liquidation need not be given of an entry deemed liquidated.

"(2) ENTRIES OR CLAIMS FOR DRAWBACK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), unless an entry or claim for drawback is extended under subsection (b) or suspended as required by statute or court order, an entry or claim for drawback not liquidated within 1 year from the date of entry or claim shall be deemed liquidated at the drawback amount asserted by the claimant at the time of entry or claim. Notwithstanding section 500(e), notice of liquidation need not be given of an entry deemed liquidated.

"(B) UNLIQUIDATED IMPORTS.—An entry or claim for drawback whose designated or identified import entries have not been liquidated and become final within the 1-year period described in subparagraph (A), or within the 1-year period described in subparagraph (C), shall be deemed liquidated upon the deposit of estimated duties on the unliquidated imported merchandise, and upon the filing with the Customs Service of a written request for the liquidation of the drawback entry or claim. Such a request must include a waiver of any right to payment or refund under other provisions of law. The Secretary of the Treasury shall prescribe any necessary regulations for the purpose of administering this provision.

"(C) EXCEPTION.—An entry or claim for drawback filed before the date of the enactment of this paragraph, the liquidation of which is not final as of the date of the enactment of this paragraph, shall be deemed liquidated on the date that is 1 year after the date of the enactment of this paragraph at the drawback amount asserted by the claimant at the time of the entry or claim.

"(3) PAYMENTS OR REFUNDS.—Payment or refund of duties owed pursuant to paragraph (1) or (2) shall be made to the importer of record or drawback claimant, as the case may be, not later than 90 days after liquidation.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

"(1) the information needed for the proper appraisement or classification of the imported or withdrawn merchandise, or for determining the correct drawback amount, or for ensuring compliance with applicable law, is not available to the Customs Service; or

"(2) the importer of record or drawback claimant, as the case may be, requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record or drawback claimant, as the case may be, and the surety of such importer of record or drawback claimant. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record, or the drawback amount asserted at the time of entry by the drawback claimant, at the expiration of 4 years from the applicable date specified in subsection (a).";

(2) in subsection (c)—

(A) by inserting "or drawback claimant, as the case may be," after "to the importer of record"; and

(B) by inserting "or drawback claimant" after "of such importer of record"; and

(3) in subsection (d), by striking the period at the end and inserting "or (in the case of a drawback entry or claim) at the drawback amount asserted at the time of entry by the drawback claimant.".

(f) PENALTIES FOR FALSE DRAWBACK CLAIMS.—Section 593A(h) of the Tariff Act of 1930 (19 U.S.C. 1593a(h)) is amended by striking "subsection (g)" and inserting "subsections (c) and (g)".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), (d), and (f) shall take effect on the date of enactment of this Act, and shall apply to—

(A) any drawback entry filed on and after such date of enactment; and

(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.

(2) SUBSECTION (e).—The amendments made by subsection (e) shall take effect on the date of enactment of this Act, and shall apply to—

(A) any entry of merchandise for consumption or entry or claim for drawback filed on and after such date of enactment; and

(B) any entry or claim for drawback filed before such date of enactment if the liquidation of the entry or claim is not final on such date of enactment.

Subtitle C—Effective Date

SEC. 1801. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE II—OTHER TRADE PROVISIONS

SEC. 2001. EXTENSION OF NONDISCRIMINATORY TREATMENT TO SERBIA AND MONTENEGRO.

Notwithstanding Public Law 102–420 (19 U.S.C. 2434 note), the President may proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia).

SEC. 2002. MODIFICATION TO CELLAR TREATMENT OF NATURAL WINE.

(a) IN GENERAL.—Subsection (a) of section 5382 of the Internal Revenue Code of 1986 (relating to cellar treatment of natural wine) is amended to read as follows:

"(a) PROPER CELLAR TREATMENT.—

"(1) IN GENERAL.—Proper cellar treatment of natural wine constitutes—

"(A) subject to paragraph (2), those practices and procedures in the United States, whether historical or newly developed, of using various methods and materials to stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice in accordance with regulations prescribed by the Secretary; and

"(B) subject to paragraph (3), in the case of wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under such agreement or treaty.

"(2) RECOGNITION OF CONTINUING TREATMENT.—For purposes of paragraph (1)(A), where a particular treatment has been used in customary commercial practice in the United States, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be proper cellar treatment within the meaning of this subsection.

"(3) CERTIFICATION OF PRACTICES AND PROCEDURES FOR IMPORTED WINE.—

"(A) IN GENERAL.—In the case of imported wine which is not subject to an international agreement or treaty under paragraph (1)(B), the Secretary shall accept the practices and procedures used to produce such wine, if, at the time of importation—

"(i) the importer provides the Secretary with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A), or

"(ii) in the case of an importer that owns or controls or that has an affiliate that owns or controls a winery operating under a basic permit issued by the Secretary, the importer certifies that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A).

"(B) AFFILIATE DEFINED.—For purposes of this paragraph, the term 'affiliate' has the meaning given such term by section 117(a)(4) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(4)) and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has an ownership interest.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 2003. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT UNDER THE ANDEAN TRADE PREFERENCE ACT.

The rate of duty applicable on the day before the date of the enactment of the Trade Act of 2002 to any article described in section 204(b)(1)(D) of the Andean Trade Preference Act (as amended by section 3103(a)(2) of the Trade Act of 2002) shall apply to such article on and after such date of enactment until such time as the President proclaims duty free treatment pursuant to section 204(b)(1) of such Act for such article.

SEC. 2004. TECHNICAL AMENDMENTS.

(a) TRADE ACT of 2002.—(1) Section 2(a)(4) of the Trade Act of 2002 is amended by striking "and Other Provisions".

(2) The table of contents of the Trade Act of 2002 is amended—

(A) in the item relating to section 342, by striking "customs service" and inserting "Customs Service"; and

(B) by amending the item relating to section 3107 to read as follows:

"3107. Trade benefits under the Caribbean Basin Economic Recovery Act.".

(3) The amendment made by section 111(b) of the Trade Act of 2002 shall be deemed never to have been enacted.

(4) Section 221(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(2)(A)) is amended by striking "assistance, and appropriate" and inserting "assistance and appropriate".

(5) Section 222(b) of the Trade Act of 1974 (19 U.S.C. 2272(b)) is amended—

(A) by striking the subsection heading and inserting the following: "ADVERSELY AFFECTED SECONDARY WORKERS"; and

(B) in the matter preceding paragraph (1), by inserting "pursuant to a petition filed under section 221" after "under this chapter".

(6) Section 238(b)(1) of the Trade Act of 1974 is amended by striking "Secretary," and inserting "Secretary)".

(7) Section 246 of the Trade Act of 1974 is amended—

(A) in subsection (a)(3)(B)(iii), by striking "and" after the semicolon; and

(B) in subsection (b)(2), by striking "provided that" and inserting "if".

(8) Section 124(b) of the Trade Act of 2002 is amended by striking "by inserting after the item relating to section 245 the following

new item” and inserting “by amending the item relating to section 246 to read as follows”.

(9) Section 296 of the Trade Act of 1974 is amended—

(A) in subsection (a)(1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “trade adjustment allowance” and inserting “adjustment assistance under this chapter”; and

(II) by striking “such allowance” and inserting “such assistance”; and

(ii) in subparagraph (A), by striking “subsection (a)” and inserting “this subsection”; and

(B) in subsection (b)(2), by striking “paragraph (1) except” and inserting “paragraph (1), except”.

(10) Section 142 of the Trade Act of 2002 is amended—

(A) in subsection (a)(1)—

(i) by striking “284(a)” and “2395(a)” and inserting “284” and “2395”, respectively; and

(ii) in subparagraph (A), by inserting “in subsection (a),” after “(A)”; and

(B) in subsection (b), by striking “, as amended by subparagraph (A),”.

(11) Section 583(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1583(c)(1)) is amended by moving the matter preceding subparagraph (A) and subparagraphs (A) through (K) 2 ems to the right.

(12) Section 371(b) of the Trade Act of 2002 is amended by striking “1330(e)(2)” and inserting “1330(e)”.

(13) Section 336 of the Trade Act of 2002 is amended to read as follows:

“SEC. 336. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

“(a) Study.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) approximates the cost of services provided by the Customs Service relating to the fee so imposed.

“(b) Report.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing—

“(1) the results of the study conducted under subsection (a); and

“(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

Notwithstanding any other provision of law, the report or its contents may only be disclosed by the Comptroller General to any committee or Member of Congress and the Customs Service and shall not be disclosed to the public.”.

(14) Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended by moving the paragraph 2 ems to the left.

(15) Section 2102(c) of the Trade Act of 2002 is amended—

(A) in paragraph (8), by striking “this Act” and inserting “this title”; and

(B) in paragraph (12), by striking “government engaged” and inserting “government is engaged”.

(16) Section 2103 of the Trade Act of 2002 is amended—

(A) in subsection (a)(1)(A), by striking “June 1” each place it appears and inserting “July 1”;

(B) in subsection (b)(1)(C), by striking “June 1” each place it appears and inserting “July 1” and

(C) in subsection (c)—

(i) in paragraph (1)(B)(ii), by striking “June 1” and inserting “July 1”;

(ii) in paragraph (2), by striking “March 1” and inserting “April 1”; and

(iii) in paragraph (3), by striking “May 1” each place it appears and inserting “June 1”.

(17) Section 2105(c) of the Trade Act of 2002 is amended by striking “aand” and inserting “and”.

(18) Section 2113 of the Trade Act of 2002 is amended—

(A) in the first paragraph designated “(2)”, by striking “101(d)(12)” and “3511(d)(12)” and inserting “101(d)(13)” and “3511(d)(13)”, respectively; and

(B) in the second paragraph designated “(2)”—

(i) by redesignating such paragraph as paragraph (3); and

(ii) by striking “101(d)(13)” and “3511(d)(13)” and inserting “101(d)(12)” and “3511(d)(12)”, respectively.

(19) Section 4101(b)(1) of the Trade Act of 2002 is amended—

(A) in the matter preceding subparagraph (A), by striking “entry—” and inserting “entry of any article—”; and

(B) in subparagraph (A), by striking “of any article”.

(20) U.S. Note 15 to subchapter II of chapter 99 is amended by striking the comma after “9902.51.11”.

(21) U.S. Note 16 to subchapter II of chapter 99 is amended by striking the comma after “9902.51.12”.

(22)(A) Subheading 9804.00.70 is amended in the article description column—

(i) by striking “$400” and inserting “$800”; and

(ii) by striking “or up to $600 of which have been acquired in one or more beneficiary countries”.

(B) Subheading 9804.00.72 is amended in the article description column—

(i) by striking “$600” and inserting “$800”; and

(ii) by striking “not more than $400 of which shall have been acquired elsewhere than in beneficiary countries”.

(C) U.S. Note 4 to subchapter IV of chapter 98 is amended by striking “subheadings 9804.00.70 and” and inserting “subheading”.

(23) Section 141(b) of the Trade Act of 2002 is amended by striking “title” and inserting “subtitle”.

(24) Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended—

(A) in subparagraph (A), by moving the margins for clause (ii) 4 ems to the left; and

(B) by moving the margins for subparagraph (B) 4 ems to the left.

(25) Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(A) in the matter preceding clause (i), by striking “less than $2,000” and inserting “$2,000 or less”; and

(B) in clause (ii) to read as follows:

“(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B)—

“(I) in the case of an express consignment carrier facility or centralized hub facility, $.66 per individual airway bill or bill of lading; and

“(II) if the shipment is formally entered, the fee provided in subsection (a)(9), if applicable.”.

(26) Section 13031(f)(1)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(1)(B)) is amended by moving the subparagraph 2 ems to the left.

(b) Apparel Articles Under African Growth and Opportunity Act.—(1) Section 112(b)(1) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(1)) is amended by striking “(including” and inserting “or both (including”.

(2) Section 112(b)(3) of the African Growth and Opportunity Act (19 United States Code 3721(b)(3)) is amended in the matter preceding subparagraph (A)—

(A) by striking “either in the United States or one or more beneficiary sub-Saharan African countries” each place it appears and inserting “in the United States or one or more beneficiary sub-Saharan African countries, or both”; and

(B) by striking “subject to the following:” and inserting “whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:”

(3) Section 112(b)(5)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(5)(A)) is amended to read as follows:

“(A) In general.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.”

(c) Apparel Articles Under Caribbean Basin Economic Recovery Act.—(1) Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended—

(A) in clause (i), by striking “(including” and inserting “or both (including”;

(B) in clause (v), by striking “, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries”; and

(C) in clause (vii)(IV), by striking “(i) or (ii)” and inserting “(i), (ii), or (ix)”.

(2) Section 3107(a)(1)(B) of the Trade Act of 2002 is amended by striking “(B) by adding at the end the following:” and inserting “(B) by amending the last two sentences to read as follows:”.

(d) Tariff Act of 1930.—Section 505(a) of the Tariff Act of 1930 is amended—

(1) in the first sentence—

(A) by inserting “referred to in this subsection” after “periodic payment”; and

(B) by striking “10 working days” and inserting “12 working days”; and

(2) in the second sentence, by striking “a participating” and all that follows through the end of the sentence and inserting the following: “the Secretary shall promulgate regulations permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.”.

(e) Additional Technical Amendments.—(1) The second and third U.S. Notes 6 to subchapter XVII of chapter 98 (as added by sections 1433(b) and 1456(b) of the Tariff Suspension and Trade Act of 2000, respectively) are redesignated as U.S. Notes 7 and 8 to subchapter XVII of chapter 98, respectively.

(2) U.S. Notes 4 and 12 to subchapter II of chapter 99 are hereby repealed.

(3) Section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) is amended by striking "this subtitle" each place it appears and inserting "this chapter".

(4) Section 423 of the Trade Act of 1974 (19 U.S.C. 2451b) is amended in subsections (a) and (c) by striking "this subtitle" and inserting "this chapter".

(5) Section 422(j) of the Trade Act of 1974 (19 U.S.C. 2451a(j)) is amended by striking "(1)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. CRANE) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes. .

The Chair recognizes the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

I rise to support H.R. 1047, the Miscellaneous Trade and Technical Corrections Act, which is a compendium of trade provisions drawn largely from legislation introduced by individual Members. This bill has more than 350 such provisions and enjoys broad bipartisan support. The bill contains provisions involving the temporary suspension of duties on narrowly defined products, miscellaneous trade-related items, and technical corrections to the Trade and Development Act of 2000. The House passed substantially the same bill, but unfortunately no other action was taken. In essence, we have taken last year's bill, made technical changes, and added or dropped a few of the duty suspension provisions, all of which are known by the sponsoring Members and their staffs.

The most significant change has been removing the provision related to "Turkey Qualified Industrial Zones." I recall this provision received favorable comments from both sides of the aisle when the bill came to the floor last year. There is still strong support from Members for the provision. We are dropping the provision for the time being, but can consider it or a variant of the provision at some future time if appropriate.

There are several miscellaneous trade provisions in this bill that are noteworthy. The bill would make technical and clarifying corrections to provide benefits for Caribbean and sub-Saharan African countries. The preferential trade benefits for these countries would support U.S. trade policy to improve trade networks and opportunities for American firms while helping key American allies in the fight against terrorism and illegal drug traffic.

Finally, the bill would provide national trade-relation status to Serbia and Montenegro, which was revoked in 1992. The provisions included in this bill are noncontroversial, but that does not mean they are unimportant. Most of the products in the duty suspension provisions are those that American firms use as supplies or components of the products they manufacture. The purpose of this bill is to eliminate the burden that American firms have when buying these products so they can in turn lower their cost of production and thereby the cost to the consumer. In many instances these provisions will give our companies and their employees a fighting chance to compete.

This bill traditionally follows the same rules every Congress. The provisions have been thoroughly vetted and have no opposition. Both the Department of Commerce and International Trade Commission investigated the bills and contacted domestic industries. With the exception of a few of the miscellaneous provisions that have wide applicability, each provision has a de minimis cost under $500,000. Lastly, the administration confirms that all of the bills can be administered.

I strongly urge my colleagues to support this bill and to provide this assistance to American companies.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I shall consume.

I rise in support of this bill. It is substantially the same as we considered and passed last October. We passed it by a voice vote on suspension, and it reflects the basically noncontroversial nature of the legislation, and I believe we will have the same result today.

As mentioned, there are ground rules for bringing up this legislation agreed to by both parties. They are noncontroversial, and they carry a minimal cost. But because the cost is minimal does not mean these are unimportant items. They are basically technical and miscellaneous and, therefore, the name of the bill. But at times technical and miscellaneous changes can have a real impact on U.S. businesses, on workers, on farmers, and consumers.

This bill is of that nature. It suspends or reduces import duties on numerous items for which there are no American competitors, and it does correct instances where Customs has overcharged for import duties. The provisions that relate to import duties often concern items, as mentioned, that are inputs for domestic manufacturers and for their workers; and so therefore they benefit from these provisions. So as to most of them, these are items that should help us as we compete in this globalizing economy. Also included, and I am glad they are, provisions that relate to San Antonio Airport and some technical corrections that will strengthen both CBI and the AGOA programs.

There also is in here a provision about which a number of us have a very strong concern regarding the reverse Customs program at the northern border. Some of us have been working hard to bring about a reverse Customs structure. It was included in the recently passed appropriations bill. The Committee on Ways and Means reviewed this and wants to replace what was passed with the language that is in this bill, and I have been assured that this change does not in any way affect the substance of what was included in the appropriation package, and it will not impede in any way the important implementation of the reverse Customs program. I cannot emphasize strongly enough the significance of that experiment. So, therefore, I support the provision in the bill.

We are moving forward today; and as I understand it, there are other important technical corrections that will still have to be made in the future. Let me say just a word about one provision that is not included, and that is the provision that was requested by the distinguished gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN). She is going to say a few words about this after I finish. The gentleman from New York (Mr. RANGEL), our distinguished leader, also has a strong view about that.

Let me say a word also about a provision that I think will come up at a later date regarding permanent normal trade relations as to Moldova and Armenia. Recognizing that both countries have acceded to the WTO, we will be working on this in the future. The Turkey Qualified Industrial Zone provision is not in this bill. Let me say just a word about this. We have discussed it before. It is likely at some later date that we will see some legislation regarding QIZs as it relates to Turkey, and I think we should proceed with it; but I want to again reiterate to the administration the importance of a broadened provision relating to the QIZ and Turkey. The QIZ provides benefits that in some ways are deeper and broader than those in the GSP program; and it effectively replaces the GSP program. However, unlike GSP, the QIZ statute does not include any conditionality, whether it relates to the protection of U.S. investors or respect for core labor standards or protection of intellectual property rights; and, again, I would hope that the administration would commit itself to working on including these criteria.

The gentleman from Maryland (Mr. CARDIN) is going to speak about Yugoslavia, Serbia, and Montenegro. He has worked very hard on this. I applaud his efforts, and I am glad that we have worked this out.

So we should proceed today with this bill. It has been tailored according to the basic rules regarding miscellaneous tariff bills, and I would hope that we can pass it as we did last time.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL), our distinguished ranking leader.

Mr. RANGEL. Mr. Speaker, I would like to use my time to talk a little bit with the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

First I want to thank the gentleman for including the technical corrections raising the personal duty exemption for travelers returning from the Caribbean basin region to $800 so that the Caribbean basin region is not at a disadvantage with the rest of the world. But I want to further inquire whether the chairman would continue to consider making a similar correction for the U.S. insular possession including the United States Virgin Islands so that we can preserve the historic balance in personal duty exemptions. Doing so will ensure that we do not damage the Virgin Islands or other of the U.S. insular possession economies which have so heavily depended on tourism. I appreciate the spirit in which the chairman has always looked at these technical corrections, and I ask him to consider making the correction as it relates to our citizens in this area.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I commend the gentleman for making the request, and I can assure him that we will study and consider the facts and policy related to the gentlewoman's request and that in conference we have an opportunity potentially to go down that path.

Mr. RANGEL. Mr. Speaker, I want to thank the gentleman for this and past considerations.

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Mr. CRANE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I rise today in support of the Miscellaneous Trade and Technical Corrections Act of 2003 which we are debating right now. The goal of the legislation is to make U.S. manufacturers, our American companies, more competitive, and strengthen the jobs of the workers that they employ. We do this by reducing or eliminating some of the import duties on materials and products used in production of goods and services here in America.

I am especially pleased that the bill contains legislation that I have authored in the past to change duty drawback and other trade laws in order to make the way they work less complicated and much easier to administer, both by the businesses here in the country and by our U.S. Customs Service. The goal of that and I think the result of that is that we will ease some of the regulatory burdens and some of the paperwork burdens imposed currently on U.S. companies.

The way duty drawback works is that if you are an American company and you bring a product in from overseas in order to manufacture and then sell it back outside the country, if you bring it into the country, we charge you a duty, say, of $10 on this widget.

When you manufacture it yourself, a similar product, or put it into yours and sell it back outside the country, you get a refund on that duty, so that you are competitive and your products do not cost too much more, or you are at least competitive with foreign companies when you are selling product outside this Nation.

Drawback levels the playing fields, allows U.S. companies to remain competitive, strengthens jobs and overall helps us compete in a world where competition is very fierce.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from the Virgin Islands (Mrs. Christensen), who is going to follow up on the colloquy between the gentleman from New York (Mr. RANGEL) and the gentleman from Illinois (Mr. CRANE).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the ranking member from Michigan for yielding me time.

Mr. Speaker, I rise today to raise concerns of the government of the U.S. Virgin Islands regarding provisions in the technical corrections bill relating to the amount of personal duty exemption for U.S. travelers returning from abroad. The technical correction in the pending bill fails to reflect long-standing Congressional policy to afford a two to one advantage to the U.S. insular possessions in the amount of this exemption.

Tourism is the most important economic sector and is indeed the linchpin of our economy. A critical part of the U.S. tourism base economy in the Virgin Islands is our main street economy, the merchants who sell a wide range of goods to returning U.S. tourists and cruise ship passengers.

A key consideration in travel to the U.S. Virgin Islands as well as in the purchase decisions by U.S. tourists is the amount of personal duty exemption for returning U.S. travelers. Differences in the amount of the personal duty exemption particularly affect the decisions of Caribbean cruise ship passengers who enjoy shopping in a number of different jurisdictions.

For many years it has been consistent U.S. policy to encourage U.S. tourists to make purchases in the U.S. Virgin Islands and other insular possessions by providing a higher duty exemption for insular possession purchases as compared with purchases in other travel destinations. Historically, the insular possessions have enjoyed at least a two to one advantage over these jurisdictions.

In 2002, Congress increased the duty exemption for travelers returning from non-Caribbean jurisdictions from $400 to $800 dollars. However, the duty exemptions for purchases made in the CBI countries and the U.S. insular possessions were not changed, but were kept at $600 and $1,200 respectively.

In a partial effort to correct this, a technical correction provision in the pending bill would increase the duty exemption for CBI purchases to $800. However, the bill makes no change in the duty exemption for insular possession purchases.

This legislation would results in a significant change to long standing U.S. policy. It would abandoned the two to one advantage that Congress has traditionally provided to the insular possessions and would seriously harm our economy and the livelihood of many of our citizens.

For these reasons, the government of the Virgin Islands urges that the duty exemption for purchases in the insular possessions be revised to reflect the long-standing policy and be increased to $1,600.

I want to take this opportunity to thank the ranking member, the gentleman from New York (Mr. RANGEL) and both the Chair and the ranking member of the subcommittee for their support. I have also discussed these concerns with the chairman of the committee, and I hope that they will be addressed in the anticipated conference on this important legislation.

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN), a very distinguished member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I rise to bring attention to this body of one provision that is in this bill that deals with extending normal trade relations to Serbia and Montenegro. When this issue was before the Committee on Ways and Means, I offered an amendment that was adopted by the committee that placed conditionality on the normal trade relations based upon cooperation by Serbia and Montenegro with the International Criminal Tribunal for the former Yugoslavia.

Mr. Speaker, it is important to move forward in our relations with Serbia, but it is also important to remember the past. There were war crimes committed in the former Yugoslavia where individuals were murdered, mass murders, dislocation of people, solely because of their ethnic background. There are individuals who have been indicted by the war crimes tribunal that have not been turned over to the Hague. General Mladic and Karadzic were involved in mass murders of innocent people, they were lined up and murdered, and yet they still remain free, even though they are indicted. We need full cooperation with the tribunal, including the turning over of documents and the availability of witnesses.

Mr. Speaker, I am pleased that we were able to reach an understanding where the conditionality on this legislation could be removed by additional commitments made by the government of Serbia-Montenegro.

I will make part of the record a letter that I have received. I would like to quote very quickly part of that letter, where the Foreign Minister says, "I would like to assure you that there is a strong and clear political will of the authorities in Serbia and Montenegro to cooperate with International Criminal Tribunal. Obviously, the most pressing concern is the issue of the arrest and transfer to the Hague of the indicted individuals, in particular General Mladic and those indicted for the crimes at Vukovar. You may rest assured that the resolution of this issue figures high on the agenda of all office holders in Serbia and Montenegro. Furthermore, the institutions of the state union of Serbia and Montenegro, which will be formed in the coming days, will have the opportunity to further contribute to perfecting the cooperation of the ICTY in this regard."

Mr. Speaker, I would also bring to your attention a letter I received from Secretary of State Powell, where he points out that the FY 2003 Foreign Operations Appropriations Act once again conditions U.S. assistance to the Republic of Serbia. These conditions have been useful in maintaining pressure on Belgrade to comply with its obligations to the ICTU. I can assure you that the Department of State will continue to use every available tool to achieve cooperation with the International Criminal Tribunal by the governments of Serbia and Montenegro.

Mr. Speaker, I want to thank the gentleman from New Jersey (Chairman SMITH) of the Helsinki Commission, the gentleman from Maryland (Mr. HOYER), who has been extremely helpful in this issue, the gentlewoman from New York (Mrs. LOWEY) from the Committee on Appropriations, the staff at the Helsinki committee, the Coalition for International Justice, and Ambassador Prosper, who is our Ambassador at Large for War Crimes, for their cooperation in order to be able to work out further cooperation with the tribunal.

I also want to thank the gentleman from Illinois (Mr. CRANE) and the gentleman from Michigan (Mr. LEVIN) for their patience. I know that we have been working on this for a long time, and I appreciate very much giving us the opportunity to work this out.

Congress has played a critical role on advancing human rights, whether it was Jackson-Vanik or the conditionality of foreign aid to governments to make sure that they comply with human rights issues. We have played an active role. We need to continue to play that role. I am proud of the role that this body has played in advancing human rights issues, including compliance with the International Criminal Tribunal.

Mr. Speaker, I include for the record the letter from the Minister for Foreign Affairs of Serbia and Montenegro.

SERBIA AND MONTENEGRO,
MINISTER FOR FOREIGN AFFAIRS.

Hon. BENJAMIN L. CARDIN,
House of Representatives,
Washington, DC.

DEAR MR. CARDIN: I appreciate very much your continuing interest in the issues related to Serbia and Montenegro and its relations with the United States. I still remember fondly our last telephone conversation in which we had the opportunity to discuss these matters.

At the moment, one of the most pressing issues in this regard remains extending Normal Trade Relations Treatment (NTR) to Serbia and Montenegro, which is part of the Miscellaneous Trade and Technical Corrections Act 2003. Extending NTR treatment would provide substantial support to continuing economic reforms in my country which, in turn, would help the consolidation of our democracy.

I am fully aware of your genuine and well-intentioned concerns with regard to the cooperation of Serbia and Montenegro with the International Criminal Tribunal for the former Yugoslavia (ICTY). I would like to assure you that there is strong and clear political will of the authorities in Serbia and Montenegro to cooperate with the ICTY.

Obviously, the most pressing concern is the issue of arrest and transfer to the Hague of the indicted individuals, in particular Gen. Mladic and those indicted for the crimes in Vukovar. You may rest assured that the resolution of this issue figures high on the agenda of all office holders in Serbia and Montenegro. Furthermore, the institutions of the state union of Serbia and Montenegro, which will be formed in the coming days, will have the opportunity to further contribute to perfecting the cooperation with the ICTY in this regard.

At the same time, it should be noted that there has been a substantial progress in other aspects of our cooperation with the ICTY, i.e., in providing documents and access to witnesses. Serbia and Montenegro has provided effective assistance to the ICTY in relation to locating, interviewing and testimony of witnesses. In this respect, we have so far fully responded to almost 90% of the requests for assistance. In particular, we have provided waivers for more than 100 officials of the former government to testify about classified matters before the ICTY. These include top officials such as two former presidents of the FRY, heads of military and police security services, as well as many high-ranking military and police officers.

As regards the documents requested by the ICTY, we have presented thousands of pages of documentation, including confidential records of the Supreme Defence Council, which is the commander-in-chief of the Yugoslav Army. I would like to assure you that we are determined to cooperate even more effectively with the ICTY in relation to documents and witnesses, and most notably, with regard to the transfer of indictees. Further promotion of democracy and economic prosperity of my country would only create a more favorable climate for such cooperation. In this regard, extending NTR treatment would be a welcome signal that Serbia and Montenegro have the support of the United States and would bring tangible benefits to our economy and people.

I am confident that you will take this information into account while assessing the level of cooperation with the ICTY, and as a result support the initiative to extend NTR treatment to Serbia and Montenegro.

Sincerely,

GORAN SVILANOVIC.

NON-PAPER

Serbia and Montenegro believes that all individuals responsible for international crimes should be brought to justice, either before international courts, such as the ICTY, or before national courts. In particular, as a UN Member, Serbia and Montenegro recognizes its obligation to cooperate with the JCTY. Consequently, the FRY has adopted the Law on Co-operation with the ICTY on 11 April 2002, which regulates the legal framework for cooperation.

Fifteen indictees who were on the territory of the FRY were brought into the custody of the ICTY. The Federal Republic of Yugoslavia arrested and surrended 6 indictees, including Slobodan Milosevic, former president of the FRY and Serbia. The others are Milomir Stakic, former Chief of the Crisis Staff of Prijedor Municipality, Republika Sprska (RS), and four combatants of the RS Army: Drazen Erdemovic, Predrag Banovic, Nenad Benovic i Ranko Cesic.

At the same time, 10 indictees have been encouraged to voluntarily surrender to the ICTY and they eventually did so. These are:

1. Dragoljub Ojdanic, General, former Chief of the General Staff of the Yugoslav Army and former Federal Minister of Defence.
2. Nikola Sainovic, former Deputy-Prime Minister of the FRY.
3. Mile Mrksjc, Major-General, Yugoslav Army.
4. Pavle Strugar, Lieutenant-General, Yugoslav Army.
5. Miodrag Jokic, Vice-Admiral, Yugoslav Army.
6. Milan Martic, former Serb leader in Croatia.
7. Blagoie Simic, Head of the Bosanski Samac, RS, Crisis Staff.
8. Momcilo Gruban, Deputy Commander of the Omarska camp, RS.
9. Milan Milutinovic, former President of the Republic of Serbia.
10. Vojislav Seselj, leader of the Serbian Radical Party.

National courts have issued arrest warrants for additional 17 accused whose arrest has been sought by the ICTY. One indictee (Vlajko Stojiljkovic, former Minister of Internal Affairs of Serbia) committed suicide.

Serbia and Montenegro has provided effective assistance to the Prosecutor and the ICTY with relation to locating, interviewing and testifying of suspects and witnesses. In that respect, Serbia and Montenegro has, so far, answered to 76 different requests and provided information for as many as 150 suspects and witnesses. Out of 126 witnesses for whom the waivers were requested, Serbia and Montenegro has granted 108 (86%), while others are in procedure.

In the Milosevic case, the FRY and Serbia government decided to allow more than 87 of the former and current state officials and employees to testify with relation to the Kosovo indictment, even about the matters that constitute military and state secrets.

Zoran Lilic, the former President of the FRY, has been given waiver to testify in the Milosevic case on the matters defined after consultations between the Prosecutor and the FRY and related to the events covered by the Croatia, Bosnia and Kosovo indictments.

Dobrica Cosic, former President of the FRY, as well as Nebojsa Pavkovic, former

Chief of the General staff of the Yugoslav Army have also been given waiver to testify in the Milosevic case and related to the events covered by the Croatia, Bosnia and Kosovo indictments.

Regarding documents that have been sought by the ICTY Prosecutor (127), the FRY has answered, so far, to 65 requests, to 9 partially and 53 are currently processed. The documents transmitted to the Prosecution include:

Confidential military documents of the Supreme Defense Council, the Commander-in-chief of the Yugoslav Army;

Certain confidential regulations of the Yugoslav Army;

All available official records related to the Racak massacre, in relation to the Kosovo indictment against Milosevic;

All available personal information about Ratko Mladic, the former Commander of the Army:

Of Republika Srpska;

Information on all investigations and judicial proceedings initiated against members of the Serbian Ministry of Internal Affairs for crimes committed in Kosovo and Metohija;

Official records of the Yugoslav National Bank relating to a company allegedly involved in trading arms during the conflict in Bosnia and Herzegovina;

The authorities of Serbia and Montenegro have continued to investigate mass graves near Batajnica. This is done in the presence of the ICTY investigators on site, and the evidence obtained is regularly transferred to the ICTY Prosecutor.

There have been investigations and judicial proceedings before Yugoslav courts for violations of international humanitarian law:

There is a number of criminal proceedings before military courts against individuals indicted for crimes in Kosovo and Metohija in 1999. The judicial proceeding against Sasa Cvjetan and Dejan Demirovit, members of the special corps "Scorpions", have also been initiated before the Court in Belgrade, for the crimes committed in Kosovo. In the District court in Prokuplje, Serbia, Ivan Nikolic, a reserve soldier with the Yugoslav Army, was sentenced to 8 years of imprisonment for the killing of two Kosovo-Albanian civilians.

Criminal proceeding before the Belgrade District Court are currently under way for the abduction of Bosniacs from the village of Sjeverin in 1992 (Case of Dragoljub Dragicevic and others).

In another case, Nebojsa Ranisavljevic was convicted to 15 years of imprisonment for his role in the notorious case of abduction of Muslim passengers from the train in Supci station in 1993.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT), another distinguished Member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this Administration has refused to account to the American people for the probable cost in both blood and money of a massive land invasion of Iraq. One of the most bizarre aspects of events in recent weeks has been the bazaar that has been going on in Turkey, where the Administration has sought to buy a "coalition of the willing." This bill appears to be a part of that effort.

The Turkish provision, which I questioned last year in committee because the same treatment was not being accorded to Armenia, has, according to the chairman, been dropped from this bill. Apparently, action on trade with Turkey has little to do with what is good trade policy, but everything to do with what constitutes good policy to create a "coalition of the billing."

When Turkey was to be a member of that coalition, it was in the trade bill. Now that its parliament has voted to deny the use of its land for an invasion of Iraq, when over 90 percent of the people of Turkey oppose that invasion, the provision has been unceremoniously stripped from the bill.

Indeed, more and more Americans watching this, and perhaps it is not a very good play on words, are asking, "How much gravy does Turkey really need?" The trade benefits that were in this bill are in addition to what is apparently $15 billion to $30 billion of American tax dollars that will be given to the Turks.

Surely if we had $15 billion to $30 billion we could apply it to strengthen our veterans' health care system. Could we not take some of that $15 billion to $30 billion and use it for the $9 billion on which the President broke his word when he said he would provide full funding for the "Left No Child Behind Act" and now says we lack enough money to fund?

I think when President Kennedy talked about "paying any price in the defense of liberty" in his inaugural address, he did not have in mind this bill and the bidding at the bazaar in Turkey, and in other countries, has been about.

It seems to me that the "shuttle diplomacy" in which the first President Bush worked so effectively to build an international coalition against Iraq (even though he stopped short) in the first Gulf war seems to have been replaced with "checkbook diplomacy" and bills like this.

If only the American people could learn how much of our taxpayer dollars are being diverted from education and veterans' health care and other needs within the United States to give it to the Turks and the other people who vote on the U.N. Security Council. I wish we knew those totals. We cannot find out the cost of the war in either blood or money. We cannot even find out the cost of the bribes that are being paid to get a coalition to join us.

So, I will vote for this bill, but I think the Turkish provision ought to be considered on its merits, rather than unceremoniously dropped for reasons that have nothing to do with good trade policy.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise today in support of the Miscellaneous Trade and Technical Corrections Act of 2003. I am particularly pleased about the inclusion of a provision which will help make the United States-Canada border significantly more secure.

In the aftermath of the attacks on our Nation, the level of security concerns along its 5,000 mile northern border have taken on an added urgency. Reverse inspections will safeguard international bridges and tunnels along the border. This process will ensure that potentially dangerous vehicles are inspected before crossing those bridges and tunnels.

Inspecting vehicles for dangerous contents such as bombs and explosives after they enter our tunnels or begin to cross our bridges is inadequate. The reverse customs provision in this legislation aims to enact a principle of the U.S.-Canada Smart Border Declaration negotiated by then Homeland Security Director Tom Ridge and Canada's Minister of Foreign Affairs John Manley last year. In this Declaration, both countries agreed to create a new secure and smart border based on an action plan that includes a host of new security measures.

I agree with the principles of the U.S.-Canada Smart Border Declaration, and I believe that the inclusion of the reverse inspections component in this bill will greatly lower the risk of future attacks on our bridges and tunnels. Bridges and tunnels, particularly for Michigan, a border state, are vital to facilitating tourism and trade, two critical factors for Michigan's economy.

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Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have spelled out the reasons for the passage of this bill. I urge that we vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to wrap up with a couple of comments about the comfort of advancing a trade piece of legislation like this in the Congress of the United States, where we enjoy good bipartisan support.

I want to commend my colleagues on the other side of the aisle who were the ones that were touting to Republicans the importance of free trade. It took almost a century for our party to yield to the very persuasive arguments advanced by free traders on the Democratic side, and after World War II we basically became free traders, too.

I know we have divisions in our ranks on both sides of the aisle; but I know, too, that trade is one of the most important issues facing not only this country but the entire world. I have made the comment in the past, and it bears repeating, that trade has done more to advance civilized values worldwide than anything else in the span of recorded history; so I commend my colleagues on a bipartisan basis.

Mr. Speaker, I ask for an "aye" vote on this very important piece of legislation.

Ms. MCCARTHY of Missouri. Mr. Speaker, today I rise in strong support of H.R. 1047, the Miscellaneous Trade & Technical Corrections Act. This bill contains a variety of provisions that temporarily suspend or reduce duties for certain imported products that are not produced domestically, streamline current customs laws, and make technical corrections to trade laws.

The bill suspends the duty of several products which are not produced domestically. Most of the time, tariffs are in place to protect domestic industries from foreign competitors, which can often undercut prices because of cheap labor or lax environmental standards. This bill rightfully suspends and/or reduces the tariffs on imported ingredients to domestically produced products. The reduction of 12 tariffs relating to ingredients of pesticides produced by the Bayer Corporation in Kansas City, maintain jobs in my district.

In addition, H.R. 1047 gives the President the authority to restore Normal Trade Relations to the former Yugoslavian Republics of Serbia and Montenegro when they are confirmed to cooperate with the International War Crimes Tribunal and the Dayton Peace Accords. Following Serb aggression in Bosnia and Croatia, NTR was withdrawn in 1992. I look forward to a day when Serbia and Montenegro can again become normal trading partners to the benefit of all countries.

H.R. 1047 authorizes the Customs Service to work with Canada to increase security at vulnerable U.S. cross border bridges and tunnels by allowing U.S. Customs officials to be stationed on the Canadian side of the border to inspect vehicles. This preemptive approach will help stop smugglers before they enter our country.

The bill makes several corrections to the Sub-Saharan Africa Free Trade Act of 2002. It clarifies that duty free treatment should be granted to apparel created from U.S. and regional components but formed in sub-Saharan African countries. This will provide a much needed boost to the economies of these nations.

I commend the Chairman and Ranking Member of the Ways and Means Committee for their bipartisan approach to this bill. I urge my colleagues to join me in supporting H.R. 1047 to ease unnecessary Customs restrictions and improve the ability of domestic companies to produce goods for all of the world to enjoy.

Mr. BLUMENAUER. Mr. Speaker, H.R. 1047, debated and passed today, includes language that allows two streetcars manufactured in the Czech Republic to enter the United States duty free. These streetcars are additional to the recently opened and highly successful Portland, Oregon streetcar line. I would like to take this opportunity to thank the Ways and Means Committee Members and staff for working with me to solve a problem that would have led to unnecessary tariffs on these two streetcars.

As Congress prepares this year to reauthorize the surface transportation act, TEA–21, we will need to continue to craft innovative solutions to help the hundreds of communities nationwide that are working to address transportation needs and options. Portland's success in creating new streetcar service to connect and revitalize its neighborhoods is a model being sought by dozens of other communities. Creating a trade import model that helps communities explore such transportation alternatives will greatly improve the livability of our cities.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and pass the bill, H.R. 1047.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CRANE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

* * *

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of H.R. 1047, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

* * *

COMMENDING MEMBERS OF UNITED STATES ARMED FORCES AND THEIR FAMILIES FOR SELFLESS SERVICE DURING GLOBAL WAR ON TERRORISM

Mr. HUNTER. Mr. Speaker, pursuant to the order of the House of Tuesday, March 4, 2003, I call up the joint resolution (H.J. Res. 27) recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 27 is as follows:

H.J. RES. 27

Whereas the Global War on Terrorism began in response to the unprovoked terrorist attack on the United States homeland on September 11, 2001, which resulted in the deaths of thousands of United States citizens;

Whereas Al Qaeda, which attacked the United States on September 11, 2001, remains a threat to the national security of the United States;

Whereas the members of the Armed Forces of the United States, a total force comprised of active, National Guard, and Reserve personnel, have undertaken more than 17 months of courageous and successful operations against terrorism, not only in Afghanistan, but also worldwide;

Whereas since September 11, 2001, members of the United States Armed Forces have promoted homeland security throughout the United States by performing various missions, including providing security at the Nation's airports, protecting the public at special events, and patrolling the Nation's skies with combat air patrols;

Whereas members of the Armed Forces are helping around the world to train the militaries of other nations in counter-terrorism operations;

Whereas these post-September 11, 2001, missions have been in addition to other regular military missions and have been performed without any permanent increase in the size of the Armed Forces;

Whereas more than 65 American servicemembers have died defending the Nation in the Global War on Terrorism and more than 210 have been wounded or injured;

Whereas nearly 225,000 members of the National Guard and Reserve components have been mobilized for active duty since the start of the Global War on Terrorism, of whom more than 166,000 remain on active duty, with thousands facing a second year of active duty away from families and civilian employment;

Whereas more than 200,000 active-duty personnel have already been deployed to the Persian Gulf theater and thousands of Reservists and National Guard members have been alerted for mobilization or are deploying for a possible war with Iraq;

Whereas many employers in the Nation find their employees called to active duty in the National Guard and Reserve, and are themselves called upon in the spirit of patriotism to maintain job security for those mobilized personnel and their families;

Whereas the ability of members of the Armed Forces to perform their missions requires the support and sacrifice of their families and the commitment to go wherever the Nation needs them;

Whereas the Nation is engaged in an unprecedented global conflict that presents many new and dangerous challenges to the members of the Armed Forces; and

Whereas this global conflict will require the Nation's unflinching resolve and commitment to provide the Nation's soldiers, sailors, airmen, and marines with the necessary resources required for victory: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) commends, and expresses the gratitude of the Nation to, all members of the United States Armed Forces (whether on active duty, in the National Guard, or in the Reserves) who are fighting the Global War on Terrorism;

(2) commends, and expresses the gratitude of the Nation to, the employers who in the spirit of patriotism maintain the job security of their mobilized National Guard and Reserve employees;

(3) commends, and expresses the gratitude of the Nation to, the families of those

servicemembers who have borne the burden of separation from their loved ones and who have staunchly supported them during the conduct of the Global War on Terrorism;

(4) expresses its condolences to the families of the brave American servicemembers who have lost their lives defending the Nation in the Global War on Terrorism; and

(5) reaffirms that it stands united with the President in the ongoing effort to defeat global terrorism.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, March 4, 2003, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the start of the global war on terrorism, a saga has unfolded marked by the dedication, selfless service, and commitment of the members of the Armed Forces and their families. Now, on the eve of a potential war with Iraq, the Nation is about to ask our Armed Forces and their families for additional sacrifices.

For these reasons, my great colleague, the gentleman from Missouri (Mr. SKELTON), and I thought it was only fitting that we offer this joint resolution to send a message to our Armed Forces of our support and appreciation for their magnificent efforts.

Mr. Speaker, the U.S. Armed Forces, a total force of active National Guard and Reserve volunteers, have conducted more than 17 months of courageous and successful operations against terrorism, not only in Afghanistan, but also worldwide. Beyond that, they have secured the U.S. homeland by performing various missions, including patrolling the Nation's airports, protecting the public at special events, and flying combat air patrols in the Nation's skies.

Today, more than 200,000 active duty personnel are already deployed to the Persian Gulf, and thousands of Reservists and National Guard members are on alert for mobilization or are deploying for a possible war with Iraq.

All these missions are in addition to other regular military requirements and have significantly increased the pace of operations and the stress on our forces. There have been no permanent increases in the size of the Armed Forces to meet these new requirements. Instead, our military forces are being required to work longer, harder, and smarter.

One enduring mark of the sacrifices being made in this war on terrorism by our men and women in uniform is that 67 American servicemembers have died defending the Nation, and 212 have been wounded or injured.

Untold sacrifices are being asked of the nearly 225,000 members of the National Guard and Reserve who have been mobilized for active duty since the start of the global war on terrorism. More than 174,000 of them remain on active duty, with thousands facing a second year of active duty away from their families and civilian employment.

America is able to make a substantial commitment of its citizen soldiers to this war because many of the Nation's employers, in the spirit of patriotism, are maintaining job security for those mobilized personnel and their families. Whether the members of the Armed Forces are active, Guard, or Reserve, their ability to perform their missions requires the continuing support and sacrifice of their families.

Mr. Speaker, the Nation is engaged in a global conflict that presents many new and dangerous challenges to the members of the Armed Forces. It is a conflict that will require the Nation's unflinching resolve and commitment to provide the Nation's soldiers, sailors, airmen, and Marines with the necessary resources required for victory.

In that context, this joint resolution commends and expresses the gratitude of our Nation to all members of the United States Armed Forces, whether on active duty, in the National Guard, or in the Reserves, who are fighting the global war on terrorism; also, Mr. Speaker, to the employers who maintain the job security of their mobilized National Guard and Reserve employees; and also, importantly, to the families of those servicemembers who have borne the burden of separation from their loved ones and who have staunchly supported them during this war.

The joint resolution also expresses our condolences to the families of the brave American servicemembers who have lost their lives defending our Nation in the global war on terrorism, and it reaffirms that the Congress stands united with the President in this ongoing effort to defeat terrorism.

Mr. Speaker, I strongly urge my colleagues to support this joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the chairman of the Committee on Armed Services, my friend, my colleague, the gentleman from California (Mr. HUNTER), in support of House Joint Resolution 27. This bill recognizes and commends the dedication, the selfless service, and the commitment of our Armed Forces and their families, and especially those involved with the global war on terrorism.

Our Nation is at war with terrorists who would destroy our freedoms and liberties that are the foundation of America. Those who serve on the front lines of this war on terrorism are our men and women in uniform. When our Nation calls, it is her service men and women who volunteer to be the point of the spear, protecting the Nation's interests both here in America and abroad.

Afghanistan, Bosnia, Kosovo, the Philippines, Yemen, Georgia, these are just several of the regions in which our Armed Forces are serving today. They are in over 200 countries around the world protecting the peace and training militaries in counterterrorism operations, and in searching and hunting the al Qaeda terrorists in Afghanistan. These are just a few of the important missions that our soldiers and sailors, our airmen and Marines are called upon to do each day.

The Armed Forces have always been called upon to assist those protecting us here in the homeland. From patrolling the skies above our major cities and guarding important infrastructure and facilities, like bridges and water treatment facilities, to providing assistance to Border Patrol agents, our military is there to defend us.

Many called to service are citizen soldiers, National Guardsmen and Reservists, part-time volunteers who serve when they are called. A growing number of these citizen soldiers have been called to serve on multiple deployments over the past decade. Nearly 85,000 members of the National Guard and Reserve components have been mobilized for active duty since the start of the global war on terrorism. Last Friday, there were over 120,000 Reservists and National Guardsmen who were mobilized, many on their second year of active duty; and the number continues to rise.

As a matter of fact, Mr. Speaker, Company C, the 110th Engineers of the Missouri National Guard from my hometown of Lexington, has been mobilized to guard Whiteman Air Force Base in Missouri.

Our Reserve forces cannot fulfill their service obligations without the support of their families and employers. Employers have provided support in a number of ways, such as continuing to pay the difference between civilian pay and military pay, and providing health care coverage for the families left behind.

The support of these military families, active and Reserves, is also vital to deployed troops. Military families often face months of separation from their loved ones. Stories of a child being born while a parent is deployed and precious moments like birthdays and graduations and holidays being separated from families and friends are quite common. Yet these military families endure such hardships and sacrifices so these servicemembers can continue to proudly serve our Nation.

More than 65 servicemembers have died since the global war on terrorism began, and over 200 have been wounded or injured. These 65 individuals and their families made the ultimate sacrifice for freedom. Our thoughts and our prayers are with them.

While there are no words I can find to adequately express the Nation's appreciation for their sacrifices, our sympathies and our consolation go out to these families. The Nation will not forget the price these servicemembers paid to defend our country and to defend the freedoms that we all enjoy here in the United States of America.

Mr. Speaker, it is fitting that the citizens of America recognize the dedication and commitment of those who serve in the uniformed services and their families, and I thank the gentleman for offering this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I want to thank my colleague for the sense of history and patriotism that he brings to this resolution.

Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES), the vice-chairman of the Subcommittee on Terrorism and Unconventional Warfare of the Committee on Armed Services.

Mr. HAYES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I appreciate the strong commitment and constant leadership of the chairman, and his doing everything, along with our friend, the ranking member of the Committee, to provide the resources in problem-solving for our military that they so richly deserve.

Mr. Speaker, it is only fitting and timely that we take time to honor and commend the brave individuals serving in the U.S. Armed Forces. Today, as we go about our normal, everyday business, thousands of troops are currently deployed or are already in locations across the globe to protect and safeguard the freedom and liberty we hold so dear. They are nobly answering the call of duty, separated from their families, friends, and loved ones. While putting themselves in harm's way, they seek to root out the evil that we have seen on September 11, 2001, and other terrorist acts of the past few years. Elimination of terrorism and terrorists is their mission. It is clear that they will succeed.

Mr. Speaker, just yesterday I was at Fort Bragg and Pope Air Force Base in my district in North Carolina. There I saw thousands of Reservists preparing to deploy to undisclosed locations. Even though many of the 18th Airborne Corps, the 82nd, and Special Forces have already deployed, the post was a flurry of activity with mobile food tents, additional and temporary PXes, troops sleeping at night on cots in gymnasiums, and soldiers everywhere.

As these individuals, many of whom are members of the National Guard and Reserve, prepared to deploy, morale was high and they are ready.

□ 1230

I cannot express how proud I am of them and the entire military community in Fayetteville, North Carolina for their service, selfless attitude and sacrifice.

Nearly 225,000 members of the Guard and Reserve have been mobilized. It is important to recognize the support the employers of these folks have provided in this mobilization effort. For example, the Right Gear Bicycle Shop in Concord was a two-man small business until the second of the two men were deployed. This is vitally important because of the contribution that half of the workforce of this important small business provides.

Yesterday, I and my wife, Barbara, also met with spouses to discuss the impact that mobilization has on families. The support these individuals have provided for their loved ones and the hardships that they are enduring are to be recognized and commended. When they have problems this Congress must do all that it can to solve those problems.

Mr. Speaker, the tragic events of September 11, 2001 and prosecuting the global war on terrorism has thrust our Nation's military into the spotlight and called to duty the brave men and women of the U.S. Armed Forces. U.S. citizens are rallying behind them in strong support of the harrowing mission they have been called on to perform.

While terrorists and dictators seek to weaken the American spirit, their murderous acts instead serve to unite us in a way that has not been seen in decades. The 8th District of North Carolina has long played a key role in our Nation's defense, and I am honored to be able to pay tribute to the brave soldiers, sailors, coasties and Marines in my State and across this wonderful Nation. May God protect them and their families as they fulfill their duty and may He provide them the strength to perform the mission they are called on to do. May God bless and protect our U.S. Armed Forces and the United States of America.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to join my colleagues in commending the service men and women of our Armed Services.

Mr. Speaker, I supported the resolution authorizing the President to use force if necessary to disarm the Iraqi regime. But regardless of Members' views on that resolution, we are united in our support of our troops. All of these brave men and women volunteered for duty and we have a responsibility to recognize the sacrifices that they have made to defend America's security.

My wife, Army Major General Cathy Frost, Commander of the Army Air Force Exchange Service recently visited our troops in Kuwait, Bahrain, UAE and Qatar. She shared with me the commitment of the brave young men and women on the fronts lines and their willingness to do whatever is required of them by our country. And I would also like to add a word of support for the more than 200 civilian employees of the Army Air Force Exchange Service who are operating PXs in that region in support of our service men and women.

We all sincerely hope that war in Iraq can still be avoided. However, this House is united today in sending a clear message to America's allies and adversaries alike: We stand united in support of our troops.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS) who represents Quantico Marine Base, Dahlgren Air Force Base, Fort Eustis, many other military installations and thousands and thousands of great service personnel.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I thank the chairman for his yeoman's work in supporting our men and women in the military.

Mr. Speaker, I rise today in support of House Joint Resolution 27, a resolution which expresses our support for our service members currently engaged in our global war on terrorism.

Mr. Speaker, today I say thank you to these proud men and women in our Armed Services and to their families who bravely support them back here at home.

Currently we have forces present in Afghanistan, the Philippines, Yemen and many other countries. They lay down their lives for us on a daily basis for our cherished freedoms. At this time we have over 200,000 troops serving in the Gulf region, a force which serves us, a force which protects us, a force which stands ready to implements 18 United Nations' resolutions.

Mr. Speaker, as we approach what I believe will ultimately be the H-hour for our forces, let us bear in mind the sacrifices and service which these young men and women offer our Nation.

Mr. Speaker, I thank the chairman for bringing this measure before us. May God bless our troops and may God bless the United States of America.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, with one voice we unite to thank, bless, and pray for America's sons and daughters in uniform who puts themselves in harm's way for our country. For their sacrifice, for the sacrifice of their families, no mere resolution is sufficient to express our gratitude.

In our democracy, our military is ultimately led by our elected civilian leaders and this division of power is one source of our country's strength and stability. I have no disagreement with our service men and women who obey their duties and carry out their orders. My only disagreement, my very strong disagreement, rests with President Bush over Iraq, not with those who bravely execute his commands. Last month at the Texas Capitol I spoke to 10,000 of our neighbors who joined me in seeking a solution without war.

My previous speech at that spot was to honor our veterans' service in defense of freedom, the very liberty that allows us to express our dissent. Saluting our military is not the same as saluting the civilian decisions that heighten the danger to our soldiers, while diverting the resources needed to protect Americans from genuine threats.

As we praise America's young men and women who do their duty, we in this Congress should dedicate ourselves in doing our own duty—working to bring them all safely home.

And I would add that I salute the gentleman from California (Mr. HUNTER), and the gentleman from Missouri (Mr. SKELTON) because this is the type of bipartisan resolution that rightly brings us together as Americans, instead of dividing us with inflammatory rhetoric and tearing us asunder. I hope we have more resolutions in this spirit in this House.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK) who is a veteran of the Gulf War and presently a U.S. Naval reservist.

Mr. KIRK. Mr. Speaker, I thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON) for bringing this to the floor.

All of us Americans care for our forces but many of us who still wear the uniforms knows the names of the man Americans who are deployed overseas. Six of us here in the Congress still wear the uniform regularly, and just this weekend, I served in the Pentagon.

I have a privilege to represent a congressional district, including Great Lakes Naval Training Center where 90 percent of the men and women in our fleet deployed were trained, and Ft. Sheridan, where key Army aviation and intelligence functions are administered.

We think about the Americans abroad today. Specifically we think about the Americans at CFLIK at Camp Doha, at the 5th Fleet in Manama, Bahrain, at CENTCOM Forward in Qatar, at the ONW headquarters where I served at Incirlik, Turkey, at the OSW headquarters at Prince Sultan Airbase in Saudi Arabia.

We have a special thanks for the 174,000 reservists who have been called up, citizen soldiers, sailors and airmen, serving in Operation Noble Eagle to protect us here at home, Enduring Freedom in Afghanistan and around the world, and of course for lack of a better term, Desert Storm II coming up.

But as a Navy guy, I want to give a special note of thanks to the four acres of freedom, wherever America needs and those are our carrier battle groups. I particularly want to thank the crews of the Roosevelt Battle Group, the Nimitz Battle Group, Constellation Battle Group, Truman Battle Group, and Kitty Hawk Battle Group. As we say to the young men and women, we wish you fair wind and following seas and a bravo zulu from the United States Congress.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for yielding me time.

Mr. Speaker, I am so privileged to be able to be present today in this House as we debate H.J. Res. 27. To the Chairman of the Committee on Armed Services and my very dear friend, the gentleman from Missouri (Mr. SKELTON). I thank them for bringing this forward because I am very much reminded of why I have the privilege of standing here, not of my own accord or on behalf of my own devices or talents. It is because I have defenders of freedom across the world.

This is an appropriate resolution that says recognizing and commending the continuing dedication, selfless service and commitment of members of the Armed Forces and their families during the global war on terrorism and in defense of the United States.

I thank the gentleman from California (Mr. HUNTER) who shares with me on the Committee on Homeland Security, recognizing the importance of our Armed Services.

Mr. Speaker, I visited them in Afghanistan, Kosovo, Albania and Cuba. I just visited the 75th Division of the Army Reserves in Houston as they went off to train those who will be deployed. There is no doubt that we stand united. I joined a community in Houston in a pro-America rally. Though we may have disagreed on the question of war in Iraq, we were united on the question of supporting our military troops.

I will be voting enthusiastically on supporting this resolution, and I think all of us are blessed by the fact that we live in a country in which we can pray to our God, we can speak our minds, we can teach our children, and we have the brave men and women, young men and women, our family members and our reservists on the front lines. I thank also the citizens, the civilians who are supporting us as well.

Mr. Speaker, I support H.J. Res. 27 and ask my colleagues to support it.

Mr. HUNTER. Mr. Speaker, in Vietnam, guys on the ground used to refer to the jets overhead as fast movers, and today we always wondered about the comfortable life that they lead. So I was talking to the gentleman from California (Mr. CUNNINGHAM) and the gentleman from Nevada (Mr. GIBBONS) about that very thing recently.

Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS) who piloted fast movers, that is, fighter aircraft in both Vietnam and the Gulf War, and who is a veteran of those two conflicts and a great leader in the Committee on Armed Services, and also a guy who represents Nellis Air Force Base and also the Fallon Naval Air Station.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me time. I rise today in strong support of this resolution, and I commend all of our troops at home and abroad for their efforts in the war on terrorism.

For 17 months, the men and women of Armed Forces have fought in Afghanistan, protected our homeland and done everything our Nation has asked them to do. The war on terrorism continues to produce results such as the recent arrest of Khalid Shaikh Mohammed. But yesterday's bombing in the Philippines, which claimed innocent American lives, should remind us that this war is ongoing and unfinished.

Two weeks ago, I had the privilege of meeting three heroes of this ongoing war, and I was honored to introduce them before the Nevada State Legislature.

Captain Andra Kneip, a recipient of two Distinguished Flying Crosses and her husband, Major Scott Kneip, both of them A–10 fighter pilots, exemplify the great people serving our country. I also had the honor of introducing First Lieutenant Thomas J. Cahill and his family. Lieutenant Cahill was awarded one of the Nation's highest awards, the Silver Star, for flying his helicopter into withering fire to save the lives of three United States Army soldiers on the ground. These young men and women have heard their Nation's call and have responded accordingly.

Mr. Speaker, let there be no doubt that if our troops are called again in Iraq, America can expect nothing but the greatest efforts of the greatest military in the world.

There are other heros in the war on terrorism who should also be honored for making the ultimate sacrifice in defending our Nation from terrorism.

Brave Nevadans, such as Jason Disney, Jason Bayer and Matthew Commons, along with all the other members of our military who have died defending our Nation, remind us of the treasured gift of freedom that they have bestowed upon all of us.

Mr. Speaker, it is appropriate that we commend our service members on behalf of a grateful Nation. And I know that the American people will continue to pour out their support for all of our troops. As a veteran of the Persian Gulf War, I remember and still appreciate the overwhelming support that was given to our troops and was shown by the American people. The letters, emails and packages sent a very powerful message to my comrades and me that America does care.

America supports the Guardsmen and Reservists who have put on the uniform to fight terror and protect our Nation. America supports the employers who have seen their best employees called into service. America supports the families who have watched their loved ones bravely answer the call to service. Let this resolution say to all our Nation's soldiers, sailors, Marines and airmen, America supports you.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his extraordinary leadership on behalf of the men and women in uniform in his career in Congress. And I commend the gentleman from California (Mr. HUNTER) as well, the chairman of the committee, the two of them, for bringing this resolution to the floor, which I was proud to join my colleague, the gentlewoman from California (Ms. HARMAN) in being an early co-sponsor of.

Mr. Speaker, I had the privilege of going to Whiteman Air Force Base with our distinguished colleague, the gentleman from Missouri (Mr. SKELTON) to say to the men and women in uniform there how proud we are of them, how proud we are of their patriotism, the sacrifice that they are willing to make. And this weekend I joined the gentleman from Ohio (Mr. HOBSON) and the gentleman from Pennsylvania (Mr. MURTHA) to visit our men and women in uniform in the Persian Gulf.

□ 1245

We had the privilege of representing both sides of the aisle to the young men and women there to say how proud again that we were of them and the sacrifice they were making.

All of us take pride in the many relationships we have with the military. My uncle died in the Battle of the Bulge. My family continues to be proud of the Purple Heart he received. Four of my brothers served, three in the active army, one in the reserve. So when we saw these young people there, it was bringing a lot of history to the conversation.

One young woman we met, Captain Jennifer Schulke, was the commander of the Patriot. She oversaw the Patriot missile. She is so talented, so in control of her situation, so smart, so wise, and so brave. We asked her about her life personally, and she told us that her little baby girl was going to be 2 years old on March 27. She, of course, will not be home for her daughter's birthday. Imagine the sacrifice that this young woman is making, not only with her life, possibly, but also being away from her family.

Mr. Speaker, the stories go on and on. The patriotism is endless. Wherever we stand on this war in terms of policy, we are united in our support and admiration for the men and women in uniform, for their courage, for their patriotism, and for the sacrifice they are willing to make for our country.

The Korean War Memorial has engraved on it, "Freedom is not free." No one knows that better than the men and women in uniform.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank my colleague for yielding me this time, and I rise in support of H.J. Res. 27, commending and expressing the gratitude of a grateful Nation to all members of the United States Armed Forces, and particularly the members from the State of Iowa, which has a long history of combat in every single major battle that has taken place since 1846, when Iowa became a State.

Mr. Speaker, Iowa has 16 National Guard bases simply in just the Fifth District of Iowa, and many of those men and women are off now, away from their jobs and family, making their sacrifices and meeting their commitment as they volunteer alongside our full-time members of the Armed Services.

Iowans have suffered greatly over the years in defending our freedom and our liberty. In particular, the small but mighty town of Red Oak, Iowa, which suffered the highest number of fatalities in combat in World War II on a per capita basis of any community in the United States of America. They were called together one night as a community to receive the announcement as a community that they had lost 20 members of that small community in one single battle in World War II.

That is the level of commitment that Iowa has had from all of its people in supporting our military, and we have strongly supported the members of our Armed Forces. Also, during the Civil War, our percentage of losses as a percentage of the population overall were higher than any other State in the Union.

Mr. Speaker, I wish to point out to the members of this Nation also that our President made a statement the other day in which he said there is only one person that orders our Armed forces into battle, and that is the one who hugs the widows and widowers of those who do not come back home. We also understand that is the same person who hugs the widows and widowers of those lost in the attacks on the World Trade Center, on the Pentagon, and from the crash in Pennsylvania. Mr. Speaker, while only one person orders them into battle, we all pray for their safety and their safe return.

Our Armed forces are a vanguard for freedom, and the sacrifices they give give hope to all people. There is no training and no equipment too good for our Armed Forces, and I stand here in great appreciation to Iowans and Americans who are defending our freedom and our liberty.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, I want to thank our chairman, the gentleman from California (Mr. HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for bringing this resolution to the floor.

Mr. Speaker, America's greatness is in our form of government. Our strength is the character of our people and our justice is delivered by brave men and women in the uniform of the United States. Since the Nation was attacked on September 11, Americans have bled and died, rescued countrymen, cleaned up the damage, and carried justice to our enemies in al Qaeda and their sponsors in Afghanistan. This resolution tells our men and women in uniform that this Nation is eternally grateful for their service, an important message to the troops in an atmosphere of question about the Iraqi mission.

This war has required sacrifice for many people: Our Armed Forces, including guardsmen, reserves, their families and their employers. Our citizen soldiers have undergone a serious hardship since this began, as many are beginning their second and third deployment. As we express our condolences to the families of great soldiers lost in Afghanistan and around the world, let us remember that all of our soldiers will give to this effort, and some will give their all.

I still hope that the war in Iraq can be averted, but that hope grows dimmer each day. I thank our troops for their bravery and sacrifice. We pray to God to protect our troops and to give us guidance and wisdom to do what is right.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume to, say, to the gentleman who just spoke, the gentleman from Texas (Mr. ORTIZ), that I remember the time when he and

I and other members of the committee went down to Honduras when the 82nd Airborne jumped into Honduras to stiffen the spine of the Honduran government, which had seen an invasion of the Sandinistas along their border.

I will never forget, in a national press conference, with lots of cameras, when the gentleman from Texas (Mr. ORTIZ) was asked the question, "Don't you feel any sympathy with the Sandinistas, based on your ethnicity?" The gentleman told them very simply that he was an American. And I remember him being in many, many inconvenient and difficult places to ensure that our troops were in good shape.

And let me also say, before I yield to the next speaker, and I know my great friend, the gentleman from Missouri (Mr. SKELTON) and the gentleman from Texas (Mr. ORTIZ) would agree with this strongly, that we are all very grateful to the employers. Part of this resolution is an expression of "thank you" and gratitude to all the employers in America, whether they are a six-man machine shop or a large corporation, with the accommodations that they give, that America's employers are giving to our reservists, to these citizen soldiers who drop that tool that they are using or get out from behind the wheel of that truck and put on the uniform of the United States and go off, in some cases, for an extended period of time to defend this Nation.

I can just tell my colleagues that there are lots and lots of examples of companies and small businesses which have bent over backwards to take care of those folks and make sure that that job is preserved for them, and going far beyond what is called for by the law and mandated by the law. So I just want to let them know that we really appreciate what they are doing. And I know the gentleman from Texas would agree with that, because there are lots of great employers in south Texas who have done the same thing. Are there not?

Mr. ORTIZ. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. ORTIZ. Mr. Speaker, I do agree with the chairman, and I know at least in my district we have had guardsmen and reservists being activated. They are loyal to that country and they believe in what they are doing.

And let me thank the gentleman from California for his kind words, Mr. Speaker.

Mr. HUNTER. Mr. Speaker, I greatly appreciate everything the gentleman is saying.

Mr. ORTIZ. Mr. Speaker, I thank the gentleman for his leadership. We appreciate that.

Mr. HUNTER. We will keep working.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, as the son of a marine who served during World War II in the First Division at Guadalcanal, and a brother who served in the United States Army, I rise in strong support of H.J. Res. 27, a resolution introduced by Chairman HUNTER, commending the members of the United States Armed Services.

We are all aware that we are well into the second year of operations Enduring Freedom and Noble Eagle. In addition, the United States military is deploying hundreds of thousands of troops to the Persian Gulf region. Finally, we are forward deploying additional units in the western Pacific to deter North Korean aggression. From protecting the homeland, winning the war on terrorism, to making the world safe from madmen like Saddam Hussein, the men and women of the United States Armed Services are serving this Nation well. We can all be very proud of their efforts and their sacrifice and that of their families.

I would like to also recognize the often overlooked role of the National Guard and components of the military. Tens of thousands of reservists and guardsmen from Florida are in Afghanistan and in the Middle East. I am continually impressed by these dedicated men and women who gladly go into harm's way to protect the Nation. Let us hope America recognizes our true heroes; not rock stars, not sports athletes, but the men and women who don the uniform of this great Nation who protect freedom everywhere, wherever they are called.

I want to thank Chairman HUNTER, and of course the ranking member, the gentleman from Missouri (Mr. SKELTON), for their outstanding leadership in military efforts and affairs. We are indeed proud in this House to have such capable and able people who understand what it is like to fight for this Nation; to fight in battle, to fight for freedom.

So, Mr. Speaker, I thank Chairman HUNTER for giving me this opportunity to express my heartfelt thanks and profound gratitude to our service personnel, and especially to the mothers, daughters, sons, and husbands who willingly let them go to do the hardest job imaginable, to leave family and friends and loved ones, to travel overseas to defend the honor of this great land we call home.

Mr. SKELTON. Mr. Speaker, it is my honor to yield 1½ minutes to the gentleman from Georgia (Mr. MARSHALL), who is a member of the Committee on Armed Services and also a veteran, a Ranger, from the Vietnam War.

Mr. MARSHALL. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate his introduction.

I rise today as a veteran myself to thank the men and women who are serving us today overseas. But more so, I rise today for their families. This is a very difficult time for those serving in our Armed Forces, the men and women who are in harm's way, and it is, in another sense, an even more difficult time for their families. Not only is there separation, not only is there an additional workload for the family, but there is also the worry that a loved one in harm's way will be harmed, might not come home, or, if they come home, might be injured in some way.

Mr. Speaker, all of us here in the House would ask that Americans reach out, as we did after 9–11, to the families of those who lost loved ones in that horrible tragedy. Reach out to these families whose loved ones are serving us overseas. They need just a phone call, maybe an invitation to dinner. The employers could provide maybe some flex-time, some time off for a woman to shoulder the additional load that is being placed on her by the absence of her husband. This is the way America should be responding during this time. It is a way all of us can respond, those of us here in the United States who are here today. We can support the loved ones.

While I was in Vietnam, my mother was unable to write me a single letter. She always wrote me. But she could not write me because she was so worried and did not want to think about it. Support for mothers like mine, for wives, for husbands, for daughters, brothers and sisters is something all Americans can give during this time.

Mr. Speaker, I thank those men and women in uniform for their service. I know they are doing their duty. And I also thank all of those who are loved ones here in the United States that are under extraordinary pressure at this time. All Americans should reach out to them.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER), a Gulf War veteran and former very distinguished subcommittee chairman on the House Committee on Armed Services.

Mr. BUYER. Mr. Speaker, I thank the chairman for yielding me this time, and I come to the floor as the proud son of an army sergeant, and I have a brother who is a colonel on active duty in the United States Army.

Mr. Speaker, I have served our Nation for 22 years, in war and in peace, and I think of my comrades who now find themselves once again on the desert floor. And I think not only about them, but those who also control the sky, who own the sea, who will take control of the beachheads, and also those who will build the theater of operations and those who support them Stateside and in other countries dispersed around the world.

□ 1300

I also come to the floor not only thinking of them, about also about the families that they leave behind, the loved one that keeps the watch fires burning, the children who are anxious for mom or dad to come home.

While we think of them, I want the country to focus on two individuals that are helping set the pace, and that is the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON). These are two individuals that lead the best bipartisan committee in the United States Congress; it is because of their leadership. The work that the gentlemen did after the Gulf War, all those hearings, all of their dedication to try to get the force structure right, to ensure the right munitions, to move from analog to digital, to make sure that the forces are highly mobile and very lethal, and that those munitions go downrange and hit their targets with precision, all that work the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Chairman HUNTER) did will see great dividends.

The world saw some of those dividends with regard to Afghanistan. The leadership of the gentlemen to make sure that those forces and special operations were trained and funded, believe me, it saved lives. So as today we want to pay respect and appreciation to those who find themselves in harm's way and to appreciate the sacrifice of the loved ones, I want to say thank you to the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), and the staff that work for them, because the things that they have done when nobody was watching is going to save lives not only in Afghanistan, it could be on the Horn of Africa, it could be in the deserts of Iraq once again. I cannot say enough to pay respect to both gentlemen for what they have done.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. DAVIS), a member of the Committee on Armed Services.

Mrs. DAVIS of California. Mr. Speaker, I rise in support of the resolution that I cosponsor, and I want to thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON) for it as well.

Those in military service to our Nation deserve our strong support in a time of such great uncertainty. But I would also add that their families deserve our support.

Mr. Speaker, each of us has said good-bye to a loved one headed to an airport for a business trip. Now imagine if that trip was halfway around the world and involved great risk. Imagine not knowing when they would be home. Today, more than 20,000 of our neighbors are in the Middle East. In San Diego and in communities all across the country, spouses and children will eat dinner tonight with an empty chair at the table. They will watch the news and wonder. When we talk to them, they will appear strong, and they are strong; but they need us.

I recently met with a group of Navy ombudsmen, women serving the families of those in their unit. They told me that their husbands have spent their entire careers preparing for what they face today; but they said the families must also prepare for the uncertainty for what they face, and let me tell Members, they are prepared. As we all wait and wonder, let us remember the important role of military families and reach out to them.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today as a member of the Committee on Armed Services in strong support of the Hunter-Skelton resolution commending the members of the United States Armed Forces.

Mr. Speaker, the area of Georgia I represent has a long history of involvement with the American military. Thousands of brave men and women from our area have donned the uniform of our Armed Forces to protect and defend the freedoms that we all enjoy. In the current war against terrorism, and other crucial conflicts around the world, the Eleventh Congressional District of Georgia is again providing leading support at home and abroad.

I am proud to represent Fort Benning, which has been training the world's best infantry soldiers since 1918. It is the third largest personnel post, home to 30,000 soldiers, 25,000 family members, and 6,500 civilian employees. Many of these soldiers are presently deployed in the Persian Gulf and other areas around the globe. Thousands more have received training at Fort Benning's Infantry, Ranger and Airborne Training Brigades.

In the northern part of my district, Dobbins Air Reserve Base and Naval Air Station Atlanta also contribute significant support to our current operations. As the home of the 22nd Air Wing, Dobbins has jurisdiction over thousands of activated Air Force reserves who put their personal and professional lives on hold in our Armed Forces.

Mr. Speaker, I am enormously proud of the men and women in the American military. They are in my prayers every day. I recognize the immense sacrifices that they and their families make in order to protect us, as well as the commitment they demonstrate by serving our Nation. Congress has no greater duty than to match this commitment with appropriate funding for their training, their equipment and benefits for their families. I urge my colleagues to support our brave servicemembers, not only today through this resolution, but every day they are in Congress.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. ISRAEL), a member of the Committee on Armed Services.

Mr. ISRAEL. Mr. Speaker, I am a new member of the Committee on Armed Services and very proud to be serving on that committee under the able leadership of the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member.

Mr. Speaker, last month I visited the Naval and Marine Corps Reserve Center in Amityville, New York, to bid farewell and Godspeed to the Alpha Company of the 6th Communication Battalion. They went willingly; they sacrifice selflessly; they serve proudly. I remember their faces; I remember their families' faces.

Our Nation owes them the legislation before us today, but we owe them much more than that. We must stand with them. We need to protect their jobs, protect their incomes, protect their homes, provide health care for their families while they are away, and just as important, after they return.

We cannot ask men and women who fight for our freedom abroad to fight for their veterans benefits when they return home. We cannot balance the domestic budgets on the backs of those who are willing to fight on our fronts. We have a covenant with these patriots. We have a moral contract with these soldiers. We have a national commitment to these hundreds of thousands of faceless heroes and their families. So as we stand here united in praise of our troops, let us never forget the sustained and long-term obligation we have to our regular Armed Forces, our activated Reserves and our veterans.

They are there for us, and we must be there for them. They are the ones who truly and bravely answer the philosopher's charge: "Freedom must be reinvented in every generation." God bless them. God bless America.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this story of this massive mobilization which has been undertaken is a story of people. It is a story of families and a story of close-knit communities.

We have a group of folks in Operation Home Front in San Diego, California, which is a support group, lots of businesses, lots of great folks, community leaders and lots of community servants, who have gotten together to try to build a group that will be a support group for the families and all the folks who are still at home. They have done a wonderful job.

That model was started by, I believe, Roger Hedgecock, one of our radio talk show hosts, spread throughout San Diego County. I know that idea has spread throughout the country. It is representative of this great community that does find common ground in this very important first duty and first obligation of our government, which is to ensure the security of its people.

Mr. Speaker, I think there is nothing more descriptive of the support of our uniformed personnel than a letter which was written to a Marine sergeant, Benjamin Harris, by his wife. This letter could just as easily have been written to the battlefield at Gettysburg, sent to a base camp in Vietnam, the Chosin Reservoir during Korea, or the Guadalcanal beachhead during World War II:

"My Dearest Ben, I hope this letter finds you in good spirits. As I look into our son's eyes every day, I see you. I miss you every second we're apart, but there is a reason for our separation. You've been my hero for years, now it's time for the world to see you shine.

"Finally everyone will see all that you stand for, all that you're made of: pride, honor, strength, and a faith that shames most men. Though my heart aches without, I know what my duty as a Marine's wife calls for, and so I give you to our country, to our world, 'to fight for right and freedom,' as a Marine's hymn states. I give you to the families who lost in the attacks on our country, and I give you to the rest of the world. Without men like you, people wouldn't have the freedom to sit down to dinner with their families, to tuck their children into bed at night knowing that they'll be safe. I understand the pain of separation is temporary. If I must give up the sound of your laughter for the sound of my tears, so be it. The sound of my tears then will give me strength as your laughter once did. They are tears of loneliness, anger and fear, but also of pride and love. You are the air I breathe, and while I am lost without you, I know you'll be home soon to find me. God speed, and God bless. Your loving wife, Erica."

Mr. Speaker, that is the story of mobilizations that took place in the last century, that left 619,000 Americans dead on battlefields around the world. That is the story of the American mobilizations which have given freedom to hundreds of millions of people in this world, and which shortly may give freedom to millions more; and it cannot be done without the sacrifices that are manifested in thousands of letters, hundreds of thousands of letters like the one I just read.

To all my colleagues who contributed to this resolution, I want to thank them and thank my great partner in rebuilding our national defense, the gentleman from Missouri (Mr. SKELTON).

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a distinct honor to serve with the chairman, a veteran himself, who knows so well what we are honoring here today; and I thank the gentleman for his efforts and for his dedication and leadership.

Mr. Speaker, I yield 1½ minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member, for their outstanding leadership and services rendered not only to our country, but especially on matters pertaining to defense.

Mr. Speaker, at the most crucial time in our Nation's history, we are faced with the likely prospect of putting our men and women in uniform in harm's way. This is a serious and solemn responsibility not only for our President but also for the Congress of the United States.

Recently, I had the privilege of visiting the Demilitarized Zone between North and South Korea, along with the gentleman from North Dakota (Mr. POMEROY) and the gentleman from Florida (Mr. FEENEY), and certainly I would like to express our appreciation to General Leon LaPorte who is in charge of some 37,000 of our troops who are stationed there in Korea. I would also like to thank Dr. Edward Feulner, the president of Heritage Foundation, for allowing us to visit the leaders of South Korea. I am deeply aware of the important decisions these leaders have to make in the coming weeks and months.

It was my privilege also to visit my own constituents who are also stationed in Korea including Sergeant Major Special Forces Tui Nua, and 15 other members of my constituents who are on active duty. I especially thank Ambassador Seung Youn Kim for the hospitality and courtesies that he extended by allowing me and my constituents who are serving on active duty in Korea to work together and to enjoy each other's company.

Mr. Speaker, I urge my colleagues to support this most fitting resolution.

□ 1315

The SPEAKER pro tempore (Mr. OSE). The gentleman from California (Mr. HUNTER) has 1 minute remaining and the gentleman from Missouri (Mr. SKELTON) has 12 minutes remaining.

Mr. HUNTER. Mr. Speaker, I would like to ask unanimous consent and with the consent of my great colleague the gentleman from Missouri (Mr. SKELTON) that we might take one of his minutes and thereby be able to yield 2 minutes to our closing speaker, the chairman of the Subcommittee on Total Force, the gentleman from New York (Mr. MCHUGH).

Mr. SKELTON. Mr. Speaker, that is quite all right. We do yield such minute.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. HUNTER) will control 1 additional minute.

There was no objection.

Mr. HUNTER. What we might do if it is okay with the gentleman from Missouri, perhaps he can continue with his speakers and then we will wrap up with the gentleman from New York as we get close to the end.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, first of all, we are very proud of the service of the chairman and ranking member. As I was coming over here, ironically, and I see the gentleman from Georgia (Mr. COLLINS) is here, I got a call from a constituent who thanked me. I did not get a chance to talk with her. I have to call her back. Thanking the five of us who went to central Asia and to the Middle East and the flags we brought to our troops and the greetings from our President and the entire Congress, thanking us for providing a flag to her husband. I am anxious to call her back.

Congresswoman, we are proud of you as well. This was a sobering experience. It was elevating by every stretch of the imagination to be with the troops in the field.

Some may disagree with policy on this floor, but this is America, and we are allowed to do that. The troops understand that there is a difference in debating policy and supporting their efforts. We are 100 percent behind our troops and they know that and we know that as proud Americans. So God bless this country, regardless if you are in Camp Doha, if you are in Coyote, or if you are in New York or New Jersey, if you are in Camp Ganci, named after that great fire chief from New York City, we are here 100 percent in support of you. God bless this great country.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Speaker, I am a new member of the Committee on Armed Services. I would like to recognize the gentleman from California (Mr. HUNTER), our chairman, and the gentleman from Missouri (Mr. SKELTON), our ranking member.

On September 11, 2001, I was acting Governor of Guam. I will remember that day forever. Even though the terrorist attacks occurred thousands of miles away, the people of Guam heard the call to service in defense of our Nation. The 44th Aerial Port Squadron of Guam mobilized to the Middle East and the 368th Military Police Company of Guam has been deployed to Okinawa and mainland Japan. Our first responders, the National Guard, the Reserves and the active duty military are defending this Nation against those that attack innocent civilians.

Our troops are forgoing their families and, in some cases, their livelihoods to combat this threat. So I want to thank them very much for carrying the burden of separation and living with the fear of loss of their loved ones in service of our great Nation. This is a war that cannot be won by force of arms alone, but by the unity and strength of purpose of our Nation. That strength of purpose shines bright in our servicemen and women and they will deliver victory. They do us all proud. I commend them and thank them for their ongoing successful mission defending the homeland and on the front lines of freedom throughout the world.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, my congressional district lies a long way from the World Trade Center and the Pentagon, but on September 11 all of America was a victim of this deadly and unprovoked attack. The next day, my office was inundated with calls from young men and women ready to enlist in our Armed Forces to serve in the war against terrorism. Now almost 18 months later, these seasoned soldiers and sailors are on the front line of terrorism, having already served in places like Afghanistan, the Philippines and in the Horn of Africa. I salute their courage and selfless dedication.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. I thank my colleague from Missouri for yielding me this time.

Mr. Speaker, one of the first acts I did as a Congressman was to expedite the citizenship of a young man, Mano Catchatoorian, who is in the 416th Engineer Command, so he could ship out with his unit to Kuwait on February 24. I cannot think of a better thing than an individual who wanted to become a citizen and move out with his unit so he can join our forces but, most importantly, to be part of his Nation.

I want us all to think about what we are doing today, because we are supporting our troops, we are supporting their families, and we are supporting our communities that will be missing the Little League coaches, the folks who work at the boys clubs, the girls clubs, the Boy Scouts. This is an appropriate thing, because Mano, before he left, he called me the next day, thanked me for what we did to expedite his citizenship. He said to me, "just do me one favor. Don't forget us." I cannot think of a more just act than what we are doing today, regardless of our party, regardless of where we come from, not to forget them.

Although we will vote in this resolution to support our troops, later on tonight I would like us all to put them and their families in our prayers.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to add my strong support to the joint resolution of both my colleagues, Chairman HUNTER and also Ranking Member SKELTON. I think not only myself, but all of us have the highest respect for our young men and women, and they deserve our sincerest gratitude, for the Armed Forces in our country do not make foreign policy, they fulfill the tasks that our democracy puts to them with skill and honor.

In my hometown of Houston and throughout Texas, many active duty personnel have been shipped overseas and Reserve and National Guard units are also being called up. The Houston-based 75th Army Training and Support Division has been completely mobilized for the first time since World War II. Just yesterday, the 17,000 strong 1st Cavalry Division based in Fort Hood, Texas, got the call to ship out overseas.

These men and women are not allowed to tell where they are heading or what this mobilization will lead to, but this is a life they volunteered for. The war on terrorism requires sacrifices for many, but the military is always on the front lines defending our national security. After September 11, the work required of our military has greatly expanded, and I believe they are up to the task.

Again, Mr. Speaker, I would like to tell our Armed Forces that our hearts and minds and prayers are with them.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I want to thank Chairman HUNTER and Ranking Member SKELTON for bringing this resolution to honor the men and women who are serving. I happen to represent in my district Fort Bragg and Polk, the two bases that are called the 911 posts in this country. Thousands of those men and women are now stationed around the world.

But in addition to what has been said, let me talk about a group of young folks who have not been spoken about today and that is the children of these men and women that have been deployed. They watch TV every night. They hear the stories. Our school personnel deal with them every day. They deserve our help each and every day. They deserve that we do the right thing as we honor the men and women who are serving. As we start our appropriations processes later, we have the obligation to make sure that the children of these men and women are taken care of, because they face some difficult times and our school personnel deal with them on a daily basis with many of the traumas that they face.

Mr. Speaker, I thank the gentlemen for the resolution and encourage it to my colleagues.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I will be brief because no words can adequately express the debt of gratitude we owe our servicemen and women and their families for the sacrifices they make on behalf of our country. But I do want to commend the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for sponsoring this important resolution showing our deep respect for our servicemen and women.

I would add one footnote. I hope we will show them our respect with our deeds and not just with our words and vote on this resolution. I am still bothered by the fact that the budget proposal suggests a cut in Impact Aid military education funding to the children of moms and dads who, as we speak, from my district and others, are being deployed over to the Iraqi theater. With the leadership of these two great supporters of our military families and others on both sides of the aisle, I hope we will support them with this vote today and with our dollars and with our votes on actions that support their quality of life.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

A number of years ago, I had the opportunity to go down to Norfolk Naval Base and watch the USS *Theodore Roosevelt* deploy for its 6-month deployment. There I saw the greatness of America aboard ship as the sailors would wave and also on the dock as the families, the husbands, the wives and the children, they also were and are part of the greatness of America.

Today we see the same scene, of all services, different colored uniforms, those who leave, the men and women being deployed, and of the families waving and saying good-bye, to the children who will not have their mother or their father who are in uniform with them for their birthday, for their graduation. This, of course, is a sacrifice of the military families.

We should remember that the young men and young women in uniform, their families, children, spouses, really form a backbone of greatness in our country. The gentleman from California (Mr. HUNTER), my friend, the chairman of our committee, a veteran himself, we thank him for his leadership on this resolution as well as his leadership on the Committee on Armed Services. To all the Americans who are sharing in this worldwide global battle against terrorism, we wish them well.

Mr. Speaker, I yield back the balance of my time.

Mr. HUNTER. Mr. Speaker, with great thanks and respect for my colleague the gentleman from Missouri (Mr. SKELTON), I yield the balance of my time to the gentleman from New York (Mr. MCHUGH) who is the chairman of the Subcommittee on Total

Force on Armed Services which has jurisdiction over all those important issues with respect to pay and bonuses and housing and the melding of our Reserve forces and our Guard forces and our active forces together, the guy who cares about over a million men and women in uniform.

Mr. MCHUGH. I thank the chairman for yielding, and I deeply appreciate the ranking member for yielding me some time as well.

Mr. Speaker, it would be impossible for me to even begin to equal the eloquence of my colleagues who have spoken with such passion and such meaning over these past minutes with respect to the subject of this resolution. Our debt of gratitude certainly, as has been said time and time again, goes to the tremendous bipartisan leadership of two special individuals, two men in whom I hold so much admiration, the chairman the gentleman from California (Mr. HUNTER) and, of course, the ranking member the gentleman from Missouri (Mr. SKELTON).

This resolution in my mind, Mr. Speaker, would be warranted on any day of the week in any year you might choose. It is obviously particularly important now as we see the demands that we place upon these brave men and women increasingly grow each and every day.

□ 1330

I too have had a chance to witness these incredible sacrifices. I had the honor just a few weeks ago to travel with a number of my colleagues throughout the European theater, meeting with the Reservists and Guardists and the active component and talked to the folks who too often we forget about, too often we take for granted and do not understand the sacrifices that they leave behind.

The resolution speaks to it very eloquently: the hundreds upon hundreds of people already having given of their lives and by being wounded in combat, the dozens and dozens who have given their lives in its fullest measure, from the loss of life through the battle on terrorism, and yet never with a regret, never with anything more than pride and tears from their families. I think that this resolution, more than any others I have seen in many weeks on this floor, deserves the unanimous support of all of our colleagues; and I would certainly urge each and every one of the Members of this House to support it promptly here today.

Mr. Speaker, I rise in strong support of this joint resolution and commend Chairman HUNTER and Rep. SKELTON for bringing it to the floor.

Ever since the attack on the United States on September 11, 2001, the soldiers, sailors, airmen and marines of the U.S. military—be they active, National Guard, or reserve volunteers—have willingly gone into harm's way to carry out many courageous and successful operations against terrorism that have helped to make us at home safer and more secure.

Threescore or more of our military people have died, and hundreds have been wounded or injured so far in this Global War on Terrorism, but all remain committed to seeing the mission through to the end.

The fight against terrorism has added new missions to our Armed Forces that even prior to September 11th were greatly challenged. The 10th Mountain Division from Fort Drum in my district is a case in point. The deployment of division troops to the combat zone in Afghanistan had been matched by deployments of division units to Bosnia, Kosovo and the Sinai, as well as to homeland defense missions in the United States. As one 10th Division officer told the media: "We like to say the sun never sets on the 10th Mountain Division patch. We are literally all over the map."

During the 10th Mountain Division's deployment to Afghanistan, soldiers such as Staff Sergeant David A. Hruban, Staff Sergeant Randel Perez, Specialist Mark T. Henry, and Sergeant James Rissler of the Division's 1st Battalion, 87th Infantry, distinguished themselves in battle. Specialist Wayne Stanton, also of the Division's 1st Battalion, 87th Infantry, was wounded in the same battle and reenlisted just last week, one year after being wounded, knowing full well that he may soon be redeployed to a combat zone. The heroism of these brave soldiers embodies the commitment and sacrifice of our military personnel.

The ability of our military personnel to sustain the war is closely related to the willingness of their families, and in the case of reservists their employers, to continue making sacrifices. This resolution is an effort to recognize and acknowledge that sacrifice.

Finally, Mr. Speaker, as we approach a possible war with Iraq, the Nation is about to ask our Armed Forces and their families for additional sacrifices. It is thus only right that all members support this joint resolution expressing our gratitude to those who are fighting for us, and reaffirming that Congress stands united with the President in the ongoing effort to defeat global terrorism.

Mr. ETHERIDGE. Mr. Speaker, I rise in strong support of this resolution to commend the members of the United States armed forces.

As a veteran of the United States Army, I know firsthand the contributions our military service personnel make in defense of our nation and the tremendous burden their families are forced to bear. Here in the U.S. House, I serve on the Army Caucus, and I work on a bipartisan basis to support our men and women in uniform. Our service personnel are dedicated, professional and devoted to duty. Congress must stand up for these brave men and women who risk their lives to defend our country, our ideals and our interests around the world.

I have the honor of representing the men and women of Fort Bragg and Pope Air Force Base. Fort Bragg is truly our nation's "911" base because when America is in trouble, our leaders pick up the phone and call Fort Bragg. The mission at Fort Bragg is to maintain the XVIII Airborne Corps as a strategic crisis response force, manned and trained to deploy rapidly by air, sea and land anywhere in the world, prepared to fight upon arrival and win. Co-located with Fort Bragg, Pope Air Force Base provides a unique synergy and has played a leading role in the development of U.S. tactics and air-power throughout history. Missions at Pope range from providing airlift and close air support to American armed forces to humanitarian missions flown all over the world. The men and women from these installations, their families and the entire community on a daily basis contribute whatever is asked of them for our country's safety and security.

Mr. Speaker, as America stands on the brink of war, hundreds of thousands of our military personnel have been deployed abroad. They need to know that Congress stands behind them, and this resolution is an appropriate expression of our support. I urge my colleagues to join me in passing this resolution.

Mr. MILLER of Florida. Mr. Speaker, it is my pleasure to join with my colleagues in commending the continued dedication, selfless service, and commitment of members of the Armed Forces and their families during the Globar War on Terrorism and in defense of the United States.

It's difficult to comprehend that nearly 225,000 members of the National Guard and Reserve components have been mobilized for active duty since the start of the Global War on Terrorism. Of that number, more than 166,000 remain on active duty, with thousands facing a second year of active duty away from families and civilian employment.

Additionally, more than 200,000 active-duty personnel have already been deployed to the Persian Gulf theater and thousands of Reservists and National Guard members have been alerted for mobilization or are deploying for a possible war with Iraq. These men and women are on the front lines of our war on terrorism and anywhere else we have asked them to be. One place they are not, is home. They are missing baseball games, soccer matches and all the other creature comforts we tend to take for granted.

A year is a long time to be away from home and a long time to be wondering what is next. For many of our service members, that year grew by an additional three months, then six months and some are now standing at 2-year deployments. They do so with loyalty and dedication.

Mr. Speaker, during the January work period, I had the opportunity to visit our men and women in uniform stationed in Germany, Italy and France. I was struck by their professionalism and commitment to their assigned duties. They are proud to serve. Simple as that. Of course they miss their families, they miss their home and some miss decent television programming. But they are proud to serve and know they will be home soon enough.

We can never say thanks enough to these men and women but I appreciate the opportunity to thanks today.

Mr. EVANS. Mr. Speaker, I would like to commend the young men and women of our nation and my district who risk their lives daily to protect our nation from global terrorist networks wishing to do us harm. Our men and women in uniform's selfless dedication embodies the spirit of America. I believe the extraordinary commitment of everday Americans to root out fanatics bent on destroying our way of life will make us successful in the war on terrorism.

This is the first war in our nation's history where we face an enemy that solely targets innocent civilians, regardless of their age, religion, race, or background. And when the call of duty went out to mobilize against this enemy, thousands enlisted and re-enlisted to fight this global threat.

A week after the attacks on America, a 40 year old constituent in my district called me begging to join the war on terrorism. He is a 40 year old married farmer and was willing to forsake his home and career to serve in the U.S. Army. And as you know, there are no "leaves of absence" when you farm. He was willing to give up his farm and accept a temporary separation from his wife to serve in our nation's armed forces. As you can imagine, he called me and wanted assistance in joining because the U.S. Army prohibits enlistments beyond 35 years of age and conforming to this policy he was denied enlistment. But, I commend his unusual, but not uncommon, willingness to serve our nation.

In my position as the Ranking Democratic Member of the House's Veteran's Affairs Committee, I have had numerous veterans approach me and personally volunteer to serve and fight in the war against these terrorists. Veterans as old as 85 have told me they would be willing to join the war on terrorism if their country ever called on them.

While those of us in Congress may differ on how best to deal with Iraq and North Korea, we stand absolutely united on the war on global terrorism and our support for our troops. And as the senior Democrat on the House's Veteran's Affairs Committee, I will do my part to ensure that when these troops return home they are entitled to the protections and benefits guaranteed to every veteran. Their selfless sacrifice and long absence from home must be rewarded. Just as we stand vigilant against any further terrorist acts we must stand together to protect the entitlements and benefits that protect the members of our armed services when they return home.

Mrs. MCCARTHY of New York. Mr. Speaker, the tragic events of September 11th changed our world forever. Engaged in a war, different from any other in our nation's history, we are once again calling upon the brave members of the U.S. Armed Forces to defend democracy and freedom. At this time, during our war on terrorism, I want to commend every member of our U.S. Armed Forces.

While we all desire peace, when war cannot be avoided, our U.S. Armed Forces put their lives on the line, with some paying the ultimate sacrifice. To all those who wear the uniform we honor and thank you. It is also important to thank and commend the family members of our Armed Services. Through love and support they enable our forces to embark on their difficult battle while trying to maintain their life without their loved ones next to them.

The war on terrorism has just begun. On the frontlines, in America and around the world, are the brave men and women of the U.S. Armed Forces. They are protecting our rights and freedoms, and for this I thank them.

Mr. SPRATT. Mr. Speaker, I offer my wholehearted support today for H.J. Res 27, which recognizes and commends the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families in the war on global terrorism and in defense of the United States in the Persian Gulf and elsewhere.

This measure is a simple gesture, but I hope it will convey the profound gratitude we feel for the service provided by our men and women in uniform. Since I was elected to Congress 20 years ago, I have represented Shaw Air Force Base in Sumter, South Carolina, which provides nearly 40 percent of the Air Force capability to "Suppress Enemy Air Defenses." Like most Members, I also represent hundreds of men and women in the National Guard and Reserves, who are contributing to this nation's defense now more than ever before. So I know firsthand of the dedication we recognize today.

To all of you I offer this message. Your dedication to the defense of America, your willingness to go in harm's way, our unparalleled capabilities, and your unequaled bravery warrant our highest praise and deepest appreciation. Wherever you are serving, I extend a hearfelt "thank you." Indeed, we should all thank God that there are such Americans willing to go anywhere and pay the price of defending freedom and the security of this country.

Mr. KIND. Mr. Speaker, I rise today in support of this resolution honoring our brave men and women of the armed services. Their duty and sacrifice are appreciated by all Americans, and it is right that we pay recognition to them today.

The post September 11th world demands increased vigilance on the part of our armed services. With these increased demands, the role of the National Guard is critical in providing the total force necessary to ensure our security. Over the past month, I have met with many National Guard and Reserve members from western Wisconsin who have been called up for service in the global war against terrorism.

Recently, I attended send-off ceremonies in Prairie Du Chien, Platteville, and Richland Center, Wisconsin for units of the Wisconsin National Guard that have been called to duty. These men and women and their families are answering the call of their country, even though some have been given very limited notice by the Department of Defense. In one instance, the time between alert and mobilization was only 2 days, making it increasingly difficult to make arrangements regarding family and work obligations. Every member of the Wisconsin National Guard, however, has reported enthusiastically and without hesitation. They are well-trained, well-motivated and, in short, very impressive individuals. Our country is fortunate to have the quality of individuals in our Armed Forces.

I want to particularly express my appreciation to the members and families of the 229th Engineer Company out of Prairie Du Chien and Platteville, the 829th Engineer Detachment out of Richland Center, and the 1158th Transportation Company with members from Tomah and Black River Falls. These units have been activated and are likely to be deployed overseas.

Over 2,200 members of the Wisconsin Air and Army National Guard are serving on Active Duty. The people of western Wisconsin are proud of their service and the service of all the men and women of our armed services during this important time in our Nation's history. Our appreciation also goes out to the families of these service members for their support and sacrifice during these challenging times.

The American people and the Congress of the United States stand behind our armed service members, and we know they will be successful in their mission.

Mr. CASTLE. Mr. Speaker, I want to thank Congressman HUNTER and Congressman SKELTON for introducing this important resolution. Now more than ever it is time to recognize and commend all our members of our armed forces for the excellent job they have done, and will continue to do in the war against terrorism.

As the situation in Iraq continues to develop, it is expected that by mid-March more than 250,000 brave American men and women military personnel will have been deployed to the Persian Gulf region. We currently have troops in all of the Persian Gulf states except for Yemen. In addition, tens of thousands of dedicated National Guard personnel and reserve employees have been called to active duty. While it is not yet known where all of these men and women will be deployed, it is known that they are a key component in the overall force structure.

While the recent focus has and will continue to be on Iraq, it is important to remember that our U.S. armed forces are serving admirably all over the world, and more and more is continually asked of them. Members of the armed forces have been serving for the past seventeen months in the ongoing operations to root out terrorism, and their continued work in Afghanistan, South Korea and other hot spots are just part of their service. Whether providing vital counter-narcotics assistance, training the militaries of other nations in counterterrorism measures or serving the United States at home, our men and women have made sacrifices that go beyond the call of normal duty.

In conclusion, as we move forward in this war against terrorism, let us remember those who have served us in the past, those who have lost their lives while protecting our nation, and the sacrifices the families of military personnel have made. All members of the U.S. Armed Services, in my State of Delaware and around the world, must be recognized for their outstanding and courageous service in these uncertain times. With passage of this resolution today, we express the gratitude of our Nation.

Mr. ROYCE. Mr. Speaker, I rise in support of the resolution. Not too long ago, I returned from Afghanistan, and other Central Asian countries, where I met with our troops on the front lines of Operation Enduring Freedom.

Mr. Speaker, Americans can be very proud of the men and women serving our country in Central Asia. They are true professionals, doing their jobs in very difficult conditions. Troops we met with were in good spirits and morale is high. Yes, our soldiers want to come home—several told me how they miss their wife and kids—but above all they want to finish their mission.

In the coming weeks, U.S. forces may be asked to face combat in the Middle East. No one wants war. If military conflict does come, you can be sure that we have the very best serving our country. They are the latest in a long line of men and women who have served our country with distinction, and to whom we owe our freedom.

The SPEAKER pro tempore (Mr. OSE). Pursuant to the order of the House of Tuesday, March 4, 2003, the joint resolution is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

H.R. 743, de novo;

H.R. 1047, by the yeas and nays;

House Joint Resolution 27, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, I wanted to be clear on H.R. 743. Does the Chair have us for a record vote? If not, I will ask for a record vote at this time.

The SPEAKER pro tempore. The Chair will put the question de novo.

SOCIAL SECURITY PROTECTION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 743, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and pass the bill, H.R. 743, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DOGGETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 180, not voting 5, as follows:

[Roll No. 44]

YEAS—249

Abercrombie
Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Eshoo
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Manzullo
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—180

Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Biggert
Bishop (GA)
Blumenauer
Bonilla
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burgess
Burns
Capps
Cardoza
Carson (IN)
Carter
Case
Clay
Clyburn
Combest
Conyers
Costello
Cramer
Crowley
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Granger
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hensarling
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kingston
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lynch
Majette
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McDermott
McGovern
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Solis
Spratt
Stark
Stenholm
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Thornberry
Towns
Turner (TX)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Gephardt
Snyder
Stupak
Sweeney
Terry

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). The Chair wishes to remind Members that there are 2 minutes remaining in this vote.

□ 1355

Messrs. ISRAEL, SHERMAN, SCHIFF, MOLLOHAN, WAXMAN, HONDA, KINGSTON, VAN HOLLEN, CARDOZA and COSTELLO, Ms. MAJETTE, Ms. LOFGREN, Mrs. BIGGERT, Ms. BERKLEY, Mrs. TAUSCHER, Ms. LORETTA SANCHEZ of California, Ms. GRANGER and Ms.

MILLENDER-McDONALD changed their vote from "yea" to "nay."

Messrs. JOHNSON of Illinois, BERRY, FLETCHER, CARSON of Oklahoma and MEEHAN changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the remainder of votes in this series will be conducted as 5 minute votes.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1047.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. CRANE) that the House suspend the rules and pass the bill, H.R. 1047, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 11, not voting 8, as follows:

[Roll No. 45]

YEAS—415

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Aderholt
Capuano
Clyburn
Goode
Jones (NC)
McDermott
Oberstar
Obey
Sanders
Taylor (MS)
Taylor (NC)

NOT VOTING—8

Blunt
Franks (AZ)
Gephardt
Lynch
Snyder
Stupak
Sweeney
Terry

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). The Chair wishes to remind Members there are 2 minutes left in this vote.

☐ 1403

Mr. TAYLOR of Mississippi changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMENDING MEMBERS OF UNITED STATES ARMED FORCES AND THEIR FAMILIES FOR SELFLESS SERVICE DURING GLOBAL WAR ON TERRORISM

The SPEAKER pro tempore. The pending business is the question of the passage of the joint resolution, H.J. Res. 27, on which further proceedings were postponed earlier today.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 46]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings

Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Blunt
Fletcher
Gephardt
Snyder
Stupak
Sweeney
Terry
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair reminds Members there are 2 minutes left in this vote.

□ 1409

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERIODIC REPORT ON TELECOMMUNICATIONS PAYMENTS MADE TO CUBA PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. 6004(e)(6), I transmit herewith a semiannual report prepared by my Administration detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 5, 2003.*

COMMUNICATION FROM ASSOCIATE ADMINISTRATOR, OFFICE OF CHIEF ADMINISTRATIVE OFFICER

The SPEAKER pro tempore laid before the House the following communication from Kathy A. Wyszynski, Associate Administrator, Office of Chief Administrative Officer:

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, February 26, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that the House Payroll Office has been served with a civil subpoena for documents issued by the Superior Court for San Francisco, County, California.

After consulting with the Office of General Counsel, I have determined to comply with the subpoena.

Sincerely,

KATHY. A. WYSZYNSKI,
Associate Administrator.

CORRECTION OF APPOINTMENT OF MEMBER TO SELECT COMMITTEE ON HOMELAND SECURITY

The SPEAKER pro tempore. Pursuant to section 4 of House Resolution 5, 108th Congress, and the order of the House of January 8, 2003, the Chair announces the correction of the Speaker's appointment of the following Member of the House to the Select Committee on Homeland Security:

Mr. SHAYS of Connecticut, to rank after Mr. WELDON of Pennsylvania.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXPRESSING OPPOSITION TO WAR PENDING IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Mr. Speaker, I came to the House floor because I felt that I needed to come down here and speak before this body about my opposition to the war that seems to be pending in Iraq.

I come to the floor today to say that war is not inevitable; that this great Nation, whose power and hegemony is not disputed, can assert its leadership without the terrible destruction of a preemptive all-out war.

I come to the floor today to pay tribute to the millions and millions of everyday people all around the world, including throughout the United States, who have expressed so clearly their conviction that a U.S.-led invasion of Iraq is not the answer.

I come to pay tribute to the city of Chicago, one of about 100 U.S. cities whose elected leaders, responding to their citizens, voted "no" to a preemptive war. In Chicago it was by a vote of 46 to 1.

We are on the brink of the first war in history started by the United States against a country that has not threatened violence against the United States. We are on the brink of implementing a new policy of preemptive war, and ushering in not a new world order but a world of unprecedented disorder.

Let us examine the facts: Iraq is led by a tyrannical dictator, one who may have, who probably has, chemical and biological weapons; one who violates human rights and oppresses his people; the same tyrannical dictator, by the way, who was our ally in the 1980s when Iraq was at war with Iran; the same dictator to whom we sent chemical and biological materials in the eighties; the same dictator who we now charge with using chemical and biological weapons, but at the time, the United States refused to support a U.N. resolution condemning Iraq.

□ 1415

The same Saddam who was in place in 1998 when the Haliburton Company, led by Vice President DICK CHENEY, was doing business in Iraq. The same dictator that has onerous characteristics that can be applied to many other countries, many of which we call ally, friends and coalition partner. And can be applied to countries like North Korea and Iran, who pose an even greater danger to the United States.

So why Iraq and why now? I stand here today as a patriot and particularly resentful, not only for myself, but all of my constituents who oppose this war because we deeply love this country. But we believe that this war fails to meet the threshold test. Will it make us citizens and residents of the United States safer? Will it make the Middle East, and of particular concern to me, Israel, safer? Will it make the world safer?

I say the answer is, and I feel in my heart, a resounding no.

The Central Intelligence Agency reports that Saddam is likely to use chemical and biological weapons only if we attack. Saddam and Iraq had nothing to do with September 11, or at the time, Osama bin Laden, despite desperate attempts by this administration to link them. But an attack on Iraq now could meld an unlikely coalition of terrorist organizations and fundamental Muslim organizations that will be a real threat to the United States and other countries around the globe.

Most importantly, we have real options to disarm Saddam Hussein. The way this debate has been shaped is you are either for all-out war, or you are for nothing and that could not be further from the truth.

Saddam Hussein must be disarmed and no one disagrees with that. And we have a structure for doing that. The United Nations was set up for that, is ready to do that and with the mighty leadership that the United States could exert, can do an even better job to make sure that Saddam Hussein who has, in fact, been violating resolutions, will comply now with disarmament. We can be part of a large and growing coalition of civilized nations who says that in this 21st century, where the technology allows for chemical and biological and even nuclear weapons to proliferate around the globe, and it will be hard given this century and this knowledge to stop that, unless we have a coalition of civilized nations that will surround and isolate rogue states and rogue nations.

We should lead in developing that coalition. We do not have to go to war now. I say no war on behalf of my constituents and to this Congress.

DANGER OF UNILATERAL ACTION AGAINST IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, President Bush continues to strongly suggest that America will go to war against Iraq without the support of the United Nations or a significant number of our traditional European allies. Following his lead, many Americans, as well as media commentators, have become critical of the United Nations and the member nations of the Security Council that have expressed opposition to U.S. military action at this time.

My concern, Mr. Speaker, is that the United States is needlessly losing the world opinion war with dangerous implications for the real war against Iraq or, even worse, for the larger war against terrorism.

I voted against the congressional resolution that authorized unilateral U.S. military action against Iraq in part because of my fear that President Bush would have less incentive to create the type of world coalition that was so successful in the Gulf War. We tend to forget that the Gulf War was successful in many ways beyond the mere fact that the U.S. liberated Kuwait. The coalition of support meant that many countries provided manpower, money, and the political support that made U.S. actions justified in world opinions, even in Muslim countries.

The situation, Mr. Speaker, we now face with Iraq is very different. The logistics to carry out the war may suffer from the inability to utilize bases or air flight over countries that were previously supportive in the Gulf War.

The cost of the war will be borne almost entirely by the United States. President Bush has not included the costs, estimated from 50- to $200 billion in his budget. And this does not even include the cost to rebuild Iraq. It also does not include assistance that other countries are demanding. For example, Turkey, which has asked for an aid package in the tens of billions.

My greater concern, Mr. Speaker, is whether the lack of support by other countries stiffens the resolve of the Iraqis to fight and makes it more difficult for U.S. forces to conduct the war or alternatively encourage the fundamentalist forces that perceive American action as anti-Muslim and, therefore, accelerate terrorist attacks against the United States.

I keep asking why the Bush administration feels it is necessary to adopt the rhetoric of unilateral action given the perils that might accompany it. Why do the President and his advisors insist that they do not need the United Nations and our traditional allies even while they pursue resolutions in the Security Council and try to convince other countries to support us.

It often seems that their rhetoric makes it all the more difficult to achieve the world coalition that was so successful in the Gulf War.

Mr. Speaker, it is crucial that in the next few days and the next few weeks, the Bush administration make every effort to achieve the support of the United Nations as well as the key countries such as France, Germany, Russia and China that have voiced U.S. opposition to U.S. policy in Iraq. The President can best accomplish this goal if he makes it clear that a world coalition is crucial to the United States.

Mr. Speaker, I hope that we can avoid a war altogether by working within the Security Council to successfully disarm Iraq. I still hope that that can be accomplished. But absent that, the President must work a lot harder to build a world coalition to support a war if it is going to take place and avoid the political perils of unilateral military action.

BIRCH BAYH FEDERAL BUILDING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, I rise today to introduce, along with my colleague, the gentleman from Indiana (Mr. HILL) legislation naming the Federal Courthouse located at 46 East Ohio Street, Indianapolis, as the Birch Bayh Federal Building and United States Courthouse.

Birch Bayh was born on January 22, 1928, in Terre Haute, Indiana. He is a graduate of Purdue. He holds a BS degree in agriculture and a JD degree from Indiana University School of Law. He is married to the former Katherine "Kitty" Halpin and is the father of two sons, Evan and Christopher.

Senator Bayh began his political career at age 26 when he was elected to the Indiana House of Representatives in 1954. He served as Speaker and 4 years as Democratic floor leader. Senator Bayh's career in the United States

Senate from 1962 to 1980 is distinguished by his expertise in constitutional law.

As chairman of the Subcommittee on the Constitution of the Senate, Senator Bayh successfully authored and ushered two amendments to the Constitution, the 25th on presidential and vice presidential section, and the 26th amendment lowering the age from 21 to 18 years of age to enable people the right to vote.

No lawmaker since the Founding Fathers has authored two amendments successfully to the United States Constitution.

Senator Bayh wrote landmark legislation on behalf of women and minorities. He authored Title IX to the Higher Education Act providing equal opportunities for women, students and faculty. He was an architect of the Juvenile Justice Act to separate juvenile offenders from the adult prison populations. He played an integral and important role in the passage of the 1964 Civil Rights Acts and the 1965 Voting Rights Act.

I believe this is the first time, Mr. Speaker, that we have had two Members, father and son, that served so prestigiously in the United States Senate. Senator Birch Bayh, for whom this building would be named, is the proud father of Senator EVAN BAYH, who now serves with distinction in the United States Senate. This is House bill 1082, and I would encourage unanimous support, Mr. Speaker.

CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for 5 minutes.

Mr. BEAUPREZ. Mr. Speaker, I yield a portion of my time to my colleague from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I would ask that there are two issues that weaken the Democrats' chance in the White House. One is victory in Iraq. The second is the economy. You will see them stand up here and demagog all day long. I would ask my colleagues on the other side, where were they during Haiti, a hell hole today? Where were they in Somalia and where they denied armor and they depicted Black Hawk Down? Where were they in Iraq four times when President Clinton went in there, or the Sudan, Bosnia, Kosovo and 147 other deployments?

Mr. BEAUPREZ. Mr. Speaker, I rise to call attention of the Members of this House of what has been called the most significant conservation project of our time, the Continental Divide National Scenic Trail.

The idea of a 31,000-mile trail stretching across 5 western States from our northern border with Canada, southward to Mexico, came into being in 1978 through congressional designation. For many of the same reasons national parks are established, national scenic trails are created to conserve the nationally significant scenic, historic, natural and cultural qualities of critical areas.

In 1995, a group of dedicated citizens founded the Continental Divide Trail Alliance to coordinate and gain support for the completion and protection of this king of all trails. Within 2 years, the first border-to-border inventory of the trail conditions was completed. Alliances were forged with the U.S. Forest Service, the Bureau of Land Management, the National Park Service and the equivalent State and local agencies to plan and schedule trail development projects.

To date, through efforts of the CDTA, over 300 miles of new trail was built and opened to the public. Over 1,200 miles of existing trail has been improved or rerouted and hundreds of acres of land acquired or donated for the trail's route.

Through enormous effort by the CDTA, the trail is on track for completion and dedication in 2008, the 20th anniversary of its congressional designation.

Mr. Speaker, the vision of our predecessors in this body to create the Continental Divide National Scenic Trail in 1978, combined with the dedication and passionate commitment of the CDTA represents the very best of public-private partnerships.

Through governmental enabling legislation and regulation combined with private sector financial support and considerable sweat equity, an enormously grand conservation initiative is within a stone's throw of completion. Strategies incorporated by the CDTA over the last 7 years include local constituent involvement in public lands decision-making process, private sector financial support for Federal government initiatives, volunteerism and youths corps and conservation stewardship all found in the USA Freedom Corps and the President's Health and Fitness Initiative.

Mr. Speaker, I ask that the record of this House of Representatives include this acknowledgment and compliments to the members of Continental Divide Trail Alliance. May they achieve their 2008 completion objective and may they have our collective gratitude for a job well done, knowing their efforts will preserve a national treasure for generations to come.

HONORING BIRCH BAYH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

Mr. HILL. Mr. Speaker, a couple of years ago, I was having dinner with my good friend from New York (Mr. WEINER) and he posed the question, who was more influential in the country, Justices of the Supreme Court or United States Senators. I remarked that I have thought United States Senators, to his surprise, and probably to the surprise of some Members in this body.

But I say that because it was my Senator, my former Senator, Senator Birch Bayh, who did some astonishing and good things for the United States. One of the things that he did was push through Title IX, which afforded women and children all across this country the opportunity to compete as men compete in athletics and other curricular activities. I had a particular interest in Title IX myself, being the father of three daughters who were given the opportunity to play soccer, volleyball and other outside activities, the same as men.

□ 1430

Today, my good friend, the gentlewoman from Indiana (Ms. CARSON), introduced a bill to rename the Federal courthouse and government building in Indianapolis after the former Senator.

From his humble beginnings in Terre Haute to his 18 years of service in the United States Senate, Birch Bayh remains one of the most respected and beloved Hoosiers of all time.

He is the first person since the Founding Fathers to offer two amendments to the Constitution of the United States, amendments 25 and 26. His accomplishments are a point of pride for Indiana.

I mentioned title IX. His years since his Senate service have been marked by his championing of numerous social causes, including his advocacy for senior citizens, the handicapped, women, and minorities.

I am proud to support the dedication of a Federal building in Indianapolis in our State's capital. It is important and appropriate that this Congress honor the service and commitment Senator Bayh gave to Hoosier constituents and the institution of the United States Congress.

BUSH FOREIGN POLICY IS ISOLATING AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, before this war starts, we should recognize that the Bush administration foreign policy toward the Middle East and central Asia is leading America down a dangerous, dark alley globally. It is isolating America in the world even further.

Even before the Bush administration took office, America had a growing problem there related to the unresolved Arab-Palestinian conflict as well as our addiction to the import of Middle East oil from which the profits prop up repressive regimes.

This chart shows the dramatic increase in deaths among U.S. diplomats in service to our country overseas. Most of them are in the Middle East and central Asia and most in the Middle East. It is very interesting. Here were the Beirut bombings in 1983 at our embassy, the Kenya bombings. This chart does not include now the millions of people that have been affected and the thousands of Americans here at home who lost their lives on 9–11, as well as diplomats like Lawrence Foley who recently was assassinated in Jordan or the soldiers who recently lost their lives in Kuwait.

In 2 years, Bush's programs have reduced America's standing in the world, plummeting even more than before. The conduct of the Bush administration foreign policy is costing America friends across the world. Even our oldest and staunchest allies in the cause of freedom are turning away from us.

Our neighbors, Canada and Mexico, are increasingly at odds with this administration's foreign policy goals. The Bush administration cannot buy the loyalty of the people of Turkey. We offered billions of dollars in grants and loans, and we sold out more textile workers in North and South Carolina by saying the Turkish textiles could be used in U.S. military uniforms to lure their support, but the Turkish parliament has refused to be a rubber stamp for the government and rejected the request to allow U.S. troops to use Turkey as a staging base.

Why? It is not Colin Powell's fault necessarily. We should look at the fact that about 95 percent of the people of Turkey oppose this administration's war with Iraq.

Henry Luce called the 20th century the American Century, but USA Today says the 21st century might be known as the anti-American century. USA Today this week had a huge article talking about how Americans traveling abroad are now being treated. One traveler told USA Today he carries a lighter emblazoned with an American flag. On recent overseas trips, he says he had been turned down when he offered someone a light and they see the flag on his lighter.

In Britain, 67 percent of the public opposes a war against Iraq without specific backing from the United Nations Security Council. Americans are being told by USA Today, do not patronize U.S. franchise restaurants abroad.

In Germany, 86 percent of the people are opposed to a military attack against Iraq; and in Russia, at least 91 percent of the people oppose a war against Iraq. It is widely recognized that support for the United States has never been lower in South Korea. Around the world, public opinion has shifted against this country.

A former national security adviser's brigadier general said in the New York Times yesterday, America's standing in the world has never been lower since 1945. We are losing the battles for the hearts and minds of the people of the world.

For a White House that follows polling results as closely as the Bush White House, these numbers are staggering. The problem is not President Chirac of France or Chancellor Schroeder of Germany. These have been America's most historic and dependable democratic allies. The problem is that the Bush administration has simply failed to convince the people of the world that a preemptive strike against Iraq is justified.

Meanwhile, here at home, energy prices are going up. Gasoline is over $2 a gallon in California and rising across America, and the last four recessions have been caused by rising oil prices. Just be smart enough to connect the dots.

It is time for the United States to put all that money that we are spending abroad right here at home to create energy independence, and it is time for us to get back to the bargaining table with Israel and the Palestinian authorities to put peace in that region and every single bit of energy that we have toward that end.

Today, we had a magnificent outpouring of support against the war from the poet laureates of America, and I choose to read one of the 13,000 poems that they presented to us by Mr. Stanley Kunitz, a 97-year-old poet from New York City, who said, "When they shall paint our sockets gray and light us like a stinking fuse, remember that we once could say, yesterday we had a world to lose."

EXPRESSING SYMPATHY FOR VICTIMS OF BUS BOMBING IN ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, it is with saddened heart that I rise today to express my deepest sympathies to the families of the victims of today's bombing in Haifa, Israel. Every time a candle of hope and light is put out by one of these criminals, we as leaders must stand up and say, no more, you will not succeed in terrorizing us. We, as a moral people, will not tolerate the victimization of innocent lives.

Less than 2 years ago, our veil of protection from terrorism was lifted when we experienced the worst attack ever in U.S. history. Since then we have been further linked not only to Israel but with every other nation that has ever been subject to this crime against humanity.

Despite the intention of these terrorists, we have not cowered in the corner or run from the fight. Instead, it has strengthened our global resolve to stop these acts once and for all, no matter where the criminals lie, including Iraq.

The President's position on Iraq is clear and direct, with the moral and legal authority behind him. For years Iraq has sponsored terrorism both directly and indirectly, and it is time the spotlight must shine on this issue: and it must come to an end.

With our efforts to remove Saddam Hussein from power, the Middle East may have a chance to achieve something that they have not had for centuries, stability and peace.

Whether our fight is alone or with others from around the world, the United States will ensure the safety of its people both here and abroad.

Again, Mr. Speaker, my heart goes out to the victims and their families of today's attack in Israel. The only consolation that I can give them is that they are not alone in their time of grief or in their fight for survival. We, the people of the United States, have stood and will continue to stand with our friend Israel.

God bless the United States of America.

IN MEMORY OF MR. JOHN LONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HAYES) is recognized for 5 minutes.

Mr. HAYES. Mr. Speaker, earlier this year the 8th Congressional District of North Carolina lost one of its strongest advocates, Mr. John Long, the editor and publisher of the Weekly Post in Stanley County.

John Long was the epitome of a newspaperman who cared deeply about his local community, whether that local community be the city of Chicago or the city of Locust, North Carolina. Sadly, my friend John Long recently passed away.

John grew up in Florida and attended college at Clemson University before taking a job with the Christian Science Monitor, working in their Boston and Chicago bureau. John started as a copy boy but soon became the youngest reporter to ever work for the Monitor. He traveled all over our great country in search of stories.

In 1972 he returned to the South and spent time as an editorial writer with The Charlotte News. He has been the editor and publisher of The Weekly Post since its inception.

John's articles and columns were widely read and widely respected in Stanley County. As a matter of fact, I would gladly trade a week of national TV interviews for a good mention in one of John's articles.

John had a reputation for always doing the right thing in all of his pursuits in life. His time at the newspaper was no different. He was a stickler for accuracy and doing the right thing during his newspaper career.

John passed away on a Tuesday, the day they put the paper together, and therefore, the busiest day of the week at The Weekly Post. I am going to miss John, and I know that Stanley County is going to miss John and miss reading his weekly insights.

He is survived by his loving wife of 39 years, Pat; three sons, John A. Long, III of Monroe, Matt Long of Raleigh, and Tim Long of Charlotte; daughters Elizabeth Vettorel of Charlotte and Laura Long of Charlotte; four grandchildren; and brother Michael Long of Atlanta. My heartfelt condolences go out to his family for their loss and the community's loss.

Though we all felt a bit selfish, I know I speak for a lot of us in the community when I say that after the initial shock of hearing the bad news we all wondered if The Weekly Post was going to continue. I am pleased to note that his wife, Pat, and daughter Laura have pledged to continue publishing. I commend them for their hard work and continued dedication to Stanley County.

While his presence in Stanley County will be missed, John's legacy will remain with us forever.

AIR CARGO SECURITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, I rise today to introduce the Air Cargo Security Act, a bill to strengthen air cargo security on all commercial flights by closing existing air cargo security loopholes. This bill is the companion to legislation introduced by Senators HUTCHISON and FEINSTEIN.

Since September 11, we have worked diligently as a Nation to improve the safety of our commercial air travel, dramatically increasing the security requirements for passengers on airliners. Yet on those same aircraft, there remain glaring gaps in air cargo security, according to a 2002 GAO report. Nearly one-quarter of all air cargo is transported on passenger aircraft, typically filling the hull of each passenger plane. Yet only a fraction of that cargo is ever inspected.

According to the GAO, air cargo is vulnerable to tampering at multiple points during land transportation and at air cargo handling facilities. First, there are lax processes for verifying the identification of air cargo handlers and conducting criminal background checks. Second, the Known Shippers Freight Forwarding program does not have sufficient safeguards in place to adequately protect against cargo tampering; and most important, nearly all cargo shipped by passenger plane is never screened.

The Air Cargo Security Act would require the Transportation Security Agency to resolve these deficiencies in air cargo security through several key mechanisms. First, it requires the TSA to develop a strategic plan to screen, inspect, and otherwise ensure the security of all cargo transported through the Nation's air transportation system.

It also imposes measures that would require the TSA to increase inspections of air cargo shippers and their facilities and to work with foreign countries to conduct regular inspections at facilities transporting air cargo to the United States.

This bill requires TSA to establish an industry-wide pilot program database of known shippers of cargo that is shipped in passenger aircraft and to conduct random inspection of freight forwarder facilities. The Secretary would be required to suspend or revoke the certificate of noncompliant freight forwarders.

Under this act, the TSA retains tremendous flexibility in developing a program to inspect and screen air cargo in which it can select from a wide range of technological and operational options to enhance security. These measures, ranging from low- to high-tech, include using bomb-sniffing dogs, installing more cameras in cargo areas, screening air cargo for explosives, securing cargo with high-tech seals, or using cargo tracking systems or industry-wide computer profiling systems.

☐ 1445

By using a combination of these techniques, TSA will be able to design and implement an effective system to ensure the security of our air cargo. Aviation security is a bipartisan issue that directly affects all Americans. Aviation is only as safe from terrorism as its most vulnerable component and that component is now the cargo. Strengthening air cargo security is vital to ensuring passenger security.

I want to thank my Senate colleagues for their leadership on this issue, and to the cosponsors of this legislation in the House, the gentleman from Colorado (Mr. MCINNIS), the gentleman from Hawaii (Mr. CASE), and the gentleman from Texas (Mr. BELL), and I urge my colleagues to support the Air Cargo Security Act of 2003.

IN MEMORY AND HONOR OF CHRIS AND BOB EGGLE

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, I rise today to introduce two homeland heroes. They are Robert Eggle and his late son, Chris.

Chris was a brilliant young park ranger in the Organ Pipes Cactus National Park in Arizona when he was brutally murdered by an illegal alien who had crossed into the United States after committing two murders in Mexico. Chris was in the front lines on a battlefield we pay far too little attention to. He gave his life in service to the country, and certainly deserves the designation as homeland hero.

But I want to introduce another homeland hero, and that is Chris's father, Bob, the gentleman here in this picture to my left. Mr. Eggle is an incredible individual with whom I had the opportunity to spend some time in Arizona just a couple of weeks ago. He has become an incredibly articulate spokesman for the cause of homeland security. He understands fully that that security begins with the security of our border.

Mr. Eggle and several others, as well as Members of the House, including the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Arizona (Mr. SHADEGG) endured the trip to the very spot in Organ Pipe Cactus National Park where his son was killed. And I say "endured the trip" because, as anyone can imagine, this was a difficult undertaking for anyone, especially the father of the murdered victim. But Mr. Eggle's stoic character was a true inspiration for all of us who were with him that day. He was an inspiration as we traveled to the spot where his son was killed. He was an inspiration as we stood and he led us in silent prayer for his son.

Mr. Eggle does not, understandably, does not want his son's death to be forgotten by this Nation. He wants to make it an example for others. He wants people to understand that there are many folks on the border like Chris, who put themselves in harm's way every day to try to protect those borders. But he also recognizes that we are in sort of a halfhearted war on those borders because we really do not fully support the men and women who we send to defend them.

Chris was not trained to deal with terrorists. Chris was not trained to deal with people coming across that border with AK-47s and carrying tons of drugs and all the things we know go on along that southern border. It is, in fact, a war zone. If anybody does not believe that, they should go to Cochese County and spend some time there, spend some time with the rangers, spend some time with Mr. Eggle.

Mr. Eggle stated recently, "I gave an eye for one war, now I have given my son in another. What is our President going to do about the war on our borders?" This is an excellent question, Mr. Eggle. It is one that should be asked not just of the President of the United States, but of all the Members of this body, because we have essentially abandoned Mr. Eggle. We have abandoned the people who live along the border to the ravages of what I believe can be called nothing less than an invasion. Their homes are being destroyed. Their families are being destroyed. Their lives are being destroyed.

Chris Eggle's life was taken. Bob Eggle lives to tell us the tale and to help and to ask us to remember. That is the least we can do for Mr. Eggle, a true homeland hero.

WAR IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, millions of Americans have grave concern about this administration's policy in Iraq, and I am one of them. Several of us have come to the floor today to express those concerns. But before I do so, I would like to relate a story from this past Monday when I went to the deployment of the United States Navy's frigate, the U.S.S. *Rodney Davis*, where I saw off a group of what looked like awfully young sailors to the potential war zone.

Mr. Speaker, I went there to tell those proud sailors something that there is unanimity about in America. I went to tell them that no matter what people in America think of the policy in Iraq, every single American is proud of our men and women in the military service. I wanted to tell them that because the very freedoms that many Americans have been exercising in various places across this country in the last few weeks are the freedoms that our service personnel protect, and the freedom of speech to dissent against our government's policies would not exist without the courage and dedication of our men and women in uniform.

So I told them that all Americans of every stripe, short, tall, east, west, Democrat, Republican, that during their mission, our prayers would be with them and our support would be with them in every way shape and form.

But I thought it important to come back and think about the policy in Iraq real hard, Mr. Speaker, because these were young men. Mostly men. There were some women. A mother came up and she was bawling, and she said, about her son, the sailor, "He's just a boy. He's just a boy." He had only been out of bootcamp for just 2 weeks. Upon reflection, I thought to myself that it is old men like us who send young men to combat, and so we should think real hard about it.

With that in mind, I want to pose some questions that millions of Americans to the President before he launches this war in Iraq.

Number one. Why should America abandon its long-term bipartisan belief that we should work with the international community in a multilateral effort at security in favor of an internationally nonsanctioned preemptive attack on another nation? Why are we compelled to break with this long tradition, that has been embraced by Americans, that civilized countries need to work together to stop aggression for mutual security rather than to open the door to war so that every country that is aggrieved can start another war against another one?

Why should we give Pakistan the sanction to attack India without international sanction? Why should we give the sanction for any country to attack another country absent imminent threat without international sanction? And why should our President tell the United Nations that they can just stick it in their ear and that America is going to start a war anyway?

That is a question that the President has not adequately answered to date and that needs an answer before a war starts.

Frankly, it is a little troublesome that our President has said that he respects the United Nations; that he wants the United Nations to be effective; that he wants the United Nations to work together, but tells the United Nations it does not matter a fig what the United Nations thinks, because America is going to start a war anyway. This has not helped to build multilateral international support for the greatest country in the world, which is the United States of America. And we need that question answered before a war starts.

Second question. How many billions of dollars of taxpayer money are being used to buy votes for this war? We have heard of tens of billions of dollars for Turkey. Now we hear the administration trying to buy votes around the world for this war. We need to know how many billions of dollars of taxpayer money are going to buy these votes.

And the reason I say that is that unfortunately, and I think it is most unfortunate, if this war starts, it will not be a coalition of the willing. The international community will look at it more as a coalition of the bribed. And that is not something our country needs to be proud of. We need to be proud, and we are proud, of our men and women in uniform, but this is not a message to be sending internationally.

Third question: After months and months and months of inquiry by Americans across the country, where is the compelling evidence that Iraq was behind the September 11 attack on this country? We have asked. We have searched. We have given the benefit of the doubt to the administration in every way we could, and that evidence has been wholly lacking.

Fourth: Why abandon inspections right in the middle of this effort? Why abandon something that is making progress? Why abandon the process that is destroying these missiles? And, lastly, why create a chaotic situation in Iraq that can be a breeding ground for the al-Qaeda to regroup, like is happening right now in northern Iraq under our northern fly zone.

No, we should keep this tyrant, this thug in his tight little box and we should work with the international community to keep him there. Mr. Speaker, I hope that no war starts until those answers are in to the American people.

PRESIDENT BUSH'S JOBS AND GROWTH PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today in strong support of President Bush's plan to grow the economy, create jobs, and provide meaningful tax relief to hardworking Americans.

In these troubling times, some critics across the aisle believe that the answer to our Nation's problems is to take a greater slice of family income pie. President Bush and I, instead, want to grow the size of that pie by growing the economy. When economic growth occurs, businesses generate greater profits, more people go to work, they earn better wages, and they have greater opportunities. To encourage individuals and families to risk their time and to risk their savings on that new software idea, that transmission repair company, that hamburger stand, that new enterprise, Mr. Speaker, they need tax relief. They need permanent tax relief. And the President's plan does just that.

We have historical evidence that tax relief works. It is not just faith, it is evidence. Each time our Nation has significantly reduced income tax rates, economic growth has followed. When President Reagan lowered rates in the 1980s, it fostered economic growth averaging 3.2 percent a year, and Federal revenues actually increased, I repeat, increased by 20 percent. When President Kennedy lowered tax rates in the 1960s, we had several years of real economic growth of 5 percent. And the same is true of tax relief during the 1920s, where economic growth averaged 4.3 percent.

History has shown us that tax relief can spur economic growth and can allow hardworking American families to keep more of what they earn and increase government revenues.

Now, Mr. Speaker, some say that tax relief is too expensive. But in fact, under a worst-case scenario, if the President's plan generates no economic growth at all, the package would account for only 5 percent of the $2.2 trillion budget proposed for next year. Yet as many of my colleagues from across the aisle decry deficits and tax relief on the one hand, they are the first to demand more Federal spending on the other. Instead of focusing on the 5 percent of the budget that constitutes tax relief, perhaps we should all focus on the 95 percent which constitutes Federal spending, much of which is pure waste and duplication.

Today, we have nearly twice as much inflation-adjusted Federal spending per family than when I was born. Do we really need that much Federal Government? And over this same period, inflation-adjusted Federal spending has grown seven times faster than our family budgets. Is it any wonder that our family tax burdens are near an all-time high? A middle income American family can now pay up to 40 percent of their income in Federal, State, and local taxes. That is not tax fairness.

The President's economic program is tax fairness because it provides tax relief to taxpayers, especially middle income Americans.

□ 1500

Mr. Speaker, 46 million married couples would keep over $1,700 of what they earned, enough to pay two mortgage payments. Now that is a housing program. Thirty-four million families with children would keep an additional $1,500, enough to purchase a new personal computer for their children. That is an education program. Six million single women with children would keep $541, which could purchase a month of day-care. That is a child care program.

Middle-income families would also receive additional relief from accelerated reduction of the marriage penalty, a faster increase in the child care tax credit, and immediate implementation of the new, lower 10 percent tax bracket.

To boost investor confidence and encourage investment, the President's plan also eliminates the unfair double taxation on dividends. The elimination of this unfair double taxation on dividends is expected to produce a one-time increase in equity values of up to 5 percent, at a time when we desperately need to increase stock values and consumer confidence.

Mr. Speaker, about half of all dividend income goes to our seniors who often rely on those checks for a steady source of retirement income.

Mr. Speaker, we cannot tax, spend, or sue our way into prosperity. We can only grow our way into prosperity. I strongly encourage Members to support the President's jobs and growth plan.

BOMBS AND BULLETS WILL NOT WIN WAR ON TERROR

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I am here to share the opposition of my constituents to a war in Iraq. The folks I work for understand that the war on terror cannot be won with bombs and bullets, that we can fight with bombs and bullets, but that will not end terror, nor will this approach ensure the safety of Americans. Only a strategy of multilateralism, humanitarian aid and development can win the war on terror. Only a strategy that preempts new terror attacks without creating new terrorists can win the war on terror. Bombs, bullets, and war are not the solution to terrorism. My constituents understand this.

The gentlewoman from Ohio (Ms. KAPTUR) has been coordinating with an organization called Poets Against the War. This organization has been collecting poems written by Americans around the country. Their poems reflect their concerns about current U.S. policy toward the war against terror and Iraq.

Today it is my honor to share a poem that was written by one of my constituents, Elizabeth Barret, an 83-year-old woman from Mill Valley, California. She wrote a poem called "Peace."

"I will listen to my heart. I know that I need to open my heart to God. The prospect of war makes me cry out for peace. Where are all the mothers and children? Where are all the men whose hearts have been hurt? Do they not know that they were at one time children too?

"The world needs peace. We have become very small. We need to love each other more than ever. Who will help the world? The women and children will save the world."

Mrs. Barret eloquently makes the key point that we should measure every single decision this House makes by its affect on our Nation's children. She understands that an invasion of Iraq will inspire a new generation of terrorists to threaten our children.

Instead of following this path of destruction, we can work to contain Iraq and concentrate on destroying al Qaeda. That is what is best for our children. One of those children, 15-year-old Carina from San Rafael, California, wrote this poem. It is called "Lady Paz."

"I imagine there are jungles inside her if not under her fertile skins, what hope? I know it is our vampire wishes that leech life from this stolen soil our scrawled, thoughtless messages that degrade such indelible bark.

"I can see her relief so clearly, the dark impressions of her liquid eye casting cacophonous shadows across our curve of hazy planet.

"Give us your real hand, the one where sap pulses warm and whose clasp is meaty and sharp through sun's dream-tricks whose brown fingers don't leave us abandoned and guessing.

"Will you take us, our legs streaked in ash, our misconceptions bending and bending, the fissures in earth's crust growing deeper, the molten rock bubbling up like blood? Oh, peace, you must be a tainted lady. A tainted lady to tame us screaming so."

Mr. Speaker, Carina understands that violence is not the way to peace. She understands that we can start a war in Iraq and destroy Baghdad from the air. And she understands that after sending our soldiers and their soldiers to the grave, we can win a war in Iraq, but that will not win the war on terrorism.

The only way to win the one war that matters, the war on terrorism, is to bolster crumbling societies, support economic development and end support for undemocratic regimes. Let us do the right thing for ourselves and for our children. These children, 25 percent of our population, are 100 percent of the future of this Nation.

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Massachusetts (Mr. TIERNEY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

TROOPS IN IRAQ WILL ONCE AGAIN BE EXPOSED TO DEADLY CHEMICALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I am here to talk on behalf of three doctors and myself. I was a physician during the Vietnam War. I was in Long Beach. I saw the troops coming back from the Vietnam War, and I saw what the war did to them. I also have been in government since then and have seen how our government for many years denied that Agent Orange had any effect whatsoever on the troops.

In 1984 we settled a claim for all of the problems created by Agent Orange, which we finally admitted. Now we have a case before the Supreme Court at this very time where they are trying to reopen that claim on behalf of people who are suffering even 40 years after the war.

It is for that reason that I raise the issue today of depleted uranium in Iraq. I was there. I was in Iraq in 1991, and I was there again this year; and the evidence is overwhelming of the impact of what Iraq has suffered from depleted uranium and what we, the United States, are about to suffer.

Dr. Al-Ali said that before the Gulf War they had only three or four deaths a month from cancer. Now it is 30 to 35 patients dying every month, and that is just in his department. That is a 12-fold increase, 1,200 percent increase in cancer mortality. Studies indicate that 40 to 48 percent of the population in that area will get cancer in 5 years. That is almost half the population.

A woman doctor, Dr. Ginan Hassen, said, "I studied what happened in Hiroshima. It is almost exactly the same here. We have an increased percentage of congenital malformaties, an increase of malignancy, leukemia, brain tumors, and the rest." Under the economic sanctions imposed by the United Nations Security Council, now in its 14th year, Iraq is denied the equipment and expertise to decontaminate its battlefields from the 1991 Gulf War.

These are two Iraqi doctors talking. Let me quote an American doctor, Dr. Doug Rokke, who was appointed by Norman Schwarzkopf to go in as a part of the decontamination team and clean up what we did. We dumped 300 tons of munitions with depleted uranium in this area that he was sent in to clean up. He says: "I have 5,000 times the recommended level of radiation in my body. Most of my team are now dead." Eighteen out of 24 people, American soldiers sent in to clean that up, are now dead.

Dr. Rokke says, "We face an issue to be confronted by the people in the West, those with a sense of right and wrong." First, a decision by the United States and Britain to use weapons of mass destruction, depleted uranium. When a tank fired a shell, each round contains 4,500 grams of solid uranium. What happened to the Gulf was a form of nuclear war. That was 1991. We are about to do it again. People are talking about 3,000 missiles into Baghdad in the first day and 3,000 on the second day, all with depleted uranium on the point. Why is that used? Because it is so penetrating, when it explodes, it creates a white dust, uranium oxide, and people walk around, it gets in their lungs and reproductive organs. Children died. That is where those figures come from for the children. That is why we have so many malformations at birth among Iraqi women. It is to the point today where Iraqi women say, Is my child normal?

Mr. Speaker, we did that once to them, and we are about to do it again. We are about to do it again, and we are about to do to our own troops, hundreds of thousands of them, what we did to Doug Rokke. Dr. Rokke marched in there and did his duty. I am here talking for the veterans of our country and for the women and men who are on the line for us out there. I do not want them sent into that.

We are going to march troops right through the very place where this happened to the Iraqi people. Will our government admit what they are doing? No. They will not talk about what is going on with depleted uranium.

Here is the issue. The Secretary of VA, Mr. Principi, remember the Bush administration, writes a letter to the Department of Defense and says please do preservice evaluations on all of the men and women so we can look at, when it is over, what the difference is.

How can we send 300,000 American people into war that kills Iraqis left, right and center with impugnity? This is an unjust war. There are many reasons to be against this war; but this reason, the soldiers and Marines and sailors of the United States are the major reason we should not be doing it. We are exposing our own people to something that we will not admit we are doing.

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MOURNING THE PASSING OF WAUKEGAN POLICE CHIEF MIGUEL JUAREZ

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to give sad news to the House, that we have lost the police chief of Waukegan, Illinois, Miguel Juarez, last night in a tragic heart attack. Miguel Juarez led the police department in the largest city in my congressional district, he was the highest ranking Latino official in our city, and he was my friend. Miguel Juarez at age 50 passed away and completed a distinguished career.

Miguel was born in Chihuahua, Mexico, and came to the United States at the age of 1. He joined the U.S. Marines and served our country with distinction in Japan, Norway and Denmark and finished as a decorated veteran at Fort Sheridan in my congressional district. In 1979, he joined the Waukegan Police Force as a police officer, rising through the ranks continuously, until he became our chief of police in May 2001. But that only understates Miguel's contribution to our community. Miguel was a member of 22 different community organizations in our town.

I extend the House's profound condolences to Miguel's wife, Rosa, and his four children. Miguel was a unique man who spoke not just English and Spanish, but also Japanese. He was fully qualified as a SWAT team member, he taught gang awareness, and he accompanied me recently on a drug raid at a house in South Waukegan where I saw the professionalism and bravery of the team that he built under him. I want to extend my profound sorrow to the entire Waukegan municipal team.

In the language of his original country, I would like to say, Espero que tienes un buen viaje, Miguel, mi Amigo. Tenemos muchas lagrimas en Waukegan esta noche. It says, I hope you have a good trip, Miguel, my friend, and we are extending many tears in Waukegan this night.

Miguel Juarez, a leader, a Latino, my friend. We lost him last night. We will miss him greatly. The House should mark that time.

THE IRAQI CONFLICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, to provide for the common defense of our Nation is a constitutional duty here in Congress, and we have no responsibility more serious than to look after the security of the people of America, and to do it in a way that honors and protects the men and women who defend our security. We certainly recognize their courage, their sacrifice and their patriotism.

I am concerned that the American-led war upon which we are about to launch, followed by an American military occupation, would make Americans here at home less secure, not more. With that in mind, I would like to refer to a resolution introduced by the gentleman from Ohio (Mr. BROWN) and cosponsored by a number of others of us. The joint resolution has a number of whereas clauses, including that whereas Saddam Hussein is a repressive dictator who has demonstrated through his own actions, including the invasion of Kuwait and the oppression of the Iraqi people, that it is necessary for the international community to ensure his conduct is in accordance with international law.

And whereas on September 12, 2002, President Bush committed the United States to "work with the United Nations Security Council to meet our common challenge", posed by Iraq and to, "work for the necessary resolutions" while also making clear that, "the Security Council resolutions will be enforced and that the just demands of peace and security will be met or action will be unavoidable;" . . .

And whereas Congress recognizes the efforts of the President to obtain unanimous approval for United Nations Security Council resolution 1441 which affords Iraq, "a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council."

And following various other whereas clauses, we call upon the President to report to Congress prior to using U.S. Armed Forces against Iraq pursuant to section 3(a) of the Authorization for the Use of Military Force, to report on the following:

1. A determination that further diplomatic and other peaceful means will not adequately protect the national security of the United States against the threat posed by Iraq. In other words, that war is, indeed, a last resort.

2. A full accounting of the implications, both positive and negative, of initiating military action against Iraq in regard to homeland security, the war on terrorism, regional stability in the Middle East, the Middle East peace process, and the proliferation of weapons of mass destruction. In other words, to understand the implications that an invasion of Iraq would have for our other international interests, including the combat against terrorism and the regional stability in the Middle East.

3. The steps the United States and its allies will take to ensure that any and all weapons of mass destruction and the related knowledge base will be safeguarded from dispersal to other rogue states and international terrorist organizations. In other words, to see that the risk of use of weapons of mass destruction would actually be reduced, not increased, by an invasion of Iraq. As an aside, I might comment, the serious problem that is created by our lowering the threshold for the use of nuclear weapons in that area.

4. The United States' plan for achieving long-term social, economic and political stabilization of a post-conflict Iraq, including a plan to provide humanitarian assistance to the Iraqi people and to ensure respect of their human rights as well as bringing to justice the individuals responsible for serious violations of international humanitarian and human rights law committed in Iraq.

5. The nature and extent of the international support for military action against Iraq and the impact of military action against Iraq on allied support for the broader war on terrorism. In other words, it is not just a matter of "you're either with us or against us" but how does this help us work together to accomplish our goals around the world now and in the future.

6. The steps the United States and its allies will take to protect United States soldiers, allied forces and Iraqi civilians from any known or suspected environmental hazards, associated with battlefield agents.

7. An estimate of the full costs including humanitarian aid in light of possible refugee flows, reconstructing Iraq, and securing political stability in the region, and

8. The anticipated short and long-term effects of military action on the economy and the Federal budget.

We end by saying it is the sense of Congress that the report required by subsection (a) should be delivered by the President in the form of a public address to a joint session of Congress. I think with this kind of report, that is satisfactory on all these points, our men and women in uniform will have everything they need to defend the security of the American people. Without such a report I must conclude that it is at least premature, or more likely contrary to our national interest, the fight against terrorism, to our ability to lead the world, to launch a military attack against Iraq now.

NOMINATION OF MIGUEL ESTRADA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 60 minutes as the designee of the minority leader.

Mr. RODRIGUEZ. Mr. Speaker, one of the reasons why we decided to come over this afternoon is again to talk a little bit about the Miguel Estrada case that is before the Senate. One of the concerns that we had was in terms of the fact that he had been nonresponsive in terms of the questions.

Let me first of all start by thanking the Senate for doing the right thing and, that is, deciding not to support the nomination of Miguel Estrada. We take, at least as elected officials, a very important role in making sure that when we are asked to support a letter——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Member that any reference to Senators' positions or statements is not in order.

Mr. RODRIGUEZ. Thank you very much, Mr. Speaker, I will make every attempt not to do that. Thank you.

One of the things that as elected officials, we take pride in doing, letters of support to constituents, letters of support for individuals to certain positions, and we want to make sure that, as elected officials, when we do a letter of support, that we know the nominee, that we know who that person is. We ask for documentation in some cases. I do not write letters for anyone unless I know the person personally, because I know full well as an elected official, one of the first things I was told, Mr. Speaker, and I know you probably have experienced this is you do not want to write a letter for someone that later on commits a crime. There is nothing worse than doing that. We want to make sure we do the right thing. In so doing, also, the Senate has a responsibility, and, that is, to look at the candidates that come before them and to be able to ask the questions of them, and to be able to look and then make a decision based on that.

Here we have a nominee that has failed to respond to questions. Maybe people would say, why not give him a chance? As elected officials, we get elected to 2 years. You might say, well, I'm going to vote for Mr. RODRIGUEZ this time, I'm not sure, but I'm going to give him a chance. With the nominees for the Federal court, we do not have a second chance. They are there for life. I would ask you that if you are going to be hiring someone in your office, if you are going to be hiring someone in a firm, if you are going to be hiring someone and he is going to be staying with you for life, you want to make sure that you feel comfortable about making that decision. And so I want to thank the Senators that have stood there strongly and asked those questions that are important. My thanks to all those who are sharing——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is reminding the Member again to avoid improper references to the Senate.

Mr. RODRIGUEZ. I can make reference to the Senate as long as I do not tell them what they need to do; is that correct, Mr. Speaker?

The SPEAKER pro tempore. Remarks in debate may include statements as to the bills they have sponsored, but any other references or summations of their positions should be avoided.

Mr. RODRIGUEZ. I will try to refer to the Constitution. The Constitution says that the Senate has an obligation to stand for the Constitution and to make sure and consent. That would be appropriate, Mr. Speaker. I would presume, since it is in behalf of the Constitution. Thank you.

I want to also take this opportunity to thank all those that have shared their message and stress the importance of making sure that this debate takes place.

Throughout this debate, Members from both sides of the aisle have continued to accuse those of us who have opposed Miguel Estrada of setting a double standard. They have even gone as far as saying that we are anti-Hispanic for doing so. I have heard some of these proponents of Miguel Estrada profess their great support of the Hispanic community. While we welcome them to join our fight on the issues that matter to our community, we think that it is important to clarify the record.

I would ask them, where was that support in terms of the Hispanic community when it came to bilingual education? Where were these votes in behalf of bilingual education? Do they think that they are supporting the Hispanic community by voting for the Bush budget that eliminates funding for school programs critical to our children's academic success? Or when they threaten the school lunch program as we are seeing now? And how can they say they are supporting Hispanics when they oppose the earned income tax credit program that is so critical for our working families?

And how can they also say that they are supporting Hispanics when they failed to extend unemployment insurance benefits at the time when Hispanic unemployment is one of the largest in the Nation? And how can they touch, in terms of our Hispanic community, when they voted to not even allow legal permanent residents the opportunity for basic human services but still feel that it is okay to send them to war?

Some of these Members have also gone to the floor and spoken in Spanish. I want to commend them for that effort. But we will not be fooled by some nice sound bytes in Spanish or pretty photographs. Your voting record will be the determining factor of determining whether the community, the Hispanic community, is going to be supportive or not. I know as the elections come around, the presidential, as well as the Senate, and the House elections, people are going to be reaching out to the Hispanic community. There is a great opportunity there to get some votes, but that record is going to be determined based on the records in responding to the needs of that community.

We continue, and will continue to oppose Miguel Estrada because we know nothing about Mr. Estrada. He is a mute nominee. The Senate opponents to Estrada are acting fairly because they are doing their job as they move forward as far as I understand. They faced the White House strategy of nominating and hiding. They deserve answers. I think in response to those questions, we feel that Miguel Estrada deserves better treatment, in all honesty, in terms of being advised by the administration, I presume, not to answer those questions.

I ask you once again, would you hire someone who would not be responsive to those questions? I think the burden of proof is on Miguel Estrada.

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Miguel Estrada has to show that he should be the person nominated, especially when he is nominated for life. So when we interviewed Mr. Estrada, we asked him basic questions that other nominees have answered. He had no response. There were no answers. He was asked about judges that he admired. He was asked about people that he looked up to. There were no responses. In some cases we asked him about the Lau v. Nichols decision, and when the 20 members of the Hispanic Caucus met with him he chose not to respond and/or he was either naive about the Lau v. Nichols decision, which is a very important decision on bilingual education.

For critical questions, Mr. Estrada provided no answers; and yet these are the same questions that the supporters of Mr. Estrada in the Senate have asked the other non-Hispanic nominees during the judiciary hearings. If there is a double standard, it is seeking questions from one nominee but defending the mute nonresponses of another, and I guess some of the Members have also forgotten what transpired with Richard Paez, who languished on for 4 years in the Senate, and Enrique Moreno who also was waiting for nomination. Where were the Hispanic fighting individuals out there on behalf of Enrique Moreno? Where were they for Jorge Rangel? Where were they for Christina Arguello? Where were they for Sonia Sotomayer?

Where were they for these Hispanic members who had been nominated to the courts? All appointees had their nominations stalled for extraordinary amounts of time, and I think I speak for all Americans when we say that it is time to go back to business. We need to focus on our needs of our families. We need to work to get our legislation and address their needs. We need to work towards a comprehensive and realistic prescription drug plan that addresses our needs. We need to keep looking in terms of how are we going to build the economy and the importance of creating jobs and raising our country to where we once were just a few years ago. We have been entrusted to look out for this country, and yet we have failed to move in that direction.

So we will continue to be in opposition to the Estrada nomination. We are going to continue to move forward and at least from the caucus's perspective continue to be in opposition to the nomination.

I also want to take this opportunity to indicate that when we met with the nominee, it is not every day that the caucus is unanimous about their decisions. We have 20 members of the Hispanic Caucus; and we took it very seriously because, after all, here we have a Hispanic member before us, and so for us to go against him, it is a hard decision. It was not something that we took lightly. It was important for us to make sure that we gave him every opportunity that we could.

So what we did was we had formed a committee, a task force, of which the gentleman from Texas (Mr. GONZALEZ), the gentleman from California (Mr. BECERRA), and the gentleman from New Jersey (Mr. MENENDEZ) were part of as well as the rest of the delegation. In that we looked at various criteria, and I want to take this opportunity to review that criteria that we looked at and the evaluation that we utilized.

One of those areas that we looked at in terms of evaluating Mr. Estrada's performance was in the commitment to equal justice for Latinos. As we looked at that commitment in terms of equal justice for Latinos, we asked questions that revolved around the issue of past history to see if he had some sense of history of our Hispanic struggle in this country for justice. We inquired about certain cases. What we gathered is no record, and the response in that category was no record. There was no way. There was no information. So the only thing we could gather from Mr. Estrada is that at least in this country he has had no commitment to our Hispanic community in this country. He has had no contact with our community in this country. He has been involved with no organization of Hispanics in this country, and he either failed to respond to us or has not had any contact whatsoever. So on the issue of commitment to equal justice for Latinos, we had to indicate no record, and we have it listed as indicating no record.

On the commitment to protecting Latinos' interests in the courts, we asked him in terms of the importance of the role of a judge if he was being looked at as the administration has portrayed as a Latino candidate to one of the highest courts, second to the Supreme Court. We wanted to make sure that we would have a person that would have an understanding of what it means to be Latino in this country; and as I recall, the gentleman from New Jersey (Mr. MENENDEZ) talked about the importance of judges having a clear understanding. And he mentioned a particular case of a particular court where the judge kept insisting that the client, in this case a Hispanic, look at the judge. And finally the attorney at that point told him it is due respect to a person of authority that sometimes Hispanics would not necessarily look one straight in the eyes because it means defiance instead of respect versus what the judge was looking at; and yet in that category of commitment to protecting Latinos' interests in the courts, we found Miguel Estrada failing in that category.

On the third category that we had in terms of support for Congress's right to pass civil rights laws, there is no record and no response. We asked him in terms of the history some of the cases that have been important for the Hispanic community in this effort, for example, the Plyler case out of Rhode Island where it gave the Hispanic immigrants the opportunity to go to public schools. We asked him about, as I mentioned earlier, the Lau v. Nichols decision regarding bilingual education, and in those he either had no knowledge of those cases and/or he chose not to respond. So we had to indicate no record on behalf of Mr. Estrada.

On the fourth category where it talked about support for individuals' access to the courts, there we talked about in past history in terms of his support, what has he done to try to help people to come forward and move forward, Latinos, if he had provided any kind of assistance in that area, any kind of internships or any kind of effort. It was very unclear in terms of any of his comments.

On the fifth category, the support for Latino organizations or causes through pro bono legal expertise, we asked him if he ever provided any kind of help or assistance or if he ever volunteered in any way to help clients. The response was no. So we had to give him a failing grade in that category. When we asked him support for Latino organizations or causes through volunteerism and we went a little bit beyond the other one in terms of pro bono, any kind of volunteerism, still no form of volunteer efforts. We had to give him a failing grade. When we asked him for support for Latino law students or young legal professionals through mentoring or any internship programs and we went a little more in-depth in that area, again we found that Mr. Miguel Estrada failed in that category.

And, finally, on the commitment to increase Latino access to clerkships once on the bench, there was no response and very little history in the past, and he failed. We went a little bit beyond that also in some discussions on specifics about other writings that he might have done; and when it comes to Miguel Estrada, we know very little about this candidate. Here is a person that we are scheduled to nominate to the second highest court of this Nation, and yet he has never been a judge, a municipal judge, never been a district judge, never been any form of a judge; and yet we have him before us.

So we question the rationale and the approach. I am sure that when he went before the administration that he responded to the questions that the administration posed before him; and if nothing else, we would ask Miguel Estrada that he would respond maybe to those same questions the administration had posed to him, but that has not happened. There is no opinion on any Supreme Court case that we could gather from him.

There is a list of questions that we have gotten that he has failed to respond to; and it is a series of questions both in committee and the Senate and from us, and when he was asked, Do you have any opinion on the Rowe v. Wade decision and do you believe that Rowe was correctly decided?, no response whatsoever at all to that specific question. When he was asked specifically on questions that most Members are asked, and that is regarding, for example, a very simple question that is usually brought up to Members is the basic question of which three cases do you think have been very important cases in this country or that you are supportive of and which three cases do you disagree with?, he has failed to respond.

I am not an attorney, but I know I would have picked up a couple of them, if nothing else, those cases that discriminate against African Americans, the Plessy v. Ferguson case, and all those cases that discriminated; and I would presume that it would have been easy for him to be able to pick some of these cases, at least outline and say that they were unjust, even if it was at that time, and that they needed to be corrected; but he chose not to respond.

So the only thing I can gather is that here is a nominee who I think has been misguided by the administration maybe not to say anything and assume that because he was Hispanic and that if anyone went against him or decided to go against him, they were going to label him anti-Hispanic. As the Hispanic Caucus in this country, we have an obligation and a responsibility, and one of those responsibilities is to make sure that we have good nominees; and whether he is Hispanic or not Hispanic, I think it is important that they need to respond to the questions that are before them.

So it becomes really important that we look at these nominees in a very careful way, and I have to admit it was not an easy decision, but it was a unanimous decision on behalf of the 20 congressional Members that are Hispanic, the Hispanic Congressional Caucus; and all of us felt that he did not deserve the nomination, and he does not deserve to be a Federal judge unless he chooses to answer the questions that are before him like everyone else. Because he is Hispanic, that does not make him qualified; and because he is Hispanic, that does not give him any special treatment. We expect him to answer the questions like anyone else.

So we also want to take this opportunity to thank LULAC of California, the State LULAC that has gone in favor of not accepting the nomination. We want to personally also take this opportunity to ask and thank MALDEF, Mexican American Legal Defense and Education Fund, that has come forward on this issue and has taken a pretty good stand on that.

And with me tonight also is a Congresswoman out of California; and before I ask her to say a few words, I want to also indicate that I am really pleased that today we had Linda Chavez-Thompson with the AFL–CIO and a lot of the unions that are also concerned with the nomination of Miguel Estrada come forward in a press conference against the nomination of Miguel Estrada.

□ 1545

I wanted to thank those groups that were before us, and I also want to thank some of the past presidents of LULAC that have gone against the nomination of Miguel Estrada, in addition to various other Members of the legal profession.

We have the gentlewoman from California (Ms. SOLIS) here, and I want to ask her to join me in dialoguing a little bit and personally thank her for the efforts she has taken in this area. And I want to ask her, because I know we as a caucus took it very seriously, and we know after we decided to go after and not to accept the nomination of Miguel Estrada, it was not an easy decision for us as Latinos in this country, because we are there to push and get as many Latinos as we can into the courts, but we want to make sure that they are also responsive, because they are appointed for life, and that they are also qualified as we move forward, and not having the responses, not having the comments and not answering the questions is not meeting that particular objective.

Ms. SOLIS. Mr. Speaker, I appreciate this opportunity to be here tonight also to speak on behalf of this very important issue that I am also lending my support to not go with the nomination that has been put forward by the President, and that is Mr. Estrada. The reason I say that is because as someone who grew up in a humble community, whose parents immigrated to this country over 50 years ago to strive for opportunities for their children, they taught me some very valued principles. Those very valued principles are to be a part of the community, to value and support your traditions and to always remember where you came from. Remembering where you came from means that you do not ignore your ancestry and who you are.

One of the questions that was posed to Mr. Estrada when he came to visit with us as Hispanic Caucus members were interviewing him, he made it very clear that it was irrelevant to be associated as a Hispanic, that he felt very proud because of his qualifications, and that he did not want to be considered for this position because he was Hispanic. No doubt, that is an issue that many people will look at very seriously.

But one of the criteria that I think we take to heart very seriously is not only that an individual who comes forward to us seeking our support from our caucus, 20 members, if I am correct, it is very important for them to outline what they believe what their intentions are.

It is just like a job interview. If I were an employer and an prospective employee comes to me and asks me to give them a job, I certainly want them to answer very important questions, like where they stand on very important issues that as an employer I need to know. This gentleman did not answer those questions for us appropriately, and my understanding is he did not do that as well with the other House.

My concern is that I am being somehow evaluated because I am viewed as being non-Hispanic or un-American because I refuse to support someone who is of Hispanic ancestry, but yet does not believe, in my opinion, in the principles that I and other members of the Hispanic Caucus espouse, and that is communities, that is tradition and values, to support members of our community, but to give back, to demonstrate a willingness to give back. And we have not seen any of those points at least reflected in any information that we have received from Mr. Estrada.

I want to say that the Hispanic Caucus has, on occasion, supported Republican nominees, and we have done that with the full enforcement of our caucus. In fact, two nominees that came before us, Republican Hispanics, were Jose Martinez of Florida and Jose Luis Linarez of New Jersey. They were supported by the Hispanic Caucus proudly and were able to reflect on their background and the things they have done to give back to the communities. Those are noble things to talk about. We did not hear that from Mr. Estrada.

One of the things I am concerned about, too, is there are some accusations we do not have the support of other Hispanic members or traditional organizations out there in the community. Nothing could be farther from the truth. I would like to just give you an indication of who those individuals and organizations are.

The United Farm Workers of America has come out strongly against the nomination of Miguel Estrada; 15 past presidents of the Hispanic Bar Association, which many of us are affiliated with; the United States Hispanic Leadership Institute; the Southwest Voter Registration and Education Project; the Labor Council for Latin American Advancement, known as LCLAA, one of the largest union representative groups in the country; the California Chapter of the League of United Latin American Citizens. In fact, my own chapter came out opposing this nomination. We received a letter a few days ago from Rosemary Lopez.

Mr. Estrada is opposed by the Farm Labor Organizing Committee; the Farmworker Association of Florida; La Raza Lawyers Association of California; the Mexican American Legal Defense and Education Fund; the Puerto Rican Legal Defense and Educational Fund; the National Farm Workers Ministry; the National Latino Institute for Reproductive Health; and the Willie C. Velasquez Institute. These groups all oppose the nomination of Miguel Estrada.

I would ask people when they consider what position we took as a caucus, that they recognize what we had to go through. This is a very elaborate process that we took into consideration. We take very, very seriously the decisions that we make.

I can tell you today that I am still not convinced that this is the best nominee to represent us, who be there for a lifetime appointment, and then possibly move on to a higher position.

I have some serious questions. If I were an employer and the prospective employee did not respond to any questions I asked, I would say that person may not be the best qualified for that position.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank the gentlewoman, and want to take this opportunity to also indicate that as a caucus we have stuck strong, all 20 of us, and, once again, it does not happen that often, but we did and we continue to be in opposition to the nomination of Miguel Estrada.

OPPOSING THE NOMINATION OF MIQUEL ESTRADA

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. GONZALEZ) is recognized for the balance of the minority leader's hour, 32 minutes.

Mr. GONZALEZ. Mr. Speaker, it is a great honor again to appear before the House on this most important and weighty topic.

The nomination of Mr. Estrada means a great deal to all Americans, but especially to the minority communities. The President should be commended and applauded for seeking diversity in all departments, agencies and branches of government. To the extent that he actually accomplishes that is the true question that lies before us in the Miguel Estrada nomination.

I want to start off with, I guess, my understanding of how Federal judges gain their positions, which in many ways are the most powerful positions held by any public official. To start with, it is a lifetime appointment. There is no election, there is no review. That individual, once appointed, will remain there for an indefinite period of time.

Constitutionally, the President of the United States does have the authority, the duty and the responsibility to nominate individuals to the Federal bench, all the way up to the Supreme Court of the United States. Constitutionally, though, that nomination, not the appointment, but the nomination itself, because there is never an appointment actually until the Senate acts, and that other body under the Constitution of the United States has the power to advise and consent, without which the nomination would not proceed to the appointment and finalization.

The scheme of things and the brilliance of our Founding Fathers as reflected in this document is all part of a checks and balances scheme. That is, we have three equal branches of government. We have the legislative branch, obviously, the executive branch and the judicial branch.

Many will argue which is the most powerful of all those branches. My own opinion is that it is the judicial branch. The reason I say that is, in the final analysis, they actually interpret the laws that we pass in this Chamber. They actually interpret the laws that we pass in this Congress, and they apply the law.

So the very will of the people as expressed through their elected representatives could be frustrated by a judicial branch that did not give life and meaning and substance to what we do in the legislative branch. The executive branch proposes, obviously, and leads in great measure, and then we obviously will legislate. But none of it will ever bear fruit without the judicial branch.

It is one of the most important duties that the legislative branch has as part of the checks and balances system to review these nominees. My colleague from California, I think, put it very well, it is a job interview. It a little more sophisticated. There is pomp and circumstance, it is ceremonial in nature, but that particular hearing really is a job interview. The advise and consent function is a job interview, no more and no less. Important, yes.

There is an individual who, for whatever reason, seeks this nomination and appointment. It seems only fair that those qualifications of that individual will be subject to scrutiny. So we will have a formal hearing in the other Chamber.

It is so important that anyone appearing in this process that will subject himself or herself to that process be forthcoming. You ask, well, what is relevant, what would be relevant that one would ask someone who aspires to put on those black robes and interpret and apply the laws of the United States, statutory and constitutional?

You can have a good faith disagreement as to what might be appropriate or not, but we have not had that debate. No one has really said that the questions posed to Miguel Estrada are inappropriate. No one has said that these questions should not be answered. They have not been answered, but no one has said these are not relevant to judging this individual's qualifications to hold this particular judgeship, which truly is the second most powerful court in the United States of America, second only to the Supreme Court of the United States. We have never gotten to that.

The duty and responsibility of advise and consent has to be done knowledgeably and informed, and that is where we are today. We are at an impasse, because we have certain individuals that are saying we do not have the necessary information in order to fulfill our constitutional duties, and that is what this argument is all about.

I will go into detail, into the questions that the Congressional Hispanic Caucus were able to pose to Mr. Estrada, and I believe we probably got more information than anybody else that has ever interviewed Mr. Estrada for this particular position.

But this job interview, if you are interviewing somebody, the first thing you are going to ask is what do you know about this job that you seek? Is that so unusual? In this case you would say, what is your judicial philosophy.

What is your understanding of the workings of the court? What is your understanding of this third branch of government? Is there something so foreign, so inappropriate, so irrelevant, so immaterial to that question? Of course not.

But you would be surprised that we have not really had anything definitive in response to the question of that nature, which I think goes to the very heart of how one views himself or herself in a particular role. But in the bigger picture as a member of a co-equal branch of government, how you view the job, how you view it, but also a historical perspective.

Are we holding a minority to a higher standard or a different standard than anyone else? No. The President of the United States has indicated, and in this particular appointment has made it very clear, that this is important to the Hispanic community and important to the entire United States because it represents diversity. That wonderful word, diversity. But, standing alone, it has no meaning.

□ 1600

Diversity means that an individual brings a particular viewpoint or experience which enriches that particular job, that particular environment, those particular duties and responsibilities. Otherwise, what is diversity all about? We seek diversity because someone brings a different viewpoint or life experience to round out and make more full and complete that environment; in this case, the judicial branch.

This is not to say that a minority nominee had to have suffered through extreme poverty and hardship; has to be completely fluent in a foreign language, Spanish. No, not at all. It does not mean they have to be a Democrat or a Republican, a liberal or a conservative.

What it does mean, though, is that they have an appreciation for the Hispanic or Latino experience in the United States of America and the direct roles that the courts have taken in shaping that experience for the good and for the bad.

Where are we today? History is prologue, and we have to have an appreciation for what the legal system has meant to minorities in this country. No matter how well intentioned a chief executive may have been, no matter how well intentioned a legislature may have been, it has been the courts, in the final analysis, that have really provided the equal rights, the civil rights, the opportunities to minorities in this country of ours. It looms large, larger than it ever has, because we finally are saying that all branches of government should reflect the diversity of this great country. That is all we are asking here.

So it is interesting that when the Congressional Hispanic Caucus interviewed Mr. Estrada that we did ask these questions. We did ask him how he viewed his role as a judge by the fact that he is a Hispanic and was touted as a Hispanic nominee by President Bush. The response was that it would be irrelevant.

To a certain extent, I understand that response. It does not necessarily define one, it should not limit one; but, by the same token, it should not render one irrelevant. What one brings to the table is an appreciation for the roles of the courts in the minority communities. One did not have to experience it oneself. One did not have to be a plaintiff, but surely one understands the landmark cases on which our communities rely day in and day out to make sure that the children in our homes are extended equal opportunity in the schools and for health care, jobs, on and on. That did not happen.

If someone comes in and we are interviewing him for a job, we would think there was a tremendous interest and desire for that job; that somehow they ended up before us because they were seeking it. When we asked Mr. Estrada about his aspirations and desires, career aspirations, he said he did not seek this position; that they sought him, that the administration sought him out.

Standing alone, that is fine, but it is cumulative in nature. Why did the administration go out on such a search when we have many qualified Hispanics out there who would do anything for this type of nomination, highly qualified people, experienced, with judicial experience?

Mr. Estrada does not have any judicial experience; but on that alone I would stand here and tell Members that I do not think it is an asset, but I do not think it should be determinative of whether he would become a Federal judge or not. We have many judges that have had no judicial experience who, seeking appointment, are appointed and confirmed, and have made wonderful jurists.

But it is cumulative, because there is no record there. When an individual is not forthcoming in responding to questions that are posed that are relevant and material, and there is no record, no judicial decisions and so on, what do we have?

We do have memoranda that were prepared by this particular nominee, but they are not going to be released for review by Members of the other Chamber. There is not enough information at this point for them to truly, responsibly, and on an informed basis fulfill their duty of advise and consent.

But the specific questions we did ask Mr. Estrada, I think, are very telling. There should be some understanding of that great body of law that has impacted minorities more so than anyone else. That was not present. There has to be an appreciation for the legal difficulties that minorities still face in this country, because that is a fact. It is a sad fact, but one that we address day in and day out in our courtrooms. That was not present.

Based on that interview of over an hour, the Congressional Hispanic Caucus unanimously wrote to the committee in the other Chamber saying that we would oppose Mr. Estrada's nomination to the circuit Court of Appeals for the District of Columbia. We feel more strongly today than we did then. That was back in June and July of last year. There has been no new information that addresses, any of the concerns of the caucus; and we do represent the minority communities, Latino minority communities, in this country. The caucus is comprised of 20 of the 24 Latino Members of this House.

Why should we know an individual's philosophy and understanding as it relates to the third branch of government, the judicial branch? It is not complicated. All judges take an oath that they will uphold the Constitution of the United States and such. All judges will say they will be fair and impartial. All judges say they will strictly interpret the Constitution and the statutes, and follow the common law to the extent that it has been codified one way or the other. That is nothing new. They all say that.

But the truth of the matter is that judges are human beings. They are the sum total of their life experiences and their education. When they discuss that judicial philosophy, we learn a great deal. We are not asking them how they will rule on a case, because that would be truly improper.

Felix Frankfurter said this: "Law touches every concern of man. Nothing that is human is alien to it." Judges have tremendous power. They have tremendous discretion. They have powers of logic and rationale, deductive reasoning, and interpretation and application of the law. If it was a simple matter of opening the law book or reading the case and reaching a conclusion, then we would have machines simply judging all cases; but there is discretion, and there are varying degrees of interpretation and application.

The President of the United States today enjoys that office as a result of a five to four Supreme Court decision. If the law was so simple and the facts were so clear, how could we have five to four decisions? Because there is discretion, because there are different philosophies and views.

What we are hoping is that a judge will keep an open mind on an issue. That is what we seek in this particular nomination. Remember, and I will say it again, as Justice Frankfurter once said, "Law touches every concern of man. Nothing that is human is alien to it." The judge is human, and what he does touches every activity of our lives.

The Circuit Court of Appeals for the District of Columbia is a lightning rod. It will hear cases that will resonate and affect individuals throughout the United States, more so than any other circuit court, if Members understand the scheme of the circuit courts, because jurisdictionally, venue will lie with them when it comes to major decisions regarding governmental policy, the execution and implementation by the regulatory agencies, the departments of our government. This is a most important nomination and appointment process, and we must not fail to fulfill our duties. That is what this debate is all about. Some have cast it in some terrible terms.

When I was first elected and I was there with some of my fellow freshmen in the back, we all in our previous lives had been lawyers. I had been a State district judge, and we had a former district attorney and another prosecutor. We were talking about what a great honor it is to serve in the legislative branch, but we were wondering which of the three branches of government was the most powerful.

I was outnumbered. My dear colleague, the gentleman from Oregon, and my dear colleague, the gentleman from Kansas, pointed simply to the fact that this House appropriates. We hold those strings to that money bag; and if we wanted to, we could simply starve another branch of government, if we wanted to.

That is not exactly true, by the way. When it comes to the courts, there is something referred to as the "inherent power of the courts." It is understood that, by mandate and fiat, a court can order what it takes for it to survive. I am not sure on the Federal level, because we ran into this on the State level, whenever we had commissioners or legislators on the State level and county level that would not fund the courts properly for many reasons. The inherent power of the court is that it will not depend financially on another branch of government for its existence. So I was telling them, take that argument away.

Let us go to the next one. I earlier touched on that. It does not matter what the President may propose in his agenda, it does not matter what we adopt in the House or in the Senate, if it is well intended and it reflects the will of the people, because we were properly elected; but it will be an appointed individual who will breathe life into our legislation, that will interpret it and will apply it, who will decide whether what we have done in this Chamber is constitutional or unconstitutional.

They will pass judgment on the legitimacy of our actions in this body. As a matter of fact, they will also determine whether someone will sit in this body. They will determine how our districts are configured. They will determine who is eligible to vote. They will even determine who has won an election.

I still like to think that I won that debate; but if we ask my colleagues, I believe they still believe that the strongest and most powerful branch of government remains the legislative. I do not share that. We could be stopped in our tracks today by a ruling from a Federal court. We could be stopped in our tracks today by a ruling from the Supreme Court of the United States.

That is as it should be. This Nation is really about the rule of law and not of man. We have heard that often. What do we mean by that? Let us harken back to December of 2000, when the Supreme Court ruled, based on Florida statute and the Constitution of the United States of America, that the winner in essence would be George Bush and that he would ascend to the Presidency.

If that does not demonstrate what power the courts have in this country, I have no idea what would be a better example.

But that is the issue before us today. That is why our Founding Fathers, in the scheme of our constitutional system, said we cannot let one branch really dictate how the other is going to be composed. Should we have the executive branch independently determine what a third branch of government will look like, the judicial branch? The answer was no. We will bring in the legislative branch, one of the chambers, to advise and consent. Checks and balances. It has served us well. It has served us well when the nominees are forthcoming in answering questions that are relevant and material to their performance. That is the argument today. That is how we are framing this debate, unlike many others out there.

I want to end this as far as describing what is going on and what is really at stake. This is not an attack, this is not a criticism, of an individual's integrity or character; that is not the issue. It is a given that anyone nominated by the President of the United States to a Federal bench is a man or woman of integrity and character. It is a given that anyone nominated to the Federal bench by the President of the United States has had a good education, got out of law school, passed the bar, and distinguished himself or herself in private practice or in Federal service or State or county service.

Those are givens. Let us expect that. The people expect that. We have the best and the brightest available, so let us take them.

But where we start drawing that line, just because you are bright, you graduated from law school, passed the bar and such, and you were successful in your profession does not mean that you will make a good judge. I guarantee Members, talk to any practitioner out there. There is judicial temperament, there is understanding of the role, there is relevancy, there is history, all combined.

□ 1615

And that is where we find ourselves today with this particular debate and it is a legitimate one. And we should be taking the high road rather than casting aspersions as certain individuals have. Let us not politicize this. Let us all meet the challenge of our responsibilities and duties under the Constitution. That is what we should be doing.

There should not be one nominee for any bench, whether it is a municipal court, a county court, a district court or any State court, or on the Federal level, that does not understand what I am about to read. There is a wonderful book "The Fixer" by Bernard Malamud. It takes place in Russia. And we have an individual who was of the Jewish faith, who is basically a handy plan. He is a fixer. He fixes all these things. He ventures out of his small town to strike out on a new adventure to improve his life, and he is wrongly accused of a crime, and he is imprisoned with no hope, no hope that he is going to get any fair treatment.

The state actually investigates you and the chances that the state is going to be impartial and fair are barely nil, but there is this investigator person who takes a great interest in the life of this man and wants to exonerate him because he is truly innocent, and this man does not understand why someone would take such an interest in his life. And this is what this government official investigator, prosecutor, whatever you want to call him. This is what he tells that prisoner behind those bars:

"There is so much to be done that demands the full capacities of our hearts and souls, but truly where shall we begin? Perhaps I will begin with you. Keep in mind that if your life is without value so is mine. If the law does not protect you, it will not, in the end, protect me. Therefore, I dare not fail you. And that is what causes me anxiety, that I must not fail you."

This is what this nomination is all about. Individuals that will be nominated to courts, such as the Circuit Court of Appeals for the District of Columbia, need to understand the essence of this quote, the essence of this lesson here, and that is that the world is much bigger than all of us, but still part of us, and that our individual experience is brought to bear every day and that we should have some sort of understanding of the leadership of our role when we put those black robes on, the experience of individuals that come before us, especially minorities. For if you protect and understand the rights of the minority, the majority will always be well served.

FAIRNESS TO MIGUEL ESTRADA AND TO ARMED FORCES

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. KINGSTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Madam Speaker, it is great to be here. And I am always so proud to have an opportunity to come down on the floor of the United States Congress and have an opportunity to debate topics of the day, and I do so with great respect to anybody who has the opposing view.

Madam Speaker, I notice my friend, the gentleman from California (Mr. CUNNINGHAM) is here. Maybe he is going to join in. He is going to be talking about aviators later on.

I do want to say a few comments on a number of topics. One of the things I want to talk about this Miguel Estrada nomination is, I think, it is ironic that here we are, we have the guy who has been rated was one of the most highly qualified by the American lawyers, by the American Bar Association. Here is a guy who graduated from Harvard magna cum laude, editor of the Law Review. He has argued 15 cases before the Supreme Court, and yet our Democrat colleagues and liberal colleagues are so offended by his success that they are holding him up in the face of war, troops overseas, national security, and economy that is in the tank.

How absurd is it, Madam Speaker? I wanted to give you this. The liberal Democrats over in the Senate have objected and we want to give you some hours, 6 hours of debate was not enough. That was on February 6. So they went to 8 hours.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must remind Members to avoid improper references to the Senate.

Mr. KINGSTON. Madam Speaker, liberal Democrats did not want to debate it for 10 hours so they went to 12 hours. That was not enough. So the next day on February 11 they went to 6 hours. It was not enough. They went to 14, then 24 hours, then 44 hours, and then on the 12th 6 hours.

PARLIAMENTARY INQUIRY

Mr. KINGSTON. Madam Speaker, I am not allowed to say U.S. Senate?

The SPEAKER pro tempore. The gentleman may refer to the existence of the Senate, but may not characterize Senate action or inaction.

Mr. KINGSTON. So you have this other body and they have already spent 85 hours debating a guy who the American Bar Association has rated as one of the most highly qualified. He has worked under the Clinton administration. He has worked under, I think, even the Carter administration. This guy came to America when he was 17 years old. He was raised in Honduras, did not speak any English. He graduates from Harvard. He is a distinguished lawyer by anybody's measure. And the only thing the Democrats want to do is debate him. Bush wants to put in his own team. We have a war going, but this is the number one issue now for the liberal Democrats.

Madam Speaker, I yield to my friend from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Madam Speaker, I thank the gentleman for yielding.

I have got better things to do than stay up at night and watch C-SPAN. But I was captivated. I watched the gentleman from the other body debate this issue. The other body Democrats stood up and said, well, he never answered the questions. The gentleman from Ohio who was not even at the meeting, he was there for a few minutes and left, did submit questions at the end, said he never answered the questions. The Chairman of the Judiciary in the other body stood up and read every single one of the questions that the Democrats asked for.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman may not refer to individual Senators.

Mr. CUNNINGHAM. I did not think I did.

Anyway, someone over there asked for every question. And every response that Mr. Estrada gave was presented. They were A-plus answers. And now my colleagues on the other side, I just asked the gentleman, I said, did you invite any outside people within this caucus to listen to Mr. Estrada? Of course not. The answer is no.

The memo to the other body was written before the caucus meeting ever took place.

We are watching the same thing as we did in the Clinton, what is the word I am looking for?

Mr. KINGSTON. Investigation.

Mr. CUNNINGHAM. Investigation. We are watching them gang up. They are being good little soldiers, supporters, the other body.

Every paper, The San Diego Union, The San Francisco Chronicle, The Washington Post, The Washington Times editorializes against their position. They have drawn a line in the sand against someone that may be a little more conservative than they are.

Mr. KINGSTON. It is ridiculous, though, because as I understand it, most Hispanic and Latino national organizations have endorsed Estrada. And yet our friend from Florida (Mr. MARIO DIAZ-BALART) says, Well, his big problem is he is not Hispanic enough.

Now this is from a guy who is raised in Honduras, but he is not Hispanic enough for the liberals. As the gentleman also said, they do not even know how to speak Spanish themselves but they are telling somebody else that he is not Hispanic enough.

The reality is, this is a very strong guy but they cannot stand the fact that there might be a minority group getting off the plantation. And that is the reality of it. It is a sad, sick commentary.

Mr. CUNNINGHAM. It is very sad.

Watching C-SPAN, I watch the other side in the other body point by point come out and accuse Republicans. And every single point was countered by the chairman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds the gentleman not to characterize Senate action.

Mr. KINGSTON. I guess the problem though really is what is his crime? The crime is he is Hispanic and in the liberal welfare support society out there, if you are a minority group in America, you are supposed to think and act in a certain way, and if you do not, by golly, look what happens.

My friend, Clarence Thomas from Sandfly, Georgia, he went through the same living hell and personal accusations and everything else because he was an African American and did not believe in everything that he was told he was supposed to believe in. His problem was he was an independent thinker. And I guess Estrada is an independent thinker who does not look to liberal institutions to tell him how he is supposed to think and behave and that is what this is about.

Mr. CUNNINGHAM. I think it is very telling that most of the other Hispanic associations are endorsing this individual, but our House caucus is opposing it. Why?

The gentleman over there a minute ago mentioned that memoranda was not available. Well, again, the other body presented all of the facts that none of the confidential memoranda, not once in the history of confidential memoranda had ever been released. Well, the Democrats in the other body came forward and said, well, here is a case in this and here is a case where it was released in these individuals. Again, in the other body's side they pointed out that none of this memoranda was confidential. And so for my Democratic colleagues over here in their partisan bid to support the other body, it is just wrong when the rest of the world is saying you are wrong. At least let them vote.

And something else that the other body pointed out was that they opposed at different times Hispanic candidates. That is fair. But at least let it come to a vote. The two that they opposed are now sitting on the Ninth Circuit Court in California because they allowed a vote. What my colleagues are doing by filibustering is preventing totally a vote on this issue which has never been done in the history of Congress.

Mr. KINGSTON. And I agree with the gentleman. By golly, vote yes, vote no, but have the guts enough to vote. Do not hide behind parliamentary procedures.

One of the charges against Mr. Estrada is that he does not have judicial experience, and yet I believe there are eight judges on this court, and 5 of them did not have it. And incidentally, many of those came through some of these same liberals who are opposing him now and they voted to support these folks. On the Supreme Court, we have Byron Wright, and we have the Chief Justice Rehnquist, who did not have judicial experience.

But we know how it is, if you oppose something you can come up with any reason you want.

I wanted to jump into something because I think it is very important for the President, whoever it is, to be able to get his own team in place and try to get some good people on the judicial benches, but we have a war going on. Very serious issues in front of us.

The gentleman here is a former top gun. He was the inspiration for the movie Top Gun. He has been out there on the frontline. He is a great advocate for the military.

I am wearing, I do not know if the gentleman can see it from where he is standing, a Third Infantry Division patch which was given to me by the wives who have been left behind in Hinesville, in Savannah and coastal Georgia.

Mr. CUNNINGHAM. Are these Army guys? I am a Navy guy.

Mr. KINGSTON. I know the gentleman is a Navy guy, but right now there is just not that much water in Iraq.

We have from Fort Stewart alone, nearly 18,000 troops who are deployed. Lots of mothers, some fathers, and lots of children left behind while these troops are gone. We in the House are passing an important tax relief bill tomorrow to give them a little breathing room, and I wanted to ask the gentleman as a guy who has been out there, who had to leave behind, this bill that we are going to pass gives them some capital gains tax relief, gives them a death gratuity tax relief, some dependent care tax relief.

Basically it gives the soldiers just a little more wiggle room and a few more tax benefits while they are out there fighting for our freedom. And I do not really want to ask the gentleman about the technical part of the tax bill which, of course, he is welcome to speak on; but as a man in uniform, tell me what this means to you out there on the front line? Is this important at all or does this send a signal? What is your feeling?

□ 1630

Mr. CUNNINGHAM. Mr. Speaker, first of all, it is important when a person is gone, either men or women, from their families, knowing that their families are taken care of is very, very important; knowing that the financial burdens are taken care of; that their children are able to go to school and get a good education or, in the case something I oppose what the President is doing is reducing impact aid, which I think is wrong, and we are going to rectify that in this body.

But they want to know that everything is okay back home. I cannot tell my colleague how stressful it is for a sailor on an aircraft carrier to learn that his wife has gone into indebtedness or has problems with the children; and he cannot be there to take care of them, and tax relief for families, especially in the military that are forced to uproot every 2 years, that cannot make an investment, that have to take their children out of schools and put them into a new school or the spouse cannot get a job because an employer will not hire her if she is only there for a short time. This kind of tax relief helps put money in their pockets to resolve some of these issues.

Mr. KINGSTON. So there is a practical side to it and a moral side. It is a pat on the back saying we cannot be there.

Mr. CUNNINGHAM. And a heartfelt side.

Mr. KINGSTON. But we really appreciate what they are doing.

I think it is so important for these wives and the families in my area, and I know in California that the gentleman has lots who are deployed, same thing.

Mr. Speaker, switching gears slightly, I always pick up the paper here, and one would think that it is the United States and Tony Blair, not the United States and Great Britain, but just Tony Blair, oh, and Jack Straw; but one would think it is just a couple of us out there fighting Saddam Hussein.

Here is a list of countries: Albania, Angola, Australia, Bahrain, Britain, Bulgaria, Cameroon, Chile, Croatia, Czech Republic, Denmark, Estonia, Guinea, Hungary, Ireland, Israel, Italy, Japan, Kuwait, Lithuania, Macedonia, Oman, Poland, Portugal, Saudi Arabia, Slovakia, Slovenia, Spain, Turkey, United Arab Emirates, Uzbekistan, and Yemen who have all expressed support of the Bush policies towards Iraq.

Why is that not in the paper? And in my colleague's opinion, is it important for us to wait out the U.N.? I think we are on number 17 in terms of resolutions now. Keep in mind, the very first resolution going back to April 1991 called for disarmament within 90 days; and it did not say, and we are having to come prove the case against you, it says you have got to show us that you have disarmed. What is the gentleman's view?

Mr. CUNNINGHAM. Well, if my colleague takes a look at the number of people at coalitions that are supporting the President, it is overwhelming. I think we also need to realize that many of the Middle East nations that are actually helping us, that helped us catch KSM just this week, they are helping us: Indonesia, Egypt, Saudi Arabia. These countries have been sterling.

Yes, there is an issue with bases, but remember that these nations live at the back door of Saddam Hussein. Let us say that we did not go into Iraq and allowed Saddam Hussein to persevere once again. Can the gentleman imagine the risk that that puts these Arab nations in by coming out ahead of time? And I will tell my colleague that these nations will be with us when we go into Iraq, either to disarm Saddam Hussein or he disarms himself.

Two real quick issues I think are important and I thank the gentleman for yielding. One critic says that let us look at the cost that it would cost. 9-11 cost New York $200 billion, another $83 billion in lost revenue while we were rebuilding New York. Look across the Nation. Look at the services. Look at the travel industry. Look at the airline industry. Look at the hotels and think about the devastation of our economy and how that hurt. So the cost of going in there is going to be far less than when al Qaeda hits the United States again.

The second complaint they say, well, look at the innocent Iraqis that are going to be hurt. First of all, we will not target innocent Iraqis. There will be collateral damage, as in any conflict; but they will not be targeted, and I would go back from the time that Saddam Hussein was the XO, the executive officer per se, the president stepped down. He called an emergency session of his Congress. He had a witness stand up at a mike like this one and call off 250 names. They were marched out and shot that day. Think of the thousands of Kurds that he has killed. Think of the Shiites that he has killed and his own people that will be killed if we do not go in there.

We will hurt less people in this conflict than Saddam Hussein will in the future. We are not going in there to annex Iraq. Look at Afghanistan, what we have done in there. We did not go in to invade it. We went in to free the people, and this is what we are going into Iraq for.

Mr. KINGSTON. That is interesting that the gentleman raises that point. Having been to Afghanistan, I went over there a year ago and met with Mr. Karzai and folks from the Northern Alliance who were starting to form this new government. If there was ever a country that would have welcomed American colonization, it would have been Afghanistan. If that is what we were after, we could have done that; and we would not have to wait until this time.

I am glad the gentleman mentioned, though, the hatred and the madness of Saddam Hussein. I am an Episcopalian, and every Sunday my minister Bart Robertson gives an admonishment to us. Make no peace with oppression. Why Americans would want to make peace with oppression is beyond me, but I wanted to read some things to the gentleman that he has kind of already mentioned.

Between 1983 and 1988, Saddam Hussein murdered more than 30,000 Iraqi citizens with mustard gas and nerve agents. Human rights organizations have continually received reports from women who say that rape is routinely used by Iraqi officials for the purposes of torture, intimidation, and blackmail.

In 2000, Iraqi authorities introduced tongue amputation as punishment for persons who criticize Saddam Hussein.

Human Rights Watch and Amnesty International estimates that Iraq has between 70- and 150,000 people who are unaccounted for. That is the most of any nation in the entire world.

The mass executions are a choice of Saddam Hussein. Since 1997, it is estimated that 3,000 people have been killed in Saddam Hussein's various cleansing methods. In February 1998, 400 prisoners were executed. Two months later, 100 detainees in another prison were buried alive in a pit; and since September 11, Saddam Hussein has expelled six U.N. humanitarian relief workers without explanation.

That is the kind of guy we are dealing with; and what is really sad, if France and Germany and the blame-America-first crowd here win and America backs down because Saddam Hussein has been perceived as backing us down, none of us will be safe from terrorism.

Mr. CUNNINGHAM. Mr. Speaker, would the gentleman yield?

Mr. KINGSTON. Absolutely.

Mr. CUNNINGHAM. Mr. Speaker, I think it is important for the people to understand France. In France the conservative party is in the minority. The Socialists took over. They have joined with the Communist Party to have a majority. So the French parliament is a Socialist-Communist coalition. That is like having a Socialist on the other side here stand up and offer our position nationally.

Secondly, Chirac wants the United States out of NATO. He wants to be the leading power in Europe; and to do that, he puts down NATO and wants the United States out of there and builds up the EU. That is critical.

Thirdly, the French have been the whoremongers of the weapons market around the world. When I trained at Navy Fighters Weapons School, Top Gun, every nation we potentially stood to fight was carrying Matra Magic 550s and French missiles. We would have had to fight those, and if my colleague takes a look at what the French are doing with Iraq economically, I think they are afraid that we are going to find out exactly that they are supplying Iraq with chemicals, with weapons, with different things.

Mr. KINGSTON. Let me ask the gentleman from California, in California, they have some very good wines, and in Georgia we have Chateau Elan, which is also a good wine, and of course, there are a lot of wines.

Mr. CUNNINGHAM. Mr. Speaker, I took the Grey Poupon out of my cupboard, and I do not think, what is the vodka that they have? Not Absolut. But there is a vodka. Anyway, I have asked our people to do away with it.

Mr. KINGSTON. Well, the gentleman might want to look it up on the Internet. At fromage, which is the French word for cheese, F-R-O-M-A-G-E, .com, it is a French cheese distributor, and they are down 15 percent. I recommend to everybody, look up fromage.com, see what their products are and continue the boycott.

I think we should also boycott the Paris air show. I think we should discontinue drinking their wine and champagnes and anything else; and, hey, I am not even anti-French.

Mr. CUNNINGHAM. It is called Grey Goose vodka.

Would the gentleman yield for one other point on that?

Mr. KINGSTON. Yes.

Mr. CUNNINGHAM. Many of the people say, well, it is a fight for oil, blood for oil. I have recommended to the President that after Saddam Hussein is removed and we have a democratic regime in Iraq, let the Iraqi people keep the oil. Let them have 100 percent control; but for those nations that helped liberate it, let them for a time sell those nations oil at a reduced price, not to make a profit but just to help the economy so it is not affected like Turkey and the United States and the coalition. But I want to tell my colleague, there is going to be a penalty for France, Germany, and Russia. We will still have diplomatic relations. We will still try to have good relations with them, but those nations that choose not to join in liberating Iraq, I personally believe there ought to be some dire consequences.

Mr. KINGSTON. Mr. Speaker, I agree and I want to get off France for a minute. France is looking after their own national interests.

Let us talk about oil. That is the country that is making this a war over oil because they are the one with all the sweetheart deals with Iraq for oil supply; but look at our items that we buy that are French, and if we choose so, do not eat them.

Let us talk about Germany. My colleague and I do a lot of work for our military, and in my district we have five military installations. Big fear in Georgia right now, 13 total, is BRAC, base realignment and closure commissions. Do we need a military base in Germany with countries like Bulgaria and the emerging, less affluent countries that are strategically better located anyhow? But they are dying for our business because let me say this. If Moody Air Force Base or Fort Stewart or Robbins get on the BRAC list, people in Georgia are going to be nonstop scurrying around trying to get them off the BRAC list as they did last time, as will happen all over the world, all over the country; but meanwhile, we have got bases in Germany. If that is not 100 percent America's interests, then maybe we ought to move those bases. What does my colleague think?

Mr. CUNNINGHAM. Mr. Speaker, what I would say to the gentleman is I would defer to the Pentagon. There are certain bases around the world that we need to maintain, not just for their security but for our own security as well. If we have to have launching pads for another conflict sometime, we may need those bases; and I would defer those determinations to the Pentagon and to a study that says what do we actually need. But if we do not need it and we are there at the cost of the American taxpayers and not supporting the United States' best interests, then I would go along with the gentleman on it.

Can I make one other point about when the gentleman, the nerve gas and mustard gas? When Saddam Hussein used nerve and mustard gas against these people, it was not just the 30,000 that were killed. There are 10 times that many that have permanent defects. Nerve gas, there are thousands of people, Kurds and Shiites that cannot even walk today because nerve gas affects not only their internal systems, but their children and their children's children will be affected because it affects the chromosomes and the genetic make-up.

So we are not looking at just a small group. We are looking for centuries that these people are going to be affected by the nerve gas that Saddam Hussein released on them.

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Mr. KINGSTON. I thank the gentleman for bringing that out, and I also wanted to say that it is important for us, for these soldiers, not just to pass the tax relief for them personally as a soldier in the field. I mean, it is, of course, very important and paramount that we support the war effort, but the other thing we can do for the soldiers is to improve the economy domestically. I am proud that this administration, while fighting the war on the international and domestic front in terms of homeland security, are also trying to turn the economy around and address so many of the critical issues in our economy.

President Bush has proposed a tax bill, which we will be voting on very soon in the House, that reduces some of the tax rates. Now, that has already been approved by this House. It is just that it phases in and phases out in 10 years. We are saying if it was good enough for last year's election purposes, from the liberal standpoint, then let us go ahead and put them on the books permanently.

The Bush plan also stops the double taxation on savings. As the gentleman knows, if you buy a stock and you are paid a dividend from that stock, you pay taxes on it. The corporation has already paid taxes, so you are being taxed twice on your savings. This tax bill stops that. It also gives small businesses an expensing item so that they can buy new equipment and write off about $75,000 of it. Seventy percent of the jobs in America come from small businesses. We have to worry about the small businesses, the small Main Street folks, and this bill does address that.

It also helps those who are unemployed, like my paper mill workers down in Camden County, Georgia, who work for the Durango Paper Mill that closed up. This will give them some unemployment help, but it will also help them create a personal employment account, and that gives them some discretionary money for some of their short-term expenses until they get a job. And once they get a job, they get to pocket the difference. That helps them move down the road. And the ultimate idea also is that it would shorten some of the time period people actually need unemployment. It gives everybody incentive. It is a win-win.

I am excited about this tax plan because I think it is so important, along with ending this conflict in Iraq. It is very important for us to stimulate the economy. And to show the kind of money it would put on the streets, 92 million taxpayers would get $1,083. And this is basically immediately. It has what Steven Friedman, one of the economic advisers to President Bush, calls a near-term lift, an immediate near-term lift. This is not something that is going to happen down the road, but this will have a very positive effect on the economy and job creation. Thirty-four million families would get $1,473. Six million single mothers would get $541, and 13 million seniors $1,384. That is money in their pocket this year, right now.

Mr. CUNNINGHAM. We hear over and over again from the other side that any tax, and I mean no matter what tax relief we have brought up in the 12 years I have been here, the other side talks about it being tax relief for the rich. From $5,000 to $30,000, you get a 20 percent tax relief. Twenty percent. If you earn above $200,000, you only get 11 percent tax relief. So the percentage of who gains the most out of it goes with the lower income. But my colleagues will say it is only for the rich. Why? Mathematically, if you pay $1,000 in taxes, you are not going to get as much money back as someone who pays $10,000 in taxes. You will get more money back, but you have not put that money in there in the first place.

My colleagues like to do that so that their base will think, oh, Republicans are only doing it for the rich. It is just not true.

Mr. KINGSTON. Well, and it really is so fundamental. We have all heard the old expression, why do you rob banks? Because that is where the money is. Why do the people who pay the taxes get tax relief? Because they are the ones paying taxes. It is not that hard.

These are some numbers according to the IRS. The top 1 percent of all income taxpayers pay nearly 37 percent of all taxes. That is the top 1 percent. The top 5 percent pay 56 percent of all taxes, and the top 10 percent pay 67 percent of all income taxes. Then the top 50 percent pay 96 percent. So how are you going to have tax relief without these folks benefiting is beyond me. But then again, I do not subscribe to the fuzzy math some of them had in the last 8 years of the Clinton administration. It is hard to follow these things.

I ran the numbers though as a Georgia representative as to who would these folks be. Well, listen to this: 860,000 Georgians will get some form of tax relief. And 60 percent of those who will benefit from stopping the double taxation on savings make less than $75,000 a year. Eighty percent of Georgia taxpayers, that is 4 out of 5, 80 percent of them earn less than $50,000 and virtually all of them will get some form of tax relief from this plan.

So I am comfortable. When somebody says 80 percent of the taxpayers in Georgia will get some tax relief, I am comfortable. But this is important because I want my families to have that $1,400 in their pocket because they are going to be able to buy more clothes, more shoes, more bookbags, a tutor for a kid, new automobile tires, or whatever. They are not going to be able to go on a junket to the Bahamas, but what is really more important than this is jobs. And this will create jobs for my laid-off paper mill workers down in Camden County; for my folks up in Hinesville, who, because of all the troops being gone, they have had to close up their restaurants and their CD stores. This is a jobs package.

There is nothing more important we can do for those in the military than if we can say, listen, if you decide not to stay in the military, we have a job for you. And if you want, those jobs are available sooner than later. And that is why I am excited about it.

Mr. CUNNINGHAM. Another important point is that people think, well, I will be getting money back. Not so. You just do not have to send it to Washington, D.C. in the first place.

My colleagues on the other side, many of them, believe that Washington can do the job better. Unfortunately, if you look at every department, including the Department of Defense, the Department of Education, INS, all the different departments, there is fraud, waste and abuse. For example, food stamps had over 50 percent in fraud, waste, and abuse.

By not taxing individuals, they never send it here to Washington in the first place. That money stays in their pocket to pay for schools, or they can invest it, say in an education IRA. Say the day you know your child is going to be born, you set aside $2,000 to $4,000 in an education IRA, by the time that child is 16 years of age, if it was $2,000, you might think, well, that is only $32,000. No, because it is compounded, you can use that money for tutoring or for education, or if you have a child who qualifies under the individuals with Disabilities Act, you can use it for special education.

Mr. KINGSTON. Let me say this, too. I am a father of four, and I believe the gentleman has three children.

Mr. CUNNINGHAM. Three children; two daughters and my son was adopted.

Mr. KINGSTON. And I know that the gentleman's daughter had a real high SAT score.

Mr. CUNNINGHAM. Sixteen hundred.

Mr. KINGSTON. Madam Speaker, we need to be sure we get that in the RECORD; that she inherited her mother's brains.

Mr. CUNNINGHAM. Dr. Nancy Cunningham is the Chief of Staff for the Assistant Secretary of Education. She has two masters and she is bilingual in Spanish. So there is no doubt where she got the 1600 from.

Mr. KINGSTON. Let me congratulate the gentleman. But as a middle class guy raising my kids, you fight the day-to-day battles; are they studying their math, are they going to play baseball this spring, are they going to get some game time on one of these teams where the coach only plays his son. So you have these issues with raising kids. But just about every parent I know, lurking in the background every week, every day, is what am I going to do about college? What am I going to do about college?

My daughter Betsy is at the University of Colorado. Out-of-State tuition is about $30,000 a year. And let me say this, if the gentleman comes back to visit me in Savannah, Georgia, I am growing to drive you around in my 1993 Pontiac with 200,000 miles on it. There are no new cars in sight for the Kingston family. And that is pretty doggone typical. These education IRAs are a significant step for the middle class. The parents who know they may or may not have college educations themselves, they know their children are going to be better off and have more job opportunities if they get a college education.

So the 529 plans, the Coverdell Savings Plan, the educational IRAs, all these terms which are kind of confusing if you are not a stockbroker or banker or financial type, the reality is basically they are just savings plans to make sure that your son or daughter has an opportunity for that college education. And that is something worth fighting for, whether you are a Democrat or a Republican. And I do not understand why the liberals are trying to tear down these tools.

Mr. CUNNINGHAM. Well, the gentleman's business people and his workers in Georgia are just like in California.

One of our colleagues at the whip meeting pointed out that the tax laws against business are the worst of all the industrialized nations. The capital gains is the highest of industrialized nations. No other nation has double taxation. Just the United States. And what that does is it makes us not as competitive. We hear about cheap labor a lot, but the labor that we have is taxed so high that the cost of goods makes us not be in the market overseas. So I would like to see capital gains go to zero. I would like to see the double taxation go away.

One of my friends right here tonight, he was looking for an apartment where I live, and a lady had a single room apartment for sale. She decided not to sell it to our colleague because after she looked, the capital gains she is going to have to pay on selling that are going to far exceed any benefit that she would get. So it also ties up capital and revenue.

Mr. KINGSTON. Well, I am glad the gentleman brought that up because it is amazing how overtaxed our country is. I have a chart that is a little difficult to follow, but what it basically says is that the tax rate remains historically high as a percentage of our gross domestic product. On the average, what it has been is about 18 percent, but right now it is sitting about 22 percent.

So when people say, oh, taxes are about where they need to be. Well, they are higher than they were in 1995. They are higher than they were in 1980. They are higher than they were in the 1960s.

The gentleman and I have been here long enough. We are on the Committee on Appropriations. We do a lot of the spending bills. I have come to the conclusion that my folks back home in Georgia can spend their money better than 435 people up here in Washington, D.C., and so if we do not take their taxes, we are not going to spend it frivolously.

I wanted to, though, also talk to the gentleman about a spending issue that ties into part of our agenda. We started out saying, well, the Senate, our other body, are spending time on judicial nominees who are well qualified and they do not want to approve them, for political reasons, but we are moving on with an agenda on tax relief and supporting our soldiers and also frivolous medical liability.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP of Utah). The Chair would remind Members that any characterization of the Senate is against the rules of the House.

Mr. KINGSTON. I thank the Speaker.

I want to discuss with the gentleman now, Mr. Speaker, this medical liability issue. And let me say up front that if I am in trouble, I want a lawyer. I want a lawyer on my side. So this really is not aimed at or taking shots at the lawyers. What this is saying is our system has a problem.

In Las Vegas, 30 obstetricians have closed their practice in recent months, leaving the city with 85 obstetricians to deliver 23,000 babies a year because of their malpractice insurance. That is according to the Las Vegas Review Journal, August 29, 2002.

In West Virginia, the parents of a 6-year-old boy were forced to drive 3½ hours to Cincinnati, Ohio, to find a specialist who could remove the pin that the boy had accidentally lodged in his windpipe. And that is from WSAZ–TV in Charleston, West Virginia, September 19, 2002.

Here is something from the South Florida Sun Sentinel, November 4, 2002. Women are facing waiting lists of 4 months before being able to get an appointment for mammograms because at least six mammography centers in South Florida have stopped offering this procedure as a result of increased medical liability insurance premiums.

And then here is one more from the New Jersey Hospital Association, January 28, 2003. In New Jersey, one out of every four hospitals, or 27 percent, has been forced to increase payments to staff emergency departments because physicians are reluctant to provide care in medical malpractice crisis stories because they have greater liability exposure.

The examples go on and on and on. And before I yield to the gentleman from California once again, Mr. Speaker, I want to show him a chart. I know this will not be picked up by the television, but it lists States that are having medical malpractice problems: New Jersey, New York, Ohio, West Virginia, Kentucky, North Carolina, Florida, Georgia, Mississippi, and Arizona.

□ 1700

States that are not having frivolous medical liability problems include Colorado, New Mexico, and the gentleman's own State, California.

Mr. Speaker, I yield to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, the law that we are going to debate on tort reform is based on California law which has been very successful. California has been more successful than the other States.

What it does is it protects. It will allow, if we do this nationally, $60 billion to go into our health care centers instead of going to trial lawyers. People will still be represented and protected, but it will allow that money to go into our health care centers.

Another example, I sit on the D.C. subcommittee. Thanks to a Member on the other side, on the D.C. subcommittee we capped trial lawyers' fees for IDEA, Individuals With Disabilities Act. In 2 years we saved $12 million. $12 million, instead of going to trial lawyers, goes to children with disabilities.

Mr. KINGSTON. Why do children with disabilities have trial lawyers?

Mr. CUNNINGHAM. Mr. Speaker, the Individuals with Disabilities Act has done a lot of good. Parents think that they are going to have a homecoming queen or a fullback, and all of a sudden parents have a child with disabilities. Many parents do not know how to handle that. 'In many places, the child would be denied an education at school. That is wrong.

What has happened is cottage organizations, anytime there is money, trial lawyer cottage organizations will bring activists in and demand 20 things instead of what they really are accredited for under an IEP, which is where they designate what that child's disability is and what kind of care that they need. The lawyers come in and demand, and we have cases where ambulance service has to bring the child to school; they have to have a full-time nurse. The average is about $5,000 per child nationwide per year. We have some cases where that exceeds $100,000 for one child.

The bill that I am talking about caps the trial lawyers' fees so that the money stays in the education system to help those children instead of trial lawyers, but at the same time allows every child to be represented by a lawyer, and represented if they feel that they are being abused by the school system.

Allen Burson, San Diego city schools, who was President Clinton's head guy under Border, is now the superintendent of schools; and he said this is his number one issue in taking money away from schools. We are losing good teachers. My sister-in-law heads up the Individuals With Disabilities Act for San Diego city schools. They are losing good teachers, teachers that just want to teach children; but the trial lawyers get them into court and just beat the heck out of them, and we are losing those good teachers.

Mr. KINGSTON. I want to ask the gentleman, and I see that we have been joined by the gentleman from Florida (Mr. MARIO DIAZ-BALART), did California run out of lawyers when you stopped the frivolous lawsuits?

Mr. CUNNINGHAM. Just like the rest of the country, there is an excess. As a matter of fact, I would just end it at that. There is an excess number of lawyers within the State of California. If we look at representation in our court system across the country, there is an excess. This law has not prevented people from being represented in California. Instead, it gives people a fair day in court, but yet it limits the extravagant and saves money for the health care system. So with that $60 billion, and that is per year, we could take care of every uninsured person within the United States.

Mr. KINGSTON. Mr. Speaker, again, this is not about lawyers; but it is about access, and it is about doctors.

I want to read a few more statistics from various papers. This is from the Business Journal of Portland, January 10, 2003. In three of Oregon's more rural counties, John Day, Hermiston, and Roseburg, families have either lost all access to obstetric care or their services have been drastically reduced.

Here is something from Amarillo-Globe News, October 30, 2002. According to a Texas Medical Association poll of Panhandle doctors, 61 percent have plans to retire early, and 83 percent said they use defensive tactics in practicing medicine because of fear of being sued. And then in the Fort Worth Star-Telegram, January 6, 2003, in South Texas a pregnant woman was forced to drive 80 miles to a San Antonio doctor and hospital because her family doctor in her more rural hometown had recently stopped delivering babies because of malpractice concerns.

It is something that I am glad this House is looking at. We need a balanced bill. People certainly have the right to defend themselves. They need access to the courtroom, but the courtroom should not stifle access to the emergency room.

The gentleman from Florida (Mr. MARIO DIAZ-BALART) has joined us now. And we have been talking about taxes, Iraq and jobs; and we started out talking about the nomination of President Bush of Miguel Estrada to the D.C. District Court. I had cited the gentleman from Florida in saying he was accused of not being Hispanic enough, and yet here is a guy who has graduated magna cum laude from Harvard, Columbia University, Harvard Law Review. He has practiced before the Supreme Court 15 times, he has worked for Republican and Democrat administrations, came from Honduras when he was 17 years old, but for some reason there are those in the House and the Senate who do not like him.

In fact, did I hear a Member say earlier that the House Latino Conference, did they take a position on this guy?

Mr. CUNNINGHAM. That is a question that I wanted to ask.

Mr. KINGSTON. Nationally Hispanic and Latino groups overwhelmingly have supported Miguel Estrada.

Mr. CUNNINGHAM. I asked my colleague that spoke earlier. I said, In the caucus meeting, did you invite anybody else? They said, No, it was just the caucus.

I asked, Did you invite anyone from outside so when you claim he did not answer questions, that it was not a fix, that the memo to the other body was not written before the conclusion of the caucus meeting? The reason for that is I heard all of the questions asked to Mr. Estrada. I missed a lot of sleep, and I also read the answers, and I heard the claims that he did not answer the questions on the other side. Every question was an A-plus answer, and the newspapers have editorialized about that.

I wondered about the claims of the Hispanic Caucus in the House where they had a meeting, had no outside intervention. Was the gentleman from Florida ever asked to participate? Because they said the Republican Hispanics chose not to go on the Hispanic Caucus. Were you ever asked to sit in on the meeting where the questions were asked?

Mr. MARIO DIAZ-BALART of Florida. No, I was not. But I think there are some facts that need to be brought out.

Number one is, as the gentleman said, the majority of the Hispanics in this country are excited about Miguel Estrada being on this Federal court. He would be the first Hispanic ever to serve on that court. But I can tell Members as excited Hispanics are in this country, everybody who loves diversity is excited because this is not just a Hispanic issue. We are seeing an attitude of outrage by the Hispanic communities and others when people use race as a reason to disqualify Mr. Estrada, and we have heard it on the floor of this House where Members say he is not Hispanic enough. What is he, three-fifths Hispanic? I thought those days were over when people were judged by their race. I thought the day of judging people by if they are too much of one thing, too little of another, I thought those days are over.

Personally, it is offensive when people try to use race to disqualify this brilliant young lawyer, a person who got here when he was 17 years old, barely speaking English, worked hard, studied hard, graduated with honors from Columbia University and then Harvard and worked in the Solicitor General's office under two Presidents, both Democrat and Republican Presidents. People who have worked with him say he is of the highest caliber, and yet all of these sad excuses have been used to try to derail him.

There are people who said a couple of years ago that they would fight against a filibuster, and now they are leading the filibuster. How is that possible? Were they misleading the American people when they said that then, or are they not being truthful now? It is really offensive. It is very offensive. I can tell Members also that here in this House the Hispanic Conference is wholeheartedly, enthusiastically supporting Miguel Estrada, not because he is Hispanic, but because he is highly qualified.

Mr. CUNNINGHAM. Didn't the ABA give him a high rating?

Mr. KINGSTON. Yes.

Mr. MARIO DIAZ-BALART of Florida. People have said that should be the threshold issue. Those same people that have said that is the threshold issue, and now they are saying that it does not matter with Mr. Estrada. What is it? It is not because he has not answered questions. He has answered five times more questions than the previous two people on that court combined. It is because of all of these other excuses. It seems, sadly enough, that we have heard recently the real reason: race. They do not want him because of his race.

Let me tell Members, I have to be very clear, I am not supporting Mr. Estrada because of his race, because he is Hispanic. No, I am supporting him because of his qualifications, because of his talent and experience. But it is offensive that because of his race, some people are trying to avoid him getting there.

Mr. KINGSTON. Mr. Speaker, let me ask the gentleman a personal question. If it was the gentleman from Florida (Mr. MARIO DIAZ-BALART) instead of Mr. Estrada, and the gentleman had all of his qualifications, do you think that they would let you through based on what you are saying?

Mr. MARIO DIAZ-BALART of Florida. It is funny that some of the people who have questioned whether he is Hispanic enough, these are people who, like me, are born here. There are people who are born here that say Mr. Estrada cannot be a judge because he is not Hispanic enough. Mr. Estrada got here when he was 17, so it is laughable. What is offensive is not who is saying it, but what.

Mr. Speaker, race should never be a factor to disqualify a human being to reach a position that he or she is qualified for. On this floor we have heard it once again. They say the reason that Mr. Estrada should not be on that bench is because of race. That is highly objectionable; and it is insulting, degrading to this institution, and degrading to the United States of America.

□ 1715

Mr. CUNNINGHAM. Mr. Speaker, I do not criticize my colleagues. It is their right to oppose somebody. But I also see what happened on C–SPAN. Then I look at some of the same issues that my colleagues are here bringing up, and they were false. I would think it would be more legitimate if a question was asked in the Hispanic Caucus, that the question be read and Mr. Estrada's answer just as it was in the other body. And that would be fair. And then let people make a decision. But to have a kangaroo court meet, in my opinion, with a decision already made before the court took place is wrong. To not allow anyone else within that room except for that limited group of people to see if it was fair is wrong.

Mr. KINGSTON. Last year when a different party was in charge of the other body, we passed lots of legislation that died, lots of legislation that was not allowed to come out on the floor for a vote. It seems that those same folks who lost the majority because of their inability to make decisions are at it again and it is absurd. Hey, vote the guy down. Have the guts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP of Utah). The Chair has to remind the body one more time that Members can make factual references to the Senate but anything that characterizes action or inaction in any way is out of order.

Mr. KINGSTON. I believe that we all are elected, be it a House or a Senate Member, or even a State representative back home, a county commissioner or a mayor, you are elected to vote, to take a position and not play parliamentary games, which is what has been going on.

Mr. CUNNINGHAM. We rejoiced when the Democrats elected their leadership because we knew how far left it was. This is just a good example.

Mr. MARIO DIAZ-BALART of Florida. I just may add, though, also, that there are so many important issues that this country is facing, that this House and our friends across the rotunda, in the other Chamber, are facing. The fact that there is a filibuster going on, not only is it damaging to this brilliant young attorney who is experienced, talented and of unbelievable integrity, but there are a lot of other issues. The gentleman was mentioning the economy recently. I am concerned about the economy. I am concerned that we need to do something and do it quick to make sure that we have economic growth in this economy. That is why I support the President's proposals, because I think there are two choices: Either you do nothing and hope for the best or you do what the President is suggesting, which is make sure that we incentivize job creation. But the problem is that nothing is getting done over there because there is a small group of people who just refuses to let anything happen because they are going to filibuster on Miguel Estrada. That is unbelievable.

You are absolutely right, sir, where you just said, that is the same group that did not get anything passed for the last couple of years and now in the minority they are even going to the extreme of procedural maneuvers to avoid votes because they do not have the votes, but they are going through procedural maneuvers to avoid even a vote. It is horrible because Miguel Estrada deserves a vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair has to remind Members one more time that any kind of characterization of the other body is not in order.

PARLIAMENTARY INQUIRY

Mr. CUNNINGHAM. Can I ask the Chair a question?

The SPEAKER pro tempore. The gentleman from California is recognized.

Mr. CUNNINGHAM. When we are talking about something that is done in the other body, it is very, very difficult to talk about and compare without mentioning the other body, to compare what they are doing in relation to this body.

The SPEAKER pro tempore. The Chair understands the difficulty, but those are indeed the House rules.

Mr. CUNNINGHAM. We will try to be cognizant of that, Mr. Speaker.

Mr. KINGSTON. If I may ask the Speaker, you can make a factual statement about the other body; is that correct?

The SPEAKER pro tempore. The gentleman from Georgia is correct. Members can make certain factual statements about the Senate or its actions, but cannot in any way characterize its action or inaction or the Senate or its Members.

Mr. KINGSTON. I thank the gentleman.

Mr. Speaker, also, how much time do we have left?

The SPEAKER pro tempore. The gentleman has about 30 seconds.

Mr. KINGSTON. I certainly appreciate the Speaker's leadership and patience. Does either the gentleman from Florida or the gentleman from California have any closing remarks?

PARLIAMENTARY INQUIRY

Mr. CUNNINGHAM. I would ask the Chair again, for example, is it okay, a fact, that then the majority leader of the Senate stopped the flag amendment from coming forward in the other body. Would that be appropriate? That is a fact.

The SPEAKER pro tempore. The rules forbid such a characterization.

Mr. CUNNINGHAM. You are correct. Action was not taken by the majority leader at that time.

The SPEAKER pro tempore. The fact that action was not taken might be stated without characterization.

Mr. KINGSTON. I thank the gentleman from California.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from Georgia for his time.

GLOBAL HIV/AIDS PANDEMIC

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. LEE) is recognized for 60 minutes.

Ms. LEE. Mr. Speaker, tonight's Congressional Black Caucus special order on the global HIV/AIDS pandemic is particularly timely given our current discussions on an authorization bill by the House Committee on International Relations. I want to thank the gentleman from Maryland (Mr. CUMMINGS) for his leadership in the Congressional Black Caucus for organizing this very important discussion tonight.

Three weeks ago, during the Congressional Black Caucus' special order celebrating Black History Month, I laid out the history of our caucus' work in the Congress on the global AIDS pandemic. I described how our involvement evolved in 1998 with a proposal put forth by my friend, colleague and a distinguished founding member of the Congressional Black Caucus, Congressman Ron Dellums, calling for an AIDS Marshall Plan. Since that time, support for these proposals has broadened beyond the Congressional Black Caucus to encompass a majority of Members of this Chamber on both sides of the aisle. I am especially proud of the progress that we have made over the years.

For example, under the leadership now of our new leader, the gentlewoman from California (Ms. PELOSI), $42 million was amended to the fiscal year 2001 foreign operations bill to provide the first real increase in spending for our international AIDS programs. We passed the Global AIDS and Tuberculosis Relief Act of 2000, which was signed into law by President Bill Clinton and which established the framework for the global fund to fight AIDS, TB and malaria.

And last year we came very close to reaching a compromise on H.R. 2069, the Global Access to HIV/AIDS Prevention, Awareness, Education and Treatment Act which is a comprehensive global AIDS bill that passed the House in December of 2001 and which the Senate modified and passed in July of 2002. Yet there is still a tremendous amount of work for us to do, particularly now that the President has finally decided to support a significant boost in spending for our international AIDS programs.

But what has the President really proposed and how does this proposal translate into action within the fiscal year 2004 budget which we received early last month? The President has said that the goal of his initiative is to prevent 7 million new infections per year and to provide treatment to over 2 million people who are infected with HIV, and to provide care for 10 million HIV-infected individuals and AIDS orphans. But where is the money for this proposal? Certainly it is not contained within the President's recent budget request to the Congress. In fact, the President only requested $450 million for his initiative in this coming year and a total of $1.8 billion for the entire international HIV/AIDS, TB and malaria portfolio. This is barely an increase of $400 million over the fiscal year 2003 budget of $1.4 billion and is far below the figure of $2.6 billion that the Congress was targeting for fiscal year 2004. Yet at the State of the Union address, the President described an immediate need for treatment for 4 million individuals infected with AIDS, individuals who, as the President described, have been told by their local hospitals, "You've got AIDS. We can't help you. Go home and die."

What does the President say to these same people within his budget request? Additionally, the limited focus of the President's plan to just 25 percent of the 48 sub-Saharan countries is really very shortsighted. This kind of policy would neglect millions of individuals who are equally in need of assistance. But the most disconcerting portion of the President's proposal is his level of commitment to the global fund to fight AIDS, TB and malaria. Under the President's proposal, the global fund would receive only $200 million per year for the next 5 years. Yet at this moment, the fund is nearly bankrupt and has projected that it will require an additional $6.2 billion through 2004 to meet the increasing number of grant requests that the fund is expecting.

As a point of comparison, we recently approved $350 million in the fiscal year 2003 budget for the global fund. The AIDS authorization bills that we were working on last year would have provided between $750 million to $1 billion in fiscal year 2003. Clearly the congressional commitment to the fund exists. This was a bipartisan effort. It is especially critical that we provide funding now, given the recent election of Health and Human Services Secretary Tommy Thompson as chair of the executive board of the fund, in effect, making him the chief fund-raiser for the global fund.

Despite these issues, I believe there is ample hope that the United States will make a substantive commitment to fighting the global AIDS pandemic. The groundwork that we laid in the last Congress among the original cosponsors of the House and the Senate AIDS authorization bills provides us with a real opportunity to jump start our work here in this House.

So far, I have been very encouraged by the efforts of my colleagues on the House Committee on International Relations who are seeking to act quickly on a bipartisan AIDS authorization bill in this Congress. Chairman HYDE, Ranking Member LANTOS and Congressman LEACH, who also was my partner really in the Global AIDS and Tuberculosis Relief Act, have all displayed a commitment to working on a bill that builds upon our previous efforts in the last Congress.

Currently, we are looking at an authorization of $15 billion over 5 years, $3 billion per year, that matches the President's request at the State of the Union. The underlying structure of the bill is very similar to a compromise that we were working on at the end of the 107th Congress. I am very optimistic about our progress on this bill and I look forward to our continued dialogue with our colleagues in hopes that we will have a bill for markup in committee very soon.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. CUMMINGS), the chair of our Congressional Black Caucus who has been a great leader on this issue, and so many other issues not only in Maryland but in the United States House of Representatives.

Mr. CUMMINGS. I want to thank the gentlewoman for yielding. I also want to take a moment to thank her for consistently standing up for so many people who cannot stand up for themselves. I also thank her for consistently raising this issue, an issue that so often is put to the side, so often not put on the back burner but placed off the stove.

Mr. Speaker, I rise today to speak on an issue that deeply troubles members of the Congressional Black Caucus as well as many other Members of this Congress, the President's emergency plan for AIDS relief.

Mr. Speaker, the Bush administration's policy on HIV/AIDS and other global diseases affects us all. Infectious diseases know no borders. Because of this, prevention and treatment programs to address particularly dangerous diseases such as HIV/AIDS, tuberculosis and malaria must be swift and adequate. That is why I and other members of the Congressional Black Caucus, AIDS activist groups and the faith-based community wrote a letter to President Bush on December 18, 2002, asking him to announce a presidential initiative to address this vexing problem.

As a global community, we are at a crisis stage with these diseases. Adequate funding for the prevention and treatment of infectious diseases, especially HIV/AIDS, must come before it is too late. As the richest and most scientifically advanced Nation in the world, we have both the power and the responsibility to take the necessary actions to end this epidemic.

Mr. Speaker, today more than 29.4 million Africans are living with HIV. Last year an estimated 2.4 million new infections occurred, while 3.5 million people lost their lives to this disease. This is a problem of epidemic proportions. I can only imagine the pain and suffering of the millions of families, orphaned children and those afflicted with this disease waiting for relief in any form.

□ 1730

The time for action is now. Lives are wasting.

That is why I applaud the President for his budget proposal which would provide $10 billion over 5 years to combat the AIDS crisis in Africa. This gesture indicates that he recognizes the need to show compassion for this epidemic through increased funding. However, the President also must act quickly if his compassion is to have any significant impact in preventing the needless suffering and death of more victims to this disease.

Mr. Speaker, I say this because the President's plan provides only $2 billion for 2004. This represents only 380 million in new funding dollars. This funding is insufficient and will not provide access to the necessary medical care and pharmaceuticals for individuals living with HIV and AIDS across the globe. The President's approach of slowly phasing in the funds writes off the lives of millions who need assistance not yesterday but right now.

Mr. Speaker, in Africa it is estimated that more than 4 million people have a sufficiently advanced stage of HIV/AIDS to warrant anti-retroviral treatment. However, currently only 50,000 are receiving that treatment. The importance of the anti-retroviral treatment for people suffering with HIV has been conveyed to the White House by the medical community. It is worth pointing out that the President admirably establishes a goal of providing anti-retroviral treatment to 2 million people infected with HIV. Despite this goal, he has only requested $450 million for his Global AIDS Initiative. Given this limited allocation and the $300 minimum yearly cost per person of providing the necessary drug cocktails, it seems that the President has assured himself of falling short of this goal.

Many in the global AIDS community, along with many members of the Congressional Black Caucus, believe that the only way to provide the cocktail to the millions that need it is through purchase of generic drugs. While publicly agreeing to this idea during the WTO negotiations in 2001, the United States has since refused to sign off on the implementing language last December that would have allowed poor countries to import generic drugs. This disconnect between rhetoric and actions need to be corrected. I urge the President to reconsider the United States's policy.

In addition to the lethargic funding of HIV/AIDS treatment, the President's plan takes away $50 million from USAID's Infectious Disease program and includes a reduction to our contribution to the Global Fund by $150 million from the 2003 levels. These reductions are coupled with an insufficient economic commitment to the Global Fund to Fight AIDS, Tuberculosis and Malaria, for which President Bush has only designated $1 billion over the next 5 years.

Mr. Speaker, this funding is woefully inadequate, as the global fund estimates that it needs $6.2 billion through 2004 to remain operational, $2.2 billion of which should come from the United States. The United States was instrumental in launching the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria in 2001. This commitment must be maintained in order to provide the necessary money to grant applicants and existing grant programs to combat the disease in 2004.

I am hopeful that with the recent election of Health and Human Services Secretary Tommy Thompson as chairman of the executive board of the Global Fund that the United States will commit itself to an increased financial and political involvement with the fund. I am confident that Secretary Thompson understands the urgency and direness of these horrible diseases, particularly HIV and AIDS, and I am confident that he will serve in the best interest of the fund.

Finally, Mr. Speaker, in addition to the problematic pace of funding of the President's plan, I am particularly disturbed by recent press reports surrounding a February 11 State Department memo indicating that the President will extend the global gag rule to cover all of our bilateral programs. Any extension of the gag rule would be turning a blind eye to the facts and would greatly hinder the effectiveness of global HIV/AIDS programs. While abstinence is one important way to avoid contracting HIV/AIDS, it is more important to fully educate people of their options and provide integrated HIV/AIDS prevention services with family planning programs. Given the high levels of stigma and ostracism that people with AIDS face in much of the world, for prevention programs to be successful, they must be integrated into services that people are accustomed to accessing, including family planning and maternal health services.

Stand-alone HIV/AIDS treatment programs, which the proposed family planning policy may require, will be a significant setback in the integration of prevention and treatment initiatives made to date. In some societies, women who are known to have HIV/AIDS stand to lose more than their lives. Their homes, livelihood, and even their children may be at stake. Thus it is highly unlikely that these women will go to a stand-alone HIV/AIDS clinic where the stigma associated with the disease would deter people from being tested or receiving counseling, prevention supplies, or health care.

Women are key to halting the spread of the HIV/AIDS pandemic, especially in the developing countries of Africa. Fifty percent of those infected worldwide and 58 percent of AIDS victims in sub-Saharan Africa are women. If we are to be effective in our fight against HIV/AIDS, we must ensure that women have access to treatment and support services free of stigma. We must empower them with education and assistance. The global gag rule handicaps this process, and it is poor policy in the fight to eradicate HIV/AIDS.

I welcome the President's commitment to providing billions of dollars to fight the global pandemic of HIV/AIDS and other infectious diseases. However, the only way to truly defeat these diseases is to develop a comprehensive strategy, a plan which focuses on the rapid disbursement of funds to prevent the spread of HIV/AIDS, to treat and support people already infected, and to provide support for those nations who are losing their fight against this deadly disease.

And with that, Mr. Speaker, I thank the gentlewoman for yielding.

Ms. LEE. Mr. Speaker, I want to thank the gentleman from Maryland (Mr. CUMMINGS) for that very eloquent and comprehensive statement and also once again for organizing the Special Order tonight.

I yield to the gentlewoman from Michigan (Ms. KILPATRICK), who serves on the Committee on Appropriations and has been a real advocate for those who have no voice in the funding mechanisms of our United States House of Representatives.

Ms. KILPATRICK. Mr. Speaker, I thank the gentlewoman from California (Ms. LEE) for continuing to be in the forefront of this issue. God loves her for it: and as we work together to build a better world, this is certainly one of the most important issues that we will face in our lifetime.

As a member of the Committee on Appropriations, I am acutely aware, as most of the Members of the Congress are, what a tight budget we have this year and as we move into the next few years as we send our troops off in Afghanistan currently, soon to be Iraq with North Korea another possible war target. It is important, I believe, that as we do all of this, and I want to commend President Bush for making the statement in his State of the Union address, that we will spend more resources to fight HIV and AIDS.

As most everyone knows in the world, the pandemic is spreading. Africa today, India, former Soviet Union, China, and right here in our own country, unprecedented numbers of people being infected with HIV and AIDS. So I am happy to commend President Bush on taking the first step as the leader of the free world to really begin to address the problem.

Is it enough? No, it is not enough. We need to do better. We need to do more, and that is what we are talking about tonight, how we do more. It is not always money. When you are the leader of the world, you can do a lot of things that can help poor countries and other countries of the world. We can make it possible for generic drugs to be used in poor countries; and as was mentioned earlier, if the United States would step forward and sign an agreement that the World Trade Organization put forth, many of those poor countries could use generic drugs and would be able to treat the hundreds of thousands of people who are infected with HIV and AIDS; and I urge the President to come forward to work with the World Trade Organization to make sure that those pharmaceuticals are available for the poorest of the poor so they may treat themselves, save their families, and protect their children. It is most important, Mr. President; and I hope he will work in that vein.

The gag rule that was mentioned, the gag rule, for those who do not know, is a rule put on some of our appropriations that says any country that teaches family planning may not be a recipient of the funds that have already been appropriated. Many of us think that is wrong. Family planning is just what it is; and many countries in the world, we of the United States and other countries of the world, help people to plan their families so they can live within the means that they have.

By our putting the gag rule on the funds that will come forward for HIV and AIDS, it says that many of the countries will not be able to access those funds. We believe that the funds ought to be available for those countries, the poorest of the poor, who are infected, in this case, with HIV and AIDS; that the family services ought to be integrated. We have already heard that when the services are integrated, more people come and take part in those services and not just be treated with one illness, but may also have tuberculosis, may also have malaria, HIV. So then we are able to treat the entire illnesses of the people, and I hope that the President will reconsider and take the gag rule off his initiative for treating and helping with the AIDS pandemic.

We can also relax and expand the rules for HiPC countries, the highly indebted poor countries of Africa. They cannot partake of this initiative because we need to expand who can participate. It would mean that some of those countries would have to match the dollars in some instances; but many have told me, and the president of Uganda, one of leaders in the world in treating and reducing the HIV pandemic, that they are ready, willing, and able to work with this country, but they need help. They need our leaders to free them up so that they can access and treat more people. From the generic drugs, making those available, that is one way we can help. Sometimes it is not always the money. Is the money enough? No, it is not. But we as the leaders of the world can do other things that will assist in those poor countries.

AIDS, HIV, tuberculosis, malaria, as a member of the Committee on Appropriations Subcommittee on Foreign Operations, Export Financing and Related Programs, we fund those lines for countries all over the world. Why then in this initiative must we take money from the programs that are working well, the malaria, the tuberculosis program? We do not want to subtract money from those to give to HIV. We want to make it a partner with our HIV dollars, not to rob Peter to pay Paul, but to make that as one pot of money so we can treat all of those and put the dollars in that are necessary.

Is the money enough? No, it is not. But it is not always the money. There are other things that we can do to help. We can help by making it possible for some of the countries to be able to cancel their debt. In some instances 30, 40, 50 percent of the revenue of a country is used to cancel the debt. At a time when resources are low, at a time when countries are poor, we as leaders of the free world need to find a way that we can make arrangements to cancel some of that debt so those resources can be used to treat their own people in their own country.

And I tell the President if he would stand up and make that a fact, work out some arrangements so some of the debt can be cancelled, those dollars then could be put back in those countries to treat the pandemic so we do not have to always use U.S. dollars. There is a way to address the problem. Is the money enough? No, it is not. But it is not always the money. Many times it is leadership.

I want to commend President Bush for what he has already done, but I want him to know, and this Congress to know, there is much more that we can do. Make the generic drugs available, help with canceling the debt that the countries have, make sure that we get rid of and eliminate the gag rule that is not making it possible for some people to access the money.

□ 1745

In United States today, Africa, India, China and several other countries of the world, this is a real pandemic. Our role and our rule ought to be as responsible leaders in this community, leaders of the world, all 535 of us. What else can we do to relieve the illnesses, to break it down so that so many children will not be orphaned, so that so many families will not be left with nothing?

There are things we can do, and it is not always the money. I contend that if we just did three of the things I mentioned today, cancelling the debt, the use of generic drugs, as well as making sure the gag rule does not stifle and eliminate those who need treatment, it would help. Is the money enough? No, it is not.

But let us stand up and work together, Mr. President, with you. We are ready, we are willing and we are able. We just count on you to lead our country in this pandemic crisis that we see. HIV and AIDS is not going away. Family planning is a necessity. We need to work to integrate the services so that our families can be strong, so that our children can grow and live and have an intact family, and that we move forward as a United Nations of all of God's people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP of Utah). The Chair would remind Members that remarks should be addressed to the Chair and not to others, such as the President.

Ms. LEE. Mr. Speaker, I would like to thank the gentlewoman from Michigan for that very profound statement, for really highlighting the global dimensions of this pandemic and for continuing to be our eyes and ears on the Committee on Appropriations and ensuring that our resources are prioritized in a way that they are effective in addressing this pandemic.

Mr. Speaker, I yield to the gentlewoman from California (Ms. WATSON), a former ambassador, an individual who has chaired a senate health committee for many, many years in California, and one who serves now on the Committee on International Relations and has taken the lead on many HIV/AIDS initiatives, not just since she came to Congress, but throughout her career.

Ms. WATSON. Mr. Speaker, I rise today to express concern with the President's $15 billion over 5 years proposal on HIV/AIDS funding for Africa. I commend the gentlewoman from California (Ms. LEE), the CBC and my Congressional colleagues who have worked selflessly to address this important global health issue.

My question is, are we going to see the results that we need, given the proposed funding levels? HIV/AIDS knows no continental boundary, no religious belief, no government ideology, no sexual orientation, and, most significantly, HIV/AIDS is color-blind. HIV/AIDS does exploit those people who are information-deprived and the financially challenged.

In our global community, many countries suffer from a lack of information and resources. On the continent of Africa, the HIV/AIDS epidemic has reached catastrophic proportions. There were 2.4 million new infections last year, and 3.5 million deaths. With over 29.4 million Africans living with HIV, it would be foolish to turn a blind eye and wish the problem away or to think that the global HIV/AIDS pandemic does not affect the United States.

Mr. Speaker, despite the size of the President's commitment to fighting HIV/AIDS, $15 billion over 5 years, $10 billion of which would be new funds, I stand disappointed by the size of his current budget request. HIV/AIDS funding has only been theoretically increased in the FY 2004 budget and many key programs will be underfunded. By providing over $2 billion for the coming year, of which $285 million is for research, and back-loading the bulk of the funding, the President's approach of slowly phasing in the funds will write off the lives of millions who need assistance now.

Based on a budget analysis of this FY 2004 request, $1.71 billion, compared with the FY 2003 omnibus bill of $1.363 billion, the President is barely providing $380 million in additional funding this year. Mr. Speaker, this is a typical use of rhetoric that this administration utilizes too well. Congress must address this important global issue with the proper funding.

The President is taking away nearly $15 million from USAID's Infectious Disease Program and is reducing our contribution to the global fund by $150 million from the FY 2003 levels. This kind of accounting is unacceptable and should not be included as part of the President's pledge for $10 billion in new money. How can this administration tell Congress and America that we will fight the HIV/AIDS pandemic with $15 billion, and, at the same time, cut contributions to two major global programs?

Lip service will not stop the virus. Lip service will not save people that are suffering and dying. Lip service will not provide a plastic bubble that keeps HIV/AIDS out of the United States.

Mr. Speaker, directly after the tragic events of 9/11, President Bush asked for $40 billion to fund homeland security and emergency relief efforts. Congress moved quickly in a bipartisan manner to address our national security needs.

HIV/AIDS funding is just as critical to our national security. National health is the cornerstone of our society. We have the money and are willing to use it when American ideals of life, liberty and the pursuit of happiness are challenged.

I can think of no greater danger to the quality of American life than the very real threat that AIDS poses to undermining nation states around the world.

Mr. Speaker, the only way to truly defeat HIV/AIDS is to develop a comprehensive strategy that utilizes the strengths of bilateral and multilateral institutions. The plan must also focus on the rapid disbursement of funds to prevent the spread of HIV/AIDS and to treat those individuals who are both infected and affected by the pandemic.

I urge the President and all my colleagues to front-load the increases in global HIV/AIDS funding so that we can truly make a difference and confront the greatest health challenge of our time.

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman from California for her participation and for that very eloquent and very clear statement. I thank her for her commitment to health care issues in general.

Mr. Speaker, I would like now to yield to the gentleman on the other side of the aisle, my colleague from

California (Mr. CUNNINGHAM). I mentioned earlier that this has been a bipartisan effort in establishing the global AIDS fund. We passed on a bipartisan basis the Global AIDS and Tuberculosis Relief Act of 2000 with the gentleman from Iowa (Mr. LEACH), and I think we see progress when we work together. So I am delighted my colleague would like to speak this evening.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, sometimes we talk about millions and billions of dollars and we lose the faces that are connected with AIDS. I want to just put a face on AIDS and a small victory.

Being on the Subcommittee on Labor, Health and Human Services and Education, we quite often go out to the National Institutes of Health in Bethesda. There I met a young African American. He walked up to me and says, "Congressman, I have AIDS." He said, "Every day I wake up and the only thing I think about is dying."

He said this was so, until a medical research breakthrough that has a procedure where he goes through hell about every 6 months, but it extends his life. What it is called is hope. This young man now, with some hope, has gone out and bought a home, where he would not before. He has bought stocks. He did not before.

I would say that I am a fiscal conservative. Speaker Gingrich used to talk about diabetes, that if we could stop amputations and blindness, think of the money we would save, let alone the quality of life. Well, I would say that if we could better people's lives, stop the hospital visitations and AIDS, think of the money that will be saved for health care to provide those dollars for more and more people.

I thank the gentlewoman. I would also challenge the Black Caucus. We did the first prostate cancer town hall meeting in Washington, D.C. I also sit on that committee. It was very successful, with Mayor Williams. We are going to have another one in the spring.

The highest rate of prostate cancer is among African Americans, and the highest rate is in Washington D.C. We are going to have another one this spring, and I would invite the caucus to work with us and with Mayor Williams this spring when we are going to do that.

Ms. LEE. Mr. Speaker, I thank my colleague from California for that very poignant statement and also for putting a face on what we are talking about today. Yes, it is hope that we all need, but it is resources also that provide that hope.

Mr. Speaker, I would now like to ask the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) to come forward. She is a medical doctor, and with the Congressional Black Caucus in terms of her leadership on the Health Brain Trust, has been working on a variety of health care issues as they relate to the disparities we see within the African American communities, and one of those is prostate cancer. I am sure the gentlewoman, as I yield to her, would like to comment on that.

Ms. CHRISTENSEN. Mr. Speaker, I thank my colleague for yielding. We will take the gentleman up on that offer. The gentleman and I co-chaired a briefing here on the Hill back a few years ago. It was a pleasure to join the gentleman then, and we look forward to joining him in the spring.

Mr. Speaker, when the President first announced the $15 billion in his State of the Union address, yes, we were very surprised. It sounded almost too good to be true. But we knew that at least our voices had been heard. The caucus and faith-based groups around the country, with the AIDS community, had long been calling on our President to provide the funding needed for global AIDS, and we thought initially that perhaps our requests and our pleas had been answered.

But it was almost too good to be true. And I know the next day I joined the gentlewoman from California (Ms. LEE) and the gentlewoman from California (Ms. WATERS) and others at a press conference, where we said, yes, we appreciate the fact that the President was reaching out and did appear to be responding, but we had many questions about what the $15 billion really meant.

At that time I asked several questions: What might have been some of the restrictions placed on that money? Where would it have come from? Was this new money or was it going to be taken from other important programs? And today, as I stand here, I can tell you that there are restrictions, and, yes, it did come from other important programs, and that very little of it was really new money. Not only that, but the money is coming over a long period of time. The public health effort that we need now demands an infusion of a large amount of funding now.

As I said, the CBC has been pushing for more funding on this issue for many, many, many years. Currently there are 29.4 million infected people, with 3.5 million Africans were newly infected just last year.

□ 1800

There were 3.5 million new infections. Despite the President's commitment to fighting HIV/AIDS at $15 billion over 5 years, $10 billion of which may or may not be new funds, we are really disappointed by the size of the budget request for 2004. Based on a budget analysis of this fiscal year 2004 budget request compared with the fiscal year 2003 omnibus bill, the President is barely providing $380 million in additional funding this year. Rather, as I said, the administration is taking away nearly $80 million from the USAID infectious disease program, and reducing our contributions to the Global Fund by $200 million from projected fiscal year 2003 levels.

Also, when we look at the President's commitment to the Global Fund to Fight AIDS, Tuberculosis, and Malaria, for which he has only designated $1 billion over the next 5 years, or $200 million per year, the Global Fund is a public-private partnership. It is an efficient, accountable, results-oriented mechanism for responding to these three killer diseases: AIDS, TB, and malaria. It is an innovative fund, and it operates under a technically rigorous and efficient process.

Just last week, I read that I think it was Malawi had requested some funds, and those funds were not released because certain requirements had not been met. I think the Government of Malawi wanted to put the funds in a general account, so the funds were not released until Malawi made the alterations in their plans. That demonstrates the kind of oversight that the Global Fund does have and why it is so important, because of the way in which this funding is provided to the countries through a coordinated partnership coming from within that country, a community-based approach that knows where those funds are needed and can best apply those funds to the problem. This is the best place that the funds should be provided; and as I said, they should be provided up front.

I also said at the time that I would have felt a lot more confident in the $15 billion if I had also heard that the U.N. population funds had been released; because, again, I had a lot of concern about were these funds actually going to be available. Later on, the President did say that he was going to take on some measures that would release these funds; but again, we read that they are going to be tied to whether abortion counseling is given.

In many countries that need these funds, countries where HIV/AIDS is rampant, these are sometimes the only or the first line of defense for women, particularly, but men also, in terms of protecting themselves and getting the kind of information and counseling that they need to prevent HIV and AIDS.

We had what we thought might have been good news just a couple of weeks ago about a vaccine, but we are very far off from a vaccine today. So prevention remains the best way to address this disease, and the U.N. population funds do provide that kind of prevention. We need to release those funds.

We heard our colleague, the gentlewoman from Michigan (Ms. KILPATRICK), talk about the Mexico City language, the gag rule. These funds are needed. They are part of the process. We need to have them released.

I also said at that time that I would have felt more confidence in the announcement of the funding if there had also been a concurrent announcement that the United States was going to support the release of the funds for Haiti.

Haiti is one of those countries that is in the first round of the Global Trust Fund funding, the awards. But if they do not have the infrastructure in place, if they do not have the concurrent funding to have the health care infrastructure in place, those funds will not be able to be as effective as they would be otherwise. So in the absence of all of the other measures that need to be in place, the commitment, despite the pronouncement of $15 billion for global HIV and AIDS, still does not live up to the promise that we heard in late January during the President's State of the Union address.

So I would call on the President and call on my colleagues to urge our President and to urge this administration to provide the level of funding; and I believe it should be somewhere in the area of, is it $2 billion each year? And because the fund is now underfunded and will probably run out of funds after the second round, really, a country such as ours should be able to provide even more than this, since we have not funded it to our total amount over the last couple of years.

Certainly $2.2 billion should come from our country. It will encourage other countries to increase their contributions to this fund. It is just not right for us to offer this promise of a global trust fund to allow them to give to three or four countries in the first round and several countries in the second round, and then to find that the funds have run out.

Already, the Caribbean countries have been asked to cut back on their projected requests. They have had to cut that in half. We heard when we were in Barcelona that if we continue to address this pandemic with dribs and drabs of funding, with the same lack of commitment that we have seen over the past 20 years, that the numbers will double and quadruple, hundreds of thousands of people will become infected, and we will experience many more deaths, not only overseas but here at home, as well.

So again, I am calling on the President and asking our colleagues for their support in providing the kind of funding that is needed to fight this global AIDS pandemic.

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for her very comprehensive statement. I would like to commend her for her leadership with the Congressional Black Caucus in terms of sharing in our health brain trust. Just today we held a health brain trust with regard to the country of Haiti, and I am delighted that the gentlewoman raised Haiti in her presentation.

Haiti is the most impoverished country in the Western Hemisphere. Ninety percent of all HIV and AIDS infections in the Caribbean are in Haiti. Over 300,000 people are infected and have been identified, and deaths from HIV and AIDS have left over 163,000 children orphans, so it is so important that we encourage the administration to release the funds that the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) mentioned in terms of the International Development Bank.

Mr. Speaker, I yield to the gentleman from New York (Mr. OWENS), my colleague and a real leader on behalf of our children and on behalf of the Caribbean, on behalf of those suffering and living with HIV and AIDS. I thank the gentleman for his participation this evening.

Mr. OWENS. Mr. Speaker, I thank the gentlewoman for yielding to me. I would like to thank the chairman of the caucus, the gentleman from Maryland (Mr. CUMMINGS), as well as the gentlewoman from California (Ms. LEE), for sponsoring this Special Order on AIDS. It is focused on AIDS help for Africa, but we cannot really separate AIDS in Africa from the pandemic that is sweeping over the whole world.

We do not hear much talk about AIDS in India, but I assure the Members that it is a big problem there. It is a nation with a billion people and very densely populated, and in a few years their problem will be far greater than Africa's.

We do not hear much about AIDS in China. They have kept it a secret, even from themselves, to the point it has gotten out of hand; and we are going to hear far more, again with a nation of more than a billion people. It is a pandemic sweeping the world.

I stood up and applauded, along with the rest of my colleagues, when President Bush announced a special initiative on AIDS, $15 billion worth of resources behind that initiative, during his State of the Union address. We stood up and applauded.

I would like to keep applauding. I would like to say to our colleagues, let us throw a positive spotlight on this and hope that by continuing to applaud and continuing to hold it up, it will be done and done right; that we will make some corrections on some of the problems we have heard enunciated tonight with the way in which it is being done, in robbing Peter to pay Paul, and a number of other things we have heard behind the scenes about certain people who do not agree with the President, and they are determined to sabotage it in the various agencies. We hope that will not happen.

We hope this represents an example of the better angels in American foreign policy, the better angels of American leadership. Those angels have come forward time and time again, and they have always not only benefited the people that we helped, but they have benefited us.

The better angels sometimes appear in terms of a military force. They went off to Europe to fight fascism, and the boys who died on the beachheads of Normandy and other places there were fighting first of all to get invaders out of a foreign land and to save Europe from fascism, but it certainly was also to save the rest of the world from fascism.

During the aftermath of that war, World War II, we launched a Marshall Plan, a Marshall Plan which I think cost $20 billion in the currency of that time, $20 billion to help save the European countries from economic hardship and starvation, which would have led them into the bottomless pit of Communism. It was one of the best programs in terms of expenditures of money. We got more for our money through the Marshall Plan than from any other program that we had launched to contain Communism.

We fought a war in Korea, we fought a war in Vietnam, always to stop the tide of Communism; but we paid billions and billions of dollars more, and we paid in lives. The Marshall Plan, which was a nonviolent plan, a plan using the economic might of America to go to the aid of people of Europe, was effective in stopping Communism in Europe. So we have reaped benefits from the better angels policies that we have put forward.

Here is a chance to do it again. The pandemic is sweeping the world. We are helping to save ourselves. I speak as a Congressman from a district which is at the epicenter of the North American AIDS epidemic. The epidemic in North America, the epicenter is in Brooklyn; it is in Brooklyn in part of my district, an area called Brownsville and Fort Green, east New York, east Flatbush. There is a heavy Caribbean population in part of that area, and a large Haitian population in part of that area, so these things are not so foreign to us. Haiti is not that far away and the Caribbean is not that far away.

We need to think in one other dimension, that is, that microbes are the most powerful force in the world, the most powerful living forces in the world. If Members have not read some of those books about microbes, how numerous they are and how they continue to multiply and change and mutate, then Members ought to become conversant with that.

Microbes, the germs that create the AIDS problem, are constantly changing and mutating. If we do not move, as one of our speakers has said, if we continue the dribs and drabs and do not move in as rapid a way as possible with all the available resources that we can muster, we may have a situation where the microbes mutating will end us up with something far more dangerous than we have now.

AIDS is very complicated. One has to have intimate contact with a person to get AIDS from a person. There is nothing to say that the mutations will not take place and we will have some creatures flying in the air. The process of the way microbes mutate and viruses develop and so forth is such that it is not inconceivable that we could have a much worse problem affecting, or with the capacity to impact, much larger numbers of people.

So when we help the people of Africa and anywhere else struggling under this problem at this particular point, we are also helping ourselves. We need to understand that. We are helping ourselves when we use our resources in this way to guarantee some kind of better quality of life, some kind of opportunity for people to be able to cope with it. With the help of outside forces from the high-tech world and the modernized, industrialized nations, maybe they will have a chance to get a grip or handle on it and be able to cope.

These same countries are the places where Osama bin Laden and all the other terrorist leaders of the world will be recruiting people as they sink deeper into despair, as we have more and more orphan children. We have wars raging right now in many parts of the world, and children soldiers. Children soldiers are the backbone of those wars. So we cannot separate out the effort to stamp out AIDS from the other problems of the world. We can help ourselves a great deal if we listen to the better angels of our nature. If we use our resources to help people, we will end up helping ourselves a great deal. I think that is to be remembered as we go forward.

Let us support the President and urge him to make certain that the problems that have been identified here are ironed out as rapidly as possible. Let us make sure that our credibility is not questioned because of something we are proposing that we are not delivering. Let us get all of our colleagues on board to try to stamp out this scourge that affects the whole Earth and could easily come home and affect large numbers of our own people.

□ 1815

Ms. LEE. Mr. Speaker, I want to thank the gentleman from New York (Mr. OWENS) for his participation and for reminding us that really Africa is just the tip of the iceberg, and this is a global pandemic.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman and I thank her very much for the ability to share this afternoon.

Mr. Speaker, I think it is important just to note to the public that is listening and to our colleagues that are a part of this debate is that the real crux is that this is a crisis of such magnitude that the fact that $5 billion is old money and not new money, causes us to desire the administration to reinvestigate their commitment to global AIDS and increase the funding.

I think it is important to note, Mr. Speaker, that over the next 5 years, 40 million children in Africa will be orphaned by way of losing 1 or 2 parents to HIV/AIDS. It is clear that the Caribbean and India and China are facing the same kind of crisis. It is also clear that President Mbeki of South Africa has made it very clear that you cannot fight HIV/AIDS without fighting TB and malaria. And we only are getting $1 million over the next 5 years for TB and malaria when the Global Fund needs $6.2 billion to operate.

It is extremely appropriate that Tommy Thompson, now the Chair of the Global Fund will look at these problems and acknowledge that we have got to do better. The other thing is, I think it is very difficult to be able to tell other countries when they are speaking the language of family planning that they can not get funding for HIV/AIDS, part of family planning is to save lives of women who may be infected with HIV/AIDS.

Truly we have a crisis, and I believe having gone to Africa in the first presidential trip in the term of the administration of President Clinton when we went and traveled to countries like Zambia, South Africa and Botswana, we saw what Africa could do. Now we know that they can do a lot with generic drugs. Distribution questions can be answered. I would simply say, Mr. Speaker, that it is imperative that we fight this battle together, link arms together to ensure that we do not orphan any more children around the world.

Let me close by saying, Mr. Speaker, by saying this is a problem right in our own back yard. And I ask HHS to make sure that the minority fund for minorities that are fighting HIV/AIDS in our respective communities get to those minority agencies here in America. Because I hear over and over again, wherever I go, that those funds designated by the Congressional Black Caucus are not getting to those inner-city agencies and nonprofits to fight HIV/AIDS rights in our backyard. This is an issue for the President. The Global AIDS Fund is an issue for the President and the administration, and I hope that we can collectively work together because we should be committed to saving lives.

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman for her statement and for her leadership and for her patience on this special order.

Let me yield to the gentlewoman from the District of Columbia (Ms. NORTON), and I want to thank her also for her participation and her leadership this evening.

Ms. NORTON. Mr. Speaker, quickly, I want to thank the gentlewoman for her sustained leadership on this issue.

I want to focus on one issue and that is the failure to use multilateralism when it comes to AIDS policy. The unilateral approach we see here that we do not have a global approach to AIDS any more than we have the kind of global approach we need to war and to terrorism. In both, lives are at stake. The Global AIDS Fund is applauded all over the world because it is a low cost administered fund with great accountability, philanthropists serve on it. And what have we done?

It is not clear whether we are setting up a new fund, a new entity. What is clear is we are giving only a billion dollars rather than the more than $2 billion that should go to that fund, so where is the rest of our money going to? Why are not we using this multilateral approach which would get the most bang for our dollar?

I think the reason is we do not want to play by the same rules that the rest of the world is playing by. We want the global gag rule and the way to make sure we get a global gag rule is to pull our money out and deal with our money ourselves. That is a tragedy to take the gag rule and apply it to AIDS treatment.

Imagine in Africa what AIDS means. It means a terrible stigma that you cannot get treatment in the same place that you get family planning is going to mean that many people will not get treatment at all. We want unilateralism here to do what we tried to do with the Asian countries when we were recently discussing HIV prevention. We tried to delete the mention even of condoms there. We are trying to unilaterally impose our approach, an approach that we have imposed in our country, but democratically you can do that here, we are trying to impose that on the world. That is why we were seeing unilateralism here even as we have even unilateralism in much foreign policy since this President came into office. Lives are at risk. I ask that we go global when it comes to AIDS. I thank the gentlewoman for yielding.

Ms. LEE. Mr. Speaker, I thank the gentlewoman from the District of Columbia for her participation and for her leadership.

GENERAL LEAVE

Ms. LEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

EMERGENCY PLAN FOR AIDS RELIEF IN AFRICA

The SPEAKER pro tempore (Mr. MCCOTTER). Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, AIDS activists and interesting, caring legislators and others have been working on this AIDS issue for the past 20 years. President Bush did not get active on this issue over the past 2 years, but he has come to the table now to talk about emergency plan for AIDS relief in Africa. And according to the administration, this proposal will provide $15 billion for global HIV/AIDS programs over the next 5 years, including $10 billion in brand new money.

Now, we have to take a very close look at this here proposal. A closer look at the President's budget for fiscal year 2004 indicates that it may not be a pure $15 billion that will be spent over the next 5 years.

One would think that $15 billion over 5 years would amount to $3 billion per year. However, the administration's budget for global AIDS programs for fiscal year 2004 is only $2 billion. An increase of just half a billion over the fiscal year 2003 level. Administration officials have indicated that they plan to phase in the proposed funding over the next 5 years. Phasing in funds is particularly troublesome in the case of the AIDS epidemic. Every year, another 3 million people die of AIDS, another 5 million become infected with HIV. How many people will we have to have die before we have an emergency plan, a real emergency plan that is triggered immediately?

The President promised that his proposed emergency plan for AIDS relief would provide $10 billion in new money for global AIDS programs. When we look at this and upon close attention, it becomes very clear that the administration is transferring money from other development assistance accounts in order to fund this new proposal. The President's budget for fiscal year 2004 severely underfunds one of the Federal government's most important development assistance accounts, the Child Survival and Health Account.

Funding for this account was cut by $470 million, relative to the fiscal year 2003 level. Indeed, when you combine the President's proposed increase of half a billion dollars for global AIDS programs with his proposed cuts of almost half a billion dollars in the Child Survival and Health Account, the total funding for the two programs is virtually identical to fiscal year 2000 funding. Cutting funds for Child Survival and Health in order to fund AIDS relief is no way to improve global health.

Another problem with the proposal in this plan for AIDS relief is that it virtually eliminates funding for the global fund to fight AIDS, tuberculosis and malaria. The global fund encourages developing countries to combine the efforts of government agencies, nongovernmental organizations and civil society into a comprehensive strategy to fight epidemics in a manner appropriate for local needs and conditions. The global fund also allows donors to pool their resources so that developing countries do not have to deal with as many funding agencies.

Now, the President's proposal of $15 billion over 5 years for global AIDS program includes only $1 billion for the Global Fund. The President's budget provides only $200 million for the global fund in fiscal year 2004 and presumably $200 million per year over the next 5 years.

This will drastically reduce the Global Fund's activities which received $400 million from the United States this year alone. The President is apparently determined to ensure that his $15 billion emergency plan for AIDS relief will be implemented almost exclusively by the United States government agencies. Jeffrey Sacks, the Chairman of the World Health Organization's Commission on Macroeconomics and Health evaluated the President's proposal and concluded, "The U.S., as it is wont these days, has decided to go it alone." AIDS is a global epidemic. It deserves a global response, not a unilateral one.

The gentlewoman from the District of Columbia (Ms. NORTON) just mentioned the global gag rule and the President is complicating AIDS treatments and prevention even further by attempting to apply the Mexico City policy to global AIDS programs. The Mexico City policy known as the Global Gag Rule prohibits U.S. funding of international organizations that perform abortions or provide abortion referrals or counseling with their own money.

In the past the Mexico City policy has been used to restrict the use of family planning funds. It has never ever been applied to HIV funds and it is unwise for the President to politicize this. Under the administration's new proposed policy, only organizations that do not offer abortion-related services or those that offer abortion-related services, separate from HIV/AIDS services, would be eligible for AIDS funds.

This would be an inefficient and unrealistic expectation for most clinics, organizations operating in developing countries.

I will quickly say it is time for our President to really understand all of the work that all of us have put into this issue and get with the strategy and the plan that is developed by activists and people worldwide and do some real work in helping to deal with this pandemic.

HIV/AIDS IN AFRICA AND THE CARIBBEAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, let me thank the gentleman from California (Mr. CUNNINGHAM) who has a record of his own that we all know and we are very proud of what he has done to preserve democracy in this country and his serving. The gentleman's humility in yielding is just a testament to his concern. I thank the gentleman very much.

Mr. Speaker, let me say that we stand here at a crossroads right now. Millions of people all over the world are in the wake of a humanitarian disaster to pale all others. It makes the black plague of the Middle Ages look like small things. HIV and AIDS is a global killer. As ranking member of the House Subcommittee on Africa and as a human being who has seen with my own eyes the havoc HIV and AIDS is wreaking on an entire continent of Africa, I simply am compelled to speak out not only in Africa, but now in India, a nation that will have the largest population in the world in the next few years, even exceeding that of the People's Republic of China. It will have perhaps 1.5 billion people, surpassing China's 1.3 to 4 billion people.

□ 1830

It is spreading there and India. It is spreading in China, and so it is something that is all around us; but I think that if we can deal with it in Africa, I think that what we learned there can actually be used in India where it has not yet taken hold as it has in Africa. And it has taken hold in Africa because the world has been silent on it, as we have seen, as devastation through the years, year in and year out, since 1988 when HIV and AIDS was first encountered in this country.

In January's State of the Union address, President Bush announced a new initiative to combat HIV and AIDS in the Caribbean. This initiative would give $15 billion for fighting HIV and AIDS in Africa and the Caribbean, including $10 billion, what President Bush called "new money."

This initiative, and the fact that 10 percent of Bush's speech at the State of the Union address was spent on discussing Africa, certainly marks a new day and a new pledge of a new commitment by the administration to pay more attention to the needs of the African continent. We do have concerns about this new money and where it will come from.

While child-survival funding for Africa increased in the President's 2004 budget request by about $80 million to the $542 million, this largely reflects the increase in the HIV and AIDS funding. Meanwhile, almost all other African aid was significantly decreased.

For example, democracy conflict and humanitarian assistance will be cut by $25 million in the 2004 budget if the President's request is agreed upon by Congress.

This is at a time when the U.S. is urging for sound policies and for governments to demonstrate they are fighting corruption and ruling justly in order to receive part of the $1.3 billion from the Millennium Challenge Account next year. How can we hold governments accountable for making progress in these areas and simultaneously cutting the funding that has aided these activities toward reaching these goals? It does not add up.

We must fight HIV and AIDS, yes; but we must not rob from Peter to pay Paul. Child survival is important. Democracy and good governance are important, and in a day when the administration wages its war against terrorism, the administration is seeking to cut military and security aid by 23 percent in Africa, a $130 million cut, as well as peacekeeping aid in Africa by nearly 50 percent. Is the $75 million increase in HIV and AIDS a result of the cuts in other line items?

If we are serious about combating the most lethal killer we have known, we must integrate our efforts in other areas. We cannot stem the tide of HIV if we are cutting aid to agriculture, trade and investment or democracy programs. HIV affects all other sectors of society, not only health. Therefore, we have to combat the effects HIV has had on all of the areas, and we should not move towards cutting aid in those areas to fight HIV and AIDS, because it is all together.

I once again commend the administration for its effort, and we look forward to working with the administration in this new dedicated war against HIV and AIDS.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I appreciate the opportunity to be here tonight, and I want to especially thank my good friend, the gentleman from Maryland (Mr. CUMMINGS) and applaud my CBC colleagues for their hard work in bringing us together here tonight to talk about the HIV pandemic.

The global fight against HIV/AIDS is important to U.S. security interests because the disease has proven to be a significant destabilizing force in much of the developing world. It has removed many of the most productive members from society and devastated the social, political and economic infrastructures of those countries hardest hit.

Mr. Speaker, today, the chance of a 15-year-old African girl making it to the age of 60 is 52 percent. By 2010, it will be about a 30 percent chance. This will have a sizeable impact on the future of African society. With this kind of outlook for African youth, investment in education and economic advancement practically become non-issues.

In January, President Bush proposed spending $15 billion over five years to fight global HIV-AIDS. The plan would commit $3 billion a year for five years to global AIDS reduction, including $200 million a year for the Global Fund to Fight HIV/AIDS, Malaria and Tuberculosis.

I understand that the Senate Foreign Relations Committee will take up the legislation very soon. The House International Relations Committee will consider a comparable bill.

Mr. Speaker, I hope that this boost in spending is not a fait accompli. We must fight to ensure that Congress commits to the increase in Global Fund to Fight AIDS, Tuberculosis, and Malaria while preventing politics from intruding on decisions about health care.

The purpose of the Global Fund to Fight AIDS, Tuberculosis and Malaria is to attract, manage and disburse additional resources for health through a new public-private partnership. It is hoped that this will make a sustainable and significant contribution to the reduction of infections, illness and death and thereby mitigate the impact caused by HIV/AIDS, tuberculosis and malaria in countries in need, and contribute to poverty reduction as part of the Millennium Development Goals.

Mr. Speaker, we still have a long way to go to raise awareness about the disease and to ensure that Nations have the resources to implement proven prevention and treatment programs. We must do more to help those countries to combat these deadly diseases.

We must commit ourselves to doing more, and I hope that this Congress can make that commitment, and I strongly urge the President of the United States to do the same for the Global Fund.

AMERICAN HEROES

The SPEAKER pro tempore (Mr. MCCOTTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. CUNNINGHAM) is recognized for 60 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I would also like to commend my colleagues on the other side, especially the Congressional Black Caucus. This was an informative hour. It was not to blast the White House or Republicans. It was issues of general concern, of moneys that they think should be put in, and it was issue-based, and I would like to commend my colleagues.

Mr. Speaker, my friend and I, the gentleman from California (Mr. HUNTER), whose seat is down in San Diego, California, we come to praise Caesar and on a positive note, too many times that this Nation loses its heroes, and they are not recognized.

Tonight, it was actually my colleague's idea. I just kind of chummed along. We stand up tonight and mention some folks that we know that have contributed to national security, that have contributed to every man and woman's life in this country, and some other countries as well; and with that, I would yield to my colleague, the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I want to thank my colleague for yielding, who is, in fact, one of those rare individuals himself, one of the great leaders in aviation in this last quarter century, as the only American ace from Vietnam and a nominee for the Congressional Medal of Honor.

Mr. CUNNINGHAM. Reclaiming my time, I would like to correct that. My backseater, Willy Driscoll, qualified, and the Air Force, Steve Ritchie was a pilot Ace, and Jeff Feinstein in the backseat.

Mr. HUNTER. Mr. Speaker, let me qualify that. The gentleman from California (Mr. CUNNINGHAM), along with Willy Driscoll, were the first aces in Vietnam, but actually the, only Navy aces, and my colleague has had a great record there.

What I wanted to do tonight, and I know my colleague has a number of aviation leaders and I think it is appropriate at this time in our history, when we are on the verge of perhaps another conflict and we have lots of people deployed and lots of people defending liberty around the world for the United States, is to reflect on some of the great Americans who have stepped forward as citizen soldiers, so to speak, and led this Nation.

I am not a pilot and I am not a great friend of aircrafts, but one thing that I have always reflected on was that if we did not have these people who came from our villages, from our farms, from our cities and had a desire to fly and saw an intrigue in flying and interest in flying, and thereby became involved and ultimately became pilots in uniform for this country, we would not have this great country, because as Billy Mitchell said, and we are going to reflect on him a little bit, we entered the age of air power early in this century, and it was American air power that has helped us to retain our freedom.

What I thought I wanted to do, I know we have got a number of people to talk about: Billy Mitchell, Chuck Yeager, Joe Foss, and several others.

Mr. CUNNINGHAM. General Cardenas.

Mr. HUNTER. I thought we might start with General Bob Cardenas, who is a quiet man. He is a guy we do not see on a lot of magazine covers, but Bob Cardenas is a great test pilot, great bomber pilot who had his bomber blown apart in World War II, landed on one side of the lake, in fact German side of the lake, other side of the lake was Switzerland. He and his colleague, who also bailed out, swam that lake to get to freedom, and Bob later became one of the great test pilots of this country and he flew the B–29 and was a project manager and flew the B–29 that dropped Chuck Yeager's X–1 out in October of 1947 and watched it break the speed of sound.

So Bob Cardenas was a remarkable individual, a guy who came up through San Diego, went to San Diego State. He used to build model airplanes as a kid. He got involved in flying, saw those. He helped local glider pilots with their construction of their planes. He bummed rides with folks who were flying guide gliders. He was a very bright student and went to San Diego State and ultimately joined the United States Air Force; and Robert Cardenas has been just a model of what I would call our first citizens, our best citizens.

Today, Bob is a guy who leads veterans groups in San Diego; and if a person has an important veterans issue, Bob Cardenas will be there, never for pay, never for reward, never with a kind of a pronouncement that is designed to attract attention, but the quiet man, with lots of wisdom.

One of my favorite pictures of Bob Cardenas is one that was taken by a tourist in, I believe it was 1953, when he flew the flying Wing right down Pennsylvania Avenue at the request of President Truman. In fact, it was not 1953. It was February 9, 1949. The flying Wing looks exactly like a B–2 bomber at a distance, and yet at 1949, when I was 1 year old, this great test pilot flew this flying Wing which is very difficult to control. In fact, he wrote a memo that went to President Truman saying it was not suitable to be a bomber aircraft at that time, but he flew it right down Pennsylvania Avenue and he flew it over this Capitol.

His boss said, Bob, fly down Pennsylvania Avenue and try not to hit a tree; and Bob was watching those trees so intently he said he just barely saw the Capitol in time and pulled up. It just so happened there was a photographer out here to the east of the Capitol, just a tourist, who took this incredible, dramatic picture in 1949 of that flying Wing coming right over the United States Capitol, and that autographed picture is one of my treasured mementoes because it reflects a guy who came from San Diego with an open demeanor, with a great character and with just a desire to fly and to help his country while he was doing it, just a very open and honest expression of patriotism and developed into one of the great fighter pilots or one of the great test pilots of all time and ended up being an important figure in the advancement of American aerospace.

Today, as we watch these B–1 batlike airplanes, these B–2s, half a century later rolling out into action and being in theater now in the Gulf, and prepared for potential action against an adversary, every time I see one of those planes I think of this great Bob Cardenas, 1949, flying that plane at President Truman's request over the U.S. Capitol.

So Bob is obviously one of our mutual heroes, and I hope to see him soon and tell him that we have been talking about him today.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from California. I actually went through the whole page of things we were going to talk about General Cardenas, but I have got a couple of others that I have got to mention.

General Cardenas is one of the few individuals that can tree a person with a smile. There is not a day goes by that I do not get a call from General Cardenas, and he says, "Duke, what have you and Duncan done for the veterans today?"

I would be happy to announce also that he was very instrumental in San Diego. Widows and sometimes widowers have to drive clear up to Riverside, a 3½ hour drive, to visit the grave sites of their loved ones that they lost in different wars, the veterans. General Cardenas held some of the first meetings. We looked, we worked in a bipartisan way and ended up finding a spot at the former naval air station, Miramar, which now is MAS Miramar by the Marine Corps; and we found some 300 acres that will be a satellite for Fort Rosecrons that will provide over 200 grave sites.

General Cardenas was instrumental and he was a driving force that pressed us and Tony Principi, the Secretary of Veterans Affairs, to come up with this site; and he also was inducted into the Aerospace Walk of Honor, and as the gentleman from California (Mr. HUNTER) mentioned, has done hundreds of things in the field of aerospace itself.

But as a combat veteran and a veteran that has done a lot for space and for others, I was at General Yeager's 80th birthday a while back, and General Cardenas was prominent in that conversation at that meeting as well.

Mr. HUNTER. Mr. Speaker, I think the gentleman has led into one of our mutual friends and a great hero, Chuck Yeager, a great hero for this century who came out of, as my Dad calls him, the citizen soldiers; and my dad had written recently about how people from the outdoors often have a penchant for the military because they learn how to shoot, they learn how to be vigilant, they learn how to be alert. And those qualities serve them well when they get into the military, and Chuck Yeager is one of those people.

Where would my colleague place Chuck Yeager as a great fighter pilot and a great test pilot? He was a guy with both qualities.

Mr. CUNNINGHAM. Mr. Speaker, we had studied when I was a kid, we studied about General Yeager and his exploits; and the first time I actually met him was at the naval air station Miramar, and he gave a lecture. This was before I ever went to Vietnam and flew, and General Yeager talked about getting engagement with a MiG and then you sit there and pulled about six Gs over the corner, came over the top, came back around and pulled six Gs. Then it was Colonel Yeager when he was briefing us. One of the guys said, "Colonel Yeager, why didn't you shoot this guy?" Because this was me, this was me out in front.

Mr. HUNTER. He is a man not without a sense of humor, also.

□ 1845

Mr. CUNNINGHAM. The second time I guess I had an engagement with General Yeager was the very first time I was able to join the American Fighter Aces Reunion. There had been no new fighter ace in almost 30 years, and we had our first reunion in San Antonio when Willy and I came back from Vietnam. And the press came up to me and said, "Duke, how do you feel about joining Joe Foss and Pappy Boyington and Chuck Yeager and all these different guys?" And General Yeager was there. And the press guy said, look, if you and General Yeager would get into a dog fight, who would win? He wanted me to put down General Yeager. My answer was, "General Yeager is not only a test pilot and a fighter pilot and a combat pilot, but he has done a million things I have not ever done before.

So I would basically not answer his question. But after the press guy left, I looked at Chuck and said, "General Yeager, I'll meet you at 15,000 feet and I'll have your donkey." And his immediate response was, "Bring it on, Duke," which you would expect from General Yeager.

So this is one of the all-time greats that have contributed not just to combat aviation, but when you look at the first man to go supersonic, the first man in the X1 and the X1–A that set speed records of over 1600 miles an hour, he is right up there.

Mr. HUNTER. My father sent some commentary about these citizen soldiers, and Chuck Yeager is one of these guys, because dad always felt that people with this outdoor background had a special rapport with the military. He says, and I am quoting, "Hardened by frontier life, Americans have always been able to use their woodsmanship and facilities with firearms to win any wars that were thrust upon us.

Organizations such as the Boy Scouts, citizen gun clubs, the American Rifle Association and veterans groups, have successfully resisted the efforts of those anti-gun forces that would like to disarm the average American. In the Spanish-American War and World Wars I and II, American forces have mobilized in short order and defeated their enemies. Our citizen soldiers are our greatest defense and are mobilized and used by those who make our Armed Forces their profession."

And if you read the exploits of Chuck Yeager, a kid that grew up in West Virginia hunting and fishing and tracking, it is very clear, and he reflects many times about how he used these developments in his instincts and his capabilities and his reflexes, and certainly his shooting ability to our advantage when he was in combat. And when you go out among our troops that are deploying now for Desert Storm II, possibly, and for the war against terrorism, you talk to lots of people who have become proficient in firearms and in the outdoors, whether they are in infantry or in the Navy or in the aerial forces. There is a certain insight that that kind of a background gives you.

Maybe Chuck Yeager is one of the greatest examples of that. And when I saw him the other day, he said that he had walked away from his last test piloting at Edwards Air Force Base in California just a few weeks before his 80th birthday. And I know my friend visited him on his 80th birthday.

Mr. CUNNINGHAM. We went up to northern California for his 80th birthday. I guess being a fighter pilot is okay, because General Yeager is 80 years old and he is dating a 35-year-old woman that he met on a hiking trail in the Sierras. If you look at General Yeager, he looks like he is 40, not 80.

I just hope that I have accomplished one-tenth of the things he has when I am 80 years old and still have the spirit of heart that he does.

Mr. HUNTER. Let us move to another guy, whose picture my friend just gave me a couple of months ago, and who passed away. He was a great, great friend of ours, but what a great leader for America, Joe Foss.

Joe Foss shot down over 20 aircraft in World War II. He was a great marine fighter pilot. He went back and became the governor of South Dakota. He was the commissioner of the American football League between 1988 and 1990. In fact, I think you were one of the guys that urged him to run and he did and became the President of the National Rifle Association.

And that takes me back to my dad's treatise to the effect that a lot of country boys become great military leaders and great pilots because of this sixth sense that they develop in the woods. Joe Foss is one of those guys. And that autographed picture you gave me of Joe Foss, that I have still on my wall, is very treasured, because Joe Foss passed away just a few weeks ago.

What a great hero he was for this century. And that great story, the Bridges of Toko Ri that was about Korea, where James Michener talked about where Americans got these people that flew off these tiny carriers and went out and found the enemy and took them on, and then tried to find that little bitty postage stamp out there rocking in the middle of the ocean. And how extraordinary it was that at a time when the rest of us were living a life of comfort, people like that should come forward. That was Joe Foss, coming out of South Dakota. A great guy, bigger than life, a guy who had gotten in lots of rough and tumble situations, but a guy with an absolute heart of gold. Joe Foss. When did the gentleman first meet Joe?

Mr. CUNNINGHAM. Well, as a kid, I had read about Pappy Boyington, Chuck Yeager and Joe Foss, but the first time I ever met Joe was, again, at the American Fighter Aces Reunion in San Antonio. And I covet that picture I gave the gentleman, because I never thought we would be without Joe. He was bigger than life. So I am going to have his wife, DeeDee, send me one of those pictures and sign it for Joe so I can hang it on my wall.

I have a special memory of Joe Foss. He and I were inducted into the Riverside Aviation Hall of Fame together. And after the event, people in the audience were able to ask questions. There was an 8-year-old that stood up, and it was the first questioner of General Foss and myself, and his question was, "General Foss, Duke Cunningham flew jets in Vietnam. You only flew propeller airplanes, didn't you?" You could see the twinkle in General Foss's eye.

He was a grandfatherly type guy, very strong Christian, no nonsense Christian. And so the little kid says, "Well, General Foss, what does a propeller really do on an airplane?" General Foss looked at the 8-year-old and he said, "Son, the propeller is put there to keep the pilot cool." The little kid shook his head, and General Foss looked at him and said, "Son, I'm not lying to you. If it stops, you watch him sweat."

And that is the kind of individual Joe Foss was. He was not only good with aviators, and people in management as a governor, and head of the NRA and other issues, but he really related to children and fostered that kind of spirit.

General Foss told me a story about when he was a little boy. He took his rifle that the gentleman referred to and he shot a light fixture off a telephone pole. When he came back home his father asked him what he shot today; squirrels? He said I shot a couple of things. His dad asked if he shot any squirrels, and he said, I shot a couple of squirrels, but he did not want to tell his dad about the light fixture. But when his dad pressed him, he says, well, I shot one of those little glass things on a telephone pole. His dad said, Joe, take your 22 and put it in the corner for 1 year. And he did not get to touch that rifle for 1 year.

Joe drove his father's car, and he went out and dinged it. When he came back with a dent on it, Joe's father said, you do not drive that car for 1 year. So his father's discipline was a 1-year policy. So Joe said he grew up on the straight and narrow, but that is the kind of guy that Joe was. And if you talk to the American Fighter Aces, or basically anybody that knew Joe Foss, he ranks among the heroes and the great ones.

Mr. HUNTER. Joe Foss, as the gentleman said, was inspirational to so many young people. He was born in 1915 in South Dakota and helped to run the family farm. In fact, he had to drop out of college to do that. But when he was 11 years old in South Dakota he got to meet Charles Lindbergh, and it was that inspiration and meeting the guy who had flown across the Atlantic and was such an American hero at that time that inspired him to himself become an aviator.

So this is a great family of aviators that we have, and Joe, again, won the Medal of Honor. He shot down some 24 aircraft.

Mr. CUNNINGHAM. Twenty-six.

Mr. HUNTER. Twenty-six aircraft. He was shot down himself on November 7, 1942, and he was rescued the next day. So what a great hero, Joe Foss.

But the gentleman that was a special guy, who has been to a number of events and community gatherings we have both been at, and that is Wally Schirra.

Mr. CUNNINGHAM. The Honorable Wally Schirra.

Mr. HUNTER. My favorite picture is a picture of you hunting pheasants with Wally Schirra. Tell us a little bit about that guy.

Mr. CUNNINGHAM. Well, Wally, like General Foss, like Chuck Yeager, like most of the greats, grew up hunting and fishing. He is an outdoorsman. And Wally and I were up in northern California hunting pheasants together, along with a whole group of our folks that go up there yearly. A guy named Ernie King set it up. He used to live in my district but now lives up in Oregon.

If you knew Wally Schirra, he looks like an English Lord when he hunts. He never buys anything. He used to work for Monsanto and they gave him every stitch of clothes he had. He has these little Lord jackets, these little Lord hats, these little Lord hunting pants with the ruffles, and the little shoes and booties. And of course we make fun of him, but he does not care. Well, his little Lord hat fell on the ground and one of the guys threw it up in the air and it landed on the end of my shotgun. Wally looked at me and said, "Duke, you wouldn't."

So I pulled the trigger, and of course it blew a big hole in his hat. It was the most expensive hat I have ever paid for in my life. The thing cost about $200. But it was worth every minute, especially when Wally wore it for the rest of the day like that.

Mr. HUNTER. Well, Wally, that guy whose hat you blew up, was one of the original seven astronauts. And he was the only astronaut to have flown on all three space craft, *Mercury*, *Gemini*, and *Apollo*. And what is remarkable, and maybe this was caught to some degree in that movie The Right Stuff, which had a lot of Chuck Yeager in it, but also had some astronauts, was that a lot of Americans in aviation, who did not take themselves too seriously, and Wally Schirra was one of those guys and still is one of those guys, and who had a great sense of humor, did very serious things. Here is a guy who was a pilot, a naval officer, carrier-based fighter pilot and test pilot, and engaged in this very serious pursuit in which a lot of people were killed.

After they came back from war, people like Richard Bong, who shot down more planes in the Pacific theater than anyone, was killed on his first test flight trying to fly a new experimental aircraft. So these Americans, like Wally, like Chuck Yeager, like others, and I think we are reminded of this in the wake of the events with *Columbia*, live in a world which is very dangerous, and in which a lot of their friends and colleagues have died. And in doing that, they have pushed American capability and technology, and we are able to keep ourselves free to a much further height than we could have ever achieved if we did not have these great people.

So Wally Schirra is a great member of our San Diego community, and I think my colleague painted a great picture of Wally. He probably treasures that hat that you shot.

Mr. CUNNINGHAM. Well, I have a better picture of Wally. Because General Yeager and myself and Wally Schirra had a satellite feed that one of the television systems set up, and we were piped in basically into high schools across the United States, where young people interested in aviation could call in and ask General Yeager, Wally or myself questions. I did not get many questions. They wanted to talk to Wally and General Yeager.

One young man called in and said, "Mr. Schirra, when you flew *Apollo*, were you afraid?" And Wally looked into the camera and he said, "Son, you're sitting there in *Apollo*, an aircraft with a million moving parts, all of them put there by the lowest bidder. Do you think I had any reason for concern?" But that, again, like when Joe Foss talked to the 8-year-old or Wally Schirra relates to children, they never forget where their roots came from and they speak to the youth to get them interested in math and science and aviation and spacecraft.

It has been an honor for me just to walk among these men. I am an American, I am a man, but I walk among heroes.

Mr. HUNTER. Mr. Speaker, there is another guy who preceded all these people that we have talked about. He is a guy who, in this city, was actually taken to court-martial at one point because he told the United States, when he was a U.S. officer, a General officer, he announced to the world and to the United States that we were not ready for war and that we needed to be doing more. And, of course, sometimes when you tell the truth, that gets you in trouble. But in the 1930s, we were not ready for war.

This guy's name was Billy Mitchell. In fact, one time I was carrying on about Billy Mitchell and how great he was at warning us to get ready for this new age of air power, and the gentleman from New Hampshire (Mr. BASS), one of our great colleagues, asked me to quit lecturing him on Billy Mitchell because, he said, Billy Mitchell was my uncle. And he knew a lot more about Billy Mitchell than I did.

But Billy Mitchell took a tour of the world in the 1920s and came back reported to the Coolidge administration about where he thought our vulnerabilities lay. He would go out and analyze scenarios in which he thought we might be attacked.

□ 1900

More than a decade before Pearl Harbor, he predicted at some point we would be attacked by a low-level, early-dawn attack by aircraft from Japan at Pearl Harbor. The only thing that he also, in predicting what they might try to do, part of the blueprint that they did not follow, luckily, was that they did not blow up the fuel depots which he predicted that any enemy that attacked Pearly Harbor, that they would try to blow up.

He warned this country that we lived in an age of air power. He came back from this tour of a very dangerous, and it is relevant for us to remember now that we stand on the ledge of this new century in what appears to be a very dangerous world. Billy Mitchell warned us that we had entered the age of air power, and that the United States had better become dominant in air power because if we did not, we would be losing future engagements.

I recently looked back at the aircraft that were flown in World War I, and apparently most of those aircraft were French and British aircraft. We were not really in the age of air power.

Mr. CUNNINGHAM. I do not think that the French ones worked.

Mr. HUNTER. The French aircraft were unusual. Most of them were parked. We will talk about that later.

Billy Mitchell gave an extraordinary warning to this country. He was not received well at the White House. There were a lot of budget hawks that did not want to spend a bunch of money on military equipment. After all, the 1930s were supposed to be a very peaceful time. So they gave him short-shrift, and he became more and more insistent in his demands that the United States gear up for what he saw as a coming storm.

He made statements to the effect that we were unprepared for war, so they court martialed him. In the movie Gary Cooper played Billy Mitchell. He sacrificed his own career to wake America up. I have often thought about if Billy Mitchell came back and told us we were entering the age of air power and we had better become proficient at it or we would be in dire straits.

Similarly, we have now entered the age of missiles, and now that we have seen North Korea shooting the TD-2 missile with the capability of reaching the west coast of the United States, when we look at their unstable leadership, I am reminded of the fact that we are deep in the age of missiles, and we need to be awakened, just as America needed to be awakened by Billy Mitchell in the 1920s and 1930s that we were in the age of air power: and we need to be awakened that we are deeply in the age of missiles, and we better have the ability to shoot down missiles.

Billy Mitchell had this extraordinary career in which he not only shot down enemy aircraft and was a leader in aviation, but he also spoke out. I think that is another trademark of these great aviators that we have talked about. Joe Foss spoke out. Bob Cardenas is still speaking out. Chuck Yeager spoke out very strongly and forcefully. And Billy Mitchell was also a guy that really spoke out.

Mr. CUNNINGHAM. Billy Mitchell started flying in 1916. This was the time that Manfred von Richthofen, the Red Ace flew. He predicted these things that were going to happen in 1942 with Japan. He was also looked at being court martialed. He said if we did not have our air power, the Navy would be decimated without air power covering the top of it. One of the admirals said, I will stand on top of this battleship while you attack it, and Billy went out and single-handedly sunk this destroyer, which also showed air power, if we go into any war without air power, the Navy is very, very vulnerable, or without missile cover. Billy Mitchell is among the greats that we talk about.

One of the things that I would like to talk about before we move to the next one, just to be a great name does not mean that you are a hero, but I will tell Members the names of some real heroes. Willy White, when I was in Vietnam, jumped up on my airplane and he said, "Lieutenant Cunningham, we got our MiG today, didn't we?" And Willy was telling me that they felt part of a team.

Last night I was watching television, and on there was a movie that was very moving. It was called "Glory." It was about a white colonel that was killed in the battle of this movie, but he led black troops in the 54th Regiment, and these troops were asked to fight against a fort. First of all, the general that was talking to the colonel said you have not slept for 2 days and the colonel said, True, General, we have not slept for 2 days, but they have fight left in them. They have character, strength of heart, and you should have seen us just 2 days ago.

The black soldiers that night sat around a camp fire knowing that they were going to lead this attack. They volunteered to lead this attack which was going to be the highest casualties. As a matter of fact, in "Glory" the black soldiers under this command and their leader took 50 percent casualties. They never did take the fort, but the point was that one of the soldiers said, if I should fall, who will carry the standard, meaning the flag. A voice quipped out, I will, sir, and then, I will, sir. Seven different times that flag fell and each time a black soldier picked that flag up and went forward knowing that they would probably be killed.

When we talk about greats and aviation greats and heroes in this world, I think some of the things that have happened in our own history are sad; but when I think about like Denzel Washington who played in the movie, had a difficult time speaking, with tears, he said, I love the 54th. This is my family, and we are men.

That is the spirit of the fighting men and women that we honor here tonight, not just with General Yeager and Billy Mitchell and Wally Schirra, but with men like this that have given their utmost. And today, when we are looking at Iraq, and our men and women are stationed in the Middle East and all over this world, we should pay them an homage and honor what they are doing for us here today.

Mr. HUNTER. That reminds me of something that President Reagan said, and I am thinking of all those troops wearing the Desert Storm camouflage in the Middle East, you can go to France, you can never become a Frenchman. You can go to Germany, and you can never become a German. You can go to Mexico, and you can never become a Mexican. But you come to the United States, and you become an American. All of us are united behind the American flag, and it has been the greatest mixer of people and the greatest set of common values and common ground that free people could rally around in the history of the world.

I think it is appropriate that you brought this story to us tonight because that is the story of our country. I think that there is no greater force to bring people together in this country than the U.S. military. It brings people together, whether they have titles behind their names or have gone to universities of renown or have lots of money or no money. It brings them all together for a common cause, and it provides a line of communication and touching and rapport with their colleague standing next to them, who may have come from the other side of the country.

I want to mention two other people, the gentleman from Texas (Mr. SAM JOHNSON), our great friend whom we honored the other day with a resolution. As a POW he was an Air Force guy who did a great job, and he is such a leader in Congress today.

Mr. CUNNINGHAM. Does the gentleman from California know what is put on the bottom of a Coke bottle at an Air Force base?

Mr. HUNTER. No, but I think you are going to tell me.

Mr. CUNNINGHAM. Open other end.

Mr. HUNTER. We are going to have calls on that. There is another guy I want to mention and that is Duke Cunningham because you have come to this body with lots of stature that you won on the battlefield, and you went through a lot of the same feelings that a lot of those guys are feeling right now getting ready for action in what could be a very difficult theater.

Mr. Speaker, my colleague is a man who was heavily decorated with the Navy Cross and the Purple Heart and lots of Flying Crosses, and we appreciate the gentleman's great service to the country. Having the gentleman here to bring the common sense and practicality of operating aircraft to this body, which often just sees aircraft and services in terms of numbers and reflections on pages, has been a great service to our Congress. My colleague is the last hero that I want to point to today, but not least.

Mr. CUNNINGHAM. I remember attacking a site and the guy on the ground said hit the purple smoke, and the purple smoke was their position. And it was guys like the gentleman from California (Mr. HUNTER) and the rangers in Vietnam that were trying to scamper down the back side of a hill; and I remember thinking I am glad that I am in this nice air-conditioned airplane at 20,000 feet, not scampering down on the ground like the gentleman from California (Mr. HUNTER).

Mr. Speaker, it is all relative. Men like the gentleman from Texas (Mr. SAM JOHNSON) was a prisoner of war for 7 years. Half of that time was in solitary confinement. He was leader of the Air Force Thunderbirds, and what a marvelous representative he is here.

When Americans hold up their heads and look to heroes, we know that Mexican Americans, Hispanics, had more per capita Medal of Honor winners than any other group. Because of their values and defense of national security and taking care of their families and so on, that the Tuskegee Airmen, during very difficult times in our country with racism, fought through those barriers. Not a single bomber went down that was escorted by a Tuskegee Airman, and those are the kinds of things that I am talking about.

We have a friend in Vietnam that took almost 6 years to knit an American flag together to have it like the Speaker has here tonight so people could celebrate when a few POWs got together. The Vietnamese guards came in, saw the POW without his shirt, and ripped it apart and they took him out and brutally beat him for hours. They did not think he would survive. They comforted him on the side. He had a broken jaw and internal injuries. And so they started conducting their meeting, and there this broken-bodied POW had drug himself to the center of the floor and started grabbing those bits of thread that had been shred up so he could knit another American flag. That is the spirit that we are embodying here tonight, from the 54th in "Glory" to the Tuskegee Airmen, to the Hispanics that contributed, to the Filipinos who gave your father the flag, I believe, which flew over Baguio when the Japanese took over Baguio which you donated to a museum.

This is the American spirit, and this is the spirit that we will overcome regardless of what Saddam Hussein does.

Mr. HUNTER. This is the picture of General Bob Cardenas in 1949 flying the flying Wing right over this Capitol. I thank the gentleman for letting me be part of this Special Order tonight.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCCOTTER). The Chair reminds Members to refer to each other by State delegation, and to address their remarks to the Chair.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 15 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2155

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 9 o'clock and 55 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 878, ARMED FORCES TAX FAIRNESS ACT OF 2003

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–25) on the resolution (H. Res. 126) providing for consideration of the bill (H.R. 878) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. KILPATRICK, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Mr. CAPUANO, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. VAN HOLLEN, for 5 minutes, today.

Mr. BACA, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. HAYES, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 111. An act to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle, site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes; to the Committee on Resources.

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes; to the Committee on Agriculture.

S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; to the Committee on Resources in addition to the Committee on Agriculture for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 210. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes; to the Committee on Resources.

S. 214. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes; to the Committee on Resources.

S. 233. An act to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; to the Committee on Resources.

S. 254. An act to revise the boundary of the Kaloko-Honokōhau National Historical Park in the State of Hawaii, and for other purposes; to the Committee on Resources.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Thursday, March 6, 2003, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 108th Congress, pursuant to the provisions of 2 U.S.C. 25:

ALABAMA

1 Jo Bonner
2 Terry Everett
3 Mike Rogers
4 Robert B. Aderholt
5 Robert E. (Bud) Cramer, Jr.
6 Spencer Bachus
7 Artur Davis

ALASKA

At Large

Don Young

ARIZONA

1 Rick Renzi
2 Trent Franks
3 John B. Shadegg
4 Ed Pastor
5 J.D. Hayworth
6 Jeff Flake
7 Raúl M. Grijalva
8 Jim Kolbe

ARKANSAS

1 Marion Berry
2 Vic Snyder
3 John Boozman
4 Mike Ross

CALIFORNIA

1 Mike Thompson
2 Wally Herger
3 Doug Ose
4 John T. Doolittle
5 Robert T. Matsui
6 Lynn C. Woolsey
7 George Miller
8 Nancy Pelosi
9 Barbara Lee
10 Ellen O. Tauscher
11 Richard W. Pombo
12 Tom Lantos
13 Fortney Pete Stark
14 Anna G. Eshoo
15 Michael M. Honda
16 Zoe Lofgren
17 Sam Farr
18 Dennis A. Cardoza
19 George Radanovich
20 Calvin M. Dooley
21 Devin Nunes
22 William M. Thomas
23 Lois Capps
24 Elton Gallegly
25 Howard P. "Buck" McKeon
26 David Dreier
27 Brad Sherman
28 Howard L. Berman
29 Adam B. Schiff
30 Henry A. Waxman
31 Xavier Becerra
32 Hilda L. Solis
33 Diane E. Watson
34 Lucille Roybal-Allard
35 Maxine Waters
36 Jane Harman
37 Juanita Millender-McDonald
38 Grace F. Napolitano
39 Linda T. Sánchez
40 Edward R. Royce
41 Jerry Lewis
42 Gary G. Miller
43 Joe Baca
44 Ken Calvert
45 Mary Bono
46 Dana Rohrabacher
47 Loretta Sanchez
48 Christopher Cox
49 Darrell E. Issa
50 Randy "Duke" Cunningham
51 Bob Filner
52 Duncan Hunter
53 Susan A. Davis

COLORADO

1 Diana DeGette
2 Mark Udall
3 Scott McInnis
4 Marilyn N. Musgrave
5 Joel Hefley
6 Thomas G. Tancredo
7 Bob Beauprez

CONNECTICUT

1 John B. Larson
2 Rob Simmons
3 Rosa L. DeLauro
4 Christopher Shays
5 Nancy L. Johnson

DELAWARE

At Large

Michael N. Castle

FLORIDA

1 Jeff Miller
2 Allen Boyd
3 Corrine Brown
4 Ander Crenshaw
5 Ginny Brown-Waite
6 Cliff Stearns
7 John L. Mica
8 Ric Keller
9 Michael Bilirakis
10 C.W. Bill Young
11 Jim Davis
12 Adam H. Putnam
13 Katherine Harris
14 Porter J. Goss
15 Dave Weldon
16 Mark Foley
17 Kendrick B. Meek
18 Ileana Ros-Lehtinen
19 Robert Wexler
20 Peter Deutsch
21 Lincoln Diaz-Balart
22 E. Clay Shaw, Jr.
23 Alcee L. Hastings
24 Tom Feeney
25 Mario Diaz-Balart

GEORGIA

1 Jack Kingston
2 Sanford D. Bishop, Jr.
3 Jim Marshall
4 Denise L. Majette
5 John Lewis
6 Johnny Isakson
7 John Linder
8 Mac Collins
9 Charlie Norwood
10 Nathan Deal
11 Phil Gingrey
12 Max Burns
13 David Scott

HAWAII

1 Neil Abercrombie
2 Ed Case

IDAHO

1 C.L. "Butch" Otter
2 Michael K. Simpson

ILLINOIS

1 Bobby L. Rush
2 Jesse L. Jackson, Jr.
3 William O. Lipinski
4 Luis V. Gutierrez
5 Rahm Emanuel
6 Henry J. Hyde
7 Danny K. Davis
8 Philip M. Crane
9 Janice D. Schakowsky
10 Mark Steven Kirk
11 Jerry Weller
12 Jerry F. Costello
13 Judy Biggert
14 J. Dennis Hastert
15 Timothy V. Johnson
16 Donald A. Manzullo
17 Lane Evans
18 Ray LaHood
19 John Shimkus

INDIANA

1 Peter J. Visclosky
2 Chris Chocola
3 Mark E. Souder
4 Steve Buyer
5 Dan Burton
6 Mike Pence
7 Julia Carson
8 John N. Hostettler
9 Baron P. Hill

IOWA

1 Jim Nussle
2 James A. Leach
3 Leonard L. Boswell
4 Tom Latham
5 Steve King

KANSAS

1 Jerry Moran
2 Jim Ryun
3 Dennis Moore
4 Todd Tiahrt

KENTUCKY

1 Ed Whitfield
2 Ron Lewis
3 Anne M. Northup
4 Ken Lucas
5 Harold Rogers
6 Ernie Fletcher

LOUISIANA

1 David Vitter
2 William J. Jefferson
3 W. J. (Billy) Tauzin
4 Jim McCrery
5 Rodney Alexander
6 Richard H. Baker
7 Christopher John

MAINE

1 Thomas H. Allen
2 Michael H. Michaud

MARYLAND

1 Wayne T. Gilchrest
2 C. A. Dutch Ruppersberger
3 Benjamin L. Cardin
4 Albert Russell Wynn
5 Steny H. Hoyer
6 Roscoe G. Bartlett
7 Elijah E. Cummings
8 Chris Van Hollen

MASSACHUSETTS

1 John W. Olver
2 Richard E. Neal
3 James P. McGovern
4 Barney Frank
5 Martin T. Meehan
6 John F. Tierney
7 Edward J. Markey
8 Michael E. Capuano
9 Stephen F. Lynch
10 William D. Delahunt

MICHIGAN

1 Bart Stupak
2 Peter Hoekstra
3 Vernon J. Ehlers
4 Dave Camp
5 Dale E. Kildee
6 Fred Upton
7 Nick Smith
8 Mike Rogers
9 Joe Knollenberg
10 Candice S. Miller
11 Thaddeus G. McCotter
12 Sander M. Levin
13 Carolyn C. Kilpatrick
14 John Conyers, Jr.
15 John D. Dingell

MINNESOTA

1 Gil Gutknecht
2 John Kline
3 Jim Ramstad
4 Betty McCollum
5 Martin Olav Sabo
6 Mark R. Kennedy
7 Collin C. Peterson
8 James L. Oberstar

MISSISSIPPI

1 Roger F. Wicker
2 Bennie G. Thompson
3 Charles W. "Chip" Pickering
4 Gene Taylor

MISSOURI

1 Wm. Lacy Clay
2 W. Todd Akin
3 Richard A. Gephardt
4 Ike Skelton
5 Karen McCarthy
6 Sam Graves
7 Roy Blunt
8 Jo Ann Emerson
9 Kenny C. Hulshof

MONTANA

At Large

Dennis R. Rehberg

NEBRASKA

1 Doug Bereuter
2 Lee Terry
3 Tom Osborne

NEVADA

1 Shelley Berkley
2 Jim Gibbons
3 Jon C. Porter

NEW HAMPSHIRE

1 Jeb Bradley
2 Charles F. Bass

NEW JERSEY

1 Robert E. Andrews
2 Frank A. LoBiondo
3 Jim Saxton
4 Christopher H. Smith
5 Scott Garrett
6 Frank Pallone, Jr.
7 Mike Ferguson
8 Bill Pascrell, Jr.
9 Steven R. Rothman
10 Donald M. Payne
11 Rodney P. Frelinghuysen
12 Rush D. Holt
13 Robert Menendez

NEW MEXICO

1 Heather Wilson
2 Stevan Pearce
3 Tom Udall

NEW YORK

1 Timothy H. Bishop
2 Steve Israel
3 Peter T. King
4 Carolyn McCarthy
5 Gary L. Ackerman
6 Gregory W. Meeks
7 Joseph Crowley
8 Jerrold Nadler
9 Anthony D. Weiner
10 Edolphus Towns
11 Major R. Owens
12 Nydia M. Velázquez
13 Vito Fossella
14 Carolyn B. Maloney
15 Charles B. Rangel
16 José E. Serrano
17 Eliot L. Engel
18 Nita M. Lowey
19 Sue W. Kelly
20 John E. Sweeney
21 Michael R. McNulty
22 Maurice D. Hinchey
23 John M. McHugh
24 Sherwood Boehlert
25 James T. Walsh
26 Thomas M. Reynolds
27 Jack Quinn Hamburg
28 Louise McIntosh Slaughter
29 Amo Houghton

NORTH CAROLINA

1 Frank W. Ballance, Jr.
2 Bob Etheridge
3 Walter B. Jones
4 David E. Price
5 Richard Burr
6 Howard Coble
7 Mike McIntyre
8 Robin Hayes
9 Sue Wilkins Myrick

10 Cass Ballenger
11 Charles H. Taylor
12 Melvin L. Watt
13 Brad Miller

NORTH DAKOTA

At Large

Earl Pomeroy

OHIO

1 Steve Chabot
2 Rob Portman
3 Michael R. Turner
4 Michael G. Oxley
5 Paul E. Gillmor
6 Ted Strickland
7 David L. Hobson
8 John A. Boehner
9 Marcy Kaptur
10 Dennis J. Kucinich
11 Stephanie Tubbs Jones
12 Patrick J. Tiberi
13 Sherrod Brown
14 Steven C. LaTourette
15 Deborah Pryce
16 Ralph Regula
17 Timothy J. Ryan
18 Robert W. Ney

OKLAHOMA

1 John Sullivan
2 Brad Carson
3 Frank D. Lucas
4 Tom Cole
5 Ernest J. Istook, Jr.

OREGON

1 David Wu
2 Greg Walden
3 Earl Blumenauer
4 Peter A. DeFazio
5 Darlene Hooley

PENNSYLVANIA

1 Robert A. Brady
2 Chaka Fattah
3 Phil English
4 Melissa A. Hart
5 John E. Peterson
6 Jim Gerlach
7 Curt Weldon
8 James C. Greenwood
9 Bill Shuster
10 Don Sherwood
11 Paul E. Kanjorski
12 John P. Murtha
13 Joseph M. Hoeffel
14 Michael F. Doyle
15 Patrick J. Toomey
16 Joseph R. Pitts
17 Tim Holden
18 Tim Murphy
19 Todd Russell Platts

RHODE ISLAND

1 Patrick J. Kennedy
2 James R. Langevin

SOUTH CAROLINA

1 Henry E. Brown, Jr.
2 Joe Wilson
3 J. Gresham Barrett
4 Jim DeMint
5 John M. Spratt, Jr.
6 James E. Clyburn

SOUTH DAKOTA

At Large

William J. Janklow

TENNESSEE

1 William L. Jenkins
2 John J. Duncan, Jr.
3 Zach Wamp
4 Lincoln Davis
5 Jim Cooper
6 Bart Gordon
7 Marsha Blackburn
8 John S. Tanner
9 Harold E. Ford, Jr.

TEXAS

1 Max Sandlin
2 Jim Turner
3 Sam Johnson
4 Ralph M. Hall
5 Jeb Hensarling
6 Joe Barton
7 John Abney Culberson
8 Kevin Brady
9 Nick Lampson
10 Lloyd Doggett
11 Chet Edwards
12 Kay Granger
13 Mac Thornberry
14 Ron Paul
15 Rubén Hinojosa
16 Silvestre Reyes
17 Charles W. Stenholm
18 Sheila Jackson-Lee
19 Larry Combest
20 Charles A. Gonzalez
21 Lamar S. Smith
22 Tom DeLay
23 Henry Bonilla
24 Martin Frost
25 Chris Bell
26 Michael C. Burgess
27 Solomon P. Ortiz
28 Ciro D. Rodriguez
29 Gene Green
30 Eddie Bernice Johnson
31 John R. Carter
32 Pete Sessions

UTAH

1 Rob Bishop
2 Jim Matheson
3 Chris Cannon

VERMONT

At Large

Bernard Sanders

VIRGINIA

1 Jo Ann Davis
2 Edward L. Schrock
3 Robert C. Scott
4 J. Randy Forbes
5 Virgil H. Goode, Jr.
6 Bob Goodlatte
7 Eric Cantor
8 James P. Moran
9 Rick Boucher
10 Frank R. Wolf
11 Tom Davis

WASHINGTON

1 Jay Inslee
2 Rick Larsen
3 Brian Baird
4 Doc Hastings
5 George R. Nethercutt, Jr.
6 Norman D. Dicks
7 Jim McDermott
8 Jennifer Dunn
9 Adam Smith

WEST VIRGINIA

1 Alan B. Mollohan
2 Shelley Moore Capito
3 Nick J. Rahall II

WISCONSIN

1 Paul Ryan
2 Tammy Baldwin
3 Ron Kind
4 Gerald D. Kleczka
5 F. James Sensenbrenner, Jr.
6 Thomas E. Petri
7 David R. Obey
8 Mark Green

WYOMING

At Large

Barbara Cubin

PUERTO RICO

Resident Commissioner

Anibal Acevedo-Vilá

AMERICAN SAMOA

Delegate

Eni F. H. Faleomavaega

DISTRICT OF COLUMBIA

Delegate

Eleanor Holmes Norton

GUAM

Delegate

Madeleine Z. Bordallo

VIRGIN ISLANDS

Delegate

Donna M. Christensen

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

924. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Imported Fire Ant; Additions to Quarantined Areas [Docket No. 02-114-1] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

925. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Karnal Bunt; Restrictions on the Use of Grain Originating in a Regulated Area [Docket No. 01-118-2] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

926. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Interstate Movement of Gardenia From Hawaii [Docket No. 01-042-2] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

927. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Fruits and Vegetables From Hawaii [Docket No. 00-052-2] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

928. A letter from the Administrator, Dairy Programs, Department of Agriculture, transmitting the Department's final rule — Milk in the Central Marketing Area; Interim Order Amending the Order [Docket No. AO-313-A44; DA-01-07] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

929. A letter from the Administrator, Dairy Programs, Department of Agriculture, transmitting the Department's final rule — Milk in the Northeast and Other Marketing Areas; Order Amending the Orders [Docket No. AO-14-A69, et al.; DA-00-03] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

930. A letter from the Administrator, Agriculture Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Exemption for Shipments of Tree Run Citrus [Docket No. FV02-905-4 FIR] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

931. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture,

transmitting the Department's final rule — Raisins Produced From Grapes Grown in California: Modifications to the Raisin Diversion Program [Docket No. FV03-989-1IFR] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

932. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Program, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California: Additional Opportunity for Participation in 2002 Raisin Diversion Program [Docket No. FV02-989-5 FIR] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

933. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Farm Service Agency, Rural Housing Service, Rural Utilities Service, Rural Business-Cooperative Service (RIN: 0560-AE02) received February 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

934. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Farm Loan Programs Account Servicing Policies-Reduction of Amortized Shared Appreciation Recapture Amortization Rate (RIN: 0560-AG43) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

935. A letter from the Congressional Review Coordinator, Department of Transportation, transmitting the Department's final rule — Important of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease [Docket No. 01-037-2] received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

936. A communication from the President of the United States, transmitting a request for the Corporation for National and Community Service; (H. Doc. No. 108—44); to the Committee on Appropriations and ordered to be printed.

937. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Emergency Acquisitions in Regions Subject to Economic Sanctions [DFARS Case 2002-D031] received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

938. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Contractor Performance of Security-Guard Functions [DFARS Case A2002-D042] received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

939. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Fish, Shellfish, and Seafood Products [DFARS Case 2002-D034] received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

940. A letter from the Under Secretary, Department of Defense, transmitting the Strategic and Critical Materials Report during the period October 2001 through September 2002, pursuant to 50 U.S.C. 98h—2(b); to the Committee on Armed Services.

941. A letter from the Alternate Federal Register Liason Officer, Department of Transportation, transmitting the Department's final rule — TRICARE Program; Double Coverage; Third-Party Recoveries (RIN: 0720-AA52) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

942. A letter from the Acting Principal Deputy Associate Administrator, Environmental ProtectionAgency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sulfur Dioxide Attainment Demonstation for the Warren County Nonattainment Area and Permit Emission Limitations for Two Individual Sources in Warren County [PA037/072/184-4190a; FRL-7421-1] received January 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

943. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 05-03 which informs of an intent to sign a Project Agreement (PA) under the U.S.-Singapore Research, Development, Test and Evaluation Memorandum of Agreement, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

944. A letter from the Secretary, Department of Agriculture, transmitting the Department's revised Strategic Plan for FY 2002 — 2007, pursuant to Public Law 105—185 section 253(a) 112 Stat. 560; to the Committee on Government Reform.

945. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-632, "Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

946. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-633, "Fiscal Year 2003 Use of the Budgeted Reserve Funds During the Continuing Resolution Temporary Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

947. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-631, "Housing Production Trust Fund Continuing Basis Definition Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

948. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-629, "Master Business Registration Delay Temporary Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

949. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-628, "Establishment of the Capitol Hill Business Improvement District Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

950. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-21, "Draft Master Plan for Public Reservation 13 Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

951. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-19, "Interim Disability Assistance Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

952. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-20, "Child and Youth Safety and Health Omnibus Temporary Amendment Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

953. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-630, "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Releif Temporary Act of 2003" received March 5, 2003, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

954. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

955. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

956. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

957. A letter from the Secretary of the Navy, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

958. A letter from the Secretary of the Navy, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

959. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

960. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

961. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

962. A letter from the Executive Director, Federal Mine Safety and Health Review Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2002, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

963. A letter from the Director, Office of Personnel Management, transmitting OPM's Fiscal Year 2002 Annual Report to Congress on the Federal Equal Opportunity Recruitment Program (FEORP), pursuant to 5 U.S.C. 7201(e); to the Committee on Government Reform.

964. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's Financial Statements for Fiscal Year 2002, including the Office of Inspector General's Auditor's Report, Report on Internal Control and Report on Compliance with

Laws and Regulations; to the Committee on Government Reform.

965. A letter from the Secretary, Securities and Exchange Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

966. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the 2001 annual report on the activities and operations of the Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

967. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the Capital Investment Plan (CIP) for fiscal years 2004-2008, pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

968. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Britten-Norman Limited BN-2A and BN2A Mk. III Series Airplanes [Docket No. 2002-CE-33-AD; Amendment 39-12978; AD 2002-25-03] (RIN: 2120-AA64) received January 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 239. A bill to facilitate the provision of assistance by the Department of Housing and Urban Development for the cleanup and economic redevelopment of brownfields (Rept. 108–22). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 878. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; with an amendment (Rept. 108–23). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 126. Resolution providing for consideration of the bill (H.R. 878) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes (Rept. 108–25). Referred to the House Calendar.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 361. A bill to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; referred to the Committee on the Judiciary for a period ending not later than June 1, 2003, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X (Rept. 108–24, Pt. 1).

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Michigan (for himself, Mr. Hoekstra, Mr. Ehlers, and Mr. Camp):

H.R. 1079. A bill to amend the Internal Revenue Code of 1986 to increase expensing for small business and to allow small business to elect to determine the deduction for depreciation on a neutral cost recovery basis for property otherwise eligible to be expensed; to the Committee on Ways and Means.

By Mr. GILCHREST (for himself, Mr. Ehlers, Mr. Baird, Mr. Hoekstra, Mr. Ortiz, Mrs. Biggert, Mr. Kirk, Mr. Kildee, Mr. Camp, Mr. McHugh, Mr. Emanuel, Ms. Slaughter, Mr. Rogers of Michigan, Mr. English, Mr. Farr, Mr. Cummings, Mr. Levin, Mr. Stupak, Mr. Scott of Virginia, Mr. Abercrombie, Mr. Quinn, Mr. Smith of Washington, Mr. George Miller of California, Mrs. Maloney, Mr. Dingell, Ms. Kaptur, Ms. Lee, Mr. Saxton, Mr. Dicks, Ms. Bordallo, Mr. Visclosky, Mr. Walsh, Mr. Upton, Mr. Gillmor, Mr. Smith of Michigan, Mr. Case, Mr. Boehlert, Mr. Brown of Ohio, Mr. Greenwood, Mr. Pallone, Mr. Markey, Mr. Delahunt, Mr. Cardin, Mr. Allen, Mrs. Miller of Michigan, Mr. Blumenauer, Mr. Inslee, Mr. Houghton, Ms. McCollum, Mr. McGovern, Mr. McCotter, Ms. Baldwin, Mr. Leach, Mr. McDermott, Mr. Neal of Massachusetts, Mr. Knollenberg, Mr. Towns, Mr. Honda, Mr. Lipinski, Mr. Weiner, Mr. Kind, Mr. Evans, Ms. Lofgren, Mr. Kleczka, Mr. Berman, Mr. Faleomavaega, Mr. Simmons, and Mr. LaTourette):

H.R. 1080. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. Gilchrest, Mr. Baird, Mr. Hoekstra, Mr. Ortiz, Mrs. Biggert, Mr. Kirk, Mr. Kildee, Mr. Camp, Mr. McHugh, Mr. Emanuel, Ms. Slaughter, Mr. Rogers of Michigan, Mr. English, Mr. Farr, Mr. Cummings, Mr. Levin, Mr. Stupak, Mr. Scott of Virginia, Mr. Abercrombie, Mr. Quinn, Mr. Smith of Washington, Mr. George Miller of California, Mrs. Maloney, Mr. Dingell, Ms. Kaptur, Ms. Lee, Mr. Saxton, Mr. Dicks, Ms. Bordallo, Mr. Visclosky, Mr. Walsh, Mr. Upton, Mr. Gillmor, Mr. Smith of Michigan, Mr. Case, Mr. Boehlert, Mr. Brown of Ohio, Mr. Greenwood, Mr. Pallone, Mr. Markey, Mr. Delahunt, Mr. Cardin, Mr. Allen, Mrs. Miller of Michigan, Mr. Blumenauer, Mr. Inslee, Mr. Houghton, Ms. McCollum, Mr. McGovern, Mr. McCotter, Ms. Baldwin, Mr. Leach, Mr. McDermott, Mr. Neal of Massachusetts, Mr. Knollenberg, Mr. Towns, Mr. Honda, Mr. Lipinski, Mr. Weiner, Mr. Kind, Mr. Evans, Ms. Lofgren, Mr. Johnson of Illinois, Mr. Kleczka, Mr. Simmons, Mr. Faleomavaega, and Mr. LaTourette):

H.R. 1081. A bill to establish marine and freshwater research, development, and demonstration programs to support efforts to prevent, control, and eradicate invasive species, as well as to educate citizens and stakeholders and restore ecosystems; to the Committee on Science, and in addition to the Committees on Transportation and Infrastructure, Resources, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. CARSON of Indiana (for herself, Mr. Hill, Mr. Pence, Mr. Visclosky, Mr. Hostettler, Mr. Burton of Indiana, Mr. Souder, Mr. Chocola, and Mr. Buyer):

H.R. 1082. A bill to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the ``Birch Bayh Federal Building and United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. LANGEVIN (for himself, Mr. Abercrombie, Mr. Ackerman, Mr. Allen, Mr. Brady of Pennsylvania, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mrs. Christensen, Ms. DeLauro, Mr. Doyle, Mr. Engel, Mr. Evans, Mr. Foley, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Mr. Green of Texas, Mr. Greenwood, Mr. Gutierrez, Mr. Hoeffel, Mrs. Johnson of Connecticut, Mrs. Jones of Ohio, Mr. Kildee, Mr. Kennedy of Rhode Island, Mr. Lantos, Mr. Matsui, Mr. McDermott, Mr. McHugh, Mr. McNulty, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Nadler, Mrs. Napolitano, Ms. Norton, Mr. Oberstar, Mr. Owens, Mr. Pascrell, Mr. Payne, Mr. Serrano, Mr. Simmons, Mr. Skelton, Mr. Stenholm, Mr. Towns, Mr. Waxman, Ms. Woolsey, Ms. Berkley, Mr. Davis of Illinois, Ms. Ginny Brown-Waite of Florida, Mr. Clyburn, Ms. Jackson-Lee of Texas, Mr. Crowley, and Mr. Markey):

H.R. 1083. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHROCK (for himself, Mr. Isakson, Mr. Goode, Mr. Kirk, Mr. Taylor of Mississippi, and Mr. Forbes):

H.R. 1084. A bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations; to the Committee on the Judiciary.

By Mr. BOEHLERT:

H.R. 1085. A bill to make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes; to the Committee on Science, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself, Mr. Conyers, Mr. Boehlert, Mr. Hall, Mr. Smith of Texas, Mr. Frank of Massachusetts, Mr. Coble, Mr. Issa, Mr. Berman, Ms. Hart, Mr. Delahunt, Mr. Keller, Mr. Meehan, Mr. Forbes, Ms. Jackson-Lee of Texas, Mr. Feeney, and Mr. Weiner):

H.R. 1086. A bill to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 1087. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in medical research conducted through the Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BONILLA (for himself and Mr. Ortiz):

H.R. 1088. A bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias; to the Committee on Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 1089. A bill to direct the Secretary of Transportation to offer federally financed, interest-free loans to public schools, municipalities, and local governments for the purchase of hybrid electric or other high-efficiency vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ENGEL:

H.R. 1090. A bill to require that ten percent of the motor vehicles purchased by Executive agencies be hybrid electric vehicles or high-efficiency vehicles; to the Committee on Government Reform.

By Mr. ETHERIDGE (for himself, Mr. Whitfield, Mr. McIntyre, Mr. Fletcher, Mr. Gordon, Mr. Goode, Mr. Jones of North Carolina, Mr. Clyburn, Mr. Boucher, Mr. Rogers of Kentucky, and Mr. Lewis of Kentucky):

H.R. 1091. A bill to amend the Agricultural Reconciliation Act of 1993 to make leaf tobacco an eligible commodity for the Market Access Program; to the Committee on Agriculture.

By Mr. GIBBONS:

H.R. 1092. A bill to authorize the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; to the Committee on Resources.

By Ms. GRANGER:

H.R. 1093. A bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of their service to the Nation; to the Committee on Financial Services.

By Ms. HOOLEY of Oregon (for herself, Mrs. Johnson of Connecticut, Mr. Gutierrez, Mrs. Maloney, Mr. Hill, Mr. DeFazio, Mr. Terry, Mrs. Tauscher, Ms. Carson of Indiana, Mr. Waxman, Mr. Blumenauer, Mr. Snyder, Mr. Hastings of Florida, Mr. Reyes, Mrs. Christensen, Mr. Carson of Oklahoma, Mr. Filner, Mr. Rodriguez, Mr. McDermott, Mr. Lynch, Mr. Sanders, Mr. Shays, Ms. Harman, Mr. Honda, Mr. Pallone, Mr. Sandlin, Mr. Baca, Ms. Lee, Mr. Hinchey, Mr. Allen, Mr. Bereuter, Mrs. Jones of Ohio, Mr. McGovern, Mr. Owens, Ms. Corrine Brown of Florida, Mr. Frank of Massachusetts, Mr. Kennedy of Minnesota, Mrs. Jo Ann Davis of Virginia, and Mr. Kind):

H.R. 1094. A bill to authorize appropriations for part B of the Individuals with Disabilities Education Act to achieve full funding for part B of that Act by 2008; to the Committee on Education and the Workforce.

By Mr. KING of New York:

H.R. 1095. A bill to amend the Immigration and Nationality Act to reauthorize the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

By Mr. KOLBE (for himself, Mr. Stupak, Mr. Franks of Arizona, Mr. Renzi, Mr. Pearce, and Mr. Grijalva):

H.R. 1096. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Science, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McDERMOTT (for himself, Mr. Petri, Mr. Leach, Mrs. Napolitano, Mr. Pascrell, Ms. Schakowsky, Mr. Hoeffel, Ms. Baldwin, Mr. Fattah, Mrs. Tauscher, Mr. Moran of Virginia, Mr. Payne, Mr. Honda, Mr. Shays, Ms. Lee, Ms. Woolsey, Ms. Jackson-Lee of Texas, Mr. Davis of Illinois, Mr. Markey, Mr. Neal of Massachusetts, Mr. Evans, Mr. Conyers, Mr. Brown of Ohio, Mrs. Maloney, Mr. Sensenbrenner, Mr. Johnson of Illinois, Mrs. Capps, Mr. Engel, Mr. Gonzalez, Mr. Spratt, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Olver, Mr. Lewis of Georgia, Mr. Hinchey, Ms. Corrine Brown of Florida, Mr. George Miller of California, Mr. Waxman, Mr. Farr, Mr. Ramstad, Mr. Lynch, Mr. Wexler, Mr. Pallone, Mr. Stark, Mr. Holt, Mr. Kleczka, Mr. Gutierrez, Mr. Udall of New Mexico, Mr. Walsh, Mr. Grijalva, and Mr. Rothman):

H.R. 1097. A bill to ensure that proper planning is undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River basin and the maintenance of reasonably priced, reliable power, to direct the Secretary of Commerce to seek scientific analysis of Federal efforts to restore salmon and steelhead listed under the Endangered Species Act of 1973, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of Florida (for himself, Mr. Pitts, Mr. Terry, Ms. Ginny Brown-Waite of Florida, and Mr. Coble):

H.R. 1098. A bill to provide that, if an individual is expelled from Congress, any Member service previously rendered by that individual shall be noncreditable for purposes of determining eligibility for or the amount of any benefits which might otherwise be payable out of the Civil Service Retirement and Disability Fund based on the service of that individual, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Minnesota:

H.R. 1099. A bill to amend the Internal Revenue Code of 1986 to allow the $25,000 offset for individuals under the passive loss rules to apply to investments in wind energy facilities; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 1100. A bill to amend the Internal Revenue Code of 1986 to clarify that certain options offered by tax-exempt organizations are not includible in gross income under section 457(f); to the Committee on Ways and Means.

By Mr. RODRIGUEZ:

H.R. 1101. A bill to amend title 5, United States Code, to create a presumption that disability of a Federal employee in fire protection activities caused by certain conditions is presumed to result from the performance of such employee's duty; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Mr. Simmons, Ms. Lee, Mr. Shays, Ms. Waters, Mr. Greenwood, Mr. Hoyer, Mr. McHugh, Mr. Israel, Mr. Quinn, Mr. Smith of Washington, Mr. Clay, Mr. Weiner, Mr. Grijalva, Mr. Davis of Alabama, Mr. Lynch, Mrs. Jones of Ohio, Mr. Oberstar, Ms. Woolsey, Mr. Crowley, Mr. Inslee, Ms. Baldwin, Mrs. Christensen, Mr. Moran of Virginia, Mr. Wynn, Mrs. Maloney, Mr. Owens, Mr. Kleczka, Mr. Bishop of New York, Mr. Holt, Mr. Davis of Illinois, Mr. George Miller of California, Ms. Schakowsky, Mr. Evans, Mr. Acevedo-Vilá, Ms. Kaptur, Mr. Ford, Ms. DeLauro, Mr. Hinchey, Mr. Honda, Mr. Gutierrez, Ms. Carson of Indiana, Mr. Holden, Mr. Case, Mr. Doyle, Mr. Wexler, Mr. Gordon, Mr. Payne, Mr. Abercrombie, Mr. McGovern, Mr. Tierney, Mr. Matsui, Mr. Conyers, Mr. Kildee, Mr. McNulty, Mr. Farr, Ms. Corrine Brown of Florida, Mr. Langevin, Mr. Hall, Mr. Olver, Ms. Kilpatrick, Mr. Nadler, Mr. Engel, Mr. Capuano, Ms. Velázquez, Mr. Blumenauer, Mr. Serrano, Mr. Towns, Mr. Strickland, Ms. Lofgren, Mr. Pallone, Mr. Moore, Mr. Rangel, Mr. Delahunt, Mr. Cummings, Mr. Cooper, Mr. Hinojosa, Mr. Kind, Ms. Millender-McDonald, Mr. Boucher, Mrs. Davis of California, Mr. McDermott, Mr.

MENENDEZ, Mr. DOGGETT, Ms. JACKSON-LEE of Texas, Mr. RUSH, Ms. WATSON, Mr. LARSEN of Washington, Ms. SLAUGHTER, Mr. DEFAZIO, Mr. SNYDER, Mr. JEFFERSON, Mr. LEWIS of Georgia, Mr. FATTAH, Mr. FROST, Mr. BROWN of Ohio, Mrs. MCCARTHY of New York, Mr. SPRATT, Mr. BACA, Mr. BECERRA, Mr. MEEKS of New York, Ms. MCCARTHY of Missouri, Mr. REYES, Mr. ALLEN, Mr. SCHIFF, Mr. RODRIGUEZ, Mr. EMANUEL, Ms. HARMAN, Mr. LARSON of Connecticut, Ms. LINDA T. SÁNCHEZ of California, Mr. DINGELL, Ms. NORTON, Mr. LANTOS, Mr. MICHAUD, Ms. ESHOO, Mrs. LOWEY, Ms. SOLIS, Ms. DEGETTE, Mr. KUCINICH, Mr. PASCRELL, Mr. UDALL of New Mexico, Ms. MCCOLLUM, Mr. BRADY of Pennsylvania, Mr. BELL, Mr. ANDREWS, Mr. KENNEDY of Rhode Island, Mr. HOEFFEL, Mr. BALLANCE, Mr. PRICE of North Carolina, Mr. LAMPSON, Mr. WAXMAN, Mr. FILNER, Mrs. CAPPS, Mr. ORTIZ, Mr. STARK, Mr. COSTELLO, Mr. WATT, Mr. THOMPSON of California, Mr. MEEK of Florida, Ms. BORDALLO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of Mississippi, Mr. JACKSON of Illinois, Mr. CLYBURN, Mr. GREEN of Texas, Mr. MEEHAN, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Ms. ROYBAL-ALLARD, Mr. FALEOMAVAEGA, Mr. HILL, Mr. MCINTYRE, Mr. DAVIS of Tennessee, Mr. RAHALL, Mr. ROSS, Mr. MILLER of North Carolina, Mr. BOSWELL, Mr. UDALL of Colorado, Mr. DICKS, Mr. BISHOP of Georgia, Mr. ROTHMAN, and Mr. BERMAN):

H.R. 1102. A bill to establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families; to the Committee on Financial Services.

By Mr. SCHIFF (for himself, Mr. MCINNIS, Mr. CASE, and Mr. BELL):

H.R. 1103. A bill to improve air cargo security; to the Committee on Transportation and Infrastructure.

By Mr. SENSENBRENNER (for himself, Mr. SMITH of Texas, Mr. CHABOT, Mr. GREEN of Wisconsin, Mr. HYDE, and Mr. COBLE):

H.R. 1104. A bill to prevent child abduction, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mrs. MALONEY, Mr. HONDA, Mr. LEACH, Mr. KILDEE, Ms. NORTON, Mr. WEXLER, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, Mr. BROWN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Mr. RYAN of Ohio, Mr. OLVER, Mr. GEORGE MILLER of California, Mr. EVANS, Ms. CARSON of Indiana, Mr. FORD, Mr. HOLT, Mrs. JONES of Ohio, Mr. CUMMINGS, Mr. BECERRA, Ms. LEE, Mr. GUTIERREZ, Ms. SLAUGHTER, Mr. TOWNS, Mr. DELAHUNT, Mr. CAPUANO, Ms. WOOLSEY, Mrs. DAVIS of California, Ms. HARMAN, Mr. MORAN of Virginia, Ms. BERKLEY, Mr. WEINER, Ms. CORRINE BROWN of Florida, Mr. UDALL of New Mexico, Mr. LANTOS, Mr. DEUTSCH, Ms. MCCARTHY of Missouri, Mr. NADLER, Mrs. JOHNSON of Connecticut, Mr. BLUMENAUER, Mr. MARKEY, Ms. HOOLEY of Oregon, Mr. SERRANO, Mr. HOEFFEL, Ms. MILLENDER-MCDONALD, Mr. BOEHLERT, Mr. SCHIFF, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAYNE, Mr. LOBIONDO, Mr. HINCHEY, Ms. DELAURO, Mr. MEEKS of New York, Mr. PASCRELL, Mr. FROST, Mr. UDALL of Colorado, Mr. CLAY, Mr. LARSON of Connecticut, Mr. MICHAUD, Mr. MCNULTY, Mrs. LOWEY, Mr. INSLEE, Mr. BAIRD, Mr. MATSUI, Mr. ACKERMAN, Mr. SANDERS, Mr. STARK, Ms. MCCOLLUM, Ms. SOLIS, Mr. FATTAH, Mrs. CAPPS, Mr. SAXTON, Mrs. TAUSCHER, Mr. BISHOP of New York, Mr. TIERNEY, Mr. KIRK, Mr. CROWLEY, Mr. GREENWOOD, Ms. SCHAKOWSKY, Mr. KUCINICH, Mr. ALLEN, Mr. ROTHMAN, Mr. VAN HOLLEN, Mr. ANDREWS, Mr. COSTELLO, Ms. JACKSON-LEE of Texas, Mr. KENNEDY of Rhode Island, Mr. MEEHAN, Mr. ISRAEL, Mr. OWENS, Mr. RAHALL, Mr. MOORE, Mr. THOMPSON of California, Mrs. MCCARTHY of New York, Mr. BERMAN, Mr. JEFFERSON, Mrs. NAPOLITANO, Mr. STRICKLAND, Mr. SPRATT, Mr. GRIJALVA, Mrs. CHRISTENSEN, Mr. PALLONE, Mr. FALEOMAVAEGA, Mr. LANGEVIN, Mr. LIPINSKI, Mr. HASTINGS of Florida, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Ms. DEGETTE, Mr. SMITH of New Jersey, Mr. CARDIN, Ms. ESHOO, Mr. JACKSON of Illinois, and Mr. WALSH):

H.R. 1105. A bill to designate as wilderness, wild and scenic rivers, national park and preserve study areas, wild land recovery areas, and biological connecting corridors certain public lands in the States of Idaho, Montana, Oregon, Washington, and Wyoming, and for other purposes; to the Committee on Resources.

By Mr. SIMPSON (for himself and Mr. OTTER):

H.R. 1106. A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; to the Committee on Resources.

By Mr. UDALL of New Mexico (for himself, Mr. MATHESON, and Mr. RENZI):

H.R. 1107. A bill to reauthorize funding for maintenance of public roads used by school buses serving certain Indian reservations; to the Committee on Transportation and Infrastructure.

By Ms. WATERS (for herself, Mr. CONYERS, Ms. LEE, Mr. JACKSON of Illinois, Mr. OWENS, Ms. CORRINE BROWN of Florida, Mr. RUSH, and Mr. MEEK of Florida):

H.R. 1108. A bill to require the Secretary of the Treasury to direct the United States Executive Director at the Inter-American Development Bank to use the voice, vote, and influence of the United States to urge the immediate resumption of lending to Haiti; to the Committee on Financial Services.

By Ms. LEE (for herself, Mr. FRANK of Massachusetts, Mr. CUMMINGS, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mrs. CHRISTENSEN, Ms. WOOLSEY, Mr. KUCINICH, Mr. BROWN of Ohio, Mr. CONYERS, Mr. MEEK of Florida, Mr. RUSH, Mr. SCOTT of Virginia, Mr. DEUTSCH, Mr. HASTINGS of Florida, Ms. WATSON, Ms. KILPATRICK, Mrs. JONES of Ohio, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. OWENS, Mr. PAYNE, Mr. CLYBURN, Ms. CARSON of Indiana, and Mr. CLAY):

H. Con. Res. 78. Concurrent resolution expressing the need to reengage Congress and the Administration regarding the social conditions and need for poverty reduction in Haiti, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO:

H. Res. 123. A resolution electing a Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Ms. DELAURO:

H. Res. 124. A resolution electing Members and Delegates to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. SMITH of Michigan (for himself, Mr. NETHERCUTT, Mr. BARTLETT of Maryland, Mr. FLAKE, Mr. DEMINT, Mr. BURTON of Indiana, Mr. DOOLITTLE, Mr. DUNCAN, Mr. SAM JOHNSON of Texas, Mr. HOBSON, Mr. PETRI, Mr. YOUNG of Alaska, Mr. DAVIS of Tennessee, and Mr. COLLINS):

H. Res. 125. A resolution recognizing the thousands of Freemasons in every State in the Nation and honoring them for their many contributions to the Nation throughout its history; to the Committee on Government Reform.

By Mr. DREIER (for himself, Mrs. BIGGERT, Mr. FORD, Mr. OXLEY, Mr. PETRI, Mr. POMEROY, and Mr. ROSS):

H. Res. 127. A resolution expressing the sense of the House of Representatives that a month should be designated as "Financial Literacy for Youth Month"; to the Committee on Government Reform.

By Mr. HILL (for himself, Mr. PENCE, Mr. VISCLOSKY, Ms. CARSON of Indiana, Mr. BURTON of Indiana, Mr. CHOCOLA, and Mr. HOSTETTLER):

H. Res. 128. A resolution congratulating Tony Stewart for winning the 2002 Winston Cup Championship; to the Committee on Government Reform.

By Mr. PALLONE:

H. Res. 129. A resolution expressing the sense of the House of Representatives that a postage stamp should be issued in commemoration of Diwali, a festival celebrated by people of Indian origin; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. BARRETT of South Carolina, Mr. HASTINGS of Washington, Mr. BOOZMAN, and Mr. COMBEST.

H.R. 20: Mr. BISHOP of New York, Mr. THOMPSON of Mississippi, Mr. ROTHMAN, Ms. MCCOLLUM, Mr. CARDOZA, Mr. BERRY, and Mr. STENHOLM.

H.R. 36: Mr. CARDOZA.

H.R. 40: Mr. MEEK of Florida.

H.R. 57: Mr. HOSTETTLER and Mr. SHERWOOD.

H.R. 58: Ms. SLAUGHTER, Mr. SWEENEY, Mr. ALLEN, Mr. KINGSTON, Mr. RODRIGUEZ, Mr. HALL, Mr. BASS, Ms. CARSON of Indiana, Mr. CONYERS, Mr. MENENDEZ, Ms. HART, Mr. LANTOS, Mr. THOMPSON of California, Mrs. LOWEY, Ms. LORETTA SANCHEZ of California, Mr. BELL, Mr. SANDERS, Mr. CAPUANO, Mr.

Carson of Oklahoma, Ms. Linda T. Sánchez of California, Ms. Eshoo, and Mr. Gonzalez.

H.R. 107: Ms. Lofgren.

H.R. 111: Mrs. Capps, Mr. Crenshaw, and Mr. Nunes.

H.R. 119: Mr. Bereuter.

H.R. 140: Mr. Gordon.

H.R. 240: Mr. Peterson of Pennsylvania.

H.R. 278: Mr. Carter.

H.R. 293: Mr. Isakson.

H.R. 294: Mrs. McCarthy of New York and Mr. Owens.

H.R. 300: Mr. Cunningham.

H.R. 303: Mr. Pitts, Mr. Bradley of New Hampshire, Mr. Keller, Mr. John, Mr. Peterson of Pennsylvania, and Mr. Quinn.

H.R. 339: Mr. Lewis of Kentucky and Ms. Harris.

H.R. 343: Mr. Gordon, Mr. Filner, and Mr. Allen.

H.R. 347: Mr. Otter.

H.R. 349: Mr. Hostettler.

H.R. 350: Mr. Hostettler.

H.R. 361: Ms. Lee and Mr. Barrett of South Carolina.

H.R. 365: Ms. Loretta Sanchez of California.

H.R. 426: Ms. Watson and Ms. Ginny Brown-Waite of Florida.

H.R. 428: Mr. Green of Wisconsin, Mr. Cunningham, Mr. Doolittle, Mr. English, Mr. Wolf, and Mr. Ehlers.

H.R. 442: Mr. Etheridge.

H.R. 444: Ms. Ginny Brown-Waite of Florida.

H.R. 466: Mr. Rush.

H.R. 478: Mr. Osborne.

H.R. 489: Mrs. Musgrave, Mr. Wamp, and Mr. Kingston.

H.R. 498: Mr. Souder, Ms. Ginny Brown-Waite of Florida, and Mr. Hayworth.

H.R. 501: Mr. Stenholm.

H.R. 502: Mr. DeFazio.

H.R. 503: Mr. Burgess.

H.R. 522: Mr. Baca.

H.R. 527: Mr. Walsh and Mr. Owens.

H.R. 528: Mr. Crowley and Mr. Ehlers.

H.R. 545: Mr. Holden.

H.R. 569: Mr. Price of North Carolina.

H.R. 591: Mr. English.

H.R. 611: Ms. Ginny Brown-Waite of Florida.

H.R. 612: Ms. Ginny Brown-Waite of Florida.

H.R. 615: Ms. Ginny Brown-Waite of Florida.

H.R. 625: Ms. Lofgren.

H.R. 655: Mr. DeFazio and Mr. Peterson of Pennsylvania.

H.R. 662: Mr. Souder, Ms. DeLauro, and Mr. Carson of Indiana.

H.R. 663: Mr. Stupak.

H.R. 693: Mr. Kennedy of Minnesota.

H.R. 706: Ms. Schakowsky and Mr. Frank of Massachusetts.

H.R. 707: Mr. Kildee, Mr. Abercrombie, Ms. Norton, Mr. McNulty, and Mr. Ackerman.

H.R. 732: Mr. Holden, Mr. Ortiz, Mr. McCotter, Mr. Barrett of South Carolina, Mr. Latham, Mr. Duncan, Mr. John, Mr. Ramstad, Mr. Brown of South Carolina, Mr. Leach, Mr. Abercrombie, Mr. Andrews, Mr. Blumenauer, Mr. Kind, and Mr. Emanuel.

H.R. 735: Mr. Walsh, Ms. Kaptur, Mr. Burton of Indiana, and Mr. Putnam.

H.R. 743: Mr. Cardin.

H.R. 745: Mr. Baird, Mr. Ackerman, and Ms. Solis.

H.R. 756: Mr. Baker.

H.R. 765: Mr. King of New York and Mr. Burgess.

H.R. 773: Mr. Menendez.

H.R. 794: Mr. Rehberg and Mr. McInnis.

H.R. 818: Mr. Brown of Ohio and Ms. Bordallo.

H.R. 819: Mr. Filner.

H.R. 821: Ms. McCollum.

H.R. 829: Ms. Slaughter, Mr. Simmons, Mr. Towns, and Mr. Menendez.

H.R. 832: Ms. Loretta Sanchez of California, Mr. Wynn, Mr. Emanuel, Mr. Miller of North Carolina, and Mrs. Davis of California.

H.R. 854: Mr. Pitts.

H.R. 887: Mr. Burr, Mr. Sherman, and Mr. LaHood.

H.R. 898: Mr. Coble.

H.R. 919: Mr. Edwards, Mr. Nussle, Ms. Schakowsky, Mr. Crowley, and Mrs. Napolitano.

H.R. 920: Mr. Frost, Mr. Rangel, Mr. Kildee, Mr. Owens, and Ms. Eddie Bernice Johnson of Texas.

H.R. 931: Mr. LaHood.

H.R. 933: Mr. Udall of New Mexico.

H.R. 936: Ms. Carson of Indiana, Mr. Weiner, Mr. Case, Mr. Frank of Massachusetts, Mr. Crowley, Mr. Cummings, Mr. Hinchey, Mrs. Jones of Ohio, Mr. Pallone, and Ms. Corrine Brown of Florida.

H.R. 941: Mr. Towns.

H.R. 953: Mr. Turner of Texas, Ms. Linda T. Sánchez of California, Ms. Eshoo, Mr. Clay, Mr. Evans, and Ms. Baldwin.

H.R. 955: Mr. Boyd, Ms. DeLauro, Ms. Kaptur, Mr. Baird, Mr. Rehberg, Mr. Sabo, Mr. Bass, Mr. Bradley of New Hampshire, Mr. Waxman, Mr. Doggett, Mr. Sanders, Mr. McHugh, Mr. Boucher, Mr. Thompson of Mississippi, Mr. Kolbe, Ms. Hooley of Oregon, Mr. Moran of Virginia, Ms. Harman, Mr. Kildee, Mr. McDermott, Mr. Larsen of Washington, Mr. Lynch, and Mr. Frank of Massachusetts.

H.R. 976: Ms. Baldwin and Ms. Lofgren.

H.R. 980: Mr. Strickland, Mr. Nethercutt, and Mr. Cunningham.

H.R. 995: Mr. Wilson of South Carolina, and Mr. Bartlett of Maryland.

H.R. 1005: Mr. Radanovich, Mr. Whitfield, Mr. Bishop of Utah, and Mr. Walden of Oregon.

H.R. 1031: Mr. Hastings of Florida, Mr. Owens, Ms. Millender-McDonald, Ms. Norton, and Mr. Berman.

H.R. 1033: Mr. Hastings of Washington.

H.R. 1077: Mr. Miller of North Carolina.

H. Con. Res. 23: Mr. King of Iowa, Mrs. McCarthy of New York, and Mr. Hastings of Washington.

H. Con. Res. 26: Ms. Ros-Lehtinen and Mr. LaTourette.

H. Con. Res. 37: Mrs. Maloney.

H. Con. Res. 52: Mr. Osborne, Mrs. Christensen, Ms. Jackson-Lee of Texas, and Mr. LaHood.

H. Con. Res. 59: Mr. Boswell.

H. Res. 59: Ms. Loretta Sanchez of California, Mr. Franks of Arizona, and Mr. Foley.

H. Res. 108: Mr. Crowley and Mr. Wynn.

H. Res. 118: Mr. Wexler.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

1. The SPEAKER presented a petition of the Legislature of Putnam County, New York, relative to Resolution No. 249 petitioning the United States Congress to support the New York State Association of Counties' (NYSAC) call upon the President and the United States House of Representatives to support an increase in the federal medical assistance percentage (FMAP) to provide New York's local taxpayers with relief from the crushing financial burden of the Medicaid program; to the Committee on Energy and Commerce.

2. Also, a petition of the Broward County Board of County Commissioners, Florida, relative to Resolution No. 2002-918 petitioning the United States Congress to support the establishment of a south Florida science center proposed to the U. S. Geological Survey by a university consortium comprised of NOVA Southeastern University, the University of Florida and Florida Atlantic University; to the Committee on Resources.

3. Also, a petition of The Ciy of Miami Commission, Florida, relative to Resolution No. 02-1014 petitioning the United States Congress that the city attorney is directed to request the United States Department of Justice to monitor voting in the City of Miami at the November 5, 2002 election to assure the rights of individuals to vote; to the Committee on the Judiciary.

4. Also, a petition of the Leelanau County Board of Commissioners, Michigan, relative to Resolution No. 2002-024 petitioning the United States Congress to support legislation that would establish a federal/state partnership to use the knowledge and skills of the local County Veterans Service Officers to assist the United States Department of Veterans Affairs in eliminating the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for them, for their faithful and loyal service to a grateful nation; to the Committee on Veterans' Affairs.

SENATE—*Wednesday, March 5, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Michael J. Flavin of the Presbyterian Church of New Providence, New Providence, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Dear Father who is in heaven, You are a God of justice and grace, power and love, and above all else—freedom. It is You who puts a hunger for freedom in each of our hearts. It is You who sent Your Son to die that we might be set free. It is You who guided America's founders to build on the firm foundation of freedom. And it is You who has given us gifted leaders determined to protect that freedom. Thank you!

Father, You know these are difficult days. The weight of leadership rests heavy on the shoulders of the women and men of this Senate. So, we pray for them this morning. Please encourage them. Be very present here. In the words of the prophet Isaiah, please empower, renew, and strengthen them. In so doing may these women and men walk and not faint, run and not be weary. May they mount up with wings like eagles today.

Similarly, we pray with the Apostle Paul that You would give them not a spirit of timidity but a spirit of power—Your power, love—Your love and self control—Your self control. We pray that these three qualities would be here in abundance today.

Lord, because of You we approach the future with confidence and great hope. May Your Kingdom come, may Your will be done in this Chamber and throughout the earth as it is in heaven. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. Senator BENNETT, will you lead us in the Pledge of Allegiance, please.

The Honorable ROBERT F. BENNETT, a Senator from the State of Utah, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the acting majority leader.

SCHEDULE

Mr. BENNETT. Mr. President, today there will be a period of morning business until the hour of 11 a.m. The first half of morning business will be under the control of the Democratic leader or his designee, and the second half will be reserved for this side of the aisle. At 11 a.m., the Senate will resume consideration of the nomination of Miguel Estrada.

As a reminder, a cloture motion was filed on that nomination yesterday. Therefore, the vote will occur sometime on Thursday morning. We will announce the precise time of that vote later today.

At 12 noon today, the Senate will begin consideration of the Moscow Treaty. Under the consent agreement reached yesterday, only amendments in order to the resolution of ratification are those that are relevant to the resolution or the treaty. It is my understanding that there will be relevant amendments offered by some of my colleagues on the Democratic side, and therefore rollcall votes are expected today. Members who desire to offer amendments to the Moscow Treaty should work with the chairman and the ranking member of the Foreign Relations Committee to set up the appropriate time for consideration of their amendments. The Senate will complete action on the Moscow Treaty this week.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I haven't had an opportunity to check with floor staff, but I want to alert Members. At 11 o'clock, Senator ROBERTS and I, who were chairman and ranking member of the committee for many years, are going to make a statement on a longtime person who is leaving. We will work this out. I want to alert Members that we would like to have about 10 or 15 minutes between us at that time to speak about someone who is leaving and who has been involved in the committee work for many years.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized.

THE GUEST CHAPLAIN

Mr. LAUTENBERG. Mr. President, I rise today to welcome Dr. Michael J. Flavin to the Senate. Dr. Flavin comes to us from New Providence, NJ and we are very happy that he is joining us today as the Senate's Guest Chaplain. Dr. Flavin received his Bachelor's Degree from Bemidji State University and he currently serves as Associate Pastor at New Providence Presbyterian Church in New Providence. He received his theology degree from Bethel Seminary and his doctorate from Eastern Theological Seminary. He spends much of his time working with students.

I am always excited when we can welcome someone from New Jersey to the Senate Chamber and I am honored to welcome Dr. Michael J. Flavin to lead us in our morning prayer.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BROWNBACK.) Leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the of hour of 11 a.m. Under the previous order, the first half of the time shall be under the control of the Democratic leader or his designee.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LAUTENBERG pertaining to the submission of S. Con. Res. 13 are printed in today's RECORD under "Statements on Submitted Resolutions.")

Mr. LAUTENBERG. Mr. President, I send the resolution to the desk and ask unanimous consent that it be held there.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleague from New Jersey. I think the resolution that he and other colleagues bring before us is certainly one that should be considered seriously for those who are committed to human rights.

THE STATE OF THE AMERICAN ECONOMY

Mr. DURBIN. Mr. President, I would like to move the spotlight of the comments on the Senate floor this morning from the international scene to the domestic scene, and point to the front page headline of the New York Times, Wednesday, March 5: "U.S. Budget Deficit Seen Rising Fast." This is an analysis that they report which comes from the Republican-controlled House Budget Committee. It is a startling piece of information. I will read the first two paragraphs from this article:

> The federal deficit is growing much more quickly than expected, even before Congress takes up President Bush's tax-cutting proposals and without factoring in the costs of a war in Iraq, Congressional analysts have concluded.
>
> Analysts for the Republican-controlled House Budget Committee have raised their estimates of this year's budget shortfall by about $30 billion, some 15 percent beyond the forecast . . . issued only five weeks ago.

We come today to discuss many issues, but certainly one of the overriding issues is the state of the American economy and what we are doing on Capitol Hill to deal with the challenges we face.

There was a time, not that long ago, when the Republican leaders, conservative in philosophy, really condemned the whole problem of deficits in our country and said they were dedicated to eliminating them. Now we hear from Treasury Secretary Snow and others that deficits are meaningless: Don't worry. Be happy.

The concept of going to a $400 billion deficit next year is not only a troubling prospect but represents a dramatic turnaround in terms of Federal spending in Washington, DC.

When this President came to power—President George W. Bush—he inherited a surplus. He came into office with a set of circumstances that any President, any Executive, would be happy to find. We had reached the point where we were not overspending.

Of course, the President, as he came to office, saw the beginning of a recession which has become progressively worse under his administration to the point now where we see consumer confidence at historic lows, unemployment at historic highs, people in business across America depressed and sometimes despondent over whether we are going to find our way out of this budget problem.

Second, the President—and this, of course, in fairness, is not his doing by any means—inherited the age of terrorism and the threat of terrorism which has created a dampening problem across the economy that cannot be diminished. That is a major factor.

So he has a recession which has become progressively worse while he has been in the White House, terrorism which has cast a pall over the economy, but then this President made matters worse. Two years ago he said to this country, even though we are facing deficits, the thing we should do first is to cut taxes. Any politician who announces a tax cut is going to get applause. People love that idea. Of course, they would, to think they would have more money that is not taken by the Government. But the President came up with this proposal at exactly the wrong time in exactly the wrong way. In a deficit situation, he made it worse.

Two years ago, he proposed a tax cut which took more money out of the treasury and, frankly, did not invigorate the economy. He gave a tax cut to the wealthiest people of America. It is the age-old Republican approach. They believe if tax cuts are given to the wealthiest people, somehow that will eventually help middle-income families and those in the lower income categories. It didn't work 2 years ago. People in the lower income categories saw a $300 check, and they didn't change their lifestyle. It did not invigorate the economy. Things went from bad to worse. Now this President comes and tells us what we need for the economy is more of the same, tax cuts for the wealthiest people.

Quite honestly, if it didn't work 2 years ago, it is not going to work now. It won't invigorate the economy. It will drive up the deficit at a time when the bottom is falling out of the Federal budget.

Don't take my word for it. The Republican House Budget Committee tells us we are about to see a record deficit. This President's proposal for tax cuts over a 10-year period of time will dramatically increase the national debt. It means our children and our grandchildren will have to shoulder the burden of the debt we are leaving them. It means programs such as Social Security are likely to languish and suffer because of this President's reckless economic policies.

To think this deficit is coming out of the Social Security trust fund should give us all pause. You know the demographics. The baby boomers are about to reach an age when they qualify for Social Security and Medicare. We should be mindful of that. We should be preparing for that. We should be cautious and prudent.

Instead, this White House and many who support it have said: Forget it; don't worry about it. Keep borrowing money from the Social Security trust fund. Keep jeopardizing the future of Medicare, drive up the deficits, increase the tax cuts so that tax breaks can be given to the wealthiest people.

Why in the world would we follow this course of action? Those who call themselves conservatives should have an examination of conscience, as the nuns used to tell me many years ago in grade school. They should sit down and ask themselves, Is this really why I came to Congress, to build up a national debt to record levels?

Let me add one important footnote. There is another tax out there that this administration will not talk about. It is called the alternative minimum tax. It was created years ago to make sure people who escaped all tax liability, people in the highest income categories, would pay something, an alternative minimum tax. But sadly, this tax, without reform, has grown in terms of its application, has grown in terms of the people who are being affected by it to the point that in just a few years you will see more and more middle-income Americans paying more in an alternative minimum tax than they are paying in their regular income tax rates.

Who will be the people affected by this? People with incomes below $100,000, middle-income families. People with a teacher in the family and a policeman, for example, will find themselves paying an alternative minimum tax.

What does it take to fix this problem? A lot of money; to eliminate it, $600 billion that this President has not budgeted for.

This President and his administration refuse to tell Congress and the people what we are getting into in terms of our exposure in the war in Iraq, how much it will cost. Larry Lindsey, the President's economic advisor until he was asked to leave a few weeks ago, blurted out that this war would cost us $100 to $200 billion. He was asked to leave the administration for his candor. Now we can't get the administration to even tell us what this war, not only the waging of it but the cost of the occupation force afterwards, is going to cost. It isn't even factored into the budget deficit.

Make no mistake, I will say this as a person who has questioned this administration's approach on foreign policy. If and when this war begins, I will join an overwhelming bipartisan majority in Congress to provide every penny necessary to wage this war successfully and bring our men and women home safely, having completed their mission. We are going to do that. It is a given. To ask the administration what this is likely to cost is not unreasonable. We went into a bidding war over the last several weeks when it came to Turkey, how much money we would send to Turkey, if they would allow us to base our troops there for an invasion of Iraq. The numbers went from $15 billion to $26 billion. We were bidding right and left. What is it going to cost overall?

This administration is not putting money into homeland security. This administration is not budgeting what it takes to defend America against terrorism. We are budgeting what it takes to prepare to attack in Iraq; we are not budgeting what it takes to prepare to defend in America.

When all these are put together, understand that we are headed down a perilous course with President Bush's economic policy. It is a course which, frankly, is not going to invigorate the economy; it is not going to create jobs: it will not create consumer confidence. It will create a debt and deficit at the expense of Social Security and Medicare for generations to come. We should not, in a weak moment, rally behind a President who clearly is on the wrong course when it comes to America's economy. We need to stand up and make certain that we are going to work for a sound economy, a fiscal approach that is prudent and cautious and takes into consideration the needs of America in the long term.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Nevada.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent—this has been cleared with the majority—that the Democrats be entitled to 45 minutes in morning business, and the Republicans 45 minutes, because of the prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Michigan.

MEDICARE

Ms. STABENOW. Mr. President, I rise to thank my colleague from Illinois for his eloquence regarding the direction of our economy and the Federal budget and the grave concern he has that I share about the looming and massive long-term debt that is accumulating by the policies of this administration.

When we look at where we are going and the fact that the entire Medicare and Social Security trust funds are currently being used to fund tax cuts geared to the very top, the very wealthiest 1 percent, and when we look at the discussions we are having in the Budget Committee, we begin to see a picture that is disturbing. Because when we ask what will happen, when we are using all of these funds for other purposes, and we know that in just a matter of a few years, the baby boomers will begin to retire en masse and they have the expectation, as they should, that Social Security and Medicare will be there for them, they have paid into the system, and we are told, when we ask, how will we afford that, how will we be able to keep that commitment, well, that assumes that Medicare and Social Security will be structured the way they are today. That assumes there will be no reform.

What is becoming clear is that reform is a code word for privatizing; that there is a real interest, a commitment and movement to privatize or eliminate Medicare and Social Security, as we know it, in the long term.

Today I wish to speak again very specifically about Medicare because I believe that is the most imminent threat because the debate that has occurred since 1965, when Medicare passed, in various forms is occurring yet again today. That is the question of whether Medicare is a big American success story, which I believe it is, or just a big Government program, which I believe this administration feels it is.

I wish to speak specifically about special interest politics versus the needs of the public, the willingness to provide tax policy that benefits only a few, rather than the middle class, and small businesses that drive our economy, as well as the fact that in Medicare, we are seeing a willingness to move the system in a way that benefits, again, special interests over the needs of all of our seniors and the disabled in our country.

On page A6 of the Washington Post this morning, there is a very disturbing article. It says: "Bush Plan a Boon to Drug Companies." The President went before the American Medical Association yesterday and spoke about his plans for Medicare, again using the word "reform," which we know now is a code word for "privatization." Reform equals privatize when we talk about this issue of Medicare. We now find that it also directly relates, once again, to special interest politics, which is very disturbing.

The second headline is: "Medicare Prescription Proposal Would Also Benefit Insurers, Analysts Say." Not the insured, not the seniors about whom we all talk, not the disabled people about whom we all talk, but the insurance industry.

It begins:

> Health care economists said the drug benefit President Bush proposed for Medicare yesterday would be a bonanza for the pharmaceutical and managed-care industries, both of which are huge donors to Republicans.

It went on to say:

> Marilyn Moon, a health economist at the Urban Institute, said Bush's plan would hand tremendous negotiating power to health insurance companies.
>
> "By making the private plans such a central part of the future of Medicare, the government is going to have to meet their demands for greater contributions to the cost of care, over and above the subsidy for prescription drugs," Moon said.
>
> Bush's proposal is vague on many points, including the terms for insurers. Tricia Neuman, a vice president of the Kaiser Family Foundation, said the plan would have to provide a windfall for the companies—

"Would have to provide a windfall for the companies."

> or too few would participate for the plan to work.
>
> The analysts said drug companies also could be expected to reap huge profits under Bush's approach.

Huge profits under Bush's approach. We have to ask ourselves: Is that the purpose of Medicare? Is that the purpose of health care? Is it the same as purchasing a pair of tennis shoes, purchasing soup, purchasing a new shirt so that we are talking about what profit margin we have off our Medicare recipients, or is the goal to make sure we have quality health care for every senior citizen?

I believe it is our responsibility to make sure this is a streamline system with as few dollars as possible going into administration and that the dollars should go directly to health care for our seniors, not into huge profits. We welcome profits in many areas. We need profits in our economy. We want businesses to be successful. But when we are talking about Medicare, we have a different priority in what we need to do to help our seniors make sure they have care.

To continue with the article:

> Bruce C. Vladeck, who was President Clinton's head of the federal agency that runs Medicare, said Bush's plan "strikes me as the kind of proposal that pharmaceutical companies would write if they were writing their own bill."

These are the kind of comments we heard last year when we were debating prescription drug coverage and were told—in fact, we heard comments coming from staff in the House quoted in the paper as to how they were running their proposals by the pharmaceutical industry to make sure they were OK. It is clear this one is OK, and we should all be very concerned about who we are trying to help.

Continuing to quote:

> "A slew of private health plans would have nowhere near the negotiating power that Medicare would have if there was national drugs benefit," said Vladeck, now a health policy professor at Mount Sinai School of Medicine in New York City.
>
> If Bush's proposal were enacted, it could provide a high-profile benefit for industries that are reliable donors to Republican candidates and committees. The Center for Responsive Politics said that for the past two elections combined, pharmaceutical manufacturers gave $30 million to Republicans and $8 million to Democrats.
>
> Health service companies and HMOs, a leading form of managed care, donated $10 million to Republicans and $5 million to Democrats over the past two elections, according to the center's figures.

This should be a deep concern of every American, as well as my colleagues on both sides of the aisle and on the other side of this building about how this issue is being framed because of the realities it points out what is really going on with this issue.

I will make one more point. The article continues, quoting President Bush yesterday:

> Bush, promising to bring more free enterprise to medicine, denounced "government-run health care ideas."

I have been saying for a long time that those who want to privatize Medicare believe that Medicare is a big Government-run program, and there is a major philosophical difference that has gone on since 1965 when only 12 colleagues from the other side of the aisle joined in passing Medicare. There is a huge chasm of difference as to whether we ought to even have Medicare.

Fundamentally, that is what this debate is about. It is not about what the premiums should be, what the copay should be. It is about who runs the system as to whether there should be a guarantee so that every person who turns 65 and gets that Medicare card knows they can choose their doctor, that they can get the medicine they need, that they know what the copay is, what the premium is, regardless of where they live in the country.

In a State such as Michigan, where we have the major metropolitan area of Detroit all the way up to Ironwood, MI, in the western part of the UP, people today know that under Medicare they can get the health care they need. That was a promise made by the United States of America in 1965, and now under a lot of different pretty words, a lot of different connotations of reform, we see an effort clearly outlined—and even in the President's own words—to put more free enterprise into the health care system. That is privatizing the health care system. That is privatizing Medicare.

In general, I do believe there is an important partnership between the public and the private sector. We have an employer model of health care in this country that has worked for workers and their families. I appreciate there is a benefit in having partnerships.

We have said as a country that once an American citizen reaches the age of 65 or they are disabled, we think it is important that whether one has private plans in their community, whether they can find them and/or whether they can afford them, they should be able to have health care. The reason Medicare came into being was that over half the seniors could not find or afford private insurance. That is why Medicare was created.

I, for one, will not quietly stand by to see a promise of some 38 years eroded by this administration or in this Congress. I know there are colleagues of mine on both sides of the aisle who have concerns. I am hopeful we can come together under Medicare.

What is very clear is—and in this article the outside analysts, independent voices, are saying—the fight is about how we administer the prescription drug benefit. The companies want to keep it disbursed in the private sector because they know if the some 40 million beneficiaries of Medicare today are in one insurance plan, they will be able to negotiate a group discount for the first time. They will not be paying retail. They will not be paying the highest prices in the world in order to get their medicine. They will be able to get a group discount.

The fight is on to make sure that seniors in this country do not have the collective power to be able to get that discount through Medicare. That is what this is about. It is one of the most fundamental fights we will have in this Congress and on the floor of the Senate, and I hope my colleagues on both sides of the aisle will come together and be willing to stand up and say Medicare works, Medicare is a great American success story, and we continue to promise that the Medicare plan will be there for every single senior and the disabled in our country.

This is a fundamental fight, and I hope my colleagues will join me in making sure this plan that is passed is not a boon for the drug companies or for the HMOs but is a boon for the seniors of America.

ECONOMIC STIMULUS

Ms. STABENOW. I move now to another very important topic, and that is the question of stimulating this economy. We know that to get out of the massive debt that is being accumulated, we have got to stimulate the economy. We have to reverse the trend right now. We have seen over 2 million private sector jobs lost in the last 2 years. We have to go back to the Eisenhower Presidency to find those kinds of numbers, those kinds of huge private sector losses and this massive debt. We know that has to be turned around.

Part of what needs to happen to begin to get us back to the balanced budget and out of this massive debt, so we can protect Social Security and Medicare, is to stimulate the economy and create jobs. I am very proud to be a part of an effort to do that.

We have in front of us a Democratic plan that has been introduced by our leader and Members in our caucus. It will provide immediate relief for families through a broad-based tax cut that is on the front end, a tax cut to the middle class and to those in our country who we know will turn around and buy those school clothes or a new car—and coming from Michigan, I am always hopeful it is a new American-made car—and purchasing that new home and all of those things that stimulate the economy, rather than giving the tax relief to somebody who has three homes or has five cars and is not likely to buy another one.

What we want is to put that tax cut in the hands of middle-class people, working people, who will spend it now, so that our businesses will see the demand. Right now, newspaper headlines this week in Michigan relate to the auto industry cutting back on the building of new cars because the demand is not there.

We have a proposal that relates to demand, not trickle-down economics from the top but demand, to put money in the pockets of people who will spend it. That is exactly what our proposal would do. It would provide about a $1,200 tax cut this year for a family of four. It would also provide tax incentives to encourage businesses to invest and create jobs, and it would increase the current multiyear bonus depreciation so if one invested now, they would get a bonus depreciation, which is very important.

It would triple the amount of investments small businesses can write off immediately, and this is very important because the majority of new jobs are coming from small business. We need to be focusing on tax policies that will help and support job creation in small business.

It would provide a 50-percent tax credit in 2003 to help small businesses pay for their share of health insurance premiums. This relates very much to the broader question of health care and where we are going.

Later today, we are going to be introducing legislation to cut the price on prescription drugs so we can bring that health insurance premium down for small businesses. It would provide a 20-percent tax credit in 2003 for businesses investing in broadband, high-speed Internet infrastructure, focusing on rural areas, underserved areas. This is very important. We are in a high-tech new economy, and broadband access is critical as we move forward to be able to compete in the new world of high technology and helping small businesses invest, particularly in our rural areas, the hard-to-reach areas. It is an important part of our economic development structure.

Another important piece we believe must be addressed now is to provide $5 billion for hometown security that would make sure that as we are investing in the economy, we are also making sure we are safe at home. When people have an emergency, they call 9-1-1. We want to make sure people on the other end of that line have the communications equipment, the technology, the training, and the personnel to respond in a way that will keep us safe.

We also know that part of what is happening economically across the country now is that we are seeing a ripple effect because the majority of States are in a financial crisis because of the downturn in the economy and other factors, so that as they lay off, and people are spending less because they are laid off from State or local governments, there is this ripple effect throughout the economy.

In addition to putting money directly into people's pockets, we also propose putting money into the pockets of the small business owner. We propose providing dollars in immediate aid to State and local governments so that we are not seeing that ripple effect in terms of people losing their jobs, losing purchase power in the economy. We all know common sense says if we can provide money to State, local, and municipal governments and they can focus on immediate infrastructure such as rebuilding roads, water systems, sewer systems, we create good-paying jobs by doing that, such as construction jobs. We take burdens off local property taxes, which helps individuals and businesses, and we can again stop the bleeding that is occurring right now in the States with more and more people losing their jobs and thus losing purchasing power in the economy. This is of great urgency.

We come to the floor each day to ask that we immediately go to an economic stimulus package that will get America back to work, will put money in the pockets of individuals and businesses that can get the job done, that can stimulate this economy, to help our hometown security, and to make sure that we are helping to rebuild America, which also rebuilds jobs.

UNANIMOUS CONSENT REQUEST—S. 414

Ms. STABENOW. With all sense of great urgency, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package.

The PRESIDING OFFICER. In my capacity as the Senator from South Carolina, I object to the unanimous consent request.

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TREATY ON STRATEGIC OFFENSIVE REDUCTIONS

Mr. ALLARD. Mr. President, I understand that the remaining time is Republican time. I am going to go ahead and start making some comments. We are doing some checking. Maybe I will ask unanimous consent to get some time for my colleague from Oregon. In the meantime, I will go ahead and start my comments.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Chair. I appreciate the opportunity to add my thoughts to this body's consideration of the Treaty on Strategic Offensive Reductions, otherwise known as the Moscow Treaty. My understanding is that this afternoon it will be brought before the Senate. We are at a pivotal moment in our country's history. In many ways, the Senate's advise and consent to this treaty will mark the end of an era of hostility and the beginning of an age of cooperation.

It is more than a document; it is a signal to the world that the United States and Russia have moved beyond a relationship of conflict and brinkmanship to a relationship of mutual respect and shared values.

We all remember the super-power rivalry between the United States and the Soviet Union, which lasted over 45 years. I believe it is important for this debate to recall the tension and hostility that accompanies that time so that we may fully appreciate what this treaty symbolizes for the future of U.S.-Russian relations.

In 1947, a little-known foreign service officer named George Kennan under the pseudonym 'X' wrote an essay that was published in Foreign Affairs journal that was to define our approach to the Soviet Union for the next fifty years. In his essay, he described the Soviet ideology as the belief in the "basic badness of capitalism, in the inevitability of its destruction, in the obligation of the proletariat to assist in that destruction and to take power into its own hands."

This ideological bent would manifest itself, Mr. Kennan predicted, in an "innate antagonism" between the Soviet Union and Western world. He said that we should expect secretiveness, a lack of frankness, duplicity, a wary suspiciousness, and the basic unfriendliness of purpose. Mr. Kennan warned us that the Soviet government might sign documents that might indicate a deviation from this ideology, but that we should regard such actions as a "tactical maneuver permissible in dealing with the enemy (who is without honor) and should be taken in the spirit of caveat emptor". As we discovered in the decades following, Mr. Kennan was right.

The Soviet Union did indeed devote itself to exporting its ideology around the world. Its foreign policy was marked by antagonistic rhetoric and provocative actions. It signed arms control agreements and then violated them. The Soviet Union invaded its neighbors, launched proxy wars, and encouraged revolution and instability. It repeatedly proved capable of exploiting weakness and political divisions. And it was successful at taking advantage of geopolitical realities. As a result, Angola, Afghanistan, Ethiopia, Cuba, Nicaragua, El Salvador, Honduras, Granada, Vietnam, Korea, Somalia, Yemen, Greece, and Turkey all became Cold War battlegrounds.

For the most part, the United States followed Mr. Kennan's advice. We strove to contain Soviet expansionist tendencies. We forced back Soviet advances. We were firm. We were patient. And, in 1991, with the fall of the Soviet Union, our patience paid off.

It is important that we recognize that the Russia of today is nothing like the Soviet Union of yesterday. Under the leadership of President Putin, economic and political reforms are being enacted. Russia is no longer bound by a defunct ideology. The country has stepped away from its past and has worked with sincerity to help resolve many of the challenges facing the international community.

Russia has also sought to improve its relationship with the Western world. It went eventually along with inclusion of the Baltic states into the NATO Alliance, despite harboring deep concerns. Russia accepted our withdrawal from the Anti-ballistic Missile Treaty. After September 11, Russia assisted the United States in the war against terrorism by sharing intelligence information and raising no objection to the stationing of U.S. troops in the former Soviet states in Central Asia. Once inconceivable, it is now possible to imagine Russia joining the World Trade Organization and even NATO in the near future.

Another sign of improved relations between the U.S. and Russia is the treaty currently before us. The Treaty on Strategic Offensive Reductions is much different from arms control treaties agreed to during the Cold War. The text of treaty epitomizes this new relationship. Both parties pledge to:

> Embark upon the path of new relations for a new century and committed the goal of strengthening their relationship through cooperation and friendship.
>
> Believe that new global challenges and threats require the building of a qualitatively new foundation for strategic relations between the Parties.
>
> Desire to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability.

The Joint Declaration by Presidents Bush and Putin that accompanied the treaty further expounds upon this new relationship. Let me read a couple of pertinent sections from that declaration:

> We are achieving a new strategic relationship. The era in which the United States and Russia saw each other as an enemy or strategic threat has ended. We are partners and we will cooperate to advance stability, security, and economic integration, and to jointly global challenges and to help resolve regional conflicts.
>
> We will respect the essential values of democracy, human rights, free speech and free media, tolerance, the rule of law, and economic opportunity.
>
> We recognize that the security, prosperity, and future hopes of our peoples rest on a benign security environment, the advancement of political and economic freedoms, and international cooperation.

What is most notable about the Moscow Treaty as submitted to this body is the absence of certain provisions that normally marked Cold War era arms control treaties. Those provisions were based on distrust and antagonism. Instead, this treaty utilizes confidence-building measures based on trust and friendship.

For instance, the treaty does not establish interim warhead reduction goals or provide a detailed schedule for the reductions. The absence of such goals or schedules gives both sides flexibility over the next nine years to reduce their warheads at a pace of their own choosing.

Another missing element is precise counting rules. The Strategic Arms Reduction Treaty of 1991 provided such complex counting rules that it frequently resulted in overcounting and undercounting. Minor disparities in deployed and "counting" forces are no longer a significant issue given the confidence building measures included in the treaty and our positive relationship with Russia.

It should be noted that the Moscow Treaty does continue the START I verification regime, which permits on site inspections and continuous monitoring. The Moscow treaty also creates a new Bilateral Implementation Commission that will be used to any raise concerns that might arise about treaty compliance and transparency. These measures, plus our own technical means, will provide the U.S. government with significant confidence that it can monitor Russia's activities.

The Moscow Treaty is similar to previous arms control agreements in one significant way: it does not require the dismantlement of warheads. Neither Russia nor the United States sought the dismantlement for two reasons. First, the dismantlement in the past has been considered inherently unverifiable. There is no established process for dismantling warheads that can provide assurance to each party.

Second, the U.S. intends to keep some warheads in "ready reserve." Such a reserve is essential if we are to retain the capability to respond to changes in the security environment and quickly replace dysfunctional warheads.

I also think it is instructive to look at the process by which the Moscow Treaty was put together and how different these negotiations were from negotiations that occurred during the cold war. Secretary of Defense Donald Rumsfeld remarked on the difference during a Senate Armed Services Committee hearing last July. Here is what he said:

> . . . it's significant that while we consulted closely and engaged in a process that had been open and transparent, we did not engage in lengthy adversarial negotiations in which U.S. and Russia would keep thousands of warheads that we didn't need, as bargaining chips. We did not establish standing negotiating teams in Geneva with armies of arms control aficionados ready to do battle over every colon and every comma. . . . An illustration of how far we have come is the START treaty. . . . It is 700 pages long, and it took nine years to negotiate. . . . The Moscow treaty . . . is three pages long and it took five or six months to negotiate.

Let's take a few moments to review some of the Moscow treaty's provisions. The treaty requires the reduction of strategic nuclear warheads by each party to a level of 1,700–2,200 by the end of 2012. Each side currently has about 6,000 warheads. This treaty means a reduction of over 8,000 nuclear warheads.

The treaty allows both parties to restructure their offensive forces as each sees fit, within the prescribed numerical limit. This provision gives each flexibility to meet the deadline and permit each party to determine for itself the composition and structure of its strategic offensive arms.

The Treaty mandates that the parties will meet at least twice a year as part of a Bilateral Implementations Commission.

The Treaty allows each party, in exercising national sovereignty, the ability to withdraw from the treaty upon three months written notice.

As you can see, the treaty is simple, straight-forward, and gives each party maximum flexibility.

Last summer, the Senate Armed Services Committee held two important hearings on the national security implications of the treaty. Witnesses included: Secretary of Defense Donald Rumsfeld; Chairman of the Joint Chiefs of Staff, General Richard Myers; Combatant Commander, U.S. Strategic Command, Admiral James Ellis; and Deputy Administrator of the National Nuclear Security Administration of the Department of Energy, Dr. Everet H. Beckner. The witnesses at the Committee hearings unanimously supported ratification of the Moscow Treaty. The Chairman of the Joint chiefs, General Myers said,

> The members of the Joint Chiefs of Staff and I all support the Moscow Treaty. We believe it provides for the long-term security interests of our nation. We also believe that it preserves our flexibility in an uncretain strategic environment.

Admiral Ellis added that,

> This treaty allows me, as the Commander of the nation's Strategic Forces, the latitude to structure our strategic forces to better support the national security pillars of assuring our allies, dissuading those who might wish us ill, deterring potential adversaries and, if necessary, defending the nation. . . . [I]n my judgment, this treaty provides me the ability to prudently meet those national security needs and to provide a range of deterrent options to the Secretary and the President for their consideration should the need arise. . . .

I believe it is important to recognize the flexibility that this treaty gives the United States. While the U.S. nuclear stockpile may contain a large number of warheads, we only have six types of warheads, and none of these have been tested in over a decade. The average age of warheads in the U.S. stockpile is approaching 20 years—and some warheads are much older. Despite the improved effectiveness of the stockpile stewardship program, problems in the stockpile do occur. Having the responsive reserve, as envisioned by the administration, enables us to address problems in the stockpile without compromising our national security interests. This treaty is simple, flexible, and makes sense. It is a signal that the hostility of the cold war has been buried and forgotten. It has been 12 years since the collapse of the Soviet Union, and clearly it is time to move one.

As we consider this treaty, we should also keep the future in mind. I share Secretary Rumsfeld's vision for future negotiations with Russia as he described it at July 26 Armed Services Committee hearing. He said,

> We are working towards the day when the relationship between our two countries is such that no arms control treaties will be necessary. that's how normal countries deal with each other. The United States and Britain both have nuclear weapons, yet we do not spend hundreds of hours negotiating the fine details of mutual reductions in our offensive systems. We do not feel the need to preserve the balance of terror between us. It would be a worthy goal for our relationship with Russia to evolve along that path.

I could not agree more with the Defense Secretary's vision. Russia and the United States are no longer adversaries and therefore should not treat each other as such.

I understand that my good friend, Senator JOHN WARNER, Chairman of the Armed Services Committee, has written to the Senate Foreign Relations Committee expressing his strong support for the Moscow treaty. I join him in that support. I believe the Senate should provide its advice and consent to the ratification of the treaty with no further changes or additional conditions to the resolution of ratification.

Some of my colleagues may offer well-intentioned amendments that might attempt to add reservations, understandings, or declarations. I appreciate their desire to amend the treaty, but I think we should keep in mind that the Senate Foreign Relations Committee unanimously approved this treaty without amendment, and the resolution of ratification before us today has only tow modest conditions. The President has indicated his opposition to any amendment to the resolution. Therefore, I encourage my colleagues to oppose all amendments. I believe it would be best for our nation security interests if this treaty remained unencumbered by items that will complicate the treaty and reduce our flexibility.

Mr. President, I thank you for the opportunity to share my views on this important treaty. I look forward to a healthy debate on this issue. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes on the time the Democrats have with respect to the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you very much, Mr. President, for your courtesy earlier in the morning.

THE HEALTH CARE THAT WORKS FOR ALL AMERICANS ACT

Mr. WYDEN. Mr. President, right now the eyes of the Nation are focused on international crises. The threat of war with Iraq, the conflict at the United Nations, and a diplomatic standoff with North Korea are all critical issues about which this country is concerned.

But here at home there is a domestic crisis of massive proportions that affects the lives of millions of Americans each day; that is, the failure of our health care system to work for all Americans.

I will take just a few minutes to discuss this because next week I anticipate that thousands of Americans will get together in communities across the Nation as part of the special effort to highlight the concerns of the uninsured. This is under the auspices of the Robert Wood Johnson Foundation, an organization that works in a nonpartisan fashion.

I expect to see thousands of Americans in their communities—businesspeople, senior citizens, labor organizations, those from charitable groups—so many who are falling between the cracks in our health care system speaking out and calling for congressional action. I think it is very timely because Congress must get at this critical issue.

Very shortly, the senior Senator from Utah, Mr. HATCH, and I will again go forward with our bipartisan proposal, the Health Care That Works For All Americans Act. Our legislation has been endorsed by the Chamber of Commerce, the AFL–CIO, and the American Association of Retired Persons—three groups that do not normally flock together—because I think there is a feeling that what has been tried for the last 57 years, in the effort to create a health care system that works for all, simply has not worked.

For 57 years, there has been an effort to write health care legislation in Washington, DC. The American people find these bills illegible, the special interest groups attack, and invariably nothing happens.

So what Senator HATCH and I will shortly propose is something fundamentally different, an effort to look outside the beltway here in Washington, DC, to the American people, an effort that will begin with the central questions, and coming up with a system that works for all Americans.

Those questions are, first and foremost, what are the essential services Americans want in a comprehensive health reform bill? Second, what will those services cost? And, third, who is going to pay for them?

I am of the view that getting the American people involved in those kinds of issues—issues that are central to creating a system that works for all—is the only way Congress is going to break the gridlock on this question.

Right now, we are seeing our small businesses getting annual premiums rising more than 20 percent a year. Many health care providers, particularly physicians in rural and urban areas, are leaving the Government programs because of inadequate reimbursement rates. Certainly we have heard from many health care providers about rising insurance costs. And then, of course, for seniors, their prescription drug bills are hitting them just like a wrecking ball.

All of this, of course, is happening before the demographic tsunami of millions of baby boomer retirees, as 2010 and 2011 approaches. In those years we are going to start seeing a bow wave of baby boomer retirees that is going to continue for 15 to 20 years, after it begins in 2010 and 2011, and clearly our health care system is not prepared for it.

So the question then becomes, what is going to be done to break the gridlock on this issue? You have very powerful interests. And certainly, partisan feelings on these issues run very strongly. If you go to a lot of Republican meetings and talk about the health care cost crisis, they say: Of course it is a problem. We have to act on this. It is just the trial lawyers' fault. Let's go and take them on, and things will get better.

Then if you go to a lot of Democratic meetings and talk about health care costs and the health care crisis, they will say: You bet it is the insurance companies. If you take them on, everything is going to get better.

What Senator HATCH and I have said, in this essentially unprecedented, bipartisan effort, that really would involve the American people in creating a new health care system, is that we realize so many of these powerful organizations are going to have to look at changes that have been resisted in the past. My sense is it is time for the Congress to act, and to begin by ensuring there will be congressional action on these issues.

If you look, for example, at the last time the Congress debated significant health reform, back in 1993 and 1994, there were not even any votes on this issue. After all of the debate and all of the controversy surrounding those proposals in 1993 and 1994, there were not even votes in the Congress on fundamental reforms.

So what Senator HATCH and I have done is ensure that after the public is given an opportunity to weigh in—in community meetings, on line, and across the country—on the kind of health care system that would work for all Americans, we guarantee a vote on the floor of the Senate and a vote in the House of Representatives on this issue.

I think by involving the public, and then following up promptly with an assurance there will actually be votes in the Congress on these issues, we have a chance to move this debate forward in a fashion we have not seen in the past.

What seems unfortunate is there are lots of ideas with respect to how to move forward on comprehensive health reform but no vehicle for bringing together the American people and a way for Congress to follow up on those initiatives. That is why I have believed, with Senator HATCH, we can take a fresh approach that could really break with the past.

I was struck, in preparing this legislation, how similar the efforts were over the last 58 years. If you look at what Harry Truman proposed in 1945, in the 81st Congress, it was remarkably similar, in terms of how the debate unfolded, to what President Clinton proposed in 1993 and 1994. In both cases, you began with bills written in Washington, DC. The American people found the proposals incomprehensible. They were attacked by interest groups. And the legislation died at that point.

I see the distinguished chairman of the Judiciary Committee in the Chamber. I know he is going to begin discussion on the Estrada nomination very shortly.

Since he is in the Chamber, I express my thanks to the distinguished chairman of the Judiciary Committee. He has been working with me for a substantial amount of time on our bipartisan health reform proposal. Because next week will involve thousands of Americans at the grassroots level talking about these issues, I thought it was important to come to the floor today and say that the Senate is now listening because the chairman of the Judiciary Committee has been willing to work with me on these issues, because he shares my view that it is critically important that we break the gridlock on the health care issue.

I announce to the Senate that very shortly Senator HATCH and I will be going forward with our proposal, the Health Care that Works for All Americans Act. We have gotten a formal endorsement from the Chamber of Commerce, the AFL–CIO, and the AARP—three groups that do not exactly flock together on a regular basis. To a great extent, those organizations have been involved because of the prestige and stature of the senior Senator from Utah. He is, of course, the author of the CHIP legislation, which was a tremendous breakthrough in terms of health care coverage for young people. He has worked with me extensively on community health center legislation.

At a time when the eyes of our Nation are focused on international crises, I want to draw some attention to the incredible crisis at home with respect to health care. We have millions of citizens who are not old enough for Medicare. They are not poor enough for Medicaid. Small businesses are being crushed by annual premiums. Physicians are leaving the system. Older people are not able to afford their medicine. This Congress, with the ingenuity and the talent in this Chamber, can come up with a health care system that works for all Americans.

Toward that end, I have been very gratified that the chairman of the Judiciary Committee, the senior Senator from Utah, has joined me for a substantial time. We are going to stay at it until we get our proposal on the floor and the Congress breaks with this 57-year gridlock on the health care issue, gridlock that dates back to the days of Harry Truman. We can do it with some bipartisanship, which is what the Senator from Utah and I have tried to offer.

I will talk more about this next week when Coverage for the Uninsured Week begins across the country.

I thank again the Senator from Utah and yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Utah.

Mr. HATCH. I thank my dear colleague from Oregon for his leadership in this area. When he was in the House, he was one of the great leaders on health care issues. He is repeating that leadership in the Senate. It is a privilege to work with him because you can rely on him. When he says he will do something, he does it. He is very intelligent in health care matters. I have a lot of respect for him, and it is a privilege to work with him. I hope people will listen to the bill that we will present because it is the way to at least move us off the dime and get us to do what we should be doing on health care. I thank him and pay tribute to him this morning.

Mr. REID. Mr. President, I appreciate the courtesy of the Senator from Utah. We are going to move to the Estrada nomination in executive session. However, prior to doing that, Senator ROBERTS and I are here. We have long served on the Ethics Committee, and we have a statement we wish to give. Senator HATCH has agreed that we can do so prior to going to executive session.

I ask unanimous consent that Senator ROBERTS and I be allowed to speak. As far as the time after that is concerned, we do not believe it needs to be equally divided. If Senator HATCH wants to take all the time, he can do that. I don't think we have anybody who wishes to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO VICTOR BAIRD

Mr. REID. Mr. President, when I was first elected to the Senate, I spent a lot of time trying to figure out the committee structure. It is different than it is in the House. But I learned quickly that here, as in the House, the work gets done in committees.

I was fortunate early to be asked to serve on the Appropriations Committee and the Public Works Committee. I have served on these committees since I have been in the Senate. In these committees, I saw that the two ingredients necessary for successful operation of a committee were to make sure that there was not extreme partisanship and that we and a good, competent staff.

I have served in the majority and the minority while a Member of the Senate. I have been ranking member of a subcommittee, a chairman of a subcommittee. I have been chairman of a full committee on two separate occasions.

But regardless of which capacity I have served in, these ingredients remain constant.

Though I enjoyed the benefits of both good staff and bipartisanship during my years on these excellent committees, I was uncertain what to expect when I was asked to serve on the Committee on Ethics. I soon discovered that that committee was no different from any of the others, that you need a good staff and nonpartisanship.

It has been a tremendous pleasure for me to work with Senator PAT ROBERTS of Kansas. We have worked through some very difficult issues while we have served as chairman and ranking member of the committee. As we all know, Senator ROBERTS has a great sense of humor. But that sense of humor is never, ever in the way of doing the right thing for this institution. He is a person who served for many decades in the Congress, and his service here in the Senate has been a rewarding one for Members of the Senate because he has brought his experience from the House and made this place a better institution. I can speak with authority in that regard as a result of how he handled himself on the Ethics Committee during the time he and I served as chairman and ranking member or vice versa.

It is a disappointment to me that he is no longer chairman of that committee, but the rules are such that he could not serve in that capacity while serving in the same capacity on another committee. I look forward to working with Senator VOINOVICH, who has replaced him. I only hope that he is half as good in that capacity as Senator ROBERTS. If that is the case, the Senate will be well served.

The Senate Ethics Committee is truly a unique committee. Unlike other committees, it is comprised of an even number of Democrats and Republicans. It is led by a chair and vice chair. The staff is entirely nonpartisan. Most significantly, the committee's obligation is to ensure that Members of this body adhere to the high ethical standards expected of them as Members of the Senate. This is an obligation that transcends partisan political differences.

I have had the honor of serving on the Ethics Committee for a long time. I have had the privilege of being both the chair and the vice chair of the committee. Throughout all my time, however, the individual responsible for the day-to-day management of this committee has been Victor Baird. In fact, Victor has served on the Ethics Committee since 1987 as the staff director and chief counsel.

He has guided the committee through some of its most controversial cases. Regardless of the case or the controversy, however, Victor Baird could be relied on to steer the committee with a degree of impartiality, calmness, and firmness that will be a model for his successors.

It is significant to note that Victor Baird is leaving the Ethics Committee to enjoy a rich and deserved retirement. His career path is a tribute to those who look at public service as a possibility.

Prior to coming to the Senate, Victor served on the Consumers' Utility Council of Georgia, was an administrative law judge in Georgia, and served as an assistant attorney general of Georgia.

He also is another son of Georgia who found his calling in public service and is finishing his career serving the greatest deliberative body in the world. Like other Georgians in the Senate, Victor enjoyed a distinguished career in the U.S. military. He was honorably discharged in 1970 from the U.S. Air Force and was a recipient of the Bronze Star. During his 3 years in the Air Force, he served as a meteorologist and was responsible for predicting tropical storms. I am sure the storms that came after he took this job at the Ethics Committee were certainly more than any of the storms he saw in the nonpolitical environment. I am sure that Victor's ability to forecast stormy weather served him well in the Senate.

Victor Baird's professional career is marked by serving the public. That alone deserves our commendation. It is unfortunate today that public service is viewed as a short-time venture for some, but I believe it is a noble calling. The financial rewards are few and the hours can be very long. Those who commit their lives to public service retire knowing their work, no matter how great or how small, has contributed to the betterment of society. That alone is a reward that cannot be quantified in dollars.

Mr. President, on behalf of the Senate, I wish to thank Victor Baird for his 15 years of service on the Select Committee on Ethics. Victor's contributions to the betterment of this institution are significant. The Senate has long recognized that public service is a public trust. Today there is greater trust in our Government and in this institution as a result of Victor Baird's service on the Senate Select Committee on Ethics.

I will miss calling Victor at home at night, trying to find out where he is because there is a question that has to be answered immediately. I am sure in some ways he will miss me. But I certainly wish Victor the very best in his retirement. He has been a public servant I will always admire.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, first, I wish to sincerely thank my distinguished colleague and my dear friend from Nevada—Searchlight, NV, by the way—Senator REID, for his very kind comments.

It has been a team effort in behalf of Senator REID and myself as we have tried to serve—some people would say sentenced to—the Ethics Committee. But we have been very conscientious in fulfilling this duty, and I think we have done so with Senator REID's unique ability to not only come up with what is right, according to the ethics manual, but what is basically common sense. As a matter of fact, Senator REID has this notion that continually is expressed: Gee, PAT, we ought to sit down and really see if we can rewrite the ethics manual to make it actually understood by Members of the Senate and reform it, make it adhere to a criterion—a yardstick, if you will—of common sense.

I always tried to dissuade him from that. No. 1, I did not want to undertake that mountain to climb, and it would be a big mountain to climb, because just as soon as you start that, why, other Members add other mountains.

At any rate, Senator REID has been a joy to work with. I admire his leadership. He is soft spoken and, as I have indicated, has brought a lot of common sense and has tried to make the Ethics Committee proactive and very helpful to Members. As a matter of fact, with every new class of Senators that comes in, we have a briefing, and HARRY always points out: Ask; ask first before there is any problem. And that is certainly good advice.

I thank Senator REID for his very kind remarks. I do not know about the decades of public service that I have accrued. Gosh, decades sounds like a long time. I may be fossilized here before we are through with these remarks. I am an old piece of furniture around here, I guess, in the House and Senate.

With that experience comes at least some expertise and some real appreciation in behalf of certain staff. We are only as good as our staff. I do not care whether you are an individual Member's staff, committee staff, select committee staff, whatever. It is a real honor for me to offer a few brief remarks for our outgoing Senate Ethics staff director, Mr. Victor Baird.

He has 16 years of service, and he now leaves this to enter retirement and, doubtlessly, what will be a new phase of life. His retirement is certainly well deserved, but his absence will be a great loss to the Senate.

Sometimes the most important positions are the ones that go unacknowledged. This is certainly true with the staff director of the Ethics Committee. It is one of the few positions where accolades do not really accrue. Only when a storm or controversy presents does the spotlight focus on the staff director. When this occurs, the director faces intense challenges from all angles, including media scrutiny, public outcry, and, yes, even partisan bickering. Yet he endures all this for one supreme objective, and this is what Victor did—to preserve the integrity of this institution we call the United States Senate.

For almost a decade and a half, why, Victor Baird has assumed this thankless but important job. It is a job requiring keen attention to detail, mastery of the rules, and a precise level of foresight on how ethics rulings affect the Senate, not only in the present but for future generations. Just as the Sergeant at Arms and Capitol Police guard the physical structure of the Senate, Victor Baird guarded the reputation of these halls. He accomplished this by insistence that Members adhere and remain accountable to high ethical standards.

During his tenure, he guided the Senate through some very tumultuous times that often really threatened the reputation of the Senate. As we all know, a compromised reputation will diminish credibility, and diminished credibility threatens a mandate to govern. It is that important. With this loss, our whole system of checks and balances would suffer which is vital to the strength of our democracy. All of us, regardless of what side of the aisle we sit on, should understand this.

Thankfully, Victor handled all ethics proceedings, and particularly those with intense media focus, judiciously, without staining the dignity of the Senate. He safeguarded us. This is not an easy task, and all of us should be very grateful.

The Senate is unlike any other governing body in the world. Deliberative by design, it exists to make sure we thoroughly consider our actions. In a town fueled by hotly charged emotions that often makes decisions for the moment, thankfully Victor was always available for advice and counsel.

My friend and colleague, Senator REID, and I often sought his well-reasoned, objective legal opinions. We respected his vast institutional knowledge and understanding of how this body should conduct itself. When dealing with ethics issues, it is important Members rise above partisan politics, which is hard to do sometimes, and examine each issue on a case-by-case basis. This is what our Founding Fathers intended. Maintaining the Senate's distinguished legacy is a task all of us must assume, regardless of politics. Victor knows this; Victor knew this, and always kept this premise at the forefront of his responsibilities.

His most important contribution was understanding that the committee's ultimate goal was proactive and preventive in nature. He made sure that all Members and their staff knew the rules of acceptable conduct at the outset. In public office, innocent mistakes can quickly break a career. This is why the Ethics Committee, and in particular the staff director, is so important. He is the gatekeeper. He is the adviser. He is the counselor to us all. Victor Baird certainly filled each of these roles with the utmost professionalism and integrity.

On behalf of the entire Senate, we thank you for your service and your dedication, Victor. Your influence has preserved the reputation of this governing body for the past 16 years, and we salute you.

In the U.S. Marine Corps, we always conclude by saying: Semper Fi. That means always faithful.

You have been always faithful, Victor. Semper Fi.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I join my colleagues, the distinguished minority floor leader from Nevada, who is a dear friend of the distinguished Senator from Kansas, and my dear friend from Kansas, in paying tribute to Victor Baird. That is one of the most miserable, tough jobs I think in the whole Senate. As both of them have said, there is not a lot of thanks for doing it. I personally thank him for the efforts he has put forward, and those who worked with him, because this is a very difficult job. He has always been straightforward, honest, and decent in all of the experiences I know about. I join my colleagues in their remarks and ask that I be associated with their remarks. I wish him the very best.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If my friend will yield—and I have already cleared this with the distinguished chairman of the Judiciary Committee—when the Senator from Utah finishes his statement and we go into executive session, I ask unanimous consent that the Senator from Vermont be recognized following the statement of the Senator from Utah for up to 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, during the course of the debate on Miguel Estrada, there have been many serious misrepresentations of the record on Mr. Estrada. I want to address in some detail one of the more serious distortions which concerns the answers Mr. Estrada gave during his extensive hearing, one of the longest hearings for a circuit court of appeals nominee, to questions members of the Judiciary Committee asked him.

The charge being leveled against Mr. Estrada is that he did not answer questions put to him in general and did not answer questions about his judicial philosophy in particular. That charge is pure bunk.

It is important to remember the circumstances under which this hearing took place. The hearing was held on September 26, 2002. It was chaired by my Democratic friend, the senior Senator from New York, Mr. SCHUMER. It lasted all day, which was unusual in and of itself. Both Democratic and Republican Senators asked scores of questions which Mr. Estrada answered. If any Senator was dissatisfied with Mr. Estrada's answers, every member of the committee had the opportunity to ask Mr. Estrada followup questions, although only two of my Democratic colleagues did.

Now, a number of the questions Mr. Estrada was asked sought directly or indirectly to pry from him a commitment on how he would rule in a particular case. Previous judicial nominees confirmed by the Senate have rightly declined to answer questions on that basis, just as Mr. Estrada did. Virtually every Clinton nominee refused to answer questions about how they would decide cases or what they would do in certain circumstances. I will give some examples.

In 1967, during his confirmation hearing for the Supreme Court, Justice Thurgood Marshall responded to a question about the fifth amendment by stating:

> I do not think you want me to be in a position of giving you a statement on the fifth amendment and then if I am confirmed and sit on the court when a fifth amendment case comes up I will have to disqualify myself.

During Justice Sandra Day O'Connor's confirmation hearing, the Senator from Massachusetts, Mr. KENNEDY, the former chairman of the Judiciary Committee, defended her refusal to discuss her views on abortion. He said:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass the litmus test of any single interest group.

Senator KENNEDY was concerned perhaps Justice O'Connor might possibly have difficulty with the conservative side or the pro-life side because she may have been pro-choice. The fact is nobody really knew, and there were some concerns about that, but Senator KENNEDY was right when he said:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass a litmus test of any single-issue interest group.

He was right then. But why is there today a different standard for Miguel Estrada? Why the comments and remarks by some on the committee who are saying Mr. Estrada should have answered these types of questions?

Likewise, I will give another. Justice John Paul Stevens testified during his confirmation hearing for the Supreme Court:

> I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say there have been many times in my experience in the last 5 years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit.

It was an excellent answer, but it was basically the same answer that Miguel Estrada gave to similar questions, and that almost every other nominee of Democrat and Republican administrations, since I have been on the committee, have given.

Why the double standard for Miguel Estrada? Why are we expecting him to answer questions that we did not expect leading Democrat judges, or other leading judges, to answer? Justice Ruth Bader Ginsburg, now sitting on the Supreme Court, also declined to answer certain questions, stating: Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on some questions, I would act injudiciously.

Like these previous nominees, all of whom the Senate confirmed, Mr. Estrada refused to violate the code of ethics for judicial nominees by declining to give answers that would appear to commit him on issues he will be called upon to decide as a judge. Again and again, he provided answers in direct response to questions that make his judicial philosophy an open book. I will share some specific examples.

Responding to a question to identify the most important attribute of a judge, Mr. Estrada answered that it was to have an appropriate process for decision-making. That, he said, entails having an open mind, listening to the parties, reading their briefs, doing all of the legwork on the law and facts, engaging in deliberation with colleagues, and being committed to judging as a process that is intended to give the right answer.

Now, these are not extreme views. I do not think we could ask more from any nominee for a judgeship.

When asked about the appropriate temperament of a judge, he responded that a judge should be impartial, open minded, and unbiased, courteous yet firm, and one who will give ear to people who come into his courtroom.

These are the qualities of Miguel Estrada. He testified that he is and would continue to be that type of a person who listens with both ears and who is fair to all litigants.

Mr. Estrada was asked a number of questions about his views and philosophy on following legal precedent. Let me highlight a little of those exchanges.

Question:

> Are you committed to following the precedents of higher courts faithfully and giving them full force and effect even if you disagree with such precedents?

Answer:

> Absolutely, Senator.

Question:

> What would you do if you believed the Supreme Court or the court of appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits or the best judgment of the merits?

Answer:

> My duty as a judge and my inclination as a person and as a lawyer of integrity would be to follow the orders of the higher court.

Question:

> And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to what sources would you turn for persuasive authority?

Answer:

> In such a circumstance, my cardinal rule would be to seize aid from anyplace where I could get it, related case law, legislative history, custom and practice and views of academics on analysis of law.

Pretty good answers. These are better answers than most of the judgeship nominees who have come before the committee over the last 27 years.

These exchanges illustrate clearly Miguel Estrada's respect for the law and his willingness and ability to faithfully follow the law. He further testifies in response to other questions: I will follow binding case law in every case, even in accordance with the case law that is not binding but seems instructive on the area, without any influence whatever from my personal view I may have about the subject matter.

This is what we expect good judges to do. I can see no reason anyone would be opposed to a nominee who promised to follow the law.

When asked about the role of political ideology and the legal process, Mr. Estrada replied with a response that, in my view, was entirely appropriate and within the mainstream of what all Americans expect from their judiciary. He said: Although we all have views on a number of subjects from A to Z, the first duty of the judge is to self-consciously put that aside and look at each case with an open mind and listen to the parties, and to the best of his human capacity to give judgment based solely on the arguments on the law. I think my basic idea of judging is to do it on the basis of law and to put aside whatever view I might have on the subject, to the maximum extent possible.

Pretty good answer. Why isn't that answer good enough for my colleagues on the other side? It is better than most answers given by their nominees when their President controlled the White House and the nomination process.

Mr. Estrada was asked about his views on interpreting the Constitution. Mr. Estrada was forthright and complete in his responses. For example, in an exchange regarding the literal interpretation of the words of the Constitution, Mr. Estrada responded:

> I recognize that the Supreme Court has said on numerous occasions, in the area of privacy and elsewhere, that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the 14th amendment.

That is a pretty good answer, a lot better answer than many of the Clinton nominees made, although I am not meaning to criticize them. It is just that there is a different standard being applied here, a double standard. They were not expected to give these great answers he has given, that my colleagues on the other side have said he didn't give. Read the record. It is replete with decent, good, honorable, and intelligent answers to their questions.

Mr. Estrada was asked questions about the appropriate balance between Congress and the courts. His answers made clear his view that judges must review challenges to statutes with a strong presumption of the statute's constitutionality. For example, in responding to a question about environmental protection statutes he stated:

> Congress has passed a number of statutes that try to safeguard the environment. I think all judges would have to read those statutes when they come to court with a strong presumption of constitutionality.

At the same time, he recognized that as a circuit court judge he would be bound to follow the precedents established by Lopez and other Supreme Court cases. Now, some of my colleagues do not like Lopez and they wish he would be an activist judge and not follow it. But he said he would be bound by it, as he would the other Supreme Court pronouncements. That is all you can ask of a nominee.

Why the double standard? Why is it that Miguel Estrada is being held to a different standard than the Clinton judgeship nominees were?

Mr. President, it is clear from the record that Mr. Estrada did answer the questions put to him at his hearing. His judicial philosophy is an open book. But if my Democratic colleagues are still inclined to vote against him, as misguided as I believe that choice to be, they should do so in an up-or-down vote. Vote for him or vote against him or do whatever your conscience dictates. Just vote. And stop this unfair filibuster. It is unfair.

Let me make one more point. Even if my colleagues believed, despite the facts and precedent, that Mr. Estrada should answer more questions, well, they have had that chance. And in a February 27 letter, White House Counsel Al Gonzales made an offer. A copy of Mr. Gonzales' letter has already been printed in the RECORD.

I don't know what more the administration can do other than say we will make him available to you, you ask him whatever questions you want, and you can find out for yourself whether you want to support him or not.

To my knowledge, not one of our colleagues on the other side has taken advantage of this offer. Not one. How interested are they in getting the real story? Not one. Yet we had Senators on the floor yesterday saying all he has to do is answer our questions. Here is an offer: He will come right to your office and answer the questions for you. Not one has asked him to come to the office, which makes me question how serious they are about the merits of Mr. Estrada's nomination.

That brings me to another point. Mr. Estrada's hearing was held under Democratic control of the committee on September 26, 2002. If there was any question about the quality of Mr. Estrada's testimony, they could have held another hearing, they could have extended the hearing, and they could have held another hearing since they controlled the committee for another 3 months. Why didn't they hold another hearing? Why didn't they ask these questions that are so crucial? Because they thought they could kill the nomination by never bringing it up. Unfortunately for them and fortunately for the country, the election turned the other way and Mr. Estrada, of course, was nominated by the new President.

I think there is some hypocrisy, especially with regard to these responses that Mr. Estrada gave, because they are deemed sufficient for Clinton judges but they are not good enough now. Why this double standard for this Hispanic man? Some Democrats have railed against Estrada for his responses to questions from the Judiciary Committee, as I have said. The fact is, however, the Democrats routinely voted in favor of Clinton nominees who gave similar responses, maybe not as good but similar responses. These were nominees who had never been judges and had few published writings. In their responses to questions they acknowledged the law, said they would follow it, and confirmed that they would not let their personal views get in the way—responses just like Miguel Estrada gave. Not one of these nominees, however, was denied a vote on the floor, not one.

Take, for example, Blane Michael, a Clinton nominee for the Fourth Circuit. He was asked what he would do if his personal beliefs and the law collided. He said he would uphold the Constitution and the law without question. As to whether he would follow Supreme Court precedents, he said: It is not my job to circumvent or shade what the Supreme Court has done.

Was he asked to expound on his favorite or least favorite Supreme Court cases? No. The record is less than four pages on his questioning.

Sid Thomas was another Clinton nominee not subjected to the same level of interrogation as Estrada. In fact, none of them were. Thomas, who had never been a judge or even a judicial clerk, was asked what he thought about the constitutionality of capital punishment.

He said:

> I believe the Supreme Court has spoken . . . on the death penalty.

That was it. Thomas, who I should add had very few published writings, added:

> I do not possess any personal convictions which would cause me to not apply the death penalty in an appropriate case.

The Thomas hearing takes up less than 2 pages in the RECORD.

Why were they treated differently by my colleagues on the other side than Miguel Estrada? Why is it? I don't see any reason, unless they are just not going to allow this President to nominate, as all Presidents in the past have done, the people he thinks are best for these jobs; or unless they just do not want to have a conservative Hispanic nominee appointed to this important court; or maybe they just do not want Miguel Estrada to get confirmed because they believe he is on the fast track to the Supreme Court and could be the first Hispanic nominated and confirmed to the Supreme Court; or maybe it is because he is Hispanic, but he is conservative; or maybe it is because he is Hispanic and he is Republican and he is conservative; or maybe it is because he is Hispanic, he is Republican, he is conservative, and they think he may be pro-life.

It is one of those. I personally do not believe there is racism involved, although there are those who do—but I am not one of them. I believe there is a double standard being applied to this Hispanic nominee, the first Hispanic nominee to the Circuit Court of Appeals for the District of Columbia, and I think it is a crying shame.

Merrick Garland, a Clinton nominee to the Fourth Circuit, was asked if he personally favored the death penalty. I personally was very much in favor of Merrick Garland, but there were some on our side who were not very much enthused about him. He was a controversial nominee, as were these others. But he was a Clinton nominee to the Fourth Circuit. He was personally asked if he favored the death penalty. He responded by saying it is a matter of settled law. When asked about the independent counsel law, Garland said that, too, was settled and that he would follow that ruling.

These sound an awful lot like the responses of Miguel Estrada, the ones he gave, responses that Democrats say do not give them enough information. These Clinton nominees were all not only voted out of committee but were allowed an up-or-down vote on the floor, regardless of the fact that some of them were controversial—to borrow some of the language of my colleagues on the other side.

My colleague from New York has stated that according to an article that appeared in the Legal Times in April 2002, DC Circuit Judge Laurence Silberman has advised President Bush's judicial nominees to "keep their mouths shut." As the rest of the article explains, in fact, Judge Silberman simply explained that the rules of judicial ethics prohibit nominees from indicating how they would rule in a given case or on a given issue—or even appearing to indicate how they would rule.

As the same article reported, Judge Silberman stated:

> It is unethical to answer such questions. It can't help but have some effect on your decisionmaking process once you become a judge.

A copy of this article has also been printed in the RECORD.

Yet I heard my colleagues on the other side yesterday blowing smoke over there, using a quote out of context to try to indicate that Judge Silberman was giving them radical advice. The fact is, he gave them advice that every Democrat President and every Democrat President's Justice Department has given to the Democrat nominees for these courts. It is proper advice.

This advice is consistent with Canon 5A(3)(d) of the ABA's Model Code of Judicial Conduct, which states that prospective judges:

> [S]hall not . . . make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office . . . [or] make statements that commit or appear to commit the candidate with respect to cases, controversies, or issues that are likely to come before the court.

Justice Thurgood Marshall made the same point in 1967 when he refused, as I mentioned before, to answer questions about the fifth amendment during his confirmation hearing for the Supreme Court. I referenced that quote earlier.

Let me go to this letter from Seth Waxman, on behalf of Seth Waxman, Walter Dellinger, Drew S. Days, Kenenth W. Starr, Charles Fried, Robert Bork, and Archibald Cox. That is seven of the living former Solicitors General. Seth Waxman, Walter Dellinger, Drew Days, and Archibald Cox are Democrat former Solicitors General.

Here is what they said, and they said it in response to the Democrats, who have been saying we have to get these privileged materials because we do not know enough about Miguel Estrada, even though we have had a full day of hearings conducted where we could have asked any questions we wanted to, where we could have held additional hearings, we could have filed written questions—only two of them did—we could have asked additional questions, only two of them did. They even said the hearing was fair and fairly conducted. But this is a letter.

Let me just go back. They are hiding behind this red herring, demanding papers they know no self-respecting administration can give because it would interrupt, disturb the flow, and make it more difficult for the Solicitor General of the United States to do his or her job. I think this letter says it all. It was a letter written to the Honorable PATRICK J. LEAHY on June 24, 2002, better than 18 months ago:

> DEAR CHAIRMAN LEAHY: We write to express our concern about your recent request that the Department of Justice turn over "appeal recommendations, certiorari recommendations, and amicus recommendations" that Miguel Estrada worked on while in the Office of the Solicitor General.
>
> As former heads of the Office of Solicitor General—under Presidents of both parties—we can attest to the vital importance of candor and confidentiality in the Solicitor General's decisionmaking process. The Solicitor General is charged with the weighty responsibility of deciding whether to appeal adverse decisions in cases where the United States is a party, whether to seek Supreme Court review of adverse appellate decisions, and whether to participate as amicus curiae in other high-profile cases that implicate an important Federal interest. The Solicitor General has the responsibility of representing the interests not just of the Justice Department, nor just of the executive branch, but of the entire Federal Government, including Congress.
>
> It goes without saying that, when we made these and other critical decisions, we relied on frank, honest and thorough advice from our staff attorneys like Mr. Estrada. Our decisionmaking process required the unbridled open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure. Attorneys inevitably will hesitate before giving their honest, independent analysis if their opinions are not safeguarded from future disclosure. High-level decisionmaking requires candor, and candor in turn requires confidentiality.
>
> Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the U.S. litigation interests—a cost that also would be borne by Congress itself.
>
> Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the Federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process.

Four of those former Solicitors General were Democrat Solicitors General. Mr. Estrada served three of those Democrat Solicitors General because he served, as I recall, 4 years in the Clinton administration in the Solicitor General's Office without any bad reaction. Then he served 1 year in the Bush administration.

Most people would say Archibald Cox is a person of the highest legal integrity and highest legal abilities. Knowing him personally, I have to say that is true. Most people would say Drew Days is one of the fine lawyers and law professors in this country. Most people would say—in fact, I think everybody would say with regard to these Democrat former Solicitors General who have said these records should be privileged, that Walter Dellinger was one of the great law professors at Duke, also a great public servant, and now one of the leading lawyers in one of the major law firms in the country, himself mentioned for the Supreme Court from time to time, a man I have to admit I have gained increasing respect for through the years.

It is pretty hard to find a better lawyer than Seth Waxman. He is a great lawyer. And he is somebody on whom I think the Democrats could rely. Have those colleagues on the other side asked those four people? The fact is those four people have basically said Miguel Estrada did a great job at the Solicitor General's Office. In fact, Seth Waxman, in particular, said he did a fine job there. The performance evaluations that described Mr. Estrada's work there are of the highest laudatory evaluation of staff. The only person who has raised any conflict is Professor Paul Bender, who gave those glowing performance evaluations at a time closest to the service of Miguel Estrada, but who is a very left-wing liberal Democrat law professor who has entered into this debate—and in an improper way, in my opinion—to try to smear Mr. Estrada, which he has done. He is the only one they can point to who has any real criticism of Miguel Estrada's work at the Solicitor General's Office.

I think those Democrat Senators on the other side of the floor would do very well to talk to Seth Waxman, Walter Dellinger, Drew S. Days, III, and Archibald Cox to say what is wrong with Mr. Estrada. I think they won't do it because they know these people will say Mr. Estrada is an exceptionally fine lawyer, which he, of course, is.

This is a man who has the highest rating from the American Bar Association—the gold standard of our friends, the Democrats—and, of course, he has all the credentials in the world as one of the leading appellate lawyers in the country. Even though he suffers from a disability, a speech impediment, he has still risen to the top of the appellate court.

I know my colleague from Vermont is waiting. So I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

THE PRICE OF WAR

Mr. JEFFORDS. Mr. President, for many months now, the administration has shown its determination to wage war against Saddam Hussein.

I am very concerned that the Bush administration's intense focus on Iraq has blinded it to the critical needs here at home.

While the administration prepares for a war with sky-rocketing cost estimates now in the range of $100 billion or more, it pleads poverty when it comes to funding our domestic needs.

While the administration fixates on Iraq, the economy teeters, the stock market tumbles, the terrorist threat at home persists, and schools are threatened with premature closings for lack of money.

Last week, our Nation's governors met here in Washington and issued a troubling warning. They told us our States are hurting. They told us they do not have the money they need to do their jobs and serve the people of their States. They told us their situations would only worsen if the President were to enact his tax-cutting plans.

They told us they would need more than $15 billion this year alone in emergency funds for schools and domestic security. And as the headline in the New York Times put it, "Governors Get Sympathy From Bush, But No More Money."

Sympathy will not pay our Nation's bills. We have the obligation to address the crisis in America's schools with the same urgency as the crises abroad. Our children deserve at least that much.

We have fallen woefully short in our commitment to our students, our teachers and our parents. We have failed to meet a promise that we made to our States nearly three decades ago to provide our fair share of special education funding.

And now, only 1 year after passage of the No Child Left Behind Act, we are hearing that States don't have the money they need to make that law work.

Yet the administration continues to devote extraordinary resources to its campaign against Iraq, and to its pursuit of allies for that campaign.

While critical education needs go unmet, the administration was able to cobble together the necessary funds to offer almost 30 billion dollars to enlist Turkish support for the war.

I suspect untold billions are also being promised to other nations around the globe. The President apparently is confident that all of these expenses can be borne along with a significant tax cut. I sincerely question that logic.

There is no doubt that Saddam Hussein's rule in Iraq has been marked by brutality. He is an evil dictator with clearly evil intentions, and is a long-term threat to the United States and its allies in the Middle East.

Yet despite the well-documented atrocities associated with his rule and his clear flouting of U.N. resolutions, there still is no evidence of an imminent threat to the United States that justifies the administration's march to war.

Iraq is of obvious importance to the United States and the world because of its geographical location and its oil reserves. Much of the world depends upon fair access to Iraq's oil.

We went to war a decade ago to throw Iraq out of Kuwait and restore Kuwait's right to control its oil. Similarly, control of Iraq's oil must be put in the hands of the Iraqi people.

I praise the administration for abandoning its initial go-it-alone strategy toward Iraq. I congratulate the President for his willingness to work through the United Nations and for the results he and the U.N. have achieved since that decision.

An increasingly robust inspection process is under way. U2 planes are flying over Iraq under U.N. supervision, illegal missiles are being destroyed by Iraq, and additional measures are under consideration to more aggressively seek out illegal Iraqi weapons and programs.

The administration should continue to work with the U.N. to strengthen the inspection efforts and seek peaceful means for achieving the disarmament of Iraq. Instead, the administration appears bent on cutting this process short.

The administration has displayed a troubling lack of focus in articulating a rationale for military action in Iraq. Initial discussion of "regime change" shifted for some time to talk of disarmament.

However, recent comments from the White House now indicate that we are back to "regime change."

The administration's expectations for post-Saddam Iraq are equally troubling.

I am worried that the administration nurtures a naïve belief that there will be rapid transformation of the Middle East from an area in which autocratic governments and Islamist opposition forces vie for power to one in which democracy and Western ideals carry the day.

Talk of installing an American as temporary administrator of Iraq is also very troubling. We should be sending the message to the Iraqi people that we plan to put them in control of their country. The American people are not interested in becoming Iraq's overlord. We should be clear that we do not plan to rule Iraq as an American protectorate.

We need to be much more explicit in setting forth the goals and timetable for any post-war Western presence in Iraq.

Intelligence assessments make clear that the greatest threat today to the United States is the threat posed by terrorist attacks.

We know that the fight against terrorism and the fight against the proliferation of weapons of mass destruction can only be waged successfully with a robust set of international institutions and relationships.

The administration's push for war with Iraq undermines our relations with other countries and the strength of our international bodies at precisely the moment when they are most important to the United States.

We must ensure that any action against Iraq does not jeopardize our counterterrorism and counterproliferation fights.

President Bush has sought for many months to rally this Nation and the world community behind the notion that the threat from Iraq is imminent and that preemptive military action is required. He has not succeeded in making his case.

With no clear evidence of an imminent threat from Iraq, and with no credible plan for postwar Iraq, we should be supporting the U.N. in its work on the ground to bring about Iraqi compliance with U.N. resolutions.

Going to the U.N. must not be viewed merely as a cynical, tactical move designed to justify and aid preparations for war. Instead, the United States owes it to the world community, and to the institutions it worked so hard to establish in the period since World War II, to make a sincere effort to work with the U.N. to resolve the threat posed by Iraq in a peaceful fashion.

American Presidents have labored for many decades to construct relationships and international bodies capable of handling situations such as this.

They, the American people, and our allies deserve a patient, balanced, and considered approach to the current situation.

More importantly, the American people deserve an Administration that devotes the same degree of energy and concentration to the crises here at home.

I think, on more careful inspection, the President will realize that the domestic crises are truly imminent, and that they actually pose more of a threat to America's long-term security than the situation today in Iraq.

I urge the President to stop before he has irrevocably committed us to the destruction and rebuilding of Iraq, which will draw away the resources that are so badly needed here at home.

It will take courage and true leadership, but I implore him to act in this regard before it is too late.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like to direct my colleagues to a few of the more than 40 editorials or op-eds from around the Nation expressing concerns about Mr. Estrada's nomination to the D.C. Circuit.

Here are just a few of them. I ask unanimous consent that the following be printed in today's RECORD: the editorial of the Rutland Daily Herald of Vermont on February 24, 2003; the editorial of the Boston Globe on February 15, 2003; the recent editorial of the New York Times; and the op-ed in the Washington Post on February 14, 2003.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rutland Daily Herald, Feb. 24, 2003]

PARTISAN WARFARE

Senate Democrats are expected to continue their filibuster this week against the appointment of Miguel Estrada, a 41-year-old lawyer whom President Bush has named to the federal appeals court in Washington, D.C.

Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee, is in the middle of the fight over the Estrada appointment. He and his fellow Democrats should hold firm against the Estrada nomination.

Much is at stake in the Estrada case, most importantly the question of whether the Democrats have the resolve to resist the efforts of the Bush administration to pack the judiciary with extreme conservative judges.

The problem with the Estrada nomination is that Estrada has no record as a judge, and senators on the Judiciary Committee do not believe he has been sufficiently forthcoming about his views. It is their duty to advise and consent on judicial nominees, and Estrada has given them no basis for deciding whether to consent.

President Bush has called the Democrats' opposition to Estrada disgraceful, and his fellow Republicans have made the ludicrous charge that, in opposing Estrada, the Democrats are anti-Hispanic. For a party on record against affirmative action, the Republicans are guilty of cynical racial politics for nominating Estrada in the first place. He has little to qualify him for the position except that he is Hispanic.

Unless the Democrats are willing to stand firm against Bush's most extreme nominations, Bush will have the opportunity to push the judiciary far to the right of the American people. Leahy, for one, has often urged Bush to send to the Senate moderate nominees around whom Democrats and Republicans could form a consensus. In a nation and a Congress that is evenly divided politically, moderation makes sense.

But Bush's Justice Department is driven by conservative ideologues who see no reason for compromise. That being the case, the Senate Democrats have no choice but to hold the line against the most extreme nominees.

Leahy has drawn much heat for opposing Bush's nominees. But he has opposed only three. In his tenure as chairman of the committee, he sped through to confirmation far more nominees than his Republican predecessor had done. But for the Senate merely to rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.

The Republicans are accusing the Democrats of partisan politics. Of course, the Republicans are expert at the game, refusing even to consider numerous nominees sent to the Senate by President Clinton.

The impasse over Estrada is partisan politics of an important kind. The Republicans must not be allowed to shame the Democrats into acquiescence. For the Democrats to give in would be for them to surrender to the fierce partisanship of the Republicans.

The wars over judicial nominees are likely to continue as long as Bush, with the help of Attorney General John Ashcroft, believes it is important to fill the judiciary with extreme right-wing judges.

The Democrats, of course, would like nothing better than to approve the nomination of a Hispanic judge. But unless the nominee is qualified, doing so would be a form of racial pandering. That is the game in which the Republicans are engaged, and the Democrats must not allow it to succeed.

[From the Boston Globe, Feb. 15, 2003]

RUSH TO JUDGES

The Senate Judiciary Committee ought to come with a warning sign: Watch out for fast-moving judicial nominees. Controlled by Republicans, the committee is approving President Bush's federal court nominees at speeds that defy common sense.

One example is Miguel Estrada, nominated to the US Court of Appeals for the District of Columbia. Nominated in May 2001, Estrada has been on a slow track, his conservative views attracting concern and criticism.

Some Republicans called Democrats anti-Hispanic for challenging Estrada. He came to the United States from Honduras at the age of 17, improved his English, earned a college degree from Columbia, a law degree from Harvard, and served as a Supreme Court clerk for Justice Anthony Kennedy.

What has raised red flags is Estrada's refusal to answer committee members' questions about his legal views or to provide documents showing his legal work. This prompted the Senate minority leader, Thomas Daschle, to conclude that Estrada either "knows nothing or he feels he needs to hide something."

Nonetheless, Estrada's nomination won partisan committee approval last month. All 10 Republicans voted for him; all nine Democrats voted against. On Tuesday Senate Democrats began to filibuster Estrada's nomination, a dramatic move to block a full Senate vote that could trigger waves of political vendettas.

It's crucial to evaluate candidates based on their merits and the needs of the country.

Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.

Further, this is a nation that believes in protecting workers' rights, especially in the aftermath of Enron. It's an America that struggles with the moral arguments over abortion but largely accepts a woman's right to make a private choice. It's an America that believes in civil rights and its power to put a Colin Powell on the international stage.

Does Estrada meet these criteria? He isn't providing enough information to be sure. And the records of some other nominees fail to meet these standards.

Debating the merits of these nominees is also crucial because some, like Estrada, could become nominees for the Supreme Court.

The choir—Democrats, civil rights groups, labor groups, and women's groups—is already singing about how modern-day America should have modern-day judges. It's time for moderate Republicans and voters to join in so that the president can't ignore democracy's 21st-century judicial needs.

[From the New York Times]

KEEP TALKING ABOUT MIGUEL ESTRADA

The Bush administration is missing the point in the Senate battle over Miguel Estrada, its controversial nominee to the powerful D.C. Circuit Court of Appeals. Democrats who have vowed to filibuster the nomination are not engaging in "shameful politics," as the president has put it, nor are they anti-Latino, as Republicans have cynically charged. They are insisting that the White House respect the Senate's role in confirming judicial nominees.

The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and had dug in its heels on its most controversial choices. At their confirmation hearings, judicial nominees have refused to answer questions about their views on legal issues. And Senate Republicans have rushed through the procedures on controversial nominees.

Mr. Estrada embodies the White House's scorn for the Senate's role. Dubbed the "stealth candidate," he arrived with an extremely conservative reputation but almost no paper trail. He refused to answer questions, and although he had written many memorandums as a lawyer in the Justice Department, the White House refused to release them.

The Senate Democratic leader, Tom Daschle, insists that the Senate be given the information it needs to evaluate Mr. Estrada. He says there cannot be a vote until senators are given access to Mr. Estrada's memorandums and until they get answers to their questions. The White House can call this politics or obstruction. But in fact it is senators doing their jobs.

[From the Washington Post, Feb. 14, 2003]

ESTRADA'S OMERTA

(By Michael Kinsley)

Like gangsters taking the Fifth, nominees for federal judgeships have reduced their reason for not talking to a mantra. Repeat after me: "My view of the judicial function, Senator, does not allow me to answer that question." Miguel Estrada, President Bush's nominee for the U.S. Court of Appeals for the D.C. Circuit, used variations on that one many times in refusing to express any opinion on any important legal topic during Judiciary Committee hearings last fall. Democrats are now trying to block the Estrada nomination with a filibuster.

Estrada's "view of the judicial function" is shared by President Bush, congressional Republicans and conservative media voices hoarse with rage that Democratic senators want to know what someone thinks before making him or her a judge. The Estrada view is that judges should not prejudge the issues that will come before them. As Estrada amplified in this testimony, "I'm very firmly of the view that although we all have views on a number of subjects from A to Z, the job of a judge is to subconsciously put that aside and look at each case . . . with an open mind."

Obviously, Estrada's real reason for evasiveness is the fear that if some senators knew what his views are, they would vote against him. However, this kind of high-minded bluster is a powerful weapon in the ongoing judicial wars. Over the past couple of decades, talk like this has intimidated many a senator who aspires to a reputation for thoughtfulness. And it does sound swell. Until you think about it.

Potential judges should not reveal their views on legal issues because a judge should have an open mind? Hiding your views doesn't make them go away. If the problem is judges having views on judicial topics, rather than judges expressing those views, then allowing people to become judges without revealing their views is a solution that doesn't address the problem. And if the problem is judges who fail to put their previous views aside, rather than judges having such views to begin with, then allowing judicial nominees to hide those views until it's too late is still a solution that is logically unrelated to the problem.

So Estrada's Rule of Silence does not solve the problem. And the supposed problem—of "prejudging"—makes no sense either. To see why, consider—or reconsider—Justice Clarence Thomas. In his 1991 confirmation hearings, Thomas testified that he had no "personal opinion" about Roe v. Wade, probably the most controversial Supreme Court decision of the 20th century. In 1992 Justice Thomas joined in a minority opinion calling for Roe to be overturned. By 2000 he was writing that the Roe decision was "grievously wrong" and "illegitimate" and part of "a particularly virulent strain on constitutional exegesis" and generally not something he cared for the least little bit.

This does not prove that Thomas was lying under oath in claiming that he hadn't prejudged Roe in 1991 (though no reasonable person could doubt that). It does prove that Thomas had prejudged Roe in 1992. But this is a point tht Justice Thomas needn't bother to lie about, because no one objects. It's perfectly okay for a sitting judge to have and express views about an issue that comes before his or her court. That is his job.

In fact it's inevitable that anyone who has been an appellate judge for a while will have published opinions that touch on many of the issues he or she must decide in the future. There is not even an expectation of open-mindedness. Although a willingness to reconsider your own assumptions is regarded as admirable, no one is accused of prejudging a case just for ruling the same way this year as last year. Quite the opposite: Intellectual consistency is the hallmark of a fine legal mind. And following precedent is a sign of judicial professionalism.

Most legal rulings come from judges who have been on the bench for a while. If that is not a problem, why is it a problem if they have thought and reached conclusions on some important legal issues before they join the bench? The answer is that it is not a problem. It ought to be a problem if a potential judge has not thought about important legal issues and has no views on them. But instead, the problem is how to keep a judgeship candidate's opinions hidden until he or she is safely confirmed for a lifetime appointment, and the phony issue of "prejudging" is a strategy for doing that.

Judgeship nominations bring out the hypocrite in politicians of both parties, but the Republican hypocrisy here is especially impressive. When Bill Clinton was appointing judges, the senior Judiciary Committee Republican, Sen. Orrin Hatch, called for "more diligent and extensive . . . questioning of nominees' jurisprudential views." Now Hatch says democrats have no right to demand any such thing. President Bush fired the American Bar Association as official auditor of judicial nominations because the ABA gave some Republican nominees a lousy grade. Now Hatch cites the ABA's judgment as "the gold standard" because it unofficially gave Estrada a high grade.

The seat Republicans want to give Estrada is open only because Republicans successfully blocked a Clinton nominee. Two Clinton nominations to the D.C. Court were blocked because Republicans said the circuit had too many judges already. Now Bush has sent nominations for both those seats. Hatch and others accuse Democrats of being anti-Hispanic for opposing Estrada. With 42 circuit court vacancies to fill, Estrada is the only Hispanic Bush has nominated. Clinton nominated 11, three of whom the Republicans blocked.

I could go on and on. Which is just what Senate Democrats are doing.

Mr. LEAHY. Mr. President, as I have previously mentioned before the Judiciary Committee and here before the Senate, I have significant concerns about Mr. Estrada's nomination. Significant concerns have been raised and not answered. Many of us would like to have sufficient confidence based on a record and a strong confidence about the type of judge he would be. Sadly that record is not there and the administration continues to deny us access to Government files that might be helpful to us.

While he has some experience arguing appeals in criminal cases, he appears to have little experience handling the types of civil cases that make up the majority of the docket of the D.C. Circuit, a court on which Republicans blocked appointments during the last 4-year term of the Clinton administration in order to shift the ideological balance of the court.

His confirmation has been opposed by many including people and groups who represent the Latino community. The opposition of so many Hispanic organizations and the Congressional Hispanic Caucus should be of concern.

Mr. Estrada's selection for this court has generated tremendous controversy across the country and within the Hispanic community. For more than 2 years I have been calling upon the President to be a uniter and not a divider. Here is another matter on which the White House has chosen divisive, partisanship and narrow ideology over what is best for the Senate, the D.C. Circuit, the Hispanic community and the American people. This has been yet another in a string of controversial nominations that has divided, not united, the American people and the Senate.

Senate Democrats demonstrated in the last Congress that we would bend over backwards to work with the Administration to fill judicial vacancies.

We proceeded with more than 100 nominations in 17 months, held hearings and confirmed nominees at a pace almost twice that of Republicans with a Democratic President. Unlike President Clinton, however, this President has continued to insist on doing things his way and only his way and simply refuses to work with us.

Last May, at the behest of a number of Senators seeking a solid basis on which to evaluate this nomination, I wrote to the nominee and to the Attorney General requesting access to his work while employed by the Government at the Department of Justice between 1992 and 1997. In that capacity he worked for the government of which Congress is a part. Similar papers have been provided to the Senate in connection with a number of previous nominations, including those of William Rehnquist, Robert H. Bork, William Bradford Reynolds, Benjamin Civiletti, and Stephen Trott. Despite this precedent, over 300 days have passed without cooperation from the administration.

The administration has unfortunately, chosen to treat the request for relevant information of a coequal branch like a litigation discovery request that it must resist at all costs.

Their approach reminds me of how the tobacco companies treated requests for information about what they knew about the cancer causing properties of cigarettes for years and years. In connection with this nomination, the administration took three weeks to study the files then dismissed the request out of hand and called it without precedent.

The administration claimed that no administration had ever provided such materials in connection with a nomination. As we have now demonstrated over and over that precedent exists going back over the last 20 years.

When presented with irrefutable evidence that these types of materials had been provided, the administration shifted its defense to trying to distinguish those past nominations and even claimed that the documents previously produced by the Department of Justice to the Senate had, instead, been "leaked" to the Senate. They all but called Senator SCHUMER a liar in response to his January letter seeking to resolve the matter.

Then we provided documents from the Department of Justice that conclusively demonstrate that the materials had been furnished in response to Senate requests. This refutes the second round of misrepresentations by the Department of Justice. The proof is in a letter from Acting Assistant Attorney General Thomas Boyd to Chairman BIDEN in May 1988 which notes that:

> [M]any of the documents provided to the Committee, 'reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch.' We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

It is now beyond dispute that "the work product of attorneys in connection with government litigation or confidential legal advice" has provided to the Senate in connection with past nominations.

Rather than admit their errors and work with us to resolve this impasse, the administration simply shifts ground while remaining recalcitrant. The longstanding policy of the Justice Department, until now, has been a practice of accommodation with the Senate in providing access to materials requested in connection with nominations.

On February 11, the Democratic leader and I wrote the President urging cooperation. Instead, we received another diatribe from the White House Counsel's office. It is as if this administration thinks it has a blank slate and a blank check notwithstanding tradition, history, precedent or the shared powers explicitly provided by our Nation's Constitution. There is certainly a nexus between our request and the powers committed to the legislative branch, yet the Department has failed to take any efforts to try to resolve this dispute. There is part of a pattern of hostility by this administration to requests for information by Congress acting pursuant to powers granted to it by the Constitution, regarding nominees and other important matters.

Despite the stonewalling by the administration, the Judiciary Committee proceeded with a hearing on the Estrada nomination toward the end of the last session. I had said in January that I intended to proceed with such a hearing. The administration took advantage of my good faith declaration and my willingness to proceed on some of their most controversial nominees, including Mr. Estrada. Of course, in addition to Mr. Estrada we also proceeded with hearing on Judge Dennis Shedd, Professor Michael McConnell, Judge Charles Pickering, Judge D. Brooks Smith, Justice Priscilla Owen and many others. In spite of all our good faith efforts to make progress, the administration continues its hostile and partisan ways.

Confirmation of 100 judicial nominations in record time, proceeding on nearly twice as many confirmations as Republicans had in the recent past, confirming new judges for the Fifth, Sixth and Tenth Circuits after years of Republican delays, counted for naught with this administration. Still, in spite of the administration's stonewalling, the committee fulfilled my commitment by proceeding with a hearing last September after waiting in vain for six months for the Administration to show some sign of accommodation to us.

Senator SCHUMER chaired that hearing for Mr. Estrada last September. I was hoping that the hearing might allay concerns that have been raised about this nomination, but I was left with more questions than answers after all of the steps Mr. Estrada took to avoid answering questions at that hearing. I was also left with little hope that he would ever answer any of the concerns raised about entrusting him for the rest of his life with the responsibility for deciding cases fairly and without favor toward any ideological agenda.

When President Clinton was nominating moderates to judicial vacancies, Republicans insisted on considering the judicial philosophy and ideology of the nominees. Many took a pledge not to vote for anyone that might turn out to be an activist. In those years any concern among Republicans could forestall a hearing or committee vote. Anonymous holds were the order of the day. The committee proceeded with few hearings on few nominees and voted on even fewer. In the entire 1996 legislation session not a single circuit judge was approved by the Republican-led Senate all year not one.

Overall, during the 6½ years of prior Republican control, the Senate averaged only seven circuit court confirmations a year. During the recent 17 months in which Democrats led the Senate, by contrast we confirmed 17 circuit court nominees for a President of another party who nominated a string of highly controversial nominees. In fact, we held hearings on 20 circuit court nominees. Two of the most controversial, on whom we proceeded at the request of Republican Senators, were voted down before the committee last year. This year Mr. Estrada's nomination was reported even though all Democrats on the Committee voted against it.

Much like the administration's false claim that materials like those requested with regard to the Estrada nomination had no precedent when, if fact, there is ample precedent, the administration and Senate Republicans are now claiming that this Senate debate is without precedent. That, too, is false. In fact, a number of judicial nominations have been subjected to extensive debate over the years since Senator Thurmond filibustered the nomination of Justice Fortas to be Chief Justice in 1968. More than a dozen nominations have resulted in almost one and one-half dozen cloture votes on judicial nominations.

Among those nominations "filibustered" by Republicans were Stephen G. Breyer's nomination to the First Circuit; Rosemary Barkett's nomination to the Eleventh Circuit; H. Lee Sarokin's nomination to the Third Circuit; Marsha Berzon's nomination to the Ninth Circuit; and Richard Paez's nomination to the Ninth Circuit. In addition, the Democratic leadership of the Senate had to overcome Republican objection and obtain a cloture to proceed with three of President Bush's nominations in 2002, Richard Clifton to be a Ninth Circuit judge, Julia Smith Gibbons to be a Sixth Circuit judge, and Lavenski Smith to be a Eighth Circuit judge.

Of course, during the previous six and one-half years of Republican control of the Senate, Republicans often chose less public methods to end nominations. Almost 80 of President Clinton's judicial nominations were not confirmed by the Congress during which they were first nominated and more than 50 were never accorded a Senate vote. Most often Republicans would just refuse to proceed to a hearing or a committee vote on a nomination without explanation. Anonymous holds before the committee ended almost a dozen Clinton judicial nominations without anyone having to take a vote. Anonymous holds on the Senate floor delayed consideration of nominations for months and months without debate, explanation or accountability. Democratic opposition has not taken that route. Instead, we ended the secrecy of the home State Senators' blue slips and did not allow anonymous holds to long delay Senate consideration of nominations.

The Republican spin machine is repeatedly asserting that cloture votes and the use of the filibuster are "unprecedented" with respect to judicial nominees. Such assertions are false and misleading. Cloture, the Senate's procedure to end a filibuster, was sought on more nominations during the 103rd Congress, from 1993 to 1994, when President Clinton was President and Republicans used the filibuster when they were in the Senate minority than at any other time in our history. In that Congress, cloture was sought on 12 nominations—judicial and executive. For the remainder of President Clinton's presidency, Republicans controlled the Senate and defeated scores of judicial nominations by deliberate inaction or anonymous holds in committee and on the floor. By using other extreme delaying tactics, they did not need to use filibusters, they defeated nominations without public explanation through other tactics available to them in the Senate majority.

Individuals from all parties have sought cloture and used the filibuster in response to judicial and other nominees. In fact, the use of the filibuster and cloture has increased in recent years. Congressional Research Services reports that the filibuster and cloture are used much more regularly today than at any time in the Senate's past. Approximately two-thirds of all identifiable Senate filibusters have occurred since 1970.

Cloture votes on judicial nominees are well-precedented in recent history. Both Democrats and Republicans have sought cloture in response to debate or objections to judicial nominees since the cloture rule was extended to nominations in 1949. I would note that cloture was not sought on any nomination until 1968, because, prior to then, concerns over nominees were resolved, or the nominee was defeated, behind closed doors. From 1968 to 2000, there were 13 cloture attempts on judicial nominees. For the record, I should also note that last Congress, cloture was sought on four of President Bush's circuit court nominees. I further note that it was the Democratic leadership of the Senate that sought to invoke cloture and proceed. The objection that was overcome last Congress was that of a Republican Senator who was concerned with the White House's refusals to act on certain executive nominations.

Cloture votes have occurred on judicial nominees submitted by Presidents of both parties and on nominees to the U.S. District Courts, the U.S. Courts of Appeal, and the U.S. Supreme Court. Of these 13 cloture attempts on judicial nominees, in six of them, the Democrats were in the majority and in seven the Republicans were in the majority. The opposition has been based on objections to the judicial philosophy of the nominee, concerns about whether the nominee would treat all parties fairly and on procedural grounds.

I would like to take a moment to shed some light on filibusters and the practices used to block nominees when the Republicans were last in the majority. Some Republicans have been taking a quote of mine out of context from June 1998 about judicial nominations, replacing my actual words with an ellipse, then distributing it widely and misusing it. Here is what Republicans keep quoting: "I have stated over and over again . . . [ellipse] that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported." What the Republican talking points omit with their ellipse is the essential context of that quote. My actual comment was made during floor discussion about an anonymous Republican hold on yet another of President Clinton's nominees. Here was his actual comment:

> I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

The context of my comment—the subject of that very debate—and my reference even within the quote itself were about anonymous holds used by Republicans to defeat President Clinton's judicial nominations—anonymous filibusters, in essence. This was another instance in which sometimes only one or a handful of Republican Senators prevented Senate votes on President Clinton's judicial nominations.

The process of the anonymous holds with which Republicans prevented action on Clinton judicial nominees required not just a majority or a supermajority for the Senate to proceed to votes; Republicans were defeating President Clinton's nominees by requiring unanimity. And they were doing it anonymously, without accountability to the public. In the case of the Estrada nomination, Senate Democrats are seeking the information that the Judiciary Committee began requesting nearly a year ago, before proceeding to a vote.

It is clear from the language Republicans deliberately omit that what I was referring to the widespread Republican practice of blocking a nominee anonymously.

The debate from which my comment was taken was over the anonymous Republican hold on a Hispanic nominee, Judge Sonia Sotomayor, who was nominated by the first President Bush to a district court and who President Clinton nominated to the Second Circuit Court of Appeals.

Immediately after making this comment, I placed in the record a newspaper editorial criticizing these anonymous holds as "Partisan Nonsense." That editorial notes that, "In blunt terms, Leahy has criticized the Republicans who, behind the scenes and not for attribution, are seeking to scuttle Sotomayor's nomination." That editorial goes on to note:

> "Their reasons are stupid at best and cowardly at worst," Leahy told a New York Times reporter. "What they are saying is that they have a brilliant judge who happens to be a woman and Hispanic and they haven't the guts to stand up and argue publicly against her on the floor. They want to hide in their cloakrooms and do her in quiet."

This again makes clear that I was talking about—anonymous holds. Judge Sotomayor was reported out of the Judiciary Committee on March 5, 1998, but anonymous Republican holds had prevented her nomination from being scheduled for a vote.

On June 18, after her nomination had been pending on the floor for more than three months, I went to the floor to protest the anonymous hold against her. Republicans refused to bring her to a vote for four more months. That is, Judge Sotomayor's nomination was pending on the floor for seven months, seven times longer than Mr. Estrada's nomination, and no Republicans claimed that denying an immediate vote was somehow unconstitutional or amending the Constitution, as they have claimed in these recent days. Once Judge Sotomayor was finally allowed a vote, 23 Republicans voted against her, yet none put any statement in the record or made a statement accounting for their holds or votes.

The real double standard evident during the Estrada debate is that during the prior years of Republican control, Republicans in practice required unanimous consent to allow a vote on a judicial nominee—not a majority or even a super-majority. One or more Republicans could refuse to allow an up or down vote on a nominee, with no accountability to the public. Thus, even if as many as 80 or 90 or even 99 Senators did not object to a judicial nominee, the objection of any Republican was used to prevent an up or down vote. Republican complaints about Democratic objections and insistence on following Senate rules ring hollow in light of their own repeated practices with President Clinton nominees. They often required the consent of 100 Senators, and certainly all of the Republicans, to bring a judicial nominee to a vote.

To hold a nominee anonymously, without any accountability, is what I objected to in my full statement and full comment and in the full context of my statement during that debate. In contrast, the extended debate on the Estrada nomination is occurring in the light of day. Republicans and the White House can bring this matter to resolution by providing the documents requested and by providing responsive answers to Senators' questions. This is not a filibuster through anonymous holds. This is a public debate that Republicans can end through cooperation.

The nomination of Judge Richard Paez starkly displays this Republican double standard. Judge Paez is a Mexican American who had served for years on the bench in Los Angeles before being appointed to the Federal district court by President Clinton in 1994. Judge Paez was nominated to the 9th Circuit in January 1996. He was one of only four circuit court nominees to get a hearing that year. His hearing was in July but he was not allowed to be reported to the floor that year. No circuit court nominees were given floor votes that year by the Republicans. Only 17 judges were confirmed that session, none of them circuit judges. This was the lowest number of confirmations during an election year in modern history. Judge Paez was then renominated in January 1997, after President Clinton's reelection.

Chairman HATCH required a second hearing on the Paez nomination in 1998, 25 months after his initial nomination. Judge Paez was reported to the floor again in March 1998, but Republicans did not schedule him for a vote in April, May, June, July, August, September, or October that year. So in contrast to the Estrada nomination, by the end of that year, Judge Paez's nomination had waited on the floor for more than 8 months. That is eight times longer than the Estrada nomination has been pending on the floor and Judge Paez still did not get a vote, due to anonymous, unaccountable Republican holds. His nomination was returned to the President without action at the end of that Congress. By then his nomination had been pending for almost three years.

Judge Paez was renominated again in January 1999. Chairman HATCH refused to place him on the committee's agenda for a vote until July 1999—another 6 months of delay, after his nomination had then been pending for more than 1000 days. Republicans continued anonymously to block a vote on the Paez nomination and refused to schedule him for a vote in July, August or September. By that time his nomination had been before the Senate for more than 1,300 days.

On September 21, 1999, Democratic Senators, having spent months and then years pleading for a vote on the Paez nomination, made a motion to proceed to his nomination. All Republicans voted against bringing his nomination up for a vote, including Chairman HATCH.

Finally, in March 2000, after his nomination had been pending for more than 1,500 days, Republicans failed in their effort to stop cloture from being invoked. The next day, Judge Paez was confirmed, and 39 Republicans voted for confirmation—two shy of the number necessary to prevent cloture or to filibuster the nomination. If they had two more votes, I wonder whether they would have ever allowed Judge Paez's nomination to come to a vote.

Mr. Estrada's nomination has been pending on the floor for less than one month. Judge Paez's nomination was pending on the floor for more than 20 months before Republicans allowed him a vote. The result was that Judge Paez's nomination waited on the floor for a vote for almost two years, and his nomination was before the Senate for more than four years, before he was given an up or down vote on confirmation. Mr. Estrada's nomination has been on the floor for less than one month—not 20 months—and Senate Democrats have raised serious and legitimate concerns about the Senate proceeding to a final vote, concerning the incompleteness of the record, the lack of responsive answers to basic questions and the refusal to turn over memos equivalent to those provided in other nominations.

It was no secret that the Republicans delayed the nominations of Judge Marsha Berzon and Judge Richard Paez to the U.S. Court of Appeals for the Ninth Circuit for years, culminating in filibusters in 2000, just three years ago. After the Republican-controlled Senate repeatedly delayed action on their nominations—over four years for Judge Paez and over two years for Judge Berzon—Republicans engaged in a filibuster and cited the filibusters of Justice Fortas, Justice Rehnquist and others as precedents. At that time, Republicans argued that they were not setting new precedent.

As Senator Robert Smith stated during the debate on these two nominees:

> [I]t is no secret that I have been the person who has filibustered these two nominees, Judge Berzon and Judge Paez. The issue is, why are we here? What is the role of the Senate in judicial nominations? The Constitution gave the Senate the advise-and-consent role. We are supposed to advise the President and consent if we think the judge should be put on the court. . . .
>
> I was criticized by some for filibustering, that 'we are on a dangerous precedent' of filibustering judges. . . .
>
> Filibuster in the Senate has a purpose. It is not simply to delay for the sake of delay. It is to get information. It is to take the time to debate and to find out about what a judge's thoughts are and how he or she might act once they are placed on the court.

So, those who came before the Senate just prior to our recent recess and said that no Republican ever filibustered a Clinton judicial nominee were wrong, dead wrong. Senator SMITH was characteristically forthright about what he was doing.

Senator SMITH went on to explain:

> As far as the issue of going down a dangerous path and a dangerous precedent, that we somehow have never gone before, as I pointed out yesterday and I reiterate this morning, since 1968, 13 judges have been filibustered by both political parties appointed by Presidents of both political parties, starting in 1968 with Abe Fortas and coming all the way forth to these two judges today.
>
> It is not a new path to argue and to discuss information about these judges. In fact, Mr. President . . . [w]hen William Rehnquist was nominated to the Court, he was filibustered twice.
>
> Then, after he was on the Court, he was filibustered again when asked to become the chief Justice. In that filibuster, it is interesting to note, things that happened prior to him sitting on the Court were regurgitated and discussed. So I do not want to hear that I am going down some trail the Senate has gone down before by talking about these judges and delaying. It is simply not true.

This straight-forward Republican from New Hampshire proclaimed:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking "unprecedented" action, like the White House claim that our request for Mr. Estrada's work while paid by taxpayers was "unprecedented," is simply untrue. Republicans' desire to rewrite their own history is understandable but unavailing.

They cannot change the plain facts to fit their current argument and purposes. I note in passing how many Republicans now demanding a vote on Mr. Estrada, opposed cloture on Judge Berzon and Judge Paez. I have already noted how every Republican, many of whom are now insisting on a vote on the Estrada nomination, opposed even proceeding to consider the Paez nomination.

I also recall a motion that truly was unprecedented, the motion of Senator SESSIONS to recommit the Paez nomination to the Judiciary Committee after it had twice been voted out over a period of four years. In fact, Senator SESSIONS made a motion to indefinitely postpone the nomination of Judge Paez, and 31 Republicans voted in support of that motion, including most of the people on the other side of the aisle who have come to the floor to claim that the Constitution requires an immediate up or down vote on Mr. Estrada's nomination. After cloture was invoked, Senator SESSIONS made a motion to indefinitely postpone a vote on Judge Paez's nomination. The motion to indefinitely postpone failed by a vote of 31 to 67. After this motion failed on March 9, 2000 the day Paez was ultimately confirmed—Senator HATCH spoke about the unprecedented nature of that motion and admitted that there had been a filibuster on Paez's nomination. Here is what he said:

> I have to say, I have served a number of years in the Senate, and I have never seen a "motion to postpone indefinitely" that was brought to delay the consideration of a judicial nomination post-cloture.

Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

While some Republicans would prefer to ignore that filibuster of this Ninth Circuit nominee in their quest to move as quickly as possible on the Estrada's nomination, but that would be to ignore the recent history of their conduct.

There were likewise two judicial nominees in 1994 whom the Republicans filibustered. Judge H. Lee Sarokin, nominated by President Clinton to the Third Circuit, was a qualified nominee who served as a Federal district judge for 15 years. He was opposed by conservative Republicans who argued, among other things, that he was too liberal. Senator Thurmond led the filibuster against Judge Sarokin in calling him a "liberal judicial activist." That effort to defeat Judge Sarokin failed.

In 1994, the Republicans also used delay tactics to block the nomination of Judge Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit. Judge Barkett was criticized by those on the other side of the aisle as being a judicial activist. Senators Thurmond and SPECTER led the opposition to Barkett. After announcing the Republican intention to filibuster the nomination, Democratic Majority Leader George Mitchell stepped in and filed a cloture motion.

I could describe other filibusters in detail, such as the Republican filibuster of Justice Breyer to be on the U.S. Court of Appeals for the First Circuit in 1980. And I could quote those on the other side of the aisle, who have said time and time again how important it is to debate a nominee and to scrutinize a nominee's record and views. In 1997, Senator HATCH said that he had "no problem with those who want to review these nominees with great specificity" and, in fact, he supported such efforts while chairman of the Judiciary Committee and reviewing the nomination of a Democratic President.

So, when Republicans say that a filibuster or extended debate on judicial nominees is unprecedented. I would like to ask them about their filibusters and extended debates on Judge Berzon, Judge Paez, Judge Sarokin, Judge Barkett. And, I would like to ask them about all the other judicial nominees and executive nominees that they defeated through deliberate inaction, anonymous holds, or other extreme delaying tactics.

Of course, this debate on the Estrada nomination is not, given the definition used by Republicans, a "true filibuster." As the statements of the Democratic Leader and the exchange that I had with Senator BENNETT and Senator REID on February 12 made clear and as should be plain to all, we are seeking cooperation and information before proceeding to a vote. The current debate could have been shortened had the Administration at any time since last May shown any interest in working with us. It has not. Despite the efforts we have made, including the Democratic leader's letter on February 11 seeking accommodation and pointed the way out of this impasse, the Administration has steadfastly refused all of our efforts to work through these difficulties. The administration is intent on forcing this confrontation and division. That is too bad.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that editorials concerning the Estrada nomination from the Portland Oregonian, the Omaha World, and the Los Angeles Times, and an article on the same topic by Chris Mooney that appeared in TomPaine.com, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Jan. 13, 2003]

BUSH'S FULL-COURT PRESS

There are at least two explanations—one even more cynical than the other—for President Bush's renomination last week of Judge Charles W. Pickering, a man the Senate rightly rejected last year for a seat on the federal appeals court.

Perhaps Bush really didn't mean it last month when he denounced as "offensive . . . and wrong" Mississippi Sen. Trent Lott's nostalgic musings about the segregated South. The Republican Party has long tried to have it both ways on race: ardently courting minority voters while winking at party stalwarts who consistently fight policies to establish fairness and opportunity for minorities. Even Bush has not always been above such doublespeak, encouraging African Americans to vote GOP and touting his Spanish-language facility on the campaign trail as a come-on to Latino voters even as he dropped in at Bob Jones University, which, until three years ago, barred interracial couples from sharing a pizza.

Bush's renomination of Pickering, a man whose law career is unremarkable but for his longtime friendship with Lott and his dogged defense of Mississippi's anti-miscegenation laws, throws another steak to the far right and sand in the eyes of most Americans.

There could be another explanation for Bush's decision, just weeks after denouncing Lott, to again shove Pickering on the American people. Perhaps the president doesn't really care whether Pickering, whom he's indignantly defended as "a fine jurist . . . a man of quality and integrity," is confirmed.

Maybe Bush calculates that Sens. Edward M. Kennedy (D–Mass.), Charles E. Schumer (D–N.Y.) and others, justly incensed that the judge is back before them, will embarrass a Republican or two into joining them and defeat his nomination a second time. The president may be figuring that if they can call in enough chits on Pickering, the Democrats won't have the votes to stop the many other men and women he hopes to place in these powerful, lifetime seats on the federal bench.

None of those nominees can be tarred with Pickering's in-your-face defense of segregation. But many, including Texas Supreme Court Justice Priscilla Owen, lawyers Miguel Estrada and Jay S. Bybee, North Carolina Judge Terrence Boyle and Los Angeles Superior Court Judge Carolyn B. Kuhl, share a disdain for workers' rights, civil liberties guarantees and abortion rights. Their confirmations would be no less a disservice to the American people than that of Pickering, who now has been nominated two times too many.

[From the Omaha World-Herald, Feb. 13, 2003]

ANSWERS, PLEASE

NOMINEE ESTRADA REFUSES TO DISCLOSE JUDICIAL VIEWS, PHILOSOPHIES TO THE SENATE

A filibuster is a drastic tactic. In regard to federal judicial nominees, we would typically be against it. Now, Senate Democrats have promised to use it to stall a confirmation vote on judicial nominee Miguel Estrada. Yet given the current tight-lipped atmosphere, we understand what is pushing them in that direction.

Both sides agree that Estrada, nominated by President Bush to the District of Columbia Court of Appeals, has exceptional legal credentials. However, he has refused to answer many basic yet important questions, giving senators scarcely any way to assess his judicial temperament. Democrats contend, rightly or wrongly, that Bush seeks to pack the federal courts with hard-right "stealth" activists, and Estrada personifies that goal.

Estrada would not tell senators which judges he might use as role models if he were appointed to the bench, for instance. That is a forthright question. The answer sheds light on a nominee's thinking and potential judicial approach. He also declined to say which Supreme Court opinions he disagreed with, another fundamental query.

Most judicial candidates won't, and shouldn't, give their personal views on a broad-brush basis—in effect judging hypothetical cases in advance. But Estrada, who has been mentioned as a potential Supreme Court justice, went beyond that—refusing to discuss well-known prior cases because, he said, he had no firsthand knowledge.

Judicial philosophy is important as senators considers an appointment to the court that has been called the second most important in the land after the Supreme Court. The D.C. appeals court considers, among other issues, many challenges to federal environmental regulations. And Estrada's views of, for instance, federalism vs. states' prerogatives would be crucial.

The president and Republican leaders have charged that Democrats don't want to approve a Hispanic conservative, an implicit accusation of racism. But Estrada isn't universally popular with Hispanic groups, either. One, the Puerto Rican Legal Defense and Education Fund, said he has "made strong statements that have been interpreted as hostile to criminal defendants' rights, affirmative action and women's rights."

In fairness, Democrats aren't above playing their own political games. They change that Estrada "lacks judicial experience," as if that were a disqualifying flaw. Before their appointments, most of the members of the D.C. appeals court "lacked judicial experience" much as Estrada does.

We agree with a statement made by one senator several years ago: "I believe the Senate can and should do what it can to ascertain the jurisprudential views a nominee will bring to the bench in order to prevent the confirmation of those who are likely to be judicial activists. . . . It will require the

Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views."

That was Republican Sen. Orrin Hatch, today an Estrada booster, in regard to former President Bill Clinton's nominees. The sentiment was valid then, and it's valid now.

[From Tompaine.com]

BENCHING CONGRESS—THE RISING POWER OF THE JUDICIARY

(By Chris Mooney)

When it comes to President Bush's judicial appointees, Sen. Joe Biden of Delaware has traditionally been one of the most deferential Democrats; he opposed only three out of 102 nominees during the 107th Congress. So Biden's recent speech at a hearing on the appointment of Jeffrey Sutton, a staunch states' rights defender named to the U.S. Court of Appeals for the Sixth Circuit, came as something of a surprise. "You seem to have an incredibly restrictive view of the Congress' prerogatives," Biden warned Sutton. Noting that the Supreme Court reviews only a tiny fraction of cases from courts like the Sixth Circuit, Biden announced he was rethinking how the Senate should handle circuit court nominees. "[Appellate judges] have become the final arbiters in areas where I used to be able to say, 'I know the Court will review this,'" Biden said, adding that his staff was preparing a list of roughly 200 cases where courts of appeal have changed "basic law" without any review by the Supreme Court.

As the showdown begins over Bush's conservative judicial nominees—and Senate Democrats contemplate using their filibuster powers to block Miguel Estrada from a place on the U.S. Court of Appeals for the District of Columbia Circuit—it is important to remember this exchange. Sutton's history of states' rights advocacy, which included filing a brief on the winning side when the Supreme Court overturned part of the Violence Against Women Act (which Biden drafted), had clearly left Biden feeling leery about giving him a lifetime appointment to the bench. The senator got a taste of conservative judicial activism first hand, and he didn't like it one bit.

If more elected Democrats awaken to how their legislative powers are being snatched away by the federal judiciary the way Biden did, perhaps they too will resolve to fight harder against Bush's more radical conservative nominees. The key factor, after all, is the one Biden cited: The Supreme Court hears only about 80 cases a year, from all the circuit courts and state supreme courts combined. This compares with the tens of thousands of cases considered by Federal appellate courts. And because of the extreme rarity of Supreme Court review, "one could argue that the powerful actors in the United States who have the fewest real checks on what they do are federal appellate judges," as Georgetown law professor David Vladeck puts it. One existing check is the U.S. Senate's advice and consent role, yet from Michael McConnell to D. Brooks Smith, Senate Democrats thus far have allowed conservative after conservative to reach the federal bench.

Appellate judges interpret a huge chunk of the law that we live by. Even in simply applying Supreme Court precedent, they have immense sway, and they have it for life. The Supreme Court only "knocks out the broad contours" of the law, notes American University's Herman Schwartz; courts of appeal then fill in the blanks. For example, the conservative U.S. Court of Appeals for the Fourth Circuit recently ruled that the Clean Water Act allows mining companies to dump huge amounts of mountaintop rubble into rivers and streams, a process known as creating "valley fills." This "major victory for the mining industry," as The Washington Post put it, is precisely the sort of case that the Supreme Court never reviews. Due to the conservative tilt taken by the federal bench over the past two decades, environmental groups have become more or less resigned to these pro-business rulings. So have labor, civil-rights groups, and other liberal constituencies.

Appellate judges can't initiate legislation or make policy decisions, of course. But that's about the only sense in which they don't wield considerably more power than House members or even some senators. Whereas legislators have to sway a large group of colleagues in order to get a law passed, appellate judges need only one ally on a three-judge panel in order to rule the way they want. And most laws passed by legislators, at least controversial ones, inevitably end up being challenged in federal court and heard on appeal. Given all this, plus the fact that seven of the nine current Supreme Court justices were appellate judges first, it's something of a wonder how little attention has been paid to the ongoing battle over the judiciary, especially compared with the extensive press coverage leading up to—and following—last year's elections. Instead all we get from the mainstream media are one-shot stories that have much more to do with how the nomination battles are waged than what's really at stake.

And appellate judges don't merely exert their power over Congress by overturning laws. They also police the federal regulatory state. Congress, after all, delegates a significant part of its lawmaking mandate to regulatory bodies like the Environmental Protection Agency. Indeed, Congress regularly sets up entire new agencies, like the Department of Homeland security, to implement its wishes. But when these expert agencies try to carry out their mandates, they frequently find their actions challenged in federal court. Once again, appellate judges make the difference when it comes to whether a regulation will be allowed. They often second-guess laboriously prepared administrative rules, but rarely have their actions reviewed by the Supreme Court.

For precisely this reason, the appellate court most responsible for ruling on federal agency decisions, the U.S. Court of Appeals for the District of Columbia Circuit, is also considered the second most powerful court in the nation. Many Senate Democrats know this. That's why they're having such a tough time weighing the pluses and minuses of filibustering Estrada's nomination. The Wall Street Journal editorial page, which rallies the right's troops on judicial nominations, recently wrote that Democrats "have no reason to oppose Mr. Estrada other than the fact that he is a conservative who also happens to be Hispanic." Well, what about the fact that Estrada could be in a position to gut laws Democrats pass?

Take a closer look at the sort of cases Estrada will be deciding if he makes it to the D.C. Circuit. One well known D.C. Circuit environmental case was 1994's Sweet Home Chapter of Communities for a Great Oregon v. Babbitt, a case over applications of the Endangered Species Act. In this case, a conservative-leaning panel of the D.C. Circuit overturned a Department of the Interior regulation protecting species habitat, ruling that the Department couldn't consider "significant habitat modification that leads to an injury to an endangered species" as "harm" under the act. The ruling stood for over a year before being overruled by the Supreme Court. But then, most D.C. Circuit rulings are never reviewed at all—Sweet Home v. Babbitt was exceptional in that respect. In other cases, the D.C. Circuit has rolled back regulations to protect wetlands, corporate average fuel economy (CAFÉ) standards, and much more. And that's just in the environmental arena.

The D.C. Circuit has recently regained a degree of ideological balance. But that won't last if Bush's nominees reach the court. And with a conservative D.C. Circuit prepared to upend regulatory actions as it sees fit, legislators would be foolhardy to assume that administrative agencies will actually be able to implement the laws they pass intact.

Of course, some will inevitably object to the power comparison between appellate judges and members of Congress, and perhaps even consider it demeaning to the judiciary. They will point out that appellate judges have a duty to apply Supreme Court precedent, and in many or most cases these judges probably do just that. But even the majority of judges, acting in good faith, have considerable wiggle room under the "broad contours" laid out by the Supreme Court. That's what Sen. Joe Biden seems to have figured out, anyway.

Moreover, it has become increasingly clear just how often appellate judges are completely on their own—and how willing they are to use their powers. In the past decade we have witnessed an unprecedented push among conservative judges to invalidate acts of Congress on the basis of a radical reinterpretation of the constitutional relationship between the states and the federal government, sometimes called the "New Federalism" (though it has its origins in the philosophy of the original opponents of the U.S. Constitution, the anti-Federalists). This push has had plenty of legal cover, of course, but in effect it has been a clear attempt to wrest power away from Congress. Why shouldn't Senators try to wrest some of that power back?

They can start with Miguel Estrada.

[From the Oregonian, Mar. 3, 2003]

JUDICIAL POWER TRIP

The partisan battle in the Senate over one of President Bush's nominees to a federal judgeship escalated last week with the addition of three more conservative nominees.

This is a high-stakes contest that encompasses more than a handful of judicial appointments; it represents a naked grab at power and an attempt to stack the federal courts in favor of an ultra-conservative ideology.

For nearly three weeks, Democrats have delayed a vote on Miguel Estrada, Bush's nominee to the U.S. Court of Appeals, District of Columbia Circuit. In Senate Judiciary Committee hearings, Estrada simply refused to answer many of Democrats' questions.

The battle has led to ugly name-calling, including the charge that Democrats are treating Estrada differently because he is Latino.

That's simply preposterous. Eight of the 10 Latino appellate judges currently seated in the federal courts were appointed during the Clinton administration.

Republicans should be more careful using the ethnic card. They had no trouble holding up hearings on Latino candidates who were nominated by President Clinton. They used every tactic available to stall scads of Clinton nominees, including anonymous holds on Judge Sonia Sotomayor to the Second Circuit and a four-year delay on Judge Richard Paez to the Ninth Circuit.

Some critics have charged the Democrats are trying to extract payback. Of course, they may have overlooked that the Senate has confirmed 100 of Bush's judicial nominees.

Raising the stakes late last week, Senator Orrin Hatch, R-Utah, chairman of the Judiciary Committee forced committee approval of three more of Bush's controversial nominees. While the tactic seems designed to get some of the president's conservative nominees approved, this isn't a fight about one nominee or three or four.

The fight shows a majority trying to install one point of view and a president who has shown himself to be more doctrinaire than he gave any inkling of before his narrow success in the 2000 election.

In the case of Estrada, it is hard to know what he believes or how he would behave as a judge. He is a graduate of Harvard Law School and was a clerk for U.S. Supreme Court Justice Anthony Kennedy, but little is known about his views. He has an obligation to explain himself.

Ironically, Hatch was outspoken about the need for inquiry into nominees' view when Clinton was in office.

In the best of all possible worlds, it is better to have a judiciary of nonpartisan independent thinkers. But the process of nominating and confirming court appointments has always been far from ideal.

Democrats mustn't cave on this. The fairness and credibility of the nation's courts depend on senators finding a reasonable compromise. Moderates within the president's party should also reconsider their lockstep loyalty.

The balance of power between the executive and the legislative branches is being tested. As Senator Ted Kennedy pointed out last week, the Founding Fathers "did not intend for the Senate to be a rubber stamp."

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

MOSCOW TREATY

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now proceed to the consideration of Executive Calendar No. 1, which the clerk will report.

The senior assistant bill clerk read as follows:

> Resolution of Ratification to Accompany Treaty Document 107-8, Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, the treaty we consider today, known officially as the treaty between the United States of America and the Russian Federation on strategic reductions, is truly remarkable in many respects.

The treaty is, of course, remarkable because it encompasses the most dramatic reductions in strategic nuclear weapons ever envisioned between two nuclear powers. It is also worth noting that not since 1954 have the two parties held such a low number of strategic nuclear weapons as that which will be enforced by the agreed numerical limits of this treaty.

Many have observed the extraordinary ease by which this treaty was negotiated and compare its three short pages—indeed, it is just three short pages—to the many thousands of pages of documents negotiated between the United States and the Soviet Union during the cold war.

This last point is, for me, the most significant of all, for as important as the substance of this treaty is, it is the form—the trust between the United States and Russia—that most shines through.

Perhaps this treaty should be known by the epitaph: "Cold War RIP," for it is not unreasonable to hope that this treaty represents and indeed reflects the close of a long era of hostility between these two nations.

In the past few weeks, I and many of my colleagues have had the opportunity to meet with a variety of Russian Government officials who have become regular and welcome visitors in Washington, DC. I am struck with the degree to which these meetings are about routine matters. We do not agree on everything, but what is most remarkable to me is we do not disagree on everything.

The United States and Russia are entering a new era of relations. Our two nations confront many of the same challenges in today's world, and we have found common cause in responding to the immediate threat of international terrorism. Intelligence sharing and joint action between our two governments has made both of our countries much safer. We seek broader cooperation between our institutions of government, and to that end, I am hopeful the Senate will be able to enter into a deep and longstanding relationship with the upper House of the Russian legislature, the Federation Council. This indeed will build on the excellent work that was initiated and done by my distinguished colleague in the Senate, Senator LOTT from Mississippi.

Finally, we seek to advance the growing economic relationship between our two countries. Toward that end, I will strongly support legislation to permanently remove the Russian Federation from the Jackson-Vanik agreement.

I thank Senators LUGAR and BIDEN for their fine efforts to bring this treaty to the Senate floor in a timely manner. When this treaty was submitted to the Senate, the administration set the not unreasonable expectation that the resolution of ratification not exceed the treaty in length. The committee has indeed met that goal in providing the Senate with a well-crafted resolution of ratification that nonetheless addresses several key elements of Senate prerogative.

I congratulate Chairman LUGAR and Senator BIDEN for their fine work.

Finally, I trust that all Senators have indeed had time to review the committee report on the treaty. It is my hope those who wish to discuss it will do the managers the courtesy of coming forth to speak. Although amendments are in order, I think it would be a worthy tribute to the work of the Foreign Relations Committee to support this resolution in its current form. I look forward to its approval.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the distinguished majority leader for his thoughtful commendation of the work of our committee. I appreciate especially the strong endorsement he has given to the treaty and to the procedures that have brought us to this day.

On behalf of the Committee on Foreign Relations, I am honored to bring the Treaty on Strategic Offensive Reductions, better known as the Moscow Treaty, to the floor for Senate consideration and ratification. The treaty was signed on May 24, 2002, and was transmitted by President Bush to the Senate on June 20, 2002. It reduces operational deployed strategic nuclear warheads to a level of between 1,700 and 2,200 by December 31, 2012.

This is truly a tremendous accomplishment and deserves the full support of the Senate and the Russian Duma. I believe this treaty is an important step toward a safer world.

The Foreign Relations Committee held four hearings and numerous briefings on the treaty, starting in July of last year, under the chairmanship of Senator JOE BIDEN. I thank Senator BIDEN and his staff for the timely consideration the treaty received and for the many opportunities provided to members of the committee to hear testimony and to engage in conversation with experts from the administration and from the private sector.

Moreover, during the last 2 months, Senator BIDEN has been an indispensable partner in constructing this resolution of ratification. Its provisions reflect our mutual efforts to construct a bipartisan resolution that could be broadly supported by the Senate.

The resolution, in fact, was approved unanimously by the Foreign Relations Committee. We are hopeful of a very strong vote on the Senate floor.

During the course of the committee's consideration of the Moscow Treaty, we received testimony from Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, and the Chairman of the Joint Chiefs of Staff, Richard Myers. Each expressed a strong desire for an overwhelming vote of approval. In addition to administration witnesses, we heard from the Director of the Arms Control and Disarmament Agency, Ken Adelman; from the former commander in chief of U.S. Strategic Command, GEN Gene Habiger; and our former colleague, Sam Nunn; as well as numerous representatives of think tanks and interest groups.

In addition to efforts undertaken in the Foreign Relations Committee, Senators LEVIN and WARNER and the Committee on Armed Services conducted two hearings examining the military implications of the treaty and shared analysis of their findings with us. These letters have been made a part of the record and our committee report.

Furthermore, the Intelligence Committee conducted a thorough review of the treaty's verification procedures through numerous members only and staff briefings. The Committee on Foreign Relations appreciates the expertise of our colleagues on the Intelligence Committee and what they have lent to this process.

President Bush and President Putin have assigned a high priority to the timely ratification of the Moscow Treaty. Both point to the treaty as evidence that the U.S.-Russian relationship has turned the corner. Areas of disagreement clearly remain, but we are attempting to develop a partnership in the war against terrorism, and both Russians and Americans believe that political and economic cooperation can increase dramatically in the coming decade.

On May 1, 2001, in a speech at the National Defense University, President Bush called for a new strategic framework to transform our relationship with Russia "from one based on a nuclear balance of terror to one based on common responsibilities and common interests."

Less than 8 months later, President Bush announced his intention to reduce our nuclear levels unilaterally and invited President Putin to implement similar reductions. This was the beginning of a process that led to a treaty signing during the summit in Moscow last year.

The Moscow Treaty is unlike arms control agreements we have considered in the past. I remember vividly, as do many of our colleagues, visiting the START I and START II treaty negotiations. The United States and the Soviet Union faced off against each other, against conference tables. They met for years. These negotiations produced extensive treaties and verification annexes that described in detail the requirements mandated by the treaties.

To be sure, the treaty before us today could have been more expansive, rigid, and demanding. The negotiators could have followed the cold war template for arms control negotiations and entered into a multiyear discussion process. That procedure did not serve the best interest of either side. Both sides, Americans and Russians, wanted to move quickly to capitalize on the opportunity to sharply reduce strategic weaponry.

The agreement benefits not only the cause of arms control, but also the broader United States-Russia relationship. In my opinion, President Bush was wise to conclude the treaty quickly in this form rather than enter into a more lengthy and uncertain negotiation process.

Russian strategic and nuclear forces are declining. Russian leaders have indicated they would prefer warhead levels to be less than 2,200 by 2012. In fact, Moscow pushed for a limit of 1,500 nuclear warheads and settled for a range of 1,700 to 2,200. It would appear that Moscow is reluctant to accept the resource tradeoffs necessary to maintain a larger force. President Putin inherited a force structure that already was moving toward the deep reductions necessary for START II implementation. Faced with continued resource constraints, he decided to limit further spending on strategic forces while seeking a new treaty to limit the United States and Russian forces in a predictable manner.

In the past, most critics of strategic arms control treaties objected to the constraints these treaties placed on U.S. forces. They often alleged the treaties would expose U.S. security to unnecessary risk. Critics of the Moscow Treaty, however, have made the opposite complaint. They have said the treaty's constraints do not go far enough. Various analysts have suggested the treaty should include a verification system requirement to dismantle warheads, a specific reduction schedule, and provisions dealing with tactical nuclear weapons.

I share some of the concerns expressed by these critics, but the treaty is an important step forward because it maintains the momentum of an arms control process that has been successful.

The treaty provides a mutual framework for continuing the destruction of offensive nuclear weapons whose purpose was to target the United States of America. It also underscores the importance of the United States-Russia relationship at a time when we are depending on Russian support for the war on terrorism.

Nevertheless, important questions remain and will be discussed during this debate. What happens to the nuclear warheads taken from dismantled Russian delivery systems? I have confidence in the United States storage procedures and appreciate the flexibility the treaty permits in our strategic systems, but I am concerned with the parallel Russian process. We must work with Russia to make certain that these dangerous weapons do not fall into the wrong hands. However, there are readily available means to address these deficiencies.

The primary vehicle for cooperation in reducing warheads to levels set by the Moscow Treaty and addressing the threat posed by warhead security is the Nunn-Lugar cooperative threat reduction program. Without Nunn-Lugar, it is unlikely that the benefits of the treaty will be realized.

During consideration of the treaty, the committee heard testimony from Secretary Powell asserting that increased Nunn-Lugar assistance would serve as a foundation for the cooperation necessary to meet Russian obligations under the treaty and as additional means of verifying that those obligations are met.

My concerns about treaty implementation are compounded by the impasse we experienced over the Nunn-Lugar certification process last year. Each year, our President is required by law to certify that Russia is "committed to the goals of arms control." In 2002, the administration requested a waiver to this condition, pointing out that unresolved concerns in the chemical and biological arenas made this difficult. Meanwhile, existing Nunn-Lugar activities and projects were permitted to continue, but no new projects were initiated and no new contracts were finalized.

President Bush requested a permanent annual waiver to the Nunn-Lugar legislation so we could continue with important work. But some in Congress preferred just a 1-year waiver or no waiver at all. Without a permanent waiver, the President would be forced to suspend dismantling assistance each year pending congressional action to waive the requirement. This could lead to delays of up to 6 months or more, just as we experienced last year.

Let me assure my colleagues, this is not a hypothetical situation. It just happened to us. For more than 6 months, submarines on the Kola Peninsula awaited destruction. Regiments of SS–18 missiles loaded with 10 nuclear warheads apiece were left standing in Siberia, and almost 2 million rounds of chemical weapons in relatively transportable shells awaited elimination at Shchuch'ye. But the Nunn-Lugar program was powerless to address these threats because of congressional conditions drafted over a decade ago.

American dismantlement experts in Russia were forced to wait and watch as these dangerous weapons systems sat in their silos, docks, or warehouses while the conference committee process between the two Houses of Congress dragged on through the summer.

Without the changing of congressional conditions on the legislation or the granting of a permanent Presidential waiver, the current situation could reoccur in the years ahead. To say the least, this would delay full implementation of the Moscow Treaty far beyond the envisioned 10-year time period: namely, 2012.

Let me be clear. The Moscow Treaty alone is insufficient to meet our security needs. The treaty is part of the answer, but without cooperative threat reduction, dismantlement, and warhead security projects, the agreement will not reach its potential in a timely manner.

Critics of the Moscow Treaty suggest this lack of a new verification regime is a weakness that must be rectified. Some have gone so far as to suggest the treaty be shelved until verification is strengthened. But this point of view sees the treaty through a cold war prism when cooperative threat reduction programs did not exist and both sides were trying to maximize strategic nuclear force levels.

The Bush administration has been forthright in its recognition of the lack of a verification provision in the Moscow Treaty, including statements in the President's letter of transmittal and the testimony of Secretary Powell before the Foreign Relations Committee.

The administration's views on verification of the treaty are based upon three basic assumptions: First, the United States and Russia have moved beyond cold war tensions, and the United States would have undertaken these reductions of nuclear warheads regardless of Russia's view—unilateral disarmament. Second, the national security interests of the United States are better served through the flexibility of the Moscow Treaty. And third, Russia is unlikely to have the means or the incentives to violate or withdraw from this agreement.

I believe the level of verification of the Moscow Treaty is sufficient. American verification experts will have the START I treaty verification procedures in place throughout at least 2009. But perhaps more importantly, the Nunn-Lugar program has placed American dismantlement teams and equipment on the ground in Russia now. These teams work on a daily basis with their Russian counterparts to safely dismantle weapons systems. For example, at Surovatika, U.S.-provided equipment is routinely dismantling four ICBMs per month. It is hard to imagine a more complete means by which to verify the dismantlement of weapons than the systematic work occurring under cooperative threat reduction at Surovatika.

Senator BIDEN and I met with President Bush last June to discuss Senate consideration of the treaty, just after the President returned from his visit at the Moscow Summit. We committed to moving the treaty forward in a responsible, bi-partisan, and expeditious manner. The resolution before us today is a product of close cooperation and consultation. I am pleased to report that it enjoys the strong support of the administration.

The resolution of ratification contains two conditions and six declarations. I would like to describe each of these provisions for the Senate.

The first condition requires the President to submit to the Foreign Relations and Armed Services Committees an annual report on the amount of Nunn-Lugar cooperative threat reduction assistance that Russia will need to meet its obligations under the Treaty. As I mentioned earlier, without U.S. assistance, Russia cannot meet the timetable of its obligations under this treaty. Without the Nunn-Lugar program, it is likely the benefits of this treaty will be postponed or never realized.

The second condition requires the President to report to the Foreign Relations and Armed Services Committees on important items related to the treaty, including: 1, Strategic force levels; 2, planned offensive reductions; 3, treaty implementation plans; 4, efforts to improve verification and transparency; 5, status of START I treaty verification extension; 6, information regarding the ability of either side to fully implement the treaty; and 7, any efforts proposed to improve the effectiveness of the treaty.

The report contained in this condition must be submitted within 60 days of the exchange of instruments of ratification of the Treaty and by April 15 of each following year. The extensive nature of this report protects our critical Senate role in oversight of implementation and ensures that this body will remain an integral part of the process throughout the treaty's life.

The first declaration has been in each resolution of ratification for arms control treaties since the INF Treaty's resolution of ratification in 1988. It is known to colleagues here as the Byrd-Biden Condition. The condition articulates the Constitutional principles on which the common understanding of the terms of a treaty will be based.

The second declaration encourages the President to continue efforts to eliminate the threats posed by strategic offensive nuclear weapons to the lowest level possible while not jeopardizing our country's national security or alliance obligations. Secretary Powell stated in his testimony before the Foreign Relations Committee that "the Moscow Treaty represents significant progress in meeting the obligations set forth in Article VI of the Nonproliferation Treaty." This treaty takes another step in meeting the U.S. and Russian commitments under the Nonproliferation Treaty.

The treaty establishes a Bilateral Implementation Commission, as a diplomatic consultative forum to discuss issues related to implementation of the Treaty. The resolution's third declaration calls on the Executive Branch to provide briefings before and after meetings of the commission concerning: 1, issues raised during meetings; 2, any issues the United States is pursuing through other channels; and 3, Presidential determinations with regard to these issues. This provision has been included to ensure that we remain fully aware of the activities of the Bilateral Implementation Commission.

During the hearings on the treaty, Secretary Powell and Secretary Rumsfeld testified that non-strategic nuclear weapons remain an important issue and expressed a strong interest in working closely with Russia to reduce associated threats. The resolution's fourth declaration is meant to underscore the threat posed by tactical nuclear weapons. It urges the President to work closely with Russia and to provide assistance on the full accounting, safety, and security of the Russian tactical nuclear weapon stockpile.

In 1991, President George H. W. Bush and Mikhail Gorbachev announced the removal of their deployed nonstrategic nuclear weapons. In Helsinki in 1997, Presidents Clinton and Yeltsin agreed to begin talks on these weapons, but negotiations have failed to materialize.

Secretary Powell has reported that the inclusion of tactical nuclear weapons was not possible in the Moscow Treaty. Thus far, Russia has declined to engage in discussions on the future of non-strategic systems. This declaration is meant to communicate the Senate's concerns about the threats associated with non-strategic weapons. It is our hope that there will be further dialogue and, if possible, greater efforts to secure these systems.

The fifth declaration encourages the President to accelerate U.S. reductions where feasible and consistent with U.S. national security requirements so that reductions may be achieved prior to December 31, 2012.

The final declaration has been included in an attempt to address concerns put forward by some Senators regarding the treaty's withdrawal clause in Article IV. This text follows up on Secretary Powell's commitment to consult with the Senate should the President consider the utilization of the withdrawal provision.

The Foreign Relations Committee asked the Secretary: "What role will the Congress have in any decision to withdraw from this treaty?"; and "Will the administration agree to at least consult closely with this committee before making any such decision?" The Secretary responded that: "While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action."

While I am sympathetic to arguments from Senators regarding the need to maintain Senate prerogatives, the process governing termination and withdrawal is a point of Constitutional debate. Although the Constitution assigns a specific role for the Senate in the treaty ratification process, it is silent on the is due of treaty termination. Furthermore, nothing in the Constitution restricts the President from terminating or withdrawing from a treaty on his own authority.

Presidents have consistently terminated advice and consent treaties on their own authority since 1980. Twenty-three of the thirty treaties terminated during this period were bilateral; seven were multilateral. Prior to 1980, Senator Barry Goldwater challenged Presidents Carter's termination of the Mutual Defense Treaty with Taiwan. Senator Goldwater's challenge failed and the treaty was terminated. Since that time, objections have been raised only with respect to Presidents Bush's withdrawal from the ABM Treaty.

The White House Legal Advisor has long argued that the President is the principle spokesman of the nation in foreign affairs and restrictions on the power have been strictly construed.

Given the absence of a textual basis conferring the termination power on another branch or an established practice derogating from the President's termination power, it is difficult to envisage such a role for the Senate.

Proponents of a Senatorial role in this process will often respond by suggesting that the President cannot on his own authority terminate a treaty because it is the "law of the land." Again, the White House suggests this is a fallacy. A terminated treaty no longer has effect in much the same way that a provision of a law or treaty found by the courts to be unconstitutional no longer has effect. However, in neither case is the law repealed.

Historically there is evidence of only one instance in which the Senate sought by a resolution of advice and consent to limit the President's constitutional power to terminate a treaty. The first condition to the 1919 proposed resolution of advice and consent to ratification of the Versailles Treaty would have provided: "notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States." Vice President Thomas Marshall, addressing the Senate before the vote, called the condition an unconstitutional limitation on the President's powers—a view with which a number of leading scholars of the day concurred. However, the resolution failed to receive the required two-thirds vote and the question has remained moot for the better part of a century.

Beyond the legal issues which underlie this debate, some have expressed concern that Article IV differs from previous arms control agreements in that it only requires three months notice and permits withdrawal based upon issues related to national sovereignty. Critics point out that the START Treaty allows a Party to withdraw, after giving 6 months' notice and only "if it decides that extraordinary events related to the subject of this Treaty have jeopardized its supreme interests."

I do not view the withdrawal provisions as a weakness in the treaty. Instead, I believe it is another manifestation of the improved U.S.-Russian relationship. It should also be pointed out that our bilateral relationship provides us with some confidence that the time and reasons for withdrawal would not necessarily relate to the agreement. As the Secretary of State told the Committee: "The Moscow Treaty's formulation for withdrawal reflects the likelihood that a decision to withdraw would be prompted by causes unrelated either to the Treaty or to our bilateral relationship. We believe this formulation more appropriately reflects our much-improved strategic relationship with Russia."

Mr. President, in performing its constitutional responsibilities with respect to treaties and international agreements, the Senate has to reach a judgment as to whether, on balance, U.S. acceptance of the obligations contained in the treaty serves the national interests of the United States.

The Moscow Treaty is not without blemishes. The Senate should not be surprised that the treaty is not perfect or that it does not cover every desired area of bilateral arms control. But that is not the point. The proper question is whether on balance, the Moscow Treaty serves the national security of our nation.

For some, no arms control treaty is good enough. Indeed, the very high stakes of the cold war and the fact that arms control cheating by the Soviet Union represented a potential threat to the survival of the United States led to a legitimate focus on treaties with high standards, especially for verification and the ability to detect even minor violations.

The cold war is over, and treaty requirements must suit U.S. national interests as they exist today. The Moscow Treaty charts a course towards greater security for both the United States and Russia. I urge my colleagues to ratify this treaty and approve the resolution of ratification without amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I am pleased to join our esteemed chairman, Senator LUGAR, in presenting the Senate this resolution giving the Senate's advice and consent to ratification of the Treaty on Strategic Offensive Reductions, known in the vernacular as the Moscow Treaty. Let me state flatly at the outset, I urge my colleagues to support the treaty.

On February 5, as Senator LUGAR noted, the Senate Foreign Affairs Committee approved this resolution unanimously. The committee did so, in my view, for two very good reasons.

First, the Moscow Treaty should be ratified and implemented. It is true that there is much that the Moscow Treaty does not do, which I will discuss at some length. But virtually all of the witnesses at our hearing recommended the ratification of the treaty because its implementation would be a step toward a more secure world. Reducing each nation's deployed strategic warheads from approximately 6,000 to between 1,700 and 2,200, in my view, will move us further away from the cold war era and may—I emphasize may—and I hope promote a United States-Russian relationship based upon mutual cooperation.

Second, in my view, while the resolution does not include everything we may want, it does address many of our concerns. It requires significant annual reporting by the executive branch on implementation of the treaty so that the Senate can oversee and support that implementation. These are important gains from an administration that first opposed any treaty at all and then pressed for a clean resolution of ratification. The administration has agreed to support and implement this resolution before the Senate. I think the country will benefit from that.

But there is much the Moscow Treaty does not do. So in the spirit of not engaging in false advertisement, I think we should speak about that a little bit. It is very unusual, at least in my 30 years as a Senator working on many arms control agreements from the Senate perspective, that an arms control agreement by any standard be put forward the way in which this one has.

In our hearings, the Secretary of Defense proudly compared the three pages of this treaty to the roughly 300 pages of the START treaty signed by the first President Bush. But that is just the beginning. Traditional arms control agreements usually involve the negotiated level of arms to which the parties will be held. They usually require the destruction of some weapons. Often they specify milestones that must be achieved in reducing those arms and bar withdrawal from the treaty unless there is a good reason to withdraw and the President gives or the other side gives 6 months notice.

For decades, there has been emphasis on verifying that each party is complying with its obligations. We remember the famous phrase uttered by former President Reagan: Trust but verify.

In addition, the United States worked to ban MIRV ICBMs in the START II treaty. I know the Presiding Officer knows, but for those who may be listening, the MIRV'd ICBM is a single missile, a single rocket upon which multiple nuclear warheads sit and when the rocket goes off and the head of the missile comes off, it contains more than one nuclear warhead, and you can independently target each of those nuclear warheads, in the vernacular.

So we have thought for years and years, these are the most destabilizing weapons that existed, and we worked very hard, and the first President Bush worked very hard, to eliminate either side being able to possess these multiple warhead missiles with independently targeted warheads. It was contained in the START II treaty.

We were hoping in START III to control tactical nuclear weapons. They are the weapons that are shorter range and are used at shorter distances, referred to as tactical nuclear weapons. We had hoped to have a de-alerting of weapons slated for later elimination.

That is, the purpose we initially started off with was: Look, if we are agreeing we are going to get rid of these weapons, while we are going through the process of destroying them or taking them out of the silos or out of the bellies of submarines or out of the bellies of bombers, what we will do is we will de-alert them. That is, we will pull the plug. They will sit there, but they will not be aimed at anybody. They will not be on alert.

So for the longest time our objective, for stability reasons and for security reasons, was to get rid of multiple warheads, to make sure we move to include tactical nuclear weapons which are destabilizing so we begin to reduce them and, third, to say while we are getting ready to destroy these weapons, or take them out of the inventory, we will de-alert them. That is, not keep them on a hair trigger.

None of these objectives was achieved, or for that matter attempted, in the Moscow Treaty we are about to ratify—I hope ratify.

For starters, the United States unilaterally set this treaty's arms control levels before any negotiation. Indeed, the administration saw no particular reason for this treaty in the first place. Initially they said they would not do it as a treaty.

According to the Secretary of State:

> We concluded before the Moscow Treaty was negotiated that we could and would safely reduce to 1,700 to 2,200 operationally deployed strategic nuclear warheads, regardless of what the Russians did.

Secretary Powell reports that President Bush then told President Putin:

> This is where we are going. We are going there unilaterally. Come with us or not, stay where you are or not.

In short, the Moscow Treaty does not codify an agreement. Rather, it codifies two unilateral decisions to reduce strategic forces. That is not a bad thing, but it is not such a significant thing.

Another way in which the Moscow Treaty differs from previous arms control agreements is that it does not require the elimination of any missiles, any bombers, any submarines, or any warheads. As a result, each party is free to stockpile its officially reduced weapons.

We used to fight with our conservative friends on this floor who said we could not support such-and-such arms control treaty proffered from President Nixon through to President Ford and President Reagan and President Bush—we could not do it unless we were certain that the missile was destroyed, the warhead was destroyed, the submarine was destroyed. We used to hear what is going to happen is they are going to take these missiles and they are going to hide them in barns and they are going to hide them in the woods and they are going to hide them in camouflaged areas.

Let's be clear what this treaty does. It says you have to get down to 1,700 to 2,200 of these within the next 10 years or so, but all you have to do is take them out of commission. You don't have to destroy them. You can stockpile them. You can put them in a warehouse. You can pile them up in a barn for ready reload. You can take them back out. You don't have to destroy anything. That is in fact what the United States plans to do with many of its reduced weapons. They are reduced, not destroyed.

Trident submarines that are taken off nuclear patrol will be converted to other purposes—and could presumably be reconverted to carry strategic nuclear weapons, although at some cost.

Bombers will also be converted; actually, their re-conversion to strategic nuclear uses might be rather difficult.

According to recent press stories, the United States might use ICBMs to deliver conventional payloads. That would leave the missiles still available for use with nuclear warheads instead.

And the administration says that about three-quarters of the reductions may be made simply by "downloading"—that means by removing bombs and warheads from bombers and missiles, while leaving the delivery vehicles in service.

What happens to those "downloaded" warheads? Of the thousands of warheads that will be "reduced" by the United States, many—perhaps almost all—would be retained in some form of reserve status, available to be returned to action in months, weeks, or even days.

The Secretary of State did not indicate that some warheads would be dismantled. But the administration has yet to earmark a single type of warhead for dismantlement.

For years, now, the Air Force has been prepared to give up the W-62 warheads on its Minuteman Three missiles.

They will be replaced by the W-87 warheads that are removed from the Peacekeeper missile, which is to be retired. But the Defense Department seems incapable of letting go of the old warheads.

I will move on. The Secretary of State did indicate, though, that some warheads would be dismantled, but the administration is yet to earmark a single type of warhead that we are going to dismantle. My support for ratification of this treaty is based in part on the administration's assurances for the record that "some warheads are to be removed and will be destroyed or dismantled."

Since the statement was made, however, there has been no action by the executive branch to turn this into a reality. I expect the administration to live up to Secretary Powell's commitment. If it should fail to do so, this would endanger the process by which the Senate gives advice and consent to the ratification of not only this treaty but every treaty in the future.

An equal concern for me is the question of what the Russians will do with its reduced weapons. If it follows the lead of the United States, it will try to retain as many missiles and bombers as possible, and it will stockpile its downloaded nuclear weapons rather than dismantling them and disposing of the excess fissile material.

Under this treaty, Russia can do whatever it wants with its so-called reduced weapons. But we have a stake in Russia's decision on this. That is because of the risk that Russia will not adequately protect the weapons and nuclear materials it has stockpiled.

It is one thing for us to decommission, reduce our nuclear weapon and stockpile it. We have exceedingly tight security on such material.

The Russians have incredibly, incredibly insecure facilities because they lack the money to be able to maintain these secure facilities. I worry that if Russia does not destroy them, that they will find themselves—and we will find ourselves—susceptible to the clandestine sale or the actual stealing of these materials, and they will fall into the hands of people who do not have our interests at heart.

The only threat to our very existence is the accidental launch of Russian missiles, and that is why I still worry about the MIRV'd ICBMs. But perhaps the worst other threat to America is that some Russian nuclear weapons, or material with which they make them, could be stolen or diverted to rogue states or terrorist groups. The more weapons Russia stockpiles, the greater the risk not all of them will be properly safeguarded.

To combat that danger, our chairman cofounded the Nunn-Lugar program to assist the Soviet Union—and now its successor states—in meeting their arms control obligations.

Related programs in the Energy Department and the State Department help Russia to safeguard its sensitive materials, and to find civilian careers for its thousands of weapons scientists.

These programs will have a major role to play in the years to come. With Nunn-Lugar, we can enable Russia to destroy its old delivery vehicles rather than mothballing them. Russian officials have already decided they want to move in that direction.

Let me put something in focus, by the way. The entire budget for Russia for this fiscal year is roughly $40 billion. The entire Russian military budget is $9 billion.

My neighboring States of Pennsylvania and New Jersey have budgets bigger than all of Russia. I suspect if you added up all their law enforcement and prison-related budgets, it probably exceeds the entire defense budget of Russia.

Our defense budget, and I make no apologies for it, is between $350 and $400 billion. So I want us to keep this in focus. The ability of Russia to maintain and/or take the money to destroy this fissile material and mothball nuclear capacity is very limited, increasing the need for Nunn-Lugar, the threat reduction money, to be spent on American scientists with American contractors to go to Russia to destroy these weapons for them because they do not have the money to do it.

U.S. assistance can also help Russia to secure and dispose of its excess fissile material. That is the stuff that makes nuclear explosions. That is the stuff that is the product from which chain reactions, nuclear chain reactions start.

That is an urgent and continuing task, with or without this treaty.

I think the administration understands this. The Secretary of State has laid it out:

> U.S. assistance helps to improve the security of Russia's nuclear weapons by improving their physical protection (fencing, sensors, communications); accounting (improved hardware and software); personnel reliability (better screening); and guard force capabilities (more realistic training).
>
> These improvements are particularly important because Russia faces a difficult threat environment—political instability, terrorist threats, and insider threats resulting from financial conditions in Russia.

Translated: The Russian Mafia; translated: Departments seeking money to keep their folks employed doing things that are not in the interest of Russia, and clearly not in the interest of the United States.

The Secretary of State also assured the Committee that:

> . . . we intend to continue to work with Russia, under the Cooperative Threat Reduction, CTR program, when and to the extent permitted by law, to make its warhead storage facilities more secure.
>
> Such U.S. assistance will also increase the security of the Russian warheads made excess as provided in the Moscow Treaty.

The Secretary of State continued:

> If requested by the Russian Federation, and subject to the laws related to CRT certification, the Administration would be prepared to provide additional assistance for removing, transporting, storing, and securing nuclear warheads, disassembling warheads and storing fissile material, dismantling surplus strategic missiles, and disposing of associated launchers.

I am pleased that the administration accepts the need to use Nunn-Lugar and related programs in implementing this treaty, and that the 2004 budget request has a 9-percent increase for Nunn-Lugar.

That increase is probably spoken for, however, by the cost of building—belatedly—a chemical weapons destruction facility at Shchuch'ye. So I wonder, at least, whether enough fund are budgeted for Nunn-Lugar; I hope they are but I don't think they are.

And I hope that the President will prevail upon his own party in the House to give him more than temporary authority to waive certification requirements for these programs.

Nunn-Lugar efforts cannot achieve their maximum effectiveness if every year or so the funds dry up for months at a time, while waiting for Congress to permit another presidential waiver.

The laissez-faire nature of the Moscow Treaty is also evident in the timing of its reduction requirement.

This is very unusual. Under Article I of the Treaty, the reductions must occur "by December 31, 2012." Until that date, there is no reduction requirement. Indeed, until that date, there is nothing barring each party from increasing its force levels.

A party could even have more weapons than it has today, so long as it does not exceed START Treaty levels before that treaty expires in 2009. I don't expect that, of course, but there is nothing to prohibit it.

And what happens on December 31, 2012. The treaty expires.

If a party fails to achieve the reductions required by this treaty, the other party will have little recourse. The treaty codifies legally binding promises, but provides no way to make the Parties live up to them.

This is a very unusual treaty.

Most curious of all, perhaps, is the withdrawal provision in Article IV of the treaty. You might think that, with no obligations until the very last day of this treaty's existence, there would be little reason ever to withdraw from it. That is certainly what I think.

Just in case, however, the treaty has what is probably the most liberal withdrawal clause in any arms control treaty. A party can withdraw with only 3 months' notice.

There is no need for withdrawal to be due to "extraordinary events related to the subject matter of this treaty [that] have jeopardized its supreme interests," as is required in the START Treaty signed by the first President Bush.

Indeed, there is no requirement in this treaty to state any reason for withdrawal.

I hope the administration is correct in its view that we no longer need verification. The Secretary of State said, "in the context of this new relationship, a treaty with a verification regime under the Cold War paradigm was neither required nor appropriate."

It may be that we need not care what Russia does. That might explain why the Moscow Treaty leaves it to each party to decide what weapons it is reducing and how it will do that, and sets no benchmarks for measuring progress between now and December 31, 2012.

To this day, the Russian Federation has yet to say how it defines the term "strategic nuclear warheads," or how its reductions will be made.

We can only hope that his laissez-faire approach to arms control obligations will not lead to misunderstandings down the road. With no agreed definitions and no benchmarks, I respectfully suggest that there is lots of room for quarrels over whether a party will really be in compliance by December 31, 2012.

Perhaps voluntary transparency by each party will assure the other that arms reductions are proceeding properly.

I applaud the decision to establish a transparency committee under the U.S.-Russia Consultative Group on Strategic Security.

But I am not reassured by the Secretary of State's statement that "specific additional transparency measures are not needed, and will not be sought, at this time."

It may be that continuing U.S. assistance to Russia under the Nunn-Lugar program and other assistance programs will give us such visibility into Russian forces that we will have no need of verification.

But if we are to rely on that window, then—as I noted earlier—President Bush ought to persuade House Republicans to let him waive the certification requirements that periodically stall the funding of our programs for months at a time because if there is no verification and no ability through the threat reduction program to look inside what Russia is doing, then we are operating in the blind.

When the President requested that authority to waive provisions allowing him to move forward with Nunn-Lugar, it was people in his own party in the House who refused to make that authority permanent.

Previous Presidents gave special attention to the need to do away with MIRVed ICBMs. The first President Bush achieved that in the START II Treaty.

But Russia refused to let that treaty enter into force unless we continued to adhere to the Anti-Ballistic Missile Treaty. When the current President Bush pulled us out of the ABM Treaty, START II died.

Why worry about MIRVed ICBMs? A MIRVed missile has multiple warheads. It's cheaper to put several warheads on a single missile than it is to build, house and launch several missiles.

But if I put 6 or 10 warheads on a missile, and you can take that missile out with only 1 or 2 warheads by attacking first, then my military planners are going to be nervous.

And that is precisely what can happen if my missile is an ICBM in a fixed silo. It may be powerful, but it is also a sitting duck.

So my military planners are going to say to me: We need to be able to fire our missiles before the attacking missiles land on them. The nuclear theologians call this: "Use 'em or lose 'em." Put another way, if Russia has MIRV'd ICBMs sitting in silos, and we get to a point—hopefully, that will never happen—in the next year, decade or two decades, and they know that one of our warheads can take out that multiple warhead ICBM they have on the ground, their military planners are going to say: You better strike first with that missile because if you don't, it will be taken out. And we are going to sit here and say: We know that is what their military planners are going to do, so we better take that missile out first.

That is called destabilizing. That does not lend security or a sense of security. That is why the first President Bush, and every other President before him, said it was important, of any missile you get rid of, to do away with MIRVed warheads because they were destabilizing, they were on a hair trigger.

This "use 'em or lose 'em" strategy is still in play. I will use radars and satellites to tell when somebody is attacking me. My command and control system will allow me to order a launch of my nuclear-tipped missiles within 10 minutes because that is all the time I will have between the warning of a possible attack and when the warheads will start falling on my MIRVed missiles.

Now, if I am the United States, that works. But if I am Russia, my missile warning network is made of Swiss cheese. Some of my satellites do not even work if I am Russia. I lost some radars when the Soviet Union broke up. And worse yet, my rocket force troops are so poorly paid, so ill-housed, that sometimes they even go berserk and shoot each other. This is not a joke. They really do. So there are risks in basing our deterrent force on MIRVed ICBMs. And if Russia's nuclear-tipped missiles are ever launched in error, we in the United States are the ones most likely to suffer.

But the administration is confident that none of this will happen. The Secretary of State told the Foreign Relations Committee:

> We cannot conceive of any credible scenario in which we would threaten to launch our strategic forces at Russia. The scenario . . . of Russia believing it faced a "use it or lose it" situation with its force of MIRVed ICBMs is therefore not a credible concern.

As a former press secretary of mine used to say—Evelyn Lieberman—"My lips to God's ears." Hopefully, that is true.

As a result, President Bush felt at liberty to tell President Putin:

> [Y]ou can do whatever you think you have to do for your security. You can MIRV your missiles, you can keep more, you can go lower. Do what you think you need.

I sincerely hope the relationship between the United States and Russia has truly been transformed and that, as President Bush wrote in his letter of transmittal, "Russia is not an enemy, Russia is a friend"—a friend, I might add, that is not with us right now on the Security Council and not with us with regard to Iraq, but that is a parenthetical note.

Most of all, I hope that Russia feels the same way. If President Putin fears a U.S. attack, then it won't matter what President Bush has as his intent.

If the Russian military fears a U.S. attack, their missiles may stay on a "hair trigger" alert even if President Putin does not share their fears.

In short, the Moscow Treaty is a treaty that is long on flexibility accorded to each party and short on provisions intended to ensure compliance. That emphasis on military flexibility is the hallmark of this administration. It is an understandable response to dangerous times, but I think it is also a vision that ignores many of the political risks.

This administration has also promoted a nuclear weapons policy that speaks of the use of new "bunker-buster" weapons against deeply buried targets, treating nuclear weapons as a handy tool just as any other weapon, and thus lowering the threshold for nuclear war.

This administration also speaks of possible new nuclear weapons tests. This administration speaks of the possible use of nuclear weapons against states that neither have such weapons nor are allied with states that have them, contradicting previous American statements that we made in order to maintain other countries' support for the Nuclear Non-Proliferation Treaty.

This administration has indicated possible preemptive attacks, perhaps with nuclear weapons, on states that we fear are preparing to do us harm—again, perhaps even if those states do not have nuclear weapons.

I do not doubt that if we went through this list, issue by issue, we would find that the administration has understandable reasons for its actions. But in foreign affairs, understandable reasons are not enough. We need a sensible strategy. We need statecraft that offers what Thomas Jefferson called "a decent respect to the opinions of mankind."

In that respect, we risk alienating ourselves from those who could be of help to us in many areas. The issue may be to keep an American on a United Nations commission or whether to support an American use of force in Iraq. Chickens come home to roost.

The fact is, we cannot take these unilateral positions irrespective, in my view, of world public opinion and then not expect to pay for it down the road somewhere. I would respectfully suggest, parenthetically, I think we are paying for some of that right now in the United Nations Security Council.

This fixation with military power extends to the Moscow Treaty as well. How should we handle a treaty that calls for significant force reductions but also allows each party to keep its powder dry?

Retired Senator Sam Nunn, former chairman of the Armed Services Committee, has a good term for the Moscow Treaty. He calls it, not "the Moscow Treaty," but the "good-faith treaty." Senator Nunn adds:

> It expresses—and relies upon—good faith in our common interests and the common vision of our leaders.

I think it is a pretty good way to characterize this treaty.

But when he testified before the Senate Foreign Relations Committee, Senator Sam Nunn added a very important point about the treaty. He said:

> If it is not followed with other substantive actions, it will become irrelevant at best—counterproductive at worst.

Let me read that again. He said: "If it is not followed with other substantive actions"—he means actions in terms of arms control and verification, and the like—"it will become irrelevant at best—counterproductive at worst." I share his view.

I support the Moscow Treaty because, on balance, it enhances our national interests. Put another way: To reject this treaty, in my view, would harm our national interest and, as I said at the outset, the relationship between the United States and Russia.

The arms reductions in it do not go far enough, in my view, but they are better than nothing. There is no verification provisions, but good faith, information from START verification activities, and Nunn-Lugar may be a good substitute for verification.

There is a risk that the Russians will rely upon MIRVed ICBMs that raise the threat of an accidental war, but there is also a chance that Russia will destroy those missiles as fast as they can pay for their destruction.

The flexibility built into this treaty could undermine each party's commitment to reductions and its confidence that the other side will achieve them, but the Bush-Putin relationship, which is now being somewhat strained on North Korea and on Iraq, could lead to new patterns of cooperation that make further formal agreements unnecessary.

May all the good outcomes come to pass, but they require a leap of faith. In the meantime, however, I worked with Chairman Lugar to draft a resolution of ratification that keeps Senator Nunn's admonition in mind. We must build on this treaty in order to ensure its success.

The resolution before us strengthens congressional oversight of the Moscow Treaty implementation and highlights some of the areas on which the administration should build on the treaty to secure a safer world for ourselves and future generations. The resolution includes two conditions and six declarations. Let me briefly go through them.

Condition (1) requires an annual report to the Senate Foreign Relations and Armed Services Committees on how U.S. cooperative threat reduction and nonproliferation assistance to Russia can best contribute to enabling Russia to implement its side of the bargain. Reports subsequent to the initial report will be due on February 15 so that the Senate can take them into account as it considers the budget for programs for which the administration is calling. This is vital because U.S. assistance can bring about the weapons dismantlement the Moscow Treaty fails to achieve.

Condition (2) requires an annual report to the Foreign Relations and Armed Services Committee on U.S. and Russian strategic force levels; each party's planned reductions for the current year; each party's plans for achieving the full reductions by December 31, 2012. Further, it requires reporting on any measure, including verification or transparency measures, taken or proposed by a party to assure each party that the other will achieve its reductions by December 31, 2012.

Condition (2) also requires information relevant to the treaty learned through START verification, and the status of consideration of extending the START verification regime beyond December 2009 when the START treaty is scheduled to expire; anything calling into question either party's intention or ability to achieve the full Moscow Treaty reductions by December 31, 2012; and any action taken or proposed by the parties to address such concerns. This report will provide a strong foundation for Senate oversight of the treaty's implementation.

The first declaration in the treaty reaffirms the Biden-Byrd condition on the authoritative nature of executive branch representations to the Senate and its committees during the ratification process insofar as they are directed to the meaning and legal effect of the treaty.

In other words, it says the President—this President or a future Democrat or Republican President—cannot reinterpret the treaty, cannot give it a meaning different than was suggested to us as what it meant.

There is a second declaration. It encourages the President to continue strategic offensive reductions beyond those mandated by this treaty to the lowest possible levels consistent with national security requirements and alliance obligations of the United States. Declarations, I might note, for the Presiding Officer, who knows this well, are nonbinding. But this one makes clear that the Moscow Treaty should not be the end of arms control.

President Bush also issued a joint declaration on May 24, 2002, with Russian President Putin that declared "their intention to carry out strategic offensive reductions to the lowest possible levels consistent with our national security requirements and alliance obligations and reflecting the new nature of their strategic reductions."

The joint declaration went on to call the Moscow Treaty a major step in this direction—not the final step, only a major one. The clear implication is that further reductions may follow. This declaration gives the arms reduction process the Senate's blessing, just as we did when considering ratification of START and the START II treaties.

The third declaration states the Senate's expectation that the executive branch will offer to brief the Senate Foreign Relations and Armed Services Committees on issues raised in the bilateral implementation commission, which is part of this treaty, on Moscow Treaty issues raised in other channels, and on any Presidential determination regarding such issues.

Given the lack of verification or transparency provisions in the Moscow Treaty, the bilateral implementation committee established by article III of the treaty may play a major role in assuring that each party knows what the other party is doing and retains confidence that the reductions required by article I will be completed on time—a very important point, on time. Remember, there are no drop-dead dates here.

The fourth declaration urges the President to engage Russia with the objective of, one, establishing cooperative measures regarding the accounting and security of nonstrategic—that is, or tactical—nuclear weapons, and two, providing U.S. and other international assistance to help Russia improve its accounting and security of these weapons. The first meeting of the U.S.-Russian Consultative Group on Strategic Security established a committee to examine these issues. The administration witnesses listed this as a top priority. This declaration, in my view, adds the Senate's encouragement to pursue the issue of tactical nuclear weapons. It does not call for bilateral agreement on reductions of those weapons because several outside witnesses said no Russian agreement to such reductions was likely.

The fifth declaration before us encourages the President to accelerate U.S. force reductions where feasible and consistent with U.S. national security and alliance obligations. The Treaty's intended reductions may be achieved prior to December 2012. To me, the wisdom of faster reductions is clear. It will reassure the world of our commitment to reduced nuclear forces to a reasonable level as speedily as we can. They will also ease any possible Russian concerns about whether we will meet the one deadline in the treaty. Department of Energy and Air Force officials warn that absent additional resources, major bottlenecks would slow down an accelerated reduction effort.

The Congressional Budget Office report on the treaty cites specific concerns in that regard. But those concerns relate to an effort to complete all reductions by the year 2007.

I believe in the years after 2007, when the transfer of Peacekeeper warheads to the Minuteman III missile will have been completed, faster reductions will be much more feasible.

There is declaration 6. It urges the President to consult with the Senate prior to actions relevant to article IV, paragraph 2, which relate to extending or superseding a treaty, or paragraph 3, which relate to withdrawal from the treaty. This declaration builds on the statement of the Secretary of State that "the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action."

The Secretary's statement could mean only that the administration would discuss with the Senate the need to withdraw when the decision has already been made. This declaration we have in the resolution goes further, by urging the President to consult with the Senate. One may discuss after the decision has been made, but one can only consult before a decision has been taken. The latter is what the Senate expects if this treaty is passed, and this expectation extends beyond the withdrawal issue to cover actions relevant to extending or superseding the treaty. It is vital that the executive branch consult with us when it is considering changes in a treaty. That way, Senators can raise any concern before decisions are made that might jeopardize the chances of securing our advice and consent to ratification.

The resolution of ratification before us was recommended unanimously by the Senate Foreign Relations Committee. I believe it will make a real contribution to the success of this treaty, and I urge all of my colleagues to support it.

To be sure, the resolution does not address every issue we could raise. It clearly does not speak to every declaration that I think should be included in this treaty, but neither is it the only venue in which to raise those issues. For example, consider what the Foreign Relations Committee's report of the treaty says about the proposal by GEN Eugene Habiger, former commander of U.S. Strategic Command:

> Members of the committee . . . share General Habiger's view that options for reducing alert status should be evaluated by those with significant expertise on the specific weapons systems in question. If the President does not order preparation for such analyses, Congress could require the analyses or establish a commission of weapons systems experts to undertake this task. Such commissions have been created before, some under the auspices of the National Academy of Sciences, and have proven useful in considering issues of such a technical nature.

Senator LUGAR and I do not think this resolution of ratification is a proper vehicle through which to establish such a commission, but unless something has changed, which I know it has not, we will continue to pursue this proposal in a venue other than this treaty.

The committee's report also addresses two other issues we were unable to incorporate in the resolution of ratification. On verification and transparency, our report says:

> The committee believes that the absence of verification provisions in the Moscow Treaty makes confidence and transparency a high priority issue. . . . The United States should not only practice transparency, but also promote it, in close coordination with the Russian Federation.

Our report goes on to say:

> The committee urges the President to use implementation of the Moscow Treaty as a means to foster . . . mutual confidence in the national security field.

The report also calls attention to the Congressional Budget Office's estimate that further drawdowns in strategic delivery vehicles after 2007 could save some $5 billion.

Our report adds:

> The committee recommends that the President give particular attention, as the Moscow Treaty implementation proceeds, to the possibility that modest further reductions in strategic delivery systems after 2007 could lead to significant cost savings without endangering the national security.

The Armed Services Committee and the Foreign Relations Committee can pursue both of these issues as they oversee the implementation of the treaty in the coming years, and I am committed to doing so, and I believe the chairman is as well.

Some of my colleagues are concerned about still other issues. Several amendments may be proposed today. Some of them are amendments I would like to support, but I will not support any additional amendments because I think it is fair to say, speaking for myself, but I think it reflects the view of the chairman—he may have already mentioned it—we believe that in order to get the cooperation we had to add the total of eight declarations or conditions to this treaty, we would, in fact, oppose other amendments, some positive, some, in my view, very negative. So it will be my dubious distinction of possibly voting against some amendments that I think are useful because I think if that were to happen and we started to load this up, we might very well lose this treaty. I think it is very important.

It is a mild exaggeration to suggest, but not very far off, that my view is that the value of the treaty is exceeded only by the danger of failing to ratify this treaty, and there is a danger, in my view, of failing to ratify this treaty. This is not a treaty, were I in charge of negotiation—as my Grandfather Finnegan used to say, this is not the whole of it—this is not all of what I would like to have seen in this treaty. I sincerely hope this further changes the atmosphere in the positive direction it has been changing, that this administration and the Russian administration will conclude we should be dealing with MIRV missiles, we should be dealing with tactical nuclear weapons, and we should be dealing with other genuine mutual concerns that we have. I am confident if we reject this treaty, if we bog it down and it does not get the necessary supermajority required, then it will make those possibilities impossible in the near term.

So in each case, as these amendments are put forward, if they are, I will be guided also by the need to maintain administration support and Senate consensus regarding the resolution of ratification as a whole.

I say to my Democratic colleagues on my side of the aisle, I do not presume to speak for them all. Generally, I do not think it is appropriate for the chairman or a ranking member to commit his or her party to a single position that that chairman or, in this case, the ranking member takes.

I respect my colleagues who may come forward with amendments, but I hope they understand my rationale and why I will not be supporting those amendments, even the good ones, because there is no amendment I can see that is so significant that it would cure all the defects or all the things this treaty fails to address. The risk I am concerned about is bogging this treaty down.

It is a good resolution, I say to the Presiding Officer, who knows that as well as or better than anyone present—he is one of the most informed people in this body on foreign relations and arms control issues. I think it will be implemented. The reporting it requires, I think, will enable us to do our constitutional duty of watching over the treaty in the coming years.

Let's pass it and then work together to make it a success and work together to take the next steps we have to take.

I would note to my chairman that there may be a resolution unrelated to any amendment to this treaty calling for the Senate to go on record in a much more forceful way to support a comprehensive non-proliferation strategy and Nunn-Lugar cooperative threat reduction efforts. As I said in the chairman's absence, without verification, there are only two things that give me real solace, and they are the insight we get from the Nunn-Lugar initiatives and cooperative threat reduction, as well as the remaining verification process that exists within the START treaty which will expire three years before this treaty expires. But it will not, I assure my colleague, be as an amendment. It will not be as a declaration which we cannot amend. It will not be as a condition to this treaty.

I thank my colleagues for their indulgence. I do not plan on speaking on this issue very much longer except on each amendment at some point. I hope we can move as rapidly as possible because, again, the treaty is valuable, but it is dangerous if we do not pass this treaty.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I commend the chairman and ranking member for the work they have done. I can only agree wholeheartedly with the ranking member's comments about the problems this treaty has, although I also intend to vote for it.

I came to the Senate in 1989. At that time, Vermont was a leader in the effort to reduce nuclear weapons. I, therefore, became very interested in what we could do to reduce the threat of nuclear war.

In November 1990, I traveled with seven Members of Parliament from the United States, Great Britain, and the Soviet Union. We went to the capital of each of our countries. We worked as hard as we could to raise awareness of the dangers of nuclear war and discuss what could be done to prevent the spread of nuclear weapons.

In England, we spoke with people who were involved with nuclear issues. We had a very memorable time with the Speaker of the House of Lords and also the House of Commons and gained insight into the British perspective on these issues.

We then traveled to Moscow on the evening Soviet President Gorbachev gave his annual economic speech. We were amazed when, following the speech, he spent a great deal of time with us discussing the nuclear issue. He stated that the Soviet Union would certainly welcome a prohibition on nuclear testing. At the end of that meeting, there was one light moment. I brought him a pint of maple syrup. I offered it to him and said that if he were to give a teaspoonful of this to someone, why, they would immediately seek peace. He responded: Do you have a liter? I said: No, but I will get you one. It was an interesting time.

We flew from there to Washington and met with National Security Advisor Brent Scowcroft.

This is an issue I have followed for many years. I agree with my predecessor, the ranking member, that this treaty is far from perfect. We are engaged in a global struggle to confront the terrorist threat and to curtail the dangers posed by the prospect of nuclear materials in the hands of so-called rogue nations.

While I will vote for this treaty, I cannot help but feel that the Moscow Treaty represents a tragic waste of opportunity. Instead of capitalizing on the Russian desire to reach agreement on deep cuts in nuclear warheads and instead of seeking destruction of warheads to ensure that Russian nuclear materials never fall into the hands of America's enemies, the Bush administration's distaste for arms control agreements—indeed, for any sort of internationally binding agreement—has prevented it from seizing the opportunity to make the American people more secure.

There is nothing inherently wrong with the Moscow Treaty. It requires the United States and Russia to reduce their operationally deployed strategic nuclear weapons to between 1,700 to 2,200 warheads.

In a small way, it will make the United States, Russia, and the world a safer place—a very small way. It also is consistent with the previous administration's recommendations in the 1994 Nuclear Posture Review.

The shame of the Moscow Treaty is not in what it does, but in what it does not do. The treaty represents a lost opportunity. The Bush administration's scorn for arms control blinded it to a golden opportunity presented by negotiation of the Moscow Treaty to address bigger nonproliferation and counterterrorism concerns of the United States.

The Bush administration came into this negotiation only reluctantly. It repeatedly declared its opposition to the negotiation of a legally binding treaty text, asserting that less formal agreements or statements would suffice.

Press reports are replete with examples of conflict between the Pentagon, which opposed any limitations on its offensive nuclear weapons and wanted the flexibility to increase nuclear forces, and the State Department, which supported the negotiation of a legally binding agreement.

In the end, the State Department got its legally binding agreement, and the Pentagon got an agreement that is notable not only for its brevity, but also for its lack of lasting impact.

While the treaty calls for each side to "reduce and limit" its strategic nuclear warheads to within the 1,700 to 2,200 range, the United States made clear early in the negotiation that it would interpret this phrase to apply only to "operationally deployed" warheads. In other words, there is no obligation to destroy even a single warhead under the Moscow Treaty.

Warheads can be removed from their delivery vehicles and stored close by and still count as a "reduction" under the treaty. The United States has made clear that it plans to dismantle some warheads, put some in deep storage, and store others as spares.

The absence of any obligation to destroy warheads leads to one of the treaty's most striking anomalies. The deadline for the reduction of operationally deployed warheads to within the 1,700 to 2,200 range is December 31, 2012. Unless otherwise agreed, the treaty expires the very same day. So the reduction in operationally deployed warheads, which are the only reductions in strategic nuclear weapons required by the treaty, lasts for only 1 day.

On January 1, 2013, each party will be free from Moscow Treaty constraints on deployment of its strategic nuclear warheads. Moreover, if either the United States or Russia decides at any time in the interim that it wants to redeploy its warheads, it need only provide 90 days notice of withdrawal, and it will be free to do so.

On May 13, 2002, the President stated that he was "pleased to announce that the United States and Russia have agreed to a treaty which will substantially reduce our nuclear arsenals to the agreed-upon range of 1,700 to 2,200 warheads. This treaty will liquidate the legacy of the cold war."

This statement provides one more example of the President's rhetoric not matching reality. The treaty does not reduce our nuclear warhead arsenals to the range of the 1,700 to 2,200 warheads. Far from it. The White House refused to agree to such reductions. The treaty merely removes warheads from operational deployment. There is no reduction in nuclear arsenals. The legacy of the cold war lives on. It just sits a short distance from our missiles, bombers, and submarines rather than in a deployed posture.

Faced with the opportunity to lock in reductions of Russian strategic nuclear warheads, the President let ideology get in the way of meaningful agreement. Despite well-publicized concerns over Russia's ability to control its nuclear materials, he passed on an opportunity to assist global efforts against proliferation and terrorist attack by helping Russia deal with its nuclear stockpiles.

There are a host of additional steps that could have been taken in connection with the negotiation of the Moscow Treaty.

The President could have acted upon Russian desires to make true reductions in our offensive strategic nuclear weapons. He refused, despite the fact that destruction of Russian nuclear warheads would have eliminated their vulnerability to theft or diversion to terrorists.

The President could have agreed to Russian proposals for negotiation of a verification regime to track progress toward the 2012 limits on deployed warheads.

He refused, despite the confidence it would have instilled in the reduction process.

The President could have expanded the negotiation to cover tactical nuclear weapons.

He refused, despite the fact that thousands of such weapons exist in Russia and the United States without any sort of monitoring or control by an arms control regime.

Because of their small size and battlefield application, these weapons are extremely attractive to terrorist organizations, and relatively vulnerable.

The United States is currently unable to determine the precise number of Russian tactical nuclear weapons, and therefore unable to determine the nature of Russian control over such weapons and whether some might already have been lost or stolen.

The President also could have expanded the negotiation to cover the problem of multiple independently targeted warheads known as MIRVs.

Refusal to do so by the President leaves the American people vulnerable to the loss of several sites from a single missile launch.

Steps of this sort truly would have matched the President's rhetoric, and they would have made this world far safer for our children.

The opportunities presented by the Moscow Treaty are now lost. Other opportunities exist, however, to work with Russia and others around the world to fight the proliferation of nuclear weapons, material, and knowledge.

Such work is critical to our efforts to combat terrorism and to halt the spread of nuclear weapons and know-how to countries such as North Korea, Iran, and Iraq.

It is my sincere hope that in the future the President will reconsider the narrow approach taken toward the Moscow Treaty, and to other agreements such as the Comprehensive Nuclear Test Ban Treaty.

The fight against terrorism and the spread of nuclear weapons must be fought on several fronts.

Half-hearted efforts like the Moscow Treaty will not meet the needs of the American people and the world.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HAGEL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Madam President, I rise today to support the resolution of ratification of the Treaty on Strategic Offensive Reductions—or, as we call it, the Moscow Treaty—now before the Senate.

The Moscow Treaty represents a shared commitment by the United States and Russia to step back from the cold war policies of nuclear confrontation and enter into a new era of cooperation. This is to assure that our nuclear weapons no longer threaten either our peoples or our civilization.

It was the bold vision of President Ronald Reagan, 17 years ago, at the Gorbachev summit in Reykjavik that set in motion this effort to make dramatic reductions in the nuclear weapons arsenals of the United States and then the Soviet Union. President Reagan's vision, once considered by some a fantasy or a negotiating ploy, is becoming the standard by which we should measure our success in arms control.

The Moscow Treaty avoids the strategic gamesmanship and pitfalls of the SALT treaties, the ABM Treaty, and other negotiations of the cold war.

The simplicity of this treaty, only three pages in length, betrayed its historic significance for United States-Russian relations and for global security. Its strength is the power of its objective, to dramatically reduce American and Russian strategic weapons.

On November 13, 2001, President Bush announced that the United States would reduce its strategic nuclear arsenal by two-thirds, from approximately 6,000 nuclear weapons to between 1,700 and 2,200 operationally deployed strategic nuclear weapons by December 31, 2012. The President made this determination independent of what Russia would do, knowing that these reductions would be in the overall strategic interest of the United States.

President Putin determined that comparable reductions would also be in his country's own national security interest. On May 24, 2002, Bush and Putin agreed that their commitment to these reductions would take the form of a legally binding treaty.

The negotiations over the Moscow Treaty did not fall into the traps of previous arms control agreements negotiated with the Soviet Union during the cold war. That is as much a testimony to the new spirit of U.S.-Russian relations and the realities of today's threats as it is to the strength of the treaty. For example, it took the United States Senate 3 years to ratify the START II treaty. It took the Russian Duma 7 years for ratification. And both sides put conditions unacceptable to the other side on the respective ratification agreements. As a result, that agreement never went into force.

Instead of years of back and forth negotiations, with each side seeking a strategic advantage, the Moscow Treaty illustrates a turning point in America's relationship with Russia. It should provide an environment conducive to future arms control negotiations.

The Resolution of Ratification before us today introduces just two straightforward conditions that complement rather than complicate the treaty. First, the administration must report to the Senate annually on how the United States plans to reach the required reduction goals. While this resolution does not set a rigid timetable, these reports will allow the Senate to oversee the implementation of this treaty.

The second condition deals with the Cooperative Threat Reduction or Nunn-Lugar programs. Russia is committed to meeting these reductions, but the question remains if Russia has the resources to meet them. The Nunn-Lugar program has been successful in assisting the former states of the Soviet Union to help reduce their nuclear arsenals. The Resolution of Ratification rightly includes Nunn-Lugar programs as instrumental in achieving lasting and durable arms reduction.

The Moscow Treaty should not be considered as the final chapter in U.S.-Russian arms control, but it is an important and historic step forward. The United States and Russia must do more to prevent the proliferation of dual use technology and weapons of mass destruction to Iran, North Korea, and other countries. The Nunn-Lugar Cooperative Threat Reduction programs are crucial to our shared security interests in preventing the proliferation of weapons of mass destructions. For us to succeed in making a safer world, Washington and Moscow must be strategic partners, not strategic adversaries.

The Bush Administration, Chairman LUGAR, Senator BIDEN, and others who have framed the Treaty and the Resolution of Ratification deserve credit and thanks for their leadership and steady focus. I urge my colleagues to vote yes on the resolution without amendments, for the very reasons Senator BIDEN articulated just minutes ago, and to understand the broader context and significance of this treaty for U.S.-Russian relations and global security. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I will speak briefly today about the treaty we are considering. I spoke about it in brief yesterday and said while I would vote for it, I think it is not much better than nothing with respect to arms control. I will explain a little bit about where I think we are and where I hope we might go on some of these issues.

I note that Senator LUGAR is in the Chamber, the chairman of the committee. He might or might not know that yesterday when I spoke on these issues, I spoke about the general issue of threat reduction. I spoke about the Nunn-Lugar, or Lugar-Nunn, programs by which we were actually using taxpayer money in this country to dismantle delivery systems and weapons in the old Soviet Union and in Russia, the very success of those programs, and how much I thought those programs have contributed to moving in the right direction.

We may not agree. I do not know. I suspect there are some who think this Moscow Treaty actually advances our interests. I think it probably does not, but I do not think it hurts anything. It is an agreement by which the United States and Russia decide that a number of nuclear weapons will be taken off the active delivery systems and put in storage, but at the end of the time during which this transition takes place, in 2012, we will have exactly the same number of nuclear weapons in Russia and in the United States as we have today, at least as a result of this treaty.

This treaty does not propose that any nuclear weapons be disassembled or destroyed. It is simply putting nuclear weapons in storage facilities somewhere. Are they at the ready? Are they in storage? I think it is not a great distinction, or at least it is a distinction without much of a difference.

While Senator LUGAR is present, I want to mention, as I did yesterday, I have here a piece of a strut from a wing of a Soviet bomber. Some of my colleagues have been given pieces of this as a commemorative of a very successful effort we have made and continue to make with respect to arms reductions. I stress the word "reductions" of both nuclear weapons and delivery systems.

I ask unanimous consent to use this old strut of a Soviet bomber to make the point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. The point is this: I hold in my hand a piece of metal that belonged to a bomber that presumably carried nuclear weapons that threatened every American. Did we shoot this bomber down? No, we did not. We sawed the wings off and destroyed the fuselage. How did we do that? Because we had a program called Nunn-Lugar, or Lugar-Nunn, that actually recognized it is a whole lot better to reach an agreement for arms reduction and then help pay for the destruction of a Soviet bomber or a Russian bomber, or the dismantlement of a missile or a submarine and the destruction of a warhead, than it is to exchange them or to try to shoot it down or to sink the submarine. So we appropriated taxpayers' money for this purpose. This is called peace.

This is another item I showed yesterday: Ground-up copper from a dismantled Soviet submarine that carried missiles with warheads aimed at American cities. This is called progress. This submarine does not exist any longer. Why? Because we had the foresight, particularly by Senator LUGAR and Senator Nunn, to say if we can have verifiable reductions in both delivery systems and nuclear weapons, and even help pay for that destruction, it is far better than having this continued standoff and actually having to fight at some point to try to knock down a Soviet bomber or destroy a Russian submarine. We are destroying them, all right, but peacefully, through a program that works.

Because I think that is very important to understand, I made the point yesterday that there are thousands and thousands of nuclear weapons in this world. The bulk of them are contained in arsenals by Russia and the United States. Many of them are called theater nuclear weapons, lower yield, smaller nuclear weapons. Then there are strategic nuclear weapons, the larger nuclear weapons. There are thousands of each, and over time, through arms control agreements, we have reached some understanding that we want to reduce the number of warheads, the number of delivery systems. We have moved back and forth about exactly how we do that. In some cases, there has been great emphasis on dismantling or limiting the number of delivery systems, the missiles themselves, or the bombers or the submarines. They are mere delivery systems for a weapon of mass destruction. In some cases, we paid great attention to that. In other cases, we have paid attention to the number of warheads themselves.

All of that is important. But I must say a treaty is not, at the end of the day, very important to us if it discontinues the effort to actually reduce the threat of war through dismantling weapons and delivery systems. We have made some progress in arms control, progress that I think is very important to the American people, but there is so much more to be done.

A rumor that someone had stolen one nuclear weapon some many months ago caused great concern in this country. The loss of one nuclear weapon to a terrorist could hold hostage an entire American city or, for that matter, much of a country, and there are thousands and thousands of these weapons.

It seems to me, if we wish to make this a safer world for our children and grandchildren, it is our job to aggressively stop the spread of nuclear weapons. God forbid other countries will become part of the nuclear club or that terrorists and terrorist organizations will acquire weapons of mass destruction, particularly nuclear weapons. We will stop the spread of nuclear weapons. And we must be the leader to do that. This country must be in the lead. It is our job. This responsibility falls on our shoulders at this time.

No. 2, in addition to stopping the spread, we must systematically, over a period of time, begin reducing the stockpiles. We must do that.

I have been disappointed for some long while on arms control issues. I don't believe we should disarm. I don't want our country to be weak. But I believe it is in our country's best interests to stop the spread of nuclear weapons and to have a mutually agreed upon reduction in the number of nuclear weapons.

In October of 1999, this Senate rejected the Comprehensive Nuclear Test-Ban Treaty. That was a terrible disappointment, certainly for me and for many around the world. We have not tested nuclear weapons for nearly a decade, yet we send a message to the rest of the world that we do not want a Comprehensive Nuclear Test-Ban Treaty, one that much of the world has already embraced. That was a terrible setback. Since that time, by the way, the reports by former Joint Chiefs of Staff Chairman Shalikashvili and the National Academy of Sciences have endorsed the Comprehensive Test-Ban Treaty and concluded that the treaty can be verified adequately, adversaries cannot significantly advance their nuclear weapons by cheating, and the United States can maintain confidence in its nuclear stockpile without testing. We made a horrible mistake in rejecting that treaty.

This country, in December 2001, announced it would unilaterally withdraw from the ABM Treaty with Russia. In my judgment, that was a significant mistake. That treaty was the center pole of nuclear arms reduction agreements, talks, and discussions.

In January 2002, the administration released its Nuclear Posture Review, and it said the United States needs to keep a very substantial nuclear force for 20 years. It set out what that nuclear force would be. But that Nuclear Posture Review blurred the lines between conventional and nuclear weapons, calling for a new generation of smaller, easy-to-use nuclear weapons, including smaller bunker buster weapons—the wrong thing for our country if we are going to be a leader in trying to say to another nation, let's never see a nuclear weapon used again anywhere in this world. And yet we are talking about perhaps designing new bunker buster nuclear weapons—moving exactly in the opposite direction, in my judgment.

The Nuclear Posture Review called for increasing our readiness to resume testing of nuclear weapons. I don't understand that.

All of these, together, represent movement in exactly the wrong direction for this country. We have very serious challenges in the world that require our leadership. India and Pakistan don't like each other. They are shooting at each other at the border, over Kashmir. They both have nuclear weapons. It was not too many months ago we had a very serious, very tense time with respect to India and Pakistan.

The message we send as the world leader, the strongest military power in the world, is critically important. Our message ought to be that we want to make this a safer world by beginning the long process of reducing the stockpile of nuclear weapons, not by putting them in warehouses someplace. We should be really reducing the number of nuclear weapons and making sure that our efforts as the United States of America are used to try to prevent the spread of nuclear weapons to any other country in the world, any other group in the world—that is our responsibility. It is what we must be about. If that mantle of world leadership is not borne by us, that leadership will not exist. I fear our future will not be a particularly good future with more and more countries becoming a part of the nuclear club.

As I indicated, the Moscow Treaty does not require a single missile silo, submarine, bomber, missile, or bomb, for that matter, to be eliminated. Compare this with previous treaties. The Intermediate-Range Nuclear Forces Treaty required the destruction of an entire class of ballistic missiles with ranges from 2,000 to 3,000 miles.

I had a picture in the Senate one day of a few acres of sunflowers. This few acres of sunflowers were sunflowers planted on a piece of ground that used to house missiles in the Ukraine with a warhead aimed at the United States of America. It is not a warhead. It is not a missile. It is gone. It is destroyed. And now where a missile was once buried, there grows a field of sunflowers. What a wonderful thing.

The fact is, these agreements, these treaties that we have had, have worked. The treaties require irreversible action by requiring the destruction of delivery vehicles and warheads.

As I indicated, the Moscow Treaty does not require a single nuclear warhead to be destroyed. It limits the number of strategic nuclear weapons that each side can deploy, from 1,700 to 2,200.

Admittedly, previous arms treaties did not require the destruction of warheads, but at the Helsinki summit Presidents Clinton and Yeltsin agreed to a framework of SALT III negotiations for destruction of warheads. During treaty negotiations, Russia insisted that it require the elimination of nondeployed warheads, but our country resisted because we wanted to keep warheads removed from deployment in storage.

So now we have a Moscow Treaty that says we are going to keep these warheads in storage but we will count them as a reduction in warheads because they are no longer active with respect to the ability to put them on an airplane or submarine or on the tip of a missile. Frankly, it does not reduce the number of nuclear warheads in a significant way, and in my judgment, we ought to be doing that.

We have the START treaty. We have a whole series of efforts that have occurred over a long period of time that give us a roadmap on how to succeed with respect to what I think our obligation is in these areas. There is nothing particularly objectionable about this treaty, but it does not really provide any progress for us. One can hardly object to something that does not do anything, except that my wish would be that we would engage in a manner that would allow us to make some progress.

I intended to offer an amendment. I say to my colleague from Indiana that I am not going to offer an amendment. I have the amendment, but I will not offer it because my understanding is that the ranking member would be obligated to vote against it based on an agreement the chairman and the ranking member have reached. But let me read my amendment and state what I hope this country will do at some point.

My amendment would have added a section (7):

> FURTHER NEGOTIATIONS.—The Senate urges the President to build upon the foundation of the Treaty by negotiating a new treaty with the Russian Federation that would enter into force upon the termination of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), and would require deep, verifiable, and irreversible reductions in the stockpiles of strategic and non-strategic nuclear warheads of the United States and the Russian Federation.

The purpose of this would be to say that future negotiations which should occur, and should occur now, should have as an objective to reduce the stockpile of nuclear weapons contained both in Russia and the United States. I do not propose disarmament. I do propose that in circumstances where each of us has thousands and thousands and thousands of nuclear weapons—perhaps as many as 25 to 30,000 between both countries, if you include both theater and strategic nuclear weapons—I do propose we find a way to reduce the stockpiles on both sides in an irreversible way.

Then, as I indicated previously, my fervent hope and prayer is that the leadership of this country will exert itself to try to do everything it can to be a world leader to stop the spread of nuclear weapons. This country's future depends on it.

Let me conclude by saying I have great admiration for Senator BIDEN, who has had a world of experience in these areas, and for Senator LUGAR. I have already spoken of Senator LUGAR. I will not go on at great length. But his work has been extraordinary. Senator BIDEN's work, as well, contributes a great deal to this Senate and to this country.

I know he believes, as I do, that we have seen many missed opportunities in recent years to don the mantle of world leadership that we must assume dealing with these areas. While I will vote for this treaty, I am confident that Senator LUGAR and Senator BIDEN understand, perhaps even if this administration does not, based on their past actions and based on the things they have supported previously, this is a step, even if a baby step, that must be followed by very large strides, vigorous, aggressive approaches to do what we know needs to be done: A real reduction in the stockpile of nuclear weapons and a major effort on behalf of America to stop the spread of nuclear weapons in the rest of the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 250

(Purpose: To provide an additional condition)

Mr. DURBIN. Madam President, the resolution of ratification we have before us on the treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions, also known as the Moscow Treaty, is a step forward but in many ways it is a very modest step. The treaty is a three-page document signed by Presidents Bush and Putin on May 24, 2002, to reduce deployed strategic nuclear weapons to between 1,700 and 2,200 warheads by December 31, 2012.

The treaty actually calls for no warheads or delivery vehicles to be destroyed. They can simply be stored. There are no verification provisions, other than those still in effect through 2009 from the START treaty, and the reductions in deployed warheads have to occur by December 31, 2012, the very same day the treaty expires.

However, once the reductions in deployed warheads are met, it means a large number of warheads will not be ready to launch at a moment's notice. That is a positive thing, even if no warheads are dismantled and no delivery vehicles are destroyed.

When nonnuclear countries agreed to forgo nuclear weapons in the Nuclear Nonproliferation Treaty, an essential part of the grand bargain was that nuclear countries, like the United States and the Russian Federation, were to control and reduce their nuclear weapons. Because this treaty is an effort to control and reduce the number of deployed warheads, I will vote for the resolution of ratification.

From the Nuclear Non-Proliferation Treaty flowed all the various efforts of U.S.-Soviet nuclear arms control, including the SALT and START treaties. The Nuclear Non-Proliferation Treaty was renewed in 1995, but it required a lot of arm twisting by the United States because nonnuclear countries have accused the nuclear powers of not being serious about nuclear arms control and reduction. A major reason nonnuclear states agreed to renew the Nuclear Non-Proliferation Treaty is because the United States signed and agreed to pursue ratification of the Comprehensive Nuclear Test-Ban Treaty, which sadly, this body, the Senate, rejected on October 13, 1999.

The failure of the Senate to meet its obligation and ratify the Comprehensive Nuclear Test-Ban Treaty left us with little or no leverage to keep Asia from a spiraling arms race in India, Pakistan, China, and perhaps even other countries. Pakistan and India are in a tense nuclear standoff that came to the brink of nuclear war over Kashmir and easily could again. North Korea, we all know, already has nuclear weapons and is likely to build more. Libya, Iran, and Iraq, may be seeking to acquire or develop nuclear weapons.

For those who think nuclear arms control is just a quaint leftover of the cold war, let me say we are facing a major round of nuclear proliferation with destabilizing effects that we may have no way to stop.

Let me at this point pay special tribute to the Senator from Indiana, Mr. LUGAR. Several weeks ago I went to a breakfast at which Senator LUGAR spoke relative to the issue of nuclear proliferation. Since the days of Nunn-Lugar, with Senator Sam Nunn of Georgia, DICK LUGAR of Indiana has been a leader, a global leader, on the question of nuclear proliferation. I hope more Members of the Senate on both sides of the aisle will pay particular heed to his warnings about proliferation and about the need for the United States and other countries seeking stability and peace in the world to be mindful of the danger of proliferation of nuclear weapons.

Some of the examples he gave us from his own life experience, visiting the former Soviet Union, were chilling—chilling because we are this close to the proliferation of weapons, weapons in the hands of countries that will not deal with them in a responsible way.

Having said that, though, I am still very concerned about the policies of this administration that could, in fact, further fray the fabric of the grand bargain struck with the Nuclear Non-Proliferation Treaty and actually create an incentive for current nonnuclear states to acquire nuclear weapons—exactly the opposite of what we want to see in the world of tomorrow. This country has to do more to deal with the crisis in North Korea, do more to secure fissile materials in other countries, and do more to secure a broad international coalition against proliferation.

I have cosponsored a resolution with Senator TOM DASCHLE, which will be introduced today, calling for a more vigorous nonproliferation policy.

I am particularly concerned this administration's policy of preemption, combined with a new policy of first use of nuclear weapons, is an incentive, an invitation to proliferation of weapons of mass destruction, especially nuclear weapons. I have introduced a resolution of my own on that subject today.

Let me elaborate with just a few points. Press reports about the December 31, 2001, Nuclear Posture Review indicated that the United States might use nuclear weapons to discourage adversaries from undertaking military programs or operations that could threaten U.S. interests; that nuclear weapons could be employed against targets able to withstand nonnuclear attack, and that setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in so-called contingencies. The September 17, 2002, national security strategy of the United States stated:

> As a matter of common sense and self defense, America will act against such emerging threats before they are fully formed.

It went on to say:

> To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.

The U.S. Under Secretary of State for Arms Control, John Bolton, recently announced this administration's abandonment of the so-called "negative security assurance," the pledge to refrain from using nuclear weapons against nonnuclear weapons, which was outlined in 1978, restated in 1995, and in 2002 in the context of gaining the support of other nations for the nonproliferation treaty. Press reports indicate that in a classified document, National Security Directive 17, the President may have made explicit what had been usefully ambiguous before—a threat to use nuclear weapons in response to an attack with chemical or biological weapons. Making that threat explicit may mean that leaders of other countries that fear a United States attack will think they have to have nuclear weapons to deter the United States, leading to even more proliferation.

What we have here is an escalation of rhetoric, where we have moved beyond "no first use of nuclear weapons," to the point where this administration is saying we can use nuclear weapons against those who do not have them. And now we have a new policy of preemption where the use of those weapons does not even require an imminent danger, imminent threat against the United States.

This rhetoric and this policy cannot help but escalate the situation, leading to more proliferation. That is why I think it is sad that this U.S. Congress has been so passive, while this President has sought to dramatically radicalize and change the foreign policy which has guided this Nation for decades.

The United States is currently engaged in the expansion of research and development of new types of nuclear weapons such as the so-called bunker busters, or small nuclear weapons intended to destroy underground facilities or buried chemical or biological weapons caches.

These policies and actions threaten to make nuclear weapons appear to be useful, legitimate, offensive first-strike weapons, rather than a force for deterrence, and therefore this policy undermines an essential tenet of nonproliferation.

The cumulative effect of the policies announced by President Bush is to redefine and broaden the concept of preemption, which has been understood to mean anticipatory self-defense in the face of imminent attack, and the right of every state to include preventive war without evidence of an imminent attack in which the United States may opt to use nuclear weapons against nonnuclear states.

We don't know where this dangerous policy may lead. But it is hard to imagine it will lead to a safer world. It is hard to imagine that a nonnuclear power can look at the new Bush foreign policy and say with any degree of confidence that forestalling the development of nuclear weapons is in their best interests in the long term. I am afraid the President has created an incentive for proliferation of nuclear weapons—exactly the opposite of what this world needs.

Turning back to the treaty before us today, I am going to offer an amendment, and a number of colleagues will as well. It is my hope we will be able to make constructive and responsible improvements to the Resolution of Ratification that will address some of the weaknesses.

When the Senate considered the Resolution of Ratification of the START treaty in 1992, it approved a condition that requires the President to seek a cooperative monitoring and verification arrangement in any future agreement.

I am offering an amendment to this Resolution of Ratification that requires the President to report to relevant Senate committees on how he is complying with that requirement.

The Strategic Offensive Reductions Treaty—also known as the Moscow Treaty—does not contain any verification measures other than those already required by the START treaty, which expires in 2009.

The President's position is that our new cooperative relationship with Russia means no verification is necessary. Certainly our relationship with the Russian Federation is quite different than it was during the dark and dreary days of the cold war. The preamble to the treaty makes reference to this new relationship saying the two parties desire ". . . to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability."

I believe a series of cooperative measures, inspections, data sharing and other verification measures are appropriate even in a relationship based on trust, cooperation, openness, and predictability.

I am sorry to remind my colleagues on the Republican side of the aisle that it was their President, Ronald Reagan, who said, "Trust but verify." He was negotiating a START treaty at the time with the Soviet Union. I think his words still apply. Verification builds trust.

As British Foreign Secretary, Lord Palmerston said in 1848—and it has become an often-quoted maxim in foreign affairs—"We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow." In this case, the interests of both countries are served by reducing deployed warheads, but interests can change with the circumstances.

President Bush has said several times—in fact, he said it in a conversation that I was a party to—that he has developed a relationship of trust with the Russian President, Vladimir Putin. In a joint press conference with the Russian President in June, 1991, President Bush said: "I looked the man in the eye. I found him to be very straightforward and trustworthy. We had a very good dialogue. I was able to get a sense of his soul. . . . The Cold War said loud and clear that we're opponents and that we bring the peace through the ability for each of us to destroy each other. . . . Friends don't destroy each other."

This may well be so, but the fact is that both countries still both have, at the push of a few buttons, the capability to destroy each other, and to destroy the world. There can be no more serious matter.

President Bush and President Putin may have the best of trusting relationships, but we cannot know what the future will bring or who will be President of either country over the life of this treaty, or what kind of relationship those Presidents may have.

Condition 8 of the resolution of ratification of the START treaty requires that in connection with any subsequent agreement reducing strategic nuclear weapons, the President shall seek appropriate monitoring measures. I want to read the entire condition, because I believe it is very important for my colleagues to hear what the Senate required in 1992:

> (8) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—
>
> (A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and
>
> (B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing significant quantities of fissile materials.

This condition, originally offered to the START Resolution of Ratification during committee consideration, was offered by the Senator from Delaware, Mr. BIDEN, who is in the Chamber today and has been a leader, as well as Senator LUGAR, in developing the kind of arms control which can make a safer world. Senator BIDEN offered an excellent condition that reflected deep concern about nuclear warheads and fissile material falling into the hands of terrorists and irresponsible states, and anticipated that future treaties would require cooperative measures to monitor and verify reductions in strategic weapons in a post-cold-war context.

In fact, measures to monitor what becomes of the thousands of warheads to be taken off of operational deployment is one of the most important steps the United States and the Russian Federation can take to be sure those weapons or fissile materials are secured.

The START treaty contains an extremely complex verification regime. Both countries collect most of the information to verify compliance through "National Technical Means of Verification," in other words, satellites and remote sensing devices. START also allows intrusive measures, such as on-site inspections and exchanges of data.

But these measures under START apply to the retirement and destruction of nuclear weapons launchers and not the warheads themselves. START has a complex way of limiting nuclear forces—rather than counting warheads, it attributes a certain number of warheads to each kind of missile or bomber.

The treaty before us does not require the destruction of launchers, or warheads. There is simply no way to verify what may happen to the thousands of warheads that are to be taken out of operational deployment.

When Senator LUGAR came to our breakfast a few weeks ago, he told a story of visiting the submarine facility at Minsk—I am sure he can fill in the details—and seeing the long line of nuclear submarines that used to be part of the Soviet Navy. He raised a serious and important question about what would happen to the nuclear payload or the nuclear materials in those submarines. Will they be taken out to sea and scuttled, or dismantled and sold? It is a serious concern.

Think about the materials we are talking about. I have seen Senator BIDEN many times come to the floor with materials no longer than a saucer, and easily transported in terms of their size. Now we are talking about a treaty before us which does not include verification procedures so that we are not certain that the Russian Federation is actually dealing with these fissile materials and nuclear weapons in a fashion to guarantee that they won't be the subject of proliferation.

Doesn't it make sense for us to have a reciprocal obligation on the part of both the United States and the Russian Federation to make certain this treaty works? To say the President of the United States and the President of Russia have a trusting working relationship is a good thing for world peace. But who knows what tomorrow will bring? Who knows where we will be or where the Russian Federation will be? And who knows who the leaders will be?

It is important for us, if we are ratifying a resolution for a treaty that will affect the United States for 9 or 10 years, that we at least consider the possibilities that things may not end up as smoothly as we hoped. It is far better for us to build into this resolution a verification procedure to make sure both sides live up to the terms of the treaty. As President Reagan said, "Trust but verify."

I believe that it makes sense for new verification measures to be negotiated. A Bilateral Implementation Commission and the Consultative Group for Strategic Security have both been established in connection with the treaty, and verification and transparency measures may be discussed in these fora. Secretary of State Colin Powell said in his testimony before the Senate Foreign Relations Committee that the Administration will "consider whether to pursue expanded transparency" at meetings of the Consultative Group.

My amendment reminds the Executive Branch that it is already required to seek an arrangement on such issues by Condition 8 of the START treaty, and simply requires a report on what it has done to comply with the requirements of that condition.

I believe this change, although small, is important. It is a change that states to every Member of the Senate and to the American people we represent and to future generations that this is more than just words on paper. It is more than just a blink of an eye and a relationship.

There is a verification procedure to make sure that the nuclear weapons that are to be set aside and not menace the rest of the world are actually set aside, verification procedures which we can trust and the Russians can trust as well. That is not too much to ask. To do anything less is to perhaps jeopardize the good, positive relationship we have today, by leaving unsaid and unmet our obligation for verification.

Madam President, I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 250.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of section 2, add the following new condition:
>
> (3) COMPLIANCE REPORT.—Not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on the compliance of the President with the requirements of condition (a)(8) of the resolution of ratification of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), which states that "[in] as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor (A) the numbers of nuclear stockpile weapons on the territory of the parties to [the START Treaty]; and (B) the location and inventory of facilities on the territory of the parties to [the START Treaty] capable of producing or processing significant quantities of fissile materials".

Mr. DURBIN. Madam President, I have shared a copy of this amendment with Senator LUGAR, and I hope Senator BIDEN's staff has a copy as well. If not, we will provide it to them immediately.

At this point, I do not know if Senator LUGAR would like to respond to the filing of the amendment or to engage me in a conversation about the nature of the amendment. I would welcome that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the Senator for his very thoughtful and generous remarks about cooperative threat reduction and the conversations we have enjoyed about that.

The Senator from Illinois has been a very strong supporter of nonproliferation in this country as we have worked with the Russians or we have tried to direct our own programs. It is always difficult to oppose an amendment of someone who has been so generous in mentioning cooperation we have had together.

I will oppose the amendment because I believe that, in fact, the Senator's objectives are being realized in many ways. Some are known to the Senator; some I would like to discuss presently.

But, first of all, I would say that in arguing in favor of the Moscow Treaty, Senator BIDEN and I have pointed out that the President had already made a determination that we were going to unilaterally destroy a good number of weapons. And the Russians, for their own reasons, had decided they wanted to do so.

This is why it is a very short and simple treaty without extensive verification protocols that have characterized other treaties. But it comes with the START I verification procedures that last through 2009. In our hearings, we have pointed out 2009 is short of 2012, which is the timetable for the total treaty to be consummated. But, at the same time, there is all of the strictness the Senator from Illinois has mentioned in previous treaties incorporated in this one.

The second point of verification is the Cooperative Threat Reduction Program, the Nunn-Lugar program. This has people from our country working with Russians on the ground in Russia. They are verifying precisely what they are doing.

I want to mention the extent of this reporting and verification by pointing to the CTR report which was just published for the year 2002. It has, on the front, so that all Senators will be able to see, the CTR logo, and says: "Cooperative Threat Reduction annual report, Fiscal Year 2002."

Now, page by page, the report goes through a description of cooperative threat reduction activities carried out in fiscal year 2000 in the nuclear, chemical, and biological areas, project by project and objective by objective. It discusses the 5-year plan for destruction or containment, security of each of these materials or weapons systems.

I mention this simply because that has been the objective of those of us who have tried to foster this Cooperative Threat Reduction Program; that in fact there be very close congressional scrutiny, dollar for dollar, area by area, all the way through.

Now, Senator BIDEN was prescient in his amendment that the Senator from Illinois has cited. But this clearly influenced the subsequent work under cooperative threat reduction, and does to this day.

The objectives that the Senator from Illinois has suggested that are especially important—and those were also mentioned by the distinguished Senator from North Dakota, Mr. DORGAN, early on—we are concerned about the tactical nuclear weapons. We have raised the question to Secretary Powell as to why this was not included. In essence, this is not a quote from the Secretary, but he said: It is a bridge too far. We raised this with the Russians. They are not prepared to come to agreement.

Now, other countries are deeply interested in the Russians coming to agreement, the G–8 countries that have come together in the so-called 10 plus 10 over 10 program, which means $10 billion for each of 10 years from the countries in the G–8 other than the United States, thus matching essentially what we are doing under cooperative threat reduction.

One of the objectives of the early meetings was clearly: What about the tactical weapons? These are very close to the Europeans. They are not long-range ballistic missiles. They are missiles on the continent in proximity to countries worried about their security.

So we have friends, in a multilateral way, who are helping to pursue this situation. I have some confidence—because Secretary Powell and Secretary Rumsfeld, in their testimony, indicated this is a high priority for them, they will continue to raise it with the Russians—we will make some headway. But we have not thus far.

I would just say to the distinguished Senator from Illinois, whether spurred by the Biden amendment years ago or various other activities, our activities as Members of the Senate and the House and on the ground in Russia have been vigorous.

I think the Senator cited perhaps some of my trips. But one recently, last August, was an attempt to go to the biomilitary plant at so-called Kirov 200. I sought to go there because it was identified as one of four bioweapons facilities of which we believe the Russians are simply still in denial. They are not prepared to work with us, even though at 14 other sites we do now have active programs.

Under the ISTC Program, the International Science and Technology Program, we are giving stipends to Russian scientists who now have left the weapons field and are working on HIV/AIDS or other ways to combat chemical weapons poisoning.

I would simply say that the Kirov 200 situation, for me, was almost a bridge too far, even though I thought arrangements were available for our U.S. Air Force plane to convey me and the party out there. At the airport that morning, we were informed we would not be able to land. We could fly, but we were not going to land. So we began to work our way through the bureaucracy of the foreign office of Russia, unwilling to take no for an answer. In due course, we did fly the aircraft, and we did land in Kirov.

Having gotten there, I would say that I did not see everything that I wished to see. But what I did find were retired Russians, retired at 55, who had come, from the plant that was denied to me, down to our activities and who, in essence, told me everything they were doing at either.

So I think we have a pretty good insight. I just mention this because even as we legislatively will some things to happen, they do not happen without persistence and sort of doggedly pursuing those objectives. I am just testifying that is occurring, sometimes to the discomfort of our relationship with the Russians. But in this particular case, I reported all my activities to the defense minister, Mr. Ivanov, and at least mildly admonished him we ought to be beyond this. The whole idea of the Moscow Treaty should be a new relationship, a new trust between President Putin and our President Bush. And all of us on both sides need to be fostering that.

So my response to the Senator from Illinois is to say that I think we are on the same side in pursuing congressional oversight, more vigor with regard to everything we are now doing, although I think it is fully reported annually by the Department of Energy, quite apart from CTR, and with goals to go where we have not been; namely, tactical weapons and future destruction.

Mr. DURBIN. Will the Senator yield for a question?

Mr. LUGAR. Yes, I yield for a question.

Mr. DURBIN. Am I right in my premise that this SORT treaty, this Moscow Treaty, does not destroy the nuclear warheads but simply calls for them to be stored, set aside, not in a deployable mode, so they, frankly, are at least within the grasp of either country to be reactivated? Is that accurate?

Mr. LUGAR. The Senator is correct. The treaty does not call for the destruction of warheads.

Mr. DURBIN. May I also ask the Senator from Indiana, since we live in the

21st century in fear that fissile material and nuclear weapons will be transferred either openly or covertly to countries that will misuse them, why would the Senator from Indiana believe that a verification procedure which spotlights the location and number of these weapons in both countries would not be in the best interest of reducing the likelihood of proliferation?

Mr. LUGAR. I would not disagree, in response to the distinguished Senator, that it would be ideal for this verification to occur, but I would simply respond that although we have been negotiating such verification for some time, the Russians have not agreed to do this. In other words, one reason that is not in this treaty is the negotiators have found resistance. I have found resistance. Other people have found resistance.

These things open up tediously, sort of one by one. For example, after great pressure, I was taken on a small Russian aircraft to a plant where in fact there are warheads taken off of missiles, and they are stored almost like bodies in coffins side by side, lined there. Each one had a history of when the warhead was built, when it was taken off of the missile that would have conveyed it, when it was put there in storage, and some estimate as to its efficacy; that is, how long you can anticipate this warhead would actually be explosive. Much more ominous down the trail and something that I am pursuing is some sort of prediction as to when it might become dangerous.

The difficulty—and the Senator knows this—is these warheads are unstable sometimes in terms of their chemical composition. They may not lie there in peace forever, like a sporting goods store situation of inert matter. That is the problem for the Russians. At some point they will have to move the warheads. So they already have a railway station secured. They have procedures because they know that at some stage they will have to take the warhead out and disassemble it, a very dangerous predicament and one that then leads to problems of storage of the fissile material. So in another Nunn-Lugar program we are trying to work on the storage facilities for thousands of these warheads because, for the moment, there is not adequate storage for the fissile material itself after it is taken as plutonium or highly enriched uranium from the warhead. The Russians would like to pursue that.

So we asked the logical question the Senator has asked: Why can't we work together to verify where all these warheads are, what status they are in. We are interested in that. We don't want an accidental nuclear event in Russia. And the Russians have been resistant, in the fullness of time perhaps less resistant, but I would just say, once again, that was probably a bridge too far for this treaty. Our negotiators found the Russians not to be prepared.

Mr. DURBIN. Will the Senator yield for another question?

Mr. LUGAR. Of course.

Mr. DURBIN. Is the Senator aware that the amendment I offer calls on the President to report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate not later than 60 days after the exchange of instruments of ratification, annually thereafter on April 15, on the progress toward verification, and we go on to say that we are seeking the same type of verification as in the START treaty, the numbers of nuclear stockpiled weapons in the territories of the parties and the location and inventory of the facilities?

I ask the Senator from Indiana, if we have not reached the stage we want to in verification, is it not of some value for this Senate to say as part of the agreement that we are going to ask this President, and any subsequent President affected by the treaty, to continue to report on an annual basis to the Senate the progress that is being made to reach verification?

I would think that would have real value to spur this administration on to keep negotiating, keep trying to reach agreement with the Russians. And absent that, I am afraid there would be a disincentive for that sort of thing to occur. I ask the Senator if that is a reasonable interpretation of my own amendment.

Mr. LUGAR. I think it is a reasonable interpretation. I respond to the Senator, but I would also say that in fact the President, at least through the Department of Defense, in the CDR report I have in front of me, is doing that each year. These are annual reports. Likewise the Secretary of Energy is making his own reports on the nuclear accountability issues. So it appears to me that generally the objective of the Senator is being fulfilled in current reports.

What is not being fulfilled and what the Senator and I both wish was being fulfilled is more progress toward the destruction of the warheads themselves and more openness on the part of the Russians to what their problem clearly is and one in which we could help if we had more access. Before I got into this particular vault I am talking about, General Habiger, who has been mentioned in this debate, was the last American ever to get there. This is not openness or transparency. So even though property threat reduction brings a lot of Russians and Americans together, there are areas in which we have not come together, these bioweapons plants, the four of them, for example, and some of these vaults that we have not seen.

Every year we are reporting, however, our deficiencies or our inability to reach agreement. It is a checkoff list with the Russians.

I say, on behalf of those who are in the field with the CDR, they work at it all the time, working with their compatriots out in the hinterland of Russia to see what might open up this year.

Mr. DURBIN. If I might say, by way of a question in closing so that we don't prolong this debate, I hope the Senator from Indiana will view this amendment as instructive and as friendly and not as adversarial to his goals. I took heart from the statements he made in meetings I attended about the need for all of us to be more sensitized to the problem of proliferation of nuclear weapons. What I am seeking to do is to get an ongoing relationship with the President and the Senate so that we can continue to monitor the progress being made and the incentive is there for this President and any other President in the Russian Federation or the United States to continue to move forward on this track so we can reduce the likelihood of proliferation of nuclear weapons.

I ask my colleague from Indiana if he will consider this amendment I am offering in that light, as a positive, supportive effort, a friendly effort to add something that may be of value to the conversation.

Mr. LUGAR. In response to the Senator, of course, I see it in that light. My only argument with the Senator today is that I do not believe it ought to be part of the treaty. I believe clearly the fulfillment is already occurring in terms of the reporting, with considerable vigor, but at the same time, as I have admitted to the Senator, the objectives we both seek by getting the President to indicate energy and so forth also requires the Russians to reciprocate. This particular treaty still has to be ratified by the Duma. We have our own debate here, but they will have theirs, too.

Senator BIDEN and I in our opening comments indicated we would resist amendments simply because we believe we have at least in a very general way covered territory of what we ought to be doing in terms of oversight but in ways that would not in any way be objectionable to the Russians who have to ratify the treaty and thus at least preserve the spirit in which Presidents Putin and Bush negotiated, admittedly, a limited treaty. I would ask the Senator at least for his thoughts as to whether he would be sufficiently assured by the vigor of my response to withdraw the amendment, understanding that we will continue to pursue these reports.

I will try to make available to Senators the CDR message if they do not have it which really reviews in detail the gist of what the Senator is requesting. But beyond that, it is a pledge of vigor in proceeding where we have not been, these bridges too far that I have described that are very important.

Mr. DURBIN. May I ask the Senator from Indiana a followup question? Would the Senator be willing to join with me and perhaps Senator BIDEN in a letter to the administration relative to this verification procedure, asking that the administration move forward to at least establish on an informal basis a reporting with the Senate so we can see the progress being made? I would consider that to be a step in this direction which moves us to the same goal.

Mr. LUGAR. I respond to the Senator that I would be pleased to work with the Senator on a letter which affirms, once again, the importance of the debate we are having, the interest of Members who are signing the letter, but others literally in the subject matter of what we are talking about who would acknowledge perhaps that some reports are being made and maybe ask for more vigor in being more complete. I would like to work with the Senator in that project.

Mr. DURBIN. I ask my colleague from Delaware, since I am taking his language from the START treaty and have venerated it, deified it, given it all of the credence any Senator could ask, whether he would be kind enough to join me.

Mr. BIDEN. The answer is yes. I think what the Senator is attempting to do is very important. Let me explain to the Senator my perspective, and to state the obvious—I may very well be wrong about this. But let me tell my colleague why I honestly think what Senator LUGAR and I came up with is, quite frankly, more likely to get at what we need.

Condition 8 that has been referred to in the START treaty was a very new and important idea when we enacted it 10 years ago. It led the Clinton administration to use the Nunn-Lugar program to achieve a measure of transparency into the Russian fissile stockpiles in the mid-1990s.

In recent years, the United States has helped Russia to conduct a census of its civilian fissile material, but I doubt that either side is now prepared to allow access to the weapons stockpiles that are not on the civilian side of this equation.

It would be my expectation that a report called for on the activities pursuant to condition 8 to the START treaty resolution of ratification would only tell us there are no negotiations toward a bilateral agreement, even though there are useful efforts underway on the Nunn-Lugar related programs.

We already have a condition to the resolution before us that requires the Nunn-Lugar report; in other words, progress on Nunn-Lugar initiatives. We are required to have a report. While I will join the Senator in a letter, and I agree with what the Senator is trying to do, I honestly—not out of pride of authorship of what we came up with, but I honestly believe that what we did as a condition on the Nunn-Lugar programs on this treaty is, quite frankly, more effective than going the route of the condition 8 requirements in the START treaty. I hope I made that clear.

Again, there is no disagreement I have with the Senator from Illinois. The bottom line is that what he has pointed out is, in my view, a real deficiency in this treaty overall. His legitimate attempt to take condition 8 of START and use it as a vehicle to stand in for the absence of a verification requirement in this treaty is useful.

I honestly think, though, I say to Senator DURBIN, the way we did it in the resolution is a more effective way of accomplishing what the Senator is trying to do than through condition 8 of the START treaty.

I will conclude by saying, as I said in a necessarily lengthy statement laying out my interests, concerns, and the assets and deficiencies of this treaty when the chairman brought it to the floor, the treaty, as former Senator Sam Nunn said, in an overall context, can either be moderately helpful or it can be mischievous. I am paraphrasing.

The absence of a verification provision worries me not so much because I think we are going to be put in jeopardy if they do not do what they are supposed to do, but because it is going to allow a future administration or Members of the Senate to do what they did when we had a verbal agreement on tactical nuclear weapons in the first Bush administration.

It is going to allow some of our friends on the right, who are not going to like it when things are not going so smoothly with Russia, to say: See, these guys are liars. These guys do not keep their agreements. These guys are not doing what they said because we cannot verify that they have done what they said they were going to do.

It leads to distrust because there is always, as my friend from Illinois knows, whether in the House or the Senate—and he has been here a long time—there is always a group in this body that trusts no agreement, none whatsoever, no arms control agreement, no matter how loosely structured.

As Senator Helms, my good friend and the predecessor of the Presiding Officer, used to say: There is never a war we have lost or a treaty we have won. So it is axiomatic on the part of some, in the very conservative elements of our party, but clearly in the Republican Party, who say all treaties are bad ideas, they are just bad ideas.

Absent verification provisions, we allow for misunderstanding to creep in over the next 10 years to what is basically a good-faith agreement until December 31, 2012, the drop-dead date when we know what has happened.

I wish to make one other point because I think it will affect other legitimate points of view and amendments that are brought to the floor that I would be inclined to support.

I remind everyone who may be listening—and I know my colleagues on the floor fully understand this—the President started off with a flat assertion that this would not be a treaty, the Moscow agreement. As a matter of fact, the day on which we had the police memorial service on The Mall—and I am part of that process—I was up on the stage, and the President, who has a great sense of humor and is really an engaging guy, walked up on the stage, grabbed my arm, and said: You owe me one, Joe.

I looked at him joking and said: How is that, Mr. President?

He said: You got your treaty.

He was kidding about my owing him one. But the generic point was well taken. He never wanted this to be a treaty in the first place. The Senator from Indiana—I will not say the Senator from Indiana—the Senator from Delaware was vocal, vociferous privately and publicly with the President personally and on this floor that it had to be a treaty.

The backdrop to all of this is, in terms of additional conditions that may or may not be added to this resolution, that if push comes to shove, I am convinced this President would not be disappointed if we did not vote for this. Let me restate that—he would be disappointed if we did not vote for it. But I am worried that, if certain amendments were added that he did not like, I do not think he would have any trouble saying, I would rather not have it as a treaty, and I will keep the verbal agreement, the executive agreement with Mr. Putin, rather than have it as a treaty and have to accept these conditions.

It is very important this stay as a treaty as—flawed is the wrong word—but as incomplete as it happens to be. The Senator—I am not being solicitous—points out a deep and serious deficiency in this treaty, and I think the mechanism he chose to try to remedy it is, quite frankly, sound; but the remedy we chose to deal with the deficiency I think is a more likely way to achieve what we are seeking than condition 8 of the START treaty.

Having said all of that, I will be happy to join the Senator in a letter, as strong as he would like to make the letter. I have already sent a few missives down to the President on my views on some of these issues, for what they are worth. I would be happy to join the Senator and sign with him a letter along the lines he has been talking about.

Mr. DURBIN. I thank the Senator from Delaware.

Madam President, because I am convinced of the genuineness and commitment of both the Senator from Indiana and the Senator from Delaware to the issue of nonproliferation, of transparency in our agreement with any nation when it comes to nuclear weapons, I am going to defer to their judgment. But I will also add, were I to send a letter by myself, I am not sure what it might mean, but if they will join me in this correspondence to the administration, I am certain it will carry more weight and be a reminder that we are mindful of the need for real verification, to make certain these nuclear weapons do not end up in the wrong hands and, in fact, they are set aside so they will not be a threat to any other nation.

AMENDMENT NO. 250, WITHDRAWN

For that reason, with the assurance of Senator LUGAR, as well as Senator BIDEN, I ask unanimous consent to withdraw the amendment I filed.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment, and the amendment is withdrawn.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. WARNER. Madam President, I ask unanimous consent that the Senator from Virginia be allowed to proceed as in morning business for such period of time as he may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WARNER are printed in today's RECORD under "Morning Business.")

Mr. LIEBERMAN. Madam President, if I may paraphrase Winston Churchill, the "only thing worse than this treaty would be not having this treaty at all." So I rise this afternoon in support of this treaty—a good but ultimately insufficient treaty—and in support of my colleagues' amendments to it.

I rise also to lend my voice to a related resolution that I drafted with the minority leader and several of my colleagues, which enunciates the beginnings of a coherent non-proliferation strategy.

A little over one decade ago we awoke to the sound of freedom. The Berlin Wall had fallen; brothers and sisters who had been kept forcibly apart were able, once more, to take up the rights which are enshrined in our own Declaration of Independence, rights which we all too often take for granted. The Soviet empire was no more. It was the beginning of a new era. The threat of nuclear war, at least between two great superpowers, had lifted. It soon became clear that the newest threat to our security, the increased chance of proliferation wrought by the fall of the Soviet empire, was perhaps an even greater challenge. The sword had slipped from the giant's hand. We knew then and we know now, that we had no choice but to take action and prevent those who would do us harm by picking the sword up again.

We in the Congress and our President acted with resolve. We moved to strengthen international institutions and systems designed to prevent the spread of nuclear, biological, and chemical weapons. And we were successful. The nuclear capable states of the former Soviet Union, one by one, renounced the use and possession of nuclear weapons and returned them to Russia. We had a few setbacks along the way, but overall we have managed to contain proliferation. But now I fear that this President has lost his way, and is undoing the good progress of previous administrations.

The fact is, the events of September 11, 2001 should be a rallying cry for non-proliferation—we can imagine all too well the results if those who masterminded the attacks on the World Trade Center and the Pentagon, had access to weapons of mass destruction. Yet since then, the Bush administration has unwisely led our Nation and the international community down a meandering path of policy choices with only one clear outcome: the increase of proliferation of weapons of mass destruction. In doing so, their choices have raised more questions instead of settling them.

Why has the administration failed to engage North Korea, the prime proliferator of missiles and the greatest threat for immediate nuclear proliferation in direct talks?

Why has the President chosen to ignore the advice of General John Shalikashvili, the former Chairman of the Joint Chiefs of Staff, and instead actively pursued new uses for, and types of, nuclear weapons, when such action will erode the nuclear firebreak?

Why has the administration failed to meet the Baker-Cutler funding benchmarks for nonproliferation and arms control programs?

Why has the administration failed to fully invest in the Nunn-Lugar program?

Where is the long-term strategy to diplomatically engage proliferating nations?

I agree with President Bush that "history will judge harshly those who saw this coming and failed to act." However, at a time when the international community needs leadership and guidance on this issue, the administration is virtually silent. Too often on arms control and non-proliferation, America has become a colossus that oscillates between pouting and shouting. In contrast, the resolution that my colleagues and I are introducing today gives this nation a strong, clear, and constructive voice on these critical issues. Here and now we call for the administration to rebuild the broad international coalition against proliferation that it has permitted, and even encouraged, to deteriorate over the past two years. We call for the full funding of all Federal non-proliferation and arms control programs to the levels prescribed by the Baker-Cutler report. We call for engaging North Korea in direct and full talks. We call for the expansion of the Cooperative Threat Reduction program to include additional states willing to engage in bilateral efforts to reduce their nuclear stockpiles. These would be acts of strength by the strongest nation in the history of the world and they would be acts of wisdom because these acts would increase our security.

The bottom line: the United States must start now to rebuild the international community's consensus on stopping proliferation in its tracks. The measures outlined in our resolution will begin to do just that.

On September 11, 2001, in a single fell blow, we learned just how vulnerable we may be if we do not act with foresight and urgency on containing weapons of mass destruction. Today, I believe everyone in this chamber understands that we cannot speak of homeland security without addressing non-proliferation.

We cannot debate national security without including arms control. This Nation requires a coherent non-proliferation policy, and a clear voice on the matter in the international community. This resolution is the start.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I rise in support of the ratification of the Moscow Treaty. I would like to begin by thanking Senators LUGAR and BIDEN who have done very good work in this instance, and I believe they are going to provide very dynamic leadership on the Foreign Relations Committee in the Senate. These Senators have been working in this area for many years.

I remember specifically the work of the distinguished Senator from Indiana after the dissolution of the Soviet Union as we had Russia and other countries grow out of that. We had the Nunn-Lugar legislation. Quite frankly, some of us were a little leery of how that program would work and whether it was the right thing to do. But looking back on that time in history, there is no question but that was a really dynamic leadership effort that needed to be made. It has been helpful. It has not been perfect, of course. But I think it has helped our relationship with Russia, and I think it has also helped to control the escape of and the misuse of some of those nuclear weapon capabilities. I want to recognize Senator

LUGAR's past leadership in this area and thank him for working to get this Moscow Treaty ready.

I had occasion last year to go to Russia, to St. Petersburg and Moscow, with a delegation of Senators to meet with foreign policy leaders, defense leaders, members from the Duma, members of the Russian Federation Council, and the chairman of the foreign relations committee there in the Federation Council. It was very interesting and very informative.

I believe there is a growing opportunity for the United States to have a close working relationship with Russia. It has to be one of truths. It has to be one that covers the entire sphere of not only trusting each other when it comes to arms and treaties but also the economy and trade, foreign policy, and international issues such as the one we are working on right now.

We see today that the vote of Russia and what they do at the Security Council is going to be important as we prepare to deal with the situation in Iraq. So we need to have a growing relationship and friendship with this important country.

I think this treaty is a good one. It is one that certainly is timely.

Russia's transformation to a market economy still faces a number of challenges, obviously—its interests, and the people there. Also, the United States is working to get through problems. There are still problems we are trying to deal with. But our strategic relationship with Russia provides a strong foundation of cooperation on issues regarding nuclear weapons reduction and security.

Since 1992, the United States has spent over $3 billion in Cooperative Threat Reduction Program funds to help Russia dismantle nuclear weapons and ensure the security of its nuclear weapons, weapons-grade fissile material, and other weapons of mass destruction. This has been a very big program. It is one that I think has been very important.

In 1998, both countries agreed to share information upon detection of a ballistic missile launch anywhere in the world and to reduce each country's stockpile of weapons-grade plutonium. As Russia and the United States continue to reduce the stockpile, we must stay vigilant in our collective effort to ensure that weapons-grade nuclear materials stay under lock and key. It is easy to say, but it is not a question of just turning the lock. There has to be an ongoing effort, there has to be verification, and there has to be a lot of cooperation.

The Moscow treaty builds upon the spirit of cooperation between the United States and Russia. It serves the interests of both nations and both peoples, and makes the world a safer place. The treaty is just one element of a growing relationship between the U.S. and Russia that includes several new opportunities for cooperation including trade, energy, and economic development.

There has been some concern, noted by the opposition, that the Moscow Treaty is not substantive enough—that it is only 3 pages long—much shorter than the several hundred pages of the START treaty—that is doesn't deal with actual warheads. First, we need to recognize that the Moscow Treaty does not take the place of the START treaty. The Moscow Treaty is separate from the START treaty—the START treaty is still in full force and effect.

Perhaps more important than laying out comprehensive steps of reduction, these important three pages of the Moscow Treaty fundamentally approach Russia as a friend, not as an adversary. I believe that is a relationship that is going to grow and become more and more important in the years ahead.

This is a historic achievement. With the document we will be voting on in the next day or two, both the United States and Russia will be making a commitment to reduce the quantity of operationally deployed warheads. Undeniably, it is in the best interests of both of our countries to destroy as many warheads as possible. Both sides continue to be challenged by warhead destruction in any given year because it is a very complex process. It is not a matter of just using a bulldozer.

However, we must also not allow the complexity of the process to prevent us from our commitment to progress in this warhead reduction. Although not intended to be a detailed roadmap to accomplish that reduction, the Moscow Treaty lays out a high-level framework that is both workable and flexible.

I am greatly encouraged by the level of developing cooperation between the United States and Russia that is embodied in this treaty. I am encouraged by the prospect now of having exchanges between leaders of the Duma and the Federation Council and leaders of the House and the Senate. I think it is important that we have those ongoing relationships. Under the leadership of Senator LUGAR and Senator BIDEN, I believe we will see that continue to develop.

By bringing forth the ratification of this treaty, I think it makes good sense for our Nation. It is important for the future security of the world, and I think it will help our friendship grow so that we will have not an adversary, as we had for so many years, but a friend in Russia.

I wanted to come to the floor and endorse this treaty. I think it is an important signal of our feelings, and it is very important in a timely sense also.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, if it is agreeable to the managers of the bill, I would be pleased to address my remarks at this time to the important matter before the Senate—the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction.

I rise to express my strong support for the ratification of the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction, more commonly known as the Moscow Treaty.

In my career as a public servant, I have had a number of opportunities to work with the former Soviet Union and with the current Russian Federation.

I remember when I was Secretary of the Navy, I was asked to negotiate over a period of 2 years an executive agreement in the years 1970 to 1972 between the United States of America and the then Soviet Union. That executive agreement applied to the naval forces which I was privileged to be associated with at that time as Secretary of the Navy. It was a very important executive agreement. It is still in existence today. It has been used as a pattern for other nations for executive agreements between themselves and other countries. It related to how we operated our ships and aircraft in the international waters of the world—operated them in a manner that provided the maximum degree of safety to the vessel or aircraft itself and, of course, the crews who operated those platforms.

We had experienced, in those days, incidents not unlike the one provoked by North Korea just days ago—where one of our aircraft, on a routine mission, in international airspace, operating under clearances given by the international programmers of airspace—when we were broached upon, as we use that phrase in the military, by North Korea's fighter aircraft. And, indeed, that broaching took the form of actions that bordered on literally hostile actions, in my judgement. But time will settle out that event.

I just mention this chapter of history as showing my support for the people of Russia and the need for our two nations to work together. I still look upon Russia as a superpower, certainly in the arena of diplomacy, the arena of world economics. Indeed, I have profound respect for their armed forces today, even though those armed forces are somewhat significantly reduced in size.

But against that background, I remember so well a number of trips to the Soviet Union. I remember so well one with the distinguished senior Senator from West Virginia, ROBERT BYRD, when he put together a delegation. We were the first Members of Congress to meet with then-President Gorbachev. It was a momentous day for all of us, having traveled those long distances, and then waiting in the anteroom, and then being escorted in to see that figure of history, a very important figure of history for Russia. I have a lot of respect for President Gorbachev.

I remember another codel with Robert Dole, again, leader of the Senate, as was Senator BYRD. We went to visit President Yeltsin. At this time, I note, the delegations to visit President Putin certainly have not been large in number. I am not so sure that is for the good of our two nations. I would hope that Russia might look more favorably upon delegations of the Senate to come and visit with their leaders of today.

In any event, I commend Senators LUGAR and BIDEN for their leadership on this issue. It has been exemplary. I think this Chamber can take rightful pride in each of those individuals—one the former chairman and one, of course, Senator LUGAR, the current chairman of the distinguished Foreign Relations Committee.

I certainly commend President Bush for his vision and leadership in negotiating this treaty and establishing a new strategic relationship with Russia. It is truly remarkable how our country's relations with Russia have evolved and deepened over the past 2 years. Groundbreaking U.S.-Russian cooperation on the war on terrorism has been critical to our success in Afghanistan and more broadly in our efforts to root out terrorism and deny terrorist groups safe havens and access to money and destructive weapons.

On the subject of destructive weapons, the Nunn-Lugar program, I have had a strong interest and support for that program from the very day it was conceived. I remember Sam Nunn had a small breakfast and sat down. What an audacious concept. We stood there in awe, as the cold war was very much in evidence in those days. But I think the bold foresight of Senators Nunn and LUGAR to envision this program has reaped a great deal of mutual benefit for both nations and, indeed, perhaps the world at large, to further limit the proliferation of not only weapons of mass destruction but the materials by which those weapons are made.

Equally remarkable is President Bush's success in implementing the bold vision he set forth in his May 2001 speech at the National Defense University for a new strategic relationship with Russia. President Bush decided to move the U.S.-Russian relationship beyond the cold war not incrementally, but in a bold leap. He articulated the controversial view that it would be possible to pursue a vigorous missile defense program to respond to the growing proliferation threats of the post-cold-war world, and at the same time dramatically reduce the numbers of nuclear weapons in the U.S. and Russian arsenals.

President Bush set out to break the cold war linkage of restraints on missile defense to reductions in nuclear weapons, and he did so in a way that caused no harm to U.S. relations with Russia. No harm—I would say, indeed, it brought about a strengthening of those relations. This was a remarkable accomplishment. There were many who thought it could not be done. But their fears proved unfounded. President Bush deserves our respect and admiration for leading the world out of its conventional cold war mindset.

Russian President Putin shares in that credit. He, too, exercised admirable vision and leadership when he understood and convinced doubters in his own country that U.S.-Russian relations had evolved to the point where the ABM Treaty was no longer critical to Russian security. Because the United States and Russia no longer threatened each other, the ABM Treaty was no longer a necessary linchpin in regulating what used to be a U.S.-Soviet nuclear arms race.

If I might just digress a minute, again, in my years of 1969 to 1974, being the Navy Secretary, and my early years in the Senate, when we experienced so many periods of tension with regard to the cold war, there was always an underlying theme, which I will describe as follows. I remember President Reagan used to say, "Trust but verify"—a very magical phrase that captured the relationship between our two nations. But there was the feeling among the professional military who were responsible for these awesome weapons of mass destruction—and I think a feeling among those who negotiated, as did I in a very minor way on the Incidents at Sea Agreement—that the bottom line, the Russian Government, the Russian military were always there with a measure of prudent, sensible realization of these weapons, and there was an inherent responsibility in all of those individuals, both in Russia and in the United States, and their respective Governments, to exercise that judgment.

The concept of deterrence, the concept of massive retaliation always had the underlying theme that individuals had sound judgment as to any final decision, and that sound judgment would be exercised.

That is not true today with Saddam Hussein. We cannot find, in the history of his dictatorship over Iraq, that level of sensible responsibility as it relates to weapons of mass destruction. And I question whether that exists with North Korea today. I am not here to use any words of condemnation, but underlying the cold war period was that sense of some security with regard to the ability of those in possession of weapons to use good judgment, even in the times of the greatest of tensions.

President Bush's readiness to negotiate a legally binding nuclear reduction agreement was instrumental in persuading President Putin that the new strategic framework proposed by President Bush—including withdrawal from the ABM Treaty—would serve Russian interests. The result: A treaty that was negotiated in record-breaking time, will bring sweeping mutual reductions in deployed nuclear weapons, and will enhance the national security of both the United States and Russia.

The Moscow Treaty is unlike any treaty we have had before. It is the first arms control treaty to embrace the new Russian-U.S. strategic relationship. In negotiating this treaty, both sides consciously rejected the cold war mentality of distrust and hostility that previously had required lengthy negotiations and extensive legal structures and detailed verification regimes to ensure that both sides would abide by their treaty obligations.

This simplicity puts the focus where it belongs—quickly achieving deep, equitable reductions in deployed nuclear weapons.

This breakthrough treaty will reduce the United States and Russian nuclear arsenals from their present levels of approximately 6,000 strategic warheads to between 1,700 and 2,200 operationally deployed strategic nuclear warheads over the next decade. These reductions, which amount to about two-thirds of the warheads in the Russian-United States arsenals, are the most dramatic in the history of arms control agreements. Such reductions are clearly in our national security interest. Russia is no longer perceived, or in actuality, an enemy. Our strategic arsenals, swollen by the cold war, no longer need to be sustained at such high levels.

Another great strength of this treaty is the flexibility it accords our leaders to meet the uncertainties both in the international security environment and in the technological status of our nuclear stockpile. September 11 was a vivid reminder that we are vulnerable to attack in ways we never imagined. It is critical to our national security that our leaders retain the maximum flexibility to respond to emerging threats and changes on the world scene.

The witnesses who testified before the Senate Armed Services Committee during our committee's review of the military implications of the treaty unanimously supported ratification of the Moscow Treaty. General Myers, Chairman of the Joint Chiefs of Staff, stated:

> The members of the Joint Chiefs of Staff and I all support the Moscow Treaty. We believe it provides for the long-term security interests of our nation. We also believe that it preserves our flexibility in an uncertain strategic environment.

Throughout its history, the Senate Armed Services Committee has played a critical role in assessing the national security impact and military implications of arms control agreements negotiated by the executive branch. Based on the hearings conducted by the Armed Services Committee and subsequent analysis, I am convinced that the Moscow Treaty advances the national security interests of the United States and deserves the Senate's unqualified support.

I strongly urge my colleagues to join all of us in giving our advice and consent favorably to ratification of the Moscow Treaty.

Mr. President, I see others about to address the Senate. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, the senior Senator, who is a gentleman. The old saying is: "He is a gentleman and a scholar." I have known him and worked with him, confided in him and with him for these many years. I cherish his friendship.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. WARNER. I thank him for those remarks. I made reference to my distinguished colleague from West Virginia moments ago in addressing this treaty and recalled when he led a delegation of which I was privileged to be a member——

Mr. BYRD. Yes.

Mr. WARNER [continuing]. To meet with President Gorbachev. I remember that day as if it were yesterday.

Mr. BYRD. Yes.

Mr. WARNER. And President Gorbachev said, we have this amount of time. And you very graciously, as the leader of the delegation—Senator Thurmond was with us as well——

Mr. BYRD. Yes.

Mr. WARNER. Anyway, it was a brilliant dissertation between yourself and at that time President Gorbachev, and it was a historic meeting. I said on the floor moments ago, I only wish we could do more of that with President Putin because I felt those delegations—I went on two delegations to the Soviet Union with the distinguished senior Senator from West Virginia.

Mr. BYRD. The Senator is correct, yes.

Mr. WARNER. They were very meaningful and helpful.

Mr. BYRD. Yes. I believe on that occasion former Senator Sam Nunn was with us.

Mr. WARNER. Yes. The Senator from Rhode Island, Mr. Pell.

Mr. BYRD. Yes. And Senator Mitchell.

Mr. WARNER. Senator Mitchell, Senator SARBANES.

Mr. BYRD. Yes. It was a fine delegation.

Mr. WARNER. Yes, it was, but it was under your leadership. You were the first Member of Congress to go and meet with President Gorbachev.

Mr. BYRD. That was the first Senate delegation to go and meet with him, yes, it was.

Mr. WARNER. I thank my colleague.

Mr. BYRD. I thank the Senator for remembering that occasion.

NORTH KOREA

Mr. BYRD. Mr. President, while the United States continues its relentless march to war against Iraq, a crisis that is potentially far more perilous is rapidly unfolding halfway around the world on the Korean peninsula.

While Saddam Hussein hunkers down in Baghdad, under the thumb of the United Nations weapons inspectors, and is being forced to begin destroying some of his most prized missiles, North Korean leader Kim Jong Il is aggressively taunting the United States and moving full speed ahead toward restarting his nuclear weapons program.

Over this past weekend, the North Koreans took their defiance and contempt of the United States to a new level when four North Korean fighter jets intercepted an unarmed U.S. reconnaissance plane in international airspace over the Sea of Japan.

According to news reports, the armed North Korean jets came within 50 feet of the American plane and shadowed it for 22 minutes. Initial reports suggest that one of the North Korean pilots may have engaged his radar in preparation for firing an air-to-air missile moments before the U.S. aircraft aborted its mission and returned safely to its home base in Kadena, Japan.

This latest action by North Korea is a marked escalation of the recent tensions between the U.S. and North Korea. Not since it shot down an unarmed U.S. surveillance plane in 1969—more than 30 years ago—has North Korea engaged in aerial confrontation with the United States. That last weekend's provocation by the North Koreans ended without incident is a relief, but it is not a reprieve from concern. Given the hostility and volatility of the North Korean government, this latest confrontation could easily have ended in disaster—a major disaster.

The White House branded North Korea's actions as "reckless behavior," and the Pentagon promptly dispatched 24 long-range bombers to Guam in a move that was seen by some as a not-so-subtle warning to Kim Jong Il that a military response to North Korea's increasing bellicosity is not outside the realm of possibility. But the President has given no indication that he is willing to address the North Korean crisis head-on by engaging North Korea diplomatically in an effort to defuse tensions. To the contrary, the White House appears determined to continue to proceed in its no-talk policy toward North Korea while it focuses the vast weight of its energy and resources on preparing for war with Iraq.

I am increasingly alarmed that this administration's military and diplomatic fixation on waging war with Iraq is serving to overshadow and possibly eclipse the mounting crisis in North Korea.

Benign neglect is a dangerous policy to apply to North Korea. The nation is isolated and its people are starving. Kim Jong Il is hostile, erratic, and desperate for cash. He is also armed and heavily fortified. In open testimony before the Senate Armed Services Committee on February 12, CIA Director George Tenet noted that "the United States faces a near-term ICBM (Intercontinental Ballistic Missile) threat from North Korea."

According to intelligence estimates, North Korea already has one to two nuclear weapons and continues to develop the Taepo Dong-2 missile, which has the capability of reaching the United States with a nuclear-weapon-sized payload.

Recent relations between the United States and North Korea were far from good to begin with, but since October, when it was revealed that North Korea had a secret program to produce enriched uranium, the resulting nuclear standoff between the United States and North Korea has gone from bad to worse.

In a period of just over 4 months, North Korea has moved swiftly and boldly to take the necessary steps to resume the production of nuclear weapons. Following the disclosure of its covert nuclear program in October, North Korea in December expelled U.N. inspectors from its nuclear facilities at Yongbyon, removed U.N. monitoring seals and cameras, and announced it would reactivate the facilities. In January, a month before last, North Korea announced its withdrawal from the Nuclear Non-Proliferation Treaty and appeared to begin moving its stockpile of nuclear fuel rods out of storage. Just last week, on February 27, American intelligence sources concluded that North Korea had, indeed, reactivated the Yongbyon facility. The significance of starting up the reactor is that it could, over time, provide a continuing source of plutonium for nuclear weapons, which North Korea could either stockpile or sell. If North Korea also begins reprocessing its nuclear fuel rods, some U.S. intelligence officials have concluded that it could begin producing bomb-grade plutonium within a matter of weeks, a process that could yield enough plutonium for five to seven bombs by this summer.

In other words, North Korea could begin grinding out the essential components of nuclear weapons for its own use or for sale to the highest bidder even before the first volley is fired in Iraq.

At the same time that it has been ratcheting up its nuclear activity, North Korea has also been ratcheting up its rhetoric and its military saber-rattling. In February, a North Korean MiG fighter jet crossed briefly into South Korean air space for the first time in 20 years. On February 24, North Korea rattled the inauguration of

South Korea's new president by test firing an anti-ship missile into the sea. Earlier, North Korea threatened to abandon the armistice that ended the Korean War.

And just this week on March 3, Kim Jong Il warned that nuclear war could break out if the U.S. Government attacks North Korea's nuclear program, while President Bush explicitly raised the possibility of using military force against North Korea as a "last resort" if diplomacy fails.

The pattern of increasingly hostile words and actions on the part of North Korea, coupled with the moves it appears to be taking toward building up its nuclear arsenal, make North Korea one of the most volatile and dangerous spots on Earth today. The Bush Administration's inattention to the problem and its unwillingness to engage in diplomacy with North Korea are only exacerbating an already precarious situation.

Under the circumstances, North Korea presents a far more imminent threat than Iraq to the security of the United States. It is ironic that the President has made it clear that a military response to the crisis in North Korea would be considered only as a last resort at the same time that he is massing forces in the Persian Gulf region to launch a preemptive military strike, possibly within a matter of weeks, if not days, against a much less potent threat to the United States.

What is particularly frustrating is that the North Korean crisis might never have reached the proportions it has reached had President Bush taken a different tack with respect to North Korea when he came into office. Today's nuclear standoff with North Korea is, in many ways, a replay of a similar crisis in 1994, when North Korea pushed the envelope on its nuclear program, nearly precipitating a military response from the United States. That crisis was resolved when the Clinton administration reached an agreement, called the Agreed Framework, to freeze nuclear production in North Korea in exchange for fuel oil and light-water reactors. Unfortunately, when he took office, President Bush put relations with North Korea in the deep freeze by heaping suspicion and disdain on the North Korean Government, branding Kim Jong Il a "pygmy" and including North Korea in the "axis of evil."

Even so, the current crisis might well have been defused weeks ago, before the two leaders started exchanging threats of war, had the United States agreed to talk directly to North Korea, as our allies in the region have been pleading with us to do. Instead, the administration drew a line in the sand, insisting that the United States would not be blackmailed into one-on-one talks with North Korea. As a result, the Americans and the North Koreans have been talking past one another for the past 4 months, and the progress has been all downhill.

It has come to the point that, whether by accident or design, the situation in North Korea could rapidly disintegrate from a war of words and gestures into a war of bullets and bombs perhaps even nuclear bombs. As it stands now, North Korea has shown no evidence that it is willing to back down from its nuclear confrontation with the United States, and the United States has shown no evidence that it is willing to talk to North Korea.

Stalemate and neglect are not effective tools of foreign policy. Wishful thinking is not an effective tool of foreign policy. The situation in North Korea is a crisis, and the United States must come to grips with it. We must open a dialog with North Korea.

To ignore the peril presented by North Korea and its nuclear ambitions is to court—to court—disaster.

Frankly, the longer the United States procrastinates and lets North Korea set the agenda, the harder it will be to deal with the situation diplomatically. If we do not act quickly, we may inadvertently paint ourselves into a corner as we have done in Iraq.

It does not have to be that way. It is time for both nations to stop posturing and start talking. It is time for the United States to deal with the crisis in North Korea. I call on this administration to address the growing peril in North Korea, and to fully engage in a diplomatic effort to resolve what may well become an international problem of epic proportions. We can, and must, be firm, but we cannot remain aloof. We can, and should, insist that other nations with a stake in the future of North Korea be at the table, including China, Russia, Japan, and South Korea, but we can wait no longer for those nations to take the lead.

The situation in North Korea is serious, but it is not yet desperate. The window to initiate diplomacy is not yet closed, but the longer the United States drags its feet, the narrower that window becomes. It is time to start talking to the North Koreans. If the United States takes the lead, our allies in the region are likely to follow. But it is the United States that must lead the way. The only practical way to solve the crisis in North Korea, before it erupts into chaos, is with patience, skill, and determination at the negotiating table. Let us begin now, before it is too late.

Mr. WARNER. Mr. President, will the Senator entertain a question?

Mr. BYRD. I would be glad to.

Mr. WARNER. Mr. President, over my years in the Senate, I have had the privilege many times of working with my distinguished colleague. I have listened very carefully to his remarks. The bulk of the facts the Senator relates with regard to how North Korea has violated the framework agreement are accurate. I think his assessment of the potential threat as to how they address the serious issue of nuclear weapons is correct. But I respectfully say I believe this administration has been pursuing a policy—now my colleague may differ—of diplomacy to resolve this dispute. Our President recognizes the seriousness.

As the Senator said, the bombers were promptly dispatched. My understanding was that that mission of those bombers had been in the planning for some time and, coincidentally, they were dispatched right after the eve of this very serious incident by which the hostile aircraft broached our unarmed aircraft. The Senator was dead accurate in his characterization of that serious incident.

The point I wish to make is that I think our President has taken the correct tack at this time in diplomacy of saying that there may come a time in the future on bilateral talks, but at this juncture of this serious situation—and our President fully recognizes and I think shares with my colleague from West Virginia the seriousness of it—the multilateral approach; namely, that the talk should initiate with a table at which Russia, of course, South Korea, Japan, and China are there to participate. That is the way this administration quite appropriately desires to approach it.

I believe Secretary of State Powell, in his most recent trip to the region not more than 10 days to 2 weeks ago, clearly said that out of that multilateral approach could evolve the situation whereby bilateral talks between the United States and North Korea would follow.

Am I correct in my summary of how the President is approaching this? The Senator may have differences with it, but at least for the basis of our debate, I think I am correct.

Mr. BYRD. I think the Senator is correct.

Mr. WARNER. We have clearly not had the opportunity to fully exhaust the potential of a preliminary round of multinational talks such that these nations believe they are a partner with the United States. Now we may take the lead, but so often our Nation is criticized that we are the ones who are saying, you do this, you do that. Rather, in this crisis I think our country is saying that we want to work together with other nations as partners in addressing this issue before the possibility of bilateral talks.

Mr. BYRD. I think that is a good approach normally, if there is time and if there is an indication that those other nations are going to take that lead. That is one thing. But there is not time here. There is not the indication that the other nations are going to take that lead.

So I say we need to act more expeditiously. I do not think we can afford to wait. This is a crisis that is developing, and developing quickly, and there is every indication that if we continue to wait, Kim Jong Il is going to take additional steps. I understand he may have one or two nuclear weapons now, and he is fast getting into the position where he will be able to manufacture a weapon a month and then faster. We do not have the luxury of waiting until these other nations finally decide they want to do this.

They seem to be reluctant. They have not shown any dexterity in moving in to fill this void up to now. I do not think we can afford to wait.

In addition, yes, other nations have thought we acted too fast. They have done that in spades with respect to Iraq. We have gone hellbent into that. It seems the President has been determined to conduct a war in Iraq from the beginning almost. I would say as far back as last August he had said there were no plans. That was the response we received from all of the people in the administration. I know once before the Appropriations Committee, Secretary of State Powell, in answer to a question from me, said: There are no plans.

The administration and its functionaries must have taken Members of Congress as fools when the administration continued to at that time say, well, the President has no plans. Anybody could see through that. He may not have plans today. He may not have plans on his desk. That was the way it was phrased: He had no plans on his desk. It takes only a fool not to be able to see through that. Perhaps he does not have plans on his desk, but there may be plans on some other desk somewhere that the President knows about, or the President may have plans tomorrow. He is certainly not immune to knowledge of what is going on all around him. After all, he is the Commander in Chief, the top man in the executive branch; he is supposed to know what is going on.

So while we were fed that line by the administration, they simply did not want to tell us, and they do not want to tell us yet. It is not that they do not want to—that other nations have a right to complain about this administration moving pellmell into a situation without waiting for other nations, without wanting to wait for other nations. Not only that, but the administration treats us the same way in the Congress.

The administration does not want to tell us what the cost of this was is going to be. They say it is such a range of costs that it might change from day to day. They do not want to say what it will be now because, who knows, maybe tomorrow it will be different. Well, of course, that is to be expected. But I think the administration ought to be honest, upfront, and sincere with the elected representatives of the people in Congress, and say now this is the situation today, Senator, as we see it. We think the range would be somewhere between A and B. That can change, Senator. Mr. Chairman, that can change. It can change tomorrow. But as of today, we cannot pinpoint the exact figure, but it would appear that it would be thus and so.

Now, if the war lasts longer than a week, lasts longer than 2 weeks, 10 days, or 3 weeks, it may cost more. Of course, if we win the war, and win it quickly, it will not cost much. But then there is the problem of the morning after. What is the cost going to be in helping to rebuild Iraq? If we are going to be responsible for destroying a great portion of it, we have a responsibility of rebuilding it. So, the cost would be, the estimate would be, thus and so.

If the administration would come before the Appropriations Committee and address it like that—we understand that any administration would find it difficult; it would be impossible to be sure as to what the costs would be. But if an administration sits down with the congressional committee and says: Here is the situation; we estimate it to be thus and so, because we think the war will not last more than a week, or 10 days, or 2 weeks, or a month; if it lasts longer, it will cost more—that is being honest and forthright with the elected representatives of the people. We understand that. We were not born yesterday. But to just say, "We do not know exactly," what does the administration think that Members of Congress are fools?

We can see all that. We know all that. We know these things are difficult to figure. But when we also know that estimates are being kicked around internally, we believe we are entitled, on behalf of the people, to know what those estimates are.

Mr. WARNER. Mr. President, if I might reply to my good friend, first on the issue of diplomacy, I do believe our President has worked very hard with the Prime Minister of Great Britain and other heads of state of the nations willing to proceed on the diplomatic route.

Today we had a speech by the Secretary of State. I don't know if my colleagues had an opportunity to read it as I have. But it clearly says we are on a diplomatic course. No decision has been made to go to war.

What little success the diplomats have had to date—and I frankly think Resolution 1441 was a high water mark of this whole controversy—is owing to the fact that this President had the courage to put our troops in forward deployments to back up the words of the diplomats and to send a signal to Saddam Hussein and others that we have a commitment to those men and women there, 200,000 of them in that gulf region. I visited the gulf region just 10 days ago. They are there as a symbol of our commitment to make diplomacy work.

I recognize the Senator and I were with Secretary of Defense Rumsfeld the other day when my good friend from West Virginia expressed, as he has done now, the question of cost estimates. But the Secretary of Defense said he believed at this time he could not give those projections which would enable, I think, some very serious and finite parameters to be established.

My good friend might recall President Clinton one time—I am not here to be political—said about the Balkans, we would be home in a year. I think the Senator remembers that because he and I collaborated on an amendment to require the other nations to come forward with their allocation of commitments to try to resolve some of the problems in that region. I remember we stood toe to toe on that.

Here we are, 8 years later, and we are still in the Balkans with a not insignificant force. We have learned from that and experienced the need to exercise caution with regard to the question of casualties. How well I remember being in the Chamber in 1991. The projected casualties we might encounter in the gulf war of 1991 were in the estimates of the tens of thousands. We thank the dear Lord that it did not in any way near approach that amount, although this country did lose brave soldiers, sailors, and airmen, and experienced the wounding of others in that very important conflict.

The better side of prudence is being demonstrated here by the President and his Secretaries who are entrusted with dealing with the Congress. I printed in the RECORD earlier today, I say to my good friend, a recitation of a number of hearings the Senate Armed Services Committee, on which I am privileged to say my colleague serves, has conducted. That committee has, in connection with our debates on Iraq, held a number of briefings and so forth, in which I have been in attendance, on Iraq. Those are helpful for the public in its important debate now, and which I respect the diversity of opinions on Iraq, as I respect the opinions of my colleague from West Virginia. Nevertheless, I think our Senate has taken a constructive role in addressing that conflict.

Mr. BYRD. I thank the Senator.

I think we are going pretty far from the subject that I started out with today. I was talking about the fact that we are not paying the kind of attention that should be paid; we are not addressing the real crisis that is developing. We are not looking at the real peril that is facing this country; namely, North Korea. We are being distracted by the developing situation in Iraq, which, as far as I am concerned, does not present to this country anything near the peril, the danger, that we are confronted with in North Korea.

Now, if the distinguished Senator wishes to engage in a freewheeling debate on the whole subject matter, fine, we will do that another day. But I am addressing the Senate on the need to open talks with North Korea and not wait for other nations to take the lead. We need to take the lead ourselves. Every day counts. Every 24 hours counts. We are already seeing this situation advance quickly. As long as Kim Jong Il thinks we are going to be distracted with Iraq, he is likely to take further advantage of the situation. That is the issue I am addressing.

Mr. WARNER. I thank the Senator. We did start out on that subject, but I wished to make reference to other statements the Senator made.

Going back to the question of Korea, I think your concerns are important, as are mine. I simply say I think our President is vigorously trying to exercise leadership in world diplomacy with a multilateral approach with the nations of Russia, China, South Korea, and Japan at this point, and I have not read into any of the statements or actions that would say that after the full exploration of the multilateral approach, hopefully participation by those nations as partners, possibly of a bilateral approach—indeed, the Secretary of State has made an offering of food to care for the tragic situation of starvation in the North Korean section of that peninsula.

Mr. BYRD. Mr. President, I say to my friend, I hope the President will display this kind of desire to engage in multilateralism more so than he has with respect to Iraq. This is the approach I favored all along. We should get the United Nations, be sure the opinion of the world is with us in Iraq, and get the support of the United Nations.

I have a resolution I introduced some time ago urging we seek a second U.N. resolution. If the President would show more interest in a multilateral approach to that situation, I think many would feel better. I recall his saying, I think, to the U.N.: If you don't do it, we will. If the U.N. doesn't do this, I will—or we will.

That kind of an attitude has not been to my liking, certainly, and it does not show enough concern about the opinions of other nations, and it does not show enough desire to have the support of other nations. But this President is determined, apparently, to have a war in Iraq, even if he has to go it alone. That has been the impression I received thus far. When he says to the U.N., if you don't do it, I will, or we will, that doesn't show any great inclination to wait on other nations to help join in that situation.

Mr. WARNER. Mr. President, I think we have somewhat debated this issue. I believe the President has made strong overtures to the international community. Certainly he gave a brilliant speech in the U.N. He is working within the Security Council. Our Secretary of State has addressed the issue today. Perhaps at another time I would very much be privileged to engage our distinguished colleague in a debate on the subject. I thank my colleague.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I think we certainly need, more and more, to debate this situation. I think we have not debated it enough. I believe that where we missed the boat was last fall when this Congress turned over to the executive branch the authority, by a resolution, virtually to declare war. I think Congress was wrong in doing that. I voted against that resolution. I am proud of the vote that I cast at that point. I think Congress, under the Constitution, has the authority to declare war, and I think we shift aside our responsibilities and our duties under the Constitution when we attempt to shift that duty and that responsibility and that authority over to the Chief Executive of the United States.

The time for debate was then. It is not too late to debate it now. I have been attempting to say a good bit from time to time on this matter, and will continue to, if we have much time left. But time is closing in on us, as I see our troops massing on the borders of Iraq. I don't think there is much time left to debate. But as long as that time remains, I think we ought to utilize it. We ought to tell the American people what their losses are going to be and what the cost is going to be to them.

That is where I think the administration is falling down. It ought to let the American people know the sacrifices they may have to make and what the cost of this war is going to be in terms of money, in terms of lives, and in terms of our image before the world—what it is costing us there. So let's have more from the administration on this point.

Mr. WARNER. Mr. President, if I might say in conclusion, to those who perhaps take views different from I and others, I hope that debate would include very clearly a message to Saddam Hussein in Iraq that his lack of cooperation is the root cause of the problem today.

So I thank my colleague for this opportunity. Maybe at a later date we can get into a further discussion.

Mr. BYRD. Of course there are always two sides to issues. Preston County, WV, is a great buckwheat flour-growing area. They make fine buckwheat cakes. But there is no buckwheat cake so thin that there isn't two sides to it. So there are two sides.

It seems to me we have just been recreant in not telling the American people what this is going to cost. I have a feeling they don't know very much, from the lack of debate that has gone forward, and from the fact that this administration has not come forward with the facts and told the American people what the cost may be to them. And all the while we see our young men and women being shipped out, as the National Guard goes forth and takes our schoolteachers, our policemen, our firefighters, our lawyers, and our churchmen. It takes people from all walks of life and sends them overseas—for how long we do not know. We don't know. They don't know what the duration will be. They don't know whether they will come back, of course. And I am sure their salaries are suffering when they go over as National Guardsmen.

The people are entitled to know more than this administration has been willing to tell them. So I hope the Senator will join me in urging the administration to come forward with the facts and tell the American people, his constituents and mine, what they may have to pay.

Mr. WARNER. Mr. President, I share those concerns. My State has likewise contributed many reservists and guardsmen. As a matter of fact, I have been working with colleagues today on a question relating to that.

Were it not for the sacrifices of those individuals, the reservists, active duty, and many others, we would not be where we are trying to solve this problem diplomatically.

Say what you want about this President, I have seen a measure of courage in this fine man that I have not seen in others. He has all along said: The buck stops on my desk, and I accept responsibility.

I thank my colleague.

Mr. BYRD. I say to the Senator, courage is fine. I don't think the President lacks courage. Nobody is questioning his courage. But whether he has wisdom or vision or exercises good judgment along with courage is something else. I am simply saying this administration has not been forthright with the American people and has not been forthright with the Congress. We can debate that as long as you wish, but that is the way I see it. At some future time, if the distinguished Senator wishes to debate that, I will be happy to accommodate him.

Mr. WARNER. Mr. President, I accept that challenge. I thank my friend.

Mr. BYRD. I thank the Senator.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I acknowledge my friend, the chairman of the Foreign Relations Committee, Senator LUGAR, who is in the Chamber.

Today the Senate is engaged in an important and historic debate on the Moscow Treaty. President Bush and President Putin signed the Moscow Treaty on May 24, 2002, to limit strategic offensive nuclear weapons. Unlike arms control treaties of the past, this treaty does not include definitions of terms, counting rules, elimination procedures, or monitoring and verification provisions—all conditions considered in the past as essential to an effective agreement. As President Reagan once said, "trust but verify."

The administration believes that the lack of these features is an asset and indicative of a new age in American-Russian relations. In the words of President Bush, it is time that the United States "complete the work of changing our relationship from one based on nuclear balance of terror to one based on common responsibilities and common interests."

The treaty reflects American and Russian intent to reduce strategic nuclear warheads to between 1,700 to 2,200 by December 31, 2012. Each party is free to define for itself its "strategic nuclear warheads" and to determine how to reduce them. The treaty does not provide for the destruction of warheads or delivery systems. Nor does it place any restrictions on either party's force structure over the next ten years. Both sides can keep warheads for testing, spare parts, and possible redeployment.

The administration plans to meet treaty requirements by moving an undefined number of warheads to a reserved force, some to storage, and dismantling others. The Russians will make similar force structure changes. Russia intends to continue to reduce weapon platforms and warhead levels and dismantle weapon systems with U.S. assistance under the important Nunn-Lugar Cooperative Threat Reduction Program.

However, the Moscow Treaty leaves many issues unresolved and many questions unanswered. For example, Article I of the treaty specifies that each party shall "determine for itself the composition and structure of its strategic offensive arms."

The United States has defined this to be "operationally deployed strategic nuclear warheads," and has defined operationally deployed to mean "reentry vehicles on intercontinental ballistic missiles in their launchers, reentry vehicles on submarine-launched ballistic missiles in their launchers onboard submarines, and nuclear armaments loaded on heavy bombers or stored in weapons storage areas of heavy bomber bases."

Congress will have to wait to see how many warheads are destroyed and stored. Likewise, we will have to wait to see how Russia defines "strategic offensive arms." Russia may move to redeploy multiple independently-targetable reentry vehicles, or MIRVs.

Article II of the treaty states that the Strategic Arms Reduction Treaty, START, will remain in force. During the signing of the Joint Declaration, Presidents Bush and Putin stated that the provisions of START "will provide the foundation for providing confidence, transparency, and predictability in further strategic offensive reductions."

But START expires in 2009. If START is not extended, we do not know how the parties will provide confidence and transparency between 2009 and 2012.

Article III of the treaty establishes a Bilateral Implementation Commission but does not establish guidelines, procedures, or even responsibilities of the Commission. We do not know if the Commission will focus on monitoring and verification of agreed reductions.

When President Bush signed the Moscow Treaty nearly a year ago, he assured the American people that he would continue to work on a separate political declaration that would create a strategic framework for the United States and Russia.

This document was to be broader in scope and would address other security and arms control issues aside from strategic reduction, including non-proliferation, counter-proliferation, antiterrorism, and missile defenses. We have yet to receive that document.

We need a better vision and a better strategy of how to make America safer and more secure from attack with weapons of mass destruction.

I fear that the President is moving us toward a world of greater insecurity besieged by fears of nuclear weapons proliferation. Today's Washington Post indicates that the administration is willing to accept a North Korea with nuclear weapons. This is astounding, and, if true, threatens stability in northeast Asia. In addition, the administration has sought funding for new battlefield nuclear weapons that are more "useable."

Until now, U.S. non-proliferation policy has been based on reducing the number of nuclear weapons states, controlling the spread of nuclear weapons technology, and eliminating nuclear weapons. We need to prevent the spread of weapons of mass destruction and establish with the rest of the world a system that deters both countries and terrorist groups from gaining access to these dangerous technologies.

The resolution intended to be introduced by Senator DASCHLE and others, which I am proud to cosponsor, lays out the type of comprehensive non-proliferation policy that we need to make the world a safer place for future generations. I urge my colleagues to support it, and I urge the administration to adopt its recommendations.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise today to address the Senate on the treaty being considered for ratification, the Moscow Treaty. I want to praise the hard work of our chairman, Senator LUGAR, and the ranking member, Senator BIDEN, and their staffs, for the diligent efforts on this treaty. Their hard work on this treaty will ultimately enhance U.S. security.

This treaty describes what both the United States and Russia hope to do in a new era, and that is to reduce our respective strategic offensive nuclear weapons stockpile and to reduce it quite dramatically. Considering how strategic nuclear weapons policy has changed since the time I first came to Capitol Hill, to the House of Representatives, way back in 1978, this new Moscow Treaty is a significant accomplishment but one that failed to maximize the opportunity to provide the world with the real destruction of weapons. It is clearly a major step in the right direction, but I do not think it has gone far enough.

During this debate today, we have heard about the weaknesses of this treaty, and there are some. I regret, for example, that the treaty merely de-alerts nuclear weapons. It does not require their destruction.

The treaty also is weak in its timetable for reaching the lowering of the target inventories, the inventories of warheads on top of the ICBMs. The treaty brings the target down from multiples of thousands to a range between 1,700 and 2,200 weapons. But it does not offer a specific timetable for how that will occur over these next several years. I believe we can remove these weapons more rapidly, and I hope the administration will do so.

I also regret the treaty does not address tactical nuclear weapons, nor does it include verification procedures beyond those of the START I treaty.

I remember when I was in the House of Representatives at the time President Reagan was President, he kept saying over and over: "Trust but verify." I think we could have some more of that in this treaty.

Despite all of those weaknesses, reductions in our strategic offensive weapons are appropriate, and are a major step in the right direction. Our relationship with Russia has evolved into an important partnership, and we hope that partnership is going to be strengthened. As we continue to move in this century to develop a relationship under the premise that Russia is not an enemy, then that is a step in the right direction.

The Presiding Officer is from the South. I am from the South. We are accustomed to seeing two strange dogs approach each other. They are very leery of each other. And pretty soon they are sniffing around each other, and pretty soon those dogs decide it is OK, they can be friends. So as we start sniffing around with this former adversary, one that we hope will be a future solid partner, we must work to build mutual trust so our nations can cooperate on other important issues of common concern to our collective security, such as fighting terrorism, and such as economic reform and development.

Clearly, one of the areas we have had a very cooperative relationship in is our respective space programs.

I will never forget in the midst of the cold war there was a little bit of thought when an American astronaut crew rendezvoused and docked with a Soviet crew of cosmonauts. They lived together in space for 9 days in the Apollo-Soyuz historic mission of 1975. That started the contacts between our two space programs. That ultimately led to the joint venture we have now where the Russians are a partner of ours and they are helping us. They are our partner as we build the International Space Station. By virtue of this recent tragedy with the Space Shuttle *Columbia*, the way we can save those three humans on board should we not be able to get another space shuttle to the space station is the fact that there is a former Soviet—now Russian—spacecraft, Soyuz, that is docked to the International Space Station that can bring that crew of two Americans and one Russian home if they need to.

This relationship with Russia has extended to NATO. We look forward to cooperating with Russia on issues affecting the security of Europe and our allies. But there is one area in which the United States can provide assistance to Russia while enhancing U.S. security. In this context of the Moscow Treaty, this is critically important. Earlier today Senator BIDEN said we must continue to move forward and provide adequate funding to the Nunn-Lugar Cooperative Threat Reduction program and related nonproliferation programs in the Departments of Energy and State.

These programs collectively facilitate the destruction of nuclear weapons. They bolster the security of the facilities containing weapons-usable and fissile material. And these programs provide for retraining of scientists.

These programs are very valuable. Yet they have not been adequately funded. This administration has not come forward with the adequate request for funding for the Nunn-Lugar cooperative threat reduction program.

I will tell you, there is no one I have a greater respect for than my chairman of the Foreign Relations Committee, Senator DICK LUGAR. I think he will tell you the same thing. The spread of nuclear weapons and associated materials is a real threat. It is one particularly evident as we weigh the options available to us to deal with so many of the threats around the globe. Look at North Korea. It is one of those threats.

We must provide resources to these programs to try to stop the spread and the proliferation of nuclear materials because they enhance our security by ensuring the adequate disposal of these weapons and their fissile material.

Certainly now when we are engaged in this war against terrorists, when we are trying to prevent al-Qaida sympathizers and other terrorists from acquiring such deadly weapons, we should not lack in any resources.

I again make a pitch to my colleagues in the Senate to adequately fund the Nunn-Lugar cooperative threat reduction program.

These programs were evaluated in a report released in January 2001 by our former colleague and now the Ambassador to Japan—Howard Baker from the State of the Presiding Officer—and his partner in that report, Lloyd Cutler. Their report clearly said these threat reduction programs are being underfunded. They call the proliferation of weapons of mass destruction and weapons-usable material to be "the most urgent unmet national security threat to the United States today."

That is what Howard Baker and Lloyd Cutler said in their report to the Congress in 2001.

That report was before an agreement was reached on the Moscow Treaty for reducing our nuclear arsenals.

Now with so many new nuclear weapons coming out of service, we must consider significant action to reduce proliferation to ensure that the American people and our friends and allies around the world will be safe. The most obvious way is to bolster the Nunn-Lugar programs.

I want to also speak on the subject of nuclear weapons, and I want to mention North Korea.

I was very troubled to see the report that the Bush administration is slowly accepting North Korea's status as a nuclear power. This is an unconscionable abdication of leadership by this administration. North Korea has taken provocative steps. I don't know why we weren't raising Cain—I mean shaking the rafters—when those fighter aircraft buzzed our observation aircraft—our surveillance aircraft—just 2 days ago. North Korea has taken some very provocative steps hostile to the United States.

It is likely they already have, according to our estimates, between one and three nuclear weapons because North Korea cheated on several international and bilateral agreements over the past decade. Since that time, they have renounced the Nuclear Non-Proliferation Treaty. They have renounced the International Atomic Energy Agency and their monitors who were there present by international agreements. They have renounced the 1994 Agreed Framework with the United States. They have been moving spent fuel rods to a reprocessing plant. Then, of course, this inexcusable incident with fighter jets to harass a U.S. reconnaissance flight in international airspace.

Now, lo and behold, the President of North Korea is overtly threatening a nuclear war if the United States leads any effort to isolate them.

With all of this belligerence, we have to have a plan. I would suggest that the Bush administration start working to diplomatically sit down with North Korea to start reducing tensions. We cannot and must not allow the North Koreans to develop an effective nuclear weapons arsenal.

A year ago, the President, in his State of the Union Address, referred to North Korea as an "Axis of Evil." Does he think that they are evil? I think he does. Do I think that they are evil? I certainly do.

But is this the best way, diplomatically, to approach someone that we are trying to contain from becoming a nuclear power? We want them to stop their brutal actions against their own population, and we want to stop their proliferating technologies relating to weapons of mass destruction.

So in that regard, the President was correct. But we have started to see what the consequences of that speech are. Instead of, as Theodore Roosevelt would say, "speaking softly and carrying a big stick," the President made a judgment to speak harshly. And I want to know, where is the policy to back it up?

This pronouncement did not cause the North Koreans to begin bad behavior and cheat on their agreements with the U.S. and the international community, but it did embolden them to harden their position and to spurn the international community and begin in earnest to openly pursue more nuclear weapons. This is now the situation in which we find ourselves. And we have to get out of it.

I want this administration to have success because I think North Korea, with, a short way behind them, the country of Iran, poses the next major threat behind the threat that we are engaged in, which is, the war against terrorists.

I think the United States needs some clear action. U.S. leadership is needed to get the world's declared nuclear powers to work together through the

United Nations Security Council on a common response to the danger, not only in North Korea, but in Iran as well. If we fail to do so, the nightmare scenario of North Korea selling its nuclear weapons to terrorist groups and other rogue states, even their enriched uranium that they are trying to produce, all of that could become a reality. That is not good for anybody on planet Earth.

I believe we ought to approach a policy where we must make North Korea understand that building an arsenal of nuclear weapons will not be tolerated and that all options to combat this threat, including the military options, have to be on the table. At the same time, we must work to form a viable regional solution with China and Russia and Japan and South Korea, but not to the exclusion of bilateral dialog with North Korea.

I think all of us here are disappointed that China did not respond favorably to Secretary of State Colin Powell's recent appeals for assistance and involvement during his recent trip there. China, and other members of the Security Council, have a lot at stake. They must live up to their commitments of trying to prevent nuclear proliferation.

No policy that we pursue can possibly work unless it is carried out in concert with key countries. But we are getting to the point that we cannot wait. We are going to have to devise workable policy options that the United States and North Korea may take to de-escalate this situation.

So I call upon our colleagues here and our friends in the administration to begin a dialog with North Korea immediately. Each day that passes is a day that the danger notches up one more level.

Again, I thank Senators LUGAR and BIDEN for their strong leadership on these critical security issues facing our Nation. I thank them for their sponsorship of this Moscow Treaty. I will support the Moscow Treaty on the final result at the end of the day when we pass it. It is clearly in the interests of the United States. Indeed, it is in the interests of planet Earth.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now return to legislative session and that it proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO RETIRING SERGEANT AT ARMS ALFONSO LENHARDT

Mr. BENNETT. Mr. President, the Democratic leader took to the floor recently to pay tribute to the retiring Sergeant at Arms, GEN Al Lenhardt.

I used to chair the Committee on Legislative Branch Appropriations, in which circumstance I had continual contact with the Office of the Sergeant at Arms. When I became the ranking member of that subcommittee was when Al Lenhardt was hired as the Senate Sergeant at Arms. I can report to my fellow Senators that he had no partisanship at all in the way he discharged his duties.

It was within a matter of days after he was sworn in as Sergeant at Arms that September 11 hit. His baptism into the procedures of the Senate was handling the disaster of September 11 and trying to work out security for the Senators, and then to handle security as we traveled to Ground Zero in New York. Since that time, he has been faced with the challenge of making the Capitol as secure as possible.

As he moves on to his next assignment, I want to make it clear that I, too, salute him for the service he has performed for the Senate. He has handled himself in a very professional way. He has done very significant things to make this building safer, things that most Senators do not see.

By virtue of my position on that subcommittee, I was privileged to be in a confidential, classified briefing, as he outlined for us the actions that have been taken to make this building safe.

Indeed, I now take some comfort out of the fact that if there is a biological or chemical attack on Capitol Hill, this building is the safest place to be of any place on Capitol Hill. And that is a tribute to the patriotism, professionalism, and service of Al Lenhardt.

So I join with my friends on the Democratic side of the aisle, and the Democratic leader, who chose him for that position, in wishing him the very best in his professional service here forward.

Mr. REID. Will my friend yield?

Mr. BENNETT. I am happy to yield.

Mr. REID. Mr. President, I am embarrassed that I have not come prior to tonight and said something about GEN Al Lenhardt. I have served in the Senate a long time, and we have had some very fine Sergeants at Arms. But for the time and place, he was what we needed.

He is a man who had been literally under fire when he was in the military. He had been head of all the MPs in the Army. And for him to step in here, it was a perfect time, when we were going through all the trouble we had.

I have gotten to know him extremely well. He has been a personal asset to me and to all the Senators. As the distinguished Senator from Utah mentioned, staff and a number of Senators do not know how much he has done. Someday maybe something will be written about everything he personally went through to make sure this place is very safe.

I very much appreciate the Senator from Utah mentioning this fine man. This is not a partisan issue. Those of us who worked with him know what a wonderful job he has done. This is a spoils system we have here, and there are things that happen when there are new administrations, and I accept that.

I personally am going to miss him. He is a fine American. He has rendered great service to the Senate and to our country.

Mr. BENNETT. I thank the Senator from Nevada. I would also note that at the request of the majority leader, I was somewhat involved in the selection process to come up with a successor to Al Lenhardt. I can assure the Democratic whip and all other Senators that in the new Sergeant at Arms Pickle, we have a worthy replacement for Sergeant Lenhardt.

Mr. REID. General Lenhardt.

Mr. BENNETT. Now General Lenhardt. All right. I am very comfortable that the new Sergeant at Arms will carry on the same level of professionalism and provide the same level of protection for the Senators and our staffs that we have seen before.

It is a tribute to General Lenhardt that he has agreed to stay on until March 17 to see that the transition is as seamless as possible and that we do indeed maintain the level of safety we now have.

As good as the hands we have been in in the past, we will remain in good hands in the future.

SENATE ENGAGEMENT

Mr. WARNER. The public, today, across this Nation is exercising our greatest freedom, freedom of speech. Central to many town meetings, central to the media today, are the issues relating to Iraq. I find this strong and thoughtful debate, no matter on which side of the issue individuals or writers may be, extremely important at this key time in America's history.

I have been fortunate to be on planet Earth somewhat longer than many, and I have been fortunate to have been on the scene and been in a position to observe World War II, Korea, Vietnam and, this being my 25th year in the Senate, together with my colleagues in this Chamber over these many years, these wonderful years, I have been in a position to observe, and if I may say with some modesty, participate in those decisions facing our Nation as it relates to national security.

I have said many times of recent that this particular framework and decisions facing this President, President George Bush, this very courageous President, are as complicated, if not more complicated, than any I have ever seen in this span of my 76 years.

I commend our President and his team—Secretary of State Powell, Secretary Rumsfeld, National Security Adviser Rice, and many others. I followed, as I hope other colleagues did, another brilliant speech given today by the Secretary of State—no equivocations, respect for others and their views, but clearly staying the course, a course on which our Nation embarked to pursue diplomacy to resolve these issues. Iraq is foremost in our minds but close in parallel to significance is the Korean peninsula. There, again, we are being confronted with a situation that requires the strongest of commitments and the strongest of diplomacy. And our President, again, is guiding that diplomacy such that we should address this issue in a multilateral context. I think he is on the right track.

Worldwide terrorism: How many could have foreseen before September 11 that this country would be in the grip, not of state-sponsored terrorism—some state-sponsored but now more the individual. The al-Qaida, the Hamas, you can recite these organizations that challenge our freedoms, our very security, and our most precious security at home.

Yes, America is engaged in this important debate. I commend all. There is a diversity of thought, and I am perfectly willing to listen carefully and heed the thoughts of others. But in that debate a question has arisen, and an important one: What has been, what is, and what is to be, the role of the Congress, and most particularly, the Senate?

The Senate is known and respected worldwide as a debating society: an institution where we have this marvelous opportunity for unlimited debate in certain instances, but most significantly, debate among 100 individuals, well-informed, very conscientious Members who work hard at their duties. We are the world's greatest institution for deliberations, and I am proud, modestly, to be a part. But we symbolize the hope across this world for freedom such as we enjoy in the United States, the hope to fight despair and hunger and political oppression. The Senate so often and carefully addresses those issues day by day.

As there is diversity of views in debate on Iraq across this Nation, there is diversity among Members in the Senate. That is the way it should be. Therein lies our strength. But there are some who have come up with some viewpoints which I simply do not share.

Some in this Chamber have exercised their very right to criticize the body as an institution for what it has done, is doing, and, more particularly in their views, has not done. Some have gone so far as to say, "We are sleepwalking through history;" "this Chamber is hauntingly silent."

Those are strong words, and words that I heed, and listen to, and in this instance I have great respect for the marvelous Senator who stated those words.

I can remember in the debate on Iraq that we had back in November, 5 hours one day, debating with that particular Senator, whom I admire. So the debate goes on.

But my point is, even though the rafters of this Chamber are not rattling with the rhetoric on Iraq, there are many very important functions going on beyond this Chamber, in the halls of the Senate, in the committee rooms, in the offices of Senators, throughout the entire infrastructure of this institution—in our field offices in our respective States where I and others so frequently meet our constituents. The debate on Iraq is taking place in a responsible way, in my judgment, in the Senate, and this institution is fulfilling its role.

Other Senators have criticized our President. We are really at war now. Yes, I agree that diplomacy is still at work and that final decision to go or not to go is yet to be made by our President, by the very courageous Prime Minister Tony Blair, and other heads of state and government of the group of willing nations, those willing to face up to the need to remove weapons of mass destruction from Saddam Hussein. Yes, they criticize the President. But really we are at war now, and I question how severe that criticism should be.

I was with the distinguished ranking member of the Armed Services Committee, Mr. LEVIN, the distinguished chairman of the Intelligence Committee, Mr. ROBERTS, and the vice chairman, Mr. ROCKEFELLER. The four of us toured Afghanistan and the Persian Gulf region. As we were there, missions were being flown in Operation Northern Watch, Operation Southern Watch, and other activities were taking place regarding which I am not at liberty to describe, nor should I describe, here on the floor.

But men and women in the uniform of the United States, and indeed a great many civilians—particularly those of the Agencies and Departments of this Government who perform our intelligence missions throughout the world—are taking grave risks at this very hour. For that reason, I think we should exercise a measure of restraint and caution exercising our right to criticize, be it the President or criticize this institution. I looked into the faces of those individuals, some who might well have been involved in the recent capture of this individual who allegedly plotted 9/11, planned it, and those plans might well have included the very building in which I am so privileged to stand at this time. We shall learn in due course more and more about the aims of the terrorists who struck us on 9/11, the aims of the terrorists who are still planning to strike us.

But let the debate go on. This is a strong nation, and our citizens are of strong mind, and our citizens are of a fair mind. Our citizens are very mindful of those in uniform, and those not in uniform, who today are taking the risks beyond our shores to interdict those who would bring harm to these great United States of America.

Homeland defense, how important that subject is. Our President again has led. We created that Department. But homeland defense begins beyond the shores where the men and women of the Armed Forces and civilians and others are stationed, in so many nations. It begins there for the reason that, to the extent they can interdict, to the extent they can crush the terrorists before their plans are unwrapped to inflict damage on our beloved homeland—that is where homeland defense begins.

So my reply today to my good friends who have taken this institution and called upon it in certain ways, as to what it is doing, I would say most respectfully that the Senate as a body has been, is, and will continue to be responsibly engaged in this debate: responsibly engaged in the consultation as it relates to these issues, consultation with the administration, consultation with our constituents, consultation with heads of governments and states—which I was privileged to do on this trip with my colleagues—consultation with our militaries of the United States and the military leaders of other nations.

There is a broad range of activity by many Members of this body, a broad range of activities that I think are as important as any debate that takes place on the floor of the Senate.

We had a historic debate, as I alluded, last fall. My calculation—others' may be different—is that debate lasted longer than the one we had in 1991. I remember that debate very well. I was privileged to be one of the coauthors of the resolution, as I was a coauthor of this resolution, this resolution which, after this very lengthy debate, was adopted with a strong vote of support for our President to have the authority to use force—77 strong votes.

But those activities did not end. In other words, there were many activities going on apart from the debate at that time: The same series of meetings and briefings, the same consultations going on just prior to that debate and during that debate. Those same meetings have continued on to this very hour. I am proud of the role of this institution. I am proud of it.

I ask unanimous consent to have printed in the RECORD a chronology that I put together of the meetings in which I have participated with many other Senators. For example, on September 4, a meeting to discuss Iraq with President Bush at the White House; a number of us were there; September 5, a briefing on Iraq with CIA and DOD officials; programs, 25 in number, of all of the times that I have been involved. Most particularly, I am very proud of the record of the Senate Armed Services Committee. Again in the fall, under the able chairmanship of my distinguished colleague here. We have been at business, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SASC/SENATE CHRONOLOGY OF ACTIVITY ON IRAQ

SEPTEMBER 2002

9/4: Meeting to discuss Iraq with Pres. Bush, The White House.

9/5: Briefing on Iraq with CIA/DOD officials.

9/9: Briefing on Iraq with CIA/DOD officials.

9/17: Closed SASC Hearing to discuss Iraq w/George Tenet, Admiral Jacoby.

9/19: SASC Hearing to receive testimony on Iraq from Gen. Myers and Sec. Rumsfeld.

9/23: Full SASC Hearing to discuss Iraq with Gen. Shalikashvili, Gen. Clark, Gen. Hoar, Lt. Gen. McInerney.

9/25: Full SASC Hearing to discuss Iraq, Dr. James Schlesinger and Sandy Berger.

OCTOBER 2002

10/8: Senators Briefing to discuss Iraq.

10/8–10/11: Senate debate and vote on authorization of use of force against Iraq.

10/6: Senators Only Briefing with Sec. Rumsfeld and Gen. Myers.

NOVEMBER 2002

DECEMBER 2002

12/10: SASC Briefing by Sec. Wolfowitz and Gen. Pace to discuss current operations.

JANUARY 2003

1/9: Meet with Sec. Rumsfeld, Senator Levin, Congressman Skelton and Congressman Hunter, Pentagon. Budget and Iraq issues discussed.

1/15: Closed Hearing on current and potential military operations with Sec. Rumsfeld and Gen. Myers.

1/15: Closed Briefing on Iraq and weapons inspection by CIA and DIA.

1/17: Meeting with George Tenet.

1/23: Senators Only Briefing with Sec. Powell and Sec. Rumsfeld.

FEBRUARY 2003

2/5: Meeting to discuss Iraq with President Bush, Dr. Rice, Senate Leadership and Chair/Ranking Members of SASC, Intel, FR, White House.

2/12: SASC Hearing on Worldwide Threats with Director Tenet and Adm. Jacoby.

2/13: SASC Hearing regarding DOD Authorization for FY04 with Sec. Rumsfeld and Gen. Myers.

2/25: SASC Hearing to discuss DOD Authorization with Service Chiefs.

2/26: Closed SASC Briefing on Planning for Post Conflict Iraq with Feith.

MARCH 2003

3/4: Closed SASC Briefing on current operations by Lt. Gen. Schwartz (J–3) and Major Gen. Shafer (J–2).

Mr. WARNER. Here is the record. Decide for yourselves. I would like most respectfully to encourage the chairman of the Foreign Relations Committee, the chairman of the Intelligence Committee, the chairman of the Appropriations Committee, to likewise put in the RECORD the activities which they as individuals, they as leaders of their committee, have done in connection with this very important issue, or series of issues facing our Nation today.

The Armed Services Committee and the entire Senate have spent an enormous amount of time reviewing, discussing and debating Iraq. In the Armed Services Committee alone we have had at least twelve hearings or briefings since September 2002 where the issue of Iraq was discussed extensively, if not exclusively. That is in addition to numerous briefings for all Members by Secretary Rumsfeld, Secretary Powell and other Administration officials. Also, the President, Vice President and other members of the Administration have hosted countless events for Congressional leadership to exchange views on Iraq.

In October 2002, we had a thorough debate on the floor of the Senate on a resolution to authorize the use of force. That debate exceeded the amount of time we spent debating the resolution to authorize the use of force against Iraq in 1991. The resolution passed by an overwhelming vote of 77 to 23.

While there have been many developments since October, the vast majority have all reinforced the case that the authorization for the use of force should remain unchanged. The military buildup has been in support of the President's diplomatic efforts. If anything, the events since October have clearly shown that inspections are not succeeding and there is no compelling evidence that they will succeed in disarming a regime that will not cooperate with the inspectors. We must keep in mind that Iraq's weapons of mass destruction programs have been designed to operate under an inspection regime. That is why more time for inspections will not produce substantive results—if Saddam Hussein continues to deny, deceive and defy inspectors.

President George Bush wants to build a broad international coalition to confront the threat Iraq poses to global security. Far from "going it alone," he has taken his case to the United Nations. President Bush presented a remarkable speech to the U.N. on September 12, 2002, that brought to the attention of the world the threat this man, Saddam Hussein, represents. Were it not for the leadership of President Bush and Prime Minister Blair, the world would not be focused on this clear and growing threat to global security.

The U.N. is really the organization that is being tested here. Is it to be a decisive fore in international affairs that enforces the will of its members, or is it to be the organization that stands in the way of timely, decisive action and takes no action to enforce its mandates?

The United States, Britain and Spain tabled a clear resolution this week that reaffirms U.N. Security Council resolution 1441 and the 16 resolutions that came before it, and simply states what is plain to all of us: that Saddam Hussein has failed in this, his final opportunity to cooperate fully with U.N. demands that he destroy his weapons of mass destruction.

The Security Council now must decide whether it will live up to its sometimes difficult responsibilities. By failing to act, the U.N. would only damage its own credibility, not deter the U.S. and the other members of the "coalition of the willing" from exercising their rights and responsibilities to protect the security interests of their nations from the threat posed by Iraqi weapons of mass destruction.

Failure to achieve consensus cannot and should not be used as an excuse for inaction. If our principles, our security, our interests are at stake, we must act, in spite of differences with others, and whether or not others choose not to act for their own reasons.

A strong, clear-thinking and decisive UN can make the world stronger and safer, but a UN unable to make difficult decisions will be of little use in dealing with Iraq and other security challenges, such as North Korea.

Resolution 1441, which the security Council passed 15–0, is not about inspections, it is about disarmament. It is about offering Iraq a final—17th—opportunity to turn away from a rogue, non-cooperative status and become a responsible member of the community of nations, in this case by living up to the terms of the cease fire signed 12 years ago.

With other Senators, I had the opportunity to travel to the Middle East and Afghanistan recently, and I can say without equivocation that our brave young men and women mobilizing in support of this mission are the best trained, best equipped fighting force ever assembled, and the best defenders of freedom any country could possibly have in this situation. They are ready, and so is America, to lead a coalition of nations in disarming Saddam, if necessary.

The decision time is rapidly approaching. We will welcome UN support, but, make no mistake: we will do what is necessary, without the UN if need be. America is ready to face that challenge.

This is not a "rush to war" as some have suggested. Saddam Hussein agreed to disarm 12 years ago this month. The United Nations has passed 17 Security Council Resolutions with regard to Iraq and their transgressions against their own people, their neighbors and the international community. Every conceivable diplomatic, economic and military avenue, short of overwhelming force, has been tried. There is one last faint hope that diplomacy can succeed, if Saddam Hussein agrees to fully cooperate and disarm, without further delay. But, it is certainly not a rush to war.

Some have asked, "why now?" I would remind those who ask such a question that the risks of further delay or inaction could be far more costly and devastating than confronting Saddam Hussein now. This is a man who has used chemical agents on his own people and his neighbors. This is a man who has had 4 unimpeded years to accelerate and hide his WMD program. This is a man who is attempting to develop new means to deliver weapons of enormous danger well beyond his own borders. This is a man who has ties to terrorist groups who have sponsored terrorist attacks against U.S. interests. We cannot wait for another 9/11 or similar event before we act.

Meeting with leaders in the Persian Gulf region recently, I was persuaded that there is far more support in the entire Gulf region for disarming Saddam promptly than has been reported publicly. Most of Saddam's neighbors want him removed—quickly—so that he is no longer a threat to them, no longer a force for instability in their region, no longer repressing the quality of life of the people of Iraq.

This confrontation with Saddam Hussein is about disarming a dangerous, brutal dictator. But, it is about other things, including freedom and liberty for the Iraqi people. As our President reminded the world in his address to the United Nations in September 2002, "Liberty for the Iraqi people is a great moral cause and a great strategic goal. The people of Iraq deserve it, and the security of all nations requires it."

Claims that the Administration has failed to plan or prepare for a post-conflict Iraq and accommodate the humanitarian needs of the Iraqi people are simply not true. The Departments of Defense and State, along with other interagency partners and international organizations have undertaken extraordinary steps to prepare to meet the security, economic and humanitarian needs of a post-war Iraq. We have received extensive briefings at the staff and Member level detailing these preparations. Can all of the questions be answered definitively? No. To try to do so would be deceiving to our people.

While some have faulted the lack of specificity regarding cost of a conflict or of securing the peace following potential conflict, the Administration has been prudent and honest in its uncertainty about how long any conflict may last and how long it will take to transition to a democratic, free Iraq.

Past administrations have provided quick, unrealistic estimates that satisfied the immediate concerns, but later proved wrong. For example, we all remember the famous claim of the previous administration that we would be out of Bosnia in one year. That was in 1995—we are now beginning our 8th year of military presence in that nation.

I commend this Administration for its honesty. They will share information on costs and duration of any operations when they can have reasonable confidence in the estimates.

Further delay and concessions will not lead to the disarmament of Saddam Hussein. He has proven that for 12 years. He must understand through the strength of our coalition—and, if possible, with the UN—that disarmament without further delay is his only option. As history tells us, "peace in our time" with this man will not be achieved by appeasement. This is a time for action.

I will perhaps at a later date expand on the theme I have spoken about today. But the principal reason I come forward is to show this Senator's strong support because of the action of our President, strong support for Secretary of State Colin Powell in my remarks today, and most significantly strong support for the work of this institution, of which I am privileged to be a Member, and for the work they have done.

I yield the floor.

AMERICAN INTERESTS AT RISK IN RUSH TO WAR

Mr. KENNEDY. Mr. President, on a number of recent occasions, I have outlined here on the floor of the United States Senate my deep reservations about the Bush administration's rush to war with Iraq, particularly as U.N. inspectors are on the ground and making progress. I am especially concerned that war with Iraq at this time without the backing of our allies and the support of the United Nations will undermine the effective coalition against the more dangerous threat of terrorism. And I believe it is the wrong priority, especially in the face of the current nuclear threat from North Korea.

But I also believe that this administration's conduct of American foreign relations has angered our friends and encouraged our enemies. This chip-on-the-shoulder, my-way-or-the-highway approach to diplomacy has alienated our allies at a time when we need unity to address modern threats.

Recently, a senior member of the U.S. Foreign Service resigned in protest over the administration's approach and its policies. Mr. John Brady Kiesling has served American interests as a diplomat for many years in many difficult situations. And his brave letter of resignation speaks volumes about the dangerous direction of the Bush administration in the conduct of foreign affairs.

I urge my colleagues to pay careful attention to his words, and ask unanimous consent that his thoughtful letter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Dear Mr. Secretary: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart. The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechanya, as

Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has "oderint dum metuant" really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security, and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred December 2, 2000 in Carlsbad, CA. Four minors beat a 34 year-old man because they believed he was gay. The assailants confronted the victim as he was walking home from a bar. The group yelled "Hey, faggot, what are you looking at?" then attacked the victim.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

U.S.-PAKISTAN CONNECTION

Mr. BROWNBACK. Mr. President, last week, with the help of Pakistani authorities, Khalid Shaikh Mohammed was captured and taken into custody. This represents the highest ranking al Qaeda official to be apprehended in the war on terrorism and, according to some experts, Mohammed is the most important terrorism related arrest in history.

I come to the floor today to publically express my gratitude to the government of Pakistan and to President Musharraf in particular.

The arrest, along with the intelligence information gathered at the scene, brings us one giant step closer to dismantling the al Qaeda terror network.

You don't have to dig too deeply into the recent press stories to see the significance of this event.

From the Washington Post:

> U.S. authorities said they expect a trove of leads from the search of Mohammed's living quarters. . . .

From the New York Times:

> Al Qaeda Hobbled by Latest Arrest . . .

From Time magazine:

> Pakistani authorities nab Khalid Shaikh Mohammed, the al-Qaeda bigwig who helped mastermind the Sept. 11 attacks.

It is important to note the context in which this significant accomplishment was achieved. Pakistan today is dealing with internal terrorist elements that want to turn that country into a radicalized, terrorist state. There are whole areas of the country in the mountainous boarder with Afghanistan—which are outside the control of the government. And while the campaign against the Taliban was a crucial first step in the war on terrorism, it has also shifted many of the radicals who were operating there into this part of Pakistan.

Against this backdrop, it would be easy for President Musharraf to yield to the threats and intimidation of these elements within his society. We have seen all too well what happens when leaders neglect their responsibility to educate and lead their people rather than cave to popular mob mentality. Even in Europe, we have seen elements of this in the performance of Schroeder and Chirac.

But despite some public pressure, President Musharraf has taken a bold and strong stance against a fundamentalist future for his country. He understands that it is in Pakistan's best interest to rid the country of the terrorist cells that are acting as parasites on the Pakistani people. He understands that the best way to bring investment, jobs, health care and security for his people is to join the realm of the responsible world.

It is easy to underestimate the amount of courage this type of leadership takes. Sitting in our comfortable democracy in the U.S., it seems the obvious choice.

But I call on my colleagues to take a moment to remember the immense problems that Pakistan is dealing with: because of tensions in the region, and the war in Afghanistan, Pakistan's economy has suffered a huge loss. And despite my best efforts with some fellow colleagues, the U.S. has yet to provide the one thing Pakistan really needs: a better deal on textiles.

Textiles and textile products are Pakistan's main export. As a result of the war effort, invaluable orders for textile products made and exported by Pakistan have been canceled due to perceived instability in the region and a lack of confidence that such orders will ultimately be delivered.

According to the Pakistan Textile and Apparel Group, Pakistan has witnessed a 64 percent reduction in orders for clothes that would be made from last year alone, by the 14 largest apparel factories in Lahore, Karachi, and Faisalabad. As a result, employment in these factories has dropped 32 percent from a year ago. The Pakistani government has estimated the overall decline in orders at 40 percent. This has very real consequences for the future of Pakistan, its stability, and its ability to forge a future of economic prosperity for its people.

As a weakened market for Pakistani textile exports ultimately renders human development programs within Pakistan less effective, especially the primary education element, young Pakistani's are faced with the prospect of no education and therefore no quality employment. An all-to-frequent alternative to this prospect is for young Pakistani's to attend Madrasas—Islamic religious schools run by mullahs—where too often basic skills and primary education are supplanted by religious teachings used to indoctrinate young Pakistani's into following the perverted version of Islam followed by Osama Bin Laden, Al Queda, and the Taliban.

Mr. President, I urge all of my colleagues to work with me in the Congress to provide the President with authority to assist Pakistan in the textile market immediately. Such action is vitally important to the stability of our important ally, and victory in our Nation's war against terrorism. Failing to take quick action only strengthens our enemy.

The war on terrorism will only be won through the continued cooperation of important countries like Pakistan. The very least we can do in this body today is to recognize this support and to say thank you for it.

ENERGY OVERSIGHT

Mr. LEAHY. Mr. President, I am pleased to join Senator DIANNE FEINSTEIN in sponsoring the Energy Oversight Bill. This bill clarifies the scope of the existing regulatory authority of the Commodity Futures Trading Commission, CFTC, over markets in over-the-counter, OTC, derivatives, including its anti-fraud and anti-manipulation jurisdiction over exempt commodities such as metals and energy.

Over-the-counter derivatives markets have assumed an increasingly large role in the U.S. economy. A recent conservative estimate put the size of the global OTC derivatives market at $111 trillion. The U.S. share of that market is estimated to be at least two-thirds. Derivatives based on "exempt commodities," such as energy and metals, make up a small percentage—probably no more than 2 percent—of the total OTC derivatives market. However, derivatives play an increasingly important role in energy and metals markets, which are in turn critical to our overall economy.

The energy markets are among the largest and most dynamic in the United States. Hundreds of billions of dollars in energy products—which include electricity, natural gas, crude oil, and gasoline—are traded each year in the United States—both on-exchange and in the over-the-counter markets.

We are all well aware of the tragedies that occurred last fall surrounding the collapse of Enron. For instance, there have been numerous stories in the press regarding allegations of manipulations in energy markets. I understand the CFTC currently is in the process of pursuing a comprehensive, detailed investigation of allegations raised by the Enron collapse.

However, some have suggested that following passage of Commodity Futures Modernization Act, CFMA, in 2000 the CFTC does not in fact have authority to effectively and successfully investigate and punish fraud and manipulation in derivatives markets for exempt commodities—particularly energy and metals. In a hearing held by the Senate Agriculture Committee last July, questions were raised about the CFTC's ability to prevent fraud and manipulation in the first place.

If that is the case, not only do these transactions fall outside the jurisdictional reach of the CFTC, but in most cases, they are beyond the reach of any other federal financial regulator. Thus, we have a gap in the oversight of exempt commodity transactions. And plainly, this gap was not something Congress intended when it passed the CFMA.

This legislation puts these questions to rest.

Our bill clarifies that the CFTCs anti- fraud and anti-manipulation authority applies to all exempt commodity transactions and requires derivatives marketplaces like electronic swap exchanges—like the now-defunct "Enron Online"—to adhere to certain, minimal regulatory obligations: among them are transparency, disclosure, and reporting.

It recognizes the benefits of market innovation by preserving the long-sought legal certainty for swaps—they remain for the most part "exempt" from CFTC jurisdiction. At the same time, however, the bill ensures that all derivatives transactions are subject to the commission's fraud and manipulation authorities. It would not require the registration of swap counterparties, but would require that they maintain books and records of transactions—something that should be routine practice in the industry. Finally, the legislation recognizes that all exchange markets serve price discovery and hedging purposes by imposing modest transparency, disclosure, and reporting obligations.

Experience has shown that measures designed to increase market transparency instill confidence in markets, attract investment, and increase market integrity by providing regulators with the means to monitor for fraud and manipulation. Application of these principles to derivatives markets generally is sound public policy, prudent business practice, and common sense. The consequent benefits extend not only to market users, but also to consumers.

Accountability is important and must be restored because Enron is not alone. It is only a case study exposing the shortcomings in our current laws. Future debacles wait to be discovered not only by investigators or the media, but by the more than one in two Americans who depend on the transparency and integrity of our public markets.

The majority of Americans depend on capital markets to invest in the future needs of their families—from their children's college fund to their retirement nest eggs. American investors deserve action. Congress must act now to restore confidence in the integrity of the public markets.

Accountability and transparency help our markets work as they should, in ways that benefit investors, employees, consumers and our national economy. Our job is to make sure that there are adequate doses of accountability in our regulatory and legal system to prevent such occurrences in the future. The time has come for Congress to rethink and reform our laws in order to prevent corporate deceit, to protect investors and to restore full confidence in the capital markets.

Unfortunately, in the wake of Enron, we are presently witnessing some of the best arguments in favor of such changes. U.S. energy markets are suffering a crisis in confidence. This modest legislation is a good first step toward restoring this lost confidence and returning energy markets to a path of growth and efficiency.

ADDITIONAL STATEMENTS

TRIBUTE TO OPERATION EAGLE'S NEST

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Operation Eagle's Nest. The Military Affairs Committees of Hopkinsville and Oak Grove, KY, and Clarksville, TN, created this fund-raising initiative to help the families of deployed soldiers from Fort Campbell.

The communities surrounding Fort Campbell have a long tradition of supporting the more than 20,000 soldiers and their families of the 101st Airborne Division and the other units stationed at Fort Campbell. Troops from Fort Campbell have played a vital role in the war against terrorism in Afghanistan and around the world. As thousands of troops and tons of machinery and equipment depart Fort Campbell for the Middle East, it is important that Americans not forget the sacrifices of the families that the men and women of our Armed Forces leave behind.

Local businesses and citizens in Kentucky and Tennessee founded Operation Eagle's Nest with the goal of raising at least $1 million as a contingency fund to be used as needed at the base. The local citizens are excited about the initiative and the opportunity to once again show our soldiers and their families how much they appreciate the sacrifices they make for our great Nation. The Fort Campbell soldiers deployed in the Middle East feel at ease with the confidence that their families are supported by local citizens.

For Campbell Division Commander MG David Petraeus recently praised "not just the monetary support but the symbolism of our communities coming together for the families." He is absolutely correct. The soldiers of Fort Campbell are heroically doing their part in the war on terror and the local citizens of Hopkinsville, Oak Grove, and Clarksville are graciously doing theirs. This is exactly what President Bush meant when he stated that all Americans must do their part in the war on terror.•

TRIBUTE TO STATE SENATOR ALVIN PENN

• Mr. LIEBERMAN. Mr. President, I rise to pay tribute to the life and career of Connecticut State Senator Alvin Penn, who died an untimely death on Friday, February 14, at the age of 54.

Alvin was a passionate and principled fighter who sought to give people of all races and backgrounds the equal opportunity that is every American's birthright. Through difficult times, he never wavered in serving his beloved city of Bridgeport. And those of us who were blessed to know him will always remember him as a larger than life human being with a generous spirit and sharp and unsinkable sense of humor.

As chairman of the State senate's public safety committee, Senator Penn banned the insidious practice of racial profiling and improved the State's witness protection program. Thanks to Senator Penn's work on this committee and others, Bridgeport has better schools, safer streets, and more prosperous neighborhoods than it did a decade ago.

The city of Bridgeport and the state of Connecticut, of course, still have their share of troubles—but Alvin never gave up, never let the steepness of the hill stop him from trying to climb. He understood that to get to the mountaintop, you must keep going up.

That is what he did. State Senator Penn did not take orders from special interests or party bosses. He listened to, and did what was right for, the people he served. Eight years ago, Alvin met with Gov. John Rowland, and told the Governor, "You're a Republican from Waterbury and I'm a Democrat from Bridgeport. We understand the issues of our urban communities." He pledged to work together—and his word was good.

The city of Bridgeport will always hold State Senator Penn close to its heart. He is a part of its history, its present, and will be a part of its future. There is not yet an Alvin Penn memorial in Bridgeport—though there may someday be. For now, his legacy, and his memorial, is in every school and business and church, and every citizen on every street corner in the city he loved to serve.•

HONORING PATRICK S. LEROY

• Mr. BUNNING. Mr. President, I have the privilege and honor today of recognizing Patrick S. LeRoy of Louisville, Kentucky. Earlier this month, Patrick was honored by the Muscular Dystrophy Association as the 2003 Kentucky State Goodwill Ambassador.

Patrick is a special child with a special condition and unique opportunity to share his story with thousands of people. Each day he lives with Duchenne muscular dystrophy. Symptoms of this disease include increasing muscle weakness in the body, concentrated mainly in the arms and legs.

Nevertheless, Patrick does not allow this condition to limit his daily activities. In fact, this 8 year old is more active than most people his age, and even adults. Currently, Patrick is a second grader at Coral Ridge Elementary in Fairdale. When not studying his favorite subjects, math and science, this young man enjoys swimming, participating in karate class, and he also shares my passion for the game of baseball. In addition to his participation in athletics, Patrick also develops his artistic abilities through drawing.

What sets Patrick apart from other children is not his health condition but his willingness to make a difference by speaking with people about muscular dystrophy, helping to remove a stigmatism that stems from lack of knowledge. Being selected as the Kentucky ambassador will give Patrick a valuable opportunity to encourage public support and education of this disease. Please join me in congratulating Patrick S. LeRoy and wishing him the best of luck in his new position of 2003 Kentucky State Goodwill Ambassador.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PERIODIC REPORT ON TELECOMMUNICATIONS PAYMENTS MADE TO CUBA PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—PM20

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. 6004(e)(6), I transmit herewith a semiannual report prepared by my Administration detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 5, 2003.*

MEASURE HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

S. Con. Res. 13. Concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1391. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program (WV–088–FOR)" received on February 27, 2003; to the Committee on Energy and Natural Resources.

EC–1392. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Amendment to Regulation T (Credit by Brokers and Dealers): Revision to the semiannual List of Foreign Margin Stocks" received on February 25, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1393. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rule Title Rev. Rule 2003–23" received on February 27, 2003; to the Committee on Finance.

EC–1394. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Standard Meal and Snack Rates for Family Day Care Providers (Revenue Procedure 2003–22)" received on February 27, 2003; to the Committee on Finance.

EC–1395. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Construction/Real Estate—Per Diem Allowances for Temporary Technical Services Employees (UIL: 62.02–06)" received on February 27, 2003; to the Committee on Finance.

EC–1396. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Petroleum Cost Depletion—Recoverable Reserves (UIL: 0611.05.01)" received on February 28, 2003; to the Committee on Finance.

EC–1397. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare & Medicaid Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Physician Fee Schedule Update for Calendar Year 2003 (0938–AL21)" received on February 27, 2003; to the Committee on Finance.

EC–1398. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare & Medicaid Services, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 50—Terrorism Risk Insurance Program (1505–AA96)" received on February 25, 2003; to the Committee on Finance.

EC–1399. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the report relative to the implementation of the United States-Israel Free Trade Agreement; to the Committee on Finance.

EC–1400. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Member, IRS Oversight Board, received on February 14, 2003; to the Committee on Finance.

EC–1401. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position Assistant Secretary, Public Affairs, received on February 14, 2003; to the Committee on Finance.

EC–1402. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy in the position of Chief Financial Officer, received on February 14, 2003; to the Committee on Finance.

EC–1403. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary, Management, received on February 14, 2003; to the Committee on Finance.

EC–1404. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, designation of acting officer and nomination for the position of Commissioner of Internal Revenue, received on February 14, 2003; to the Committee on Finance.

EC–1405. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, designation of acting officer and nomination for the position of Secretary of the Treasury, received on February 14, 2003; to the Committee on Finance.

EC–1406. A communication from the Trail Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Conforming the Federal Railroad Administration's Accident/Incident Reporting Requirements to the Occupational Safety and Health Administration's Revised Reporting Requirements; Other Amendments (2130–AB51)" received February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1407. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule "Coast Guard Board for Correction of Military Records; Procedural Regulations (2105–AD19)" received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1408. A communication from the Attorney/Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Transportation for Policy (New Position), received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1409. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Francisco Bay, California (COPT San Francisco Bay 03–002) (2115–AA97)(2003–0012)" received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1410. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08–02–020) (2115–AE47) (2003–0009)" received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1411. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; (Including 3 regulations) (2115–AE46)(2003–0001)" received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1412. A communication from the General Counsel, Department of Commerce, transmitting, pursuant to law, the report of a draft bill entitled "Marine Mammal Protection Act Amendments of 2003" received on February 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1413. A communication from the Director, Congressional Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report relative to the Final Rule regarding Requirements for Low-Speed Electric Bicycles; to the Committee on Commerce, Science, and Transportation.

EC–1414. A communication from the President and Chief Executive Officer, National Railroad Passenger Corporation, AMTRAK, transmitting, pursuant to law, the report of AMTRAK's Grant and Legislative Request for Fiscal Year 2004; to the Committee on Commerce, Science, and Transportation.

EC–1415. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Authority of the Secretary of Homeland Security; Delegations of Authority; Immigrations Laws (RIN 1601–AA06)" received on February 28, 2003; to the Committee on the Judiciary.

EC–1416. A communication from tne Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approvals and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Regulations for Permits, Approvals and Registration and Related Regulations (FRL 7450–4)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1417. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Connecticut; New Source Review/Prevention of Significant Deterioration Revision (FRL 7445–9)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1418. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reorganization of and Revisions to Administration to Administrative and General Conformity Provisions; Documents Incorporated by Reference; Recodification of Existing SIP Provisions; Correction (FRL 7455–7)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1419. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits (FRL 7449–4)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1420. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Florida Update to Materials Incorporated by Reference (FRL 7453–7)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1421. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Kansas (FRL 7455–9)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1422. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; Virginia Islands (FRL 7455–3)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1423. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules (FRL 7453–4)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1424. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District (FRL 7451–6)" received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1425. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Ventura Air Pollution Control District (FRL 7454–4)" received on February 25, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 195. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that

Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes (Rept. No. 108–13).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 273. A bill to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes (Rept. No. 108–14).

S. 302. A bill to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to restore and extend the term of the advisory commission for the recreation area, and for other purposes (Rept. No. 108–15).

S. 426. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes (Rept. No. 108–16).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*Linda M. Springer, of Pennsylvania, to be Controller, Office of Federal Financial Management Office of Management and Budget.

*Janet Hale, of Virginia, to be Under Secretary for Management, Department of Homeland Security.

By Mr. GRASSLEY for the Committee on Finance.

*Daniel Pearson, of Minnesota, to be a Member of the United States International Trade Commission for the term expiring December 16, 2011

*Charlotte A. Lane, of West Virginia, to be a Member of the United States International Trade Commission for a term expiring December 16, 2009.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING:

S. 514. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. Jeffords, Mr. Allard, Mr. Thomas, Mr. Specter, Mrs. Clinton, Mr. Santorum, and Mr. Grassley):

S. 515. A bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. BUNNING (for himself, Mrs. Boxer, Mr. Inhofe, Mr. Craig, Mr. Allen, Mr. Nickles, Mr. Burns, Mr. Brownback, Mr. Thomas, Ms. Snowe, Mr. Miller, Mr. Campbell, and Mr. Sessions):

S. 516. A bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. MURRAY:

S. 517. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Ms. COLLINS (for herself, Mrs. Murray, Mr. Breaux, and Mr. Miller):

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 519. A bill to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. CRAPO (for himself and Mr. Craig):

S. 520. A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 521. A bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. Domenici):

S. 522. A bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 523. A bill to make technical corrections to law relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. BUNNING:

S. 524. A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Ms. Collins, Mr. DeWine, Ms. Stabenow, Mr. Reed, Mr. Inouye, Mr. Voinovich, Mr. Kennedy, Mr. Leahy, Ms. Cantwell, Mr. Jeffords, Mr. Warner, Mr. Akaka, Mr. Fitzgerald, Mr. Durbin, and Mr. Bayh):

S. 525. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. Graham of Florida, Mr. Kennedy, Mr. Coleman, Ms. Mikulski, Mr. Allard, and Mr. Dayton):

S. 526. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries; to the Committee on Finance.

By Mr. MILLER:

S. 527. A bill to establish the Southern Regional Commission for the purpose of breaking the cycle of persistent poverty among the southeastern States; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. Bennett):

S. 528. A bill to reauthorize funding for maintenance of public roads used by school buses serving certain Indian reservations; to the Committee on Environment and Public Works.

By Ms. CANTWELL (for herself, Mr. Thomas, Mr. Leahy, Mr. Smith, Mr. Wyden, Ms. Snowe, Mr. Durbin, Mr. Hagel, Mr. Roberts, and Mr. Chambliss):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

By Mr. KERRY:

S. 530. A bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself and Mr. Johnson):

S. 531. A bill to direct the Secretary of the Interior to establish the Missouri River Monitoring and Research Program, to authorize the establishment of the Missouri River Basin Stakeholder Committee, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. Domenici, Mr. Bingaman, and Mr. McCain):

S. 532. A bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. Specter, Mr. Santorum, and Mrs. Clinton):

S. 533. A bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLEN:

S. 534. A bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty; to the Committee on Rules and Administration.

By Mr. CAMPBELL:

S. 535. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

By Mr. DEWINE (for himself, Mr. Levin, Ms. Collins, Mr. Reed, Mr. Voinovich, and Ms. Stabenow):

S. 536. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRAPO (for himself, Mr. Akaka, and Mr. Craig):

S. 537. A bill to ensure the availability of spectrum to amateur radio operators; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. Warner, Ms. Mikulski, Ms. Snowe, Mr. Breaux, Mr. Jeffords, Mrs. Murray, Ms. Collins, Mr. Kennedy, and Mr. Smith):

S. 538. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself, Mr. Dorgan, Mr. Kyl, Mrs. Feinstein, Ms. Murkowski, Mr. Burns, Mrs. Murray, Mr. McCain, Mrs. Hutchison, Mr. Coleman, and Mr. Bingaman):

S. 539. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Finance.

By Mr. INHOFE:

S. 540. A bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KYL:

S. 541. A bill for the relief of Ilko Vasilev Ivanov, Anelia Marinova Peneva, Marina Ilkova Ivanova, and Julie Ilkova Ivanova; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mrs. Boxer, Mr. Dorgan, Mr. Leahy, Mr. Levin, Mr. Schumer, and Mr. Johnson):

S. 542. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. Chafee, Mr. Biden, Mrs. Boxer, Ms. Cantwell, Mrs. Clinton, Mr. Corzine, Mr. Dayton, Mr. Dodd, Mr. Durbin, Mr. Edwards, Mr. Feingold, Mr. Graham of Florida, Mr. Harkin, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Lautenberg, Mr. Leahy, Mrs. Murray, Mr. Reed, Mr. Sarbanes, Mr. Schumer, Ms. Stabenow, and Mr. Wyden):

S. 543. A bill to designate a portion of the Artic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. Warner, Mr. Hollings, Mr. Reed, Mr. Daschle, Mr. Lieberman, Mrs. Clinton, Mr. Sarbanes, and Ms. Landrieu):

S. 544. A bill to establish a SAFER Firefighter Grant Program; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. Smith, Mr. Daschle, Ms. Landrieu, Mr. Breaux, Mr. Akaka, Mr. Biden, Mrs. Murray, Mr. Kerry, Mr. Bayh, Mr. Durbin, Ms. Stabenow, Mr. Levin, Mr. Wyden, Mr. Kennedy, Mr. Jeffords, Mr. Feingold, Mr. Lautenberg, Ms. Collins, Mr. Chafee, Mr. Harkin, Mr. Bingaman, Mr. Edwards, Mr. Sarbanes, Mr. Corzine, Mr. Leahy, Mr. Lieberman, Mr. Reed, Mr. Dayton, Mr. Nelson of Florida, Mr. Schumer, and Mrs. Clinton):

S. Res. 74. A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself, Mr. Leahy, Mr. Hatch, Mr. Allard, Mr. Biden, Mr. Miller, Mr. Gregg, Mr. Dorgan, Mr. Lott, Mr. Daschle, Mr. Cochran, Mr. Nickles, Mr. Dayton, Mr. Kerry, Mr. Inhofe, Mr. Jeffords, Mr. Fitzgerald, Ms. Landrieu, and Mr. Durbin):

S. Res. 75. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; to the Committee on the Judiciary.

By Mr. DURBIN:

S. Res. 76. A resolution expressing the sense of the Senate that the policy of preemption, combined with a policy of first use of nuclear weapons, creates an incentive for the proliferation of weapons of mass destruction, especially nuclear weapons, and is inconsistent with the long-term security of the United States; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself, Mr. Lieberman, Mr. Biden, Mrs. Feinstein, Mr. Dodd, Mr. Durbin, Ms. Mikulski, Mr. Edwards, Mr. Reid, Mr. Akaka, Mr. Dorgan, Mr. Kerry, Mr. Leahy, Mr. Carper, Mr. Feingold, Mr. Lautenberg, Mr. Reed, Mr. Rockefeller, Ms. Landrieu, Mr. Kennedy, Mrs. Murray, Mr. Dayton, Mr. Nelson of Nebraska, Mrs. Clinton., Mr. Corzine, Mrs. Boxer, Mr. Harkin, Mr. Schumer, Mr. Wyden, Mr. Kohl, Mr. Johnson, Mr. Jeffords, and Ms. Cantwell):

S. Res. 77. A resolution expressing the sense of the Senate that one of the most grave threats facing the United States is the proliferation of weapons of mass destruction, to underscore the need for a comprehensive strategy for dealing with this threat, and to set forth basic principles that should underpin this strategy; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. Smith, Mr. Kennedy, Mrs. Feinstein, and Mr. Corzine):

S. Con. Res. 13. A concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes; ordered held at the desk.

By Mr. SMITH (for himself, Mr. Schumer, Mr. Corzine, Mr . Ensign, Mr. Feingold, Mrs. Murray, Mr. Santorum, Mr. Voinovich, and Mr. Wyden):

S. Con. Res. 14. A concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia; to the Committee on Foreign Relations.

By Mr. ALLEN:

S. Con. Res. 15. A concurrent resolution commemorating the 140th anniversary of the issuance of the Emancipation Proclamation; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. Con. Res. 16. A concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers; considered and agreed to.

By Mr. SANTORUM:

S. Con. Res. 17. A concurrent resolution establishing a special task force to recommend an appropriate recognition for the slave laborers who worked on the construction of the United States Capitol; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. Nickles, the name of the Senator from Oregon (Mr. Smith) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 90

At the request of Mr. Gregg, the name of the Senator from Arizona (Mr. McCain) was added as a cosponsor of S. 90, a bill to extend certain budgetary enforcement to maintain fiscal accountability and responsibility.

S. 150

At the request of Mr. Allen, the name of the Senator from New Hampshire (Mr. Sununu) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 160

At the request of Mr. Baucus, the name of the Senator from Arkansas (Mrs. Lincoln) was added as a cosponsor of S. 160, a bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes.

S. 206

At the request of Mr. Roberts, the name of the Senator from Oregon (Mr. Smith) was added as a cosponsor of S. 206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

S. 207

At the request of Mr. Smith, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 207, a bill to amend the Internal Revenue Code of 1986 to provide a 10-year extension of the credit for producing electricity from wind.

S. 215

At the request of Mrs. Feinstein, the names of the Senator from Minnesota (Mr. Dayton) and the Senator from Oregon (Mr. Wyden) were added as cosponsors of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 271

At the request of Mr. SMITH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 310

At the request of Mr. THOMAS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 331

At the request of Mr. DASCHLE, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from North Dakota (Mr. DORGAN), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 331, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 343

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 343, a bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for clinical social worker services provided to residents of skilled nursing facilities.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 373

At the request of Mr. KENNEDY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 373, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 380

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 392

At the request of Mr. REID, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 471

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 471, a bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Committee, and for other purposes.

S. 480

At the request of Mr. HARKIN, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 481

At the request of Mr. ALLEN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 481, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

S. 504

At the request of Mr. ALEXANDER, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 509

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 509, a bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes.

S.J. RES. 4

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Minnesota (Mr. COLEMAN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 24

At the request of Mr. BYRD, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 24, a resolution designating the week beginning May 4, 2003, as "National Correctional Officers and Employees Week".

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Delaware (Mr. CARPER), the Senator from Connecticut (Mr. DODD), the Senator from Vermont (Mr. JEFFORDS), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human

Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

S. RES. 71

At the request of Ms. MURKOWSKI, the names of the Senator from Missouri (Mr. BOND), the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. Res. 71, a resolution expressing the support for the Pledge of Allegiance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING:

S. 514. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

Mr. BUNNING. Mr. President, today I am introducing the Social Security Benefits Tax Relief Act of 2003. This is a simple bill that would repeal the income tax increase on Social Security benefits that went into effect in 1993.

When the Social Security system was created, beneficiaries did not pay Federal income tax on their benefits. However, in 1983, Congress passed legislation that changed all this. The 1983 law requires that 50 percent of Social Security benefits be taxed for seniors whose incomes reached a certain level. The revenue this tax generated was then credited to the Social Security trust funds. Although I wasn't in Congress back in 1983, some argued that these changes were necessary because it kept Social Security taxes more in line with taxes on private pensions and because it shored up the Social Security system.

In 1993, President Clinton proposed that 85 percent of Social Security benefits be taxable for seniors meeting certain income thresholds, and that this additional money be allocated for the Medicare Program. Unfortunately, Congress passed this provision as part of a larger bill, which President Clinton then signed into law.

I was a Member of the House of Representatives at this time. I voted against this bill and didn't support this provision. This tax is unfair to our senior citizens who worked year, after year, after year, paying into Social Security, only to be faced with higher taxes once they retired.

The bill I am introducing would repeal the 85 percent tax, and would replace the funding that has been going to the Medicare Program with general funds. This tax was unfair when it was implemented in 1993, and it is unfair today. I hope my Senate colleagues can support this legislation to remove this burdensome tax on our seniors.

By Mr. BUNNING (for himself, Mrs. BOXER, Mr. INHOFE, Mr. CRAIG, Mr. ALLEN, Mr. NICKLES, Mr. BURNS, Mr. BROWNBACK, Mr. THOMAS, Ms. SNOWE, Mr. MILLER, Mr. CAMPBELL, and Mr. SESSIONS):

S. 516. A bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BUNNING. Mr. President, I rise today with several of my Senate colleagues to introduce the Arming Cargo Pilots Against Terrorism Act. This bill closes a loophole to better protect the homeland against terrorists.

As a result of the airplane hijackings on September 11, 2001, Congress took the appropriate action to prevent from ever happening again the use of an airliner as a missile and weapon of mass destruction and murder. Last year, large majorities of the Senate and House of Representatives voted to arm both cargo and passenger pilots who volunteered for a stringent training proram as part of the homeland security bill.

Arming these pilots served to protect the pilots and aircrew, passengers and those on the ground from ever being victims of another airline hijacking. It was the right thing to do. However, during conference of the homeland security bill the cargo pilots were yanked from the bill. This bill we introduce today will arm cargo pilots and close the loophole created when they were left out last year.

It is true that cargo airlines rarely have passengers, but that is no reason to disregard and ignore the safety of those cargo pilots and the aircrafts they control. Indeed, on occasions they do carry passengers, and sometimes they transport couriers and guards of some of the cargo being transported. Too many times these couriers and guards are armed while the pilots are unarmed. After September 11, that simply does not make sense.

As well, physical security around too many of our air cargo facilities and terminals is not up to the standard it should be. This lax in security has allowed stowaways a free pass in climbing aboard cargo airplanes for a free ride. Just a few months ago a woman in Fargo, ND, rushed onto a United Parcel Service plane trying to get to California. Fortunately she was caught. I guarantee that many have successfully sneaked onto cargo airplanes. And many more will continue to try. This is further evidence as to why we need to act to allow these cargo pilots to defend themselves and the cockpit.

Cargo pilots are not armed and they will never have Federal air marshals. Cargo planes do not have trained flight attendants or alert passengers to fend off hijackers. Cargo planes do not have reinforced cockpit doors, and some do not have any doors at all. Cargo areas of airports are not as secure as passenger areas, and thousands of personnel have access to the aircraft. Finally, stowaways sometimes find their way aboard cargo aircraft. And in the future one might be a terrorist.

There are no logical reasons to exclude cargo pilots. Simply saying that since they carry no passengers unlike a passenger airliner is not a good enough reason. Cargo planes are just as big as—if not bigger than—passenger planes. They can carry larger loads of fuel and frequently carry hazardous materials, including chemicals and biological products. A cargo airplane causes just as much damage when used as a weapon as did the passenger planes hijacked on September 11.

We cannot allow what happened on September 11 to ever happen again. This loophole of excluding cargo pilots from being able to protect themselves and their aircraft and the public must be removed. This is the right thing to do, and I ask my Senate colleagues for their support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arming Cargo Pilots Against Terrorism Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line of defense against a terrorist effort to commandeer a cargo aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a member of a flight deck crew of a cargo aircraft should be armed with a firearm to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

SEC. 3. ARMING CARGO PILOTS AGAINST TERRORISM.

Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "passenger" each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking "or," and all that follows; and

(ii) by inserting "or any other flight deck crew member."; and

(B) by adding at the end the following new paragraph:

"(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.".

SEC. 4. IMPLEMENTATION.

(a) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by section 3 shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(b) EFFECT ON OTHER LAWS.—The requirements of subsection (a) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. BREAUX, and Mr. MILLER):

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. I am pleased to join my colleague from Washington, Senator PATTY MURRAY, as well as my colleague and co-chair of the Senate Diabetes Caucus, Senator JOHN BREAUX, in introducing the Pancreatic Islet Cell Transplantation Act of 2003, which will help to advance tremendously important research that holds the promise of a cure for the more than 1 million Americans with type 1 or juvenile diabetes.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families as they await a cure. Diabetes is a devastating, life-long condition that affects people of every age, race, and nationality. It is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, a new study released by the American Diabetes Association last week estimates that diabetes cost the Nation $132 billion last year, and that health care spending for people with diabetes is almost double what it would be if they did not have diabetes.

The burden of diabetes is particularly heavy for children and young adults with type 1, or juvenile diabetes. Juvenile diabetes is the second most common chronic disease affecting children. Moreover, it is one that they never outgrow.

In individuals with juvenile diabetes, the body's immune system attacks the pancreas and destroys the islet cells that produce insulin. While the discovery of insulin was a landmark breakthrough in the treatment of people with diabetes, it is not a cure, and people with juvenile diabetes face the constant threat of developing devastating, life-threatening complications as well as a drastic reduction in their quality of life.

Thankfully, there is good news for people with diabetes. We have seen some tremendous breakthroughs in diabetes research in recent years, and I am convinced that diabetes is a disease that can be cured, and will be cured in the near future.

We were all encouraged by the development of the Edmonton Protocol, an experimental treatment developed at the University of Alberta involving the transplantation of insulin-producing pancreatic islet cells, which has been hailed as the most important advance in diabetes research since the discovery of insulin in 1921. Of the approximately 200 patients who have been treated using variations of the Edmonton Protocol, all have seen a reversal of their life-disabling hypoglycemia, and nearly 80 percent have maintained normal glucose levels without insulin shots for more than 1 year.

Moreover, the side effects associated with this treatment— which uses more islet cells and a less toxic combination of immunosuppressive drugs than previous, less successful protocols—have been mild and the therapy has been generally well tolerated by most patients.

Unfortunately, long-term use of toxic immunosuppressive drugs, has side effects that make the current treatment inappropriate for use in children. Researchers, however, are working hard to find a way to reduce the transplant recipient's dependence on these drugs so that the procedure will be appropriate for children in the future, and the protocol has been hailed around the world as a remarkable breakthrough and proof that islet transplantation can work. It appears to offer the most immediate chance to achieve a cure for type 1 diabetes, and the research is moving forward rapidly.

New sources of islet cells must be found, however, because, as the science advances and continues to demonstrate promise, the number of islet cell transplants that can be performed will be limited by a serious shortage of pancreases available for islet cell transplantation. There currently are only 2,000 pancreases donated annually, and, of these, only about 500 are available each year for islet cell transplants. Moreover, most patients require islet cells from two pancreases for the procedure to work effectively.

The legislation we are introducing today will increase the supply of pancreases available for these trials and research. Our legislation will direct the Centers for Medicare and Medicaid Services to grant credit to organ procurement organizations, OPOs—for the purposes of their certification—for pancreases harvested and used for islet cell transplantation and research.

Currently, CMS collects performance data from each OPO based upon the number of organs procured for transplant relative to the population of the OPO's service area. While CMS considers a pancreas to have been procured for transplantation if it is used for a whole organ transplant, the OPO receives no credit towards its certification if the pancreas is procured and used for islet cell transplantation or research. Our legislation will therefore give the OPOs an incentive to step up their efforts to increase the supply of pancreases donated for this purpose.

In addition, the legislation establishes an inter-agency committee on islet cell transplantation comprised of representatives of all of the Federal agencies with an active role in supporting this research. The many advisory committees on organ transplantation that currently exist are so broad in scope that the issue of islet cell transplantation—while of great importance to the juvenile diabetes community—does not rise to the level of consideration when included with broader issues associated with organ donation, such as organ allocation policy and financial barriers to transplantation. We believe that a more focused effort in the area of islet cell transplantation is clearly warranted since the research is moving forward at such a rapid pace and with such remarkable results.

To help us collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy covered by insurance, our legislation directs the Institute of Medicine to conduct a study on the impact of islet cell transplantation on the health-related quality of life outcomes for individuals with juvenile diabetes, as well as the cost-effectiveness of the treatment.

Diabetes is the most common cause of kidney failure, accounting for 40 percent of new cases, and a significant percentage of individuals with type 1 diabetes will experience kidney failure and become Medicare-eligible before they are age 65. Medicare currently covers both kidney transplants and simultaneous pancreas-kidney transplants for these individuals. To help Medicare decide whether it should cover pancreatic islet cell transplants, our legislation authorizes a demonstration project to test the efficacy of simultaneous islet-kidney transplants and islet transplants following a kidney transplant for individuals with type 1 diabetes who are eligible for Medicare because they have end stage renal disease, ESRD.

Islet cell transplantation offers real hope for people with diabetes. Our legislation, which is strongly supported by the Juvenile Diabetes Research Foundation, JDRF, addresses some of the specific obstacles to moving this research forward as rapidly as possible, and I urge all of my colleagues to join us as cosponsors.

By Mr. CAMPBELL:

S. 519. A bill to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing the Native American Capital Formation and Economic Development Act of 2003.

Before the Europeans landed on these shores, Indian nations were vigorous and vital: tribal governments functioned well; tribal cultures and religions flourished; and tribal economies were strong.

Over time tribal institutions failed when the independence they had known were stifled by the Federal Government.

Since 1970, Indian self-determination has assisted the tribes in rebuilding their governments and resurrecting their economies.

The bill I am introducing today will foster real self-determination and create a Native-capitalized development assistance corporation.

If enacted, the tribes themselves will be the financiers and shareholders of the Native American Capital Development Corporation which will focus on mortgage lending and Indian home ownership; provide assistance to Native financial institutions; and work to create a secondary market in Indian mortgages.

The corporation will include the Native American Economies Diagnostic Studies Fund to partner with tribes to conduct diagnostic studies of their economies and identify the inhibitors to greater levels of private sector investment and job creation. Ultimately the corporation and the tribes will work to remove those inhibitors.

The corporation's Native American Economic Incubation Center Fund will work with participating tribes to channel development assistance to those tribes with a demonstrated commitment to sound economic and political policies; good governance; and practices that create increased levels of economic growth and job creation.

It is my expectation that there will be much debate generated by this legislation which I consider a good thing. I expect to hold hearings on this important legislation in the weeks ahead.

I urge my colleagues to join me in support of this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Capital Formation and Economic Development Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

Sec. 101. Establishment of the Corporation.
Sec. 102. Authorized assistance and service functions.
Sec. 103. Native American lending services grant.
Sec. 104. Audits.
Sec. 105. Annual housing and economic development reports.
Sec. 106. Advisory Council.

TITLE II—CAPITALIZATION OF CORPORATION

Sec. 201. Capitalization of the Corporation.

TITLE III—REGULATION, EXAMINATION, AND REPORTS

Sec. 301. Regulation, examination, and reports.
Sec. 302. Authority of the Secretary of Housing and Urban Development.

TITLE IV—FORMATION OF NEW CORPORATION

Sec. 401. Formation of new corporation.
Sec. 402. Adoption and approval of merger plan.
Sec. 403. Consummation of merger.
Sec. 404. Transition.
Sec. 405. Effect of merger.

TITLE V—OTHER NATIVE AMERICAN FUNDS

Sec. 501. Native American Economies Diagnostic Studies Fund.
Sec. 502. Native American Economic Incubation Center Fund.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 601. Native American financial institutions.
Sec. 602. Corporation.
Sec. 603. Other Native American funds.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is a special legal and political relationship between the United States and the Indian tribes, as grounded in treaties, the Constitution, Federal statutes and court decisions, executive orders, and course of dealing;

(2) despite the availability of abundant natural resources on Indian land and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States;

(3) the economic success and material well-being of Native Americans depends on the combined efforts and resources of the United States, Indian tribal governments, the private sector, and individuals;

(4) the poor performance of moribund Indian economies is due in part to the near-complete absence of private capital and private capital institutions; and

(5) the goals of economic self-sufficiency and political self-determination for Native Americans can best be achieved by making available the resources and discipline of the private market, adequate capital, and technical expertise.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish an entity dedicated to capital development and economic growth policies in Native American communities;

(2) to provide the necessary resources of the United States, Native Americans, and the private sector on endemic problems such as fractionated and unproductive Indian land;

(3) to provide a center for economic development policy and analysis with particular emphasis on diagnosing the systemic weaknesses with, and inhibitors to greater levels of investment in, Native American economies;

(4) to establish a Native-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans; and

(5) to improve the material standard of living of Native Americans.

SEC. 4. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given the term "Native" in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) BOARD.—The term "Board" means the Board of Directors of the Corporation.

(3) CAPITAL DISTRIBUTION.—The term "capital distribution" has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(4) CHAIRPERSON.—The term "Chairperson" means the chairperson of the Board.

(5) CORPORATION.—The term "Corporation" means the Native American Capital Development Corporation established by section 101(a)(1)(A).

(6) COUNCIL.—The term "Council" means the Advisory Council established under section 106(a).

(7) DESIGNATED MERGER DATE.—The term "designated merger date" means the specific calendar date and time of day designated by the Board under this Act.

(8) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term "Department of Hawaiian Home Lands" means the agency that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

(9) FUND.—The term "Fund" means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and

Regulatory Improvement Act of 1994 (12 U.S.C. 4703).

(10) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) MERGER PLAN.—The term "merger plan" means the plan of merger adopted by the Board under this Act.

(12) NATIVE AMERICAN.—The term "Native American" means—

(A) a member of an Indian tribe; or

(B) a Native Hawaiian.

(13) NATIVE AMERICAN FINANCIAL INSTITUTION.—The term "Native American financial institution" means a person (other than an individual) that—

(A) qualifies as a community development financial institution under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702);

(B) satisfies—

(i) requirements established by subtitle A of title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

(ii) requirements applicable to persons seeking assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

(14) NATIVE AMERICAN LENDER.—The term "Native American lender" means a Native American governing body, Native American housing authority, or other Native American financial institution that acts as a primary mortgage or economic development lender in a Native American community.

(15) NATIVE HAWAIIAN.—The term "Native Hawaiian" has the meaning given the term in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

(16) NEW CORPORATION.—The term "new corporation" means the corporation formed in accordance with title IV.

(17) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(18) TOTAL CAPITAL.—The term "total capital" has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(19) TRANSITION PERIOD.—The term "transition period" means the period beginning on the date on which the merger plan is approved by the Secretary and ending on the designated merger date.

TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

SEC. 101. ESTABLISHMENT OF THE CORPORATION.

(a) ESTABLISHMENT; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established and chartered a corporation, to be known as the "Native American Capital Development Corporation".

(B) PERIOD OF TIME.—The Corporation shall be a congressionally chartered body corporate until the earlier of—

(i) the designated merger date; or

(ii) the date on which the charter is surrendered by the Corporation.

(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Corporation charter is specifically and exclusively reserved to Congress.

(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

(A) BOARD.—The powers of the Corporation shall be vested in a Board of Directors, which Board shall determine the policies that govern the operations and management of the Corporation.

(B) PRINCIPAL OFFICE; RESIDENCY.—

(i) PRINCIPAL OFFICE.—The principal office of the Corporation shall be in the District of Columbia.

(ii) VENUE.—For purposes of venue, the Corporation shall be considered to be a resident of the District of Columbia.

(3) MEMBERSHIP.—

(A) IN GENERAL.—

(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, of which—

(I) 3 members shall be appointed by the President; and

(II) 6 members shall be elected by the class A stockholders, in accordance with the bylaws of the Corporation.

(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 201(b), the Board shall consist of 13 members, of which—

(I) 9 members shall be appointed and elected in accordance with clause (i); and

(II) 4 members shall be elected by the class B stockholders, in accordance with the bylaws of the Corporation.

(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

(i) Of the 3 members appointed by the President—

(I) 1 member shall be appointed for a 2-year term;

(II) 1 member shall be appointed for a 3-year term; and

(III) 1 member shall be appointed for a 4-year term;

as designated by the President at the time of the appointments.

(ii) Of the 6 members elected by the class A stockholders—

(I) 2 members shall each be elected for a 2-year term;

(II) 2 members shall each be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

(I) 1 member shall be elected for a 2-year term;

(II) 1 member shall be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

(i) Native American housing and economic development matters.

(ii) Financing in Native American communities.

(iii) Native American governing bodies, legal infrastructure, and judicial systems.

(iv) Restricted and trust land issues, economic development, and small consumer loans.

(D) MEMBERS OF INDIAN TRIBES.—Not less than 2 of the members appointed by the President shall be members of different, federally-recognized Indian tribes enrolled in accordance with the applicable requirements of the Indian tribes.

(E) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

(F) VACANCIES.—

(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

(G) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

(b) POWERS OF THE CORPORATION.—The Corporation—

(1) shall adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Corporation shall be conducted;

(B) the elected members of the Board shall be elected;

(C) the stock of the Corporation shall be issued, held, and disposed of;

(D) the property of the Corporation shall be disposed of; and

(E) the powers and privileges granted to the Corporation by this Act and other law shall be exercised;

(2) may make and execute contracts, agreements, and commitments, including entering into a cooperative agreement with the Secretary;

(3) may prescribe and impose fees and charges for services provided by the Corporation;

(4) may, if a settlement, adjustment, compromise, release, or waiver of a claim, demand, or right of, by, or against the Corporation, is not adverse to the interests of the United States—

(A) settle, adjust, and compromise on the claim, demand, or right; and

(B) with or without consideration or benefit to the Corporation, release or waive, in whole or in part, in advance or otherwise, the claim, demand, or right;

(5) may sue and be sued, complain and defend, in any Federal, State, tribal, or other court;

(6) may acquire, take, hold, and own, manage, and dispose of any property;

(7) may—

(A) determine the necessary expenditures of the Corporation and the manner in which those expenditures shall be incurred, allowed, and paid; and

(B) appoint, employ, and fix and provide for the compensation and benefits of such officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

(8) may incorporate a new corporation under State, District of Columbia, or tribal law, as provided in this Act;

(9) may adopt a plan of merger, as provided in this Act;

(10) may consummate the merger of the Corporation into the new corporation, as provided in this Act; and

(11) may have succession until the designated merger date or any earlier date on which the Corporation surrenders the Federal charter of the Corporation.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

(1) Investment of Funds.—Funds of the Corporation that are not required to meet current operating expenses shall be invested in—

(A) obligations of, or obligations guaranteed by, the United States (or any agency of the United States); or

(B) in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(2) Designation as Depositary, Custodian, or Agent.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may—

(A) be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation; and

(B) act as such a depositary, custodian, or agent.

(d) Actions By and Against the Corporation.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

(1) the Corporation shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

(2) any civil action to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

(3) in any case in which all remedies have been exhausted in accordance with the applicable ordinances of an Indian tribe, in any civil or other action, case, or controversy in a tribal court, State court, or in any court other than a district court of the United States, to which the Corporation is a party, may at any time before the commencement of the civil action be removed by the Corporation, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

(A) to the district court of the United States for the district and division in which the action is pending; or

(B) if there is no such district court, to the United States District Court for the District of Columbia.

SEC. 102. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

The Corporation may—

(1) assist in the planning, establishment, and organization of Native American financial institutions;

(2) develop and provide financial expertise and technical assistance to Native American financial institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American land, including issues relating to—

(A) trust land;

(B) discrimination;

(C) high operating costs; and

(D) inapplicability of standard underwriting criteria;

(4) provide mortgage underwriting assistance (but not in originating loans) under contract to Native American financial institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American financial institutions and other lenders in Native American communities;

(6) obtain capital investments in the Corporation from Indian tribes, Native American organizations, and other entities;

(7) act as an information clearinghouse by providing information on financial practices to Native American financial institutions;

(8) monitor and report to Congress on the performance of Native American financial institutions in meeting the economic development and housing credit needs of Native Americans; and

(9) provide any of the services described in this section—

(A) directly; or

(B) under a contract authorizing another national or regional Native American financial services provider to assist the Corporation in carrying out the purposes of this Act.

SEC. 103. NATIVE AMERICAN LENDING SERVICES GRANT.

(a) Initial Grant Payment.—If the Secretary and the Corporation enter into a cooperative agreement for the Corporation to provide technical assistance and other services to Native American financial institutions, the agreement shall, to the extent that funds are available as provided in this Act, provide that the initial grant payment, anticipated to be $5,000,000, shall be made at the time at which all members of the initial Board have been appointed under this Act.

(b) Payment of Grant Balance.—The payment of the remainder of the grant shall be made to the Corporation not later than 1 year after the date on which the initial grant payment is made under subsection (a).

SEC. 104. AUDITS.

(a) Independent Audits.—

(1) In general.—The Corporation shall have an annual independent audit made of the financial statements of the Corporation by an independent public accountant in accordance with generally accepted auditing standards.

(2) Determinations.—In conducting an audit under this subsection, the independent public accountant shall determine and submit to the Secretary a report on whether the financial statements of the Corporation—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Secretary, comply with any disclosure requirements imposed under section 301.

(b) GAO Audits.—

(1) In general.—Beginning on the date that is 2 years after the date of commencement of operation of the Corporation, unless an earlier date is required by any other law, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) Access.—To carry out this subsection, the representatives of the General Accounting Office shall—

(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation that are necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians; and

(C) have access, on request to the Corporation or any auditor for an audit of the Corporation under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) Reports.—The Comptroller General of the United States shall submit to Congress a report on each audit conducted under this subsection.

(4) Reimbursement.—The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

SEC. 105. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the activities of the Corporation relating to economic development.

SEC. 106. ADVISORY COUNCIL.

(a) Establishment.—The Board shall establish an Advisory Council in accordance with this section.

(b) Membership.—

(1) In general.—The Council shall consist of 13 members, who shall be appointed by the Board, including—

(A) 1 representative from each of the 12 districts established by the Bureau of Indian Affairs; and

(B) 1 representative from the State of Hawaii.

(2) Qualifications.—Of the members of the Council—

(A) not less than 6 members shall have expertise in financial matters; and

(B) not less than 9 members shall be Native Americans.

(3) Terms.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

(A) Each of 4 members shall be appointed for a 2-year term.

(B) Each of 4 members shall be appointed for a 3-year term.

(C) Each of 5 members shall be appointed for a 4-year term.

(c) Duties.—The Council shall—

(1) advise the Board on all policy matters of the Corporation; and

(2) through the regional representation of members of the Council, provide information to the Board from all sectors of the Native American community.

TITLE II—CAPITALIZATION OF CORPORATION

SEC. 201. CAPITALIZATION OF THE CORPORATION.

(a) Class A Stock.—The class A stock of the Corporation shall—

(1) be issued only to Indian tribes and the Department of Hawaiian Home Lands;

(2) be allocated—

(A) with respect to Indian tribes, on the basis of Indian tribe population, as determined by the Secretary in consultation with the Secretary of the Interior, in such manner as to issue 1 share for each member of an Indian tribe; and

(B) with respect to the Department of Hawaiian Home Lands, on the basis of the number of current leases at the time of allocation;

(3) have such par value and other characteristics as the Corporation shall provide;

(4) be issued in such a manner as to ensure that voting rights may be vested only on purchase of those rights from the Corporation by an Indian tribe or the Department of Hawaiian Home Lands, with each share being entitled to 1 vote; and

(5) be nontransferable.

(b) CLASS B STOCK.—

(1) IN GENERAL.—The Corporation may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

(A) be available for purchase by investors;

(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

(C) have such par value and other characteristics as the Corporation shall provide;

(D) be vested with voting rights, with each share being entitled to 1 vote; and

(E) be transferable only on the books of the Corporation.

(c) CHARGES AND FEES; EARNINGS.—

(1) CHARGES AND FEES.—The Corporation may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

(A) all costs and expenses of the operations of the Corporation should be within the income of the Corporation derived from such operations; and

(B) those operations would be fully self-supporting.

(2) EARNINGS.—

(A) IN GENERAL.—All earnings from the operations of the Corporation shall be annually transferred to the general surplus account of the Corporation.

(B) TRANSFER OF GENERAL SURPLUS FUNDS.—At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Corporation.

(d) CAPITAL DISTRIBUTIONS.—

(1) DISTRIBUTIONS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the Corporation may make such capital distributions as may be declared by the Board.

(B) CHARGING OF DISTRIBUTIONS.—All capital distributions under subparagraph (A) shall be charged against the general surplus account of the Corporation.

(2) RESTRICTION.—The Corporation may not make any capital distribution that would decrease the total capital of the Corporation to an amount less than the capital level for the Corporation established under section 301, without prior written approval of the distribution by the Secretary.

TITLE III—REGULATION, EXAMINATION, AND REPORTS

SEC. 301. REGULATION, EXAMINATION, AND REPORTS.

(a) IN GENERAL.—The Corporation shall be subject to the regulatory authority of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Corporation.

(b) DUTY OF SECRETARY.—The Secretary shall ensure that the Corporation is adequately capitalized and operating safely as a congressionally chartered body corporate.

(c) REPORTS TO SECRETARY.—

(1) ANNUAL REPORTS.—On such date as the Secretary shall require, but not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall submit to the Secretary a report in such form and containing such information with respect to the financial condition and operations of the Corporation as the Secretary shall require.

(2) CONTENTS OF REPORTS.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Corporation designated by the Board to make the declaration, that the report is true and correct to the best of the knowledge and belief of that officer.

SEC. 302. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

The Secretary shall—

(1) have general regulatory power over the Corporation; and

(2) promulgate such rules and regulations applicable to the Corporation as the Secretary determines to be appropriate to ensure that the purposes specified in section 3 are accomplished.

TITLE IV—FORMATION OF NEW CORPORATION

SEC. 401. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 3 beyond the terms of the charter of the Corporation, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have such corporate powers and attributes permitted under the laws of the jurisdiction of in which the new corporation is incorporated as the Board determines to be appropriate.

(c) USE OF NAME PROHIBITED.—The new corporation may not use in any manner the names "Native American Capital Development Corporation" or "NACDCO", or any variation of those names.

SEC. 402. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, after consultation with the Indian tribes that are stockholders of class A stock referred to in section 201(a), the Board shall prepare, adopt, and submit to the Secretary for approval, a plan for merging the Corporation into the new corporation.

(b) DESIGNATED MERGER DATE.—

(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which, and time of day at which, the merger of the Corporation into the new corporation shall take effect.

(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date under paragraph (3) that is later than 11 years after the date of enactment of this Act if the Board submits to the Secretary a report—

(A) stating that an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

(B) explaining why an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

(C) describing the steps that have been taken to consummate an orderly merger of the Corporation into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Corporation into the new corporation.

(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Corporation into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by the Secretary.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If the Secretary disapproves the merger plan or any amended merger plan—

(1) the Secretary shall—

(A) notify the Corporation of the disapproval; and

(B) indicate the reasons for the disapproval; and

(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Corporation shall submit to the Secretary for approval, an amended merger plan that responds to the reasons for the disapproval indicated in that notification.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Corporation shall not be required to accomplish the merger of the Corporation into the new corporation.

SEC. 403. CONSUMMATION OF MERGER.

The Board shall ensure that the merger of the Corporation into the new corporation is accomplished in accordance with—

(1) a merger plan approved by the Secretary under section 402; and

(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

SEC. 404. TRANSITION.

Except as provided in this section, the Corporation shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

SEC. 405. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—On the designated merger date—

(1) all real, personal, and mixed property, all debts due on any account, and any other interest, of or belonging to or due to the Corporation, shall be transferred to and vested in the new corporation without further act or deed; and

(2) no title to any real, personal, or mixed property shall be impaired in any way by reason of the merger.

(b) TERMINATION OF THE CORPORATION AND FEDERAL CHARTER.—On the designated merger date—

(1) the surviving corporation of the merger shall be the new corporation;

(2) the Federal charter of the Corporation shall terminate; and

(3) the separate existence of the Corporation shall terminate.

(c) REFERENCES TO THE CORPORATION IN LAW.—After the designated merger date, any reference to the Corporation in any law or regulation shall be deemed to refer to the new corporation.

(d) Savings Clause.—

(1) Proceedings.—The merger of the Corporation into the new corporation shall not abate any proceeding commenced by or against the Corporation before the designated merger date, except that the new corporation shall be substituted for the Corporation as a party to any such proceeding as of the designated merger date.

(2) Contracts and Agreements.—All contracts and agreements to which the Corporation is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Corporation as a party to those contracts and agreements as of the designated merger date.

TITLE V—OTHER NATIVE AMERICAN FUNDS

SEC. 501. NATIVE AMERICAN ECONOMIES DIAGNOSTIC STUDIES FUND.

(a) Establishment.—There is established within the Corporation a fund to be known as the "Native American Economies Diagnostic Studies Fund" (referred to in this section as the "Diagnostic Fund"), to be used to strengthen Indian tribal economies by supporting investment policy reforms and technical assistance to eligible Indian tribes, consisting of—

(1) any interest earned on investment of amounts in the Fund under subsection (d); and

(2) such amounts as are appropriated to the Diagnostic Fund under subsection (f).

(b) Use of Amounts From Diagnostic Fund.—

(1) In general.—The Corporation shall use amounts in the Diagnostic Fund to establish an interdisciplinary mechanism by which the Corporation and interested Indian tribes may jointly—

(A) conduct diagnostic studies of Native economic conditions; and

(B) provide recommendations for reforms in the policy, legal, regulatory, and investment areas and general economic environment of the interested Indian tribes.

(2) Conditions for studies.—A diagnostic study conducted jointly by the Corporation and an Indian tribe under paragraph (1)—

(A) shall be conducted in accordance with an agreement between the Corporation and the Indian tribe; and

(B) at a minimum, shall identify inhibitors to greater levels of private sector investment and job creation with respect to the Indian tribe.

(c) Expenditures From Diagnostic Fund.—

(1) In general.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Diagnostic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

(2) Administrative expenses.—An amount not exceeding 12 percent of the amounts in the Diagnostic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) Investment of Amounts.—

(1) In general.—The Secretary of the Treasury shall invest such portion of the Diagnostic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations.—Any obligation acquired by the Diagnostic Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Diagnostic Fund shall be credited to and form a part of the Diagnostic Fund.

(e) Transfers of Amounts.—

(1) In general.—The amounts required to be transferred to the Diagnostic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Diagnostic Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) Transfers to Diagnostic Fund.—There are appropriated to the Diagnostic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

SEC. 502. NATIVE AMERICAN ECONOMIC INCUBATION CENTER FUND.

(a) Establishment.—There is established within the Corporation a fund to be known as the "Native American Economic Incubation Center Fund" (referred to in this section as the "Economic Fund"), consisting of—

(1) any interest earned on investment of amounts in the Economic Fund under subsection (d); and

(2) such amounts as are appropriated to the Economic Fund under subsection (f).

(b) Use of Amounts From Economic Fund.—

(1) In general.—The Corporation shall use amounts in the Economic Fund to ensure that Federal development assistance and other resources dedicated to Native American economic development are provided only to Native American communities with demonstrated commitments to—

(A) sound economic and political policies;

(B) good governance; and

(C) practices that promote increased levels of economic growth and job creation.

(c) Expenditures From Economic Fund.—

(1) In general.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Economic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

(2) Administrative expenses.—An amount not exceeding 12 percent of the amounts in the Economic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) Investment of Amounts.—

(1) In general.—The Secretary of the Treasury shall invest such portion of the Economic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations.—Any obligation acquired by the Economic Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Economic Fund shall be credited to and form a part of the Economic Fund.

(e) Transfers of Amounts.—

(1) In general.—The amounts required to be transferred to the Economic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Economic Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) Transfers to Economic Fund.—There are appropriated to the Economic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. NATIVE AMERICAN FINANCIAL INSTITUTIONS.

(a) In General.—There are authorized to be appropriated to the Fund, without fiscal year limitation, such sums as are necessary to provide financial assistance to Native American financial institutions.

(b) No Consideration as Matching Funds.—To the extent that a Native American financial institution receives funds under subsection (a), the funds shall not be considered to be matching funds required under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4707(e)).

SEC. 602. CORPORATION.

There are authorized to be appropriated to the Secretary, for transfer to the Corporation, such sums as are necessary to carry out activities of the Corporation.

SEC. 603. OTHER NATIVE AMERICAN FUNDS.

There are authorized to be appropriated such sums as are necessary to carry out sections 501 and 502.

By Mr. CAMPBELL:

S. 521. A bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Indian Land Leasing Act of 2003 to make routine changes to title 25 of the United States Code and to assist economic activity on Indian lands by liberalizing the Indian land leasing process.

Federal law requires tribal landowners to seek the approval of the Secretary of the Interior to lease their lands and further restricts the lease term to a period of 25 years.

This legal framework is an obstacle in the path of the tribes and their members, and year after year Indian tribes are forced to seek the Committee on Indian Affairs' assistance in extending the lease term to 99 years.

Over the years not fewer than 38 tribes have come to Congress and secured 99-year lease authority.

At the tribes' request, this bill will extend 99-year lease authority to the Confederated Tribes of the Umatilla Reservation, the Yavapai-Prescott Tribe, the Yurok Tribe, and the Hopland Band of Pomo Indians to the long list of tribes that have already secured similar extensions.

The bill also provides 99-year lease authority for tribes that wish to do so without the prior approval of the Secretary.

I urge my colleagues to join me in supporting this modest but important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Land Leasing Act of 2003".

SEC. 2. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence—

(1) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation,";

(2) by inserting "the" before "Yavapai-Prescott";

(3) by striking "Washington,," and inserting "Washington,"; and

(4) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

SEC. 3. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) is amended by adding at the end the following:

"(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

"(2) CONDITIONS.—A lease entered into under paragraph (1)—

"(A) shall commence during fiscal year 2011 for an initial term of 25 years;

"(B) may be renewed for an additional term of 25 years; and

"(C) shall specify in the terms of the lease an annual rental rate—

"(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

"(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or a successor regulation).".

SEC. 4. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

SEC. 5. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the "Tribes") may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85–20–201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(B) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

SEC. 6. LEASES OF RESTRICTED INDIAN LAND; NON-INDIAN BUSINESS PARTNERS ON INDIAN LAND.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended by adding at the end the following: "Notwithstanding any other provision of law, no Indian tribe shall be required to obtain the approval of the Secretary to enter into a lease of restricted Indian land (not including any lease for exploration, development, or extraction of any mineral resource) under this subsection for a term that does not exceed 99 years if the Indian tribe provides written notice in original leasing documents that the Indian tribe has the unilateral right to terminate the lease in any case in which the Indian tribe does not waive sovereign immunity from any civil action brought by a party to the lease for just compensation as a result of such a termination. Any person that is a party to a lease described in the preceding sentence may bring a civil action to enforce the lease.".

By Mr. CAMPBELL (for himself and Mr. DOMENICI):

S. 522. A bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Native American Energy Development and Self-Determination Act of 2003.

Our Nation is about to be embroiled in war in the Middle East and the markets are anxious about the military action. As a result, world oil prices are soaring and now are nearly $40 per barrel.

The economic repercussions to everyday Americans of high oil prices cannot be overlooked. Industries reliant on cheap energy will contract and people will lose their jobs.

The single working mom who commutes and delivers her child to daycare will be paying much higher prices at the pump. Shoes for her kids and payments into the college fund will have to wait.

The family-owned construction firm will be forced to let people go. Families will be disrupted.

One obvious answer to our energy future is in more vigorous domestic production.

For far too long Indian-owned energy resources have been overlooked and untapped.

There are nearly 90 tribes that own significant energy resources—both renewable and nonrenewable—and with rare exception these tribes want to develop them.

The Interior Department estimates that 25 percent of oil and less than 20 percent of natural gas reserves on Indian land have been developed.

The bill I am introducing will provide financial assistance, technical expertise, and regulatory relief to the tribes in their efforts to manage and market their resources.

I urge my colleagues to join me in supporting this bill.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Energy Development and Self-Determination Act of 2003".

SEC. 2. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY

"SEC. 2601. FINDINGS; PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) the energy resources of Indians and Indian tribes are among the most valuable natural resources of Indians and Indian tribes;

"(2) there exists a special legal and political relationship between the United States and Indian tribes as expressed in treaties, the Constitution, Federal statutes, court decisions, executive orders, and course of dealing;

"(3) Indian land comprises approximately 5 percent of the land area of the United States, but contains an estimated 10 percent of all energy reserves in the United States, including—

"(A) 30 percent of known coal deposits located in the western portion of the United States;

"(B) 5 percent of known onshore oil deposits of the United States; and

"(C) 10 percent of known onshore natural gas deposits of the United States;

"(4) coal, oil, natural gas, and other energy minerals produced from Indian land represent more than 10 percent of total nationwide onshore production of energy minerals;

"(5) in 2000, 9,300,000 barrels of oil, 299,000,000,000 cubic feet of natural gas, and 21,400,000 tons of coal were produced from Indian land, representing $700,000,000 in Indian energy revenue;

"(6) the Department of the Interior estimates that only 25 percent of the oil and less than 20 percent of all natural gas reserves on Indian land have been developed;

"(7) the Department of Energy estimates that the wind resources of the Great Plains could meet 75 percent of the electricity demand in the contiguous 48 States;

"(8) the development of Indian energy resources would assist—

"(A) Indian communities in carrying out community development efforts; and

"(B) the United States in securing a greater degree of independence from foreign sources of energy; and

"(9) the United States, in accordance with Federal Indian self-determination laws and policies, should assist Indian tribes and individual Indians in developing Indian energy resources.

"(b) PURPOSES.—The purposes of this title are—

"(1) to assist Indian tribes and individual Indians in the development of Indian energy resources; and

"(2) to further the goal of Indian self-determination, particularly through the development of stronger tribal governments and greater degrees of tribal economic self-sufficiency.

"SEC. 2602. DEFINITIONS.

"In this title:

"(1) COMMISSION.—The term 'Commission' means the Indian Energy Resource Commission established by section 2606(a).

"(2) DIRECTOR—The term 'Director' means the Director of the Office of Indian Energy Policy and Programs.

"(3) INDIAN.—The term 'Indian' means an individual member of an Indian tribe who owns land or an interest in land, the title to which land—

"(A) is held in trust by the United States; or

"(B) is subject to a restriction against alienation imposed by the United States.

"(4) INDIAN LAND.—The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe;

"(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

"(iii) by a dependent Indian community; and

"(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(5) INDIAN RESERVATION.—The term 'Indian reservation' includes—

"(A) an Indian reservation in existence as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment;

"(C) a former reservation in the State of Oklahoma;

"(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(7) NATIVE CORPORATION.—The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(8) PROGRAM.—The term 'Program' means the Indian energy resource development program established under section 2603(a).

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(10) TRIBAL CONSORTIUM.—The term 'tribal consortium' means an organization that consists of at least 3 entities, 1 of which is an Indian tribe.

"(11) VERTICAL INTEGRATION OF ENERGY RESOURCES.—The term 'vertical integration of energy resources' means—

"(A) the discovery and development of renewable and nonrenewable energy resources;

"(B) electricity transmission; and

"(C) any other activity that is carried out to achieve the purposes of this title, as determined by the Secretary.

"SEC. 2603. INDIAN ENERGY RESOURCE DEVELOPMENT PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

"(b) GRANTS AND LOANS.—In carrying out the Program, the Secretary shall, at a minimum—

"(1) provide development grants to Indian tribes and tribal consortia for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land;

"(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

"(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

"SEC. 2604. INDIAN TRIBAL RESOURCE REGULATION.

"(a) IN GENERAL.—The Secretary may provide to Indian tribes and tribal consortia, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

"(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

"(1) the development of a tribal energy resource inventory or tribal energy resource;

"(2) the development of a feasibility study or other report necessary to the development of energy resources;

"(3) the development of tribal laws and technical infrastructure to protect the environment under applicable law; or

"(4) the training of employees that—

"(A) are engaged in the development of energy resources; or

"(B) are responsible for protecting the environment.

"(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of the Interior shall make available to Indian tribes and tribal consortia scientific and technical data for use in the development and management of energy resources on Indian land.

"SEC. 2605. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) IN GENERAL.—Notwithstanding any other provision of law—

"(1) an Indian or Indian tribe may enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of energy resources; and

"(B) construction or operation of—

"(i) an electric generation, transmission, or distribution facility located on tribal land; or

"(ii) a facility to process or refine energy resources developed on tribal land; and

"(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary if—

"(A) the lease or business agreement is executed under tribal regulations approved by the Secretary under subsection (e); and

"(B) the term of the lease or business agreement does not exceed 30 years.

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over the tribal land of the Indian tribe for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

"(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years; and

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines renewable or nonrenewable energy resources developed on tribal land.

"(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal regulations approved by the Secretary under subsection (e).

"(e) TRIBAL REGULATORY REQUIREMENTS.—

"(1) IN GENERAL.—An Indian tribe may submit to the Secretary for approval tribal regulations governing leases, business agreements, and rights-of-way under this section.

"(2) APPROVAL OR DISAPPROVAL.—

"(A) IN GENERAL.—Not later than 120 days after the date on which the Secretary receives tribal regulations submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the regulations.

"(B) CONDITIONS FOR APPROVAL.—The Secretary shall approve tribal regulations submitted under paragraph (1) only if the regulations include provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(i) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(ii) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(iii) address amendments and renewals;

"(iv) address consideration for the lease, business agreement, or right-of-way;

"(v) address technical or other relevant requirements;

"(vi) establish requirements for environmental review in accordance with subparagraph (C);

"(vii) ensure compliance with all applicable environmental laws;

"(viii) identify final approval authority;

"(ix) provide for public notification of final approvals; and

"(x) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way.

"(C) ENVIRONMENTAL REVIEW PROCESS.—Tribal regulations submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

"(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative);

"(ii) the identification of proposed mitigation;

"(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of a lease, business agreement, or right-of-way); and

"(iv) sufficient administrative support and technical capability to carry out the environmental review process.

"(3) PUBLIC PARTICIPATION.—The Secretary may provide notice and opportunity for public comment on tribal regulations submitted under paragraph (1).

"(4) DISAPPROVAL.—If the Secretary disapproves tribal regulations submitted by an Indian tribe under paragraph (1), the Secretary shall—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the regulations.

"(5) EXECUTION OF LEASE OR BUSINESS AGREEMENT OR GRANTING OF RIGHT-OF-WAY.—If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with tribal regulations approved under this subsection, the Indian tribe shall provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of tribal regulations or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

"(6) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal regulations approved under this subsection.

"(7) COMPLIANCE REVIEW.—

"(A) IN GENERAL.—After exhaustion of tribal remedies, any person may submit to the Secretary, in a timely manner, a petition to review compliance of an Indian tribe with tribal regulations of the Indian tribe approved under this subsection.

"(B) ACTION BY SECRETARY.—The Secretary shall—

"(i) not later than 60 days after the date on which the Secretary receives a petition under subparagraph (A), review compliance of an Indian tribe described in subparagraph (A); and

"(ii) on completion of the review, if the Secretary determines that an Indian tribe is not in compliance with tribal regulations approved under this subsection, take such action as is necessary to compel compliance, including—

"(I)(aa) rescinding a lease, business agreement, or right-of-way under this section; or

"(bb) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with tribal regulations; and

"(II) rescinding approval of the tribal regulations and reassuming the responsibility for approval of leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsection (b).

"(C) COMPLIANCE.—If the Secretary seeks to compel compliance of an Indian tribe with tribal regulations under subparagraph (B)(ii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal regulations have been violated;

"(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

"(iii) before taking any action described in subparagraph (B)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal regulations.

"(D) APPEAL.—An Indian tribe described in subparagraph (C) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

"(f) AGREEMENTS.—

"(1) IN GENERAL.—Any agreement by an Indian tribe that relates to the development of an electric generation, transmission, or distribution facility, or a facility to process or refine renewable or nonrenewable energy resources developed on tribal land, shall not require the specific approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) if the activity that is the subject of the agreement is carried out in accordance with this section.

"(2) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any person (including an Indian tribe or any member of an Indian tribe) resulting from an action taken in performance of an agreement entered into under this subsection.

"(g) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of any provision of—

"(1) the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.);

"(2) the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.);

"(3) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(4) any Federal environmental law.

"SEC. 2606. INDIAN ENERGY RESOURCE COMMISSION.

"(a) ESTABLISHMENT.—There is established a commission to be known as the 'Indian Energy Resource Commission'.

"(b) MEMBERS.—The Commission shall consist of—

"(1) 8 members appointed by the Secretary of Interior, based on recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;

"(2) 3 members appointed by the Secretary of Interior, based on recommendations submitted by the Governors of States in which are located—

"(A) 1 or more Indian reservations; or

"(B) Indian land with developable energy resources;

"(3) 2 members appointed by the Secretary of Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

"(4) 2 members appointed by the Secretary of Interior from among individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

"(5) 2 members appointed by the Secretary of Interior from among individuals in the private sector with expertise in energy development;

"(6) 1 member appointed by the Secretary of Interior, based on recommendations submitted by national environmental organizations;

"(7) the Secretary of the Interior; and

"(8) the Secretary.

"(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 120 days after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003.

"(d) VACANCIES.—A vacancy in the Commission—

"(1) shall be filled in the same manner as the original appointment was made; and

"(2) shall not affect the powers of the Commission.

"(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

"(f) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings and convene meetings.

"(g) ORGANIZATIONAL MEETING.—Not later than 30 days after the date on which at least 11 members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures of the Commission.

"(h) COMPENSATION OF MEMBERS.—

"(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

“(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

“(i) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

“(j) STAFF.—

“(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

“(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

“(3) COMPENSATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

“(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.

“(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may retain and fix the compensation of experts and consultants as the executive director considered necessary to carry out the duties of the Commission.

“(5) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

“(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

“(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

“(k) DUTIES OF COMMISSION.—The Commission shall—

“(1) develop proposals to address dual taxation by Indian tribes and States of the extraction of energy minerals on Indian land;

“(2) make recommendations to improve the management, administration, accounting, and auditing of royalties associated with the production of energy minerals on Indian land;

“(3) develop alternatives for the collection and distribution of royalties associated with the production of energy minerals on Indian land;

“(4) develop proposals for incentives to foster the development of energy resources on Indian land;

“(5) identify barriers or obstacles to the development of energy resources on Indian land, and make recommendations designed to foster the development of energy resources on Indian land, in order to promote economic development;

“(6) develop proposals for the promotion of vertical integration of energy resources on Indian land; and

“(7) develop proposals on taxation incentives to foster the development of energy resources on Indian land, including investment tax credits and enterprise zone credits.

“(l) POWERS OF COMMISSION.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this title—

“(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths;

“(2) secure directly from any Federal agency such information; and

“(3) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;

as the Commission, subcommittee, or member considers advisable.

“(m) COMMISSION REPORT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Commission shall submit to the President, the Committee on Resources of the House of Representatives, and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, a report that describes the proposals, recommendations, and alternatives described in subsection (k).

“(2) REVIEW AND COMMENT.—Before submission of the report required under this subsection, the Chairperson of the Commission shall provide to each interested Indian tribe and each State in which is located 1 or more Indian reservations or Indian land with developable energy resources, a draft of the report for review and comment.

“(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section, to remain available until expended.

“(o) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report under subsection (m)(1).

“SEC. 2607. ENERGY EFFICIENCY AND STRUCTURES ON INDIAN LAND.

“(a) TECHNICAL ASSISTANCE TO NONPROFIT AND COMMUNITY ORGANIZATIONS.—The Secretary of Housing and Urban Development, in cooperation with Indian tribes or tribally-designated housing entities of Indian tribes, shall provide, to eligible (as determined by the Secretary of Housing and Urban Development) nonprofit and community organizations, technical assistance to initiate and expand the use of energy-saving technologies in—

“(1) new home construction;

“(2) housing rehabilitation; and

“(3) housing in existence as of the date of enactment of the Native American Energy Development and Self-Determination Act of 2003.

“(b) REVIEW.—The Secretary of Housing and Urban Development and the Secretary of the Interior, in consultation with Indian tribes or tribally-designated housing entities of Indian tribes, shall—

“(1) complete a review of regulations promulgated by the Secretary of Housing and Urban Development and the Secretary of the Interior to identify any feasible measures that may be taken to promote greater use of energy efficient technologies in housing for which Federal assistance is provided under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

“(2) develop energy efficiency and conservation measures for use in connection with housing that is—

“(A) located on Indian land; and

“(B) constructed, repaired, or rehabilitated using assistance provided under any law or program administered by the Secretary of Housing and Urban Development or the Secretary of the Interior, including—

“(i) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

“(ii) the Indian Home Improvement Program of the Bureau of Indian Affairs; and

“(3) promote the use of the measures described in paragraph (2) in programs administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, as appropriate.

“SEC. 2608. INDIAN MINERAL DEVELOPMENT REVIEW BY SECRETARY OF THE INTERIOR.

“(a) IN GENERAL.—As soon as practicable after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Secretary of the Interior shall conduct and provide to the Secretary a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

“(b) REPORT.—Not later than 1 year after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that includes—

“(1) the results of the review;

“(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

“(3)(A) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers); and

“(B) recommendations for the removal of those barriers.

“SEC. 2609. INDIAN ENERGY STUDY BY SECRETARY OF ENERGY.

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, and every 2 years thereafter, the Secretary shall submit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate a report on energy development potential on Indian land.

“(b) REQUIREMENTS.—The report shall—

“(1) identify barriers to the development of renewable energy by Indian tribes (including legal, regulatory, fiscal, and market barriers); and

“(2) include recommendations for the removal of those barriers.

“SEC. 2610. CONSULTATION WITH INDIAN TRIBES.

“In carrying out this title, the Secretary and the Secretary of Interior shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the Federal Government.”.

(b) ENERGY EFFICIENCY IN FEDERALLY-ASSISTED HOUSING.—

(1) FINDING.—Congress finds that the Secretary of Housing and Urban Development

should promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(A) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(B) the promotion of shared savings contracts; and

(C) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(2) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting "improvement to achieve greater energy efficiency," after "planning,".

By Mr. CAMPBELL:

S. 523. A bill to make technical corrections to law relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing the Indian Technical Corrections Act of 2003 to provide routine and noncontroversial amendments to Federal statutes affecting Indian tribes and Indian people.

The vast majority of these amendments were included in legislation in the last session of Congress that failed to be enacted.

Though modest, this bill provides real relief to the many tribes that seek Congress' assistance.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Ute Mountain Ute Tribe; oil shale reserve.
Sec. 102. Bosque Redondo Memorial Act.
Sec. 103. Navajo-Hopi Land Settlement Act.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Chippewa Cree Tribe; modification of settlement.
Sec. 107. Mississippi Band of Choctaw Indians.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 111. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 112. Conveyance of Native Alaskan objects.
Sec. 113. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
Sec. 114. Pueblo of Acoma; land and mineral consolidation.
Sec. 115. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
Sec. 116. Quinault Indian Nation; water feasibility study.
Sec. 117. Santee Sioux Tribe; study and report.
Sec. 118. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
Sec. 119. Shakopee Mdewakanton Sioux Community.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. UTE MOUNTAIN UTE TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) no grant, lease, exploration or development agreement, or other conveyance of the land (or any interest in the land) that is authorized by the governing body of the Tribe shall be subject to approval by the Secretary of the Interior or any other Federal official.".

SEC. 102. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007.".

SEC. 103. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C.40d-24(a) (8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking "3 years" and inserting "6 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

Subtitle B—Other Provisions Relating to Native Americans

SEC. 111. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 112. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 113. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

SEC. 114. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 115. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No.355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

SEC. 116. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary may carry out a water source, quantity, and quality feasibility study for the Quinault Indian Nation, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 117. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be approproprated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 118. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No.247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

SEC. 119. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 204(a).

(3) GOVERNORS.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa, Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772-71, 773-71, 774-71, and 775-71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. DEWINE, Ms. STABENOW, Mr. REED, Mr. INOUYE, Mr. VOINOVICH, Mr. KENNEDY, Mr. LEAHY, Ms. CANTWELL, Mr. JEFFORDS, Mr. WARNER, Mr. AKAKA, Mr. FITZGERALD, Mr. DURBIN, and Mr. BAYH):

S. 525. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today, my colleague from Maine, Senator COLLINS and I are very pleased to introduce the National Aquatic Invasive Species Act of 2003. This bill, which reauthorizes the Nonindigenous Aquatic Nuisance Prevention and Control Act, takes a comprehensive approach towards addressing aquatic nuisance species to protect the Nation's waters. This bill deals with the prevention of new introductions, the screening of new aquatic organisms coming into the country, the rapid response to new invasions, and the research to implement the provisions of this bill.

The problem of invasive species is a very real one. Over the past 450 years, during colonization and development of this country, more than 6,500 nonindigenous invasive species have been introduced into the United States and have become established, self-sustaining populations. These species—from microorganisms to mollusks, from pathogens to plants, from insects to fish to animals—typically encounter few, if any, natural enemies in their new environments and wreak havoc on native species. Aquatic nuisance species threaten biodiversity nationwide, especially in the Great Lakes.

Some of my colleagues may remember that back in the late eighties, the problem of aquatic nuisance species was first raised after the zebra mussel was released into the Great Lakes. The Great Lakes still have zebra mussels, and now, 20 States are fighting to control them. Zebra mussels were carried over from the Mediterranean to the Great Lakes in the ballast tanks of ships. The leading pathway for aquatic invasive species is maritime commerce. Most invasive species are contained in the water that ships use for ballast. Aquatic invaders such as the zebra mussel and round goby were introduced into the Great Lakes when ships, often from halfway around the world, pulled into port and discharged their ballast water. Aquatic invaders can also attach themselves to ships' hulls and anchor chains.

Because of the impact that the zebra mussel had in the Great Lakes, Congress passed legislation in 1990 and 1996 that have reduced, but not eliminated, the threat of new invasions by requiring ballast water management for ships entering the Great Lakes. Today, there is a mandatory ballast water management program in the Great Lakes. The current law requires that ships entering the Great Lakes must exchange their ballast water, seal their ballast tanks or use alternative treatment that is "as effective as ballast water exchange." Unfortunately, the effectiveness of ballast water exchange has been left undefined. Consequently, alternative treatments have not been fully developed and widely tested on ships because the developers of ballast technology do not know what standard they are trying to achieve. This obstacle is serious because ultimately, only onboard ballast water treatment will adequately reduce the threat of new aquatic nuisance species being introduced through ballast water.

Our bill rectifies this problem. First, this bill establishes deadlines for national interim and final standards for ballast water management. This way, technology vendors and the maritime industry know when to expect clear requirements. Second, our bill establishes what the phrase "as effective as ballast water exchange" means for the purposes of the interim period. Research has shown that ballast water exchange has highly variable effectiveness rates. This bill takes the maximum effectiveness that ballast water exchange could have using the safest approach—a 95-percent reduction of near coastal plankton and establishes it as the floor for treatment effectiveness which is a 95 percent kill or removal of live organisms. Within 18 months of the bill's passage, the Coast Guard is required to issue regulations implementing an interim ballast water standard that would require ships that enter any U.S. port after operating outside the Exclusive Economic Zone of 200 miles to either use ballast water treatment technology that meets the standard, retain the ship's ballast water, or exchange the ship's ballast water in the high seas. Ships operating in coastal waters would not be required to manage ballast water during the interim standard.

A 95-percent reduction of organisms will be the interim standard used for treatment technology until the EPA, with the concurrence of the Coast Guard, promulgates the final standard. This interim standard is not intended to be implemented for the long run, and it is not perfect. However, a final standard is difficult to set today or in the near future because of the limited research that has been conducted on how clean or sterile ballast water discharge should be, what is the best expression of a standard, and what is technologically achievable. Rather than wait many more years before taking action to stop new introductions, I believe that an imperfect but clear and achievable interim standard for treatment technology is the right approach. This interim standard will lead to the use of ballast treatments that are more protective of our waters than the default method of ballast water exchange provides, and it can be implemented in the very near future. Further, the bill provides the Coast Guard with the flexibility to promulgate the interim standard using a size-based standard or by whatever parameters the Coast Guard determines appropriate.

I understand that ballast water technologies are being researched and are ready to be tested onboard ships. These technologies include ultraviolet lights, filters, chemicals, deoxygenation, and several others. Each of these technologies has a different pricetag attached to it. It is not my intention to overburden the maritime industry with an expensive requirement to install technology. In fact, the legislation states that the final ballast water technology standard must be based on "best available technology economically achievable." That means that the EPA must consider what technology is available, and if there is not economically achievable technology available to a class of vessels, then the standard will not require ballast technology for that class of vessels, subject to review every 3 years. I do not believe this will be the case, however, because the approach creates a clear incentive for treatment vendors to develop affordable equipment for the market. Since ballast technology will be always evolving, it is important that the EPA review and revise the standard so that it reflects what is the best technology currently available and whether it is economically achievable. Shipowners cannot be expected to upgrade their equipment upon every few years as technology develops, however, so the law provides an approval period of at least 10 years.

There are other important provisions of the bill as well. The bill requires the Army Corps of Engineers to construct and operate the Chicago Ship and Sanitary Canal project which includes the construction of a second dispersal barrier to keep species like the Asian carp from migrating up the Mississippi through the canal into the Great Lakes. Equally important, this barrier will prevent the migration of invasive species in the Great Lakes from proceeding into the Mississippi system. The bill establishes an experimental ballast treatment approval process to take effect immediately so that the treatment technology industry can begin full-scale experimental installations of treatments on ships. The bill authorizes additional funding for better coordinated research to find effective means of combating invasive species. It would help Federal, State, and regional authorities guard against future invasions by developing early detection monitoring and rapid response plans. And it provides funding for outreach and education programs to inform the public and marina owners about the dangers of inadvertently carrying aquatic invaders on the hulls of recreational boats or dumping bait buckets into the Lakes.

Invasive species threaten the region's biological diversity and are an economic drain. Estimates of the annual economic damage caused nationwide by invasive species go as high as $137 billion. Because of the system of canals connecting the Great Lakes to the Mississippi River and the Atlantic Ocean, there are no physical barriers to block the spread of invasive species, making the Great Lakes highly vulnerable. Because of the frequency of ships entering into the Great Lakes, though, our region is often "ground zero," and once an exotic species establishes itself, it is almost impossible to eradicate and sometimes difficult to prevent from moving throughout the nation. Therefore, prevention is the key to controlling new introductions.

All in all, the bill would cost between $160 million and $170 million each year. This is a lot of money, but it is a critical investment. As those of us from the Great Lakes know, the economic damage that invasive species can cause is much greater. However, compared to the $137 billion annual cost of invasive species, the cost of this bill is minimal. Therefore, I urge my colleagues to cosponsor this legislation and work to move the bill swiftly through the Senate.

Ms. COLLINS. Mr. President, from Pickerel Pond to Lake Auburn, from Sebago Lake to Bryant Pond, lakes and ponds in Maine are under attack. Aquatic invasive species threaten Maine's drinking water system, recreation, wildlife habitat, lakefront real estate, and fisheries. Plants, such as variable leaf milfoil, are crowding out native species. Invasive Asian shore crabs are taking over southern New England's tidal pools, and just last year began their advance into Maine—to the potential detriment of Maine's lobster and clam industries.

Maine and many other States are attempting to fight back against these invasions. Unfortunately, their efforts have frequently been of limited success. As with national security, protecting the integrity of our lakes, streams, and coastlines from invading species cannot be accomplished by individual States alone. We need a uniform, nationwide approach to deal effectively with invasive species.

Today I am pleased to join Senator LEVIN in introducing the National Aquatic Invasive Species Act of 2003. This bill would create the most comprehensive nationwide approach to date for combating alien species that invade our shores.

The stakes are high when invasive species are unintentionally introduced into our Nation's waters. They endanger ecosystems, reduce biodiversity, and threaten native species. They disrupt people's lives and livelihoods by lowering property values, impairing commercial fishing and aquaculture, degrading recreational experiences, and damaging public water supplies.

In the 1950s, European green crabs swarmed the Maine coast and literally ate the bottom out of Maine's soft-shell clam industry by the 1980s. Many clam diggers were forced to go after other fisheries or find new vocations. In just one decade, this invader reduced the number of clam diggers in Maine from nearly 5,000 in the 1940s to fewer than 1500 in the 1950s. European green crabs currently cost an estimated $44 million a year in damage and control efforts in the United States.

Past invasions forewarn of the long-term consequences to our environment and communities unless we take steps to prevent new invasions. It is too late to stop European green crabs from taking hold on the east coast, but we still have the opportunity to prevent many other species from taking hold in Maine and the United States.

Three months ago, in the town of Limerick, ME, one of North America's most aggressive invasive species—hydrilla—was found in Pickerel Pond. Hydrilla can quickly dominate its new ecosystem—already hydrilla covers 60 percent of the bottom of Pickerel Pond from the shoreline out to 6 feet deep. Never before detected in Maine, this stubborn and fast-growing aquatic plant threatens Pickerel Pond's recreational use for swimmers and boaters, and could spread to nearby lakes and ponds. Unfortunately, eradication of hydrilla is nearly impossible, so we must now work to prevent further infestation in the State.

The National Aquatic Invasive Species Act of 2003 is the most comprehensive effort ever to address the threat of invasive species. By authorizing $836 million over 6 years, this legislation would open numerous new fronts in our war against invasive species. The bill directs the Coast Guard to develop regulations that will end the easy cruise of invasive species into U.S. waters through the ballast water of international ships, and would provide the Coast Guard with $6 million per year to develop and implement these regulations.

The bill also would provide $30 million per year for a grant program to assist State efforts to prevent the spread of invasive species. It would provide $12 million per year for the Army Corps of Engineers and Fish and Wildlife Service to contain and control invasive species. Finally, the Levin-Collins bill would authorize $30 million annually for research, education, and outreach.

The most effective means of stopping invading species is to attack them before they attack us. We need an early alert, rapid response system to combat invading species before they have a chance to take hold. For the first time, this bill would establish a national monitoring network to detect newly introduced species, while providing $25 million to the Secretary of the Interior to create a rapid response fund to help States and regions respond quickly once invasive species have been detected. This bill is our best effort at preventing the next wave of invasive species from taking hold and decimating industries and destroying waterways in Maine and throughout the country.

One of the leading pathways for the introduction of aquatic organisms to U.S. waters from abroad is through transoceanic vessels. Commercial vessels fill and release ballast tanks with seawater as a means of stabilization. The ballast water contains live organisms from plankton to adult fish that are transported and released through this pathway. The bill we are introducing today would establish a framework to prevent the introduction of aquatic invasive species by ships.

Currently, the U.S. is in negotiations with the international community on the development and implementation of an international program for preventing the unintentional introduction and spread of non-indigenous species through ballast water. I commend American negotiators for working with the international community to address this global problem. This legislation offers a strong framework that the U.S. should use as a model in negotiating this important international convention. The U.S. Government must ensure that the international convention will be at least as protective as the legislation we are introducing today. The United States must take the most protective action possible to protect our waters, ecosystems, and industries from destructive invasive species before it is too late.

Ms. STABENOW. Mr. President, I would like to express my strong support for the National Aquatic Invasive Species Act of 2003, NAISA.

During the 107th Congress, I introduced S. 1034, the Great Lakes Ecology Protection Act which sought to curb the influx of invasive species into the Great Lakes. This is an immense task, as more than 87 nonindigenous aquatic species have been accidentally introduced into the Great Lakes in the past century. I am proud to say that this bill had strong bipartisan support with 12 Great Lakes Senators as original cosponsors.

Today, I am proud to join Senator LEVIN as an original cosponsor of NIASA which will provide a national strategy for preventing invasive species from being introduced in the Great Lakes and our Nation's waters. I am pleased that NIASA incorporates many of the ideas from the Great Lakes Ecology Protection Act in formulating a national standard.

Invasive species have had a devastating economic and ecological impact on the United States. They have already damaged the Great Lakes in a number of ways. They have destroyed thousands of fish and threatened our clean drinking water.

For example, Lake Michigan once housed the largest self-producing lake trout fishery in the entire world. The invasive sea lamprey, which was introduced from ballast water almost 80 years ago, has contributed greatly to the decline of trout and whitefish in the Great Lakes by feeding on and killing native trout species.

Today, lake trout must be stocked because they cannot naturally reproduce in the lake. Many Great Lakes States have had to place severe restrictions on catching yellow perch because invasive species such as the zebra mussel disrupt the Great Lakes' ecosystem and compete with yellow perch for food. The zebra mussel's filtration also increases water clarity, which may be making it easier for predators to prey upon the yellow perch. Moreover, tiny organisms like zooplankton that help form the base of the Great Lakes food chain, have declined due to consumption by exploding populations of zebra mussels.

We have made progress on preventing the spread of invasive species, but we have not yet solved this problem. NIASA will create a mandatory national ballast water management program to prevent the introduction of invasive species into our waters, as well as, encourage the development of new ballast treatment technology to eliminate invasive species. NIASA also will greatly increase research funding for these treatment and prevention technologies, and provide necessary funding and resources for invasive species rapid response plans. In addition, the bill will increase outreach and education to recreational boaters and the general public on how to prevent the spread of invasive species.

As Members of the U.S. Congress, we have a responsibility to share in the stewardship of our Nation's natural resources. As a Great Lakes Senator, I feel a particularly strong responsibility to protect a resource that is not only a source of clean drinking water for more than 30 million people in the Great Lakes, but is vital to Michigan's economy and environment. I am proud to support a bill that will provide innovative solutions and necessary resources to this longstanding environmental problem, and will also protect our precious water resources for the enjoyment and benefit of future generations of Americans.

Mr. JEFFORDS. Mr. President, I rise today to join my colleagues, Senator LEVIN and Senator SNOWE in introducing the "National Aquatic Invasive Species Act of 2003."

The waters of the United States continue to face threats from aquatic invasive species. Invasive species take both an economic and an environmental toll. The United States and Canada are spending $14 million a year just to try to control sea lamprey, a species that has invaded Lake Champlain and the Great Lakes. The environmental costs are also staggering. Invasive species usually have high reproductive rates, disperse easily, and can tolerate a wide range of environmental conditions, making them very difficult to eradicate. They often lack predators in their new environment and out-compete native species for prey or breeding sites.

The legislation we are introducing today will build on programs established over the last decade and focus much of our attention and resources on preventing invasive species from entering our aquatic ecosystems. This legislation establishes a mandatory ballast water management program for the entire country; makes federal funds and resources available for rapid response to the introduction of invasive species and for prevention, control and research.

Increased funding and resources for dispersal barrier projects and research to prevent the interbasin transfer of organisms is of particular importance in my State of Vermont. We, along with New York, are home to one of this country's most beautiful lakes—Lake Champlain. However, zebra mussels, Eurasian water milfoil, water chestnuts, and sea lamprey have invaded Lake Champlain and are having a devastating impact. Like most who visit Lake Champlain, these species want to call it home, but we cannot compromise the health of the lake. Examining the feasibility and effectiveness of a dispersal barrier in the Lake Champlain Canal to control the dispersal of invasive species in the lake is another avenue toward preventing further destructive dispersal of these species.

I look forward to working with my colleagues on the Environment and Public Works Committee and in the Senate to move this important legislation forward.

By Mr. HATCH (for himself, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. COLEMAN, Ms. MIKULSKI, Mr. ALLARD, and Mr. DAYTON):

S. 526. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill designed to provide assistance to vulnerable Medicare beneficiaries: the Medicare Improvements for Special Needs Beneficiaries Act of 2003. This legislation will improve access to health care for frail and elderly Medicare beneficiaries who reside in nursing homes or their local communities.

Approximately 6 million Medicare beneficiaries are eligible for both Medicare and Medicaid coverage. Known as "dual eligibles," these beneficiaries are the most vulnerable group of Medicare recipients. They are elderly or disabled and poor. Many have serious health concerns and complex medical, social, and long-term care needs. As a result, dual eligibles represent a disproportionate share of Medicare spending.

To address the concerns of dual eligibles, a small number of health plans specialize in providing quality coordinated care to frail, elderly Medicare beneficiaries through demonstrations and the Medicare+Choice Program. These specialized plans include innovative clinical models of care that improve care and health outcomes while reducing medical costs. Today, approximately 25,000 Medicare beneficiaries, most of whom reside in nursing homes, receive their health care through these specialized plans.

Through these plans, physicians and nurse practitioners work together to provide as much primary, preventive, and acute care as possible on site—in a nursing home facility or in the patient's home. For those beneficiaries residing in nursing homes, this means fewer trips to the emergency room; for those still living at home, it delays nursing home placement. If enrollees can be treated successfully without a trip to the hospital or placement in a nursing home, they remain healthier and costs to the Medicare Program are reduced.

Currently, these specialized plans are facing regulatory barriers that prevent them from becoming permanent Medicare+Choice Program options. The Medicare Improvements for Special Needs Beneficiaries Act provides improved beneficiary access to Medicare+Choice plans by removing these barriers and allowing plans to specialize in serving dual eligible, institutionalized, and other frail beneficiaries. Specifically, the bill would allow a special Medicare+Choice program designation so these plans may continue to target enrollment to the frail elderly and provide appropriate health care to this vulnerable population.

Both the President and Members of Congress have stated their commitments to improving services provided to Medicare beneficiaries. In fact, when President Bush visited Minneapolis last July, he expressed his strong support for the Evercare program by saying that "government should act to strengthen these private health insurance options, not replace them. By relying on competition and patient's choice and innovative programs like Evercare, we will protect our seniors now, and offer many new lifesaving services to seniors in the future and preserve our private health care system."

These specialized programs are fulfilling the original promise of the Medicare+Choice Program to not only protect our Medicare beneficiaries but, in addition, these programs improve health care quality and lower health care costs. This legislation is a no-cost way to continue this effort. Evercare plans serve a unique and valuable purpose for a vulnerable segment of our society. I hope my colleagues will join me in supporting this important bill.

By Mr. BINGAMAN (for himself and Mr. BENNETT):

S. 528. A bill to reauthorize funding for maintenance of public roads used by school buses serving certain Indian reservations; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Indian School Bus Route Safety Reauthorization Act of 2003. This bill continues an important Federal program begun in TEA–21 that addresses a unique problem with the roads in and around the Nation's single largest Indian reservation and the neighboring counties. Through this program, Navajo children who had been prevented from getting to school by frequently impassable roads are now traveling safely to and from their schools. Because of the unusual nature of this situation, I believe it must continue to be addressed at the Federal level.

I would like to begin with some statistics on this unique problem and why I believe a Federal solution continues to be necessary. The Navajo Nation is by far the Nation's largest Indian reservation, covering 25,000 square miles. Portions of the Navajo Nation are in three States: Arizona, New Mexico, and Utah. No other reservation comes anywhere close to the size of Navajo. To give you an idea of its size, the State of West Virginia is about 24,000 square miles. In fact, 10 States are smaller in size than the Navajo reservation.

According to the Bureau of Indian Affairs, about 9,800 miles of public roads serve the Navajo Nation. Only about one-fifth of these roads are paved. The remaining 7,600 miles, 78 percent, are dirt roads. Every day schoolbuses use nearly all of these roads to transport Navajo children to and from school.

About 6,400 miles of the roads on the Navajo reservation are BIA roads, and about 2,500 miles are State and county roads. All public roads within, adjacent to, or leading to the reservation, including BIA, State, and county roads are considered part of the Federal Indian reservation road system. However, only BIA roads are eligible for Federal maintenance funding from BIA. Moreover, construction funding and improvement funding from the Federal Lands Highways Program in TEA–21 is generally applied only to BIA or tribal roads. Thus, the States and counties are responsible for maintenance and improvement of their 2,500 miles of roads that serve the reservation.

The counties in the three States that include the Navajo reservation are simply not in a position to maintain all of the roads on the reservation that carry children to and from school. Nearly all of the land area in these counties is under Federal or tribal jurisdiction.

For example, in my State of New Mexico, three-quarters of McKinley County is either tribal or Federal land, including BLM, Forest Service, and military land. The Indian land area alone comprises 61 percent of McKinley County. Consequently, the county can draw upon only a very limited tax base as a source of revenue for maintenance purposes. Of the nearly 600 miles of county-maintained roads in McKinley County, 512 miles serve Indian land.

In San Juan County, UT, the Navajo Nation comprises 40 percent of the land area. The county maintains 611 miles of roads on the Navajo Nation. Of these, 357 miles are dirt, 164 miles are gravel, and only 90 miles are paved. On the reservation, the county has three high schools, two elementary schools, two BIA boarding schools and four preschools.

The situation is similar in neighboring San Juan County, NM, as well, Apache, Navajo, and Coconino Counties, AZ. In light of the counties' limited resources, I do believe the Federal Government is asking the States and counties to bear too large a burden for road maintenance in this unique situation.

Families living in and around the reservation are no different from families anywhere else; their children are entitled to the same opportunity to get to school safely and to get a good education. However, the many miles of unpaved and deficient roads on the reservation are frequently impassable, especially when they are wet, muddy, or snowy. If the schoolbuses don't get through, the kids simply cannot get to school.

These children are literally being left behind.

Because of the vast size of the Navajo reservation, the cost of maintaining the county roads used by the school buses is more than the counties can bear without Federal assistance. I believe it is essential that the Federal Government help these counties deal with this one-of-a-kind situation.

In response to this unique situation, in 1998 Congress began providing direct annual funding to the counties that contain the Navajo reservation to help ensure that children on the reservation can get to and from their public schools. The funding was included at my request in section 1214(d) of TEA–21. Under this provision, $1.5 million is made available each year to be shared equally among the three States. The funding is provided directly to the counties in Arizona, New Mexico, and Utah that contain the Navajo reservation. I want to be very clear: these Federal funds can be used only on roads that are located within or that lead to a reservation, that are on the State or county maintenance system, and that serve as schoolbus routes.

This program has been very successful. For the last 6 years, the counties have used the annual funding to help maintain the routes used by schoolbuses to carry children to school and to Head Start programs. I had an opportunity in 1998 to see first hand the importance of this funding when I rode in a schoolbus over some of the roads that are maintained using funds from this program.

The bill I am introducing today provides a simple 6-year reauthorization of that program, with a modest increase in the annual funding to allow for inflation and for additional roads to be maintained in each of the three States.

I believe that continuing this program for 6 more years is fully justified because of the vast area of the Navajo reservation—by far the Nation's largest—and the unique nature of this need that only the Federal Government can deal with effectively.

I don't believe any child wanting to get to and from school safely should have to risk or tolerate unsafe roads. Kids today, particularly in rural and remote areas, face enough barriers to getting a good education. I ask all Senators to join me in assuring that Navajo schoolchildren at least have a chance to get to school safely and get an education.

My bill has the support of the Southeastern Utah Association of Local Governments and the Tri-State County Association of New Mexico, Arizona, and Utah. I ask unanimous consent that letters and resolutions from New Mexico, Arizona, and Utah be printed in the RECORD at the conclusion of my remarks.

I am pleased that Congressmen TOM UDALL of New Mexcio, RICK RENZI of Arizona, and JAMES DAVID MATHESON of Utah are introducing a companion bill today in the House. I look forward to working with them this year and with the chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate this legislation once again into the comprehensive 6-year reauthorization of the surface transportation bill.

Mr. President, I ask unanimous consent that text of the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian School Bus Route Safety Reauthorization Act of 2003".

SEC. 2. REAUTHORIZATION OF ADDITIONAL CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

(a) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under subsection (e) for the fiscal year shall be made available by the Secretary of Transportation, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

(b) AVAILABILITY TO ELIGIBLE COUNTIES.—

(1) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under subsection (a), and that has in the county a public road described in paragraph (2), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this section to be used by the county to maintain such public roads.

(2) ROADS.—A public road referred to in paragraph (1) is a public road that—

(A) is within, is adjacent to, or provides access to an Indian reservation described in subsection (a);

(B) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(C) is maintained by the county in which the public road is located.

(3) ALLOCATION AMONG ELIGIBLE COUNTIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State that receives funds under subsection (a) shall provide directly to each county that applies for funds the amount that the county requests in the application.

(B) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this section by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

(c) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary of Transportation shall ensure that funding made available under this section supplements (and does not supplant)—

(1) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

(2) any funding provided by a State to a county for road maintenance programs in the county.

(d) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this section that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(A) $3,000,000 for each of fiscal years 2004 and 2005;

(B) $4,000,000 for each of fiscal years 2006 and 2007; and

(C) $5,000,000 for each of fiscal years 2008 and 2009.

(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

GALLUP MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM., December 11, 2002.

Hon. JEFF BINGAMAN
U.S. Senate,
Washington, DC.

DEAR HON. JEFF BINGAMAN: The Gallup McKinley County Schools serve over 15 thousand students, of which over 10 thousand are bussed daily. Our District's school buses travel 9,250 miles daily, one way. Several miles of these roads are primitive dirt roads with poor or no drainage. Several do not have guard rails and some are not maintained by any entity. The inability to safely negotiate school buses over these roads during wet, muddy and snowy conditions greatly restricts our ability to provide adequate services for families living along these particular roadways. Funding for school bus route road maintenance is vital to providing safe and efficient transportation for thousands of students throughout our County.

The School bus route maintenance programs have helped tremendously. Our County Roads Division (McKinley County) has been extremely helpful in maintaining hundreds of miles of bus route roads. The route improvements completed recently in the North Coyote Canyon, Mexican Springs, Johnson loop, Tohlakal, CR-1, Crestview, Iyanbito and Bluewell have provided us with the ability to safely negotiate these areas and transport hundreds of students to various schools.

The School bus route program is a very important program. Our County Roads division worked diligently to provide safe access and passage for our school districts 160 school buses. Without the school bus route program, it would be impossible to maintain safe conditions on these roads. To insure the safety of our school children and families, it is imperative that the reauthorization of the TEA-21 Bill be realized.

Your help in sponsoring Bills, which address the unique situations with respect to school bus route roads, have been greatly appreciated. Your continuing support of the school bus route program (TEA-21 Bill) will enable us to continue to safely and efficiently transport our students. It is through these cooperative efforts that we are able to serve the hundreds of families living in our County. Thank you for your continued efforts.

Sincerely,

BEN CHAVEZ,
Support Services Director.

COUNTY OF MCKINLEY,
Gallup, N.M., December 20, 2002.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: Indian School Bus Route Safety Reauthorization Act of 2003.

DEAR SENATOR BINGAMAN: The Board of Commissioners supports your proposed Bill entitled, Indian School Bus Route Safety Reauthorization Act of 2003.

Currently, TEA-21 has provided a pilot program for the Counties in New Mexico, Arizona and Utah with funds to help maintain school routes accessing the Navajo Nation. This support has allowed McKinley County to improve an average of six miles per year.

The Gallup McKinley County Schools operates 143 school buses on a weekday basis traveling 16,070 miles daily. The Navajo Nation also operates a bus network for their Headstart Programs.

Our residents who live in the rural areas of our County depend on these same roads to shop, access medical services and jobs. Improved roads are critical to our region.

I appreciate your sponsorship of the Indian School Bus Route Safety Reauthorization Act of 2003.

Sincerely yours,

EARNEST C. BECENTI, Sr.,
Chairperson.

COUNTY OF MCKINLEY,
Gallup, N.M., December 20, 2002.

Hon. JEFF BINGAMAN
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: We want to take this opportunity to let you know how grateful McKinley County residents are for your past efforts in obtaining the federal funding received under the TEA-21 Bill. These funds have improved approximately 30 miles of school bus routes that could not have been a reality without them. These roads were improved to all weather standards at an average cost per mile of approximately $60,000. We have enclosed a recap identifying the type of improvements made and expenditures. We have also enclosed a letter from the Gallup-McKinley County Schools identifying the enhancement of these improvements that contribute to the safe transportation of students throughout the County.

McKinley County has a total of 511.746 miles of maintained roads that lead to or are within Indian Lands that qualify under the TEA-21 funding. This total reflects that approximately 90 percent of McKinley County roads on the maintenance system serve the vast Indian population in rural McKinley County. The TEA-21 funding received thus far has improved approximately 5 percent of these miles; leaving approximately 95 percent of the remaining miles to be improved. As you can see, the miles improved thus far are small in comparison to the vast needs of McKinley County.

The unimproved roads continue to contribute to the number of school days missed during inclement weather at all grade levels, which ultimately contribute to the illiteracy of our young people, and to the high level of unemployment in this area. It is difficult to change these statistics with the insurmountable miles of unimproved roads and the lack of sufficient funding sources. It is also very difficult to attract economic growth to McKinley County and improve the job market and quality of life for families throughout rural McKinley County.

We strongly solicit support for the continuation of the TEA–21 allocation for the improvement of school bus routes in our area. Thank you once again for your past and continued support in meeting the needs of McKinley County.

Sincerely,

David J. Acosta,
Road Superintendent.

Gallup-McKinley County
Public Schools,
December 19, 2002.

Hon. Senator Jeff Bingaman,
U.S. Senate,
Washington, DC.

Dear Senator Bingaman: Regarding the reauthorization of TEA–21 legislation, I would like to be up front in support of this bill. Our Gallup-McKinley County School District cannot function without a decent roads maintenance program. Our school district has established a good partnership with the McKinley County Commissioners' Office. Mr. Irvin Harrison, McKinley County Manager, is very instrumental in addressing the many roads maintenance issues. Of course, the money to do the actual maintenance work comes from the Indian School Bus Route Safety Reauthorization Act.

Let me explain why the Gallup-McKinley County Schools consider TEA–21 is practically indispensable. Our district daily transports 9,089 students and covers 16,070 miles. The 9,089 students are almost all Native Americans residing on Indian Reservation land or Checker Board Areas. The majority of the roads are dirt or unimproved. Our bus fleet totals 146 and 27 buses are equipped with lifts. Senator, you can imagine how delicate it is to make sure the roads are safe and all-weather condition. On an annual basis, our miles driven exceed 3,047,269. Without the county's roads maintenance program, our buses would deteriorate as quickly as we buy them and absenteeism would climb astronomically. What is so unique about our district is, it's 5000 square miles size and reported unpaved road transportation nears 400,000 miles. What the McKinley County Roads Department maintains include grading, placing gravel with some degree of compaction, repair work on drainage appurtenances and providing drainage solutions to rain damaged areas. Gallup-McKinley County School District is still expanding. A new high school is under design in Pueblo Pintado. A safe bridge is absolutely essential right next to the new school site.

Senator, I recall 3 years ago that you took a ride in one of our buses west of Gallup. I understand you enjoyed the rough ride. I thank you for taking the time from your busy schedule to visit our school district.

I am confident that the reauthorization of TEA–21 will be an historic event because this piece of legislation indeed relates to the No Child Left Behind initiative. All weather and safe roads provide the means to get the children to school on time. Absentees and tardiness are discouraged with a reliable transportation to school. I urge your colleagues to jump on the bandwagon and support the Indian School Bus Route Safety Reauthorization Act of 2003. Please call me if you have any questions.

Sincerely,

Karen S. White,
Acting Superintendent.

The Navajo Nation,
Rock Springs Chapter,
Yah-Ta-Hey, NM.

Resolution of Rock Springs Chapter Eastern Navajo Agency—District 16

Requesting and Recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Reauthorize the TEA–21 Bill for Continued Funding to the County of McKinley, State of New Mexico for Improvement of School Bus Routes Leading to and within the Navajo Indian Reservation which is Supported by Rock Springs Chapter Community.

Whereas:

1. The Rock Springs Chapter is a certified chapter and recognized by the Navajo Nation Council, pursuant to CAP–34–98, the Navajo Nation Council adopted the Navajo Nation Local governance act (LGA) which directs local chapters to promote all matters that affect the local community members and to make appropriate decisions, recommendation and advocate on their behalf, and;

2. The Rock Springs Chapter is requesting and recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Re-authorize the TEA–21 bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation which is supported by Rock Springs Chapter Community, and;

3. The Rock Springs Chapter is established to plan, promote, and coordinate the community, economic, and social development for the community, including an oversight of coordinator and support for federal, state, tribal, and other programs and entities; and

4. The Rock Springs Chapter Community are highly concerned of their students attendance due to poor road conditions, lack of improving and maintaining bus routes and how it effects the daily transports of students as well as daily travel for community members, and:

5. There are vest miles of (dirt roads) school bus routes that still require improvement. Poor roads contribute to poor education, health issues, economic growth, unemployment, and fatalities in our rural (community) county.

Now, therefore be it

Resolved:

1. The Rock Springs Chapter strongly supports the foregoing resolution to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominici to Re-authorize the TEA–21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation.

2. The Rock Springs Chapter Community hereby supports the continuation of improving and upgrading the vast miles of dirt roads school bus routes.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly presented and considered by the Rock Springs Chapter at duly called chapter meeting at Rock Springs Chapter, New Mexico (Navajo Nation) at which a quorum was present and the same was passed with a vote of 33 in favor, 00 opposed and 00 abstained on this 18th of February, 2003.

Raymond Emerson,
Chapter President.
Harriett K. Becenti,
Council Delegate.
Lucinda Roanhorse,
Acting Community Services Coordinator.

San Juan County Commission,
Monticello, UT, January 6, 2003.

Hon. Jeff Bingaman
U.S. Senator, Washington, DC.

Re: Indian School Bus Route Safety Reauthorization Act of 2003.

Dear Senator Bingaman: San Juan County, Utah wants to express our appreciation to you for your efforts to secure funding to improve the Indian School Bus Routes. San Juan County has approximately 25% of the total land area on the Utah portion of the Navajo Nation.

The County is currently maintaining 611 miles of roads on the Navajo Nation. 357 miles are natural surface, 164 miles are of a gravel surface and 90 miles are paved. Most of these roads are used by school bus in the transportation of students to and from the different schools.

The County has three high schools that are operated by the San Juan School District on the Utah portion of the Navajo Nation (Whitehorse High School in Montezuma Creek, Monument Valley High School in Monument Valley and Navajo Mountain High School in Navajo Mountain). In addition, the school district has two elementary schools located in Halchita, near Mexican Hat and in Montezuma Creek. The Bureau of Indian Affairs has two boarding schools that also operate within the County boundaries at Aneth and Navajo Mountain. In addition there are pre-schools that are located in Monument Valley, Halchita, Toda, and montezuma Creek.

One major example of these funds that have been previously used was to pave the nearly six mile section of road in the Navajo Mountain area. Navajo Mountain is an isolated community located in the southwestern corner of San Juan County. There is a single highway in and out of the community, with the nearest community located over seventeen miles to the south in Arizona. The road still is dirt for ten miles south of the Utah boundary, but the County was able to pave the road on the Utah side this past year making the road passable year round and greatly improving the safety for the students and residents.

We would strongly encourage the re-authorization of these funds for this important need.

Very truly,

Ty Lewis,
Commissioner.
Manuel Morgan,
Commissioner.
Lynn H. Stevens,
Commissioner.

San Juan County,
Aztec, NM, January 9, 2003.

Senator Jeff Bingaman,
U.S. Senate,
Washington, DC.

Hon. Senator Bingaman:

We are aware that Congress will be considering bills to reauthorize the TEA–21 funding for local roads that provide access to the Navajo Reservation. These funds are of special significance to San Juan County.

The Public Works Department of San Juan County regularly maintains over 400 miles of roads that are adjacent to or provide access to the Navajo Reservation. These roads are critical to the population in the service areas. School buses depend on our County workers to keep the roads maintained and to provide other essential services.

Over the past five years, we have received $953,688 from the TEA–21 program for the maintenance of roads and bridges in these areas. The assistance received under this program will be crucial if we wish to continue to provide these much needed services to the residents on the Navajo Reservation and their visitors.

I would like to thank you for your hard work on behalf of the citizens on San Juan County and urge you to support legislation that would extend the TEA–21 Program.

Sincerely,

TONY ATKINSON,
County Manager.

NAVAJO COUNTY BOARD OF SUPERVISORS,
Holbrook, AZ, December 18, 2002.

Senator JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: TEA–21 Funding for Maintenance of School Bus Routes.

DEAR SENATOR BINGAMAN: Navajo County has used the TEA–21 funding since its inception to maintain school bus routes located on reservation lands within the county. In order to best use these funds, we have entered into agreements with the Bureau of Indian Affairs and various established school districts. These agreements allow us to expand the budgets for roads in the school districts and receive maximum benefit for funds spent.

The funding to date has been spent as follows: Funding of road worker salaries—$63,226; Purchase of road working equipment—$215,651; Purchase of road building materials—$173,313.

The material, labor and equipment helps to maintain over 1,300 miles of school bus routes. Even though these funds are extremely helpful, the current amount of funding is inadequate to meet the needs that are encountered in these remote lands.

Navajo County fully supports your efforts to not only continue the present funding, but also the efforts to increase the annual amount. If this funding was not available, the school children on the reservation would be the ones who suffer.

Please continue your efforts to enhance the TEA–21 funds. If you need further information, please call me at (928) 524–4053.

Sincerely,

JESSE THOMPSON,
Supervisor.

RESOLUTION OF THE TRI-STATE COUNTY ASSOCIATION (NEW MEXICO, ARIZONA AND UTAH)

Whereas, the Tri-State County Association met on September 20, 2002, in St. Michael's Arizona, to discuss the proposed Bill by Senator Jeff Bingaman cited as the "Tribal Transportation Program Improvement Act of 2002"; and,

Whereas, Counties in New Mexico, Arizona and Utah, are faced with maintaining miles of unpaved roads serving Federally owned land or Indian Reservations; and

Whereas, Section 1214 of Transportation Equity Act for the 21st Century priovided $1.5 Million per year beginning October 1, 1998, for six years; to eligible Counties to maintain public raods which provide access to an Indian Reservation or is used by school buses to transport children to Headstart Programs; and,

Whereas, Congress has designated the Secretary of Transportation to divide each fiscal year the $1.5 Million equally between the States of New Mexico, Arizona and Utah, through the State Highway Department of State Department of Transportation to eligible Counties (San Juan and McKinley, NM; Navajo, Apache, Coconino, AZ; and San Juan, UT.); and,

Whereas, Each County receiving the special appropriation were able to complete additional schools bus route improvements on roads that would not have been improved otherwise; and

Whereas, the need for school bus route improvements greatly exceed the annual allocation provided for each County and the allocation should be increased under the reauthorization of the Transportation Bill.

Now, therefore be it

Resolved, by the Tri-State County Association, to support the "Tribal Transportation Program Improvement Act of 2002," as proposed by Senator Jeff Bingaman, which includes additional funding for maintenance of school bus routes on Indian Reservations.

STATE OF NEW MEXICO COUNTY OF MCKINLEY

Whereas, the Board of Commissioners did meet in *regular* session on February 27, 2001; and

Whereas, Section 1214(d) of the Transportation Equity Act for the 21st Century (TEA–21) provides additional funding for States that have within their boundaries all or part of an Indian Reservation having a land area of 10,000,000 acres or more; and,

Whereas, the only Indian Reservation meeting this criteria is the Navajo Indian Reservation in Arizona, New Mexico and Utah; and ,

Whereas, the three States equally divide the $1,500,000 among the various Counties to maintain public roads which are within, adjacent to, or accessing the Navajo Indian Reservation which are used to transport children to or from a school or Headstart Program and are maintained by the County; and

Whereas, McKinley County has demonstrated the fiscal capacity to implement and administer funds allocated through the New Mexico State Highway and Transportation Department to complete 19.3 miles through FY–00.

Now therefore be it

Resolved, by the Board of Commissioners or McKinley County, to request Congressional support to increase the allocation under Section 1214(d) of the Transportation Equity Act for the 21st Century (TEA–210 to improve school bus routes within, adjacent to, or accessing, the Navajo Reservation after FY–03.

By Ms. CANTWELL (for herself, Mr. THOMAS, Mr. LEAHY, Mr. SMITH, Mr. WYDEN, Ms. SNOWE, Mr. DURBIN, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAMBLISS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today with Senator CRAIG THOMAS to introduce legislation that would exclude loan repayments made through the National Health Service Corps from taxable income. I am pleased that Senators LEAHY, SMITH, WYDEN, SNOWE, DURBIN, HAGEL, ROBERTS, and CHAMBLISS are also cosponsoring this important legislation.

There have been many developments in the area of health care in the last few years from managed care reform, to increases in biomedical research, the mapping of the human genome, and the use of exciting new technologies in both rural and urban areas such as telemedicine. In fact, it seems that almost every day we hear of astounding new scientific breakthroughs. But unfortunately, while we are making great strides in the quality of health care, we are losing ground on the access to health care for so many.

The sad truth is that there are currently 38.7 million Americans without health insurance coverage—9.2 million of whom are children. In Washington, before the recession, 13.3 percent of the population, and 155,000 children, lacked health insurance. That is undoubtedly higher today.

Access to health insurance for the uninsured is of the utmost importance—we know that at the very least, health insurance means the difference between timely and delayed treatment and at worst between life and death. In fact, the uninsured are four times as likely as the insured to delay or forego needed care—and uninsured children are six times as likely as insured children to go without needed medical care.

But even insurance isn't enough if there are no available providers. Hospitals and other health care providers across the country are facing an increasingly uncertain future. The sad truth is that it is increasingly more difficult to recruit health care providers to work with underserved communities—especially in rural areas. In addition to economic pressures, rural areas must overcome the environmental issues involved with recruiting a doctor who may have been raised, educated, and trained in an urban setting.

The National Health Service Corps was created in 1970 by Senator Warren Magnuson, one of the most distinguished Senators to come from Washington State. He saw the need to put primary care clinicians in rural communities and inner-city neighborhoods, and developed this program to fill that need.

Since then, the Corps has placed over 22,000 health professionals in rural or urban health professions shortage areas. There is no doubt that National Health Service Corps has been extremely successful. In fact, the most recent available data show that more than 70 percent of providers continued to provide services to underserved communities after their Corps obligation was fulfilled—80 percent of these health care providers stayed in the community in which they had originally been placed.

During the last August recess, I had the opportunity to travel throughout Washington State and held 15 community discussions on health care. I met patients who would not have access to health services but for the providers there through the Corps and I met many doctors who have been living in our rural communities for years because of their Corps' placements. And because it has been so successful—right now in Washington State there are 75 physicians or other health professionals working in underserved areas that would not otherwise be here—we must do everything possible to support this program.

Under current law, the National Health Service Corps provides scholarships, loan repayments, and stipends for clinicians who agree to serve in urban and rural communities with severe shortages of health care providers. In 1986 the IRS ruled that all payments made under the program are considered taxable income. Understanding the immediate detriment to scholarship recipients, who were forced to pay the tax out of their own pockets, Congress eliminated the scholarship tax in 2001. And while the scholarship program is now not considered taxable income to the IRS, the loan repayments and stipends are.

By statute, the current loan program awards also include a tax assistance payment equal to 39 percent of the loan repayment amount, which is to be used by the recipient offset his or tax liability resulting from the loan repayment "income." This means that nearly 40 percent of the Federal loan repayment budget goes to pay taxes on the loan repayment "income" alone. If these Federal payments were not taxed, and the funding was freed up, more health professions students could take advantage of the loan repayment program, and could be placed in shortage areas, thereby increasing access to health care in both urban and rural areas.

This is not a new problem. The tax burden that accompanies the National Health Service Corps loan payments is a significant deterrent to increasing the number of clinicians enrolling in the Corps. I do not want to see a situation where, as happened several years ago, over 300 applicants actually left underserved areas because the Corps could not fully fund the loan repayment program.

The legislation we are introducing today, the National Health Service Corps Loan Repayment Act, would address this disincentive, making the Corps available to more medical and health professionals, and thereby bringing more providers into underserved areas. If loan repayments are excluded from taxation, the National Health Service Corps will have greater resources to provide aid to health professionals seeking loan repayment, and will be able to increase the number of providers in underserved areas.

There is no doubt that strengthening the National Health Service Corps is a win-win situation. Corps scholarships help finance education for future primary care providers interested in serving the underserved. In return, graduates serve those communities where the need for primary health care is greatest.

The bill is supported by over 20 national organizations including the National Rural Health Association, the National Association of Community Health Centers, the Association of American Medical Colleges, and the American Medical Student Association. I am especially pleased that the Washington State Medical Association is supporting this bill. I ask unanimous consent that the complete list be included in the RECORD after my statement.

I understand that there are no easy solutions to the health care problems we are facing right now. But we need to do something—even if it is taking small steps forward, and come in at this problem from many different angles.

I urge my colleagues to look at this bill and to join us in expanding this vitally important and immediately successful program.

Mr. THOMAS. I am pleased to rise today to introduce the National Health Service Corps Loan Repayment Act with my colleague from Washington, Ms. Cantwell. Specifically, this legislation will exclude loan repayments made through National Health Service Corps, NHSC, program from taxable income. Enactment of the National Health Service Corps Loan Repayment Act would increase the amount of Federal dollars available so more students could participate in the NHSC program.

Under current law, the NHSC provides scholarships, loan repayments, and stipends for clinicians who agree to serve in national designated underserved urban and rural communities. The tax law changes in 1986 resulted in the IRS ruling that all NHSC payments were taxable. Congress eliminated the tax on the scholarship in 2001, but the loan repayments and stipends continue to be taxed.

To assist loan repayment recipients with their tax burden, the NHSC loan program includes an additional payment equal to 39 percent of the loan repayment amount so the loan repayment recipient can pay his or her taxes. Close to 40 percent of the NHSC Federal loan repayment budget goes to pay taxes on the loan repayment "income." The current situation should not be allowed to continue. Given the fiscal restraints we are facing, we must ensure that Federal dollars are spent efficiently and effectively. It is obvious that today's NHSC loan repayment structure does not meet that goal. Our legislation resolves this issue.

For over 30 years, the National Health Service Corps, NHSC, program has literally been a lifeline for many underserved communities across the country that otherwise would not have a heath care provider. I know this program is critically important to my State of Wyoming and to many other rural States that have difficulties recruiting and retaining primary health care clinicians.

There are 2,800 health professional shortage areas, 740 mental health shortage areas and 1,200 dental health shortage areas now designated across the country. However, the NHSC program is meeting less than 13 percent of the current need for primary care providers and less than 6 percent of need for mental health and dental services. The National Health Service Corps Loan Repayment Act would increase the number of students in the program and allow more providers to be placed in these shortage areas.

The National Health Service Corps Loan Repayment Act is crucial to the future well-being of many of our rural communities. I strongly urge all my colleagues to support this important legislation.

By Mr. KERRY:

S. 530. A bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Governmental Affairs.

Mr. KERRY. Mr. President, today I am introducing legislation on behalf of thousands of Federal firefighters and emergency response personnel worldwide who, at great risk to their own personal health and safety, protect America's defense, our veterans, Federal wildlands, and national treasures. Although the majority of these important Federal employees work for the Department of Defense, Federal firefighters are also employed by the Department of Veterans Affairs, and the U.S. Park Service. From first response emergency care services on military installations around the world to frontline defense against raging forest fires here at home, we call on these brave men and women to protect our national interests.

Yet under Federal law, compensation and retirement benefits are not provided to Federal employees who suffer from occupational illnesses unless they can specify the conditions of employment which caused their disease. This onerous requirement makes it nearly impossible for Federal firefighters, who suffer from occupational diseases, to receive fair and just compensation or retirement benefits. The bureaucratic nightmare they must endure is burdensome, unnecessary, and in many cases, overwhelming. It is ironic and unjust that the very people we call on to protect our Federal interests are not afforded the very best health care and retirement benefits our Federal Government has to offer.

Today, I introduced legislation, the Federal Fire Fighters Fairness Act of

2003, which amends the Federal Employees Compensation Act to create a presumptive disability for firefighters who become disabled by heart and lung disease, cancers such as leukemia and lymphoma, and infectious diseases like tuberculosis and hepatitis. Disabilities related to the cancers, heart, lung, and infectious diseases enumerated in this important legislation would be considered job related for purposes of workers compensation and disability retirement—entitling those affected to the health care coverage and retirement benefits that they deserve.

Too frequently, the poisonous gases, toxic byproducts, asbestos, and other hazardous substances with which Federal firefighters and emergency response personnel come in contact, rob them of their health livelihood, and professional careers. The Federal Government should not rob them of necessary benefits. Thirty-eight States have already enacted a similar disability presumption law for Federal firefighters' counterparts working in similar capacities on the State and local levels.

The effort behind the Federal Firefighters Fairness Act of 2003 marks a significant advancement for firefighter health and safety. Since September 11, there has been an enhanced appreciation for the risks that firefighters and emergency response personnel face every day. Federal firefighters deserve our highest commendation and it is time to do the right thing for these important Federal employees.

The job of firefighting continues to be complex and dangerous. The nationwide increase in the use of hazardous materials, the recent rise in both natural and manmade disasters, and the threat of terrorism pose new threats to firefighter health and safety. The Federal Fire Fighters Fairness Act of 2003 will help protect the lives of our firefighters and it will provide them with a vehicle to secure their health and safety.

I urge my colleagues to embrace this bipartisan effort and support the Federal Fire Fighters Fairness Act of 2003 on behalf of our Nation's Federal firefighters and emergency response personnel.

By Mr. DORGAN (for himself and Mr. JOHNSON):

S. 531. A bill to direct the Secretary of the Interior to establish the Missouri River Monitoring and Research Program, to authorize the establishment of the Missouri River Basin Stakeholder Committee, and for other purposes; to the Committee on Environment and Public Works.

Mr. DORGAN. Mr. President, I am pleased my colleague from South Dakota, Senator TIM JOHNSON, is joining me today in introducing this Missouri River Enhancement and Monitoring Act of 2003, and I thank him for his efforts in working with me on this legislation. This bill will establish a program to conduct research on, and monitor the health of, the Missouri River to help recover threatened and endangered species, such as the pallid sturgeon and piping plover.

This bill will enable those who are active in the Missouri River Basin to collect and analyze baseline data, so that we can monitor changes in the health of the river and in species recovery in future years, as river operations change.

The program would also provide an analysis of the social and economic impacts along the river. And it would establish a stakeholder group to make recommendations on the recovery of the Missouri River ecosystem.

The bill establishes a cooperative working arrangement between State, regional, Federal, tribal entities that are active in the Missouri River Basin. I look forward to working with all of the stakeholders in the basin to implement this important legislation.

I am especially pleased that this legislation is supported by a broad range of stakeholders, including the North Dakota State Water Commission; the North Dakota Game and Fish Department; the Missouri River Natural Resources Committee; the Missouri River Basin Association; the South Dakota Department of Game, Fish and Parks; American Rivers; and Environmental Defense.

I am confident this legislation will enjoy bipartisan support because of its significance in helping to monitor and restore the health of this historic river. Lewis and Clark traveled on this river. This river also contributes to $80 million in recreation, fishing, and tourism benefits in the basin. I look forward to participating in hearings on this bill and hope we will be able to pass it into law in the near future.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missouri River Enhancement and Monitoring Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term "Center" means the River Studies Center of the Biological Resources Division of the United States Geological Survey, located in Columbia, Missouri.

(2) COMMITTEE.—The term "Committee" means the Missouri River Basin Stakeholder Committee established under section 4(a).

(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) PROGRAM.—The term "program" means the Missouri River monitoring and research program established under section 3(a).

(5) RIVER.—The term "River" means the Missouri River.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Biological Resources Division of the United States Geological Survey.

(7) STATE.—The term "State" means—

(A) the State of Iowa;

(B) the State of Kansas;

(C) the State of Missouri;

(D) the State of Montana;

(E) the State of Nebraska;

(F) the State of North Dakota;

(G) the State of South Dakota; and

(H) the State of Wyoming.

(8) STATE AGENCY.—The term "State agency" means an agency of a State that has jurisdiction over fish and wildlife of the River.

SEC. 3. MISSOURI RIVER MONITORING AND RESEARCH PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish the Missouri River monitoring and research Program—

(1)(A) to coordinate the collection of information on the biological and water quality characteristics of the River; and

(B) to evaluate how those characteristics are affected by hydrology;

(2) to coordinate the monitoring and assessment of biota (including threatened or endangered species) and habitat of the River; and

(3) to make recommendations on means to assist in restoring the ecosystem of the River.

(b) CONSULTATION.—In establishing the program under subsection (a), the Secretary shall consult with—

(1) the Biological Resources Division of the United States Geological Survey;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Chief of Engineers;

(4) the Western Area Power Administration;

(5) the Administrator of the Environmental Protection Agency;

(6) the Governors of the States, acting through—

(A) the Missouri River Natural Resources Committee; and

(B) the Missouri River Basin Association; and

(7) the Indian tribes of the Missouri River Basin.

(c) ADMINISTRATION.—The Center shall administer the program.

(d) ACTIVITIES.—In administering the program, the Center shall—

(1) establish a baseline of conditions for the River against which future activities may be measured;

(2) monitor biota (including threatened or endangered species), habitats, and the water quality of the River;

(3) if initial monitoring carried out under paragraph (2) indicates that there is a need for additional research, carry out any additional research appropriate to—

(A) advance the understanding of the ecosystem of the River; and

(B) assist in guiding the operation and management of the River;

(4) use any scientific information obtained from the monitoring and research to assist in the recovery of the threatened species and endangered species of the River; and

(5) establish a scientific database that shall be—

(A) coordinated among the States and Indian tribes of the Missouri River Basin; and

(B) readily available to members of the public.

(e) Contracts With Indian Tribes.—

(1) In general.—Notwithstanding any other provision of law, the Secretary shall enter into contracts in accordance with section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) with Indian tribes that have—

(A) reservations located along the River; and

(B) an interest in monitoring and assessing the condition of the River.

(2) Requirements.—A contract entered into under paragraph (1) shall be for activities that—

(A) carry out the purposes of this Act; and

(B) complement any activities relating to the River that are carried out by—

(i) the Center; or

(ii) the States.

(f) Monitoring and Recovery of Threatened Species and Endangered Species.—The Center shall provide financial assistance to the United States Fish and Wildlife Service and State agencies to monitor and recover threatened species and endangered species, including monitoring the response of pallid sturgeon to reservoir operations on the mainstem of the River.

(g) Grant Program.—

(1) In general.—The Center shall carry out a competitive grant program under which the Center shall provide grants to States, Indian tribes, research institutions, and other eligible entities and individuals to conduct research on the impacts of the operation and maintenance of the mainstem reservoirs on the River on the health of fish and wildlife of the River, including an analysis of any adverse social and economic impacts that result from reoperation measures on the River.

(2) Requirements.—On an annual basis, the Center, the Director of the United States Fish and Wildlife Service, the Director of the United States Geological Survey, and the Missouri River Natural Resources Committee, shall—

(A) prioritize research needs for the River;

(B) issue a request for grant proposals; and

(C) award grants to the entities and individuals eligible for assistance under paragraph (1).

(h) Allocation of Funds.—

(1) Center.—Of amounts made available to carry out this section, the Secretary shall make the following percentages of funds available to the Center:

(A) 35 percent for fiscal year 2004.

(B) 40 percent for fiscal year 2005.

(C) 50 percent for each of fiscal years 2006 through 2018.

(2) States and Indian tribes.—Of amounts made available to carry out this section, the Secretary shall use the following percentages of funds to provide assistance to States or Indian tribes of the Missouri River Basin to carry out activities under subsection (d):

(A) 65 percent for fiscal year 2004.

(B) 60 percent for fiscal year 2005.

(C) 50 percent for each of fiscal years 2006 through 2018.

(3) Use of allocations.—

(A) In general.—Of the amount made available to the Center for a fiscal year under paragraph (1)(C), not less than—

(i) 20 percent of the amount shall be made available to provide financial assistance under subsection (f); and

(ii) 33 percent of the amount shall be made available to provide grants under subsection (g).

(B) Administrative and other expenses.—Any amount remaining after application of subparagraph (A) shall be used to pay the costs of—

(i) administering the program;

(ii) collecting additional information relating to the River, as appropriate;

(iii) analyzing and presenting the information collected under clause (ii); and

(iv) preparing any appropriate reports, including the report required by subsection (i).

(i) Report.—Not later than 3 years after the date on which the program is established under subsection (a), and not less often than every 3 years thereafter, the Secretary, in cooperation with the individuals and agencies referred to in subsection (b), shall—

(1) review the program;

(2) establish and revise the purposes of the program, as the Secretary determines to be appropriate; and

(3) submit to the appropriate committees of Congress a report on the environmental health of the River, including—

(A) recommendations on means to assist in the comprehensive restoration of the River; and

(B) an analysis of any adverse social and economic impacts on the River, in accordance with subsection (g)(1).

SEC. 4. MISSOURI RIVER BASIN STAKEHOLDER COMMITTEE.

(a) Establishment.—Not later than 1 year after the date of enactment of this Act, the Governors of the States and the governing bodies of the Indian tribes of the Missouri River Basin shall establish a committee to be known as the "Missouri River Basin Stakeholder Committee" to make recommendations to the Federal agencies with jurisdiction over the River on means of restoring the ecosystem of the River.

(b) Membership.—The Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin shall appoint to the Committee—

(1) representatives of—

(A) the States; and

(B) Indian tribes of the Missouri River Basin;

(2) individuals in the States with an interest in or expertise relating to the River; and

(3) such other individuals as the Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin determine to be appropriate.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out section 3—

(A) $6,500,000 for fiscal year 2004;

(B) $8,500,000 for fiscal year 2005; and

(C) $15,100,000 for each of fiscal years 2006 through 2018; and

(2) to carry out section 4, $150,000 for fiscal year 2004.

By Mrs. HUTCHISON (for herself, Mr. Domenici, Mr. Bingaman, and Mr. McCain):

S. 532. A bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation to improve the deplorable housing situation in the valley region of the Texas border with Mexico. Our colonias are among the most distressed areas of the country.

In 1993 when I ran for the Senate, I visited with a woman named Elida Bocanegra who led me through the streets of the colonia where she lived. Elida showed me her community and, quite frankly, I couldn't believe I was in America. Since my election to the Senate, I have worked to improve living conditions and the quality of life for people such as Elida, helping to secure more than $615 million for the colonias of my State. In fact, my first amendment as a Senator authorized $50 million for a colonias clean-up project.

Despite third world living conditions, colonias, or underdeveloped subdivisions, have grown in population. Along the 1,248 mile stretch from Cameron County to El Paso County in Texas, there are more than 1,400 colonias that suffer from such conditions as open sewage, a lack of indoor plumbing, and poor housing construction.

The Colonias Gateway Initiative Act establishes annual competitive grants for nonprofit organizations which work to develop affordable housing, improve infrastructure, and foster economic opportunities. My bill would authorize the Secretary of Housing and Urban Development to award $16 million in the fiscal year 2004 and appoint a nine-member advisory board consisting of colonias residents and service providers to facilitate communication. This bill will bring quality-of-life improvements to those who need it most, providing the most basic services like indoor plumbing. It will also provide funds to build affordable housing. This piece of legislation I introduce today will fulfill the most basic needs of these communities. As you can see, the Colonias Gateway Initiative Act will assist our neediest people, foster economic opportunity, and vastly improve the quality of life. Mr. President, I ask unanimous consent that the text of the bill be placed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colonias Gateway Initiative Act".

SEC. 2. COLONIAS GATEWAY INITIATIVE.

(a) Definitions.—In this section:

(1) Colonia.—The term "colonia" means any identifiable community that—

(A) is located in the State of Arizona, California, New Mexico, or Texas;

(B) is located in the United States-Mexico border region;

(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(D) was in existence and generally recognized as a colonia before the date of enactment of this Act.

(2) Regional organization.—The term "regional organization" means a nonprofit organization or a consortium of nonprofit organizations with the capacity to serve colonias.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that such term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(b) GRANT PROGRAM.—To the extent amounts are made available to carry out this section, the Secretary may make grants under this section to 1 or more regional organizations to enhance the availability of affordable housing, economic opportunity, and infrastructure in the colonias.

(c) GRANTS.—

(1) IN GENERAL.—Grants under this section may be made only to regional organizations selected pursuant to subsection (d).

(2) SELECTION.—After a regional organization has been selected pursuant to subsection (d) to receive a grant under this section, the Secretary may provide a grant to such organization in subsequent fiscal years, subject to subsection (f)(2).

(d) SELECTION OF REGIONAL ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary shall select 1 or more regional organizations that submit applications for grants under this section to receive such grants.

(2) COMPETITION.—The selection under paragraph (1) shall be made pursuant to a competition, which shall—

(A) consider the proposed work plan of the applicant under subsection (f); and

(B) be based upon the criteria described in paragraph (3).

(3) CRITERIA.—Criteria for the selection of a grant recipient shall include a demonstration of the extent to which the applicant organization has the capacity to—

(A) enhance the availability of affordable housing, economic opportunity, and infrastructure in the colonias by carrying out the eligible activities set forth in subsection (g);

(B) provide assistance in each State in which colonias are located;

(C) form partnerships with the public and private sectors and local and regional housing and economic development intermediaries to leverage and coordinate additional resources to achieve the purposes of this section;

(D) ensure accountability to the residents of the colonias through active and ongoing outreach to, and consultation with, residents and local governments; and

(E) meet such other criteria as the Secretary may specify.

(4) DISTRIBUTION OF FUNDING.—In making the selection under paragraph (1), the Secretary shall ensure that—

(A) each State in the United States-Mexico border region receives a grant under this Act; and

(B) each State receives not less than 15 percent of the amounts appropriated to carry out this Act.

(e) ADVISORY BOARD.—

(1) MEMBERSHIP.—The Secretary shall appoint an Advisory Board that shall consist of 9 members, who shall include—

(A) 1 individual from each State in which colonias are located;

(B) 3 individuals who are members of nonprofit or private sector organizations having substantial investments in the colonias, at least 1 of whom is a member of such a private sector organization; and

(C) 2 individuals who are residents of a colonia.

(2) CHAIRPERSON.—

(A) IN GENERAL.—The Secretary shall designate a member of the Advisory Board to serve as Chairperson for a 1-year term.

(B) ALTERNATING CHAIRPERSON.—At the end of the 1-year term referred to in subparagraph (A), the Secretary shall designate a different member to serve as Chairperson, ensuring that the Chairperson position rotates to a member from every State in which colonias are located.

(3) TERM.—Advisory Board members shall be appointed for 2-year terms that shall be renewable at the discretion of the Secretary.

(4) COMPENSATION.—Advisory Board members shall serve without compensation, but the Secretary may provide members with travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) FUNCTIONS.—The Advisory Board shall—

(A) assist any regional organization that receives a grant under this section in the development and implementation of its final work plan under subsection (f);

(B) review and approve all final work plans;

(C) assist the Secretary in monitoring and evaluating the performance of any regional organization in implementing its final work plan; and

(D) provide such other assistance as the Secretary may request.

(f) WORK PLANS.—

(1) APPLICATION.—Each regional organization applying for a grant under this section shall include in its application a proposed work plan.

(2) ANNUAL SUBMISSION.—To be eligible to continue receiving annual grants under this section after selection pursuant to subsection (d), a regional organization shall, on an annual basis after such selection and subject to the determination of the Secretary to continue to provide grant amounts to such regional organization, submit a proposed work plan to the Advisory Board and the Secretary for review and approval.

(3) FINAL WORK PLAN.—In any fiscal year, including the fiscal year in which any regional organization is selected pursuant to subsection (d), prior to final determination and allocation of specific grant amounts, each selected regional organization shall, with the assistance of the Advisory Board, develop a final work plan that thoroughly describes how the regional organization will use specific grant amounts to carry out its functions under this section, which shall include—

(A) a description of outcome measures and other baseline information to be used to monitor success in promoting affordable housing, economic opportunity, and infrastructure in the colonias;

(B) an account of how the regional organization will strengthen the coordination of existing resources used to assist residents of the colonias, and how the regional organization will leverage additional public and private resources to complement such existing resources;

(C) an explanation, in part, of the effects that implementation of the work plan will have on areas in and around colonias; and

(D) such assurances as the Secretary may require that grant amounts will be used in a manner that results in assistance and investments for colonias in each State containing colonias, in accordance with requirements that the Advisory Board and the Secretary may establish that provide for a minimum level of such investment and assistance as a condition of the approval of the work plans.

(4) APPROVAL.—

(A) IN GENERAL.—No grant amounts under this section for a fiscal year may be provided to a regional organization until the Secretary approves the final work plan of the organization, including a specific grant amount for the organization.

(B) CONSIDERATIONS.—In determining whether to approve a final work plan, the Secretary shall consider whether the Advisory Board approved the plan.

(C) NONAPPROVAL OF PLAN.—To the extent that the Advisory Board or the Secretary does not approve a work plan, the Advisory Board or the Secretary shall, to the maximum extent practicable, assist the selected regional organization that submitted the plan to develop an approvable plan.

(g) ELIGIBLE ACTIVITIES.—Grant amounts under this section may be used only to carry out eligible activities to benefit the colonias, including—

(1) coordination of public, private, and community-based resources and the use of grant amounts to leverage such resources;

(2) technical assistance and capacity building, including training, business planning and investment advice, and the development of marketing and strategic investment plans;

(3) initial and early-stage investments in activities to provide—

(A) housing, infrastructure, and economic development;

(B) housing counseling and financial education, including counseling and education about avoiding predatory lending; and

(C) access to financial services for residents of colonias;

(4) development of comprehensive, regional, socioeconomic, and other data, and the establishment of a centralized information resource, to facilitate strategic planning and investments;

(5) administrative and planning costs of any regional organization in carrying out this section, except that the Secretary may limit the amount of grant funds used for such costs; and

(6) such other activities as the Secretary considers appropriate to carry out this section.

(h) GRANT AGREEMENTS.—A grant under this section shall be made only pursuant to a grant agreement between the Secretary and a regional organization selected under this section.

(i) TERMINATION AND RECAPTURE.—If the Secretary determines that a regional organization that was awarded a grant under this section has not substantially fulfilled its obligations under its final work plan or grant agreement, the Secretary shall terminate the participation of that regional organization under this section, and shall recapture any unexpended grant amounts.

(j) DETAILS FROM OTHER AGENCIES.—Upon request of any selected regional organization that has an approved work plan, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to that regional organization to assist it in carrying out its duties under this section.

(k) ENVIRONMENTAL REVIEW.—For purposes of environmental review, projects assisted by grant amounts under this section shall—

(1) be treated as special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547); and

(2) be subject to regulations issued by the Secretary to implement such section 305(c).

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $16,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for each of fiscal years 2005 through 2009.

(m) SUNSET.—No new grants may be provided under this section after September 30, 2009.

By Mr. CAMPBELL:

S. 535. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

Mr. CAMPBELL. Mr. President, today I am introducing the Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003.

This bill would help honor the sacrifice of the men and women who lost their lives in the line of duty by providing Capitol-flown flags to the families of deceased law enforcement officers and firefighters.

Under this legislation, the family of a deceased law enforcement officer can request from the Attorney General that a flag be flown over the U.S. Capitol in honor of the slain officer. The Department of Justice shall pay the cost of the flags, including shipping, out of discretionary grant funds, and provide them to the victim's family.

As a former deputy sheriff, I know firsthand the risks which law enforcement officers face every day on the frontlines protecting our communities. I also have great appreciation, as the cochair of the Congressional Fire Caucus, for the service that our Nation's firefighters provide, day in and day out, and that all too often, they end up sacrificing their lives while saving others.

I believe providing a Capitol-flown flag is a fitting way to show our appreciation for fallen officers and firefighters who make the ultimate sacrifice. It also lets their families know that Congress and the Nation are grateful for their loved one's service.

I ask unanimous consent that the text of Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003".

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS.

(a) AUTHORITY.—

(1) IN GENERAL.—The family of a deceased law enforcement officer may request, and the Attorney General shall provide to such family, a Capitol-flown flag, which shall be supplied to the Attorney General by the Architect of the Capitol. The Department of Justice shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date on which the Attorney General establishes the procedure required by subsection (b).

(b) PROCEDURE.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall establish a procedure (including any appropriate forms) by which the family of a deceased law enforcement officer may request, and provide sufficient information to determine such officer's eligibility for, a Capitol-flown flag.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer who died on or after the date of enactment of this Act.

(d) DEFINITIONS.—In this Act—

(1) the term "Capitol-flown flag" means a United States flag flown over the United States Capitol in honor of the deceased law enforcement officer for whom such flag is requested; and

(2) the term "deceased law enforcement officer" means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

SEC. 3. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED FIREFIGHTERS.

(a) AUTHORITY.—The family of a paid or volunteer firefighter who dies in the line of duty may request, and the Director of the Federal Emergency Management Agency shall provide to such family, a capitol-flown flag, which shall be supplied to the Director by the Architect of the Capitol. The Federal Emergency Management Agency shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(b) EFFECTIVE DATE.—This section shall take effect on the date on which the Attorney General establishes the procedure required by section 2(b).

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. COLLINS, Mr. REED, Mr. VOINOVICH, and Ms. STABENOW):

536. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am pleased to join with Senators LEVIN, COLLINS, REED, VOINOVICH, and STABENOW, to introduce the National Invasive Species Council Act—a bill to permanently establish the National Invasive Species Council. The National Invasive Species Council was established by an Executive order so that the Federal Government can better coordinate to combat the economic, ecologic, and health threat of invasive species.

Invasive species are a national threat. Estimates of the annual economic damages caused by invasive species in this Nation are as high as $137 billion. To combat the serious threats posed by invasive species, we need Federal coordination and planning. Our bill would provide just that—on a permanent basis. Under this legislation, the Secretaries of State, Commerce, Transportation, Agriculture, Health & Human Services, Interior, Defense, and Treasury, along with the Administrators of EPA and USAID, would continue to work together through the Council to develop a National Invasive Species Management Plan.

Though the Council can continue to operate and develop invasive species management plans as they currently do, the GAO reported last year that implementing the national invasive species management plan is difficult because the Council does not have a congressional mandate to act. GAO also reported that most of the agencies that have responsibilities under the National Invasive Species Management Plan have been slow to complete activities by the due date established under the plan and the agencies do not always act in a coordinated manner. As my colleagues who are cosponsoring this bill know, invasive species are too great of a problem to be left unmanaged.

The duties of the Council are generally to coordinate Federal activities in an effective, complementary, cost-efficient manner; update the National Invasive Species Management Plan; ensure that Federal agencies implement the management plan; and develop recommendations for international cooperation. Agencies that do not implement the recommendations of the National Invasive Species Management Plan must report to Congress as to why the recommendations were not implemented. The Council is directed to develop guidance for Federal agencies on prevention, control, and eradication of invasive species so that Federal programs and actions do not increase the risk of invasion or spread nonindigenous species. And finally, the bill also establishes an Invasive Species Advisory Committee to the Council.

Ultimately, with a congressional mandate, the Council can enhance its effectiveness and better protect our environment from invasive species. I urge my colleagues to cosponsor this measure so that the Federal Government can improve its response to invasive species threat.

Mr. VOINOVICH. Mr. President, I rise today in support of the National Aquatic Invasive Species Act and the National Invasive Species Council Act. As a Senator representing a Great Lake State, I am proud to be an original cosponsor of both of these bills that are critical to the future of the Great Lakes ecosystem.

In my 36 years of public service, one of my greatest sources of comfort and accomplishment has been my work to help clean up and protect the environment, particularly Lake Erie.

Lake Erie's ecology has come a long way since I was elected to the state legislature in 1966. During that time, Lake Erie formed the northern border of my district and it was known worldwide as a dying lake, suffering from eutrophication. Lake Erie's decline was covered extensively by the media and became an international symbol of pollution and environmental degradation.

I remember the British Broadcasting Company even sending a film crew to make a documentary about it. One reason for all the attention is that Lake Erie is a source of drinking water for 11 million people.

Seeing firsthand the effects of pollution on Lake Erie and the surrounding region, I knew we had to do more to protect the environment for our children and grandchildren. As a State legislator, I made a commitment to stop the deterioration of the lake and to wage the "Second Battle of Lake Erie" to reclaim and restore Ohio's Great Lake. I have continued this fight throughout my career as County Commissioner, state legislator, Mayor of Cleveland, Governor of Ohio, and United States Senator.

It is comforting to me that 36 years since I started my career in public service, I am still involved, as a member of the United States Senate and our Committee on Environment and Public Works, in the battle to save Lake Erie.

Today in Ohio, we celebrate Lake Erie's improved water quality. It is a habitat to countless species of wildlife, a vital resource to the area's tourism, transportation, and recreation industries, and the main source of drinking water for many Ohioans. Unfortunately, however, there is still a great deal that needs to be done to improve and protect Ohio's greatest natural asset.

Our current enemy is the aquatic invasive species that threaten the health and viability of the Great Lakes fishery and ecosystem. I am worried about these aquatic terrorists in the ballast water that enter the Great Lakes system through boats from all over the world. These species are already wreaking havoc in the lakes and will continue to do so until they are stopped.

Since the 1800s, over 145 invasive species have colonized in the Great Lakes. Since 1990, when legislation to address aquatic nuisance species was first enacted, we have averaged about one new invader each year. Clearly, we have not closed the door to invasive species. I am deeply troubled by the surge in new invasive species in Lake Erie, because once a species establishes itself, there is virtually no way to eliminate it.

As Mayor of Cleveland in the 1980s, I was alarmed about the introduction of zebra mussels into the Great Lakes and conducted the first national meeting to investigate the problem. It is a complicated situation and we are still learning how invasive species like the zebra mussel affect the ecosystem.

In early August, for example, I conducted a field hearing of the Environment and Public Works Committee to examine the increasingly extensive oxygen depletion or anoxia in the central basin of Lake Erie. This phenomenon has been referred to as a "dead zone." Anoxia over the long term could result in massive fish kills, toxic algae blooms, and bad-tasting or bad-smelling water.

Anoxia is usually the result of decaying algae blooms which consume oxygen at the bottom of the lake. In the past, excessive phosphorus loading from point sources such as municipal sewage treatment plants were greatly responsible for algae blooms. Since 1965, the level of phosphorus entering the Lake has been reduced by about 50 percent. These reductions have resulted in smaller quantities of algae and more oxygen into the system.

In recent years, overall phosphorus levels in the Lake have been increasing, but the amount of phosphorus entering it has not. Scientists are unable to account for the increased levels of phosphorus in the Lake. One hypothesis is the influence of two aquatic nuisance species—the zebra and quagga mussels. Although their influence is not well understood, they may be altering the way phosphorus cycles through the system.

Another way zebra mussels could be responsible for oxygen depletion in Lake Erie is due to their ability to filter and clear vast quantities of lake water. Clearer water allows light to penetrate deeper into the Lake, encouraging additional organic growth on the bottom. When this organic material decays, it consumes oxygen.

The possible link between Lake Erie's "dead zone" problem and aquatic nuisance species like the zebra mussel should underscore the importance of our legislation, the National Aquatic Nuisance Species Act. Over the last 30 years, we have made remarkable progress in improving water quality and restoring the natural resources of our Nation's aquatic areas, and we need to prevent any backsliding on this progress.

While aquatic invasive species are a particular problem because they readily spread through interconnected waterways and are difficult to treat safely, they represent only one piece of the problem. Both terrestrial and aquatic invasive species cause significant economic and ecological damage throughout North America. Recent estimates state that invasive species cost the U.S. at least $138 billion per year and that 42 percent of the species on the Threatened and Endangered Lists are at risk primarily due to invasive species.

In 1999, President Clinton issued an Executive Order creating the National Invasive Species Council to develop a national management plan for invasive species and bring together the federal agencies responsible for managing them. This was a promising action that has never been fully implemented. The National Invasive Species Management Plan was issued in 2001, but agencies with responsibilities under the plan have been slow to complete activities by the established due dates and the agencies do not always act in a coordinated manner.

The General Accounting Office released a report in October 2002 that claimed that implementing the Management Plan was being hampered by the lack of a congressional mandate for the Council. It is disturbing to me that this Council exists but is not making substantial progress. Make no mistake about it: these species are not waiting for the Federal Government to get all of its ducks in a row. They are continuing to take over the waters and lands of the U.S.

The National Invasive Species Council Act will fix this problem by legislatively establishing the Council. Because timing is so important, I urge my colleagues to act quickly on both of these bills to ensure that the National Invasive Species Management Plan is updated and fully implemented.

We must act quickly to strengthen the oversight of efforts preventing invasive species from wreaking havoc on the Great Lakes' aquatic habitat and throughout the U.S.

I look forward to working with my colleagues in the House and Senate to move these bills forward. I understand that both bills will be referred to the Environment and Public Works Committee today, and I look forward to working with Chairman INHOFE to move them expeditiously through committee.

By Mrs. CLINTON (for herself, Mr. WARNER, Ms. MIKULSKI, Ms. SNOWE, Mr. BREAUX, Mr. JEFFORDS, Mrs. MURRAY, Ms. COLLINS, Mr. KENNEDY, and Mr. SMITH):

S. 538. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am proud to introduce the Lifespan Respite Care Act of 2003 today, a bill to establish the availability of respite services for our family caregivers, and to increase coordination of these programs so that caregivers will be better able to access them.

As a nation, we rely on family caregivers. Twenty-six million Americans care for an adult family member who is ill or disabled. Eighteen million children have a condition that places significant demands on their parental caregivers. Four million Americans with mental retardation or a developmental disability rely on family members for care and supervision. If services provided by family caregivers were replaced by paid services, it would cost nearly $200 billion annually.

But these are just numbers. Every member has a human face. Let me tell you about Heather Thoms-Chelsey. I met Heather last year at a press conference announcing the Lifespan Respite Care Act of 2002. At that press conference I also met Heather's then 4-year-old daughter, Victoria, who has Rett syndrome. Victoria is totally dependent on family caregivers for all basic living skills: dressing, feeding, bathing and toileting. She also engages in self-injurious behaviors, hand-biting, head banging, body slamming, hair pulling. She has to be monitored all the time for her protection. Heather says, "I feel tired and exhausted after only less than 5 years, what will I be like in 15? Or even 20?"

Heather is very resourceful. She has managed to find some respite care—164 hours per year—through her State's department of hygiene and mental health. She used 4 hours of her allotted time to bring a respite care worker with her to the press conference so she could tell us her story. The State allows Heather a maximum payment of $7.50 per hour for respite services. It is difficult to find someone who can care for a child with such complicated needs for that. Most of the time, Heather uses the respite care dollars to hire someone to help her care for Victoria in the home or on an outing. Very rarely does Heather actually get to leave the house and take a real break. Some would say Heather is one of the lucky ones. She actually has some respite care. Many people have none.

Heather's story is repeated all across this country. Some people are caring for children or grandchildren with special needs and elderly parents at the same time. Some have called these people the "sandwich" generation, sandwiched between the caregiving demands of children or grandchildren and the caregiving demands of elderly parents.

Just because family caregiving is unpaid does not mean it is costless. Caregiving is certainly personally rewarding but it can also result in substantial emotional and physical strain and financial hardship. Many caregivers are exhausted and become sick themselves. Many give up jobs to care for loved ones, putting their own financial security in jeopardy.

I believe that our country is suffering not just from a budget deficit, but what Mona Harrington has called, "a care deficit." Everywhere we look—nursing, childcare, teaching, long-term care—we see shortages and looming crises that threaten the provision of care on which our children, our parents, and our families all depend. Caregiving is undervalued, underfinanced, and too often uncompensated. Family caregiving seems almost "invisible" in our society, perhaps because it is work that women perform in the home.

It is time we recognize the heroic effort of our family caregivers and provide them the kind of support they need before their own health deteriorates. One way to do that is through respite care. Respite care provides a much needed break from the daily demands of caregiving for a few hours or a few days. These welcome breaks help protect the physical and mental health of the family caregiver, making it possible for the individual in need of care to remain in the home.

Unfortunately, respite care is hard to find. Many caregivers do not know how to find information about services available. Even when community respite care services exist, there are often long waiting lists. For example, the United Cerebral Palsy Association of Nassau County on Long Island, provides respite service to 70 people but they have had a 200-person waiting list since 1995. In the same community, the Association for the Help of Retarded Children serves 140 youngsters; 200 children are on their waiting list. Variety Preschoolers serves 150 toddlers with special needs; 120 children are on their waiting list. The list goes on and on.

But, this is not a problem isolated to Long Island, NY. It is happening all across America. There are more caregivers in need of respite care than there are respite care resources available. Part of the problem is funding and part of the problem is staffing.

Children and adults with special needs require trained caregivers. Parents and spouses and other family caregivers are understandably hesitant to leave their loved ones with untrained staff. But training staff costs money and trained staff are going to be reluctant to work for as little as $7–8 an hour. Until we recognize the value of caregiving and pay for it as a valued service, we are going to continue to face shortages: shortages in respite care but also shortage in caregiving in a larger sense.

We don't have enough teachers. We don't have enough nurses. We don't have enough childcare workers. We don't have enough trained workers to care for our elderly. And we don't have enough trained staff to provide respite care.

It is time that we, as a nation, face this care deficit and do something about it.

Today, I, along with my colleagues, Senators WARNER, MIKULSKI, SNOWE, BREAUX, JEFFORDS, MURRAY, COLLINS, KENNEDY, and SMITH, are introducing the Lifespan Respite Care Act of 2003. This bill would provide over $90 million in grants annually to develop a coordinated system of respite care services for family caregivers of individuals with special needs regardless of age. Funds could also be used to increase respite care services or to train respite care workers or volunteers.

Some of my colleagues have questioned the pricetag of this legislation. I ask them to do the math. With 26 million caregivers of adults and 18 million caregivers of children with special needs, $90 million dollars amounts to $2.05 per caregiver. If anything, we should be investing more in respite care, not less. Estimates place the cost of current family caregiving at $200 billion annually. We simply cannot afford to continue to ignore this issue.

I remain committed to the concerns of family caregivers and to their need for respite care in particular. Together, I believe we can pass respite care legislation.

But, our work cannot stop there. The need of family caregivers for respite care is just one important piece of a larger complex picture. I am asking you to join me in a longer term effort to put the care deficit—in childcare, in teaching, in nursing, in long-term care, as well as in family caregiving—on the national agenda.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mr. KYL, Mrs. FEINSTEIN, Ms. MURKOWSKI, Mr. BURNS, Mrs. MURRAY, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COLEMAN, and Mr. BINGAMAN):

S. 539. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DOMENICI. Mr. President, I rise today to introduce a bill of critical importance to our Nation's economic well-being and the security of our borders: the Border Infrastructure and Technology Modernization Act.

No American border has undergone a comprehensive infrastructure overhaul since 1986, when Senator Dennis DeConcini of Arizona and I put forth a $357 million effort to modernize the southwest border. That bill pertained only to the southwest border, and a great deal was changed since 1986.

More importantly, much has changed since September 11, 2001. It is now critical that we look at the big picture and give our northern and southwestern borders the resources they need to address security vulnerabilities and facilitate the flow of trade.

Two years ago, the General Services Administration completed a comprehensive assessment of infrastructure needs on the southwestern and northern borders of the United States. This assessment found that overhauling both borders would require $784 million.

Since the publication of that assessment in February 2001, many of the needs identified remain outstanding. Many have grown, and new needs have arisen as the task of making border trade flow faster has become more complicated in the face of unprecedented security concerns.

In response to our Nation's heightened security concerns, we created the

Department of Homeland Security, an agency affecting virtually every Federal entity involved in border operations. Congress must give this new Department adequate resources and tools to achieve the necessary balance between security and trade considerations. The Border Infrastructure and Technology Modernization Act proposes a number of measures meant to increase the speed at which trade crosses the border as well as beefing up security at vulnerable points on our land borders.

In the recently passed omnibus appropriations bill, I secured legislative language asking the General Services Administration, in cooperation with the other border agencies involved, to complete an updated assessment of needs on our borders. The information contained in this assessment will provide a blueprint for comprehensive, targeted improvements to border infrastructure and technology. The bill I am introducing today provides $100 million per year for 5 years to implement these improvements.

Congress has already passed legislation to improve security at airports and seaports, but we have not yet addressed the needs of our busiest ports, located on the United States' northern and southwestern land borders. Traditionally, tighter security requirements have come at the expense of efficient commerce across our borders. With the improvements we are proposing today, we mean to move toward a day when we can say that higher security does not penalize trade.

America's two biggest trading partners are not across an ocean—they lie to the north and south of our country. In the past decade, U.S.-Canada trade has doubled, and in the same time period, trade between the United States and Mexico tripled. At the same time, our infrastructure is weakest on our land borders, and we must act quickly and decisively to prevent terrorists from exploiting this weakness.

To address this threat, the Border Infrastructure and Technology Modernization Act provides for a coordinated Land Border Security Plan, including cooperation between Federal State and local entities involved at our borders, as well as the private sector.

When it comes to security, everybody has a role to play, not just the government. We must enlist the help of the private sector to address security concerns on our borders. Trade and industry have made this country the economic powerhouse it is today, and we must fully involve them in protecting our country through government trade and industry partnership programs. .

The U.S. Customs Service has already started this process. I commend them for their quick action after the September 11 terrorist attacks in enlisting the support of private industry by quickly developing the Customs-Trade Partnership Against Terrorism, C-TPAT. We need to expand these programs, especially along the northern and southwestern borders. This bill authorizes an additional $30 million and additional staff to accomplish this task.

Finally, equipment and technology alone will not solve the trade and security problems on our borders. The border agencies of the Department of Homeland Security need sufficient personnel levels, and training to ensure the implementation and use of modern technology. I am pleased that the administration has taken the first step to meet this objective by announcing that they will add 1,700 new inspectors to the Bureau of Customs and Border Security of the Department of Homeland Security.

The Border Infrastructure and Technology Modernization Act increases the number of inspectors and support staff in this bureau by an additional 200 each year for 5 years. This bill also adds 100 more special agents and support staff each year for 5 years to the Bureau of Immigration and Customs Enforcement, the investigative arm of the Department of Homeland Security.

I am pleased to introduce this bill today to devote greater resources to maximizing the economic possibilities of the trade flowing across our borders, while addressing the security vulnerabilities on our land borders. I am convinced that these goals are not mutually exclusive, but instead must be realized in concert.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Infrastructure and Technology Modernization Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term "maquiladora" means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term "northern border" means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term "southern border" means the international border between the United States and Mexico.

(5) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

SEC. 3. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.

(a) INSPECTORS AND AGENTS.—

(1) INCREASE IN INSPECTORS AND AGENTS.—During each of fiscal years 2004 through 2008, the Under Secretary shall—

(A) increase the number of full-time agents and associated support staff in the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees in the Bureau as of the end of the preceding fiscal year; and

(B) increase the number of full-time inspectors and associated support staff in the Bureau of Customs and Border Protection by the equivalent of at least 200 more than the number of such employees in the Bureau as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Under Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—The Under Secretary shall provide appropriate training for agents, inspectors, and associated support staff on an ongoing basis to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 4. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106-319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Under Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 5; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under paragraph (3) of such subsection.

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 5. NATIONAL LAND BORDER SECURITY PLAN.

(a) REQUIREMENT FOR PLAN.—Not later than January 31 of each year, the Under Secretary shall prepare a National Land Border Security Plan and submit such plan to Congress.

(b) CONSULTATION.—In preparing the plan required in subsection (a), the Under Secretary shall consult with the Under Secretary for Information Analysis and Infrastructure Protection and the Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Under Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 6. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Under Secretary, shall develop a plan to expand the size and scope (including personnel needs) of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program along the southern border for the purpose of implementing at least one Customs-Trade Partnership Against Terrorism program along that border. The Customs-Trade Partnership Against Terrorism program selected for the demonstration program shall have been successfully implemented along the northern border as of the date of enactment of this Act.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 7. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Under Secretary shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTED.—Under the demonstration program, the Under Secretary shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to subsection (c)(2), the Under Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Under Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month in the 12 full months preceding the date of enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Under Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Under Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Under Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) to carry out the provisions of section 3, such sums as may be necessary for the fiscal years 2004 through 2008;

(2) to carry out the provisions of section 4—

(A) to carry out subsection (a) of such section, such sums as may be necessary for the fiscal years 2004 through 2008; and

(B) to carry out subsection (d) of such section—

(i) $100,000,000 for each of the fiscal years 2004 through 2008; and

(ii) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out the provisions of section 6—

(A) to carry out subsection (a) of such section—

(i) $30,000,000 for fiscal year 2004, of which $5,000,000 shall be made available to fund the demonstration project established in paragraph (2) of such subsection; and

(ii) such sums as may be necessary for the fiscal years 2005 through 2008; and

(B) to carry out subsection (b) of such section—

(i) $5,000,000 for fiscal year 2004; and

(ii) such sums as may be necessary for the fiscal years 2005 through 2008; and

(4) to carry out the provisions of section 7, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for each of the fiscal years 2005 through 2008.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized in this Act may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

Mr. McCAIN. Mr. President, I am pleased to join Senators DOMENICI, DORGAN, KYL, FEINSTEIN, MURKOWSKI, BURNS, and MURRAY to introduce the Border Infrastructure and Technology Modernization Act. For most of us, this is not a new issue. I have worked closely with many of my colleagues to address concerns regarding the protection of our Nation's borders, particularly the problems associated with illegal immigration.

The bill we are introducing today addresses border infrastructure, to ensure that our Nation's borders, both southern and northern, are as secure and up to date as possible. This bill will authorize. the Bureau of Immigration and Customs Enforcement to address staffing shortages and hire additional agents, inspectors, and support staff. It will also authorize several studies and demonstration programs to improve infrastructure, security, facilitate trade, and expand the use of technology along the borders.

Cross-border commerce suffers greatly due to backups at our ports of entry. Two and three hour delays hinder the transport of goods from Mexico into the United States. Improving infrastructure at our ports of entry will increase our capability to screen trucks and individuals coming into the country in a more efficient manner, reducing the backups along the border and improving the free flow of commerce.

As undocumented aliens take increasingly desperate measures to cross our border with Mexico, the burden borne by States along the southwestern border continues to grow. The

Federal Government's attempt to stem illegal immigration in Texas and California has made it increasingly difficult to cross the border in these States and has created a funnel effect, giving Arizona the dubious distinction of being the location of choice for illegal border crossings.

Reports suggest that at least one in three of the illegal border crossers arrested traversing the U.S.-Mexico border are stopped in Arizona. Last year approximately 320 people died in the desert trying to cross the border. Additionally, the number of attacks on National Park Service officers has increased in recent years. Property crimes are rampant along the border, leaving Arizona with the highest per capita auto theft rate in the Nation. Times have become so desperate that vigilante groups have begun to form with the goal of doing the job the Federal Government is failing to do.

We must do all we can to improve the ports of entry along our borders with both our northern and our southern neighbors. Technology is the key to that goal, and this bill takes a big step toward ensuring that technological needs are assessed and that technology is improved.

There are between 7-9 million people in this country illegally. Many of these people entered our country legally but have overstayed their visas. By upgrading the technology for our ports of entry and further developing the entry-exit system we will have a way to better monitor these individuals. During this year's appropriations bill, I sponsored an amendment along with Senators KYL and FEINSTEIN to restore $165 million to entry-exit system and help the INS establish four pilot projects on the borders to effectively track and monitor immigration. This bill and the amendment we passed recently are both important ways to increase the resources available to the border.

Beyond the improvement of infrastructure, technology and security along the border, we must also address illegal immigration through a guest worker program. As long as there are jobs to be had on this side of the border, people will continue to attempt to cross illegally, and our national security will remain at risk.

I urge my colleagues to move expeditiously on this important piece of legislation, in order to ensure that in a time of new global threats, our Nation's borders are as safe as possible and American citizens are protected.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. BIDEN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mrs. MURRAY, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Ms. STABENOW, and Mr. WYDEN):

S. 543. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environmental and Public Works.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to designate the coastal plain of the Arctic Refuge as wilderness.

America's dependence on foreign oil is an urgent and stubborn problem. But the answer isn't in the ground. It's in our heads. We have to apply the genius of America to engineer a solution to energy independence, not hope that we will magically find one in the deposits under Alaska.

The facts on this are clear. Alaska has at a most 6 month supply of oil—not a drop of which will be available for a decade. The United States Energy Information Administration—part of the Bush administration—itself concluded that full development of the Refuge would reduce our projected dependence on foreign oil from 62 to 60 percent at the very most, and not until 2020.

For that, is it worth forever losing a national treasure, one of our last great wild places? I say no. Instead, I say yes to a smart, forward-looking strategy to wean our economy off its addiction to foreign oil without sacrificing our natural treasures.

Despite my colleagues arguments to the contrary, I believe it is finally established that there is no way—no way—to drill in the Arctic without disrupting and essentially destroying that precious place. For too long, drilling advocates have attempted to raise questions about the impacts of drilling. It is time for the facts to carry the day.

In fact, just today, the National Academies of Science released a report detailing the cumulative impacts of oil development on Alaska's North Slope. The NAS not only found that Arctic oil development has adversely impacted populations of caribou, birds and bowhead whales—more importantly, they said that future drilling would pose grave threats to the Arctic's environmental health. As the report stated in a section entitled "The Essential Trade-Off," the question for Congress is whether the available oil is worth the "inevitable accumulated undesirable effects." With so little impact on our oil dependence predicted, the answer is clearly no.

In every poll, we see that the majority of Americans oppose ruining the Arctic for oil. And, as we established last year, the majority of the U.S. Senate agrees with them. Once and for all, let's respect that desire, and let's protect this precious place. Let's pass this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF PORTION OF ARCTIC NATIONAL WILDLIFE REFUGE AS WILDERNESS.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

"(p) DESIGNATION OF CERTAIN LAND AS WILDERNESS.—Notwithstanding any other provision of this Act, a portion of the Arctic National Wildlife Refuge in Alaska comprising approximately 1,559,538 acres, as generally depicted on a map entitled 'Arctic National Wildlife Refuge—1002 Area, Alternative E—Wilderness Designation, October 28, 1991' and available for inspection in the offices of the Secretary, is designated as a component of the National Wilderness Preservation System under the Wilderness Act (16 U.S.C. 1131 et seq.).".

By Mr. DODD (for himself, Mr. WARNER, Mr. HOLLINGS, Mr. REED, Mr. DASCHLE, Mr. LIEBERMAN, Mrs. CLINTON, Mr. SARBANES, and Ms. LANDRIEU):

S. 544. A bill to establish a SAFER Firefighter Grant Program; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today with my colleagues Senator WARNER, Senator HOLLINGS, Senator REED, Senator DASCHLE, Senator LIEBERMAN, Senator CLINTON, Senator SARBANES, and Senator LANDRIEU to introduce the Staffing for Adequate Fire and Emergency Response, SAFER, Act. This legislation will help to remedy a critical shortage in the fire service and help ensure that America's firefighters have the staffing they need to safely do their jobs.

Every day approximately one million firefighters put their lives on the line to protect the people of our great Nation. I firmly believe that in recognition of that fact, our Nation has an obligation to ensure that the brave men and women of the fire service have the tools, the training, and the staffing they need to do their jobs safely.

In recent years, the Federal Government has recognized that it can and should be a better partner with local firefighters. In 2000, Senator DEWINE, Senator LEVIN, Senator WARNER, and I worked successfully to help create the FIRE Act. This law stood as the first Federal grant program explicitly designed to help fire departments throughout America obtain better equipment, improved training, and needed personnel. Since September 11, 2001, Congress and the administration have provided billions of dollars to help local firefighters purchase equipment and training to respond to acts of terrorism, accidental fires, chemical spills, and natural disasters. Over the last 2 years, the Federal FIRE Act grant initiative has provided nearly half a billion dollars in direct assistance to local fire departments across the country and the FIRE Act will provide another $750 million this year. We are beginning to significantly improve the quality of the equipment available to firefighters in every State and in communities large and small. Unfortunately, the FIRE Act has not improved staffing conditions for America's fire service. Severe staffing shortages still plague departments across the country.

Currently two-thirds of all fire departments operate with inadequate staffing. And the consequences are often tragic. According to testimony by Harold Schaitberger, General President of the International Association of Firefighters, presented before the Senate Science, Technology and Space Subcommittee on October 11, 2001, understaffing has caused or contributed to firefighter deaths in Memphis, Tennessee; Worcester, Massachusetts; Keokuk, Iowa; Pittsburgh, Pennsylvania; Chesapeake, Virginia; Stockton, California; Lexington, Kentucky; Buffalo, New York; Philadelphia, Pennsylvania; and Washington, D.C. In each case, firefighters went into dangerous situations without the support they needed and they paid the ultimate price.

The unfortunate reality is that our local communities have not been able to maintain the level of staffing necessary to ensure the safety of our firefighters or the public. Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined and the budget crises that our state and local governments are enduring has made matters worse. Across the country today, firefighter staffing is being cut and fire stations are even being closed because of state and local budget shortfalls. All of this at a time when the threats of terrorism are placing unprecedented demands on our fire service.

According to a "Needs Assessment Study" recently released by the U.S. Fire Administration, USFA, and the National Fire Protection Association, NFPA, understaffing contributes to enormous problems. For example, USFA and NFPA have found that only 11% of our Nation's fire departments have the personnel and equipment they need to respond to a building collapse involving 50 or more occupants. The USFA and NFPA also found that there are routine problems that threaten the health and safety of our first responders. In small and medium-sized cities, firefighters are too often compelled to respond to emergencies without sufficient manpower to protect those on the ground. More often than not, firefighters in too many of our communities respond to fires with fewer than the four firefighters per truck that is considered to be the minimum to ensure firefighter safety.

The USFA/NFPA study also suggests that shortages of personnel prevent many firefighters from taking time off to receive training and too few departments can afford to hire dedicated training staff. As a result, nearly three-quarters of all fire departments cannot comply with EPA and OSHA regulations that require formal hazardous materials response training for front-line firefighters.

The SAFER Act is a national commitment to hire the firefighters necessary to protect the American people from the consequences of terrorist attacks and from more ordinary, but often equally devastating, events. This legislation will put 75,000 new firefighters on America's streets over the next 7 years and will help provide Americans with the level of protection they need and deserve.

As I have said before, just as we have called up the National Guard to meet the increased need for more manpower in the military, we need to make a national commitment to hire firefighters to protect the American people here at home. In these difficult times, it is both necessary and proper for us to send for reinforcements for our domestic defenders. The SAFER Act will make that commitment.

In closing let me say that this legislation honors America's firefighters. It acknowledges the men and women who charge up the stairs while everybody else is running down them. But it does more than that. This legislation is an investment in America's security, an investment to ensure the safety of our firefighter as well as American families and their homes and businesses.

Both the International Association of Firefighters and the International Association of Fire Chiefs have expressed their strong support for this legislation. I urge my colleagues to join those of us who have introduced this measure today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Staffing for Adequate Fire and Emergency Response Firefighters Act of 2003".

SEC. 2. OFFICE OF GRANT MANAGEMENT.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by redesignating the second section 33 and section 34 as sections 35 and 36, respectively, and by inserting after the first section 33 the following new section:

"SEC. 34. OFFICE OF GRANT MANAGEMENT.

"(a) ESTABLISHMENT.—A new office within the United States Fire Administration shall be established to administer the SAFER Firefighter grant program under this section.

"(b) AUTHORITY TO MAKE GRANTS.—(1) The Administrator may make grants directly to career, voluntary, and combination fire departments of a State, in consultation with the chief executive of the State, for the purpose of substantially increasing the number of firefighters so that communities can meet industry minimum standards to provide adequate protection from acts of terrorism and hazards.

"(2)(A) Grants made under paragraph (1) shall be for 4 years and be used for programs to hire new, additional career firefighters.

"(B) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants those career firefighters hired under paragraph (1).

"(3) In awarding grants under this section, the Administrator may give preferential consideration, where feasible, to applications for hiring and rehiring additional career firefighters that involve a non-Federal contribution exceeding the minimums under paragraph (5).

"(4) The Administrator may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

"(5) The portion of the costs of a program, project, or activity provided by a grant under paragraph (1) may not exceed—

"(A) 90 percent in the first year of the grant;

"(B) 80 percent in the second year of the grant;

"(C) 50 percent in the third year of the grant; and

"(D) 30 percent in the fourth year of the grant,

unless the Administrator waives, wholly or in part, the requirement under this paragraph of a non-Federal contribution to the costs of a program, project, or activity.

"(6) The authority under paragraph (1) of this section to make grants for the hiring of additional career firefighters shall lapse at the conclusion of 10 years from the date of enactment of this section. Prior to the expiration of this grant authority, the Administrator shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Administrator may have for amendments to this section and related provisions of law.

"(c) APPLICATIONS.—(1) No grant may be made under this section unless an application has been submitted to, and approved by, the Administrator.

"(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the Administrator may prescribe by regulation or guidelines.

"(3) In accordance with the regulations or guidelines established by the Administrator, each application for a grant under this section shall—

"(A) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy;

"(B) explain the applicant's inability to address the need without Federal assistance;

"(C) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(D) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support; and

``(E) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

``(4) Notwithstanding any other provision of this section, in relation to applications under this section of units of local government or fire districts having jurisdiction over areas with populations of less than 50,000, the Administrator may waive 1 or more of the requirements of paragraph (3) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

``(d) LIMITATION ON USE OF FUNDS.—(1) Funds made available under this section to States or units of local government for salaries and benefits to hire new, additional career firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

``(2) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

``(3)(A) Total funding provided under this section over 4 years for hiring a career firefighter may not exceed $100,000, unless the Administrator grants a waiver from this limitation.

``(B) The $100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005.

``(e) PERFORMANCE EVALUATION.—(1) Each program, project, or activity funded under this section shall contain a monitoring component, developed pursuant to guidelines established by the Administrator. The monitoring required by this subsection shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

``(2) Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to guidelines established by the Administrator. Such evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required.

``(3) The Administrator may require a grant recipient to submit to the Administrator the results of the monitoring and evaluations required under paragraphs (1) and (2) and such other data and information as the Administrator considers reasonably necessary.

``(f) REVOCATION OR SUSPENSION OF FUNDING.—If the Administrator determines, as a result of the activities under subsection (e), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under subsection (c), the Administrator may revoke or suspend funding of that grant, in whole or in part.

``(g) ACCESS TO DOCUMENTS.—(1) The Administrator shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

``(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

``(h) DEFINITIONS.—In this section, the term—

``(1) 'firefighter' has the meaning given the term 'employee in fire protection activities' under section 3(a) of the Fair Labor Standards Act (29 U.S.C. 203(y)); and

``(2) 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

``(i) AUTHORIZATION OF APPROPRIATIONS.—

``There are authorized to be appropriated for the purposes of carrying out this section—

``(1) $1,000,000,000 for fiscal year 2004;
``(2) $1,030,000,000 for fiscal year 2005;
``(3) $1,061,000,000 for fiscal year 2006;
``(4) $1,093,000,000 for fiscal year 2007;
``(5) $1,126,000,000 for fiscal year 2008;
``(6) $1,159,000,000 for fiscal year 2009; and
``(7) $1,194,000,000 for fiscal year 2010.''.

Mr. WARNER. Mr. President, I am pleased to be joining my colleague Senator DODD in the introduction of the Staffing for Adequate Fire and Emergency Response Act. The SAFER Act establishes a new grant program that will provide direct funding to fire and rescue departments though the new Department of Homeland Security. This funding will help to cover some of the costs associated with hiring and training new firefighters.

Our Nation's fire departments must be able to hire the necessary personnel in order to meet the ever increasing demands on local first responders. Many Americans are not aware of the staffing shortages we may face in our fire and rescue departments. The role of firefighter in our communities is far greater than most realize. They are first to respond to hazardous materials calls, chemicals emergencies, biohazard incidents, and water rescues. These are dangers which our fire rescue personnel deal with on a daily basis.

The National Fire Protection Association, a nonprofit organization which develops and promotes scientifically based consensus codes and guidelines, issued minimum staffing standards of at least four firefighters per apparatus. Furthermore, local departments are expected to comply with Federal Occupational Safety and Health Administration, OSHA, standards, which require a minimum of two qualified firefighters inside and two qualified firefighters outside of a structure fire or similar incident. Except in cases of a known need for rescue, a fire company with less than four personnel cannot enter that structure to fight a fire or respond to an incident until additional firefighters arrive on the scene, ready to go.

I am honored to be an original cosponsor of this important legislation. I encourage my colleagues to support this measure not only because of the firefighters role in our homeland security endeavors, but also in recognition of the critical day-to-day services they provide in our Nation's communities.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 74—TO AMEND RULE XLII OF THE STANDING RULES ON THE SENATE TO PROHIBIT EMPLOYMENT DISCRIMINATION IN THE SENATE BASED ON SEXUAL ORIENTATION

Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. DASCHLE, Ms. LANDRIEU, Mr. BREAUX, Mr. AKAKA, Mr. BIDEN, Mrs. MURRAY, Mr. KERRY, Mr. BAYH, Mr. DURBIN, Ms. STABENOW, Mr. LEVIN, Mr. WYDEN, Mr. KENNEDY, Mr. JEFFORDS, Mr. FEINGOLD, Mr. LAUTENBERG, Ms. COLLINS, Mr. CHAFEE, Mr. HARKIN, Mr. BINGAMAN, Mr. EDWARDS, Mr. SARBANES, Mr. CORZINE, Mr. LEAHY, Mr. LIEBERMAN, Mr. REED, Mr. DAYTON, Mr. NELSON of Florida, Mr. SCHUMER, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Rules and Administration:

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 1 of rule XLII of the Standing Rules of the Senate is amended by striking ``or state of physical handicap'' and inserting ``state of physical handicap, or sexual orientation''.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution to prohibit employment discrimination in the Senate based on sexual orientation.

I would like to thank the Senator from Oregon, Mr. SMITH, as well as my other colleagues who join me in introducing this resolution.

The resolution would amend the Standing Rules of the Senate by adding ``sexual orientation'' to ``race, color, religion, sex, national origin, age, or state of physical handicap'' in the antidiscrimination provision of rule 42, which governs the Senate's employment practices.

By amending the current rule, it would forbid any Senate Member, officer, or employee from terminating, refusing to hire, or otherwise discriminating against an individual with respect to promotion, compensation, or any other privilege of employment, on the basis of that individual's sexual orientation.

Senate employees currently have no recourse available to them should they become a victim of this type of employment discrimination.

If the rules are amended, any Senate employee that encountered discrimination based on their sexual orientation would have the option of reporting it to the Senate Ethics Committee. The Ethics Committee could then investigate the claim and recommend discipline for any Senate Member, officer, or employee found to have violated the rule.

Unfortunately, the Senate is already well behind other establishments of the U.S. Government in this area of antidiscrimination.

By 1996, at least 13 Cabinet level agencies, including the Departments of Justice, Agriculture, Transportation, Health and Human Services, Interior, Housing and Urban Development, Labor, and Energy, in addition to the General Accounting Office, General Services Administration, Internal Revenue Service, the Federal Reserve System, Office of Personnel Management, and the White House had already issued policy statements forbidding sexual orientation discrimination.

In 1998, Executive Order 13087 was issued to prohibit sexual orientation discrimination in the Federal executive branch, including civilian employees of the military departments and sundry other governmental entities.

That Executive order now covers approximately 2 million Federal civilian workers. Yet more than 4 years later, there are still employees of the Senate that are unprotected.

In taking this step toward addressing discrimination, the Senate would join not only the executive branch, but also 308 Fortune 500 companies, 23 State governments and 262 local governments that have already prohibited workplace discrimination based on sexual orientation.

Currently, 65 Senators have already adopted written policies for their congressional offices indicating that sexual orientation is not a factor in their employment decisions.

Now, I urge my colleagues to join me by making this policy universal for the Senate, rather than relying on a patchwork of protection that only covers some of the Senate's employees.

Mr. SMITH. Mr. President, I rise today to join my colleague, Senator FEINSTEIN in submitting a resolution to prohibit employment discrimination in the Senate based on sexual orientation.

Senate rules currently prohibit employment discrimination based on race, color, religion, sex, national origin, age, or state of physical handicap. I believe that it is time for us to add sexual orientation to that list.

As a cosponsor of the Employment Nondiscrimination Act, I have stood behind the principle that employment discrimination against any person is hurtful to society as a whole, and if I am going to hold the private sector accountable for its actions. I should certainly promote the same principles in the U.S. Senate.

It is important to note that the Senate is lagging behind the rest of the Federal Government in prohibiting employment discrimination based on sexual orientation. Since 1996, 13 Cabinet level agencies and the White House have had anti-discrimination policies, and in 1998, President Clinton issued an executive order prohibiting sexual orientation discrimination in the Federal Executive Branch, including civilians in the military. That executive order now covers 2 million Federal employees, but people who work in the Senate do not enjoy those same protections.

Many of my colleagues already have written policies indicating that sexual orientation is not a factor in their employment decisions, and it is past time that we make this non-discrimination policy a part of the Standing Rules of the Senate. I want to thank my friend and colleague, Senator FEINSTEIN, for her leadership in this issue, and urge my colleagues to support this important resolution.

SENATE RESOLUTION 75—COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. ALLARD, Mr. BIDEN, Mr. MILLER, Mr. GREGG, Mr. DORGAN, Mr. LOTT, Mr. DASCHLE, Mr. COCHRAN, Mr. NICKLES, Mr. DAYTON, Mr. KERRY, Mr. INHOFE, Mr. JEFFORDS, Mr. FITZGERALD, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 75

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas more than 145 peace officers across the Nation were killed in the line of duty during 2002, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when 230 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas a number of factors contributed to this reduction in deaths, including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty somewhere in America every other day; and

Whereas on May 15, 2003, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2003, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

Mr. CAMPBELL. Mr. President, today I am joined by the chairman and ranking member of the Senate Judiciary Committee, Senators HATCH and LEAHY, along with 16 other Senators, in submitting this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. Specifically, this resolution would designate May 15, 2003, as National Peace Officers Memorial Day.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the frontlines protecting our communities. Currently, more than 850,000 men and women who serve this Nation as our guardians of law and order do so at a great risk. Every year, about 1 in 15 officers is assaulted, 1 in 46 officers is injured, and 1 in 5,255 officers is killed in the line of duty somewhere in America every other day. There are few communities in this country that have not been impacted by the words: "officer down."

On September 11, 2001, 72 peace officers died at the World Trade Center in New York City as a result of a cowardly act of terrorism. This single act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country. Before this event, the greatest loss of law enforcement in a single incident occurred in 1917, when nine Milwaukee police officers were killed in a bomb blast at their police station.

In 2002, more than 145 Federal, State, and local law enforcement officers gave their lives in the line of duty, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when a total of 230 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care. And, in total, more than 15,000 men and women have made the supreme sacrifice.

The chairman of the National Law Enforcement Officers Memorial Fund, Craig W. Floyd, reminds us that "a police officer is killed in the line of duty somewhere in America nearly every other day. More than 800,000 officers put their lives at risk each and every day for our safety and protection. National Police Week and Peace Officers Memorial Day provide our Nation with an important opportunity to recognize and honor that extraordinary service and sacrifice."

On May 15, 2003, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their fallen comrades who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In doing so, these heroes have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. This resolution is a fitting tribute for this special and solemn occasion.

I urge my colleagues to join us in supporting passage of this important resolution.

SENATE RESOLUTION 76—EXPRESSING THE SENSE OF THE SENATE THAT THE POLICY OF PREEMPTION, COMBINED WITH A POLICY OF FIRST USE OF NUCLEAR WEAPONS, CREATES AN INCENTIVE FOR THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, ESPECIALLY NUCLEAR WEAPONS, AND IS INCONSISTENT WITH THE LONG-TERM SECURITY OF THE UNITED STATES

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 76

Whereas press reports show that the December 31, 2001 Nuclear Posture Review states that the United States might use nuclear weapons to dissuade adversaries from undertaking military programs or operations that could threaten United States interests;

Whereas the Nuclear Posture Review, according to such reports, goes on to state that nuclear weapons could be employed against targets capable of withstanding non-nuclear attack;

Whereas the Nuclear Posture Review is further reported to state that, in setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in immediate, potential, or unexpected contingencies;

Whereas the September 17, 2002 National Security Strategy of the United States of America states that "[a]s a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed," and that "[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively";

Whereas the December 2002 National Strategy to Combat Weapons of Mass Destruction states that "[t]he United States will continue to make clear that it reserves the right to respond with overwhelming force—including through resort to all of our options—to the use of [weapons of mass destruction] against the United States, our forces abroad, and friends and allies";

Whereas United States nuclear policy, outlined in 1978 and restated in 1995 and 2002, includes, in the context of gaining other nations' support for the Treaty on the Non-Proliferation of Nuclear Weapons, a "negative security assurance" that the United States would not use its nuclear force against a country that does not possess nuclear weapons unless that country was allied with a nuclear weapons possessor;

Whereas the Under Secretary of State for Arms Control and International Security, John Bolton, recently announced the Administration's abandonment of the so-called "negative security assurance" pledge to refrain from using nuclear weapons against non-nuclear nations;

Whereas reports about the Stockpile Stewardship Conference Planning Meeting of the Department of Defense, held on January 10, 2003, indicate that the United States is engaged in the expansion of research and development of new types of nuclear weapons;

Whereas this expansion of nuclear weapons research covers new forms of nuclear weaponry that threaten the limitations on nuclear weapons testing that are established by the unratified, but previously respected, Comprehensive Nuclear Test-Ban Treaty;

Whereas these policies and actions threaten to make nuclear weapons appear to be useful, legitimate, first-strike offensive weapons, rather than a force for deterrence, and therefore undermine an essential tenet of nonproliferation; and

Whereas the cumulative effect of the policies announced by the President is to redefine the concept of preemption, which had been understood to mean the right of every state to anticipatory self-defense in the face of imminent attack, and to broaden the concept to justify a preventive war initiated by the United States, even without evidence of an imminent attack, in which the United States might use nuclear weapons against non-nuclear states: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President's policy of preemption, combined with a policy of first use of nuclear weapons, creates an incentive for proliferation of weapons of mass destruction, especially nuclear weapons, and is inconsistent with the long-term security of the United States.

SENATE RESOLUTION 77—EXPRESSING THE SENSE OF THE SENATE THAT ONE OF THE MOST GRAVE THREATS FACING THE UNITED STATES IS THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, TO UNDERSCORE THE NEED FOR A COMPREHENSIVE STRATEGY FOR DEALING WITH THIS THREAT, AND TO SET FORTH BASIC PRINCIPLES THAT SHOULD UNDERPIN THIS STRATEGY

Mr. DASCHLE (for himself, Mr. LIEBERMAN, Mr. BIDEN, Mrs. FEINSTEIN, Mr. DODD, Mr. DURBIN, Ms. MIKULSKI, Mr. EDWARDS, Mr. REID, Mr. AKAKA, Mr. DORGAN, Mr. KERRY, Mr. LEAHY, Mr. CARPER, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. REED, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. KENNEDY, and Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. CORZINE, Mrs. BOXER, Mr. HARKIN, Mr. SCHUMER, Mr. WYDEN, Mr. KOHL, Mr. JOHNSON, Mr. JEFFORDS, and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 77

Whereas on September 17, 2002, President Bush stated that "[t]he gravest danger our Nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination";

Whereas on February 11, 2003, before the Select Committee on Intelligence of the Senate, George Tenet, the Director of Central Intelligence, testified that "[w]e've entered a new world of proliferation . . . Additional countries may decide to seek nuclear weapons as it becomes clear their neighbors and regional rivals are already doing so. The domino theory of the 21st century may well be nuclear";

Whereas Robert S. Mueller, III, the Director of the Federal Bureau of Investigation, stated on February 11, 2003, that "[m]y greatest concern is that our enemies are trying to acquire dangerous new capabilities with which to harm Americans. Terrorists worldwide have ready access to information on chemical, biological, radiological, and nuclear weapons via the internet";

Whereas the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty) addresses a narrow aspect of the threat posed by weapons of mass destruction—deployed strategic nuclear weapons—and fails to address other aspects of the nuclear threat as well as the threat posed by biological or chemical weapons or materials;

Whereas in a recent bipartisan report, former Senators Warren Rudman and Gary Hart concluded that "America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack on U.S. soil";

Whereas the United States Government last month raised the terrorist threat level and, according to the Director of Central Intelligence, did so in part "because of threat reporting from multiple sources with strong al Qaeda ties . . . and to plots that could include the use of radiological dispersion devices as well as poisons and chemicals";

Whereas shortly before the inauguration of President George W. Bush, a bipartisan task force chaired by former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler reported that "the most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home";

Whereas other states of concern continue their drive to acquire a weapons of mass destruction (WMD) capability as evidenced by the observation of the Director of Central Intelligence, in testimony before the Select Committee on Intelligence of the Senate, that the intelligence community has "renewed concern over Libya's interest in WMD";

Whereas the International Atomic Energy Agency (IAEA) has been told by Iran that it will not accept the strengthened safeguard protocol of the Agency and is committed to acquiring the ability to independently produce enriched uranium;

Whereas the Bush Administration has failed to begin direct talks with North Korea in spite of the assessment of the United States Government that North Korea may produce sufficient additional nuclear material for six to eight nuclear weapons within six months and the decision of North Korea to expel IAEA inspectors from the Yongbyon complex, to restart its nuclear reactor, to begin moving formerly secure spent nuclear fuel rods, to leave the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968 (Nuclear Nonproliferation Treaty or NPT), and to test a new cruise missile;

Whereas the December 2002 National Strategy to Combat Weapons Of Mass Destruction states that "[w]eapons of mass destruction represent a threat not just to the United States, but also to our friends and allies and the broader international community. For this reason, it is vital that we work closely with like-minded countries on all elements of our comprehensive proliferation strategy.";

Whereas newspaper accounts of the December 2001 Nuclear Posture Review state that the review concludes the United States might use nuclear weapons to dissuade adversaries from undertaking military programs or operations that could threaten United States interests, that nuclear weapons could be employed against targets able to withstand non-nuclear attack, and that in setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in immediate, potential, or unexpected contingencies;

Whereas the September 17, 2002, National Security Strategy of the United States states that "[a]s a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed" and "[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively";

Whereas General John Shalikashvili, former chairman of the Joint Chiefs of Staff, has stated that "[a]ny activities that erode the firebreak between nuclear and conventional weapons or that encourage the use of nuclear weapons for purposes that are not strategic and deterrent in nature would undermine the advantage that we derive from overwhelming conventional superiority";

Whereas the Under Secretary of State for Arms Control and International Security implied the abandonment by the Bush Administration of the so-called "negative security assurance" pledge to refrain from using nuclear weapons against any non-nuclear nation unless that state was allied with a possessor of nuclear weapons, a policy that had been in place for 25 years and endorsed by successive Republican and Democratic Administrations;

Whereas documents recently made public from the Stockpile Stewardship Conference Planning Meeting of the Department of Defense held on January 10, 2003, indicate that the United States is moving toward expansion of research and development of new types of nuclear weapons and has sought repeal of the ban on research and development of new low-yield nuclear weapons;

Whereas the United States remains dangerously vulnerable to future terrorist attacks, and Bush the Administration has failed to spend homeland security funds provided by Congress and has repeatedly opposed efforts to increase funding for such homeland security activities as State and local first responders, border security, and food and water safety;

Whereas the Bush Administration has repeatedly failed to meet the funding benchmarks recommended by former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler for the nonproliferation programs of the Department of Energy;

Whereas notwithstanding the transformation of the strategic environment after the tragic events of September 11, 2001, a policy that moves toward the goal of the Nuclear Nonproliferation Treaty, and away from the increased reliance on and the importance of nuclear weapons, will serve to further the United States goal of preventing the proliferation of nuclear weapons; and

Whereas in a discussion of the grave threat posed the United States by weapons of mass destruction, President Bush has stated that "[h]istory will judge harshly those who saw this coming danger but failed to act": Now, therefore, be it

Resolved, That it is the sense of the Senate that the grave threat posed by the proliferation of weapons of mass destruction demands that the United States develop a comprehensive and robust nonproliferation strategy, including—

(1) the establishment of a broad international coalition against proliferation;

(2) the prevention of the theft or diversion of chemical weapons from existing stockpiles—

(A) by greatly accelerating efforts to destroy such weapons under the terms of the Chemical Weapons Convention in the United States, Russia, and other nations; and

(B) by strengthening and enforcing existing treaties and agreements on the elimination or limitation of nuclear, chemical, and biological weapons;

(3) the termination of the proliferation of weapons of mass destruction, and the systems to deliver such weapons, by the reinforcement of the international system of export controls and by the immediate commencement of negotiations on a protocol to interdict shipments of such weapons and delivery systems;

(4) an engagement in direct and immediate talks with North Korea, coordinated with United States regional allies, to secure the peaceful end to the nuclear programs and long-range missile programs of North Korea;

(5) the elimination of excess nuclear weapons in Russia, and the security of nuclear materials in Russia and the states of the former Soviet Union, by the end of the decade in order to prevent the theft or sale of such weapons or materials to terrorist groups or hostile states, including for that purpose—

(A) the provision of levels of funding for the nonproliferation programs of the Department of Energy as called for in the report of former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler; and

(B) the provision of increased funding for the Cooperative Threat Reduction (CTR) program of the Department of Defense;

(6) the expansion of the Cooperative Threat Reduction program to include additional states willing to engage in bilateral efforts to reduce their nuclear stockpiles;

(7) the provision of adequate funds for homeland security, including the provision of funds to State, local, and tribal governments to hire, equip, and train the first responders required by such governments; and

(8) the enhancement of the capability of the United States and other nations to detect nuclear weapons activity by the pursuit of transparency measures.

SENATE CONCURRENT RESOLUTION 13—CONDEMNING THE SELECTION OF LIBYA TO CHAIR THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, AND FOR OTHER PURPOSES

Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. CORZINE) submitted the following concurrent resolution; which was ordered held at the desk:

S. CON. RES. 13

Whereas on January 20, 2003, Libya, a gross violator of human rights and State sponsor of terrorism, was elected to chair the United Nations Commission on Human Rights (the "Commission"), a body charged with the responsibility of promoting universal respect for human rights and fundamental freedoms for all;

Whereas according to the rotation system that governs the selection of the Executive Board of the Commission, 2003 was designated as the year for the Africa Group to chair the Commission, and the Africa Group selected Libya as its candidate;

Whereas South Africa's Democratic Alliance spokeswoman, Dene Smuts, was quoted by the British Broadcasting Corporation as saying that the Government of South Africa's decision to support the election of Libya was an insult to human rights and that African countries "should have supported a candidate of whom all Africans could be proud";

Whereas Amnesty International has repeatedly documented that the human rights situation in Libya continues to seriously deteriorate, with systematic occurrences of gross human rights violations, including the extrajudicial execution of government opponents and the routine torture, and occasional resulting death, of political detainees during interrogation;

Whereas Human Rights Watch recently declared that "[o]ver the past three decades, Libya's human rights record has been appalling" and that "Libya has been a closed country for United Nations and nongovernmental human rights investigators";

Whereas Human Rights Watch further asserted that "Libya's election poses a real test for the Commission," observing that "[r]epressive governments must not be allowed to hijack the United Nations human rights system";

Whereas the Lawyers Committee for Human Rights urged that "the Government of Libya should not be entrusted by the United Nations to lead its international effort to promote human rights around the world";

Whereas Freedom House declared that "[a] country [such as Libya] with such a gross record of human rights abuses should not direct the proceedings of the United Nation's main human rights monitoring body" because it would "undermine the United Nation's moral authority and send a strong and clear message to fellow rights violators that they are in the clear";

Whereas on November 13, 2001, a German court convicted a Libyan national for the 1986 bombing of the La Belle disco club in Berlin which killed two United States servicemen, and the court further declared that there was clear evidence of responsibility of the Government of Libya for the bombing;

Whereas Libya was responsible for the December 21, 1988, explosion of Pan American World Airways Flight 103 ("Pan Am Flight 103") en route from London to New York City that crashed in Lockerbie, Scotland, killing 259 passengers and crew and 11 other people on the ground;

Whereas a French court convicted 6 Libyan government officials in absentia for the bombing of UTA Flight 772 over Niger in 1989;

Whereas, in response to Libya's complicity in international terrorism, United Nations Security Council Resolution 748 of March 31, 1992, imposed an arms and air embargo on Libya and established a United Nations Security Council sanctions committee to address measures against Libya;

Whereas United Nations Security Council Resolution 883 of November 11, 1993, tightened sanctions on Libya, including the freezing of Libyan funds and financial resources in other countries, and banned the provision to Libya of equipment for oil refining and transportation;

Whereas United Nations Security Council Resolution 1192 of August 27, 1998, reaffirmed that the measures set forth in previous resolutions remain in effect and binding on all Member States, and further expressed the intention of the United Nations to consider additional measures if the individuals charged in connection with the bombings of Pan Am Flight 103 and UTA Flight 772 had not promptly arrived or appeared for trial on those charges in accordance with paragraph (8) of that Resolution;

Whereas in January 2001, a three-judge Scottish court sitting in the Netherlands found Libyan Abdel Basset al-Megrahi guilty of the bombing of Pan Am Flight 103, sentenced him to life imprisonment, and said the court accepted evidence that he was a member of Libya's Jamahariya Security Organization, and in March 2002, a five-judge Scottish appeals court sitting in the Netherlands upheld the conviction;

Whereas United Nations Security Council Resolutions 731, 748, 883, and 1192 demanded that the Government of Libya provide appropriate compensation to the families of the victims, accept responsibility for the actions of Libyan officials in the bombing of Pan Am Flight 103, provide a full accounting of its involvement in that terrorist act, and cease all support for terrorism;

Whereas Libya remains on the Department of State's list of state-sponsors of terrorism;

Whereas the United States found the selection of Libya to chair the Commission to be an affront to international human rights efforts and, in particular, to victims of Libya's repression and Libyan-sponsored terrorism, and therefore broke with precedent and called for a recorded vote among Commission members on Libya's chairmanship;

Whereas Canada and one other country joined the United States in voting against Libya, with 17 countries abstaining from the recorded vote among Commission members on Libya's chairmanship of the Commission;

Whereas the common position of the members of the European Union was to abstain from the recorded vote on the selection of Libya as chair of the Commission;

Whereas 33 countries ignored Libya's record on human rights and status as a country subject to United Nations sanctions for the terrorist bombing of Pan Am Flight 103 and voted for Libya to lead the Commission;

Whereas the majority of the countries that voted for Libya are recipients of United States foreign aid;

Whereas the selection of Libya to chair the Commission is only the most recent example of a malaise plaguing the Commission that has called into question the Commission's credibility as the membership ranks of the Commission have swelled in recent years with countries that have a history of egregious human rights violations;

Whereas the challenge by the United States to the selection of Libya is part of a broader effort to reform the Commission, reclaim it from the oppressors, and ensure that it fulfills its mandate;

Whereas on January 20, 2003, Ambassador Kevin Moley, United States Permanent Representative to the United Nations and Other International Organizations in Geneva, emphasized that the United States "seek[s] to actively engage and strengthen the moral authority of the Commission on Human Rights, so that it once again proves itself a forceful advocate for those in need of having their human rights protected" and that "[w]e are convinced that the best way for the Commission to ensure the ideals of the Universal Declaration of Human Rights over the long-term is to have a membership comprised of countries with strong human rights records at home";

Whereas a majority of the 53 member states of the Commission are participants in the Community of Democracies and signed the Community of Democracies Statement on Terrorism (the "Statement on Terrorism") on November 12, 2002, at the Second Ministerial Conference of the Community of Democracies held in Seoul, South Korea (the "Seoul Ministerial"), calling upon democratic nations to work together to uphold the principles of democracy, freedom, good governance, and accountability in international organizations;

Whereas the Seoul Ministerial participants declared in the Statement on Terrorism that they "strongly denounced terrorism as a grave threat to democratic societies and the values they embrace[,]...reaffirmed that terrorism constitutes a threat to international peace and security as well as to humanity in general and indeed to the very foundation on which democracies are built[,]" and stated that "[t]he most recent terrorist attacks confirm that international cooperation against terrorism will remain a long-term effort and requires a sustained universal commitment";

Whereas the United Nations sanctions against Libya, though suspended, remain in effect; and

Whereas Libya's continued status as an international outlaw nation and its continued unwillingness to accept responsibility for its terrorist actions provide ample justification for barring Libya from consideration as a candidate for membership in the United Nations Security Council or any other United Nations entity or affiliated agency: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the selection of Libya to chair the United Nations Commission on Human Rights (the "Commission");

(2) commends the President for the principled position of the United States in objecting to and calling for a vote on Libya's chairmanship of the Commission;

(3) commends countries that joined the United States in objecting to Libya's selection as chair of the Commission;

(4) expresses its dismay at the European Union countries' common position of abstention on the critical vote over Libya's chairmanship;

(5) expresses its shock and dismay over the support provided to Libya in its efforts to lead the Commission;

(6) highlights its grave concern over the continuing efforts of countries violating human rights and terrorist countries to use international fora—

(A) to legitimize their regimes; and

(B) to continue to act with impunity;

(7) calls on the President to raise United States objections to such efforts during bilateral and multilateral discussions and to direct pertinent members of the President's Cabinet to do the same;

(8) calls on countries at various stages of democratization to—

(A) demonstrate their commitment to human rights, democracy, peace and security; and

(B) support efforts to reform the Commission;

(9) calls on the President to instruct the Secretary of State to consult with the appropriate congressional committees, within 60 calendar days after the adoption of this resolution, regarding the priorities and strategy of the United States for the 59th session of the Commission on Human Rights and its strategy and proposals for reform of the Commission;

(10) calls on the President to issue an objection to the continued suspension of United Nations sanctions against Libya until the Government of Libya—

(A) publicly accepts responsibility for the bombing of Pan American World Airways Flight 103;

(B) provides appropriate compensation to the victims of the bombing; and

(C) fully complies with all of the other requirements of the United Nations sanctions imposed as a result of Libya's orchestration of the terrorist attack on Pan American World Airways Flight 103; and

(11) calls on the Secretary of State to engage Member States of the United Nations to support efforts to ensure that states that are gross violators of human rights, sponsors of terrorist activities, or subjects of United Nations sanctions are not elected to—

(A) leadership positions in the United Nations General Assembly; or

(B) membership or leadership positions on the United Nations Commission on Human Rights, the United Nations Security Council, or any other United Nations entity or affiliate.

Mr. LAUTENBERG. Mr. President, I rise today to submit a resolution condemning the recent selection of Libya to chair the 59th session of the United Nations Commission on Human Rights. If it was not so tragic, this selection would be a joke. That session begins in just a few days, on March 17.

Joining me as cosponsors are Senators SMITH, KENNEDY, FEINSTEIN, and CORZINE.

The reason I say it would almost be a joke is that it is unconscionable that a human rights abuser such as Libya, and a country that has been the subject of United Nations sanctions because of its links to terrorist activities, would be selected to lead an international human rights organization. Talk about the fox in the chicken coop, this is an exact replication of what that old saw is. Libya has not even complied with the Commission's own recommendations on how to improve its own dismal human rights record.

We are talking about a country that was responsible for downing a passenger airliner and the bombing of a discotheque in Europe.

Libya's selection to the chairmanship undermines the credibility of this

Commission and threatens the international community's responsibility to protect human rights. How can the Commission retain any credibility with Libya at the helm?

I want to review Libya's human rights record over the past three decades, which Human Rights Watch characterizes as "appalling." This record includes the abduction, forced disappearance, and assassination of political opponents. In Libya today, hundreds of people remain arbitrarily detained, and some have been so for over a decade. Human rights monitors have registered concern about the use of physical and psychological torture in detainment, leading to the deaths of some detainees.

Additionally, the Libyan Government restricts freedom of speech, press, assembly, association, and religion.

Does a government with such a record merit the chair of a Commission that was established in 1946, in the wake of the atrocities of World War II, specifically to protect the Universal Declaration of Human Rights? Libya should not chair this Commission. If anything, it should be under investigation by it.

In 2000, after years of investigations and appeals, two Libyan intelligence officers were found guilty by Scottish judges in the attack on Pan Am flight 103, which killed 270 people, including 38 from New Jersey and citizens from over 20 other countries.

Just as the international community was finally sentencing the Libyans responsible for this 1988 tragedy, and beginning to bring them to justice, General Qadhafi was planning Libya's ascent to lead the Commission on Human Rights. He gained the African nomination for chair against the wishes of many fellow African leaders, some of whom are making genuine strides toward improving their countries' human rights records.

At the time, a spokeswoman from South Africa's opposition group, the Democratic Alliance, said:

> African countries should have supported a candidate of whom all Africans could be proud.

For the first time in the history of the Commission on Human Rights, the United States—appalled by the African Union's nomination of Libya—called for a vote. On January 20 of this year, only Canada and one other country joined the United States in voting against Libya's chairmanship. Many of the 33 countries that voted in favor of Libya are recipients of United States direct foreign assistance. Imagine, we are giving them aid, and these countries are supporting the chairmanship of a country that is an abuser of human rights of the first order. Many of our European allies abstained from the vote.

The resolution I am submitting with my colleagues, Senators SMITH, KENNEDY, FEINSTEIN, and CORZINE, condemns Libya's selection as chair. It asserts that the manipulation of the Commission by a gross human rights violator undermines the credibility of the body while legitimizing regimes that continue their oppressive activities.

This resolution calls on countries throughout the world to renew their commitment to human rights. The resolution also calls on the President and the Secretary of State to object strongly to the United Nations' current suspension of its sanctions against Libya. These sanctions should remain in place until Libya complies with the requirements of multiple U.N. resolutions, one of which calls on Libyan leader Muammar Qadhafi to acknowledge responsibility for the 1988 Pan Am terrorism attack—something he has refused to do so far, despite the incontrovertible evidence.

Finally, in this resolution, I call on the Secretary of State to work with other members of the United Nations to reform that Commission and to ensure that governments that violate human rights, sponsor terrorist activities, and are subject to U.N. sanctions cannot be elected to leadership positions in the Commission and other U.N. bodies in the future.

Mr. KENNEDY. Mr. President, it is a privilege to join with my colleague from New Jersey, Senator LAUTENBERG in expressing our deepest concern that Libya will chair the next session of the United Nations Human Rights Commission.

We know that Libya has supported, trained, and harbored some of the most notorious terrorists in the world. Libya is on the Department of State's list of nations that sponsor terrorism. To allow Libya to chair the UN Human Rights Commission is a serious and shameful mistake.

At this difficult time, the United Nations needs the highest possible credibility as it struggles to deal effectively with so many vital issues affecting nations throughout the world.

In fact, Libya continues to be in violation of multiple United Nations resolutions. It still has not complied with Security Council Resolution 748 to "accept complete responsibility for the actions of Libyan officials."

Libya still has not complied with the resolution to "commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and promptly, by concrete actions, demonstrate its renunciation of terrorism." We have received nothing concrete renouncing terrorism.

The international community is still waiting for Libya to accept responsibility for the 1988 bombing of Pan Am Flight 103, a bombing that murdered 270 innocent persons, including 89 Americans and 13 from Massachusetts. Until September 11th, the Pan Am bombing had killed more Americans than any other terrorist atrocity in our history.

Clearly, Libya should not have been appointed to chair an international human rights commission. Yet, in a secret ballot, 33 countries voted in favor of Libya, 17 abstained, and only the United States and Canada voted against Libya.

Fourteen years later, the families and the world community are still trying to find justice. We are still trying to hold Libya accountable for this atrocity, and we are still asking Libya to renounce terrorism and pay appropriate compensation to the victims' families.

Colonel Qadhafi still has not acknowledged that he ordered the attack. The victims still have not been compensated. The Libyans are still demanding that international economic sanctions be lifted, and that the Libyan government receive a clean bill of health on terrorism before it provides compensation to the families.

This choice of Libya should be a wakeup call for this administration. It shows the need for our own genuine participation in the UN—not the arrogant attitude the administration so often uses in its relations with other nations. We cannot expect to have good ties, even with our allies, if we do not treat them with respect.

I urge the Senate to support this proposal that requests President Bush and Secretary of State Powell to object strongly to the UN's current suspension of sanctions against Libya and to work with other members of the UN to reform the Human Rights Commission. Terrorism deserves no support from any nation.

SENATE CONCURRENT RESOLUTION 14—EXPRESSING THE SENSE OF CONGRESS REGARDING THE EDUCATION CURRICULUM IN THE KINGDOM OF SAUDI ARABIA

Mr. SMITH (for himself, Mr. SCHUMER, Mr. CORZINE, Mr. ENSIGN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SANTORUM, Mr. VOINOVICH, and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 14

Whereas the terrorist attacks on the United States on September 11, 2001, were carried out by 19 hijackers, including 15 Saudi Arabian nationals;

Whereas the Government of Saudi Arabia controls and regulates all forms of education in public and private schools at all levels;

Whereas Islamic religious education is compulsory in public and private schools at all levels in Saudi Arabia;

Whereas the religious curriculum is written, monitored, and taught by followers of the Wahhabi interpretation of Islam, the only religious doctrine that the Government of Saudi Arabia allows to be taught;

Whereas rote memorization of religious texts continues to be a central feature of much of the educational system of Saudi Arabia, leaving thousands of students unprepared to function in the global economy of the 21st century;

Whereas the Government of Saudi Arabia has tolerated elements within its education system that promote and encourage extremism;

Whereas some of the textbooks used in schools in Saudi Arabia foster a combination of intolerance, ignorance, and anti-Semitic, anti-American, and anti-Western views;

Whereas these intolerant views make students in whom they are instilled prime recruiting targets of extremist groups;

Whereas extremism endangers the stability of the Kingdom of Saudi Arabia and the Middle East region and threatens global security;

Whereas the events of September 11, 2001, have created an urgent need to promote moderate voices in the Islamic world as an effective way to combat extremism; and

Whereas the Government of Saudi Arabia is currently conducting a review of its education curriculum: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) supports the review by the Government of Saudi Arabia of its education curriculum;

(2) calls on the Government of Saudi Arabia to ensure that such review is thorough, objective, and public;

(3) requests the United States Representative to the United Nations Educational, Scientific and Cultural Organization (UNESCO) to—

(A) address the issue of the educational curriculum reform at the 2003 session of the UNESCO General Conference; and

(B) encourage UNESCO to examine the educational system in Saudi Arabia and monitor the progress of the efforts to reform the curriculum; and

(4) urges the Government of Saudi Arabia to reform its education curriculum in a manner that promotes tolerance, develops civil society, and encourages functionality in the global economy.

Mr. SMITH. Mr. President, I rise today to submit an important resolution on behalf of myself and Mr. SCHUMER that brings to light pervasive messages of intolerance in Saudi Arabia's education curriculum and the need for reform of that curriculum. We are joined in this effort by Mr. CORZINE, Mr. ENSIGN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SANTORUM, Mr. VOINOVICH, and Mr. WYDEN.

There have been recent studies that reveal that school textbooks in Saudi Arabia often foster anti-Semitic, anti-American, and anti-Western views. We might all recall that 15 of the 19 hijackers responsible for the September 11 terrorist attacks were Saudi Arabian nationals. It is absolutely critical that we and others in the United States work to ensure that radical doctrines and messages of hate are not present in any child's education, and that the values taught in Saudi Arabia's schools in particular do not turn innocent children into prime candidates to commit terrorist acts as adults.

There is no question of who is responsible for any messages of hate that might appear in Saudi textbooks. The Saudi Arabian Government controls and regulates all forms of education in public as well as in private schools. The religious curriculum is written, monitored, and taught by followers of the Wahhabi interpretation of Islam—the only religious doctrine the Government of Saudi Arabia allows to be taught.

Our important resolution calls for Saudi Arabia to thoroughly review its education curriculum and to reform it in a manner that promotes tolerance, develops civil society, and encourages functionality in the global economy. It is in the interest of security and peace that we end any educational malpractice in Saudi Arabia that might lead to more tragedy and terror.

Finally, the resolution also calls upon the United States Representative to UNESCO to urge that the U.N. body take up the textbook issue and monitor reform of the education curriculum in Saudi Arabia.

Mr. President, I also urge my respected colleagues to join us in supporting this important legislation.

SENATE CONCURRENT RESOLUTION 15—COMMEMORATING THE 140TH ANNIVERSARY OF THE ISSUANCE OF THE EMANCIPATION PROCLAMATION

Mr. ALLEN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 15

Whereas Abraham Lincoln, the sixteenth President of the United States, issued a proclamation on September 22, 1862, declaring that on the first day of January, 1863, “all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free”;

Whereas the proclamation declared “all persons held slaves within the insurgent States”—with the exception of Tennessee, southern Louisiana, and parts of Virginia, then within Union lines—“are free”;

Whereas, for two and half years, Texas slaves were held in bondage after the Emancipation Proclamation became official and only after Major General Gordon Granger and his soldiers arrived in Galveston, Texas, on June 19, 1865, were African-American slaves in that State set free;

Whereas slavery was a horrendous practice and trade in human trafficking that continued until the passage of the Thirteenth Amendment to the United States Constitution ending slavery on December 18, 1865;

Whereas the Emancipation Proclamation is historically significant and history is regarded as a means of understanding the past and solving the challenges of the future;

Whereas one hundred and forty years after President Lincoln's Emancipation Proclamation, African Americans have integrated into various levels of society; and

Whereas commemorating the 140th anniversary of the Emancipation Proclamation highlights and reflects the suffering and progress of the faith and strength of character shown by slaves and their descendants as an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the historical significance of the 140th anniversary of the Emancipation Proclamation as an important period in the Nation's history; and

(2) encourages its celebration in accordance with the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation.

SENATE CONCURRENT RESOLUTION 16—HONORING THE LIFE AND WORK OF MR. FRED McFEELY ROGERS

Mr. SANTORUM submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 16

Whereas Fred Rogers was born in Latrobe, Pennsylvania, in 1928;

Whereas Fred Rogers earned a degree in music composition, studied child development at the University of Pittsburgh, attended Pittsburgh Theological Seminary, and was ordained a Presbyterian minister;

Whereas Fred Rogers created “Mr. Rogers' Neighborhood” in 1966, and hosted the program through the Public Broadcasting Service (PBS) from 1968 through 2000;

Whereas “Mr. Rogers' Neighborhood” is the longest-running program on PBS;

Whereas “Mr. Rogers' Neighborhood” was created and filmed in Fred Rogers' hometown of Pittsburgh, Pennsylvania;

Whereas Fred Rogers' caring, genuine spirit reflects the values shared by the people of southwestern Pennsylvania and by so many neighborhoods throughout the country;

Whereas “Mr. Rogers' Neighborhood” continues to be a nurturing, educational program for children emphasizing the value of every individual and helping children understand how they fit into their families, communities, and country;

Whereas Fred Rogers was appointed Chairman of the Forum on Mass Media and Child Development of the White House Conference on Youth in 1968;

Whereas “Mr. Rogers' Neighborhood” won 4 Emmy Awards, “Lifetime Achievement” Awards, and 2 George Foster Peabody Awards;

Whereas Fred Rogers won every major award in television for which he was eligible;

Whereas Fred Rogers was inducted into the Television Hall of Fame in 1999;

Whereas President George W. Bush awarded Mr. Rogers the Presidential Medal of Honor in 2002;

Whereas Fred Rogers was also a prolific songwriter and author; and

Whereas Fred Rogers was presented with over 40 honorary degrees from colleges and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors Mr. Fred McFeely Rogers for—

(1) dedicating his career to the educational and imaginative children's program “Mr. Rogers' Neighborhood”;

(2) the accomplishments of this influential program and the emphasis it places on the value of each individual within his or her community; and

(3) the compassionate, moral example he set for millions of American children for over 30 years.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this concurrent resolution to Mrs. Joanne Rogers.

SENATE CONCURRENT RESOLUTION 17—ESTABLISHING A SPECIAL TASK FORCE TO RECOMMEND AN APPROPRIATE RECOGNITION FOR THE SLAVE LABORERS WHO WORKED ON THE CONSTRUCTION OF THE UNITED STATES CAPITOL

Mr. SANTORUM submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 17

Whereas the United States Capitol stands as a symbol of democracy, equality, and freedom to the entire world;

Whereas the year 2003 marks the 203d anniversary of the opening of this historic structure for the first session of Congress to be held in the new Capital City;

Whereas slavery was not prohibited throughout the United States until the ratification of the 13th amendment to the Constitution in 1865;

Whereas prior to that date, African American slave labor was both legal and common in the District of Columbia and the adjoining States of Maryland and Virginia;

Whereas public records attest to the fact that African American slave labor was used in the construction of the United States Capitol;

Whereas public records further attest to the fact that the five-dollar-per-month payment for that African American slave labor was made directly to slave owners and not to the laborer; and

Whereas African Americans made significant contributions and fought bravely for freedom during the American Revolutionary War: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Majority Leader of the Senate and the Speaker of the House of Representatives shall establish a special task force to include the Historian of the Senate, the Historian of the House of Representatives, the Architect of the Capitol, and the Librarian of Congress, to study the history and contributions of these slave laborers in the construction of the United States Capitol; and

(2) such special task force shall produce a summary document of the contributions of slave laborers and available research for the public, and shall recommend to the Majority Leader of the Senate and the Speaker of the House of Representatives an appropriate recognition for these slave laborers which could be displayed in a prominent location in, or near, the United States Capitol.

AMENDMENTS SUBMITTED & PROPOSED

SA 250. Mr. DURBIN proposed an amendment to the resolution of ratification for Treaty Doc. 107-8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002.

TEXT OF AMENDMENTS

SA 250. Mr. DURBIN proposed an amendment to the resolution of ratification for Treaty Doc. 107-8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) COMPLIANCE REPORT.—Not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on the compliance of the President with the requirements of condition (a)(8) of the resolution of ratification of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), which states that "[in] as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor (A) the numbers of nuclear stockpile weapons on the territory of the parties to [the START Treaty]; and (B) the location and inventory of facilities on the territory of the parties to [the START Treaty] capable of producing or processing significant quantities of fissile materials".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 18, 10:00 a.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to receive testimony regarding water supply issues in the arid west. (Contact: Shelly Randel at 202-224-7933 or Jared Stubbs at 202-224-7556).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 6, 2:30 p.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 212, a bill authorizing the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer and for other purposes; and S. 220 and H.R. 397, bills to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois. (Contact: Shelly Randel regarding S. 212 at 202-224-7933, Kellie Donnelly regarding S. 220 and H.R. 397 at 202-224-49360 or Jared Stubbs at 202-224-7556).

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, March 5, 2003, at 10:00 a.m., to hear testimony on the Administration's Trade Agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 5, 2003, at 10:30 a.m., to hold a Top Secret Briefing on the Turkish Aid Negotiations and Developments in Northern Iraq.

Briefers: The Honorable Beth Jones, Assistant Secretary for European Affairs, Department of State; The Honorable Earl Anthony Wayne, Assistant Secretary for Economic & Business Affairs, Department of State; The Honorable Ryan C. Crocker, Deputy Assistant Secretary for Near Eastern Affairs, Department of State; Mr. Ian Brzezinksi, Deputy Assistant Secretary for European and NATO Affairs, Department of Defense; and Major General Dunne, Vice Director, J-5, The Joint Staff, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 5, 2003, at

3 p.m., to hold a hearing on Tax Convention with the United Kingdom (T.Doc. 107-19) and Protocols Amending Tax Conventions with Australia (T.Doc. 107-20) and Mexico (T.Doc. 108-3).

Witnesses

Panel 1: Ms. Barbara M. Angus, International Tax Counsel, Department of the Treasury, Washington, DC Mr. David Noren, Legislation Counsel, Joint Committee on Taxation, Washington, DC.

Panel 2: The Honorable William Reinsch, President, National Foreign Trade Council, Inc., Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, March 5, 2003, at 10 a.m., for a business meeting to consider S. 380 and also pending nominations before the Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 5, 2003, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a BUSINESS MEETING on pending Committee business, to be followed immediately by a HEARING on the President's FY 2004 Budget for Indian Programs

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The Asbestos Litigation Crisis Continues—It is Time for Congress to Act" on Wednesday, March 5, 2003, at 2 p.m. in Hart Senate Office Building Room 216.

Panel I: The Honorable MAX BAUCUS, U.S. Senator [D-MT], Washington, DC; The Honorable GEORGE V. VOINOVICH, U.S. Senator [R-OH], Washington, DC.

Panel II: Melvin McCandless, Williamston, NC; Brian Harvey, Vashon, WA; David Austern, Esq., President, Claims Resolution Management, General Counsel for the Manville Personal Injury Settlement Trust, Fairfax, VA; Dennis Archer, Esq., President-Elect, American Bar Association, Washington, DC; Jonathan Hiatt, Esq., General Counsel, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Washington, DC; Steven Kazan, Esq., Partner, Kazan, McClain, Edises, Abrams, Fernandez, Lyons & Farrise, Oakland, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the subcommittee on Communications be authorized to meet on Wednesday, March 5, 2003, at 9:30 a.m. on E911.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Paul Veidenheimer, a fellow on my staff, be granted the privileges of the floor for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I ask unanimous consent that Jason Hamm, a presidential management intern for the Committee on Foreign Affairs Committee, be given floor privileges during the debate on the Moscow Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING MR. FRED McFEELY ROGERS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 16 submitted earlier today by Senators SANTORUM and SPECTER.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 16) honoring the life and work of Mr. Fred McFeely Rogers.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SPECTER. Mr. President, I have sought recognition to pay tribute to Mr. Fred Rogers, the beloved host of the Public Broadcasting Service, PBS children's television program, Mister Rogers' Neighborhood.

For more than 30 years, America has been fortunate to have one of the most caring and dedicated neighbors in Mr. Rogers. His soft-spoken and patient manner put viewers at ease and allowed Mr. Rogers to courageously address adult topics such as death, divorce, and anger. The neighborhood of make believe residents helped to illustrate differences in people and teach children the importance of cooperation. From King Friday and Queen Sara Saturday to Henrietta Pussycat and Daniel Stripped Tiger, diversity, tolerance, and problem solving were not only taught, but celebrated.

Mr. Rogers is a role model for people and parents everywhere. His ability to communicate with children offered them a place, every morning, where they felt accepted and understood. Mr. Rogers, dressed in his signature cardigan sweater and tying his tennis shoes, often sang the song "You Are Special" in which he said, "You are my friend. You are special to me. You are the only one like you. Like you, my friend, I like you." I cannot think of a more important lesson to teach children than the lesson of self-esteem. Mr. Rogers taught self-esteem, but he was never limited in his lessons. Just as importantly, he helped his viewers explore subjects they were curious about and develop their own sense of self and creativity through imagination, all the while helping to teach self-discipline.

Mr. Rogers was much more than simply a great neighbor. Born in Latrobe, PA, on March 20, 1928, Fred Rogers began his television career in New York City in 1951. With a music composition degree from Rollins College, Mr. Rogers served as an apprentice at NBC managing the musical selections for some of the network's earliest shows. In 1953, after marrying college sweetheart Sara Joanne Byrd, Mr. Rogers returned to Pennsylvania to develop programming at WQED in Pittsburgh. It was at WQED that Mr. Rogers' Neighborhood really flourished. After working as a puppeteer, Mr. Rogers had the opportunity to develop his own 15 minute segment that eventually became the Mr. Rogers Neighborhood that America knows and loves today. Over thirty years and almost 900 episodes later, the messages that Mr. Rogers delivered are as vital now as they were in 1960.

Mr. Rogers' accomplishments reach far beyond the boundaries of the neighborhood. Ordained by the Pittsburgh Presbytery in 1962, Mr. Rogers was active in child and family advocacy on all levels. In 1972, Mr. Rogers formed Family Communications, Inc. to produce educational entertainment for children and families and resources for teachers. Mr. Rogers most recently partnered with the Western Pennsylvania Caring Foundation to establish the Caring Place for grieving children in an effort to make sure that children who experienced a loss did not feel so alone.

During his career of service to children, families, and communities, Mr. Rogers was the recipient of two George Foster Peabody Awards, four Emmys, and two "Lifetime Achievement Awards" from the National Academy of Television Arts and Sciences and the TV Critics Association. In July 2002, Mr. Rogers was awarded the Presidential Medal of Freedom—the Nation's highest civilian honor—for his dedication to the well-being of children and for a career that demonstrates the importance of kindness, compassion, and learning. All of these awards added to the 30 honorary degrees that Mr. Rogers received throughout the years.

Mr. Rogers was no stranger to Capitol Hill. After testifying before the

Senate in 1969, Mr. Rogers made an almost annual visit to Capitol Hill to express how deeply he believed in the importance of education. I was honored to have Mr. Rogers as a guest in my office during his many visits to the Senate. While walking around the U.S. Capitol with him, my Senate colleagues and their staff flocked to Mr. Rogers as if he were royalty, which he most certainly was. Always kind enough to stop and say hello or pose for a picture, Mr. Rogers truly epitomized the quintessential teacher, father, friend, guide, and neighbor.

Mr. Rogers' ability to talk about the things that really matter in childhood have made him an inspiration to two generations of children already, and to countless generations to come. Our nation's children are better today for having had the counsel and wisdom of Pittsburgh's own Mr. Rogers. All of us were truly fortunate to have had the best neighbor in Mr. Rogers.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 16) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 16

Whereas Fred Rogers was born in Latrobe, Pennsylvania, in 1928;

Whereas Fred Rogers earned a degree in music composition, studied child development at the University of Pittsburgh, attended Pittsburgh Theological Seminary, and was ordained a Presbyterian minister;

Whereas Fred Rogers created "Mr. Rogers' Neighborhood" in 1966, and hosted the program through the Public Broadcasting Service (PBS) from 1968 through 2000;

Whereas "Mr. Rogers' Neighborhood" is the longest-running program on PBS;

Whereas "Mr. Rogers' Neighborhood" was created and filmed in Fred Rogers' hometown of Pittsburgh, Pennsylvania;

Whereas Fred Rogers' caring, genuine spirit reflects the values shared by the people of southwestern Pennsylvania and by so many neighborhoods throughout the country;

Whereas "Mr. Rogers' Neighborhood" continues to be a nurturing, educational program for children emphasizing the value of every individual and helping children understand how they fit into their families, communities, and country;

Whereas Fred Rogers was appointed Chairman of the Forum on Mass Media and Child Development of the White House Conference on Youth in 1968;

Whereas "Mr. Rogers' Neighborhood" won 4 Emmy Awards, "Lifetime Achievement" Awards, and 2 George Foster Peabody Awards;

Whereas Fred Rogers won every major award in television for which he was eligible;

Whereas Fred Rogers was inducted into the Television Hall of Fame in 1999;

Whereas President George W. Bush awarded Mr. Rogers the Presidential Medal of Honor in 2002;

Whereas Fred Rogers was also a prolific songwriter and author; and

Whereas Fred Rogers was presented with over 40 honorary degrees from colleges and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors Mr. Fred McFeely Rogers for—

(1) dedicating his career to the educational and imaginative children's program "Mr. Rogers' Neighborhood";

(2) the accomplishments of this influential program and the emphasis it places on the value of each individual within his or her community; and

(3) the compassionate, moral example he set for millions of American children for over 30 years.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this concurrent resolution to Mrs. Joanne Rogers.

MEASURE INDEFINITELY POSTPONED—S. CON. RES. 12

Mr. BENNETT. Mr. President, I ask unanimous consent that S. Con. Res. 12 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Oregon (Mr. SMITH) as Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 108th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 108th Congress.

The Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Mississippi (Mr. COCHRAN) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the 108th Congress.

ORDERS FOR THURSDAY, MARCH 6, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, March 6. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period for morning business until the hour of 10 a.m., with the time equally divided between Senators HAGEL and DORGAN. I further ask unanimous consent that at 10 a.m., the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a Circuit Court Judge for the DC Circuit, and that the time until the hour of 10:30 a.m. be equally divided between the chairman and the ranking member of the Judiciary Committee or their designees; provided further, that at 10:30 a.m., the Senate proceed to the vote on the motion to invoke cloture on the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, tomorrow morning the Senate will be in a period for morning business until 10 a.m. Following morning business, the Senate will return to the Estrada nomination. At 10:30 a.m., the Senate will vote on the motion to invoke cloture on this important nomination. If cloture is not invoked on the nomination, the Senate will then resume consideration of the Moscow Treaty. Additional amendments are expected to the resolution of ratification and, therefore, Senators should anticipate votes throughout the day. The Senate will complete action on the Moscow Treaty this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:14 p.m., adjourned until Thursday, March 6, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 5, 2003:

DEPARTMENT OF STATE

ROLAND W. BULLEN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

WAYNE E. NEILL, OF NEVADA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

STEPHEN D. MULL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

DEPARTMENT OF JUSTICE

DIANE M. STUART, OF UTAH, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE. (NEW POSITION)

THE JUDICIARY

MICHAEL CHERTOFF, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE MORTON I. GREENBERG, RETIRED.

RICHARD C. WESLEY, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE PIERRE N. LEVAL, RETIRED.

STEPHEN C. ROBINSON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE JOHN S. MARTIN, JR., RETIRED.

P. KEVIN CASTEL, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LAWRENCE M. MCKENNA, RETIRED.

SAMUEL DER-YEGHIAYAN, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE MARVIN E. ASPEN, RETIRED.

EXTENSIONS OF REMARKS

RECOGNIZING VERONICA CHRISTIANSEN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Veronica Christiansen, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 472, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration, 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip, 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills, 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting, and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Veronica refurbished and painted a playground.

Mr. Speaker, I proudly ask you to join me in commending Veronica Christiansen for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

HEART DISEASE IN AMERICA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BACA. I would like to take the opportunity to thank Congresswoman JULIA CARSON for helping bring awareness to heart disease. Heart disease is America's number one cause of death. That fact alone is distressing but coupled with the fact that many cases of heart disease are preventable makes the issue catastrophic. Approximately 108 million Americans are overweight. 44 million are obese. This nation has got to do better about taking care of our health not only for our own lives, but also for the lives of our children.

Children in America are learning bad habits. They are not being exposed to the proper diets or the necessary physical activity. Too often children sit idle throughout a school day and then return home to once again sit idly in front of a TV playing a video game. We need to learn the lesson that stimulation of the muscles and body are just as important as stimulation of the mind. Cases of heart disease will only continue to increase until we make a conscious effort to offer better nutrition in schools, access to health education, and more access to physical activity.

This month is American Heart Month and the American Heart Association wants us all to learn the warning signs of a heart attack, because so often people ignore the signs and the situation becomes fatal. This message is important and we should help bring more attention to this life saving information. However, we should not rely on warning signs alone to save our lives. Prevention is essential.

Heart Disease is not an issue that can be ignored by certain segments of the population. It is not a Caucasian disease, an African-American disease or a Latino disease. It is a disease that affects everyone! It is the leading cause of death for all Americans! That is why we must all come together to make a change collectively!

TRIBUTE TO THE LATE BOB BILLINGS OF LAWRENCE, KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MOORE. Mr. Speaker, on February 13th the city of Lawrence, Kansas, lost one of its most influential and visionary leaders with the death of Bob Billings.

The leading developer in Douglas County, Kansas, Bob Billings, more than any other individual, was responsible for the growth and development of suburban, west Lawrence. Most notably, he designed and developed the Alvamar development: more than 3000 acres of residential and commercial property, a nationally recognized public golf course and a country club complex.

Mr. Speaker, I am placing into the RECORD two articles concerning Bob Billings from The Lawrence Journal World: his obituary, and an article describing his recent memorial service. I join with Bob Billings' many friends and business colleagues in mourning his passing and in expressing deep sympathy to Beverly Billings for the loss of her husband.

[From the Lawrence Journal-World, Feb. 14, 2003]

ALVAMAR DEVELOPER DIES: FRIENDS RECALL "VISIONARY" DEEDS

(By Ann Gardner)

Bob Billings, a Kansas University alumnus who changed the face of Lawrence with his work as a developer, philanthropist and community leader, died Thursday at home. He was 65.

As President of Alvamar, Inc., Billings helped lead the development of thousands of acres in west Lawrence. As a student athlete at Kansas University, he was a player on the 1957 Jayhawk basketball team that made it to the NCAA championship game. And as a man, friends and business associates said Thursday, his optimism and humanity touched many lives.

His most obvious legacy, though, is the development Billings created in partnership with Realtor John McGrew and Mel Anderson. Alvamar encompasses more than 3,000 acres of residential and commercial property, a nationally recognized public golf course and the Alvamar Country Club complex.

"There is a quality of life around here that would not exist if he had not been the active, optimistic, visionary, enthusiastic person he was," McGrew said. "Bob was the best, the absolute best in just about everything. . . . I think history will say that Bob was one of the major influences for good in this area and the state."

Douglas County Administrator Craig Weinaug remembered Billings as different from many developers. "In negotiations with developers or somebody in the development business, normally you have to be very careful, to be sure the public interest is protected.

"With Bob, he'd often be pointing out to us the things we needed to do to protect the public interest, often to his own detriment. He was a man with an incredible amount of integrity and with an incredible love for Lawrence, and the physical evidence of that will be permanently with us through the things he accomplished."

Funeral arrangements are pending at Warren-McElwain Mortuary.

Billings was raised in Russell, where he grew up in a house across the street from the home of Bob Dole, the future senator.

At Russell High School, Billings was a student leader and athlete. He was president of the high school student council and a delegate to Kansas Boys State. He also played basketball, football and ran track all four years in high school. As a senior in 1955, he was co-captain of the football team and was named the Kansas High School Basketball Player of the Year.

Billings came to Lawrence that fall to attend Kansas University. He stayed to become one of the city's most active community leaders.

At the university, he was a guard and played with Wilt Chamberlain on the basketball team that battled for the national championship. He was student body president, president of his fraternity and a member of Phi Beta Kappa.

His leadership at KU and in the community brought him many honors, including KU's Distinguished Service Citation in 1988 and the KU Alumni Association's Ellsworth Medallion in 1984. His honors in the community included the 1989 Leadership Lawrence Don Volker Award for community leadership, the Lawrence Chamber of Commerce

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Citizen of the Year award in 2002 and Kansan of the Year award from the Native Sons and Daughters of Kansas in 1989.

In addition to Alvamar, Billings was the developer of Oread West Corporate and Research Park and served on a number of corporate boards, including American Investors Life Insurance, Kansas Public Service, Reuter Organ Co. and University State Bank.

Billings' title at Alvamar Inc. was president and chairman of the board, but in a July 1999 interview he described himself as "just general flunkie."

"We have a lot of development partnerships," he said. "It's a total of about 3,000 acres—2,000 already developed, with another 800 to 1,000 acres to go. There's a lot going on out here."

Despite the massive project, Billings always downplayed his role in Lawrence's westward expansion.

"Lawrence is just good. We're just fortunate to be a very small part of what's going on," he said.

The name of his development honored his parents, Alva and Margaretta.

POSITIVE ATTITUDE

Billings was remembered Thursday by friends for his positive attitude and many contributions to Lawrence and the university.

"If Bob, as bad as he might feel, could look out the window today, he'd remark about what a great day it was and put some kind of positive spin on it," said Jerry Waugh, who coached Billings on the KU basketball team and later worked for his corporation. "I never saw him down in the many years I knew him and he remained that way to the end, always up, always inspiring others and never seeing any dark side."

Monte Johnson, a former KU athletic director who had known Billings since both men were freshmen at KU, called his former teammate a "generous, caring considerate, unselfish, positive, forward-thinking human being."

"My sense of loss is tremendous, but far greater is the loss to his family, KU, Lawrence, the state and humanity in general," Johnson said. "There is no way to replace him, yet it is so important to remember his legacy and, for the rest of us and those who follow, to try to measure up to the incredible standards of outstanding citizenship and friendship he set."

Friendship was the focus of many memories expressed Thursday. Billings' friends Nelson and Judy Krueger remembered a telephone call from Billings and his wife, Beverly, after the Kruegers' grandson was killed in a traffic accident. "It was the most meaningful call," Nelson Krueger said. "They left a voice mail, and they couldn't talk; they could only cry. Bob planted a tree at Alvamar in honor of Jack within a week after Jack died."

Krueger also shared a number of photos reproduced in today's Journal-World, including one of a children's fishing contest Billings sponsored every Memorial Day at a lake on the Alvamar Golf Course. Billings didn't want any child to go away without a prize, so he gave prizes for the biggest fish, the ugliest fish, the wettest fish, anything he could think of, Krueger said. "He wanted everyone to be a winner.

Another friend, attorney Jerry Cooley, also remembered his unselfish attitude. "He has been a great benefactor to the city of Lawrence and Douglas County," Cooley said. "His developments have been prize winners for the community, and he did that without great personal gain. He plowed back into the community what others may have taken as profit."

Don Johnston, a banker and former executive of Maupintour Inc., said Billings created more than brick and mortar.

"He was a builder not just of structures but of character and goodness," Johnston said. "I'm not sure he ever had a negative thought in his life. He could dream, inspire, make things happen and make people feel good while they were striving for something positive."

Waugh, Billings' former coach, recalled, "Bob was a student of history and always remembered what Abraham Lincoln's mother told him: 'Be somebody.' Bob's mother, Margaretta, was as supportive as a mother could be and, in effect, had relayed that concept to her son. He didn't fail her. Bob, absolutely, was somebody."

[From the Lawrence Journal-World, Feb. 22, 2003]

FRIENDS CELEBRATE MEMORIES OF BILLINGS

(By Leita Walker)

Bob Billings couldn't say no.

"A friend of mine once said that if Bob had been female, he would have been pregnant all the time," said Monte Johnson, who spoke Friday at a memorial service for Billings, who died Feb. 13.

Billings couldn't turn down charities.

He always wanted to help out with even the craziest of business ventures.

And students in need were his weak spot.

"He exemplified all that's good in a person and practiced it every day," Johnson told the more than 1,000 people who attended the service at the Lied Center.

The occasion was a solemn one, but, as shown by Johnson's remarks, it was not without humor. Giant red and purple flower arrangements complete with sunflowers and wheat stalks festooned the stage, and Jayhawk-adorned basketballs helped decorate tables in the lobby.

Guests included Kansas University administrators, coaches and athletes; city officials; and scores of friends and business associates.

Catered refreshments greeted everyone as they left the auditorium, and soon the Lied Center lobby was filled with conversation—and laughter.

Billings wanted the service to be a celebration, his friends and family said.

By the time he died of cancer at age 65, Billings had accomplished more than most people dream.

The Russell native played on the 1957 KU basketball team that made it to the NCAA championship game, and he served as student body president.

He developed thousands of acres in west Lawrence, and he was president of Alvamar Inc., which includes 3,000 acres of residential and commercial property, a nationally recognized public golf course and the Alvamar Country Club complex.

"He was Mr. Everything," Johnson said.

But Friday, his humanity was the focus, and his accomplishments came second.

When Billings met someone, he always had a handshake ready, said his nephew Jim Billings.

"Great to see you," he would say. "How are you doing? Super."

He knew everyone's name, Jim Billings said, and yet the man who did so much for Lawrence was also human.

"His humanness should give us hope that any one of us could become more like Bob," he said.

He was a developer not just of property but of people and of communities, said the Rev. Butch Henderson.

And longtime friend John McGrew said, "Some people are generous with their time, some with their money. Bob was generous with both."

IN RECOGNITION OF MRS. JOSEPHINE HAMMARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PALLONE. Mr. Speaker, I would like to call the attention of my colleagues to a friend of the Sixth District of New Jersey. Mrs. Josephine Hammary, is an outstanding individual, who is being honored for her many accomplishments by the National Council of Negro Women.

Mrs. Hammary is being recognized for the many years of service she has devoted to her community. Throughout her life, Mrs. Hammary has volunteered much of her time to working with various religious and social organizations designed to enrich the lives of her fellow citizens.

Mrs. Hammary is an active and devoted member of the Martin Luther King Presbyterian Church where she has served on the Board of Elders, the Board of Deacons, the Stewardship Committee, and the Sunday School Ministry. Mrs. Hammary was also elected to preside over the Presbyterian Women's Organization as its President, where she proved herself as an effective leader. Currently, Josephine Hammary serves on the Christian Outreach Missions and the Christian Education Committee, as well as Recording Secretary of the National Council of Negro Women's North Shore.

Through her work with these numerous organizations, Mrs. Hammary has fostered a sense of community in her area and strived to help those less fortunate than herself. On this day I would like to honor the distinguished Mrs. Josephine Hammary for her extraordinary service to her community. I ask my colleagues to join with me in commending her in this dedication.

HONORING DETECTIVE MICHAEL CALVIN

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ISRAEL. Mr. Speaker, I rise to pay tribute to an exemplary member of the Long Island community.

The Suffolk County Police Department consistently shows us the best and most heroic that Long Island has to offer. For the past thirty-five years Detective Michael Calvin served as an admirable member of that department, first as an exceptional undercover officer with the Rackets Bureau, and then as a detective with the Homicide Squad. Over the years, Detective Calvin worked as the lead detective on numerous murder investigations, including the murder of Claudia Broder of Moriches, by her son-in-law, Ralph Farino. He has made a lasting impact on the safety of Long Island residents.

On January 6, 2003, Detective Michael Calvin retired from the Suffolk County Police Department. He will be sorely missed by his colleagues and by the community that has depended on his hard work to keep them safe for so many years. I come to this floor to out of respect and offer my congratulations and best wishes.

Mr. Speaker, Suffolk County owes a debt of gratitude to Detective Michael Calvin.

THE NECESSITY OF ENDING DOMESTIC VIOLENCE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. FARR. Mr. Speaker, I rise today to call attention to an ongoing battle that is waged day-to-and minute-to-minute in our country. Largely perpetrated in silence, domestic violence is an overwhelming problem that affects every community and that transcends race, language, nationality, culture, sexual orientation, religion, economics, and gender. Too often, domestic violence is viewed as a women's issue, when in reality this is an issue that affects every aspect of our society: women, men, children, and communities as a whole. Domestic violence is an unacceptable reality and I believe that individuals must commit themselves to fighting this battle, which so often strikes at the very heart of our families.

In order to effectively decrease the incidence of domestic violence, full funding for the Violence Against Women Act (VAWA) of 2000 is essential. VAWA funds programs that assist battered women and their children. President Bush's FY04 budget cuts $19 million from VAWA programs. This cut will have a profoundly negative effect on the victims of domestic violence who need the support of these programs to stop the cycle of violence in their lives. I support Congressional action to restore the cuts made to the VAWA programs in President Bush's budget, in order to continue to provide essential services to those who need our help the most.

Last year Congress passed, and the President signed, the DOJ Reauthorization Act (PL 107–273), which included the Violence Against Women Office Act. This statute established an Office on the Violence Against Women as a separate and distinct office that would ensure that the implementation of the Violence Against Women Act is a high priority for the Department of Justice. Attorney General Ashcroft has failed to create this office. His inaction amounts to a systematic disregard for the full implementation of this law. I would encourage all of my colleagues to join me in urging Attorney General Ashcroft to establish a separate Office on Violence Against Women to fulfill both the spirit and the letter of the law.

TRIBUTE TO RAMON G. NUNEZ

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Ramon G. Nunez, publisher of the Tampa Record and a passionate political activist who lived every moment of his life with tremendous tenacity and enthusiasm.

Ramon was known across Tampa Bay for his remarkable work ethic and positive attitude, but it was his love for people that paved his way in the political community. Ramon received his first break by working for gubernatorial candidate Fuller Warren. He made such an impression that when Warren became Governor, he gave Ramon his first governmental job. Ramon spent the next 60 years in the center of Tampa politics, earning the respect of many political figures.

However, Ramon made his greatest mark on the Tampa Bay community through his many newspaper publications. Ramon was associated with or owned several weekly publications such as: Ybor City Sunday News, Tampa Interbay News, Tampa Interbay Record, La Tradduccion Prensa and the Tampa Record.

Despite all of his commitments in the community, Ramon, the father of five daughters, always found time for family. I would like to express my heartfelt sympathies to Ramon's family. Ramon Nunez will be remembered in Tampa Bay as a hard working, fiercely loyal and very warm blooded pillar of our community. The Tampa Bay area will miss him greatly.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 6, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 7

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the employment situation, focusing on U.S. labor markets, unemployment benefits, and the President's proposal for re-employment accounts.
SD–628

MARCH 10

2 p.m.
Aging
To hold hearings to examine America's health care system.
SD–628

MARCH 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine Medicare outlier payments to hospitals.
SD–192

10 a.m.
Energy and Natural Resources
To hold hearings to examine oil, gas, Hydrogen, and conservation, focusing on federal programs for energy efficiency and conservation.
SD–366

Finance
To hold hearings to examine defined benefit pension plans.
SD–215

Aging
To hold hearings to examine aging, focusing on fitness and nutrition.
SD–628

2:30 p.m.
Armed Services
Personnel Subcommittee
To hold hearings to examine active and reserve military and civilian personnel programs in review of the Defense Authorization Request for Fiscal Year 2004.
SR–232A

MARCH 12

10 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings to examine proposed budget estimates for fiscal year 2004 for defense programs, focusing on worldwide threats to the United States.
S–407 Capitol

Judiciary
Immigration Subcommittee
Technology, Terrorism, and Government Information Subcommittee
To hold joint hearings to examine border technology, focusing on keeping terrorists out of the United States.
SD–226

Indian Affairs
To hold hearings to examine Indian health legislation.
SR–485

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars.
345 Cannon Building

2 p.m.
Judiciary
To hold hearings to examine pending nominations.
SD–226

2:30 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for

the Department of Energy Office of Energy and Efficiency and Renewable Energy, Office of Science, and the Office of Nuclear Energy Science and Technology.

SD–124

Foreign Relations

To hold hearings to examine regional implications of the changing nuclear equation on the Korean Peninsula.

SH–216

3 p.m.

Armed Services

Airland Subcommittee

To hold hearings to examine Army transformation in review of the Defense Authorization Request for fiscal year 2004 and the Future Years Defense Program.

SR–232A

MARCH 13

9:30 a.m.

Armed Services

To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.

SH–216

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Federal Transit Administration.

SD–538

Energy and Natural Resources

To hold hearings to examine the impact of fires in 2002 and then look forward to the potential 2003 fire season.

SD–366

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reserve Association, and the Air Force Sergeants Association.

345 Cannon Building

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold oversight hearings to examine the designation and management of National Heritage Areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, federal and non-federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.

SD–366

MARCH 18

10 a.m.

Energy and Natural Resources

To hold oversight hearings to examine water supply issues in the Western United States.

SD–366

Health, Education, Labor, and Pensions

To hold hearings to examine the Mammography Quality Standards Act.

SD–430

MARCH 19

9:30 a.m.

Judiciary

To hold hearings to examine ethical regenerative medicine research and human reproductive cloning.

SD–226

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Indian Affairs

Business meeting to consider pending calendar business; to be followed by hearings on Indian energy legislation.

SR–485

MARCH 20

9:30 a.m.

Armed Services

To hold hearings to examine atomic energy defense activities of the Department of Energy, in review of the Defense Authorization Request for Fiscal Year 2004.

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Washington Teacher's Union.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.

345 Cannon Building

MARCH 26

9:30 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.

SR–485

MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine terrorism, focusing on public health response.

SD–430

APRIL 2

10 a.m.

Indian Affairs

Business meeting to consider pending calendar business; to be followed by hearings on Indian Health Care Reauthorization Act legislation.

SR–485

HOUSE OF REPRESENTATIVES—*Thursday, March 6, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. HEFLEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 6, 2003.

I hereby appoint the Honorable JOEL HEFLEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, Creator of the world and Redeemer of Your people, work in and through each of the Members of this 108th Congress. Help them to be creative in their thinking and persevering in their service, all the while, reconciling differences and difficulties between people. May everything that this Congress undertakes to serve the needs of the American people begin with Your inspiration. May all their work be continued with Your help and reach a happy conclusion under Your guidance.

For You were with us in the beginning. You are with us now, and You will be with us forever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I. I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. PUTNAM) come forward and lead the House in the Pledge of Allegiance.

Mr. PUTNAM led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 16. Concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers

The message also announced that in accordance with section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Oregon (Mr. SMITH) as Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Eighth Congress.

The message also announced that pursuant to section 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

The message also announced that pursuant to section 2761 of title 22, United States Code, as amended, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, appoints the Senator from Mississippi (Mr. COCHRAN) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the One Hundred Eighth Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minutes at the end of legislative business.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for approximately 12 minutes, subject to the call of the Chair.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HEFLEY) at 10 o'clock and 15 minutes a.m.

MUSEUM AND LIBRARY SERVICES ACT OF 2003

Mr. HOEKSTRA. Mr. Speaker, pursuant to the order of the House of March 4, 2003, I call up the bill (H.R. 13) to reauthorize the Museum and Library Services Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 13 is as follows:

H.R. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Museum and Library Services Act of 2003".

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) DETERMINED TO BE OBSCENE.—The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.";

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (5);

(4) by inserting after paragraph (2) the following:

"(3) FINAL JUDGMENT.—The term 'final judgment' means a judgment that is—

"(A) not reviewed by any other court that has authority to review such judgment; or

"(B) is not reviewable by any other court.

"(4) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

States to Indians because of their status as Indians.’’; and

(5) by adding after paragraph (5) (as so redesignated) the following:

‘‘(6) Museum and Library Services Board.—The term ‘Museum and Library Services Board’ means the National Museum and Library Services Board established under section 207.

‘‘(7) Obscene.—The term ‘obscene’ means, with respect to a project, that—

‘‘(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

‘‘(B) such project depicts or describes sexual conduct in a patently offensive way; and

‘‘(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.’’.

SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

‘‘(c) Museum and Library Services Board.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.’’.

SEC. 103. DIRECTOR OF THE INSTITUTE.

(a) Coordination of Activities.—Section 204(e) of the Museum and Library Services Act (20 U.S.C. 9103(e)) is amended by adding at the end the following: ‘‘Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383).’’.

(b) Regulatory Authority.—Section 204 of such Act (20 U.S.C. 9103) is amended by adding at the end the following:

‘‘(f) Regulatory Authority.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.

‘‘(g) Application Procedures.—

‘‘(1) In general.—In order to be eligible to receive financial assistance under this title, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

‘‘(2) Review and evaluation.—The Director shall establish procedures for reviewing and evaluating such applications. Such procedures shall not be subject to any review outside of the Institute. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this title, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

‘‘(3) Treatment of projects determined to be obscene.—

‘‘(A) In general.—The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without literary, artistic, political, or scientific merit, and is not protected speech.

‘‘(B) Prohibition.—No financial assistance may be provided under this title with respect to any project that is determined to be obscene.

‘‘(C) Treatment of application disapproval.—The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.’’.

SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

“SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

‘‘(a) Establishment.—There is established in the Institute a board to be known as the ‘National Museum and Library Services Board’.

‘‘(b) Membership.—

‘‘(1) Number and appointment.—The Museum and Library Services Board shall be composed of the following:

‘‘(A) The Director.

‘‘(B) The Deputy Director for the Office of Library Services.

‘‘(C) The Deputy Director for the Office of Museum Services.

‘‘(D) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of library services by virtue of their education, training, or experience.

‘‘(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of museum services by virtue of their education, training, or experience.

‘‘(2) Special qualifications.—

‘‘(A) Library members.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(D)—

‘‘(i) 5 shall be professional librarians or information specialists, of whom—

‘‘(I) at least 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

‘‘(II) and at least 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

‘‘(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

‘‘(B) Museum members.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

‘‘(i) 5 shall be museum professionals who are or have been affiliated with—

‘‘(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

‘‘(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

‘‘(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

‘‘(3) Geographic and other representation.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

‘‘(4) Voting.—The Director, the Deputy Director of the Office of Library Services, and the Deputy Director of the Office of Museum Services shall be nonvoting members of the Museum and Library Services Board.

‘‘(c) Terms.—

‘‘(1) In general.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (D) or (E) of subsection (b)(1) shall serve for a term of 5 years.

‘‘(2) Initial board appointments.—

‘‘(A) Treatment of members serving on effective date.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on the date of the enactment of the Museum and Library Services Act of 2003, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

‘‘(B) First appointments.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(D). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the board shall be appointed in accordance with subsection (b).

‘‘(C) Authority to adjust terms.—The terms of the first members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

‘‘(3) Vacancies.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

‘‘(4) Reappointment.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

‘‘(5) Service until successor takes office.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

‘‘(d) Duties and Powers.—

‘‘(1) In general.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

‘‘(2) National awards.—The Museum and Library Services Board shall assist the Director in making awards under section 209.

‘‘(e) Chairperson.—The Director shall serve as Chairperson of the Museum and Library Services Board.

‘‘(f) Meetings.—

‘‘(1) In general.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

"(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

"(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

"(h) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.".

SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

"SEC. 209. AWARDS.

"The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

"SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.

"From amounts described in sections 214(c) and 275(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

"(1) shall be conducted in ongoing consultation with—

"(A) State library administrative agencies;

"(B) State, regional, and national library and museum organizations; and

"(C) other relevant agencies and organizations;

"(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

"(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

"(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).".

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

"(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

"(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.".

SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $210,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009."; and

(2) in subsection (c), by striking "3 percent" and inserting "3.5 percent".

SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

"(3) MINIMUM ALLOTMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

"(C) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003—

"(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

"(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

"(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

"(D) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

"(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.".

SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking "not later than April 1, 1997." and inserting "once every 5 years, as determined by the Director."; and

(2) in subsection (f)—

(A) by striking "this Act" each place such term appears and inserting "this subtitle";

(B) in paragraph (1), by striking "1934," and all that follows through "Act, may" and inserting "1934 (47 U.S.C. 254(h)(6)) may"; and

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking "section:" and inserting "subsection:"; and

(ii) in subparagraph (D), by striking "given" and inserting "applicable to".

SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

"(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

"(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

"(3) providing electronic and other linkages among and between all types of libraries;

"(4) developing public and private partnerships with other agencies and community-based organizations;

"(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

"(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved."; and

(2) in subsection (b), by striking "between the two purposes described in paragraphs (1) and (2) of such subsection," and inserting "among such purposes,".

SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking "education and training" and inserting "education, recruitment, and training".

TITLE III—MUSEUM SERVICES

SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

"SEC. 271. PURPOSE.

"It is the purpose of this subtitle—

"(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

"(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

"(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

"(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

"(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

"(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.".

SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: "Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.".

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

"SEC. 273. MUSEUM SERVICES ACTIVITIES.

"(a) In General.—The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance to museums and other entities as the Director considers appropriate, to pay for the Federal share of the cost—

"(1) to support museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

"(2) to support museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

"(3) to support museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

"(4) to stimulate greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

"(5) to encourage the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

"(6) to support museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

"(7) to support museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

"(8) to support professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

"(9) to support museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

"(10) to encourage, support, and disseminate model programs of museum and library collaboration.

"(b) Federal Share.—

"(1) 50 percent.—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

"(2) Greater than 50 percent.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

"(3) Operational expenses.—No funds for operational expenses may be provided under this section to any entity that is not a museum.

"(c) Review and Evaluation.—

"(1) In general.—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle.

"(2) Applications for technical assistance.—

"(A) In general.—The Director may use up to 10 percent of the funds appropriated to carry out this subtitle for technical assistance awards.

"(B) Individual museums.—Individual museums may receive not more than 3 technical assistance awards under subparagraph (A), but subsequent awards for technical assistance shall be subject to review outside the Institute.

"(d) Services for Native Americans.—From amounts appropriated under section 275, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and organizations that primarily serve and represent Native Hawaiians (as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)), to enable such tribes and organizations to carry out the activities described in subsection (a).".

SEC. 304. REPEALS.

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176)—

(1) is redesignated as section 275 of such Act; and

(2) is amended, in subsection (a), by striking "$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002." and inserting "$35,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.".

SEC. 306. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended—

(1) by redesignating sections 271 through 273 as sections 272 through 274, respectively; and

(2) by inserting after the subtitle heading the following:

"SEC. 271. SHORT TITLE.

"This subtitle may be cited as the 'Museum Services Act'.".

TITLE IV—TECHNICAL CORRECTIONS; REPEALS; EFFECTIVE DATE

SEC. 401. TECHNICAL CORRECTIONS.

(a) Title Heading.—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

"TITLE II—MUSEUM AND LIBRARY SERVICES".

(b) Subtitle A Heading.—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

"Subtitle A—General Provisions".

(c) Subtitle B Heading.—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

"Subtitle B—Library Services and Technology".

(d) Subtitle C Heading.—The subtitle heading for subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

"Subtitle C—Museum Services".

(e) Contributions.—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this Act) is amended by striking "property of services" and inserting "property or services".

(f) State Plan Contents.—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking "and" at the end.

(g) National Leadership Grants, Contracts, or Cooperative Agreements.—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking "cooperative agreements, with," and inserting "cooperative agreements with,".

SEC. 402. REPEALS.

(a) National Commission on Libraries and Information Science Act.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) MUSEUM AND LIBRARY SERVICES ACT OF 1996.—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

SEC. 403. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act, except that the amendments made by sections 203, 204, and 305 shall take effect on October 1, 2003.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, March 4, 2003, the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Texas (Mr. HINOJOSA) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

GENERAL LEAVE

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 13.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider H.R. 13, the Museum and Library Services Act of 2003, which authorizes Federal assistance to museums and libraries through fiscal year 2009.

H.R. 13 maintains the modest, but essential, Federal support for museums and libraries across the country. It authorizes funds for the one Federal agency, the Institute of Museum and Library Services, devoted exclusively to museums and libraries, and encourages model cooperation between museums and libraries.

Last Congress, the Committee on Education and the Workforce reported a bipartisan authorization bill that had 94 cosponsors. It was supported by the administration and was endorsed by the American Library Association, the chief officers of State library agencies, and the American Association of Museums.

To complete our work from last Congress, I introduced H.R. 13, the Museum and Library Services Act of 2003. H.R. 13 has 126 cosponsors, makes several modifications to current law to streamline and strengthen museum and library services, and will help build on the bipartisan progress made by the committee during the 107th Congress.

Generally, this legislation authorizes the Federal Library and Museum program under the Institute of Museum and Library Services. More specifically, H.R. 13 requires the director of the Institute of Museum and Library Services to establish procedural standards for making grants available to museums and libraries which will prohibit projects that are determined to be obscene from receiving funding, ensures that library activities are coordinated with activities under the No Child Left Behind Act of 2001, consolidates Museum and Library Advisory Board activities under a single statute, authorizes the director of the Institute of Museum and Library Services to present national awards for library service and national awards for museum service, and ensures that administrative funds are also used to conduct annual analyses of the impact of museum and library services in order to evaluate and identify needs and trends of services provided under IMLS-funded programs.

I believe there is broad support for this reauthorization legislation, because museums and libraries are a vital part of our society. Attendance at America's museums is now at more than 865 million visits per year, and today's 21st century library is not merely a provider of books. Instead, the typical library coordinates a complete and comprehensive approach to community development and services.

The Library Services and Technology subtitle is the only Federal program solely devoted to supporting libraries. This legislation assists libraries in providing crucial services to the communities they serve. Throughout our Nation, libraries are at the forefront of reading and family literacy programs; and importantly, libraries serve as essential links to the business community, assisting with job creation and training programs, and assisting with business development initiatives as well. They are also critical for many people with disabilities, providing them with specialized materials and resources that are obtainable in a single location.

For older Americans, libraries provide a place to interact with others, use the Internet, and receive services. For those persons of limited resources or who live in remote areas, libraries provide access to books and reference materials, computers and the Internet, and community-based social services that are often available nowhere else.

The Museum and Library Services Act also supports museums in their educational role and assists museums in modernizing their methods and facilities so they are better able to conserve the cultural, historical, and scientific heritage of the United States.

Museums play an important role in its education of people of all ages. Specifically, most American museums provide K through 12 educational programming, with most using local and State curriculum standards to shape their programs. Additionally, museums increasingly partner with libraries to offer joint educational opportunities for adults, as well as children.

The Museum and Library Services Act of 2003 makes commonsense reforms to authorize museum and library activities, includes provisions important to Members on both sides of the aisle, and reauthorizes a program that should be supported by this Congress.

I would like to thank all those who participated in this process, including the ranking Democrat on the committee, the gentleman from California (Mr. GEORGE MILLER), the Institute of Museum and Library Services, the American Library Association, the chief officers of State library agencies and the American Association of Museums. They deserve a great deal of the credit for this bipartisan bill before us today.

I look forward to moving this legislation through the House and working with the Senate to complete an authorization bill that President Bush will support, so that we can ensure that our Nation's museums and libraries are getting the best assistance we are able to provide from the Federal level.

I would also like to thank the staff that has worked on this bill.

I look forward to working with the gentleman from Texas (Mr. HINOJOSA) on other legislation that will come through the subcommittee. We really did not work on this, we took a lot of what we did in the last Congress on this bill, but I really appreciate starting off in such a positive way on this bill, and also on the Child Abuse Prevention and Treatment Act that the House will consider sometime in the next couple of weeks.

I think it is a great start for this subcommittee. I look forward to working with my colleague on other legislation that will come before the subcommittee and am sure we will have the same kind of bipartisan effort on that legislation, especially the Corporation for National Community Service which our subcommittee will consider this year. I think this is a great start.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation that means so much to our Nation; and I, too, want to thank the gentleman from Ohio (Chairman BOEHNER); our ranking member, the gentleman from California (Mr. GEORGE MILLER); and my good friend and colleague, the gentleman from Michigan (Chairman HOEKSTRA), the chairman of the subcommittee, for their work in bringing this bill to the floor today.

We have experienced an economic downturn over the past 2 years; and as a result, the continuing vitality of our museums is in question. Many have had to close their doors to the public, staff has been laid off, budgets for curriculum materials has been reduced, and the general public wonders about our national priorities.

With our present economy, we have fewer contributions from corporations in support of vital library and museum functions. I support the reauthorization of the Museum and Library Services Act because all of us realize the vital importance of these institutions for our national fabric.

The bill provides modest, but essential, support for museums of all sizes to help them continue their operations, ensure equity of access, and foster culture and education for all our people.

In addition to operating expenses, the act elevates the role of these institutes of lifelong learning. Libraries are essential to parents and community organizations as they look for innovative ways to educate our children, our youth, and adults. The business community also has a big interest in excellent libraries, since the knowledge base for job creation, training programs and business development is a significant portion of library holdings.

In the past 5 years, libraries and museums have received hundreds of millions of dollars under this act to address a wide range of needs, including assessment of museum operations, conservation projects, staff training, technology upgrades, electronic linkages, resource sharing, and outreach programs.

I know that my own State of Texas has benefited from this act, and there is a project in Weslaco in my congressional district which is doing very good work with the resources provided by the Federal Government.

As the need for lifelong learning becomes even greater in the coming decades, this act will become increasingly vital. We have before us a good example of Federal, State, and local partnerships that deserves our continuing support.

I applaud the leadership for bringing this bill to the floor and urge all of my colleagues to support H.R. 13.

I also want to say that I look forward to working with our subcommittee chairman, the gentleman from Michigan (Mr. HOEKSTRA), because there are many things on the Committee on Education and the Workforce that we need to address. I hope we can work together in calling hearings so that we can get the input from the community nationwide as our States are facing big deficits in their respective governments and legislatures. I know that access to higher education at the community colleges and universities is going to be a serious problem because of the cuts that they have to make.

Mr. Speaker, I look forward to looking at that, and many other issues that are going to be very important to us here in our Nation's capital.

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS), a new member of the subcommittee.

Mr. BURNS. Mr. Speaker, I rise in support of H.R. 13, the Museum and Library Services Act of 2003.

Museums and libraries are a fundamental part of our society. They remain an integral component of our education system. As has been noted, attendance at American museums continues to grow, and today's library offers critical community services for all of our citizens.

Charlotte Rogers, the director of the Jefferson County Library System in the Twelfth Congressional District of Georgia, has contacted me in support of this bill because the people of Jefferson County, the people of the State of Georgia and the people of the twelfth district benefit from the services provided by these excellent institutions.

With over a dozen higher-educational institutions in the twelfth district, this bill will ensure continued support for a key component of a balanced education.

H.R. 13 provides the essential Federal support for museums and libraries across this country. As a new member of the Committee on Education and the Workforce, I was pleased to support this bill during its consideration. I look forward to voting for the passage of this bill, and I urge my colleagues to join me in that effort.

□ 1030

Mr. HINOJOSA. Mr. Speaker, I yield 5 minutes to the outstanding gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to thank and congratulate my colleagues who worked on this legislation. I also thank my colleagues in general for appreciating the role of libraries and museums.

I also would like to issue a new, repeated challenge to the Members of Congress to take a hard look at libraries and see that we have certainly shortchanged them or overlooked their importance as an institution that gives us the greatest bang for the buck. Our cost-benefits ratio with libraries is probably greater than any institution that we fund anywhere.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, excuse me for interrupting, but before the gentleman continues with his remarks, I think it would be appropriate that the House recognizes that the gentleman from New York (Mr. OWENS) is well-versed in this area, I believe being the only librarian, professional librarian, as a Member of the House of Representatives.

I would like to congratulate the gentleman and make that reference before the gentleman continues his remarks. I thank the gentleman for being down here.

Mr. OWENS. Mr. Speaker, I thank the gentleman very much. Now that my objectivity has been established, I would like to say that we have been slow to recognize it, but I hope that this bill will help to concretize in our minds the value of libraries and museums to work together.

I happen to live across the street from one of the greatest museums in America, the Brooklyn Museum of Art. I also live one block away from one of the greatest public libraries, the Central Library of the Brooklyn Public Library, where I worked for 8 years as a librarian. I got a master's degree from the Atlanta University School of Library Science, and was a librarian for 8 years before I went into another line of work that led to politics.

But in the history of Federal funding of libraries, everything we have done for libraries, of all the years there has been some kind of Federal assistance it would not equal the price of one aircraft carrier. I think that is unfortunate, because we do get a great deal of cost-benefits ratio, a good cost-benefit ratio from libraries.

I am particularly interested in the library service as the technology section of this bill. That section recognizes that libraries are moving with the mainstream in terms of digitalized and computerized learning, and that it is probably in the forefront. Long before other institutions were utilizing computers, we had a cataloging system that came out of Ohio where we could catalog any book in the Nation and put it through a computer system, and that one cataloging process could serve all the libraries throughout the Nation.

Cooperation among libraries of various kinds has gone on for a long, long time. One of the reasons libraries were able to deliver so much with so little is that they have always had those networks where they cooperate among libraries in a given system, among libraries across State borders, among local libraries and the Library of Congress. They are models of cooperation and collaboration.

We should also realize that in times of recession when we have difficult economic times, the libraries are used more than ever. This is a pattern that started certainly in the Great Depression. It has not changed.

I understand from my colleagues now in library service positions, especially public libraries, the use of libraries has gone up as the recession has set in. People go for very practical purposes: They are looking for books that will deal with changes in their occupations, or for various reasons; it is not recreational reading they go for when times are hard. So we should bear that in mind also, that it is an instrument by which people are able to change their own lives.

We also have had demonstrated over and over again, despite the fact that people who make budget decisions at the local level often cut libraries first, that surveys in several cities and localities have established the fact that if the public is given the choice, would you pay more taxes for a particular service, libraries are right at the top in terms of individuals are willing to pay more taxes in order to keep their libraries open and keep their libraries operating at a quality level. That has been proven again and again. So in our reluctance to fund libraries, we are running counter to the perception of the public in terms of an institution where we get our money's worth.

Museums, of course, now serve so many different kinds of purposes. When we say "museum," we are not necessarily talking about an art museum. There are museums of all kinds. I have three grandchildren, and my oldest grandson is 5 years old. He has dinosaur books, but when he went to a library and saw an exhibit, he came back and wanted to be a paleontologist. That big word certainly had meaning for him.

I hope that in the future we would be more generous and would be willing to authorize higher sums for these institutions that have proven their worth over and over again.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise today in support of H.R. 13.

The SPEAKER pro tempore (Mr. HEFLEY). The gentlewoman will suspend.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(b) of rule I, the Chair declares the House in emergency recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 35 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1105

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CALVERT) at 11 o'clock and 5 minutes a.m.

MUSEUM AND LIBRARY SERVICES ACT OF 2003

The SPEAKER pro tempore. When the recess was declared, the House was considering H.R. 13 and 43½ minutes of debate remained.

The gentleman from Michigan (Mr. HOEKSTRA) has 22½ minutes remaining and the gentleman from Texas (Mr. HINOJOSA) has 21 minutes remaining.

Prior to the recess, the gentleman from Michigan had yielded two minutes to the gentlewoman from New York (Mrs. KELLY), and the gentlewoman from New York had 2 minutes remaining.

The Chair recognizes the gentlewoman from New York.

Mrs. KELLY. Mr. Speaker, I rise today in support of H.R. 13, the sole Federal agency devoted exclusively to museums and libraries which partners with schools to educate America's young.

Museums and libraries have traditionally served us as lifelong centers of learning creating centralized locations for the dissemination of information that provides equal access for Americans of all ages.

As the availability of information increases through the use of computer technologies, it is only logical that museums and libraries expand their services in order to fully maximize their mission as reference centers, as well as to fill the public's need to acquire the necessary skills to utilize such technology and reap the benefits of this expansion of cultural and historical knowledge.

The money in this bill will be used to bring projects and resources that would not otherwise be available in our communities to our local libraries and to this Nation's fine museums.

In my district, libraries provide paid mentors that help kids and families with homework in the library, especially they try to include parents whose first language is not English. In addition to the establishment of the centers, the grant has provided for the addition of several important learning resources to participating libraries' collections.

The authorization of the MLSA is an important step to helping students and other museums and library patrons find the resources and materials that they need to successfully come together and share information about history and culture.

Passing this legislation will ensure that libraries and museums across the country continue to provide accessible, safe, dynamic places of learning for all Americans.

I urge my colleagues to join me in supporting this legislation.

Mr. HINOJOSA. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman from Texas (Mr. HINOJOSA) for his leadership on something that is so important to America, and that is, the Museum and Library Services Act.

As my colleague has pointed out, this bill authorizes $245 million in Federal assistance for museums and libraries in the coming fiscal year and additional funds all the way through the end of this decade.

A civilized society, Mr. Speaker, must include cultural enrichment, and it is one of the responsibilities of our government to support that aspect of our civilization. We get what we pay for. Thanks to our museums and libraries, our citizens become well-rounded individuals, and our children are encouraged to become the best that they can be.

Let me highlight for a few minutes, Mr. Speaker, a few of the success stories that come out from the Library Services and Technology Act, which is a part of the Museum and Library Services Act, in my home State of California.

The Infopeople project provides training and computers for local libraries, assuring public access to the Internet in 530 of our State's 765 public libraries.

The University of California in San Diego is assisting over 100 libraries and cultural institutions to recover from natural and man-made disasters.

The County of Los Angeles Public Library is training college students to assist with the library's Summer Reading Program for Children, providing work experience for students while helping open the door to reading for over 30,000 of our children.

The Family Literacy Program provides programs and books for infants and children.

The Oceanside Public Library in San Diego County provides health information from a mobile vehicle funded through this Act.

From my own congressional district, in the city of National City, one of the poorest cities in California, but blessed with a great city librarian, Anne Campbell, this city has funded a large community computer center in the National City Public Library. Over 50,000 residents each year have access to electronic information, software programs, Internet and training. Residents are working on job resumes, e-mailing a loved one aboard a Navy ship, running a business, preparing reports for school and 1,000 other uses that we know that the Internet can provide.

Currently, a grant from this Act provides Web page design training for high school students, with real life experiences designing Web sites for local businesses and nonprofit organizations. From the first class, already two students have been hired permanently to continue to update these Web sites. So the digital divide of which we hear a lot has been narrowed in National City because of the LSTA.

We can go on for a long time about the stories. These are just a few, but they would not be possible without our investment in our Nation's libraries.

I urge support of this legislation, and I thank the gentleman for yielding.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I want to thank the gentleman and my friend from Michigan for granting me the time to rise and speak in strong support of H.R. 13, the Museum and Library Services Act of 2003.

Mr. Speaker, America has a moral obligation to support its museums and libraries, and throughout our Nation, libraries are at the forefront of our reading, education and family literacy programs. Museums are the centerpiece of our history and civilization, and together, our museums and libraries form the core of democracy in America.

This year, Mr. Speaker, more than 865 million people will visit a museum in America. Millions of students will take out their first book and millions of families will gather for community literacy and learning programs.

All of us remember our very first library card. All of us remember our very first library experience, that first book and that first story which always means so much in our lives, and the role of libraries in American society is and will continue to be critical to our future.

I remember my hometown library, and I especially remember with great fondness and respect and admiration for her impact on my life my own hometown librarian, Martha Gould, who now serves on the National Commission on Libraries and Information Science. Not only has Martha Gould provided technical and institutional knowledge held by libraries in strengthening America's homeland defense, she stands as a stalwart supporter of our library system and works diligently to ensure that our libraries keep up with the 21st century technology and maintain their core function of providing all Americans with the means and capabilities of preserving and protecting democracy.

I urge all my colleagues to support H.R. 13 for our Nation, and for the future generations of America.

Mr. HINOJOSA. Mr. Speaker, I yield back the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I have no further requests for time. I thank my colleague for helping us move this bill and encourage all of our colleagues to vote in support of this reauthorization.

Ms. MILLENDER-McDONALD. Mr. Speaker, I stand before you today to offer my support of H.R. 13, the Museum and Library Services Act of 2003 authorizing our federal library and museum programs under the Institute of Museum and Library Services. As a former educator and life-long supporter of the arts, I fervently believe we must reauthorize the Museum and Library Services Act, and do much more to promote libraries and literacy, and to help art in all of its forms to continue to flourish.

We must do all we can to encourage the growth of such institutions, which help to enlighten us regarding our rich and diverse cultural heritage.

We have a strong tradition of providing our citizens with world-class library services and museums. Under H.R. 13, library services nationwide will be enhanced in order to better meet the needs of all Americans by: extending access to information for citizens in all types of libraries and thus increase citizens' knowledge, and assisting libraries in more effectively sharing resources to promote the streamlined delivery of services.

In my District, the County of Los Angeles Public Library offers CHIPS, a consumer health information program located in the City of Carson. This invaluable service offers my constituents information and referrals, responds to reference questions and circulates health materials to the community. Through CHIPS, constituents in my District can become better informed about the quality of their health by gaining up-to-date medical information. The State of California also offers through our libraries:

Working with Kids@Your Library, an internship program for undergraduate students tutoring children in the Summer Reading Program;

Live Homework Help, a program offering students grades 5–12 online access to tutors, or 20 minutes of one-on-one tutoring now available through the Long Beach Public Library; and

Grapes of Wrath Program in the Long Beach Public Library to promoting reading and discussion of John Steinbeck's Pulitzer-prize winning book.

Under H.R. 13, the Library Services and Technology section of the Act will provide almost $250 million in special funding to libraries and museums nationwide. In the past, my District received approximately $410,000 to fund vitally needed programs for libraries and museums, and continued funding is required in order for ongoing community needs to be met.

By providing additional grants to states, we can offer citizens:

Greater access to utilizing information electronically;

Facilitate electronic and other linkages between all kinds of libraries;

Create public and private partnerships with external community-based groups and other agencies;

Direct library services to people of distinct cultural, geographic and socioeconomic backgrounds, as well as to persons with disabilities, and those with limited literacy skills; and

Tailor library and information services to people experiencing difficulty using libraries, including children from low-income families, and individuals living in underserved urban and rural areas.

Under H.R. 13, our museums will be better able to continue their tradition of public service by integrating all of society to the natural, cultural, historic, artistic and scientific aspects of our heritage. In my District, I am a proud advocate of the Museum of Latin American Art in the City of Long Beach, which is distinguished as the only museum in the western United States to only feature contemporary Latin American art.

By passing H.R. 13, we will help our museums by: promoting the educational roles played by museums; and extending the exchange of resources and promoting partnerships among schools, libraries, museums, and other community groups.

Because we live in an era when life-long and distance learning are essential to increasing citizens' access to education and vocational opportunities, it is critical that we provide our libraries with the maximum support necessary for them to carry out their missions. At the same time, we must assist our museums so that they may keep raising our awareness and enrich our communities through art.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of the resolution, this Member wishes to add his strong support for the Museums and Library Services Act (H.R. 13), as museums and libraries certainly are a vital part of our society.

This Member would like to commend the distinguished gentleman from Ohio (Mr. BOEHNER), the Chairman of the House Committee on Education and the Workforce, and the distinguished gentleman from California (Mr. MILLER), the ranking member of the House Committee on Education and the Workforce for bringing this important resolution to the House floor today. This Member would also like to commend the distinguished gentleman from Michigan (Mr. HOEKSTRA), chairman of the Subcommittee on Select Education, for sponsoring H.R. 13.

Attendance at American museums is now at more than 865 million visits per year. Today's 21st Century library is not just a provider of books, as the typical American library coordinates a complete and comprehensive approach to community development and services.

The Museum and Library Services Act of 2003 authorizes Federal assistance to museums and libraries through fiscal year 2009. The legislation maintains the modest but essential Federal support for museums and libraries across the country; authorizes funds for the one Federal agency—the Institute of Museum and Library Services—devoted exclusively to museums and libraries, which are natural partners with our nation's schools; and encourages model cooperation between museums and libraries.

Mr. Speaker, in closing, this Member urges his colleagues to support H.R. 13.

Mr. BOEHNER. Mr. Speaker, this year more than 865 million people will visit a museum in America and millions will use their local library for books and other community services. Libraries and museums play a vital role in educating our children and promoting communities.

Throughout our Nation, libraries are at the forefront of reading and family literacy programs. Libraries are critical to many people with disabilities, providing them with specialized materials and resources that are obtainable in a single accessible location. For those persons of limited financial resources or who live in remote areas, libraries provide access to books and reference materials, computer services, and other community-based services.

Museums across the country work with local schools to provide K–12 educational programming. They are an important source of cultural and historical knowledge for people, as they learn about the history and traditions of our country and other places around the world. In addition, museums serve as places where people of different backgrounds come together to share information about history, culture, and civilization.

Under the leadership of Chairman HOEKSTRA in the last Congress, the Education and the Workforce Committee worked in a bipartisan manner to report the Museum and Library Services Act of 2002. That bill had 94 cosponsors, was supported by the Bush Administration, and had been endorsed by the American Library Association, the Chief Officers of State Library Agencies, and the American Association of Museums. The Museum and Library Services Act of 2003 is very similar to last year's bill, and with 126 cosponsors, it builds on the bipartisan bill reported by the Committee on Education and the Workforce last year.

The legislation before the House today funds the Institute of Museum and Library Services, a federal agency devoted exclusively to museums and libraries, which partner with our Nation's schools. It consolidates museum and library board activities to reduce unnecessary paperwork and duplication. In addition, the reauthorization of the Museum and Library Services Act is an important next step in ensuring that the President's education reforms signed into law last year are properly implemented. H.R. 13 requires that all library activities are coordinated with activities under the No Child Left Behind Act, President Bush's landmark education reform legislation.

First Lady Laura Bush, a former librarian, supports reauthorization of the Museum and Library Services Act. Mr. MILLER, the ranking Democrat on our Committee is a cosponsor of this legislation—I would like to thank him for his support. Mr. HOEKSTRA has put together a good, bipartisan bill and I encourage my colleagues to support the legislation and our Nation's museums and libraries.

Mr. HOLT. Mr. Speaker, as an educator and avid reader, it's always a special pleasure to visit a library or a museum. Libraries safeguard our freedom and keep democracy healthy. Museums and libraries preserve the past and offer brighter futures to all of us. They are true community assets. That is why I was pleased to be an original cosponsor of H.R. 13, the Museum and Library Services Act.

Libraries are often referred to as the "People's University." It is a fitting name.

Libraries provide all of us with free access to a fabulous wealth of information. In this increasingly technology-driven society, they speak directly to what we call the Digital Divide. A recent survey by the Department of Commerce found that our libraries are the No. 1 point of access for those who do not have Internet access at home or at work. Today, 90 percent of public libraries have some kind of Internet connection.

Research also shows us that Americans visit libraries 3.5 billion times each year; 1.6 billion items are borrowed annually from public libraries; and research librarians answer 7 million questions every week.

Clearly libraries are responding not only to the daunting challenges of the Information Age and to the changing needs of our communities, but they are continuing to serve all of their traditional roles as well.

Libraries are also true community centers. They create environments where students can do their homework, townspeople can gather, families can interact, seniors can learn new skills, and job seekers can find advice. They are forums building partnerships, linking with everyone from garden clubs to Head Start programs to extend their reach throughout our communities.

Throughout our country, libraries serve as, the catalyst for economic revitalization, bringing together our communities civic and social leaders. They provide reading material for people of all ages by sending books into maternity wards, setting up reading stations in pediatrician's offices, developing teen centers, and establishing mobile book carts in nursing homes and senior centers.

I am currently observing the improvements at my own Princeton public library that are traceable to this authorization bill. The library is in the process of constructing a state of the art library security, inventory, and circulation system that will allow library users to automatically check in and check out books.

Let me cite some other examples of how our local libraries are helping people all across the 12th District of New Jersey. The South Brunswick Public Library has been fortunate to receive funding from the Library Services and Technology Act (LSTA) grants. Their Computer Training Center, established in part by these funds serves hundreds of people each week. The center not only provides free Internet access, but it provides the training many people need to use the Internet on their own.

Robert Weidlich of Kendall Park, NJ, turned to the library when he began suffering chronic back pain brought about by hunching over a microscope all day, conducting medical research in a nearby company. He wanted to find the internal source of his pain, which his doctors had not been able to do. At the library, staff helped Weidlich use the library's collections and electronic sources to tap into the medical sources and the latest research from all over the world. He became a regular at the computer center, spending many hours logged on the Internet to learn about disorders of the spinal cord and back. As a result of his research, he located the unusual source of his pain—a damaged ligament in the lumbar region of his back. With his new understanding of the problem, he was able to invent ways to mechanically support his back so that he could go on with his life.

Peter Gao of Monmouth Junction, gleefully reported that he was able to find a new job at the post office because of the assistance the library provided in his job search when he recently lost his programming position at Dow Jones.

Greta Ji passed the Yale law school tests with a top score, thanks to the materials and computer access that she obtained through the library.

Dan Guerra, a family lawyer, regularly uses the library in his research, and especially finds the databases helpful.

Finally, the Investments Club utilizes all our resources to keep abreast of the latest market developments. None of the Club members have computers at home, nor could they individually afford the financial databases they like to check at their weekly meetings. Senior citizens like Leona Bouthwell, can now regularly check her investments and look up consumer information.

These are examples of how important libraries are to me and millions of other Americans. Mr. Speaker, Carl Rowan, a noted journalist, once said, "The library is the temple of learning, and learning has liberated more people than all the wars in history."

I look forward to the passage of H.R. 13 the Museum and Library Services Act.

Mr. HOEKSTRA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Tuesday, March 4, 2003, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that ayes appeared to have it.

Mr. HOEKSTRA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on passage of H.R. 13 may be followed by a 5-minute vote, if ordered, on approving the Journal.

The vote was taken by electronic device, and there were—yeas 416, nays 2, not voting 16, as follows:

[Roll No. 47]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah

Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson

Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall

Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield

Wicker
Wilson (NM)
Wilson (SC)

Wolf
Woolsey
Wu

Wynn
Young (FL)

NAYS—2

Flake

Paul

NOT VOTING—16

Conyers
Cubin
Culberson
Etheridge
Gephardt
Hunter

Lucas (OK)
Millender-McDonald
Miller (NC)
Ortiz
Ros-Lehtinen

Snyder
Stupak
Van Hollen
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CALVERT) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1135

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MILLER of North Carolina. Mr. Speaker, on rollcall No. 47, I was unavoidably detained. Had I been present, I would have voted "yea."

Ms. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 47, I was detained by a group of women constituents speaking on a panel on Violence Against Women." Had I been present, I would have voted "yea."

Mr. ORTIZ. Mr. Speaker, during rollcall vote No. 47 on March 6, 2003, I was unavoidably detained. Had I been present, I would have voted "yea."

MOTION TO ADJOURN

Mr. COOPER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. COOPER moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Tennessee (Mr. COOPER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. COOPER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 358, answered "present" 1, not voting 12, as follows:

[Roll No. 48]

AYES—63

Allen
Andrews
Ballance
Berry
Brown (OH)
Capuano
Cardoza
Carson (IN)
Clay
Cooper
Crowley
Dingell

Doggett
Evans
Farr
Filner
Ford
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Honda
Hoyer
Jackson (IL)

Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lynch
Markey

McDermott
McGovern
McNulty
Miller (NC)
Miller, George
Moran (VA)
Oberstar
Obey
Olver
Owens

Pallone
Pastor
Pelosi
Price (NC)
Rangel
Rush
Ryan (OH)
Sabo
Schakowsky
Schiff

Stark
Tanner
Taylor (MS)
Thompson (MS)
Tierney
Towns
Velázquez
Woolsey

NOES—358

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)

DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Everett
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson

Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose

Otter
Oxley
Pascrell
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Paul

NOT VOTING—12

Conyers
Cubin
Culberson
Etheridge
Gephardt
Hunter
Lucas (OK)
Ros-Lehtinen
Snyder
Stupak
Van Hollen
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CALVERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

☐ 1151

Mr. HONDA and Mr. SCHIFF changed their vote from "no" to "aye."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHERMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 359, noes 48, answered "present" 1, not voting 26, as follows:

[Roll No. 49]

AYES—359

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—48

Baird
Baldwin
Brady (PA)
Capuano
Clay
Costello
Crane
DeFazio
Filner
Fossella
Gutknecht
Hastings (FL)
Hefley
Hinchey
Holt
Hulshof
Johnson, E. B.
Kennedy (MN)
Larsen (WA)
LoBiondo
Maloney
McDermott
McGovern
McNulty
Miller, George
Moran (KS)
Musgrave
Oberstar
Obey
Olver
Pastor
Peterson (MN)
Ramstad
Sabo
Schakowsky
Slaughter
Strickland
Sweeney
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—26

Abercrombie
Barton (TX)
Bereuter
Conyers
Cubin
Culberson
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
English
Etheridge
Gephardt
Hinojosa
Hunter
Lucas (OK)
Manzullo
Matsui
McCollum
Peterson (PA)
Ros-Lehtinen
Sanders
Snyder
Stupak
Van Hollen
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded they have 2 minutes left in this vote.

☐ 1159

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, on rollcall No. 49. Had I been present, I would have voted "aye."

Mr. VAN HOLLEN. Mr. Speaker, on rollcall Nos. 47, 48, and 49, I was unavoidably detained. Had I been present, I would have voted "aye" on these rollcalls.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 684

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 684, the District of Columbia Student Opportunity Scholarship Act of 2003. I was signed on by mistake.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at noon), the House stood in recess subject to the call of the Chair.

□ 1301

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 1 o'clock and 1 minute p.m.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY), the distinguished majority leader for purposes of inquiring about the calendar.

Mr. DELAY. Mr. Speaker, I appreciate the Whip yielding to me, and I would note, Mr. Speaker, that the House has completed its business for the week.

While we expected to consider the Armed Services Tax Fairness Act today, some problems with the bill have arisen, and we intend to work through those problems over the next several days and hope to consider the bill in the very near future.

Mr. Speaker, if the gentleman would continue to yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. The House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices early next week. There will be no votes in the House before 6:30 on Tuesday.

On Wednesday, we expect to consider several health-related measures: the Automatic Defibrillation in Adam's Memory Act, the Organ Donation Improvement Act, the Mosquito Abatement for Safety and Health Act, the Birth Defects and Developmental Disabilities Prevention Act. We will also consider a bill addressing medical errors. We expect several of those measures to be considered under suspension of the rules.

On Thursday, we expect to consider H.R. 5, the HEALTH Act, to improve patients' access to health care and reduce health care costs by reforming our medical liability system, and that is the schedule for next week.

I thank the gentleman for yielding and happy to answer any questions.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his information.

I want to tell the gentleman I am of two minds on the fact that we have removed from floor consideration the Armed Forces Tax Fairness Act. Of two minds because I think all of us agree that the underlying bill was a bill that we should have passed today, indeed yesterday or the day before yesterday. It is an Act that tells our service people that we are sending into harm's way that we want to make sure that we can limit the financial consequences of that service to country, as much as we possibly can.

So I lament the fact that we have had that removed from the schedule. However, I say I am of two minds because I am pleased that it was removed because we added to that bill extraneous pieces of legislation, which in and of themselves individually may have been subject to worthy debate. There was some in there that I thought were not, but having said that, I would hope that when this bill is reported back that it can be presented in a form that all 435 of us can vote for, because 435 of us, in my opinion, are for it.

So, as I say, I am of two minds. I am sorry that it is delayed, but I am sure that it will come back, hopefully soon, and that we can pass it in the form that all of us support it, and I would ask the gentleman, in that vein, does the gentleman know if this bill will be coming back next week?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, first, I appreciate the gentleman's concerns. I might also add, the gentleman should never have to apologize for a delay, but as the gentleman knows, the Committee on Ways and Means worked on this bill and marked it up last week in open process and within the rules of their committee and the House and many of the provisions that were added to the Military Tax Fairness bill were added, in many cases, by voice vote and unanimous votes. Some were controversial, but the committee acted in good faith and marked up the bill and there was full participation by every Member on that committee.

Unfortunately, as the bill headed towards the floor, as the gentleman knows, there were concerns raised by our Members and as well as the gentleman's Members, and we felt compelled that we needed to address those concerns before we actually bring it to the floor, and that is what we are going to try to do in the next several days, and hopefully, we will get a bill that everybody can vote for.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

To press the point, I understand that my colleagues need to work on that and try to work out whatever problems existed, but in light of that, it is the gentleman's expectation he will be able to work out those problems next week so we can pass this bill in a form that will allow us to pass it with the overwhelming support that I think it has on this floor if it is the base bill? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

I want this bill as much as anybody. It is very, very important, as the gentleman has already stated. It is important to give our military families the tax relief that they deserve, and we want to do this.

I remind the gentleman that this bill, the Military Armed Services Tax Fairness Act, has passed this House almost unanimously twice, and we hope that we can get it up here just as soon as possible. As soon as we get everything ironed out and the bill ripens a little bit, we will bring it to the floor.

Mr. HOYER. Reclaiming my time, and in an effort again to be helpful, I think that the majority leader is correct. Everybody wants this bill to pass, and the shame of it not passing today is, I am sure the gentleman shares, is that we somehow sent a message to our Armed Forces personnel arrayed across this globe, and particularly in the Middle East, at risk and they look to this capital and know full well that this bill is passed with over 400 votes and must be concluding to themselves that it was politics and political division that undermined the passage this day.

So I know my colleague is working towards this objective. This is not a criticism of the gentleman, and it was an open session in the Committee on Ways and Means, and as my colleague recalls, I am sure, the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget, a Republican, raised the issue that this was a real problem, in open session, in committee.

So it was obviously on both sides of the aisle that we are concerned about the fact that we politicized an otherwise bipartisan, nonpartisan objective that we wanted to achieve, and I look forward to that coming back hopefully in the posture that it was in when we, 400 of us plus, came together to pass that legislation. So I would hope that can happen.

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, the gentleman was absolutely right. It was an open process in the committee, and I may stand corrected, but I believe there were Democrat amendments approved by the committee as well as Republican amendments approved by the committee in developing what at least the committee thought was a bipartisan bill. So, unfortunately, these things happen in the legislative process, and fortunately, we can correct those problems hopefully.

Mr. HOYER. I suppose whether it was a bipartisan bill or not is in the eye of the definer, I suppose, and notwithstanding that, I would hope, again, it would come back in a form that all of us could vote for it and it would not be extraneous matters.

Those extraneous matters may well have merit, but why argue them on their merit or demerit, and we ought not to hold hostage our men and women in the Armed Forces, in harm's way, families disrupted by being called to service. We ought not to say to them anything but that we are prepared to act together, we are prepared to act quickly and we are prepared to make sure that, to the extent we can, we will diminish the financial burden that their service to our country requires.

On the medical malpractice bill that the gentleman indicates will be on the floor next week, on today's major piece of legislation which we have been discussing, the Committee on Rules denied two of our ranking members' ability to offer key amendments, and we are very concerned about that. Can the leader inform me if he knows what kind of rule there will be for the medical malpractice bill, what he anticipates will be in order?

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I will be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, I do not believe there has been any discussion as to what kind of rule we would bring to the floor in order to bring the medical justice bill to the floor.

In the past, we have always, on this kind of legislation, allowed the minority to have a substitute. The chairman of the Committee on Rules obviously, along with the Committee on Rules, will consider amendments that other Members may offer, and as the gentleman well knows, the rule will be written sometime next week, so that we can bring the bill to the floor.

Mr. HOYER. Mr. Speaker, I thank the leader for his comments. I am aware of the fact that the Committee on Rules has been extraordinarily advantaged by the addition of a new chief staffer on that committee who will, I think, add greatly to the consideration of that committee of alternatives.

Mr. Pitts is a man that I have found to be fair and knowledgeable with respect to this House. He is as well an individual who was involved when the Republicans were in the minority of lamenting the fact that we did not give fair and full opportunity of loyal opposition to offer alternative proposals, and I would hope that we would reverse, frankly, the practice that has gone from 1995 to date where increasingly we have reduced the opportunity of the minority party to offer alternatives, either in the nature of substitutes or in amendments to the base bill.

I say that very seriously because I think that my colleagues were frankly correct when they were in the minority, making the proposition that that would improve legislation, and we ought to vote it up or down. If it was good when the gentleman was in the minority, presumably that same principle is good when they are in the majority.

We are tested somewhat when the shoe shifts from foot to foot to see where we want to put that foot I suppose, but I would hope that on this bill, which is a controversial bill, a bill, that is, we believe has great consequence for patients, for doctors, for hospitals, we want to make sure that our people have the best medical service available to them and that our doctors and that our hospitals and that our patients have the ability to work with one another to effect that. We have some ideas on that. We have some ideas how that can be effected, and we are hopeful, respectfully, and we would urge that the Committee on Rules give us a full and fair opportunity to present our alternative ideas if we have them. If we do not have them when we support your proposals, then fine, but if we have alternative ideas, we would urge on legislation of such great consequence to the American public that we fully debate options and ways and means of solving the problems that we are addressing.

Mr. DELAY. Mr. Speaker, would the gentleman yield?

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's concerns, and the gentleman said earlier it is all in the eyes of the beholder. In the eyes of this beholder, we think we have been more than generous with the minority, and in showing that, to entice Mr. Pitts to come work for the Committee on Rules shows our generosity to the minority because he is a very fair man, a very creative man in dealing with rules and really understands how this House works, and we hoped that by Mr. Pitts coming to work for the Committee on Rules it was a signal to everyone in the House that everyone in the House would be treated fairly.

Mr. HOYER. Reclaiming my time, I thank the gentleman for his comments. I do not want to prolong this too much.

I want to say with all sincerity, I share the gentleman's view of Mr. Pitts. I have worked with him over a long period of time. I have extraordinary respect and affection and regard for Bob Michel, for whom he worked effectively and for a long time.

□ 1315

I want to tell the gentleman, as sincerely as I can say on this floor, caring about this institution, frankly, if Billy Pitts is making the determination of what he thinks is fair or not fair, from his perspective from a long time in the minority, as to what the minority's rights ought to be in terms of offering alternatives on this floor, of having time to debate on this floor, of having individual amendments considered, I will tell the gentleman that I am confident that it will be done fairly.

But I will also tell the gentleman with equal sincerity that I have had my staff do an analysis from 1995 to date; and there has been, from 1995 to 2002, an almost straight-line reduction in the alternatives in bills allowed to the minority as we consider major pieces of legislation. I do not think that is good for our country, I do not think it is good for this institution, and it is not good for the comity between our two parties.

The gentleman from Texas and I have had an opportunity to work closely together on many items of great concern to this institution. We have worked well together. The gentleman and I have very serious disagreements on issues, but we do not have disagreements on the fact that this institution ought to operate as effectively as possible on behalf of our country. We share that in common, and I know we will continue to share that in common. But I really sincerely urge the gentleman, as the leader of his party on this floor and working with the gentleman from California (Mr. DREIER) and Mr. PITTS, to say to the American public and to this institution that we are prepared to debate these matters, we are prepared to debate these matters fully and fairly and give options to the minority party.

I will say to my friend there was some discussion in our party. We had one motion, as the gentleman knows, to adjourn, and there was some discussion that we ought to make many more motions and have disruption. We did not do that. But I will tell my friend that there is great concern on this side of the aisle that if we do not have a fair and open system to consider legislation that we will not be as cooperative as we otherwise would like to be, and so that the American public can be best served.

On the budget, Mr. Leader, if I can, when do we expect the budget to be on the floor?

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield.

Mr. HOYER. I yield to the gentleman.

Mr. DELAY. The distinguished whip understands that the Committee on the Budget is working as we speak, and continues to work to develop a product that they can mark up in the very near future. We fully expect to move a budget resolution through the House under a time frame that gives us ample opportunity to have a conference with the Senate and complete the budget resolution by April 15, as required by law.

It is a very ambitious schedule, I know; and it is putting a lot of pressure on a lot of Members to make a lot of decisions in a very short period of time. But we feel very strongly that we need to get this budget done as quickly as possible.

Mr. HOYER. I thank the gentleman. One additional question, which this is sort of a follow-up on what I have just discussed. In the past, as the gentleman knows, we have had a number of substitutes which have been offered. Our Congressional Black Caucus has offered substitutes, our Blue Dog Caucus has offered substitutes, and I know the gentleman will be happy to hear that it is fully my expectation that the minority on the Committee on the Budget will have a Democratic alternative. I noted that the gentleman urges us to do that; and he and I share that view, and we are going to do that. But will we be allowed, Mr. Leader, to offer those substitutes as we have in the past as well as offer amendments that are requested?

I realize the gentleman cannot answer to all the amendments, because I do not know what amendments will be asked for; but will there be consideration of valid amendments that have broad-based support?

Mr. DELAY. Mr. Speaker, if the gentleman will further yield.

Mr. HOYER. I yield to the gentleman.

Mr. DELAY. I thank the gentleman for yielding. We want to follow precedent as to how we want to approach the debate on the budget, and certainly I do not want to make decisions for the Committee on Rules. They are more than capable of making their own decisions about how to bring the budget to the floor and what kind of debate we will have. But as the gentleman has already noted, we have always been open to alternatives to the majority's budget as laid out by the Committee on the Budget.

The Congressional Black Caucus has always had a substitute and others have had substitutes. I think this is because it is such an important issue, the budget of this Nation and its government; and we are hoping to have as open a debate as possible.

Mr. HOYER. I thank the gentleman very much for those comments.

ADJOURNMENT TO MONDAY, MARCH 10, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, March 10, 2003.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 11, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 10, that it adjourn to meet at 12:30 p.m. on Tuesday, March 11, 2003, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ARMED FORCES TAX FAIRNESS ACT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, what began as the "Armed Forces Tax Fairness Act" for those bravely serving around the world, a bill to ensure that their families would not be taxed on the small, $6,000 death benefit payable to those families when someone is killed in conflict, that bill has now been totally perverted. The Republican leadership has desecrated the noble purpose of this bipartisan legislation.

In addition to the tax-free winnings for foreigners on horse races that was already in the bill, last night, in a truly shameful act, the House Republican leadership insisted on including in this military tax fairness bill an amnesty provision for corporate tax dodgers for the "ex-patriots" who have renounced America and planted their mailbox in the sands of Bermuda, even following the horrible attacks of September 11, in order to avoid paying their fair share of our military and other needs, the Republicans want to grant them amnesty.

While Americans are concerned with protecting their families, they need to know that the leadership of this House has launched a sneak attack to protect the corporate expatriates who have renounced America, and they do so in a misnamed bill, the "Armed Forces Tax Fairness Act."

ARMED FORCES TAX FAIRNESS ACT

(Mr. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATSUI. Mr. Speaker, we were to take up a bill today, which was H.R. 878, and the bill would have basically provided tax relief for our young men and women who are in the armed services, particularly those in the Persian Gulf at this time, 240,000 of them. It would have eliminated capital gains tax if and when they would sell their private residence. And if in the event that one or two of them would pass away or die, it would provide nontaxability of any survivor benefits that they would receive. This bill needs to be passed very quickly, because the President plans to go to war within the next 2 weeks or so. We are almost certain of that.

One of the problems is that last week, as the bill was in the House Committee on Ways and Means, my Republican colleagues added to the legislation a number of special interest tax breaks. Unfortunately, now it will slow the bill down. They took it off the floor of the House today because they could not even get enough votes on their side of the aisle to pass it. And, secondly, if it should pass, it will get bogged down in a House-Senate conference.

ARMED FORCES TAX FAIRNESS ACT

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I yield to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. I thank the gentleman very much.

Mr. Speaker, these tax breaks would provide for foreigners who place bets outside the United States on horse races a tax break. It would provide special tax breaks for the blend of diesel fuel and water. It will provide a special tax break for manufacturers of fishing tackle boxes. In all, $300 million worth of tax breaks like these would have been provided. A wide variety of these tax breaks would be given to these different companies, many of whom have contributed to the colleagues who in fact have offered them.

I think this is tragic. We have a situation where our young men and women are put in harm's way. We want to give them some relief so that at least they can have some peace of mind when it comes to selling their house. And many will have to sell their homes. That is one of the reasons we gave this tax break, mainly because their income is going to go down, and many have families back home.

As a result of that, we are slowing this process down now. So I would just hope they would bring the bill back, stripping off these special tax provisions.

Once again, Mr. Speaker, I want to thank the gentleman from Georgia for yielding to me.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI) for his leadership and all his good work.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRESIDENT'S BUDGET DOES LITTLE TO CLOSE ACHIEVEMENT GAP IN EDUCATION

Mr. MILLER of North Carolina. Mr. Speaker, President Bush recently announced his opposition to the affirmative action plan used by the University of Michigan in admissions. It is troubling that the academic achievements of white students and African American students at Michigan are markedly different, but it is troubling for a reason that President Bush apparently did not consider. It is troubling that almost a half century after the Supreme Court's decision in Brown v. Board of Education there remain such disparities in the academic achievements of white students and African American students.

Mr. Speaker, the public schools are where we deliver on the promise of equality of opportunity. The public schools must deliver on that promise to white children; to black children; to children whose parents do not speak English in their homes; to the children of parents who care passionately about their children, who read to them every night, who join the PTA and volunteer at their children's schools; to the children of parents who are themselves children and are as little prepared to be parents as their parents were before them.

Just days after President Bush announced his opposition to the University of Michigan's affirmative action plan, he announced his proposed budget. We see from that budget what he would do to close the achievement gap so that universities can achieve a diversity in population without affirmative action plans like Michigan's. Mr. Speaker, he would do very little.

The very programs that are most effective in closing the achievement gap and delivering on the promise of equality of opportunity for every child are hardest hit. The proposed budget cuts No Child Left Behind by $9 billion. The act gives a nod to the promise of equality of opportunity, but the budget breaks that promise.

The budget cuts after-school programs by more than 40 percent, teacher training by almost $200 million. It cuts individualized instruction in math and reading for disadvantaged children. President Bush's budget guts Head Start, our effort to reach disadvantaged children who now arrive for kindergarten so far behind they can never catch up.

□ 1330

I sat in a first grade class in my State and had one child after another read out loud to me. Some children read effortlessly in a sing-song voice because the material lacked such challenge. Other children read laboriously, sounding out every word, getting every third or fourth word wrong.

When those children apply for college 13 years later, I fear there will be the same differences in their academic achievement, and we will still need affirmative action plans like Michigan to achieve diverse populations in our colleges.

Mr. Speaker, it is not acceptable to me that our children's chances in life depend so greatly on the circumstances into which they were born. President Bush's budget shows that he is not bothered by that.

SECURING AMERICAN BORDERS

Mr. TANCREDO. Mr. Speaker, yesterday I brought forward to the House a picture and a little story about an individual who died on the border last August. His name was Chris Eggle. Mr. Eggle was an employee of the United States Government acting in the capacity of a park ranger down in the Oregon Pipes National Park in Arizona. He was killed in the line of duty by people who had come across the border after being involved in some sort of drug altercation where three others were killed in Mexico.

The point of my presentation yesterday was to explain to the Members of this body that we have, in fact, a war zone on our southern border, and to a certain extent, on the northern border.

Today, unfortunately, I have the sad occasion to bring to Members' attention another young man named Jorge Salomon Martinez. Mr. Martinez was brutally murdered in Mexico just a short time ago. He was a Border Patrol agent working for the United States. Mr. Francisco Javier Rosas Molina, who is 18 years old, is in custody, and the Mexican authorities continue to search for others that they say have probably fled across the border into the United States.

Mr. Martinez had apparently met Mr. Rosas Molina earlier in the week near the border town of Naco. They began to party together and converse, and Salomon had originally identified himself to the group as a member of the Border Patrol, as employed by the Border Patrol. Then they met some other people and Rosas Molina evidently told the other members of the group that Mr. Martinez was indeed a Border Patrol agent, and what happened next is described as the following.

He said that is when Rosas Molina identified him to the others as a Border Patrol agent, and that appears to be the reason that they killed him. Martinez was beaten and his head bashed in with rocks. His Ford pickup was stolen along with other belongings, including a gold chain and a medallion. A passerby discovered the body early Wednesday and notified Mexican police. Later police received a tip about the slaying and robbery of a U.S. Border Patrol agent. The caller led agents to Rosas Molina, who had the agent's truck and medallion. Rosas Molina has admitted involvement in the slaying.

The purpose of the slaying, as it appears from the evidence gathered, is because Mr. Martinez was a Border Patrol agent. He is not the first Border Patrol agent to be killed in the line of duty on the border, he is not the first Border Patrol agent to be accosted. It happens all too frequently. It is because our borders are war zones. We are in the process of debating whether or not, and the President is in the process of determining whether or not to send Americans off to fight a war in the Middle East. Without discussing the merits of that particular decision, I will tell Members there is a war going on on our borders. People are being killed on our borders. Troops are needed on our borders.

Our homeland needs to be defended. These people need to be defended. They need to be trained, and they need to be protected. We have to make a decision as a Nation as to whether or not we want borders or not. If we choose not to enforce our borders, we should move away from them and let people come into this country at their will. We should stop this process of sending a few people down to our border, put them into harm's way, and then refuse to actually secure the border.

Mr. Martinez, before him Mr. Eggle, and others, are examples of this kind of policy, this policy that puts people at risk without really having a desire on the part of this Nation to defend those borders or to protect our people on those borders.

Mr. Speaker, our hearts go out to the family of Mr. Martinez. Our prayers go out to that family. I hope that we will not forget his face or his story.

WINNING WITHOUT WAR

Mr. DOGGETT. Mr. Speaker, I offered President Bush, as did so many others here, immediate bipartisan support for the war on terror, but regime change in Baghdad, rather than disarming Iraq, represents a diversion from that bipartisan effort.

Not only do we have continuing concerns about Osama bin Laden, but also we have grave concerns about the looming nuclear threat from North

Korea, which does have long-range missiles. This threat was deliberately hidden from this House until after our vote on Iraq.

The Korean peninsula crisis worsens by the day with Administration mismanagement and neglect heightening the far greater danger from this xenophobic, despotic regime. The Administration has a "Don't Talk, Don't Tell" policy that is steadily narrowing our options and increasing the risk of what could easily become a devastating conflict.

Just yesterday, former Defense Secretary William Perry and former Secretary of State Madeleine Albright warned that North Korea could be headed toward "serial production" of nuclear weapons.

I believe that the Administration's fixation with regime change in Baghdad is diverting precious intelligence and other resources that we need to protect American families from what is a very genuine threat. Despite its clever marketing campaign, and it has been clever indeed, attempting to link 9/11 with Saddam Hussein, as of this very moment, the Administration has not offered one shred of evidence to make that connection stick, nor has it demonstrated why Iraq represents any greater danger of attacking our families today than it did on September 10, or since the time we were supplying them aid.

Today, we have crisscrossed Iraq with weapons inspectors. It does not even pose such a threat that its next-door neighbor, Turkey, is willing to challenge it.

The Central Intelligence Agency, in reports that we forced out of the Administration, has indicated that the real threat to our families would come with an invasion to Iraq and the danger that any weapons of mass destruction might spread and affect us.

Overthrowing a single tyrant, in what many will perceive to be a crusade against Islam, will ultimately jeopardize families across America as we create a generation of terrorists. Further attacks will only reinforce those here in America, who are determined to ensure our safety by trampling our civil liberties.

Attacking Iraq is apparently the first step in implementing a dangerous new security policy that dramatically alters a half century's bipartisan reliance on containment that has served to protect us from villains as bad as Saddam Hussein. America will now attack first with preemptive strikes in what could spiral into wars without end because other countries are likely to copy our model.

Fighting wars as a first choice, not a last choice, is a formula for international anarchy, not domestic security. A quick draw may take out the occasional tyrant, but it comes at the cost of destabilizing the world, disrupting the hope for international law and order, and, ultimately, it makes all of us unsafe.

True security certainly requires a strong military and a willingness to use it. We are strong enough to conquer Iraq and others, but we must be wise enough to rely on our many other strengths to rid the world of dangers. Ultimately, imposing our will by force unites our enemies and divides our allies. Defense Secretary Rumsfeld may dismiss our major partners as "Old Europe," but many yearn for "Old America" that collectively and successfully worked to prevent and remove threats to peace and ensure the safety of our families.

This is not a choice between "war" and "appeasement." Rather, the better alternative is to isolate Saddam Hussein and unite both his neighbors and our allies behind an aggressive inspection and weapons destruction program.

We know that the real cost of war is paid in blood. But Americans are already paying for this war at the gas pump. And with so few allies, hundreds of billions of our tax dollars that could be spent on the needs of Americans will be spent abroad.

A robust debate in an elected Congress on whether war should be waged with Iraq is the sign of a strong democracy. Unfortunately, this year, that debate took place in Turkey, not here in the U.S. House of Representatives.

FREEDOM FROM FEAR

Mr. BURNS. Mr. Speaker, I rise today to voice my concerns regarding domestic violence that plagues our Nation. Franklin D. Roosevelt once said there are four essential human freedoms, the last being freedom from fear.

Today there still are too many women and children who have never experienced a life free from fear. These women and children are the 1 to 4 million women who experience serious assaults by an intimate partner each year. They are the 3.3 million children who witness their mothers being abused every year. They are the 3.2 million victims of child abuse each year.

Mr. Speaker, I rise to commend Lifetime Television and its partners for drawing attention to this most important and most persistent problem. To those women and children who are out there who are victims, please know that there are people and there are programs out there to help you become free from fear.

PLEA FOR PEACE

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to plead for peace. Every day our great Nation moves ever closer to war with Iraq. I know many Americans believe war is unavoidable. I hope and pray that they are wrong.

It is not an easy thing to disagree with the administration at a time when hundreds of thousands of our brave men and women are poised in the Persian Gulf. I want to make it clear that I will support our troops regardless of what happens, but I cannot, in good conscience, betray the nonviolent principles on which I have worked my whole life. I cannot sit silent when I believe there is still time to use diplomacy and let the inspectors do their job.

□ 1345

While I believe that the hour is late, it is not too late to stop the rush to war. It is not too late to embrace peace. War with Iraq will not bring peace to the Middle East. It will not make the world a safer or better or more loving place. It will not end the strife and hatred that breed terror.

War does not end strife. It sows it. War does not end hatred. It feeds it. War is bloody. It is vicious, it is evil, and it is messy. War destroys the dreams, the hopes, and aspirations of people. I believe, Mr. Speaker, that war is obsolete.

As a great Nation and a blessed people, we must heed the words of the spiritual: "I am going to lay my burden down, down by the riverside. I ain't gonna study war no more." For those who argue that war is a necessary evil, I say you are half right. War is evil. But it is not necessary. War cannot be a necessary evil, because nonviolence is a necessary good. The two cannot coexist. As Americans, as human beings, as citizens of the world, as moral actors, we must embrace the good and reject the evil. To quote Ghandi: "The choice is nonviolence or nonexistence."

America's strength is not in its military might, but in our ideas. American ingenuity, freedom, and democracy have conquered the world. It is a battle we did not win with guns or tanks or missiles but with ideas, principles, and justice. We must choose our resources, Mr. Speaker, not to make bombs and guns but to solve the problems that affect all humankind. We must feed the stomach, clothe naked bodies, educate and stimulate the mind. We must use our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate, to heal and not to kill. Let us, in Reverend Dr. Martin Luther King Jr.'s words, "take offensive action in behalf of justice to remove the conditions which breed resentment, terror and violence against our great Nation." That is a direction in which a great Nation and a proud people should move.

War is easy; but peace, peace is hard. When we hurt, when we fear, when we feel vulnerable or hopeless, it is easy to listen to what is most base within us. It is easy to divide the world into us and them, to fear them, to hate them, to fight them, to kill them. War is easy.

But peace is hard. Peace is right, it is just, and it is true. But it is not easy to love thy enemy. No, peace is hard. As my friend and mentor, Dr. King, said when he spoke about the Vietnam War: "War is not the answer. Let us not join those who shout war. These are days which demand wise restraint and calm reasonableness." He was right then and the wisdom of those words holds true today. War was not the answer then, and it is not the answer today. War is never the answer. It is not too late to stop our rush to war. Let us give peace a chance.

IRAQ

Ms. BALDWIN. Mr. Speaker, it is clear that Saddam Hussein has been and continues to be a threat to Iraq's neighbors, his own people, and to all peace-loving nations of the world. The United States and the United Nations have recognized the dangers posed by his pursuit of nuclear, biological, and chemical weapons. The world has wisely taken action to proactively address this threat.

The issue is not whether Saddam Hussein is a terrible dictator or whether or not he is dangerous. He clearly is. The issue is whether a preemptive war is justified now. I believe the answer is no. Iraq is neither an immediate or an imminent threat to the security of the American people. Aggressive inspections and disarmament by the United Nations with the full support of member states can be successful. We have time to work together with the international community to collectively address the threat of Iraq without resorting to war and without endorsing a policy of preemptive attack.

Following the devastation of World War II, the United States showed tremendous leadership in the world as we created international institutions and a framework of international law to prevent war and to sustain and maintain peace. We were the leaders in promoting a world where conflicts could be resolved peacefully and cooperatively. While never perfect, this system of international institutions has been remarkably effective. I and many others around the world are shocked and dismayed by the unilateral, confrontational approach that this administration has taken in the world arena. We must recognize the consequences in the world community of our rejection of Kyoto, of the International Criminal Court, of the treaty to ban land mines, and our own withdrawal from the ABM treaty. We must be mindful about how our criticisms of the U.N. and NATO are heard throughout the world community.

We have to recognize that after 9–11, the world came together in solidarity with our loss, working with us to find the perpetrators, to break up al Qaeda and arrest its leaders, to interrupt the flow of money. It should have been crystal clear that fighting terrorism and protecting American security would require our friends and our allies; cooperation, not confrontation. Yet the administration instead engaged in a single-minded drive to achieve its Iraqi objectives at any cost instead of developing a policy to deal with Iraq by working with our allies, by working with the world community. Even if the administration gets what it wants this time, what is the long-term damage to our international relationships? How will it impact our efforts to stop terrorism and protect the security of the American people?

I am worried. The people that I represent are very anxious. It seems more and more likely that war is around the corner. What will that war be? Are the American people prepared? The American people are expecting, I think, a smaller conflict than we are walking into, perhaps a Grenada, a Panama or the first Gulf War; quick, hopefully few casualties, troops in and out within weeks or months. I think that this war would be different. After a large ground war to capture the entire country, we will likely occupy Iraq. The Army Chief of Staff, General Shinseki, estimated that we would need 100,000 troops or more for the occupation. We have no idea how long they would have to stay. Mr. President, we need to hear about your exit strategy, and we need to hear that now.

The congressional debate that we had last fall to authorize the use of force against Iraq did not prepare the American people for the ramifications of this war and what this administration truly envisions. I call on this administration to answer the myriad questions that have been posed by numerous Members of Congress on behalf of our constituencies before ground troops are committed. All of Congress and all of America stand by our troops, but we think it is absolutely incumbent upon this administration to answer our questions.

U.S.-FRENCH RELATIONS IN LIGHT OF IRAQI CONFLICT

Mr. OBERSTAR. Mr. Speaker, in the current international debate on Iraq, I have the very clear impression that the United States and France are talking past each other and not listening to each other. More particularly, that the United States is not listening to the very nuanced views expressed by the French. My assessment of the dialogue is that President Chirac and President Bush are in accord on the objective of disarming Iraq of weapons of mass destruction and the capability to deliver such weapons. The Bush administration, however, has concluded that the only way to achieve this objective is through military action. In contrast, the French and many other U.S. allies and friendly observers favor continued diplomacy in the firm belief that a vigorous, intensive weapons inspection program will attain the disarmament objective.

It would be useful for the Bush administration to think more constructively about France's contributions to international dialogue and its distinguished record of multilateral peacekeeping as well as military intervention when justified.

A few highlights would be instructive: France was a valuable partner for the United States during the Gulf War in 1991, deploying 10,000 troops and 100 aircraft in Operation Desert Storm. From 1991 through 1995, France was an active ally to secure the peace in Bosnia. During this important peacekeeping mission, 70 French soldiers were killed and more than 600 wounded. In 1999, France deployed the greatest number of aircraft and flew the largest number of sorties of any combatant in Operation Allied Force in Kosovo. France today is contributing the largest contingent of peacekeepers in the Balkans, more than any other nation, including our own.

After September 11, French troops participated in Operation Enduring Freedom in Afghanistan where France continues to place its troops in harm's way to provide security in that critical region. French President Chirac was the first foreign leader to pay his respects to the United States in person following the September 11 attacks. This is a very significant record of valuable contributions that France has made where and when needed to combat terror and secure peace.

Our foreign policy would be better served by respecting the historical reality of the U.S.-French relationship. We need to listen to the wise counsel of this longstanding friend of America which has learned how to deal with the Islamic terrorist threat from its own painful experience in Algeria, Tunisia and Morocco and the large Arabic-Islamic population among its own citizenry.

Mr. Speaker, I include for the RECORD a New York Times op-ed piece on this very subject.

A WARNING ON IRAQ, FROM A FRIEND

(By Jean-David Levitte)

WASHINGTON.—Reading the papers from both sides of the Atlantic, I sometimes wonder whether the impending war is not between France and the United States. I would like to strongly reaffirm what, in the heart of the French people, is a longstanding reality: the friendship between France and America began in the early days of your fight for independence and has endured throughout the centuries.

America rescued my country twice in the last century—something we will never forget. Today we stand side by side in many parts of the world, including Afghanistan. France is the largest contributor of troops to NATO operations. Our friendship is a treasure, and it must be maintained, protected, enhanced.

However, the polls are clear: 78 percent of French people oppose a military intervention in Iraq. Polls are similar in most other countries, including in Eastern Europe. European governments may be divided over the use of force in Iraq, but public opinion is united.

There are, in my view, three reasons the mood is so cautious. The first relates to our assessment of what is far and away the biggest threat to world peace and stability: Al Qaeda.

French intelligence is clear that not since the Algerian war 40 years ago has my country been under such an immediate threat. Last May, 11 French citizens were killed in a suicide bombing in Karachi, Pakistan. In the fall a French tanker was attacked by Al Qaeda off Yemen. And in December, near Paris, we arrested several suspects who were suspected of close links to Al Qaeda and of planning terrorist attacks in France.

Terrorist suspects have also been arrested elsewhere in Europe—in Britain, Spain and Italy—belonging to groups connected with networks active in Afghanistan, Chechyna, Algeria and Bosnia. Yet we haven't seen any evidence of a direct link between the Iraqi regime and Al Qaeda.

A second reason for the reluctance of the French people is that Iraq is not viewed as an immediate threat. Thanks to the determination of President Bush and the international community—and to the inspections that destroyed more armaments between 1991 and 1998 than did the Persian Gulf war itself, and which have now been reinforced with stronger means and bigger teams—Saddam Hussein is in a box. And the box has been closed with the inspectors in it.

Europeans consider North Korea a greater threat. Imagine what a sense of security we all would feel if, as in Iraq, 100 inspectors were proceeding with unimpeded inspections throughout North Korea, including the president's palaces.

A third reason for the cautious mood relates to the consequences of a war in Iraq. We see Iraq as a very complex country, with many different ethnic groups, a tradition of violence and no experience of democracy. You can't create democracy with bombs—in Iraq; it would require time, a strong presence and a strong commitment.

We also worry about the region—considering that no peace process is at work for the moment in the Middle East, that none of the great powers seem able to foster one, and that a war in Iraq could result in more frustration and bitterness in the Arab and Muslim worlds.

People in France and more broadly in Europe fear that a military intervention could fuel extremism and encourage Qaeda recruitment. A war could weaken the indispensable international coalition against terrorism and worsen the threat of Islamic terrorism.

The inspections should be pursued and strengthened, and Saddam Hussein must be made to cooperate actively. War must remain the very last option.

ASBESTOS LITIGATION INUNDATES THE COURT SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, yesterday Steven Kazan, the prominent asbestos victims lawyer, informed the Congress: "Asbestos litigation has become a nightmare because the courts have been inundated by the claims of people who may have been exposed to asbestos but who are not sick, who have no lung function deficit. This flood is conjured up through systematic, for-profit screening programs designed to find potential plaintiffs with some x-ray evidence 'consistent with' asbestosis. Ironically, and tragically, in many States that x-ray evidence triggers the statute of limitations, literally forcing the filing of premature claims. These claims are choking the asbestos litigation system and keeping the courts from doing their real job, providing compensation for people who are genuinely injured by asbestos diseases."

Mr. Speaker, the current state of asbestos litigation is a public health tragedy in which the claims of truly ill, terminally ill cancer patients and others who struggle to breathe are mixed together with those plaintiffs who suffer no impairments. In 2001, almost 90,000 individuals joined in asbestos-related personal injury suits against 6,000 entities, but only 10 percent of those claimants have any symptoms of asbestos-related illnesses. These legal tactics force defendants into settlements because they cannot take the risk of "betting the company" on pronouncements of a judge and jury. This first happened in 1982 when 16,000 asbestos personal injury suits forced Johns Manville Corporation into bankruptcy. Since then, the uncertainty of asbestos litigation has driven nearly 70 major American companies into bankruptcy.

During the past 20 years, 2,100 asbestos cases have been tried or settled at a total cost of $54 billion, with over half of the money used to pay lawyers. As the Wall Street Journal points out, that is more money than the cost of 9-11, Enron and WorldCom put together.

□ 1400

It certainly is a lot of money, but sick plaintiffs are not getting their fair share. The Manville Asbestos Claim Trust created by the bankruptcy court started paying claims in 1988 and was depleted in just 2 years. Today Manville pays just 5 cents on the dollar to claimants, and more money flows out to individuals with no impairments than to people who are truly sick. The truest victims of this tragedy are those who deserve quick and fair compensation for the illnesses they suffer.

However, this problem has more victims. The long-term economic cost paid by all Americans is staggering. According to the RAND Corporation, another $150 billion to $200 billion will be spent on asbestos litigation if nothing is done. To date, $54 billion has been expended. Without reform 423,000 American jobs will be lost. Local governments will spend millions on unemployment benefits, job retraining, and medical coverage for displaced workers and their families. Workers in bankrupt firms will not only lose their jobs, but their retirement security will slip away as they watch the value of their 401(k) accounts drop by 25 percent.

The ever-burgeoning caseload has spawned criticism even from Supreme Court justices who warn that the asbestos litigation crisis is slowing the administration of justice nationwide, and therefore, Congress must act. These complaints span the idealogical spectrum of the Supreme Court, including court liberals like Ruth Bader Ginsberg and moderates like David Souter. In 1999, Souter wrote: "The elephantine mass of asbestos cases . . . defies customary judicial administration and calls for national legislation." Opining on the same case, Rehnquist, Scalia, and Kennedy also begged Congress to act. Others are joining the chorus.

Both the Washington Times and the Washington Post called on Congress to move asbestos litigation reform. Just 2 weeks ago, even the American Bar Association voted to support medical standards that would bring the cases of truly sick asbestos plaintiffs to the front of the docket.

Asbestos victims, business leaders, lawyers, and opinion leaders all agree. The need for reform is clear. Therefore, today I am introducing the Asbestos Compensation Act of 2003. This bill establishes medical criteria to expedite the claims of the truly ill and gives these victims access to quick and fair compensation. Any worker who feared he was exposed to asbestos could be tested by a qualified doctor in his area identified by the Justice Department. Those found to be injured would have the value of their impairments determined in accordance with a fair formula, and the worried well would retain the right to return at a later date if they developed symptoms of asbestos-related illness.

The Justice Department would contact corporations named by the workers as responsible for injuries, apportioning liability in accordance with the facts and a set liability formula. Many contacted corporations would accept these settlement offers since they would avoid the expensive legal battles of staying in court.

Mr. Speaker, this is a cloud on our entire economy, affecting 900 stocks in the stock market and the 401(k) and other retirement savings of all of our constituents. I ask for rapid support of this legislation. This is the most important legislation after the President's tax package that this Congress will consider this year.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 936

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 936.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from Virginia?

There was no objection.

ARMED FORCES TAX FAIRNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. LEVIN) is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, I rise today because it is critical that the RECORD be clear about what happened earlier today on the floor of the House, and that we learn the right lessons.

The bill relating to Armed Forces Tax Fairness was supposed to be before us. The bill originally related exactly to that, tax fairness for those who are in the armed services. But it was decided before we met in committee, the Committee on Ways and Means, apparently by the leadership of that committee, that Members would be allowed to offer provisions totally unrelated to that important bill. A number of those in the majority decided to take that opportunity.

No Democrat participated in presenting any special interest or particular interest legislation. So what we saw was a flood of special interest or particular interest proposals totally unrelated to the critical issue of armed services tax fairness. Provisions relating to makers of bows and arrows, those who make fishing tackle boxes, a provision relating to the taxation of people, foreigners who bet on American horse races.

What happened? The majority leader earlier said on the floor that the result in the Committee on Ways and Means was a bipartisan one, as I heard his words. That is simply incorrect. We voted, Democrats, against a number of these particular provisions. We had roll calls. Republicans voted aye; Democrats by and large almost unanimously voted no. The gentleman from New York (Mr. RANGEL), the ranking member, presented a substitute that would have stripped the bill of all of these particular interest provisions and, as I remember it, have adopted the Senate provision. That was voted down.

So let the RECORD be clear as to what happened in the Committee on Ways and Means. The bill came out on a voice vote because Democrats did not want to vote against a bill relating truly to tax fairness for those in our armed services. However, we had made clear where we stood on those specific provisions.

What is the lesson? At best, this bill, as it came out of the Committee on Ways and Means, reflected misguided priorities and the arrogance of power. Misguided priorities because they inserted several hundred millions in provisions totally unrelated to armed services tax fairness. Bows and arrows, money there when we are short-changing education for our kids, fish tackle boxes when there is not enough money going for homeland security. And then horse races to help those who bet on horse races when there is not enough money for people who are short on prescription drugs.

An arrogance of power that led some in the majority to decide to put on a bill relating to tax fairness for those who were abroad as well as at home, provisions that helped those who were here at home.

So I come here because it is critical the RECORD be clear, it be critical we learn from this experience. I hope next week early on a bill will be presented here preferably the Senate bill that treats even more fairly than the House bill, without these provisions, those in the armed services.

HONORING STAFF SERGEANT BERMAN GANOE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized for 5 minutes.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a constituent of mine who fought and died in the Vietnam War and is being honored tomorrow in my district, the fifth congressional district of Florida. In 1968, 19-year-old Berman Ganoe enlisted in the U.S. Army and was sent shortly thereafter to Vietnam. On March 24, 1970, Staff Sergeant Ganoe's helicopter was shot down while on a rescue mission in Cambodia. The helicopter that Sergeant Ganoe was aboard was acting as a rescue aircraft for a gunship team engaged in combat on the ground. A fellow army pilot who witnessed the crash of Sergeant Ganoe's aircraft called the rescue mission and the actions of the entire crew "the most heroic act he had ever seen."

Shortly after the crash, Sergeant Ganoe was classified as "missing in action" and became Marion County, Florida's only Vietnam War "missing in action" person. In 1974, the Army changed his status to "assumed dead." In 1998, after an excavation of the crash site, Sergeant Ganoe's remains were returned to the United States but were never positively identified until mid-2001.

He is one of 22 Florida soldiers whose remains were recovered and returned to the United States following the end of the war. When the technology to positively identify years-old remains was developed and perfected, the remains were identified and the families of the fallen soldiers were contacted.

Tomorrow in my district, friends and family of Sergeant Ganoe are memorializing him and honoring his contribution to our country. A bronze memorial of Sergeant Ganoe will be unveiled at a ceremony in Ocala which will follow a private memorial service for his surviving three brothers, four sisters, and numerous friends and extended family members.

Sergeant Ganoe served his country and made the ultimate sacrifice to protect our freedom. Further, he died in a rescue mission to save the lives of fellow soldiers. Posthumously, Sergeant Ganoe was awarded the Distinguished Flying Cross, the Bronze Star, 16 Air Medals, the Purple Heart, and numerous other medals of valor.

I commend Sergeant Ganoe for his actions and stand here today to honor his life and his sacrifice. I think it is particularly important that we consider the sacrifices of Sergeant Ganoe and of the people who currently are serving in our military today.

COMMUNICATION FROM THE ATTENDING PHYSICIAN OF THE CONGRESS

The Speaker pro tempore laid before the House the following communication from the Attending Physician of the Congress of the United States:

CONGRESS OF THE UNITED STATES,
Washington, DC, March 6, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for documents and testimony issued by the Superior Court for the District of Columbia.

After consulting with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

DR. JOHN EISOLD,
Attending Physician.

MAKING THE CASE AGAINST IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. BUYER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BUYER. Mr. Speaker, I come to the floor today to cover two points. One will cover recent rulings in the FCC regarding the 1996 Telecommunications Act, and the other is we are going to talk about our foreign policy with Iraq.

Mr. Speaker, in 1996 the Telecommunications Act was heralded as a grand attempt to move the telecom markets toward competition. I was a conferee on that bill. It was a great compromise between the House and the Senate. That bill was greatly heralded by many people, but 7 years later the Act's intent has been overrun by the FCC's recent decision that has effectively blocked competition and created disincentives for investment by maintaining the UNE-P status quo.

□ 1415

It is not only the intent of the act that is being circumvented. More tangibly, the already-fragile telecom industry has suffered another financial setback. In response to the FCC's decision, many of Wall Street's analysts have made their voices heard on the negative effects that the decision will have on the economy, including Morgan Stanley, Goldman Sachs, Lehman Brothers and others.

An analogy of the FCC's decision would be to allow McDonald's, or Burger King, a competitor, to come into their restaurants and use their entire facilities. You bring your meat, you fry it up, you bring your own drinks, you use it all, you use their advertising, you use their building, you use their drive-up window, you use their cash registers, and you are in competition with the McDonald's or Burger King franchise?

No one in America would ever allow a competitor to do such a thing. But that is what is happening in the telecommunications industry. What incentive is there at all to allow investment, if that in fact is what is going to occur?

As a matter of public policy, the FCC's decision simply makes no sense. On one hand, the commission deregulates broadband, and on the other hand it complicates and multiplies regulation on UNE–P.

Last year, this body passed the Tauzin-Dingell broadband legislation, 273 to 157. I think we could argue that the will of the Congress had an impact on how the FCC views broadband. Do we now pass another bill to show the FCC that further regulation on UNE–P offers no help to the Nation's economy? Mr. Speaker, if that is what it takes, then I say, let us do it.

Mr. Speaker, I am pleased that the chairman of the Committee on Armed Services has joined us here for this Special Order on behalf of the Republican leadership.

There were some what I call the voices of dissent that came to the floor, the voice of dissent with regard to war. I call it the sounds of freedom. One was asking, please give peace a chance. The other one was saying I am concerned about the long-term damage to our alliances if we do not follow what Germany, Russia, China, and France are asking for. The other says we just need to continue our diplomacy and we should follow the lead of the French. That was the voice of dissent that came here to the floor today.

I would say to the gentleman from California (Mr. HUNTER), to those voices out there that say give peace a chance, it is easy to say that when you sit in freedom, and peace is truly the consequence of freedom. America represents freedom, and we export hope and opportunity; and Iraq and some of the sub-national terrorist organizations that represent tyranny, they export fear and terror.

I yield to the gentleman.

Mr. HUNTER. If the gentleman would yield on that point, I agree with the gentleman that the folks who express their dissent and have been expressing their dissent in government, basically giving the other side of the debate, are providing a public service by doing that. But I think there are a few observations that are important here.

There have been people demonstrating worldwide in large numbers, hundreds of thousands of people, against the prospect of war with Iraq. I do not think any of those people demonstrated when the Kurdish babies were laid low by the gas attacks with poison gas that Saddam Hussein spread over their villages.

I do not think any of those folks demonstrated when he gassed Iranians by the tens of thousands, or when he executed his own people, cut off their ears and did the myriad of reprehensible acts that have now been ascribed to him, both in closed-door sessions by our intelligence officers and in open sessions by various human rights agencies.

So I think it is always important to set the record straight, or to come into these debates with a full understanding of where they come from. And I think one of the most honest talk shows that was ever devised for television was "Crossfire," where the conservative would say "from the right," and the liberal would say "from the left."

But it is obvious that the people who are demonstrating by the hundreds of thousands, some of them well-meaning people, also include lots of people who are not necessarily demonstrating because they have a great love of mankind, or that they are special peace people or have a special care about humanity, because, if they did, they would have been demonstrating when Saddam Hussein gassed those Kurdish babies by the hundreds. They were not demonstrating there, so that did not bother them.

It did not bother them because it was not destabilizing. I think a lot of folks do not like the idea that war in itself is something unsure, it is destabilizing, that it potentially affects the cost of gasoline in your automobile, it potentially affects your community, it may affect relatives who may have to go off to war. So it is something that brings about a feeling of unsettlement.

But let us answer that question the gentleman brought up, why are we entering into this confrontation, it appears? I think one question that could be well thrown back is this: in 1991, when we had not only lots of folks in this country and around the world against us taking action against Iraq when they invaded Kuwait, we not only had lots of folks on the streets around the world, but we also had a majority of the Democrat leadership. I do not fault that Democrat leadership for having taken their position, which they have a political right to do, and taking that side of the debate. But we found afterwards, to answer those people who said give peace some time, give it a chance, give us another 10 months, 18 months, whatever, we found out that according to United Nations estimates, Saddam Hussein at the time that we defeated him in battle was 6 months away from having a nuclear weapon.

So certainly those well-meaning folks who thought that time was on our side discovered afterward, and to the surprise of everyone, conservatives, liberals, Democrats, Republicans, none of us knew how close he was to having that system. So time is not always on our side.

It is my estimate, after having conducted some closed hearings and some open hearings, eight hearings in total, it is my judgment that this country is going to have a nuclear device in about 3 years, and, along with that capability, possessing that capability, because we have allies who have nuclear devices, Britain has nuclear devices and we are not worried about them, that country has with its present leadership, I think, the intent to use that capability against Americans, either in theater or in the American homeland.

Mr. Speaker, when you add up capability plus intent, you have a national interest; and our national interest now is to take that away from him before he has the full capability. So I think that reasonable people can differ on this subject. But the lesson of Desert Storm I was that time is not always on our side.

Mr. BUYER. Reclaiming my time, beginning with the threat, I think is probably the right place for us to start this discussion here today.

A report released on September 9, 2002, from the International Institute for Strategic Studies, an independent research organization, concludes that Saddam Hussein at that time, actually Saddam Hussein could build a nuclear bomb within months if he were able to obtain the fissile material. Iraq has stepped up its quest for nuclear weapons and has embarked on a worldwide hunt for materials to make an atomic bomb. We all know about the aluminum tubes, the dual-use material and technologies that he has been trying to obtain.

So the gentleman's comments with regard to time, it is true; and I do not know why some people are unwilling to acknowledge this individual's ambitions. Saddam Hussein has repeatedly met with his nuclear scientists over the past few years, signaling his continued interest in developing a nuclear weapons program.

With regard to chemical munitions, Iraq admits but UNSCOM cannot confirm the destruction of 6,500 chemical-weapon bombs filled with 1,000 tons of agent, over 3,000 tons of chemical warfare agents, 614 tons of precursor chemicals used to make the most toxic nerve agent, VX, 550 artillery munitions, 155 millimeter, filled with mustard and chemical warfare agent, and 31,658 empty and filled chemical weapons munitions.

Iraq continues to rebuild and expand the dual-use infrastructure that could quickly divert from chemical weapons production such as chlorine and phenol plants.

Iraq is seeking also to purchase chemical weapons, agents, precursors, and applicable production equipment and is making an effort, obviously, to hide those facilities while inspections even continue.

With regard to biological weapons, Iraq admits, but the U.N. cannot confirm, the destruction of 8,500 liters of anthrax, 2,160 kilograms of bacterial-growth media, enough to produce 26,000 liters of anthrax, 38,000 liters of botulinum toxin and 5,500 liters of aflatoxin.

Mr. HUNTER. If the gentleman would yield on that point, the facts that the gentleman is putting out are especially important because those are not guesses on our part. In fact, they are not even guesses on the part of the United Nations or on the part of the arms inspectors. Those come from documents from the Iraqis themselves, from their own declarations and their own documents. So the 6,500 liters of anthrax, for example, which is enough anthrax to kill around 1 million folks, is something that came from their documentation, not ours. That is something that they have not turned over.

The thousands of chemical munitions that the gentleman has gone through, that comes from their documentation, not ours. So this is like the storekeeper who says here is my inventory list, and then later on he wants you to expect that somehow, without any outward manifestation or anything that could be picked up or anything that was shown to the rest of the world, all of those weapons have disappeared.

Let me just say, and this might be the time to comment on this, the easiest bet in show business is that this tiny little handful of so-called inspectors, and there are less inspectors than there are policemen in the average small town in America, the idea they are somehow going to be able to go through this massive state and discover weapons of mass destruction in these vast empty buildings that the inspectors are being shown by the Iraqi bureaucrats, the idea that that is in some way going to happen is an absolute fantasy.

So I predicted early on, before this thing ever started, on the record, that they were not going to find anything of import. These folks have had a long time to bury it. And the Iraqi bureaucrat who actually leads arms inspectors into these places, and 90 percent of them are places where they have been before, time and again, big empty buildings, and lo and behold, there is a weapon of mass destruction that somehow the maid forgot to clean up from the night before, that bureaucrat is going to be considered two things: one, the dumbest bureaucrat in Iraqi history, and, secondly, shortly thereafter, the deadest bureaucrat in Iraqi history.

So this is a state that has had an entire agency devoted to hiding things very effectively, and the idea that this little bitty corporal's guard of so-called inspectors is somehow going to find them, is like saying that this massive police force in Washington, DC., and the police force in D.C. is 10 times as big as the inspectors for all of Iraq, it is like saying that the drug lords of Washington, DC. are expected to pile all of their cocaine at an intersection on Pennsylvania Avenue at a given time. When they do not pile it up, and the Washington Post thereby concludes that there is not any cocaine in Washington, DC., you will have the equivalency to what some of the media is doing today with these reports of negative findings with respect to Iraq.

Of course, they are not going to turn over this stuff that they have spent millions of dollars hiding to this little bitty force which does not have the ability to go in and which is having absolutely no success in terms of finding it.

Remember this great idea where we were going to isolate or bring out for interrogation these people in the Iraqi technical establishment, the scientists, the engineers who build this stuff? Somehow we were going to get them and the families alone outside of the country, and then they were going to tell us things, just like the ones that have come out have told us.

Now, that has not happened; and not surprisingly, while these people are under the control of Saddam Hussein, while the Iraqi guard stands there and looks them in the eye, they say, I would rather not talk unless I am accompanied by one of Mr. Hussein's officials.

□ 1430

Well, of course they say that. The safety of their lives and the lives of their children depend on them saying that.

This country has to act in the security interests of the United States. I recall, with respect to these other countries that have not come on board, that when Menachem Begin hit the Iraqi nuclear reactor site in Osirak in the 1980s, lots of countries in the world publicly deplored the act, and said this was a terrible intrusion on the Iraqi airspace. They then walked quietly into the security of their own offices and they breathed sighs of relief because that capability had been taken away.

Mr. BUYER. Mr. Speaker, I would ask the gentleman, is this the same nuclear reactor that was built by the French?

Mr. HUNTER. Yes. I think one French engineer was killed that way. There was one engineer working on a Saturday or Sunday at the Iraqi site. As I recall, there was one engineer killed.

My point is, the world has two faces; one face in which they, too, are deathly afraid of an emerging nuclear capability on the part of Saddam Hussein, and terrified with the present-day chemical and biological weapons capability. They do not want him to hurt them, they want us to protect them. On the other hand, those people, especially the people that Don Rumsfeld describes as those who live in the neighborhood, who have to deal with them, are going to be very reluctant to publicly say that the bully should be taken on, because the bully is going to remember what they said.

Mr. BUYER. I would say to the gentleman from California (Mr. HUNTER), since we talked about the present threat, let us spend a little time on what Saddam Hussein has done from 1991 to present.

With regard to his repression of the Iraqi people themselves, there is his refusal to admit human rights monitors; continued torture; the executions and repression of political opposition; disappearances of people in the night; withholding of food and medicine in the food for peace program; the mass murder of Iraqi Kurds and Iraq Shi'a Muslims. He continues to support international terrorist organizations, which has been well known.

He also has refused to account for Gulf War prisoners. In his failure to account, Saddam Hussein has been unwilling to come forward on 609 cases of missing Gulf War prisoners of war and missing in action representing 14 nationalities, including one American pilot. We also have Saddam Hussein failing to return and account for a large number of Kuwaiti citizens and citizens of other countries who were detained during the Iraqi occupation.

Also, Saddam Hussein has refused to return stolen property from Kuwait, and Saddam Hussein has continued his efforts to circumvent the economic sanctions.

So for those who are saying give peace a chance, let us let the economic sanctions work, are they working, I ask the gentleman from California?

Mr. HUNTER. I think the gentleman has given an excellent representation of what this dictator does, Mr. Speaker, and what he stands for. I think that builds an excellent context in which we can try to evaluate whether or not peace would work, given a chance.

First, he is deceptive. Secondly, I think he believes his future depends on manufacturing weapons of mass destruction. Third, he is willing to take his own people through enormous discomfort and inconvenience and danger in order to achieve his own political ends.

But I would say to the gentleman that there are pieces of Saddam Hussein's activities, although maybe not the composite, but it can be fairly said, and it has been said by lots of people, are there not other dictators in the world who do the same thing, and we are not attacking them?

I would say that that is true. I would say the reason that I think we should move forward, and I think is the major justification for this massive operation, is American security. This guy is the leader who has used ballistic missiles against American troops and killed them with it. He has used poison gas against his own people in recent times. He has exhibited a willingness to kill Americans.

As a result of the background that I have seen and the facts that I have seen, it is my conclusion that if he can achieve the production of a nuclear device, that at some point he will use it on our troops in theater or on Americans. I think it is a wise decision to keep him from being able to do that.

That takes us to, I think, what I think is a very important point for policy debate. It has been a point for policy debate. We now have what I call the Pearl Harbor school emerging from the other side of this debate. Those are the people who say, by golly, we are America. We wait for our Pearl Harbors before we respond. When the enemy inflicts a heavy blow on us, that is when we rally; that is when we talk about the day of infamy; and that is when we go out and strike back and overwhelm the enemy, and justice prevails.

The problem with the Pearl Harbor school is that these weapons are so severe today and so dangerous and so destructive that we cannot afford to wait to have a Pearl Harbor occur before we eliminate the source. To some degree, we are carrying that out right now. September 11 killed a lot of Americans; but, arguably, the new tightening of our borders, the new security efforts we have undertaken in the American homeland should prevent some of those things from being able to happen again.

Therefore, it could be argued that there is no reason for us to be in Afghanistan going after people and disrupting terrorist groups; in fact, in some cases taking on people who personally were not involved in the event of 1995.

But what we have discovered is that we do have to do some preemption. I think this question is going to be facing us again and again in this century: Are we going to stand by and watch somebody who has demonstrated an intent to kill Americans develop high technology with which he can kill lots of Americans, and stand by and wait for him to gain that weapon and use it on us before we respond; or are we going to try to eliminate that danger before the Pearl Harbor occurs?

That is a tough thing, because Americans do not like to be the first ones to strike out. When we watch the speech of FDR after Pearl Harbor, there was no dissent in the House Chamber. That was an easy vote, that vote for war. We were all together, we had that common ground, and had that feeling that we were in the right. As Joe Lewis said, we felt that God was on our side.

Now we are faced with these terrible weapons, and we cannot afford to take the blow that will come from those systems. In a way, we are a little bit like little tiny postage stamp Israel that stood there and watched this nuclear reactor being built in Iraq. They had seen the speeches by Saddam Hussein where he made thinly veiled threats to the effect that the final recipient of the output of those nuclear reactor plants would be weapons detonating in Israel. Israel realized they were too small, too flimsy, too frail to take that massive blow, so they went out and destroyed that plant.

Unfortunately, one person was killed. He was an engineer from France who was working there over the weekend. But because of that, they saved thousands of people from being killed.

So whether we embark on this policy of preemption or not is a valid subject for a major policy debate, but I think, in many cases, the answer must be yes; and certainly in this case this person is a person who has already killed Americans with ballistic missiles as well as with conventional capability, and has tried to acquire these other capabilities.

Because of that, I think we see the intent, and when the intent is married up with the ability to do it, we are going to rue the day that we, for convenience' sake and for stability's sake and for safety's sake, we gave up an opportunity to disarm him when we had the opportunity.

Mr. BUYER. Mr. Speaker, to support the gentleman's position on a preemptive strike, I think it has been clear that Saddam Hussein's efforts to circumvent the economic sanctions has proven itself very successful. Saddam has illegally imported hundreds of billions of dollars in goods, in violation of economic sanctions, and even outside of the U.N.'s oil for food program.

For example, Iraq has imported a fiberoptic communications system that supports the Iraqi military. It has diverted dual use end items obtained under the oil-for-food program for military purposes. For example, Iraq diverted U.N.-approved trucks for humanitarian relief purposes for military purposes, and has used construction equipment to rebuild weapons of mass destruction-affiliated facilities. They came to Iraq under the dual use program.

Saddam Hussein also has about $3 billion in illegal proceeds that he is able to use with these items. He is contracting with over 75 nations around the world, and he is giving priority contracts to France, Germany, and Russia in return for their support in this very difficult time.

Does the gentleman have any comments he would like to add?

Mr. HUNTER. Mr. Speaker, I would just say, and I hope my colleague will excuse me, because I have to go try to do something we have both been working on, and that is talk to some folks from our Committee on the Budget and convince them we need more for defense.

But I would say, Mr. Speaker, that I think the gentleman has laid out a very well-documented case for taking action. I notice also that the gentleman is a veteran of the Gulf War. He told me about the apprehension that he and other Americans had when they heard those missiles coming in.

This is a very dangerous situation we are in. I think we have to acknowledge it every time we debate this issue. Is this dangerous? Yes, it is dangerous. The policies of doing nothing are also extremely dangerous. This is not going to be the easy century following the disassembly of the Soviet empire that we once thought it was going to be.

I think we need to have a broad military capability, the ability to make a surgical strike, to fight guerilla warfare, to take on conventional attack and armored attack, and also the ability to stop a missile attack. We live in an age of missiles, and we have to be able to stop that.

In this case, we have to have the ability to preempt and disarm an adversary whose intended goal is to destroy Americans. I know it is a difficult, tough thing to do, and I would just ask the gentleman to comment on this a little in his remarks after I leave.

I have been impressed with this President, because if he had wavered slightly through this last process of the last 6 months or so, we would be faltering right now. But he understands his role, which is as President of the United States, and his duty to the security of the United States.

That is not a role which is to be subverted by a vote by Cameroon, for example, or some other country whose name Americans have difficulty remembering. It is an American obligation to defend Americans. He is our Commander in Chief. He staged the forces very effectively for this operation. He is willing to account for the success or failure of any military operation. He is a good commander in chief. I think he has done the right things.

I think some of the allies falling by the wayside was entirely predictable, because when good old Americans can carry the load, other countries are often willing to let us do that. That is why, when we bring 90 percent of the funding to a military operation that they ask us to do, like Bosnia, we sometimes choke a little bit but we usually do it; and usually they are willing to stand back and let us bear the brunt of those operations, because it is practical for them for their politics and economy.

But this President has kept his eye on the ball, which is to disarm Saddam Hussein. I think he is moving this mission forward in a very effective manner.

I want to thank the gentleman. I would like him to talk a little bit about Desert Storm. I have to take off, but I would like the gentleman to share with folks about Desert Storm, that the gentleman is a veteran of, and the quality and capability of the folks we have in the Armed Forces.

Mr. BUYER. I thank the gentleman from California, Mr. Speaker.

There have been over 17 resolutions before the United Nations in which Saddam Hussein continues his open defiance.

The first resolution was November 29 of 1990, that said Iraq must comply fully with Resolution 660 regarding the illegal invasion of the country of Kuwait.

The next resolution was number 686, on March 2 of 1991. It says Iraq must release prisoners detained during the Gulf War. Iraq must return Kuwaiti property seized during the Gulf War. Iraq must accept the liability from international law for damages during its illegal invasion of Kuwait. He has not done anything about that.

The next resolution, number 687 on April 3 of 1991, Iraq must unconditionally aocept the destruction, removing and rendering harmless under international supervision of chemical and biological weapons, all stocks of agents, and all related subsystems and components of all research development, support, and manufacturing facilities. This was in 1991.

Iraq must unconditionally agree not to acquire or develop nuclear weapons or nuclear weapons-usable material, or any research, development, or manufacturing facilities. It continues, recalcitrant.

Iraq must unconditionally accept the destruction, removal and rendering harmless under international supervision all ballistic missiles with a range greater than 150 kilometers. Now he is destroying missiles; this was back on April 3 of 1991. The list goes on and on under that resolution.

The next resolution out of the U.N. Security Council was number 688 on April 5 of 1991. It condemns the repression of the Iraqi civilian population, the consequences of which threaten international peace and security.

Iraq must immediately end repression of the civilian population, and Iraq must allow immediate access of international humanitarian organizations to those in need of assistance. It never happened. Those were the words of the U.N. April 5 of 1991.

The next resolution came from the U.N. Security Council, number 707, on August 15 of 1991.

□ 1445

It condemned Iraq's serious violation of resolution 687. It condemned Iraq's noncompliance with the International Atomic Energy Agency and its obligations under the Nuclear Nonproliferation Treaty. Iraq must halt nuclear activities of all kinds until the Security Council deems Iraq in full compliance. August 15 of 1991. Never happened.

The next resolution by the U.N. Security Council, No. 715, October 11 of 1991, said Iraq must fully cooperate with the U.N. and the International Atomic Energy Agency inspectors. Never happened.

The next resolution from the U.N. Security Council, No. 949, October 15 of 1994, condemns Iraq's recent military deployments toward Kuwait. Iraq must not utilize its military or other forces in a hostile manner to threaten its neighbors or U.N. operations in Iraq. Iraq must fully cooperate with U.N. weapons inspectors and Iraq must not enhance its military capability in southern Iraq. Never happened.

The next U.N. Security Council resolution was No. 1051 on March 27, 1996. They said Iraq must report shipments of dual-use end items related to weapons of mass destruction to the U.N. and to the International Atomic Energy Agency. Iraq must fully cooperate with the U.N. and these agency inspectors and allow immediate unconditional, unrestricted access. It never happened.

The next U.N. Security Council resolution, 1060, on June 12, 1996. It deplores Iraq's refusal to allow access to U.N. inspectors and Iraq's clear violations of previous U.N. resolutions. Iraq must cooperate fully with U.N. weapons inspectors and allow immediate unconditional and unrestricted access. It never happened.

The next resolution by the U.N. Security Council was No. 1115 on June 21 of 1997. It condemns repeated refusal of Iraq authorities to allow access to U.N. inspectors which constitutes a clear and flagrant violation of U.N. resolutions 687, 707, 715 and 1061. Iraq must fully cooperate with the U.N. weapons inspectors and allow immediate, unconditional and unrestricted access. Iraq must give immediate unconditional, unrestricted access to Iraqi officials whom the U.N. inspectors want to interview. It never happened.

The next U.N. Security Council resolution was 1134 on October 23, 1997. It condemns repeated refusal of Iraqi authorities to all access to the U.N. inspectors which constitutes a flagrant violation, again, of resolutions 687, 707, 715, and 1061. It says Iraq must fully cooperate with the U.N. weapons inspectors and allow immediate unconditional, unrestricted access.

Boy, this sounds like a broken record.

Iraq must give immediate unconditional, unrestricted access to Iraqi officials whom U.N. inspectors want to interview. It never happened.

The next resolution came from the U.N. Security Council on November 12, 1997. It condemned the continued violations by Iraq of previous U.N. resolutions including the implicit threat of safety of aircraft operated by U.N. inspectors and the tampering of U.N. inspectors' monitoring equipment. It reaffirmed Iraq's responsibility to ensure the safety of U.N. inspectors, and Iraq must fully comply with U.N. inspections and allow immediate unconditional, unrestricted access. It never happened.

The next U.N. Security Council resolution was 1154 on March 2, 1998. They said Iraq must fully cooperate with the U.N. and the International Atomic Energy Agency weapons inspectors and allow immediate unconditional, unrestricted access and notes that any violation would have the severest of consequences for Iraq. That was in 1998. Do you think Iraq was scared? These words are beginning to get very, very empty if you say them over and over again.

The next resolution was 1194, September 9 of 1998. It condemned the decision by Iraq on the 5th of August 1998 to suspend cooperation with the U.N. and the International Atomic Energy Agency inspectors, which constitutes a "totally unacceptable contravention of its obligations under the U.N. resolutions 687, 707, 715, 1060, 1115, and 1154." And they said Iraq must fully cooperate with the U.N. and IAEA weapons inspectors and allow immediate unconditional, unrestricted access.

The next resolution came on the 5th of November of 1998. It was resolution 1205 of the U.N. Security Council. It condemns the decision by Iraq of 31 October 1998 to cease cooperation with the U.N. inspectors as a flagrant violation of resolution 687 and other resolutions. And they said Iraq must immediately and completely and unconditionally cooperate with the U.N. and IAEA inspectors. It never happened.

The next resolution by the U.N. Security Council was No. 1284, December 17, 1999. It created the United Nations Monitoring, Verification and Inspection Commission to replace previous weapons inspection teams. And they said Iraq must allow this new inspection team the immediate unconditional, unrestricted access to Iraqi officials and its facilities. Iraq must fulfill its commitment to return Gulf War prisoners, this is 1999, and calls on Iraq to distribute humanitarian goods and medical supplies to its people and address the needs of vulnerable Iraqis without discrimination. It never happened.

The next resolution then was the one which is presently being discussed, 1441. This resolution was meant to be different from all of these that I just mentioned. Because this resolution was by its very nature words that were negotiated painstakingly to give a final opportunity for Iraq to comply with its disarmament obligations under all these relevant resolutions by the council.

During that same time, Congress decided it would also exercise a voice. In 1998 there was H.R. 4655, a sense of the Congress that U.S. policy is regime change and democracy for Iraq. That was during the Clinton administration, October 5 of 1998.

On December 20 of 2001, House Joint Resolution 75, Congress spoke and said Iraq is in material breach of U.N. resolutions. It passed this House by a vote of 390 to 12.

The next resolution that came from this House was on October 10, 2002, which authorized military force in Iraq and passed this House by a vote of 296 to 132. So we have had a continued decade of deception and defiance that has been noted.

The decade of deception and defiance continues. I went through this long litany. Sure, it may have taken 15 minutes, but it was 10 years of work and labor by the U.N.

The time for the U.N. in its relevancy and materiality of this present is before us. Are the words going to have meaning? The President has come forward and made that point very clear to the United Nations.

My hope is that the U.N. stands firm and gives definition to their meaning. Saddam Hussein has had a long history of complying with inspectors on a very small and technical scale, and then he continues to cheat inspectors on a very large scale. His tactical concessions are designed to buy time and ease pressure on his regime and to split the international community and to hopefully end resolve.

Since 1991 Saddam has presented no fewer than six, six full and final and complete declarations of his illegal biological weapons programs alone. Each of these has been an outward lie and has failed to account for large stockpiles of prohibited materials.

The United Nations has worked with three countries to give very good examples of cooperative disarmament. Those countries would be South Africa, Kazakhstan, and Ukraine. And there are three very basic elements of cooperation. One is a decision must be made at the highest level to disarm. Next would be you have to state your national intentions. And third is you cooperate with international efforts to verify the disarmament behavior and that it is open and it is transparent, not secretive.

Iraq with regard to its highest level, their efforts are concealment. Iraq also tasked its key institutions toward thwarting the inspectors, and instead of transparency, Iraq chooses to conceal and lie. That is very, very different from what we have seen. So the cosmetic compliance that is presently going on is nothing new.

With regards to Dr. Blix, I want to extend my thanks. He has a very difficult job to do. He is trying to make Saddam Hussein comply. Knowing that this track record that we have laid out, knowing the little games he plays, and the cheat and retreat strategy that he has, Dr. Blix has a tremendous job. But Dr. Blix was never meant there to be a detective. He was meant there to work with a country cooperatively in a transparent effort to disarm the country that was meant to comply with all of these resolutions.

So almost what has happened is that the world has placed an unrealistic expectation upon Dr. Blix. We cannot do that and should not do that to him. That is why resolution 1441, it demands nothing less than the full and immediate disarmament by Iraq. So this report that is going to be presented tomorrow is extremely important. I believe that no one can say that Iraq's cooperation has been full and immediate because the regime has submitted a false declaration, it has blocked private interviews. Only 5 of the 30 requested UNMOVIC have even taken place. They have threatened witnesses and their families with death, and they have hidden documents and concealed materials from inspectors.

The "why now" question for me is obvious. For others who perhaps do not know about all these resolutions and what has gone on, it is a good question to ask. The President has come forward with a preemptive doctrine. Some maybe do not understand what a preemptive doctrine is.

What is extremely important is after September 11 is that we have a right of self-defense. We also should be taking our defenses in doubt. What that means is you do not just say we are only going to focus on homeland security. We are going to cower in our defenses and seek the security because we feel unsecure. No. You take it to where the threat is. So whether it is in Afghanistan or whether it is in the Horn of Africa or wherever al Qaeda is trying to hide, you work cooperatively with nations; you take it to the terrorist organizations.

Likewise, with Saddam Hussein, who poses a threat to destabilize the region of the Middle East, the United States as a superpower, some people are uncomfortable with that word, but it is true. The United States is the sole remaining superpower. We have a responsibility to regional stability in the world.

Saddam Hussein has been recalcitrant to the world, and his threats will continue along with his cooperation with these terrorist organizations.

Now, I am a father, like many. My son is 17. I love Ryan. But if I said, Ryan, you know, you have got a curfew and he violated his curfew 17 times and I did nothing, and I see he is getting ready to go out tomorrow night and I said, Ryan, remember your curfew, what do you think he is going to do? He is going to come home whenever he pleases. Why? Because my words are hollow. They mean nothing. I say them, but he will not follow them because they have no meaning or definition, therefore, no consequence for the recalcitrant act. That is Saddam Hussein.

So all these resolutions that I talked about, great words. They are firm. But if the U.N. is not going to give meaning and definition to the words, who will?

□ 1500

Who will stand up and exercise the might to make right? Once again, the United States, we have seen this before. We have been there before. We are going to do it again.

I think about my comrades who find themselves on the desert floor. I remember very much what it was like. One thing I can share and to the mothers and fathers who have their loved ones who are about to be in harm's way is that not only has this Congress taken the appropriate resources to help train and equip these men and women over the last decade, this force is better than the force that I fought with in the Gulf War. I am so proud of them. When I see them, they give me chills. They represent the very best of America.

I will never forget the scene in the Indianapolis airport of a young sailor who was getting ready to be shipped off, and he has his sisters with him, his very young brother, his parents are standing there and his grandparents are also standing there, and he is standing there in a sailor's uniform. His youngest brother is holding the sailor's cap as if it were a crown, and it is a scene unlike many scenes all across the country.

Now this Congress has done its duty. It has been vigilant to make sure that this force is prepared. It will be highly lethal, it will be highly mobile, and it has very precise munitions.

With regard to the enemy for which they are about to face, I remember the Iraqi people themselves, to include the conscripts. I interrogated many of them during the Gulf War. They do not like Saddam Hussein. Iraq is a very wealthy country, and Saddam only takes the wealth of that country to the benefit of a very few as he suppresses other tribes within Iraq. They do not like Saddam Hussein.

One of the individuals I was interrogating had, under his blouse, I saw this red and blue sort of semicircle. I could not understand exactly what it was. I asked him to undo his blouse and it was a Chicago Cubs T-shirt. He had relatives that lived in Michigan, and they were fans of the Cubs, and so he tried to track the Chicago Cubs.

One other story. In order to help bring calm and peace at the Western antiwar camp, we gave the Iraqi prisoners, over 46,000 of them, what they wanted to hear. They wanted to listen to Madonna. So we piped in Madonna music. They are more Western than one can imagine, and they do like America, and they do not like Saddam Hussein.

With regard to the leadership, I came out of the interrogation tent. My interpreter at the time was former King Fahd's grandson, Bandar, and as I come out of this tent, there is an Iraqi general officer sitting on the desert floor. He is sitting there with his legs crossed. His elbows are on his knees. His hands are in his face, and he is weeping like a child so hard that his shoulders are actually shaking. I stood there and I looked at this and behind are his army. I walked up to the gentleman, and I kicked the sole of his boot. I then ordered him to stand at attention.

Through the interpreter he tells the general man to stand up. I got really close to him, looked at him, asked if he was a general officer. He asked him and acknowledged and shook his head and said yes, and I told him then act like one. Now think about this scene. I am a United States Army captain, telling an Iraqi general officer how to act. Why? Why would a United States Army captain have to do such a thing? Because he was not a general officer because of his strategic mind and his tactics. He was a general officer because of his loyalties and relationships to Saddam Hussein.

So, with regard to "the enemy" in which we are about to face, they are not led by great military minds. So it would be no wonder why the conscripts and others will fold quickly. I also believe that he was weeping, not for his men which stood behind him, he was weeping for himself because he knew that upon repatriation, Saddam Hussein would probably execute him. That is the repression of Saddam Hussein.

The Kurds and the Shi-ites have been waiting a long time for this day. I know that in my own sense and feeling of having gone through what no differently that my ancestors have gone through for freedom and liberty in this country, I know about the consequences of war. I know about the long dark shadows of horror. I know about things that are unimaginable and things one does not speak of and things that we see we just cannot believe. War is inhumane toward mankind and I cannot believe in this day and age, for all of our sophistication and technological advances, that man still yet has not found a way to resolve our differences.

The bottom line is this is not up to us. This is now up to Saddam Hussein. I still hold out the hope that there is a country out there that is willing to take him in and that we can actually move in peacefully and change the regime. That is my desire, that is my hope. It is my prayer and I know that the soldiers that are standing there feel the same way. They pray for peace, even though they are prepared for war because they are the ones that gave an oath to give their life to defend the Constitution and our very liberties and freedom.

So let me end where we started, with the voice of dissent. I acknowledge the voice of dissent as constructive to the discussion. I find what is not constructive are those in an antiwar message that would also be "un-American." Do not go out and burn the flag. Do not say and be obnoxious and do something stupid. If a person has got something that is constructive that can bring peace and tranquillity to this world, step forward and say it, but they can do so in a manner without being un-American or being disrespectful of individuals of whom have lost loved ones, or even have someone who finds themselves in harm's way in the very next few days.

I think what we should do is go find something and send it to a soldier that is in the desert. Pick it out, support the troops that are over there. Believe me, it is a very lonely place, the Saudi Arabia and Iraqi and Kuwaiti desert. Just to glance upon the American flag is something that will give a chill because it is the only thing out there that that can strike a memory of home and of loved ones.

I know that the decision that President Bush has in front of him is one that he understands the burden of the decision because he also understands the opportunity that the peace will bring, not only to the regional stability, but the opportunities and new alliances and greater heights for freedom.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ (during the Special Order of Mr. BUYER). Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 130) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 130

Resolved, That the following named Members be and are hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Mrs. Jones of Ohio, Mr. Green of Texas, Ms. Roybal-Allard, Mr. Doyle.

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAR WITH IRAQ

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. OBEY) is recognized for 60 minutes as the designee of the minority leader.

Mr. OBEY. Mr. Speaker, in the conduct of foreign affairs, every President deserves the benefit of the doubt.

I am standing here today in an empty Chamber because these special orders are simply the time in the House's schedule when after legislative business is concluded Members can gather or take the time to get something off their chest, and so I am here today to get something off my chest about the coming war with Iraq.

As I said, in the conduct of foreign affairs, I think every President deserves the benefit of the doubt, and on a number of occasions, I have worked with Presidents, regardless of party, on foreign policy issues. Sometimes I have honestly differed.

Iraq, in my view, is a close call. There is no doubt that Saddam Hussein is a pathological thug. We have lived with and contained other sociopaths before. Example, Joseph Stalin, whose 50-year anniversary of his death we just celebrated yesterday. It is hard to believe he has been gone 50 years, but we did not attack the Soviet Union, even though Stalin was probably one of the two greatest sociopaths of all time, the other being Hitler.

We have also seen groups like the Khmer Rouge systematically butcher their own people, and certainly, the administration has not, in any way, demonstrated or tried to demonstrate that Saddam had anything to do with the attack of September 11.

But it may very well be that we need to remove him at some point, and that point may be soon. My purpose today is not to talk about that. My purpose is to talk about what condition America will be in both at home and abroad if we take on that task, because if we do it, we have an obligation to go after Saddam in a way that does not weaken our ability to lead the world in dealing with future challenges that will certainly confront us.

My concern is that this administration has demonstrated such shortsighted arrogance that they have made it more difficult for the United States to retain its leadership ability and to see that the U.S. has the support it needs in this coming endeavor.

Now, it is obvious that President Bush and Mr. Rumsfeld and Mr. Wolfowitz and a number of others in the administration have intended to attack Saddam since the moment they took office, but if that is so, you would think that the administration would have done anything that they could do in order to build allies for the coming effort, both at home and abroad. Instead, the administration has dealt with Congress and with the international community in a my way or else approach.

At home, after September 11, the Congress in total bipartisanship fashioned an initial $40 billion package to deal with the immediate response needs of the administration, but then when Members of the House and Senate attempted to talk to the administration about the need to do more to build up our homeland security efforts in our ports, on our borders, in our local communities. We were told, in essence, if you allocate or if you appropriate one dime more than I have asked for, I will veto it.

Again, in June, when Congress tried again to beef up our ability to protect communities and ports and other vulnerable areas from terrorist attack, the President vetoed more than a billion-and-a-half dollars in homeland security money that this House and the other body voted to provide by 90 percent margins of both political parties in both Chambers.

Now, that action by the White House, in vetoing those funds, raised doubts in Congress. Were we really willing to do everything necessary to baton down the hatches at home, to guard against retaliatory action if we are going to take on Saddam? The answer from the White House, given by its action on the veto of home security funds, was only partly.

Internationally, the signals were just as confusing. Now, I know the French do not need many excuses to go their own way in foreign affairs. They have demonstrated that from the time of Charles de Gaulle.

But look at the administration's conduct the last 2 years on four fronts. First, in the past 2 years, the administration has unilaterally announced its intention to, or its desire to blow up three international treaties: the nuclear test ban treaty, the antiballistic missile treaty, and the global warming treaty. Then after those actions, the administration professes surprise when the French and the Germans feel free to engage in a little unilateralism of their own. By example, it seems to me that, by example, the administration made it easy for France and Germany and others to go their own way because that is what we announced our free right and intention to do on those other treaties.

□ 1515

Second, the administration added to the unraveling of NATO and the weakening of the Security Council resolve by announcing twin doctrines of American unilateralism and preemption. Now, obviously, the United States and any other sovereign nation has the right to undertake a unilateral or preemptive act to defend its own people. Obviously. But to announce it and to trumpet it to the world as a new intellectual doctrine scared the bejabbers out of many countries and gave other countries an excuse to do the same thing.

Mr. Speaker, whatever happened to Teddy Roosevelt's advice, "Speak softly and carry a big stick"? And it did not help that the administration's chest-beating on preemption came at the same time that our own officials were worried pea green about a preemptive military action that might be taken by either India or Pakistan during their escalated confrontation.

Third, The administration even let it be known that nuclear weapons were a possibility in Iraq under certain circumstances. That also added to the world's jitters. The net result of the administration's overblown rhetoric resulted in pro-American responses in public opinion polls in Europe declining by almost 20 percent. And all of that made it easier for the French and the German governments to question the Bush administration and its policy on Iraq. I think it would have been much harder for them to do so if the administration had not spent the last 2 years telling the rest of the world we were going to do everything our way or suffer the consequences.

And even if we, in the end, obtain the acquiescence of countries like Germany and France to proceed on Iraq, our past rhetoric will make it more difficult for the U.S. to have their support in the years ahead when we will be neck deep in a post-war Iraqi-American regency of dubious wisdom. So, in my view, in short, the administration, by its rhetoric, has written a textbook on how not to rally support on a controversial question.

Fourth. As a result of the unilateralist rhetoric, the administration has also raised the cost of this endeavor to U.S. taxpayers. President Bush's father was able to work the world by telephone, sort of in a dialing-for-dollars operation, in which he was able to convince other countries to pay their share for the cost of attacking Iraq in 1991. This President has brought a new wrinkle to diplomacy. He has offered to pay other countries for their share of the cost associated with this war. That really is an interesting wrinkle. Meanwhile, the administration has steadily hidden the potential range of costs and the duration of our occupation of Iraq from the American people.

Now, I have no doubt that we are going to war; and when we do, I, like every other Member of this body, will rally around the troops in the field, because they are doing their duty under the Commander in Chief and we have no choice and no desire to do anything but to support them. I know my daughter-in-law's brother is one of those patchy helicopter pilots who will be stuck with heavy duty over there. But, please, Mr. Speaker, spare us the rhetoric about how this operation is going to transform Iraq into a beacon of democracy.

Mr. Speaker, I have heard such overblown rhetoric about how this action will unleash the forces of sweetness and democracy in Iraq, but I fully expect that the next thing we are going to hear is that we ought to replace New Hampshire with Iraq on the Presidential primary cycle.

Mr. Speaker, it is clear that the die is cast, and I am not going to continue to chew the same old argument. This House has already voted. But before this operation moves ahead, I want to express my dismay at the shortsighted and thoughtless manner in which the administration, through its careless and arrogant unilateralist rhetoric, has mishandled relations with the same NATO allies that we will need in the Security Council. And I would ask some of the same questions I asked on this floor before we went to war against Iraq in 1991. And I would say parenthetically that I was privileged to chair that debate for a considerable period of the time in which it occurred back then. But I want to ask some of the same questions I asked then.

Now, the administration clearly expects this war to go swiftly, and they expect it to go well. And they are probably right. I think they are, and I hope that they are. But my concern is what about afterwards. Do we really believe that we will not create thousands of new recruits for al Qaeda and other terrorist organizations in the Arab world? Do we really intend to continue the policy of benign neglect and drift that has characterized our policy toward the moribund peace process between the Israelis and the Palestinians? How long will U.S. military presence be in the Middle East after the war is over, and how do we intend to handle that presence that we do not become a hated occupying power in a radicalized region of the world?

And I would ask this: While we are focusing on Iraq, is the administration, by default, going to acquiesce in North Korea's becoming a permanent member of the nuclear club? It appears from what we see in the papers that that is very likely on the part of the administration.

And then I would ask, bringing the issue closer to home, what are we going to do to protect our own economy from the cost of both this war and its 10-year aftermath? So far the administration's answer is we are going to go to war and so we need to cut your taxes.

Can you imagine President Teddy Roosevelt or President Woodrow Wilson or FDR or Harry Truman saying we are going to go to war and your country needs you to accept a tax cut? Should we really be saying, we are going to go to war and so you should have a tax cut and your kids should pay the bill, not just for the war but for the 10 years afterwards? We are already being asked to borrow money to pay for this war, and the scuttlebutt is that the minute the war begins we are going to get a bill from the administration, a request for about $100 billion. And Lord knows what it is going to cost in the next 10 years.

And my simple and last question would be: Should we, at the same time that we are borrowing money to pay for this war, should we also be borrowing money to take millionaires off the tax role, as the White House tax and budget request in fact is asking us to do? I would hope that the political leadership of this country would be more mature than that and more fair than that. I cannot believe that we are going to put this war on the cuff; that we are then going to proceed with tax action that will take another more than $1 trillion out of the Federal Treasury in the next few years and then go to the American people with a straight face and say we have strengthened the economy for the long term.

I think Americans expect to do their duty in a time of crisis, and I think Americans do not expect that while we are having several hundred thousand troops abroad prepare to make the ultimate sacrifice in defense of what the President has concluded is in our national interest, I do not believe that at a time when those soldiers are doing that, that the best we can do back home is to say to everyone on the home front, folks, you are going to have to sacrifice by taking a tax cut, even though it is going to load billions and billions of dollars of debt on future taxpayers, including the kids that we say this war is being fought to help protect.

So, Mr. Speaker, this country is going to war. It is obvious. But I would hope that the next time that we do so we have not ahead of time, as the administration has done, that we have not ahead of time looked for ways to antagonize the very allies that we are going to need in this case, like we need support in the Security Council today if we are to have unity in the world when we take on Saddam. I hope we learn from this experience that if you intend to ask the support of the world in a military endeavor of this nature that you do not spend the first 2 years saying, by the way, everything we are going to do in the world, we are going to do it our way or no way. I do not think that is an intelligent or a thoughtful way to run foreign policy. And I certainly do not think that adding over $1 trillion to our budget deficit and our national debt over the next few years is a way to run the economy at a time when we are contemplating going to war.

☐ 1530

HUMAN RIGHTS ABUSES IN IRAQ

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized for 60 minutes.

Mr. PENCE. Mr. Speaker, I rise today in the wake of so many thoughtful remarks made in this Chamber as perhaps this Congress is about to adjourn a weekend before America may again be called upon to lead the civilized world and the arsenal of democracy into battle.

We have heard from my colleagues this afternoon, many of the strategic and military and diplomatic justifications for that. They are legion. The violations of U.N. Resolution 1441 are painfully and patently obvious. The rejection by the regime of Saddam Hussein over the last 2 decades through five Presidential administrations and 17 U.N. resolutions, of one international convention after another, argue for the civilized world, for the forces of order, to rise up against the forces of disorder, as the columnist Thomas Friedman, from the New York Times, is want to say.

I rise today after having received a very thoughtful e-mail from a constituent named David in Richmond, Indiana. David is opposed to the war strongly, and he wrote to me after urging my staff to make sure that I saw the letter, not knowing that I see all my mail, but he urged me to look at a Web site, and so I did. It was not just a Web site opposed to the war, but it was mostly a Web site, takebackthemedia.com, or some such thing, that showed very moving photographs of families in Baghdad.

Mr. Speaker, I brought a few of those photographs with me today, like this photograph of a beautiful baby boy curled up on a rug with his official travel papers of his family before him to prove his location. He looks an often lot like one of my three small children. David had me look at these pictures of families, like this beautiful young family with a boy about the age of my 11-year-old son, families on the streets of Baghdad. The argument was if as a Member of Congress, I were to look into the faces of those who may by virtue of living in Baghdad fall into harm's way, I might change my mind about the use of force.

Mr. Speaker, I must tell Members, as I told David in a phone call, when I look into these bright shining faces of families who live in Baghdad, in the region of what used to be Mesopotamia, this picture taken January 5, 2003, I am not moved away from taking action to remove this regime. I am moved closer toward it. As I said to David in a phone call late yesterday, when I look into these faces, I see an argument for removing Saddam Hussein because I cannot imagine, particularly for the four young women depicted in this photograph, what it is like to live in Iraq during these last 20 years.

Mr. Speaker, that is why I rise today. It is in the hope of talking about the human rights record of this regime that I come to the floor today. We recall a great deal of focus in the 1990s on the human rights record of Slobodan Milosevic, and the world community coming together, including France and Germany, calling on the United States of America to challenge and to remove Slobodan Milosevic for one reason: Because of his record of abuse of human rights, his wanton killing of Muslims strictly out of a policy horrifically known as ethnic cleansing. President Clinton did nobly lead America into the breach with France and Germany under the color and authority of NATO and remove that barbarous dictator.

There was no U.N. resolution. There was no previous example of them attacking their neighbors or discussion of weapons of mass destruction, there was just a dictator who abused and tortured and killed his own countrymen for ethnic reasons.

So I am a bit confused when the human rights record of Saddam Hussein seems to be irrelevant to many who oppose the war. It is a record against which the record of Slobodan Milosevic pales in comparison. The United Nations Commission on Human Rights has actually said that Saddam Hussein's record on human rights is second only to that of Adolph Hitler in the 20th century, and I want to speak on some facts, things that we know about Saddam Hussein and his regime. It is about these beautiful young girls that I hope Members' hearts will attach, to think of a regime in which these young girls are forced to live is my purpose today.

First, from the United Nations High Commissioner for Human Rights, a 1997 report, the Commission on Human Rights, reaffirming that all member states have an obligation to promote and protect human rights elaborates the following actions by Iraq that it strongly condemns:

One, the massive and extremely grave violations of human rights and international humanitarian law by the Government of Iraq, resulting in an all-pervasive, repression and oppression sustained by broad-based discrimination, and this is the U.N.'s terms, against his own people, widespread terror.

Two, suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions.

Summary and arbitrary executions were also condemned by the U.N. Commission on Human Rights in 1997, including political killings, enforced or involuntary disappearances by the thousands. Without regard to due process, political opponents of Saddam Hussein, according to the U.N. Human Rights Commission, have disappeared into the mist. Arbitrary arrest, detention consisting of a routine failure to respect due process of law, and again thinking of these families, Mr. Speaker, I quote, "widespread systemic torture in its most cruel forms. The enactment and implementation of decrees prescribing cruel and inhuman punishment, namely mutilation for punishment of offenses and diversion of medical care services for such mutilations."

Mr. Speaker, this is a barbarous regime, and I begin by quoting from the United Nations because we hear so much about how we ought to rely on the United Nations and I begin there, but the facts simply continue to flow. Think about that for a moment, Mr. Speaker. Widespread terror against his own people, the suppression of human rights, suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, summary and arbitrary executions and political killings, widespread and systematic torture in its most cruel forms. That is from the Commission on Human Rights United Nations High Commissioner, April 16, 1997.

Mr. Speaker, citing from the report published by Great Britain, let us talk about what we know from organizations like Amnesty International and others, let us talk about the torture that is sanctioned by the government of Saddam Hussein and in which he has been personally involved on many occasions.

From the British report, we find that the victims of torture and their families have reported the following methods of torture to international human rights like Amnesty International and Human Rights Watch, eye gouging.

Amnesty International reported the case of a Kurdish businessman in Baghdad who was executed in 1997. When his family retrieved his body, the eyes had been gouged out and the empty eye sockets stuffed with paper.

Piercing of hands with an electric drill. A common method of torture for political detainees, Amnesty International reported one victim who then had acid poured into his open wounds during interrogation in Iraq.

Suspension from the ceiling. Victims are blindfolded, stripped and suspended for hours by their wrists, often with their hands tied behind their backs. This causes dislocation of shoulders, tearing of muscles and ligaments. Iraq is also known to use electric shock. A common torture method, shocks are applied to various parts of the body including ears, tongue, fingers and genitalia.

Sexual abuse. Victims, particularly women, have been raped and sexually abused as a means of interrogation on a routine basis by this regime.

Mock executions. Victims are told to be executed by firing squad. A mock execution is staged. Victims are hooded, brought before a firing squad, and then blanks are fired as a form of torture.

David Scheffer, U.S. Ambassador at Large for War Crimes, reported that photographic evidence showed that Iraq had used acid baths during the invasion of Kuwait. Victims were hung by their wrists and gradually lowered into acid.

These are unspeakable acts of barbarism, Mr. Speaker. I am a bit loathe in this, what is a public forum by definition, to speak these words after school is out, but I think it is important as we think through the strategic issues, as we think through the diplomatic issues, international convention, disarmament, international terrorism, that we also think of this. These are the facts that I must assume that the sincere activists, perhaps at this very hour, are engaged in some demonstration here in America, or perhaps even on the streets of Baghdad, these are the facts that these people must not know. How could any decent human being, knowing the official barbarism of the regime of Saddam Hussein, ever deign to defend it.

Let us talk for a moment about the cost to fellow Muslims. There are many who want to divide the world along religious lines between the West and the Islamic world, suggesting that we in the West are not challenging an outlaw regime in Baghdad that has attacked 3 of its 5 adjacent neighbors during its regime and used chemical weapons on its own people, but rather that we are somehow engaged in a war against an "ism," against a religion.

Here is the truth, again citing the recent British report published this fall. The truth of it is that Muslims have had no greater enemy in contemporary history than Saddam Hussein. I believe it is accurate to say that Saddam Hussein has killed more Muslims than any government leader in the past 50 years, including Slobodan Milosevic who sought, through a policy of ethnic cleansing, to destroy the Muslim population in the form of Yugoslavia.

□ 1545

The Iran-Iraq war, which ranged from 1980 to 1988, resulted in 1 million Muslim casualties dead and wounded. Iranian casualties in that war, Mr. Speaker, were estimated at between 450,000 and 730,000. Iraqi casualties were between 150,000 and 340,000. Really not since our Civil War have we ever as a nation experienced casualties the likes of which occurred in a barbaric and ruthless war between these two nations for 8 years.

During the 1988 Anfal campaign in Iraqi Kurdistan, Iraqi troops were responsible for the death or disappearance of up to 100,000 Muslim Kurds. Also according to Great Britain on March 16, 1988, Iraqi troops killed up to 5,000 and injured some 10,000 Muslim Kurds in a single day in a chemical weapon attack on the town of Halabja in northern Iraq.

The 1990 Iraqi invasion of Kuwait led to the death of 1,000 Kuwaiti Muslim nationals. 605 prisoners of war remain completely unaccounted for since 1991, including nationals of Kuwait, Saudi Arabia, India, Syria, Lebanon, Iran, Egypt, Bahrain and Oman. Between 3 million and 4 million Muslim Iraqis have abandoned their homes and sought refuge outside of Iraq. Many hundreds of thousands of Iraq's Muslims have been displaced internally. Estimates of 900,000 according to the United Kingdom's report may be conservative.

In the north, towns and villages were systematically destroyed by the regime during the war with Iran. Further south, non-Arabs in the region of Kirkuk have been relocated to other parts of Iraq and Arabs induced to occupy their homes and lands. And in the south, between 300,000 and 500,000 Muslim citizens have been forced from their traditional homes in Iraq's marshlands. Thousands of Muslims have been arbitrarily arrested, ill treated, tortured, and executed in Iraq in recent years.

This is according to the International Alliance for Justice News Service, Amnesty International, Human Rights Watch Country Report, and the U.S. Committee for Refugees Report, and I will cite each of the following. The regime of Saddam Hussein has reaped an extraordinary and barbarous toll on Muslims in the region over its 20-some-odd-year history. This is also a regime that has used chemical weapons according to the Human Rights Watch's "Genocide in Iraq" report.

Mr. Speaker, I will say for a moment that while I have great respect for Amnesty International and great respect for Human Rights Watch and as a member of the Committee on International Relations I greatly cherish any organization that makes its business to attend to the human rights of people around the world, I must concede standing on this particular side of the aisle, Mr. Speaker, not to have a great deal culturally in common with most of the people that are drawn to the work of these organizations. I have a passion for human rights. I am on the Subcommittee on the Middle East for precisely that reason. I am interested in advancing the human rights of people all across the world in whatever brief time that I have in this institution. But I know that most people who think about these things and donate to these organizations have a little bit of a different political view from mine and I suspect, Mr. Speaker, a different political view of the war from mine.

And so I am hoping that somehow through this process, we can reach some of those who object to this war, who express fealty and appreciation for Human Rights Watch and for Amnesty International and for all the plethora of groups out there that largely draw their support from the left, who have nonetheless chronicled as a great service to mankind the barbarism of this regime.

According to the Human Rights Watch "Genocide in Iraq" report, which carried extensive research into chemical weapons attacks in northern Iraq, based on field interviews, they have determined that at least 60 villages as well as the town of Halabja were attacked with mustard gas, nerve gas or a combination of the two during the Anfal campaign against the Kurds between 1987 and 1988.

Human Rights Watch says that the Iraqi regime has used chemical weapons for at least four complementary purposes: number one, to attack base camps and main-force concentrations of Kurdish guerillas; two, to harass and kill retreating guerillas; three, to inflict, I make emphasis here, Mr. Speaker, that we are not simply talking about Iraq deploying chemical weapons in a military environment, which according to international convention and expectation is barbarism but also, according to Human Rights Watch, they have deployed chemical weapons to inflict exemplary collective punishment on civilians for simply supporting the Kurdish guerillas. The most dramatic case is the chemical bombing of Halabja after the seizure of the town by guerillas and Iranian revolutionary guards. And lastly, they have used it simply to spread terror among civilian populations as a whole, flushing villagers out of their homes to facilitate their capture, relocation, and killing.

The list of chemical attacks by Iraq against its own citizens, and not just in a military context, is astonishing and horrifying. And the list goes on, Mr. Speaker, of evidence upon evidence of a regime that has lost any connection to the civilized world.

But I want to go back to these pictures, if I can; and I have not yet shown all of them. These are some great-looking kids. This photograph that I got off the aforementioned Web site was apparently taken on December 19, 2002, in Baghdad, and those are some beautiful little girls. I have got two little girls of my own. They are 9 and 8 years old, Mr. Speaker. I think that I would do anything to deliver my little girls from living in the kind of society and under the kind of regime that I am here to describe and that organizations like Amnesty International and Human Rights Watch have identified and associated with the regime under the leadership of Saddam Hussein.

Let me share with you some testimony which was presented before the Congressional Human Rights Caucus on the human rights situation in northern Iraq, the Kurdish minority. This is the testimony of Bayanne Surdashi, a Kurdish humanitarian aid worker now in asylum in the United States of America. After pleasantries, Bayanne told the following story. This is a Kurdish Iraqi and her personal story:

"I was 12 years old when I experienced firsthand the suffering of my people. One evening in the spring of 1987, one of my aunts and her whole family showed up on our doorstep in Sulaymaniyah unexpectedly. We learned that their village, Askar, was one of several that were attacked by Iraqi helicopters using chemical gas and then turned into rubble by bulldozers. My aunt's family had managed to avoid the military and find their way to our home. They spent 11 months hiding with us.

"Later the Iraqi regime relocated them to newly built government settlements where they could be closely watched by the military. They were not allowed to return to their farms and were turned from hard-working independent people into people dependent on the government for their very simplest needs. Over time my family discovered that at least 40 of our relatives living in the villages had been killed during this genocidal campaign known as the government's Anfal policy. Only those relatives who managed to escape or hide survived the horror of Anfal which killed more than 150,000 Kurds.

"Three years later after our failed uprising against Saddam Hussein in 1991, the Iraqi army used every possible form of brutality as they moved into northern Iraq, destroying everyone and everything before them. In the middle of a cold, rainy winter, we were awakened by the sound of bombs. It was clear that Saddam's army was very close. My parents feared that Saddam would again use chemical gas like he did during the genocidal campaign, so, like hundreds of thousands of other frightened Kurds, we fled. We said good-bye to our home, and we joined a flood of other refugees crowding the streets on our way out of the city and out of Iraq in search of sanctuary. We walked on foot for 10 days through the mountains before we reached Iran and safety, poorly clothed from harsh weather and without enough food or water. We were surrounded by the sound of misery and distress and witnessed families burying their dead along the road and weeping mothers unable to let go of their dead infants. Due to shock, one of my brothers suffered terrible seizures a few times a day.

"When we finally returned home," Bayanne would conclude before this congressional committee, "we learned that some of our relatives did not survive the exodus. My mother's aunt had been in the hospital when we left but died along with hundreds of other patients abandoned by the staff who were forced to flee the city as well. My uncle was found frozen to death in the mountains. On the radio we heard more than a thousand Kurds died every day during the exodus."

That was the testimony of a 12-year-old little girl who because of the courage of her family made it out. This could be a picture of her. Bayanne Surdashi. She is now a Kurdish humanitarian aid worker. She escaped. Hundreds of thousands did not. But when I think of my children that same age and I think of that horror through which she passed, my blood runs cold. And I am amazed that others' does not. I am amazed, Mr. Speaker. I really am. And I just must assume that those who oppose the use of force in Iraq do not know this. Because I believed when I voted to authorize the use of force, Mr. Speaker, I believed it was right under international conventions going from the U.N. resolution 687 that was the cease-fire in 1991 and that it was appropriate for us to make clear to Iraq that they must disarm, they must disclose, they must destroy their weapons and cease any liaisons with terrorist organizations. I supported giving the President that authority. I have supported the administration unflaggingly in its attempt to develop international support for this war and believe those arguments are enough.

But there is this, which when taken in its totality, 20 years of barbarism, we see that the case against Iraq does not end with diplomatic resolutions, Mr. Speaker. The case against Iraq does not end with liaisons with terrorist organizations. The case against Iraq ends here. It ends with what will end when that regime ends.

I want to speak specifically to the issue of torture, which as I have said before is systematic in Iraq. I think again of David who asked me to look at a Web site, Mr. Speaker, where there were pictures, and I think of innocent Iraqis like this. This photograph was taken January 5, 2003, on the streets of Baghdad. These are adorable kids who maybe look an awful lot like the kids that we now know are tortured to extract information from their parents by this regime.

Mr. Speaker, I am very moved by that thought, and the sheer horror of it, but I want to reflect for a moment on what the word "systematic" means.

□ 1600

We are not talking, Mr. Speaker, about the torture that happens on the margins in the basement of the prison because of the brutality of prison guards who are operating outside the rule of law. When the U.N. Commission on Human Rights and Amnesty International and Human Rights Watch use the phrase that torture is systematic in Iraq, that means it is part of the system of Iraq. It is part of the ordinary undue process that the people of Iraq must endure.

And I hope I make this point, Mr. Speaker, that we are not talking about a regime that has left the rails. We are not talking about a regime that some of its operators have lost their way. We are talking about a regime that sanctions the torture and killing of its own people. The most senior figures in this regime, according to international sources, have been personally involved in torture.

Saddam Hussein runs Iraq with close members of his own family, the "filthy 40" that we heard about in the media this week, most of them either married into the family or in some way related by blood. Most of these come from his hometown of Tikrit. These are the only people he feels he can trust. He directly controls the security services and, through them and a huge party network, his influence reaches deep into Iraqi society. Saddam presides over the all-powerful Revolutionary Command Council, which enacts laws and institutions and it has been through this council, according to Amnesty International in a report published in August of 2001, "torture is used systematically against political detainees. The scale and severity of torture in Iraq can only result from the acceptance of its use at the highest level."

Over the years, Amnesty International and other human rights organizations have received thousands of reports of torture and interviewed dozens of torture victims who survived and escaped. Some of the propagandists, Tariq Aziz comes to mind, may step before the cameras some day in the near future and hold out something from a statute book in Iraq that says that torture is illegal in Iraq. But according to the report recently published by the British Government, our intelligence sources are not aware of a single case of an Iraqi official suspected of carrying out torture being brought to justice or prosecuted, not one.

I quote again, Amnesty International in a report from 2001: "Torture is used systematically against political detainees," and stay with me now. "The scale and severity of torture in Iraq can only result from the acceptance of its use at the highest level." according to Amnesty International.

Let me tell the story about a family, and I think we have a picture of a wonderful family in Baghdad. This photograph taken on the streets of Baghdad on January 7, 2003. A father, maybe a grandfather, with his arm around what looks to be about an 11- or 12-year-old boy and a daughter in a shawl, and it is a warm family photograph. Let me read the story of a family arrested in late 2000, not long ago. They were taken to two separate interrogation centers in Iraq within Republican Guard facilities located along the road to Abu Ghraib, according to a report published by the United Kingdom.

The husband was held in one center whilst the wife and children were held in a women's facility. The husband and wife were interrogated under torture about the husband's sale of vehicle that the interrogator said had been captured by Iraqi security forces during a raid on Iraqi oppositionists. The interrogators said separately to both husband and wife that they would cease the torture if they signed confessions admitting to be collaborating with oppositionists. They refused. The wife was stripped naked and cigarettes stubbed out on all parts of her body when she refused to implicate her husband.

This was August of 2000. I am not talking about ancient history, Mr. Speaker. According to testimony, she was beaten and thrown around the interrogation room. Her children were forced to watch the torture. She was eventually released, having been told her husband would continue being tortured until she returned to confess. She was arrested again 2 weeks late and the same pattern of torture was repeated, leaving her a psychological wreck.

During his testimony, the husband's arms were tied behind his back. He was then suspended in the air using a hook hung from the ceiling. According to testimony, this caused intense pain as his muscle and shoulder ligaments were torn. After a period, the interrogators entered the room and the husband was unhooked, placed in a chair. From close range, he was then shot at with a pistol whenever he refused to agree to sign the confession. Sometimes shots were fired which missed his body. At other times, a pistol muzzle was placed against his fingers, toes, and arms and fired so as to mutilate those areas. Over the following 2 weeks, further interrogations occurred at intervals following periods of food and water deprivation. Eventually the husband and wife's wider family paid a bribe to an Iraqi intelligence officer and they were released, and subsequently survived to escape from Iraq and testify.

Mr. Speaker, I recite these things because I think many people just do not know them. I recite these things because there are many who want to morally equivocate in this case and even to suggest that there are other countries that have weapons of mass destruction. Iraq is no different. Iraq is different, Mr. Speaker.

Let me give you more examples. Among these pictures that I was presented when I went to a Web site called to my attention by a constituent who opposed the war who asked me to look into the eyes of some recent photographs of people who live in Baghdad and think about the cost of this war. Among those photographs here is a January 5 picture of four beautiful girls and one little boy, and it is a good starting point for us to talk about women in Iraq, Mr. Speaker. I am not going to quote some propagandist organization on the right or some pro-war organization. I am going to quote from the Human Rights Alliance in France and Amnesty International's report in 2001 about the treatment of women by the regime in Baghdad.

According to Amnesty International, a 25-year-old woman known as Um Haydar was beheaded in the street without charge or trial at the end of December, 2000, after her husband, suspected by the authorities, of involvement in Islamic armed activities, fled the country. Beheaded in the street without a trial. And some think this is just another country, Mr. Speaker.

Men belonging to Saddam Fidayeen took Haydar from her house in the al-Karrada district in front of her children and mother-in-law. Two men held her arms and a third pulled her head from behind and beheaded her in front of her family, according to witnesses with firsthand knowledge presented to Amnesty International. Human Rights Alliance in France, their report in 2002, young woman was arrested because her husband had refused to join the war against Iran. Pregnant at the time, she gave birth in prison on 3 December, 1999. She said, "I breast-fed my son, but they took him away when he was 17 days old so that he would not become like me. I'm still looking for him. I never had further news of him."

This woman, who was also horribly tortured in prison, still said she suffers endless torture, the torture of not knowing where her son is. This according to Human Rights Alliance in France.

Najat Mohammed Haydar, an obstetrician in Baghdad, was beheaded in October, 2000, apparently on suspicion of prostitution, according to Amnesty International. Even by Iraqi standards, her execution was an outrage, Mr. Speaker. There was no evidence to support the charge of prostitution. She was reportedly arrested before the introduction of the policy to behead prostitutes. The real reason for her death was believed to be, according to Amnesty International, her criticism of corruption in the Iraqi health service. A female obstetrician in Baghdad was beheaded in October of 2000.

I cannot say enough, and as I prepared for these remarks today, these are things that shocked my conscious and mind. I know where I was in October of 2000, Mr. Speaker, and to think that there is still a place in the world where a professional woman, an OBGYN, a medical doctor could criticize her government's health policy and be beheaded publicly is a frightening thought. But that is Baghdad and that is Iraq.

A few more personal stories, Mr. Speaker, and then I will yield this Chamber to another colleague. It is the individual stories that touch me the deepest. When I got that e-mail from David in my district, I had to thank him. He challenged me, Mr. Speaker. He said that if you support this war, I challenge you to go to a Web site where there are photographs of families that live in Baghdad, recent photographs of the people who may fall under the wake of U.S. military involvement. He challenged me, and I rose to the challenge, and I went to the Web site, but instead of finding myself backing away from engagement, I found myself drawn to it. I looked into the face of this little boy and he looks like mine. And it is the personal stories that draw me into this and reaffirm my belief that the rule of law and the laws that govern civilized men and women on planet earth are not the province of the west. They are not the province of English-speaking people or Europeans, but the freedom from terror, the obligations of due process, the freedom of speech and association, these are things that attach to the human heart that this little boy, sitting on a carpet in Baghdad, smiling for all the world to the camera, not knowing what may well be coming to his city, touches me deeply.

A few more personal stories and I will close. These are from an Amnesty International report issued in November of 1999. They are personal stories regarding Iraq's obvious human rights violation, and I say this it as often as I can, Mr. Speaker, that I might per chance by some be heard that what I am reading now is not from some prowar, pro-Bush Web site or document. This is from Amnesty International. Abd al-Wahid al-Rifa'i, married with nine children, according to Amnesty International, was arrested without a warrant on 8 March, 1999, at 2 a.m.

Taken from his house in Baghdad by plainclothes security men, initially he was held in the headquarters of the General Security Directorate. According to Amnesty International and testimony thereafter, he was then taken to a hospital because of ill health, returned to the Baghdad security headquarters where he is currently held without charge or trial. Since his arrest, his family has not been allowed to visit him. He is believed to have been arrested because authorities suspected he was in contact with the opposition through his brother, an active antigovernment opponent who lives in Europe.

□ 1615

His brother, a businessman, fled with his wife and children to Jordan in 1995. The previous month, he had been detained in Iraq accused of having contacts with opposition abroad, and was tortured. This included beatings, suspension by his feet, electric shock to his lips and genitals. He escaped by bribing a prison official in August of 1995, and a criminal court sentenced him to death in absentia. His brother remains incarcerated without charges in his absence.

Ibrahim Amin al-'Azzawi, a 70-year-old lawyer, according to Amnesty International, was arrested on the morning of 23 March 1999. Four plainclothes security men took him away from his house in Baghdad. He was reportedly not involved in any opposition activities.

The previous evening his daughter, Bushra, married with two children, came with her children to her parents' house in a state of shock. She told her family, who are Sunni Muslims, that her husband had been arrested at his house and taken away by security men.

The whole family could not sleep that night. When the four security men came to the house around 6 a.m., they knocked at the door, and it was Ibrahim Amin al-'Azzawi who opened the door. They searched the house, confiscated documents, and arrested Ibrahim without giving him any reason for the arrest.

The family then feared that the security men would return and arrest them. Bushra and her two children and her two unmarried sisters and their 61-year-old mother collected some of their valuables and ran from the house. A few weeks later, they managed to flee the country. They believe that the reason behind their father's arrest was that his son-in-law, a Shi'a Muslim, was suspected of involvement in some antigovernment activities.

Ibrahim Amin al-'Azzawi was executed. His body was buried by the authorities. No information of a charge, trial, or sentencing was available. No information was made available to Amnesty International as to the fate of his son-in-law. This was a 70-year-old lawyer in Baghdad, who upon hearing that his son-in-law had been arrested in the dead of night, went to his house to comfort his daughter and was himself dragged off and executed. This is Iraq, Mr. Speaker. This is Iraq today, 1999, according to Amnesty International.

Let me tell you a story about a 67-year-old man, married with four grown children. Ayatollah al-Shaikh Murtadha al-Burujerdi is his name, I say with respect, age 67. He was shot dead by armed men on the night of 22 April 1998 as he walked home from the shrine of Imam Ali in al-Najaf one of the Shiite Muslims' holiest cities, where he had led the congregation in dawn prayers. His two companions were also shot and sustained injuries.

He had reportedly been harassed in the past by Iraqi security services, and there had been at least one attempt on his life in 1991, and following the Shiite uprising in the South, he was arrested with scores of other Shiite scholars, was detained, and then released.

A few weeks before his murder, he had been visited by a delegation from the Ministry of Religious Endowments and Religions Affairs, urging him to stop leading the prayers. He was reported to have stated to the delegation he would only agree if he received in writing an order from the Iraqi government. Following the assassination, an official statement released by the government blamed the intelligence service of a foreign country. Amnesty International.

These names are hard for me to pronounce, but these facts are not hard for me to understand: a 67-year-old grandfather coming back from a prayer service, shot and killed. Two men were coming back from one of the holiest places for Shiite Muslims were also shot and wounded. His offense was praying.

The list, Mr. Speaker, goes on and on and on. There is persecution of the Kurds that has been documented again and again. There has been much human rights and religious persecution within Iraq. It is a record of mindless barbarism that is contemporary, not ancient history.

Some may believe that these were things of a frontier period in the regime before law and order took hold. These things may happen, they say; but I am talking from the benefit of the great work of Human Rights Watch and Amnesty International.

Mr. Speaker, I speak of things that have happened within months of this day. A woman who was a medical doctor was beheaded because she criticized the government; a grandfather walking back from a prayer service, shot and killed simply because he did not adhere to the government's demand that he stop leading prayers with the Shiite Muslims; and the systematic use of torture as part of government policy.

So I rise today to simply add something to the discussion. I do so with great humility, Mr. Speaker, knowing that each one of us among the 435 who are privileged to serve in this place are simply part of a national conversation. We are the way America talks to itself.

I had a burden on my heart, Mr. Speaker, that America ought to be talking about this. We get caught up in resolutions and weapons of mass destruction, and were they or were they not involved with al Qaeda, were they or were they not involved in September

11. Each one of us, by our own lights and by the facts, will decide what we believe, and decide what we believe should be the proper course of action.

However, what I see the debate bereft of is an honest discussion of the barbaric and virtually unprecedented record on human rights that is contemporary Iraq under Saddam Hussein.

These families, these kids. December 19, 2002, this paragraph was taken of two beautiful little girls, about the age of my girls, in Baghdad. When I think of the man who was beheaded in front of his wife and children, when I think of the parents who were incarcerated and tortured in front of their children, when I think of the woman who escaped from Iraq, but they took her boy of 17 days away because they did not want him to be polluted by her ideology and thinking, she grieves to this day, not for the torture that she suffered and no doubt the physical scars she bore, but she feels the emotional scars of not knowing where her baby boy is.

It is about these families, Mr. Speaker, that I believe in the justness of our cause. I think of those words from Ecclesiastes, Chapter 4: "Again I looked and saw all the oppression that was taking place under the sun. I saw the tears of the oppressed, and they have no comforter. Power was on the side of their oppressors, and they have no comforter. I declared that the dead who had already died are happier than the living who are still alive; but better than both is he who has not yet been, who has not seen the evil that is done under the sun."

When I look into these eyes, Mr. Speaker, I see the tears of the oppressed. When I look into these eyes, I know the evil that is done under the sun. Because of the outstanding work of Human Rights Watch and Amnesty International, I am able, and millions are able, to know of these things, and the reality of them.

But let it not be said in this place that they have no comforter, that they have no defender; because in the days ahead, as we pause and reflect this weekend, each of us going to our own place of worship, I suspect many millions of Americans in churches and synagogues and mosques and in their own private devotions will pray.

We will, each of us, pray, not just for the safety of our troops, but we will pray for these who shed the tears of the oppressed. We will pray that God will have his mercy on all the innocent in the way of war, confident that our military will use extraordinary efforts to avoid casualties by noncombatants.

It is my hope that somewhere in the heart of hearts of the children in these pictures that I have shown today, and in the families they represent, there will be the knowledge that there is a defender; there is a nation, some 50 nations, that stand ready to end their oppression, to dry their tears, and to lead Iraq into a new dawn of civilization, a new dawn of freedom from oppression and torture and the abuse of women and the stifling of basic civil and human rights.

That is my prayer, that is my hope, and of that I remain confident, that the United States of America will, if need be by force, or by showing enough force that it is voluntary, lead Iraq into that bright future.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

AMERICA'S ROLE IN FINDING A SOLUTION TO TERRORISM

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I take this time to try to craft and articulate the burden that so many of us feel as we hope to be part of a solution that respects life over death, and clearly captures the role and the position of the United States of America as the singular world power, the problem solver, the great humanitarian.

Mr. Speaker, I believe that the American people every day epitomize a caring Nation, a population that is charitable and eager to be of help. I know that, Mr. Speaker, because none of us are the same since 9-11. We cried, we hoped, we prayed, and all we wanted to do was to embrace our brothers and sisters who had lost their loved ones; and even to find some sense of hope that more would be found alive. We watched steadfastly every day, every hour, every minute, every second as the brave first responders were looking to find life.

So I know that Americans truly are those who care about people; and yes, where there is no justice, Americans desire to march in to create justice.

Mr. Speaker, we could find almost zero divide when Americans rose to the floor of the House in the United States Congress after 9-11 and authorized the President's authority to fight the war against terrorism. Not only did Members of the United States Congress offer themselves as soldiers in the political process of fighting the war on terrorism, but all of America joined.

As we looked around as far as the eye could see, and as far as we could hear, and as far as we could imagine, nations all over the world, Mr. Speaker, joined us in our horror, in our hurt and pain, but in our resolve. As I traveled on behalf of this Congress, whether it was in the Caribbean, in Africa, in Asia; whether it was in the Pacific or in South America, Australia and other places, they all, to a one, said, we are with you. We feel the pain of this Nation, and we wish to fight with you.

□ 1630

Mr. Speaker, there is nothing like a coalition of strength and resolve that will make democracy and freedom a breathing, living entity, not just words.

Mr. Speaker, I was eager to join my colleagues shortly after 9-11 and shortly after we began the war on terrorism as we went to Afghanistan. One of my major concerns, Mr. Speaker, was to make sure I greeted and met with the men and women of the United States military, as I have done, Mr. Speaker, in going to Bosnia during the middle of that war before the Dayton Peace Treaty was signed; meeting with the respective presidents at that time, Milosovic who obviously told an untruth and got his just todo by being tried before the war crimes tribunal. And then as I went to Kosovo to meet with General Wesley Clark near the muddy near Albania as we were in a collaborative effort with NATO raising our voices against ethnic cleansing, murderous acts, stopping that with our allies; and then going into Afghanistan to see the troops and to go into that nation to begin to hopefully encourage it to be a nation, and as well to see the pain that was there.

I do not have the pictures of the faces of children, but when you go to an orphanage with a thousand children's scars and sores all over their faces, you have a resolve to say America is here now; we are going to help you.

I mentioned Afghanistan last before I discussed this dilemma with Iraq because I have just heard the pleas of women from Afghanistan saying that even with the commitment of this Nation, there is fear in Afghanistan now because they wonder about America's resolve to help them. I am thinking, of course, of the battle fiercely going on there with our troops bravely fighting against the Taliban that are in the respective mountains and caves that maybe which cleared the city.

But Afghans will tell you the Taliban are still there, that the terrorists still abound. What does this say to America and our foreign policy and to this Congress? Unlike 20 years ago, we cannot abandon Afghanistan and so Afghanistan becomes a front that deals with the needs for American military to be present, and in essence the needs for us to continue our war against terrorism.

But how do we do that, Mr. Speaker? We are now yielding to what I consider an untimely move toward war in Iraq, when in actuality our job is not finished in Afghanistan. And in fact we have options to be able to address the question in Iraq. There is no doubt that a despot rules that country. I hesitate to say, Mr. Speaker, tragically we could probably list 30 to 31 nations with that kind of despotic leader; and so the United States has to be methodical, we have to work with coalitions, we have to be able to reflect upon history.

We have to look at the Berlin Wall and as Americans saw that wall crumbling brick by brick. How did it go so? Because the United Nations, the allies and America had a resolve to have a strong defense and to be able to allow the German people to see a better way; and it crumbled from within, not without, of course, a strong military from the allies making it known to Germany that we would not tolerate the continued existence. The resolve brought the wall down. And out of that, we saved thousands of lives without going to war.

Russia, the Soviet Union, is not the Soviet Union of yesteryear. And the independent European countries that used to be part of the Soviet Union are clamoring to be part of NATO. How did we do that with our resolve and our persistence in a coalition?

There is nothing worse than this Nation going forward unilaterally and preemptively against Iraq. What we will be intending to do may not be the result because all of those wonderful people that we want to save, those 6-year-old babies, 2-month-old babies, those elderly women, elderly men, those young families who are seeking nothing but a better life will be the collateral damage, how cold a word, of our unilateral attack on Iraq and Bagdad. Lives will be lost, and certainly large numbers of the brave young men and women in the United States military who without one bit of criticism are there in the Mid East now will be lost.

War should be the last option, Mr. Speaker. I have not said war should never be an option because I do not believe in this Nation being a wimp. And I believe that if this Nation needed defending, every American would step over each other in order to be on the frontline. But you cannot characterize one patriotism on the basis of raising the doubts of a war at this juncture with Iraq, unilaterally and preemptively, or with what I call an unwilling coalition.

Both Britain and the United States would do well to look to the options that have been represented by the U.N., which is more projected, extended, defended U.N. inspections. Hans Blix truly believes that he has made some successes; and of course, we will hear further tomorrow. And maybe the added time that Canada wants to have until the end of the month, maybe the added time that some of our allies want to have extended time are worthy of one building a willing coalition, but as well preparing the innocent lives, the victims, the people of Iraq for what might come and find a way to minimalize the loss of life. Is that not important to the United States?

What about an option, Mr. Speaker, of gathering the religious leaders of the world in an intense closed-door negotiations? How do we know that we might not find the pathway for the exile of Saddam Hussein? We have not asked them. This is religious leaders from all denominations. We have just heard from the Pope yesterday. This past Sunday I called for weeks and months of prayer to instruct the leadership of the world and our Nation to be able to find a way to end this deadlock without a war. Many may say that Saddam Hussein is playing games with us and he will dismantle the missiles and then start up again.

Well, Mr. Speaker, it is well known that the U.N. inspectors while they were there were able to disarm Saddam Hussein more than the Gulf War of 1991, 1992; and so we do have options. That is what is important. We want to give those babies in Iraq the option to live, those mothers the option to live. We want to provide them with the milk and medicine that they need to live. We want to create individuals who clamor after democracy, not hate America because they view that we are going to do this unilaterally. We want a peaceful solution in the Mid East between the Israelis and the Palestinians. We want a free and independent Israel. We want the Palestinians to abhor as we do the suicide bombings and we want them to stop so there can be coexistence and freedom. We cannot do that if we do not give attention to a solution, full attention.

We cannot make Afghanistan whole and rid ourselves of the Taliban and get rid of those cells that are growing terrorists if we do not pay attention to Afghanistan; if we do not pay attention to women who are still being abused and treated disrespectfully and unequally. And I respect the Muslim faith. I know that the Muslim faith is quite different from the Taliban autocratic rule that extinguishes all rights. America is the single world power, and there is much responsibility that comes with privilege. And they are lining up, Mr. Speaker, and in a war with Iraq takes the toll where there may not be a solution that we would welcome. And then we have the crisis in Afghanistan, we have the terrible horrific loss of life, the jeopardy to the homeland security. And frankly, Mr. Speaker, we have North Korea, the North Korea that I believe this administration should be engaged in with policies that will recognize that they pose a problem with nuclear weapons.

We know that North Korea in 1998 succeeded in developing a No Dong missile with a range estimated at up to 900 miles capable of covering South Korea and most of Japan. And North Korea reportedly deployed nearly 100 No Dong missiles by 2003. On August 31, 1998, North Korea test-fired a three-stage rocket, apparently the prototype of a Taepo-Dong One missile. The third stage apparently was an attempt to launch a satellite. In 1998, officials told CNN that North Korea is constructing at least two new launch facilities for medium-range missiles as we have just noted.

It is well known that North Korea has the capacity, Mr. Speaker, in fact, an atomic reactor with the capacity of about 5 electrical megawatts constructed between 1980 and 1987, reportedly is capable of expending enough uranium fuel to produce about 7 kilograms of plutonium annually, enough for the manufacture of a single atomic bomb annually. North Korea in 1989 shut down a reactor for about 70 days. And our intelligence officials believe that they removed some of the fuel rods from the reactor at that time.

The information I shared is public knowledge. And so we have an ongoing crisis that requires us to not singularly look to Iraq as the solution to our concerns about terrorism, threats against Americans, and the despotism of the world. Because, Mr. Speaker, there are human rights violations all over the world, as I said earlier, in upwards of 30 countries. And interestingly enough, the United States has been effective in negotiations with a strong military.

Why not take up the offer of leaders of government, heads of religious organizations doing an intense negotiations to extract Mr. Saddam Hussein out of there? Do we not recognize that we can be strong in diplomacy?

Mr. Speaker, I would also argue that this Congress needs to assess options. Why do I say that? Because the Constitution clearly dictates that the Congress declares war under article 1, section 8. The President is the Commander in Chief. I respect that. And as I stated, I said that if these troops are deployed, there is no quarrel with the United States military. No quarrel with the troops. We will be in full support of the efforts that they are making. Let the resounding sound of the vote that we took yesterday make it very clear that there is no divide on our appreciation for the Reservists, the enlisted personnel, the civilians who are now fighting for our freedom. Let it be known, of course, that our prayers are with them and there will be no divide on the work that they are doing for us.

That is why I have come to the floor today, Mr. Speaker, because I believe there are options. We can have a strong military presence and Saddam Hussein will have nowhere to run. And we can allow those U.N. inspectors to vigorously be in Iraq, and we can save lives, and we can build a coalition of allies enthusiastically supporting this effort, similar to the effort in 1991.

And in this Congress there was a difference of opinion. But the coalition was strong, the debate was strong, the debate was knowledgeable. Why, Mr. Speaker? Because the debate was right before the invasion or the launch of our efforts, right before.

□ 1645

So all of the people had all of the facts. The Congress knew about anything that needed to be known about, and there was disagreement but there was authority given. We debated the Iraqi resolution when no one knew about North Korea, those facts were not given to us. It was represented to us that we could have a willing coalition, that NATO would be with us. The facts are different now, Mr. Speaker.

So I want for this country the best. I want for Americans the best. I want the world to know that these are the best people you could ever get to know.

We have shed the ugly American. There is no such person, because we care about what happens to people in this world. I know that because my constituents every day sign up and volunteer for the United States military to go and fight for people who cannot fight for themselves, including United States of America.

But this war in Iraq will turn the tide, and it may not get the results we would like, but what I think is important to know for Americans is that as we make these decisions, a war decision will push us into the center of Baghdad for 20, 30 years while we have to be in the center of Afghanistan for 20 or 30 years, while we have to be in the center of North Korea for a long time.

Is not it preferable, Mr. Speaker, to try the options of negotiations? Is it not worth trying to save American lives as well?

Just to show my colleagues that we do lose civilians overseas, in Vietnam we lost civilians in high numbers. Looks like we lost close to 30,000 it seems in the embassy bombings in Beirut, 1983; embassy bombing, Kenya, 1998. Civilians lives being lost to a nonmilitary, and that is not 30,000. I think that is less than that.

I believe it is important, Mr. Speaker, as we think about the decisions that have to be made that we look at the option for peace. I, too, want a free and democratic Iraq. It is important to note that it will not come overnight and it is all in the way we do it.

There is now a united Germany. There is now a united number of Soviet countries, united around the concept of democracy, and the Soviet Union does not stand.

I believe it is imperative, Mr. Speaker, that we look at options other than war, and I will continue to work with colleagues who believe, as many Americans believe, that we can find an option to save lives. We do not know what the toll will be, and by not knowing what that toll will be, we cannot factually say that the results will be as we would desire it, but we do know that if we continue in negotiation and strength, and that we are steadily, methodically disarming Iraq and Saddam Hussein, we know that, we have seen that proof, there is no reason why we could not continue that path because America has the strength, the resolve and the power to be able to win a war with Iraq. There is no doubt.

Do we have the strength and the power and the resolve to rebuild the alliances, to be able to have a coalition that has resolve to help us in Iraq? That is success. I am concerned that that may not be the full case, and so I do want to acknowledge the words of Dr. Martin Luther King, who said that in order to find peace we must become ecumenical and not sectional; that the judgment of God is upon us; that we must find a way to live in this world as brothers and sisters.

No, Mr. Speaker, it is not a simplistic perspective. It is not an imagined perspective. I am a realist, Mr. Speaker, but I said at the beginning, democracy is not about simple words. It is to be practiced, and the way we can convince the world is because we are a democracy and not a monarchy and that the people's voices can be listened to.

I believe there are people of goodwill in America who would be welcoming of negotiations that could be extending so that we could negotiate a peaceful resolve in Iraq, and then, Mr. Speaker, that if the ultimate results did not resolve themselves, that the case may have to be ultimately made for that last option, but it seems to me with a domestic agenda rising, it is imperative that we be concerned about America's destiny, its senior citizens, its children, those suffering and not having mental health services, those needing health care services, those needing housing, those who are addicted to drugs or infected with HIV/AIDS. Every day there is a cry for help, those needing funding of the children protective services, all of those, the homeless youth, homeless veterans, veterans who need to have service.

Mr. Speaker, the list is long, but I would simply say to my colleagues that we can find a better way than the loss of lives of hundreds of Americans overseas that I have just noted in Vietnam and Beirut in 1983 and Kenya in 1998. We can find another way, and I hope to work over the next week, as I said, with coalitions who are eager to work in a manner that will generate the freedom and the expression of freedom through the practicing of America's democracy by showing to the world that we know with our resolve how to negotiate, how to be part of the United Nations, how to embrace our allies and get the job done. We can do this peacefully, but with resolve and that is what my commitment is.

Mr. Speaker, I hope my colleagues will join me on this.

BLOCKING PROPERTY OF PERSONS UNDERMINING DEMOCRATIC PROCESSES OR INSTITUTIONS IN ZIMBABWE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 108–45)

The SPEAKER pro tempore (Mr. BISHOP of Utah) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency with respect to the unusual and extraordinary threat to the foreign policy interests of the United States posed by the actions and policies of certain individuals who have formulated, implemented, or supported policies that have undermined Zimbabwe's democratic institutions.

Over the course of more than 2 years, the Government of Zimbabwe has systematically undermined that nation's democratic institutions, employing violence, intimidation, and repressive means including legislation to stifle opposition to its rule. This campaign to ensure the continued rule of Robert Mugabe and his associates was clearly revealed in the badly flawed presidential election held in March 2002. Subsequent to the election, the Mugabe government intensified its repression of opposition political parties and those voices in civil society and the independent press calling on the government to respect the nation's democratic values and the basic human rights of its citizens. To add to the desperation of the besieged Zimbabwean people, the current government has engaged in a violent assault on the rule of law that has thrown the economy into chaos, devastated the nation's agricultural economy, and triggered a potentially catastrophic food crisis.

As a result of the unusual and extraordinary threat posed to the foreign policy of the United States by the deterioration of Zimbabwe's democracy and the resulting breakdown in the rule of law, politically motivated violence, and the political and economic instability in the southern African region, I have exercised my statutory authority and issued an Executive Order which, except to the extent provided for in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

Blocks all property and interests in property of the individuals listed in the Annex to the order;

Prohibits any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to the order, including the making or receiving of any contribution of funds, goods, or service to or for the benefit of the persons designated pursuant to the order.

The Secretary of the Treasury is further authorized to designate any person determined, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any persons designated in or pursuant to the order. The Secretary of the Treasury is also authorized in the exercise of my authorities under the International Emergency Economic Powers Act to implement these measures in consultation with the Secretary of State. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Executive Order.

This Executive Order further demonstrates the U.S. commitment to supporting Zimbabwe's democratic evolution, and strengthens our cooperation with the European Union in efforts to promote that evolution. The European Union has acted to freeze the assets of 79 individuals responsible for the political, economic, and social deterioration of Zimbabwe. With the exception of two individuals no longer associated with the Government of Zimbabwe, this order encompasses all those identified by the European Union.

I have enclosed a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 6, 2003*.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ETHERIDGE (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. LUCAS of Oklahoma (at the request of Mr. DELAY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEWIS of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. MORAN of Virginia, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. TANCREDO, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until Monday, March 10, 2003, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

969. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Loss Assistance Program 2001 (RIN: 0560-AG61) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

970. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Livestock Indemnity Program (RIN: 0560-AG33) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

971. A letter from the Chief, Regulatory Review and Foreign Investment Disclosure Group, Department of Agriculture, transmitting the Department's final rule — Hard White Wheat Incentive Program (RIN: 0560-AG71) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

972. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule — Apple Market Loss Assistance Payment Program III (RIN: 0560-AG85) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

973. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Mexican Fruit Fly; Addition of Regulated Area [Docket No. 02-121-2] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

974. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — AQI User Fees: Extension of Current Fees Beyond Fiscal Year 2002 [Docket No. 02-085-2] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

975. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Exotic Newcastle Disease; Additions to Quarantined Area [Docket No. 02-117-3] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

976. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Swine Health Protection [Docket No. 03-008-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

977. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Remove Texas From Lists of States Approved to Receive Stallions and Mares From CEM-Affected Regions [Docket No. 03-004-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

978. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Exotic Newcastle Disease; Additions to Quarantined Area [Docket No. 02-117-4] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

979. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Witchweed; Regulated Areas [Docket No. 02- 042-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

980. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Animal Health Protection Act; Revisions to Authority Citations [Docket No. 02-076-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

981. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Implementation of the United States Warehouse Act (RIN: 0560-AG45) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

982. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Marketing Quotas, Acreage Allotsments and Production Adjustment (RIN: 0560-AG51) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

983. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Dairy Indemnity Payment Program (RIN: 0560-AG08) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

984. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Grazing Payments for 2001 Wheat, Barley, or Oats (RIN: 0560-AG22) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

985. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Collecting Guaranteed Loss Payments From FSA Farm Loan Program Borrowers (RIN: 0560-AG44) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

986. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Limitations on the Amount of Farm Service Agency Guaranteed Loans (RIN: 0560-AG64) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

987. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Conservation Reserve Program-Farmable Wetlands Pilot Program (RIN: 0560-AG38) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

988. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Sale and Purchase of Flue-Cured Tobacco Across County Lines (Florida and Georgia) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

989. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Conservation Reserve Program-Good Faith Reliance and Excessive Rainfall (RIN: 0560-AG37) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

990. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — Boll Weevil Eradication Loan Program (RIN: 0560-AG69) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

991. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — 2002 Farm Bill Regulations-Termination of Peanut Market Quota Program and Revised Flue-Cured Tobacco Reserve Stock Level (RIN: 0560-AG75) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

992. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — Amendments to the Tobacco Marketing Quota Regulations (RIN: 0560-AG40) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

993. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans: Maryland; Revisions to Regulations for Permits, Approvals and Registration and Related Regulations [MD 128-3097a; FRL-7450-4] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

994. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California state Implementation Plan, Ventura Air Pollution Control District [CA 266-0383; FRL-7454-4] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

995. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans: Connecticut; New Source Review/Prevention of Significant Deterioration Revision [CT-068-7225a; A-1-FRL-7445-9] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

996. A letter from the Acting Principal Deputy Associate Administrator, Evironmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans: Virginia: Reorganization of and Revisions to Administrative and General Conformity Provisions; Documents Incorporated by Reference; Recodification of Existing SIP Provisions; Correction [VA085/086/089/102/103-5046a FRL-7455-7] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

997. A letter from the Assistant Secretary, Department of Defense, transmitting a report responding to Section 8171 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act of 2002 (P.L. 107-117); to the Committee on International Relations.

998. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the implementation of United States-Israel Free Trade Agreement, pursuant to Section 3105 of the Trade Act of 2002; to the Committee on Ways and Means.

999. A letter from the Secretary, Department of Energy, transmitting the Department's plan for the construction and operation of the mixed oxide (MOX) facility at the Savannah River Site in Aiken, South Carolina, pursuant to Section 3182 of the Bob Stump National Defense Authorization Act for FY 2003; jointly to the Committees on Armed Services and Energy and Commerce.

1000. A letter from the General Counsel, Department of Commerce, transmitting a draft bill entitled, "Marine Mammal Protection Act Amendments of 2003"; jointly to the Committees on Resources, the Judiciary, International Relations, and Ways and Means.

1001. A letter from the General Counsel, Department of Defense, transmitting the Department's legislative initiatives for inclusion in the National Defense Authorization Act for FY 2004; jointly to the Committees on Armed Services, Transportation and Infrastructure, Energy and Commerce, Resources, Ways and Means, the Judiciary, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 14. A bill to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes; with an amendment (Rept. 108-26). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 659. A bill to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals (Rept. 108-27). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 663. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; with an amendment (Rept. 108-28). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DeFAZIO:

H.R. 1109. A bill to establish a Financial Markets Oversight Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS (for himself, Mr. Lipinski, Mr. Rodriguez, Mrs. Christensen, Mr. Ross, Ms. Norton, Mr. Peterson of Minnesota, Mr. Ford, Ms. Woolsey, Mr. Frost, Mr. Owens, Ms. Carson of Indiana, Mr. McDermott, Mr. Grijalva, Mr. Hall, Ms. Velázquez, Mr. Wexler, and Mr. Lucas of Oklahoma):

H.R. 1110. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

By Mr. BALLENGER (for himself, Mr. Andrews, Mr. Sandlin, Mr. Souder, Mr. Beauprez, Mr. Goode, Mr. Grijalva, Mr. LaHood, Mrs. Myrick, Mr. Cunningham, and Mr. Hostettler):

H.R. 1111. A bill to amend title 10, United States Code, to revise the rules relating to the court-ordered apportionment of the retired pay of members of the uniformed services to former spouses, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KINGSTON (for himself, Mr. Foley, Mr. Hoyer, Mr. Deutsch, Mr. Rogers of Michigan, Mr. Jenkins, Mr. Castle, Mr. Frost, Mr. Nadler, Ms. Ros-Lehtinen, Mr. Gibbons, Mr. Gordon, Mr. Hoeffel, Mr. Burns, Mr. Gingrey, Mr. Matheson, and Mr. Schrock):

H.R. 1112. A bill to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. KINGSTON:

H.R. 1113. A bill to authorize an exchange of land at Fort Frederica National Monument, and for other purposes; to the Committee on Resources.

By Mr. KIRK (for himself, Mr. Hyde, Mrs. Johnson of Connecticut, Mr. Portman, Mr. Shays, Mr. Burr, Mr. Mica, Mr. McCotter, Mr. Gillmor, Mr. Shimkus, Mr. Tiberi, Ms. Ginny Brown-Waite of Florida, Ms. Ros-Lehtinen, Mr. Foley, Mr. Baker, Mr. Kennedy of Rhode Island, Mr. Doolittle, Mr. Castle, and Mr. McCrery):

H.R. 1114. A bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. GOODLATTE (for himself, Mr. Boucher, Mr. Sensenbrenner, Mr. Moran of Virginia, Mr. Smith of Texas, Mr. Stenholm, Mr. DeLay, Mr. Dooley of California, Mr. Hyde, Mr. Holden, Mr. Cox, and Mr. Cramer):

H.R. 1115. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS (for himself, Ms. Berkley, Mr. Baird, Mr. Berman, Mr. Wexler, Mr. Delahunt, Mr. Nadler, Ms. Norton, and Mr. Pascrell):

H.R. 1116. A bill to reform the medical malpractice insurance business, to provide for Federal alternative medical malpractice insurance, and to limit frivolous lawsuits; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX:

H.R. 1117. A bill to improve health care choice by providing for the tax deductibility of medical expenses by individuals; to the Committee on Ways and Means.

By Mr. BOEHLERT (for himself, Mr. Pascrell, Mr. Quinn, and Mr. Green of Texas):

H.R. 1118. A bill to establish the SAFER Firefighter Grant Program; to the Committee on Science.

By Mrs. BIGGERT (for herself, Ms. Pryce of Ohio, Ms. Dunn, Ms. Granger, Mr. Boehner, Mr. Norwood, Mrs. Blackburn, Mr. Ballenger, Mrs. Myrick, Ms. Hart, Mr. Blunt, Mr. Stenholm, Mrs. Johnson of Connecticut, Mrs. Wilson of New Mexico, Mr. Lipinski, Mrs. Bono, Mr. Sam Johnson of Texas, Mrs. Musgrave, Mrs. Northup, Mr. Cole, Mrs. Jo Ann Davis of Virginia, Mr. Gingrey, Mr. Reynolds, Mr. Tiberi, Mr. Petri, Mr. Hoekstra, Mr. McKeon, Mr. Greenwood, Mr. Ehlers, Mr. DeMint, Mr. Isakson, Mr. Keller, Mr. Platts, Mr. Osborne, Mr. Wilson of South Carolina, Mr. Kline, Mr. Barrett of South Carolina, Ms. Ginny Brown-Waite of Florida, Mr. Brady of Texas, Mr. Burton of Indiana, Mr. Buyer, Mr. Brown of South Carolina, Mr. Camp, Mr. Crane, Mr. Culberson, Mr. Cunningham, Mr. Dreier, Mr. Franks of Arizona, Mr. Goodlatte, Mr. Hastings of Washington, Mr. Kennedy of Minnesota, Mr. Kirk, Mr. Kolbe, Mr. Manzullo, Mr. Otter, Mr. Ose, Mr. Paul, Mr. Pitts, Mr. Rogers of Michigan, Mr. Rohrabacher, Mr. Schrock, Mr. Simmons, Mr. Smith of Michigan, Mr. Souder, Mr. Tancredo, Mr. Terry, Mr. Walden of Oregon, Mr. Weldon of Florida, Mr. Hyde, Mr. Baker, Mr. Gillmor, Mr. Chabot, and Mr. Shadegg):

H.R. 1119. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Education and the Workforce.

By Mr. BACHUS (for himself, Mr. Conyers, Mr. Hoeffel, Mr. Rangel, and Mr. Rahall):

H.R. 1120. A bill to ensure and foster continued patient safety and quality of care by clarifying the application of the antitrust laws to negotiations between groups of health care professionals and health plans and health care insurance issuers; to the Committee on the Judiciary.

By Mr. CANTOR:

H.R. 1121. A bill to limit the period of validity of driver's licenses and State identification cards issued to nonimmigrant aliens to the period of validity of nonimmigrant visas; to the Committee on the Judiciary.

By Mrs. CAPPS (for herself, Mr. George Miller of California, Mrs. Davis of California, and Ms. Lee):

H.R. 1122. A bill to amend the Solid Waste Disposal Act to provide funding for the clean up of MTBE contamination from underground storage tanks, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. Souder, Mr. Moran of Virginia, Mr. Tom Davis of Virginia, Mrs. Christensen, and Mrs. Miller of Michigan):

H.R. 1123. A bill to authorize States to regulate the receipt and disposal of out-of-State municipal solid waste; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. Brown of Ohio, Mr. Towns, Mr. Pallone, Mr. Deutsch, Mr. Rush, Ms. Eshoo, Mr. Engel, Mr. Green of Texas, Ms. McCarthy of Missouri, Ms. DeGette, Mrs. Capps, Ms. Solis, Mr. Andrews, and Mr. DeFazio):

H.R. 1124. A bill to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. Blunt, Mr. Cardin, Mr. Pallone, Mr. Gary G. Miller of California, Mr. Lincoln Diaz-Balart of Florida, Mrs. Emerson, Mr. Delahunt, Mr. Van Hollen, Mr. Rogers of Michigan, Mr. McHugh, Mr. Boehlert, Mr. Leach, Mr. Janklow, Mr. Hinchey, Mr. Green of Wisconsin, Mr. LaTourette, Mr. Clyburn, Mr. Terry, Mr. Davis of Alabama, Mr. Sanders, Mr. Gordon, Ms. Hart, Mr. Kleczka, Ms. Schakowsky, Mr. Schiff, Mr. Kucinich, Mr. Deutsch, Ms. Woolsey, Mr. Wexler, Mr. Davis of Illinois, Mr. Boehner, Ms. Baldwin, Ms. Berkley, Mr. Pascrell, Mr. McDermott, Mr. Pickering, Mr. Foley, Mr. Ross, Mr. Andrews, Mr. McCrery, Mr. McNulty, Mr. Boozman, Mr. Goode, and Mr. Kildee):

H.R. 1125. A bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER (for herself, Mr. Wynn, Mr. Frost, Mr. Schrock, Mr. Cannon, Ms. Ros-Lehtinen, Mr. Boehner, Ms. Ginny Brown-Waite of Florida, Mr. Isakson, and Mr. Cantor):

H.R. 1126. A bill to amend the Internal Revenue Code of 1986 to expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 1127. A bill to amend title 10, United States Code, to direct the Secretary of the Army to establish a combat artillery medal; to the Committee on Armed Services.

By Mr. GREENWOOD (for himself, Mr. Hoeffel, Mr. Brady of Pennsylvania, Mr. Doyle, Mr. English, Mr. Fattah, Mr. Gerlach, Ms. Hart, Mr. Holden, Mr. Kanjorski, Mr. Murphy, Mr. Murtha, Mr. Peterson of Pennsylvania, Mr. Pitts, Mr. Platts, Mr. Sherwood, Mr. Shuster, Mr. Toomey, and Mr. Weldon of Pennsylvania):

H.R. 1128. A bill to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the "Victor J. Saracini Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mr. HERGER:

H.R. 1129. A bill to amend the Internal Revenue Code of 1986 to provide for installment reporting of certain gain from the sale of an interest in a service business; to the Committee on Ways and Means.

By Mr. HOLT (for himself, Mr. Shays, Ms. Hooley of Oregon, Mr. DeFazio, Mr. Israel, Mr. Moran of Virginia, Mr. Blumenauer, Ms. Schakowsky, Mr. Payne, Ms. Berkley, Mr. Towns, Mr. Frank of Massachusetts, Mrs. Maloney, Mr. Levin, Mr. Stark, Mr. Sherman, Mr. Pallone, Mr. Honda, Mr. Markey, Mr. Olver, Mr. Baird, Mrs. Davis of California, Mr. George Miller of California, Mrs. Napolitano, Ms. Norton, Mr. Smith of Washington, Mr. Andrews, Mr. Pascrell, Mr. McDermott, Mr. Wu, Mr. Ford, Mrs. Jones of Ohio, Ms. Slaughter, Mr. Wexler, Mr. Farr, Mr. Meehan, Ms. Lee, Mr. Neal of Massachusetts, Mr. Delahunt, Mr. Gutierrez, Mr. Clay, Mr. Boucher, Ms. Woolsey, Mr. Rangel, Mr. Capuano, Mr. Brown of Ohio, Mr. Weiner, Ms. Corrine Brown of Florida, Ms. DeLauro, Mr. Inslee, Mrs. Capps, Mr. McNulty, Mr. Hoeffel, Mr. Bishop of New York, Mr. Matsui, Ms. McCarthy of Missouri, Mr. Filner, Mr. Gilchrest, Mr. Becerra, Mr. Deutsch, Mr. Nadler, Mr. Rothman, Mr. Owens, Mr. Schiff, Ms. Eddie Bernice Johnson of Texas, Mr. Hinchey, Mr. Kirk, Mr. Meeks of New York, Ms. Millender-McDonald, Mr. Leach, Mr. Grijalva, Mr. Frost, Mr. Udall of Colorado, Mr. Lantos, Mr. Abercrombie, Mrs. Johnson of Connecticut, Mrs. Lowey, Mr. Fattah, Ms. Solis, Mr. Pastor, Mr. Price of North Carolina, Mr. Evans, Mr. Ackerman, Mr. Rodriguez, Mr. Crowley, Mr. Brady of Pennsylvania, Mr. Cooper, Mr. McGovern, Mr. Lynch, Mrs. Tauscher, Mr. Davis of Illinois, Mr. Jefferson, Mr. Carson of Oklahoma, Mr. Case, Mr. Simmons, Mr. Rahall, Mr. Moore, Mr. Serrano, Mr. Kucinich, Mr. Menendez, Mr. Engel, Mr. Larson of Connecticut, Mr. Lewis of Georgia, Mr. Berman, Mr. Udall of New Mexico, Mr. Doggett, Ms. Harman, Mr. Dingell, Ms. Lofgren, Ms. Jackson-Lee of Texas, Mr. Tierney, Mr. Gonzalez, Mr. Langevin, Mr. Waxman, Ms. Watson, Ms. Linda T. Sánchez of California, Mr. Rush, Mr. Miller of North Carolina, Ms. Loretta Sanchez of California, Mr. Kennedy of Rhode Island, Mr. Hastings of Florida, Ms. Kilpatrick, Ms. Roybal-Allard, Ms. DeGette, Mr. Conyers, Mr. Cardin, Ms. Eshoo, Mr. Baca, Mr. Emanuel, Mr. Bell, Mr. Dooley of California, Ms. Waters, Mr. Cummings, Mr. Van Hollen, and Mr. Hinojosa):

H.R. 1130. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Resources.

By Mr. JEFFERSON:

H.R. 1131. A bill to amend the Internal Revenue Code of 1986 to extend and expand the enhanced deduction for charitable contributions of computers to provide greater public access to computers, including access by the poor; to the Committee on Ways and Means.

By Mr. JEFFERSON (for himself and Mr. Rangel):

H.R. 1132. A bill to amend the Internal Revenue Code of 1986 to provide a credit to promote homeownership among low-income individuals; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1133. A bill to amend the Internal Revenue Code of 1986 to provide a temporary exclusion for members of reserve components of the Armed Forces and Department of Defense civilian employees serving in a combat zone and to extend the exclusion for serving in a combat zone to Department of Defense civilian employees; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1134. A bill to amend the Internal Revenue Code of 1986 to increase the work opportunity credit and welfare-to-work credit; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1135. A bill to amend the Internal Revenue Code of 1986 to provide increased incentives for business investments in low-income communities and small businesses; to the Committee on Ways and Means.

By Mr. KLECZKA (for himself, Mr. Shaw, Mr. Matsui, Mr. Rangel, Mr. Ballenger, Mr. Brady of Texas, Mr. Doggett, Mr. Sam Johnson of Texas, Mr. LaHood, Mr. LaTourette, Mr. Pomeroy, Mr. Ryan of Wisconsin, and Mr. Goodlatte):

H.R. 1136. A bill to amend title 36, United States Code, to repeal the Federal Charter for Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

By Mr. LATHAM (for himself, Mr. McIntyre, Mr. Cole, Mr. Combest, Mr. Ryun of Kansas, and Mr. Nussle):

H.R. 1137. A bill to exempt small trailer manufacturers from enhanced early warning reporting requirements under the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; to the Committee on Energy and Commerce.

By Mr. MARKEY (for himself and Mr. Smith of New Jersey):

H.R. 1138. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Energy and Commerce.

By Mr. MEEKS of New York:

H.R. 1139. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of frequent flyer mileage awards; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 1140. A bill to amend the Internal Revenue Code of 1986 to stimulate economic development by enhancing the availability and benefits of small issue bonds; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 1141. A bill to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for credit card interest; to the Committee on Ways and Means.

By Mr. MICHAUD (for himself and Mr. Allen):

H.R. 1142. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-McDONALD (for herself, Mrs. Christensen, Mr. Frank of Massachusetts, Mr. McNulty, Ms. Woolsey, Mr. McDermott, and Mr. Owens):

H.R. 1143. A bill to amend title XIX of the Social Security Act to permit States to expand Medicaid eligibility to uninsured, poor adults; to the Committee on Energy and Commerce.

By Ms. MILLENDER-McDONALD (for herself, Mr. Wexler, Ms. Woolsey, Ms. Norton, Mr. Holden, Mrs. Christensen, Mr. Rangel, Mr. McNulty, Mr. Frost, Mr. Case, Mr. Schiff, Mr. McDermott, Mr. Grijalva, Mr. Kildee, Mr. Baca, Mr. Rush, Mr. Ortiz, Mr. Owens, Mr. Ackerman, Mr. Gutierrez, Ms. Lee, Mr. Davis of Alabama, Mr. Towns, Mr. Cooper, and Mr. Lantos):

H.R. 1144. A bill to provide, with respect to diabetes in minority populations, for an increase in the extent of activities carried out by the Centers for Disease Control and Prevention and the National Institutes of Health; to the Committee on Energy and Commerce.

By Ms. MILLENDER-McDONALD (for herself, Mr. Wexler, Ms. Lofgren, Ms. Watson, Ms. Norton, Mr. Brady of Pennsylvania, Ms. Kaptur, Ms. Woolsey, Mrs. Christensen, Mr. Honda, Mr. Walsh, Mr. Rangel, Mr. McNulty, Mr. Frost, Mr. McDermott, Mr. Kildee, Mr. Waxman, Ms. McCollum, Mr. Watt, Mr. Owens, Mr. Houghton, Mr. Jefferson, Mr. Payne, and Mr. Brown of Ohio):

H.R. 1145. A bill to provide additional appropriations for the fiscal year 2003 for the Peace Corps; to the Committee on International Relations.

By Mr. PAUL:

H.R. 1146. A bill to end membership of the United States in the United Nations; to the Committee on International Relations.

By Ms. MILLENDER-McDONALD (for herself, Ms. Jackson-Lee of Texas, Ms. Norton, Mr. Moran of Virginia, Mr. Owens, Ms. Schakowsky, and Mrs. Christensen):

H.R. 1147. A bill to improve the safety of firearms; to the Committee on the Judiciary.

By Ms. MILLENDER-McDONALD (for herself and Mr. Ferguson):

H.R. 1148. A bill to direct the Secretary of Homeland Security to carry out activities to assess and reduce the vulnerabilities of public transportation systems; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-McDONALD (for herself, Ms. Norton, and Mr. Owens):

H.R. 1149. A bill to authorize the Secretary of Health and Human Services to carry out programs regarding the prevention and management of asthma, allergies, and related respiratory problems, to establish a tax credit regarding pest control and indoor air quality and climate control services for multifamily residential housing in low-income communities, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. Cox, Mr. Calvert, and Mr. Royce):

H.R. 1150. A bill to direct the Secretary of Transportation to make grants to Orange County, California, for intercounty express bus service, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Virginia (for himself, Ms. Norton, Mr. Wynn, Mr. Van Hollen, Mr. Tom Davis of Virginia, and Mr. Hoyer):

H.R. 1151. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Government Reform.

By Mrs. MYRICK:

H.R. 1152. A bill to increase the cap on qualified small issue bonds; to the Committee on Ways and Means.

By Mr. OTTER (for himself, Mr. Cannon, Mr. Simpson, Mr. Akin, Mrs. Cubin, Mr. Culberson, Mr. Doolittle, Mr. Gibbons, Mr. Herger, Mr. Hunter, Mr. McInnis, Mr. Paul, Mr. Peterson of Pennsylvania, Mr. Radanovich, Mr. Rehberg, Mr. Shuster, Mr. Tancredo, and Mr. Young of Alaska):

H.R. 1153. A bill to accelerate the wilderness designation process by establishing a timetable for the completion of wilderness studies on Federal lands, and for other purposes; to the Committee on Resources.

By Mr. PAUL (for himself, Mr. Norwood, Mr. Duncan, Mr. Goode, Mr. Sessions, Mrs. Musgrave, Mr. Flake, and Mr. Akin):

H.R. 1154. A bill to provide that the International Criminal Court is not valid with respect to the United States, and for other purposes; to the Committee on International Relations.

By Ms. PRYCE of Ohio (for herself, Mrs. Biggert, Mr. Crane, Mr. Foley, Mrs. Johnson of Connecticut, Mr. Sensenbrenner, Mr. Becerra, Mr. Lewis of Georgia, Mr. Matsui, and Mr. Van Hollen):

H.R. 1155. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Ways and Means.

By Ms. LORETTA SÁNCHEZ of California (for herself and Mr. Gary G. Miller of California):

H.R. 1156. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; to the Committee on Resources.

By Mr. SANDERS (for himself, Mr. Paul, Mr. DeFazio, Mr. Blumenauer, Mr. Owens, Ms. Lee, Mr. Farr, Mr. Towns, Mr. Grijalva, Mr. Conyers, Mr. McDermott, Ms. Jackson-Lee of Texas, Mr. Hinchey, Mr. Olver, Ms. Woolsey, Mr. Frank of Massachusetts, Mr. Jackson of Illinois, Mr. McGovern, Ms. Baldwin, Ms. Waters, Mr. Ford, Mr. Lipinski, Mr. Stark, and Mr. Udall of Colorado):

H.R. 1157. A bill to amend the Foreign Intelligence Surveillance Act to exempt bookstores and libraries from orders requiring the production of any tangible things for certain foreign intelligence investigations, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDLIN:

H.R. 1158. A bill to modify the antitrust exemption applicable to the business of medical malpractice insurance, to address current issues for health care providers, to reform medical malpractice litigation by making available alternative dispute resolution methods, requiring plaintiffs to submit affidavits of merit before proceeding, and enabling judgments to be satisfied through periodic payments, to reform the medical malpractice insurance market, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself and Mr. Foley):

H.R. 1159. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment for foreign tax credit limitation purposes of certain transfers of intangible property; to the Committee on Ways and Means.

By Mr. SHERWOOD (for himself, Mr. Obey, Mr. Walsh, Mr. Sanders, Mr. McHugh, Mr. Holden, Mr. LaTourette, Mr. Sweeney, Ms. Baldwin, Mr. Quinn, Mr. Ehlers, Mr. Goode, Mr. Brown of Ohio, Mr. Shuster, Mr. Peterson of Pennsylvania, Mr. Olver, Mr. Filner, Mr. Larsen of Washington, Mr. Hinchey, Mr. Sandlin, Mr. Murtha, Mr. McNulty, Mr. Osborne, Mr. Simmons, Mr. Baca, Mr. Boucher, Mr. Sensenbrenner, Mr. Boyd, Mr. Pickering, Mr. Berry, Ms. Kaptur, Mr. Rehberg, Mr. Gilchrest, Mr. Pomeroy, Mr. DeFazio, Mr. LoBiondo, Mrs. Capito, Mr. Grijalva, Mr. Turner of Texas, Mr. Greenwood, Mr. English, Mrs. Kelly, Ms. Hart, Mr. Rogers of Michigan, Mr. Bartlett of Maryland, Mr. Kleczka, Mr. Houghton, Ms. DeLauro, Mr. McGovern, Mr. Petri, Mr. Smith of Michigan, Mr. Doyle, Mr. Kucinich, Mr. Simpson, Mr. Pitts, and Mrs. Emerson):

H.R. 1160. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. Coble, Mr. Sensenbrenner, Mr. Pomeroy, Mr. Lampson, Mr. Foley, Mr. Baker, Mr. Bartlett of Maryland, Mr. Cannon, Mr. Culberson, Mr. DeLay, Mr. Wamp, Mr. Ryun of Kansas, Mr. Gilchrest, Mr. Wilson of South Carolina, Mr. Green of Wisconsin, Mr. Hunter, Ms. Jackson-Lee of Texas, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Pickering, Mr. Simmons, Mr. Souder, Mr. Spratt, Mr. Stenholm, Mr. Weldon of Florida, Mr. Pence, Mr. Oxley, Mr. Matheson, Mr. LoBiondo, Mr. Kennedy of Minnesota, Mr. Rogers of Michigan, Mr. Weller, Mr. Bachus, Ms. Hart, Mr. Goodlatte, Mr. Keller, Mrs. Capito, and Mr. Visclosky):

H.R. 1161. A bill to prevent trafficking in child pornography and obscenity, to proscribe pandering and solicitation relating to visual depictions of minors engaging in sexually explicit conduct, to prevent the use of child pornography and obscenity to facilitate crimes against children, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Washington (for himself, Mr. Dooley of California, Mr. McIntyre, Mr. Turner of Texas, Ms. Eshoo, Ms. Lofgren, Mr. Reyes, Mr. Cooper, Mr. John, Mrs. Tauscher, Mr. Case, Mrs. McCarthy of New York, Mrs. Jones of Ohio, Mr. Kind, Mr. Scott of Georgia, Mr. Baird, and Mr. Davis of Florida):

H.R. 1162. A bill to amend the Internal Revenue Service Code of 1986 to allow a deduction for certain distributions from a controlled foreign corporation to encourage companies to invest in worker hiring and training, infrastructure investments, capital investments, financial stabilization of the company, and research and development; to the Committee on Ways and Means.

By Mr. STEARNS:

H.R. 1163. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain interest amounts received by individuals; to the Committee on Ways and Means.

By Mr. SWEENEY (for himself and Mr. McNulty):

H.R. 1164. A bill to extend the deadlines under part I of the Federal Power Act for commencement of construction of two hydro-electric projects in the State of New York; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California (for himself, Ms. Slaughter, Mr. Hinchey, Mr. George Miller of California, Mr. Filner, Mr. Quinn, Mr. Brown of Ohio, Mrs. Napolitano, Ms. Norton, Mrs. Davis of California, Mr. Stark, Ms. McCollum, Mr. Honda, Ms. DeGette, Mr. Blumenauer, Ms. DeLauro, Ms. Lee, Mr. Pascrell, Ms. Schakowsky, Mr. Rothman, Mr. Schiff, Mr. Owens, Ms. Bordallo, Mr. Engel, Ms. Millender-McDonald, Mr. Gilchrest, and Ms. Eshoo):

H.R. 1165. A bill to establish a grant and fee program through the Environmental Protection Agency to encourage and promote the recycling of used computers and to promote the development of a national infrastructure for the recycling of used computers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself, Mr. Manzullo, Ms. Velázquez, Mr. Graves, Mr. Renzi, Mr. Franks of Arizona, Mr. Matheson, Mr. Hayworth, Mr. Kildee, Mr. Udall of Colorado, Ms. Millender-McDonald, Mr. Ballance, Mrs. Christensen, Mr. Gonzalez, Mr. Acevedo-Vilá, Mr. Case, Mr. Michaud, Mrs. Jones of Ohio, Mr. Carson of Oklahoma, Mr. Faleomavaega, Ms. Bordallo, Mrs. Napolitano, and Mr. Davis of Illinois):

H.R. 1166. A bill to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business.

By Mrs. WILSON of New Mexico:

H.R. 1167. A bill to amend title 38, United States Code, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery; to the Committee on Veterans' Affairs.

By Mr. BEREUTER:

H. Con. Res. 79. Concurrent resolution expressing support for a peaceful, just, and lasting settlement to the Cyprus problem; to the Committee on International Relations.

By Mr. BOEHLERT (for himself, Mr. Royce, Mr. Houghton, Ms. Woolsey, Mr. Gilchrest, Mr. Lantos, Mr. Udall of Colorado, Ms. Eddie Bernice Johnson of Texas, Mr. Sanders, Ms. Lee, Ms. Millender-McDonald, Mr. Towns, Mr. Hastings of Florida, Ms. Slaughter, Mr. Cummings, Mr. Fattah, Mr. Payne, Mr. Faleomavaega, and Mr. Owens):

H. Con. Res. 80. Concurrent resolution expressing the sense of Congress relating to efforts of the Peace Parks Foundation in the Republic of South Africa to facilitate the establishment and development of transfrontier conservation efforts in southern Africa; to the Committee on International Relations.

By Mr. HASTINGS of Florida:

H. Con. Res. 81. Concurrent resolution condemning the Democratic People's Republic of Korea for its announcement that it has restarted a nuclear reactor at Yongbyon and for the provocation caused by the interception of a United States Air Force reconnaissance plane by North Korean military aircraft; to the Committee on International Relations.

By Mr. HOSTETTLER (for himself, Mr. HUNTER, Mr. YOUNG of Alaska, Mr. BARTLETT of Maryland, and Mr. THORNBERRY):

H. Con. Res. 82. Concurrent resolution expressing the sense of the Congress on commemorating the 20th Anniversary of President Ronald Reagan's vision for protecting the United States against ballistic missile attack and commending President George W. Bush's commitment to a multi-layered ballistic missile defense system to protect the homeland of the United States from ballistic missile attack; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself, Mr. ABERCROMBIE, Ms. BERKLEY, Ms. BORDALLO, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. DOGGETT, Mr. FILNER, Mr. HOEFFEL, Mr. HONDA, Mr. ISRAEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. KUCINICH, Mr. LARSON of Connecticut, Ms. LOFGREN, Mr. OWENS, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. TIAHRT, Mr. TOWNS, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H. Con. Res. 83. Concurrent resolution Honoring the victims of the Cambodian genocide that took place from April 1975 to January 1979; to the Committee on International Relations.

By Mr. TIAHRT (for himself, Mr. RYUN of Kansas, Mr. MORAN of Kansas, and Mr. MOORE):

H. Con. Res. 84. Concurrent resolution providing for the acceptance of a statue of President Dwight D. Eisenhower, presented by the people of Kansas, for placement in the Capitol, and for other purposes; to the Committee on House Administration.

By Mr. MENENDEZ:

H. Res. 130. A resolution electing Members to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. MEEKS of New York:

H. Res. 131. A resolution expressing the gratitude of the House of Representatives to the people and Government of Malaysia for their support, cooperation, and assistance in combating international terrorism; to the Committee on International Relations.

By Mr. OSE (for himself, Mr. SENSENBRENNER, Mr. CHABOT, Mr. CUNNINGHAM, Mr. CARDOZA, Mr. HERGER, Mr. OTTER, Mr. DOOLITTLE, Mrs. NAPOLITANO, Mr. PORTER, Mr. FRANKS of Arizona, Mr. OXLEY, Mr. HENSARLING, Mrs. BONO, Mr. KENNEDY of Minnesota, Mr. WALSH, Mr. BARRETT of South Carolina, Mr. ISAKSON, Mr. EVERETT, Mr. GARY G. MILLER of California, Mr. FROST, Mr. ROGERS of Alabama, Mr. HAYES, Mr. WILSON of South Carolina, Mr. RENZI, Mr. FOLEY, Mr. NEY, Mr. BEAUPREZ, Mrs. CAPITO, Mrs. NORTHUP, Ms. GINNY BROWN-WAITE of Florida, Mr. CHOCOLA, Mr. SHUSTER, Mr. BURNS, Mr. HAYWORTH, Mr. MATHESON, Mr. STEARNS, Mr. SWEENEY, Mr. GERLACH, Mr. GOODE, and Mr. NUNES):

H. Res. 132. A resolution expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes; to the Committee on the Judiciary.

By Mr. SULLIVAN (for himself, Mr. CANNON, Mr. KING of Iowa, Mr. RYUN of Kansas, Mr. LEWIS of Kentucky, Mr. GREEN of Wisconsin, Mr. GIBBONS, Mr. OTTER, Mr. TOOMEY, Mr. PITTS, Ms. HART, Mrs. MYRICK, and Ms. GINNY BROWN-WAITE of Florida):

H. Res. 133. A resolution amending the Rules of the House of Representatives to establish a discretionary spending ledger and a mandatory spending ledger; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. DELAY, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. COX, Mr. REYNOLDS, Mr. DREIER, Mr. DOOLITTLE, Mr. KINGSTON, Mr. CRANE, Mr. SHAW, Mr. HERGER, Mr. McCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Ms. DUNN, Mr. PORTMAN, Mr. HAYWORTH, Mr. HULSHOF, Mr. McINNIS, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. CANTOR, Mr. HENSARLING, Mr. PITTS, Mr. McKEON, Mr. WILSON of South Carolina, Mr. DEMINT, Mr. FOSSELLA, Mr. McCOTTER, Ms. GINNY BROWN-WAITE of Florida, Mr. BOEHNER, Mr. FRANKS of Arizona, Mr. KELLER, and Mr. GARY G. MILLER of California.

H.R. 5: Mr. BROWN of South Carolina and Mr. HOLDEN.

H.R. 12: Mr. REGULA, Mr. STENHOLM, and Mr. GOODLATTE.

H.R. 33: Mr. BOOZMAN and Mr. ROSS.

H.R. 111: Mr. POMBO.

H.R. 132: Mr. MEEKS of New York and Mr. MILLER of North Carolina.

H.R. 151: Ms. BORDALLO.

H.R. 167: Mr. SAXTON.

H.R. 168: Mr. KILDEE.

H.R. 173: Mr. RAHALL, Mr. ENGLISH, Mr. JONES of North Carolina, Mr. GREEN of Texas, Mr. LYNCH, Mr. INSLEE, Ms. GINNY BROWN-WAITE of Florida, Mr. JANKLOW, Mr. GALLEGLY, Ms. KAPTUR, Mr. SERRANO, Mr. ISRAEL, Mr. LANGEVIN, Mr. MEEHAN, Mr. WALSH, and Mr. DEUTSCH.

H.R. 205: Mr. LATHAM and Mr. CASE.

H.R. 218: Mr. PORTMAN, Mr. HASTINGS of Florida, and Mr. BOSWELL.

H.R. 220: Mr. WAMP and Mr. FOLEY.

H.R. 236: Mr. KUCINICH, Ms. WATERS, Mr. BALLANCE, Mr. BISHOP of Georgia, Mr. MEEK of Florida, Mr. ABERCROMBIE, and Ms. KAPTUR.

H.R. 284: Mr. ADERHOLT, Mr. FORBES, Mr. KENNEDY of Minnesota, Mr. TERRY, Mr. STRICKLAND, and Mr. BONNER.

H.R. 286: Mr. McINNIS.

H.R. 303: Mr. TIBERI and Mr. McINTYRE.

H.R. 328: Mr. ROGERS of Kentucky, Mr. WATT, Mr. PASTOR, and Ms. LORETTA SANCHEZ of California.

H.R. 339: Ms. GINNY BROWN-WAITE of Florida.

H.R. 444: Mr. MARIO DIAZ-BALART of Florida, Mr. KOLBE, Ms. DUNN, Ms. HART, and Mr. FOLEY.

H.R. 487: Mr. FOLEY.

H.R. 488: Ms. GINNY BROWN-WAITE of Florida.

H.R. 522: Mr. BONNER and Mr. KING of New York.

H.R. 525: Mr. EMANUEL, Mr. TIERNEY, Mr. SHERMAN, Mr. SKELTON, Mr. UPTON, MR. HILL, Mrs. TAUSCHER, Mr. BERMAN, Mr. CROWLEY, Mrs. EMERSON, Mr. SPRATT, Mr. MARSHALL, Mr. DELAHUNT, Mr. McGOVERN, Mr. STENHOLM, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. HOUGHTON, Mr. WAXMAN, Mr. NADLER, Mr. SCOTT of Georgia, Mr. WATT, Mr. SHAW, Mr. ABERCROMBIE, Mr. CUNNINGHAM, Mr. HASTINGS of Florida, Mr. ROTHMAN, Mr. FOLEY, Mrs. LOWEY, Mr. WELDON of Pennsylvania, Mr. LARSON of Connecticut, Ms. BERKLEY, Ms. LORETTA SANCHEZ of California, Ms. LINDA T. SÁCHEZ of California, Mr. BISHOP of New York, Mr. RYAN of Ohio, Mr. McNULTY, and Mr. ISAKSON.

H.R. 529: Mr. McNULTY.

H.R. 543: Mr. WOLF, Mr. PAUL, Mr. KOLBE, Mr. GREEN of Wisconsin, and Mr. ALEXANDER.

H.R. 545: Mr. FOLEY, Mr. McHUGH, and Mr. MATHESON.

H.R. 570: Mr. UDALL of Colorado and Mr. STEARNS.

H.R. 571: Mr. HILL, Mr. DOOLITTLE, Mr. PORTER, Mr. FEENEY, and Mr. MANZULLO.

H.R. 583: Mr. OWENS, Mr. WICKER, Mr. SHIMKUS, Mr. FLAKE, Mr. PLATTS, Mr. HERGER, Mr. SESSIONS, Mrs. MYRICK, Mr. SHADEGG, Mr. GUTKNECHT, Mr. JENKINS, Mr. JONES of North Carolina, Mr. MANZULLO, Mr. CAMP, Mr. SIMPSON, Mr. DAVIS of Alabama, Ms. GINNY BROWN-WAITE of Florida, Mr. ROSS, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. ROGERS of Alabama.

H.R. 588: Mr. TIBERI and Mr. OXLEY.

H.R. 594: Mr. SAXTON, Mr. ORTIZ, Mr. MOLLOHAN, Mr. TOM DAVIS of Virginia, and Mr. INSLEE.

H.R. 627: Mr. OLVER, Mr. SOUDER, Mr. McNULTY, Mr. WEXLER, and Mr. OWENS.

H.R. 643: Ms. LOFGREN, Mr. OWENS, Ms. McCOLLUM, and Mr. MOORE.

H.R. 655: Mr. LIPINSKI.

H.R. 660: Mr. ROGERS of Kentucky, Mr. WELLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BARTLETT of Maryland, Mr. KING of Iowa, and Mr. SHUSTER.

H.R. 678: Mr. CUMMINGS, Mr. CLYBURN, and Mr. BACHUS.

H.R. 715: Mr. LIPINSKI and Ms. LORETTA SANCHEZ of California.

H.R. 728: Mr. FORBES.

H.R. 735: Mr. CLAY, Mr. LANTOS, Mr. LEACH, Ms. PRYCE of Ohio, and Mr. LYNCH.

H.R. 760: Mr. JANKLOW.

H.R. 768: Mr. CLYBURN.

H.R. 779: Ms. WATERS.

H.R. 780: Mr. ALLEN, Mr. KILDEE, and Mr. VAN HOLLEN.

H.R. 784: Mrs. CAPITO and Mr. FRANK of Massachusetts.

H.R. 786: Mrs. KELLY.

H.R. 792: Mr. WILSON of South Carolina, Mr. ALEXANDER, Mr. ROGERS of Kentucky, Mr. SOUDER, Mr. CLYBURN, Mr. BOSWELL, Mr. KIRK, Mr. DELAHUNT, and Mr. BONNER.

H.R. 804: Mr. JONES of North Carolina.

H.R. 806: Ms. LORETTA SANCHEZ of California.

H.R. 808: Mr. HAYWORTH, Mr. CANTOR, and Mr. McNULTY.

H.R. 811: Mr. CONYERS, Ms. CORRINE BROWN of Florida, Ms. NORTON, and Ms. JACKSON-LEE of Texas.

H.R. 813: Mr. KILDEE.

H.R. 814: Mrs. Napolitano, Mr. Deutsch, and Ms. Loretta Sanchez of California.

H.R. 815: Mr. Ford.

H.R. 817: Mr. Boswell.

H.R. 830: Mr. Udall of Colorado.

H.R. 839: Ms. Dunn and Mr. Gordon.

H.R. 847: Mr. Costello.

H.R. 857: Mr. Weldon of Pennsylvania, Mr. McGovern, and Mr. George Miller of California.

H.R. 859: Mr. Sam Johnson of Texas, Mr. Isakson, and Mr. Sherman.

H.R. 870: Ms. Dunn.

H.R. 871: Ms. Ginny Brown-Waite of Florida and Mr. Boswell.

H.R. 876: Mrs. Capito and Mr. Carson of Oklahoma.

H.R. 891: Ms. Eddie Bernice Johnson of Texas.

H.R. 896: Mr. Kildee, Mr. Udall of Colorado, Mr. Matheson, and Mr. Rangel.

H.R. 898: Ms. Eddie Bernice Johnson of Texas, Mr. Frost, Mr. DeFazio, and Ms. Woolsey.

H.R. 919: Mr. Baird, Ms. Ginny Brown-Waite of Florida, and Mr. Israel.

H.R. 926: Mr. Linder, Mr. Hayworth, and Mr. Gutknecht.

H.R. 934: Mr. McNulty.

H.R. 937: Mr. LaHood.

H.R. 953: Mr. Udall of Colorado, Mr. Neal of Massachusetts, and Mr. Sherman.

H.R. 973: Ms. Kaptur.

H.R. 997: Mr. Taylor of Mississippi, Mr. Pitts, Mr. Wilson of South Carolina, Mr. Hostettler, Mr. Lipinski, Mr. Burton of Indiana, Mr. Stearns, Mr. Hayes, Ms. Ginny Brown-Waite of Florida, Mr. Bartlett of Maryland, and Mr. Goode.

H.R. 1022: Mr. Reyes, Mr. Lantos, Mrs. Christensen, Mr. Baca, Mr. Frost, Mr. Abercrombie, Mr. Ackerman, Mr. Gonzalez, Mr. Neal of Massachusetts, and Mr. Markey.

H.R. 1029: Ms. Woolsey and Mr. Capuano.

H.R. 1032: Mr. Foley and Mr. Hayworth.

H.R. 1039: Mr. Stark.

H.R. 1043: Mr. Etheridge, Mr. Ney, Mr. Davis of Tennessee, Mr. Sam Johnson of Texas, and Mr. Gerlach.

H.R. 1056: Mr. Wexler, Mr. Grijalva, and Ms. Lee.

H.R. 1068: Mr. LaTourette, Mr. Murtha, Mr. Pallone, Mr. Towns, Mr. Owens, Mr. Hinchey, Mr. Holden, Mr. Pickering, Mr. Grijalva, Mr. Green of Texas, Mr. Culberson, Mr. Sessions, Mr. McNulty, Mr. Weiner, Mr. Leach, Mr. Serrano, Mr. Wynn, Mr. Taylor of Mississippi, Mr. Case, Ms. DeLauro, Mr. Lantos, Mr. Sandlin, Mr. Lipinski, Mr. Carson of Oklahoma, Mr. Hoeffel, Ms. Millender-McDonald, Ms. Jackson Lee of Texas, Mr. Ford, and Mr. Forbes.

H.R. 1077: Mr. Lewis of Georgia.

H.R. 1093: Mr. Frank of Massachusetts, Mr. Lewis of California, Mr. Frost, and Mr. Wolf.

H.R. 1102: Mr. Ackerman, Mr. Gonzalez, Mr. Neal, and Mr. Markey.

H.R. 1108: Ms. Eddie Bernice Johnson of Texas.

H.J. Res. 4: Mr. Pitts, Mr. Cardoza, Mr. John, and Mr. Ryan of Wisconsin.

H.J. Res. 20: Mr. Fattah.

H.J. Res. 22: Mr. Davis of Tennessee.

H. Con. Res. 21: Mr. Kennedy of Minnesota.

H. Con. Res. 23: Mr. Castle.

H. Con. Res. 49: Mr. Wexler, Mr. Shimkus, Ms. Berkley, Mr. Engel, Mr. Deutsch, Mr. Garrett of New Jersey, and Mr. Frank of Massachusetts.

H. Res. 59: Mr. English.

H. Res. 60: Mr. Terry, Ms. Hart, Mr. Moran of Virginia, Mr. English, Mr. LoBiondo, and Mr. Kind.

H. Res. 72: Mr. Foley.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted form public bills and resolutions as follows:

H.R. 684: Mrs. Jones of Ohio.

H.R. 936: Mr. Scott of Virginia.

SENATE—*Thursday, March 6, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we confess that it is sometimes easier to pray about Your presence and power than it is to turn over the control of our lives and our work to You. We are here to serve You by working together as we serve our Nation. But built right into our two-party system is the potential for discord and the lack of civility. Sometimes procedures can become more important than progress and winning more crucial than finding ways of working together.

Now at the beginning of this day, remind the Senators and all of us who serve with them that this is Your Senate, that we are accountable to You, and that we could not breathe a breath without Your permission. In our mind's eye we picture a day in which we can put You and our Nation first. We humble ourselves lest we miss Your call to greatness. For You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, Thursday, March 6, 2003.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

SCHEDULE

Mr. BENNETT. Madam President, the Senate will be in a period for morning business until 10 a.m., with the time equally divided between the two leaders or their designees. Following morning business, the Senate will return to the Estrada nomination, with the time equally divided between the chairman and ranking member of the Judiciary Committee or their designees. At 10:30, the Senate will vote on the motion to invoke cloture on this important nomination. If cloture is not invoked on the nomination, the Senate will resume consideration of the Moscow Treaty. Additional amendments are expected to the resolution of ratification. Therefore, Senators should anticipate votes throughout the day. The Senate will complete action on the Moscow Treaty this week.

ORDER OF PROCEDURE

I ask unanimous consent that the time allocated for morning business be equally divided between the majority leader and the minority leader or their designees.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. We had a majority and minority member coming over this morning. They are not coming now, so for anyone who has had a desire to come speak and has not had the opportunity, this would be the opportunity to do that until 10 today.

Mr. BENNETT. That is my understanding.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the Senate will now be in a period for morning business until the hour of 10.

The Senator from Utah.

WAR IN IRAQ

Mr. BENNETT. Madam President, seeing no one else here and being prepared to yield as soon as someone comes with a desire to speak, I will take advantage of this opportunity to make a few comments with respect to the pending situation in Iraq.

Since I returned from last weekend in Utah, I have become increasingly aware of how anxious people are about Iraq and the possibility of war in Iraq. This anxiousness comes from those who are supporters of the President as well as those who are detractors of the President. Some who have faith in the President's judgment and in his instincts say, we will back him but we are very concerned about the possibility of going to war. Those who do not have faith in the President's political judgment are almost beside themselves with anger and anxiety that he would go ahead in the face of what they consider to be serious worldwide opposition to the war.

As I look out at the situation, as best I can I have tried to explain to them what I see to help them understand that which the Washington Post editorial said last week; that is, the risks of not going to war in the present circumstances are probably greater than the risks of going to war. Those who are looking to the United States to exercise leadership in this part of the world—indeed, to free them from the tyranny of Saddam Hussein—are just as desperate that perhaps we might back down as are those who fear that war will come.

War is never an easy decision, and I assure all of my constituents that this President is not given to war simply as something to do. That which we hear in the press about this possibility is clearly wrong; that is, the suggestion that perhaps the President is going to war in order to secure more oil for America. I point out that if oil were our motivation, war would be our last option. We could simply turn to Saddam Hussein, remove the sanctions, make accommodations with him, and say, go ahead and produce all the oil you want and we will take advantage of that and the impact of that on the world oil market.

Nor does it have anything to do, as some have suggested in the press, with the desire on the part of this President to somehow redeem the pledge that was made by his father. All of this rewrites history. George W. Bush—or George Bush, the first, if I might use that term—was operating under a series of resolutions from the United Nations that did not authorize him to invade Iraq or go into Baghdad to remove Saddam Hussein. The decision was made, after examining the circumstances on the battlefield, that the mandate laid down by both the Congress and the U.N. had been fulfilled when the first George W. Bush had succeeded in liberating Kuwait.

We can look back through the lens of history and say that was a mistake in terms of what happened in the area, but by no means was it a circumstance where we could say that the present President Bush feels a need to somehow revenge his father or atone for his father. At the time, the decision was made on the basis of the legal situation and the best information available from the battlefield. In hindsight, we might say it was the wrong decision, but under no circumstances can we say that the first President Bush should be criticized for having made it.

No, the reason we are going forward in Iraq has to do with much more of the American spirit and the American tradition. America is not an imperial power, in spite of the statements by some of the people in the European press. America does not seek Roman-type domination over other nations. When America moves forward in war, it is for one purpose only, and that is to advance the cause of freedom. Usually, it is to advance the cause of freedom in America; that is, to preserve our citizens from attack. That is an aspect of the current situation.

Those who say, no, Iraq has never attacked us are being blind to the interconnections throughout the world of the Middle East with respect to terror. They say, we do not have a smoking gun to prove absolutely that al-Qaida, when they attacked the World Trade Center and the Pentagon, was receiving aid from Iraq. Those who are waiting for that kind of absolute certainty before they move ahead are not cognizant of the intelligence information that is available not only to those who have attended classified briefings but, frankly, to the whole world based on the presentations made by Secretary Powell at the U.N. and in other circumstances.

There can be no doubt that America has been attacked, has been attacked by those who have received sanctuary in Iraq, and has been attacked by those who will, if not stopped, come back at us again and again and again. It is their clear desire to drive the Americans out of the Middle East through military—if necessary, terrorist—tactics, to see to it that we leave. When we leave, what will be the legacy of that decision? If we back out of our military threat against Iraq, what will we leave behind? Will we leave stability? Will we leave freedom? Will we leave prosperity? No. If we back out of the region now, we will leave behind us continued warfare, continued death, continued poverty, and continued torture. That is not the American tradition, to turn our back on those circumstances and walk away when there is an opportunity to advance freedom, liberty, prosperity, and peace.

I do not envy the President the challenge of the decision he must make, but I recognize America has traditionally, when aroused, stood on the side of moving ahead to protect liberty wherever we can. If we do go ahead with military action in Iraq in the face of Saddam Hussein's continuing refusal to disarm, what, then, will be the legacy we will leave behind when the entire operation is finished? We can only look at other American circumstances to try to find the parallel. When we moved into imperial Japan at the end of the Second World War, defeated the Japanese military, what did we find? A feudal system where women were not only not allowed to vote but in many cases were treated like property and chattel, where slavery existed throughout the empire, where property rights were not available to any except those who had been born to them—a feudal society firmly mired in circumstances of centuries before.

What did we leave behind when we departed? A free nation that had women's suffrage, where slavery was abolished, where property rights were available to all, where the rule of law existed in a democratic society. We saw the Japanese rise to a level of prosperity thereafter that made them the second strongest economy in the world. That was the legacy we left behind when we achieved military victory.

When we won the Second World War, we not only liberated those people who considered themselves under the yoke of foreign domination—the Dutch, the French, the Belgians, et cetera—we also liberated the Germans, who were our enemies, and the Japanese, who were our enemies. After the Second World War, those who had been our adversaries had a greater degree of freedom, a greater degree of prosperity, and a peace and calm in their circumstances they did not have under their previous regimes. They did not live under American domination or American legions left there as the Romans would do. They lived there in freedom and peace and were protected by American military might from those who would have attacked that peace.

It is that history in America that gives me confidence that President Bush will do the right thing in Iraq. If war becomes necessary because of Saddam Hussein's continued refusal to disarm and his continued refusal to step down and turn his country to freedom, if war becomes necessary, the American tradition says the legacy we will leave behind will be one that our children can be proud of and in which Iraqi children can rejoice.

Let us not shrink from our responsibility to be the protectors of freedom and liberty throughout the world. And let us not shrink from our responsibility to protect America from those who would attack us if we do not move ahead.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTRADA NOMINATION

Mr. DASCHLE. Mr. President, shortly we will have a vote on cloture on the nomination of Miguel Estrada. Let me just say that I am saddened that we have to have this vote at all. Democrats are not interested in delaying the debate, delaying the vote. What we are interested in is the same standard set for judicial nominees virtually all through history. Nominees in the past have come before the Judiciary Committee, they have answered their questions, they have provided the documentation, votes have been taken, and judges overwhelmingly have been confirmed. This is the exception, not the rule.

While we were in the majority we confirmed 101 judicial nominees. I haven't checked, and I have no way of knowing, but I suspect all 101 confirmed judges are conservatives. I don't think they would have made it through the screening process of the Bush administration were they not conservative.

We have voted on a large number—I don't have the number before me—of judges this year. Again, I would say, without exception, those judges are conservative and, with rare exception, those judges were confirmed unanimously.

There are those who suggest that somehow because this is a conservative judge, Democrats are balking at confirmation. I will oppose Mr. Estrada even if we have the opportunity at some point in the future because I am confident, based on his answers to questions so far, and the limited information we do have available to us so far, that he represents an extreme point of view, not a moderate point of view. I believe those extreme positions are ones that would cause concern, whether he were extreme liberal or extreme conservative.

But the issue in this immediate case is not philosophical temperament. This issue is about intransigence. This issue is whether or not Miguel Estrada or anybody else ought to be held to the same standard for consideration of this important position, the second highest court in the land. He has been asked to fill out a job application and he refuses to fill out the final pages of that application. We are left to guess what his qualifications are. We are left to guess what his judicial temperament is. For many of my colleagues, that is insufficient. His attitude, his disposition, his intransigence is why we are here today. So it is not Democrats, it is Mr. Estrada, it is the administration that continues to be unwilling to provide the cooperation and the information that Members have used in the past to make their judgments.

There has been so much misinformation regarding past precedent, but even if you sift through all of the misinformation in the assertions relating to other judges and their degree of compliance with the law, I don't know of anyone who has not acknowledged that Solicitor General documents have been shared with members of the Judiciary Committee and the Senate on past occasions. That is fact. Judge Bork, Benjamin Civiletti, Judge Rehnquist—there are many who have provided the very information we have requested.

So it is regrettable we are at this point. We have been debating this nomination now for a month. I would like very much for us to turn to other important matters. We may be going to war soon. The Senate ought to have an opportunity to discuss the implications of war, our thoughts about war. We have not had that discussion. Perhaps now is the time to do so.

As I have said on the floor on several occasions, the administration seems to be consumed with this one job but ignores the fact that over 2.5 million Americans have lost their jobs. This Senate ought to be devoting its attention and time to dealing with the real issues confronting our country domestically, which are the economy, the loss of jobs, the stagnation, the uncertainty.

I was with a group this morning who said investment is simply not in evidence in large measure because of uncertainty, because people do not know what the future holds economically. We ought to be moving forward on an economic debate. We ought to be moving forward to address those 2.5 million Americans who have lost their jobs, but we have not done so. Yet day after day, hour after hour, we continue to be consumed by the one job at the expense of the millions.

There are many reasons I wish conditions would be different this morning. I do hope Mr. Estrada will see fit to be more cooperative. I have appreciated the willingness on the part of the administration to encourage Mr. Estrada to meet with Members. But as many of us have noted, it is not his willingness to meet; it is his unwillingness to provide information that has brought us to this point. Meeting alone is cosmetic. Meeting alone is more of a public relations ploy than a meaningful way with which to ascertain the facts. We don't need more public relations. We don't need more efforts to meet if those meetings cannot be more productive.

So I hope we can move on to issues of great import to this country, whether it is foreign policy or the economy or the many other domestic issues we face. We have attempted day after day to bring an economic stimulus bill to the Senate floor. Perhaps with this vote the way can be cleared to allow that to happen. But whatever happens, I think it is important to put my colleagues on notice that the vote will not change regardless of how many votes may be cast. We feel strongly as a caucus, and we will continue to hold the position as a caucus, that the information Mr. Estrada has so far failed to provide is not in keeping with past precedent; it is not in keeping with constitutional expectations; it is not in keeping with our expectations with regard to the cooperation we would expect from any nominee.

I hope as we consider how we might resolve this matter, Mr. Estrada will work with us, provide information we have asked, work with us to ensure that those unanswered questions can be answered and that in the meantime we can turn to the matters of interest, of import, of concern to the American people.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent before we go into executive session to have printed in the RECORD two documents. One is an editorial that appeared in the Chicago Tribune, written by Eduardo M. Penalver, who was a Supreme Court clerk for Justice John Paul Stevens.

I further ask unanimous consent to have printed in the RECORD a letter written to Majority Leader Frist, dated today, from a number of Hispanic leaders from around the Nation, with the final paragraph:

> We want more representation for our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of an ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Mar. 4, 2003]

ARE ESTRADA'S OPPONENTS ANTI-LATINO?

(By Eduardo M. Penalver)

No merit to argument that to oppose Estrada's nomination is to oppose interests of Latinos.

The fight over the nomination of Miguel Estrada to the influential Washington, D.C.-based federal appeals court has lifted the veil on the riddle that lies at the heart of the Latino identity: What exactly does it mean to be a "Latino"?

Republican politicians have struggled to paint Estrada's opponents as anti-Latino. They have been joined by a handful of the Latino organizations supporting Estrada's nomination. And then there's the national TV ad, sponsored by Estrada supporters, that depicts a brown boy seeking work and confronting a shop owner who apparently does not want to hire a Latino. The ad not-so-subtly suggests that Estrada's opponents are like the bigot in the store.

I count myself among those who—for ideological reasons—firmly oppose Estrada's nomination. But I am also Latino. And while the Republican moralizing is hard to swallow from the party that in the last decade has given us such "Latino-friendly" faces as U.S. Rep. Tom Tancredo (R-Colo.) and former California Gov. Pete Wilson, it still seems worth asking whether there is some inconsistency between being Latino and opposing the first Latino to be nominated to the D.C. federal circuit.

To answer that question, we have to first decide what it means to be a Latino. This is no easy task. Although we have learned to call ourselves Latino or Hispanic, those of us of Latin-American ancestry have often questioned the propriety of being grouped under a unitary label.

After all, it is not immediately clear what my Cuban-American family, which lived in relative privilege in Cuba and was embraced by the United States as victims of communist tyranny during the Cold War, shares with Mexican farmworkers in California's central valley or the El Salvadoran woman who cleans my office, both of whom likely come from extreme poverty and who have been greeted in this country with exploitation and disdain.

Still, I have always believed (or perhaps hoped) that being a Latino, like being an African-American, had some substantive, perhaps even political content. In discussing the Estrada nomination with other Latinos, particularly those who support the Estrada nomination, however, I have struggled to articulate what that content might be.

Estrada has been criticized by some (both Latinos and non-Latinos) for being insufficiently Latino because his family in Honduras was not poor. By that definition, however, virtually none of the Cubans who arrived in the United States in the first years after the revolution would qualify as authentically Latino. Estrada has also been criticized for being too conservative.

But the voting patterns of Latinos (and not of just Cuban-Americans) are far too mixed to impose such a simplistic political litmus test on Latino authenticity. Moreover, as a devout member of the Federalist Society, Estrada's most conservative, and—in my opinion—troubling, views likely relate to his understanding of the proper role of the national government in the federal system, an issue on which few Latinos who are not lawyers have much of an ax to grind.

Despite the definitional difficulties, those of us who call ourselves Latino at a minimum must share a commitment to the notion that being Latino has some significance.

That significance may be rooted in the fact that, despite our obvious diversity, we are perceived by the Anglo majority to fall within a single group and to possess a common set of stereotypical traits, and that, as a result of the way we are perceived, we share an experience of discrimination in this country. It is possible—though I do not think it to be the case—that being Latino means little more than that. But if it does not even mean that much (or that little), why would we ever even use the term and why would we waste our time forming organizations around such a meaningless notion?

I believe that this minimal shared belief provides a principled basis for opposing the Estrada nomination from a distinctively Latino point of view. In addition, I believe that this shared belief suggests that those

Latino organizations that have endorsed the Estrada nomination have betrayed the very ideals on which they were founded.

From this minimalist Latino perspective, it is not decisive whether Estrada is rich or poor or liberal or conservative. What matters is that Estrada has never said or done anything to indicate that he views himself as belonging to, or having something to contribute to or gain from, this Latino (or Hispanic or Latin American) community we have chosen for ourselves. Indeed, by all accounts, he thinks racial and ethnic categories are irrelevant, even harmful.

Miguel Estrada is not less Latino because he comes from a professional Honduran family or because he is a hard-line conservative. But he is certainly less worthy of Latino support because he is against the notion that a Latino identity is a concept with any meaning or value. As a result, organizations whose founding principles revolve around the opposite belief have no business endorsing his nomination to a U.S. Court of Appeals.

If Estrada did believe that his Latino identity had some significance, I would probably still oppose him—perhaps because my ideological commitments are more important to me than my desire to see a Latino on the D.C. circuit. But even under those circumstances, given the typical conservative denial that race or ethnicity should ever matter, his Republican supporters' attempt to manipulate ethnic loyalties for the sake of their ideological crusade would still seem particularly cynical and offensive.

Nevertheless, the notion that his presence on the federal appeals court would be good for Latinos would be entitled to more weight. Given Estrada's apparent beliefs that Latino identity is irrelevant, however, there is not the least bit of merit to the argument that to oppose Estrada's nomination is to oppose the interests of the Latino community. To the contrary, those of us in the Latino community who oppose Estrada's nomination are simply giving him what he has always asked for: to be treated as an individual and not as the member of a group.

MARCH 5, 2003.

Majority Leader BILL FRIST,
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST: We write you today on the nomination of Miguel Estrada to the D.C. Circuit of Appeals. We are all Latino/Hispanic/Chicano professors researching, writing, and teaching in colleges and universities throughout the country. We come from a world, not too dissimilar from the other worlds in our society, where not only are Latinos under represented in our rank of professors, but we are also under represented among the students and worse yet among the Presidents and Deans of our institutions. Nevertheless, we believe in studying old ideas, developing and exchanging new ideas, and training the next generation of thinkers to explore and improve the world around them, however they choose to do so.

We have followed with extreme interest the Senate's review and debate on the nomination of Mr. Estrada. For many in our broader society, they may be confused as to whether Mr. Estrada should be supported or not; however, we are not. We stand united in our opposition to the confirmation of Mr. Estrada to the D.C. Circuit Court of Appeals.

We recognize and congratulate Mr. Estrada on his professional accomplishments. So few Hispanics have had the privileges that he has had to serve as a Supreme Court clerk, to serve in the Solicitor General's Office of the Department of Justice or to reach the level of partner at a major law firm in this country. At the end of the day, however, the question we ask is whether Mr. Estrada would be a fair judge? We conclude that he would not be.

He evaded questions from the Senate. That does not give us confidence that he would be a fair and open-minded judge if he feels he has to hide how he approaches the law. His past record, although limited, also provides some disturbing insight into how he would rule as a judge. We see that he would not be a supporter of affirmative action at the very colleges and universities where we teach where Latinos are sorely under represented and under served. A major problem facing Chicanos and other Hispanics is the issue of racial profiling; again, Mr. Estrada downplays its existence. We question whether he has a commitment to protecting civil rights of Latinos.

We want more representation from our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of the ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

Sincerely,

Leonard Valverde, Professor, Educational Leadership & Policy Study, Arizona State University, Tempe, AZ.

Dorinda Moreno, Napa Community College, Ohlone Jr. College, SF State University, Concord, CA.

Duane Campbell, Bilingual/Multicultural Education, CSU Sacramento, Sacramento, CA.

Gary Urdiales, Youth Development Specialist, Lanier High School.

Ian Haney-Lopez, Professor of Law, U.C. Berkeley, Berkeley, CA.

Jesus Nieto, Associate Professor, School of Teacher Education, San Diego State University, San Diego, CA.

Jose Anazagasty-Rodriguez, Department of Comparative American Cultures, Washington State University, Pullman, WA.

Lorenzo Cano, Associate Director, Center for Mexican, American Studies, University of Houston, Houston, TX.

Rquel Rubio-Goldsmith, LLM, Mexican American Studies and Research Center, University of Arisona, Tucson, AZ.

Julio Bernal, Assistant Professor of Entomology, Texas A&M Unbiversity, College Stanton, TX.

Luis Moreno, CSU Northridge, Northridge, CA.

Lisa Garcia Bedolla, Department of Political Science, University of California, Irvine, Irvine, CA.

Richard Griego, Professor Emeritus of Mathematics, Director of Chicano Studies, University of New Mexico, Albuquerque, NM.

Roberto Lovato, Founding Member of Central American Studies, CSU Northridge, Northridge, CA.

Loui Olivas, Assistant VP Academic Affairs, Arizona State University, Tempe, AZ.

Roxane Royalty, MA, Youth Development Specialist, Lanier High School, San Antonio, TX.

Ignacio Garcia, Brigham Young University, Provo, Utah.

Ernesto Virgil, Writer, Activist and Historian, Denver, CO.

Maria Teresa Marquez, University of New Mexico, Albuquerque, NM.

William de la Torre, Department of Educational Leadership & Policy Studies, CSU Northridge, Northridge, CA.

Serigo Romero, Sociology, University of Oregon, Eugene, Oregon.

Jorge Mariscal, Department of literature, University of California, San Diego, La Jolla, CA.

Dolores Delgado-Campbell, History, American River College, Sacramento, CA.

Miguel Paredes, CSU Northridge, Los Angeles, CA.

Ralph de Unamuno, UCLA, Los Angeles, CA.

Amanda Espinosa-Aguilar, Washington State University, Pullman, WA.

Ruben Davalos, Assistant Professor, Public Administration, Emeritus Graduate Center for Public Policy/Administration, CSU Long Beach, Long Beach, CA.

Reynaldo Anaya Valencia, A.B., A.M., J.D., Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Robert Vazquez, CEO, LaRed Latina, The University of Nevada at Las Vegas, Las Vegas, Nevada.

Angelo Falcon, Senior Policy Executive, Puerto Rican Legal Defense and Education Fund (PRLDEF), New York, NY.

Antoinette Sedillo Lopez, Associate Dean for Clinical Affairs, University of New Mexico, Albuquerque, NM.

Carlos Munoz, Professor Emeritus, University of California, Berkeley, CA.

Albert Camarillo, Professor of History, Stanford University.

Gloria Valencia-Weber, Professor, University of New Mexico School of Law, Albuquerque, NM.

Jorge Mariscal, Department of Literature, University of California, San Diego, La Jolla, CA.

Jose Roberto Juarez, Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Ana Cecilia Zentella, Professor, Ethnic Studies, University of California at San Diego, La Jolla, CA.

Adolfo Bermeo, Associate Vice Provost For Student Diversity, UCLA, Los Angeles, CA.

Carmen Gonzalez, Professor, Seattle University School of Law, Seattle, WA.

David Cruz, Professor of Law, USC Law School, Los Angeles, CA.

Dr. Guadalupe San Miguel, History Department, University of Houston.

Dionicio Valdes, Department of Chicano Studies, University of Minnesota, Minneapolis, Minnesota.

Enrique Buelna, Chicano Studies Department, CSU Northridge, Northridge, CA.

Dr. Anna Sampaio, Ph.D., Assistant Professor Dept. of Political Science, University of Colorado, Denver, CO.

Dr. Victor Rodriguez, Ph.D., Associate Professor, Chicano & Latino Studies Dept., CSU Long Beach, Long Beach, CA.

Dr. Ana Juarez Ph.D., Assistant Professor, STSU, San Marcos, TX.

Dr. Antonia Castaneda, Ph.D., Associate Professor of History, St. Mary's University, San Antonio, TX.

Dr. Estevan Flores, Ph.D., Executive Director, University of Colorado, Denver, CO.

Dr. Jorge Huerta, Ph.D., Chancellor's Associates Professor of Theatre, University of California, San Diego, La Jolla, CA.

Dr. Leticia Flores, Ph.D., Psychology Department, Southwest Texas State University, San Marcos, TX.

Dr. Gloria Contreras, Ph.D., Professor, Dept. of Teacher Education, University of North Texas, Denton, TX.

Dr. Jose Centeno, Ph.D., Dept. of Speech, Communication Sciences, & Theatre, St. John's University, Jamaica, NY.

Dr. Ayse Yonder, Ph.D., Associate Professor and Chair Pratt Institute, Graduate

Center For Planning and the Environment. Brooklyn, NY.

Dr. Roberto Calderon, Ph.D., Department of History, University of North Texas, Denton, TX.

Dr. Vivian Tseng, Ph.D., Department of Psychology, CSU Northridge, Northridge, CA.

Dr. Mario Gonzales, Ph.D., Assistant Professor of Anthropology, Southwestern University, Georgetown, TX.

Dr. Ray Leal, Ph.D., Department of Criminal Justice, St. Mary's University, San Antonio, TX.

Dr. Rebecca Blum-Martinez, Ph.D., College of Education, University of New Mexico, Albuquerque, NM.

Dr. Domenico Maceri, Ph.D., Professor of Spanish, Allan Hancock College, Santa Maria, CA.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally among the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The pending question is the Estrada nomination. The Senator has 12 minutes under his control.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Madam President, the Senate Judiciary Committee is meeting. I spoke to our distinguished chairman, Senator HATCH, who is still there, and, by mutual agreement, I have come to the Chamber to speak now, and then he will, of course, have his time preserved.

Before I start, I thank both the Democratic leader and the assistant leader, Senator REID, for their efforts to safeguard our Constitution and to protect the special role of the Senate in ensuring that our Federal courts have judges who will fairly interpret the Constitution and laws passed by Congress. We pass these statutes for the sake of all Americans, not just for Republicans, not just for Democrats—all Americans. I also thank all the Democratic Senators who have spoken on the floor or who have joined together to preserve the integrity of the confirmation process.

What is at stake in this nomination is a lifetime appointment to the second highest court in the country. Most of the decisions issued by the DC Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country. Our DC Circuit has special jurisdiction over cases involving the rights of working Americans, as well as the laws and regulations intended to protect our environment, safe workplaces, and other important Federal regulatory responsibilities. This is a court where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives, and their liberty, as well as the lives of their children and generations to come.

If a nominee's record or responses raises doubts or concerns, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's fairness and experience. No one should be rewarded for stonewalling the Senate and the American people. Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we confirm will be fair judges to all people and in all matters. No one should have a lifetime appointment as a gift because they stonewalled the Senate.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so we could proceed to an up-or-down vote.

Some on the Republican side are having too much fun playing politics, seeking to pack our courts with ideologues or leveling baseless charges of bigotry, to work with us to resolve the impasse over this nomination by providing requested information and proceeding to a fair vote.

I was disappointed that Mr. BENNETT, the distinguished Senator from Utah, in his honest colloquy with the distinguished Senator from Nevada, Mr. REID, and me on February 12, which pointed to a solution, was never allowed to go forward by hard-liners on the other side. I am disappointed all my efforts, and those of Senator DASCHLE and Senator REID, have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter. The responses we got showed me that they would rather engage in politics at the White House.

The Republican majority is wedded to partisan talking points that are light on facts but heavy on rhetoric. There has often been an absence of fair and substantive debate and a prevalence of name calling that has offended many. At the outset of this debate, I called for an apology for remarks calling Democrats "anti-Hispanic" and I urged debate on the merits. Unfortunately, the Republican name calling continued, and those attacks were extended to include members of the Congressional Hispanic Caucus, some of the highest and most respected Hispanic elected officials in the Nation, and other Hispanic organizations and leaders that oppose this nomination. That is extremely disappointing.

Our sincere concerns have been distorted and then dismissed. So in these closing moments before the cloture vote, let me puncture some of the Republican myths about this nomination and this process.

First, Republicans rely on a letter from former Solicitors General stating a policy preference that did not acknowledge past precedent. Republicans claimed, in fact, that our request for memos written by this judicial nominee was unprecedented. That is false. And, during the course of this debate, even the administration had to concede their claim was false.

The smoking gun was a letter from the Reagan Department of Justice asking the Judiciary Committee to return similar memos written to the Solicitor General by lower level attorneys that had been provided "to respond fully to the Committee's request and to expedite the confirmation process." This was done in another nomination but refused in this one. In fact, buried in the current administration's rejection of Senator DASCHLE's good-faith effort to resolve this impasse was the belated concession that other administrations had produced Solicitor General Office work papers and other legal memos in other nominations.

But notwithstanding having admitted that, they misstated that precedent. They continued to misstate the precedent, claiming incorrectly that disclosures were predicated on allegations of misconduct by those past nominees. But past letters and records prove that the Senate requested, and the Reagan administration provided, internal documents such as Justice Department legal memos to and from William Rehnquist relating to civil rights and civil liberties, appeal recommendations by other attorneys to Robert

Bork in civil rights cases as well as other internal legal or policy memos he wrote, and a wide range of civil rights memos in Brad Reynold's nomination for a short-term appointment at the Justice Department. These were requested due to the Senators' interest in examining those writings and better understanding the nominees' views and approach to interpreting the laws as executive branch employees. The Senate's interest in examining those documents was not predicated on allegations of misconduct, and that interest was not diminished in any way by the opportunity to review other writings. Justice Rehnquist had written judicial opinions and dissents for 15 years, and Judge Bork had served for 6 years on the bench.

The real double standard here is that the President selected Mr. Estrada based in large part on his work for 4½ years in the Solicitor General's Office, as well as for his ideological views. But then, having been picked because of his ideological views, the administration said the Senate may not find out what those views are. The administration also sought to deny access to the type of legal memos that had been provided in the past. The administration said the Senate could not examine Mr. Estrada's written work from that office making recommendations of what the law is or should be, even though these papers would shed the most light on his unvarnished views. They asserted that the Senate should not consider the very ideology it took into account in selecting a 39-year-old, with no academic writings as a lawyer or judicial opinions that would provide insights into his views, for a lifetime seat on the country's second highest court.

This is a nominee well known for having very passionate views about judicial decisions and legal policy, well known for being outspoken, but he has refused to share his views with the very people charged with evaluating his nomination. There seems to be a perversion of values to require the Senate to stumble in the dark about his views, when he shares his views quite freely with others—certainly with insiders and people in the administration, and he has been selected for the privilege of this high office and for a lifetime position based on those same views that they want to keep hidden from the Senate. We are not asking him to pledge how he would rule but we cannot let a new bar be set that one cannot share views with the Senate without reading briefs, listening to oral arguments, conferring with colleagues and doing independent research. I think any concerned citizen or first year law student could mention a Supreme Court decision from the past 200 years that may trouble him or her, but Mr. Estrada refused to answer even this question, among many, many others.

This points to a second myth: That Mr. Estrada cannot answer questions about his views without violating judicial ethics. However, as Justice Scalia—one of President Bush's favorite Supreme Court Justices—wrote for a majority of the court just last summer, "Even if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. 'Proof that a Justice's mind at the time he joined the Court was complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias.'" *Republican Party of Minnesota* v. *White*, 122 S. Ct. 2528 (2002). This quote is from the majority opinion in a case about whether judicial candidates could share their views. This is a case that the Republican Party took all the way to the Supreme Court and won. Prior to this decision there may have been some ambiguity for judicial candidates about whether they could share their views, but this decision last year by Justice Scalia makes clear that judicial ethics do not prevent sharing of views.

Third, Republicans have claimed that this debate on a judicial nomination was unprecedented. That is false as well. Republicans not only filibustered the Supreme Court nomination of Abe Fortas, they filibustered the nominations of Judge Stephen Breyer, Judge Rosemary Barkett, Judge H. Lee Sarokin, Judge Richard Paez and Judge Marsha Berson, among others. The truth is that filibusters and cloture votes on nominations and legislative matters and extended debate on judicial nominations, including circuit court nominations, have become more and more common through Republican actions. Of course, when they are in the majority, Republicans have more successfully defeated judicial nominees by refusing to proceed on them and then not publicly explaining their actions, and by allowing holds by one or a handful of Republicans to determine a nominee's fate, preferring to act in secret under the cloak of anonymity.

The nomination of Judge Paez, a Mexican American nominated to the Ninth Circuit, illustrates quite clearly that the last filibuster of a circuit court nominee occurred on the Republican watch during the last administration. Judge Paez was first nominated in 1996 and Republicans refused to allow him an up or down vote on the floor of the Senate until he was finally confirmed in 2000, after his nomination had been pending for more than 1,500 days. In fact, his nomination had waited on the floor for an up or down vote for more than 20 months, 20 times longer than Mr. Estrada's nomination. After Republicans lost a cloture vote on March 8, 2000, they moved "to indefinitely postpone" his nomination. Chairman Hatch noted that such a motion was unprecedented following a cloture vote to end what he then acknowledged was a "filibuster" of Judge Paez's nomination. Despite his concerns, 31 Republicans—many of whom have been on this floor demanding an immediate up or down vote on Mr. Estrada's nomination and claiming that delaying a vote is unconstitutional—voted to postpone, in essence, forever a vote on Judge Paez's circuit court nomination. I think this recent example punctures the Republican myths about floor votes and filibusters.

Fourth, Republicans claim that the debate on this nomination has held up other business of the Senate, blaming Democrats. That is false. The truth is that Republicans objected to turning to the economic stimulus package and funding for first responders when Senator DASCHLE sought that action last week. Instead, Republicans have been focused on ensuring a lifetime job for one man rather than addressing the need to stimulate the creation of good jobs for many Americans. During the course of this debate, Democrats have willingly proceeded to confirming a number of other judicial nominees of this President—including a Hispanic nominee to the district court in California—passing the omnibus appropriations bill, passing short-term continuing resolutions to fund the government, passing the Hatch-Leahy PROTECT Act against child pornography, and now debating the Moscow treaty. The reason the Senate has not done more is because Republicans have not asked the Senate to turn to such matters as Senator BIDEN's bill to grant asylum to Iraqi scientists and other bills.

Fifth, Republicans have tried to create the impression that those who oppose this nomination are anti-Hispanic. That is false and they know it. The members of the Congressional Hispanic Caucus are not anti-Hispanic, nor are the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, the Latino labor leaders, the Southwest Voter Registration and Education Project, the California Chapter of the League of United Latin American Citizens (LULAC), the 75 Latino professors, the 15 former presidents of the Hispanic National Bar Association, the AFL-CIO, the Sierra Club, Dolores Huerta—the cofounder of the United Farm Workers of America—Mario Obledo, Professor Paul Bender or the hundreds of other Americans who called or written in opposition to this nomination.

Democratic Senators are not anti-Hispanic. This charge is as baseless now as it was when my religion, and the religion of other Democratic members on the Senate Judiciary Committee, was attacked by some of the Republican leadership. We ought to understand that people do not have these biases, baseless biases, that are being ascribed by some in their zeal to win at any cost, just as we should not be attacking each other's religion. Democratic Senators have pressed for the confirmation of many Hispanics over the past ten years, including the confirmation of Judge Paez, Judge Sonia Sotomayor, Judge Julio Fuentes, Judge Kim Wardlaw, and Judge Jose Cabranes, just to name a few of the other Hispanics appointed to the circuit courts by Democratic or Republican presidents, in addition to Judge Hilda Tagle, Judge James Otero, and Judge Jose Linares, just to name a few of the Hispanic district court nominees over these years. In fact, Democratic Senators also pressed for Senate confirmation of Enrique Moreno, Jose Rangel, and Christine Arguello, who had been nominated to the circuit courts, and for many other outstanding judicial candidates on which the Republican Senate majority refused to proceed when they were nominated or renominated by President Clinton. Baseless Republican charges of bias prompted LULAC, an organization that initially endorsed the Estrada nomination, to disassociate itself from Republican statements.

I urge the White House and Senate Republicans to end the political warfare and join with us in good faith to make sure the information that is needed to review this nomination is provided so that the Senate may conclude its consideration of this nomination. I urge the White House, as I have for more than two years, to work with us and, quoting from the column published yesterday by Thomas Mann of the Brookings Institute, submit "a more balanced ticket of judicial nominee and engag[e] in genuine negotiations and compromise with both parties in Congress." The President promised to be a uniter not a divider, but he has continued to send us judicial nominations that divide our nation and, in this case, he has even managed to divide Hispanics across the country, unlike any of the prior judicial nominees of both Democratic and Republican Presidents.

Madam President, I do not see others seeking the floor except for Senator SCHUMER. I ask unanimous consent that he be allowed 3 minutes.

Mr. REID. Madam President, reserving the right to object, I want to say on behalf of all the Senators on this side of the aisle how much we support the ranking member of the Judiciary Committee, what a difficult job he has had, and what a tremendous job he has done. Senator LEAHY has set an example for how a Senator should act. He has been a statesman through this and other battles. Speaking on behalf of Senator DASCHLE and for me, I am sure every Democratic Senator, we can't say enough that is good. I will let the RECORD rest on the fact that we are totally supportive of what you have done and how you have handled this, and we are proud of what you have done.

If there is no one here, I certainly ask unanimous consent that Senator SCHUMER be allowed to speak until someone shows up for the Republican side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Madam President, let me add my accolades to our colleague and leader of the Judiciary Committee, Senator LEAHY, who has done a terrific job. I thank Senator LEAHY as well as Senator DASCHLE and Senator REID for the remarkable unity in the Democratic caucus when, frankly, some of us felt we had to do something here and didn't really think it would come to fruition.

Let me say the vote today boils down to one issue more than any other: Should the Senate have any role in the selection of judges to the Federal bench? It is that simple. It boils down to the simple fact that there has been an attempt here to obliterate the advise and consent process which the Founding Fathers regarded as one of the most important in the Constitution.

This is not an argument about one man. This is not an argument about any particular issue. This is not even an argument about something I believe strongly, whether somebody's views should be taken into account before that person is appointed as a Federal judge.

What has happened in the last several months has made a mockery of the advise and consent process.

Mr. REID. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield.

Mr. REID. Would the Senator agree with the statement made by 75 Hispanic leaders around the country in a letter stating as follows:

> We want more representation from our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of an ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

Does the Senator from New York agree with that sentence?

Mr. SCHUMER. I thank my colleague for asking the question. My view is yes. I don't want ideologues on the court, whether they be far right or far left. What ideologues tend to do is make law and not interpret the law. The bottom line is there are many people who know Mr. Estrada who say he is a mainstream conservative and he is not an ideologue who will try to bend the law to the direction of his beliefs; there are many others who say he is an ideologue who will bend the law to the direction of his beliefs.

Going back to my first point, we have no way of ascertaining that one way or the other because Mr. Estrada has refused to answer in any kind of elucidating and forthright way questions that were asked of him throughout 9 hours of hearings, which I chaired, and because the only other place we can find what his views are is in his work papers at the Solicitor General's Office, which are being withheld even though there is no privilege. And those papers have not been withheld by any other nominees who have sought to be justices and garner other positions in the Government.

Unless we wish to make the Senate simply a detective agency to find some useful indiscretion and eliminate a nomination or oppose a nomination, for that reason, then we should oppose Mr. Estrada.

I say to my colleagues that the position of being on the Court of Appeals in the DC Circuit is one of the most important positions in the Government. Many might argue that those judges have more power than individual Senators. Can you imagine if we ran for reelection and we said we refused to answer questions about our views? Can you imagine how the public would react? They would say, whatever your views are, you have an obligation to tell us if you want to achieve a high office.

If you read the papers of the Founding Fathers, the advise and consent process was the very way that views of nominees were to be ascertained. In fact, as Senator KENNEDY elucidated in the Chamber the other day, for a long time the Constitutional Convention wanted the Senate to choose the judges but believed that the ability to choose would be too disparate, and instead they came to the decision that the President should choose them.

But nowhere is it believed that the Senate should be a rubberstamp. Nowhere is it believed that the Senate should simply be a detective agency to find out if someone did something wrong. Our job is to figure out what kind of judge Mr. Estrada would be. We know he is a very bright man. That has never been disputed. We know he has a story of advancement. That has not disputed. But far more important than either of those things, do we know what his views are on the first amendment or the commerce clause? Do we know how he would approach cases that affect the environment, or workers' rights to organize, where the District of Columbia Circuit Court of Appeals is paramount? We don't want him to tell us how he would rule on a specific case, but the American people are certainly entitled to the views of this man in terms of how he would be a judge.

Some on the other side say it is simply good enough for any nominee to say, I will follow the law. If that were the case, we wouldn't be here; we wouldn't need the advise and consent process; the debate in Constitution Hall about how to choose judges would have been totally overruled.

This is a historic moment in a very real sense. It is a moment when we are going to see if a third branch of Government—the one unelected branch of Government, which has awesome power—is going to be responsible to the people. To simply have Presidents choose judges is not what this country needs nor what the Founding Fathers intended, yet we are getting to that point right now.

I urge my colleagues. I want to join my plea with Senator LEAHY's. We have tried on this side. I have tried to understand. The Presidents are going to get their way almost all of the time. I have voted for 100 of the 106 judges who came before us. I daresay their philosophical views about government and all of these issues are quite different from mine. But as long as they are not out of the mainstream, as long as they won't approach being judges from an ideological point of view where they are making law rather than interpreting law, they deserve to be on the bench, if they have the other qualifications. We have no way of knowing right now. The American people have no way of knowing what kind of judge Mr. Estrada will be in terms of his views.

For that reason, reluctantly, but firm in the conviction that we are right, we must oppose the nomination of Miguel Estrada, or at least oppose his moving forward until we get the kind of information that is necessary to determine what kind of judge he will be that is necessary in terms of the precepts of what the Founding Fathers outlined for this country.

I yield the floor.

Mr. LEAHY. Mr. President, some Republicans have stated that only two or a handful of editorials or op-eds support Democrats in their concerns about Mr. Miguel Estrada's nomination to the second highest court in the country. I would like to set the record straight by listing the 55 editorials and op-eds to date that express concerns about this nomination.

Here is a list of the 22 editorials published to date expressing concerns about the Estrada nomination for a lifetime appointment to the D.C. Circuit:

Straight Answers Would End Estrada Confirmation Delay, (Daytona Beach News-Journal, 4/5/2003)

("As conservatives scream foul, they should remember that the vacancy Estrada would fill exists because Republicans blocked two of President Clinton's nominees. Neither was a liberal ideologue. . . . [Estrada] has no judicial experience. His views are unpublished since law school. He has little experience in administrative law, none in environmental law, although those areas make up the bulk of the D.C. Court's docket.")

Partisan Warfare, (Rutland Daily Herald, 2/24/2003)

("It is [the Senators'] duty to advise and consent on judicial, nominees, and Estrada has given them no basis for deciding whether to consent. . . . [F]or the Senate to merely rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.")

Stealth Nominees Should Be Held Back, (The Post-standard (Syracuse), 1/30/2003)

("Estrada helped George W. Bush win the presidency after the disputed vote in Florida. At the Justice Department, he wrote memos and opinions for the U.S. solicitor general. he is a member of the arch-conservative Federalist Society and reportedly mirrors Supreme Court Justice Antonin Scalia's hard-right views.")

Weighing Miguel Estrada, (Staten Island (NY) Advance, 2/25/2003)

"(Presidents have long sought to extend their party's political influence by packing the courts, to the extent possible, with ideological soul mates. A good Senate grilling and some foot-dragging are about the only tools available to lessen the chance that those ideologues most capable of mischief don't make it through the process to become permanently ensconced on the bench. Mr. Estrada wouldn't be up for nomination at all if the Republicans hadn't seen to it that two of President Clinton's nominees were rejected. . . . [H]e should not be allowed to ascend to the federal bench until we know who and what he is. All he needs to do is speak up and put himself on the record.")

Arkansas Times Editorial, (Arkansas Times, 2/21/2003)

("Like Thomas, Miguel Estrada is a member of a minority group who would not have been nominated if he were not also an extremist. He arrogantly refused to discuss his views with the Senate Judiciary Committee, and the administration blocked the release of records pertaining to his government work that could shed light on his biases.")

Judicial Power Trip, (The Oregonian, 3/3/2003)

("Democrats mustn't cave on this. The fairness and credibility of the nation's courts depend on senators' finding a reasonable compromise. Moderates within the president's party should also reconsider their lockstep loyalty.")

Partisanship Is A Democratic Duty, (Minnesota Daily Editorial 2/18/03)

("Estrada's filibuster is not merely an expression of partisan politics, it is a crucial link to maintaining the viability of the Constitution.")

Rush To Judges, (Boston Globe Editorial, 2/15/03)

("It's crucial to evaluate candidates based on their merits and the needs of the country. Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.")

Keep Talking About Miguel Estrada, (New York Times editorial, 2/13/03)

("The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and has dug in its heels on its most controversial choices. . . . Mr. Estrada embodies the White House's scorn for the Senate's role")

Editorial: Battling over Federal Courts, (Milwaukee Journal Sentinel, 2/27/2003)

("Bush is filling vacancies left open by the Republicans' refusal to act on Clinton's nominees.")

Answers, Please: Nominee Estrada Refuses to Disclose Judicial Views, Philosophies to the Senate, (Omaha World-Herald Editorial, 2/13/03)

("Most judicial candidates won't, and shouldn't, give their personal views on a broad-brush basis. . . . But Estrada . . . went beyond that—refusing to discuss well-known prior cases because, he said, he had no first-hand knowledge. Judicial philosophy is important as senators consider an appointment to the court that has been called the second most important in the land after the Supreme Court.")

Straight Answers Would End Estrada Confirmation Delay, (Daytona Beach News-Journal Editorial, Mar. 5, 2003)

("This fight isn't over his ethnicity. It's not about his resume. It's about Bush's hard-nosed political machinations, which thrust a nominee with no judicial record but a bad case of lockjaw at Senate Democrats on the gamble that other right-wing judicial appointees could be sneaked through the confirmation process during the distraction. The strategy worked at first but has since backfired.")

Evasive Estrada: Democrats Are Right To Balk at Bush's Uncooperative Choice for a Key Appellate Judgeship, (Newsday Editorial, 2/13/03)

("With so little to go on, Democrats in the Senate are right to balk at rubber-stamping Estrada's nomination.")

The Argument About Estrada, (Dallas Fort Worth Star Telegram, 2/13/2003)

("President Bush has prolonged the animosity. His nominees for appellate court posts have included legal theorists and lower court judges whose positions have raised legitimate concerns aside from the political squabbling. Sen. Orin Hatch of Utah, now the Judiciary Committee chairman, promised to improve the process when Republicans took control of the Senate. His "improvement" was to schedule three appellate court nominees for a single condensed hearing even though he knew that Democrats wanted to question all of them at length.")

Judicial Alarm: Without More Answers, Nominee Deserves Filibuster, (Detroit Free Press Editorial, 2/11/03)

("Judges require evidence before they render verdicts. Senate Democrats are equally entitled to more evidence of Estrada's fitness before giving him the green light for the second highest court in the land—and positioning him for the U.S. Supreme Court.")

Streamrolling Judicial Nominees, (The New York Times Editorial, 2/6/03)

("[T]he federal courts are too important for the Senate to give short shrift to its constitutional role of advice and consent. . . . [T]he administration should [not] be allowed to act without scrutiny, and pack the courts with new judges who hold views that are out of whack with those of the vast majority of Americans.")

More Judicial Games From GOP, (Berkshire Eagle Editorial, 2/1/03)

("Senate Democrats . . . should not be bullied into approving unqualified nominees and they shouldn't hesitate to filibuster poor nominations if necessary.")

An Unacceptable Nominee, (New York Times Editorial, 1/29/03)

("Senators have a constitutional duty to weigh the qualifications of nominees for the federal judiciary. But they cannot perform this duty when the White House sends them candidates whose record is a black hole. . . . The very absence of a paper trail on matters like abortion and civil liberties may be one reason the administration chose him. It is also a compelling—indeed necessary—reason to reject him.")

Bush's Full-Court Press, (L.A. Times Editorial, 1/13/03)

("The Republican Party has long tried to have it both ways on Race: ardently courting minority votes while winking at party stalwarts who consistently fight policies to establish fairness and opportunity for minorities. [M]any [of Bush's nominees], including Texas Supreme Court Justice Priscilla Owen, lawyers Miguel Estrada and Jay S. Bybee . . . share a disdain for workers' rights, civil liberties guarantees and abortion rights. Their confirmations would be no less a disservice to the American people than that of Pickering. . . .")

A Fair Hearing (St. Petersburg Times, 9/30/2002)

("At the age of 41 [Estrada] has limited work experience and has not been a judge before, yet he is up for one of the most important seats on the federal bench. His views on appeal, certiorari and friend of the court recommendations would provide insight into the way he interprets the law and the rigor of his legal analysis.")

Picking Judges: Democrats Must Brace to Resist Bush and GOP's Ideological Crusade, (Post-Standard Editorial (Syracuse, NY), 11/20/02)

(". . . An upcoming test will focus on nominee Miguel Estrada, a bright, relatively young lawyer who worked on Bush's successful Supreme Court case in the 2000 election. He is rumored to be in line for the next vacancy on the U.S. Supreme Court. While Estrada has no record as a judge, he has a long resume as an ideologically drive, partisan conservative . . .")

The Courts' Wrong Turn, (Daytona Beach News-Journal Editorial, Nov. 12, 2002)

("The last thing Democrats should do is whimper off and let the slim majority have its way. Forty-seven senators out of 100 is a minority by definition only. It is in fact a solid block that Democrats can use—if they live up to their mandate as an opposition party—to slow down the rightward drift of the U.S. Supreme Court and the federal judiciary as a whole.")

Here is a list of the 33 op-eds to date expressing concerns about Estrada's nomination for a lifetime appointment to the second highest court in the country:

Estrada Tactics Show Bush Arrogance, (Arizona Daily Star, 3/1/2003)

("Nominees now come with an ideological stamp that preordains their votes on important social issues. Bush has brazenly crusaded to stack the federal bench with conservatives who will tilt the law rightward far into the future.")

Don't Let Mum Be the Word for Estrada, By Tisha R. Tallman and Charles T. Lester Jr., (Atlanta Journal and Constitution, 3/6/2003)

("It is also extremely hypocritical coming from Republican senators who blocked several Hispanic judicial nominees from even getting a hearing or a vote during the Clinton administration. Clinton nominee Richard Paez was forced to wait for four years; others, such as Enrique Moreno (Harvard Law School 1982) and Jorge Rangel (Harvard Law School 1973), never even had a committee hearing. Where was the outcry from Estrada's friends during that blockade against good Hispanic lawyers and judges? Under the Constitution, the Senate has a very important role in confirming a president's nominees for lifetime jobs as federal judges. It is an essential part of our constitutional system of checks and balances. When you have a White House that refuses to cooperate with senators of both parties and resists any efforts to reach agreement on a compromise plan for appointing more mainstream moderate judicial nominees, senators must take a stand.")

Estrada Caught in 'Poisonous' War Based on Ideology, By Thomas E. Mann, (Roll Call, 3/5/2003)

("The only way to break this cycle of escalation is for Bush to take pre-emptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiation and compromise with both parties in Congress. That seems most unlikely.")

Are Estrada's Opponents Anti-Latino?, By Eduardo M. Penalver, (Chicago Tribune 3/4/2003)

"'Republican politicians have struggled to paint Estrada's opponents as anti-Latino. . . . [T]here is not the least bit of merit to the argument that to oppose Estrada's nomination is to oppose the interests of the Latino community.")

Time for a Bigger Audience: Bench Nominees Who Tell the White House Their Views Should Tell the Senate, Too, By Alan B. Morrison, (Legal Times, 3/3/2003)

("[N]ominees should be obliged to tell the Senate whatever they have already told the White House and Department of Justice during the vetting process. That's only fair. And it's also legal, as a very recent Supreme Court case indicates.").

Justice Should Be Blind, Not A Mystery, By Nick Huggler, (The Daily Barameter, 3/2/03)

("[T]he Democratic filibuster is not only justified, but crucial, to ensure that Miguel Estrada is the man he says he is and is not just a wild card shuffled into the deck. . . . It's all about trying to stack the federal judiciary with hard right-wingers and picking a Latino because Bush thought it would be more palatable to senators and groups concerned about who this guy might be and what he might do as a judge.")

Estrada Tactics Show Bush Arrogance, By Marianne Means, (Arizona Daily Star, 3/1/03)

("The court to which Estrada has been nominated is one of the most influential in the country and is seen as a stepping stone to the high court. There is no special case to be made for Estrada beyond the president's insistence that the Senate approved anybody he wants. Estrada is smart, but so are hundreds of other lawyers. He has never been a judge or a law professor. He refuses to express his views on important legal issues, hiding extremist opinions he was known to hold in prior legal posts. . . . If the Democrats don't hold firm on this, their political goose will be cooked if Bush gets to pick a Supreme Court justice.")

Here's What Less Experience Gets You, By Michael J. Gerhardt, (The Washington Post, 3/2/03)

("[N]o one is entitled to be a federal judge simply because he or she overcame adversity, attended a fine law school and collected some solid work experience. Senators have the legitimate authority to weigh the judgement of a nominee who, if confirmed, will for years be entrusted with the final word on many of the important regulatory and constitutional questions that routinely come before the Nation's second-most powerful court.")

No Free Pass To The Bench, By O. Ricardo Pimentel, (Arizona Republic, 3/2/03)

("For the Bush administration, this isn't about trying to get diversity on the court. That would be affirmative action, a points system, a racial preference and a big no-no, according to Bush. it's all about trying to stack the federal judiciary with hard right-wingers and picking a Latino because Bush thought it would be more palatable to senators and groups concerned about who this guy might be and what he might do as a judge.")

Bush's Court Appointments: Key To Stealth Attack on Environment, (Daytona Beach News-Journal, 3/2/2003)

("The nomination of Miguel Estrada to a lifetime seat on the U.S. Court of Appeals for the D.C. Circuit. . . . a stealth candidate who could roll back major environmental and public health safeguards. The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.").

Circuit Breaker: If You're Worried About Conservative Control of the Federal Judiciary Keep Your Eyes on the District of Columbia, By Chris Mooney, (The American Prospect, 3/1/2003)

("[G]iven the importance of the D.C. Circuit, those appointed to the court should, at the very least, receive more attention than judges named to other federal appellate courts.")

A Defense of the Estrada Filibuster: A Judicial Nominee That the Senate Cannot Judge, By Kevan R. Johnson, (Findlaw.com, 2/27/2003)

("In the face of this stonewalling, a filibuster is entirely appropriate. Indeed, it's fitting. Using a procedural tool against a nominee who thwarts minimal confirmation procedures, is only right. If Estrada wants the Democrats to stop talking, he should offer to start. As a nominee, that's what's required of him.")

Informed Consent of Judgeships, By Jon S. Corzine, (The Star-ledger (Newark) 2/26/03)

("This is about the White House asking the Senate to toss aside its constitutional duty to take the measure of a judicial nominee and make an informed decision about the knowledge and character of a person asked to sit on the nation's second-most important court.")

Close Look at Estrada Reveals an Ideologue, By Teresa Leger de Fernandez, (Albuquerque Journal, 2/26/02)

("[W]here Estrada's views are known, he has proven himself to be an ideologue who has such strong personal views against recognizing fundamental constitutional and civil rights that he could not serve as a fair an impartial judge. . . . Defeating Estrada's nomination would not send a message to Hispanics that "only a certain kind of Hispanic need apply." On the contrary, it would send the message that everyone in America is judged by the same standard. If you can not be fair and protect the basic constitutional rights of the common person, you do not deserve to sit in a judicial appointment."

The Estrada Façade: Behind the Starched Nominee, by Philip Klint, (Tom Paine.com, 2/26/03)

("[W]hen White House counsel Alberto Ganzales appears on Fox network and warns that the Democrats will lose the support of the Latino community because of their filibuster, he insults the hard-working Hispanic men and women who have seen first-hand the effects of President Bush's "compassion conservatism," and who will likely see through the attractive packaging to the ugly politicking that loom behind Miguel Estrada's starched-shirt stroll down Nomination Street U.S.A.")

Benching Congress: The Rising Power Of The Judiciary, By Chris Mooney, (Tom Paine.com, 2/25/03)

("In the past decade we have witnessed an unprecedented push among conservative judges to invalidate acts of Congress on the basis of a radical reinterpretation of the constitutional relationship between the states and the federal government. . . . Why shouldn't Senators try to wrest some of that power back? They can start with Miguel Estrada.")

Republicans' Phony Fight for Estrada, By Craig Hines, (Houston Chronicle, 2/25/03)

("[T]he Democrats' opposition is not wholly about payback. It is about enough time to spotlight how Estrada fits into President Bush's manifest determination to remake the federal courts into flying squadrons of ideological buzz bombers ready to drop their payloads on the Constitution . . .")

Estrada Would Destroy Hard-Fought Victories, By Dolores C. Herta, (The Oregonian, 2/24/03)

("[J]udges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children . . . Members of the Congressional Hispanic Caucus met with Miguel Estrada and came away convinced that he would harm our community as a federal judge.")

Estrada Fight's True Victor? Democracy, By Jay Bookman, Deputy Editor, (Atlanta Journal-Constitution, 2/24/03)

("What's going on in Washington is a wonderful thing, absolutely necessary and absolutely healthy. We are seeing the U.S. Constitution at work, producing a struggle between two branches of government—Congress and the president—that in the end should have a moderating influence on the third major branch.")

The Democrats and Mr. Estrada, By Robert Ritter, (Washington Post, 2/23/03)

("The Feb. 18 editorial "Just Vote," which criticized Senate Democrats' tactics in trying to derail the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit, was misguided. It is impossible for a senator to properly give "advice and consent" without information pertinent to Mr. Estrada, which has not been provided by either the nominee or the White House. For this reason alone, the nomination should be defeated.")

Stealth Attack On Environmental Court Decisions, By Doug Kendall & Phillip Clapp, (Bangor Daily News, 2/21/03)

("The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.")

They Started It, By E. J. Dionne Jr., (Washington Post, 2/21/03)

("It's not good enough to say that the way out of this politicized process is for Democrats to ignore the past and cave in to the Republicans. To do that would be to reward a determined conservative effort to control the courts for a generation.")

Symmetry in Judicial Nominations, By Al Hunt, (Wall Street Journal, 2/20/03)

("[A]s former Clinton Solicitor General Walter Dellinger declares, 'Whatever factor a President may properly consider, senators, should also consider.' Since ideology clearly is the guiding force behind the slate of Bush circuit court nominees, it's perfectly appropriate for Senate Democrats to use the same standard.")

How the Miguel Estrada Nomination Illustrates Our Out-of-Control Confirmation Process, And What We Can Do to Improve the System, By Edward Lazarus, (FindLaw.com, 2/20/03)

("The President, as the first mover in the nomination and confirmation process, started the problem. He is therefore more culpable in creating the current stalemate, and accordingly should back down.")

Judicial Extremism: a German Antidote, By Bruce Ackerman, (L.A. Times, 2/19/03)

("[T]he Democrats should make it clear that they will filibuster any nominee to the U.S. Supreme Court of similar youth and inexperience to [to Estrada's]. They should insist on justices with the maturity and record of moderation needed to keep the court within the mainstream of American constitutional values.")

Latino Would Set Back Latinos, (LatinoLA Forum, 2/11/2003)

("Individuals appointed to the federal bench, a lifetime appointment, must meet basic requirements such as honesty, openmindedness, integrity, character and temperament. . . . Estrada is an ideologue who hides his views and who is so lacking in experience, we have little choice but to oppose the nomination.")

Estrada's Omertà, By Michael Kinsley, (Washington Post and Slate, 2/13–14/03)

("Obviously, Estrada's real reason for evasiveness is the fear that if some senators knew what his views are, they would vote against him. . . . [But] Hiding your views doesn't make them go away.")

Stealth Attack On Environmental Court Decisions, By Doug Kendall & Phillip Clapp, (Providence Journal, 02/27/2003)

("The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.")

Dems Must Stop Judge Picks, By Judy Ettenhofer, (The Capital Times, 2/10/03)

("[R]eproductive choice is by no means the only right at risk if all of Bush's right-wing judicial nominees are confirmed. At a time when the president seems intent on dismantling federal environmental laws, we need judges who will not bow to corporate polluters. At a time when the rights of immigrants are under attack . . . we need judges who will rule with fairness and justice as their standards, not conservative or religious ideology.")

Blind About Justices, By Robert F. Jakubowicz, (The Berkshire Eagle Thursday, 2/6/2003)

("[S]enators who do not try to find out the views of judicial nominees which will color their opinions as future judges are neither performing their constitutional duty nor serving the best interests of their constituents.")

Latino Would Set Back Latinos, By Antonio Hernandez, (The Los Angeles Times, 2/5/03)

("Individuals appointed to the federal bench, a lifetime appointment, must meet basic requirements such as honesty, openmindedness, integrity, character and temperament. . . . Estrada is an ideologue who hides his views and who is so lacking in experience, we have little choice but to oppose the nomination.")

Justice Estrada—an Oxymoron?, By Matt Bivens, (The Nation, 2/4/03)

("Estrada's unwillingness to come clean is indeed reason enough to reject him.")

Torpedo Judicial Activist (Arizona Daily Star, 2/3/03)

("[T]here is no way that Miguel Estrada, a Washington, D.C. lawyer, should win nomination to the U.S. Court of Appeals. Estrada, just one of the judge-activists that President George W. Bush plans to appoint to the federal bench.")

Don't Let Miguel Estrada On The Bench, (The Hartford Courant, 9/27/2002)

("President Bush's nomination of . . . Miguel Estrada . . . is not about diversifying the federal bench. It is about courting the Latino vote and moving a conservative agenda.")

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. Madam President, I wish to at this point tc use my leader time.

Madam President, the debate on the Miguel Estrada nomination began February 5, just over a month ago. During that debate, lasting nearly 100 hours, I have sought unanimous consent on 17 separate occasions to bring the nomination to a vote. Regrettably, those requests for consent have been denied—again, on 17 separate occasions.

The Democrats have chosen to filibuster this outstanding nominee, who, as we all know, is a Hispanic immigrant who came to this country not speaking English but, through hard work, dedication, and the virtue of great capacity of study, achieved academic excellence. His peers, the American Bar Association, affirm his high qualifications.

We know a majority in this body will vote to confirm Miguel Estrada if given the opportunity to do what really is our only request, and that is to have an up-or-down vote on this nominee. Yet the minority, even after the extended time of well over a month and nearly 100 hours of factual discussion on the floor, and despite his obvious credentials, the respect he has among his peers, his academic qualifications, his arguments before the Supreme Court, has blocked this simple up-or-down vote on this confirmation.

My friends on the other side of the aisle—and we have heard it again and again—say we are really filibustering because we don't have enough information: we want more information. That is one of the reasons I have tried to be as patient, as reasonable as possible to give that time so that information could be exchanged before resorting to the vote we will undertake in a few minutes. They say they wanted more information, and that is fine. We want to have the appropriate information in order to make a decision in terms of an up-or-down vote. But, repeatedly, this nominee has said: I am available and I am ready, willing, and available to come by your office to discuss with you if there are further questions you might have.

I suggest my colleagues who really feel—putting politics aside—they don't have enough information, pick up the phone and call the nominee and have him come by your office and visit and ask those questions, and then give us an up-or-down vote.

We are about to vote on cloture. I hope it succeeds the first time. That is right. That is just. That is responsible. But if we need to, we will vote on cloture again and again.

Let me be clear. The majority will press for an up-or-down vote on this nominee until Miguel Estrada is confirmed. The fight for justice is just beginning.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

By unanimous consent the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 40 Ex.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (FL)
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Graham (FL)

The PRESIDING OFFICER. On this question, the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I would like to take a few moments to discuss the recent cloture vote in relation to the nomination of Miguel Estrada to the Court of Appeals for the DC Circuit.

The Constitution provides that the President shall nominate candidates for the Federal bench and the Senate shall give advice and consent regarding those candidates. We cannot yet proceed to a vote on this nominee because we take this constitutional obligation—not right, but obligation—seriously. An up-or-down vote on this nominee is premature, because we have yet to get disclosure of critical information regarding this nominee.

I believe that it is our obligation to ensure that—to the best of our knowledge—each judicial nominee is capable of setting aside extreme views that he or she may hold when interpreting the law and deciding cases. We must do our best to ensure that the person will be a fair and impartial judge.

Miguel Estrada may very well be able to do that. But before we can make that determination, we have a right to full disclosure of information that will assist us in ascertaining that this is the case. We have a right to expect the nomineee to be forthcoming in answering our questions, and we have a right to expect the administration to be cooperative in providing any information that is relevant to making our decision. The advice and consent process is not a rubber stamp but a meaningful process.

Mr. Estrada is not a sitting judge and has not published any legal articles. Written judicial decisions and published legal writings often provide us with the evidence that we need to determine whether a nominee will objectively enforce the laws and the Constitution. We have neither here to guide us.

Added to this, we have a situation where a person in the Solicitor General's Office who had direct supervisory authority over the nominee when he worked there, Mr. Paul Bender, has stated that he does not believe Mr. Estrada can be trusted to decide cases without being clouded by his extreme views. He said that Mr. Estrada was so "ideologically driven that he couldn't be trusted to state the law in a fair, neutral way . . . Miguel is smart and charming, but he is a right-wing ideologue."

Now this is just one man's opinion and certainly should not be dispositive, but it certainly gives us cause for concern and an even stronger desire to have access to all available information regarding Mr. Estrada's judgment and skills. We could judge for ourselves whether there is any basis for Mr. Bender's assessment of Mr. Estrada by reviewing the work that he did while working at the Solicitor General's Office. If we had the ability to do so, we could judge for ourselves whether the nominee objectively presented the facts and the law while working in that capacity, which would be a good indication of his ability to do so as a judge.

To this end, my colleagues on the Judiciary Committee sought access to the memoranda written by Mr. Estrada to his superiors at the Solicitor General's Office on questions such as whether the United States government should appeal an adverse ruling to the Supreme Court or whether it should file an amicus brief in a case that the Supreme Court has decided to hear. The administration has categorically refused to provide these documents, despite the fact that it is accepted practices to make these types of documents available to the Senate in the context of a nomination inquiry.

Initially, the administration refused to provide any of these work samples, incorrectly stating that it was the practice of the executive branch to do so. When my colleagues were able to point out that in every prior case where similar work samples were requested they were provided, the administration claimed that were not officially provided but "leaked" to Congress. When my colleagues were able to demonstrate that in every prior case where similar documents were requested, the Department of Justice officially released them to Congress after an exhaustive search, the administration claimed similar documents were released previously only in order to clear up an allegation of wrongdoing, but again my colleagues on the Judiciary Committee demonstrated that this simply was not true. Prior precedent clearly demonstrates a policy of cooperation with respect to previous requests.

The administration continues to refuse to provide any of the work products from the Solicitor General's Office despite the fact that there is no legal basis for their refusal and despite the fact that similar information was disclosed in every other instance that it was requested. We cannot help but be left with the feeling that there is something to hide in this case.

We also might be able to make a judgment regarding the nominees's ability to be a fair judge through questioning the nominee regarding his judicial philosophy and regarding his analysis of previously decided cases. These questions are commonly asked of judicial nominees in order to examine whether the nominee's views are outside the mainstream and whether he can set his or her personal views aside in analyzing cases. When my colleagues on the Judiciary Committee pursued this practice, Mr. Estrada refused to provide meaningful answers to their questions. I have carefully reviewed the transcript from that hearing and am quite frankly amazed at Mr. Estrada's refusal to answer questions that many prior judicial nominees—both those nominated by Democratic and Republican Presidents—have answered as a matter of course.

As I have mentioned before, this refusal is particularly perplexing, given that this same individual admitted that he asked similar questions of candidates for a clerkship with Justice Kennedy in order to "ascertain whether there are any strongly felt views that would keep that person from being a good law clerk to the Justice." This is exactly what my colleagues on the Judiciary Committee sought to do with respect to Mr. Estrada. If this type of information is relevant to the process of hiring a Supreme Court law clerk, isn't it infinitely more important to the process of appointing an appellate judge—someone who has a lifetime appointment to the bench?

It may be the case, that if this information were to be made available, I would support Mr. Estrada. I have voted in favor of 100 of the 103 nominees that President Bush has sent forward to the Senate since he took office. In many of these cases, I did not agree with the nominee's views on many issues. Nevertheless, I had enough information to determine that they were not out of the mainstream of American jurisprudence. I believe we have the right to have access to the information that we need to make that judgment on this nominee.

It is unfortunate that before I finish that I feel I must respond to the allegations of some that the debate surrounding this particular nominee relates to his ethnicity. This is a preposterous notion. It is a smoke and mirrors argument designed to cloud the legitimate debate about the nominee's qualifications for the bench.

To infer—or to outright state as has been the case—that my colleagues would be motivated by the fact that Mr. Estrada is Hispanic is outrageous. One need only look to recent history to see just how wrongheaded that notion is. During the last Democratic administration, over 30 Hispanics were nominated for judgeships. I supported all of them. Unfortunately, approximately one-third of them were not confirmed—and some didn't even get the courtesy of a hearing—due to opposition from some of my Republican colleagues. It was, in fact, during the last Democratic administration that the first Latina to serve at the district court level was confirmed. She continues to serve in my State.

By contrast, this administration has nominated a total of eight Hispanics. Six of them have already been confirmed and are now serving on the bench and the other nominee is expected to move ahead as soon as the necessary paperwork is in order. That leaves only Mr. Estrada, and I have stated the reasons I feel it is inappropriate to go forward with his nomination.

The debate in this case is about preserving the Senate's constitutional role in judicial nominations. It transcends this particular nomination because if we were to proceed to a vote after this nominee has refused to answer routine questions about his views and his judicial philosophy, and after the administration has refused to respond to a routine request for samples of this nominee's work product, we would essentially be conceding that the Senate's role in judicial nominations is that of providing a rubber stamp to the President's nominations. This is clearly not the role envisioned by the Framers of our Constitution.

MOSCOW TREATY

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now resume consideration of the Moscow Treaty and that Senator FEINSTEIN be recognized in order to offer an amendment. I would simply add the chairman is tied up in a committee hearing, but I know he would want the Senator from California to go ahead.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

Resolution of Ratification to Accompany Treaty Document 107-8, Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 251

(Purpose: To provide an additional declaration)

Mrs. FEINSTEIN. I send an amendment to the desk on behalf of Senators LEAHY, WYDEN, HARKIN, and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN, proposes an amendment numbered 251.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 3, add the following new declaration:

(7) STAND-DOWN FROM ALERT STATUS OF FORCES COVERED BY TREATY.—Noting that the Administration has stated that "[t]he first planned step in reducing U.S. operationally deployed strategic nuclear warheads will be to retire 50 Peacekeeper ICBMs, remove four Trident Submarines from strategic service, and no longer maintain the ability to return the B-1 to nuclear service," the Senate—

(A) encourages the President, within 180 days after the exchange of instruments of ratification of the Treaty, to initiate in a safe and verifiable manner a bilateral stand-down from alert status of all United States and Russian Federation nuclear weapons systems that will no longer be operationally deployed under the Treaty, but which the United States and the Russian Federation may keep operationally deployed under the Treaty until December 31, 2012; and

(B) expects a representative of the executive branch of the Government to offer regular briefings to the Committee on Foreign Relations and the Committee on Armed Services of the Senate regarding—

(i) the alert status of the nuclear forces of the United States and the Russian Federation;

(ii) any determination of the President to order a stand-down of the alert status of United States nuclear forces; and

(iii) any progress in establishing cooperative measures with the Russian Federation to effect a stand-down of the alert status of Russian Federation nuclear forces.

Mrs. FEINSTEIN. Mr. President, I rise today to offer this amendment. I recognize that the leadership is not accepting amendments. I accept that. I am a supporter of the treaty, and I am happy to cast my vote for it.

But there is one significant omission from this treaty, and I want to point out that omission. That omission is that we have literally thousands of nuclear missiles on hair trigger alert. The Russian Federation has thousands of nuclear missiles on hair trigger alert. This treaty does not take that into consideration and does not urge or does not certify a reduction of the alert status of these missiles. I believe if we fail to address this issue, we risk the lives of millions of people over what may turn out to be a simple miscalculation.

People hearing me might say, how can that possibly happen? I would like to explain how it can happen.

On the morning of January 25, 1995, the Russian military initially interpreted the launch of a U.S. weather rocket from Norway as a possible nuclear attack on the Russian Federation. That is just 8 years ago. Thankfully, the true nature of the launch became known and a catastrophic mistake was averted. Nevertheless, then-President Yeltsin and his advisers had only minutes to decide whether the launch of a weather rocket was a surprise attack because Russia, like the United States, maintained and continues to maintain thousands of nuclear weapons on high alert status, ready to be launched at a moment's notice.

This was not the only instance in which both countries have come close to the unthinkable. On at least two occasions in the United States and at least one occasion in Russia, false alarms could have led to the accidental launch of nuclear weapons.

Today, Russia and the United States are entering into a new era of relations. We do so with the advent of this treaty. A deliberate nuclear strike by either side is unthinkable. In fact, the administration states the brevity of the Moscow Treaty and the lack of verification, timetables, and a list of specific weapons to be destroyed, is due to the fact that Russia and the United States are no longer strategic competitors but today we are strategic allies. So fear and suspicion have been replaced by trust, cooperation, and friendship.

It is surprising, then, that the United States and Russia continue to maintain their nuclear arsenals on this high alert status. It is surprising the Moscow Treaty, a symbol of the new relationship, in the words of the administration, does not address this issue. In the past, President Bush has recognized the dangers of high alert status and the need to reevaluate our nuclear weapons. As a candidate, he stated in a speech on May 23, 2000:

> Keeping so many weapons on high alert may create unacceptable risks of accidental or unauthorized launch.

Experts on nuclear weapons issues have expressed similar concerns. In his testimony on the Moscow Treaty before the Senate Foreign Relations Committee, former Senator Sam Nunn stated that the alert status:

> . . . may well be more important to stability and security than the actual number of nuclear weapons.

He likened the issue to two families who have agreed to reduce the number of high-powered automatic weapons aimed at each other in several years' time but in the meantime decide to keep the weapons loaded with a finger on the trigger.

Former Secretary of Defense William Perry testified that the Moscow Treaty's failure to address the alert status of the United States and Russia's nuclear weapons represented a significant missed opportunity. He concurred with retired Air Force GEN Eugene Habiger, former commander in chief of the U.S. Strategic Command, who recommended that the United States take a first step by immediately standing down all nuclear weapons systems that will not be operationally deployed under the Moscow Treaty.

If you will note, the amendment I have sent to the desk does not say this should be unilateral, on our part only; it says a bilateral reduction of alert status of operational nuclear weapons deployed today.

I believe we should take the words of the general, of the very respected Senator Nunn, and former Defense Secretary Bill Perry and take some action. A miscalculation, in Senator Nunn's scenario, would result in the loss of a few lives from these automatic weapons in a family feud situation, but a miscalculation between Russia and the United States could result in the loss of millions of lives. De-alerting will give the leaders of the United States and Russia sufficient time to evaluate fully a situation before making a decision on a nuclear response in a matter of minutes or seconds, and it would greatly reduce the possibility of an accidental nuclear launch due to false alarm and miscalculation.

The amendment I sent to the desk encourages the President, within 180 days of exchange of instruments and ratification, to initiate in a safe and verifiable manner a stand-down from alert status of all nuclear and Russian nuclear weapons systems that will not be operationally deployed under the treaty.

In other words, the treaty calls for removing the operational deployment. But in the meantime all these missiles remain on high alert status—hair trigger alert status.

The amendment would urge the President to call on the Russian Federation to reciprocate in kind, and the amendment asks that a representative of the executive branch of the Government offer regular briefings to the Committee on Armed Services and the Committee on Foreign Relations of the Senate on three specific topics: First, the alert status of the nuclear forces of the United States and Russia; second, any determination of the President to order a standdown of the alert status on the U.S. nuclear forces; third, any progress in establishing cooperative measures with Russia to effect a standdown of Russia's nuclear forces.

There is a precedent for de-alerting our nuclear weapons and prompting the Russians to do likewise. In 1991, as the Soviet Union began to crumble, then-President Bush ordered a unilateral standdown of the U.S. strategic bombers and de-alerted some missiles scheduled for deactivation under the START treaty. Soviet President Gorbachev at that time reciprocated with similar measures, and the world breathed a little easier during those turbulent times. So there is precedent for their de-alerting missiles. And I believe that this Moscow Treaty, which is based on friendship, trust, and cooperation, necessitates an increased de-alerting status of the literally thousands of nuclear weapons that remain in their silos on a hair trigger alert.

The amendment is simple and straightforward. We can take it very easily. I very much regret that we are in a no-amendment scenario. What I hope to do and my cosponsors hope to do is enter into a colloquy in the RECORD indicating support for this measure and, second, we will draft a letter and try to get as many signatures from other Senators as we can.

I believe this treaty, which should be ratified by this Senate today, has this significant oversight. I believe that to leave these missiles on hair trigger alert status when we enter into this treaty really downgrades the treaty. If we truly trust, if we truly want to be cooperative, and if we truly are friends, friends don't aim loaded guns at each other with the triggers pulled back.

I am hopeful that the administration would respond and begin a discussion between President Putin and President Bush to see if we cannot reach a bilateral de-alerting of the literally—probably more than—10,000 missiles that will remain with nuclear warheads on hair trigger alert.

AMENDMENT NO. 251 WITHDRAWN

I ask unanimous consent that the amendment be withdrawn.

I yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I take the opportunity to make some comments regarding the ratification of the Moscow Treaty. I do it with some reservation. I think the treaty is both a "good news" and "bad news" story.

Right now, roughly speaking, the United States and Russia each deploy 6,000 nuclear warheads. The treaty would require the U.S. and Russia to reduce these levels to 1,700 to 2,200 "operationally" deployed strategic nuclear weapons on each side by December 2012.

The good news is that this treaty is a positive step—long overdue, but a positive step nonetheless. Over 10 years ago, in January of 1992, when U.S.-Russian relations were the warmest in years, President Yeltsin of Russia proposed that the U.S. and Russia reach a strategic arms control agreement that set the levels at 2,000–2,500 in a START II agreement.

If former President Bush had agreed back then, we could be close to the levels today that the Moscow Treaty envisions for 10 years from now.

At the time former President Yeltsin made his proposal for deep reductions, Defense Department officials, especially Defense Secretary CHENEY—now our Vice President—opposed them.

As a result, the START II agreement, signed in January 1993, only limited the number of strategic nuclear warheads to 3,000 to 3,500 on each side. And due to wrangling over national missile defense the START II agreement never entered into force.

So I am glad to see that the administration and Vice President CHENEY now support cuts to levels first proposed by President Yeltsin in January 1992. This support for stronger strategic arms control steps is long overdue but welcome.

A second chance to achieve greater reductions came 6 years ago in 1997. President Clinton agreed with President Yeltsin at Helsinki that a future START III agreement would entail reductions to 2,000–2,500 strategic warheads on each side. Most likely, the START III agreement would have overlapped with the START II agreement, finishing implementation at the end of December 2007.

The START III levels of 2,000 to 2,500 are essentially the same as those embodied in the Moscow Treaty. The START III would have counted several hundred warheads on systems in overhaul; the Moscow Treaty will not.

Unfortunately, because START II never entered into force, START III negotiations never began. In addition, after 1994, our Republican colleagues deliberately made it more difficult to make progress on reducing strategic nuclear arms.

Starting with the fiscal year 1995 Defense authorization bill, a provision was regularly added forbidding the President from reducing U.S. strategic forces below the START I levels of 6,000 strategic nuclear warheads. In time for this treaty, this provision has been repealed.

So I am pleased to see that my Republican colleagues now support cuts to the levels envisioned by President Clinton and President Yeltsin in March 1997. It is a welcome change of heart, even though it is long overdue.

The bad news, however, as many have noted, is that the treaty is but a modest step forward. Many have argued it has several major shortcomings.

First, the 10-year implementation period is too long and includes no benchmarks for progress or verification measures. Theoretically, as the treaty now stands, both sides could wait until the last moment to make their reductions, right before the treaty expires.

Second, only some of the warheads removed from missiles and bombers will be dismantled. The rest would merely be put into storage, where they could be redeployed. Thus, there will not be a real reduction in the United States or Russian strategic nuclear arsenals. Moreover, the security of thousands of stored weapons will remain a matter of major concern, especially during this era of heightened terrorism.

Third, the treaty could have reduced the strategic arsenals of the United States and Russia even further.

Fourth, the treaty does not cover the thousands of small tactical nuclear weapons that are a major concern for theft by terrorist groups. And they are weapons of great power, great destructive capability.

Since this treaty is so long overdue, and such a modest accomplishment, we must work hard through the Bilateral Implementation Commission to improve it in the coming years. We also need to take steps beyond the scope of this treaty to reduce our nuclear arsenals even more.

So I strongly endorse the call in the Foreign Relations Committee Resolution of Ratification for the President to "accelerate" U.S. strategic force reductions so they can be achieved before December 31, 2012. We should aim to accomplish this by the end of 2007.

We should also seek to dismantle the 4,000 or so warheads that will be removed from launchers—not just put them in storage. Otherwise, this treaty is more of a nuclear "shell game" than a true disarmament measure. Warheads taken off missiles today could be put back tomorrow.

We should begin new discussions to reach new lower levels of strategic nuclear weapons. I strongly support the Resolution of Ratification's call for the President to continue reductions in strategic nuclear warheads. President Putin wanted each side to decrease to levels of 1,500 warheads. There isn't any reason we can't reduce to levels of 1,000 to 1,500 in the next 5 to 10 years.

There are other problems relating to tactical nuclear weapons and transparency and security of nuclear arsenals that need to be addressed and that many have touched upon today. The Senate needs to be active in addressing these questions. I look forward to seeing the reports required by the Resolution of Ratification so we can monitor the progress of the treaty and act accordingly.

We have waited too long for this treaty. We cannot let the long implementation time of the treaty sweep these important questions from our agenda for the next 10 years.

With the assumption that the Senate will remain active on these questions and the administration will follow through with the provisions of the Resolution of Ratification, I give my reluctant advice and consent to this treaty and look back and see how much more we could have accomplished. Nevertheless, let's get on with what we have in front of us and start reducing the size of the nuclear forces out there.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I wanted to come to the floor just to give our colleagues a brief report on the status with regard to amendments to the treaty legislation. Senator BYRD has indicated he wishes to offer an amendment. Senator CONRAD has an amendment. Senator FEINGOLD may have an amendment. We are trying to verify whether he still intends to offer it. And then Senator LEVIN has an amendment.

I had indicated to the distinguished majority leader that we felt we could accommodate these amendments today and vote on final passage tonight. He has indicated that if that were the case there would be no votes tomorrow.

I hope our colleagues can accommodate that schedule to come over and offer their amendments, and perhaps we can even agree to a timeframe within which these amendments can be considered. We have been in a quorum call now for about an hour. Obviously, if we want to finish at a reasonable hour today, it would be very helpful if our colleagues could come to the floor to offer their amendments. We will have to do it sometime today. It seems to me the sooner we get on with this debate, the sooner we can offer those amendments and the sooner we can complete our work and do so in a way that will accommodate other schedules which I know Senators have tonight and tomorrow.

I make that report. I make that plea. I hope our colleagues can allow us to finish our work on this legislation so that we can move on to other matters.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Democratic leader for his thoughtful comments. I encourage amendments to be offered as soon as possible and that we be prepared to debate those amendments and work with both leaders to finalize actions on the Moscow Treaty today. I appreciate very much the specific amendments that are out there. I hope we can identify those amendments and work with the offerers of the amendments.

Mr. President, while I have the floor, I would simply indicate that the Moscow Treaty before the Senate today is very important for several reasons. Some of these were outlined by Senator BIDEN, myself, and others yesterday.

But let me reiterate the fact that this treaty arose from a very important meeting that President Bush had with President Putin of Russia last May. During the course of that time, both leaders identified the fact that both countries were in the process of thinking through how to reduce the number of nuclear warheads that are still on missiles aimed at each other. These leaders identified thousands of such warheads and the dangers of leaving things where they were. Our President has indicated that he had already reached a determination with his advisers. It would be in our best interests, if necessary, to unilaterally change our situation; that is, to think through carefully how many warheads the United States needs to defend itself against all potential adversaries and to move to that number. That would save a great deal of expense for the taxpayers in perpetuity—every year that these warheads were no longer required. Furthermore, and more obviously, it would relieve the anxiety of people all over the world who see the cold war still manifested in a very large number of nuclear weapons on missiles that could convey them.

The Russians have had the same idea. They have budget stringencies that are much more severe than our own. Therefore, the two leaders came to a conclusion that an agreement was useful, and, furthermore, it would illustrate what both characterized as a new relationship between Russia and the United States in a very visible and tangible way.

Some advisers of both President Bush and President Putin may have believed all of this might be done without a treaty; that is, both countries simply taking action would seem to be in the self-interest of the two countries. Others clearly believed it would be best to codify this in as simple an agreement as possible. The Moscow Treaty was the product of that effort. It is a short treaty, as many have pointed out.

As I mentioned yesterday, many of the critics believe it is far too short; that it should have covered a great number of areas in much greater detail, including verification procedures and a number of aspects that have been part and parcel of previous arms control agreements between Russia and the United States, and/or the United States and other parties. Nevertheless, the treaty that was adopted does speak clearly to the aim by the year 2012. Both of our countries will, in fact, have reduced the number of warheads that are viable vehicles of destruction from a level of roughly 6,000 apiece now to somewhere in the 1,700-to-2,200 range.

We will do this on our own schedules, and we will have the protocols of START before us through 2009 and the cooperative threat reduction activity—at least the very visible form of cooperative activity and verification—through that means.

I mention all of that because some Senators have asked both on the floor and off the floor, Is this important to President Bush now? Why is the Moscow Treaty coming up at this particular moment?

I would respond to those questions by saying from the very first meeting the President had with Senator BIDEN, then-chairman of the Foreign Relations Committee, and me, he encouraged us to move as rapidly as prudent. And we have done so. We pledged to the President that day that hearings would be held. In fact, they were held last year. They were extensive. We have mentioned that hearings were held also in the Armed Services Committee and there were behind-closed-door hearings in the Intelligence Committee, and that both of the other committees shared with the Senate Foreign Relations Committee the product of those hearings.

Senators have been on the floor of the Senate as members of those committees and have already testified to the efficacy and the importance of the treaty.

This is the first period of time available on the calendar of the Senate. The majority leader has given this time to our committee with the full cooperation of Senator DASCHLE and Democratic leaders of the Senate. I treasure that fact because I think it is important and it is keeping the faith not only with our President but with the relationship that our President and President Putin have been attempting to forge.

I would simply point out that we have just concluded in the Senate Foreign Relations Committee another extensive hearing on North Korea. There we talked about the importance of a relationship between Russia and the United States. That is a very important relationship. The United States is counting upon Russian friends to be forthcoming with regard to their understanding of the risks that are involved in the Korean peninsula, the risk to Russia, the risk to the United States, and the risk with regard to nuclear weapons throughout the world in which Russia and the United States have perhaps the greatest responsibility and the greatest stake.

The Moscow Treaty is timely with regard to dialog and diplomacy with the United States and Russia with regard to North Korea. Many hope it may be relevant still with regard to our dialog on the question of Iraq and Resolution 1441 at the United Nations or its successor.

I mention those aspects not with prediction but simply with the relevancy and the timeliness of this debate. I think it is important for us to proceed, if we can, to have a successful conclusion of the debate and a vote on the Moscow Treaty today.

The distinguished Democratic leader has indicated that he perceives this as in the best interests of the Senate. I know our leader feels the same. I simply invite Senators to come to the floor to come forward with their amendments, and we will try to proceed.

I finally add, both Senator BIDEN and I indicated yesterday it would be our hope that amendments would not be adopted to the text of the treaty or its annexes at this point. We believe passage by the Duma, as well as passage by the Senate, in a timely manner is very important.

We understand there are many Senators who wish the treaty had been longer, more extensive, more intrusive with regard to Russian procedures as well as our own, but we have attempted to achieve a great deal. We have much further to go as we negotiate with our Russian friends. Therefore, I hope Senators will not call for bridges that are too far on this treaty and thus jeopardize both its passage here and its implementation by both countries.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. LUGAR. Mr. President, I am advised there will not be speakers offering amendments for some time, therefore, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:59 p.m., recessed until 2:00 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

MOSCOW TREATY—Continued

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe we are considering the Moscow Treaty.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. I ask unanimous consent to speak as in morning business for no longer than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I see my chairman here. I want to make sure it is OK with him. It is.

(The remarks of Mr. CRAIG are printed in today's RECORD under "Morning Business.")

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 252

Mr. LEVIN. Mr. President, in a few moments, I will send an amendment to the desk. Before I do so, I will make some general comments on the Moscow Treaty which is before the Senate.

I first wish to congratulate and commend our good friends from Indiana and Delaware for their great work on this treaty. As on so many other issues, they have worked together well in the national interest. The document which is before us, as well as the Resolution of Ratification, represents a lot of significant work on their part. I applaud them for it.

The treaty before us is a modest but a positive step in the United States-Russia relationship. It is particularly important we have this treaty. At some point it was suggested the agreement not be in the form of a treaty. As a matter of fact, the administration finally decided—I think wisely so, and I believe with the support of the chairman and ranking member of the Foreign Relations Committee—that we have a legally binding treaty rather than relying on unilateral steps that are not binding on future administrations and can be easily changed.

Having a treaty ensures that the Senate is going to be able to fulfill its constitutional role, giving due consideration of any treaty and providing advice and consent before ratification.

I view this treaty as a starting point for further nuclear arms reductions and a useful boost to our new and developing and evolving relationship with Russia. There is much more work to be done to continue to improve our mutual security with Russia, and that work includes further reducing our reliance on nuclear weapons, reducing nuclear proliferation dangers, and improving confidence, transparency, and cooperation with Russia on nuclear weapon matters.

This treaty, while important, is also somewhat unusual. Its central obligation is that both nations will reduce their operationally deployed strategic nuclear warheads to a level between 1,700 and 2,200 some 10 years from now. There are no gradual steps. It is just at a moment in time, 10 years from now, that level of between 1,700 and 2,200 must be reached. It could be a reduction in the operationally deployed strategic nuclear warheads for a very brief period, providing 10 years from the date of ratification that level is reached, and then the treaty expires.

Contrary to numerous media reports, this treaty does not require reductions in nuclear warhead stockpiles or delivery systems. In fact, it does not require the elimination of a single warhead. Under this treaty, both sides can simply remove warheads from land-based or submarine-based missiles and from bombers. Both sides are free to keep every warhead so removed and to store these warheads indefinitely for possible redeployment. The only limitations that will bind the United States and Russia are the limitations on nuclear weapon delivery systems under START I, and that is at least until 2009.

After December 5, 2009, when the START I treaty is scheduled to expire, it is not clear what will happen. At least in the case of START I, the delivery systems must be destroyed.

As the Senate fulfills its constitutionally mandated role in the treaty process and considers whether to provide its advice and consent to the ratification of the Moscow Treaty, there are a number of questions about the proper role of the Senate in the treaty-making process. These are questions to which I know our managers—our chairman and ranking member of the Foreign Relations Committee—have given a great deal of time, attention, and thought, and many others in the Senate have as well.

Some of these questions are as follows:

Do we want to agree to ratify a treaty if the executive branch does not clearly commit itself to submitting a substantive change in that treaty as an amendment to the Senate for its advice and consent? And do we want to approve a treaty where there is doubt that the executive branch could extend or withdraw from the treaty without even notifying or consulting with the Senate, without that guarantee, that commitment being written into a Resolution of Ratification?

These are highly significant questions that apply to the treaty-making power and to the advice and consent power of the United States. I want to address those issues in the amendments that I have to offer this afternoon.

The first amendment deals specifically with the question of whether the Resolution of Ratification should provide that the Senate must be notified and consulted prior to the withdrawal from that treaty or the agreement to extend that treaty by the President of the United States.

Article 4, paragraph 2 of the treaty states that this treaty shall remain in force until December 31, 2012, and may be extended by agreement of the parties or superseded earlier by a subsequent agreement.

Paragraph 3 of article 4 states:

> Each Party, in exercising its national sovereignty, may withdraw from this Treaty upon three months written notice to the other Party.

These are somewhat unusual provisions, as are the administration's statements about them. Previously, extending a treaty was considered something that would require Senate advice and consent.

In the seminal study written in 2001 by the Congressional Research Service for the Foreign Relations Committee called "Treaties and Other International Agreements: The Role of the United States Senate," the issue of extending treaties is clearly presented:

> Modifying and extending an international agreement amount to the making of a new agreement that should be done by the same method as the original agreement. For treaties, this means with the advice and the consent of the Senate.

In its article-by-article analysis of the Moscow Treaty, the administration asserts that "Extension of the Treaty is not automatic and must be done by agreement of the parties."

The article-by-article analysis continues, with the administration writing:

> Since such an extension is authorized by Treaty, it would constitute an agreement pursuant to the Treaty and would accordingly not be subject to Senate advice and consent.

That is the extension issue.

On the matter of treaty withdrawal, the administration's article-by-article analysis states:

> Unlike some other arms control agreements, this withdrawal clause is not tied to a party's determination that extraordinary circumstances jeopardizing its supreme national interests exist. Rather, the Moscow Treaty includes a more general formulation that allows greater flexibility for each party to respond to unforeseen circumstances.

So the withdrawal clause permits either party to withdraw from the treaty for any reason short of a supreme national interest.

The Resolution of Ratification addresses this issue of withdrawal or extension with a declaration numbered 6, which:

> Urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of article IV of the treaty.

So the resolution before us, and before my amendment is considered, simply urges the President—it is precatory language that says, Mr. President, we urge you, whether it is you or your successor, to consult with the Senate prior to taking the actions relevant to paragraphs 2 or 3, the extension or the withdrawal from a treaty.

The declaration urges the President to consult with the Senate, but it does not protect the interests of the Senate because it is not binding. A President—this President or his successor—could simply decide to extend or withdraw from this treaty without notice or consultation with the Senate.

The U.S. should not either enter into a treaty or withdraw from a treaty lightly and either action—either entering into a treaty, withdrawing from a treaty, or extending a treaty's operations—should be done only with the involvement of the Senate. We have to give our advice and consent to permit ratification in the first place.

We, the Members of this Senate, have the responsibility to assure that involvement. That constitutional responsibility rests in our hands, and we should not leave that constitutional mandate and responsibility up to the discretion of the executive branch. We want the executive branch to consult, and we are going to urge them to consult in a Resolution of Ratification. The question is whether we are going to require that resolution. Barring some circumstances, which I will describe in a minute, we are going to require a chief executive to consult with this body, to give us notice, and to consult, not to seek ratification—that is a second-degree amendment which my friend from Wisconsin will be offering in a moment—but the proposal in my amendment is that we simply require there be notice and consultation of the Senate before there is withdrawal from a treaty which we have ratified, or extension of a treaty which we have ratified. That is the least we can do. That is a middle course, short of saying we have to ratify an extension or withdrawal, which I think is also an appropriate course of action which has been much debated over the years. Short of that, which it seems to me is a matter which is going to be of some debate between the executive and legislative branch, I think a middle course, which we all ought to be able to agree upon, is that a Resolution of Ratification require there be notice to the Senate so we can exercise whatever action we decide to take at that point—no guarantee that we would have to ratify it before it actually occurs but assurance we will be given notice and an opportunity to give our advice, or take whatever action we want, prior to the withdrawal from a treaty or prior to the life of the treaty being extended.

The amendment I am going to be offering is very straightforward. I do not know if this amendment is at the desk. If not, I will send it on behalf of myself, Senator FEINGOLD, and Senator AKAKA, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. FEINGOLD, and Mr. AKAKA, proposes an amendment numbered 252.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional condition requiring notice and consultations prior to withdrawal from, or extension of, the Treaty)

At the end of section 2, add the following new condition:

(3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—

(i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(ii) consult with the Senate on such action.

(B) The President may waive a requirement in subparagraph (A) if the President—

(i) determines that national security needs prevent the President from meeting the requirement; and

(ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.

In section 3, strike declaration (6).

Mr. LEVIN. I will explain it at this point. This amendment is straightforward. It says that prior to taking any action to extend or withdraw from this treaty, the President shall provide not less than 60 days' notice to the Senate and shall consult with the Senate.

Now, what happens if there is some national security need which prevents the President from providing such notice or consultation? The amendment foresees that possibility and has a waiver provision in case there is some unforeseen national security need that would prevent the President from immediately requiring to notify and consult with the Senate. So there is considerable flexibility given to the President if it is needed for national security reasons.

There has been a lot written about whether or not the Senate must actually ratify a withdrawal from a treaty. There has been much debate on that subject. In a Congressional Research treatise on treaties, written in 1993 and then republished more recently with the same language, this is what the Research Service says about the issue of withdrawal from a treaty and the Senate role in that process, that the U.S. Constitution is silent with respect to the power to terminate treaties. The matter is not discussed in the debates of the Constitutional Convention in Philadelphia. Briefly:

> While the Constitution tells us who can make treaties, the President shall have the power, by and with the advice and consent of the Senate, to make treaties.

It does not say who can unmake them. As a consequence of the Constitution's silence in this regard, there has been some confusion of doctrine upon this point and a variety in practice.

A little later on in this study, the Congressional Research Service says the same: Whether the President alone can terminate a treaty's domestic effect remains an open question. As a practical matter, however, the President may exercise this power since the courts have held that they are conclusively bound by an executive determination with regard to whether a treaty is still in effect. The same result may apply to a congressional termination, particularly if it is regarded as a declaration of war.

So according to the Congressional Research Service, the issue of whether the President alone can terminate a treaty is an open question. This amendment does not intend to resolve that question. A second-degree amendment, however, will be offered which will address that issue. My amendment does not. My amendment simply says—and it seems to me this is a very modest amount of protection for the Senate's constitutional responsibility in the treaty-making process—unless there is some national security reason why you cannot give notice to the Senate that you are intending to withdraw or extend the treaty, give us 60 days' notice so we can take whatever action we deem is appropriate, so we can give consultation and advice on the question of withdrawal or extension. It does not prevent the administration from extending or withdrawing from the treaty. It does not—"it" being my amendment—require Senate approval of extension, even though that is the policy and practice to date often as elaborated by that study.

It does not require Senate approval of withdrawal from a treaty. It simply says the President shall notify and consult with the Senate before extending or withdrawing from the treaty.

This amendment is consistent with what the Foreign Relations Committee wrote in its report about the treaty relative to the issue of consultation on arms control treaties. It is a very thorough report. The committee that we have before us, on page 22, says the following:

> The Senate and this committee have an institutional interest in the close observation of arms control negotiations and the successful implementation of resulting agreements. Past administrations have recognized that consultations with the Senate prior to taking actions relating to assigning, amending, or withdrawing from such agreements may avert serious disagreements.

On the specific question of withdrawal, the committee report says: Should it become necessary for a party to withdraw from the treaty, article 4 provides for 3 months' notice of such a decision. Events can well occur between submissions of the annual report required in condition 2 that would warrant informing and consulting with the Senate. In any circumstance, the Senate would desire notification and consultation.

So the parties, the two countries involved, must give each other 3 months' notice prior to the withdrawal. But relative to the Senate, the report simply says the Senate would desire notification and consultation.

I could not agree more with that statement: "desire." But it is not enough to say we desire a consultation. If we are going to protect the constitutional responsibilities of this body, we must assure our constitutional responsibility and the operation of treaties is going to be protected and our role under the Constitution is, in fact, honored—not just honored in the breach but in the actual life of the treaty. I believe this is the minimum we should do.

We should write into our Resolution of Ratification a requirement in the absence of some national security reason that the President, whoever the President might be at the time, do give us the notice and give us the opportunity to take whatever action or consult as we deem might be appropriate relative to the issue of withdrawal or extension of this treaty prior to the administration making that decision giving that notice to the other party to this treaty.

The amendment is consistent with what the administration says it is willing to do. Secretary Powell stated: While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action.

That is a welcome statement of intent. We should incorporate that assurance. We should enshrine that assurance. We should embody that assurance. Intentions and administrations change. The obligation of this body to the Constitution endures. It is a solemn responsibility. It does not change. The intention of the President or a new President with new intentions changes. Language of the Constitution, relative to what this body's responsibility is relevant to treaties, is unchanging.

This amendment simply requires notification and consultation which Secretary Powell and the committee indicate they want and would expect would happen. It simply assures that, in fact, in the absence of some national security need, which is unexpected, which would permit a waiver of the notice requiring that a President would notify this body before withdrawal or extension of a treaty would occur.

The committee report concludes that: Declaration (6), while not binding on the President, is a formal request that the executive branch maintain the consultation policy enunciated in the Secretary of State's answer to the question—which I gave above that the administration intends to discuss. That is what the committee report says Declaration (6) provides, which is in the Resolution of Ratification. It is a request to the executive branch. That is not strong enough in terms of our obligations to the Constitution and to our responsibility relative to the treaty-making power.

If we want to really assure what we are requesting is, in fact, part of the operation of this treaty, we should include in this Resolution of Ratification a condition which my amendment offers, which is that the President would do what the committee said it really wants and really desires and really urges, to use the words of the report, and that is to notify, consult with the Senate prior to taking action to withdraw from or extend a treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 253 TO AMENDMENT NO. 252

Mr. FEINGOLD. I compliment the Senator from Michigan for his tremendous leadership on this issue.

I rise today to add my thoughts to the debate on the first arms control treaty between the United States and Russia during the 21st century, and to offer an amendment that will reaffirm the role of the Senate in the treaty extension and withdrawal process.

When the Senate adopts this resolution of ratification, as I expect that it will be a wide margin, the Moscow Treaty will be on its way to becoming the law of the land, and the Senate will have fulfilled its constitutional responsibility to provide advice and consent to its ratification.

As a member of the Foreign Relations Committee, I believe that we covered a lot of ground in the series of hearings that the Committee had to examine this brief, 3-page document last year, and that we explored a number of the concerns that I and a number of members of the Committee and of the Senate have regarding the issues of compliance and verification, the lack of a timetable for the reductions required by the treaty, the fact that this treaty does not require that any nuclear warheads actually be destroyed, and a number of other important issues.

I continue to be troubled by the language contained in article IV of the Moscow Treaty regarding the process by which one of the Parties may withdraw from this treaty. I am concerned that either of the Parties would be able to withdraw with only 3 months' written notice and without a reason. And unlike other arms control treaties, the Moscow Treaty does not require that the Parties cite "supreme national interest" upon announcing withdrawal. In fact, this concept is not even mentioned in article IV.

As my colleagues may recall, I found the President's decision to unilaterally withdraw the United States from the 1972 Anti-Ballistic Missile Treaty last year troubling on both policy and constitutional grounds. I discussed this issue at some length with Secretaries Powell and Rumsfeld during the Foreign Relations Committee's hearings on this treaty last year, and I am troubled by the administration's contention that consultation with and approval by the Senate would not be required to withdraw from the Moscow Treaty.

I agree with the Senator from Michigan. The Senate has a constitutional role to play in treaty withdrawal, and I am concerned that the administration is not taking seriously our role in this process.

While I recognize that Declaration (6) in the resolution before the Senate today urges the President to consult with this body prior to withdrawing from the Moscow Treaty, I am concerned that there is no specific requirement for such consultation.

So, Mr. President, I send a second-degree amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 253 to amendment No. 252.

Mr. FEINGOLD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the condition)

At the end of the proposed condition, add the following:

(C) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, the President shall obtain the approval of two thirds of the Senators present.

Mr. FEINGOLD. Mr. President, the second-degree amendment that I offer today would add to the underlying Levin amendment a provision that would require the President to obtain the approval of two-thirds of the Senate before withdrawing from or extending this treaty.

Mr. President, Article II, Section 2 of the Constitution states that the President "shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided that two thirds of the Senators present concur. . . ."

The Senator from Michigan pointed out in his remarks that the Constitution is silent on the process by which the United States can withdraw from a treaty, and the record in the Congress and the executive branch is mixed. However, I believe and I think many others believe the intent of the Framers as explained by Thomas Jefferson is clear. In section 52 of Jefferson's Manual, he writes:

> Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation.

Article II, Section 3 of the Constitution states that the President shall:

> take Care that the laws be faithfully executed. . . .

Jefferson continues:

> Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France in 1798.

It is worth noting, that four signers of the Constitution were serving in Congress when this first treaty termination occurred—by an Act of Congress—in 1798, just 11 years after the Constitutional Convention.

It is clear to me, as it was to Thomas Jefferson, that the Senate has a constitutional role to play in terminating treaties. Since the advice and consent of the Senate is required to enter into a treaty, this body should at a minimum be consulted before the President makes the decision to withdraw this country from a treaty, and especially from a treaty of this magnitude.

As Jefferson noted, a treaty is equal with a law. A law cannot be declared to be repealed by the President alone. Only an Act of Congress can repeal a law. Action by the Senate or the Congress should be required to terminate a treaty. Anything less could tip the scale dangerously in favor of the executive branch.

That said, I recognize it is unlikely that my amendment would be adopted, or that the President would agree to move forward with this process if my amendment were included in this resolution of ratification, but I very much thought we ought to make this point on the floor of this body that is charged by the Constitution with this responsibility. It is a responsibility which I believe was intended by the Founders, that we act specifically with a two-thirds vote to withdraw from a treaty.

AMENDMENT NO. 253 TO AMENDMENT NO. 252, WITHDRAWN

In light of the reality here, I now withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. FEINGOLD. Mr. President, I regret that this Treaty will move forward without a requirement for a Senate vote on its abrogation or extension, but I do express my support for the amendment offered by the Senator from Michigan, Mr. LEVIN, of which I am pleased to be a cosponsor. I also want to thank the Senator for his work on this important issue.

The Levin amendment is consistent with my view that the Senate should—at a minimum—be consulted if the President decides to withdraw from or extend this treaty in the future. I believe that this is a step in the right direction, and I urge my colleagues to support the Levin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Michigan. I do so reluctantly because of my high regard for the Senator and his work on arms control, which has been indefatigable. His wisdom I respect.

As a rule, we are on the same side. I, however, wish to oppose the amendment for the reasons I will relate in this testimony. I read, in my opening statement yesterday, words that the Foreign Relations Committee addressed to this issue in the Resolution of Ratification. The Senator has referenced that fact.

It was drafted by us in an attempt to address concerns put forward by the Senator from Michigan, the Senator from Wisconsin, and others regarding the treaty's withdrawal clause contained in article 4.

Our text is based on Secretary Powell's commitment to consult with the Senate should the President consider the utilization of the withdrawal provision.

It is worth repeating, especially in light of the amendment offered today, the answer Secretary Powell submitted for the record on the issue of treaty withdrawal. The Foreign Relations Committee asked the Secretary:

> What role will the Congress have in any decision to withdraw from this treaty?
>
> Will the administration agree to at least consult closely with this committee—

That is the Foreign Relations Committee—

> before making any such decision?

The Secretary responded:

> While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee prior to announcing any such action.

This was a carefully considered answer of Secretary Powell for the record.

Past Senate consideration of this issue has resulted in the view that one of the bases on which a President may terminate a treaty without congressional participation is when a decision to withdraw is taken in conformity with the provisions of the treaty. The Moscow Treaty, as it stands, provides for this.

I am aware of Senators' concerns and arguments about the need to insert the Senate into the process. Many of the arguments we have heard about withdrawal stem from President Bush's decision to withdraw from the ABM Treaty. That decision was taken in full compliance with the terms of the ABM Treaty. The President made no secret about his desire to do so, and Congress held innumerable hearings and public statements about the need to take the action.

I am sympathetic to arguments from Senators regarding the need to maintain Senate prerogatives. The process governing termination and withdrawal is a point of constitutional debate. Although the Constitution assigns a specific role for the Senate in the treaty ratification process, it is silent on the issue of treaty termination. Furthermore, nothing in the Constitution restricts the President from terminating or withdrawing from a treaty on his own authority.

Presidents have consistently terminated advice and consent treaties on their own authority since 1980. Twenty-three of the thirty treaties terminated during this period were bilateral; seven of these treaties were multilateral, all of them terminated by the President.

Prior to 1980, Senator Barry Goldwater of Arizona challenged President Carter's termination of the Mutual Defense Treaty with Taiwan. Senator Goldwater's challenge failed and the treaty was terminated.

The White House legal adviser has long argued that the President is the principal spokesman of the Nation in foreign affairs, and restrictions on that power have been strictly construed. Given the absence of a textual basis conferring the termination power on another branch or an established practice derogating from the President's termination power, it is difficult to envision such a role for the Senate.

Proponents of a senatorial role in this process will often respond by suggesting that the President cannot, on his own authority, terminate a treaty because it is the law of the land. Again, the White House suggests this is a fallacy. A terminated treaty no longer has effect in much the same way that a provision of a law or treaty found by the courts to be unconstitutional no longer has effect. However, in neither case is the law repealed.

Historically, there is evidence of only one instance in which the Senate sought by a resolution of advice and consent to limit the President's constitutional power to terminate a treaty. The first condition to the 1919 proposed resolution of advice and consent to ratification of the Versailles Treaty would have provided:

> Notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

On that occasion, the Vice President of the United States, Thomas Marshall, addressing the Senate before the vote, called the condition an unconstitutional limitation on the President's powers, a view with which a number of leading scholars of the day concurred. The resolution failed to receive the required two-thirds vote and the question has remained moot for the better part of a century—I might say, until today.

Beyond the legal issues that underlie this debate, some have expressed concern that article 4 differs from previous arms control agreements in that it only requires 3 months' notice and permits withdrawal based upon issues related to national sovereignty. Critics point out the START treaty allows the parties to withdraw after giving 6 months' notice, and only "if it decides that extraordinary events related to the subject of this Treaty have jeopardized its supreme interest."

The withdrawal clause is reflective of the changed nature of our relationship with Russia, not a desire to rob the Senate of its role in the treaty-making process. As the administration's article-by-article analysis sent to the Senate with the treaty states—this is the analysis by the administration as it submits the treaty:

> Unlike some other arms control agreements, the withdrawal clause is not tied to a Party's determination that extraordinary circumstances jeopardizing its supreme national interests exist. Rather, the Moscow Treaty includes a more general formulation that allows greater flexibility for each Party to respond to unforeseen circumstances.

Indeed, as we have related in this debate, the Moscow Treaty arose from a desire on the part of the United States unilaterally to destroy its nuclear weapons and likewise a similar desire by the Russians. Finding these coincident interests, they have joined in this treaty; nevertheless, there is no timetable. Some critics have pointed out that the nature of this treaty is substantially different. It is one that comes from the volition of the two without specific verification procedures.

I do not view the withdrawal provisions as a weakness in the treaty. Instead, I believe it is another manifestation of the improved U.S.-Russian relationship. It should also be pointed out that our bilateral relationship provides us with some confidence that the time and reasons for withdrawal would not necessarily relate to the agreement. As the Secretary of State told the Committee: "The Moscow Treaty's formulation for withdrawal reflects the likelihood that a decision to withdraw would be prompted by causes unrelated either to the Treaty or to our bilateral relationship. We believe this formulation more appropriately reflects our much-improved strategic relationship with Russia."

In sum Mr. President, I was hopeful that our resolution of ratification would have resolved this issue. For the benefit of the Senate let me again read the text of our resolution of ratification.

> Given the Senate's continuing interest in the Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 or Article IV of the Treaty.

This text was negotiated closely with Administration officials with the goal of striking a compromise that would preserve Senate prerogatives while not infringing upon the power provided to the President by the Constitution. I believe we succeeded in doing so.

For these reasons, I oppose the amendment, and I urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by saying I agree with the Senator from Michigan as well as my colleague from Wisconsin in that I believe—and, as the old joke goes, I have history to prove it—that the Senate has in the treaty power in the treaty clause of the U.S. Constitution an equal responsibility with the President of the United States.

As the old joke goes, if you want to learn a subject, teach it. For the last 10 years, I have been teaching a three-credit course at the Widener University Law School on Saturday mornings on separation of powers issues. In one of the three parts of the course, "What is treaty power? And who has what authority under the Constitution?" I come down clearly on the side that the Senate has the authority to insist that any extension, or withdrawal, for that matter, from a treaty be confirmed by the Senate. We have a right to do that, I believe. But it is an open constitutional question.

I will, unless we are ready to go to a second amendment, be happy to take a few minutes and go through what I believe to be constitutional law and history on this point.

Let me cut through that for a moment and go to the place where I think it is not worth the fight on this particular treaty. I believe this treaty is so open ended and so, in some sense, amorphous and rests so much upon not merely the goodwill—I assume goodwill on the part of the administration—but on the intensity with which the administration believes this treaty should come to fruition that a provision that marginally increases the substance of the possibility of a substantive outcome which I support—which is getting down to 1,700 or below 2,200—that to jeopardize this treaty that rests on an awful lot on good faith over a genuinely serious constitutional fight which I think someday has to be resolved, that it is not worth the candle on this treaty and may in fact in turn, if we were to prevail—and I don't think we have the votes to prevail, but if we did prevail on this—would be sufficient in my view for this administration to not pursue through the treaty mechanism this agreement.

I want to remind everybody, the administration made it clear from the outset that they did not want a treaty. They did not want to have to come back to us with this treaty.

Because of the steadfastness of Senator Helms, we agreed on the principle that we would insist that any agreement—we knew it was being negotiated in Moscow—be brought back before the Senate.

So my concern is that this agreement, which the administration unilaterally and bilaterally supports—that is, with the Russians or without the Russians, and they don't really much care what we think about it anyway, whether it be in terms of a treaty—that they would be prepared to walk away from this over a genuine, legitimate, significant, constitutional issue and debate.

White House Counsel in this administration and in Democratic administrations who have suggested that Senator FEINGOLD, Senator LEVIN, and I are wrong about the prerogative of the Senate, I suggest, would be inclined to say to the President: You are going to do this anyway unilaterally—that is, move down to these ranges—you have said you are going to do it anyway; the treaty is so loose, it doesn't bind you much at all anyway; forget the treaty; just proceed on this course, and don't sign onto this principle on this fight.

I was asked by the press how I could not be willing to go to the wall on this issue since I was the guy who went to the wall that resulted in the so-called Biden condition on interpretation of treaties, which was initially added to the INF Treaty in 1988. There was a simple reason. There was a lot more at stake in that treaty in terms of the substantive impact upon the strategic balance and doctrine. We also had a circumstance where the administration very much wanted that treaty. And it was an opportunity to set in law, in principle, the principles of treaty interpretation.

So it was worth the fight, the stakes were high enough, and the administration was not likely to reject the underlying treaty if it passed, which it did. That is the practical distinction I would make.

But let me speak just another 5 minutes or so to the constitutional side of this argument. Although it is not specified in the Constitution, I believe there is a concurrent power both the President and the Senate have; and that is, the power with regard to the termination of a treaty.

Our history for over 200 years of practice is, though, decidedly mixed. At various times in our history, the Congress has directed or authorized the President to terminate a treaty.

On a few occasions, the Senate alone has done that, terminated a treaty. The President has terminated a treaty without prior congressional authorization but then received subsequent approval by the Congress and the Senate. And the President has terminated treaties unilaterally.

For example, Presidents have done so with several commercial treaties in the first half of the 20th century. President Lyndon Johnson gave notice of his intent to have the United States withdraw from a multilateral treaty on international aviation known as the Warsaw Convention. Although this notice was subsequently withdrawn, the Foreign Relations Committee held hearings on the treaty at issue, and did not challenge President Johnson's power to withdraw from it.

More recently, President Carter unilaterally terminated the Mutual Defense Treaty with Taiwan in connection with diplomatic recognition of the People's Republic of China. President Carter also gave notice of the termination of several other treaties, most related to immigration. President Clinton withdrew from multilateral agreements, including our membership in the United Nations's Industrial Development Organization.

The question of who has the power to terminate a treaty has never been definitively resolved by the Supreme Court. President Carter's decision to terminate the Taiwan Treaty was challenged by several of our Republican colleagues, and that case reached the Supreme Court. The Supreme Court decision, though, does not provide much legal precedent, though perhaps it gives us some guidance as to how the Court might rule today.

In Goldwater v. Carter—that was the case about withdrawing from the Taiwan Treaty, when we recognized the People's Republic of China—the Supreme Court vacated a decision of the Court of Appeals of the District of Columbia Circuit, a decision which had affirmed the President's power to unilaterally terminate a treaty.

By vacating the lower court ruling, though, no legal precedent was left to stand. The Supreme Court decision commanded no majority. Four Justices invoked what I know my colleagues on the floor and the Presiding Officer fully understand; they invoked what is called the Political Question Doctrine and thereby decreed the case not a matter for the courts.

The fifth Justice held the case should not be before the Supreme Court because it was not ripe for judicial review.

The only Justice who addressed the merits of the case, Justice Brennan, held for the President's power in that case because he thought termination of the treaty with Taiwan was an act that necessarily flowed from the recognition of the People's Republic of China. He argued further that recognition power is clearly held by the President within the Constitution.

The leading scholarly authority on the subject, the Restatement of Foreign Relations Law, of which the noted scholar, Columbia Law Professor Lou Henkin was a chief reporter, states: "The President has authority unilaterally to suspend or terminate" a treaty "in accordance with its terms, or to make the determination that would justify . . . terminating or suspending an agreement because of its violation by another party or because of supervening events." The Restatement concludes that this power of the President is based upon his constitutional power to conduct foreign relations."

The Restatement concedes, however, that the Senate has concurrent authority, and it could circumscribe the President's power by conditioning its consent—which is what I understood in the withdrawn amendment by my friend from Wisconsin—by conditioning its consent to that treaty on a requirement that the termination clause only be exercised with the consent of the Senate, which I happen to think we have the power to do as well.

But without turning this into a seminar—which all of my colleagues understand this full well; I am not educating anybody on this floor as to something they do not already know—without going into any more of it, I believe the Senate has concurrent power it could exercise.

I believe there will come a treaty which is of such consequence that the Senate will determine it must exercise that power. But whether it is wise to do so as is done in the Levin-Feingold amendment is another matter, in my view.

In closing, I think Senators LEVIN and FEINGOLD raise important legal and substantive concerns. I think it would prompt, in this case—because it goes, in a sense, beyond this treaty the precedent we would be establishing—I think it would prompt—and obviously I don't know—strong executive branch opposition, and all done at this point to make a legal point. No matter how much I agree with it, it is to make a legal point that does not substantively have much impact here. I think it is really better made for a treaty of more substance and consequence than this one.

Let me make it real clear what I mean by that. I do not want to belittle this treaty. I do not mean to imply it is of no value. But I think, quite frankly, if we are to go to the point to take this to the wall, and we were to pass this amendment—and I realize it has been changed now; it is not as consequential as both the Senators would have liked, because the Feingold provision has been withdrawn, and as much as I would like it if we were going to set down a principle here, I think the consequence of its passage, if it resulted in this administration walking away from this treaty, would do much more harm than any possible good could be done by our adopting this amendment.

The point made by the chairman is we are no worse off constitutionally on this unresolved, substantive issue because of the language unanimously added in the committee. So essentially what we are saying here—what I am saying here, and I think the chairman—and I am not suggesting he should associate himself with my remarks as to what the President's and the Senate's power is—but we are basically saying we have agreed to fight this fight another day on another treaty at another time.

How do you define in treaty language what "consult" means? In declaration 6, we use the term "consult," but it needs much less specificity there because it is even more vague. So I think you build in confusion, difficult to define, in even adding the Levin language.

This is an uncomfortable position for me to be in, both intellectually and politically, to be not supporting this amendment. I want my colleagues to understand why. I want to make it clear, even though I agreed with the chairman that I would not, as the ranking member, support amendments beyond what we had agreed to in order to get this done, I want to make it clear to my Democratic colleagues, I am not in any way asking anyone to be bound by that. I am not trying to speak for the Democrats on that issue. I am giving my best advice as to how I think, for what it is worth, we can enhance the prospect that we really will, through this treaty, accomplish a momentum that relates to reducing the number of nuclear weapons each side has at its disposal.

And ultimately, hopefully by the provisions we have in some of the declarations, we will not stop at this treaty. We will not stop at this methodology. We will try to move on to everything, including tactical weapons at some point down the road.

That is my reasoning, for what it is worth. I am not going to support even the less constitutionally controversial provision of the Levin-Feingold amendment for the reasons I have stated.

I pledge to my colleagues, assuming I am around and assuming we have the opportunity, God willing, to be able to establish this principle on a really significant agreement that we make, a mutual agreement or multilateral agreement with other parties in the world that promotes everything from arms reduction to our interest, this fight has to be made at some point. I just don't think it is worth the candle on this at this moment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let me thank my colleagues for their comments. Some of what they say frankly amazes me and startles me.

How the administration could possibly walk away from this treaty because a Resolution of Ratification contains the requirement that they give us 60 days' notice before withdrawing, when in fact they say they are intending to give us that notice, amazes me. The administration has represented to the Senate by Secretary Powell that it is their intention to discuss any need to withdraw from the treaty with the Congress. That is their intention.

How it can be suggested they are going to walk away from a treaty which simply puts into our ratification resolution and embodies what they intend to do, anyway, is a complete mystery to me. It raises the question, are they serious about that intention? Can't we take them seriously? Can't we assure ourselves that maybe the next administration, because it might not have the same intention, should be bound by us? Do we have to leave this requirement to give notice of withdrawal from a treaty up to the absolute discretion of an executive branch? That is not protecting the constitutional role and requirement and obligation and responsibility of the Senate.

The question was raised by my dear friend from Delaware about what the word "consult" means in the amendment. It means the same thing as in the language which the Foreign Relations Committee has given us. In declaration 6 of the resolution, it says the Senate urges the President to consult with the Senate. We define "consult" in the way the Foreign Relations Committee defines it.

Mr. BIDEN. If the Senator will yield.

Mr. LEVIN. I am happy to.

Mr. BIDEN. The difference is the declaration is not binding.

Mr. LEVIN. That is the important difference. But the word is the same word.

Mr. BIDEN. It is the same word, but the need for precision in a nonbinding declaration is a lot less important, in a judicial sense, than it is in a binding provision. That is the only point I was making.

Mr. LEVIN. The important fact is it is not binding.

Mr. BIDEN. Yes.

Mr. LEVIN. That is what it comes down to. This is not an issue as to who has the power to withdraw from a treaty. Both the Senator from Indiana and the Senator from Delaware make arguments about that issue. That is not resolved in this amendment. Both of their remarks address that issue, as did my remarks. I am the first one to acknowledge that as a matter of fact the Constitution is silent with respect to the power to terminate treaties. That is the quote I used before that came from the Congressional Research Service. The Constitution is silent. There has not been a resolution of this issue.

There is the Goldwater case that can be interpreted as the Senator from Delaware did. We do not resolve that issue in this amendment. This amendment does not remove from the President, nor does it purport to remove from the President, the power to terminate or extend a treaty. That issue is a major constitutional issue.

I cannot believe, and I did not hear that either of our colleagues suggested, that there is a constitutional problem with my amendment because my amendment does not require the President to get the advice and consent of the Senate to withdraw from the treaty. My amendment simply says: Before you exercise your right to withdraw, give 60 days' notice to the Senate. I don't think there is the slightest constitutional infirmity in simply providing what the President says he intends to do and what the committee says is desirable be done in the language of the committee ratification resolution, that we urge a formal request that the executive branch consult with the Senate of the United States.

There is no constitutional issue with my amendment. With the Senator from Wisconsin's second-degree amendment, which has been withdrawn, there was a very serious constitutional issue, one which we could spend days on in the Senate, as to whether or not we can require in a ratification resolution that the President obtain our consent to the withdrawal from a treaty. That is a major, massive constitutional issue. That one has resonated around the country for a couple hundred years. That was not going to be resolved in this Resolution of Ratification. I hope some day it is resolved in a lengthy debate.

But what I am proposing is simply the most modest step to give some protection to the obligation and responsibility of this institution relative to treaty-making power, which is that we just be given notice, 60 days' notice, and consultation prior to a decision of the President to withdraw from a treaty.

I have not heard today, and I don't believe that there is, a serious argument that my amendment raises constitutional issues. As a matter of fact, almost by definition, it cannot, since the President says he is intending to consult with us and since the committee says it is desirable that he do so.

I have not heard that argument. Again, I don't believe it could be a serious argument, that we could simply not do what this amendment does, which is to require that there be 60 days' notice and consultation.

But how the suggestion could be made that the President would walk away from this treaty if the Resolution of Ratification contains language that embodies what the intention of the administration is to do anyway, and what the committee is urging the administration to do anyway, is a complete mystery to me. That one befuddles me—the idea that this administration, which has proposed and signed this treaty, would walk away from the treaty if the Senate says in a ratification resolution that the administration will give us the same notice that the administration says it intends to give us. That one, it seems to me, is not a credible argument.

So there is going to be disagreement as to whether or not the Senate has the power to put in a ratification resolution a provision that the President must, before extension or withdrawal, get the approval of the Senate. If that were part of my amendment, I could understand why there would be a massive debate over that issue—mainly between the White House, which I think would say no way, and many Members of the Senate would say that is the only way we can protect the constitutional obligation of the Senate. But that is not this amendment. That was the Feingold amendment, which was withdrawn.

This amendment walks a middle road and says we want to get a commitment in this resolution that we be given the notice and consultation which the administration says it intends to give us. It cannot bind future administrations. This administration—I don't have any doubt—intends to do what it says it intends to do. Secretary Powell says he intends to give notice. I take him at his word. He is an honorable man. But administrations come and go and intentions change with future administrations. That is the relevance of this amendment—to put in our ratification resolution what the committee says is desirable, and what the committee says it urges the administration to do, and what the administration says it intends to do, and about which I have not heard a constitutional argument, for good reason, because here we are not limiting the power of the President to withdraw from a treaty.

The President has the same power to withdraw from a treaty before or after my amendment is defeated or accepted. That power doesn't change. What changes, however, with this amendment, would be to say that the Senate, as part of its treaty obligation and responsibility, wants to be informed prior to the withdrawal from or extension of a treaty that the executive branch enters into.

That is, again, a summary of the amendment. I hope, even though obviously the leaders of the Foreign Relations Committee oppose this for the reasons they give—and I don't think there are two Members of the Senate for whom I have greater respect than these two Members. We have worked together on these issues. Senator LUGAR, Senator BIDEN, and I have worked together on so many issues over the years that I have lost count. My respect and regard for them is boundless. But I think this is an issue of important principle that the Senate should address—whether or not we want to be given notice before a President withdraws from this treaty that we are about to ratify, hopefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, again, I will simply say that in our Resolution of Ratification—and this is what we have before the Senate now:

> Given the Senate's continuing interest in the treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and the alliance obligation of the United States, the Senate urges the President to consult with the Senate prior to taking action relevant to paragraphs 2 or 3 of article 4 of the treaty.

It seems to me the language is clear. We have spelled it out. In addition, we have had testimony and have queried Secretary Powell regarding his interpretation of the role of the Congress, and he has assured us that there would be consultation.

Mr. LEVIN. Will the Senator yield for a question?

Mr. LUGAR. Yes.

Mr. LEVIN. This is a procedural inquiry. We are trying to determine—to assist a colleague who has an urgent, unusual need—if we can set a time on this amendment at 4:05; would that be amenable? I hate to interrupt my friend.

Mr. LUGAR. Yes, that would be very satisfactory. In fact, I even will propose a time sooner than that if that is in the realm of the possible.

Mr. LEVIN. That is what is difficult. The earlier we are able to set a time, the earlier we will be able to vote. If we set it 10 minutes from now, it would have to be 4:15 instead of 4:05.

Mr. LUGAR. Let me make a proposal and, in fact, offer a unanimous consent at this time to that effect.

I ask unanimous consent that the vote in relation to the Levin amendment No. 252 occur at 4:05 today, and that the time until then be equally divided in the usual form; further, that no second-degree amendments be in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LUGAR. I thank the Senator from Michigan for that suggestion.

I will conclude by indicating that the Senator from Michigan and the Senator from Wisconsin proposed a serious constitutional issue. At the initiation of this debate, I indicated that this is not a settled law. I also argue that this is not the treaty on which to attempt to settle. There has been precedent—at least in terms of activity that both the distinguished Senator from Delaware and I have decided. I pointed out 30 treaties terminated by the President since 1980. This is a lot of treaties. That has been the regular practice.

I referred to a debate on this issue indicated in 1919 on the Versailles Treaty on which the Vice President of the United States addressed the Senate. The Senate did not come up with a two-thirds vote to change the fact that the Constitution is silent.

I accept the fact that the Senator from Michigan pointed out at some point in our history—and I think the Senator from Delaware made the same point—we may want to have this debate, but I hope not on this treaty at this time, given the assurance by the Secretary of State, and likewise by the committee, in our article 4 to this treaty.

For the benefit of Senators, there are about 26 minutes left and, essentially, we will leave it to the Chair how that should be divided.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I have a minor point, but the RECORD should be clarified. When I was referring to what my friend from Michigan said about the difference between the declaration and his condition—one being binding, one not—I referred to the word "consult." It goes beyond that. The ambiguous language really is in the declaration. In his proposal is "any action relevant" to paragraphs 2 or 3 of article 4 of the treaty, which is the action relevant to the extension or withdrawal—that is the language that was taken by him, properly so, from the declaration, and that is the part that is ambiguous, not the word "consult."

At any rate, it is a distinction without a great difference.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware does not control the time and cannot suggest the absence of a quorum. The Senators from Indiana and Michigan control time under the order.

Mr. LUGAR. I suggest the absence of a quorum equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 252, AS MODIFIED

Mr. LEVIN. Mr. President, I believe the yeas and nays have not been ordered. I modify my amendment by striking the word "any" on line 5 and striking the word "relevant" on line 5 and substituting the word "pursuant" for the word "relevant" on line 5. The modification is at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 252), as modified, is as follows:

> At the end of section 2, add the following new condition:
>
> (3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking action pursuant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—
>
> (i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and
>
> (ii) consult with the Senate on such action.
>
> (B) The President may waive a requirement in subparagrah (A) if the President—
>
> (i) determines that national security needs prevent the President from meeting the requirement; and
>
> (ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.
>
> In section 3, strike declaration (6).

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, I ask unanimous consent Senator KENNEDY be added as a cosponsor to the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Florida (Mr. GRAHAM), and the Senator from Georgia (Mr. MILLER), are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. BYRD) would vote "aye".

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 41 Ex.]

YEAS—44

Akaka
Baucus
Bayh
Bingaman
Boxer
Breaux
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—50

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
Murkowski
Nelson (FL)
Nickles
Roberts
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—6

Byrd
Domenici
Graham (FL)
McConnell
Miller
Smith

Mr. LUGAR. Madam President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 254

Mr. AKAKA. Madam President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 254.

Mr. AKAKA. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify information to be included in the annual report on the role of Cooperative Threat Reduction and nonproliferation assistance under condition 1 in section 2)

At the end of the last sentence of condition 1 in section 2, strike the period and insert the following: ", and shall include—

"(A) an estimate of the funding levels required in the fiscal year following the year of the report to implement all Cooperative Threat Reduction programs and other nonproliferation programs relevant to the Treaty and ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion; and

"(B) a description of any initiatives proposed by the President to address any matter covered by subparagraph (A) in order to improve the implementation or effectiveness of the Treaty.".

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, this amendment is the result of several hearings I chaired in the Governmental Affairs Subcommittee on International Security and Proliferation on the importance of Nunn-Lugar Cooperative Threat Reduction assistance to national security.

The collapse of the Soviet Union left stockpiles of nuclear weapons and materials vulnerable to theft and diversion. The Nunn-Lugar legislative initiative of 1991 established several threat reduction programs in the Departments of Defense and Energy to help dismantle weapons of mass destruction or improve their security. These programs, along with others in the State Department, are critical to preventing the proliferation of weapons of mass destruction or the diversion of material to terrorists.

U.S. nonproliferation activities have accomplished a great deal. With American assistance, all nuclear weapons have been removed from Ukraine, Kazakhstan, and Belarus. Our nonproliferation programs also prevent the recruitment by terrorists or other countries of WMD scientists and engineers.

The CTR and other nonproliferation programs are making progress but face a new set of responsibilities in light of the Moscow Treaty. The Russian Federation intends to reduce and destroy various weapons systems with U.S. assistance under the CTR and other nonproliferation programs.

I strongly support language in the Moscow Treaty that directs the President to "submit to Congress . . . a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently. . . ."

In November 2001, President Bush and President Putin met to discuss historic cuts to the nuclear stockpiles in the U.S. and in Russia. This discussion led to the Moscow Treaty before us today.

After the first day of that summit, President Bush remarked that:

> [o]ur highest priority is to keep terrorists from acquiring weapons of mass destruction . . . we will strengthen our efforts to cut off every possible source of biological, chemical, and nuclear weapons material and expertise.

The CTR and other nonproliferation programs are the primary means we have to prevent weapons, weapon-usable materials, and expertise in the Russian Federation from falling into the hands of terrorists. Secretary of State Powell said, in testimony before the Senate, that the CTR program will be used to "make warhead storage facilities more secure. Such U.S. assistance will also increase the security of the Russian warheads made excess as provided in the Moscow Treaty."

The goals of the CTR and other nonproliferation programs are vital to national security. Getting there will be difficult. We must provide these programs with the funding necessary to accomplish their important and challenging task.

I have joined my friend and colleague, Senator LUGAR, in supporting adequate funding and high-level administration support for these programs for years. For this reason, my amendment would ensure funding estimates are included in this annual report on CTR contributions to Russian implementation of the Moscow Treaty. It is important that Congress know how the CTR and nonproliferation programs can be used to help the Russian Federation with its treaty obligations. It is equally important for Congress to know what these programs require to realize their full potential for enhancing security.

AMENDMENT NO. 254, WITHDRAWN

Madam President, I have had discussions with the distinguished chairman concerning my amendment. He has given me assurances that the intent of my amendment will be covered in the report mentioned in condition 1 and other reports already required by Congress. For this reason, I withdraw my amendment, and Senator LUGAR and I will enter into a colloquy on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the distinguished Senator from Hawaii for his very important thoughts about threat reduction and about our mutual quest and support.

Mr. AKAKA. I thank my friend, the Senior Senator from Indiana, for this opportunity to discuss with him the Cooperative Threat Reduction and other non-proliferation programs and their importance to effective implementation of the Moscow Treaty.

I have chaired several hearings in the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, and undertaken several studies, on the importance of the Nunn-Lugar Cooperative Threat Reduction. Because of this work it was my intent today to offer an amendment to the Moscow Treaty to expand the report on Cooperative Threat Reduction and non-proliferation programs contained in the recommended resolution of ratification by including funding requirements.

As my colleague knows, the collapse of the Soviet Union left stockpiles of nuclear weapons and materials vulnerable to theft and diversion. The Senate and the Nation have benefited from the Senior Senator's leadership in the Nunn-Lugar legislative initiative of 1991 that established threat reduction programs in the Departments of Defense and Energy to help dismantle weapons of mass destruction or improve their security. These programs, along with others in the State Department, are critical to preventing the proliferation of weapons of mass destruction or the diversion of material to terrorists.

My amendment would amend Condition One in the Resolution of Ratification so that the annual report on non-proliferation programs includes two important pieces of information. First, the report would include an estimate of funding levels necessary for the CTR and other non-proliferation programs relevant to the Treaty to ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion. Second, the report would include a description of any initiatives proposed by the President for the CTR or other non-proliferation programs that will improve the implementation or effectiveness of the Treaty. I understand through my conversation with the chairman of the Foreign Relations Committee that, while he appreciates my concerns and reasons behind my amendment, it should not be included in the resolution before us.

U.S. non-proliferation activities have accomplished a great deal. With American assistance, all nuclear weapons have been removed from Ukraine, Kazakhstan, and Belarus. Our non-proliferation programs also prevent the recruitment by terrorists or other countries of WMD scientists and engineers.

Mr. LUGAR. I agree with my friend. The CTR and other non-proliferation programs are making progress but face a new set of responsibilities in light of the Moscow Treaty. The Russian Federation intends to reduce, destroy, and account for various weapons systems, materials, and expertise with U.S. assistance under the CTR and other non-proliferation programs. For this reason, the Foreign Relations Committee included Condition One to the Treaty to require the President to submit to Congress an annual report and recommendations on how Cooperative Threat Reduction assistance can best help the Russian Federation implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material.

Mr. AKAKA. I strongly support this language. The Committee Report on the Moscow Treaty states that this report will include "the role of Cooperative Threat Reduction and non-proliferation assistance." Am I correct in my interpretation that the annual report will include the contribution of both the Department of Defense CTR program and other programs that are relevant to Treaty implementation and security and accounting of nuclear weapons and materials?

Mr. LUGAR. Yes, this report is intended to establish the rationale for all U.S. non-proliferation programs insofar as they can be used to help Russia dismantle weapons or assure the security of those weapons and of the fissile material in them. The report also will include the amount of CTR assistance that the Russian Federation will need to meet its obligations under the Treaty.

Mr. AKAKA. That is good to hear. I have joined with my friend in advocating for adequate funding and high-level administration support for these non-proliferation programs for years. For this reason, I was considering offering an amendment to include funding estimates needed to assist Russia meet its obligations under the Moscow Treaty. It is important that Congress know how the CTR and non-proliferation programs can be used to help the Russian Federation with its Treaty obligations and how best to fund these programs to meet Treaty obligations. Does my colleague believe it would be useful if such information was provided to Congress?

Mr. LUGAR. Yes, I agree that such information is useful. However I believe that this information already is provided as part of the overall CTR annual report to Congress by the Department of Defense and annual reports by other non-proliferation programs. Specifically, the CTR annual report contains funding levels for individual projects as well as five-year cost estimates.

I understand my colleague's concern that this report does not address Treaty-specific programs. The report required in the resolution of ratification could lay the groundwork for future cost and program requirements for non-proliferation that perhaps can be addressed in the Defense authorization bill.

Mr. AKAKA. As a member of the Senate Armed Services Committee, I look forward to the opportunity to work with you in defining the amount and extent of information we need to adequately fund and support these important programs. I also understand your desire to keep paperwork and reporting requirements to a minimum for the small but hardworking staff of the CTR program. Accurate and timely reporting of this information is crucial for proper congressional oversight of these programs. It is my hope that the administration understands my concerns.

In November 2001 President Bush remarked that "[o]ur highest priority is to keep terrorists from acquiring weapons of mass destruction . . . we will strengthen our efforts to cut off every possible source of biological, chemical, and nuclear weapons material and expertise." I know my friend shares my respect for the CTR and other non-proliferation programs that are the primary means we have to prevent weapons, weapons-usable materials, and expertise in the Russian Federation from falling into the hands of terrorists.

The goals of the CTR and other non-proliferation programs are vital to national security. Getting there will be difficult. I know that by working together we can provide these programs with the funding necessary to accomplish their important and challenging task.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I rise to express my support for the Strategic Offensive Reduction Treaty, otherwise known as the Moscow Treaty, which was signed by President Bush and President Putin on May 24, 2002. This treaty is important because it signifies that Russia and the United States are committed to and cooperating on the reduction of nuclear weapons. It carries the weight of law and will remain in force for a decade. It is also important because it binds the United States and the Russian Federation to each reduce the number of operationally deployed strategic weapons to between 1,700 and 2,200 by the end of 2012.

Presently, the United States has approximately 6,000 nuclear weapons and the Russian Federation has almost 5,500 nuclear weapons. The Moscow Treaty is a step forward, reducing the danger of large numbers of operationally deployed nuclear weapons. This treaty is a good step, but it is only a small step. Much more must be done. Russia entered into negotiations seeking a legally binding document that would limit strategic nuclear warheads, and in their words "provide transparency and predictability" by containing definitions, and counting and elimination rules that resembled those in the START Treaties. Ultimately, Russia wanted to ensure that this process would be irreversible; in their words, that it would ensure the "irreversibility of the reduction of nuclear forces."

This administration, however, had different goals. Russia had to convince the United States to sign a legally binding document rather than a less formal exchange of letters. The United States rejected any limits and counting rules that would have required the elimination of delivery vehicles and warheads, stating that it wanted flexibility to reduce its forces at its own pace and to restore warheads to deployed forces if conditions warranted. So while this treaty changes the status of some operationally deployed warheads, it does not require the dismantling of a single weapon. Once this treaty is fully implemented, the United States will still have approximately 6,000 nuclear weapons. There will just be more weapons in storage. And similarly, the Russians could have approximately 5,500 nuclear weapons, but they would be nonoperational according to the lines of this treaty.

The treaty does not bind either party to any schedule for deactivation. It only requires that cuts be completed by December 31, 2012, the day the treaty expires. This means that either side can stop or even reverse the reduction process over the decade as long as both parties comply by the final date of the treaty.

The treaty does not specifically address the problems of tactical nuclear weapons or MIRV'd ICBMs. The number of Russian tactical nuclear weapons is believed to be between 8,000 and 15,000, while the United States has approximately 2,000. Russian tactical nuclear weapons are subject to fewer safeguards and are more prone to theft and proliferation. These are the proverbial suitcase weapons, often discussed in the press, which are the ones that are most mobile, most difficult to trace and detect. And the treaty does not deal with these weapons at all.

In addition, the Moscow Treaty effectively ends START II, which I will discuss in more detail later, which means that Russia will likely keep its weapons MIRV'd, meaning they will have multiple warheads on their weapons. Since MIRV'd weapons are fewer and more vulnerable, it increases the perceived need for a first strike.

Another shortcoming of the Moscow Treaty is that it includes no verification procedures. START I verification procedures will remain in place until 2009. But there was never agreement between the parties about which, if any, procedures could be used in the Moscow Treaty. Discussion of verification procedures is supposed to continue, but the administration recently stated: We have determined that specific additional transparency measures are not needed and will not be sought at this time.

I also believe the treaty withdrawal provisions are too lax. Parties can withdraw from the Moscow Treaty with 3-months notice without giving any reason. This means a party needs no compelling reason to stop complying with the terms of this treaty.

Finally, the terms of this treaty must be met by December 31, 2012, but that is the day the treaty expires. It is possible that it could be extended, but another agreement would have to be reached to do that. On the other hand, it could also lapse so the parties could raise the numbers of operationally deployed warheads above 2,200 on January 1, 2013. In effect, they could go through the term of the treaty without significant reductions, let the treaty lapse, and nothing would have been affected by the treaty. I hope certainly that doesn't happen.

I commend my colleagues on the Senate Foreign Relations Committee, Senator LUGAR and Senator BIDEN. They have done a remarkable job of adding some detail to the treaty.

The resolution we are considering today contains two important conditions. The first condition requires a report and recommendation on how cooperative threat reduction assistance to the Russian Federation can best contribute to the efficient implementation of the treaty and maintain the security and accurate accounting of Russia's nuclear weapons and materiel. As I will discuss in detail later, the CTR program is the most effective tool to counter proliferation, and we must do all we can to maintain it.

Secondly, the resolution requires an annual implementation report which will include, among other items, a listing of strategic nuclear weapons force levels for both parties, a detailed description on strategic offensive reductions planned by each party for the current year, and how these reductions will be achieved, verification and transparency measures taken or proposed by each party, and actions taken or proposed to improve the implementation and effectiveness of the treaty.

There are also several nonbinding declarations, most of which request reports to Congress and encourage the President to continue to work to reduce nuclear weapons. These conditions and declarations make the treaty more substantial and, I believe, more effective.

I will support this treaty strengthened by this resolution. I want to say to the administration, however, that this is simply not enough. The rise of rogue nations and rogue nonstate actors, has made the threat of proliferation even more urgent. One of the legacies of the cold war is the abundance of nuclear weapons and fissionable material that is no longer under the clear control of the Russian Federation or other former states of the Soviet Union. Moreover, many of these nuclear weapons are housed in nations which are struggling economically and are susceptible to offers from rogue actors to acquire these materials.

As Graham Allison of Harvard, former dean at the Kennedy School, stated:

> The single largest threat to American lives and liberties going forward for the next decade is terrorism, particularly terrorism with weapons of mass destruction. The one that I have been most concerned about is loose nukes.

We must do everything possible to counter proliferation through protection, containment, and interdiction. In 1991, former Senator Sam Nunn and Chairman RICHARD LUGAR recognized the risk presented by the proliferation of weapons of mass destruction. They created—history will record this—one of the most important initiatives that has been seen in this Senate, in this country in many years; that is, the counterproliferation program, the cooperative threat reduction program.

The programs they established in the Department of State, the Department of Energy, and the Department of Defense, have had significant success in preventing the proliferation of weapons of mass destruction. Through these programs, the United States has secured tons of nuclear materials in the former Soviet Union; helped deactivate, dismantle, or destroy thousands of Russian nuclear weapons and delivery systems; and helped provide employment for hundreds of Russian scientists and engineers with expertise in building nuclear, chemical, or biological weapons, who otherwise might be tempted to sell their expertise to unfriendly nations or terrorist organizations. This is an extraordinary accomplishment, but so much needs to be done in addition.

Even though only about $1 billion of the $400 billion defense budget is annually allocated to support these programs, they have been among the most successful of all nonproliferation efforts undertaken by this country. Given the success of the programs, it is difficult to understand why securing adequate funding has been a significant challenge in the Bush administration.

I also want to add my voice to those of my many colleagues who believe the United States and the international community are capable of doing, and must do, much more in this regard. Let me quote once again from the expert, Senator LUGAR, who in his article in the December 2002 issue of Arms Control Today, said:

> It is critical that the United States lead in establishing a global coalition capable of exerting pressure on states to cooperate with the safeguarding, accounting, and (where possible) destruction of weapons and materials of mass destruction. Given that a war is being contemplated with Iraq over the question of their weapons programs, it is reasonable to ask why more is not being done on a global scale to control other proliferation risks.

I agree with the chairman. I also agree with his statement:

> We must not only accelerate dismantlement efforts in Russia, we must broaden our capability to address proliferation risks elsewhere and build a global coalition to support such efforts.

Clearly, undeniably, there is a lot of work to be done in these programs, not the least of which is to make up for time lost to these programs over the past 2 years.

The Bush administration put most of the nonproliferation programs on hold during fiscal year 2001, in order to conduct a review to determine the validity of the programs. Luckily, most of the programs survived the review, and some were even strengthened; but little progress was made as very little work was done during this yearlong review.

Then, at the completion of the review, the fiscal year 2002, and all previous years, funds for the Nunn-Lugar Cooperative Threat Reduction Program were frozen for over a year because the Bush administration failed to make the required certification to spend the money.

Just recently, these funds have been released as a result of waiver authority included in the fiscal year 2003 Defense

Authorization Act. This is waiver authority that the Republicans in the other body wanted to severely restrict and limit to 1 year, but luckily, in the end, the Senate was able to prevail and provide an unrestricted waiver for 3 years.

These two events, the program review and the inability to certify, effectively stopped the Nunn-Lugar programs for approximately 2 years. The effectiveness of some of these programs has clearly been inhibited, if not damaged. The challenge now is to work to regain and then increase their effectiveness.

The sheer magnitude of the problem of proliferation dictates that we must find an international consensus and work through multilateral arrangements.

Despite the bureaucracy and delay that accompanies international cooperation, I believe it is necessary, especially in the area of arms control regimes, to have a multilateral approach.

A report by the Rand Corporation to the then-President-elect Bush pointed out:

> Without our democratic allies, many emerging global issues will likely prove to be beyond our ability to manage, but together with them, the United States will gain unparalleled ability to respond to tomorrow's demands and shape the future.

Regrettably, the Bush administration has demonstrated a distrust of international organizations.

Since President Bush took office, the administration has withdrawn from the ABM Treaty and walked away from meaningful negotiations concerning START II.

Indeed, in the preamble and article 2 of the Moscow Treaty, the first Strategic Arms Reduction Treaty is referred to as START, not START I. START II is evident only in its absence from this treaty.

Assistant Secretary of Defense J. D. Crouch has said:

> I think we have sort of moved beyond START II.

Many Russian officials have recognized what appears to be the inevitability of this and indicated they are considering START II dead—meaning that Russia is no longer obligated to eliminate its MIRV'd ICBMs.

We must recognize that in many areas, including arms control, the United States cannot go it alone, and we have to not only encourage but actively work to create an international coalition, particularly with respect to proliferation of these weapons and nuclear materials.

I am also concerned that recent actions by the United States seems to indicate that while we talk about nonproliferation in principle, in practice we seem to be somewhat ambivalent. This is exacerbated when it appears that the U.S. is increasing the importance of nuclear weapons in our defense policy.

While the nonproliferation programs were being held up, the administration was working on a new nuclear posture review that would put more emphasis on nuclear weapons. The December 2001 Nuclear Posture Review laid out a framework which includes maintaining the current size of the nuclear weapons stockpile, not reducing it; blurring the distinction between nuclear offensive strike and conventional offensive strike; introducing the notion that new nuclear weapons might be needed to meet changing security requirements; holding open the possibility of resuming nuclear weapons testing, either to develop nuclear weapons, or to maintain the current stockpile; supporting a robust nuclear weapons complex, not just to implement the stockpile stewardship program, but to manufacture hundreds of new plutonium pits per year, and to be able to design a new weapon if needed; and increase "test readiness"—the level of readiness to conduct a nuclear weapons test, reducing that time period from 36 months to 18 months, essentially leaning further forward to the possibility of resuming nuclear tests. In addition, the Bush administration sought $15.5 million in its fiscal year 2003 request for a robust nuclear earth penetrator to use against hardened and deeply buried targets. This RNEP would modify an existing nuclear weapon with yields up to a megaton. Despite the fact that the fiscal year 2003 National Defense Authorization Act requires a report of the plan for this weapon before funds are released, there is an additional $15 million requested for this program in the fiscal year 2004 budget, indicating that the administration is still determined to try to develop this new variety of nuclear weapon.

There has also been a renewed interest in the development of small nuclear weapons. Even though there is clearly no military requirement for such a weapon, again in its fiscal year 2004 legislative proposal, the Department of Defense seeks the total repeal of a current ban on research and development that could lead to production of a low-yield nuclear weapon.

DOD states that this law, in their words, "has negatively affected U.S. Government efforts to support the national strategy to counter weapons of mass destruction and undercuts efforts that could strengthen our ability to deter, or respond to, new or emerging threats."

Frankly, this adds up to a very disturbing path of legitimizing the use of nuclear weapons in a world in which we are dramatically concerned with the possibility that Iraq is attempting to obtain nuclear weapons, a world in which the North Koreans are beginning to flaunt their ability to produce nuclear weapons, in which India and Pakistan are on the brink of conflict with nuclear weapons. The idea that we are lowering our own threshold to deploy, to use, to consider in our doctrine the use of nuclear weapons is, I think, an unfortunate and very dangerous approach. These continued efforts, both in the posture review, in requests for new weapons, in requests to investigate and do research on new types of nuclear weapons, and this legitimacy for the use of nuclear weapons, will have profound and detrimental consequences throughout the world.

It is extraordinarily difficult, if not impossible, to urge other nations to forswear the development and use of nuclear weapons if we are so routinely talking about the development and use of nuclear weapons. This is a very disturbing development.

We have to look at nonproliferation as part of our overall defense policy. Advocating new or usable nuclear weapons destroys, inhibits, and damages the credibility of the United States as we seek to restrain the development and deployment of nuclear weapons. I hope that message comes through in not only today's discussions, but in this treaty.

I am also concerned with another aspect of the current situation. We are talking about our approach to Iraq as a need to disarm Saddam before he acquires nuclear weapons. Yet we have moved rather gingerly and pushed over to the United Nations the problem of North Korea which is on the verge of beginning to operate its reprocessing facilities, with the capability of building nuclear devices within months, if not weeks.

I think this leads many people, and not just those who follow these policy debates but most ordinary Americans, to wonder what is the difference. Why is the situation in Iraq so compelling, even though there is little evidence that Saddam is on the verge of producing a nuclear weapon, that we engage in a military conflict, while, on the other hand, when there is glaring evidence of the ability of the North Koreans to produce such a weapon, we have moved this along into the category of not a crisis, something the U.N. can handle? That intellectual dilemma is puzzling many people throughout this country.

I believe there is a crisis in North Korea, and I believe it is a crisis that requires the prompt attention of the President. If one looks at the strategic vision we have to embrace, it can perhaps be divided into several major tasks.

The first is to preempt terrorists and, indeed, we saw this week an effective use of our military and intelligence forces and our allies in Pakistan. Then we have to interdict, contain, and stop the proliferation of weapons of mass destruction.

The North Koreans, in my mind, pose a much more difficult challenge to us than the Iraqis at the moment. Not only are they on the verge of producing a nuclear weapon because they have the nuclear material, they also have a history of selling anything to anyone because their major cash crop is selling weapons to anyone who will buy them.

We are here today to conclude a very small but a very important step forward with the support of the Moscow Treaty, but we have much more to do when it comes to particularly supporting efforts by our country in an international coalition to preempt, to interdict, to stop the proliferation of nuclear weapons and weapons of mass destruction, and I think to reexamine carefully and thoroughly the new emphasis we are putting on the development and use of nuclear weapons in our inventory.

I believe we will regret the day we give legitimacy to the potential use of nuclear weapons by any power, including the United States.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts.

AMENDMENT NO. 255

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KERRY) proposes an amendment numbered 255.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional condition)

At the end of section 2, add the following new condition:

(3) ANNUAL REPORTS ON MONITORING CAPABILITIES.—(A) Not later than 60 days after the exchange of the instruments of ratification of the Treaty, and annually thereafter on May 1, the President shall submit to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate an estimate, prepared by the Director of Central Intelligence, on the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty.

(B) Each estimate shall meet the requirements of a national intelligence estimate under section 103(b)(2)(A) of the National Security Act of 1947 (50 U.S.C. 403-3(b)(2)(A)), and shall include—

(i) an estimate, for each strategic nuclear weapons system of the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads on such system;

(ii) an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty—

(I) under the verification measures of the verification regime under the Treaty on the Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty); and

(II) after the verification regime expires upon termination of the START Treaty; and

(iii) additional mechanisms to ensure United States monitoring of the compliance of the Russian Federation with the requirements of the Treaty, including—

(I) further agreements between the United States and the Russian Federation;

(II) mutual data exchanges between the United States and the Russian Federation;

(III) improvements in the transparency of strategic offensive reductions under the Treaty;

(IV) improvements to existing monitoring technologies; and

(V) other appropriate mechanisms.

(C) Each estimate shall be submitted in both classified and unclassified form.

Mr. KERRY. Mr. President, the Strategic Offensive Reduction Treaty that has been under consideration for a couple of days, also known as the Moscow Treaty, is, in my judgment, in the 18 years I have been here thinking about arms control and certainly as part of the debate in the Foreign Relations Committee and on the floor in the ratification of treaties, as flimsy a treaty as the Senate has ever considered. I believe its faults are many. At best, its defenders contend that it does no harm, but I find fault even in that assessment, and I find fault ultimately in this treaty.

The Moscow Treaty promises to reduce the deployed offensive weapons of the United States and Russia to a range of between 1,700 to 2,200 each by December 31, 2012. As far as the treaty goes, that is the highlight.

I think, under certain circumstances, one would certainly say that reducing its own number of deployed missiles is a worthy goal and something we want to achieve, but in the world we live in today, simply reducing their deployment, where they are sometimes under better control than they are going to be if they are not deployed, it may, in fact, be taking a dangerous situation and perhaps lending itself to the greater dangers of this particular moment of history.

In my assessment, regrettably, the treaty amounts to little more than a series of missed opportunities. Let me be precise about that point.

It does not mandate a reduction in total warheads. None must be dismantled. The treaty merely requires both parties to reduce the number of warheads in their operationally deployed arsenals. It provides no timetable for the planned reductions in deployed forces prior to the treaty's 2012 target date. It never requires the destruction of a single launcher.

In effect, the treaty allows each side to upload, download, and mix weapons in and out of storage. It contains no verification procedures, and the vast stockpiles of nuclear warheads in this country and in Russia remain unchanged.

Nuclear weapons, as we all know, are the legacy of the cold war, the most pressing single threat that we face today as we contemplate dealing with Saddam Hussein and as we wish we were dealing with North Korea. The most pressing threat, however, is really that nuclear weapons, or their lethal components, might fall into the hands of terrorists or irresponsible governments at the head of rogue regimes. This fact makes the provisions of this treaty even more troubling.

Instead of requiring the dismantlement of warheads or launchers, the treaty simply requires that on one day in 2012, the sides are to have no more than the 1,700 or 2,200 operationally deployed nuclear weapons. The remaining thousands of weapons will be held in reserve, stockpiled for some other unforeseen need, a need, I might say, in the context of the threats we are looking at in the year 2003 that is extraordinarily hard to explain; particularly when those stockpiled weapons become the risk of stolen, bartered, sold, or blackmailed materials. By their continued existence, they present a tempting target for thieves and for terrorists.

It is no secret that there are those who are eager to capitalize on a deadly market for weapons-usable nuclear materials. The GAO has documented numerous failed attempts to smuggle nuclear materials out of Russia. I say to my colleagues that out of 20 of these incidents over the last decade, the materials involved in 13 of the 20 that we know about, and possibly as many as 15, were traced back to Russian sources.

I will tell my colleagues from my experience as a law enforcement official that if you know you caught 20 and you know you are operating with limited capacities to detect, anyone ought to be asking the question, how many did we miss and how many will we miss in the future?

The great security challenge of our day is to keep nuclear weapons out of the hands of those who would do us harm, but this treaty only expands the stockpile of nondeployed warheads in Russia, and in this country for that matter. It may advance some old cold war calculus for arms control, but it is not a part of a broader comprehensive approach to our nuclear relationship with Russia, particularly in the area of threat reduction, and there I think the treaty runs the risk of increasing the danger of nuclear theft by stockpiling thousands of warheads.

Obviously, it is the task of all of us to try to make the world more secure, not less secure. As I have said previously, we need to revitalize the Cooperative Threat Reduction Program by giving it the sustained leadership, attention, and funding it deserves.

Over the last decade, the United States has spent about $7.5 billion to deactivate 6,000 warheads and destroy thousands of delivery vehicles. Why would we spend $7.5 billion to deactivate and destroy and then bring a treaty to the floor of the Senate which does neither? We have to make good on our pledge of $10 billion over the next 10 years to the G–8 threat reduction partnership, and we need to encourage the good faith participation of our allies. But we know that even those efforts are not going to be enough.

In 2001, the bipartisan Baker-Cutler commission concluded that for our efforts to secure Russia's nuclear weapons materials and expertise to succeed, we will have to spend $30 billion over the next 10 years. That is a challenge we ought to be meeting as a primary goal prior even to the implementation of this treaty.

The treaty's supporters have noted that its brevity is important, as if the length of a treaty somehow constitutes a real accomplishment, and that provisions in it are a reflection of our new relationship with Russia.

My question is, if we are in a new environment with Russia, then why not include verification and transparency measures that reflect that new environment? The treaty does not mandate the dismantlement or destruction of warheads or launchers. Yet the provisions of this treaty turn upon themselves and the very logic underpinning the treaty as argued by its proponents. For instance, they argue, as Secretary Rumsfeld did before the Senate Foreign Relations Committee last summer, that no arms control treaty in the history of our country has ever required the destruction of warheads.

Well, if this treaty is based on the conclusion that we live in a different time, if this treaty is based on the conclusion that the cold war is really over, if this treaty is based on the conclusion that we have a new and better relationship with Russia and that we therefore can look to a new period, why then keep these warheads in storage for another day when the numbers we are reducing to under any SIOP or any warfighting plan we have ever seen are sufficient to destroy the world several times over? It simply does not make sense.

Why expand the stockpiles of stored nuclear warheads and materials when we know to a certainty, as the CIA tells us, we do not have the capacity today to safeguard those materials? Why would we do that when we are prepared to go to war against Iraq to prevent Iraq from illicitly receiving the very kinds of materials that we are about to encourage the capacity for others to seek out in the same way as we have seen others do in those 20 examples I cited a few moments ago?

The logic escapes anybody who stops to really think about what we are doing with this treaty. If we have really entered a new age and a new relationship with Russia—and I believe we have in fact—then neither Russia nor the United States should hedge on a commitment to real and meaningful arms reduction to an agreement that addresses in its very fabric the new and real threat of proliferation by theft or diversion. By doing so, we would send a signal to Saddam Hussein and to the rest of the world that we are not hedging our bets; that, in fact, we are serious and we are setting an example, and that the rest of the world is earning the justification for moving to disarm another nation for moving to nuclearization.

Those same supporters who say we need to hold on to vast stockpiles of nuclear warheads ironically argue that the profoundly changed nature of the relationship with Russia means we need not have negotiated verification regimes for this treaty.

There are still those in this country, as surely there are some in Russia, who continue to view our former cold war adversary with some measure of suspicion and distrust.

This treaty had the potential to deepen Russian-American cooperation and confidence building. If it had included verification measures, the treaty would have silenced skeptics of our new relationship by demonstrating mutual weapons reductions through inspection and verification. But, regrettably, it does not. Both sides understand that each has the potential to redeploy all of these weapons unless we can verify, at a minimum, their location. So by this feature alone, this treaty contains the seeds of future doubt and suspicion.

Verification ought to be a crucial aspect of our effort to secure nuclear weapons and materials, and if we cannot be certain that the numbers of deployed warheads have been reduced, we will not be certain of the magnitude of the challenge of securing those materials.

Since the height of the arms control negotiations, now almost two decades ago, the cry of many of my colleagues on the other side of this aisle—which I remember well for years as we tried to move through various arms control treaties—was appropriately, as Ronald Reagan said, "trust but verify."

This treaty exhibits a lot of trust but no verification. Accordingly, I am offering an amendment to help address the critical issue of verification. It is a very simple amendment, and it really ought not to present a problem to colleagues. If we are to have more confidence in this treaty, we should be working with the Russians now to achieve a viable regime to verify that reductions are indeed taking place on both sides and that they are taking place in a way that safeguards those materials. In the absence of any mutually agreed upon verification regime, we are left to rely on national means and methods to determine whether or not Russia is making the reductions promised on a reasonable schedule to meet the December 2012 target date.

My amendment adds a new condition to the Resolution of Ratification requiring an annual report prepared by the intelligence community on our ability to monitor Russia's compliance with the Moscow Treaty. For all those who have worried about trusting, verifying, and knowing what is happening, this is a very simple requirement, that we learn from our own intelligence community about our capacity to safeguard the interests of the United States of America. This national intelligence estimate must also provide an assessment of the ability of the United States to monitor compliance with the SORT treaty through the verification regime of the START I treaty and our ability to monitor compliance after the START I verification regime terminates in 2009.

Perhaps most notably, under my amendment the intelligence community is required to inform us of the mechanisms they need to verify treaty compliance with a high degree of confidence, including consideration of further agreements between the United States and the Russian Federation, mutual data exchanges between the two countries, improvements in the transparency of reductions that are called for in this treaty, technological improvements, and other appropriate mechanisms.

I have long viewed this treaty's lack of verification measures as a source of grave concern. I spoke out in the Foreign Relations Committee on each occasion that this treaty was considered. Last summer, when the Senate Foreign Relations Committee held hearings on the treaty, I noted the huge contradiction in it, the lack of verification and accountability in the reduction, and the fear that these weapons or materials might fall into the hands of terrorists.

While I understand that we cannot mandate the dismantlement of warheads or the security of nuclear materials without renegotiating this treaty, it is critical we have an understanding, in order to protect the security interests of our country, of our own ability to monitor Russian compliance, where that ability might fall short and to understand a perspective on what we simply do not know. Without meaningful verification, there is a great deal that we will not know. And in this case, what we don't know can, indeed, hurt us in this dangerous world that we live in today.

Last month, I voted in committee to bring the treaty to the full Senate but not without reservation. At that time, I registered my serious concern about the treaty's lack of verification measures, about the lack of milestones or targets other than the 2012 date, and about the peculiarity of a treaty that expires on the very same day that it reaches its intended goal.

The amendment I offer today is intended to drive at the heart of the verification issue. I know several of my colleagues have offered or talked about other important fixes to address the shortcomings of this treaty, and I applaud their efforts, but at its heart this treaty represents a missed opportunity. It almost represents a treaty for the sake of a treaty without regard to the longer term security interests and strategic interests of the United States.

We missed an opportunity to help make the world safer for our children in the long term. We missed an opportunity to eliminate thousands of nuclear weapons for the long term, and not just to reduce deployed weapons for the short term. We missed an opportunity to advance American-Russian relations in a way that, in fact, builds a stronger foundation of trust between our two great countries.

By addressing the verification issue as envisioned in my amendment, I believe we can at least learn from our own intelligence community—which we ought to be willing to trust—what more needs to be done to provide the transparency and verification so essential to any agreement of this nature. If we are to make America safer, and we must, it will take more than cosmetic treaties that leave Russia's nuclear arsenal in place. As Ronald Reagan told the Nation, "History has shown that peace will not come, nor will our freedoms be preserved, by good will alone."

We have work still to be done to meet today's challenges, and I believe one of those challenges is to fix the Moscow Treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond to the distinguished Senator from Massachusetts by reviewing, once again, the origins of the Moscow Treaty. At the time that President Putin and President Bush met in May of last year, Russia had made the decision that the distinguished Minister of Defense of Russia, Sergei Ivanov, announced that the Russians would be destroying warheads in a matter of course, dismantling them from missiles. President Bush had indicated that as a matter of fact, unilaterally, the United States was prepared to do the same. For a variety of reasons—some economic, some safety—both countries had decided upon a course of action. When the two Presidents came together to formulate their joint announcement, the Moscow Treaty was formed.

As has been pointed out, first it was not clear that a treaty would be formulated, but ultimately both leaders decided that was the best course. That is why the treaty is simple. It, clearly, does not cover all of the objectives of arms control that can be covered in further negotiations, and many of us hope there will be further negotiations, not only in the nuclear area but in the biological area where in the course of this we have pointed out there is still a lack of transparency on the part of the Russians, as we perceive it at certain military facilities.

In the case of the amendment offered by the distinguished Senator from Massachusetts as a way of shoring up a treaty that he has criticized, let me say that the major verification procedure now in place is the Cooperative Threat Reduction Program, very specifically. At Surovatika, Senators and Members of the House have witnessed four missiles coming into that plant each month. They are destroyed. Clearly, the warheads have been separated from the missiles prior to that destruction. That four-a-month situation is going to continue unless for reasons of our own parliamentary procedure we stop the funding.

Clearly, you can verify the missiles. In my last visit to the site, I was accompanied by the governor of the territory, the mayors of various towns and radio stations in Russia. Why? Because this is a jobs issue. Russians employ people destroying missiles. Nothing very secret about it; they are swarming around. A television station from Indianapolis, channel 13, accompanied me on that occasion, took pictures of the entire process and put it on a remarkable documentary on Indianapolis television.

We need to catch up with where verification is in the world. It is on the ground, with Americans working in cooperative threat reduction with Russians.

The missiles that come in are interchangeable SS-17s, SS-18s, and SS-19s. We visited with plant officials about their further planning on SS-24s and 25s. This is the comprehensive scope of what we are talking about. These are, in fact, the missiles on which the warheads were located and from which they have been separated.

In a future treaty the United States and Russia may decide they wish to go much further with regard to the destruction of the warheads themselves. That point has been made by many Senators that the treaty does not call for the destruction of warheads. But, in fact, warheads are being destroyed by Russia and by the United States.

In terms of both of our countries, we have decided not to have transparency to the point that both nations are inspecting that process, but we are able to verify the results. I point out that the intelligence report that perhaps the Senator is calling for may be covered in large part by the cooperative threat reduction annual report to Congress. This one is for fiscal year 2002, a detailed summary not only of nuclear dismantlement and demolition but, likewise, anything we are doing in chemical and biological, too.

I admit there are areas, as I have said earlier, that we are not into yet, and we wish we were. My hope is we will be successful as two nations in seeing eye to eye on movement in that direction.

When it comes, however, to the verification of this Moscow Treaty, it flows from the fact that both nations of their own will want to destroy the missiles and separate the warheads and thus reduce the viability of these situations. We have indicated at our own time, at our own speed, we will do that. And the linchpin from the beginning, it seems to me, is the fact not only of the START requirements that do expire in 2009 but the Cooperative Threat Reduction Program on the ground which has no expiration unless Congress decides to terminate it. That is a different debate and a different set of decisions.

I am hopeful Senators will understand that. I appreciate the fervent plea for verifiability for all of us. As I say, I admit, I wish we had a better insight into the disposition of all of the warheads, but even here both Russians and Americans indicate in the fullness of time that these warheads have to be destroyed. In large part that is because sometimes the fuel components in them are unstable. They become a danger for the nation that is simply holding them.

This is not a sporting goods situation of inert matter on shelves. These, unfortunately, are far too living, viable, dynamic instruments. This is why we have worked with Russia on the fissile material that comes from the destruction of these warheads; to provide storage for that. It is a whole new set of problems.

Some arms control people have suggested that while the warhead is on the missile, you do not have the problem of fissile material that might get loose and be bought or sold. It is contained. That is still true while it is in the warhead. As it comes out of the warhead, a whole new set of problems is created—of storage and of accountability. We are working with the Russians through our Department of Energy on these accountability projects, which are intense and vigorous.

For these reasons, I oppose the amendment of the distinguished Senator from Massachusetts. I hope other Senators will oppose it. It appears to me to be unnecessary. I would say, simply, other criticisms of the treaty are certainly a matter of the opinion of the Senator, but it was a modest treaty. It came from the volition and the will of both countries coming together at their own time, at their own speed, and with procedures that seem to me to offer an adequate amount of verifiability, much of it on the site and through the eyes of the Russian press, as well as our own.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, as the chairman of the committee knows, I have so much respect for him. We rarely have disagreements.

In essence, he sort of made my case just now. I have never argued about the destruction of some of the missiles that are going in. I talked about the warheads and fissionable material. Fissionable material is not in the missile; it is in the warhead. The distinguished chairman just said, I wish we had a better sense of the disposition of those warheads. I wish we had a better sense of the disposition of those warheads.

All I am asking for is that we ask our intelligence communities. Is the Senate scared of asking its own intelligence community for a report on our capacity to know where those materials are and what is happening? That is all I am asking.

On the floor of the Senate, I cannot go into what we have heard in private, in classified sessions. But this amendment is based on my knowledge of what our intelligence community is concerned about and what I believe we ought to be concerned about in this country. So as the chairman says, I wish we had a better sense of what is happening to those warheads.

If we are willing to go to war in Iraq because we think it is dangerous for that man to have nuclear warheads, and we know that 15 out of some 20 efforts to transfer this material has come from Russia, we better be concerned about these warheads. That is what this is about. That is precisely what involves the security of the people of the United States of America, and that is what this amendment is about.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that the vote in relation to the Kerry amendment, No. 255, occur at 5:40 today, and the time until then be equally divided in the usual form, provided that no further second-degree amendment be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I add one final argument, and that is the actual text of the amendment of the distinguished Senator from Massachusetts requires these intelligence reports on the capability of the United States to monitor the compliance of the Russian Federation to the requirements of the treaty.

The treaty does not require insight into the warhead destruction. That is a desirable aim, and I have indicated in due course we may be able to negotiate that, but that is not a part of this treaty. Therefore, the report that is being asked for really asks for information that is not covered by the treaty.

I repeat, the information that is covered by the treaty, it seems to me, is really adequately monitored by the cooperative threat reduction personnel.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. Let me, as we say in this body, associate myself with the remarks of my colleague and say it in a slightly different way. The Senator is asking us to have the intelligence community monitor something that there is no capacity to monitor because there is no provision in the treaty requiring the monitoring. It is a little bit like saying we would like the President to report to us, on a yearly basis, the cost of the destruction or dismantling or taking off of alert or removing from a silo every missile that is removed by the Russians.

That would be great, but it is not in the treaty. There is no provision.

Regarding the ultimate criticism, the primary criticism the Senator from Massachusetts makes of the treaty is accurate. There is not much to this treaty. There is not much to it. As I said in my very long opening statement, the administration, when they testified before the committee, said: Look, we were going to do this anyway. We were going to do this anyway. So we told the Russians, in effect paraphrasing the Secretary of State, we told the Russians if you want to come along, come along; if you don't, you don't.

The whole rationale of this administration is the bet that the cold war is over, it is truly and forever behind us. I hope they are right. This treaty affords few protections in the event of a heightened mistrust that develops, or a crisis. It doesn't have any protections. So we are not kidding each other, between now and 2012 the Russians could go out, if they were capable of doing it financially, and build 10,000 more nuclear weapons. They could dig 40,000 more holes for silos, if they had the money. There is nothing in this treaty that prevents that.

I know we are all railing against what the treaty should have been; what, if we personally were negotiating it, we would have done. But, unfortunately, I say to my friend from Massachusetts, he has a tough call the rest of us must make. If you don't like what is in it, and there is a great deal that is not in it that we would like to have in it, vote against it. Vote against it. But you can't fix something that is not broken, in effect—the treaty has no verification. It has no requirement the warheads be destroyed. There is no requirement they be accounted for. There is no requirement that there, in fact, be any progress shown until December 31, 2012.

If you view all of these deficiencies as fatal flaws, then vote no, just flat vote no because you cannot fix them. You cannot fix them. The only way I think we could fix them is if we get the administration and Russia and the United States on a positive track here. We have them on a track. The track is that upon which we have agreed. As Sam Nunn said, this is a good-faith treaty. That is the bottom line.

The reason I am for this treaty is failure to ratify it, I believe, will be read as bad faith. Ratifying it demonstrates good faith, and our hortatory language—the message we have sent personally in terms of each individual Senator speaking to the administration—the language in our declarations and conditions and the amendments on the floor makes it clear to the administration that there is clearly a majority of Members of the Senate who would like to see more done. We are not criticizing what has been done. We just would like more done.

I understand the frustration. Believe me. I understand the frustration. The greatest concern—and I think we have taken care of it—is if, in fact, the Russians do not have the engineering and/or financial capability of meeting the commitment they have made to reduce their deployed forces, we will help them. That is the best thing we can do. That is what we have done.

I suggest we should support this treaty and we should oppose this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I appreciate the comments of the distinguished ranking Member. Let me be very clear. I am not asking for anything to be done here that isn't monitoring of this treaty. If you look on page 2 of my amendment, it says I am looking for "an estimate, for each strategic nuclear weapons system in the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads of such systems."

I am looking for "an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty."

This is to make sure we can see that this treaty, as the minority ranking Member has called it, as limited as it is—I am trying to making sure we can comply and know that we have the ascertainment of our intelligence community with respect thereto.

That is precisely what my amendment does.

I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 42 Ex.]

YEAS—45

Akaka
Baucus
Bayh
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dorgan
Durbin
Edwards
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—50

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dodd
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—5

Domenici
Graham (FL)
McConnell
Miller
Smith

The amendment (No. 255) was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 256

Mr. LEVIN. Mr. President, I expect to take just a few minutes. I will be offering an amendment and then having a colloquy. I send an amendment to the desk on behalf of myself, Senator DASCHLE, Senator AKAKA, and Senator NELSON of Florida.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for himself, Mr. AKAKA, Mr. DASCHLE, and Mr. NELSON of Florida, proposes an amendment numbered 256.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional element in the annual implementation report)

In section 2, in paragraph (2)(F), strike "; and" and insert a semicolon.

In section 2, redesignate paragraph (2)(G) as paragraph 2(H).

In section 2, after paragraph (2)(F), insert the following new subparagraph:

(G) with respect to the strategic offensive reductions described pursuant to subparagraph (B) for a calendar year, a listing of—

(i) the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the United States during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will operationally deployed by the United States during the calendar year;

(ii) the number and type of nuclear warheads in the United States that are dismantled during the previous calendar year; and

(iii) to the extent possible, the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the Russian Federation during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the Russian Federation during the calendar year.

Mr. LEVIN. Mr. President, condition 2 of the Resolution of Ratification requires the President to submit to the Committee on Foreign Relations and the Armed Services Committee an annual report that would include, among other things, the following: A, a listing of the strategic nuclear weapons force levels of the United States and a best estimate of the strategic nuclear weapons force levels of the Russian Federation as of December 31 of the preceding calendar year; B, a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year.

The purpose of this amendment is to clarify that those elements of the report should include certain important information on operationally deployed strategic nuclear warheads.

I have discussed this matter with Senators LUGAR and BIDEN, and I think we can address the issue satisfactorily with a colloquy between myself and Senators LUGAR and BIDEN.

My question of Senator LUGAR is the following: Will the committee urge the administration to include under the annual reporting requirements required by conditions 2(a) and 2(b), that the Committees on Foreign Relations and Armed Services would receive information on the following: During the calendar year of the report, the specific number and type of warheads that are planned to be no longer operationally deployed; secondly, during that current calendar year, the planned total size and makeup of the stockpile of strategic nuclear warheads by number and by type; and as to the past year, the report would then, hopefully, include and be urged to include by Senators LUGAR and BIDEN the total number and type of any warheads that were dismantled during the preceding calendar year?

Mr. LUGAR. Mr. President, I am pleased to respond to the distinguished Senator from Michigan. Our report does not require information on those warheads that are not operationally deployed. We would urge the administration to provide this information.

Mr. BIDEN. Mr. President, if I may respond to my colleague, I am not sure whether condition 2 requires the executive branch to list force reductions or force levels by warhead types. But I certainly think it is a good idea to do so, and I would urge the administration to do so.

In addition, I think the administration should make a decision on warhead dismantlement. Quite frankly, my support for ratification of this treaty is based in part on the administration's assurance before our committee that at least some warheads removed under the treaty will be destroyed or dismantled, and I fully expect the administration to live up to this. So I think the Senator is making a very valid point.

Mr. LEVIN. I thank both Senators for the assurance that they will urge the administration that the reporting provided for under the Resolution of Ratification would hopefully include the information I have just outlined.

AMENDMENT NO. 256, WITHDRAWN

Mr. President, I now withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

ALERT STATUS OF U.S. RUSSIAN NUCLEAR FORCES

Mrs. FEINSTEIN. Mr. President, I wish to ask the Senator from Delaware and the Senator from Indiana some questions about one of the issues that was raised during the hearings conducted by his committee on this treaty, and one of the questions not addressed by this treaty that I believe to be critical to reducing the danger of accidental or unauthorized nuclear war: the alert status of U.S. and Russian nuclear forces.

Like me, I know that they are concerned that the current alert status of

U.S. and Russian nuclear forces leaves open the possibility that, by continuing to maintain those nuclear forces that will not be operationally deployed under the Moscow Treaty on so-called hair trigger alert status, we increase the chances of an accidental or mistaken launch of nuclear weapons or, worse still, provide additional vulnerability to terrorist who might seek to hack into our nuclear command and control system and launch weapons.

I was pleased to note that the report of the Foreign Relations Committee on this treaty addresses the concerns that the alert status issue creates for crisis stability raised by former Senator Nunn, and the suggestion made by Gen. Eugene Habiger, the former Commander in Chief of U.S. Strategic Command that "We may have to find a way to move more weapons off alert status".

What are the views of the Senator from Delaware and the Senator from Indiana on this issue, and the desirability of moving nuclear weapons off alert status?

Mr. BIDEN. Mr. President, I think that the new relationship between the United States and Russia can only be improved by taking nuclear weapons off alert status. By giving decision makers more time to react to disturbing information, this would lower the risk of a nuclear war caused by one side's mistaken belief that the other was attacking it. I am especially impressed, moreover, by the fact that Gen. Eugene Habiger, former Commander in Chief of the U.S. Strategic Command feels that the time has come to do this. I would note, however, that General Habiger warned that existing specific de-alerting proposals were often not viable.

Mr. LUGAR. During our hearings on the treaty, a number of witnesses expressed concern about the alert status of U.S. strategic nuclear warheads. As the United States and Russia enter a new era of friendship and cooperation, we must take a close look at what we can do, in a safe and effective manner, to take nuclear weapons off alert status and prevent an accidental nuclear launch due to a false alarm or a miscalculation. I know our friend and former colleague Senator Sam Nunn expressed hope in our hearings that we might address the cold war-era nuclear postures of the United States and Russia as a critical next step following ratification of the Moscow Treaty.

Mrs. FEINSTEIN. In addition to recommending an "immediate stand-down" in the alert status of the nuclear forces reduced under this treaty, it is my understanding that in his testimony, General Habiger also suggested that a system to take weapons off alert status in ways that make sense, are transparent, and do not compromise our security be designed by teams by people who actually build the weapons.

Given this commonsense recommendation—and the failure of the treaty to address this question—I would like to ask the Senator what action he would recommend the Senate take to make General Habiger's suggestion a reality? What measures, if any, does he plan to address this issue in an appropriate manner this Congress?

Mr. BIDEN. The Foreign Relations Committee's report encourages the President to establish a commission of weapon system experts to undertake the review that General Habiger proposed. It adds that if the President does not do so, Congress could usefully act on its own, either to establish such a commission or, perhaps, to commission the National Academy of Sciences to set up such a group.

Mr. LUGAR. The Senator from Delaware is correct, and while we have not determined precisely how to proceed, I expect that we will want to encourage action by the President before we move on our own. Such a measure could be offered as an amendment to major legislation such as the Department of State authorization bill.

I can say with confidence that Senator BIDEN and I are agreed that we should continue to pursue this initiative in ways that will provide productive results.

Mrs. FEINSTEIN. I thank the Senator from the Delaware and the Senator from Indiana for their leadership and hard work on this issue, and I look forward to continuing to work with him, on additional legislation, if need be, to pursue this initiative.

Mr. CONRAD. Mr. President, I rise to engage the distinguished leadership of the Foreign Relations Committee in a colloquy.

Mr. President, for the past several years I have been increasingly concerned about the "loose nuke" threat presented by the Russian Federation's arsenal of non-strategic or "tactical" nuclear warheads. Unlike strategic nuclear forces, intermediate range nuclear forces, or even conventional forces in Europe, tactical nuclear arms are not covered by any arms control treaty. There are no formal negotiated limits of any kind, no way to hold current and future Russian leaders to the unfulfilled promises of steep reductions made by former Soviet President Gorbachev and former Russian President Yeltsin more than a decade ago. In fact, we do not even have a good estimate of how many tactical warheads Russia has because the United States has no inspection rights. Unclassified estimates of the current Russian stockpile have ranged widely, from 7,000 warheads to 18,000 warheads—four to eleven times as many as the United States. I am very troubled by the insufficient security at Russian nuclear warhead storage facilities and al Qaida's known interest in acquiring these horrific weapons. Am I right to understand that my colleagues share this concern?

Mr. LUGAR. I share the concern voiced by the senior Senator from North Dakota on the potential proliferation threats posed by non-strategic nuclear weapons in Russia. As the Senator knows, the United States has voiced serious concerns about the safety and security of these dangerous weapons stored at multiple locations around Russia. I believe the Russian tactical nuclear weapons arsenal represents an area of concern and needs attention.

Mr. BIDEN. I agree with the Senator from North Dakota and the Chairman of the Foreign Relations Committee, Senator LUGAR. During hearings last year on the Treaty of Moscow now before the Senate, several of our distinguished witnesses mentioned Russia's tactical nuclear stockpile, including former Senator Nunn. The smaller size and greater number of these weapons puts them at higher risk for theft by, or illicit sale to, terror networks such as al-Qaida.

Mr. CONRAD. I thank my colleagues, who perhaps remember that in 1998 I authored legislation passed by Congress that identified Russia's tactical nuclear stockpile as a serious proliferation threat and called for United States pressure on Russia for real reductions. I was therefore disappointed that a requirement for Russian tactical warhead dismantlement and United States inspection rights were not part of the Treaty of Moscow. The disconnect between the ability of the United States to maintain current strategic force levels almost indefinitely, and Russia's inevitable strategic nuclear decline due to economic realities, gave our side enormous leverage that I believe we should have used to win Russian concessions on tactical nuclear arms. While I am encouraged that the resolution of ratification before us includes a declaration on accurate accounting and security, it does not mention Russian tactical nuclear reductions. I have prepared a corrective amendment and would welcome the support of the chairman and ranking member of the Foreign Relations Committee.

Mr. LUGAR. I thank the Senator from North Dakota for his work on this important issue and his thoughtful invitation. I would ask that the Senator from North Dakota withhold his amendment with the understanding that the Foreign Relations Committee will make a serious effort to elevate the matter of Russian tactical nuclear weapons to a top priority on our Nation's arms control and threat reduction agenda.

Mr. CONRAD. Would the chairman and ranking member be willing to hold hearings in the coming months focusing on the threats associated with Russia's tactical nuclear stockpile? Furthermore, would the chairman and ranking member be willing to join me in urging the President to develop a comprehensive plan to reduce the Russian tactical threat, including making Russian tactical warhead reductions a priority in our dealings with the Russian Federation?

Mr. LUGAR. The ranking member and I have plans to hold hearings on the continued proliferation challenges in Russia. Clearly the threat posed by tactical nuclear weapons would be an important topic to be discussed and investigated in that forum. I believe that tactical nuclear warhead reductions should be a top United States priority in our new relationship with Russia.

Mr. CONRAD. Would the chairman and ranking member consider sharing their views on the threats posed by the proliferation of tactical nuclear weapons with the administration? Might I propose a letter indicating our shared concerns and our hopes that this issue will be a high priority for the administration in future discussions with Russia?

Mr. LUGAR. I thank the Senator for his thoughts. This issue was raised repeatedly during our hearings on the Treaty. I am confident of the administration's efforts to engage Russia on this issue. I would be happy to reinforce the committee's views on these issues with the appropriate Administration officials.

Mr. BIDEN. Let me echo the comments on the chairman. After entry into force of the Moscow Treaty, getting a handle on Russian tactical nuclear weapons must be a top arms control and non-proliferation objective of the United States Government. I look forward to joining the chairman in holding hearings on this matter and in writing to the administration with the Senators from Indiana and North Dakota. A comprehensive approach to this problem, as the senior Senator from North Dakota suggests, is sorely needed.

Mr. CONRAD. I thank my colleagues for their concern about this clear and present "loose nuke" threat and for their supportive statements today. We cannot afford for this blind spot in our non-proliferation efforts to go uncorrected. With the assurances of the chairman and ranking member, I withdraw my amendment and yield the floor.

Mr. BURNS. Mr. President, the treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions also known as the "Moscow Treaty" obligates each side to reduce the number of its strategic offensive nuclear warheads to a range of 1,700 to 2,200 by the end of 2012. This treaty is a good beginning and I congratulate the President for making a complete break with past arms control approaches by placing reliance on deterrence and missile defense. The enemies of American must clearly understand that they cannot attack or threaten us with impunity and that our Nation will have a national missile defense in place as soon as possible.

President Reagan coined the phrase "trust but verify," This phrase could have no greater meaning than when it is applied to the Moscow Treaty.

I recently returned from Moscow where I was deeply impressed by the dramatic transformation underway in that huge country. While there is no doubt that Russia is on the track towards democracy and a free market economy, it is equally clear to me that the Russians are not at the stage where they can be given a blank check to implement the Moscow Treaty. Congress has authorized more then $4.7 billion for U.S. programs aimed at helping Russia and other newly independent states to reduce the threats from their weapons of mass production. The Moscow Treaty does not expressly deal with the Nunn-Lugar Cooperative Threat Reduction program but the objectives of the treaty cannot be achieved without extending this assistance to Russia. The only certainty about future costs to implement this treaty is that the costs are uncertain and that the uncertainty goes toward how much higher costs will be. According to a GAO report issued this week, ". . . a pilot facility to destroy 14 percent of Russia's chemical weapons over an 11-year period would cost the United States almost $890 million—an increase of about $150 million from the estimate . . ." Higher program cost uncertainty is compounded by Russia's apparent inability to pay for its agreed-upon share of project costs.

Another problem with an effective reduction of weapons of mass destruction is that Russia is not always willing to provide access to its sensitive national security sites. Access is essential to verify that the Parties are living up to their part of the agreement. According to the same GAO report, U.S. inspectors do not have access to the sites in Russia where 90 percent of the materials used in weapons of mass destruction are stored. Access issues largely revolve around trust, and, frankly, this treaty highlights the need for access; it does not solve the problem.

Despite its obvious incompleteness and inadequacies, the Moscow Treaty is a step in the right direction of reducing and limiting strategic nuclear warheads. Reliance on a START I verification regime as provided in the treaty is not, of course, satisfactory, but it can provide a block in the foundation for good faith implementation through a genuine verification scheme.

President Bush is headed in the right direction in working to build a constructive partnership with Russia. American does not fight wars with democracies. While a reduction in nuclear weapons is an important element on both sides in building the trust and mutual dependence needed for a stable, long-term relationship, I want to stress the importance of maintaining the Nuclear Triad. Our land-base missile systems, in particular, play an essential role in ensuring this Nation's security. With 200 Minuteman III missiles, Malmstrom Air Force Base, in my State of Montana has and will continue to play a critical role in our national security.

The Moscow Treaty deserves the advice and consent of the Senate so long as it is seen as the beginning and not the end of the long path we must follow to rid the earth of weapons of mass destruction and threats to our national security.

Mr. HATCH. Mr. President, it is one of those ironies of history that the U.S. Senate began debate on the ratification of the latest and historic arms control treaty on the day that historians mark as the 50th anniversary of death of Stalin. Whether, in fact, Stalin died on this day, or whether he had been poisoned a few days before, is a fact that, like so many others of Soviet history, is clouded with uncertainty. But it is a fact that he was one of the most brutal dictators of the 20th century and he died at a time when the Soviet Union was a global foe of the United States.

More interesting for this debate, Stalin's death in 1953 occurred at a time when our nations were just beginning a strategic competition that would see our nuclear stockpile grow to massive and frightening levels before we reached our first accommodations, nearly 20 years after Stalin's death.

Today, while we still have many cultural and political differences with the Russian state, we cooperate on more issues than we compete, and we do not compete under the threat of nuclear annihilation.

A decade ago, the Soviet Union went to the dustbin of history, and with it went an ideological enmity that locked us in a spiral of growing nuclear arsenals and the existential comfort of mutually assured destruction, a comfort that made sense to the strategic thinker, but left of lot of other people all over the world, including in our own societies, feeling quite insecure.

After President Nixon initiated an era of arms control agreements with the first Strategic Arms Limitation Treaty, or SALT, the pendulum began to swing the other way. And, as is often the case with historic pendulums, it far exceeded a sensible point. By the early 1980s, while strategic arms treaties had already reduced the aggregate megatonnage of our combined strategic arsenals, a school of arms control theology had been accepted that, as is often the case with the social science theology of the moment, threatened to overcome all rationale thinking on strategic issues. The answer to all arms control issues was always yet another treaty. Existing treaties were sacrosanct, with the wise old dictum so famously and wisely uttered by Bismarck in the 19th century ignored: "At the bottom of all treaties is written in invisible ink, rebus sic stantibus"—Until circumstances change.

Circumstances did change. Technologies barely imaginable in the 1960s, when the first strategic treaties were contemplated, became commonplace in the 1980s. An era of self-enforced vulnerability to mutually assured destruction, enshrined in the 1972 Anti-Ballistic Missile Treaty, became anachronistic as physicists and engineers first imagined missile defense and then a visionary president, Ronald Reagan, grasped its potential to defend societies against missiles armed with weapons of mass destruction. In doing so, President Reagan reflected a very American belief that know-how and new thinking can provide security to those who never felt secure under mutual assured destruction.

What bumpkins and dreamers, the conventional arms control theologians declaimed. Let us dismiss these simpletons and disparage their thinking as "Star Wars," they said; as if the Strategic Defense Initiative had anything to do with stars or wars, but instead a more secure world here on earth.

Today, it would be inaccurate to state that we have developed missile defense to a functionally deployable state. But, we are closer to a functional stage than those who dismissed it out-of-hand ever imagined. They were wrong and, today, our challenges to perfecting missile defense are largely in engineering, no longer scientific. A grateful Nation has President Reagan to thank for being able to transcend the conventional wisdom and believe in American creativity and technology to move us into a new strategic era.

But the arms control lobby would not relent, or even reform, through the 1980s and 1990s. We had some good arms control agreements negotiated, signed and ratified—I supported the START treaties. We had some treaties that I believed did not enhance our security—and I voted against the Comprehensive Test Ban Treaty. While I have generally supported the idea that bilateral and verifiable reductions of the strategic arsenals of Russia and the U.S., preserving necessary strategic arsenals of Russia and the U.S., preserving necessary strategic force structures, was stabilizing and therefore in our interest, I have never believed that this world would be more secure if the U.S. handicapped its nuclear option.

Circumstances changed. Our global foe of 30 years ago is not our primary threat today. The mutual assured destruction doctrine that held the world in nuclear check for nearly 50 years became suspect, an old strategic doctrine of vulnerability. New threats and new, vicious substate actors became the threats that brought us grief and anxiety.

We saw technologies spread to a host of rogue nations, many of which hold explicitly antagonistic postures toward the U.S. In 1998, a congressionally mandated Commission To Assess the Ballistic Missile Threat to the United States, chaired by Donald Rumsfeld, brought to light the fact that, "concerted effects by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the U.S., its deployed forces and its friends and allies." Further, the report concluded that "the threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence Community." Such clarity in assessment forced us to refocus the efforts of the Intelligence Community, and they responded.

But it also forced us to continued to challenge the conventional wisdom on arms control at the time, and that required that we face up to fact that we needed to proceed with our research and development of a missile defense capability, and that, if we were serious about this, we had to recognize that we would need to abandon the ABM Treaty.

One candidate for the 2000 presidential election shared the vision of President Reagan. He recognized that the ABM Treaty was not sacrosanct. In fact, he had read the test, which plainly allowed for the U.S. to withdraw. I don't know if President Bush knew the doctrine in international law of rebus sic stantibus, but President Bush certainly knew that the strategic situation had changed, and U.S. national security required that we not constrain our security for tomorrow by a concept from yesterday. Such an approach was to guarantee insecurity. And President Bush understood something fundamental about strategic doctrine: insecurity does not sustain stability.

President Bush told us all that the days of the ABM were limited. And the arms control lobby went, to make a bad pun, ballistic. Abandoning the ABM Treaty with Russia would herald a new era of unrestrained nuclear competition, as both sides would try to outbid the other's arsenal with enough weapons to overwhelm, they declared with certainty bread of doctrinaire conviction.

President Bush and his advisers didn't flinch in their thinking. But they did address the question: If the fear is that withdrawing from the ABM Treaty which we did—the U.S. withdrew from the Treaty on December 13, 2001 and the Treaty was effectively terminated 6 months later—then the U.S. will match our withdrawal from the ABM with a new proposal to lower the START II levels to historic new reductions.

And on March 24 of last year, the Russian Federation and the United States concluded the Treaty on Strategic Offensive Reductions, which will now be overwhelmingly passed as this body provides our advice and consent.

This is a historic moment for nuclear arms reduction. It is, more importantly and in my opinion, a historic moment in the evolution of arms control doctrine.

The treaty reduces operationally deployed warheads for both sides to a range of 1,700 to 2,200 by December 31, 2012. Today our arsenals are more than twice that level. The reductions are to be implemented based on the established START I verification regime and mechanism, which will be in place until 2009. The treaty allows for consultation and extension of verification mechanisms beyond that time.

The Treaty allows either party to "determine for itself the composition and structure of its strategic offensive arms," meaning that we will be able to configure our triad according to the evolving needs of our nuclear posture review. The treaty does not link the objectives to our continued Cooperative Threat Reduction program, appropriately known as the Nunn-Lugar programs, recognizing all of the work the current chairman of Foreign Relations Committee and our former Democratic colleague have committed in their careers toward the cause of disarmament. I commend my colleagues on the Foreign Relations and Armed Services committees for engaging the administration in extensive discussions about continued support for this program. I strongly approve the administration's commitment to this program, and I will continue to support their budget for this.

Lord Palmerston said in the 19th century, "We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual." Our interests evolve year-by-year, and the world remains a very hostile place. Russia competes with us geopolitically, but it does so in the Security Council, not in strategic arms.

It is in the interests of the world that our two arsenals be reduced, and it is in the interests of both of our countries that we reduce them with transparency, and flexibility.

These principles are enshrined in the Moscow Treaty. I commend the administration for concluding it with Russian administration, and I urge the Russian Duma to proceed with their own ratification, as I encourage my colleagues today to join me in support of this historic treaty.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for ratification of the Moscow Treaty which will require the United States and Russia to reduce the number of strategic nuclear warheads to 1,700 and 2,200 each by December 31, 2012. This treaty marks an important step forward in the relationship between the United States and Russia and reduces the dangers posed by strategic nuclear weapons. Nevertheless, I am concerned that the treaty does not go far enough and I believe its flaws must be addressed if we truly want to make the threat of nuclear war a thing of the past.

It should be pointed out that at one time the administration did not even want a treaty, preferring to reach a "gentleman's agreement" with Russia instead. I am pleased that President Bush changed course and recognized the value in committing the reduction of strategic nuclear warheads to a binding, legal document.

That document now before us is welcome but its brevity—all of three pages—indicates that certain issues were left out or swept aside.

First, the treaty does not actually require the United States or Russia to destroy any nuclear warhead. Either side may comply with the provisions of the treaty simply by "deactivating" the warhead and placing it in storage for possible redeployment. And, each side reserves the right to decide what exactly "deactivation" means.

This runs counter to the whole point of reducing the dangers of nuclear weapons by eliminating them once and for all. Have we really made a step forward in securing a better world for ourselves and future generations if both sides can re-arm at a moment's notice? And have we really made progress if the actual number of warheads destroyed is rather small?

Russia, for one, simply can not afford to maintain its current number of strategic nuclear warheads. But I am concerned that if we do not actively destroy more of our strategic nuclear warheads, Russia may feel compelled to keep more of its own, thus diverting valuable resources away from more pressing needs. And, I think everyone recognizes that Russia's ability to safely and securely store any warheads is far less than our own and the potential that they may fall into the wrong heads much higher.

Second, the treaty does not contain a detailed verification regime to judge compliance with its provisions. The treaty only mentions the creation of a Bilateral Implementation Commission that will meet twice a year. No more. The START Treaty, in contrast, contained provisions on detailed notifications, regular data exchanges, onsite inspections, and continuous monitoring of select facilities.

President Reagan was found telling his Soviet counterparts that when it came to reducing the number of nuclear weapons, his motto was "Trust, but verify." Though the Soviet Union is no more and Russia and the United States have a new relationship based on friendship and cooperation, I believe President Reagan's words still ring true.

Eliminating nuclear warheads is serious business and it is beneficial and, necessary, even for friends, to closely monitor, and verify, the progress of each side. We will enhance and deepen the trust and cooperation between Russia and the United States by doing so. So, I would urge the administration to use the Bilateral Implementation Commission as a forum for negotiating a detailed verification regime.

Third, there is no timetable for implementation and no mileposts to judge progress before the Treaty expires. The only date and milepost mentioned is the deadline to reach 1,700 to 2,200 strategic nuclear warheads by December 31, 2012.

Thus, over a 10-year period, with no verification regime, we will have no indication on how Russia is achieving the goals of the treaty until the very day it is bound to reach those goals. And then the treaty expires unless both sides agree at some point to extend it.

Again, trust and cooperation are built on verification and openness. I urge the administration to press for detailed timetables and mileposts to ensure that both sides are actively complying with the provisions of the treaty and will reach the final marker at the stated time.

Fourth, the treaty does not address tactical nuclear weapons. As my colleagues know, there is a great deal of uncertainty about the number, location, and secure storage of Russian tactical nuclear weapons. Smaller and more portable than strategic nuclear weapons, they are vulnerable to theft or sale to terrorist groups. Yet, the treaty does not even mention them.

This is a glaring oversight and the dangers posed by tactical nuclear weapons—especially now in the post-September 11 world of global terrorism—warrants the immediate attention and action by both Russia and the United States. I urge the administration to press for an accurate accounting of and adequate safeguards for tactical nuclear warheads and to work towards reducing their number.

Finally, the treaty does not address the alert status of our nuclear forces. I offered, and withdrew, an amendment to address this issue earlier. Suffice to say that I am very concerned that in this era of a new relationship between the United States and Russia, we still keep our nuclear weapons on high alert or hair trigger status. This greatly increases the chances of an accidental or unauthorized launch or miscalculation which would result in unthinkable devastation.

Clearly there are problems with this treaty but I will vote for ratification because it is a step forward towards the goal of reducing the dangers posed by strategic nuclear weapons.

But there is a lot of work to be done to make this Treaty truly worthwhile. As our former colleague Senator Sam Nunn stated in hearing held by the Senate Foreign Relations Committee on the Moscow Treaty:

> If [the Treaty] is not followed with other substantive actions it will become irrelevant at best and counterproductive at worst.

I hope the administration will take these words to heart and get to work on the important issues left out of the treaty so that we will be able to leave a world for future generations safer from the horror of nuclear war.

Mr. KYL. Mr. President, I rise in strong support of this resolution of ratification for the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, otherwise known as the Moscow Treaty.

This treaty is a masterstroke. It represents, and, I am sure, will be sent as ushering in a wholly new approach to arms control for a wholly new era. The simplicity of this treaty is a marvel. It is extremely brief, indeed just three pages long. It is shorn of the tortured benchmarks, sublimits, arcane definitions and monitoring provisions that weighed down past arms control treaties.

This is for a very good reason. The simplicity and brevity of this treaty reflect the simple fact that the United States and Russia have moved beyond the enmity of the cold war era. The treaty recognizes this fact. It assumes a degree of trust between nations that are no longer on the precipice of war. Indeed, this treaty is the ultimate confirmation of the fact that arms control does not lead to real peace; rather, real peace—in this case made possible by a democratic transformation in Russia—leads to arms control.

The old cold war approach to arms control treaties is clearly outmoded. Can anyone truly believe that a 700-page behemoth like the START I treaty is relevant to today's situation? Clearly, such an approach would not reflect today's radically changed political and strategic environment. As such, it would not serve America's real security needs.

This treaty does. The most important thing to remember about this treaty is that it was negotiated after the United States independently determined the number of strategic warheads that were needed for our security. The outcome of the negotiations with Russia simply ratified our own prior determination. This is in stark contrast to the old approach to arms control, whereby arms control agreements preceded and ultimately drove our military and strategic decisions.

The long lead time for achieving reductions and the lack of sublimits and interim benchmarks in the treaty also serve our interests by preserving much needed flexibility. Looking at the fluid, almost chaotic, situation in the world today, with new threats having arisen in just the past year or so—attacks on our homeland, nuclear weapons developments in North Korea and Iran—one can foresee that circumstances could easily change over the next decade. If circumstances and threats change, so too might our strategic nuclear requirements. Thus, it is only prudent that we not box ourselves in. The drafters of this treaty in the Bush administration were wisely cognizant of that fact.

Mr. President, this treaty—and the forward-looking, post-cold war mindset that serves as its basis—deserves our strongest support. I urge my colleagues to approve this resolution of ratification.

Mr. BUNNING. Mr. President, I support ratification of the Moscow Treaty without any amendments or further conditions set upon it by the Senate. Ratifying this resolution as it was unanimously reported out of the Committee on Foreign Relations is the right thing to do.

This treaty is a tremendous step forward in the effort to make this world a safer place. This is especially significant in light of all that is going on in the world with our fight against terrorism. It is especially important and significant to work in this way with the Russian Federation. This treaty and mutual framework helps further align and strengthen the growing relationship between Russia and the United States. We should all be encouraged that Russia's Duma has made no reservations about this treaty and is expected to approve it soon after the Senate approves it.

The Moscow Treaty reduces the aggregate number of operationally deployed strategic nuclear warheads to a range of 1,700 to 2,200 by the end of 2012. This is a tremendous accomplishment that deserves the full support of the Senate and the Russian Duma. President Bush and Russian President Putin hold this as a high priority in getting this treaty ratified in a timely manner.

This treaty was considered in a deliberative and thoughtful manner by the Senate. The Foreign Relations Committee worked in conjunction and cooperatively with the Armed Services Committee and Intelligence Committee. As well, the insights, reservations and recommendations on this issue were solicited and received by Secretary of State Colin Powell, Secretary of Defense Don Rumsfeld, and Chairman of the Joint Chiefs of Staff, Richard Myers.

The Moscow Treaty is unlike any arms control agreement we have participated in with Russia or the former Soviet Union before. Previously, we spent decades with our counterparts in conferences and meetings to negotiate treaties. This agreement was concluded more quickly—with openness, trust, and verification prevailing in a new era of American and Russian relations.

Traditionally, there have always been many objections to treaties such as these which limit our arms and possibly put the United States as risk. Now, we are hearing of some who have said this treaty is not strong enough. And there has been some legitimate debate about the verification system and reduction schedule which I and many of my colleagues share.

But I do not believe these concerns rise to the level to oppose this treaty since it provides a mutual framework for pursuing the continued destruction of weapons and missiles whose sole purpose was to be used against the Untied States. This treaty is too important to oppose. It highlights and emphasizes the vitality of the new relationship between the United States and Russia. And with the ongoing war on terrorism, this is of utmost importance.

Like the chairman and ranking member of the Senate Foreign Relations Committee, I believe our storage procedures are sound and I am thankful for the flexibility within the treaty for our strategic systems. Yet I, like many others, do share some concerns on the Russian side. But these concerns are alleviated since the Treaty has avenues we can pursue which addresses these possible problems to ensure that weapons do not ever slip into the wrong hands. Also, I am thankful Russia is agreeable to work with the United States to ensure that these weapons never fall into the hands of terrorists or rogue states.

Also, one certainly must pay attention to, and demand, a solid verification system for these weapons. Some point out that the treaty has a flawed verification system that must be watched closely. But this criticism has not reached the level of doubt and worry to scrap the treaty. As well, those critics are operating under the guise of a cold war mentality. But things have changed in our relationship with Russia.

Secretary Powell has been upfront on this issue in regards to the verification system in the Treaty. On behalf of the administration, he has clarified the need to keep the verification process the way it is within the treaty. The administration points to the fact that the cold war is over and we must move beyond that thought process. Also, Secretary Powell argues that we are better served with flexibility and not rigidity under the treaty.

I believe the level of verification in this treaty is what is needed. We do know that our American verification experts already have the START Treaty verification procedures underway. These experts and procedures will be around for another decade. So, we do have dismantlement teams and equipment from the United States in Russia. These teams have been and will continue to cooperatively—with verification—dismantle these Russian weapons.

Overall, I believe this treaty is in the national interest of the United States, the Russian Federation, and the world. Of course there are those critics who say this treaty does not go far enough, and some may say it goes too far. The purpose of this treaty is not to put an umbrella over all arms policy for all countries all at once. These objectives and goals can be made through piecemeal approaches, and this is exactly what this treaty does.

We have a new ally with the Russian Federation, and we must move ahead to strengthen our relationship with this new ally and make this world a safer place. I urge my colleagues to support the Moscow Treaty without further conditions being set upon it. It is the right thing to do.

Mr. DASCHLE. Mr. President, I congratulate Senators LUGAR and BIDEN on their efforts on this treaty. In their new roles as chairman and ranking member of the Foreign Relations Committee, they have gotten off to an impressive start.

By holding a series of hearings on pressing foreign policy questions, including the looming war in Iraq, they have helped every Member of this body and every American.

In addition, they have taken the Moscow treaty, a treaty that came to us with perhaps more questions than answers, and added some definition. Their collective labors on behalf of this treaty demonstrate what bipartisanship leadership on the Senate Foreign Relations Committee can accomplish.

This treaty represents a positive step forward by calling on the United States and Russia to reduce their operational strategic nuclear weapons.

But it is a step long overdue. Many in this body felt these kinds of cuts were possible years ago. Unfortunately, despite our best efforts for much of the last decade, Republican opposition prevented us from implementing the kind of cuts this treaty now recommends.

To ensure that we derive the maximum security benefit possible from this treaty, the Administration will have to fill in a number of important holes.

Though the administration has assured us that some nuclear warheads will be dismantled, the treaty itself does not require the destruction of any Russian or American nuclear warheads. At best, the treaty will put warheads out of reach, but, unfortunately, not out of use.

Moreover, the treaty does not include a schedule that spells out when the deactivations must occur. In fact, the treaty language does not require the deactivation of a single weapon until December 31, 2012, the day the Treaty expires.

Finally, the treaty also lacks any concrete commitments on verification, undermining longstanding, commonsense principle of our arms control policy.

In years past during Senate discussion of other arms control treaties, some of my colleagues on the other side of the aisle based their opposition to these treaties on the lack of adequate verification provisions. Evidently, either verification is no longer as important to them or they are more willing to trust rather than verify.

Notwithstanding these shortcomings and inconsistencies, Mr. President, I intend to vote for the Resolution of Ratification, and I do so because it points our country in the right direction.

But at the same time I would like to send a message as loudly and clearly as I can to the administration and to my colleagues here in the Senate: our work to deal with the threat posed by weapons of mass destruction does not—in fact cannot—stop with this vote.

Last fall, the President's National Security Strategy stated that:

> The gravest danger our nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination.

We need look no further than the steadily escalating crisis in North Korea to recognize that the President was right on that point.

You will have to look much harder, however, to ascertain exactly what the administration proposes to do about this crisis, let alone the larger issue of proliferation worldwide.

That is why last night I joined with several of my colleagues, including Senators LIEBERMAN and BIDEN, to introduce S. Res. 77, a resolution that calls on the administration to devise a comprehensive strategy to confront the threat posed by the proliferation of weapons of mass destruction.

The Bush administration's policy to counter proliferation has suffered from inconsistency. It downplays immediate threats, such as North Korea, while emphasizing others. It puts together a coalition against terrorism, but has ignored allies and undercut international action against proliferation. In sum, the administration's actions have served to weaken the effort to establish a robust coalition against proliferation.

Since taking office, the Administration has been deeply ambivalent about U.S. efforts to secure loose Russian nuclear weapons and materials and unemployed nuclear scientists. While focusing on Iraq, it has ignored looming problems elsewhere, such as North Korea and Iran. And rather than seeking ways to reduce the threat of nuclear weapons, it pursues doctrines that would effectively lower the threshold for the use of nuclear weapons, further compounding the threat of proliferation.

This is too dangerous a situation to ignore any longer. Our resolution calls for a comprehensive strategy—not unhelpful actions or ad hoc reactions—to confront the threat proliferation presents to American citizens.

Among other proposals, we urge the President to begin to build a coalition against proliferation, immediately and directly engage North Korea, vastly increase the funding for U.S. programs that secure loose nuclear weapons, and deliver sufficient homeland security funds to the state, local and tribal governments so they can prepare their first responders to respond against further terrorist attacks.

The administration tells us that the Moscow Treaty represents a new kind of agreement, one that acknowledges we have emerged fully from the cold war era. We join the President in welcoming this new era.

But we must take this opportunity to create a comprehensive strategy that recognizes we have entered a new and potentially dangerous era of proliferation.

To date the administration has failed in that effort. But we cannot afford to delay any longer.

Time is not on our side. The risks to our security mount with each day that passes without an administration strategy.

Mr. LUGAR. My understanding is the distinguished majority leader has a statement.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, first of all, I thank Senators Lugar and Biden for their excellent work over the past 2 days. I appreciate their leadership on this very important Resolution for Ratification of the Moscow Treaty.

The treaty is critically important to making the world a safer place and will lead to dramatic reductions in nuclear arsenals. I commend the chairmen. The next vote on the adoption of the Resolution of Ratification will be the last vote of the evening.

In addition, there will be no rollcall votes during tomorrow's session, although the Senate will be in session to allow Members to speak in morning business. Many will be speaking on Iraq. If any Members are interested, I encourage them to come to the floor to do so tomorrow. The next rollcall vote will be on Monday at 6 p.m.

I thank all Senators for their attention.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask for the yeas and nays on the Resolution of Ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Is there further debate?

If not, the question is on agreeing to the Resolution of Ratification with conditions and declarations to Calendar No. 1, Treaty Document No. 107–8, the Moscow Treaty. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 43 Ex.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—5

Domenici
Graham (FL)
McConnell
Miller
Smith

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the Resolution of Ratification is agreed to.

The Resolution of Ratification agreed to is as follows:

Resolved, (two thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND DECLARATIONS.

The Senate advises and consents to the ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (T. Doc. 107–8, in this resolution referred to as the "Moscow Treaty" or "Treaty"), subject to the conditions in section 2 and declarations in section 3.

SEC. 2. CONDITIONS.

The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following conditions, which shall be binding on the President:

(1) REPORT ON THE ROLE OF COOPERATIVE THREAT REDUCTION AND NONPROLIFERATION

ASSISTANCE. Recognizing that implementation of the Moscow Treaty is the sole responsibility of each party, not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on February 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material in the current year. The report shall be submitted in both unclassified and, as necessary, classified form. (2) Annual implementation report. Not later than 60 days after exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on implementation of the Treaty by the United States and the Russian Federation. This report shall be submitted in both unclassified and, as necessary, classified form and shall include

(A) a listing of strategic nuclear weapons force levels of the United States, and a best estimate of the strategic nuclear weapons force levels of the Russian Federation, as of December 31 of the preceding calendar year;

(B) a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year;

(C) to the extent possible, the plans of each party for achieving by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(D) measures, including any verification or transparency measures, that have been taken or have been proposed by a party to assure each party of the other party's continued intent and ability to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(E) information relevant to implementation of this Treaty that has been learned as a result of Strategic Arms Reduction Treaty (START) verification measures, and the status of consideration of extending the START verification regime beyond December 2009;

(F) any information, insufficiency of information, or other situation that may call into question the intent or the ability of either party to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty; and

(G) any actions that have been taken or have been proposed by a party to address concerns listed pursuant to subparagraph (F) or to improve the implementation and effectiveness of the Treaty.

SEC. 3. DECLARATIONS.

The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following declarations, which express the intent of the Senate:

(1) TREATY INTERPRETATION. The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997, relating to condition (1) of the resolution of ratification of the Intermediate-Range Nuclear Forces (INF) Treaty, approved by the Senate on May 27, 1988.

(2) FURTHER STRATEGIC ARMS REDUCTIONS. The Senate encourages the President to continue strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States.

(3) BILATERAL IMPLEMENTATION ISSUES. The Senate expects the executive branch of the Government to offer regular briefings, including consultations before meetings of the Bilateral Implementation Commission, to the Committee on Foreign Relations and the Committee on Armed Services of the Senate on any implementation issues related to the Moscow Treaty. Such briefings shall include a description of all efforts by the United States in bilateral forums and through diplomatic channels with the Russian Federation to resolve any such issues and shall include a description of

(A) the issues raised at the Bilateral Implementation Commission, within 30 days after such meetings;

(B) any issues related to implementation of this Treaty that the United States is pursuing in other channels, including the Consultative Group for Strategic Security established pursuant to the Joint Declaration of May 24, 2002, by the Presidents of the United States and the Russian Federation; and

(C) any Presidential determination with respect to issues described in subparagraphs (A) and (B).

(4) NONSTRATEGIC NUCLEAR WEAPONS. Recognizing the difficulty the United States has faced in ascertaining with confidence the number of nonstrategic nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of

(A) establishing cooperative measures to give each party to the Treaty improved confidence regarding the accurate accounting and security of nonstrategic nuclear weapons maintained by the other party; and

(B) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its nonstrategic nuclear weapons.

(5) ACHIEVING REDUCTIONS. Recognizing the transformed relationship between the United States and the Russian Federation and the significantly decreased threat posed to the United States by the Russian Federation's strategic nuclear arsenal, the Senate encourages the President to accelerate United States strategic force reductions, to the extent feasible and consistent with United States national security requirements and alliance obligations, in order that the reductions required by Article I of the Treaty may be achieved prior to December 31, 2012.

(6) CONSULTATIONS. Given the Senate's continuing interest in this Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article IV of the Treaty.

Mr. LUGAR. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I express my appreciation to Senator BIDEN for his leadership and management of this treaty and to all Members of the Foreign Affairs Committee, including the distinguished occupant of the Chair, and also Senators who contributed constructively to, I believe, a very important achievement.

I specifically mention staff Members who were most supportive and helpful: Tom Moore, Ed Levine, Jofi Joseph, Brian McKenan, Jason Hamm, Ken Myers, Sr., and Kenny Myers, Jr. We are appreciative of staff on both sides of the aisle for a remarkable piece of work.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that at 6 o'clock on Monday, March 10, the Senate proceed to executive session for the consideration of Calendar No. 39, the nomination of Gregory Frost to be U.S. District Judge for the Southern District of Ohio; provided further that the Senate then proceed immediately to a vote on the confirmation of the nomination; further that following that vote the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that the Senate return to legislative session and proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BLACK HISTORY MONTH

Mr. FRIST. Mr. President, as you know, Black History Month drew to a close last week with the end of February. It was a month of much celebration and many lessons. For me, it was also a time for reflection. I want to take this opportunity to speak for just a moment about where we have been, where we are now and where we, as a nation—"under God, indivisible, with liberty and justice for all"—must go.

Black History Month actually evolved from Black History Week, established in 1926 through the tremendous efforts of Dr. Carter Godwin Woodson. He originally chose the second week of February because of its proximity to the birth dates of two great men whose role in the history of Black Americans are legendary: Frederick Douglass and Abraham Lincoln.

Dr. Woodson's goal was simple: to highlight the many accomplishments of African Americans and their history of contribution to the growth and success of the United States of America.

This year, as our Nation faces challenges unsurpassed in my own personal memory, I would like to speak for a moment of what I hope and pray our—this United States Senate—contributions will be.

The 20th century saw great strides forward in equality, civil rights and racial relations in America. These strides were made because dedicated men and women recognized what needed to be done to right wrongs—and then they went and did the right things—sometimes at the expense of their own lives.

Recently, Darrell Green, former Washington Redskin great and future National Football League Hall of Famer, told a group of Senators that knowing the right thing to do is easy. Doing the right thing takes a lot of commitment and very hard work. He reminded us that we are in the Congress to serve—and when we are gone, the world should be a better place not just for a few, but for all people.

Twenty years from now, as our replacements in this Chamber celebrate Black History Month, I hope they will have cause to celebrate the good that we accomplished. I hope they will be able to celebrate the progress we made in bringing people together. I hope they will celebrate the fact that United States Senators of the 108th Congress led the way in spurning activities and speech designed to infect racial wounds, not heal them.

And I hope they will celebrate the fact that we, as today's leaders, made great strides forward in parity in education and health care for all Americans.

We all know that education is the ultimate key to opportunity. Our public education system is an unparalleled commitment by the United States of America to our Nation's children. We need to make certain that we provide them with the tools they must have to succeed. Their success, after all, is vital to all of our future endeavors. If we are to make progress worth celebrating by future generations, we must do the right things.

We must also do the right things to reduce health disparities. It is simply wrong that an African American male the same age as myself is significantly more likely than am I to contract heart disease. We need to provide not only research, but action in this area. Every American deserves the highest quality health care, regardless of race.

I hope they will celebrate the fact that we fought an aggressive and effective war against AIDS, the plague of our time—and perhaps of all time. A disease that disproportionately affects African Americans and indeed, the continent of Africa.

Mr. President, last month we celebrated the amazing accomplishments of African Americans throughout our history. Let us also celebrate a joint commitment to ensure that our contribution to Black history—really, to American history—will be that we serve well, do what is right, and leave the world a better place.

DOUBLE TAXATION OF DIVIDENDS AND CORPORATE GOVERNANCE

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak with my colleagues as chairman of the Special Committee on Aging. Every person in this Chamber, every Senator, has an abiding interest in the welfare of America's seniors. The issue I wish to speak to this afternoon is, No. 1, how double taxation unfairly targets older Americans and the disastrous effect of the dividend penalty on corporate governance.

During the first week of February, the Aging Committee held a hearing entitled "Tax Fairness: Does Double Taxation Unfairly Target Older Americans?"

Those attending the Aging hearing learned that older Americans, both working and retired, are subject to double taxation more than any other age group in the United States. Just yesterday, Larry Kudlow, economist-spokesman on Fox News, a television commentator, was here to speak to many of us on the issue of double taxation. Older Americans are literally being taxed to death by their own Government.

Let me share with you three reasons seniors are double taxed. The reality is, first, many seniors pay taxes twice on Social Security benefits. Secondly, the Government collects the death tax when a senior passes on. Third, dividend income is also taxed twice: it is taxed once at the company level and again at the individual level. Older Americans are more likely to hold investments that pay dividends than any other age group. Over 70 percent of all taxable dividend payments are received by Americans age 55 and older.

Clearly, eliminating the dividend penalty will benefit older Americans and seniors who have worked hard all of their lifetime, sacrificed, and saved a nest egg for their retirement. More than 9 million seniors age 65 years and older, many on fixed incomes, rely on dividend income to make ends meet from month to month. The average—and this is an important figure because, remember, our critics are saying, but this is just for the rich; remember, 9 million seniors, 65 years of age and older—dividend income for these taxpayers is a little over $4,000 per year. But $4,000 additional money per year for someone living on a fixed income is a substantial amount of money.

Let me share with you the testimony of one of the witnesses at the Aging Committee hearing, Dick Buxton from Idaho. Mr. Buxton was there to talk about the beneficial impact of ending double taxation on dividends and what it would do to his father and mother-in-law. His father is 89 years old, a railroad retiree; his mother-in-law is 91 years old and a retired schoolteacher. They both worked very hard all their lives, saved a little money, and invested in corporations that paid dividends as a part of their life savings to benefit their income.

They are not wealthy people. They are what is clearly part of the number I am talking about. They are not retired Wall Street investment bankers. They are not wealthy heirs to family fortunes. These are the middle-class seniors who were frugal throughout their lifetime and saved a nest egg for retirement. These are the faces of seniors across the country who should not be penalized for saving. That is what our President has said, and that is one of the reasons he has offered up the opportunity to take down the double taxation of dividends. These are the kind of people who would benefit clearly from the abolition of that double taxation.

Ending the dividend penalty not only benefits older Americans. It gives a much needed boost to our economy. It also makes corporations more accountable. At the hearing, we learned that restoring trust in ensuring the honest financial management of our Nation's companies is extremely important as an issue of this moment in our Nation's history. Larry Kudlow spoke very clearly to that issue yesterday, that it is a unique time in our Nation's investment history, and we need to give this area of our economy a jolt. Improving confidence in our financial markets is critical to all workers, retirees, especially after the Enron and WorldCom debacles.

How would ending the dividend penalty improve corporate accountability? Well, dividends don't lie. You either have the cash to pay them or you don't. Increases in dividend payments would provide a clear and unmistakable signal of a company's strength and viability in the market to the average person who would invest in that company. No corporate report, no message by a corporate executive saying: Here is what we are going to do, and here is how we are going to bump the stock, and here is the game we are playing for all of your investors as the story. The story is, are we making a profit and are we paying a dividend. That is kind of the old way that created the stability in corporate America that most investors began to rely on years ago.

Dividends signal stability. They encourage shareholders to hold for the long term even when companies go through tough times. For example, Bristol-Myers is a company that has gone through tough times recently. The current annual dividend is $1.12, with a yield of about 5 percent. Investors know Bristol-Myers is basically a sound, healthy, productive company.

The dividend is a big part of investor confidence in the long-term strength of a company. The psychology of shareholders changes with short-term to long-term as it relates to the value of dividends and when those dividends go up.

Dividends encourage internal investment in only the best ideas. Dividends are taxed at a much higher rate than capital gains. The higher dividend tax encourages companies to hoard cash rather than pay it out in dividends. The dividend penalty causes too much money to be chasing too few good investment ideas. We have seen that in spades as companies have come tumbling down as a result of bad decisions made by corporate America.

One of our experienced witnesses known as an expert, Hillary Kramer, who is often on television and has her own program, speaking to the stability of investment, spoke about United Airlines. Over the past couple of decades, UAL invested their cash in Internet ventures and car rentals and hotels. United Airlines ventured out of their core competency; that is, getting people from one spot to another on an airliner, in part because the Tax Code pushed them in that direction. Shareholders might have been better served if they had paid a higher dividend instead and stayed with the business of efficiently and safely moving people through their airlines.

The dividend penalty diverts cash away from shareholders into bad but tax-favored activities. On the other hand, paying cash out in dividends encourages stockholders to channel the cash into the most productive investment opportunities available inside and outside the company. This encourages management to be more careful and prudent when investing cash. After all, this is cash that is owed to the stockholder or owned by the stockholder.

The dividend penalty encourages a dangerous buildup of debt and discourages using cash to finance internal investments. Heavy business debt makes companies less stable. The cost of debt is artificially low compared to using cash because of the double taxation of dividends. Interest payments on debt are subsidized by the Tax Code as an expense. In other words, we encourage corporate indebtedness by this very method. Dividends, on the other hand, are taxed now at a rate of nearly 70 percent, second highest in the world. The first highest is Japan. The flattest, most stagnant, economy in the world today is Japan.

There is a simple and clear explanation. We all know that if we want more of something, we subsidize it; if we want less of something, we tax it. Remember, heavy debt has been associated with many of the recent large bankruptcies about which I have spoken.

You will remember that Enron had significant debt levels, among other things, that it had most of its problems investing in a variety of areas outside of its core competence. The Tax Code encourages debt and discourages dividend payments.

The double taxation of dividends encourages the creation of noncorporate entities. These noncorporate entities include partnerships and limited liability corporations. Again, Enron left many of its debts off the books. As a result, Enron overstated profits by some $400 million in its annual reports. Noncorporate entities do not pay double taxes like corporations.

Many of the scandal-ridden companies that imploded over the past few years had created several noncorporate entities—in part, to escape double taxation. Again, the Government says to do one thing—be honest and straightforward. But the same Government encourages complexity and dishonesty with its very own tax policy.

A year ago, Professor Jeremy Siegel of the Wharton School of Business wrote in the Wall Street Journal:

> Nothing could possibly excuse Enron, Arthur Andersen and other firms from their deceptive and fraudulent practices. But cries for accounting reforms, transparent earning reports, and audit independence will not amount to anything [other than to slightly discourage this effort] if the U.S. tax system encourages firms to do just [what Enron did].

The double taxation of the dividends is hurting efforts to prevent corporate corruption. The frustrating thing is that even after enacting tougher penalties for corporate crooks, it may be wasted effort, unless we end the double taxation penalty. The incentive is backward, Mr. President. If we have learned nothing over the past decades, we should have learned that incentives do matter.

I would venture most of us in the Chamber agree that ending the double taxation of dividends is good for older Americans and it is good tax policy. It would be a shame for us to cast aside good policy without a fair and honest appraisal.

I urge my colleagues to support the effort to end the double taxation of dividends. We can help improve corporate accountability by proper tax policy, while greatly helping America's seniors.

In conclusion, I will quote one of the expert witnesses who testified at our hearing, Hilary Kramer:

> Abolishing the double taxation of dividends is about keeping companies honest, competent, and resourceful. . . .

I say we end the dividend penalty now for the sake of our seniors, who are the savers and investors in stable investments, and who live on fixed incomes, and for the sake of returning trust to the governance of corporate America.

I yield the floor.

ARKANSAS TROOPS ACTIVATED FOR WAR ON TERROR AND IN MIDDLE EAST

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to the American troops in the National Guard and Reserves who are placing themselves in harm's way to defend our Nation against the threats of terrorism and global instability.

As of Wednesday, March 5, there are 176,553 Reservists and Guardsmen nationwide activated in the war on terrorism and in preparation for a potential war against Iraq. Currently, there are 1,875 Arkansans activated in the Guard and Reserves. I ask unanimous consent that the attached list be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it so ordered.

(See exhibit 1.)

Mrs. LINCOLN. Mr. President, the sacrifices that these men and women are making to protect our freedoms, depend our libraries, and ensure regional and global stability. We are very proud of each and every one of them, and we owe all of them a tremendous debt of gratitude for their service and for their dedication to their country. We look forward to welcoming them home safely.

EXHIBIT NO. 1

ARKANSAS TROOPS CURRENTLY ACTIVATED

Amry National Guard (947 Arkansas):

N. Little Rock: State Area Command, 4.

Ft. Smith: 2nd Battalion, 142nd Field Artillery, HQ, 42.

Lincoln: 2nd Battalion, 142nd Field Artillery, SVC Battery, 20.

Van Buren: 2nd Battalion, 142nd Field Artillery, Battery A, 72.

Siloam Springs: 2nd Battalion, 142nd Field Artillery, Battery B, 73.

Ozark: 2nd Battalion, 142nd Field Artillery, Battery C, 73.

West Memphis: 216th Military Police Company, 124.

Little Rock: 149th Medical Company, 2.

Little Rock: 343rd Mobile Public Affairs Detachment, 7.

Ft. Smith: 935th Support Battalion, 99.

N. Little Rock: 935th Support Battalion, 32.

Charleston: 296th Medical Company, 117.

Marked Tree: 1123rd Transportation Company, 167.

N. Little Rock: 25th Support Detachment, 49.

N. Little Rock: 114th Aviation Air Traffic Control Battalion, 64.

N. Little Rock: 223rd Regiment (Regional Training Institute, 2.

Army Reserve (794 Arkansans):

Fayetteville: 362nd Psychological Operations Company, 67.

Little Rock: 431st Civil Affairs Battalion, 140.

Little Rock: 460th Chemical Brigade, 1.

Pine Bluff: 92nd Chemical Battalion, 1.
Charleston: 38th Ordnance Group, 56.
Little Rock: 468th Chemical Battalion, 45.
N. Little Rock: 489th Engineer Battalion, 452.
Little Rock: 90th Reserve Support Command, 22.
Little Rock: 112th Chaplain Detachment, 2.
Little Rock: U.S. Army Engineering Facility Group, 8.
Air National Guard (145 Arkansans):
Little Rock: 189th Airlift Wing, 99.
Fort Smith: 188th Airlift Wing, 46.
Naval Reserves (7 Arkansans):
Little Rock: Naval Support Activity Bahrain, Detachment C, 7.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 2, 2003, in New York City. Robert Spreng, 53, a resident of Manhattan's Upper East Side, was attacked at 4 a.m. as he walked home from a local bar. Spreng was followed by three men who approached him and screamed, "Faggot!" Spreng raised his hands and said that he didn't want any trouble, to which the assailants responded, "Faggot, you're going to have trouble tonight." Then the three men attacked Spreng, punching and kicking him. A witness called police, who were able to stop the beating.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

UNANIMOUS CONSENT CONSIDERATION

Mr. INHOFE. Mr. President, earlier today I submitted a request to the Senate to be considered with respect to the referral of the nomination of the Assistant Secretary of the Army for Civil Works for the 108th Congress.

The order reads as follows:

Ordered that, when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session, provided further that if the Committee on Environment and Public Works does not report the nomination within those 20 days, the Committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

This order has been closely coordinated with both the chairmen and ranking members of the Committee on Armed Services and the Committee on Environment and Public Works. As chairman of the EPW Committee and a senior member of the Armed Services Committee, I thank Chairman WARNER and Senator LEVIN for working with Senator JEFFORDS and myself.

Mr. JEFFORDS. I too support this order, and I thank my colleagues on both the EPW Committee and Armed Services for working together on this request.

HONORING JAMES T. O'TOOLE

Mr. THOMAS. Mr. President, I rise today to express my thanks to James "Jim" O'Toole for all of his hard work and efforts with the Parks and Historic Preservation Subcommittee which I chair.

Born and raised in San Francisco, Jim O'Toole is a graduate of St. Ignatius College Prep and the University of San Francisco. After a 23-year career with the National Park Service, he came to Washington, D.C. in 1987 as part of the U.S. Department of the Interior's Management Development Program where he also served on a professional fellowship to the Senate Committee on Energy and Natural Resources. After the completion of his fellowship, Mr. O'Toole resigned from the Park Service and assumed the roles as professional staff member for the committee. During his tenure in the Senate, he served as professional staff for the minority for the Subcommittee on Public Lands, National Parks and Forests from 1987 to 1994, and with the majority for the Subcommittee on National Parks, Historic Preservation and Recreation from 1994 until now.

Mr. O'Toole's primary issue responsibilities encompassed all work relating to the Subcommittee on National Parks, Historic Preservation and Recreation, including: oversight of the National Park Service and Park Police; Wild and Scenic Rivers; National Trails and Recreation Areas; Historic Sites and Preservation; Military Parks and Battlefields; Land and Water Conservation Fund; outdoor recreation resources; preservation of prehistoric ruins and objects of interests on the public domain; concessions programs affecting federal land management agencies; and various public land management issues. Over the past fourteen years, the bulk of the Senate Energy Committee legislation has been reported from the National Parks Subcommittee which Jim staffed. Mr. O'Toole was also the primary Senate staffer for H.R. 3248, the Omnibus Parks and Public Lands Act of 1997, (P.L. 104-333). This law contains the precedent setting San Francisco Presidio legislation which has been used as a template for similar private sector initiatives including the Oklahoma City Memorial and the Baca Ranch in New Mexico.

More recently, Jim was instrumental in the passage of the Vision 2020 Parks Restoration Act, P.L. 105-391. Vision 2020 represents the culmination of a three-year effort and the first major reform of the National Park Service in more than 30 years, including an 11 year effort to reform the Agency's Concession Management Program.

After 14 dedicated years working for the Senate Energy Committee, and more than 23 years with the National Park Service, it is with gratitude and great enthusiasm that I convey my personal thanks and appreciation to Jim O'Toole. I also announce that Jim is officially retired from his life of public service as of today, and he will be joining the private sector.

Again, I express my appreciation to Mr. O'Toole and I wish him well with all of his new ventures and future challenges.

ADDITIONAL STATEMENTS

TRIBUTE TO FIRE CHIEF STEVE PAULSELL

• Mr. BOND. Mr. President, I rise to pay tribute to Fire Chief Steve Paulsell who for the past 25 years has been Chief of the Fire District in Boone County, MO. When Mr. Paulsell became Fire Chief in 1997, the fire department was volunteer and consisted of six stations and 50 firefighters. Under Chief Paulsell's supervision, the fire district has become a national leader in fire and emergency service. Chief Paulsell's departmental accomplishments include: growth from six to fourteen fire stations in 2003, over 300 volunteer personnel, creation of one of 28 Federal Emergency Management Agency urban search and rescue task forces, an FBI accredited bomb squad, award-winning elementary school education life safety program, creation of fire and building codes in Boone County, and original creator of the Joint Communications 911 Center. Chief Paulsell's personal accomplishments include: International Association of Fire Chief's Fire Chief of the Year in 1996, chair of the Missouri Fire Service Alliance, National Fire Academy course developer, and developer of Missouri State Fire Mutual Aid system. In addition to these accomplishments, Mr. Paulsell has testified on behalf of the Nation's fire service to the Senate.

Boone County Fire District Board President Willis Smith praises Chief Paulsell and states, "He was the right man to lead our fire department in 1977 and he is still the right man to lead. He has the vision, insight and leadership abilities to continue to grow this department." I commend Boone County Fire Chief Steve Paulsell for his dedicated service to protecting and improving the quality of fire and emergency services for Missourians, and for making the Boone County Fire District a model for our country.•

FILIBUSTERS ON JUDICIAL NOMINEES

• Mrs. BOXER. Mr. President, last week in the Senate, I indicated that with the exception of Supreme Court nominees, I believed that if a judicial nominee answers the questions posed to him or her and provides the Senate with the information needed in order for us to perform our constitutional role of advice and consent, I would not engage in a filibuster on the nomination.

I made this remark expecting that the so-called blue slip process would be honored. That is, if a Senator from the nominee's home State did not return a blue slip, that nominee would not have a hearing, would not be considered in the Judiciary Committee, and would never even come before the full Senate. A filibuster would not be possible because the nomination would not leave the Committee.

After my remarks, however, something happened that makes me question that assumption. I heard on good authority that hearings are being considered on nominees for whom a blue slip has not been returned.

Given this development, it is possible that the Senate could, in the very near future, be asked to vote on a nominee for whom a blue slip was never returned. At the time of my statement last week, I was not aware that such an abrupt change in Senate practice was being contemplated so seriously and so quickly.

Therefore, Mr. President, if a nominee were to come before the full Senate without a blue slip having been returned by a home State Senator, I reserve the right to participate in a filibuster on that nomination.

Furthermore, after I gave my statement last week, an incident occurred in the Senate Judiciary Committee that is of great concern to me and should be to the entire Senate. The rules of the Judiciary Committee require at least one Member of the minority party to agree to end debate on a matter before the Committee. Despite this rule, and despite the fact that no one on the Democratic side voted to end debate, the Committee held a vote on two circuit court nominees anyway.

If Committee rules are going to be ignored—if the rights of the minority party and the interests of the minority party are trampled upon—this process is going to break down. It may take a filibuster in the full Senate to ensure that the rules are followed.

Finally, Mr. President, when President Bush was elected, he pledged to govern from the center. Judicial candidates who are not moderate, mainstream nominees violate that pledge. I want to hold President Bush to his pledge, so I also reserve the right to filibuster a nominee who is far outside the mainstream.•

TRIBUTE TO VICTOR BAIRD

• Mr. THOMAS. Mr. President, I pay tribute today to Victor Baird, who is retiring from his position as Staff Director and Chief Counsel to the U.S. Senate Select Committee on Ethics after more than 15 years of service.

Victor has done a good job under difficult circumstances. I have been a member of the Committee for a couple of years, but in that short time, Victor has handled several high profile and sensitive situations very well. He certainly has been an asset in helping the committee preserve the integrity of the U.S. Senate. Often in this type of job, you end up making no one happy. Victor handled this thankless task with an even demeanor.

Vitor has spent much of his life in public service—in the military, for the state of Georgia and in the U.S. Senate—and he has done it well. I wish him the best in his new endeavors.•

TRIBUTE TO THE MOREHEAD STATE UNIVERSITY VARSITY CHEERLEADERS

• Mr. BUNNING. Mr. President, today I pay tribute to the Morehead State University Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Morehead State University coed varsity cheerleading squad was awarded their 13th national title in Division I. Along with winning the overall title, Morehead State University won the all-girl partner stunt competition and received second place in the all-girl squad.

The citizens of Morehead, KY should be proud to have Morehead State University cheerleading champs living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I would like to congratulate the members of the varsity squad for their success. But also, I want to congratulate their coach, Myron Doan, along with their peers, faculty, administrators, and parents for their support and sacrifices they have made to help meet those achievements and dreams.•

TRIBUTE TO WALTER CLORE

• Mrs. MURRAY. Mr. President, in February my State lost one of its great citizens and the father of the Washington State wine industry, Walter Clore.

My colleagues in the Senate may not know a fact that many wine drinkers around the globe have learned the last few years: Washington state produces some of the highest quality wine in the world. In 2001, Wine Enthusiast Magazine named Washington state as "Wine Region of the Year" in recognition of its fast emergence as a global leader in producing quality wines.

I am very pleased that Walter Clore lived to see this honor—and so many other honors—bestowed on Washington wine. These honors reflect just how far the Washington wine industry has come. They are also an outstanding tribute to the legacy of Walter Clore and his vision, hard work, and dedication.

I had the great privilege to meet Walter Clore in August 2002. That month, I spent two days traveling through Washington wine country—from Yakima to Prosser to the Tri-Cities to Walla Walla. I toured wineries and vineyards and visited with wine grape growers, vintners, and researchers.

Walter Clore was himself a researcher. He spent 40 years at the Washington State University Irrigated Agriculture Research and Extension Center in Prosser, Washington, an institution that has helped lead Washington agriculture forward in so many ways. During his career, Walter developed and tested wine grape varieties throughout Washington State.

Walter Clore retired in 1976, but he was not content to relax and watch from the sidelines. Using his 40 years of experience and knowledge, he connected emerging vintners with promising varieties and pointed them to ideal sites for growing wine grapes.

I am deeply saddened by the loss of Walter Clore. But I take solace in the fact that he pursued his passion with unrelenting determination and transformed his vision of a vibrant Washington wine industry into a reality. We need more pioneers like Walter Clore.

Today, Washington state's $2.4 billion wine industry is the Nation's second largest producer of premium wines. The industry boasts more than 200 wineries and 300 wine grape growers. More important to consumers than the size of the industry, my State continues to earn respect for its quality, affordable wines.

I believe the best way to pay tribute to Walter Clore is to continue his legacy. As a U.S. Senator, that means funding research through USDA and institutions like Washington State University to keep the industry healthy and on the cutting edge. It means investing in trade promotion initiatives like the Market Access Program so that Washington wine can earn the markets and worldwide recognition it deserves. And it means creating opportunities for Washington wine country to become a destination spot for wine lovers who live in the Pacific Northwest and around the Nation.

As Washingtonians, we are so proud to call Walter Clore our own. On behalf of the Washington wine industry, I want to express my condolences to Walter's family. I also want to let them know that we will continue to build on his great legacy.

Mr. President, I ask unanimous consent that an article from Wine Press Northwest about Walter Clore be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wine Press Northwest, Feb. 3, 2003]

WALTER CLORE, "FATHER OF WASHINGTON WINE," DIES

YAKIMA, Wash.—Dr. Walter Clore, the man known as the "Father of Washington Wine," passed away this morning. He was 91.

Clore, who in 1972 predicted wine consumption would triple in the U.S. by 1999, died in a Yakima-area convalescent home. Considered the father of Washington wines, Clore came up with the idea of growing wine grapes in the Columbia Valley after arriving in Prosser soon after Prohibition was repealed.

Clore retired from the Washington State University Irrigated Agriculture Research and Extension Station in 1976, four years after he commented on the future of wine in this country at a chamber of commerce meeting. His involvement remained strong well into retirement. Last summer, he visited with U.S. Sen. Patty Murray when she toured the region's wine country.

Clore literally helped write the book on the Washington wine industry. In fact, The Wine Project, co-authored by Ron Irvine, serves as a biography of sorts for the man some view as the Johnny Appleseed of vinifera grapes in the state.

He spent 40 years at the Prosser Experiment Station. During his tenure, Clore, more than any other individual, is responsible for convincing Eastern Washington farmers they could grow world-class wine grapes.

Clore was born July 1, 1911, and grew up in Oklahoma during Prohibition and was raised a teetotaling Methodist. He came to Washington State College in 1934 on a $500 fellowship. In 1937, Clore was appointed assistant horticulturist. He was the third faculty member on staff at the center and began working with tree fruits and small fruits—including grapes.

One of Clore's primary contributions to the industry was figuring out where premium wine grapes could be grown in the state. He grew vinifera varieties throughout the state and collected volumes of data on how they fared. He retired in 1976.

Soon after, the Washington wine industry began to grow in earnest and Clore began consulting. Stimson Lane Vineyards and Estates, which owns Columbia Crest and Chateau Ste. Michelle, sought Clore's advice. He pointed them to several sites that have turned out to be among the best in the state, including Horse Heaven Hills and Cold Creek.

"The industry got a running start because he planted scores of varieties throughout the Columbia Valley and collected the data necessary for vintners to make reasonable decisions about where to site a vineyard or winery," said Ted Baseler, president of Stimson Lane. "Prior to that, many people decided it was a foregone conclusion that premium wine grapes could not be grown in Washington."

Last fall, Columbia Crest honored Clore by naming its Bordeaux-style red blend the Walter Clore Private Reserve. It's an honor Clore, 91, appreciated on a couple of levels.

"I read in a recent Wine Spectator that Opus One earned a 93 point rating (out of 100) and was priced at $150," Clore said during an Oct. 16 ceremony at the Paterson, Wash., winery. "I also read that the Columbia Crest Walter Clore Reserve received a 92 rating and was priced at $30."

Several of those grape growers, along with Clore's friends and company officials, came out to help Columbia Crest and Clore toast the 1999 vintage. Special guests included George Carter—Clore's longtime assistant—and Les Fleming, pioneer Grandview winery and vineyard manager.

Doug Gore, vice president and head winemaker at Columbia Crest, said part of the honor includes naming the room where the reserve wine is aged as the Walter Clore Barrel Room.

"There are a lot of legends in the Washington wine industry, but it was Walter Clore who first dreamed it was possible," Gore said. "The modern-day legends are a validation that he was right."

Gore likes to tell the story about when he was a brand-new assistant winemaker at Chateau Ste. Michelle's Grandview winery and was told by his boss Kay Simon that if any grower comes to the back door wanting an analysis of their grapes to shoo them around to the front.

"There was this kindly looking gentleman who came to the back door wanting a sample run on some grapes, and I told him to go around front. However he was persistent, so I asked who he was and he told me, Walt Clore. I apologized for trying to get rid of him. That was the beginning of a long association with the man who I consider the Johnny Appleseed of Washington's wine grape industry," Gore said.

In the preface to The Wine Project, Clore wrote: "I grew up during Prohibition in a teetotaler, nonsmoking Methodist family. My mother was a staunch Women's Christian Temperance Union Member."

It was an interest aside to the man who grew up to be called the father of the Washington's wine industry, which today is vigorous, flourishing and much in debt to Clore's visionary research.

It was Clore, a horticulturist at WSU's Prosser research station, who was asked more than 40 years ago to look at the potential of growing vinifera wine grapes in Eastern Washington.

"I was intrigued and was given the research task of determine the best adaptable varieties for making premium wines," he said."This was not a difficult task, as I found the interest of co-workers high including not only those in Washington but Oregon, Idaho and British Columbia" he wrote.

Clore also helped develop the rare Lemberger red variety and found some willing disciples. One of these was Kiona Vineyards Winery in the Red Mountain AVA, which has made Lemberger for more than 20 vintages.

John Williams, who with grower Jim Holmes was one of the original partners at Kiona, said, "Dr. Clore was the man in the state's wine industry as far as I'm concerned. If it hadn't been for him, both Jim and I probably would not have gotten into making wine." I remember in the late 1970s when he called me saying that since Kiona was the only one interested in the Lemberger variety we would be first to get the plants released by WSU," Williams said.

Bob Woehler, longtime Tri-City Herald and Wine Press Northwest wine writer, whose association with Clore traces back to the 1970s, said, "His homespun dignity and overall nice-guy friendliness was as impressive as the knowledge he gave to the Washington wine industry.

"Interestingly, Dr. Clore's association with wine led to developing a taste for it himself despite his upbringing. He often liked to relate at gatherings that he got his mother eventually to try a sip or two," Woehler said.

James Zuiches, dean of WSU's College of Agriculture and Home Economics, said in a press release, "From my point of view, Walter Clore was a true pioneer in agricultural research. He took leadership without anyone telling him to, to evaluate wine grape varieties for Washington's environment. He laid the basis for a multimillion dollar industry. He was a role model for faculty and many people have benefitted from his research and extension work. He never lost his love for the industry. He didn't teach formally in a classroom, but he taught thousands of people through his publications, extension programs and training of students in field work."

Clore's death came as plans were being made to build a $6 million Walter Clore Wine and Culinary Center in Prosser.

In 1993, the WSU Foundation established the Walter J. Clore Scholarship Endowment to provide scholarships to full-time undergraduate students at WSU who are interested in studying grape production, processing or marketing.

Shaw and Sons Funeral Directors, Yakima, is in charge of arrangements.

Anyone who wishes to make a memorial gift may contact Patrick Kramer, WSU College of Agriculture and Home Economics development director, who has a list of four charities the family has suggested. Kramer may be reached at 509-335-2243 or at kramerp@wsu.edu.●

IN RECOGNITION OF THE 50TH ANNIVERSARY OF THE GREATER MT. CARMEL MISSIONARY BAPTIST CHURCH

● Mr. LEVIN. Mr. President, I would like to pay tribute to the Greater Mt. Carmel Missionary Baptist Church for a half-century of dedication and leadership within the Detroit community. On March 15, 2003, people will be gathering in my hometown of Detroit, MI to celebrate the 50th anniversary of Greater Mt. Carmel Missionary Baptist Church. I am pleased to recognize the members of the Church for their many years of dedication and service to the community.

The Greater Mt. Carmel Missionary Baptist Church first opened its doors on March 1, 1953. At the time, it was only a small congregation that met at a storefront every Sunday. In March of 1965, Greater Mt. Carmel relocated to its current location on Helen Street in Detroit. Later that year, the congregation's Radio Ministry was established and, 38 years later, can still be heard every Sunday afternoon.

Over the last 50 years, Greater Mt. Carmel has become a valuable and well-respected spiritual and educational resource for its growing congregation. Under the guidance of Pastors Montgomery and Pierce, the congregation has expanded upon many fronts and continues to enrich the lives of many people. Greater Mt. Carmel Missionary Baptist Church has partnered with Focus: HOPE to assist with food delivery programs to the elderly and underprivileged. In addition, congregants prepare baskets and meals for homeless Detroit residents during Thanksgiving and Christmas to ensure that no one misses the joy of the holiday season. Greater Mr. Carmel is widely recognized for the multitude of essential services it has provided in our community.

I take great pride in recognizing the efforts of the Greater Mt. Carmel Missionary Baptist Church throughout its 50 year history in Detroit. Their ministry attends to the entire person: mind, body, and soul. I know my Senate colleagues will join me in saluting the accomplishments of the Greater Mt. Carmel Missionary Baptist Church and in wishing them continued success in the future.●

TRANSMITTING NOTICE THAT THE PRESIDENT HAS EXERCISED HIS AUTHORITY TO ISSUE AN EXECUTIVE ORDER TO DECLARE A NATIONAL EMERGENCY WITH RESPECT TO ZIMBABWE—PM 21

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency with respect to the unusual and extraordinary threat to the foreign policy interests of the United States posed by the actions and policies of certain individuals who have formulated, implemented, or supported policies that have undermined Zimbabwe's democratic institutions.

Over the course of more than 2 years, the Government of Zimbabwe has systematically undermined that nation's democratic institutions, employing violence, intimidation, and repressive means including legislation to stifle opposition to its rule. This campaign to ensure the continued rule of Robert Mugabe and his associates was clearly revealed in the badly flawed presidential election held in March 2002. Subsequent to the election, the Mugabe government intensified its repression of opposition political parties and those voices in civil society and the independent press calling on the government to respect the nation's democratic values and the basic human rights of its citizens. To add to the desperation of the besieged Zimbabwean people, the current government has engaged in a violent assault on the rule of law that has thrown the economy into chaos, devastated the nation's agricultural economy, and triggered a potentially catastrophic food crisis.

As a result of the unusual and extraordinary threat posed to the foreign policy of the United States by the deterioration of Zimbabwe's democracy and the resulting breakdown in the rule of law, politically motivated violence, and the political and economic instability in the southern African region, I have exercised my statutory authority and issued an Executive Order which, except to the extent provided for in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

Blocks all property and interests in property of the individuals listed in the Annex to the order;

Prohibits any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to the order, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the persons designated pursuant to the order.

The Secretary of the Treasury is further authorized to designate any person determined, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any persons designated in or pursuant to the order. The Secretary of the Treasury is also authorized in the exercise of my authorities under the International Emergency Economic Powers Act to implement these measures in consultation with the Secretary of State. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Executive Order.

This Executive Order further demonstrates the U.S. commitment to supporting Zimbabwe's democratic evolution, and strengthens our cooperation with the European Union in efforts to promote that evolution. The European Union has acted to freeze the assets of 79 individuals responsible for the political, economic, and social deterioration of Zimbabwe. With the exception of two individuals no longer associated with the Government of Zimbabwe, this order encompasses all those identified by the European Union.

I have enclosed a copy of the Executive Order I have issued.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 6, 2003.*

MESSAGE FROM THE HOUSE

At 11:51 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1047. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

H.J. Res. 27. A joint resolution recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 54. Concurrent resolution expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

MEASURES REFERRED

The following joint resolution was read the first and the second times by unanimous consent, and referred as indicated:

H.J. Res. 27. Joint resolution recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 54. Concurrent resolution expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1426. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report relative to the Ready Reserve of the Armed Forces that remained on active duty as of January 1, 2003; to the Committee on Armed Services.

EC–1427. A communication from the Assistant Secretary of Defense, International Security Policy, Department of Defense, transmitting, pursuant to law, the report relative to appropriations requested for each project under each Cooperative Threat Reduction (CTR) program element; to the Committee on Armed Services.

EC–1428. A communication from the General Counsel, Department of Defense, transmitting, pursuant to law, the National Defense Authorization Bill for Fiscal Year 2004, received on March 3, 2003; to the Committee on Armed Services.

EC–1429. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Air Force, case no. 00-02, totaling $3,062,000; to the Committee on Appropriations.

EC–1430. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Navy, case no. 01-05, totaling $1,592,173; to the Committee on Appropriations.

EC–1431. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Navy, case no. 01-07, totaling $149,251.70; to the Committee on Appropriations.

EC–1432. A communication from the Secretary of Health and Human Services & the Secretary of Homeland Security, transmitting, pursuant to law, the report of a draft bill entitled "Project Bioshield Act of 2003" received on February 27, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1433. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Semiannual Report to Congress covering the six month period covering the period that ended September 30, 2002; to the Committee on Governmental Affairs .

EC–1434. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulations Regarding Nondiscriminating on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security (RIN 1602-AA03)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1435. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Enforcement of Nondiscrimination on the Basis of Disability in Department of Homeland Security Programs or Activities" (RIN 1601-AA05)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1436. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (RIN 1601-AA04)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1437. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, the report entitled "Justification of Budget Estimates Fiscal Year 2004" received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1438. A communication from the Inspector General, United States Railroad Retirement Board, transmitting, pursuant to law, the Fiscal Year 2004 Budget Justification, received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1439. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Enforcement of Nondiscrimination on the Basis of Disability in Department of Homeland Security Programs or Activities (RIN 1601-AA05)" received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1440. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declaration (FRL 7459-5)" received on February 27, 2003; to the Committee on Environment and Public Works.

EC–1441. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implemention Plans and Operating Permits Program; State of Iowa (FRL 7458-8)" received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1442. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Conditional Approval of Implementation Plan; Indiana (FRL 7457-3)" received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1443. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Hampshire; Negative Declaration (FRL 7458-3)" received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1444. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hexythiazox; Pesticide Tolerance (FRL 7292-8)" received on February 24, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1445. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flopet; Pesticide Tolerance (FRL 7296-2)" received on February 24, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–57. A resolution developed by the New England Coalition of State Councils on Aging relative to health care costs affecting senior citizens; to the Committee on Health, Education, Labor and Pensions.

POM–58. A resolution developed by the New England Coalition of State Councils on Aging relative to health care facilities available to senior citizens; to the Committee on Health, Education, Labor and Pensions.

POM–59. A resolution adopted by the Washington Parish School Board, Franklinton, State of Louisiana relative to Social Security; to the Committee on Finance.

POM–60. A resolution adopted by the Town Council of Mansfield, State of Connecticut relative to civil liberties; to the Committee on the Judiciary.

POM–61. A resolution adopted by the House of Representatives, State of Hawaii relative to disarming the rogue states of Iraq and North Korea through the United Nations and with support of Allies; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 22

Whereas, the people of Hawaii have always been taught and attempted to live the spirit of Aloha showing kindness, love, and generosity towards their fellow man, but have always risen to the occasion of defending their country when it has been threatened by outside forces; and

Whereas, the rogue states of North Korea led by Kim Jong Il and Iraq led by Saddam Hussein, and terrorist organizations such as Al Qaeda and Islamic Jihad have made the world a very dangerous place to live; and

Whereas, in 1991, the United States provided the leadership and the means to maintain peace, security, and stability for the world by stopping and ousting the Iraqi invasion of the sovereign state of Kuwait; and

Whereas, the Hawaii Legislature strongly supported Operation Desert Storm that ousted the Iraqi invaders from Kuwait in House Concurrent Resolution No. 2, dated January 18, 1991, and the Hawaii House of Representatives reaffirmed its support of the United States' policy for peace and reconciliation in the Middle East in House Resolution No. 106, dated March 12, 1991; and

Whereas, in 1994, the United States defused the North Korean threat of nuclear development in an agreement brought about by the mediation of former President Jimmy Carter; and

Whereas, the city of New York stood tall in withstanding the attack on the World Trade Center on September 11, 2001; and

Whereas, the people of the United States rallied behind President George W. Bush's fight against Al Qaeda, which led to the destruction of its network in Afghanistan and its liberation from religious fanaticism; and

Whereas, the defeat of the Iraqi aggression in 1991 and the Al Qaeda network in 2001–2002 owes much of its success to the leadership of the United States in marshalling the support of many nations, including Russia and China, and worldwide public opinion, especially the people of Afghanistan who welcomed their delivery from the Taliban; and

Whereas, the United States is also approaching the current North Korean crisis with the same positive, multilateral approach with the support of neighboring countries and allies, South Korea and Japan, and the cooperation of China and Russia; and

Whereas, the United States has secured the approval of the United Nations in the current intensive arms inspection operation in Iraq and is seeking the support of NATO allies and major powers in disarming and neutralizing Iraq; and

Whereas, neither the nations of the world nor public opinion is supporting the United States in seeking a unilateral military solution in Iraq because they do not perceive the provocation or threat that existed in 1991 when Iraq invaded and occupied Kuwait; and

Whereas, a unilateral military solution, specifically, a preemptive strike against Iraq, is fraught with many dangers such as a possible igniting of a clash between Muslim and Christian nations; a disruption of oil supply and prices, which have unknown consequences to the world economy, including the economy of the United States; and intensification of the Arab-Israeli conflict; a possible incitement to other nations to settle scores unilaterally; and a rekindling of the national divisiveness prevalent during the Vietnam War; and

Whereas, Hawaii suffered economically in the aftermath of Operation Desert Storm in

1991 and the downturn in tourism following the attacks on the World Trade Center and Pentagon on September 11, 2001, and will likely suffer similar economic consequences in a new Iraqi War or a conflict on the Korean Peninsula: Now, therefore, be it

Resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, that this body expresses its strong support for U.S. policy in containing and disarming the rogue states of Iraq and North Korea through the United Nations and with the support of allies and friends; and be it further

Resolved, That this body:

(1) Reaffirms House Concurrent Resolution No. 2, dated January 18, 1991, and House Resolution No. 106, dated March 12, 1991, supporting the men and women in our armed forces fighting in Operation Desert Storm and praising its success in ousting the Iraqi invaders from Kuwait;

(2) Restates unequivocally its strong commitment to collective security through the United Nations, as so nobly expressed by the men and women in Operation Desert Storm from the United States and twenty-seven coalition partners;

(3) Strongly supports the President's positive policy in seeking a dialogue, in concert with our allies, South Korea and Japan, and with neighboring China and Russia, to have North Korea give up its nuclear program and to institute appropriate international safeguards, including on-site United Nations inspection and a United States pledge of "no first strike";

(4) Strongly supports the President's policy of containing and disarming Iraq as a threat to world peace and security, particularly the current United Nations arms inspection to find and destroy Iraqi arms of mass destruction;

(5) Expresses its strong concerns and reservations for a unilateral United States military solution, such as a preemptive strike on Iraq with only the support of Israel and the United Kingdom in the face of opposition and reservations from world public opinion, including that of the American people; and

(6) Strongly supports President George W. Bush in continuing the current policy of working with and through the United Nations, seeking the support and assistance of both allies and interested powers, such as China and Russia, and explaining to and seeking the understanding and support of the American people; and be it further

Resolved, That Governor Linda Lingle is asked to convey to President George W. Bush the strong support of the House of Representatives:

(1) For the men and women of our armed forces and their families;

(2) For his efforts in fighting terrorism and rogue states;

(3) For using approaches other than a unilateral military solution; and

(4) For using a multi-national approach to find a solution to this problem through the United Nations; and be it further

Resolved, That Hawaii's Congressional delegation is also requested to convey to the officers and members of the United States Congress the views presented in this Resolution; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the United States Congress, Hawaii's Congressional delegation, and Governor Linda Lingle.

POM-62. A resolution adopted by the Legislature of the State of Wyoming relative to Army National Guard of Wyoming; to the Committee on Armed Services.

A RESOLUTION

Whereas, the Wyoming National Guard has deployed nine times in defense of the United States of America starting with the Spanish American War.

Whereas, the soldiers from the Fourth Infantry Division Rear Operations Center will mobilize and deploy to Fort Hood, Texas and prepare for eventual deployment to the Gulf Region of Southwest Asia, leaving Wyoming on January 27th, 2003 and they will display highway signs on roads entering into their station stating "Entering Wyoming" as a matter of their pride and honor.

Whereas, this long term deployment will affect and severely test the families of these citizen-soldiers.

Whereas, the civilian employers of these soldiers will also be affected by this deployment.

Whereas, the support of these soldiers by the citizens of Wyoming is vital to their morale and esprit de corps. Now, therefore, be it

Resolved by the Members of the Legislature of the State of Wyoming:

Section 1. That all members of the Wyoming Legislature, and the Governor of the State of Wyoming, deeply convey their thanks and best wishes to the citizen-soldiers of the Fourth Infantry Division Rear Operations Center at the Wyoming Army National Guard and their families, for their service to the Nation and Wyoming.

Section 2. That these citizen-soldiers, and their families, not be forgotten during their service to our state and nation. All Wyoming citizens are urged to contact the Wyoming Army National Guard and volunteer to send letters and items from Wyoming to these Guard members during this mobilization for OPERATION ENDURING FREEDOM and otherwise help their families get through this time of the force separation.

Section 3. That these brave citizen-soldiers from Wyoming stay out of harm's way and return to their homes in Wyoming in good health and spirits as soon as their tour of duty is completed.

Section 4. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate, and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation.

POM-63. A resolution adopted by the Legislature of the State of Wyoming relative to the Wyoming Army National Guard; to the Committee on Armed Services.

A RESOLUTION

Whereas, the Wyoming National Guard has deployed nine times in defense of the United States of America starting with the Spanish American War.

Whereas, the soldiers from the 1041st Engineer Company (Assault Float Bridge) will mobilize and deploy the Fort Polk, Louisiana with follow-on training at Fort Chaffee, Arkansas and prepare for eventual deployment to the Gulf Region of Southwest Asia, leaving Wyoming on January 28th, 2003 and they will display highway signs on roads entering into their station stating "Entering Wyoming" as a matter of their pride and honor.

Whereas, this long term deployment will affect and severely test the families of these citizen-soldiers.

Whereas, the civilian employers of these soldiers will also be affected by this deployment.

Whereas, the support of these soldiers by the citizens of Wyoming is vital to their morale and esprit de corps. Now, therefore, be it

Resolved by the members of the legislature of the State of Wyoming.

Section 1. That all members of the Wyoming Legislature, and the Governor of the State of Wyoming, deeply convey their thanks and best wishes to the citizen-soldiers of the 1041st Engineer Company (Assault Float Bridge) of the Wyoming Army National Guard and their families, for their service to the nation and Wyoming.

Section 2. That these citizen-soldiers, and their families, not be forgotten during their service to our state and nation. All Wyoming citizens are urged to contact the Wyoming Army National Guard and volunteer to send letters and items from Wyoming to these Guard members during this mobilization for Operation Enduring Freedom and otherwise help their families get through this time of the forced separation.

Section 3. That these brave citizen-soldiers from Wyoming stay out of harm's way and return to their homes in Wyoming in good health and spirit as soon as their tour of duty is completed.

Section 4. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 253. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Eugene James Corcoran, of New York, to be United States Marshal for the Eastern District of New York for the term of four years.

Humberto S. Garcia, of Puerto Rico, to be United States Attorney for the District of Puerto Rico for the term of four years.

William H. Steele, of Alabama, to be United States District Judge for the Southern District of Alabama.

Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

J. Daniel Breen, of Tennessee, to be United States District Judge for the Western District of Tennessee.

Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

By Mr. WARNER for the Committee on Armed Services.

*Linton F. Brooks, of Virginia, to be Under Secretary for Nuclear Security, Department of Energy.

*Stephen A. Cambone, of Virginia, to be Under Secretary of Defense for Intelligence.

Air Force nomination of Maj. Gen. John D.W. Corley.

Army nomination of Maj. Gen. Walter L. Sharp.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself, Mr. Bond, Mr. Talent, Mrs. Dole, Mr. McCain, Mr. Coleman, and Mrs. Hutchison):

S. 545. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself, Mr. Baucus, Mr. Campbell, Mr. Durbin, Mrs. Feinstein, Mr. Roberts, and Mr. Leahy):

S. 546. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Ms. Collins):

S. 547. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 548. A bill to improve mental health programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. 549. A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. Inouye, and Mr. Thomas):

S. 550. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself, Mrs. Lincoln, Mr. Breaux, Mr. Lugar, and Mr. Lott):

S. 552. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances; to the Committee on Finance.

By Mr. SCHUMER:

S. 553. A bill to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. Schumer, Mr. DeWine, Mr. Allen, Mr. Craig, Mr. Graham of South Carolina, Mr. Allard, and Mr. Talent):

S. 554. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. Inouye):

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. Inouye, and Mr. McCain):

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Ms. COLLINS (for herself, Mr. Grassley, Mr. Bingaman, Mr. Cochran, Mr. Daschle, Mr. Sarbanes, and Mr. Smith):

S. 557. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. Bingaman, Mr. Campbell, Mrs. Murray, Mr. Johnson, and Mr. Domenici):

S. 558. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 559. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. Dayton, Mr. Coleman, Mr. Leahy, Mr. Bond, Mr. Bingaman, Ms. Snowe, Mrs. Lincoln, Mr. Shelby, Mr. Jeffords, Mr. Domenici, Mr. Levin, Ms. Collins, Mr. Johnson, Mr. Specter, Mr. Feingold, and Mr. Kohl):

S. 560. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. Enzi, Mr. Craig, Mr. Domenici, Mr. Burns, and Mr. Smith):

S. 561. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI (for herself, Mr. Stevens, Mr. Burns, Mr. Craig, Mr. Crapo, Mr. Inhofe, and Mr. Smith):

S. 562. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 563. A bill to protect owners of computers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU (for herself, Mr. Sununu, Mr. Burns, Mr. Dodd, Mr. Gregg, Mrs. Hutchison, Mr. Inouye, Mr. Jeffords, Mr. Leahy, Mr. Lieberman, Mr. Lott, Ms. Mikulski, Mr. Kennedy, Mr. Miller, Mr. Dorgan, and Mr. Kerry):

S. 564. A bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS:

S. 565. A bill to improve homeland security, prevent tax increases, support education and health care, and strengthen the economy; to the Committee on Appropriations.

By Ms. MIKULSKI (for herself, Mr. Bond, Mr. Kennedy, Mrs. Lincoln, Mr. Breaux, and Mr. Dodd):

S. 566. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 567. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants; to the Committee on Environment and Public Works.

By Mr. ENSIGN:

S. 568. A bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mrs. Lincoln, Mr. Warner, Mr. Graham of South Carolina, Mr. Hollings, Mrs. Murray, Ms. Collins, Mr. Hagel, Mr. Rockefeller, Mr. Sarbanes, and Mrs. Clinton):

S. 569. A bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mr. Allard, and Mr. Allen):

S. 570. A bill to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (by request):

S. 571. A bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development; to the Committee on Foreign Relations.

By Mr. FRIST:

S. 572. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. Dodd, and Mr. Enzi):

S. 573. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 78. A resolution designating March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy": to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. NICKLES, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 52

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 52, a bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

S. 59

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 59

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 59, supra.

S. 60

At the request of Mr. INOUYE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 60, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores.

S. 116

At the request of Mr. GRAHAM of Florida, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 116, a bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 117

At the request of Mr. GRAHAM of Florida, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 117, a bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 140

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 150

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 160

At the request of Mr. BURNS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 160, a bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes.

S. 160

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 160, supra.

S. 171

At the request of Mr. DAYTON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to Medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 202

At the request of Mr. DEWINE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 257

At the request of Mr. NELSON of Florida, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 257, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for other purposes.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 296

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

S. 312

At the request of Mr. ROCKEFELLER, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 312, a bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 397

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 397, a bill to amend the Internal

Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

S. 424

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 424, a bill to establish, reauthorize, and improve energy programs relating to Indian tribes.

S. 457

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 460

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 504

At the request of Mr. ALEXANDER, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 504, a bill to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 507

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 507, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 516

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 534

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 534, a bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 13

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 13, a concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Res. 46, A resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 77

At the request of Mr. DASCHLE, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mr. PRYOR), the Senator from Maryland (Mr. SARBANES), the Senator from West Virginia (Mr. BYRD), the Senator from Michigan (Mr. LEVIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Res. 77, A resolution expressing the sense of the Senate that one of the most grave threats facing the United States is the proliferation of weapons of mass destruction, to underscore the need for a comprehensive strategy for dealing with this threat, and to set forth basic principles that should underpin this strategy.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. BOND, Mr. TALENT, Mrs. DOLE, Mr. MCCAIN, Mr. COLEMAN, and Mrs. HUTCHISON):

S. 545. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, today I am introducing a bill that will provide revolutionary changes to the health insurance choices available for small businesses. This bill, "The Small Business Health Fairness Act of 2003" will give small businesses the same market-based advantages and leverage that large employers and unions currently enjoy to provide health insurance for their employees.

One month ago, I convened my first hearing as Chair of the Committee on Small Business and Entrepreneurship to explore the crisis small businesses are currently facing in their attempts to find affordable health care for their employees. The reason I made this my first hearing was that whenever I spoke to small businesses this is the number one issue they wanted to discuss. Small businesses in my State are literally desperate for more health insurance options; some business owners even say this is keeping them awake at night.

At the hearing small businesses from my home State of Maine made it clear that they have only one choice for their health care. Even when they band together in local purchasing pools, they are unable to attract any other insurance carriers to provide them with less expensive and more flexible options. Even though they have cut back on the coverage and increased the costs to the employees, they are still finding it almost impossible to provide health insurance to their employees. And as the costs to the employees increases, many employees find this too much to absorb, which leaves them uncovered and, therefore, increase the ranks of the employed but uninsured.

Indeed, the Washington Post reported on February 28 that worries about rising health care costs registered higher in a poll conducted by the Kaiser Family Foundation than even concerns over the stock market or terrorist attacks. Thirty-eight percent of the respondents were "very worried" that the cost of their health care or health insurance would increase compared to 22 percent who were "very worried" about losing their savings in the stock market, or 19 percent who were "very worried" about being a victim of a terrorist attack.

With small businesses creating up to 75 percent of net new jobs in America and with a shocking 56 percent of the

41.2 million uninsured in this country already either working a full-time, full-year job or depending on one who does, we have an obligation to ensure that more of these individuals can receive insurance through their employers. So when the Kaiser 2002 Employer Health Benefits Survey reports that only 61 percent of all small businesses are offering health benefits—and that's down from 67 percent just three years ago—is there any question that we're headed in exactly the wrong direction?

This is a crisis, and it's even worse in businesses with fewer than 50 employees. Of those, only 47 percent currently provide health insurance benefits, and the Department of Labor reports that only 24 percent of small businesses that employ "low-wage" workers offer health plans.

The fact is, with more than two-thirds of all Americans relying on their employer for health insurance, we can't afford to continue the disturbing trend identified by the Kaiser Family Foundation, where monthly premiums for employer-sponsored health insurance on average rose 11 percent from 2000 to 2001, and then 12.7 percent from 2001 to 2002—the second straight year of double digit increases. As a result, 22 percent of all firms increased employee deductibles in 2002, and 32 percent told Kaiser they are likely to do so this year.

The problem is all the more acute for small businesses. For those with fewer than 10 workers, the employer and employees together pay—on average—about 8 percent more in premiums than the amount paid by larger companies. And for all firms under 200 employees, 84 percent indicated to Kaiser that cost was an important factor in not offering health care.

The result of all this isn't hard to predict. Businesses can and clearly are dropping health benefits. Others struggle onward in providing coverage, but only at the cost of the growth of the business, or offering packages with higher premiums, or a combination of both.

If we can do something that will help more small businesses provide health insurance to their employees, then we can significantly reduce the number of those who are without health insurance in this country.

The Small Business Health Fairness Act of 2003 will improve access to affordable health care for small businesses by giving them the same advantages currently enjoyed by large employers and unions. The bill employs a very basic principle—that volume purchasing of insurance by small businesses will work as it does for any other commodity and for any large business or union that purchases health insurance coverage—it will help reduce the cost. As President Bush has said, "It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans."

The Act will allow small businesses to pool together nationally, under the auspices of their bona fide associations, and either purchase their insurance from a provider, or self-insure in the same way that large employers and unions currently do. These association health plans, AHPS, would be monitored and regulated by the Department of Labor's Employee Benefits Security Administration in the same way that more than 275,000 plans offered by large employers and unions are currently regulated.

This agency is currently overseeing plans that cover 72 million people. The Department of Labor released a report last week that reveals high rates of compliance by group health plans with health care laws enacted under the Employee Retirement Income Security Act, ERISA. More importantly, the report and the compliance project that is the subject of the report, are further evidence of the Labor Department's commitment and proven success in effectively monitoring health plans. The report establishes that the Department is prepared to oversee association health plans.

Studies by the Small Business Administration, the General Accounting Office, and the Congressional Budget Office have all found that these types of plans operate with between 13 and 30 percent lower administrative costs. These lower costs can then be translated into reducing costs to subscribers or providing more benefits.

Another reason AHPs will be able to offer less expensive plans, and also greater flexibility, is because they will be exempt from the myriad State benefit regulations. Associations will be able to design their plans to meet the needs of their members and their employees. By administering one national plan, it will further reduce the administrative costs instead of trying to administer a plan subject to the mandates of each State.

Even though the benefit mandates will not be in effect, associations will need to design their plans so that enough members participate in them to attract the necessary employees to make them work. This means that they will naturally provide a full range of benefits similar to what many States currently require. In many cases, the plans offered by large employers and unions, which are also exempt from the State benefit mandates, are the most generous plans available. People will often stay in those jobs specifically to keep their health care coverage.

The Act would also provide extensive new protections to ensure that the health care coverage was there when employees need it. Associations sponsoring these plans would need to be established for at least three years for purposes other than providing health insurance—this is intended to prevent the current epidemic of fraud and abuse that is occurring through sham associations who take money from unsuspecting small businesses and then cease to exist when some files a claim.

In addition, association health plans would be required to have sufficient funds in reserve, specific stop-loss insurances, indemnification insurance, and other funding and certification requirements to make sure the insurance coverage would be available when needed. None of these requirements apply to any of the plans currently regulated by the Department of Labor, either the large employer plans under the Employee Retirement Income Security Act, ERISA, or the union plans under the Taft-Hartley Act.

The approach of this bill is, I believe, a good one—but I also consider it a starting point. And in that light, I intend to work with all groups and interested parties that are committed to passing this bill so that we can improve this bill and finally provide small businesses with more health insurance options at lower costs. The current situation is simply unacceptable. Those who oppose this bill and believe the status quo only needs to be modified slightly are not paying attention—they are not listening to the millions of small businesses who are desperate for more choices, or the small employers who are unable to get health insurance at any cost.

The time for stalling on providing relief for small businesses unable to get affordable health insurance is over. We must act now, and we must pass the Small Business Health Fairness Act of 2003 to bring small businesses more choices and use the power of competition to bring them better options.

I ask unanimous consent that the text of The Small Business Health Fairness Act of 2003 and an explanation of its provisions be printed in the RECORD.

There being no objection, the bill and additional material was ordered to be printed in the RECORD, as follows:

S. 545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Health Fairness Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.

"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Clarification of treatment of certain collectively bargained arrangements.
Sec. 5. Enforcement provisions relating to association health plans.
Sec. 6. Cooperation between Federal and State authorities.
Sec. 7. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

"(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

"(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

"(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

"(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

"(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

"(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

"(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

"(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

"(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

"(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"(d) Certain Collectively Bargained Plans.—

"(1) In general.—In the case of a group health plan described in paragraph (2)—

"(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

"(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

"(C) the requirements of section 804 shall be deemed met.

"(2) Requirements.—A group health plan is described in this paragraph if—

"(A) the plan is a multiemployer plan; or

"(B) the plan is in existence on April 1, 2003, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

"(3) Construction.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) Covered Employers and Individuals.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor,

"(B) the sponsor, or

"(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the beneficiaries of individuals described in subparagraph (A).

"(b) Coverage of Previously Uninsured Employees.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

"(1) the affiliated member was an affiliated member on the date of certification under this part; or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) Individual Market Unaffected.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) Prohibition of Discrimination Against Employers and Employees Eligible To Participate.—The requirements of this subsection are met with respect to an association health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) In General.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

"(1) Contents of governing instruments.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

"(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

"(C) incorporates the requirements of section 806.

"(2) Contribution rates must be nondiscriminatory.—

"(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

"(i) setting contribution rates based on the claims experience of the plan; or

"(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act), subject to the requirements of section 702(b) relating to contribution rates.

"(3) Floor for number of covered individuals with respect to certain plans.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

"(4) Marketing requirements.—

"(A) In general.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

"(B) State-licensed insurance agents.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

"(5) Regulatory requirements.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

"(b) Ability of Association Health Plans To Design Benefit Options.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) In General.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

"(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

"(iii) a reserve sufficient for any other obligations of the plan; and “(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

“(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

“(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

“(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

“(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

“(b) Minimum Surplus in Addition to Claims Reserves.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

“(1) $500,000, or

“(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

“(c) Additional Requirements.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

“(d) Adjustments for Excess/Stop Loss Insurance.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

“(e) Alternative Means of Compliance.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

“(f) Measures To Ensure Continued Payment of Benefits by Certain Plans in Distress.—

“(1) Payments by certain plans to association health plan fund.—

“(A) In general.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

“(B) Penalties for failure to make payments.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

“(C) Continued duty of the secretary.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

“(2) Payments by secretary to continue excess/stop loss insurance coverage and indemnification insurance coverage for certain plans.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

“(3) Association health plan fund.—

“(A) In general.—There is established on the books of the Treasury a fund to be known as the ‘Association Health Plan Fund’. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

“(B) Investment.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

“(g) Excess/Stop Loss Insurance.—For purposes of this section—

“(1) Aggregate excess/stop loss insurance.—The term ‘aggregate excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(2) Specific excess/stop loss insurance.—The term ‘specific excess/stop loss insurance’ means, in connection with an association health plan, a contract—

“(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

“(B) which is guaranteed renewable; and

“(C) which allows for payment of premiums by any third party on behalf of the insured plan.

“(h) Indemnification Insurance.—For purposes of this section, the term ‘indemnification insurance’ means, in connection with an association health plan, a contract—

“(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

“(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

“(3) which allows for payment of premiums by any third party on behalf of the insured plan.

“(i) Reserves.—For purposes of this section, the term ‘reserves’ means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

“(j) Solvency Standards Working Group.—

“(1) In general.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

“(2) Membership.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

"(A) a representative of the National Association of Insurance Commissioners;

"(B) a representative of the American Academy of Actuaries;

"(C) a representative of the State governments, or their interests;

"(D) a representative of existing self-insured arrangements, or their interests;

"(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

"(F) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) Filing Fee.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

"(b) Information To Be Included in Application for Certification.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

"(1) Identifying information.—The names and addresses of—

"(A) the sponsor; and

"(B) the members of the board of trustees of the plan.

"(2) States in which plan intends to do business.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) Bonding requirements.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) Plan documents.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) Agreements with service providers.—A copy of any agreements between the plan and contract administrators and other service providers.

"(6) Funding report.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

"(A) Reserves.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

"(B) Adequacy of contribution rates.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(C) Current and projected value of assets and liabilities.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

"(D) Costs of coverage to be charged and other expenses.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

"(E) Other information.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

"(c) Filing Notice of Certification With States.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

"(d) Notice of Material Changes.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(e) Reporting Requirements for Certain Association Health Plans.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 503B by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 503C(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

"(f) Engagement of Qualified Actuary.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

"(2) represent such actuary's best estimate of anticipated experience under the plan. The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) Actions To Avoid Depletion of Reserves.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

"(b) Mandatory Termination.—In any case in which—

"(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

"(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806.

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) Appointment of Secretary as Trustee for Insolvent Plans.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) Powers as Trustee.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

"(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

"(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

"(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

"(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

"(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

"(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

"(c) Notice of Appointment.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

"(1) the sponsor and plan administrator;

"(2) each participant;

"(3) each participating employer; and

"(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

"(d) Additional Duties.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

"(e) Other Proceedings.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

"(f) Jurisdiction of Court.—

"(1) In general.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) Venue.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

"(g) Personnel.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

"SEC. 811. STATE ASSESSMENT AUTHORITY.

"(a) In General.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

"(b) Contribution Tax.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

"(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

"(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

"(3) such tax is otherwise nondiscriminatory; and

"(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) Definitions.—For purposes of this part—

"(1) Group health plan.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(2) Medical care.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(3) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

"(4) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(5) Applicable authority.—

"(A) In general.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

"(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

"(ii) if there if no State referred to in clause (i), the Secretary.

"(B) Exceptions.—

"(i) Joint authorities.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

“(ii) Regulatory authorities.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

“(6) Health status-related factor.—The term ‘health status-related factor’ has the meaning provided in section 733(d)(2).

“(7) Individual market.—

“(A) In general.—The term ‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

“(B) Treatment of very small groups.—

“(i) In general.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

“(ii) State exception.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

“(8) Participating employer.—The term ‘participating employer’ means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

“(9) Applicable State authority.—The term ‘applicable State authority’ means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

“(10) Qualified actuary.—The term ‘qualified actuary’ means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

“(11) Affiliated member.—The term ‘affiliated member’ means, in connection with a sponsor—

“(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

“(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

“(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

“(12) Large employer.—The term ‘large employer’ means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

“(13) Small employer.—The term ‘small employer’ means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

“(b) Rules of Construction.—

“(1) Employers and employees.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

“(A) in the case of a partnership, the term ‘employer’ (as defined in section 3(5)) includes the partnership in relation to the partners, and the term ‘employee’ (as defined in section 3(6)) includes any partner in relation to the partnership; and

“(B) in the case of a self-employed individual, the term ‘employer’ (as defined in section 3(5)) and the term ‘employee’ (as defined in section 3(6)) shall include such individual.

“(2) Plans, funds, and programs treated as employee welfare benefit plans.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.”.

(b) Conforming Amendments to Preemption Rules.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

“(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.”.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking “Subsection (a)” and inserting “Subsections (a) and (e)”;

(B) in subsection (b)(5), by striking “subsection (a)” in subparagraph (A) and inserting “subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805”, and by striking “subsection (a)” in subparagraph (B) and inserting “subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805”;

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

“(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

“(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

“(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

“(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

“(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

“(4) For purposes of this subsection, the term ‘association health plan’ has the meaning provided in section 801(a), and the terms ‘health insurance coverage’, ‘participating employer’, and ‘health insurance issuer’ have the meanings provided such terms in section 811, respectively.”.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking “and” at the end;

(B) in clause (ii), by inserting “and which does not provide medical care (within the meaning of section 733(a)(2)),” after “arrangement,”, and by striking “title.” and inserting “title, and”; and

(C) by adding at the end the following new clause:

“(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.”.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking “Nothing” and inserting “(1) Except as provided in paragraph (2), nothing”; and

(B) by adding at the end the following new paragraph:

“(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.”.

(c) Plan Sponsor.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: “Such term also includes a person serving as the sponsor of an association health plan under part 8.”.

(d) Disclosure of Solvency Protections Related to Self-Insured and Fully Insured Options Under Association Health

PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: "An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.".

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.".

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement;" after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;".

SEC. 4. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

"(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Health Fairness Act of 2003 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

"(ii)(I) the plan or arrangement is a multiemployer plan; and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Health Fairness Act of 2003; or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years; or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 5. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an association health plan which has been certified under part 8:

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.".

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

"(p) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

"(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

"(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

"(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

"(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

"(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

"(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.".

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

"(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 6. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.".

SEC. 7. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 2, 5, and 6 shall take effect one year from the date of the enactment. The amendments made by sections 3 and 4 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of the enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 2) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "association health plan" shall be deemed a reference to an arrangement referred to in this subsection.

THE SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

SEC. 421. RULES GOVERNING ASSOCIATION HEALTH PLANS

Subsection (a). Rules Governing Regulation of Association Health Plans.

This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I, Subtitle B of ERISA, as follows:

SEC. 801. ASSOCIATION HEALTH PLANS.

(a) The term "association health plan" means a "group health plan" (which is defined in ERISA as added by the Health Insurance Portability and Accountability Act or HIPAA: under HIPAA such group health plans are subject to all of the portability, preexisting condition, nondiscriminating, special enrollment, renewability and other provisions of ERISA Part 7)—

(b) The sponsor of an Association Health Plan (AHP) must be:

(1) Organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, and industry association (including a rural electric or rural telephone cooperative), a professional association, or a chamber of commerce (or similar business group, include a similar organization that operates on a cooperative basis within the meaning of section 1381 of the Internal Revenue Code), for substantial purposes other than that of obtaining or providing medical care.

(2) Is established as a permanent entity which receives the active support of its members, and collects dues from its members on a periodic basis;

(3) Does not condition membership, dues or coverage under the health plan on the basis of health status-related factors with respect to employees of members, and does not condition such dues on the basis of the member's participation in the group health plan.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)), and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

This section establishes a procedure for the certification of Association Health Plans as prescribed by the Secretary of Labor or other applicable authority (applicable authority). In the case of an association health plan that provides at least one benefit option that does not consist of health insurance coverage, the applicable authority shall grant certification only if the applicable requirements are met (or, upon the date on which the plan is to commence operations, will be met). Such self-insured association health plans may only be certified if they also (1) offered such coverage on the date of enactment of this Act; (2) the sponsor does not restrict membership to one or more trades or businesses or industries and whose eligible participating employers represent a broad cross-section of trades or businesses or industries; and (3) the plan's eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of state rate filings, denials of coverage, or proposed premium rate levels, or other means demonstrated by such plan in accord with regulations prescribed through negotiated rulemaking by the applicable authority.

The applicable authority may provide by regulation for continued certification of association health plans. A "class certification" procedure is established to speed the approval of plans that offer only fully-insured health insurance coverage.

In essence, this procedure has the same effect as requiring the Secretary to implement authority under current law to issue exemptions for association health plans (see ERISA section 514(b)(6)(B)). An AHP that is certified must also meet the applicable requirements of Part 8 as described below.

SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

This section establishes additional eligibility requirements for AHPs. Applicants must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least three years for substantial purposes other than providing coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the plan. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the certification and Title I of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participate in the plan.

In addition to the association described in section 801, certain other entities are made eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)) and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

This section prohibits discrimination against eligible employers and employees by requiring that all employers who are association members be eligible for participation under the terms of the plan, that eligible employers be informed of all benefit options available, and that eligible individuals of such participating employers not be excluded from enrolling in the plan because of health status. Plans may include minimum participation, contribution, and size requirements to the extent that they meet the nondiscrimination and other rules under sections 701, 702, and 703. Affiliated members of the plan sponsor may be offered overage if they are affiliated at the time of certification or if they were previously uninsured for 12 months prior to being covered. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on his or her health status.

SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

Section 805 requires an association health plan to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 806 are met; (2) the contribution rates for any particular employer must be nondiscriminatory—they can not vary only on the claims experience of the particular employer or on the type of business or industry in which the employer is engaged, regardless of how much such claims may be above or below average claims experience, (3) the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, (4) utilizes State-licensed insurance agents in the marketing of health insurance benefits under the plan; and (5) the plan meets such other requirements as may be set forth in regulations by the applicable authority.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from exercising its discretion in designing the items and services of medical care to be included as health insurance converge under the plan, except to the extent that such law (1) prohibits a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to the matters governed by section 711 (relating to maternal and newborn hospitalization) and section 712 (relating to mental health coverage). In addition, no provision of law shall be construed to preclude an AHP or health insurance issuer from setting contribution rates based on the experience under the plan to the extent such rates are nondiscriminatory as described above.

SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Section 806 requires AHPs offering benefit options that do not consist solely of fully-insured health insurance coverage to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, any other obligations and a margin for error recommended by the plan's qualified actuary. In addition, the AHP must maintain minimum surplus reserves of $500,000 or such greater amount (up to $2,000,000) as the applicable authority may prescribe. Also, each plan must secure coverage from an insurer consisting of (1) aggregate stop-loss insurance with an attachment point not greater than 125 percent of expected gross claims; (2) specific stop-loss insurance with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary; and (3) to prevent insolvency, indemnification for any claims which a plan is unable to satisfy by reason of a mandatory termination described under section 809(b). The applicable authority may provide additional requirements relating to reserves and excess/stop loss insurance and may provide adjustments to the levels of reserves otherwise required to take into account the level of excess/stop loss insurance or other financial arrangements.

the bill also establishes an "Association Health Plan Fund" which is to be managed by the Department of Labor for the purpose of making payments to cover any outstanding benefit claims which are not fulfilled in accord with the solvency standards described above. All certified AHPs will pay $5,000 into the fund annually, and this amount may be altered according to need by the Secretary.

The bill also establishes a "Solvency Standards Working Group" for the purpose of providing input to the applicable authority with respect to solvency requirements for AHPs certified under the Act. The Working Group shall consist of not more than 15 members appointed by the applicable authority, and shall include: (1) a representative of the NAIC, (2) a representative of the American Academy of Actuaries; (3) a representative of the State governments; (4) a representative of existing self-insured health plans; (5) a representative bona fide associations eligible to sponsor an AHP under the Act; and (6) a representative of multiemployer group health plans.

SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

This section sets forth additional criteria which association health plans must meet to qualify for certification. The Secretary shall grant certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the certification are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the certification).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate: (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 806 will be met, that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards that the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority. Certified association health plans must notify by the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

AHPs are also required to file their certification with the applicable state authority of each state in which at least 25 percent of the participants and beneficiaries under the plan are located.

SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

Section 808 requires that, except as provided in section 809, and AHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the applicable authority a plan providing for timely payment of all benefit obligations.

SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

Section 809 requires an AHP which offers benefit options which are not fully-insured to continue to meet the reserve requirements under section 806 even if its exemption is no longer in effect. The board of trustees of such an AHP must quarterly determine whether the reserve requirements of section 806 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the applicable authority. In any case where an AHP notifies the applicable authority that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements applicable to such AHPs, the applicable authority may direct the board to terminate the arrangement.

SEC. 810 TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Whenever the Secretary determines an AHP won't be able to provide benefits, or is otherwise in financial distress, the Secretary shall apply for appointment as trustee to administer the winding down of the plan.

SEC. 811. STATE ASSESSMENT AUTHORITY.

This section allows a state to assess newly certified AHPs a contribution tax to the same extent they tax health insurance plan. This is intended to enable states to maintain the revenue source for funding high-risk insurance pools.

SEC. 812. DEFINITIONS.

This section defines the following terms: group health plan, medical care, health insurance coverage, health insurance issuer, applicable authority, health status-related factor, individual market, treatment of very small groups, participating employer, applicable state authority, qualified actuary, affiliated member, large employer, and small employer. The terms are consistent with those added to ERISA by HIPAA. In addition, the terms "employer" and "employee" include self-employed individuals and partners for purposes of the application of Part 8 and the provisions of Title I as applicable to association health plans.

Subsection (b). Conforming Amendments.

This subsection contains (1) conforming changes to the definition of "plan sponsor" to include the sponsor of an AHP; (2) conforming changes to the Title I exception for church plans electing association health plan status; and (3) as described below, conforming changes to section 514 preemption rules to reflect the policy changes under Part 8 with respect to association health plans. First, paragraph (6) of section 514(b) is made inapplicable with respect to any state law in the case of a certified AHP. Second, a new subsection 514(d) (current subsection (d) is redesignated as (e)) clarifies the ability of health insurance issuers to offer health insurance coverage under AHPs and clarifies the ability of any health insurance issuer to offer health insurance coverage of the same policy type as offered in connection with a particular AHP to eligible employers, regardless of whether such employers choose or do not choose to become members of the particular association. Health insurance coverage policy forms filed and approved in a particular state in connection with an insurer's offering under an association health plan are deemed to be approved in any other state in which such coverage is offered when the insurer provides a complete filing in the same form and manner to the authority in the other state. Also, this section removes the current restriction on state regulation of self-insured multiple employer welfare arrangements providing medical care (which do not elect to meet the certification requirements for AHPs) under section 514(b)(6)(a)(ii) by eliminating the requirement that such state laws otherwise "be consistent with the provisions of ERISA Title I." Section 514 is also amended to include a cross-reference to section 805(b) (relating to the ability of AHPs and health insurance issuers to design association health insurance options) and to section 805(a)(2)(B) (relating to the ability of AHPs and health insurance issuers to base contribution rates on the experience of such plans).

SEC. 422. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENT.

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a multiple employer welfare arrangement (section 3(40). The treatment of a single employer plan as being excluded from the definition of such an arrangement (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which can not be required to be greater than 25 percent. Also, a plan would be considered a single employer plan if less than 25 percent of the covered employees are employed by other participating employers.

SEC. 423. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

This section clarified the conditions under which multiemployer and other collectively bargained arrangements are exempted from the definition of a multiple employer welfare arrangement, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of such an arrangement to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining arrangement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued. It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement, and thus not a multiple employer welfare arrangement. These include:

(1) The plan can not utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least three years or have been affiliated with another employee organization in existence for at least three years, or demonstrate to the Secretary that certain of the above requirements have been met.

SEC. 424. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

This section amends ERISA to establish enforcement provisions relating to association health plans and multiple employer welfare arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal penalties; (2) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of the certification granted by the Secretary under Part 8; and (3) the section provides for the responsibility of the named fiduciary or board of trustees of an AHP to comply with the required claims procedure under ERISA.

SEC. 425. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to require the Secretary of Labor to consult with state insurance departments with regard to the Secretary's authority under section 502 and 504 to enforce provisions applicable to certified AHPs.

SEC. 426. EFFECTIVE DATE; TRANSITIONAL RULES.

In general, the amendments made by Section 421, 424, and 425 of the Act are effective one year after enactment of the Act. Sections 422 and 423 are effective upon date of enactment. In addition, the Secretary is required to issue all regulations needed to carry out the amendments within one year after enactment of the Act.

The provisions of section 805(a)(2) relating to health insurance coverage do not apply to group health plans existing on the date of enactment if they do not provide health insurance coverage, but later qualify for certification.

AHPs not in existence on the date of enactment and desiring to offer benefits which do not consist of health insurance must demonstrate to the Secretary that their risk is at least average or above average. The Secretary shall report to Congress the affect on reducing the number of uninsured after five years.

By Mr. AKAKA (for himself, Mr. BAUCUS, Mr. CAMPBELL, Mr. DURBIN, Mrs. FEINSTEIN, Mr. ROBERTS, and Mr. LEAHY):

S. 546. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce The Paleontological Resources Preservation Act to protect and preserve the Nation's important fossil record for the benefit of our citizens. I am pleased to have Senators BAUCUS, CAMPBELL, DURBIN, FEINSTEIN, LEAHY, and ROBERTS join me as original cosponsors on this significant legislation.

This bill was reported favorably by the Energy and Natural Resources Committee, and approved by unanimous consent during the 107th Congress. I plan to work closely with my colleagues to enact this bill during the 108th Congress.

In 1999, Congress requested that the Secretary of the Interior review and report on the Federal policy concerning paleontological resources on Federal lands. In its request, Congress noted that no unified Federal policy existed regarding the treatment of fossils by Federal land management agencies, and emphasized Congress's concerns that lack of appropriate standards would lead to the deterioration or loss of fossils, which are valuable scientific resources.

In response, seven Federal agencies and the Smithsonian Institution released a report in May 2000 entitled "Assessment of Fossil Management on Federal and Indian Lands." This assessment outlined governing principles for the management of fossils on Federal lands. The report recommended that penalties for fossil theft be strengthened and that Federal fossil collections be preserved and available for research and public education. The interagency group also stated that fossils on Federal lands are rare and a part of America's heritage and that effective stewardship requires accurate information and inventories.

The Paleontological Resources Preservation Act embodies these principles, and provides the paleontological equivalent of protections found in the Archeological Resources Preservation Act. The bill finds that fossil resources on Federal lands are an irreplaceable part of the heritage of the United States. It affirms that reasonable access to fossil resources should be provided for scientific, educational, and recreational purposes. The bill acknowledges the value of amateur collecting, but protects vertebrate fossils found on Federal lands under a system of permits.

I would like to emphasize that this bill in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act. They are exempted. This bill covers paleontological remains—fossils on Federal lands only.

As we look toward the future, public access to fossil resources will take on a new meaning as digital images of fossils become available worldwide. The National Museum of Natural History, one of the premier Smithsonian museums, already has an online catalogue of 9 million specimens, some of which include digital images. Museums will be able to provide global access for researchers, collectors, and educators to study fossil collections through online catalogs and images. Many scientists in developing countries currently lack vital information about fossils because they cannot afford travel costs to museums. This digital advance will truly make fossils a global resource for the public.

Discoveries in paleontology are made more frequently than we realize. They shape how we learn about the world around us. In January of this year, Nature reported that Chinese scientists at Beijing's Institute of Vertebrate Paleontology and Paleoanthropology discovered several four-winged dinosaur fossils. This discovery is providing us with critical insight into the phenomenon of flight. The Paleontological Resources Preservation Act would create a legacy of scientific knowledge for future generations.

The protections offered in this Act are not new. Federal land management agencies have individual regulations prohibiting theft of government property. However, the reality is that U.S. Attorneys are reluctant to prosecute cases involving fossil theft because they are difficult. Congress has not provided a clear statute stating the value of paleontological resources to our Nation, as has been provided for archeological resources. Fossils are too valuable to be left within the general theft provisions that are difficult to prosecute, and they are too valuable to the education of our children not to ensure public access. We need to work together to make sure that we fulfill our responsibility as stewards of public lands, and as protectors of our Nation's natural resources.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paleontological Resources Preservation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Paleontological resources are nonrenewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term "casual collecting" means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for personal (scientific, educational, or recreational) use, either by surface collection or using non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term "Federal lands" means lands administered by the Secretary of the Interior, except Indian lands, or National Forest System Lands administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term "Indian Lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term "paleontological resource" means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Rehabilitation Act (25 U.S.C. 3001)).

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) Permit Requirement.—

(1) In general.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) Casual collecting exception.—The Secretary may allow casual collecting without a permit on Federal lands administered by the Bureau of Land Management, the Bureau of Reclamation, and the U.S. Forest Service, where such collection is not inconsistent with the laws governing the management of those Federal lands and this Act.

(3) Previous permit exception.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) Criteria for Issuance of a Permit.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) Permit Specifications.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) Modification, Suspension, and Revocation of Permits.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) Area Closures.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) In General.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) False Labeling Offenses.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) Penalties.—

(1) In general.—Except as provided in paragraphs (2) and (3), a person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

(2) Damage over $1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of $1,000, such person shall, upon conviction, be guilty of a class E felony.

(3) Multiple offenses.—In the case of a second or subsequent such violation, such person shall, upon conviction, be guilty of a class D felony.

(d) General Exception.—Nothing in subsection (a) shall apply to any person with respect to any palentological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) In General.—

(1) Hearing.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) Amount of penalty.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

(B) The cost of response, restoration, and repair of the resource and the paleontolgical site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) Multiple offenses.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) Limitation.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) Petition for Judicial Review; Collection of Unpaid Assessments.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(c) Hearings.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) Use of Recovered Amounts.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about palenotological resources and sites.

(3) To provide for the payment of Rewards as provided in section 11.

SEC. 11. REWARDS FORFEITURE.

(a) Rewards.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) Forfeiture.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

(1) the person's conviction of the violation under section 9;

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), the Mining in the Parks Act, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time existing laws and authorities relating to reclamation and multiple uses of the public lands;

(3) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontolgical resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. DURBIN (for himself and Ms. Collins):

S. 547. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleagues from Maine, Senator Susan Collins, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution, every possible approach must be considered in order to solve our energy problems.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can raise our level of cycling to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one day a year we will not need to import any foreign oil.

In addition to fostering greater independence from foreign oil supplies, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emissions-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilots throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: 1. document project results and energy conserved; 2. facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health, and the environment; 3. maximize current bicycle facility investments; 4. demonstrate methods that can be replicated in other locations; and 5. produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: 1. what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; 2. what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike; 3. the cost-benefit analysis of bicycle infrastructure investments; and 4. what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and passed as an amendment to last year's Senate energy bill. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

By enacting the Conserve by Bike Act, we can reduce our energy dependence, reduce harmful air emissions, and improve public health. I urge my colleagues to cosponsor the Conserve by Bike Act and join me in making a responsible investment in cleaner, healthier and more energy efficient future.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (e).

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Illinois in reintroducing this legislation to recognize and promote bicycling's important impact on energy savings and public health.

With America becoming more and more dependent on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges. This legislation would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. Right now, fewer than one trip in one hundred is by bicycle. If we could increase this statistic to one and a half trips per hundred, we would save over 462 million gallons of gasoline in a year, worth over $721 million.

While more bike trips would benefit our energy conservation efforts, that would also help improve the public's health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity at least 5 days a week. Even more disturbing is the fact that approximately 300,000 U.S. death a year are associated with being obese or overweight. By promoting biking, we are working to ensue that Americans will increase their physical activity.

The Conserve by Bike Act has received widespread support on the national, state, and local level, and I urge my colleagues to support this legislation.

By Mr. ROCKEFELLER:

S. 548. A bill to improve mental health programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, as a senior member of the Senate Committee on Veterans' Affairs, I am proud to reintroduce legislation today intended to strengthen mental health programs within the Department of Veterans Affairs a key element of caring for those who have served on the battlefield.

Historically, as many as one-third of all veterans seeking care at VA have received mental health treatment, and research suggests that serious mental illnesses affect at least one-fifth of the veterans who use the VA health care system. About 450,000 of the approximately 2.3 million veterans who receive compensation from VA have service-connected psychiatric and neurological disorders.

I remain concerned about the viability of some of the programs developed to care for veterans with mental health needs. I have heard testimony about a number of these programs endangered by budget constraints and a shift in focus from inpatient care to outpatient clinics. Specialized programs particularly for substance use disorders and PTSD shut down, reduced in size, or understaffed—offering little or no care to veterans suffering from these seriously debilitating disorders.

Congress previously enacted a provision to designate $15 million in VA funding specifically to assist medical facilities in their efforts to improve care for veterans with substance use disorders and PTSD. This additional funding has enabled VA to develop better outpatient substance abuse and PTSD treatment programs, outpatient dual-diagnosis programs, more PTSD community clinical teams, and more residential substance abuse disorder rehabilitation programs.

The funds for these mental health programs, mandated by the Millennium Benefits and Health Care Act of 1999, will soon revert to a general fund. The bill I am introducing today ensures that this funding will remain "protected" for three more years and increases the total amount of funding identified specifically for treatment of substance use disorders and PTSD from $15 million to $25 million.

Another provision of the legislation I am introducing today concerns VA's Mental Illness Research, Education, and Clinical Centers, called "MIRECCs. In 1996, Congress authorized VA to establish five of these centers dedicated to mental illness research, education, and clinical activities. This provision will allow VA to establish up to ten more MIRECCs to study and treat mental illnesses. MIRECCs have encouraged research, given VA caregivers more and better tools to treat patients with mental disorders, and increased our fundamental understanding of mental illnesses. Much more can be done in this area if the program is expanded.

Another critical area of VA care involves counseling and treatment for veterans who were victims of sexual harassment or sexual assault during active military service. In 1992, Congress authorized VA to provide counseling to women who experienced sexual trauma during active military service. Two years later, recognizing that sexual trauma is not limited to women, Congress expanded VA's mandate to offer counseling and treatment regardless of gender. The Veterans Millennium Health Care and Benefits Act of 1999 broadened VA's responsibilities toward victims of sexual trauma even further, strengthening outreach efforts and extending the programs through December 2004. The legislation I am reintroducing today would provide permanent authority to VA for counseling and treatment of veterans who have experienced military sexual trauma, so that veterans and health care professionals can depend upon these critical services.

I hope my colleagues will join me in supporting the expansion of these enormously important mental health programs with the Department of Veterans Affairs. We owe our service men and women no less.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT OF VETERANS FOR SEXUAL TRAUMA.

Section 1720D of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "During the period through December 31, 2004, the Secretary" and inserting "The Secretary"; and

(B) in paragraph (2), by striking ", during the period through December 31, 2004,"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "establishment and"; and

(B) in paragraph (2), by striking "establishing a program" and inserting "operating a program".

SEC. 2. AUTHORITY TO OPERATE ADDITIONAL DEPARTMENT OF VETERANS AFFAIRS CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

Section 7320(b)(3) of title 38, United States Code, is amended by striking "five centers" and inserting "15 centers".

SEC. 3. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking "$15,000,000" and inserting "$25,000,000 in each of fiscal years 2004, 2005, and 2006";

(2) in paragraph (2), by striking "$15,000,000" and inserting "$25,000,000"; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year utilized to determine the baseline amount shall be fiscal year 2003.".

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking "The Secretary" and inserting "(1) In each of fiscal years 2004, 2005, and 2006, the Secretary"; and

(2) by adding at the end the following new paragraphs:

"(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

"(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

"(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

"(C) not less than $5,000,000 is allocated for programs on substance abuse disorder.

"(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.".

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. THOMAS):

S. 550. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senators INOUYE and THOMAS in introducing key legislation to help stop Indian land fractionation.

One of the most enduring and damaging legacies of late-19th century Federal Indian policy is the continuing fractionation of Indian trust lands.

The results of this ever-growing problem make it nearly impossible for affected Indian tribes to devise economic development strategies.

By attempting to "break up the tribal landmass" and turning Indians into yeoman farmers, the Dawes Act of 1887 resulted in millions of acres of land transferred out of Indian ownership.

By virtue of Indian heirship and probate rules and the steady march of time, millions more acres have passed from their original Indian allottees to thousands of descendants with undivided interests in parcels of land.

In strict economic terms, these interests are practically worthless.

Congressional efforts to counter this problem have focused on the Indian Land Consolidation Act and amendments made to the Act.

Key escheat sections designed to return individual-owned fractionated lands to tribal ownership have been held unconstitutional by the U.S. Supreme Court in 1987, Hodel v. Irving, and in 1997, Babbitt v. Youpee.

Congress and the Administration have also sought to return these interests to tribal ownership through voluntary purchase.

The "Indian Land Consolidation Program" was enacted as part of the Fiscal Year 1999 Omnibus Appropriation and has proven a success.

In 1999 I introduced amendments to the ILCA to limit disposition of Indian lands to Indian heirs, life estates to non-Indian heirs, or the tribe with jurisdiction over the lands.

The bill I am re-introducing today was considered by the Committee on Indian Affairs and passed by the Senate last session. In light of this, it is my intention to expedite consideration of the measure.

I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Indian Probate Reform Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the "Indian General Allotment Act") (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including—

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult; and

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

SEC. 3. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

"(a) TESTAMENTARY DISPOSITION.—

"(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

"(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code enacted in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

"(i) an Indian tribe with jurisdiction over the land; or

"(ii) any Indian in trust or restricted status (or as a passive trust interest as provided for in section 207A).

"(B) STATUS.—The devise of an interest in trust or restricted land to an Indian under subparagraph (A)(ii) shall not alter the status of such an interest as a trust or restricted interest unless the testator provides that the interest is to be held as a passive trust interest.

"(2) DEVISE OF TRUST OR RESTRICTED LAND IN PASSIVE TRUST OR FEE.—

"(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

"(i) as a life estate to any non-Indian person, with the remainder being devised only in accordance with clause (ii), subparagraph (C), or paragraph (1)(A);

"(ii) to the lineal descendant or heir of the first or second degree of the testator or, if the testator does not have an heir of the first or second degree or a lineal descendant, to any lineal descendant of an Indian grandparent of the testator, as a passive trust interest (referred to in this section as an 'eligible passive trust devisee'); or

"(iii) in fee in accordance with subparagraph (C).

"(B) PRESUMED DEVISE OF PASSIVE TRUST INTEREST.—Any devise to an eligible passive trust devisee, or any devise of a remainder interest from the devise of a life estate under subparagraph (A)(ii), that does not indicate whether the interest is devised as a passive trust interest or a fee interest shall be considered to devise a passive trust interest.

“(C) Devise of a fee interest.—Subject to subparagraph (D), any interest in trust or restricted land that is not devised in accordance with paragraph (1), or devised to an eligible passive trust devisee in accordance with subparagraph (A), may be devised to a non-Indian in fee.

“(D) Limitation.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

“(i) that section;

“(ii) subparagraph (A); or

“(iii) paragraph (1).

“(3) Devise of a passive trust interest.—

“(A) In general.—The holder of an interest in trust or restricted land that is held as a passive trust interest may devise the interest as a passive trust interest only to—

“(i)(I) any Indian; or

“(II) the Indian tribe that exercises jurisdiction over the interest;

“(ii) the lineal descendants, or heirs of the first or second degree, of the holder;

“(iii) any living descendant of the decedent from whom the holder acquired the interest by devise or descent; or

“(iv) any person that owns a preexisting interest or a passive trust interest in the same parcel of land, if the preexisting interest is held in trust or restricted status or in passive trust status.

“(B) Ineligible devisees and intestate succession.—A passive trust interest that is devised to a person that is not eligible under subparagraph (A) or that is not disposed of by a valid will shall pass in accordance with the applicable law of intestate succession as provided for in subsection (b).”.

(b) Nontestamentary Disposition.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

“(b) Nontestamentary Disposition.—

“(1) Rules of descent.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted land that is not disposed of by a valid will—

“(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

“(B) in the case of an interest in trust or restricted land to which such a code does not apply, shall descend in accordance with—

“(i) paragraphs (2) through (7);

“(ii) section 207A; and

“(iii) other applicable Federal law.

“(2) No applicable code.—An intestate interest to which a code described in paragraph (1) does not apply—

“(A) shall include—

“(i) an interest acquired by a decedent through devise or inheritance (referred to in this subsection as a ‘devise or inheritance interest’); or

“(ii) an interest acquired by a decedent by any means other than devise or inheritance (referred to in this subsection as an ‘acquired interest’), if—

“(I) the decedent—

“(aa) acquired additional undivided interest in the same parcel in which the interest is held, by a means other than devise or inheritance; or

“(bb) acquired land adjoining the parcel of land in which the interest is held; or

“(II) the parcel of land in which the interest is held includes the residence of the spouse of the decedent; and

“(B) shall descend as follows:

“(i) Surviving Indian spouse.—

“(I) In general.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more acquired interests, the spouse of the decedent shall receive all of the acquired interests.

“(II) Devise or inheritance interests.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more devise or inheritance interests—

“(aa) if the decedent is not survived by an Indian heir of the first or second degree, the spouse of the decedent shall receive all of the devise or inheritance interests; and

“(bb) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interest of the decedent shall descend in accordance with paragraph (3)(A).

“(ii) Surviving non-Indian spouse.—

“(I) In general.—If a decedent is survived by a non-Indian spouse, and the estate of the decedent includes 1 or more acquired interests—

“(aa) the spouse of the decedent shall receive a life estate in each acquired interest; and

“(aa)(AA) if the decedent is survived by an Indian heir of the first or second degree, the remainder interests shall descend in accordance with paragraph (3)(A); and

“(BB) if the decedent is not survived by an Indian heir of the first or second degree, the remainder interest shall descend in accordance with paragraph (3)(C).

“(II) Devise or inheritance interests.—If the estate of a decedent described in subclause (I) includes 1 or more devise or inheritance interests—

“(aa) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

“(bb) if the decedent is not survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(C).

“(iii) No surviving spouse.—If a decedent is not survived by a spouse, and the estate of the decedent includes 1 or more acquired interests or 1 or more devise or inheritance interests—

“(I) if the decedent is survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

“(II) if the decedent is not survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(C).

“(3) Rules governing descent of estate.—

“(A) Indian heirs.—For the purpose of this section, an Indian heir of the first or second degree shall inherit in the following order:

“(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation) shall inherit in equal shares.

“(ii) If the decedent has no Indian children (or grandchildren that inherit by right of representation under clause (i)), to the Indian brothers and sisters of the decedent, in equal shares.

“(iii) If the decedent has no Indian brothers or sisters, to the Indian parent or parents of the decedent.

“(B) Right of representation.—In any case involving the determination of a right of representation—

“(i) each interest in trust land shall be equally divided into a number of shares that equals the sum obtained by adding—

“(I) the number of surviving heirs in the nearest degree of kinship; and

“(II) the number of deceased individuals in that same degree, if any, who left issue who survive the decedent;

“(ii) each surviving heir described in clause (i)(I) shall receive 1 share; and

“(iii)(I) each deceased individual described in clause (i)(II) shall receive 1 share; and

“(II) that share shall be divided equally among the surviving issue of the deceased person.

“(C) No Indian heirs.—

“(i) Definition of collateral heir.—In this subparagraph, the term ‘collateral heir’ means an aunt, uncle, niece, nephew, or first cousin of a decedent.

“(ii) No heirs.—If a decedent does not have an Indian heir of the first or second degree, an interest shall descend to any Indian collateral heir who is a co-owner of an interest owned by the decedent.

“(iii) Multiple collateral heirs.—If—

“(I) an Indian collateral heir owns an interest to which clause (ii) applies that is larger than the interest held by any other such collateral heir, the interest shall descend to the collateral heir that owns the largest undivided interest in the parcel; or

“(II) 2 or more collateral heirs own equal shares in an interest to which clause (ii) applies, the interest shall be divided equally among those collateral heirs.

“(iv) No ownership.—If none of the Indian collateral heirs of a decedent owns an interest to which clause (ii) applies, subject to clause (v), the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted land involved.

“(v) Acquisition of interest.—

“(I) In general.—Notwithstanding clause (iv), an Indian co-owner of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in or to the land.

“(II) Multiple co-owners.—If more than 1 Indian co-owner (including the Indian tribe referred to in clause (iv)) offers to pay for an interest described in subclause (I), the highest bidder shall acquire the interest.

“(4) Special rule relating to survival.—In the case of intestate succession under this section, if an individual who fails to survive a decedent by at least 120 hours, as established by clear and convincing evidence—

“(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

“(B) the heirs of the decedent shall be determined in accordance with this section.

“(5) Pretermitted spouses and children.—

“(A) Spouses.—

“(i) In general.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

“(ii) Exception.—Clause (i) shall not apply to an interest in trust or restricted land in a case in which—

"(I) the will of a testator is executed before the date of enactment of this subparagraph;

"(II)(aa) the spouse of a testator is a non-Indian; and

"(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

"(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

"(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

"(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

"(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

"(B) Children.—

"(i) In general.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

"(ii) Adopted heirs.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

"(6) Divorce.—

"(A) Surviving spouse.—

"(i) In general.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

"(ii) Separation.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

"(iii) No effect on adjudications.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

"(B) Effect of subsequent divorce on a will or devise.—

"(i) In general.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, on the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

"(ii) Property.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

"(iii) Provisions of wills.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

"(7) Notice.—

"(A) In general.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

"(B) Combined notices.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).".

(c) Rule of Construction.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

"(h) Applicable Federal Law.—

"(1) In general.—For purpose of subsections (a) and (b), any reference to applicable Federal law includes—

"(A) Public Law 91–627 (84 Stat. 1874);

"(B) Public Law 92–377 (86 Stat. 530);

"(C) Public Law 92–443 (86 Stat. 744);

"(D) Public Law 96–274 (94 Stat. 537); and

"(E) Public Law 98–513 (98 Stat. 2411).

"(2) No effect on laws.—Nothing in this section amends or otherwise affects any law described in paragraph (1), or any other Federal law, that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation.".

(d) Passive Trust Interest Status for Trust or Restricted Land.—The Indian Land Consolidation Act is amended by inserting after section 207 (25 U.S.C. 2206) the following:

"SEC. 207A. PASSIVE TRUST INTEREST STATUS FOR TRUST OR RESTRICTED LAND.

"(a) Passive Trust Interest Status.—

"(1) In general.—The owner of an interest in trust or restricted land may submit to the Secretary an application requesting that the interest be held in passive trust interest status.

"(2) Authority.—An application under paragraph (1) may authorize the Secretary to amend any existing lease or agreement with respect to the interest that is the subject of the application.

"(b) Approval.—On the approval of an application by the Secretary under subsection (a), an interest in trust or restricted land covered by the application shall be held as a passive trust interest in accordance with this section.

"(c) Requirements.—Except as provided in this section, an interest in trust or restricted land that is held as a passive trust interest under this section—

"(1) shall continue to be covered under any applicable tax-exempt status, and continue to be subject to any restrictions on alienation, until the interest is patented in fee;

"(2) may, without the approval of the Secretary, be—

"(A) leased for a period of not to exceed 25 years;

"(B) mortgaged in accordance with the Act of March 29, 1956 (25 U.S.C. 483a); or

"(C) sold or conveyed to—

"(i) an Indian;

"(ii) the Indian tribe that exercises jurisdiction over the interest; or

"(iii) a co-owner of an interest in the parcel of land in which the interest is held, if the co-owner owns a pre-existing trust, restricted interest, or a passive trust interest in the parcel; and

"(3) may be subject to an ordinance or resolution enacted under subsection (d).

"(d) Ordinance or Resolution for Removal of Status.—

"(1) In general.—The governing body of the Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is held as a passive trust interest in accordance with this section may enact an ordinance or resolution to permit the owner of the interest to apply to the Secretary for the removal of the trust or restricted status of any portion of the land that is subject to the jurisdiction of the Indian tribe.

"(2) Review by secretary.—The Secretary shall review, and may approve, an ordinance or resolution enacted by an Indian tribe in accordance with paragraph (1) if the Secretary determines that the ordinance or resolution—

"(A) is consistent with this Act; and

"(B) would not increase fractionated ownership of Indian land.

"(e) Revenues or Royalties.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall not be responsible for the collection of or accounting for any lease revenues or royalties accruing to an interest held as a passive trust interest by any person under this section.

"(2) Exception.—Paragraph (1) shall not apply to an interest described in that paragraph if the Secretary approves an application to take the interest into active trust status on behalf of an Indian or an Indian tribe in accordance with regulations promulgated by the Secretary.

"(3) Authority of secretary.—Nothing in this subsection alters any authority or responsibility of the Secretary with respect to an interest in trust or restricted land held in active trust status (including an undivided interest included in the same parcel of land as an undivided passive trust interest).

"(f) Jurisdiction Over Passive Trust Interest.—With respect to an interest in trust or restricted land that is devised or held as a passive trust interest under this section—

"(1) an Indian tribe that exercises jurisdiction over such an interest shall continue to exercise jurisdiction over the land that is held as a passive trust interest; and

"(2) any person holding, leasing, or otherwise using the land shall be considered to consent to the jurisdiction of the Indian tribe with respect to the use of the land (including any effects associated with any use of the land).

"(g) Probate of Passive Trust Interests.—

"(1) In general.—An interest in trust or restricted land that is held as a passive trust interest under this section shall be subject to—

"(A) probate by the Secretary in accordance with this Act; and

"(B) all other laws applicable to the probate of trust or restricted land.

"(2) Commencement of probate.—Any interested party may file an application to commence the probate of an interest in trust or restricted land held as a passive trust interest.

"(h) Regulations.—The Secretary shall promulgate such regulations as are necessary to carry out this section.".

SEC. 4. PARTITION OF INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

"(c) Partition.—

"(1) Definitions.—In this subsection:

"(A) Eligible indian tribe.—The term 'eligible Indian tribe' means an Indian tribe that—

"(i) owns eligible land; and

"(ii) consents to partition of the eligible land.

"(B) Eligible land.—The term 'eligible land' means an undivided parcel of land that—

"(i) is located within the reservation of an Indian tribe; or

"(ii) is otherwise under the jurisdiction of an Indian tribe.

"(2) Requirements.—Notwithstanding any other provision of law, in accordance with this subsection and subject to paragraphs (3), (4), and (5)—

``(A) an eligible Indian tribe may apply to the Secretary for the partition of a parcel of eligible land; and

``(B) the Secretary may commence a process for partitioning the eligible land under this subsection if—

``(i) the eligible Indian tribe meets the applicable ownership requirement under subparagraph (A) or (B) of paragraph (3); or

``(ii) the Secretary determines that it is reasonable to believe that the partition of the eligible land owned would be in accordance with paragraph (3)(C).

``(3) Tribal ownership.—A parcel of eligible land may be partitioned under this subsection if, with respect to the eligible Indian tribe involved—

``(A) the eligible Indian tribe owns 50 percent or more of the undivided interest in the parcel;

``(B) the eligible Indian tribe is the owner of the largest quantity of undivided interest in the parcel; or

``(C) the owners of undivided interests equal to at least 50 percent of the undivided interest in the parcel (including any undivided interest owned by the eligible Indian tribe) consent or do not object to the partition.

``(4) Tribal consent.—A parcel of land that is located within the reservation of an Indian tribe or otherwise under the jurisdiction of an Indian tribe shall be partitioned under this subsection only if the Indian tribe does not object to the partition.

``(5) Applicability.—This subsection shall not apply to any parcel of land that is the bona fide residence of any person unless the person consents to the partition in writing.

``(6) Partition in kind.—

``(A) In general.—The Secretary shall commence the partition process described in subparagraph (B) if—

``(i) an eligible Indian tribe applies to partition eligible land under this paragraph; and

``(ii)(I) the Secretary determines that the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

``(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

``(B) Partition Process.—In carrying out any partition under this paragraph, the Secretary shall—

``(i) provide, to each owner of any undivided interest in eligible land to be partitioned, through publication or other appropriate means, notice of the proposed partition;

``(ii) make available to any interested party a copy of any proposed partition plan submitted by an eligible Indian tribe or proposed by the Secretary; and

``(iii) review—

``(I) any proposed partition plan submitted by any owner of an undivided interest in the eligible land; and

``(II) any comments or objections concerning a partition, or any proposed plan of partition, submitted by any owner or any other interested party.

``(C) Determination not to partition.—If the Secretary determines that a parcel of eligible land cannot be partitioned in a manner that is fair and equitable to the owners of the eligible land, the Secretary shall inform each owner of the eligible land of—

``(i) the determination of the Secretary; and

``(ii) the right of the owner to appeal the determination.

``(D) Partition with consent of eligible Indian tribe.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, and the applicable eligible Indian tribe meets the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

``(i) approve a plan of partition;

``(ii) provide notice to the owners of the eligible land of the determination of the Secretary;

``(iii) make a copy of the plan of partition available to each owner of the eligible land; and

``(iv) inform each owner of the right to appeal the determination of the Secretary to partition the eligible land in accordance with the plan.

``(E) Partition with consent; implied consent.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, but the eligible Indian tribe involved does not meet the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

``(i)(I) make a plan of partition available to the owners of the parcel; and

``(II) inform the owners that the eligible land will be partitioned in accordance with the plan if the owners of 50 percent or more of undivided ownership interest in the eligible land—

``(aa) consent to the partition; or

``(bb) do not object to the partition by such date as may be established by the Secretary; and

``(ii)(I) if the owners of 50 percent or more of undivided ownership interest in the eligible land consent to the partition or do not object by a date established by the Secretary under clause (i)(II)(bb), inform the owners of the eligible land that—

``(aa) the plan for partition is final; and

``(bb) the owners have the right to appeal the determination of the Secretary to partition the eligible land; or

``(II) if the owners of 50 percent or more of the undivided ownership interest in the eligible land object to the partition, inform the eligible Indian tribe of the objection.

``(F) Successive partition plans.—In carrying out subparagraph (E) in accordance with paragraph (3)(C), the Secretary may, in accordance with subparagraph (E)—

``(i) approve 1 or more successive plans of partition; and

``(ii) make those plans available to the owners of the eligible land to be partitioned.

``(G) Plan of partition.—A plan of partition approved by the Secretary in accordance with subparagraph (D) or (E)—

``(i) may determine that 1 or more of the undivided interests in a parcel of eligible land are not susceptible to a partition in kind;

``(ii) may provide for the sale or exchange of those undivided interests to—

``(I) 1 or more of the owners of undivided interests in the eligible land; or

``(II) the Secretary in accordance with section 213; and

``(iii) shall provide that the sale of any undivided interest referred to in clause (ii) shall be for not less than the fair market value of the interest.

``(7) Partition by sale.—

``(A) In general.—The Secretary shall commence the partition process described in subparagraph (B) if—

``(i) an eligible Indian tribe applies to partition a parcel of eligible land under this subsection; and

``(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

``(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

``(B) Partition process.—In carrying out any partition of eligible land under this paragraph, the Secretary—

``(i) shall conduct a preliminary appraisal of the eligible land;

``(ii) shall provide to the owners of the eligible land, through publication or other appropriate means—

``(I) notice of the application of the eligible Indian tribe to partition the eligible land; and

``(II) access to the preliminary appraisal conducted in accordance with clause (i);

``(iii) shall inform each owner of the eligible land of the right to submit to the Secretary comments relating to the preliminary appraisal;

``(iv) may, based on comments received under clause (iii), modify the preliminary appraisal or provide for the conduct of a new appraisal; and

``(v) shall—

``(I) issue a final appraisal for the eligible land;

``(II) provide to the owners of the eligible land and the appropriate Indian tribes access to the final appraisal; and

``(III) inform the Indian tribes of the right to appeal the final appraisal.

``(C) Purchase by eligible Indian tribe.—If an eligible Indian tribe enters into an agreement with the Secretary to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), and the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

``(i) provide to each owner of the eligible land notice of the agreement; and

``(ii) inform the owners of the right to appeal the decision of the Secretary to enter into the agreement (including the right to appeal any final appraisal of the parcel referred to in subparagraph (B)(v)(III)).

``(D) Partition with consent; implied consent.—

``(i) In general.—If an eligible Indian tribe agrees to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), but does not meet the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

``(I) provide to each owner of the undivided interest in the eligible land notice that the Indian tribe did not meet the requirements; and

``(II) inform the owners that the eligible land will be partitioned by sale unless the partition is opposed by the owners of 50 percent or more of the undivided ownership interest in the eligible land.

``(ii) Failure to object to partition.—If the owners of 50 percent or more of undivided ownership interest in or to a parcel of eligible land consent to the partition of the eligible land, or do not object to the partition by such date as may be established by the Secretary, the Secretary shall inform the owners of the eligible land of the right to appeal the determination of the Secretary to partition the eligible land (including the results of the final appraisal issued under subparagraph (B)(v)(I)).

"(iii) OBJECTION TO PARTITION.—If the owners of 50 percent or more of the undivided ownership interest in a parcel of eligible land object to the partition of the eligible land—

"(I) the Secretary shall notify the eligible Indian tribe of the objection; and

"(II) the eligible Indian tribe and the Secretary may agree to increase the amount offered to purchase the undivided ownership interests in the eligible land.

"(8) ENFORCEMENT.—

"(A) IN GENERAL.—If, with respect to a parcel of eligible land, a partition in kind is approved under subparagraph (D) or (E) of paragraph (6), or a partition by sale is approved under paragraph (7)(C), and the owner of an interest in or to the eligible land fails to convey the interest to the Indian tribe, the Indian tribe or the United States may—

"(i) bring a civil action in the United States district court for the district in which the eligible land is located; and

"(ii) request the court to issue an appropriate order for the partition in kind, or partition by sale to the Indian tribe, of the eligible land.

"(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

"(i) the United States—

"(I) shall receive notice of the civil action; and

"(II) may be a party to the civil action; and

"(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is an indispensable party.".

SEC. 5. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking "over 50 per centum of the undivided interests" and inserting "undivided interests equal to at least 50 percent of the undivided interest";

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prevents the devise of an interest in trust or restricted land to—

"(A) an Indian lineal descendant of the original allottee; or

"(B) an Indian who is not a member of the Indian tribe that exercises jurisdiction over such an interest, unless the code provides for—

"(i) the renouncing of interests to eligible devisees in accordance with the code;

"(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate; and

"(iii) payment of fair market value in the manner prescribed under subsection (c)(2)."; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

"(1) AUTHORITY.—

"(A) IN GENERAL.—";

(II) in the first sentence of subparagraph (A) (as designated by clause (i)), by striking "section 207(a)(6)(A) of this title" and inserting "section 207(a)(2)(A)(ii), 207(a)(2)(C), or 207(a)(3)"; and

(III) by striking the last sentence and inserting the following:

"(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph."; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through "Paragraph (1) shall apply" and inserting the following:

"(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

"(i) IN GENERAL.—Paragraph (1) shall not apply";

(bb) in clause (i) (as designated by item (a)), by striking "if, while" and inserting the following: "if—

"(I) while";

(cc) by striking the period at the end and inserting "; or"; and

(dd) by adding at the end the following:

"(II)(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

"(bb) the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

"(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

"(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

"(iv) DEFINITION OF MEMBER OF THE FAMILY.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

"(I) a lineal descendant of a decedent or landowner;

"(II) a lineal descendant of the grandparent of a decedent or landowner;

"(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

"(IV) the spouse of a decedent or landowner."; and

(II) in subparagraph (B), by striking "subparagraph (A)" and all that follows through "207(a)(6)(B) of this title" and inserting "paragraph (1)";

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (c)—

(i) by redesignating paragraph (3) as paragraph (4); and

(ii) by inserting after paragraph (2) the following:

"(3) ALIENATION OF JOINT TENANCY INTERESTS.—

"(A) IN GENERAL.—With respect to any interest held in joint tenancy in accordance with this subsection—

"(i) nothing in this subsection alters the ability of an owner of such an interest to convey a life estate in the undivided joint tenancy interest of the owner; and

"(ii) only the last remaining owner of such an interest may devise or convey more than a life estate in the interest.

"(B) APPLICATION OF PROVISION.—This paragraph shall not apply—

"(i) to any conveyance, sale, or transfer that is part of an agreement referred to in subsection (e); or

"(ii) to a co-owner of a joint tenancy interest."; and

(B) in subsection (g)(5), by striking "this section" and inserting "subsections (a) and (b)";

(4) in section 213 (25 U.S.C. 2212)—

(A) in subsection (a)(2), by striking "(A) IN GENERAL.—" and all that follows through "the Secretary shall submit" and inserting "The Secretary shall submit";

(B) in subsection (b), by striking paragraph (4) and inserting the following:

"(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

"(A) conveyance documents;

"(B) administrative proceedings; and

"(C) transactions."; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "landowner upon payment" and all that follows and inserting the following: "landowner—

"(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

"(ii) if—

"(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

"(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner."; and

(II) in subparagraph (B), by inserting before the period at the end the following: "unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)"; and

(ii) in paragraph (3), by striking "10 percent of more of the undivided interests" and inserting "an undivided interest";

(5) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

"(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3) or (4).

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

"(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

"(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

"(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

"(3) REMOVAL OF LIEN AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

"(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

"(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

"(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

"(4) OTHER REMOVAL OF LIEN.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.";

(6) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

"(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213."; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "Subject to paragraph (2), all" and inserting "All";

(II) in subparagraph (A), by striking "and" at the end;

(III) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(C) be used to acquire undivided interests on the reservation from which the income was derived."; and

(ii) by striking paragraph (2) and inserting the following:

"(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.";

(7) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking "prospective applicants for the leasing, use, or consolidation of" and insert "any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,"; and

(B) by striking subsection (f) and inserting the following:

"(f) PURCHASE OF LAND BY INDIAN TRIBE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe that exercises jurisdiction over the parcel shall have the opportunity—

"(A) to match any offer contained in the application; or

"(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

"(2) EXCEPTION FOR FAMILY FARMS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if—

"(i) the interest is offered for sale to an entity that is not a member of the family of the landowner; and

"(ii) the Indian tribe that exercises jurisdiction over the land is afforded the opportunity to purchase the interest.

"(B) APPLICABILITY.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A)."; and

(8) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking "100" and inserting "90".

(b) DEFINITION.—

(1) IN GENERAL.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended by striking paragraph (2) and inserting the following:

"(2) INDIAN.—

"(A) IN GENERAL.—The term 'Indian' means—

"(i) any person that is a member of any Indian tribe or is eligible to become a member of any Indian tribe;

"(ii) subject to subparagraph (B), any person that has been found to meet the definition of 'Indian' under any Federal law; and

"(iii) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person that meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b));".

"(B) EXCLUSIONS.—The term 'Indian' does not include any person excluded from a definition described in subparagraph (A)(ii) by a regulation promulgated by the Secretary in a case in which the Secretary determines that the definition is not consistent with the purposes of this Act, unless the definition described in subparagraph (A)(ii) is contained in a law relating to—

"(i) agriculture;

"(ii) cultural resources;

"(iii) economic development;

"(iv) grazing;

"(v) housing;

"(vi) Indian schools;

"(vii) natural resources;

"(viii) any other program with benefits intended to run to Indian landowners; or

"(ix) any land-related program that takes effect after the date of enactment of this subparagraph.".

(2) APPLICABILITY.—Any exclusion referred to in the amendment made by paragraph (1) shall apply only to a decedent who dies after the date on which the Secretary of the Interior promulgates a regulation providing for the exclusion.

(c) MORTGAGES AND DEEDS OF TRUST.—The Act of March 29, 1956 (25 U.S.C. 483a), is amended in the first sentence of subsection (a) by inserting after "any land" the following: "(including land owned by any person in passive trust status in accordance with section 207A of the Indian Land Consolidation Act)".

(d) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: "*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:".

(e) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by striking ", in accordance with" and all that follows through the colon and inserting "in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):".

SEC. 6. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

(a) IN GENERAL.—Section 5 of Public Law 98-513 (98 Stat. 2413) is amended to read as follows:

"SEC. 5. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act—

"(1) the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in the land that is less than 2.5 acres to more than 1 tribal member unless each tribal member already holds an interest in that land; and

"(2) any interest in trust or restricted land within the reservation that is less than 2.5 acres that would otherwise pass by intestate succession (including a life estate in the land under section 4), or that is devised to more than 1 tribal member that is not described in paragraph (1), shall revert to the Indian tribe, to be held in the name of the United States in trust for the Indian tribe.

"(b) NOTICE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2003, the Secretary shall provide notice to owners of trust or restricted land within the Lake Traverse Reservation of the provisions of this section by—

"(A) direct mail;

"(B) publication in the Federal Register; or

"(C) publication in local newspapers.

"(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

"(A) certify that the requirements of this subsection have been met; and

"(B) shall publish notice of that certification in the Federal Register.".

(b) APPLICABILITY.—This section and the amendment made by this section shall not apply with respect to the estate of any person who dies before the date that is 1 year after the date on which the Secretary makes the required certification under section 5(b) of Public Law 98-513 (98 Stat. 2413) (as amended by subsection (a)).

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

By Mr. CAMPBELL:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am re-introducing a bill that is important to the State of Colorado, the Southern Ute Indian Tribe and all Coloradans that live in the southwest corner of our beautiful State.

More than thirty years of experience with environmental laws shows us that local design and implementation of such laws almost always trumps the "one size fits all" approach advocated by many in Washington, D.C.

The Federal Clean Air Act authorizes States and Indian tribes to accept responsibility for air quality plans and standards, and implement many of the regulatory programs needed to maintain or improve air quality.

In 1984 Congress ratified a jurisdiction and boundary agreement between the Tribe and the State that spared both sides litigation costs and a fight over the jurisdictional status of each square inch on the reservation. The 1984 pact permits the Tribe and the State to work out jurisdictional issues for themselves.

Some uncertainty remains with respect to environmental issues and rather than placing the Environmental Protection Agency in the middle of a controversy about whether it is authorized to delegate Clean Air Act programs within the Ute Reservation, the Tribe and the State signed an agreement to eliminate any ambiguities.

First, consistent with Congress' mandate in the Clean Air Act, the Tribe will be the entity responsible for administering Clean Air Act programs within the reservation.

Second, an equal number of Tribal and State representatives will sit on the Commission established to hear and make decisions, and will set the pace for Tribal applications for delegations of authority. Finally, Federal court review is available to hear challenges to decisions by the Commission.

In closing, let me again commend the efforts of both the Tribe and the State in negotiating and signing this historic agreement.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term "Commission" means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term "Reservation" means the Southern Ute Indian Reservation.

(5) STATE.—The term "State" means the State of Colorado.

(6) TRIBE.—The term "Tribe" means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT.

If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98–290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. DEWINE, Mr. ALLEN, Mr. CRAIG, Mr. GRAHAM of South Carolina, Mr. ALLARD, and Mr. TALENT):

S. 554. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the Sunshine in the Courtroom Act of 2003, a bill to allow media coverage of court proceedings. This legislation will provide Federal judges with the statutory authority to exercise their discretion to allow the photographing, electronic recording, broadcasting and televising of federal court proceedings.

During the 107th Congress, the Judiciary Committee reported identical legislation favorably, by a vote of 12 to 7. It's my hope that the full Senate will have the opportunity to act on this bill as early as possible in the 108th Congress.

Sunshine bill will help the American people to become better informed about the judicial process. Moreover, this bill will help to produce a better judiciary. Increased public awareness and scrutiny will bring about greater accountability and help judges to do a better job.

Allowing cameras in the Federal courts is consistent with the intent of our Nation's Founders that trials should be held in front of as many people as choose to attend them. In my view, the First Amendment to the Constitution requires that court proceedings must be open to the public and, by extension, to the news media. As the Supreme Court has said, "what transpires in the courtroom is public property."

Clearly, the basic American values of openness and education are served by allowing electronic media access to Federal courtrooms. There are many beneficial and no substantial detrimental effects to allowing greater public access to the inner workings of our federal courts. Fifteen States have conducted studies aimed specifically at the educational benefits that are derived from camera access to courtrooms. They all determined that camera coverage contributes to greater public understanding of the judicial system.

Moroever, the experience of the States with electronic media access to judicial proceedings demonstrate that still and video cameras can be used without any problems, and that procedural discipline is preserved. According to the National Center for State Courts, all fifty States allow at least some degree of camera access to judicial proceedings under a wide variety of rules and conditions. My own State of Iowa, for example, has operated successfully in this open manner for more than 20 years.

Furthermore, at the Federal level, the Federal Judicial Center conducted a pilot program in 1994 that studied the effects of allowing camera access to courtrooms. The study found "small or no effects of camera presence on participants in judicial proceedings, courtroom decorum, or the administration of justice."

Based on the experience of the States, as well as state and Federal studies, Senator SCHUMER and I are introducing this bill with a well-founded confidence that it represents sound public policy. Nevertheless, in order to provide a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent, we have included a three-year sunset provision in our bill.

The Supreme Court of the United States has recognized that there is a strong public interest in electronic media access to important court cases. At my urging and that of Senator SCHUMER, Chief Justice Rehnquist permitted the delayed audio broadcasting of the oral arguments before the Supreme Court in the historic 2000 presidential election dispute. The Supreme Court's response to our request was a major step in the right direction.

It is important to emphasize, that this bill does not require any Federal judge in any Federal court to allow camera access to judicial proceedings. Rather, it simply gives Federal judges the discretion to allow cameras or other electronic media access if they see fit. The bill also protects the privacy and safety of non-party witnesses by giving them the right to have their faces and voices obscured.

This piece of sunshine legislation will bring greater openness and accountability to the Nation's Federal courts. The best way to maintain confidence in our Federal judiciary, which has tremendous power, is to let the sun shine in by allowing judges to exercise their discretion in opening Federal courtrooms to public view through the broadcasting and televising of judicial proceedings. I urge my colleagues to join me in co-sponsoring the Sunshine in the Courtroom Act.

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) PRESIDING JUDGE.—The term "presiding judge" means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term "appellate court of the United States" means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 2. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—

(A) IN GENERAL.—Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) NOTIFICATION TO WITNESSES.—The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that the image and voice of that witness be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under subsections (a) and (b).

SEC. 3. SUNSET.

The authority under section 2(b) shall terminate 3 years after the date of the enactment of this Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President today I am pleased to be joined by Senators INOUYE and MCCAIN in introducing two bills vitally important to the health of Native Americans: the "Indian Health Care Improvement Act Reauthorization of 2003".

It is an unfortunate fact that the health status of Native people in the United States is poor. In fact, in the western hemisphere only the people of Haiti are in worse shape.

Alcohol, drug abuse, and mental illness, tuberculosis, cancer, obesity and diabetes, heart disease, infant mortality, and a host of related pathologies plague Native people.

Last fall's reauthorization of the Special Indian Diabetes Program showed the Federal commitment to ending the scourge of diabetes in Native communities.

The "Indian Health Care Improvement Act Reauthorization of 2003" will reauthorize the programs administered by the Indian Health Service and will increase the direct management of health care services by tribes, Native Alaskans and Urban Indian health centers.

This bill is the product of intense consultation between tribes, Native Alaskan health providers, and Urban Indian health centers, and relevant Federal agencies and representatives of the public and private health care sectors.

The efforts of the IHS and Native health providers have been successful in improving the health status of Native people. Just in the last 10 years, infant and maternal mortality rates have declined by 30 percent and 40 percent, respectively. Similarly, tuberculosis mortality rates have also been reduced 53 percent. Other indicia of Native health status have also shown marked improvement.

Even with modest increases in recent spending bills, funding for Native health care continues to lag far behind the level of need.

To help close this gap, we must be creative and tap other sources of funds for Native health including the private, tribal and non-profit sectors of our economy.

The second bill I am introducing will do just that and will facilitate the contribution of funds for purposes of Native health care by establishing a non-profit, charitable foundation to receive funds and in-kind contributions for such purposes.

This is not a radical step as similar foundations have been established for other purposes. In recent years Congress has created both the American Indian Education Foundation and the Fish and Wildlife Foundation, which have proven to be very successful in achieving their purposes.

I urge my colleagues to join me in supporting these important bills.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Health and Wellness Foundation Act of 2003".

SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

"TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

"SEC. 801. DEFINITIONS.

"In this title:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

"(2) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(4) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

"SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

"(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

"(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

"(c) NATURE OF CORPORATION.—The Foundation—

"(1) shall be a charitable and nonprofit federally chartered corporation; and

"(2) shall not be an agency or instrumentality of the United States.

"(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

"(e) PURPOSES.—The purposes of the Foundation shall be—

"(1) to encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

"(2) to undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

"(3) to participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

"(f) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

"(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

"(3) SELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

"(B) REQUIREMENTS.—

"(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, 2 of whom shall be the Secretary and the Director of the Indian Health Service, who shall serve as nonvoting members.

"(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

"(I) shall be appointed by the Secretary not later than 180 days after the date on which the Foundation is established; and

"(II) shall have staggered terms (as determined by the Secretary).

"(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

"(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

"(g) OFFICERS.—

"(1) IN GENERAL.—The officers of the Foundation shall be—

"(A) a secretary, elected from among the members of the Board; and

"(B) any other officers provided for in the constitution and bylaws of the Foundation.

"(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

"(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

"(h) POWERS.—The Foundation—

"(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

"(2) may adopt and alter a corporate seal;

"(3) may enter into contracts;

"(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

"(5) may sue and be sued; and

"(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

"(i) PRINCIPAL OFFICE.—

"(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

"(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

"(j) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

"(k) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

"(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

"(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

"(l) RESTRICTIONS.—

"(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

"(A) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

"(B) donations received from private sources during the preceding fiscal year.

"(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

"(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

"(m) TRANSFER OF DONATED FUNDS.—The Secretary may transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.) if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

"(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

"SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

"(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

"(1) may provide personnel, facilities, and other administrative support services to the Foundation;

"(2) may provide funds to reimburse the travel expenses of the members of the Board; and

"(3) shall require and accept reimbursements from the Foundation for—

"(A) services provided under paragraph (1); and

"(B) funds provided under paragraph (2).

"(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

"(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

"(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

"(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

"(1) are available; and

"(2) are provided on reimbursable cost basis.".

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.)) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking "section 501" and inserting "section 701".

S. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Improvement Act Reauthorization of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

Sec. 101. Amendment to the Indian Health Care Improvement Act.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

Sec. 201. Limitations on charges.
Sec. 202. Qualified Indian health program.

Subtitle B—Medicaid

Sec. 211. State consultation with Indian health programs.
Sec. 212. Fmap for services provided by Indian health programs.
Sec. 213. Indian Health Service programs.

Subtitle C—State Children's Health Insurance Program

Sec. 221. Enhanced fmap for State children's health insurance program.
Sec. 222. Direct funding of State children's health insurance program.

Subtitle D—Authorization of Appropriations

Sec. 231. Authorization of appropriations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Repeals.
Sec. 302. Severability provisions.
Sec. 303. Effective date.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

SEC. 101. AMENDMENT TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings.
"Sec. 3. Declaration of health objectives.
"Sec. 4. Definitions.

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"Sec. 101. Purpose.
"Sec. 102. General requirements.
"Sec. 103. Health professions recruitment program for Indians.
"Sec. 104. Health professions preparatory scholarship program for Indians.
"Sec. 105. Indian health professions scholarships.
"Sec. 106. American Indians into psychology program.
"Sec. 107. Indian Health Service extern programs.
"Sec. 108. Continuing education allowances.
"Sec. 109. Community health representative program.
"Sec. 110. Indian Health Service loan repayment program.
"Sec. 111. Scholarship and loan repayment recovery fund.
"Sec. 112. Recruitment activities.
"Sec. 113. Tribal recruitment and retention program.
"Sec. 114. Advanced training and research.
"Sec. 115. Nursing programs; Quentin N. Burdick American Indians into Nursing Program.
"Sec. 116. Tribal culture and history.
"Sec. 117. INMED program.
"Sec. 118. Health training programs of community colleges.
"Sec. 119. Retention bonus.
"Sec. 120. Nursing residency program.
"Sec. 121. Community health aide program for Alaska.
"Sec. 122. Tribal health program administration.
"Sec. 123. Health professional chronic shortage demonstration project.
"Sec. 124. Scholarships.
"Sec. 125. National Health Service Corps.
"Sec. 126. Substance abuse counselor education demonstration project.
"Sec. 127. Mental health training and community education.
"Sec. 128. Authorization of appropriations.

"TITLE II—HEALTH SERVICES

"Sec. 201. Indian Health Care Improvement Fund.
"Sec. 202. Catastrophic Health Emergency Fund.
"Sec. 203. Health promotion and disease prevention services.
"Sec. 204. Diabetes prevention, treatment, and control.
"Sec. 205. Shared services.
"Sec. 206. Health services research.
"Sec. 207. Mammography and other cancer screening.
"Sec. 208. Patient travel costs.
"Sec. 209. Epidemiology centers.
"Sec. 210. Comprehensive school health education programs.
"Sec. 211. Indian youth program.
"Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
"Sec. 213. Authority for provision of other services.
"Sec. 214. Indian women's health care.
"Sec. 215. Environmental and nuclear health hazards.
"Sec. 216. Arizona as a contract health service delivery area.
"Sec. 216A. North Dakota as a contract health service delivery area.
"Sec. 216B. South Dakota as a contract health service delivery area.
"Sec. 217. California contract health services demonstration program.
"Sec. 218. California as a contract health service delivery area.
"Sec. 219. Contract health services for the Trenton service area.
"Sec. 220. Programs operated by Indian tribes and tribal organizations.
"Sec. 221. Licensing.
"Sec. 222. Authorization for emergency contract health services.
"Sec. 223. Prompt action on payment of claims.
"Sec. 224. Liability for payment.
"Sec. 225. Authorization of appropriations.

"TITLE III—FACILITIES

"Sec. 301. Consultation, construction and renovation of facilities; reports.
"Sec. 302. Safe water and sanitary waste disposal facilities.
"Sec. 303. Preference to Indians and Indian firms.
"Sec. 304. Soboba sanitation facilities.
"Sec. 305. Expenditure of nonservice funds for renovation.
"Sec. 306. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
"Sec. 307. Indian health care delivery demonstration project.
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"Sec. 311. Tribal leasing.
"Sec. 312. Indian Health Service/tribal facilities joint venture program.
"Sec. 313. Location of facilities.
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"Sec. 423. Provisions relating to managed care.
"Sec. 424. Navajo Nation medicaid agency.
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"Sec. 517. Use of Federal government facilities and sources of supply.
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"TITLE VI—ORGANIZATIONAL IMPROVEMENTS
"Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
"Sec. 602. Automated management information system.
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"TITLE VII—BEHAVIORAL HEALTH PROGRAMS
"Sec. 701. Behavioral health prevention and treatment services.
"Sec. 702. Memorandum of agreement with the Department of the Interior.
"Sec. 703. Comprehensive behavioral health prevention and treatment program.
"Sec. 704. Mental health technician program.
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"Sec. 706. Indian women treatment programs.
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"Sec. 708. Inpatient and community-based mental health facilities design, construction and staffing assessment.
"Sec. 709. Training and community education.
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"TITLE VIII—MISCELLANEOUS
"Sec. 801. Reports.
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"Sec. 812. Tribal employment.
"Sec. 813. Prime vendor.
"Sec. 814. National Bi-Partisan Commission on Indian Health Care Entitlement.
"Sec. 815. Appropriations; availability.
"Sec. 816. Authorization of appropriations.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) Federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with the American Indian people, as reflected in the Constitution, treaties, Federal laws, and the course of dealings of the United States with Indian Tribes, and the United States' resulting government to government and trust responsibility and obligations to the American Indian people.

"(2) From the time of European occupation and colonization through the 20th century, the policies and practices of the United States caused or contributed to the severe health conditions of Indians.

"(3) Indian Tribes have, through the cession of over 400,000,000 acres of land to the United States in exchange for promises, often reflected in treaties, of health care secured a de facto contract that entitles Indians to health care in perpetuity, based on the moral, legal, and historic obligation of the United States.

"(4) The population growth of the Indian people that began in the later part of the 20th century increases the need for Federal health care services.

"(5) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians, regardless of where they live, to be raised to the highest possible level, a level that is not less than that of the general population, and to provide for the maximum participation of Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery, and management of those services.

"(6) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of illnesses among, and unnecessary and premature deaths of, Indians.

"(7) Despite such services, the unmet health needs of the American Indian people remain alarmingly severe, and even continue to increase, and the health status of the Indians is far below the health status of the general population of the United States.

"(8) The disparity in health status that is to be addressed is formidable. In death rates for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher.

"SEC. 3. DECLARATION OF HEALTH OBJECTIVES.

"Congress hereby declares that it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people—

"(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

"(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto;

"(3) in order to raise the health status of Indian people to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto, to permit Indian Tribes and tribal organizations to set their own health care priorities and establish goals that reflect their unmet needs;

"(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population;

"(5) to require meaningful, active consultation with Indian Tribes, Indian organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

"(6) that funds for health care programs and facilities operated by Tribes and tribal organizations be provided in amounts that are not less than the funds that are provided to programs and facilities operated directly by the Service.

"SEC. 4. DEFINITIONS.

"In this Act:

"(1) ACCREDITED AND ACCESSIBLE.—The term 'accredited and accessible', with respect to an entity, means a community college or other appropriate entity that is on or near a reservation and accredited by a national or regional organization with accrediting authority.

"(2) AREA OFFICE.—The term 'area office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

"(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Indian Health as established under section 601.

"(4) CONTRACT HEALTH SERVICE.—The term 'contract health service' means a health service that is provided at the expense of the Service, Indian Tribe, or tribal organization by a public or private medical provider or hospital, other than a service funded under the Indian Self-Determination and Education Assistance Act or under this Act.

"(5) DEPARTMENT.—The term 'Department', unless specifically provided otherwise, means the Department of Health and Human Services.

"(6) FUND.—The terms 'fund' or 'funding' mean the transfer of monies from the Department to any eligible entity or individual under this Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts, or otherwise.

"(7) FUNDING AGREEMENT.—The term 'funding agreement' means any agreement to transfer funds for the planning, conduct, and administration of programs, functions, services and activities to Tribes and tribal organizations from the Secretary under the authority of the Indian Self-Determination and Education Assistance Act.

"(8) HEALTH PROFESSION.—The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.

"(9) HEALTH PROMOTION; DISEASE PREVENTION.—The terms 'health promotion' and 'disease prevention' shall have the meanings given such terms in paragraphs (1) and (2) of section 203(c).

"(10) INDIAN.—The term 'Indian' and 'Indians' shall have meanings given such terms for purposes of the Indian Self-Determination and Education Assistance Act.

"(11) INDIAN HEALTH PROGRAM.—The term 'Indian health program' shall have the meaning given such term in section 110(a)(2)(A).

"(12) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

"(13) RESERVATION.—The term 'reservation' means any Federally recognized Indian tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments.

"(14) SECRETARY.—The term 'Secretary', unless specifically provided otherwise, means the Secretary of Health and Human Services.

"(15) SERVICE.—The term 'Service' means the Indian Health Service.

"(16) SERVICE AREA.—The term 'service area' means the geographical area served by each area office.

"(17) SERVICE UNIT.—The term 'service unit' means—

"(A) an administrative entity within the Indian Health Service; or

"(B) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

"(18) TRADITIONAL HEALTH CARE PRACTICES.—The term 'traditional health care practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to western healing sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self Determination and Education Assistance Act.

"(20) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' shall have the meaning given such term in section 126 (g)(2).

"(21) URBAN CENTER.—The term 'urban center' means any community that has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

"(22) URBAN INDIAN.—The term 'urban Indian' means any individual who resides in an urban center and who—

"(A) for purposes of title V and regardless of whether such individual lives on or near a reservation, is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those tribes, bands or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member;

"(B) is an Eskimo or Aleut or other Alaskan Native;

"(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

"(D) is determined to be an Indian under regulations promulgated by the Secretary.

"(23) URBAN INDIAN ORGANIZATION.—The term 'urban Indian organization' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the participation of all interested Indian groups and individuals, and which is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"SEC. 101. PURPOSE.

"The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health services to Indian people.

"SEC. 102. GENERAL REQUIREMENTS.

"(a) SERVICE AREA PRIORITIES.—Unless specifically provided otherwise, amounts appropriated for each fiscal year to carry out each program authorized under this title shall be allocated by the Secretary to the area office of each service area using a formula—

"(1) to be developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations;

"(2) that takes into account the human resource and development needs in each such service area; and

"(3) that weighs the allocation of amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

"(b) CONSULTATION.—Each area office receiving funds under this title shall actively and continuously consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds provided under this title within the service area.

"(c) REALLOCATION.—Unless specifically prohibited, an area office may reallocate funds provided to the office under this title among the programs authorized by this title, except that scholarship and loan repayment funds shall not be used for administrative functions or expenses.

"(d) LIMITATION.—This section shall not apply with respect to individual recipients of scholarships, loans or other funds provided under this title (as this title existed 1 day prior to the date of enactment of this Act) until such time as the individual completes the course of study that is supported through the use of such funds.

"SEC. 103. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

"(a) IN GENERAL.—The Secretary, acting through the Service, shall make funds available through the area office to public or nonprofit private health entities, or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

"(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

"(A) to enroll in courses of study in such health professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

"(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

"(3) establishing other programs which the area office determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

"(b) ADMINISTRATIVE PROVISIONS.—

"(1) APPLICATION.—To be eligible to receive funds under this section an entity described in subsection (a) shall submit to the Secretary, through the appropriate area office, and have approved, an application in such form, submitted in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(2) PREFERENCE.—In awarding funds under this section, the area office shall give a preference to applications submitted by Indian tribes, tribal organizations, or urban Indian organizations.

"(3) AMOUNT.—The amount of funds to be provided to an eligible entity under this section shall be determined by the area office. Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations promulgated pursuant to this Act.

"(4) TERMS.—A funding commitment under this section shall, to the extent not otherwise prohibited by law, be for a term of 3 years, as provided for in regulations promulgated pursuant to this Act.

"(c) DEFINITION.—For purposes of this section and sections 104 and 105, the terms 'Indian' and 'Indians' shall, in addition to the definition provided for in section 4, mean any individual who—

"(1) irrespective of whether such individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940;

"(2) is an Eskimo or Aleut or other Alaska Native;

"(3) is considered by the Secretary of the Interior to be an Indian for any purpose; or

"(4) is determined to be an Indian under regulations promulgated by the Secretary.

“SEC. 104. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall provide scholarships through the area offices to Indians who—

“(1) have successfully completed their high school education or high school equivalency; and

“(2) have demonstrated the capability to successfully complete courses of study in the health professions.

“(b) PURPOSE.—Scholarships provided under this section shall be for the following purposes:

“(1) Compensatory preprofessional education of any recipient. Such scholarship shall not exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act).

“(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act) except that an extension of up to 2 years may be approved by the Secretary.

“(c) USE OF SCHOLARSHIP.—Scholarships made under this section may be used to cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school.

“(d) LIMITATIONS.—Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of—

“(1) the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; or

“(2) the applicant's eligibility for assistance or benefits under any other Federal program.

“SEC. 105. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

“(a) SCHOLARSHIPS.—

“(1) IN GENERAL.—In order to meet the needs of Indians, Indian tribes, tribal organizations, and urban Indian organizations for health professionals, the Secretary, acting through the Service and in accordance with this section, shall provide scholarships through the area offices to Indians who are enrolled full or part time in accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall, except as provided in subsection (b), be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 2541).

“(2) NO DELEGATION.—The Director of the Service shall administer this section and shall not delegate any administrative functions under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act.

“(b) ELIGIBILITY.—

“(1) ENROLLMENT.—An Indian shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a)(1).

“(2) SERVICE OBLIGATION.—

“(A) PUBLIC HEALTH SERVICE ACT.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service—

“(i) in the Indian Health Service;

“(ii) in a program conducted under a funding agreement entered into under the Indian Self-Determination and Education Assistance Act;

“(iii) in a program assisted under title V; or

“(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“(B) DEFERRING ACTIVE SERVICE.—At the request of any Indian who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

“(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

“(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

“(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (iv) of subparagraph (A).

“(C) NEW SCHOLARSHIP RECIPIENTS.—A recipient of an Indian Health Scholarship that is awarded after December 31, 2003, shall meet the active duty service obligation under such scholarship by providing service within the service area from which the scholarship was awarded. In placing the recipient for active duty the area office shall give priority to the program that funded the recipient, except that in cases of special circumstances, a recipient may be placed in a different service area pursuant to an agreement between the areas or programs involved.

“(D) PRIORITY IN ASSIGNMENT.—Subject to subparagraph (C), the area office, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(3) PART-TIME ENROLLMENT.—In the case of an Indian receiving a scholarship under this section who is enrolled part time in an approved course of study—

“(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the appropriate area office;

“(B) the period of obligated service described in paragraph (2)(A) shall be equal to the greater of—

“(i) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the area office); or

“(ii) two years; and

“(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254l(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

“(4) BREACH OF CONTRACT.—

“(A) IN GENERAL.—An Indian who has, on or after the date of the enactment of this paragraph, entered into a written contract with the area office pursuant to a scholarship under this section and who—

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(ii) is dismissed from such educational institution for disciplinary reasons;

“(iii) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him or her, or on his or her behalf, under the contract.

“(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A) an individual breaches his or her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

“(C) DEATH.—Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(D) WAIVER.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the appropriate area office, Indian tribe, tribal organization, and urban Indian organization, determines that—

“(i) it is not possible for the recipient to meet that obligation or make that payment;

“(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

“(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

“(E) HARDSHIP OR GOOD CAUSE.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

“(F) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

"(c) Funding for Tribes for Scholarship Programs.—

"(1) Provision of funds.—

"(A) In general.—The Secretary shall make funds available, through area offices, to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(B) Limitation.—The Secretary shall ensure that amounts available for grants under subparagraph (A) for any fiscal year shall not exceed an amount equal to 5 percent of the amount available for each fiscal year for Indian Health Scholarships under this section.

"(C) Application.—An application for funds under subparagraph (A) shall be in such form and contain such agreements, assurances and information as consistent with this section.

"(2) Requirements.—

"(A) In general.—An Indian Tribe or tribal organization receiving funds under paragraph (1) shall agree to provide scholarships to Indians in accordance with the requirements of this subsection.

"(B) Matching requirement.—With respect to the costs of providing any scholarship pursuant to subparagraph (A)—

"(i) 80 percent of the costs of the scholarship shall be paid from the funds provided under paragraph (1) to the Indian Tribe or tribal organization; and

"(ii) 20 percent of such costs shall be paid from any other source of funds.

"(3) Eligibility.—An Indian Tribe or tribal organization shall provide scholarships under this subsection only to Indians who are enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in this Act.

"(4) Contracts.—In providing scholarships under paragraph (1), the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

"(A) obligate such recipient to provide service in an Indian health program (as defined in section 110(a)(2)(A)) in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for—

"(i) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(ii) such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

"(B) provide that the scholarship—

"(i) may only be expended for—

"(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

"(ii) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

"(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

"(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to the health profession involved.

"(5) Breach of contract.—

"(A) In general.—An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this subsection and who—

"(i) fails to maintain an acceptable level of academic standing in the education institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) is dismissed from such education for disciplinary reasons;

"(iii) voluntarily terminates the training in such an educational institution for which he or she has been provided a scholarship under such contract before the completion of such training; or

"(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract;

shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

"(B) Failure to perform service obligation.—If for any reason not specified in subparagraph (A), an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

"(C) Information.—The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

"(6) Required agreements.—The recipient of a scholarship under paragraph (1) shall agree, in providing health care pursuant to the requirements of this subsection—

"(A) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and

"(B) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(7) Payments.—The Secretary, through the area office, shall make payments under this subsection to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary or area office determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.

"SEC. 106. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

"(a) In General.—Notwithstanding section 102, the Secretary shall provide funds to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various colleges and universities throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

"(b) Quentin N. Burdick American Indians Into Psychology Program.—The Secretary shall provide funds under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115, the Quentin N. Burdick Indians into Health Program authorized under section 117, and existing university research and communications networks.

"(c) Requirements.—

"(1) Regulations.—The Secretary shall promulgate regulations pursuant to this Act for the competitive awarding of funds under this section.

"(2) Program.—Applicants for funds under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges that will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;

"(C) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

"(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

"(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

"(F) utilizes, to the maximum extent feasible, existing university tutoring, counseling and student support services; and

"(G) employs, to the maximum extent feasible, qualified Indians in the program.

"(d) Active Duty Obligation.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(C) that is funded under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act;

"(3) in a program assisted under title V; or

"(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the

Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

"(a) IN GENERAL.—Any individual who receives a scholarship pursuant to section 105 shall be entitled to employment in the Service, or may be employed by a program of an Indian tribe, tribal organization, or urban Indian organization, or other agency of the Department as may be appropriate and available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship.

"(b) ENROLLEES IN COURSE OF STUDY.—Any individual who is enrolled in a course of study in the health professions may be employed by the Service or by an Indian tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

"(c) HIGH SCHOOL PROGRAMS.—Any individual who is in a high school program authorized under section 103(a) may be employed by the Service, or by a Indian Tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

"(d) ADMINISTRATIVE PROVISIONS.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

"SEC. 108. CONTINUING EDUCATION ALLOWANCES.

"In order to encourage health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or in any program of an Indian tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the area offices, may provide allowances to health professionals employed in the Service or such a program to enable such professionals to take leave of their duty stations for a period of time each year (as prescribed by regulations of the Secretary) for professional consultation and refresher training courses.

"SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

"(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall maintain a Community Health Representative Program under which the Service, Indian tribes and tribal organizations—

"(1) provide for the training of Indians as community health representatives; and

"(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) ACTIVITIES.—The Secretary, acting through the Community Health Representative Program, shall—

"(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program;

"(2) in order to provide such training, develop and maintain a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

"(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

"(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education;

"(4) maintain a system that provides close supervision of community health representatives;

"(5) maintain a system under which the work of community health representatives is reviewed and evaluated; and

"(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

"SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (referred to in this Act as the 'Loan Repayment Program') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

"(2) DEFINITIONS.—In this section:

"(A) INDIAN HEALTH PROGRAM.—The term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

"(i) directly by the Service;

"(ii) by any Indian tribe or tribal or Indian organization pursuant to a funding agreement under—

"(I) the Indian Self-Determination and Educational Assistance Act; or

"(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47) (commonly known as the 'Buy-Indian Act'); or

"(iii) by an urban Indian organization pursuant to title V.

"(B) STATE.—The term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

"(b) ELIGIBILITY.—To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

"(ii) in an approved graduate training program in a health profession; or

"(B) have—

"(i) a degree in a health profession; and

"(ii) a license to practice a health profession in a State;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Indian Health Service; or

"(D) be employed in an Indian health program without a service obligation; and

"(3) submit to the Secretary an application for a contract described in subsection (f).

"(c) FORMS.—

"(1) IN GENERAL.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

"(2) FORMS TO BE UNDERSTANDABLE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) PRIORITY.—

"(1) ANNUAL DETERMINATIONS.—The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

"(A) identify the positions in each Indian health program for which there is a need or a vacancy; and

"(B) rank those positions in order of priority.

"(2) PRIORITY IN APPROVAL.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

"(A) give first priority to applications made by individual Indians; and

"(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

"(i) individuals recruited through the efforts an Indian tribe, tribal organization, or urban Indian organization; and

"(ii) other individuals based on the priority rankings under paragraph (1).

"(e) CONTRACTS.—

"(1) IN GENERAL.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

“(2) Notice.—Not later than 21 days after considering an individual for participation in the Loan Repayment Program under paragraph (1), the Secretary shall provide written notice to the individual of—

“(A) the Secretary's approving of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

“(B) the Secretary's disapproving an individual's participation in such Program.

“(f) Written Contract.—The written contract referred to in this section between the Secretary and an individual shall contain—

“(1) an agreement under which—

“(A) subject to paragraph (3), the Secretary agrees—

“(i) to pay loans on behalf of the individual in accordance with the provisions of this section; and

“(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe, tribal organization, or urban Indian organization as provided in subparagraph (B)(iii); and

“(B) subject to paragraph (3), the individual agrees—

“(i) to accept loan payments on behalf of the individual;

“(ii) in the case of an individual described in subsection (b)(1)—

“(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

“(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

“(iii) to serve for a time period (referred to in this section as the ‘period of obligated service’) equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

“(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

“(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

“(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

“(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

“(g) Loan Repayments.—

“(1) In general.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

“(A) tuition expenses;

“(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

“(C) reasonable living expenses as determined by the Secretary.

“(2) Amount of payment.—

“(A) In general.—For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

“(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

“(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

“(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

“(B) Time for payment.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

“(3) Schedule for payments.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

“(h) Counting of Individuals.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

“(i) Recruiting Programs.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

“(j) Nonapplication of Certain Provision.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

“(k) Assignment of Individuals.—The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

“(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

“(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(l) Breach of Contract.—

“(1) In general.—An individual who has entered into a written contract with the Secretary under this section and who—

“(A) is enrolled in the final year of a course of study and who—

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(ii) voluntarily terminates such enrollment; or

“(iii) is dismissed from such educational institution before completion of such course of study; or

“(B) is enrolled in a graduate training program, and who fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

“(2) Amount of recovery.—If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

“(A) ‘A’ is the amount the United States is entitled to recover;

“(B) ‘Z’ is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

“(C) ‘t’ is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

“(D) ‘s’ is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

“(3) Damages.—

“(A) Time for payment.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach of contract or such longer period beginning on such date as shall be specified by the Secretary.

“(B) Delinquencies.—If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

“(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

“(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

“(C) Contracts for recovery of damages.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section

3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

“(m) Cancellation, Waiver or Release.—

“(1) Cancellation.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

“(2) Waiver of service obligation.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

“(3) Waiver of rights of United States.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

“(4) Release.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

“(n) Report.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

“(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

“(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

“(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

“(4) the amount of loan payments made under this section, in total and by health profession;

“(5) the number of scholarship grants that are provided under section 105 with respect to each health profession;

“(6) the amount of scholarship grants provided under section 105, in total and by health profession;

“(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the 3 fiscal years beginning after the date the report is filed; and

“(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes, tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.

“SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

“(a) Establishment.—Notwithstanding section 102, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (referred to in this section as the ‘LRRF’). The LRRF Fund shall consist of—

“(1) such amounts as may be collected from individuals under subparagraphs (A) and (B) of section 105(b)(4) and section 110(l) for breach of contract;

“(2) such funds as may be appropriated to the LRRF;

“(3) such interest earned on amounts in the LRRF; and

“(4) such additional amounts as may be collected, appropriated, or earned relative to the LRRF.

Amounts appropriated to the LRRF shall remain available until expended.

“(b) Use of LRRF.—

“(1) In general.—Amounts in the LRRF may be expended by the Secretary, subject to section 102, acting through the Service, to make payments to the Service or to an Indian tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act—

“(A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to sections; and

“(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 or section 110.

“(2) Scholarships and recruiting.—An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or to recruit and employ, directly or by contract, health professionals to provide health care services.

“(c) Investing of Fund.—

“(1) In general.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

“(2) Sale price.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

“SEC. 112. RECRUITMENT ACTIVITIES.

“(a) Reimbursement of Expenses.—The Secretary may reimburse health professionals seeking positions in the Service, Indian tribes, tribal organizations, or urban Indian organizations, including unpaid student volunteers and individuals considering entering into a contract under section 110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

“(b) Assignment of Personnel.—The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

“SEC. 113. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

“(a) Funding of Projects.—The Secretary, acting through the Service, shall fund innovative projects for a period not to exceed 3 years to enable Indian tribes, tribal organizations, and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A)).

“(b) Eligibility.—Any Indian tribe, tribal organization, or urban Indian organization may submit an application for funding of a project pursuant to this section.

“SEC. 114. ADVANCED TRAINING AND RESEARCH.

“(a) Demonstration Project.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian health program (as defined in section 110) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

“(b) Service Obligation.—

“(1) In general.—An individual who participates in the project under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such project.

“(2) Failure to complete service.—In the event that an individual fails to complete a period of obligated service under paragraph (1), the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the project after the date of the enactment of this Act, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

“(c) Opportunity To Participate.—Health professionals from Indian tribes, tribal organizations, and urban Indian organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to participate in the program under subsection (a).

“SEC. 115. NURSING PROGRAMS; QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

“(a) Grants.—Notwithstanding section 102, the Secretary, acting through the Service, shall provide funds to—

“(1) public or private schools of nursing;

“(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

“(3) nurse midwife programs, and advance practice nurse programs, that are provided by any tribal college accredited nursing program, or in the absence of such, any other public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

“(b) Use of Grants.—Funds provided under subsection (a) may be used to—

“(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses;

“(2) provide scholarships to Indian individuals enrolled in such programs that may be used to pay the tuition charged for such program and for other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses;

“(3) provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians;

“(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses; or

“(5) provide any program that is designed to achieve the purpose described in subsection (a).

"(c) Applications.—Each application for funds under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

"(d) Preferences.—In providing funds under subsection (a), the Secretary shall extend a preference to—

"(1) programs that provide a preference to Indians;

"(2) programs that train nurse midwives or advanced practice nurses;

"(3) programs that are interdisciplinary; and

"(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

"(e) Quentin N. Burdick American Indians Into Nursing Program.—The Secretary shall ensure that a portion of the funds authorized under subsection (a) is made available to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick Indian Health Programs established under section 117(b).

"(f) Service Obligation.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded under subsection (a). Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination and Education assistance Act;

"(3) in a program assisted under title V; or

"(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"SEC. 116. TRIBAL CULTURE AND HISTORY.

"(a) In General.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian tribes in each service area receive educational instruction in the history and culture of such tribes and their relationship to the Service.

"(b) Requirements.—To the extent feasible, the educational instruction to be provided under subsection (a) shall—

"(1) be provided in consultation with the affected tribal governments, tribal organizations, and urban Indian organizations;

"(2) be provided through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

"(3) include instruction in Native American studies.

"SEC. 117. INMED PROGRAM.

"(a) Grants.—The Secretary may provide grants to 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (referred to in this section as 'INMED') as a means of encouraging Indians to enter the health professions.

"(b) Quentin N. Burdick Indian Health Program.—The Secretary shall provide 1 of the grants under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Program', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

"(c) Requirements.—

"(1) In general.—The Secretary shall develop regulations to govern grants under to this section.

"(2) Program requirements.—Applicants for grants provided under this section shall agree to provide a program that—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program;

"(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

"(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university; and

"(E) to the maximum extent feasible, employs qualified Indians in the program.

"SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

"(a) Establishment Grants.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service, or in a tribal health program.

"(2) Amount.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

"(b) Continuation Grants.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

"(2) Eligibility.—Grants may only be made under this subsection to a community college that—

"(A) is accredited;

"(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

"(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

"(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

"(ii) stipulate certifications necessary to approve internship and field placement opportunities at health programs of the Service or at tribal health programs;

"(D) has a qualified staff which has the appropriate certifications;

"(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

"(F) agrees to provide for Indian preference for applicants for programs under this section.

"(c) Service Personnel and Technical Assistance.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

"(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

"(2) providing technical assistance and support to such colleges.

"(d) Specified Courses of Study.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

"(1) has already received a degree or diploma in such health profession; and

"(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

"(e) Priority.—Priority shall be provided under this section to tribally controlled colleges in service areas that meet the requirements of subsection (b).

"(f) Definitions.—In this section:

"(1) Community college.—The term 'community college' means—

"(A) a tribally controlled community college; or

"(B) a junior or community college.

"(2) Junior or community college.—The term 'junior or community college' has the meaning given such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

"(3) Tribally controlled college.—The term 'tribally controlled college' has the meaning given the term 'tribally controlled community college' by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

"SEC. 119. RETENTION BONUS.

"(a) In General.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, the Service, an Indian tribe, a tribal organization, or an urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

"(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

"(2) the Secretary determines is needed by the Service, tribe, tribal organization, or urban organization;

"(3) has—

"(A) completed 3 years of employment with the Service; tribe, tribal organization, or urban organization; or

"(B) completed any service obligations incurred as a requirement of—

“(i) any Federal scholarship program; or

“(ii) any Federal education loan repayment program; and

“(4) enters into an agreement with the Service, Indian tribe, tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

“(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

“(c) FAILURE TO COMPLETE TERM OF SERVICE.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

“(d) FUNDING AGREEMENT.—The Secretary may pay a retention bonus to any health professional employed by an organization providing health care services to Indians pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional is serving in a position which the Secretary determines is—

“(1) a position for which recruitment or retention is difficult; and

“(2) necessary for providing health care services to Indians.

“SEC. 120. NURSING RESIDENCY PROGRAM.

“(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110(a)(2)(A)), and have done so for a period of not less than 1 year, to pursue advanced training.

“(b) REQUIREMENT.—The program established under subsection (a) shall include a combination of education and work study in an Indian health program (as defined in section 110(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or an advanced degrees in nursing and public health.

“(c) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

“SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

“(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; commonly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

“(1) provides for the training of Alaska Natives as health aides or community health practitioners;

“(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

“(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

“(b) ACTIVITIES.—The Secretary, acting through the Community Health Aide Program under subsection (a), shall—

“(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

“(2) in order to provide such training, develop a curriculum that—

“(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

“(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

“(C) promotes the achievement of the health status objective specified in section 3(b);

“(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or who can demonstrate equivalent experience;

“(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

“(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

“(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

“SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

“Subject to Section 102, the Secretary, acting through the Service, shall, through a funding agreement or otherwise, provide training for Indians in the administration and planning of tribal health programs.

“SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT.

“(a) PILOT PROGRAMS.—The Secretary may, through area offices, fund pilot programs for tribes and tribal organizations to address chronic shortages of health professionals.

“(b) PURPOSE.—It is the purpose of the health professions demonstration project under this section to—

“(1) provide direct clinical and practical experience in a service area to health professions students and residents from medical schools;

“(2) improve the quality of health care for Indians by assuring access to qualified health care professionals; and

“(3) provide academic and scholarly opportunities for health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

“(c) ADVISORY BOARD.—A pilot program established under subsection (a) shall incorporate a program advisory board that shall be composed of representatives from the tribes and communities in the service area that will be served by the program.

“SEC. 124. SCHOLARSHIPS.

“Scholarships and loan reimbursements provided to individuals pursuant to this title shall be treated as ‘qualified scholarships’ for purposes of section 117 of the Internal Revenue Code of 1986.

“SEC. 125. NATIONAL HEALTH SERVICE CORPS.

“(a) LIMITATIONS.—The Secretary shall not—

“(1) remove a member of the National Health Services Corps from a health program operated by Indian Health Service or by a tribe or tribal organization under a funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations; or

“(2) withdraw the funding used to support such a member;

unless the Secretary, acting through the Service, tribes or tribal organization, has ensured that the Indians receiving services from such member will experience no reduction in services.

“(b) DESIGNATION OF SERVICE AREAS AS HEALTH PROFESSIONAL SHORTAGE AREAS.—All service areas served by programs operated by the Service or by a tribe or tribal organization under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization, shall be designated under section 332 of the Public Health Service Act (42 U.S.C. 254e) as Health Professional Shortage Areas.

“(c) FULL TIME EQUIVALENT.—National Health Service Corps scholars that qualify for the commissioned corps in the Public Health Service shall be exempt from the full time equivalent limitations of the National Health Service Corps and the Service when such scholars serve as commissioned corps officers in a health program operated by an Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization.

“SEC. 126. SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.

“(a) DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

“(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

“(c) TERM OF GRANT.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1 year period upon the approval of the Secretary.

“(d) REVIEW OF APPLICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

"(f) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

"(g) DEFINITIONS.—In this section:

"(1) EDUCATIONAL CURRICULUM.—The term 'educational curriculum' means 1 or more of the following:

"(A) Classroom education.

"(B) Clinical work experience.

"(C) Continuing education workshops.

"(2) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(3) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

"SEC. 127. MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION.

"(a) STUDY AND LIST.—

"(1) IN GENERAL.—The Secretary and the Secretary of the Interior in consultation with Indian tribes and tribal organizations shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

"(2) POSITIONS.—The positions referred to in paragraph (1) are—

"(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

"(i) elementary and secondary education;

"(ii) social services, family and child welfare;

"(iii) law enforcement and judicial services; and

"(iv) alcohol and substance abuse;

"(B) staff positions within the Service; and

"(C) staff positions similar to those specified in subsection (b) and established and maintained by Indian tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements under the Indian Self-determination and Education Assistance Act, and this Act.

"(3) TRAINING CRITERIA.—

"(A) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position specified in subsection (b)(1) and ensure that appropriate training has been or will be provided to any individual in any such position.

"(B) TRAINING.—With respect to any such individual in a position specified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training or provide funds to an Indian tribe, tribal organization, or urban Indian organization for the training of appropriate individuals. In the case of a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the funding agreement, if necessary.

"(4) CULTURAL RELEVANCY.—Position specific training criteria shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

"(5) COMMUNITY EDUCATION.—

"(A) DEVELOPMENT.—The Service shall develop and implement, or on request of an Indian tribe or tribal organization, assist an Indian tribe or tribal organization, in developing and implementing a program of community education on mental illness.

"(B) TECHNICAL ASSISTANCE.—In carrying out this paragraph, the Service shall, upon the request of an Indian tribe or tribal organization, provide technical assistance to the Indian tribe or tribal organization to obtain and develop community educational materials on the identification, prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior.

"(b) STAFFING.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Act, the Director of the Service shall develop a plan under which the Service will increase the number of health care staff that are providing mental health services by at least 500 positions within 5 years after such date of enactment, with at least 200 of such positions devoted to child, adolescent, and family services. The allocation of such positions shall be subject to the provisions of section 102(a).

"(2) IMPLEMENTATION.—The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly know as the 'Snyder Act').

"SEC. 128. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE II—HEALTH SERVICES

"SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

"(a) IN GENERAL.—The Secretary may expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act, that are appropriated under the authority of this section, for the purposes of—

"(1) eliminating the deficiencies in the health status and resources of all Indian tribes;

"(2) eliminating backlogs in the provision of health care services to Indians;

"(3) meeting the health needs of Indians in an efficient and equitable manner;

"(4) eliminating inequities in funding for both direct care and contract health service programs; and

"(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

"(A) clinical care, including inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

"(B) preventive health, including mammography and other cancer screening in accordance with section 207;

"(C) dental care;

"(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

"(G) accident prevention programs;

"(H) home health care;

"(I) community health representatives;

"(J) maintenance and repair; and

"(K) traditional health care practices.

"(b) USE OF FUNDS.—

"(1) LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act, the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to service units or Indian tribes or tribal organizations. The funds allocated to each tribe, tribal organization, or service unit under this subparagraph shall be used to improve the health status and reduce the resource deficiency of each tribe served by such service unit, tribe or tribal organization. Such allocation shall weigh the amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians for all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

"(B) APPORTIONMENT.—The apportionment of funds allocated to a service unit, tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes in accordance with this section and such rules as may be established under title VIII.

"(c) HEALTH STATUS AND RESOURCE DEFICIENCY.—In this section:

"(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

"(A) the health status objective set forth in section 3(2) is not being achieved; and

"(B) the Indian tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

"(2) RESOURCES.—The health resources available to an Indian tribe or tribal organization shall include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

"(3) REVIEW OF DETERMINATION.—The Secretary shall establish procedures which allow any Indian tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe or tribal organization.

"(d) ELIGIBILITY.—Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

"(e) REPORT.—Not later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

"(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

"(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

"(4) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

"(B) the number of Indians eligible for health services in each service unit or Indian tribe or tribal organization; and

"(C) the number of Indians using the Service resources made available to each service unit or Indian tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

"(f) BUDGETARY RULE.—Funds appropriated under the authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs or to discourage the Service from undertaking additional efforts to achieve equity among Indian tribes and tribal organizations.

"(h) DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

"SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established an Indian Catastrophic Health Emergency Fund (referred to in this section as the 'CHEF') consisting of—

"(A) the amounts deposited under subsection (d); and

"(B) any amounts appropriated to the CHEF under this Act.

"(2) ADMINISTRATION.—The CHEF shall be administered by the Secretary solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(3) EQUITABLE ALLOCATION.—The CHEF shall be equitably allocated, apportioned or delegated on a service unit or area office basis, based upon a formula to be developed by the Secretary in consultation with the Indian tribes and tribal organizations through negotiated rulemaking under title VIII. Such formula shall take into account the added needs of service areas which are contract health service dependent.

"(4) NOT SUBJECT TO CONTRACT OR GRANT.—No part of the CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act.

"(5) ADMINISTRATION.—Amounts provided from the CHEF shall be administered by the area offices based upon priorities determined by the Indian tribes and tribal organizations within each service area, including a consideration of the needs of Indian tribes and tribal organizations which are contract health service-dependent.

"(b) REQUIREMENTS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

"(2) provide that a service unit, Indian tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treatment for any victim of such a catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

"(A) for 1999, not less than $19,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

"(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

"(A) service units, Indian tribes, or tribal organizations, or facilities of the Service; or

"(B) non-Service facilities or providers whenever otherwise authorized by the Service;

in rendering treatment that exceeds threshold cost described in paragraph (2);

"(4) establish a procedure for payment from the CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from the CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

"(c) LIMITATION.—Amounts appropriated to the CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) or any other law.

"(d) DEPOSITS.—There shall be deposited into the CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the CHEF.

"SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

"(a) FINDINGS.—Congress finds that health promotion and disease prevention activities will—

"(1) improve the health and well-being of Indians; and

"(2) reduce the expenses for health care of Indians.

"(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and through Indian tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objective set forth in section 3(b).

"(c) DISEASE PREVENTION AND HEALTH PROMOTION.—In this section:

"(1) DISEASE PREVENTION.—The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications, and the reduction in the consequences of such diseases, including—

"(A) controlling—

"(i) diabetes;

"(ii) high blood pressure;

"(iii) infectious agents;

"(iv) injuries;

"(v) occupational hazards and disabilities;

"(vi) sexually transmittable diseases; and

"(vii) toxic agents; and

"(B) providing—

"(i) for the fluoridation of water; and

"(ii) immunizations.

"(2) HEALTH PROMOTION.—The term 'health promotion' means fostering social, economic, environmental, and personal factors conducive to health, including—

"(A) raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information;

"(B) encouraging adequate and appropriate diet, exercise, and sleep;

"(C) promoting education and work in conformity with physical and mental capacity;

"(E) making available suitable housing, safe water, and sanitary facilities;

"(F) improving the physical economic, cultural, psychological, and social environment;

"(G) promoting adequate opportunity for spiritual, religious, and traditional practices; and

"(H) adequate and appropriate programs including—

"(i) abuse prevention (mental and physical);

"(iii) community health;

"(iv) community safety;

"(v) consumer health education;

"(vi) diet and nutrition;

"(vii) disease prevention (communicable, immunizations, HIV/AIDS);

"(viii) environmental health;

"(ix) exercise and physical fitness;

"(x) fetal alcohol disorders;

"(xi) first aid and CPR education;

"(xii) human growth and development;

"(xiii) injury prevention and personal safety;

"(xiv) mental health (emotional, self-worth);

"(xv) personal health and wellness practices;

"(xvi) personal capacity building;

"(xvii) prenatal, pregnancy, and infant care;

"(xviii) psychological well being;

"(xix) reproductive health (family planning);

“(xx) safe and adequate water;

“(xxi) safe housing;

“(xxii) safe work environments;

“(xxiii) stress control;

“(xxiv) substance abuse;

“(xxv) sanitary facilities;

“(xxvi) tobacco use cessation and reduction;

“(xxvii) violence prevention; and

“(xxviii) such other activities identified by the Service, an Indian tribe or tribal organization, to promote the achievement of the objective described in section 3(b).

“(d) Evaluation.—The Secretary, after obtaining input from affected Indian tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to Congress under section 801 an evaluation of—

“(1) the health promotion and disease prevention needs of Indians;

“(2) the health promotion and disease prevention activities which would best meet such needs;

“(3) the internal capacity of the Service to meet such needs; and

“(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

“SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

“(a) Determination.—The Secretary, in consultation with Indian tribes and tribal organizations, shall determine—

“(1) by tribe, tribal organization, and service unit of the Service, the prevalence of, and the types of complications resulting from, diabetes among Indians; and

“(2) based on paragraph (1), the measures (including patient education) each service unit should take to reduce the prevalence of, and prevent, treat, and control the complications resulting from, diabetes among Indian tribes within that service unit.

“(b) Screening.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by an Indian tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

“(c) Continued Funding.—The Secretary shall continue to fund, through fiscal year 2015, each effective model diabetes project in existence on the date of the enactment of this Act and such other diabetes programs operated by the Secretary or by Indian tribes and tribal organizations and any additional programs added to meet existing diabetes needs. Indian tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section. Model diabetes projects shall consult, on a regular basis, with tribes and tribal organizations in their regions regarding diabetes needs and provide technical expertise as needed.

“(d) Dialysis Programs.—The Secretary shall provide funding through the Service, Indian tribes and tribal organizations to establish dialysis programs, including funds to purchase dialysis equipment and provide necessary staffing.

“(e) Other Activities.—The Secretary shall, to the extent funding is available—

“(1) in each area office of the Service, consult with Indian tribes and tribal organizations regarding programs for the prevention, treatment, and control of diabetes;

“(2) establish in each area office of the Service a registry of patients with diabetes to track the prevalence of diabetes and the complications from diabetes in that area; and

“(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to tribes, tribal organizations, and all other area offices.

“SEC. 205. SHARED SERVICES.

“(a) In General.—The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements with Indian tribes or tribal organizations for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a long-term care or other similar facility owned and operated (directly or through a funding agreement) by such Indian tribe or tribal organization.

“(b) Requirements.—A funding agreement or other arrangement entered into pursuant to subsection (a)—

“(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

“(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

“(3) may authorize such tribe or tribal organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

“(c) Technical Assistance.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

“(d) Use of Existing Facilities.—The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes.

“SEC. 206. HEALTH SERVICES RESEARCH.

“(a) Funding.—The Secretary shall make funding available for research to further the performance of the health service responsibilities of the Service, Indian tribes, and tribal organizations and shall coordinate the activities of other Agencies within the Department to address these research needs.

“(b) Allocation.—Funding under subsection (a) shall be allocated equitably among the area offices. Each area office shall award such funds competitively within that area.

“(c) Eligibility for Funds.—Indian tribes and tribal organizations receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to compete for, and receive, research funds under this section.

“(d) Use.—Funds received under this section may be used for both clinical and nonclinical research by Indian tribes and tribal organizations and shall be distributed to the area offices. Such area offices may make grants using such funds within each area.

“SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

“The Secretary, through the Service or through Indian tribes or tribal organizations, shall provide for the following screening:

“(1) Mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

“(2) Other cancer screening meeting national standards.

“SEC. 208. PATIENT TRAVEL COSTS.

“The Secretary, acting through the Service, Indian tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act:

“(1) Emergency air transportation and nonemergency air transportation where ground transportation is infeasible.

“(2) Transportation by private vehicle, specially equipped vehicle and ambulance.

“(3) Transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

“SEC. 209. EPIDEMIOLOGY CENTERS.

“(a) Establishment.—

“(1) In general.—In addition to those centers operating 1 day prior to the date of enactment of this Act, (including those centers for which funding is currently being provided through funding agreements under the Indian Self-Determination and Education Assistance Act), the Secretary shall, not later than 180 days after such date of enactment, establish and fund an epidemiology center in each service area which does not have such a center to carry out the functions described in paragraph (2). Any centers established under the preceding sentence may be operated by Indian tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but funding under such agreements may not be divisible.

“(2) Functions.—In consultation with and upon the request of Indian tribes, tribal organizations and urban Indian organizations, each area epidemiology center established under this subsection shall, with respect to such area shall—

“(A) collect data related to the health status objective described in section 3(b), and monitor the progress that the Service, Indian tribes, tribal organizations, and urban Indian organizations have made in meeting such health status objective;

“(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

“(C) assist Indian tribes, tribal organizations, and urban Indian organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

“(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

“(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

“(F) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

“(G) provide disease surveillance and assist Indian tribes, tribal organizations, and urban Indian organizations to promote public health.

“(3) TECHNICAL ASSISTANCE.—The director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

“(b) FUNDING.—The Secretary may make funding available to Indian tribes, tribal organizations, and eligible intertribal consortia or urban Indian organizations to conduct epidemiological studies of Indian communities.

“SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall provide funding to Indian tribes, tribal organizations, and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children.

“(b) USE OF FUNDS.—Funds awarded under this section may be used to—

“(1) develop and implement health education curricula both for regular school programs and after school programs;

“(2) train teachers in comprehensive school health education curricula;

“(3) integrate school-based, community-based, and other public and private health promotion efforts;

“(4) encourage healthy, tobacco-free school environments;

“(5) coordinate school-based health programs with existing services and programs available in the community;

“(6) develop school programs on nutrition education, personal health, oral health, and fitness;

“(7) develop mental health wellness programs;

“(8) develop chronic disease prevention programs;

“(9) develop substance abuse prevention programs;

“(10) develop injury prevention and safety education programs;

“(11) develop activities for the prevention and control of communicable diseases;

“(12) develop community and environmental health education programs that include traditional health care practitioners;

“(13) carry out violence prevention activities; and

“(14) carry out activities relating to such other health issues as are appropriate.

“(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical assistance to Indian tribes, tribal organizations and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

“(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations shall establish criteria for the review and approval of applications for funding under this section.

“(e) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—

“(1) DEVELOPMENT.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and affected Indian tribes and tribal organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 for use in schools operated by the Bureau of Indian Affairs.

“(2) REQUIREMENTS.—The program developed under paragraph (1) shall include—

“(A) school programs on nutrition education, personal health, oral health, and fitness;

“(B) mental health wellness programs;

“(C) chronic disease prevention programs;

“(D) substance abuse prevention programs;

“(E) injury prevention and safety education programs; and

“(F) activities for the prevention and control of communicable diseases.

“(3) TRAINING AND COORDINATION.—The Secretary of the Interior shall—

“(A) provide training to teachers in comprehensive school health education curricula;

“(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

“(C) encourage healthy, tobacco-free school environments.

“SEC. 211. INDIAN YOUTH PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to provide funding to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under this section may be used to—

“(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

“(B) develop and provide community training and education.

“(2) LIMITATION.—Funds made available under this section may not be used to provide services described in section 707(c).

“(c) REQUIREMENTS.—The Secretary shall—

“(1) disseminate to Indian tribes, tribal organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

“(2) encourage the implementation of such models; and

“(3) at the request of an Indian tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models.

“(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organization, and urban Indian organizations, shall establish criteria for the review and approval of applications under this section.

“SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

“(a) IN GENERAL.—The Secretary, acting through the Service after consultation with Indian tribes, tribal organizations, urban Indian organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian tribes and tribal organizations for—

“(1) projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori, which projects may include screening, testing and treatment for HCV and other infectious and communicable diseases;

“(2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases;

“(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals; and

“(4) a demonstration project that studies the seroprevalence of the Hepatitis C virus among a random sample of American Indian and Alaskan Native populations and identifies prevalence rates among a variety of tribes and geographic regions.

“(b) REQUIREMENT OF APPLICATION.—The Secretary may provide funds under subsection (a) only if an application or proposal for such funds is submitted.

“(c) TECHNICAL ASSISTANCE AND REPORT.—In carrying out this section, the Secretary—

“(1) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

“(2) shall prepare and submit, biennially, a report to Congress on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.

“SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

“(a) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, and tribal organizations, may provide funding under this Act to meet the objective set forth in section 3 through health care related services and programs not otherwise described in this Act. Such services and programs shall include services and programs related to—

“(1) hospice care and assisted living;

“(2) long-term health care;

“(3) home- and community-based services;

“(4) public health functions; and

“(5) traditional health care practices.

“(b) AVAILABILITY OF SERVICES FOR CERTAIN INDIVIDUALS.—At the discretion of the Service, Indian tribe, or tribal organization, services hospice care, home health care (under section 201), home- and community-based care, assisted living, and long term care may be provided (on a cost basis) to individuals otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a tribe or tribal organization.

“(c) DEFINITIONS.—In this section:

“(1) HOME- AND COMMUNITY-BASED SERVICES.—The term ‘home- and community-based services’ means 1 or more of the following:

“(A) Homemaker/home health aide services.

“(B) Chore services.

“(C) Personal care services.

“(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

“(E) Training for family members.

“(F) Adult day care.

“(G) Such other home- and community-based services as the Secretary or a tribe or tribal organization may approve.

“(2) HOSPICE CARE.—The term ‘hospice care’ means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian tribe or tribal organization determines are necessary and appropriate to provide in furtherance of such care.

“(3) PUBLIC HEALTH FUNCTIONS.—The term ‘public health functions’ means public health related programs, functions, and services including assessments, assurances, and policy development that Indian tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to carry out by forming collaborative relationships with all levels of local, State, and Federal governments.

"SEC. 214. INDIAN WOMEN'S HEALTH CARE.

"The Secretary acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

"SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

"(a) Study and Monitoring Programs.—The Secretary and the Service shall, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and tribal organizations, conduct a study and carry out ongoing monitoring programs to determine the trends that exist in the health hazards posed to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result of environmental hazards that may result in chronic or life-threatening health problems. Such hazards include nuclear resource development, petroleum contamination, and contamination of the water source or of the food chain. Such study (and any reports with respect to such study) shall include—

"(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future environmental resource development on or near Indian reservations and communities including the cumulative effect of such development over time on health;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal, oil and gas production or transportation on or near Indian reservations or communities, and other development that could affect the health of Indians and their water supply and food chain;

"(4) a summary of any findings or recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of the enactment of this Act that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) a description of the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

"(b) Development of Health Care Plans.—Upon the completion of the study under subsection (a), the Secretary and the Service shall take into account the results of such study and, in consultation with Indian tribes and tribal organizations, develop a health care plan to address the health problems that were the subject of such study. The plans shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

"(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

"(c) Submission to Congress.—

"(1) General report.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Service shall submit to Congress a report concerning the study conducted under subsection (a).

"(2) Health care plan report.—Not later than 1 year after the date on which the report under paragraph (1) is submitted to Congress, the Secretary and the Service shall submit to Congress the health care plan prepared under subsection (b). Such plan shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address the health problems involved.

"(d) Task Force.—

"(1) Established.—There is hereby established an Intergovernmental Task Force (referred to in this section as the 'task force') that shall be composed of the following individuals (or their designees):

"(A) The Secretary of Energy.

"(B) The Administrator of the Environmental Protection Agency.

"(C) The Director of the Bureau of Mines.

"(D) The Assistant Secretary for Occupational Safety and Health.

"(E) The Secretary of the Interior.

"(2) Duties.—The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community, and enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

"(3) Administrative provisions.—The Secretary shall serve as the chairperson of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

"(e) Provision of Appropriate Medical Care.—In the case of any Indian who—

"(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition;

"(2) is eligible to receive diagnosis and treatment services from a Service facility; and

"(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

"SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216A. NORTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of North Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of North Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216B. SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of South Dakota.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of South Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

"(a) In General.—The Secretary may fund a program that utilizes the California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

"(b) Reimbursement of Board.—

"(1) Agreement.—The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 with respect to high-cost contract care cases.

"(2) Administration.—Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be used for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) Limitation.—No payment may be made for treatment provided under this section to the extent that payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

“(c) Advisory Board.—There is hereby established an advisory board that shall advise the California Rural Indian Health Board in carrying out this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under this section, at least 50 percent of whom are not affiliated with the California Rural Indian Health Board.

“SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

“The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State, except that any of the counties described in this section may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

“SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

“(a) In General.—The Secretary, acting through the Service, shall provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

“(b) Rule of Construction.—Nothing in this section shall be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

“SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

“The Service shall provide funds for health care programs and facilities operated by Indian tribes and tribal organizations under funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act on the same basis as such funds are provided to programs and facilities operated directly by the Service.

“SEC. 221. LICENSING.

“Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any State, be exempt from the licensing requirements of the State in which the agreement is performed.

“SEC. 222. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

“With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

“SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

“(a) Requirement.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

“(b) Failure To Respond.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

“(c) Payment.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

“SEC. 224. LIABILITY FOR PAYMENT.

“(a) No Liability.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

“(b) Notification.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

“(c) Limitation.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services involved.

“SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

“TITLE III—FACILITIES

“SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

“(a) Consultation.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall—

“(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

“(2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body by not later than 1 year after the date on which the construction or renovation of such facility is completed.

“(b) Closure of Facilities.—

“(1) In general.—Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility or any inpatient service or special care facility operated by the Service, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such proposed closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

“(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

“(B) the cost effectiveness of such closure;

“(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

“(D) the availability of contract health care funds to maintain existing levels of service;

“(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

“(F) the level of utilization of such hospital or facility by all eligible Indians; and

“(G) the distance between such hospital or facility and the nearest operating Service hospital.

“(2) Temporary closure.—Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

“(c) Priority System.—

“(1) Establishment.—The Secretary shall establish a health care facility priority system, that shall—

“(A) be developed with Indian tribes and tribal organizations through negotiated rulemaking under section 802;

“(B) give the needs of Indian tribes the highest priority, with additional priority being given to those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas; and

“(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E);

except that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top 10 priority inpatient projects or one of the top 10 outpatient projects in the Indian Health Service budget justification for fiscal year 2003, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.

“(2) Report.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report that includes—

“(A) a description of the health care facility priority system of the Service, as established under paragraph (1);

“(B) health care facility lists, including—

“(i) the total health care facility planning, design, construction and renovation needs for Indians;

“(ii) the 10 top-priority inpatient care facilities;

“(iii) the 10 top-priority outpatient care facilities;

“(iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and

“(v) any staff quarters associated with such prioritized facilities;

“(C) the justification for the order of priority among facilities;

“(D) the projected cost of the projects involved; and

“(E) the methodology adopted by the Service in establishing priorities under its health care facility priority system.

“(3) Consultation.—In preparing each report required under paragraph (2) (other than the initial report) the Secretary shall annually—

“(A) consult with, and obtain information on all health care facilities needs from, Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act; and

“(B) review the total unmet needs of all tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

“(4) Criteria.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

“(5) Equitable integration.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements in accordance with the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the health care facility priority system.

“(d) Review of Need for Facilities.—

“(1) Report.—Beginning in 2004, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to Congress under section 801 of this Act, a report which sets forth the needs of the Service and all Indian tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities.

“(2) Consultation.—In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, and with urban Indian organizations.

“(3) Criteria.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

“(4) Equitable integration.—The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system.

“(5) Annual nominations.—Each year the Secretary shall provide an opportunity for the nomination of planning, design, and construction projects by the Service and all Indian tribes and tribal organizations for consideration under the health care facility priority system.

“(e) Inclusion of Certain Programs.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act.

“(f) Innovative Approaches.—The Secretary shall consult and cooperate with Indian tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

“SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

“(a) Findings.—Congress finds and declares that—

“(1) the provision of safe water supply facilities and sanitary sewage and solid waste disposal facilities is primarily a health consideration and function;

“(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

“(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

“(4) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

“(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

“(b) Provision of Facilities and Services.—

“(1) In general.—In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

“(2) Assistance.—The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

“(A) financial and technical assistance to Indian tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the tribe or tribal organization;

“(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

“(C) priority funding for the operation, and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

“(3) Provisions relating to funding.—Notwithstanding any other provision of law—

“(A) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

“(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

“(C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

“(D) the Secretary of Health and Human Services is authorized to accept all Federal funds that are available for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self-Determination and Education Assistance Act, between the Secretary and Indian tribes and tribal organizations;

“(E) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to fund up to 100 percent of the amount of a tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

“(F) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

“(G) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated and thereafter the Department's applicable policies, rules, regulations shall apply in the implementation of such projects;

“(H) the Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, the Environmental Protection Agency and other appropriate Federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act; and

“(I) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.

“(c) 10-Year Funding Plan.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall develop and implement a 10-year funding plan to provide safe water supply and sanitary sewage and solid waste disposal facilities serving existing Indian homes and communities, and to new and renovated Indian homes.

“(d) Capability of Tribe or Community.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

“(e) Financial Assistance.—The Secretary may provide financial assistance to Indian tribes, tribal organizations and communities for the operation, management, and maintenance of their sanitation facilities.

“(f) Responsibility for Fees for Operation and Maintenance.—The Indian family, community or tribe involved shall have the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity or the health benefit of the facility, the Secretary may assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.

“(g) Eligibility of Certain Tribes or Organizations.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

“(1) any funds appropriated pursuant to this section; and

“(2) any funds appropriated for the purpose of providing water supply, sewage disposal, or solid waste facilities;

on an equal basis with programs that are administered directly by the Service.

“(h) Report.—

“(1) In general.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—

“(A) the current Indian sanitation facility priority system of the Service;

“(B) the methodology for determining sanitation deficiencies;

“(C) the level of initial and final sanitation deficiency for each type sanitation facility for each project of each Indian tribe or community; and

“(D) the amount of funds necessary to reduce the identified sanitation deficiency levels of all Indian tribes and communities to a level I sanitation deficiency as described in paragraph (4)(A).

“(2) Consultation.—In preparing each report required under paragraph (1), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any funding agreements entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rulemaking.

“(3) Methodology.—The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

“(4) Sanitation deficiency levels.—For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes are as follows:

“(A) A level I deficiency is a sanitation facility serving and individual or community—

“(i) which complies with all applicable water supply, pollution control and solid waste disposal laws; and

“(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

“(B) A level II deficiency is a sanitation facility serving and individual or community—

“(i) which substantially or recently complied with all applicable water supply, pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance;

“(ii) in which the deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

“(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities.

“(C) A level III deficiency is an individual or community facility with water or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available.

“(D) A level IV deficiency is an individual or community facility where there are no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists.

“(E) A level V deficiency is the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater disposal.

“(i) Definitions.—In this section:

“(1) Facility.—The terms ‘facility’ or ‘facilities’ shall have the same meaning as the terms ‘system’ or ‘systems’ unless the context requires otherwise.

“(2) Indian community.—The term ‘Indian community’ means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

“SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

“(a) In General.—The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an ‘Indian firm’) in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

“(1) ownership and control by Indians;

“(2) equipment;

“(3) bookkeeping and accounting procedures;

“(4) substantive knowledge of the project or function to be contracted for;

“(5) adequately trained personnel; or

“(6) other necessary components of contract performance.

“(b) Exemption From Davis-Bacon.—For the purpose of implementing the provisions of this title, construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act). For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wages at rates that are not less than the prevailing wage rates for similar construction in the locality involved, as determined by the Indian tribe, Tribes, or tribal organizations served by such facilities.

“SEC. 304. SOBOBA SANITATION FACILITIES.

“Nothing in the Act of December 17, 1970 (84 Stat. 1465) shall be construed to preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

“SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

“(a) Permissibility.—

“(1) In general.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act, including—

“(A) any plans or designs for such expansion, renovation or modernization; and

“(B) any expansion, renovation or modernization for which funds appropriated under any Federal law were lawfully expended;

but only if the requirements of subsection (b) are met.

“(2) Priority list.—The Secretary shall maintain a separate priority list to address the need for increased operating expenses, personnel or equipment for such facilities described in paragraph (1). The methodology for establishing priorities shall be developed by negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian tribes and tribal organizations.

“(3) Report.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

“(b) Requirements.—The requirements of this subsection are met with respect to any expansion, renovation or modernization if—

“(1) the tribe or tribal organization—

“(A) provides notice to the Secretary of its intent to expand, renovate or modernize; and

“(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and

“(2) the expansion renovation or modernization—

“(A) is approved by the appropriate area director of the Service for Federal facilities; and

“(B) is administered by the Indian tribe or tribal organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

“(c) Right of Tribe in Case of Failure of Facility To Be Used as a Service Facility.—If any Service facility which has been expanded, renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.

“SEC. 306. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

“(a) AVAILABILITY OF FUNDING.—

“(1) IN GENERAL.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organization, shall make funding available to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided for in subsections (b)(2) and (c)(1)(C)). Funding under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term ‘construction’ includes the replacement of an existing facility.

“(2) REQUIREMENT.—Funding under paragraph (1) may only be made available to an Indian tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian tribe or tribal organization) pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Funds provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

“(A) located apart from a hospital;

“(B) not funded under section 301 or section 307; and

“(C) which, upon completion of such construction, expansion, or modernization will—

“(i) have a total capacity appropriate to its projected service population;

“(ii) provide annually not less than 500 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and

“(iii) provide ambulatory care in a service area (specified in the funding agreement entered into under the Indian Self-Determination and Education Assistance Act) with a population of not less than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B).

“(2) LIMITATION.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population described in clauses (ii) and (iii) of paragraph (1)(C). The requirements of such clauses (ii) and (iii) shall not apply to a tribe or tribal organization applying for funding under this section whose principal office for health care administration is located on an island or where such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.

“(c) APPLICATION AND PRIORITY.—

“(1) APPLICATION.—No funding may be made available under this section unless an application for such funding has been submitted to and approved by the Secretary. An application or proposal for funding under this section shall be submitted in accordance with applicable regulations and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

“(A) adequate financial support will be available for the provision of services at such facility;

“(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

“(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

“(2) PRIORITY.—In awarding funds under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

“(A) a need for increased ambulatory care services; and

“(B) insufficient capacity to deliver such services.

“(d) FAILURE TO USE FACILITY AS HEALTH FACILITY.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian tribe or tribal organization.

“(e) NO INCLUSION IN TRIBAL SHARE.—Funding provided to Indian tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

“SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

“(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, may enter into funding agreements with, or make grants or loan guarantees to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities, including hospice, traditional Indian health and child care facilities, to Indians.

“(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

“(1) waive any leasing prohibition;

“(2) permit carryover of funds appropriated for the provision of health care services;

“(3) permit the use of other available funds;

“(4) permit the use of funds or property donated from any source for project purposes;

“(5) provide for the reversion of donated real or personal property to the donor; and

“(6) permit the use of Service funds to match other funds, including Federal funds.

“(c) CRITERIA.—

“(1) IN GENERAL.—The Secretary shall develop and publish regulations through rulemaking under section 802 for the review and approval of applications submitted under this section. The Secretary may enter into a contract, funding agreement or award a grant under this section for projects which meet the following criteria:

“(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

“(B) A significant number of Indians, including those with low health status, will be served by the project.

“(C) The project has the potential to address the health needs of Indians in an innovative manner.

“(D) The project has the potential to deliver services in an efficient and effective manner.

“(E) The project is economically viable.

“(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

“(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

“(2) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

“(3) PRIORITY.—The Secretary shall give priority to applications for demonstration projects under this section in each of the following service units to the extent that such applications are filed in a timely manner and otherwise meet the criteria specified in paragraph (1):

“(A) Cass Lake, Minnesota.

“(B) Clinton, Oklahoma.

“(C) Harlem, Montana.

“(D) Mescalero, New Mexico.

“(E) Owyhee, Nevada.

“(F) Parker, Arizona.

“(G) Schurz, Nevada.

“(H) Winnebago, Nebraska.

“(I) Ft. Yuma, California.

“(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

“(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health care practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

“(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

“(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

“SEC. 308. LAND TRANSFER.

“(a) GENERAL AUTHORITY FOR TRANSFERS.—Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

"(b) CHEMAWA INDIAN SCHOOL.—The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

"SEC. 309. LEASES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes and tribal organizations for periods not in excess of 20 years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe or tribal organization.

"(b) FACILITIES FOR THE ADMINISTRATION AND DELIVERY OF HEALTH SERVICES.—The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(l) of the Indian Self-Determination and Education Assistance Act.

"SEC. 310. LOANS, LOAN GUARANTEES AND LOAN REPAYMENT.

"(a) HEALTH CARE FACILITIES LOAN FUND.—There is established in the Treasury of the United States a fund to be known as the 'Health Care Facilities Loan Fund' (referred to in this Act as the 'HCFLF') to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for the construction of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities such as behavioral health and elder care facilities).

"(b) STANDARDS AND PROCEDURES.—The Secretary may promulgate regulations, developed through rulemaking as provided for in section 802, to establish standards and procedures for governing loans and loan guarantees under this section, subject to the following conditions:

"(1) The principal amount of a loan or loan guarantee may cover up to 100 percent of eligible costs, including costs for the planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing).

"(2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriation Acts.

"(3) In the discretion of the Secretary, the program under this section may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation).

"(4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or 25 years, whichever is less.

"(5) The Secretary may allocate up to 100 percent of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee.

"(6) The Secretary may accept an assignment of the revenue of an Indian tribe or tribal organization as security for any direct loan or loan guarantee under this section.

"(7) In the planning and design of health facilities under this section, users eligible under section 807(b) may be included in any projection of patient population.

"(8) The Secretary shall not collect loan application, processing or other similar fees from Indian tribes or tribal organizations applying for direct loans or loan guarantees under this section.

"(9) Service funds authorized under loans or loan guarantees under this section may be used in matching other Federal funds.

"(c) FUNDING.—

"(1) IN GENERAL.—The HCFLF shall consist of—

"(A) such sums as may be initially appropriated to the HCFLF and as may be subsequently appropriated under paragraph (2);

"(B) such amounts as may be collected from borrowers; and

"(C) all interest earned on amounts in the HCFLF.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to initiate the HCFLF. For each fiscal year after the initial year in which funds are appropriated to the HCFLF, there is authorized to be appropriated an amount equal to the sum of the amount collected by the HCFLF during the preceding fiscal year, and all accrued interest on such amounts.

"(3) AVAILABILITY OF FUNDS.—Amounts appropriated, collected or earned relative to the HCFLF shall remain available until expended.

"(d) FUNDING AGREEMENTS.—Amounts in the HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

"(e) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the HCFLF as such Secretary determines are not required to meet current withdrawals from the HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

"(f) GRANTS.—The Secretary is authorized to establish a program to provide grants to Indian tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this section or otherwise.

"SEC. 311. TRIBAL LEASING.

"Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

"SEC. 312. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian tribes and tribal organizations to establish joint venture demonstration projects under which an Indian tribe or tribal organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility.

"(2) USE OF RESOURCES.—A tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(3) ELIGIBILITY OF CERTAIN ENTITIES.—A tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health facility.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into an arrangement under subsection (a)(1) with an Indian tribe or tribal organization only if—

"(A) the Secretary first determines that the Indian tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in subsection (a)(1); and

"(B) the Indian tribe or tribal organization meets the needs criteria that shall be developed through the negotiated rulemaking process provided for under section 802.

"(2) CONTINUED OPERATION OF FACILITY.—The Secretary shall negotiate an agreement with the Indian tribe or tribal organization regarding the continued operation of a facility under this section at the end of the initial 10 year no-cost lease period.

"(3) BREACH OR TERMINATION OF AGREEMENT.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe or tribal organization, or paid to a third party on the tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence shall not apply to any funds expended for the delivery of health care services, or for personnel or staffing.

"(d) RECOVERY FOR NON-USE.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section shall be entitled to recover from the United States an amount that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement.

"(e) DEFINITION.—In this section, the terms 'health facility' or 'health facilities' include staff quarters needed to provide housing for the staff of the tribal health program.

"SEC. 313. LOCATION OF FACILITIES.

"(a) PRIORITY.—The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian tribe with jurisdiction over such lands or other lands owned or leased by the Indian tribe or tribal organization so long as priority is given to Indian land owned by an Indian tribe or tribes.

"(b) DEFINITION.—In this section, the term 'Indian lands' means—

"(1) all lands within the exterior boundaries of any Indian reservation;

"(2) any lands title to which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and

"(3) all lands in Alaska owned by any Alaska Native village, or any village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.

"SEC. 314. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

"(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report that identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the fiscal year after the year for which the report is being prepared. The report shall identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

"(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—

"(1) IN GENERAL.—The Secretary may expend maintenance and improvement funds to support the maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian tribe or tribal organization.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'supportable space allocation' shall be defined through the negotiated rulemaking process provided for under section 802.

"(c) CONSTRUCTION OF REPLACEMENT FACILITIES.—

"(1) IN GENERAL.—In addition to using maintenance and improvement funds for the maintenance of facilities under subsection (b)(1), an Indian tribe or tribal organization may use such funds for the construction of a replacement facility if the costs of the renovation of such facility would exceed a maximum renovation cost threshold.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'maximum renovation cost threshold' shall be defined through the negotiated rulemaking process provided for under section 802.

"SEC. 315. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

"(a) ESTABLISHMENT OF RENTAL RATES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe or tribal organization which operates a hospital or other health facility and the Federally-owned quarters associated therewith, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, may establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

"(2) OBJECTIVES.—In establishing rental rates under paragraph (1), an Indian tribe or tribal organization shall attempt to achieve the following objectives:

"(A) The rental rates should be based on the reasonable value of the quarters to the occupants thereof.

"(B) The rental rates should generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and, subject to the discretion of the Indian tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

"(3) ELIGIBILITY FOR QUARTERS IMPROVEMENT AND REPAIR.—Any quarters whose rental rates are established by an Indian tribe or tribal organization under this subsection shall continue to be eligible for quarters improvement and repair funds to the same extent as other Federally-owned quarters that are used to house personnel in Service-supported programs.

"(4) NOTICE OF CHANGE IN RATES.—An Indian tribe or tribal organization that exercises the authority provided under this subsection shall provide occupants with not less than 60 days notice of any change in rental rates.

"(b) COLLECTION OF RENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), an Indian tribe or a tribal organization that operates Federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

"(A) The Indian tribe or tribal organization shall notify the Secretary and the Federal employees involved of its election to exercise its authority to collect rents directly from such Federal employees.

"(B) Upon the receipt of a notice described in subparagraph (A), the Federal employees involved shall pay rents for the occupancy of such quarters directly to the Indian tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

"(C) Such rent payments shall be retained by the Indian tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States.

"(D) Such rent payments shall be deposited into a separate account which shall be used by the Indian tribe or tribal organization for the maintenance (including capital repairs and replacement expenses) and operation of the quarters and facilities as the Indian tribe or tribal organization shall determine appropriate.

"(2) RETROCESSION.—If an Indian tribe or tribal organization which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying Federally-owned quarters, such retrocession shall become effective on the earlier of—

"(A) the first day of the month that begins not less than 180 days after the Indian tribe or tribal organization notifies the Secretary of its desire to retrocede; or

"(B) such other date as may be mutually agreed upon by the Secretary and the Indian tribe or tribal organization.

"(c) RATES.—To the extent that an Indian tribe or tribal organization, pursuant to authority granted in subsection (a), establishes rental rates for Federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

"SEC. 316. APPLICABILITY OF BUY AMERICAN REQUIREMENT.

"(a) IN GENERAL.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 318, except that Indian tribes and tribal organizations shall be exempt from such requirements.

"(b) FALSE OR MISLEADING LABELING.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 318, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(c) DEFINITION.—In this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

"SEC. 317. OTHER FUNDING FOR FACILITIES.

"Notwithstanding any other provision of law—

"(1) the Secretary may accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) between the Secretary and an Indian tribe or tribal organization, except that the receipt of such funds shall not have an effect on the priorities established pursuant to section 301;

"(2) the Secretary may enter into interagency agreements with other Federal or State agencies and other entities and to accept funds from such Federal or State agencies or other entities to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other Federal or State agency or for which the funds were otherwise provided;

"(3) any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency; and

“(4) the Secretary, acting through the Service, shall establish standards under regulations developed through rulemaking under section 802, for the planning, design and construction of health care facilities serving Indians under this Act.

“SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

“TITLE IV—ACCESS TO HEALTH SERVICES

“SEC. 401. TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM.

“(a) In General.—Any payments received by the Service, by an Indian tribe or tribal organization pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

“(b) Equal Treatment.—Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act in preference to an Indian beneficiary without such coverage.

“(c) Special Fund.—

“(1) Use of funds.—Notwithstanding any other provision of this title or of title XVIII of the Social Security Act, payments to which any facility of the Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes.

“(2) Nonapplication in case of election for direct billing.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for benefits under title XVIII of the Social Security Act.

“SEC. 402. TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM.

“(a) Special Fund.—

“(1) Use of funds.—Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

“(2) Nonapplication in case of election for direct billing.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for medical assistance under title XIX of the Social Security Act.

“(b) Payments Disregarded for Appropriations.—Any payments received under section 1911 of the Social Security Act for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

“(c) Direct Billing.—For provisions relating to the authority of certain Indian tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or tribal organizations and for which payment may be made under this title, see section 405.

“SEC. 403. REPORT.

“(a) Inclusion in Annual Report.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements under titles XVIII and XIX of the Social Security Act.

“(b) Identification of Source of Payments.—If an Indian tribe or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Service under Title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian tribe or tribal organization, or urban Indian organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

“SEC. 404. GRANTS TO AND FUNDING AGREEMENTS WITH THE SERVICE, INDIAN TRIBES OR TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

“(a) In General.—The Secretary shall make grants to or enter into funding agreements with Indian tribes and tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

“(1) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

“(2) pay premiums for health insurance coverage; and

“(3) apply for medical assistance provided pursuant to titles XIX and XXI of the Social Security Act.

“(b) Conditions.—The Secretary shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement or grant which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

“(1) determine the population of Indians to be served that are or could be recipients of benefits or assistance under titles XVIII, XIX, and XXI of the Social Security Act;

“(2) assist individual Indians in becoming familiar with and utilizing such benefits and assistance;

“(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for such benefits and assistance;

“(4) develop and implement—

“(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for health insurance coverage of needy individuals; and

“(B) methods of improving the participation of Indians in receiving the benefits and assistance provided under titles XVIII, XIX, and XXI of the Social Security Act.

“(c) Agreements for Receipt and Processing of Applications.—The Secretary may enter into an agreement with an Indian tribe or tribal organization, or an urban Indian organization, which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act, child health assistance under title XXI of such Act and benefits under title XVIII of such Act by a Service facility or a health care program administered by such Indian tribe or tribal organization, or urban Indian organization, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee-for-service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, an Indian tribe or tribal organization, and an urban Indian organization.

“(d) Grants.—

“(1) In general.—The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to—

“(A) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

“(B) pay premiums on behalf of such individuals for coverage under title XVIII of such Act; and

“(C) apply for medical assistance provided under title XIX of such Act and for child health assistance under title XXI of such Act.

“(2) Requirements.—The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are—

“(A) consistent with the conditions imposed by the Secretary under subsection (b);

“(B) appropriate to urban Indian organizations and urban Indians; and

“(C) necessary to carry out the purposes of this section.

“SEC. 405. DIRECT BILLING AND REIMBURSEMENT OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

“(a) Establishment of Direct Billing Program.—

“(1) In general.—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or from any other third party payor.

“(2) Application of 100 percent FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under title XIX of the Social Security Act for health care services directly billed under the program established under this section.

“(b) Direct Reimbursement.—

“(1) Use of funds.—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under titles XVIII and XIX of the Social Security Act for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 807(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under title XVIII or XIX of the Social Security Act. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

“(A) solely for improving the health resources deficiency level of the Indian tribe; and

“(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

“(2) Audits.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act.

“(3) Secretarial oversight.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

“(4) No payments from special funds.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

“(c) Requirements for Participation.—

“(1) Application.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

“(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

“(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

“(C) the facility meets the requirements that apply to programs operated directly by the Service; and

“(D) the facility—

“(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

“(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

“(2) Approval.—

“(A) In general.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

“(B) Grandfather of demonstration program participants.—Any participant in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.

“(C) Duration.—An approval by the Secretary of a qualified application under subparagraph (A), or a deemed approval of a demonstration program under subparagraph (B), shall continue in effect as long as the approved applicant or the deemed approved demonstration program meets the requirements of this section.

“(d) Examination and Implementation of Changes.—

“(1) In general.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement—

“(A) any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under title XIX of the Social Security Act; and

“(B) any changes that may be necessary to enable participants in the program established under this section to provide to the Service medical records information on patients served under the program that is consistent with the medical records information system of the Service.

“(2) Accounting information.—The accounting information that a participant in the program established under this section shall be required to report shall be the same as the information required to be reported by participants in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000. The Secretary may from time to time, after consultation with the program participants, change the accounting information submission requirements.

“(e) Withdrawal From Program.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

“SEC. 406. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

“(a) Right of Recovery.—Except as provided in subsection (g), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary or an Indian tribe or tribal organization in providing health services, through the Service or an Indian tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if—

“(1) such services had been provided by a nongovernmental provider; and

“(2) such individual had been required to pay such charges or expenses and did pay such expenses.

“(b) Urban Indian Organizations.—Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

“(c) Limitations on Recoveries From States.—Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

“(1) workers' compensation laws; or

“(2) a no-fault automobile accident insurance plan or program.

“(d) Nonapplication of Other Laws.—No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States or an Indian tribe or tribal organization under subsection (a), or an urban Indian organization under subsection (b).

“(e) No Effect on Private Rights of Action.—No action taken by the United States or an Indian tribe or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

“(f) Methods of Enforcement.—

“(1) In general.—The United States or an Indian tribe or tribal organization may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by—

“(A) intervening or joining in any civil action or proceeding brought—

“(i) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization, or urban Indian organization; or "(ii) by any representative or heirs of such individual; or

"(B) instituting a civil action.

"(2) NOTICE.—All reasonable efforts shall be made to provide notice of an action instituted in accordance with paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

"(g) LIMITATION.—Notwithstanding this section, absent specific written authorization by the governing body of an Indian tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), neither the United States through the Service, nor an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, nor an urban Indian organization funded under title V, shall have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization, or urban Indian organization. Where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.

"(h) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded reasonable attorneys' fees and costs of litigation.

"(i) RIGHT OF ACTION AGAINST INSURERS AND EMPLOYEE BENEFIT PLANS.—

"(1) IN GENERAL.—Where an insurance company or employee benefit plan fails or refuses to pay the amount due under subsection (a) for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States or an Indian tribe or tribal organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal, State or tribal law.

"(2) URBAN INDIAN ORGANIZATIONS.—Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal or State law.

"(j) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—Notwithstanding any other provision in law, the Service, an Indian tribe or tribal organization, or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA–1500 or UB–92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.

"SEC. 407. CREDITING OF REIMBURSEMENTS.

"(a) RETENTION OF FUNDS.—Except as provided in section 202(d), this title, and section 807, all reimbursements received or recovered under the authority of this Act, Public Law 87–693, or any other provision of law, by reason of the provision of health services by the Service or by an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization funded under title V, shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

"(b) NO OFFSET OF FUNDS.—The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

"SEC. 408. PURCHASING HEALTH CARE COVERAGE.

"An Indian tribe or tribal organization, and an urban Indian organization may utilize funding from the Secretary under this Act to purchase managed care coverage for Service beneficiaries (including insurance to limit the financial risks of managed care entities) from—

"(1) a tribally owned and operated managed care plan;

"(2) a State or locally-authorized or licensed managed care plan; or

"(3) a health insurance provider.

"SEC. 409. INDIAN HEALTH SERVICE, DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING.

"(a) EXAMINATION OF FEASIBILITY OF ARRANGEMENTS.—

"(1) IN GENERAL.—The Secretary shall examine the feasibility of entering into arrangements or expanding existing arrangements for the sharing of medical facilities and services between the Service and the Veterans' Administration, and other appropriate Federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such arrangements.

"(2) SUBMISSION OF REPORT.—Not later than September 30, 2003, the Secretary shall submit the report required under paragraph (1) to Congress.

"(3) CONSULTATION REQUIRED.—The Secretary may not finalize any arrangement described in paragraph (1) without first consulting with the affected Indian tribes.

"(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Service;

"(2) the quality of health care services provided to any Indian through the Service;

"(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

"(4) the quality of health care services provided to any veteran by the Veteran's Administration;

"(5) the eligibility of any Indian to receive health services through the Service; or

"(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service or the Indian tribe or tribal organization shall be reimbursed by the Veterans' Administration where services are provided through the Service or Indian tribes or tribal organizations to beneficiaries eligible for services from the Veterans' Administration, notwithstanding any other provision of law.

"(c) AGREEMENTS FOR PARITY IN SERVICES.—The Service may enter into agreements with other Federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Service.

"SEC. 410. PAYOR OF LAST RESORT.

"The Service, and programs operated by Indian tribes or tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to individuals eligible for services from the Service and such programs, notwithstanding any Federal, State or local law to the contrary, unless such law explicitly provides otherwise.

"SEC. 411. RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS.

"Notwithstanding any other provision of law, the Service, Indian tribes or tribal organizations, and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entities) shall be entitled to receive payment or reimbursement for services provided by such entities from any Federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.

"SEC. 412. TUBA CITY DEMONSTRATION PROJECT.

"(a) IN GENERAL.—Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian tribes to be served approve, the Service in the Tuba City Service Unit may—

"(1) enter into a demonstration project with the State of Arizona under which the Service would provide certain specified medicaid services to individuals dually eligible for services from the Service and for medical assistance under title XIX of the Social Security Act in return for payment on a capitated basis from the State of Arizona; and

"(2) purchase insurance to limit the financial risks under the project.

"(b) EXTENSION OF PROJECT.—The demonstration project authorized under subsection (a) may be extended to other service units in Arizona, subject to the approval of the Indian tribes to be served in such service units, the Service, and the State of Arizona.

"SEC. 413. ACCESS TO FEDERAL INSURANCE.

"Notwithstanding the provisions of title 5, United States Code, Executive Order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

"SEC. 414. CONSULTATION AND RULEMAKING.

"(a) CONSULTATION.—Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall require the Administrator of that Administration to—

"(1) identify the impact such policy or regulation may have on the Service, Indian tribes or tribal organizations, and urban Indian organizations;

"(2) provide to the Service, Indian tribes or tribal organizations, and urban Indian organizations the information described in paragraph (1);

"(3) engage in consultation, consistent with the requirements of Executive Order 13084 of May 14, 1998, with the Service, Indian tribes or tribal organizations, and urban Indian organizations prior to enacting any such policy or regulation.

"(b) RULEMAKING.—The Administrator of the Health Care Financing Administration shall participate in the negotiated rulemaking provided for under title VIII with regard to any regulations necessary to implement the provisions of this title that relate to the Social Security Act.

"SEC. 415. LIMITATIONS ON CHARGES.

"No provider of health services that is eligible to receive payments or reimbursements under titles XVIII, XIX, or XXI of the Social Security Act or from any Federally funded (whether in whole or part) health care program may seek to recover payment for services—

"(1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization, in an amount in excess of the lowest amount paid by any other payor for comparable services; or

"(2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.

"SEC. 416. LIMITATION ON SECRETARY'S WAIVER AUTHORITY.

"Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) of the Social Security Act to any State plan under title XIX of the Social Security Act.

"SEC. 417. WAIVER OF MEDICARE AND MEDICAID SANCTIONS.

"Notwithstanding any other provision of law, the Service or an Indian tribe or tribal organization or an urban Indian organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under title XVIII, XIX, or XXI of the Social Security Act as if such entity were directly responsible for administering the State health care program.

"SEC. 418. MEANING OF 'REMUNERATION' FOR PURPOSES OF SAFE HARBOR PROVISIONS; ANTITRUST IMMUNITY.

"(a) MEANING OF REMUNERATION.—Notwithstanding any other provision of law, the term 'remuneration' as used in sections 1128A and 1128B of the Social Security Act shall not include any exchange of anything of value between or among—

"(1) any Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act;

"(2) any such Indian tribe or tribal organization or urban Indian organization and the Service;

"(3) any such Indian tribe or tribal organization or urban Indian organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of this Act (as in effect on the day before the date of enactment of the Indian Health Care Improvement Act Reauthorization of 2003); or

"(4) any such Indian tribe or tribal organization or urban Indian organization and any third party required by contract, section 206 or 207 of this Act (as so in effect), or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian tribe or tribal organization or urban Indian organization;

provided the exchange arises from or relates to such health programs.

"(b) ANTITRUST IMMUNITY.—An Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act or title V shall be deemed to be an agency of the United States and immune from liability under the Acts commonly known as the Sherman Act, the Clayton Act, the Robinson-Patman Anti-Discrimination Act, the Federal Trade Commission Act, and any other Federal, State, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.

"SEC. 419. CO-INSURANCE, CO-PAYMENTS, DEDUCTIBLES AND PREMIUMS.

"(a) EXEMPTION FROM COST-SHARING REQUIREMENTS.—Notwithstanding any other provision of Federal or State law, no Indian who is eligible for services under title XVIII, XIX, or XXI of the Social Security Act, or under any other Federally funded health care programs, may be charged a deductible, co-payment, or co-insurance for any service provided by or through the Service, an Indian tribe or tribal organization or urban Indian organization, nor may the payment or reimbursement due to the Service or an Indian tribe or tribal organization or urban Indian organization be reduced by the amount of the deductible, co-payment, or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, the term 'through' shall include services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian tribe or tribal organization or an urban Indian organization and another health provider.

"(b) EXEMPTION FROM PREMIUMS.—

"(1) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for medical assistance under title XIX of the Social Security Act or child health assistance under title XXI of such Act may be charged a premium as a condition of receiving such assistance under title XIX of XXI of such Act.

"(2) MEDICARE ENROLLMENT PREMIUM PENALTIES.—Notwithstanding section 1839(b) of the Social Security Act or any other provision of Federal or State law, no Indian who is eligible for benefits under part B of title XVIII of the Social Security Act, but for the payment of premiums, shall be charged a penalty for enrolling in such part at a time later than the Indian might otherwise have been first eligible to do so. The preceding sentence applies whether an Indian pays for premiums under such part directly or such premiums are paid by another person or entity, including a State, the Service, an Indian Tribe or tribal organization, or an urban Indian organization.

"SEC. 420. INCLUSION OF INCOME AND RESOURCES FOR PURPOSES OF MEDICALLY NEEDY MEDICAID ELIGIBILITY.

"For the purpose of determining the eligibility under section 1902(a)(10)(A)(ii)(IV) of the Social Security Act of an Indian for medical assistance under a State plan under title XIX of such Act, the cost of providing services to an Indian in a health program of the Service, an Indian Tribe or tribal organization, or an urban Indian organization shall be deemed to have been an expenditure for health care by the Indian.

"SEC. 421. ESTATE RECOVERY PROVISIONS.

"Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under title XVIII, XIX, or XXI of the Social Security Act, or any other health care programs funded in whole or part with Federal funds:

"(1) Income derived from rents, leases, or royalties of property held in trust for individuals by the Federal Government.

"(2) Income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of Federally protected rights, whether collected by an individual or a tribal group and distributed to individuals.

"(3) Property, including interests in real property currently or formerly held in trust by the Federal Government which is protected under applicable Federal, State or tribal law or custom from recourse, including public domain allotments.

"(4) Property that has unique religious or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.

"SEC. 422. MEDICAL CHILD SUPPORT.

"Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing the Federal Government or a State for the cost of medical services provided to a child by or through the Service, an Indian tribe or tribal organization or an urban Indian organization. For the purposes of this subsection, the term 'through' includes services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian Tribe or tribal organization or an urban Indian organization and another health provider.

"SEC. 423. PROVISIONS RELATING TO MANAGED CARE.

"(a) RECOVERY FROM MANAGED CARE PLANS.—Notwithstanding any other provision in law, the Service, an Indian Tribe or tribal organization or an urban Indian organization shall have a right of recovery under section 408 from all private and public health plans or programs, including the medicare, medicaid, and State children's health insurance programs under titles XVIII, XIX, and XXI of the Social Security Act, for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe or tribal organization or an urban Indian organization.

"(b) LIMITATION.—No provision of law or regulation, or of any contract, may be relied upon or interpreted to deny or reduce payments otherwise due under subsection (a), except to the extent the Service, an Indian tribe or tribal organization, or an urban Indian organization has entered into an agreement with a managed care entity regarding services to be provided to Indians or rates to be paid for such services, provided that such an agreement may not be made a prerequisite for such payments to be made.

"(c) PARITY.—Payments due under subsection (a) from a managed care entity may not be paid at a rate that is less than the rate paid to a 'preferred provider' by the entity or, in the event there is no such rate, the usual and customary fee for equivalent services.

"(d) NO CLAIM REQUIREMENT.—A managed care entity may not deny payment under subsection (a) because an enrollee with the entity has not submitted a claim.

"(e) DIRECT BILLING.—Notwithstanding the preceding subsections of this section, the Service, an Indian tribe or tribal organization, or an urban Indian organization that provides a health service to an Indian entitled to medical assistance under the State plan under title XIX of the Social Security Act or enrolled in a child health plan under title XXI of such Act shall have the right to be paid directly by the State agency administering such plans notwithstanding any agreements the State may have entered into with managed care organizations or providers.

"(f) REQUIREMENT FOR MEDICAID MANAGED CARE ENTITIES.—A managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act shall, as a condition of participation in the State plan under title XIX of such Act, offer a contract to health programs administered by the Service, an Indian tribe or tribal organization or an urban Indian organization that provides health services in the geographic area served by the managed care entity and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.

"(g) PROHIBITION.—Notwithstanding any other provision of law or any waiver granted by the Secretary no Indian may be assigned automatically or by default under any managed care entity participating in a State plan under title XIX or XXI of the Social Security Act unless the Indian had the option of enrolling in a managed care plan or health program administered by the Service, an Indian tribe or tribal organization, or an urban Indian organization.

"(h) INDIAN MANAGED CARE PLANS.—Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under title XIX or XXI of the Social Security Act shall enter into such an agreement with the Service, an Indian tribe or tribal organization or an urban Indian organization under which such an entity may provide services to Indians who may be eligible or required to enroll with a managed care organization through enrollment in an Indian managed care organization that provides services similar to those offered by other managed care organizations in the State. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization, and other matters that might otherwise prevent an Indian managed care organization or health program from meeting Federal or State standards applicable to such organizations, provided such Indian managed care organization or health program offers Indian enrollees services of an equivalent quality to that required of other managed care organizations.

"(i) ADVERTISING.—A managed care organization entering into a contract to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.

"SEC. 424. NAVAJO NATION MEDICAID AGENCY.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may treat the Navajo Nation as a State under title XIX of the Social Security Act for purposes of providing medical assistance to Indians living within the boundaries of the Navajo Nation.

"(b) ASSIGNMENT AND PAYMENT.—Notwithstanding any other provision of law, the Secretary may assign and pay all expenditures related to the provision of services to Indians living within the boundaries of the Navajo Nation under title XIX of the Social Security Act (including administrative expenditures) that are currently paid to or would otherwise be paid to the States of Arizona, New Mexico, and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency.

"(c) AUTHORITY.—The Navajo Nation Medicaid Agency shall serve Indians living within the boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other State agency responsible for the administration of the State plan under title XIX of the Social Security Act.

"(d) TECHNICAL ASSISTANCE.—The Secretary may directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act (which shall, for purposes of reimbursement to such Nation, include Western and traditional Navajo healing services) within the Navajo Nation. Such assistance may include providing funds for demonstration projects conducted with such Nation.

"(e) FMAP.—Notwithstanding section 1905(b) of the Social Security Act, the Federal medical assistance percentage shall be 100 per cent with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance and related administrative costs.

"(f) WAIVER AUTHORITY.—The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency.

"(g) SCHIP.—At the option of the Navajo Nation, the Secretary may treat the Navajo Nation as a State for purposes of title XXI of the Social Security Act under terms equivalent to those described in the preceding subsections of this section.

"SEC. 425. INDIAN ADVISORY COMMITTEES.

"(a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.—The Administrator of the Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall have no fewer than 14 members, including at least 1 member designated by the Indian tribes and tribal organizations in each service area, 1 urban Indian organization representative, and 1 member representing the Service. The scope of the activities of such group shall be established under section 802 provided that such scope shall include providing comment on and advice regarding the programs funded under titles XVIII, XIX, and XXI of the Social Security Act or regarding any other health care program funded (in whole or part) by the Health Care Financing Administration.

"(b) INDIAN MEDICAID ADVISORY COMMITTEES.—The Administrator of the Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Service, Indian tribes and tribal organizations and urban Indian organizations in each State in which the Service directly operates a health program or in which there is one or more Indian tribe or tribal organization or urban Indian organization.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title.".

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"SEC. 501. PURPOSE.

"The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.

"SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

"Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within urban centers, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to section 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

"SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

"(a) AUTHORITY.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

"(1) estimate the population of urban Indians residing in the urban center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

"(2) estimate the current health status of urban Indians residing in such urban center or centers;

"(3) estimate the current health care needs of urban Indians residing in such urban center or centers;

"(4) provide basic health education, including health promotion and disease prevention education, to urban Indians;

"(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(6) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;

"(2) the size of the urban Indian population in the urban center or centers involved;

"(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

"(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

"(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

"(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"(c) Health Promotion and Disease Prevention.—The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

"(d) Immunization Services.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

"(2) Definition.—In this section, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

"(e) Mental Health Services.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

"(2) Assessment.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

"(3) Use of funds.—Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral health services, to educate urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to urban Indians;

"(C) to provide outpatient behavioral health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

"(D) to develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

"(f) Child Abuse.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

"(2) Assessment.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

"(3) Use of funds.—Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

"(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

"(4) Considerations.—In making grants to carry out this subsection, the Secretary shall take into consideration—

"(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

"(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

"(C) the assessment required under paragraph (2).

"(g) Multiple Urban Centers.—The Secretary, acting through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.

"SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

"(a) Authority.—

"(1) In general.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503.

"(2) Purpose.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

"(b) Requirements.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

"(B) with respect to urban Indians in the urban center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

"(c) Limitation on Renewal.—The Secretary may not renew any contract entered into, or grant made, under this section.

"SEC. 505. EVALUATIONS; RENEWALS.

"(a) Procedures.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) Compliance With Terms.—The Secretary, acting through the Service, shall evaluate the compliance of each urban Indian organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of an evaluation under this subsection, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization—

"(1) conduct, through the Service, an annual onsite evaluation of the organization; or

"(2) accept, in lieu of an onsite evaluation, evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the medicare program under Title XVIII of the Social Security Act.

"(c) Noncompliance.—

"(1) In general.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance.

"(2) Nonrenewal.—If the Secretary determines, under an evaluation under this section, that noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

"(d) Determination of Renewal.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditation under subsection (b).

“SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

“(a) Application of Federal Law.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

“(b) Payments.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

“(1) be made in their entirety by the Secretary to the urban Indian organization by not later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

“(2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds.

“(c) Revising or Amending Contract.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

“(d) Fair and Uniform Provision of Services.—Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

“(e) Eligibility of Urban Indians.—Urban Indians, as defined in section 4(f), shall be eligible for health care or referral services provided pursuant to this title.

“SEC. 507. REPORTS AND RECORDS.

“(a) Report.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary, on a basis no more frequent than every 6 months, a report including—

“(1) in the case of a contract or grant under section 503, information gathered pursuant to paragraph (5) of subsection (a) of such section;

“(2) information on activities conducted by the organization pursuant to the contract or grant;

“(3) an accounting of the amounts and purposes for which Federal funds were expended; and

“(4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary, after consultations consistent with section 514, with urban Indian organizations.

“(b) Audits.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

“(c) Cost of Audit.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

“(1) a certified public accountant; or

“(2) a certified public accounting firm qualified to conduct Federal compliance audits.

“SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

“The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

“SEC. 509. FACILITIES.

“(a) Grants.—The Secretary may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

“(b) Loans or Loan Guarantees.—The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide loans to contractors or grant recipients under this title from the Urban Indian Health Care Facilities Revolving Loan Fund (referred to in this section as the ‘URLF’) described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements:

“(1) The principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase.

“(2) The total amount of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations Acts.

“(3) The loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or 25 years.

“(4) An urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection.

“(5) The Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection.

“(c) Urban Indian Health Care Facilities Revolving Loan Fund.—

“(1) Establishment.—There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. The URLF shall consist of—

“(A) such amounts as may be appropriated to the URLF;

“(B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and

“(C) interest earned on amounts in the URLF under paragraph (3).

“(2) Use of URLF.—Amounts in the URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to the URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in the URLF shall remain available until expended.

“(3) Investments.—The Secretary of the Treasury shall invest such amounts of the URLF as such Secretary determines are not required to meet current withdrawals from the URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the URLF may be sold by the Secretary of the Treasury at the market price.

“SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

“There is hereby established within the Service an Office of Urban Indian Health which shall be responsible for—

“(1) carrying out the provisions of this title;

“(2) providing central oversight of the programs and services authorized under this title; and

“(3) providing technical assistance to urban Indian organizations.

“SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES.

“(a) Grants.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

“(b) Goals of Grant.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) Criteria.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

“(1) size of the urban Indian population;

“(2) capability of the organization to adequately perform the activities required under the grant;

“(3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

“(4) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

“(d) Treatment of Funds Received by Urban Indian Organizations.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

“SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

“(a) Tulsa and Oklahoma City Clinics.—Notwithstanding any other provision of law, the Tulsa and Oklahoma City Clinic demonstration projects shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in this title, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

"(b) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

"SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

"(a) GRANTS AND CONTRACTS.—The Secretary, acting through the Office of Urban Indian Health of the Service, shall make grants or enter into contracts, effective not later than September 30, 2004, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (referred to in this section as 'NIAAA') and transferred to the Service.

"(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

"(c) ELIGIBILITY.—Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

"(d) EVALUATION AND REPORT.—The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

"SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

"(a) IN GENERAL.—The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the maximum extent practicable, with urban Indian organizations (as defined in section 4) prior to taking any action, or approving Federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations.

"(b) REQUIREMENT.—In subsection (a), the term 'consultation' means the open and free exchange of information and opinion among urban Indian organizations and the operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

"SEC. 515. FEDERAL TORT CLAIMS ACT COVERAGE.

"For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for personal injury (including death) resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679 of title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury (including death) resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided for in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant, except that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.

"SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

"(a) CONSTRUCTION AND OPERATION.—The Secretary, acting through the Service, shall, through grants or contracts, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting.

"(b) STATES.—A State described in this subsection is a State in which—

"(1) there reside urban Indian youth with a need for alcohol and substance abuse treatment services in a residential setting; and

"(2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.

"SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

"(a) IN GENERAL.—The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

"(b) DONATION OF PROPERTY.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

"(c) ACQUISITION OF PROPERTY.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

"(d) PRIORITY.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian tribe or tribal organization, the Secretary shall give priority to the request for donation to the Indian tribe or tribal organization if the Secretary receives the request from the Indian tribe or tribal organization before the date on which the Secretary transfers title to the property or, if earlier, the date on which the Secretary transfers the property physically, to the urban Indian organization.

"(e) RELATION TO FEDERAL SOURCES OF SUPPLY.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL.

"(a) AUTHORITY.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians.

"(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed upon between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the awarding of grants made under subsection (a) relating to—

"(1) the size and location of the urban Indian population to be served;

"(2) the need for the prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served;

"(3) performance standards for the urban Indian organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

"(4) the capability of the urban Indian organization to adequately perform the activities required under the grant; and

"(5) the willingness of the urban Indian organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located.

"(d) APPLICATION OF CRITERIA.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

"SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

"The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.

"SEC. 520. REGULATIONS.

"(a) EFFECT OF TITLE.—This title shall be effective on the date of enactment of this Act regardless of whether the Secretary has promulgated regulations implementing this title.

"(b) PROMULGATION.—

"(1) IN GENERAL.—The Secretary may promulgate regulations to implement the provisions of this title.

"(2) PUBLICATION.—Proposed regulations to implement this title shall be published by the Secretary in the Federal Register not later than 270 days after the date of enactment of this Act and shall have a comment period of not less than 120 days.

"(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this title shall expire on the date that is 18 months after the date of enactment of this Act.

"(c) NEGOTIATED RULEMAKING COMMITTEE.—A negotiated rulemaking committee shall be established pursuant to section 565 of title 5, United States Code, to carry out this section and shall, in addition to Federal representatives, have as the majority of its members representatives of urban Indian organizations from each service area.

"(d) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.

"SEC. 521. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

"(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistance Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

"(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

"(c) FUNCTIONS AND DUTIES.—The Secretary shall carry out through the Assistant Secretary of the Service—

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Service on such day;

"(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

"(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

"(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

"(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

"(4) all scholarship and loan functions carried out under title I.

"(d) AUTHORITY.—

"(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

"(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriated for the Service.

"(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in consultation with tribes, tribal organizations, and urban Indian organizations, shall establish an automated management information system for the Service.

"(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

"(A) a financial management system;

"(B) a patient care information system;

"(C) a privacy component that protects the privacy of patient information;

"(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service;

"(E) an interface mechanism for patient billing and accounts receivable system; and

"(F) a training component.

"(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

"(1) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service; and

"(2) meet the management information needs of the Service.

"(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

"(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

"SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

"(a) PURPOSES.—It is the purpose of this section to—

"(1) authorize and direct the Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs;

"(2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

"(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

"(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

"(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access; and

"(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

"(b) BEHAVIORAL HEALTH PLANNING.—

"(1) AREA-WIDE PLANS.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, encourage urban Indian organizations to develop local plans, and encourage all such groups to participate in developing area-wide plans for Indian Behavioral Health Services. The plans shall, to the extent feasible, include—

"(A) an assessment of the scope of the problem of alcohol or other substance abuse, mental illness, dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including—

"(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; and

"(ii) an estimate of the financial and human cost attributable to such illness or behavior;

"(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c); and

"(C) an estimate of the additional funding needed by the Service, Indian tribes, tribal organizations and urban Indian organizations to meet their responsibilities under the plans.

"(2) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed under this section by Indian tribes, tribal organizations and by areas relating to behavioral health. The Secretary shall ensure access to such plans and outcomes by any Indian tribe, tribal organization, urban Indian organization or the Service.

``(3) Technical assistance.—The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be utilized and adopted locally.

``(c) Continuum of Care.—The Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, to the extent feasible and to the extent that funding is available, for the implementation of programs including—

``(1) a comprehensive continuum of behavioral health care that provides for—

``(A) community based prevention, intervention, outpatient and behavioral health aftercare;

``(B) detoxification (social and medical);

``(C) acute hospitalization;

``(D) intensive outpatient or day treatment;

``(E) residential treatment;

``(F) transitional living for those needing a temporary stable living environment that is supportive of treatment or recovery goals;

``(G) emergency shelter;

``(H) intensive case management;

``(I) traditional health care practices; and

``(J) diagnostic services, including the utilization of neurological assessment technology; and

``(2) behavioral health services for particular populations, including—

``(A) for persons from birth through age 17, child behavioral health services, that include—

``(i) pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention);

``(ii) mental health or substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco);

``(iii) services for co-occurring disorders (multiple diagnosis);

``(iv) prevention services that are focused on individuals ages 5 years through 10 years (alcohol, drug, inhalant and tobacco);

``(v) early intervention, treatment and aftercare services that are focused on individuals ages 11 years through 17 years;

``(vi) healthy choices or life style services (related to STD's, domestic violence, sexual abuse, suicide, teen pregnancy, obesity, and other risk or safety issues);

``(vii) co-morbidity services;

``(B) for persons ages 18 years through 55 years, adult behavioral health services that include—

``(i) early intervention, treatment and aftercare services;

``(ii) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

``(iii) services for co-occurring disorders (dual diagnosis) and co-morbidity;

``(iv) healthy choices and life style services (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior);

``(v) female specific treatment services for—

``(I) women at risk of giving birth to a child with a fetal alcohol disorder;

``(II) substance abuse requiring gender specific services;

``(III) sexual assault and domestic violence; and

``(IV) healthy choices and life style (parenting, partners, obesity, suicide and other related behavioral risk); and

``(vi) male specific treatment services for—

``(I) substance abuse requiring gender specific services;

``(II) sexual assault and domestic violence; and

``(III) healthy choices and life style (parenting, partners, obesity, suicide and other risk related behavior);

``(C) family behavioral health services, including—

``(i) early intervention, treatment and aftercare for affected families;

``(ii) treatment for sexual assault and domestic violence; and

``(iii) healthy choices and life style (related to parenting, partners, domestic violence and other abuse issues);

``(D) for persons age 56 years and older, elder behavioral health services including—

``(i) early intervention, treatment and aftercare services that include—

``(I) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

``(II) services for co-occurring disorders (dual diagnosis) and co-morbidity; and

``(III) healthy choices and life style services (managing conditions related to aging);

``(ii) elder women specific services that include—

``(I) treatment for substance abuse requiring gender specific services and

``(II) treatment for sexual assault, domestic violence and neglect;

``(iii) elder men specific services that include—

``(I) treatment for substance abuse requiring gender specific services; and

``(II) treatment for sexual assault, domestic violence and neglect; and

``(iv) services for dementia regardless of cause.

``(d) Community Behavioral Health Plan.—

``(1) In general.—The governing body of any Indian tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. Such plan should include behavioral health services, social services, intensive outpatient services, and continuing after care.

``(2) Technical assistance.—In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian tribe or tribal organization in the development of a plan under paragraph (1). Upon the establishment of such a plan and at the request of the Indian tribe or tribal organization, such officials shall cooperate with the Indian tribe or tribal organization in the implementation of such plan.

``(3) Funding.—The Secretary, acting through the Service, may make funding available to Indian tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

``(e) Coordinated Planning.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other Federal and State agencies, to ensure that comprehensive behavioral health services are available to Indians without regard to their place of residence.

``(f) Facilities Assessment.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

"SEC. 702. MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

``(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement as required under section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411), and under which the Secretaries address—

``(1) the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

``(2) the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

``(3) the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

``(4)(A) the right of Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

``(B) the right of Indians to participate in, and receive the benefit of, such services; and

``(C) the actions necessary to protect the exercise of such right;

``(5) the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

``(6) a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

``(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

``(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

“(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412); and

“(8) provide for an annual review of such agreement by the 2 Secretaries and a report which shall be submitted to Congress and made available to the Indian tribes.

“(b) SPECIFIC PROVISIONS.—The memorandum of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

“(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

“(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

“(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

“(c) CONSULTATION.—The Secretary and the Secretary of the Interior shall, in developing the memorandum of agreement under subsection (a), consult with and solicit the comments of—

“(1) Indian tribes and tribal organizations;

“(2) Indian individuals;

“(3) urban Indian organizations and other Indian organizations;

“(4) behavioral health service providers.

“(d) PUBLICATION.—The memorandum of agreement under subsection (a) shall be published in the Federal Register. At the same time as the publication of such agreement in the Federal Register, the Secretary shall provide a copy of such memorandum to each Indian tribe, tribal organization, and urban Indian organization.

“SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary, acting through the Service, Indian tribes and tribal organizations consistent with section 701, shall provide a program of comprehensive behavioral health prevention and treatment and aftercare, including systems of care and traditional health care practices, which shall include—

“(A) prevention, through educational intervention, in Indian communities;

“(B) acute detoxification or psychiatric hospitalization and treatment (residential and intensive outpatient);

“(C) community-based rehabilitation and aftercare;

“(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

“(E) specialized residential treatment programs for high risk populations including pregnant and post partum women and their children;

“(F) diagnostic services utilizing, when appropriate, neuropsychiatric assessments which include the use of the most advances technology available; and

“(G) a telepsychiatry program that uses experts in the field of pediatric psychiatry, and that incorporates assessment, diagnosis and treatment for children, including those children with concurrent neurological disorders.

“(2) TARGET POPULATIONS.—The target population of the program under paragraph (1) shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

“(b) CONTRACT HEALTH SERVICES.—

“(1) IN GENERAL.—The Secretary, acting through the Service (with the consent of the Indian tribe to be served), Indian tribes and tribal organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

“(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian tribes and tribal organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

“SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

“(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

“(1) provides for the training of Indians as mental health technicians; and

“(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

“(b) TRAINING.—In carrying out subsection (a)(1), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

“(c) SUPERVISION AND EVALUATION.—The Secretary shall supervise and evaluate the mental health technicians in the training program under this section.

“(d) TRADITIONAL CARE.—The Secretary shall ensure that the program established pursuant to this section involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

“SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

“Subject to section 220, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall—

“(1) in the case of a person employed as a psychologist to provide health care services, be licensed as a clinical or counseling psychologist, or working under the direct supervision of a clinical or counseling psychologist;

“(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

“(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

“SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

“(a) FUNDING.—The Secretary, consistent with section 701, shall make funding available to Indian tribes, tribal organizations and urban Indian organization to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

“(b) USE OF FUNDS.—Funding provided pursuant to this section may be used to—

“(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

“(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

“(3) develop prevention and intervention models for Indian women which incorporate traditional health care practices, cultural values, and community and family involvement.

“(c) CRITERIA.—The Secretary, in consultation with Indian tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

“(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

“SEC. 707. INDIAN YOUTH PROGRAM.

“(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall, consistent with section 701, develop and implement a program for acute detoxification and treatment for Indian youth that includes behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

“(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an area office.

“(B) AREA OFFICE IN CALIFORNIA.—For purposes of this subsection, the area office in California shall be considered to be 2 area offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

“(2) FUNDING.—For the purpose of staffing and operating centers or facilities under this subsection, funding shall be made available pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act).

‘‘(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) that is agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

‘‘(4) SPECIFIC PROVISION OF FUNDS.—

‘‘(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

‘‘(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska;

‘‘(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l));

‘‘(iii) the Southern Indian Health Council, for the purpose of staffing, operating, and maintaining a residential youth treatment facility in San Diego County, California; and

‘‘(iv) the Navajo Nation, for the staffing, operation, and maintenance of the Four Corners Regional Adolescent Treatment Center, a residential youth treatment facility in New Mexico.

‘‘(B) PROVISION OF SERVICES TO ELIGIBLE YOUTH.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

‘‘(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

‘‘(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes and tribal organizations, may provide intermediate behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including—

‘‘(A) pre-treatment assistance;

‘‘(B) inpatient, outpatient, and after-care services;

‘‘(C) emergency care;

‘‘(D) suicide prevention and crisis intervention; and

‘‘(E) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

‘‘(2) USE OF FUNDS.—Funds provided under this subsection may be used—

‘‘(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

‘‘(B) to hire behavioral health professionals;

‘‘(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided; and

‘‘(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

‘‘(E) to provide intensive home- and community-based services, including collaborative systems of care.

‘‘(3) CRITERIA.—The Secretary shall, in consultation with Indian tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

‘‘(d) FEDERALLY OWNED STRUCTURES.—

‘‘(1) IN GENERAL.—The Secretary, acting through the Service, shall, in consultation with Indian tribes and tribal organizations—

‘‘(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youth; and

‘‘(B) establish guidelines, in consultation with Indian tribes and tribal organizations, for determining the suitability of any such Federally owned structure to be used for local residential or regional behavioral health treatment for Indian youth.

‘‘(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian tribe or tribal organization operating the program.

‘‘(e) REHABILITATION AND AFTERCARE SERVICES.—

‘‘(1) IN GENERAL.—The Secretary, an Indian tribe or tribal organization, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit, community-based rehabilitation and follow-up services for Indian youth who have significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youth after their return to their home community.

‘‘(2) ADMINISTRATION.—Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

‘‘(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary, an Indian tribe or tribal organization shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

‘‘(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youth residing in Indian communities, on Indian reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youth.

“SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT.

‘‘(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems.

‘‘(b) TREATMENT OF CALIFORNIA.—For purposes of this section, California shall be considered to be 2 areas of the Service, 1 area whose location shall be considered to encompass the northern area of the State of California and 1 area whose jurisdiction shall be considered to encompass the remainder of the State of California.

‘‘(c) CONVERSION OF CERTAIN HOSPITAL BEDS.—The Secretary shall consider the possible conversion of existing, under-utilized Service hospital beds into psychiatric units to meet needs under this section.

“SEC. 709. TRAINING AND COMMUNITY EDUCATION.

‘‘(a) COMMUNITY EDUCATION.—

‘‘(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement, or provide funding to enable Indian tribes and tribal organization to develop and implement, within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community.

‘‘(2) EDUCATION.—A program under paragraph (1) shall include education concerning behavioral health for political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

‘‘(3) TRAINING.—Community-based training (oriented toward local capacity development) under a program under paragraph (1) shall include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment and aftercare).

‘‘(b) TRAINING.—The Secretary shall, either directly or through Indian tribes or tribal organization, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders, to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

‘‘(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

‘‘(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

‘‘(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

‘‘(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

“SEC. 710. BEHAVIORAL HEALTH PROGRAM.

‘‘(a) PROGRAMS FOR INNOVATIVE SERVICES.—The Secretary, acting through the Service, Indian Tribes or tribal organizations, consistent with Section 701, may develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

"(b) CRITERIA.—The Secretary may award funding for a project under subsection (a) to an Indian tribe or tribal organization and may consider the following criteria:

"(1) Whether the project will address significant unmet behavioral health needs among Indians.

"(2) Whether the project will serve a significant number of Indians.

"(3) Whether the project has the potential to deliver services in an efficient and effective manner.

"(4) Whether the tribe or tribal organization has the administrative and financial capability to administer the project.

"(5) Whether the project will deliver services in a manner consistent with traditional health care.

"(6) Whether the project is coordinated with, and avoids duplication of, existing services.

"(c) FUNDING AGREEMENTS.—For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding for projects to be operated under any funding agreement entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

"SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary, consistent with Section 701, acting through Indian tribes, tribal organizations, and urban Indian organizations, shall establish and operate fetal alcohol disorders programs as provided for in this section for the purposes of meeting the health status objective specified in section 3(b).

"(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used to—

"(A) develop and provide community and in-school training, education, and prevention programs relating to fetal alcohol disorders;

"(B) identify and provide behavioral health treatment to high-risk women;

"(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected persons and their families or caretakers;

"(D) develop and implement counseling and support programs in schools for fetal alcohol disorder affected children;

"(E) develop prevention and intervention models which incorporate traditional practitioners, cultural and spiritual values and community involvement;

"(F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders;

"(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities;

"(H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and

"(I) develop and fund community-based adult fetal alcohol disorder housing and support services.

"(3) CRITERIA.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

"(b) PROVISION OF SERVICES.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall—

"(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders in Indian communities; and

"(2) provide supportive services, directly or through an Indian tribe, tribal organization or urban Indian organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorders.

"(c) TASK FORCE.—

"(1) IN GENERAL.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders Task Force to advise the Secretary in carrying out subsection (b).

"(2) COMPOSITION.—The task force under paragraph (1) shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development, the Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders experts.

"(d) APPLIED RESEARCH.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, tribal organizations and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders.

"(e) URBAN INDIAN ORGANIZATIONS.—The Secretary shall ensure that 10 percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

"(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, acting through the Service, Indian tribes and tribal organizations, shall establish, consistent with section 701, in each service area, programs involving treatment for—

"(1) victims of child sexual abuse; and

"(2) perpetrators of child sexual abuse.

"(b) USE OF FUNDS.—Funds provided under this section shall be used to—

"(1) develop and provide community education and prevention programs related to child sexual abuse;

"(2) identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse;

"(3) develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement;

"(4) develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

"(5) identify and provide behavioral health treatment to perpetrators of child sexual abuse with efforts being made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated, and to provide treatment after release to the community until it is determined that the perpetrator is not a threat to children.

"SEC. 713. BEHAVIORAL MENTAL HEALTH RESEARCH.

"(a) IN GENERAL.—The Secretary, acting through the Service and in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions, for the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations and among Indians in urban areas. Research priorities under this section shall include—

"(1) the inter-relationship and inter-dependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

"(2) the development of models of prevention techniques.

"(b) SPECIAL EMPHASIS.—The effect of the inter-relationships and interdependencies referred to in subsection (a)(1) on children, and the development of prevention techniques under subsection (a)(2) applicable to children, shall be emphasized.

"SEC. 714. DEFINITIONS.

"In this title:

"(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis and dissemination of information on health status, health needs and health problems.

"(2) ALCOHOL RELATED NEURODEVELOPMENTAL DISORDERS.—The term 'alcohol related neurodevelopmental disorders' or 'ARND' with respect to an individual means the individual has a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities, that behaviorally, there may be problems with irritability, and failure to thrive as infants, and that as children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgment problems.

"(3) BEHAVIORAL HEALTH.—The term 'behavioral health' means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. Such term includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

"(4) BEHAVIORAL HEALTH AFTERCARE.—

"(A) IN GENERAL.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient or outpatient treatment, to help prevent or treat relapse, including the development of an aftercare plan.

"(B) AFTERCARE PLAN.—Prior to the time at which an individual is discharged from a level of care, such as outpatient treatment, an aftercare plan shall have been developed for the individual. Such plan may use such resources as community base therapeutic group care, transitional living, a 12-step sponsor, a local 12-step or other related support group, or other community based providers (such as mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, or ministers).

‘‘(5) Dual diagnosis.—The term ‘dual diagnosis’ means coexisting substance abuse and mental illness conditions or diagnosis. In individual with a dual diagnosis may be referred to as a mentally ill chemical abuser.

‘‘(6) Fetal alcohol disorders.—The term ‘fetal alcohol disorders’ means fetal alcohol syndrome, partial fetal alcohol syndrome, or alcohol related neural developmental disorder.

‘‘(7) Fetal alcohol syndrome.—The term ‘fetal alcohol syndrome’ or ‘FAS’ with respect to an individual means a syndrome in which the individual has a history of maternal alcohol consumption during pregnancy, and with respect to which the following criteria should be met:

‘‘(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

‘‘(B) Craniofacial abnormalities with at least 2 of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

‘‘(C) Prenatal or postnatal growth delay.

‘‘(8) Partial FAS.—The term ‘partial FAS’ with respect to an individual means a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose.

‘‘(9) Rehabilitation.—The term ‘rehabilitation’ means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.–

‘‘(10) Substance abuse.—The term ‘substance abuse’ includes inhalant abuse.

“SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

‘‘There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

“TITLE VIII—MISCELLANEOUS

“SEC. 801. REPORTS.

‘‘The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

‘‘(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population, including specific comparisons of appropriations provided and those required for such parity;

‘‘(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact, including a report on proposed changes in the allocation of funding pursuant to section 808;

‘‘(3) a report on the use of health services by Indians—

‘‘(A) on a national and area or other relevant geographical basis;

‘‘(B) by gender and age;

‘‘(C) by source of payment and type of service;

‘‘(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

‘‘(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act;

‘‘(4) a report of contractors concerning health care educational loan repayments under section 110;

‘‘(5) a general audit report on the health care educational loan repayment program as required under section 110(n);

‘‘(6) a separate statement that specifies the amount of funds requested to carry out the provisions of section 201;

‘‘(7) a report on infectious diseases as required under section 212;

‘‘(8) a report on environmental and nuclear health hazards as required under section 214;

‘‘(9) a report on the status of all health care facilities needs as required under sections 301(c)(2) and 301(d);

‘‘(10) a report on safe water and sanitary waste disposal facilities as required under section 302(h)(1);

‘‘(11) a report on the expenditure of nonservice funds for renovation as required under sections 305(a)(2) and 305(a)(3);

‘‘(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities as required under section 314(a);

‘‘(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act as required under section 403(a);

‘‘(14) a report on services sharing of the Service, the Department of Veteran's Affairs, and other Federal agency health programs as required under section 412(c)(2);

‘‘(15) a report on the evaluation and renewal of urban Indian programs as required under section 505;

‘‘(16) a report on the findings and conclusions derived from the demonstration project as required under section 512(a)(2);

‘‘(17) a report on the evaluation of programs as required under section 513; and

‘‘(18) a report on alcohol and substance abuse as required under section 701(f).

“SEC. 802. REGULATIONS.

‘‘(a) Initiation of Rulemaking Procedures.—

‘‘(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act.

‘‘(2) Publication.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary not later than 270 days after the date of enactment of this Act and shall have not less than a 120 day comment period.

‘‘(3) Expiration of authority.—The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

‘‘(b) Rulemaking Committee.—A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian tribes, tribal organizations, and urban Indian organizations from each service area.

‘‘(c) Adaption of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

‘‘(d) Failure To Promulgate Regulations.—The lack of promulgated regulations shall not limit the effect of this Act.

‘‘(e) Supremacy of Provisions.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation that is inconsistent with the provisions of this Act.

“SEC. 803. PLAN OF IMPLEMENTATION.

‘‘Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations, shall prepare and submit to Congress a plan that shall explain the manner and schedule (including a schedule of appropriate requests), by title and section, by which the Secretary will implement the provisions of this Act.

“SEC. 804. AVAILABILITY OF FUNDS.

‘‘Amounts appropriated under this Act shall remain available until expended.

“SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

‘‘Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

“SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

‘‘(a) Eligibility.—

‘‘(1) In general.—Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

‘‘(1) Any member of a Federally recognized Indian tribe.

‘‘(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

‘‘(A) is a member of the Indian community served by a local program of the Service; and

‘‘(B) is regarded as an Indian by the community in which such descendant lives.

‘‘(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

‘‘(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

‘‘(b) Rule of Construction.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

“SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

‘‘(a) Ineligible Persons.—

‘‘(1) In general.—Any individual who—

‘‘(A) has not attained 19 years of age;

‘‘(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian; and

‘‘(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

“(2) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses or spouses who are married to members of the Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

“(b) PROGRAMS AND SERVICES.—

“(1) PROGRAMS.—

“(A) IN GENERAL.—The Secretary may provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

“(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals; and

“(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

“(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

“(II) there is no reasonable alternative health program or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

“(B) FUNDING AGREEMENTS.—In the case of health programs operated under a funding agreement entered into under the Indian Self-Determination and Educational Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under such funding agreement is authorized to determine whether health services should be provided under such funding agreement to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

“(2) LIABILITY FOR PAYMENT.—

“(A) IN GENERAL.—Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880 of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program for not to exceed 1 fiscal year after the fiscal year in which collected.

“(B) SERVICES FOR INDIGENT PERSONS.—Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

“(3) SERVICE AREAS.—

“(A) SERVICE TO ONLY ONE TRIBE.—In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

“(B) MULTI-TRIBAL AREAS.—In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

“(c) PURPOSE FOR PROVIDING SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

“(1) achieve stability in a medical emergency;

“(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

“(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum; or

“(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

“(d) HOSPITAL PRIVILEGES.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

“(e) DEFINITION.—In this section, the term ‘eligible Indian’ means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

“SEC. 808. REALLOCATION OF BASE RESOURCES.

“(a) REQUIREMENT OF REPORT.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

“(b) NONAPPLICATION OF SECTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

“SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

“The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.

“SEC. 810. PROVISION OF SERVICES IN MONTANA.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cr. 1987).

“(b) RULE OF CONSTRUCTION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

“SEC. 811. MORATORIUM.

“During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration, relating to eligibility for the health care services of the Service, the Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

“SEC. 812. TRIBAL EMPLOYMENT.

“For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, Chapter 372), an Indian tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an employer.

“SEC. 813. PRIME VENDOR.

“For purposes of section 4 of Public Law 102–585 (38 U.S.C. 812) Indian tribes and tribal organizations carrying out a grant, cooperative agreement, or funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be deemed to be an executive agency and part of the Service and, as such, may act as an ordering agent of the Service and the employees of the tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Service.

“SEC. 814. NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT.

“(a) ESTABLISHMENT.—There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (referred to in this Act as the ‘Commission’).

“(b) MEMBERSHIP.—The Commission shall be composed of 25 members, to be appointed as follows:

“(1) Ten members of Congress, of which—

“(A) three members shall be from the House of Representatives and shall be appointed by the majority leader;

“(B) three members shall be from the House of Representatives and shall be appointed by the minority leader;

“(C) two members shall be from the Senate and shall be appointed by the majority leader; and

“(D) two members shall be from the Senate and shall be appointed by the minority leader;

who shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Indians and who shall elect the chairperson and vice-chairperson of the Commission.

“(2) Twelve individuals to be appointed by the members of the Commission appointed under paragraph (1), of which at least 1 shall be from each service area as currently designated by the Director of the Service, to be chosen from among 3 nominees from each such area as selected by the Indian tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the Commission of members who are familiar with various health care delivery modes and who represent tribes of various size populations.

“(3) Three individuals shall be appointed by the Director of the Service from among individual who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees from each program that is funded in whole or in part by the Service primarily or exclusively for the benefit of urban Indians.

All those persons appointed under paragraphs (2) and (3) shall be members of Federally recognized Indian Tribes.

“(c) Terms.—

“(1) In general.—Members of the Commission shall serve for the life of the Commission.

“(2) Appointment of members.—Members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection.

“(3) Vacancy.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

“(d) Duties of the Commission.—The Commission shall carry out the following duties and functions:

“(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3) to the Commission.

“(2) Make recommendations to Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a programs on existing health care delivery systems for Indian persons and the effect of such programs on the sovereign status of Indian Tribes;

“(3) Establish a study committee to be composed of those members of the Commission appointed by the Director of the Service and at least 4 additional members of Congress from among the members of the Commission which shall—

“(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently;

“(B) make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which shall, at a minimum, address issues of eligibility, benefits to be provided, including recommendations regarding from whom such health services are to be provided, and the cost, including mechanisms for funding of the health services to be provided;

“(C) determine the effect of the enactment of such recommendations on the existing system of the delivery of health services for Indians;

“(D) determine the effect of a health services entitlement program for Indian persons on the sovereign status of Indian tribes;

“(E) not later than 12 months after the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to each Federally recognized Indian tribe, tribal organization and urban Indian organization for comment to the Commission; and

“(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

“(4) Not later than 18 months after the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian tribes.

“(e) Administrative Provisions.—

“(1) Compensation and expenses.—

“(A) Congressional members.—Each member of the Commission appointed under subsection (b)(1) shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

“(B) Other members.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b), while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

“(2) Meetings and quorum.—

“(A) Meetings.—The Commission shall meet at the call of the chairperson.

“(B) Quorum.—A quorum of the Commission shall consist of not less than 15 members, of which not less than 6 of such members shall be appointees under subsection (b)(1) and not less than 9 of such members shall be Indians.

“(3) Director and staff.—

“(A) Executive director.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that for level V of the Executive Schedule.

“(B) Staff.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

“(C) Applicability of civil service laws.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

“(D) Experts and consultants.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(E) Facilities.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

“(f) Powers.—

“(1) Hearings and other activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 6 regional hearings shall be held in different areas of the United States in which large numbers of Indians are present. Such hearings shall be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this paragraph, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under this section may be counted towards the number of regional hearings required by this paragraph.

“(2) Studies by GAO.—Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

“(3) Cost estimates.—

“(A) In general.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

“(B) Reimbursements.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

“(4) Detail of federal employees.—Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

"(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal Agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

"(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal Agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(7) OBTAINING INFORMATION.—The Commission may secure directly from the any Federal Agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

"(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out this section. The amount appropriated under this subsection shall not be deducted from or affect any other appropriation for health care for Indian persons.

"SEC. 815. APPROPRIATIONS; AVAILABILITY.

"Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.".

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

SEC. 201. LIMITATIONS ON CHARGES.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period and inserting ", and"; and

(3) by adding at the end the following:

"(T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices and such payment methodology and amounts as are prescribed under regulations issued by the Secretary.".

SEC. 202. QUALIFIED INDIAN HEALTH PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1880 the following:

"QUALIFIED INDIAN HEALTH PROGRAM

"SEC. 1880A. (a) DEFINITION OF QUALIFIED INDIAN HEALTH PROGRAM.—In this section:

"(1) IN GENERAL.—The term 'qualified Indian health program' means a health program operated by—

"(A) the Indian Health Service;

"(B) an Indian tribe or tribal organization or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; or

"(C) an urban Indian organization (as so defined) and which is funded in whole or in part under title V of the Indian Health Care Improvement Act.

"(2) INCLUDED PROGRAMS AND ENTITIES.—Such term may include 1 or more hospital, nursing home, home health program, clinic, ambulance service or other health program that provides a service for which payments may be made under this title and which is covered in the cost report submitted under this title or title XIX for the qualified Indian health program.

"(b) ELIGIBILITY FOR PAYMENTS.—A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as the program meets all the conditions and requirements set forth in this section.

"(c) DETERMINATION OF PAYMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

"(2) DEFINITION OF FULL COST RECOVERY.—

"(A) IN GENERAL.—Subject to subparagraph (B), in this section, the term 'full cost recovery' means the sum of—

"(i) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location, and service population of the qualified Indian health program, and which shall include direct program, administrative, and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable; and

"(ii) indirect costs which, in the case of a qualified Indian health program—

"(I) for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established, shall be not less than an amount determined on the basis of the indirect cost rate; or

"(II) for which no such rate has been established, shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

"(B) LIMITATION.—Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments, or deductibles when the service was provided to an Indian entitled under Federal law to receive the service from the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

"(3) OUTSTATIONING COSTS.—In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any Federal or State health program including the programs established under this title, title XIX, and XXI.

"(4) DETERMINATION OF ALL-INCLUSIVE ENCOUNTER OR PER DIEM AMOUNT.—

"(A) IN GENERAL.—Costs identified for services addressed in a cost report submitted by a qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services.

"(B) NO SINGLE REPORT REQUIREMENT.—Not all qualified Indian health programs provided or administered by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization need be combined into a single cost report.

"(C) PAYMENT FOR ITEMS NOT COVERED BY A COST REPORT.—A full cost recovery payment for services not covered by a cost report shall be made on a fee-for-service, encounter, or per diem basis.

"(5) OPTIONAL DETERMINATION.—The full cost recovery rate provided for in paragraphs (1) through (3) may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by the State agency responsible for administering the State plan under title XIX and shall be valid for reimbursements made under this title, title XIX, and title XXI. The costs described in paragraph (2)(A) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals—

"(A) a significant decrease in discharges;

"(B) costs for graduate medical education programs;

"(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10; and

"(D) payment for outlier cases.

"(6) ELECTION OF PAYMENT.—A qualified Indian health program may elect to receive payment for services provided under this section—

"(A) on the full cost recovery basis provided in paragraphs (1) through (5);

"(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the Federal Register;

"(C) on the same basis as other providers are reimbursed under this title, provided that the amounts determined under paragraph (c)(2)(B) shall be added to any such amount;

"(D) on the basis of any other rate or methodology applicable to the Indian Health Service or an Indian Tribe or tribal organization; or

"(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

"(d) ELECTION OF REIMBURSEMENT FOR OTHER SERVICES.—

"(1) IN GENERAL.—A qualified Indian health program may elect to be reimbursed for any service the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization may be reimbursed for under section 1880 and section 1911.

"(2) OPTION TO INCLUDE ADDITIONAL SERVICES.—An election under paragraph (1) may include, at the election of the qualified Indian health program—

"(A) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service;

"(B) screening, diagnostic, and therapeutic outpatient services including part-time or intermittent screening, diagnostic, and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program;

"(C) preventive primary health services as described under section 330 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided;

"(D) with respect to services for children, all services specified as part of the State plan under title XIX, the State child health plan under title XXI, and early and periodic screening, diagnostic, and treatment services as described in section 1905(r);

"(E) influenza and pneumococcal immunizations;

"(F) other immunizations for prevention of communicable diseases when targeted; and

"(G) the cost of transportation for providers or patients necessary to facilitate access for patients.".

Subtitle B—Medicaid

SEC. 211. STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking "and" at the end;

(2) in paragraph (65), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (65), the following:

"(66) if the Indian Health Service operates or funds health programs in the State or if there are Indian tribes or tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project, or other request that would have the effect of changing any aspect of the State's administration of the State plan under this title, so long as—

"(A) the term 'meaningful consultation' is defined through the negotiated rulemaking process provided for under section 802 of the Indian Health Care Improvement Act; and

"(B) such consultation is carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of that Act.".

SEC. 212. FMAP FOR SERVICES PROVIDED BY INDIAN HEALTH PROGRAMS.

The third sentence of Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended to read as follows:

"Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per cent with respect to amounts expended as medical assistance for services which are received through the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under section 1911, whether directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization and another health provider.".

SEC. 213. INDIAN HEALTH SERVICE PROGRAMS.

Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended to read as follows:

"INDIAN HEALTH SERVICE PROGRAMS

"Sec. 1911. (a) In General.—The Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan by such entities if and for so long as the Service, Indian tribe or tribal organization, or urban Indian organization provides services or provider types of a type otherwise covered under the State plan and meets the conditions and requirements which are applicable generally to the service for which it seeks reimbursement under this title and for services provided by a qualified Indian health program under section 1880A.

"(b) Period for Billing.—Notwithstanding subsection (a), if the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization which provides services of a type otherwise covered under the State plan does not meet all of the conditions and requirements of this title which are applicable generally to such services submits to the Secretary within 6 months after the date on which such reimbursement is first sought an acceptable plan for achieving compliance with such conditions and requirements, the Service, an Indian tribe or tribal organization, or urban Indian organization shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of actual compliance with such conditions and requirements during the first 12 months after the month in which such plan is submitted.

"(c) Authority To Enter Into Agreements.—The Secretary may enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the Indian Health Service, Indian tribes or tribal organizations, or urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization and another health care provider to Indians who are eligible for medical assistance under the State plan.".

Subtitle C—State Children's Health Insurance Program

SEC. 221. ENHANCED FMAP FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) In General.—Section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) In general.—Subject to paragraph (2), for purposes"; and

(2) by adding at the end the following:

"(2) Services provided by Indian programs.—Without regard to which option a State chooses under section 2101(a), the 'enhanced FMAP' for a State for a fiscal year shall be 100 per cent with respect to expenditures for child health assistance for services provided through a health program operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act).".

(b) Conforming Amendment.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by inserting "an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act)," after "Service,".

SEC. 222. DIRECT FUNDING OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Title XXI of Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. DIRECT FUNDING OF INDIAN HEALTH PROGRAMS.

"(a) In General.—The Secretary may enter into agreements directly with the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) for such entities to provide child health assistance to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside.

"(b) Transfer of Funds.—Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled to under this title to the Indian Health Service, an Indian tribe or tribal organization or an urban Indian organization—

"(1) to be administered by such entity to achieve the purposes and objectives of this title under an agreement between the State and the entity; or

"(2) under an agreement entered into under subsection (a) between the entity and the Secretary.".

Subtitle D—Authorization of Appropriations

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title and the amendments by this title.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPEALS.

The following are repealed:

(1) Section 506 of Public Law 101–630 (25 U.S.C. 1653 note) is repealed.

(2) Section 712 of the Indian Health Care Amendments of 1988 is repealed.

SEC. 302. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 303. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 2003.

By Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr.

COCHRAN, Mr. DASCHLE, Mr. SARBANES, and Mr. SMITH):

S. 557. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise to introduce the Civil Rights Tax Relief Act of 2003, a bill designed to promote the fair and equitable settlement of civil rights claims. I am very pleased to be joined today by Senators GRASSLEY, DASCHLE, BINGAMAN, COCHRAN, and SARBANES.

The primary purpose of this bill is to remedy an unintended consequence of the Small Business Job Protection Act of 1996, which made damage awards that are not based on "physical injuries or physical sickness" part of a plaintiff's taxable income. Because most acts of employment discrimination and civil rights violations do not cause physical injuries, this provision has had a direct and negative impact on plaintiffs who successfully prove that they have been subjected to intentional employment discrimination or other intentional violations of their civil rights.

The problem is compounded by the fact that plaintiffs are now taxed on the entirety of their settlements or damage awards in civil rights cases, despite the fact that a portion of a settlement or award must be paid to the plaintiff's attorney, who in turn is taxed on the same funds. This double taxation of attorneys' fees awards penalizes Americans who win their civil rights cases.

I would like to share one example of how individuals can be harmed by the current taxation scheme, and even discouraged from challenging workplace discrimination. The example was brought to my attention by David Webbert, an attorney who practices in Augusta, ME—my State's capital. In one of his cases, David represented a person who successfully challenged a business' policy of discriminating against persons with a particular type of disability. As a result of the case, the discriminatory policy was declared illegal and was ended. Although the plaintiff did not receive any monetary damages in the case, the law did provide for payment of attorney's fees, which were paid by the defendant's insurance company. Because of the current law's double taxation of attorney's fees, they were taxable to the plaintiff in this case, despite the fact that they were also taxable to the attorney. In short, plaintiffs in civil rights cases like this could have to pay taxes even though they receive no monetary award. Or, in other words, under current law, a plaintiff can actually be penalized financially for bringing a meritorious case against a company's discriminatory policies.

Our bill would eliminate the unfair taxation of civil rights victims' settlements and court awards—taxation that adds insult to a civil rights victim's injury and serves as a barrier to the just settlement of civil rights claims.

Our bill would change the taxation of awards received by individuals that result from judgments in or settlements of employment discrimination cases. First, the bill excludes from gross income amounts awarded other than for punitive damages and compensation attributable to services that were to be performed, known as "backpay," or that would have been performed but for a claimed violation of law by the employer, known as "frontpay." Second, award amounts for frontpay or backpay would be included in income, but would be eligible for income averaging according to the time period covered by the award. This correction would allow individuals to pay taxes at the same marginal rates that would have applied to them had they not suffered discrimination. Third, the bill would change the tax code so that people who bring civil rights cases are not taxed on the portion of any award paid as fees to their attorney. This provision would eliminate the double-taxation of such fees, which would still be taxable income to the attorney.

The Civil Rights Tax Relief Act would encourage the fair settlement of costly and protracted litigation of employment discrimination claims. Our legislation would allow both plaintiffs and defendants to settle claims based on the damages suffered, not on the excessive taxes that are now levied.

Our bill has been endorsed by the U.S. Chamber of Commerce, AARP, the National Employment Lawyers Association, the No FEAR Coalition, the Religious Action Committee for Reform Judaism, the Society for Human Resource Management, and others. This bill is a "win-win" for civil rights plaintiffs and defendant businesses. I invite my colleagues to join in support of this common sense legislation.

By Mr. MCCAIN (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. JOHNSON, and Mr. DOMENICI):

S. 558. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to designate the Director of the Indian Health Service as an Assistant Secretary for Indian Health within the Department of Health and Human Services. I'm pleased that my colleagues, Senators BINGAMAN, CAMPBELL, MURRAY, JOHNSON, and DOMENICI are joining me in this effort as original co-sponsors.

The purpose of this legislation is simple. It will redesignate the current Director of the Indian Health Service, IHS, as a new Assistant Secretary within the Department of Health and Human Services to be responsible for Indian health policy and budgetary matters.

The Indian Health Service is the primary health care delivery system and principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.6 million Indian people are served every year by the IHS, yet the agency has not had the necessary resources to fully meet tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill is to respond to the desire by Indian people for a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of tribal governments.

This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the Federal trust responsibility toward Indian tribes. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

Tribal communities are in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle and the Administration to ensure prompt passage of this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) Definitions.—In this section:

(1) Assistant secretary.—The term "Assistant Secretary" means the Assistant Secretary for Indian Health appointed under subsection (b)(2)(A).

(2) Department.—The term "Department" means the Department of Health and Human Services.

(3) Office.—The term "Office" means the Office of the Assistant Secretary for Indian Health established by subsection (b)(1).

(4) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) Establishment.—

(1) In general.—There is established within the Department the Office of the Assistant Secretary for Indian Health.

(2) Assistant secretary.—

(A) In general.—Except as provided in subparagraph (B), the Office shall be headed by an Assistant Secretary for Indian Health, to be appointed by the President, by and with the advice and consent of the Senate.

(B) Continued service by incumbent.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of this Act may serve as Assistant Secretary at the pleasure of the President after the date of enactment of this Act.

(3) Duties.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(c) Assistant Secretary for Indian Health.—In addition to the functions performed as of the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(5) coordinate the activities of the Department concerning matters of Indian health; and

(6) perform such other functions as the Secretary may designate.

(d) Rate of Pay.—

(1) Positions at level iv.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (6)." and inserting "Assistant Secretaries of Health and Human Services (7).".

(2) Positions at level v.—Section 5316 of title 5, United States Code, is amended by striking "Director, Indian Health Service, Department of Health and Human Services.".

(e) Duties of Assistant Secretary for Indian Health.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended by striking the section heading and all that follows through subsection (a) and inserting the following:

"SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

"(a) Establishment.—

"(1) In general.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service.

"(2) Administration.—The Indian Health Service shall be administered by the Assistant Secretary for Indian Health.

"(3) Duties.—In carrying out paragraph (2), the Assistant Secretary shall—

"(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

"(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

"(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

"(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility;

"(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health; and

"(F) perform such other functions as the Secretary may designate.".

(f) Conforming Amendments.—

(1) Amendments to indian health care improvement act.—The Indian Health Care Improvement Act is amended—

(A) in section 601 (25 U.S.C. 1661)—

(i) in subsection (c), by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in subsection (d)(1), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health"; and

(B) in section 816(c)(1) (25 U.S.C. 1680f(c)(1)), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(2) Amendments to other provisions of law.—

(A) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106–310) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(B) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(i) in section 3 (25 U.S.C. 3902)—

(I) by striking paragraph (2);

(II) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(III) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

"(3) Assistant secretary.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health.";

(ii) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

"SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.";

(iii) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking "Director" and inserting "Assistant Secretary";

(iv) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking "Director" and inserting "Assistant Secretary"; and

(v) by striking "Director" each place it appears and inserting "Assistant Secretary".

(C) Section 5504(d)(2) of the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–297) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(D) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(E) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(F) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—

(i) by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in paragraph (2)(A), by striking "the Directors referred to in such paragraph" and inserting "the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health".

(G) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285–9(b)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(H) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(I) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended in the last sentence by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(J) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2666) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(g) References.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

By Mr. CAMPBELL:

S. 559. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the

Committee on Commerce, Science, and Transportation.

Mr. CAMPBELL. Mr. President, today I am introducing the Commercial Driver's License Devolution Act of 2003. This bill is identical to that which I introduced in the 107th Congress as a companion bill to language originally brought to the floor of the House of Representatives by my friend from North Carolina, Representative HOWARD COBLE.

I believe it is no secret to my colleagues here in the Senate, that I support small business and returning power to the States. The traditional, one-size-fits-all approach to governing has done more harm than good, and this bill is an attempt to remedy some of that.

This legislation will give States the option to establish their own commercial driver's license, CDL, requirements for intrastate drivers. It will return power to the States by giving them the option to license intrastate drivers of commercial motor vehicles based upon testing standards determined by the individual States. And I stress, it will be an "option."

I want to emphasize that this legislation is not a Federal mandate imposed on States. States that choose not to participate would remain under Federal guidelines. A State that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more States from using this option as the basis for an interstate compact.

As I am sure my colleagues are aware, the Commercial Motor Vehicle Safety Act of 1986, CMVSA, required States to establish a new and uniform program of testing and licensure for all operators of commercial vehicles both intra and interstate. The principal objectives of the Act have been met, and would not be harmed by this legislation I'm introducing here today.

I have no issue with the CMVSA. It is a good law, and at the time the provisions it contained were necessary and timely for improving the standards of performance for long-haul truck drivers in this country. However, I, like my counterpart in the House, believe the CMVSA was imposed upon intrastate commerce where the operation of trucks may be a small but necessary part of an individual's job. Therefore, the reality was that Washington imposed its will on thousands of small businesses across this country who aren't involved in long-haul trucking and we expected them to adjust to any circumstance that might arise. That's unfair and not what government is supposed to be about.

When you have conditions such as these, I believe it should be within a State's discretion to determine what kind of commercial vehicle licensure and testing is required for commerce taking place solely within its borders.

This legislation is important to our nation's small businesses, especially those dependent upon commercial truck travel, which means it's important to the consumers. I urge my colleagues in the Senate to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Driver's License Devolution Act of 2003".

SEC. 2. INTRASTATE OPERATION OF COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Paragraph (1) of section 31305(b) of title 49, United States Code, is amended—

(1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) An individual may operate a commercial motor vehicle solely within the borders of a State if the individual—

"(A) meets the minimum standards prescribed under the laws of that State for ensuring the fitness of an individual to operate a commercial motor vehicle; and

"(B) has passed written and driving tests to operate a commercial motor vehicle that meet the minimum standards prescribed under the laws of that State.".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking "with" and inserting "with either"; and

(B) by striking "under section 31305(a)" and inserting "or by the State under section 31305"; and

(2) in paragraph (2), by striking "the minimum standards" and inserting "either the minimum standards prescribed by the Secretary of Transportation or by the State under section 31305 of this title".

By Mr. CRAIG (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Ms. SNOWE, Mrs. LINCOLN, Mr. SHELBY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEVIN, Ms. COLLINS, Mr. JOHNSON, Mr. SPECTER, Mr. FEINGOLD, and Mr. KOHL):

S. 560. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

Mr. LEAHY. Mr. President, I am pleased to join my colleagues Senator MARK DAYTON and Senator LARRY CRAIG in introducing the bipartisan Milk Import Tariff Equity Act. Our bill will prevent importers of dairy products from circumventing U.S. trade laws.

Although I opposed it at the time, during the Uruguay Round multilateral trade negotiations, the United States agreed to allow a substantial increase in dairy product imports into this country. Tariff rate quotas were established to allow imports of most dairy products to rise from an average of 2 percent of domestic consumption to as much as five percent. At least initially, these controls appeared to be effective. But foreign competitors have found ways to circumvent these quotas by adjusting the protein content of nonfat dry milk so that it is classified by the U.S. Customs Service as milk protein concentrate, MPC. While nonfat dry milk imports are strictly regulated, there are no quotas on MPCs and duties are low.

A recent GAO study requested by Congress determined that MPC imports surged by more than 600 percent over a six year period. MPC imports lower prices for U.S. dairy farmers by displacing sales of nonfat dry milk. According to the GAO study, some exporters are blending previously processed dairy proteins, such as casein, whey and nonfat dry milk into MPC solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk. This practice, specifically cited in the GAO report, circumvents statutory U.S. trade provisions designed to regulate imports of nonfat dry milk powder.

It is time to close this loophole. Under our bill, MPCs would be regulated in the same manner as all other dairy products: by imposing tariff-rate quotas on MPC imports. This legislation also closes a similar loophole that exists for casein used in the production of food or feed, while continuing to allow unrestricted access for imports of casein used in the manufacture of glues and for other industrial purposes.

Most Americans probably don't realize it, because retail fluid milk prices have hardly changed, but dairy farmers in Vermont and across this Nation are really struggling. Farm-gate milk prices have fallen more than 30 percent over the past 18 months and are now at the lowest levels in 25 years. Even the most efficient producers are unable to make a profit at these prices. Prices are low in part due to these imports. Others will argue that MPC imports represent just a small fraction of U.S. milk production. But when you are dealing with a perishable commodity like milk, even a slight increase in supply can have a dramatic effect on prices.

Closing the MPC loophole is one of the most important steps we can take to help our nation's dairy farmers. I commend Senators DAYTON and CRAIG for their leadership on this issue, and I urge my colleagues to join me in cosponsoring this important legislation.

Mr. FEINGOLD. Mr. President, I am pleased today to show my support for the Milk Import Tariff Equity Act of 2003 by being an original cosponsor of Senator CRAIG'S bill. This legislation will prevent foreign dairy products from continuing to circumvent U.S. trade laws.

Currently, milk protein concentrate, MPC, is not subject to the same quotas required of other dairy products. Foreign dairy producers have begun exploiting this loophole by blending previously processed dairy proteins with nonfat dry milk to boost its protein content so that it qualifies as milk protein concentrate. This allows the milk protein concentrate to circumvent any laws that would subject the imports to tariff rate quotas.

The result has been a flood of foreign dairy blends being imported in the U.S. market, displacing sales of domestic dairy products and lowering prices for American dairy farmers.

As milk prices are at historic lows, down about 38 percent from prices last year, this flood of foreign dairy products has put a strain on many of the dairy farmers in my State of Wisconsin.

Since many of the blended products imported into this country are heavily subsidized, American farmers are forced to compete on an unfair playing field. This loophole in our tariff schedule allows certain heavily subsidized foreign dairy products nearly unfettered access to our dairy markets, hurting the American dairy farmers.

As I travel across Wisconsin, I have heard from any dairy farmers who are struggling to stay in business. Many of these farmers are concerned about the flood of unfair imports that are hurting our American dairy markets.

In March of 2001, the General Accounting Office, GAO, released a report that highlighted the increase of milk protein concentrates coming into this country under outdated trade laws. The report pointed to a loophole in our trade laws that has resulted in increased imports of blended dairy proteins. The importing of blended dairy proteins is being done solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk.

The GAO study determined that MPC imports surged by more than 600 percent in the six years before the report was released. MPC imports lower prices for U.S. dairy farmers by displacing sales of domestic dairy products.

Since I have received the results from the General Accounting Office study that reported this loophole in U.S. trade laws, I have participated in a bipartisan effort to amend this loophole, so that we may protect our dairy farmers from unfair trade practices and help them in the struggle to farm on such an unfair playing field.

This bill would close this loophole by regulating milk protein concentrate imports in the same manner all other dairy import products are regulated. It would correct a loophole that exists in U.S. trade law that is contributing to such low dairy prices experienced in my state of Wisconsin and across the Nation.

This loophole depresses the price of milk for farmers, costs U.S. taxpayers money, and gives foreign dairy producers an unfair advantage over our own dairy farmers. It is time for this Congress to stand behind our farmers and that is why I support the Milk Import Tariff Equity Act of 2003.

By Mr. CRAPO (for himself, Mr. ENZI, Mr. CRAIG, Mr. DOMENICI, Mr. BURNS, and Mr. SMITH):

S. 561. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

Mr. CRAPO. Mr. President, I rise to introduce the State Water Sovereignty Protection Act, a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes.

Since 1866, Congress has recognized and deferred to the States the authority to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952, the Congress passed the McCarran amendment which provides for the adjudication of State and Federal Water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies, and some in the Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Policy Management Act, and wilderness designations have all been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and river systems. All rights to water or reservations of rights for any purposes in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights, I am introducing the State Water Sovereignty Protection Act.

The State Water Sovereignty Protection Act provides that whenever the United States seeks to appropriate water or acquire a water right, it will be subject to State procedural and substantive water law. The Act further holds that States control the water within their boundaries and that the Federal Government may exercise management or control over water only in compliance with State law. Finally, in any administrative or judicial proceeding in which the United States participates pursuant to the McCarran Amendment, the United States is subject to all costs and fees to the same extent as costs and fees may be imposed on a private party.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, and Mr. SMITH):

S. 562. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

Ms. MURKOWSKI. Mr. President, earlier this week, the Senate, in a 94-0 vote, went on record expressing its unanimous opposition to last week's decision by the Ninth Circuit Court of Appeals refusing to review a three-judge panel ruling that bars children in public schools from voluntarily reciting the Pledge of Allegiance.

The Pledge decision rendered by the court is not an aberration. It is symptomatic of a court that has become dysfunctional and out-of-touch with American jurisprudence, common sense, and constitutional values. Unfortunately, citizens in the states that are within the Ninth Circuit's jurisdiction have had to contend with the court's idiosyncratic jurisprudence for decades.

One should not be surprised that the full Ninth Circuit refused to reconsider this ill-conceived decision. The recent history of the court suggests a judicial activism that is close to the fringe of legal reasoning. And it is for that reason that the Ninth Circuit has, by far, the highest reversal rate in the country. During the 1990s, almost 90 percent of cases from the Ninth Circuit reviewed by the Supreme Court were reversed. In 1997, a startling 27 of the 28 cases brought before the Supreme Court were reversed—two-thirds by a unanimous vote.

Over the last three years, one-third of all cases reversed by the Supreme Court came from the 9th Circuit. That's three times the number of reversals for the next nearest circuit. And 33 times higher than the reversal rate for the 10th Circuit

Last November, on a single day, the Supreme Court summarily and unanimously reversed three Ninth Circuit decisions. In one of those three cases, the Supreme Court ruled that the circuit had overreached its authority and stated that the Court "exceed[ed] the limits imposed on federal habeas review substitut[ing] its own judgment for that of the state court."

One of the reasons the Ninth Circuit is reversed so often is because the circuit has become too large and unwieldy. The Circuit serves a population of more than 54 million people, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million.

According to the Administrative Office of the U.S. Courts, the Ninth Circuit alone accounts for more than 60 percent of all appeals pending for more than a year. And with its huge caseload, the judges on the Court just do not have the opportunity to keep up with decisions within the circuit, let alone decisions from other circuits

Another problem unique to the Ninth Circuit is that it never speaks with one voice. All other circuits sit as one entity to hear full-court, en banc, cases. The Ninth Circuit sits in panels of 11. Clearly, such a procedure injects unnecessary randomness into decisions. If an en banc case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 24 active members.

In fact, some commentators believe a majority of the 24 members of the court may have disagreed with the Pledge decision, but were concerned that a random pick of 11 members of the Court to hear the case, en banc, might have resulted in the decision being affirmed.

It is inconceivable to me that a circuit court could render a decision based on its concern about the potential makeup of an en banc panel. What kind of jurisprudence is that? Citizens in no other circuit face that type of coin-flip justice. That is fundamentally unfair to every single one of the 54 million people who live within the jurisdiction of the Ninth Circuit and is reason alone to restructure the circuit.

It is time that Congress finally faces the fact that the Ninth Circuit is no longer a viable and functioning circuit. It is for that reason that I am today introducing the Ninth Circuit Court of Appeals Reorganization Act of 2003. I am pleased to be joined in this effort by Senators, STEVENS, BURNS, CRAIG, CRAPO, INHOFE, and SMITH.

The bill we are introducing today would divide the Ninth Circuit into two independent circuits. The restructured Ninth Circuit would contain California, and Nevada. A new Twelfth Circuit would be composed of Alaska, Hawaii, Arizona, Idaho, Montana, Oregon, Washington, Guam, and the Northern Mariana Islands.

Earlier I indicated a number of reasons why I believe the Circuit needs to be reorganized. Let us not forget the scope of this circuit and the 54 million people who live within it. The Ninth Circuit extends from the Arctic Circle to the Mexican border, spans the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands. Encompassing some 14 million square miles, the Ninth Circuit, by any means of measure, is the largest of all U.S. Circuit Courts of Appeal. It is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eleventh Circuits combined!

Moreover, because of the sheer magnitude of cases brought before the Court, citizens within the court's jurisdiction face unprecedented delays in getting their cases heard. Whereas the national average time to get a final disposition of an appellate case is nearly 11 months, an appeal in the Ninth Circuit takes nearly 50 percent longer—almost one year and four months.

This is not the first time that Congress has recognized that the Ninth Circuit needs restructuring. Numerous proposals to divide the Ninth Circuit were debated in Congress even before World War II.

In 1973, the Congressional Commission on the Revision of the Federal Court of Appellate System Commission, commonly known as the Hruska Commission, recommended that the Ninth Circuit be divided. Also that year, the American Bar Association adopted a resolution in support of dividing the Ninth Circuit.

In 1995, a bill was reported from the Senate Judiciary Committee in which Chairman ORRIN HATCH of Utah declared in his Committee's report that the time for a split had arrived: "The legislative history, in conjunction with available statistics and research concerning the Ninth Circuit, provides an ample record for an informed decision at this point as to whether to divide the Ninth Circuit . . . Upon careful consideration the time has indeed come."

In 1997, Congress commissioned a report on structural alternatives for the Federal courts of appeals. The Commission, chaired by former Supreme Court Justice Byron R. White, found numerous faults within the Ninth Circuit and recommended major reforms and a fundamental reorganization of the Circuit.

On the day my legislation is enacted into law, the concerns of the White Commission will be addressed. A more cohesive, efficient, and predictable judiciary will emerge.

Many who oppose legislation to reorganize the Ninth Circuit, contend that all the Circuit needs is the appropriation of more Federal dollars for more Federal judges. However, I do not believe more money will solve the inherent problems that exist in a circuit of such magnitude. As former Senator and Alabama Supreme Court Chief Justice, Howell Heflin, a Democrat from Alabama, remarked after Congress divided the former Fifth Circuit: "congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a Circuit." in the case of the Ninth Circuit, there can be little doubt that we are at that point in time that former Senator Heflin cited.

Former Oregon Senator Bob Packwood believed that a Ninth Circuit split would enable judges to achieve a greater mastery of applicable, but unique, State law and State issues. He believed such mastery was necessary because "burgeoning conflicts in the area of natural resources and the continuing expansion of international trade efforts will all expand the demand for judicial excellence . . . By reforming our courts now, they will be better able to dispense justice in a fair and expeditious manner."

I agree with the former Senator. The uniqueness of the Northwest, and in particular, Alaska, cannot be overstated. An effective appellate process demands mastery of State law and State issues relative to the geographic land mass, population and native cultures that are unique to the relevant region. Presently, California is responsible for almost 50 percent of the appellate court's filings, which means that California judges and California judicial philosophy dominate judicial decisions on issues that are fundamentally unique to the Pacific Northwest. This need for greater regional representation is demonstrated by the fact that the East Coast is comprised of five Federal circuits. A division of the Ninth Circuit will enable judges, lawyers and parties to master a more manageable and predictable universe of relevant case law.

Further, a division of the Ninth Circuit would honor Congress' original intent in establishing appellate court boundaries that respect and reflect a regional identity. In spite of efforts to modernize the administration of the Ninth Circuit, its size works against the original purpose of its creation: the uniform, coherent and efficient development and application of Federal law in the region. Establishing a circuit comprised solely of States in the Northwest region would adhere to Congressional intent. And the State of Hawaii should rightfully be included in this circuit, for like Alaska, there are unique issues that are faced by the two States that are not part of the contiguous lower 48.

A new Twelfth Circuit, comprised of states of the Pacific Northwest, would respect the economic, historical, cultural and legal ties which philosophically unite this region.

No single Court can effectively exercise its power in an area that extends from the Arctic Circle to the tropics. Legislation dividing the Ninth Circuit will create a regional commonality that will lead to greater uniformity and consistency in the development of federal law, and will ultimately strengthen the constitutional guarantee of equal justice for all.

It is my hope that this Congress will finally approve this necessary reorganization. It is long overdue.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) FORMER NINTH CIRCUIT.—The term "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act.

(2) NEW NINTH CIRCUIT.—The term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 3(2)(A).

(3) TWELFTH CIRCUIT.—The term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 3(2)(C).

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking "thirteen" and inserting "fourteen"; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... California, Nevada.";

(B) by inserting between the last 2 items the following:

"Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.".

SEC. 4. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... 25";

(2) by inserting between the last 2 items the following:

"Twelfth .... 13."

SEC. 5. PLACES OF CIRCUIT COURT.

The table in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end the following:

"Twelfth .... Portland, Seattle.".

SEC. 6. ELECTION OF ASSIGNMENT BY CIRCUIT JUDGES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding section 44(c) of title 28, United States Code, each circuit judge who is in regular active service, and each judge who is a senior judge, of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge who elects to be assigned under section 6 shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

(a) IN GENERAL.—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for re-hearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. ADMINISTRATION.

(a) ACTIONS.—The former ninth circuit as constituted on the day before the effective date of this Act may take such administrative actions as may be required to carry out this Act and the amendments made by this Act.

(b) TERMINATION.—The former ninth circuit shall cease to exist for administrative purposes on July 1, 2005.

(c) MEETINGS.—During the 10 years following the date of enactment of this Act, the new ninth circuit and the twelfth circuit may meet in either circuit's jurisdiction.

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 2003.

By Ms. LANDRIEU (for herself, Mr. SUNUNU, Mr. BURNS, Mr. DODD, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Mr. KENNEDY, Mr. MILLER, Mr. DORGAN, and Mr. KERRY):

S. 564. A bill to facilitate the deployment of wireless telecommunications networks I order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Emergency Communications and Competition Act, ECCA, along with my colleague from New Hampshire, Senator Sununu. We are joined by twelve of our colleagues, led by Senator BURNS, the distinguished chairman of the Commerce Communications Subcommittee, as well as Senators DODD, GREGG, HUTCHISON, INOUYE, JEFFORDS, LOTT, KENNEDY, LEAHY, LIEBERMAN, MIKULSKI, and MILLER.

The bill we introduce today is identical to S. 2922, the measure which Senator BURNS and I co-authored in the 107th Congress. I was very pleased and grateful for the tremendous support this legislation received from local television broadcasters and a wide range of public interest groups that speak for consumers, minority groups, rural Americans, health care, public safety, and property rights.

This bill will ensure that consumers will soon be able to avail themselves of an innovative new wireless technology that has been approved by the Federal Communications Commission. It is called the Multichannel Video Distribution and Data Service, MVDDS, a title which accurately describes what this new service will provide consumers: cable competition and high speed access to the Internet.

As I indicated in my introductory remarks to S. 2922 last September, unless Congress enacts this legislation, it may be years before MVDDS is actually deployed to the public. That would be a lost opportunity for consumers. We need to improve our communications infrastructure, not only for greater access to cable and the Internet, but also for public safety purposes. MVDDS technology can address all of these needs, and we should remove unnecessary and counterproductive regulatory obstacles that prevent its swift deployment.

The Consumers Union, like many, has supported ECCA because it will help ensure that competition rapidly emerges for video programming as well as high speed Internet services. Earlier this year, the Consumers Union issued a report, "Cable Mergers, Monopoly Power and Price Increases," which documents the most recent steep rate increases imposed by cable operators. The report noted, for instance, that cable rates in Baton Rouge soared 7 percent last November. This was typical of rate increases throughout the country.

According to the most recent data from the Bureau of Labor Statistics, cable rates rose 11.4 percent in just the last two years. This compares to a 3.8 percent increase in the Consumer Price Index over the same period. According to the FCC, just one percent of cable communities enjoy "effective competition." I submit that this startling lack of competition, more than anything else, explains why local cable rates have increased at three times the inflation rate.

If MVDDS can go head-to-head with incumbent cable systems in all parts of the country, I believe that this good old fashioned competition will result in lower prices and better service for consumers—even for those who don't choose to subscribe to MVDDS.

Rural organizations recognize the extraordinary opportunity this new wireless technology can offer rural Americans. They understand that the FCC's Order, which authorized MVDDS, will likely fail to ensure this new technology will indeed adequately serve rural America.

Local television broadcasters support this measure because it will ensure consumers in their markets can view all local television stations. Today, satellite operators DirecTV and EchoStar do not carry over 1,000 local TV channels—and no stations from ten States: Alaska, Arkansas, Idaho, Maine, Montana, Mississippi, North and South Dakota, West Virginia, and Wyoming. As you know, the satellite operators sought to merge so that they would have sufficient capacity to carry all local TV stations, but federal regulators rejected the merger on anti-competitive grounds.

The Emergency Communications and Competition Act, which we are re-introducing today, will restore fairness in the FCC licensing process, and in so doing, speed the deployment of MVDDS to applicants that are ready to launch service to the public now.

The bill provides that MVDDS applicants will be licensed in the same manner as satellite companies who applied on the same day to share the same spectrum. Currently, the FCC plans to subject only MVDDS applicants to an auction process. This would impose a discriminatory tax on an innovative new technology. Unfortunately, this is more of the same burdensome regulation that I believe has contributed to the collapse of the telecommunications sector. Government regulation is necessary, certainly, but we must be smart in how we regulate business. We must ensure that our laws and regulations are technologically neutral so that government policies don't replace the role of the marketplace in determining the fate of consumer products and services.

In an Order released last month, the FCC recognized the need to prevent disparity in licensing when it authorized certain satellite spectrum to be re-used for mobile terrestrial service without requiring a spectrum auction. Similarly, the ECCA would prohibit the FCC from conducting an auction for licenses that re-use satellite spectrum for fixed terrrestrial operations.

Furthermore, an action would drastically delay the introduction of service to the public. Mr. President, this is quite the opposite of what spectrum auctions are supposed to do. In this case, industry incumbents can abuse the auction process to block the introduction of new competition. A company with vast resources available could easily trounce a small startup in an auction—and then, under the terms of the FCC's Order, it would not have to deploy service for 10 years. Consumers cannot and should not have to wait while this spectrum is "shelved" for an entire decade.

The ECCA solves this problem by ensuring that only qualified applicants will be licensed. That is, within six months of enactment, the FCC would issue licenses to any applicant that can demonstrate through independent testing that it will employ a technology that won't cause harmful interference to DBS operators with whom they would share spectrum. Then, to be sure that service is in fact deployed, the ECCA requires licensees to provide service to consumers within five rather than ten years.

This legislation also requires that parties who apply for licenses under this provision must assume specific public interest obligations in exchange for their prompt licensing. The bill requires full must-carry of local television stations, and an additional set aside of 4 percent of system capacity for other pubic interest purposes such as telemedicine and distance learning. I can assure my colleagues that these are issues particularly important in rural areas in states like Louisiana.

The ECCA will also promote public safety, in two ways. First, it will require MVDDS licensees to air Emergency Alert System warnings, including AMBER alerts for missing children. EAS warnings are presently carried by cable systems and over-the-air broadcasters, but they are not seen by those who get their programming from DBS unless the viewer happens to be watching a local channel. Obviously, the need for greater dissemination of EAS warnings is particularly important for the ten states in which no local stations are carried via satellite.

Second, this legislation requires MVDDS licensees to make their transmission systems available to national security and emergency preparedness personnel on a top-priority basis in times of need. We all know that when emergencies strike, the need for public safety personnel to communicate with one another skyrockets. MVDDS wireless networks, which will be deployed ubiquitously throughout the country, can help alleviate this thirst for spectrum.

For these reasons, I believe that Congress should act on this matter as soon as possible. I urge my colleagues to support his bill and vote for enactment. I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Communications and Competition Act of 2003".

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. 3. LICENSING.

(a) Grant of Certain Licenses.—

(1) In general.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) Deadline.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) Qualifications.—

(1) Non-interference with direct broadcast satellite service.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) Acceptance of applications.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestrial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to

Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A–141) is amended by inserting ", or files," after "has filed".

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licensees, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with sections 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

By Mr. EDWARDS:

S. 565. A bill to improve homeland security, prevent tax increases, support education and health care, and strengthen the economy; to the Committee on Appropriations.

Mr. EDWARDS. Mr. President, I rise today to introduce the Homeland Protection and Tax Hike Prevention Act of 2003.

As I speak, State governments face a budget gap of $80 billion in 2004, according to the National Governors Association. My own State of North Carolina must close a $2 billion deficit this year, the third year in a row that we have faced a deficit of $1 billion or more. There is an additional $30 billion deficit in 2003 that, for most States, must be closed before the fiscal year ends in June. Cities and towns face a similar budget pinch. The likely result in many States will be steep tax increases and budget cuts.

Because most States have seen two or three lean years in a row, the easiest cuts and sources of revenue have already been tapped. States already closed nearly $50 billion in deficits for 2003. According to Standard and Poor's, "With rainy day funds having been depleted rapidly over the past three years, few options remain other than tough cuts or revenue increases."

The State and local budget crisis is a serious threat to our economy. State spending cuts and tax increases equaling $100 billion would directly lower GDP growth by one percentage point, according to the Center on Budget and Policy Priorities. According to the Center, "The only way this blow to the economy can be mitigated is through federal fiscal relief for the states."

Millions of Americans across the Nation will be directly affected by State tax increases and budget cuts. For example, Kansas is considering new taxes on hair stylists, theaters, and doctors. Missouri is now taxing pharmacies. In fact, policymakers in 15 States are already calling for tax increases of approximately $14 billion in 2004.

New York budget proposals would raise class sizes and cut 43,000 early education slots in New York City. Florida may take away medical coverage for 26,000 low-income people. In California, hundreds of nursing homes are in danger of bankruptcy, according to the Washington Post. San Diego may close fire stations.

Portland, OR, will likely trim its school year by 24 days. Oregon State police are laying off 129 troopers and abandoning 24-hour patrols. The Multnomah county jail will release as many as 500 inmates early. Medical benefits will be eliminated for 8,000 elderly and disabled people.

This is wrong. It's wrong for the people being hurt. And it is wrong for our economy. That's why I am proposing the Homeland Protection and Tax Hike Prevention Act of 2003. This bill would enacts a State relief plan I first described last November. It gives States and cities a total of $50 billion, allowing them to avoid raising taxes and protect critical priorities in public safety, education, and health care.

First, my legislation would provide $10 billion to states and major cities to strengthen homeland security. We have a whole range of homeland security priorities that we ought to be meeting but we haven't. Although our domestic readiness begins with first responders, they are not getting the training and equipment they need to respond to an attack with speed, skill, and strength. Our public health system isn't fully prepared to respond to biological attacks. We need to modernize an emergency warning system that is terribly out of date so we can reach Americans at any time, day or night.

Our infrastructure is exposed. There are 500 large skyscrapers, 250 major arenas and stadiums, and countless train, subway, and automobile bridges and tunnels. Many of these facilities have vulnerable ventilation systems, poor emergency exits, and inadequate fire retardants and blast-resistant materials. Security at nuclear and chemical plants and over shipments is still too lax. At 123 chemical plants, a toxic chemical release would endanger a million people or more.

We need to meet all these priorities, and we can ought to meet them through a partnership between Washington, states, and local communities. This bill goes a long way toward doing that by providing $10 billion for homeland security.

Next, today's bill would provide States $10 billion through higher Medicaid reimbursements. Higher Medicaid reimbursements can dramatically help State budgets. It can also address serious inequities in the way Medicaid funds are distributed today. The legislation is based on Senator ROCKEFELLER's excellent proposal. It maintains last year's Medicaid matching rate where rates are declining and provides an additional modest, temporary increase in the matching rate. This short-lived relief will help states balance their budgets and protect children and seniors who rely on Medicaid.

Last but not least, my bill will give States and local governments $30 billion in general relief. In return for this aid, State and local governments must agree not to cut K–12 education funding or raise college tuition faster than inflation for low- and middle-income families.

Across the Nation, States and cities are struggling with more needs and less revenue. Washington is not doing its part to help. Instead, we have created new demands through the No Child Left Behind education reform law and the Federal special education laws, without delivering the resources needed to meet those demands. We ought to help States and localities meet those demands, and this bill will do that.

The Homeland Protection and Tax Hike Protection Act will strengthen our homeland security and prevent states and cities from raising taxes and cutting schools and health care. I hope my colleagues will join me in supporting it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Protection and Tax Hike Prevention Act of 2003".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ameliorate the hardships faced by millions of Americans as a result of State and local budget crises, including tax increases and cuts to education, health care, and other vital State and local programs;

(2) to avoid the economic damage that would be caused by tens of billions of dollars in State and local tax increases and spending cuts that would further weaken the Nation's economic growth and job creation; and

(3) to improve the Nation's readiness for a terrorist attack by providing financial assistance to assist States and cities to—

(A) prepare first responders and emergency personnel;

(B) implement anti-counterfeiting protections;

(C) strengthen security at vulnerable targets, such as nuclear power plants and public transportation systems; and

(D) address other homeland security priorities.

SEC. 3. DEFINITIONS.

As used in this Act, the following definitions shall apply:

(1) STATE.—Except as used in section 6, the term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a statistical geographic entity associated with at least 1 urbanized area that has a population of not less than 50,000, as identified by the Office of Management and Budget.

(3) METROPOLITAN CITY.—The term "metropolitan city" means—

(A) a central city within a metropolitan statistical area; and

(B) any other city within a metropolitan statistical area that has a population of not less than 50,000.

(4) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term "unit of general local government" means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 4. HOMELAND SECURITY GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the amount appropriated under subsection (d), the Secretary of Homeland Security (referred to in this section as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, award grants to States and metropolitan cities, which have submitted an application in accordance with subsection (c) to accomplish the objectives described under subsection (b).

(2) ALLOCATIONS TO STATES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to the States based on the relative population of each State.

(B) RISK-BASED ALLOCATIONS.—Subject to paragraph (4), the Secretary shall allocate $2,500,000,000 for grants to the States based on—

(i) the potential risk, as it pertains to chemical security, of each State;

(ii) the proximity of each State to the nearest operating nuclear power plant;

(iii) the proximity of each State to the nearest United States land or water port;

(iv) the proximity of each State to the nearest international border; and

(v) the proximity of each State to the nearest Disaster Medical Assistance Team.

(3) ALLOCATIONS TO METROPOLITAN CITIES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to units of general local government within metropolitan cities based on the relative population of each metropolitan statistical area.

(B) RISK-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to metropolitan cities within metropolitan statistical areas based on—

(i) the potential risk, as it pertains to chemical security, of each metropolitan statistical area;

(ii) the proximity of each metropolitan statistical area to the nearest operating nuclear power plant;

(iii) the proximity of each metropolitan statistical area to the nearest United States land or water port;

(iv) the proximity of each metropolitan statistical area to the nearest international border; and

(v) the proximity of each metropolitan statistical area to the nearest Disaster Medical Assistance Team.

(C) METROPOLITAN CITIES.—The Secretary shall distribute the allocations under subparagraphs (A) and (B) to metropolitan cities based on the relative population of each such city.

(4) CLARIFICATION OF RISK FACTORS.—In allocating funds to States and metropolitan statistical areas under paragraphs (2)(B) and (3)(B), the Secretary shall equally weigh each of the following risk factors:

(A) POTENTIAL RISK AS IT PERTAINS TO CHEMICAL SECURITY.—If a State or metropolitan statistical area is within the vulnerable zone of a worst-case chemical release, as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument developed by the Environmental Protection Agency or the Homeland Security Department that captures the same information for the same facilities, the ratio under paragraphs (2)(B)(i) and (3)(B)(i) shall be 1 divided by the total number of States or metropolitan statistical areas that are within such a zone.

(B) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a State or metropolitan statistical area is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraphs (2)(B)(ii) and (3)(B)(ii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an operating nuclear power plant.

(C) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a State or metropolitan statistical area is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraphs (2)(B)(iii) and (3)(B)(iii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a United States land or water port.

(D) PROXIMITY TO INTERNATIONAL BORDERS.—If a State or metropolitan statistical area is located within 50 miles of an international border, the ratio under paragraph (2)(B)(iv) and (3)(B)(iv) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an international border.

(E) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAMS.—If a State or metropolitan statistical area is located within 50 miles of a Disaster Medical Assistance Team, as organized by the National Disaster Medical System through the Department of Public Health, the ratio under paragraphs (2)(B)(v) and (3)(B)(v) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a Disaster Medical Assistance Team.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to—

(1) support police, fire, health, and other emergency personnel by—

(A) purchasing or upgrading communications systems, protective gear, or hazardous materials detection equipment;

(B) providing training for emergency responses; and

(C) providing for expenses related to retention of personnel and overtime;

(2) improve safeguards against the counterfeiting of official State documents, including—

(A) the improvement of procedures to obtain proof of identity before issuance of official identification cards; and

(B) the implementation of biometric identifiers and holograms;

(3) improve security at chemical plants by—

(A) strengthening requirements for perimeter security and assisting in meeting such requirements; and

(B) strengthening requirements for the use and handling of hazardous materials and assisting in meeting such requirements;

(4) improve security in train and subway cars and stations, on bridges, in tunnels, and in arenas by installing and improving—

(A) fire and blast protections;

(B) ventilation systems;

(C) entrance security;

(D) sensors to detect chemical and biological weapons; and

(E) emergency evacuation systems;

(5) improve security at and around skyscrapers, public monuments, and other major buildings;

(6) secure food and water supplies, reservoirs, water treatment plants, and distribution systems;

(7) strengthen protections of other critical networks, including—

(A) telecommunications;

(B) electrical power plants and grids; and

(C) computer networks and databases;

(8) plan and prepare for a response for chemical or biological attacks, including—

(A) purchasing, distributing, and storing treatments and preventive measures;

(B) providing emergency training for health officials; and

(C) developing public health surveillance systems to identify the disease outbreaks by monitoring ambulance calls, hospital admittance, and other measures;

(9) establish systems to notify members of the public and appropriate agencies when a threat has emerged and any precautions the public should take;

(10) establish programs that offer opportunities for members of the community to participate in terrorism preparation and prevention, including neighborhood watch groups; and

(11) design, review, and improve disaster response systems, enhancing communities' ability to coordinate efforts and share information, and devise and implement a homeland security plan.

(c) Application.—

(1) In general.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be necessary to ensure that the grantee will use the proceeds of the grant in compliance with subsection (b).

(d) Authorization and Appropriation.—There are authorized to be appropriated, and are appropriated, $10,000,000,000 for fiscal year 2003 to carry out this section, which shall remain available through September 30, 2004.

SEC. 5. BUDGET CRISIS RELIEF GRANTS.

(a) Grants Authorized.—From the amount appropriated under subsection (c) for fiscal year 2003, the Secretary of the Treasury (referred to in this section as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, allocate financial assistance to each of the States as follows:

(1) Grants to States.—

(A) Allocations based on population.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative population of each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) Allocations based on unemployment.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative number of unemployed individuals for calendar year 2002 in each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) Grants to local government.—

(A) Allocations based on population.—The Secretary shall allocate an additional $7,500,000,000 among units of general local government within each State on the basis of the relative population of each State and of each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) Allocations based on unemployment.—The Secretary shall allocate an additional $7,500,000,000 among units of general local government within each State on the basis of the relative number of unemployed individuals for calendar year 2002 in each State and in each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(b) Maintenance of Effort.—A State or unit of general local government, before receiving the proceeds of a grant under this section, shall certify that such State or unit of general local government—

(1) will maintain its expenditures for elementary, secondary, and higher education at a level equal to not less than the level of such expenditures maintained by the State or unit of general local government for the fiscal year immediately preceding the fiscal year for which the grant is received; and

(2) will not raise the net tuition, after scholarships and tuition waivers, at public colleges and universities by more than the inflation rate.

(c) Authorization and Appropriation.—There are authorized to be appropriated, and are appropriated, $30,000,000,000 for fiscal year 2003 to carry out this section.

SEC 6. TEMPORARY STATE FISCAL RELIEF THROUGH INCREASE IN MEDICAID FMAP.

(a) Definitions.—In this section, the following definitions shall apply:

(1) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) State.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) Permitting Maintenance of Fiscal Year 2002 FMAP for Last 2 Calendar Quarters of Fiscal Year 2003.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(c) Permitting Maintenance of Fiscal Year 2003 FMAP for Fiscal Year 2004.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(d) General 2.45 Percentage Points Increase for Last 2 Calendar Quarters of Fiscal Year 2003 and Fiscal Year 2004.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (b) and (c)) shall be increased by 2.45 percentage points.

(e) Increase in Cap on Medicaid Payments To Territories.—Notwithstanding any other provision of law, but subject to subsection (g), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(f) Scope of Application.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(g) State Eligibility.—

(1) In general.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) State reinstatement of eligibility permitted.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) Rule of construction.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(h) Sunset Date.—This section is repealed, effective October 1, 2004.

By Ms. MIKULSKI (for herself, Mr. Bond, Mr. Kennedy, Mrs. Lincoln, Mr. Breaux, and Mr. Dodd):

S. 566. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. MIKULSKI. Mr. President, I rise to introduce the Alzheimer's Disease Research, Prevention, and Care Act of 2003. I am pleased that Senators Bond, Kennedy, Lincoln, Breaux, and Dodd are joining me as original cosponsors of this legislation. This bill expands research on Alzheimer's disease at the

National Institute on Aging and reauthorizes the Alzheimer's Demonstration Grant Program that helps patients and families get services like respite care and adult day care.

I believe that "honor thy mother and father" is not only a good commandment to live by, it's also a good policy to govern by. That's why I authored the Alzheimer's Disease Research, Prevention, and Care Act—to put values into action and get behind our Nation's families.

In 1998, the Federal Government was spending just $323 million on Alzheimer's disease research, a disease that affects about 4 million Americans. I fought for more funding for Alzheimer's disease and the National Institute on Aging. Not just an incremental increase—I fought to double the funding. I am proud that the National Institute on Aging was funded at $1 billion this year. That's double what it was 5 years ago. The Federal Government will spend more than $600 million on Alzheimer's research this year.

This investment in Alzheimer's disease research is paying off. Scientists have found evidence that a cholesterol-lowering drug may prevent Alzheimer's. Researchers are testing a vaccine on mice that may prevent the disease in humans. Seven clinical trials are currently underway to find out whether estrogen, vitamin E, gingko biloba, and aspirin can prevent the disease.

Even with these victories, there is still a lot more to do. Alzheimer's disease is a devastating illness. Four million Americans suffer from Alzheimer's, including one in ten people over age 65 and nearly half of those over age 85. Nineteen million Americans say they have a family member with the disease. The Medicare program alone spent $31.9 billion for the care of people with Alzheimer's disease in the year 2000. Without a cure, the number of Alzheimer's patients will more than triple in the next 50 years. Fourteen million Americans will suffer from Alzheimer's by 2050. If science can help delay the onset of Alzheimer's by even five years, it would improve the lives of millions of families and save billions of dollars.

This legislation is about more than just statistics—it's about helping to meet the day-to-day needs of patients with Alzheimer's and the long range needs of the nation. Last year, I chaired a hearing at the Gerontology Research Center at the Johns Hopkins Bayview Medical center in Baltimore. I heard from Peter Savage, a Baltimore man caring for his wife, Ina. Mrs. Savage was diagnosed with early onset Alzheimer's disease at just 53 years old. I heard Mr. Savage's pain and frustration as he told the Subcommittee on Aging about his family's long struggle: watching his wife's slow decline; trying to care for Mrs. Savage by himself and with the help of daughters; the difficulty of finding someone to help them when the caregiving responsibilities were more than the family alone could bear; and the looming costs of nursing home care.

The bill I am introducing gets behind families like the Savages and millions of others struggling with this disease. My bill reauthorizes and expands the Alzheimer's Demonstration grant Program. This program helps patients and families get support services like respite care and home health care. These grants connect help states leverage private resources to fill in gaps in existing services and make sure that programs reach the most vulnerable families. This important program needs to be renewed this year. I'm fighting to expand this program to nearly every state, to keep our promises to America's families.

This bill also helps to meet the long-range needs of our Nation by increasing the Federal Government's commitment to Alzheimer's disease research at the National Institutes of Health and the National Institute on Aging. It puts the Alzheimer's Disease Prevention Initiative in our Federal law books to speed up the discovery of new ways to prevent the disease. My bill sets up a cooperative clinical research program to stretch our Federal research dollars, by making it easier for researchers across the country to share data and enroll patients in clinical trials. It also authorizes research on ways to improve the health of Alzheimer's caregivers—and ease some of their burden.

This bill gets behind our Nation's families—both in the lab and in the community. I look forward to working with my colleagues to pass this important legislation.

By Mr. LUGAR (by request):

S. 571. A bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development.

This proposed legislation has been requested by the President of the United States, George W. Bush, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as to make any suggested amendments to it, as this important initiative of the President continues to be considered by the Committee on Foreign Relations.

I ask unanimous consent that the text of the bill be printed in the RECORD together with a section-by-section analysis of the bill and the letter from the President of the United States to the Congress of the United States dated February 5, 2003.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Millennium Challenge Act of 2003".

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

SEC. 101. STATEMENT OF POLICY.

It is the policy of the United States to reduce global poverty through increased economic growth by supporting a new compact for global development in which increased support is provided by developed countries to those developing countries that are ruling justly, fostering economic freedom, and investing in their citizens.

SEC. 102. ELIGIBILITY CRITERIA.

To be eligible for assistance under this Act, a country ("eligible country")—

(1) must suffer from significant poverty;

(2) must have a demonstrated commitment to—

(A) Just and democratic governance, including political pluralism and the rule of law, and respect for human and civil rights of all citizens, protect private property rights, encourage transparency and accountability of governance, and limit corruption;

(B) Economic freedom, including economic policies that encourage citizens and firms to participate in the global product and capital markets, promote private sector growth, and avoid direct government participation in the economy; and

(C) Investing in its own people, including improving the availability of educational opportunities and health care for all citizens; and

(3) must have entered into a Millennium Challenge Contract, as defined in section 103, with the United States.

SEC. 103. MILLENNIUM CHALLENGE CONTRACT.

(a) IN GENERAL.—A Millennium Challenge Contract, is an agreement between the United States and an eligible country that establishes a multi-year plan of partnership for achieving shared development objectives in furtherance of the purposes of this Act.

(b) ELEMENTS.—The Millennium Challenge Contract shall contain—

(1) the specific objectives that the eligible country and the United States expect to achieve;

(2) the responsibilities of the eligible country and the United States in the achievement of those objectives;

(3) regular benchmarks to measure progress towards achieving the agreed upon objectives and a description of how the objectives will be sustained once assistance under this Millennium Challenge Contract ends;

(4) a plan and a timeframe that describes how and when those objectives will be met;

(5) the role and contribution of the business community, private and voluntary organizations, and other members of civil society

in designing that plan and achieving the objectives;

(6) where appropriate, the contribution of other donors in the achievement of those objectives; and

(7) a plan to ensure financial accountability of funds used to achieve those objectives.

(c) Local Input.—The Millennium Challenge Contract should take into account the perspectives of the rural and urban poor in an eligible country, and should reflect consultation with private and voluntary organizations, and the business community in the country.

(d) Other Donors.—To the maximum extent feasible, activities undertaken to achieve the objectives of the Millennium Challenge Contract should be undertaken in coordination with the assistance activities of other donors.

SEC. 104. MILLENNIUM CHALLENGE ASSISTANCE.

The President is authorized to provide assistance for eligible countries to support policies and programs that are in furtherance of the purposes of this Act. The goal of the Millennium Challenge Account is to reduce poverty by significantly increasing the economic growth trajectory of recipient countries. This requires an emphasis on investments that raise the productive potential of a country's citizens and firms and help integrate its economy into the global product and capital markets. Key areas of focus for Millennium Challenge Assistance will include:

(a) Agricultural development;

(b) Education;

(c) Enterprise and private sector development;

(d) Governance;

(e) Health; and

(f) Trade and investment capability building.

SEC. 105. AUTHORIZATION OF THE MILLENNIUM CHALLENGE ACCOUNT AND AUTHORITIES.

(a) Authorization of Millennium Challenge Account.

(1) Authorization.—There are authorized to be appropriated to the President to carry out this Act $1,300,000,000 for fiscal year 2004, and such sums as may be necessary for subsequent fiscal years.

(2) Availability—Funds appropriated under paragraph (1)—

(A) may be referred to as the "Millennium Challenge Account";

(B) are authorized to remain available until expended; and

(C) are in addition to funds otherwise available for such purposes.

(b) Applicability of Provisions of Law.—

(1) Funds made available to carry out the purposes of this Act may be made available notwithstanding any other provision of law, except the provisions of the Anti-Deficiency Act.

(2) Notwithstanding paragraph (1), country, including the government of a country, that is ineligible to receive assistance under provisions of law that would prohibit assistance under Part I of the Foreign Assistance Act of 1961 shall not be eligible to receive assistance under this Act. If the President waives the provisions of Part I of the Foreign Assistance Act of 1961, such country could receive assistance under this Act.

(c) Use of Other Funds.—Any funds allocated from funds appropriated to carry out any other Act may be made available, if used in conjunction with funds appropriated to carry out this Act, under the authority and subject to the limitations applicable to funds made available to carry out this Act.

SEC. 106. EVALUATION AND ACCOUNT ABILITY.

All concluded Millennium Challenge Contracts and performance evaluations of activities under these contracts shall be made available to the public on the Internet, unless the Board makes a specific finding that a performance evaluation or contract should not be posted.

SEC. 107. GRADUATION.

The Millennium Challenge Contract will provide funds for limited purposes, projects, and terms.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

SEC. 201. ESTABLISHMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) Establishment of the Millennium Challenge Corporation.—There is hereby established in the executive branch, a corporation to be known as the Millennium Challenge Corporation (hereinafter in this Act referred to as the "Corporation").

(b) Responsibility of the Corporation.—It shall be the responsibility of the Corporation to implement title I of this Act, consistent with the direction of the President.

SEC. 202. MANAGEMENT OF THE CORPORATION.

(a) Board of Directors.—The management of the Corporation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of the Secretary of State, who shall Chair, the Secretary of the Treasury, and the Director of the Office of Management and Budget, and may include individuals serving in such positions in an acting capacity.

(b) Functions of the Board.—

(1) The Board shall direct the exercise of all the functions and powers of the Corporation, including the authority to review and approve the eligibility of countries for assistance.

(2) The Board may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised and enjoyed.

(3) Members of the Board shall serve without additional compensation, but may be reimbursed for travel expenses, including per diem, in lieu of subsistence, while engaged in their duties on behalf of the Corporation.

(c) Chief Executive Officer of the Corporation.—

(1) The chief executive officer of the Corporation (hereafter referred to in this title as the "CEO") shall be appointed by the President, by and with the advice and consent of the Senate, and shall exercise the functions and powers vested in the CEO by the President and the Board.

(2) The CEO shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(d) Functions of, and actions by, the Corporation, Board, CEO, or an officer of the United States under this Act are vested in their discretion.

SEC. 203. FUNCTIONS OF THE CORPORATION.

In order to carry out programs in furtherance of the purposes and policies of this Act, and in accordance with the provisions of Title I of this Act, the Corporation may make grants for any eligible country, including to any private or public entity, and including for the purpose of providing technical assistance to any such country for the development of the Millennium Challenge Contract and the management, including financial management, and evaluation of programs for which assistance is provided pursuant to this Act.

SEC. 204. POWERS OF THE CORPORATION.

(A) Powers.—The Corporation—

(1) shall have perpetual succession unless dissolved by the Act of Congress;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may prescribe, amend, and repeal such rules, regulations, and procedures as may be necessary for carrying out the functions of the Corporation;

(4) may make and perform such contracts, grants, and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation and all Millennium Challenge Contracts;

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $95,000 in any fiscal year;

(6) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(7) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act;

(8) may use the United States mails in the same manner and on the same conditions as the executive departments of Government;

(9) may, with the consent of the agency of the United States, use the information, services, facilities, and personnel of that agency on a full or partial reimbursement or on a non-reimbursable basis in carrying out the purposes of this Act;

(10) may contract with individuals for personal services, who shall not be considered federal employees for any provision of law administered by the Office of Personnel Management;

(11) hire or obtain passenger motor vehicles; and

(12) shall have such other powers as may be necessary and incident to carrying out this Act;

(b) Principal Office.—

(1) The Corporation shall maintain its principal office in the metropolitan Washington, D.C. area.

(2) The Corporation may establish other offices in any place including places outside the United States, in the Corporation may carry on all or any of its operations and business.

(c) Positions With Foreign Governments.—When approved by the Corporation, in furtherance of its purposes, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or international organizations.

(d) Commitment Authority.—Subject to the provisions of the Anti-Deficiency Act, a contract, grant, or other agreement which entails commitments for the expenditure of funds available under this Act may commit with expenditures for such period of time as it deemed necessary to carrying out this Act.

(e) Contracting Authority.—In furtherance of the purposes of this Act, functions and powers authorized by this Act may be performed without regard to any provision of law regulating the making, performance, amendment, or modification of contracts, grants, and other agreements.

(f) Taxation of the Corporation.—The Corporation, including all its assets and property, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

SEC. 205. PERSONNEL AND ADMINISTRATIVE AUTHORITIES.

(a) PERSONNEL AUTHORITIES.—Notwithstanding any provision of title 5, United States Code or of the Foreign Service Act of 1980, as amended, the CEO of the Millennium Challenge Corporation may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system, including a retirement benefits programs.

(1) Any system established under this subsection shall not waive, modify, or otherwise affect, with respect to Civil Service and Foreign Service employees—

(A) the public employment principles of merit and fitness set forth in section 2301 of title 5, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistle blowing,

(B) section 2302 (b) of title 5,

(C) chapters 72 and 73 of title 5,

(D) the conflict of interest provisions in title 18, chapter 11 of the United States Code.

(2) The CEO of the Corporation may, without regard to the civil service and foreign service laws and regulations, appoint and terminate personnel as may be necessary to enable the Corporation to perform its duties.

(3) The CEO may fix the compensation of the Corporation personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, and without regard to the provisions of chapters 4 and 5 of the Foreign Service Act, relating to the classification of positions and Foreign Service pay rates.

(4) The Corporation may utilize such authority contained in the Foreign Service Act of 1980, as amended, as the Corporation deems appropriate.

(5) The CEO and other personnel who are employees of the Corporation shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63 (relating to leave), 81 (relating to compensation for work injuries), 85 (relating to unemployment benefits), 87 (relating to life insurance benefits), 89 (relating to health insurance benefits), and 90 (relating to long-term care insurance) of that title. If the CEO chooses not to waive chapters 83 and 84 (relating to retirement benefits) of title 5, or chapter 8 of the Foreign Service Act (relating to Foreign Service retirement systems), employees of the Corporation shall be eligible for benefits under those chapters as otherwise applicable.

(6) No individual, except for the officers of the Corporation, may be employed by the Corporation for a period in excess of 5 years: *Provided*, That the CEO, under special circumstances, may approve an extension of the length of employment on an individual basis.

(7) Individuals employed by the Corporation, including individuals detailed to or contracted by the Corporation, while performing duties in any country or place outside the United States, and their families shall, if they are nationals of or permanently resident in such country or place, enjoy the privileges and immunities of at least the administrative and technical staff of the Mission of the United States to such country and shall be subject to 22 U.S.C. 3927 in the same manner as United States Government employees.

(8) The CEO may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(b) DETAIL OF PERSONNEL TO THE CORPORATION.—

(1) Any Federal Government employee may be detailed to the Corporation on a fully or partially reimbursable or on a nonreimbursable basis, and such detail shall be without interruption or loss of civil service or Foreign Service status or privilege.

(2) Alternatively, an employee serving under a career or career conditional appointment or the equivalent in an agency who transfers to or converts to an appointment in the Corporation with the consent of the head of the agency is entitled to be returned to the employee's former position or a position of like seniority, status, and pay without grade or pay reduction in the agency if the employee—

(A) is being separated from the Corporation for reasons other than misconduct, neglect of duty, or malfeasance; and (B) applies for return not later than 30 days before the date of the termination of the employment in the Corporation.

(3) An employee of a private sector organization assigned to the Corporation under this section is deemed, during the period of assignment, to be on detail to such agency. Such employee—

(A) may continue to receive pay and benefits from the private sector organization from which he is assigned;

(B) is deemed to be an employee of the Corporation as specified in (a)(5) of this section, for the purposes of chapters 81 and 85 of title 5 U.S.C.;

(C) may not have access to any trade secrets or to any other non-public information which is of commercial value to the private sector organization from which he is assigned, and

(D) is subject to such regulations as the President may prescribe. Such assignment may be made with or without reimbursement by the Corporation for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to its employee benefit system. A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to the Corporation.

(c) ALLOCATION OF FUNDS.—

(1) TRANSFER OR ALLOCATION.—The Corporation may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(2) USE OF SERVICES.—For carrying out the purposes of this Act, the Corporation may utilize the services and facilities of, or procure commodities from, any agency of the United States Government under such terms and conditions as may be agreed to by the head of such agency and the Corporation.

(d) OTHER AUTHORITIES.—Except where inconsistent with the provisions of this Act, the Corporation is authorized to use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

(e) GOVERNMENT CORPORATION CONTROL ACT.—The Corporation shall be subject to the provisions of the Government Corporation Control Act, title 31, United States Code.

MILLENNIUM CHALLENGE ACT OF 2003

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Millennium Challenge Act of 2003".

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

Sec. 101. Statement of policy

Section 101 states the objective of the Millennium Challenge Account, which is to reduce poverty through promoting sustained economic growth in developing countries committed to implementing good policies.

Sec. 102. Eligibility criteria

Section 102 identifies the criteria by which countries will be eligible to receive Millennium Challenge Account (MCA) assistance funds. MCA assistance will go to:

Very poor countries. It is currently anticipated that in FY 2004, countries eligible for MCA funds will be those that are currently eligible to borrow from the International Development Association (IDA) and which have per capita incomes below $1.435 (the historical IDA "cutoff" for aid). In FY 2005, all countries with per capita incomes below $1,435 will be eligible for MCA assistance. In FY 2006, the list of eligible countries further expands to those with per capita incomes up to $2,975 (the current World Bank cutoff for lower middle income countries). The per capita income levels will be adjusted on an annual basis.

Countries with a demonstrated commitment to ruling justly, encouraging economic freedom, and investing in their people. To assess this commitment and identify recipient countries, the MCA will use clear, concrete, and objective criteria. It is the Administration's intent that in 2004, countries will be selected based on 16 indicators chosen because of the relative quality and objectivity of their data, country coverage, public availability, and correlation with growth and poverty reduction. The specific indicators are listed below with their source noted.

Governing Justly:

Civil Liberties (Freedom House);

Political Rights (Freedom House);

Voice and Accountability (World Bank Institute);

Government Effectiveness (World Bank Institute);

Rule of Law (World Bank Institute); and

Control of Corruption (World Bank Institute).

Investing in People:

Public Primary Education Spending as Percent of Gross Domestic Product (GDP) (World Bank/national sources);

Primary Education Completion Rate (World Bank/national sources);

Public Expenditures on Health as Percent of GDP (World Bank/national sources); and

Immunization Rates: DPT (diphtheria, pertussis, tetanus) and Measles (World Bank/UN/national sources).

Promoting Economic Freedom:

Country Credit Rating (Institutional Investor Magazine);

Inflation (International Monetary Fund [IMF]);

3-Year Budget Deficit (IMF/national sources);

Trade Policy (Heritage Foundation);

Regulatory Quality (World Bank Institute); and

Days to Start a Business (World Bank).

Countries that have signed a Millennium Challenge Contract with the United States. The terms of this contract are defined in Section 103 below.

Sec. 103. Millennium challenge contract

Section 103 specifies the contractual relationship between recipient nations and the United States. Each MCA country will negotiate and sign a Millennium Challenge Contract with the Millennium Challenge Corporation (MCC), established in Title II. To initiate the negotiation, the selected MCA countries will submit country proposals for MCA funds which integrate official interests with those of the private sector and civil society.

The negotiated Millennium Challenge Contracts will include a limited number of clear and measurable objectives, regular benchmarks to measure progress toward achieving the objectives, a plan and a timeframe describing how and when the objectives will be met. Each contract will state the responsibilities of the recipient country and the United States, and describe the role and contributions of non-governmental entities including other donors as appropriate. In addition, all contracts will provide for the financial accountability of MCA funds.

Sec. 104. Millennium challenge assistance

Section 104 authorizes the President to provide assistance for activities that contribute to the achievement of the objectives specified in the contract. These activities will drive productivity and economic growth in MCA countries. Areas of focus for the MCA include agricultural development, education, enterprise and private sector promotion, good governance, health, and trade and investment capacity building.

Sec. 105. Authorization of the millennium challenge account and authorities

Section 105 authorizes appropriations to the President of $1.3 billion in FY 2004 to carry out the MCA and such sums as may be necessary for subsequent fiscal years. It is anticipated that funding for MCA will reach $5 billion by FY 2006. MCA funds will be available until expended ("no-year funds"). This availability of funds allows the Corporation to obligate funds in the most productive manner.

Section 105 allows the provision of MCA assistance to countries notwithstanding any other provision of law with the exception of prohibiting MCA assistance to countries that are ineligible to receive assistance under part I of the Foreign Assistance Act of 1961. This provision restricts or prohibits assistance to countries that engage in actions prohibited in part I, including countries that: violate human rights, support trafficking in narcotics or human beings, and contribute to terrorist financing. If the President waives any of these provisions to make a country eligible to receive assistance under part I of the Foreign Assistance Act, then that country also would be eligible to receive MCA assistance. MCA assistance would be subject to the provisions of the Anti-Deficiency Act.

In addition, section 105 makes the authorities and limitations that are applicable to MCA assistance applicable, as well, to any other funds used in conjunction with MCA funds.

Sec. 106. Evaluation and accountability

Section 106 requires the Millennium Challenge Corporation, established in Title II, to make all concluded Millennium Challenge Contracts and their formal performance evaluations publicly available on the Internet. The public nature of MCA performance information makes the recipient countries and implementers of MCA programs directly accountable to the citizens of MCA countries and United States taxpayers.

Sec. 107. Graduation

Participation in the MCA will be limited according to the terms of the Millennium Challenge Contracts, which will define the purposes, activities and timeframe. MCA assistance will have a clearly defined end date. For example, at the conclusion of the contract period, MCA assistance will end unless participant countries submit a new proposal and renegotiate a new contract with the Corporation. Each contract will also specify the conditions under which the contract will be amended or terminated, including for reasons of poor performance.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

Sec. 201. Establishment of the millennium challenge corporation

Section 201 establishes an independent U.S. Government Corporation that will implement the MCA according to provisions of Title I of this Act.

Sec. 202. Management of the corporation

Section 202 establishes a board of directors for the Corporation that will be chaired by the Secretary of State and include the Secretary of the Treasury, and the Director of the Office of Management and Budget. Individuals serving in these positions in an acting capacity may serve on the Board. The Board will direct the exercise of all functions and powers of the Corporation, and shall make the final decision on the eligibility and selection of MCA countries.

The position of the CEO of the Corporation will be a Senate-confirmed Presidential appointment. The CEO's compensation is fixed at the equivalent of a deputy secretary of a department of level II of the Executive Schedule.

Sec. 203. Functions of the corporation

Section 203 authorizes the Corporation to make grants to any private or public entity to carry out the Millennium Challenge Contracts, to provide technical assistance to develop or carry out the Contracts, and to provide for the financial management and evaluation of MCA programs.

Sec. 204. Powers of the corporation

Section 204 provides general powers to the MCC to enable it to conduct business operations. The principal office of the MCC is to be established in the Washington, D.C. metropolitan area. The MCC also has the authority to establish overseas offices as it sees fit. Employees of the MCC, and individuals detailed to the MCC, are provided the authority to hold offices with foreign governments, foreign government agencies, or international organizations, so long as no compensation is paid to such employees or individuals by the foreign entity or international organization. Contracts and other commitments of funds may make commitments for the expenditure of funds for such period of time as the MCC deems necessary. This section also provides discretion to the MCC with regard to the making, performance, amendment, or modification of contracts, grants, and other agreements. Finally, this section provides that the MCC and its assets and property are to be exempt from taxation by the United States or by any State or local taxing authority.

Sec. 205. Personnel and administrative authorities

Section 205 authorizes the CEO of the MCC, in coordination with the Director of the Office of Personnel Management, to establish a human resources management system for the Corporation, including a retirement benefits program. However, provisions of title 5 of the United States Code related to anti-discrimination, merit systems principles, whistle blowing, and conflicts of interest, are specifically made applicable to the MCC. Employees of the MCC are considered Federal employees for purposes of leave benefits, workers compensation, unemployment benefits, life insurance, health insurance, and long-term care insurance.

Section 205 also provides the authorities for detailing U.S. government employees and private sector staff to the Corporation. Federal employees have two options for serving in the Corporation. They may be detailed on a reimbursable or nonreimburseable basis without interruption of their civil service status and privileges. Alternatively, they may resign from their home agency and retain employment rights. Private sector organizations may also detail staff to the MCC, while continuing to pay those employees pay and benefits.

The Corporation has the authority to allocate or transfer money to other agencies; use the services and facilities of any U.S. agency under agreed upon terms; and use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

Section 205 also makes the provisions of the Government Corporation Control act applicable to the MCC.

To the Congress of the United States:

I am pleased to transmit a legislative proposal to establish the Millennium Challenge Account and the Millennium Challenge Corporation. Also transmitted is a section-by-section analysis.

The Millennium Challenge Account (MCA) represents a new approach to providing and delivering development assistance. This new compact for development breaks with the past by tying increased assistance to performance and creating new accountability for all nations. This proposal implements my commitment to increase current levels of core development assistance by 50 percent over the next 3 years, thus providing an annual increase of $5 billion by fiscal; year 2006. To be eligible for this new assistance, countries must demonstrate commitment to three standards—ruling justly, investing in their people, and encouraging economic freedom. Given this commitment, and the link between financial accountability and development success, special attention will be given to fighting corruption.

The goal of the Millennium Challenge Account initiative is to reduce poverty by significantly increasing economic growth in recipient countries through a variety of targeted investments. The MCA will be administered by a new, small Government corporation, called the Millennium Challenge Corporation, designed to support innovative strategies and to ensure accountability for measurable results. The Corporation will be supervised by a Board of Directors chaired by the Secretary of State and composed of other Cabinet-level officials. The Corporation will be led by a Chief Executive Officer appointed by the President, by and with the advice and consent of the Senate. This proposal provides the Corporation with flexible authorities to optimize program implementation, contracting, and personnel selection while pursuing innovative strategies.

The Millennium Challenge Account initiative recognizes the need for country ownership, financial oversight, and accountability for results to ensure effective assistance. We cannot accept permanent poverty in a world of progress. The MCA will provide people in developing nations the tools they need to seize the opportunities of the global economy. I urge the prompt and favorable consideration of this legislation.

GEORGE W. BUSH.
THE WHITE HOUSE *February 5, 2003.*

By Mr. FRIST:

S. 572. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. DODD, and Mr. ENZI):

S. 573. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. FRIST. Mr. President, this year, due to the rapid and tremendous advancements in our knowledge and in the science of organ transplantation, thousands of Americans will receive a life-saving organ transplant. These advances have allowed us to save the lives of patients who were once not considered candidates for transplantation.

As a heart and lung transplant surgeon, I have had the opportunity to watch the field develop and grow over the past three decades. I remember my own experiences—of conducting some of the first transplants using hearts and lungs—and recognize our tremendous progress since that time. And I also know the hundreds of my own patients who live improved lives due to advances in transplantation.

But I have also shared in the grief of patients who died before they could receive a transplant—a direct result of a large and growing shortage of organ donors. Medical advances have produced a staggering increase in the number of eligible transplant candidates, while the supply of organs fails to keep pace. Today, more than 80,000 patients await a transplant (a four-fold increase from just over a decade ago). At the same time, more patients die each year before they can receive that life-saving organ.

I have also witnessed firsthand how great, lifesaving hope can spring from great tragedy. Earlier this year, I offered my assistance at the scene of a horrible automobile accident in Florida. Most of the family in the accident died—including two young children. While my heart goes out to his family for their terrible loss, from this tragedy has come new life. This family agreed to donate the organs of their loved ones. This gift has saved the life of a boy from the Virgin Islands. We must honor this family, and all other donor families, by redoubling our efforts to increasing organ donation.

There is no need for people to die while awaiting a new organ. In my practice, I carried a card that listed my patients who were waiting on hearts—always aware that several of them would die before a live-saving organ would become available. It was this needless loss of life that was the most painful, most frustrating and most disappointing part of my work.

In 2000, there were almost 23,000 transplants—a significant increase over the roughly 13,000 transplant performed in 1988. Between 1990 and 2001, the number of organ donors almost doubled, mainly as a result of an increase in organs from live donors. In fact, over those ten years, the number of cadaveric donors increased only 35 percent while the demand for transplant has more than tripled.

More must be done. There are simply not enough organ donors; public awareness has not kept up with the rapid advances of transplantation. It is our duty to do all we can to raise awareness about the gift of life.

We must do is work to encourage all Americans to share their desire to be an organ donor with their families.

We must find other ways to improve organ donation—to identify eligible organs and work with families to help them better understand the value of donation. This is a new science—one that I have had the privilege of watching firsthand grow from theories and experiments to accepted medical practice. My mentor, Dr. Norman Shumway, was one of the leaders in the field; and the advent of cyclosporin was critical to its progress. But much remains to be learned, and we must continue to move forward.

That is why one of my first priorities when I came to the Senate in 1995 was to establish the Congressional Task Force on Organ Donation—to promote awareness of this important issue and encourage a new dialogue seeking answers.

Recent years have witnessed a new emphasis on highlighting public awareness of this need. In particular, I commend Secretary Thompson for making organ donation a top priority at the Department of Health and Human Services.

There also are a number of complementary legislative approaches that we should pursue towards this end.

We should provide funding for innovative and bold demonstration projects to improve donation and recovery rates. As part of this, we should ensure that the projects' results will be evaluated quickly and their lessons be disseminated broadly.

We should provide for the placement and evaluation of organ donation coordinators in hospitals—a model that has worked with success in other countries.

We should expand the authority of the Agency for Healthcare Research and Quality to conduct important research on the recovery, preservation and transportation of organs. The science of organ transplantation has been improved and refined since its inception. Yet all too often, organ donation efforts are conducted under the same practices as they were twenty years ago. We must establish a strong evidence-based approach to enhancing organ donation and recovery.

We must encourage living organ donation by reducing potential financial disincentives facing living donors through the reimbursement of travel and other expenses incurred by living donors and their families.

We must also seriously evaluate the long-term health effects of serving as a living donor by asking the Institute of Medicine to report on this issue and by establishing a living donor registry to track the health of individuals who have served as living organ donors.

We must seriously examine and improve the role of organ donor registries. These programs have an important role to play in improving organ donation rates and have been used with different levels of success in some states. However, a number of questions surrounding registries remain unanswered and their effectiveness has not been fully evaluated.

We must undertake a high-level systematic examination of the effectiveness of a range of organ donation approaches. Specifically, the Institute of Medicine should evaluate practices of organ procurement organizations, States, and other countries. This study should examine existing barriers to organ donation, as well as best donation and recovery practices, such as mandated choice and presumed consent. The study should evaluate consent practices, existing state routine notification laws, and the impact of requests for consent where registry listing constitutes express consent under State law. This review should be timely and include recommendations for action necessary to replicate the best practices identified and to otherwise increase organ donation rates.

We must recognize and honor the sacrificial decisions to give consent and give the gift of life made each year by thousands of donors and families. We must do this in such a way as to honor those sharing life through donation and increase public awareness of this issue.

These initiatives are contained within two important pieces of legislation I am introducing today.

The Organ Donation and Recovery Improvement Act is a bipartisan, comprehensive bill that seeks to improve the overall process of organ donation and recovery, enhance our knowledge base in these fields, encourage novel approaches to this growing problem and increase the number of organs available for transplants each year. The bill also seeks to remove potential barriers to donation, while identifying and focusing on best practices in organ donation. I thank Senator CHRISTOPHER DODD and Senator MIKE ENZI for their assistance on this important bill. I also want to thank the wide range of patient and organ transplantation organizations who have done good work on this bill, including the American Society of Transplantation, American Society of Transplant Surgeons, North American Transplant Coordinators Organization, Tennessee Donor Services, New Mexico Donor Services, and Golden State Donor Services.

The Gift of Life Congressional Medal Act will make each donor or donor family eligible to receive a commemorative Congressional medal. This legislation, which does not cost taxpayers a penny, will recognize the thousands of individuals each year who share the gift of life through organ donation. Moreover, it will encourage potential donors and enhance public awareness of the importance of organ donation to the over 80,000 Americans waiting for a transplant. Representative PETE STARK will soon be introducing the companion bill in the House of Representatives, and I thank him for his dedication in this area.

Organ donation is one of the most important issues before us today. Each year, thousands of donors and families make the important decision to give consent and give the gift of life. We must recognize and honor their sacrifice, and, in so honoring, work to increase donation rates and allow more families to receive this gift of life each year. Hundreds of my own patients are alive today because of this gift. Let us work together to allow more patients and families to experience this miracle.

I ask unanimous consent that the text of the bills be printed in the RECORD.

S. 572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gift of Life Congressional Medal Act of 2003”.

SEC. 2. CONGRESSIONAL MEDAL.

The Secretary of the Treasury shall design and strike a bronze medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury, to commemorate organ donors and their families.

SEC. 3. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Any organ donor, or the family or family member of any organ donor, shall be eligible for a medal described in section 2.

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall direct the entity holding the Organ Procurement and Transplantation Network (hereafter in this Act referred to as “OPTN”) to contract to—

(1) establish an application procedure requiring the relevant organ procurement organization, as described in section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)), through which an individual or their family made an organ donation, to submit to the OPTN contractor documentation supporting the eligibility of that individual or their family to receive a medal described in section 2; and

(2) determine, through the documentation provided, and, if necessary, independent investigation, whether the individual or family is eligible to receive a medal described in section 2.

SEC. 4. PRESENTATION.

(a) DELIVERY TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of the Treasury shall deliver medals struck pursuant to this Act to the Secretary of Health and Human Services.

(b) DELIVERY TO ELIGIBLE RECIPIENTS.—The Secretary of Health and Human Services shall direct the OPTN contractor to arrange for the presentation to the relevant organ procurement organization all medals struck pursuant to this Act to individuals or families that, in accordance with section 3, the OPTN contractor has determined to be eligible to receive medals under this Act.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only 1 medal may be presented to a family under subsection (b). Such medal shall be presented to the donating family member, or in the case of a deceased donor, the family member who signed the consent form authorizing, or who otherwise authorized, the donation of the organ involved.

(2) EXCEPTION.—In the case of a family in which more than 1 member is an organ donor, the OPTN contractor may present an additional medal to each such organ donor or their family.

SEC. 5. DUPLICATE MEDALS.

(a) IN GENERAL.—The Secretary of Health and Human Services or the OPTN contractor may provide duplicates of the medal described in section 2 to any recipient of a medal under section 4(b), under such regulations as the Secretary of Health and Human Services may issue.

(b) LIMITATION.—The price of a duplicate medal shall be sufficient to cover the cost of such duplicates.

SEC. 6. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of section 5111 of title 31, United States Code.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

SEC. 8. SOLICITATION OF DONATIONS.

(a) IN GENERAL.—The Secretary of the Treasury may enter into an agreement with the OPTN contractor to collect funds to offset expenditures relating to the issuance of medals authorized under this Act.

(b) PAYMENT OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all funds received by the Organ Procurement and Transplantation Network under subsection (a) shall be promptly paid by the Organ Procurement and Transplantation Network to the Secretary of the Treasury.

(2) LIMITATION.—Not more than 5 percent of any funds received under subsection (a) shall be used to pay administrative costs incurred by the OPTN contractor as a result of an agreement established under this section.

(c) NUMISMATIC PUBLIC ENTERPRISE FUND.—Notwithstanding any other provision of law—

(1) all amounts received by the Secretary of the Treasury under subsection (b)(1) shall be deposited in the Numismatic Public Enterprise Fund, as described in section 5134 of title 31, United States Code; and

(2) the Secretary of the Treasury shall charge such fund with all expenditures relating to the issuance of medals authorized under this Act.

(d) START-UP COSTS.—A 1-time amount not to exceed $55,000 shall be provided to the OPTN contractor to cover initial start-up costs. The amount will be paid back in full within 3 years of the date of the enactment of this Act from funds received under subsection (a).

(e) NO NET COST TO THE GOVERNMENT.—The Secretary of the Treasury shall take all actions necessary to ensure that the issuance of medals authorized under section 2 results in no net cost to the Government.

SEC. 9. DEFINITIONS.

In this Act:

(1) ORGAN.—The term “organ” means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by regulation of the Secretary of Health and Human Services or the OPTN contractor.

(2) ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—The term “Organ Procurement and Transplantation Network” means the Organ Procurement and Transplantation Network established under section 372 of the Public Health Service Act (42 U.S.C. 274).

SEC. 10. SUNSET PROVISION.

This Act shall be effective during the 5-year period beginning on the date of the enactment of this Act.

S. 573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Organ Donation and Recovery Improvement Act”.

TITLE I—ORGAN DONATION AND RECOVERY

SEC. 101. INTERAGENCY TASK FORCE ON ORGAN DONATION.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended—

(1) by redesignating section 378 (42 U.S.C. 274g) as section 378E; and

(2) by inserting after section 377 (42 U.S.C. 274f) the following:

“SEC. 378. INTER-AGENCY TASK FORCE ON ORGAN DONATION AND RESEARCH.

“(a) IN GENERAL.—The Secretary shall establish an inter-agency task force on organ donation and research (referred to in this section as the ‘task force’) to improve the coordination and evaluation of—

“(1) federally supported or conducted organ donation efforts and policies; and

“(2) federally supported or conducted basic, clinical and health services research (including research on preservation techniques and organ rejection and compatibility).

“(b) COMPOSITION.—

“(1) IN GENERAL.—The task force shall be composed of—

“(A) the Surgeon General, who shall serve as the chairperson; and

“(B) representatives to be appointed by the Secretary from relevant agencies within the Department of Health and Human Services (including the Health Resources and Services Administration, Centers for Medicare & Medicaid Services, National Institutes of Health, and Agency for Healthcare Research and Quality).

"(2) OTHER EX OFFICIO MEMBERS.—The Secretary shall invite the following individuals to serve as ex officio members of the task force:

"(A) A representative from the Department of Transportation.

"(B) A representative from the Department of Defense.

"(C) A representative from the Department of Veterans Affairs.

"(D) A representative from the Office of Personnel Management.

"(E) A physician representatives from the board of directors of the Organ Procurement and Transplantation Network.

"(F) Representatives of other Federal agencies or departments as determined to be appropriate by the Secretary.

"(c) ANNUAL REPORT.—In addition to activities carried out under subsection (a), the task force shall support the development of the annual report under section 378D(c).

"(d) TERMINATION.—The task force may be terminated at the discretion of the Secretary following the completion of at least 2 annual reports under section 378D(c). Upon such termination, the Secretary shall provide for the on-going coordination of federally supported or conducted organ donation and research activities.".

SEC. 102. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378, as added by section 101, the following:

"SEC. 378A. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

"(a) GRANTS TO INCREASE DONATION RATES.—The Secretary shall award peer-reviewed grants to public and non-profit private entities, including States, to carry out studies and demonstration projects to increase organ donation and recovery rates, including living donation.

"(b) ORGAN DONATION PUBLIC AWARENESS PROGRAM.—The Secretary shall establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.

"(c) DEVELOPMENT OF CURRICULA AND OTHER EDUCATION ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, in coordination with the Organ Procurement and Transplantation Network and other appropriate organizations, shall support the development and dissemination of model curricula to train health care professionals and other appropriate professionals (including religious leaders in the community, funeral directors, and law enforcement officials) in issues surrounding organ donation, including methods to approach patients and their families, cultural sensitivities, and other relevant issues.

"(2) HEALTH CARE PROFESSIONALS.—For purposes of subparagraph (A), the term 'health care professionals' includes—

"(A) medical students, residents and fellows, attending physicians (through continuing medical education courses and other methods), nurses, social workers, and other allied health professionals; and

"(B) hospital- or other health care-facility based chaplains; and

"(C) emergency medical personnel.

"(d) LIMITED DEMONSTRATION PROJECTS.—

"(1) REPORTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report evaluating the ethical implications of proposals for demonstration projects to increase cadaveric donation.

"(2) AUTHORITY.—Notwithstanding section 301 of the National Organ Transplant Act (42 U.S.C. 274e), upon the submission of and consistent with the report by the Secretary under paragraph (1), the Secretary may conduct up to 3 demonstration projects to increase cadaveric donation.

"(3) DURATION.—Each project shall last no more than 3 years, and shall be conducted in a limited number of sites or areas.

"(4) REVIEW.—The Secretary shall provide for the ongoing ethical review and evaluation of such projects to ensure that such projects are administered effectively as possible and in accordance with the stated purpose of this subsection under paragraph (2).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.

"SEC. 378B. GRANTS REGARDING HOSPITAL ORGAN DONATION COORDINATORS.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary may award grants to qualified organ procurement organizations under section 371 to establish programs coordinating organ donation activities of eligible hospitals and qualified organ procurement organizations under section 371. Such activities shall be coordinated to increase the rate of organ donations for such hospitals.

"(2) ELIGIBLE HOSPITAL.—For purposes of this section, an eligible hospital is a hospital that performs significant trauma care, or a hospital or consortium of hospitals that serves a population base of not fewer than 200,000 individuals.

"(b) ADMINISTRATION OF COORDINATION PROGRAM.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that the program under such subsection will be carried out jointly—

"(1) by representatives from the eligible hospital and the qualified organ procurement organization with respect to which the grant is made; and

"(2) by such other entities as the representatives referred to in paragraph (1) may designate.

"(c) EVALUATIONS.—Within 3 years after the award of grants under this section, the Secretary shall ensure an evaluation of programs carried out pursuant to subsection (a) in order to determine the extent to which the programs have increased the rate of organ donation for the eligible hospitals involved. Such evaluation shall include recommendations on whether the program should be expanded to include other grantees, such as hospitals.

"(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a qualifying organ donation entity under this section unless such entity agrees that, with respect to costs to be incurred by the entity in carrying out activities for which the grant was awarded, the entity shall contribute (directly or through donations from public or private entities) non-Federal contributions in cash or in kind, in an amount equal to not less than 30 percent of the amount of the grant awarded to such entity.

"(e) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.".

SEC. 103. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378B, as added by section 102, the following:

"SEC. 378C. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

"(a) DEVELOPMENT OF SUPPORTIVE INFORMATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality shall develop scientific evidence in support of efforts to increase organ donation and improve the recovery, preservation, and transportation of organs.

"(b) ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

"(1) conduct or support evaluation research to determine whether interventions, technologies, or other activities improve the effectiveness, efficiency, or quality of existing organ donation practice;

"(2) undertake or support periodic reviews of the scientific literature to assist efforts of professional societies to ensure that the clinical practice guidelines that they develop reflect the latest scientific findings;

"(3) ensure that scientific evidence of the research and other activities undertaken under this section is readily accessible by the organ procurement workforce; and

"(4) work in coordination with the appropriate professional societies as well as the Organ Procurement and Transplantation Network and other organ procurement and transplantation organizations to develop evidence and promote the adoption of such proven practices.

"(c) RESEARCH, DEMONSTRATIONS, AND TRAINING.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality, as appropriate, shall provide support for research, demonstrations, and training as appropriate, to—

"(1) develop a uniform clinical vocabulary for organ recovery;

"(2) apply information technology and telecommunications to support the clinical operations of organ procurement organizations;

"(3) enhance the skill levels of the organ procurement workforce in undertaking quality improvement activities; and

"(4) assess specific organ recovery, preservation, and transportation technologies.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.".

SEC. 104. REPORTS.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378C, as added by section 103, the following:

"SEC. 378D. REPORTS.

"(a) IOM REPORT ON BEST PRACTICES.—

"(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations.

"(2) CONSIDERATIONS.—In conducting the evaluation under paragraph (1), the Institute of Medicine shall examine—

"(A) existing barriers to organ donation, including among minority populations; and

"(B) best donation and recovery practices, including—

"(i) mandated choice and presumed consent;

"(ii) organ procurement organization and provider consent practices (including consent best practices);

"(iii) the efficacy and reach of existing State routine notification laws with respect to organ procurement organizations;

"(iv) the impact of requests for consent in States where registry registration constitutes express consent under State law; and

"(v) recommendations with respect to achieving higher donation rates, including among minority populations.

"(3) Report.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection. Such report shall include recommendations for administrative actions and, if necessary, legislation in order to replicate the best practices identified in the evaluation and to otherwise increase organ donation and recovery rates.

"(b) IOM Report on Living Donations.—

"(1) In general.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of living donation practices and procedures. Such evaluation shall include, but is not limited to an assessment of issues relating to informed consent and the health risks associated with living donation (including possible reduction of long-term effects).

"(2) Report.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection.

"(c) Report on Donation and Recovery Activities.—

"(1) In general.—The Secretary as part of the report specified in 274d shall submit an evaluation concerning federally supported or conducted organ donation and recovery activities, including donation and recovery activities evaluated or conducted under the amendments made by the Organ Donation and Recovery Improvement Act to increase organ donation and recovery rates.

"(2) Requirements.—To the extent practicable, each evaluation submitted under paragraph (1) shall—

"(A) evaluate the effectiveness of activities, identify best practices, and make recommendations regarding the adoption of best practices with respect to organ donation and recovery; and

"(B) assess organ donation and recovery activities that are recently completed, ongoing, or planned.".

SEC. 105. TECHNICAL AMENDMENT CONCERNING ORGAN PURCHASES.

Section 301(c)(2) of the National Organ Transplant Act (42 U.S.C. 274e(c)(2)) is amended by adding at the end the following: "Such term does not include familial, emotional, psychological, or physical benefit to an organ donor, recipient, or any other party to an organ donation event.".

TITLE II—LIVING DONATION EXPENSES

SEC. 201. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

"SEC. 377. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

"(a) In General.—The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

"(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred as 'donating individuals'); and

"(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

"(b) Preference.—The Secretary shall, in carrying out subsection (a), give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

"(c) Certain Circumstances.—The Secretary may, in carrying out subsection (a), consider—

"(1) the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

"(2) the term 'qualifying expenses' as including the expenses of having relatives or other individuals, not to exceed 2, who accompany or assist the donating individual for purposes of subsection (a) (subject to making payment for only such types of expenses as are paid for donating individual).

"(d) Relationship to Payments Under Other Programs.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

"(2) by an entity that provides health services on a prepaid basis; or

"(3) by the recipient of the organ.

"(e) Authorization of Appropriations.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.".

TITLE III—ORGAN REGISTRIES

SEC. 301. ADVISORY COMMITTEE.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 371 the following:

"SEC. 371A. ADVISORY COMMITTEE.

"(a) In General.—Not later than 6 months after enactment, the Secretary shall establish an advisory committee to study existing organ donor registries and make recommendations to Congress regarding the costs, benefits, and expansion of such registries.

"(b) Membership.—The committee shall be composed of 10 members of whom—

"(1) at least 1 member shall be a physician with experience performing transplants;

"(2) at least 1 member shall have experience in organ recovery;

"(3) at least 1 member shall be representative of an organization with experience conducting national awareness campaigns and donor outreach;

"(4) at least 1 member shall be representative of a State with an existing donor registry;

"(5) at least 1 member shall have experience with national information systems where coordination occurs with State-based systems; and

"(6) at least 1 member shall represent donor families, transplant recipients, and those awaiting transplantation.

"(c) Initial Meeting.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

"(d) Meetings.—The committee shall meet at the call of the Chairman who shall be selected by the Secretary.

"(e) Compensation.—Each member of the committee shall not receive compensation for services provided under this section.

"(f) Travel Expenses.—The members of the committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the committee.

"(g) Administrative Support.—The Secretary shall ensure that the committee is provided with administrative support or any other technical assistance that such committee needs in carrying out its duties.

"(h) Permanent Committee.—Section 14 of the Federal Advisory Committee Act shall not apply to the committee established under this section.

"(i) Report.—Not later than 1 year after the date on which the committee is established under subsection (a), the committee shall prepare and submit to Congress a report regarding the status of organ donor registries, current best practices, the effect of organ donor registries on organ donation rates, the merits of expanding organ donor registries, issues relating to consent, the efficacy of current privacy protections, potential forms of technical assistance, and recommendations regarding improving the effectiveness and establishing formal linkages between organ donor registries.

"(j) Definition.—In this section, the term 'organ donor registry' means a listing of individuals who have indicated their desire to donate their organs and tissue upon their death through driver's license preferences or other formal mechanisms.".

SEC. 302. NATIONAL LIVING DONOR REGISTRY.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.), as amended by section 301, is further amended by inserting after section 371A the following:

"SEC. 371B. NATIONAL LIVING DONOR REGISTRY.

"The Secretary shall by contract establish and maintain a registry of individuals who have served as living organ donors for the purpose of evaluating the long-term health effects associated with living organ donations.".

SEC. 303. QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.

Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended by striking paragraph (3).

Mr. DODD. Mr. President, for tragic reasons, organ donation has been in the spotlight of late. On Saturday, February 23, 2002, 17-year-old Jessica Santillan died after receiving organs from a donor with an incompatible blood type. I would like to take this opportunity to express my heartfelt condolences to Jessica's family and friends.

While it is critical to understand how mistakes led to Jessica's death, and how they can be avoided in the future, this tragic incident should not diminish our commitment to organ donation—a procedure that saves thousand of lives each year, and was in fact Jessica's only chance for survival. Instead, we should make a commitment to increasing our donation rates and saving even more lives.

Today, I am pleased to reintroduce legislation with Senator BILL FRIST to do just that. The Organ Donation and Recovery Improvement Act, which Senator FRIST and I originally introduced last Congress, will bring positive attention to this critical public health issue by increasing resources and coordinating efforts to improve organ donation and recovery. I am proud to be working with my friend and colleague, Senator FRIST, whose leadership and professional experience as a heart and lung transplant surgeon has been critical in making this issue a priority.

At this very moment, more than 80,000 people are waiting for an organ transplant, and one person is added to this list every thirteen minutes. This list has increased from 19,095 people a decade ago. Unfortunately, the discrepancy between the need and the number of available organs is growing exponentially. From 1999 to 2000, transplant waiting lists grew by 10.2 percent, while the total increase in donations grew by 5.3 percent. Tragically, in 2000, approximately 5,500 wait-listed patients died waiting for an organ.

Undoubtedly, the task before our nation in caring for these patients seems daunting. However, each person who makes the decision to donate can save as many as three lives. None of us wants to imagine the anguish of watching a family member or a friend wait for an organ transplant hoping that their name reaches the top of the list before their damaged organ fails or having to bear the emotional, physical, or financial costs of undergoing a transplant procedure. For those that do, and for all of those that will, we must improve and strengthen our systems of organ donation and recovery. The legislation that Senator FRIST and I are introducing today represents a significant step towards this goal. It would establish a task force to evaluate and improve federal efforts relating to organ donation and transplantation research, and would also authorize $3 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for grants to Organ Procurement Organizations to coordinate donation activities between hospitals.

A vital part of increasing donations lies in education and public awareness initiatives. This legislation would authorize $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 to educate the public about issues surrounding organ donation, as well as train health care providers and other appropriate professionals in the best methods to use when approaching possible donors and their families. This funding could also be used for other demonstration projects to increase organ donation and recovery rates. In addition, an equal amount is authorized to expand the Agency for Health Care Research and Quality's authority to improve organ donation practices.

We must also work to remove the barriers that stand in a donor's way as he or she seeks to help another person continue life. Our bill would seek to expand living donation by authorizing $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for the reimbursement of related expenses incurred by the donor. In addition, this legislation requests an Institute of Medicine report on living donation practices and potential long-term health risks.

Finally, we must work to improve the science of donation and recovery, and address legal issues relating to donation, including consent. More than 20 states currently have registries that may prove indispensable in ensuring that we honor a donor's wishes. This bill would establish an advisory committee to study the benefits, and potential shortcomings, of these arrangements and work to create a national sense of urgency that matches the national need for donors.

I would like to recognize the invaluable support and guidance we received in drafting this bill from the American Society of Transplantation, the American Liver Foundation, the Patient Access to Transplantation Coalition, the North American Transplant Coordinators Organization, and the National Kidney Foundation. I would be remiss not to also mention the Association of Organ Procurement Organizations, whose members nationwide have worked so tirelessly to bridge the gap between the immense need for and the inadequate supply of donated organs. In my home state of Connecticut, we are well-served by the tremendous work of the Northeast Organ Procurement Organization and the New England Organ Bank.

Finally, I look forward to working with my colleagues, including Senator KENNEDY, Senator GREGG, and Senator DURBIN, whose commitment to this issue has been unparalleled. I urge Congress to take swift action on this bipartisan legislation aimed at increasing organ donation and saving lives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 78—DESIGNATING MARCH 25, 2003, AS "GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY"

Mr. SPECTER (for himself, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 78

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece is 1 of only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict for more than 100 years;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete and in presenting the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas President George W. Bush, in recognizing Greek Independence Day on March 25, 2002, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas on January 1, 2003, Greece took over the Presidency of the European Union for the fourth time since it joined the Union in 1981 with the message of "Our Europe: Sharing the Future in a Community of Values";

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, recently arrested key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's "successful law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas Greece's unprecedented Olympic security effort, including a record-setting expenditure of over $600,000,000 and the utilization of a 7-member Olympic Security Advisory Group which includes the United States, will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2003, marks the 182nd anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, today I am pleased to submit a resolution along with 52 of my colleagues to designate March 25, 2003, as "Greek Independence Day: A Celebration of Greek and American Democracy."

One hundred and eighty two years ago, the Greek people began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. Thomas Jefferson proclaimed that, "to the ancient Greeks . . . we are all indebted for the light which led ourselves out of Gothic darkness." It is fitting, then, that we should recognize the anniversary of the beginning of their efforts to return to that democratic tradition.

The democratic form of government is only one of the most obvious of the many benefits we have gained from the Greek people. The ancient Greeks contributed a great deal to the modern world, particularly to the United States of America, in the areas of art, philosophy, science and law. Today, Greek-Americans continue to enrich our culture and make valuable contributions to American society, business, and government.

It is my hope that strong support for this resolution in the Senate will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Similar resolutions have been passed by the Senate since 1984 with overwhelming support. Accordingly, I urge my Senate colleagues to join me in supporting this important resolution.

I ask unanimous consent that the bill be printed in the RECORD.

Mr. DURBIN. Mr. President, today I rise before the Senate in support of a Senate Resolution submitted today by my colleague Senator SPECTER. This resolution designates March 25 of this year as "Greek Independence Day: A day of celebration for Greek and American democracy."

The people of ancient Greece made important, lasting contributions to humanity in the fields of literature, philosophy, mathematics, and the physical sciences. The greatest part of their legacy, though, is a simple yet powerful idea that was born over 2,000 years ago. It is the idea that citizens should possess the power to determine the course of their Nation.

The bonds that join the United States and Greece are deep and long lasting. In 1821, Greek Commander in Chief Petros Mavromichalis said to the citizens of the United States: "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you." Since modern Greece's struggle for independence 182 years ago, our countries have stood to together as allies and friends. We have peacefully worked together in every major international conflict.

Today, Greece continues to embrace the ideals of freedom, democracy, and peace. The past few years have witnessed hopeful new steps toward the resolution of a number of the world's longstanding conflicts and animosities. With its strategic location at the nexus of Europe, Asia and Africa, Greece has been a key participant in many of these efforts. In particular, it has played a pivotal role in promoting democratization, economic development and, above all, peace in the Balkans.

In honoring Greek Independence Day, we pay special tribute to those Greek men and women who gave their lives for the common cause of freedom. Greek-Americans can especially take pride in their ancestors' sacrifice. The many Greek sons and daughters who have come to the United States have worked honorably in all areas of American life, including public service. Greek culture flourishes in American cities, adding to our country's rich diversity.

It is with great honor that I join my colleagues in recognizing this anniversary of Greek independence. Our two great nations have fought to maintain freedom and established democracy throughout the world. In designating March 25 of this year as "Greek Independence Day", we celebrate the freedom that these two great nations represent.

Thank you for giving me the opportunity to speak to my colleagues about this important date.

AMENDMENTS SUBMITTED & PROPOSED

SA 251. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002.

SA 252. Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 253. Mr. FEINGOLD proposed an amendment to amendment SA 252 proposed by Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) TO THE RESOLUTION OF RATIFICATION FOR TREATY DOC. 107–8, SUPRA.

SA 254. Mr. AKAKA proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 255. Mr. KERRY proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 256. Mr. LEVIN (for himself, Mr. DASCHLE, Mr. AKAKA, and Mr. NELSON, of Florida) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 257. Mr. FRIST (for Mr. LAUTENBERG) proposed an amendment to the concurrent resolution S. Con. Res. 13, condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

TEXT OF AMENDMENTS

SA 251. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 3, add the following new declaration:

(7) STAND-DOWN FROM ALERT STATUS OF FORCES COVERED BY TREATY.—Noting that the Administration has stated that "[t]he first planned step in reducing U.S. operationally deployed strategic nuclear warheads will be to retire 50 Peacekeeper ICBMs, remove four Trident Submarines from strategic service, and no longer maintain the ability to return the B-1 to nuclear service," the Senate—

(A) encourages the President, within 180 days after the exchange of instruments of ratification of the Treaty, to initiate in a safe and verifiable manner a bilateral stand-down from alert status of all United States and Russian Federation nuclear weapons systems that will no longer be operationally deployed under the Treaty, but which the United States and the Russian Federation may keep operationally deployed under the Treaty until December 31, 2012; and

(B) expects a representative of the executive branch of the Government to offer regular briefings to the Committee on Foreign Relations and the Committee on Armed Services of the Senate regarding—

(i) the alert status of the nuclear forces of the United States and the Russian Federation;

(ii) any determination of the President to order a stand-down of the alert status of United States nuclear forces; and

(iii) any progress in establishing cooperative measures with the Russian Federation to effect a stand-down of the alert status of Russian Federation nuclear forces.

SA 252. Mr. LEVIN. (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—

(i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(ii) consult with the Senate on such action.

(B) The President may waive a requirement in subparagraph (A) if the President—

(i) determines that national security needs prevent the President from meeting the requirement; and

(ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.

In section 3, strike declaration (6).

SA 253. Mr. FEINGOLD proposed an amendment to amendment SA 252 proposed by Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of the proposed condition, add the following:

(C) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, the President shall obtain the approval of two thirds of the Senators present.

SA 254. Mr. AKAKA proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of the last sentence of condition 1 in section 2, strike the period and insert the following: ", and shall include—

"(A) an estimate of the funding levels required in the fiscal year following the year of the report to implement all Cooperative Threat Reduction programs and other nonproliferation programs relevant to the Treaty and ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion; and

"(B) a description of any initiatives proposed by the President to address any matter covered by subparagraph (A) in order to improve the implementation or effectiveness of the Treaty.".

SA 255. Mr. KERRY proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) ANNUAL REPORTS ON MONITORING CAPABILITIES.—(A) Not later than 60 days after the exchange of the instruments of ratification of the Treaty, and annually thereafter on May 1, the President shall submit to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate an estimate, prepared by the Director of Central Intelligence, on the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty.

(B) Each estimate shall meet the requirements of a national intelligence estimate under section 103(b)(2)(A) of the National Security Act of 1947 (50 U.S.C. 403-3(b)(2)(A)), and shall include—

(i) an estimate, for each strategic nuclear weapons system of the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads on such system;

(ii) an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty—

(I) under the verification measures of the verification regime under the Treaty on the Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty); and

(II) after the verification regime expires upon termination of the START Treaty; and

(iii) additional mechanisms to ensure United States monitoring of the compliance of the Russian Federation with the requirements of the Treaty, including—

(I) further agreements between the United States and the Russian Federation;

(II) mutual data exchanges between the United States and the Russian Federation;

(III) improvements in the transparency of strategic offensive reductions under the Treaty;

(IV) improvements to existing monitoring technologies; and

(V) other appropriate mechanisms.

(C) Each estimate shall be submitted in both classified and unclassified form.

SA 256. Mr. LEVIN (for himself, Mr. DASCHLE, Mr. AKAKA, and Mr. NELSON of Florida) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

In section 2, in paragraph (2)(F), strike "; and" and insert a semicolon.

In section 2, redesignate paragraph (2)(G) as paragraph 2(H).

In section 2, after paragraph (2)(F), insert the following new subparagraph:

(G) with respect to the strategic offensive reductions described pursuant to subparagraph (B) for a calendar year, a listing of—

(i) the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the United States during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the United States during the calendar year;

(ii) the number and type of nuclear warheads in the United States that were dismantled during the previous calendar year; and

(iii) to the extent possible, the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the Russian Federation during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the Russian Federation during the calendar year.

SA 257. Mr. FRIST (for Mr. LAUTENBERG) proposed an amendment to the concurrent resolution S. Con. Res. 13, condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes; as follows:

On page 8, strike line 21 and insert "(10) objects"

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for fiscal year 2004 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 6, 2003, at 9:30 a.m. on Spectrum.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 6, at 10 a.m., to receive testimony on energy use in the transportation sector.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 9:30 a.m., to hold a hearing on "An Agreed Framework for Dialogue" with North Korea.

Agenda

Witnesses

Panel 1: The Honorable Dr. Ashton B. Carter, Co-Director, Preventive Defense Project, Harvard University, Cambridge, MA; Dr. Arnold Kanter, Principal, The Scowcroft Group, Washington, DC; and Mr. Robert J. Einhorn, Senior Advisor, International Security Program, CSIS, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 6, 2003, at 9:30 a.m., in Dirksen Room 226.

Agenda

I. Nominations

Timothy M. Tymkovich to be U.S. Court of Appeals Judge for the Tenth Circuit; J. Daniel Breen to be US District Judge for the Western District of Tennessee; Thomas A. Varlan to be US District Judge for the Eastern District of Tennessee; William H. Steele to be US District Judge for the Southern District of Alabama; and Humberto S. Garcia to be US Attorney for the District of Puerto Rico.

II. Committee Business

Committee Rules Subcommittee Organization

III. Bills

S. 253, A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns. [Campbell/Leahy/Hatch/Grassley/DeWine/Kyl/Sessions/Craig/Cornyn/Graham/Feinstein/Schumer/Edwards].

S. 113, A bill to exclude United States persons from the definition of "foreign power" under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism. [Kyl/Hatch/DeWine/Schumer/Chambliss].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 6, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, Blinded Veterans Association, the Non-Commissioned Officers Association.

The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT, SAFETY, AND TRAINING

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on "The Workforce Investment Act: The Administration's Approach to Reauthorization" during the session of the Senate on Thursday, March 6, 2003, at 10 a.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Thursday, March 6, 2003, at 9:30 a.m., for a hearing entitled "Evaluating Human Capital at the National Aeronautics and Space Administration" to examine the status of NASA's workforce and consider proposed personnel flexibilities to assist the agency in achieving this mission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Armed Services Committee be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 2 p.m., in open session to receive testimony on Department of Defense Installation and Environmental Programs, in review of the Defense authorization request for fiscal year 2004.

Witnesses: Honorable Hansford T. Johnson, Acting Secretary of the Navy; Mr. Raymond F. DuBois, Jr., Deputy Under Secretary of Defense (Installations and Environment); Honorable Mario P. Fiori, Assistant Secretary of the Army (Installations and Environment); and Honorable Nelson F. Gibbs, Assistant Secretary of the Air Force (Installations, Environment, and Logistics).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power, Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 6, at 2:30 p.m., to receive testimony on S. 212, a bill authorizing the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling, and monitoring program for the High Plains aquifer and for other purposes; and S. 220 and H.R. 397, bills to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Joshua Handler, a fellow in my office, be given floor privileges for the duration of Senate consideration of Executive Calendar No. 1, the Resolution of Ratification accompanying the Moscow Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 3

Mr. FRIST. Mr. President, I ask unanimous consent that at 5 o'clock on Monday, March 10, the Senate begin consideration of Calendar No. 19, S. 3, regarding the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, let me just say I appreciate the leader working with us on the time on this bill. I know it has been inconvenient but we appreciate it very much.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 40, 41, 42, 44, 45, and 47; I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF JUSTICE

Jeremy H. G. Ibrahim, of Pennsylvania, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2005.

Edward F. Reilly, of Kansas, to be a Commissioner of the United States Parole Commission for a term of six years.

Cranston J. Mitchell, of Missouri, to be a Commissioner of the United States Parole Commission for a term of six years.

THE JUDICIARY

Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade.

DEPARTMENT OF JUSTICE

Peter Joseph Elliott, of Ohio, to be United States Marshal for the Northern District of Ohio for the term of four years.

DEPARTMENT OF HOMELAND SECURITY

Janet Hale, of Virginia, to be Under Secretary for Management, Department of Homeland Security.

SENATE CONFIRMATION OF ADDITIONAL PRESIDENTIAL EXECUTIVE AND JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, today we have proceeded with the President's nominations to the U.S. Parole Commission, among others. These individuals were the selections of the White House without consultation with the Democratic leader or with me or other Democratic Senators interested in these matters. We have proceeded on the President's nominees expeditiously and in good faith trusting that the White House will follow through expeditiously to nominate those members to the U.S. Parole Commission that the Democratic leader is recommending to fill the seats allocated to Democrats on what should be a bipartisan commission.

This President has too often in the past proceeded unilaterally on what have traditionally been bipartisan boards and commissions. Last year the White House caused significant problems for all nominations when it failed to follow through in a timely way on a commitment made to Senator McCAIN. That led to objections and cloture votes being required on a series of the President's judicial nominations and unnecessary delays with respect to both judicial and executive nominations because of objections from the Republican side.

With respect to all nominations, I urge the President to begin to work with us. Just as this White House has failed to work with Senate Democrats on judicial nominees, it has often failed to work with us on nominations to bipartisan boards and commissions. We would appreciate this White House beginning to work with us rather than dictate to us.

Just this week Thomas E. Mann, a distinguished scholar and senior fellow in governance studies at The Brookings Institution, wrote a column about the deteriorating relations between the White House and the Congress with respect to the nomination and confirmation process. While I do not agree with all of his observations, I note that he correctly observed that after the President's campaign as a uniter not a divider, we did expect more cooperation. And after the attack of September 11, when Democrats sought to close ranks and forego partisanship, we were disappointed by the continuing partisanship of the White House. Mr. Mann wrote: "After the 2000 election and then again after Sept. 11, 2001, Democrats expected something akin to a government of national unity. Instead, they encountered a president who seemed determined to wage institutional, ideological and partisan war."

Mr. Mann concluded by suggesting: "The only way to break this cycle of escalation is for Bush to take preemptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiations and compromise with both parties in Congress." I agree, that would be a useful development. I add that it would be long overdue.

Today, on the day the Senate has moved off the Estrada nomination because of the lack of cooperation by the administration, the Senate is with the consent of every Democratic Senators agreeing to the confirmation of another judicial nominee, the 104th for this President, and several executive branch nominees.

I ask consent to print Thomas E. Mann's column in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the RollCall, Mar. 5, 2003]

GUEST OBSERVER

(by Thomas E. Mann)

ESTRADA CAUGHT IN "POISONOUS WAR" BASED ON IDEOLOGY

The extended Senate debate on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit has generated pitched battles between party activists around the country and increasingly shrill commentary from pundits. Some claim we are on the verge of a constitutional coup that effectively nullifies a president's power over judicial appointments. Others respond that we are witnessing a legitimate effort by the Senate minority to prevent the packing of the federal judiciary with right-wing jurists.

How unprecedented is the tactic embraced by Senate Democrats? What accounts for the partisan struggle now playing out on the Senate floor? Is there any way out?

Filibusters have been a prominent feature of the Senate since the early 19th century. While the constitutional framers built no supermajority requirements for the passage of legislation or the confirmation of appointees, the early Senate, unlike the House, did away with its motion on the previous question that would have allowed a majority to cut off debate and proceed with a vote. As a consequence, for virtually all of their chamber's history Senators have been able to postpone or prevent floor action by talking at length.

Under pressure from President Woodrow Wilson, the Senate adopted a cloture provision in its rules that allowed a supermajority to cut off debate. For much of the 20th century the filibuster was mostly reserved for issues of great national moment. In the past several decades, the Senate has seen the routinization of the filibuster, to the point where it is commonly accepted by both parties that with limited exceptions, 60 votes are needed to pass controversial matters. Some exceptions are built into the rules. The budget process provides for limited debate on budget resolutions and reconciliation bills, thereby empowering a majority of Senators. Other exceptions flow from informal understandings or norms. One of those norms is that the minority party does not use extended debate to kill judicial nominations favored by a majority of Senators.

During periods of divided party government, the Senate majority can frustrate the president's ability to fill judicial vacancies simply by refusing to schedule committee hearings or votes on nominees. Between 1995 and 2000, roughly a third of President Bill Clinton's circuit court appointees were killed in this manner by the Republican majority, holding open judgeships that President Bush now seeks to fill. The Democrats responded in kind to a number of President Bush's nominees during their brief time in the majority.

The crunch comes when one party controls both the White House and Senate. Minority Members can try to delay action on judicial nominees with holds and procedural moves in committee. But their doomsday weapon is the filibuster. The norms of the Senate mitigate against firing that weapon as part of an explicit party strategy. Nonetheless, groups of Senators have engaged in extended floor debate to try to defeat judicial nominations. More than a dozen cloture motions were filed to end filibusters on judicial nominations between 1980 and 2000. But only one judicial nominee was successfully blocked by a filibuster. In 1968 Republicans and Southern

Democrats used a filibuster to defeat President Lyndon Johnson's effort to elevate Justice Abe Fortas to chief justice.

So the Senate Democrats' resort to a filibuster on the Estrada nomination is not unprecedented but it is highly unusual and extreme by Senate conventions. It is the latest escalation in what has been an intensifying "War of the Roses" between the parties in Washington. Earlier episodes included divisive battles over the Supreme Court nominations of Robert Bork and Clarence Thomas; the winter 1995-96 budget fights that led to government shutdowns; and the long-running independent counsel investigations of Clinton, leading to his impeachment by the Republican House.

That war is partly a consequence of razor-thin majorities in the Congress, the increasing ideological polarization between the parties, and the extension of the permanent campaign to the Congress. It has intensified as a result of the circumstances and leadership style of George W. Bush's presidency.

Bush was elected in 2000 in the closest and arguably most controversial presidential election in U.S. history. He lost the popular vote but won a bare majority of the electoral vote thanks to flawed ballot designs in two Florida counties and to an audacious 5-4 Supreme Court decision to halt a statewide recount.

Yet he has governed with great ambition and confidence, asserting presidential prerogatives and advancing a bold conservative agenda through policy proposals and nominations. He has played hardball with Democrats, in D.C. and on the 2002 campaign trail, while providing regular sustenance to his conservative base. After the 2000 election and then again after Sept. 11, 2001, Democrats expected something akin to a government of national unity. Instead, they encountered a president who seemed determined to wage institutional, ideological and partisan war. They have decided to reciprocate. The atmosphere is poisonous. Miguel Estrada is now a part of that war.

The only way to break this cycle of escalation is for Bush to take pre-emptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiation and compromise with both parties in Congress. That seems most unlikely.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CONDEMNING THE SELECTION OF LIBYA TO CHAIR THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 13, which is at the desk. This is a resolution introduced by Senators LAUTENBERG and SMITH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 13) condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the Lautenberg amendment at the desk be agreed to, the motion to reconsider be laid on the table; further, that the concurrent resolution, as amended, be agreed to and the motion to reconsider be laid upon the table; that the preamble be agreed to, and the motion to reconsider be laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 257) was agreed to, as follows:

On page 8, strike line 21 and insert: "(10) objects"

The concurrent resolution (S. Con. Res. 13), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble, reads as follows:

S. CON. RES. 13

Whereas on January 20, 2003, Libya, a gross violator of human rights and State sponsor of terrorism, was elected to chair the United Nations Commission on Human Rights (the "Commission"), a body charged with the responsibility of promoting universal respect for human rights and fundamental freedoms for all;

Whereas according to the rotation system that governs the selection of the Executive Board of the Commission, 2003 was designated as the year for the Africa Group to chair the Commission, and the Africa Group selected Libya as its candidate;

Whereas South Africa's Democratic Alliance spokeswoman, Dene Smuts, was quoted by the British Broadcasting Corporation as saying that the Government of South Africa's decision to support the election of Libya was an insult to human rights and that African countries "should have supported a candidate of whom all Africans could be proud";

Whereas Amnesty International has repeatedly documented that the human rights situation in Libya continues to seriously deteriorate, with systematic occurrences of gross human rights violations, including the extrajudicial execution of government opponents and the routine torture, and occasional resulting death, of political detainees during interrogation;

Whereas Human Rights Watch recently declared that "[o]ver the past three decades, Libya's human rights record has been appalling" and that "Libya has been a closed country for United Nations and nongovernmental human rights investigators";

Whereas Human Rights Watch further asserted that "Libya's election poses a real test for the Commission," observing that "[r]epressive governments must not be allowed to hijack the United Nations human rights system";

Whereas the Lawyers Committee for Human Rights urged that "the Government of Libya should not be entrusted by the United Nations to lead its international effort to promote human rights around the world";

Whereas Freedom House declared that "[a] country [such as Libya] with such a gross record of human rights abuses should not direct the proceedings of the United Nation's main human rights monitoring body" because it would "undermine the United Nation's moral authority and send a strong and clear message to fellow rights violators that they are in the clear";

Whereas on November 13, 2001, a German court convicted a Libyan national for the 1986 bombing of the La Belle disco club in Berlin which killed two United States servicemen, and the court further declared that there was clear evidence of responsibility of the Government of Libya for the bombing;

Whereas Libya was responsible for the December 21, 1988, explosion of Pan American World Airways Flight 103 ("Pan Am Flight 103") en route from London to New York City that crashed in Lockerbie, Scotland, killing 259 passengers and crew and 11 other people on the ground;

Whereas a French court convicted 6 Libyan government officials in absentia for the bombing of UTA Flight 772 over Niger in 1989;

Whereas, in response to Libya's complicity in international terrorism, United Nations Security Council Resolution 748 of March 31, 1992, imposed an arms and air embargo on Libya and established a United Nations Security Council sanctions committee to address measures against Libya;

Whereas United Nations Security Council Resolution 883 of November 11, 1993, tightened sanctions on Libya, including the freezing of Libyan funds and financial resources in other countries, and banned the provision to Libya of equipment for oil refining and transportation;

Whereas United Nations Security Council Resolution 1192 of August 27, 1998, reaffirmed that the measures set forth in previous resolutions remain in effect and binding on all Member States, and further expressed the intention of the United Nations to consider additional measures if the individuals charged in connection with the bombings of Pan Am Flight 103 and UTA Flight 772 had not promptly arrived or appeared for trial on those charges in accordance with paragraph (8) of that Resolution;

Whereas in January 2001, a three-judge Scottish court sitting in the Netherlands found Libyan Abdel Basset al-Megrahi guilty of the bombing of Pan Am Flight 103, sentenced him to life imprisonment, and said the court accepted evidence that he was a member of Libya's Jamahariya Security Organization, and in March 2002, a five-judge Scottish appeals court sitting in the Netherlands upheld the conviction;

Whereas United Nations Security Council Resolutions 731, 748, 883, and 1192 demanded that the Government of Libya provide appropriate compensation to the families of the victims, accept responsibility for the actions of Libyan officials in the bombing of Pan Am Flight 103, provide a full accounting of its involvement in that terrorist act, and cease all support for terrorism;

Whereas Libya remains on the Department of State's list of state-sponsors of terrorism;

Whereas the United States found the selection of Libya to chair the Commission to be an affront to international human rights efforts and, in particular, to victims of Libya's repression and Libyan-sponsored terrorism, and therefore broke with precedent and called for a recorded vote among Commission members on Libya's chairmanship;

Whereas Canada and one other country joined the United States in voting against Libya, with 17 countries abstaining from the recorded vote among Commission members on Libya's chairmanship of the Commission;

Whereas the common position of the members of the European Union was to abstain from the recorded vote on the selection of Libya as chair of the Commission;

Whereas 33 countries ignored Libya's record on human rights and status as a country subject to United Nations sanctions for the terrorist bombing of Pan Am Flight 103 and voted for Libya to lead the Commission;

Whereas the majority of the countries that voted for Libya are recipients of United States foreign aid;

Whereas the selection of Libya to chair the Commission is only the most recent example of a malaise plaguing the Commission that has called into question the Commission's credibility as the membership ranks of the Commission have swelled in recent years with countries that have a history of egregious human rights violations;

Whereas the challenge by the United States to the selection of Libya is part of a broader effort to reform the Commission, reclaim it from the oppressors, and ensure that it fulfills its mandate;

Whereas on January 20, 2003, Ambassador Kevin Moley, United States Permanent Representative to the United Nations and Other International Organizations in Geneva, emphasized that the United States "seek[s] to actively engage and strengthen the moral authority of the Commission on Human Rights, so that it once again proves itself a forceful advocate for those in need of having their human rights protected" and that "[w]e are convinced that the best way for the Commission to ensure the ideals of the Universal Declaration of Human Rights over the long-term is to have a membership comprised of countries with strong human rights records at home";

Whereas a majority of the 53 member states of the Commission are participants in the Community of Democracies and signed the Community of Democracies Statement on Terrorism (the "Statement on Terrorism") on November 12, 2002, at the Second Ministerial Conference of the Community of Democracies held in Seoul, South Korea (the "Seoul Ministerial"), calling upon democratic nations to work together to uphold the principles of democracy, freedom, good governance, and accountability in international organizations;

Whereas the Seoul Ministerial participants declared in the Statement on Terrorism that they "strongly denounced terrorism as a grave threat to democratic societies and the values they embrace[,]...reaffirmed that terrorism constitutes a threat to international peace and security as well as to humanity in general and indeed to the very foundation on which democracies are built[,]" and stated that "[t]he most recent terrorist attacks confirm that international cooperation against terrorism will remain a long-term effort and requires a sustained universal commitment";

Whereas the United Nations sanctions against Libya, though suspended, remain in effect; and

Whereas Libya's continued status as an international outlaw nation and its continued unwillingness to accept responsibility for its terrorist actions provide ample justification for barring Libya from consideration as a candidate for membership in the United Nations Security Council or any other United Nations entity or affiliated agency: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the selection of Libya to chair the United Nations Commission on Human Rights (the "Commission");

(2) commends the President for the principled position of the United States in objecting to and calling for a vote on Libya's chairmanship of the Commission;

(3) commends countries that joined the United States in objecting to Libya's selection as chair of the Commission;

(4) expresses its dismay at the European Union countries' common position of abstention on the critical vote over Libya's chairmanship;

(5) expresses its shock and dismay over the support provided to Libya in its efforts to lead the Commission;

(6) highlights its grave concern over the continuing efforts of countries violating human rights and terrorist countries to use international fora—

(A) to legitimize their regimes; and

(B) to continue to act with impunity;

(7) calls on the President to raise United States objections to such efforts during bilateral and multilateral discussions and to direct pertinent members of the President's Cabinet to do the same;

(8) calls on countries at various stages of democratization to—

(A) demonstrate their commitment to human rights, democracy, peace and security; and

(B) support efforts to reform the Commission;

(9) calls on the President to instruct the Secretary of State to consult with the appropriate congressional committees, within 60 calendar days after the adoption of this resolution, regarding the priorities and strategy of the United States for the 59th session of the Commission on Human Rights and its strategy and proposals for reform of the Commission;

(10) objects to the continued suspension of United Nations sanctions against Libya until the Government of Libya—

(A) publicly accepts responsibility for the bombing of Pan American World Airways Flight 103;

(B) provides appropriate compensation to the victims of the bombing; and

(C) fully complies with all of the other requirements of the United Nations sanctions imposed as a result of Libya's orchestration of the terrorist attack on Pan American World Airways Flight 103; and

(11) calls on the Secretary of State to engage Member States of the United Nations to support efforts to ensure that states that are gross violators of human rights, sponsors of terrorist activities, or subjects of United Nations sanctions are not elected to—

(A) leadership positions in the United Nations General Assembly; or

(B) membership or leadership positions on the United Nations Commission on Human Rights, the United Nations Security Council, or any other United Nations entity or affiliate.

ORDERS FOR FRIDAY, MARCH 7, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Friday, March 7. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business until the hour of 12:30 p.m., with the time equally divided between Senator WARNER or his designee and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of Senators, tomorrow morning the Senate will be in a period of morning business until 12:30 p.m. There will be no rollcall votes during tomorrow's session. The next vote will occur Monday, March 10, at 6 p.m.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, the purpose of the morning business is to have Senators speak if they so desire. There have been some Senators wishing to speak on the situation in Iraq. The President is having a press conference tonight. It would be timely to do that. I say to those people who have indicated a desire to speak, this is their opportunity tomorrow. Is that the intent of the leader?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, that is the intent. It is important that people take advantage of that opportunity if they so wish.

In talking to the leadership on the other side of the aisle, we agreed it was important for people to have the opportunity. We have been very busy over the last several days with the Estrada nomination and today the cloture vote. There has been excellent work in terms of ratification—the vote on the Moscow Treaty. So it has been very busy.

We know the Nation is very much concerned with what is going on today and over the ensuing days in Iraq, so we did want to make that opportunity available.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Friday, March 7, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 6, 2003:

DEPARTMENT OF HOMELAND SECURITY

JANET HALE, OF VIRGINIA, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

JEREMY H. G. IBRAHIM, OF PENNSYLVANIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2005.

EDWARD F. REILLY, OF KANSAS, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

CRANSTON J. MITCHELL, OF MISSOURI, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

THE JUDICIARY

TIMOTHY C. STANCEU, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE.

DEPARTMENT OF JUSTICE

PETER JOSEPH ELLIOTT, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

RECOGNIZING KAYLA CRESS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kayla Cress, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 5091, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the Career Exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Kayla did refurbishment work at the Burr Oaks Conservation Center.

Mr. Speaker, I proudly ask you to join me in commending Kayla Cress for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

DOMESTIC VIOLENCE

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BACA. Mr. Speaker, domestic violence is not just an issue that affects women; it is an issue that affects us all. So many of our mothers, sisters, co-workers, colleagues and friends may be victims of domestic violence and you may never even know. The woman sitting next to you may be battered or abused, and she is keeping it a deep dark secret because she is embarrassed, ashamed, or afraid. We need to continue to work hard to bring the issue of domestic violence out of the closet. Silence will not fix the problem. We need programs that continue to bring the issue out in the open and let victims know that their lives mean something! Let them know that there is no justification for abuse and that they do not have to live with it day after day. Victims need to know that there are places that they can go and people who can help. Victims need to know how to enact a plan so that they can flee their batterer and have resources available so that they are not forced to go back. It takes a tremendous amount of courage to flee an abuser, having the resources available to stay away should be the farthest thing from a victim's mind. That is why it is so important to have counseling services available helping with preparation.

I saw a flyer the other day entitled "10 Things Men Can Do to Prevent Men's Violence Against Women." Men need to understand that while most never abuse, there are factors that contribute to the cycle of violence and all of us need to do our part to end the cycle. We need to teach our sons how not to abuse and how not to contribute to it. We need to teach them that women must be treated with respect and dignity. Until men become actively involved in ending domestic violence, these cycles will never be broken.

TO COMMEND KANSAS CITY GIRL SCOUT GOLD AWARD RECIPIENTS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MOORE. Mr. Speaker, the Girl Scouts program encourages strong values, leadership, responsibility, confidence, and friendship among young women. Programs in the Kansas City, Kansas, region have been thriving for years, empowering young women to develop to their full potential

Girl Scouts enables young women to grow into strong citizens by teaching money and financial management, health and fitness, global awareness, and community service. As a result of the program, millions of Girl Scouts have been introduced to the arts, science, math, and technology.

On March 2, in my home state of Kansas, 21 Kansas City area Girl Scouts will be awarded the highest honor in Scouting, the Gold Award. These young women will be recognized for completion of five requirements: community service, personal and spiritual growth, positive values, and leadership skills.

In order to receive the Gold Award honor, these girls have accomplished several tasks. Every recipient has earned four project patches, each of which requires fulfillment of seven activities that center on skill building, technology, service, and career exploration. In addition, each girl has earned the Career Exploration pin, received for their work researching potential careers. The Gold Award recipients have also earned the Senior Girl Scout Leadership Award for completing at least 30 hours of work involving leadership skills. Finally, the young women have spent a minimum of 50 hours planning and implementing a Gold Award project that has a positive and lasting impact on the Kansas City community. I am proud that these 21 Gold Award recipients will be recognized, joining the 3,000 honored nationwide each year.

I commend the Girl Scouts program for their support, dedication, and commitment to American girls, and I applaud these 21 new Gold Award recipients on their achievement.

A listing of their names and hometown follows:

D'erin May, Bonner Springs.
Leanne Gray, Lansing.
Mackenzie Smith, Leavenworth.
Katie Brovont, Olathe
Jaime Lenninger, Shawnee Mission.
Jacquelynn Sullivan, Shawnee Mission.
Katie Wall, Shawnee Mission.
Kristen Keplinger, Shawnee Mission.
Dena Neuenschwander, Shawnee Mission.
Jennifer Jacobs, Shawnee Mission.
Jennifer Sherman, Shawnee Mission.
Phyllis Adebanjo, Shawnee Mission.
Bridget Barton, Shawnee Mission.
Julie Wiseman, Shawnee Mission.
Laura Smith, Shawnee Mission.
Hilary Junk, Shawnee Mission.
Megan Campbell, Shawnee Mission.
Megan Stinemetz, Shawnee Mission.
Amy Sapenoff, Shawnee Mission.
Christine Thomson, Shawnee Mission.
Michelle Kentrup, Shawnee Mission.

BREAKING THE CYCLE OF DOMESTIC VIOLENCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PALLONE. Mr. Speaker, I rise today to draw attention to an organization in my district that provides vital services to women and families that have been affected by domestic violence.

180 Turning Lives Around, formerly the Women's Center of Monmouth County provides a safe and supportive haven, where women and children can begin to heal.

180 Offices provide specialized counseling and programming for women affected by domestic violence and sexual assault. They staff outreach offices in towns that have the highest rates of domestic violence and sexual assaults in Monmouth County and some of the highest rates in the state, making these outreach programs vital to the communities they serve.

180 provides programming for women of color, including a group-counseling format called "Makeda" for Latina and African American women. In addition, 180 coordinates with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

local courts, police and prosecutor's offices to ensure that victims and family members receive access to appropriate services. These services include the domestic violence offender's intervention program "Alternatives to Abuse," victim's counseling, art therapy for children exposed to domestic violence and other community services.

Reports indicate that since 180 has implemented this innovative multi-disciplinary approach, domestic violence police cases in towns throughout the county have dropped by nearly 35 percent, while recidivism rates for domestic violence offenders have dropped over 50 percent. The programs provided by the 180 show concrete results in terms of reduced crime while providing a critical and invaluable resource to the community in general and women and minorities in particular.

Mr. Speaker, I urge my colleagues to join with me and continue to support 180 and her sister programs and women's centers throughout the nation. Domestic violence is a problem that affects all of society, not just women—and it is critical that we work together to break the cycle and put an end to domestic violence.

HONORING DETECTIVE JAMES ROYS

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ISRAEL. Mr. Speaker, I rise to pay tribute to an exemplary member of the Long Island community.

The Suffolk County Police Department consistently shows us the best and most heroic that Long Island has to offer. For thirty-one years, Detective James Roys has served as a commendable member of that department. Over the years, Detective Roys worked on numerous high-profile cases. In 1990 he was promoted to Detective and in 1995 he was transferred to the Homicide Squad. He was the lead detective on numerous murder investigations, including the noteworthy cases of Andrew Dukes, Krystal Barbasso, Anthony Meo and Eric Burkes. Detective Roys has made a lasting contribution to the safety of Long Island residents.

On January 4, 2003, Detective James Roys retired from the Suffolk County Police Department. It is with great admiration that I come to this floor to offer my congratulations and best wishes. He will be truly missed by his colleagues and by Suffolk County residents who depended on his hard work for so many years.

Mr. Speaker, Suffolk County owes a debt of gratitude to Detective James Roys.

CONGRATULATIONS KIM HEIMAN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. FARR. Mr. Speaker, I rise today to congratulate Kim Heiman, winner of the 2003 Walter B. Jones NOAA Excellence Award in the Category of Excellence in Coastal and Marine Graduate Study. Her study of marine ecology and in particular the spread of invasive species has brought her well-deserved acclaim and promises to answer many scientific questions about the physical and biological changes invasive species make on marine communities.

Born in Iowa, Miss Heiman has lived in a variety of locations including Colorado and Japan. She earned her Bachelor of Science degree in 2000 from New College in Florida. Currently she is a third year Ph.D. student in Ecology and Evolution at Stanford University and works out of Hopkins Marine Station in Pacific Grove, California.

Increasing numbers of foreign species in the nation's harbors and estuaries can have detrimental effects on native habitats. Miss Heiman analyzes the spread of a marine tubeworm discovered as an invasive species in California's Elkhorn Slough National Estuarine Research Reserve in 1994. This tubeworm species builds large, hard reefs on the muddy ocean floor, thereby creating three-dimensional structures. She examines these new structures to determine if they result in more habitats where other invasive species can live, and her preliminary results show that the worm reefs have more invasive species compared to other substrates in Elkhorn Slough. Miss Heiman also studies whether the spread of other invasive species correlates with the spread of worm reefs, and this appears to be the case in Elkhorn Slough. The importance of her work rests on the application of her results by coastal ecosystem managers struggling to fight a continued spread of invasive species. Miss Heiman's results from Elkhorn Slough thus far suggest that the spread of invasive species may be mediated by the removal of hard substrates.

Through basic ecological research, Miss Heiman continues to develop conclusions that could help curtail the spread of invasive species and possibly restore our nation's seaports and harbors. On behalf of this House, I commend Kim Heiman on her excellent graduate research in the Elkhorn Slough National Estuarine Research Reserve and her strong interest in helping answer the difficult problems that ecosystem managers face everyday.

TRIBUTE TO BOB GILDER

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Bob Gilder, a remarkable, celebrated civil rights leader in the Tampa Bay area, whose death this week is an enormous loss to our entire community.

Bob Gilder dedicated his life to fighting segregation, protecting fundamental rights and improving the quality of life for blacks in America. A native of Texas, Bob came to Tampa in 1959 after attending Florida A&M University, and by 1963, he was already speaking out at lunch-counter sit-ins, protests and marches.

Bob's voice only grew stronger over the years, and in 1967, he played a critical role in restoring order and calling for an end to violence after Tampa's race riots. He led efforts to desegregate Tampa General Hospital and St. Joseph's Hospital and started an on-the-job training program to help black people get jobs in the City of Tampa's fire department, the mayor's office and the state attorney's office. However, Bob is probably best known for his tireless voter registration efforts. Bob worked on countless voter registration drives and in 1991 served as director of the Voter Registration Coalition.

Bob was fearless in pursuing his goals. He had the know-how, the eloquence, the inspirational leadership and determination to succeed in breaking through the barriers to equality. For these qualities he was chosen to serve as president of the Tampa chapter of the National Association for the Advancement of Colored People and as a member of the advisory committee to the U.S. Civil Rights Commission and the Florida Commission on Human Rights, among other positions. Bob received countless awards for his leadership.

Bob's legacy of service reached into his final days. Even during his illness, he became an advocate for hospice care. Bob credited the professionals at LifePath Hospice for helping him and encouraged others in the black community to turn to hospice for end-of-life care.

Bob Gilder's noble fight for justice was a blessing to the Tampa Bay community and the nation. I would like to extend my deepest sympathies to his family and offer my thanks for his inspiration.

RECOGNIZING LAURA DeLONG

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Laura DeLong, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1381, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the Career Exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold

Award Project that has a positive lasting impact on the community.

For her Gold Award Project, Laura created a music clinic for elementary school children.

Mr. Speaker, I proudly ask you to join me in commending Laura DeLong for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

MIGUEL ESTRADA NOMINATION

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BACA. Mr. Speaker, I join my fellow members of the Congressional Hispanic Caucus in strong opposition to the nomination of Miguel Estrada to the D.C. Circuit Court of Appeals.

After meeting with Mr. Estrada, I am convinced that he possesses neither the professional qualifications nor the commitment to diversity necessary for service on the second most influential court in our nation.

We are disturbed by the fact that the President has nominated a person who has no prior experience as a judge and who is not considered one of the foremost legal voices of our time.

It is clear to us that Mr. Estrada's nomination has more to do with his Spanish surname than his qualifications for the job.

Miguel Estrada has no connection to the Latino community. He has no particular affinity for the role of the courts in lifting up the Latino community. He has never contributed pro bono legal services to Latino organizations, and has no interest in righting the wrongs of the past.

In short, he has no business representing our community on a bench that is just a stone's throw from the highest court in the land.

I strongly urge the Senate to vote against the confirmation of Miguel Estrada, and I stand in solidarity with our brave colleagues in the other chamber who are opposing his nomination.

H.R. 4, WELFARE REFORM REAUTHORIZATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MOORE. Mr. Speaker, I rise today to discuss my views on H.R. 4 and explain my reasons for opposing this legislation and supporting a moderate, workable substitute.

I believe in a "work first" policy for welfare recipients—the best path to independence for welfare recipients is a job. I also believe that we should do all that we can to ensure that work pays and remember that the reduction of poverty—especially child poverty—is the ultimate goal of this reauthorization.

When we last voted on legislation to reauthorize TANF, I shared with leaders in the House concerns expressed by officials in Kansas, including Janet Schalansky, Secretary of the Kansas Department of Social and Rehabilitation Services. Ms. Schalansky expressed clearly that the TANF reauthorization legislation must not impose another set of unfunded mandates and must recognize the great need for education, training and other supports for individuals leaving welfare. Unfortunately, her calls were ignored once again.

I had hoped that our President—a former governor—and congressional Republicans—who speak often of freeing the states from undue burdens placed by the Federal government—would have heeded the concerns expressed about this legislation by governors and state officials around the country. Currently, and into the foreseeable future, most states are struggling with severe budget shortfalls that are projected to approach $85 billion this year, and H.R. 4 imposes an additional unfunded mandate on the states to the tune of $8–11 billion—$67 million for the state of Kansas alone. Kansas is currently facing a budget crisis and its leaders are cutting services and raising taxes as we speak just to balance the budget. An unfunded mandate of this magnitude could devastate the state budget. If we are going to raise the bar for the states, we must provide support so that states can reach the bar.

The funding provided in H.R. 4 is not sufficient to accomplish and sustain the goals of the TANF program. Furthermore, this legislation allocates funding for child care that barely keeps pace with inflation and does not begin to provide the funding necessary to provide the child care that the additional work hours will demand. To fully implement this bill, the state of Kansas would need $33.5 in extra funding for child care alone.

States, including Kansas, have done a good job implementing the provisions of the 1996 law. Kansas has reduced the cash assistance caseload by more than half, and helped approximately 37,000 adults become employed and retain employment. I want to continue to do what I can to ensure that the states have the tools and flexibility they need to help welfare recipients move from welfare to work, but H.R. 4, like H.R. 4737 before it, falls far short of that goal.

For these reasons, I am supporting the Cardin-Kind-Woolsey substitute that will provide an extra $11 billion in mandatory funding for child care to help states provide child care for working welfare recipients and provide an inflationary increase for the TANF block grant.

Education is the path through which welfare recipients will truly find long-term, wellpaying, permanent employment. Only education and training will give welfare recipients the skills they need to move permanently to a life of self-sufficiency. Unfortunately, this legislation greatly reduces the states' discretion to allow welfare recipients to get education and training to pull themselves out of poverty. This legislation removes vocational education from the list of work-related activities that count toward the core work requirement. In addition, the bill does not provide an employment credit to the states when individuals leave welfare for work.

That is why I am supporting a substitute that will allow states to combine successful "work first" initiatives with education and training. The substitute will give states credit when they move individuals from welfare to private-sector jobs—rather than giving them an incentive to create government "make work" programs.

Mr. Speaker, the House should reject H.R. 4 and approve the Cardin-Kind-Woolsey substitute. Our goal is to move welfare recipients to work and help people lift themselves out of poverty. The substitute gives the states the tools they need to achieve that goal.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GALLEGLY. Mr. Speaker, on February 25, 2003, I was unavoidably detained and unable to vote on H. Res. 46, honoring the life of Al Hirschfeld and his legacy, and H. Con. Res. 40, permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Had I been present, I would have voted "yes" on both measures.

HONORING KIMBERLY GREENWOOD

HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to honor Kimberly Greenwood of Greenland upon her recognition as a 2003 Prudential Spirit of Community State Honoree by Prudential Financial and the National Association of Secondary School Principals.

This honor, which is bestowed upon one middle school and one high school student volunteer from each state, is designed to emphasize the importance our nation places on service to others. Kimberly's actions show that young Americans can—and do—play important roles in our communities. Kimberly proves that with a little creativity and a lot of passion, one person can make a difference that has profound ripple effects in his or her community.

Motivated to educate her peers about the growing hunger problem, Kimberly faced the daunting task of planning events that would hold the attention of middle school students. Kimberly's creativity in planning events and fundraisers is a testament to her dedication to making a lasting impact on her peers. Kimberly organized a raffle, bake sale and a "dress-down pass sale," which allowed purchasers to wear everyday clothes instead of their school uniform for one day. Her keen business savvy proved successful, as she raised over $750 for local and national charities. In order to highlight the program's impact, Kimberly collected all of the wasted food from the students' lunch period each day for one week during the food fast and weighed it. By the end of the week, the students had cut the amount of food they wasted by twenty pounds, and had achieved a greater respect for their own good fortunes. Kimberly is a living example of how people of all ages need to think about how to work together at the local level to ensure the health and vitality of our towns and neighborhoods.

Young volunteers like Kimberly are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow. She truly exemplifies what is good about today's youth. I applaud Kimberly for her efforts to make her community a better place to live and for the positive impact she has had on the lives of others. It is an honor to represent her in the U.S. House of Representatives.

TRIBUTE TO CONGRESSWOMAN CARRIE MEEK

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. HASTINGS of Florida. Mr. Speaker, it is with the pinnacle of respect that I rise today to pay tribute to retired Congresswoman Carrie Meek.

For the past 10 years, I have had the distinct honor and privilege to not only know Carrie, but to serve in this great body with her, all the while being the gracious beneficiary of her wealth of spirit and depth of character.

Only in America can the granddaughter of a slave and the daughter of a former sharecropper believe that she can achieve and conquer all that presents itself in opposition to her dreams.

Franklin Delano Roosevelt stated in one of his fireside chats, "The true test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little." Carrie is the embodiment of that quote.

She has fought with relentless effort for the people of the 17th Congressional District of Florida and has served them and her country well.

Carrie Meek has set the stage and perpetuated the legacy of political astuteness for all of us, but particularly for African-American women everywhere.

Carrie is truly a political pioneer and I and this legislative body have been, without a doubt, made the better for having just been in her element.

HUMAN CLONING PROHIBITION ACT OF 2003

SPEECH OF

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

The House in Committee of the Whole House on the State of the Union has under consideration the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning:

Mr. HOUGHTON. Mr. Chairman, I'd like to speak on behalf of the Greenwood Amendment H.R. 534. This has to do with research to help save human lives. It's not a question of human cloning. The process we're talking about—therapeutic cloning—takes embryos, many of which are fertilized in a laboratory petri dish. They are saved. The cells are separated so they can continue to grow. We learn about a mechanism to better understand tissues in the body. There will be an ability to cure diseases such as Parkinson's, Diabetes, Heart Muscle Disease, Chronic Liver Disease—the list is endless.

So please don't stop this exciting area of breakthrough new science. Don't confuse the issue with reproductive cloning. Hammers are used to build a building, but they can also be used as a lethal weapon. Because a hammer can be used as a murder weapon, we don't automatically outlaw it. Please support the Greenwood Amendment.

INTRODUCTION OF THE INDIAN SCHOOL BUS ROUTE SAFETY REAUTHORIZATION ACT OF 2003

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. UDALL of New Mexico. Mr. Speaker, it gives me great pleasure to rise to introduce companion legislation to a bill being introduced by Senator JEFF BINGAMAN in the Senate today. I am extremely pleased to be joined in introducing this legislation, the Indian School Bus Route Safety Reauthorization Act of 2003, by Congressman JIM MATHESON of Utah and Congressman RICK RENZI of Arizona, both of whom represent portions of the Navajo Nation in their Congressional districts.

This legislation is of great importance to our three states—specifically to the children and residents of the Navajo Nation, and the counties into which the Navajo Nation's boundaries extend. In New Mexico these counties are McKinley and San Juan Counties, and prior to 1998 they were responsible for maintaining the roads used by county school buses that stretch into the reservation to transport the children of the Navajo Nation to and from the county schools. Although there is nothing unique about counties funding and maintaining the roads in their jurisdiction, this particular case of the counties being responsible for the upkeep of the roads that ran into the Navajo Nation was extremely rare, and seems to be the only situation of this kind throughout the United States. This put an enormous burden on McKinley and San Juan County officials, and oftentimes resulted in impassable roads, which, in turn, resulted in children missing school because the buses were unable to pick them up.

In 1998, however, Senator BINGAMAN was successful in acquiring funds through the Indian School Bus Route Safety Act for the counties in New Mexico, Utah, and Arizona to assist them in facing this particularly burdensome responsibility. Today, we are proud to introduce the reauthorization of this legislation, which is set to expire very soon, to provide further assistance to the counties and children of the Navajo Nation. This bill authorizes funds totaling $24 million for Fiscal Years 2004 through 2009 to be split equally among New Mexico, Utah, and Arizona. The breakdown of the total amount of funding is $3 million each year for FY2004 and 2005, $4 million each year for FY2006 and 2007, and $5 million each year for FY2008 and 2009.

These critical funds will provide much-needed assistance to the counties, and will help put an end to the shameful situation of children missing school simply because of impassable roads due to lack of maintenance. I am extremely hopeful that we can either pass this measure, or include it as part of the TEA–21 reauthorization bill and provide further assistance to the children of the Navajo Nation and our respective states. I urge my colleagues to support this legislation.

INTRODUCING A BILL TO MAKE LEAF TOBACCO AN ELIGIBLE COMMODITY FOR THE MARKET ACCESS PROGRAM

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ETHERIDGE. Mr. Speaker, I rise today with my colleagues from other tobacco producing states to introduce a bill to put an end to discrimination against tobacco farmers. For almost eight years, hard-working, God-fearing, taxpaying tobacco farmers have been denied access to the funds provided by the federal Market Access Program, commonly known as MAP.

Under MAP, agricultural industry trade associations, cooperatives, and state or regional trade groups each year are invited to submit proposals to USDA's Foreign Agricultural Service (FAS) to conduct approved foreign market development projects for various U.S. agricultural, fishery and forestry products. Examples include consumer promotions, market research, technical assistance, and trade servicing. MAP funds have been used to promote a wide range of products from sunflower seeds to catfish and cotton to hops for use in making beer.

Since 1993 USDA has been prohibited from using MAP funds to promote tobacco leaf sales overseas. This is patently unfair, and it is time for this discrimination to end. The future of American agriculture is tied to international trade. Currently, 25% of farmers' gross income comes from exports. The futures of thousands of Tar Heel tobacco farm families depend on exports, and I am not going to stand by and watch other commodities benefit from federal funds to access these markets while tobacco farmers are left out in the cold.

It is high time that tobacco is treated like the legal product that it is, and this legislation is a step in the right direction. I call on President Bush, Secretary Veneman, and my colleagues to support this bill and give our struggling tobacco farm families an opportunity to not just survive, but thrive.

INTRODUCTION OF THE AQUATIC INVASIVE SPECIES RESEARCH ACT

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. EHLERS. Mr. Speaker, I am pleased to introduce today a bill that is a critical component in our efforts to combat aquatic invasive species—the Aquatic Invasive Species Research Act. This legislation creates a comprehensive research program that supports federal, state and local efforts to prevent invasive species from ever entering our waterways, as well as detection, control and eradication efforts once they are here. It complements a bill introduced today by Mr. GILCHREST in the House and Mr. LEVIN in the Senate, to reauthorize the National Invasive Species Act. This legislation is a critical component in our battle against these harmful and extremely damaging pests.

In undertaking this effort, I have found that many people wonder—"What is an invasive species? Why it is so crucial to keep them out of the United States?" It is important that we understand these questions so that we can appreciate the scope of the threat that invasive species pose to our economy and environment.

The introduction of non-native species is not new to the United States. People have brought non-native plants and animals into the United States, both intentionally and unintentionally, for a variety of reasons, since the New World was discovered. Some examples include the introduction of nutria (which is a rodent similar to a muskrat) by trappers to bolster the domestic fur industry, and the introduction of the purple loosestrife plant to add rich color to gardens. Both nutria and purple loosestrife are now serious threats to wetlands. Non-native species may also be introduced unintentionally, such as through species hitching rides in ships, crates, planes, or soil coming into the United States. For example, zebra mussels, first discovered in Lake St. Clair near Detroit in the late 1980s, came into the Great Lakes through ballast water from ships.

Not all species brought into the country are harmful to local economies, people and/or the environment. In fact, most non-native species do not survive because the environment does not meet their biological needs. In many cases, however, the new species will find favorable conditions (such as a lack of natural enemies or an environment that fosters propagation) that allow it to survive and thrive in a new ecosystem.

Only a small fraction of these non-native species become an "invasive species"—defined as a species that is both non-native to the ecosystem and whose introduction causes or may cause economic or environmental harm or harm to human health. However, this small fraction can cause enormous damage, both to our economy and our environment.

Estimating the total economic impact of invasive species is extremely difficult. No single organization accumulates such statistics comprehensively. However, researchers at Cornell University estimate that invasive species cost Americans $137 billion annually. This includes the cost of control, damage to property values, health costs and other factors. Just one species can cost government and private citizens billions of dollars. For example, zebra mussels have cost the various entities in the Great Lakes basin an estimated $3 billion during the past 10 years for cleaning water intake pipes, purchasing filtration equipment, etc.

Beyond economic impacts, invasive species cause ecological costs that are even more difficult to quantify. For example, sea lamprey control measures in the Great Lakes cost approximately $10 million to $15 million annually. However, we do not have a good measure of the cost of lost fisheries due to this invader, which was first discovered in the Great Lakes in the early 1900s. In fact, invasive species now are second only to habitat loss as threats to endangered species. Quantifying the loss due to extinction caused by these invasive species is nearly impossible.

Given the enormous economic and environmental impacts these invaders cause, two clear goals emerge: First, we need to focus more resources and energy into dealing with this problem at all levels of government; second, our best strategy for dealing with invasive species is to focus these resources to prevent them from ever entering the United States. Spending millions of dollars to prevent species introductions will save billions of dollars in control, eradication and restoration efforts once the species become established. In fact, one theme is central to both Mr. GILCHREST's bill and this legislation. It is an old adage, but one worth following—"An ounce of prevention is worth a pound of cure."

To successfully carry out this strategy, we need careful, concerted management of this problem underpinned by research at every step. For example, we know that we must do more to regulate the pathways by which these invaders enter the United States (ships, aquaculture, etc.), which is an important component of Mr. GILCHREST's legislation. However, research must inform us as to which of these pathways pose the greatest threat and which techniques used to manage each pathway are effective. This legislation would help develop this understanding through the ecological and pathway surveys conducted under this bill. In fact, research underlies every management decision aimed at detecting, preventing, controlling and eradicating invasive species; educating citizens and stakeholders; and ensuring that resources are optimally deployed to increase the effectiveness of government programs. These items are also reflected in the legislation, which I will now describe in more detail.

The bill is divided into six main parts. The first three parts outline an ecological and pathway research program, combining surveys and experimentation, to be established by the National Oceanic and Atmospheric Administration, the Smithsonian Environmental Research Center and the United States Geological Survey. This program is focused on understanding what invasive species are present in our waterways, which pathways they use to enter our waterways, how they establish themselves once they are here and whether or not invasions are getting better or worse based on decisions to regulate pathways. In carrying out this program, the three principal agencies I mentioned previously will develop standardized protocols for carrying out the ecological and pathway surveys that are called for under the legislation. In addition, they will coordinate their efforts to establish long-term survey sites so we have strong baseline information. This program also includes an important grant program so that academic researchers and state agencies can carry out the surveys at diverse sites distributed geographically around the country. This will give federal, state and local managers a more holistic view of the rates and patterns of invasions of aquatic invasive species into the United States. Lastly, the principal agencies will coordinate their efforts and pull all of this information together and analyze it to help determine whether or not decisions to manage these pathways are effective. This will inform policymakers as to which pathways pose the greatest threat and whether or not they need to change the way these pathways are managed.

The fourth part of the bill contains several programs to develop, demonstrate and verify technologies to prevent, control and eradicate invasive species. The first component is an Environmental Protection Agency grant program focused on developing, demonstrating and verifying environmentally sound technologies to control and eradicate aquatic invasive species. This research program will give federal, state and local managers more tools to combat invasive species that are also environmentally sound. The second component is a program to develop dispersal barriers—administered by the Army Corps of Engineers—which have been a critical issue in the Chicago Sanitary Canal where Great Lakes managers have been desperately trying to keep the Asian Carp from entering Lake Michigan from the Mississippi River system. The third component is expansion both in terms of scope and funding of a National Oceanic and Atmospheric Administration and Fish and Wildlife Service program geared toward demonstrating technologies that prevent invasive species from being introduced by ships. This is the federal government's only program that is focused solely on helping develop viable technologies to treat ballast water. It has been woefully underfunded in the past and deserves more attention.

The fifth part of the bill focuses on setting up research to directly support the Coast Guard's efforts to set standards for the treatment of ships with respect to preventing them from introducing invasive species. Ships are a major pathway by which invasive species are unintentionally introduced; the ballast water discharged by ships is of particular concern. One of the key issues that has hampered efforts to deal with the threats that ships pose is the lack of standards for how ballast water must be treated when it is discharged. The Coast Guard has had a very difficult time developing these standards since the underlying law that support their efforts (the National Invasive Species Act) did not contain a research component to support their work. This legislation provides that missing piece.

Finally, the sixth and final part supports our ability to identify invaders once they arrive. Over the past couple of decades, the number of scientists working in systematics and taxonomy, expertise that is fundamental to identifying species, has decreased steadily. In order to address this problem, the legislation sets up a National Science Foundation program to give grants for academic research in systematics and taxonomy with the goal of maintaining U.S. expertise in these disciplines.

Taken together, both my legislation and Mr. GILCHREST's represent an important step forward in our efforts to prevent invasive species from ever crossing our borders and combat them once they are arrive. New invaders are arriving in the United States each day, bringing with them even more burden on taxpayers and the environment. We simply cannot afford to wait any longer to deal with this problem, and so I urge all of my colleagues to support this legislation.

ESTABLISHING AN ANNUAL VISITING NURSE ASSOCIATION WEEK

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. MCCARTHY of New York. Mr. Speaker, today I rise in strong support for National Visiting Nurse Association Week. As a nurse for over thirty years, I am always proud to celebrate what I still consider the best profession in the world.

Today we are here to commend a very special type of nurse, those that specialize in home health care. For more than 100 years, Visiting Nurse Associations (VNAs) have been providing home health care to the communities they serve. Beginning in the late 1800s, VNAs provided critical home-based care for the homebound, the impoverished, the frail elderly and children at-risk.

Over a hundred years later, not-for-profit VNAs continue their unparalleled, selfless tradition of offering quality of life and independence to all Americans through comprehensive home health care. Today, guided by their charitable missions, VNAs care for nearly 10 million people annually.

VNAs provide home health care for patients of all ages—from infants to elderly. They are the educators of disease prevention and health promotion. Physicians are confident when referring to VNAs because of their high level of quality standards and clinical excellence. Patients are extremely satisfied with the care they receive from VNAs as shown by a 99 percent customer satisfaction rating.

Mr. Speaker, I urge all my colleagues to show their support for Visiting Nurse Associations everywhere by voting for this wonderful resolution.

NATIONAL PEACE CORPS DAY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Ms. MCCOLLUM. Mr. Speaker, I rise today in recognition of National Peace Corps Day, and in support of our nation's enduring commitment to progress, opportunity, and expanded development at the grassroots level throughout the developing world.

Since 1961, more than 168,000 Americans—including over 5,000 Minnesotans—responded to our nation's call to serve by becoming Peace Corps Volunteers in 136 countries. Today, more than 7,000 Americans currently serve in the Peace Corps, providing valuable assistance to developing countries, contributing their skills to support programs in education, health, business, agriculture and the environment.

Peace Corps volunteers have improved the lives of communities throughout the world by responding to real global crises such as poverty, hunger and HIV/AIDS. They have strengthened the ties of friendship and understanding between the people of the United States and those of other countries, and have brought back to the U.S. a deeper understanding of other cultures and nations.

National Peace Corps Day recognizes the work of returned Peace Corps Volunteers as they bring their experiences to work, school, places of worship and recreation, sharing with colleagues, friends, and community members how their volunteer service changed and shaped their lives. Today, across the nation, we honor the spirit of these Volunteers and reaffirm our country's commitment to helping people help themselves throughout the world.

In this spirit, and in honor of National Peace Corps Day, I have introduced House Concurrent Resolution 61, expressing the need to increase funding for the Peace Corps by $550 million by 2007. This legislation reflects the President's commitment to double the number of Peace Corps Volunteers over the next four years, and recognizes the unprecedented funding challenges the Peace Corps will face as the President's initiative to expand the program moves forward.

As we gather today to honor the tremendous achievements of our Peace Corps Volunteers from the past, let us not forget the thousands that serve today, including the twenty-four volunteers from my Congressional District in Minnesota serving in such locations as Honduras, Bulgaria, Kazakhstan and the Philippines. Now, more than ever, it is clear that the cross-cultural understanding developed through Peace Corps programs is invaluable to our nation.

HOUSING GROUPS OPPOSE ADMINISTRATION SECTION 8 PROPOSAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, one of the areas where national policy is weakest is that of affordable housing. The very prosperity of the nineties that so benefited most Americans in fact exacerbated the housing crisis for many, because of the unevenness of the housing market and of that prosperity. Sadly, recent proposals from this administration not only do nothing to alleviate these areas of housing crisis, they would worsen them. One of the areas where the administration's proposals would worsen an already bad situation is that of Section 8 Housing, the main program by which we help people rent housing when they cannot afford decent homes on their own. Not only has the program been insufficiently funded recently, the administration's new budget proposal seeks to make this a block grant, removing any federal protections for those in need, and subjecting them to the already strong pressures that many state budgets face. A coalition of some of the most important groups in the housing field, including many of those business organizations that seek to help us meet the need for affordable housing, recently wrote to Secretary Martinez expressing their strong opposition to this proposal. Their letter lists several reasons why this program would be harmful to our major current effort to help low income people meet their housing needs, and given the expertise and commitment of those who have signed the letter, as well as their reasoning, I ask that it be printed here so that the members may benefit from their very sound judgment.

FEBRUARY 25, 2003.

Hon. MEL MARTINEZ,
Dept. of Housing & Urban Development,
Washington, DC.

DEAR SECRETARY MARTINEZ: The undersigned groups are writing to express our concern regarding HUD's FY04 Budget proposal to block grant the Housing Choice Voucher program.

The voucher program, created under the Nixon Administration, has become the cornerstone of federal affordable housing policy and has broad support among many constituencies.

In recent years, an increased number of conventional apartment owners have begun participating in the voucher program. While the program is not perfect, professional apartment owners in partnership with the current voucher administrators have made great strides in helping low-income families find quality affordable rental housing—a partnership that helps the community as a whole.

Apartment owners and managers look to uniformity and consistency of program rules and funding levels when deciding to participate as voucher landlords. HUD's proposal creates uncertainty in this regard, the result of which will have a chilling impact upon market participation in the program.

In addition, multifamily property owners often operate in multiple States. If each State creates its own program, it would necessitate the understanding of new rules created by up to 50 different administrators. Further, any shifting of federal funds to state block grants raises serious concerns about future funding availability, begging the question of why States would be interested in HUD's proposal.

A dramatic shift in program rules and administrators will also jeopardize the new homeownership voucher programs launched by local agencies in partnership with the real estate and lending community. This homeownership initiative holds promise for increasing opportunities for low-income families.

Devolution may have a place in any sound federal housing policy, but not in relation to the House Choice Voucher program. We stand ready to work with HUD on alternative approaches to strengthening its tenant-based assistance.

Sincerely,
Council for Affordable and Rural Housing.

Institute for Responsible Housing Preservation.

Institute of Real Estate Management.

National Apartment Association.

National Association of Realtors.

National Leased Housing Association.

National Multi House Council.

UNITING IN THE FIGHT TO END DOMESTIC VIOLENCE

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise today, on the 5th Annual National Lobby Day for The National Coalition Against Domestic Violence, to join my colleagues in speaking out against domestic violence, a brutal crime committed against millions of women. Domestic violence is the single largest cause of injury to women between the ages of fifteen and forty-four, more than muggings, car accidents and rapes combined.

Mr. Speaker, women are losing their right to safety in their homes and in their communities. Women account for an alarming 85 percent of the victims of domestic violence. Each year between two to four million women are battered, and a substantial number of these battered women will die of their injuries.

Devastatingly, because one in three women are likely to be abused by a partner or someone she knows, only half of all female victims report their injuries to the proper authorities. Women remain in grave fear of their lives and do not leave their violent relationships.

Domestic violence is increasing at a disturbing rate. In my home state of Florida, which has an increasingly expanding immigrant population, battered women claim that they are in fear of reporting their violent relationships until their immigration concerns are addressed.

These women, Mr. Speaker, are fed misinformation about United States laws and are faced with the threats of deportation by their abusers. Many of these women are overly dependent on their abusers because they face racial and language barriers. Others face cultural barriers and being a victim of domestic violence is considered taboo.

Mr. Speaker, I join my colleagues in encouraging and supporting all victims of domestic abuse to seek help and to report all violent and criminal acts without being ashamed to do so. We must help prevent women from being ashamed and embarrassed and encourage them to report the abuse from these monsters.

Further, I strongly encourage Congress and the Administration to support and pass legislation pertaining to health care and law enforcement in order to combat violence against women. The abuse of women is an all too common occurrence and the fight to prevent this crime must strengthen.

TRIBUTE TO SPARKMAN HIGH SCHOOL OF HARVEST, ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. CRAMER. Mr. Speaker, I rise today to honor Sparkman High School from Harvest, Alabama for winning the statewide "We the People: The Citizen and the Constitution" competition. I am proud to announce that this group of bright students from my Congressional district will represent the state of Alabama in the national competition event that will be held on April 26, 2003. The Sparkman class will join more than 1,200 students from across the United States in Washington, D.C. to compete in the national finals.

The "We the People . . ." program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. These young scholars from Sparkman High School. have worked diligently to reach the national finals by participating in local and statewide competitions. Through their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitution. I want to congratulate these students on this outstanding achievement.

The "We the People" program, administered by the Center for Civic Education, provides students with a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government. The national competition is modeled after hearings in the United States Congress, giving students the opportunity to demonstrate their knowledge while they evaluate different positions on relevant historical and contemporary issues. Students will give testimonies followed by a period of questioning by the judges to explore their depth of understanding and ability to apply their constitutional knowledge.

It is inspiring to see these young people advocate the fundamental ideals and principles of our government. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values and principles that we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

The class from Sparkman High School is currently conducting research and preparing for their upcoming participation in the national competition in Washington, D.C. I commend their teacher, State Representative Sue Schmitz, for teaching these young "constitutional experts," and I wish the class the best of luck at the "We the People" national finals. They represent the future leaders of our nation.

THE PRESIDENT'S STEEL INITIATIVE ONE YEAR LATER: A SUCCESS

HON. ROB BISHOP

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BISHOP of Utah. Mr. Speaker, one year ago today, the President made a courageous decision to impose a temporary trade remedy against dumped and subsidized steel imports that were causing serious injury to our U.S. steel industry and its workers. This action was taken under Section 201 of the Trade Act, and the international rules of the World Trade Organization Safeguards Agreement. One year later, it is clear that his steel initiative has begun to produce an important consolidation and restructuring of the U.S. steel industry that will benefit our national economic security and our domestic steel customer base long-term.

Since the President's decision, prices are recovering, steel supply is generally robust, and the industry has begun dramatic consolidation and restructuring. This recovery is important news for Nucor Steel Utah, located in my district, and for steel producers in other similar communities all across America. The result at the end of the three-year period will be top quality steel, produced in high technology mills in America, which will become an even better value for our nation's steel consumers.

The President is also addressing the root cause of the import problems, by negotiating with our trading partners to eliminate global excess capacity and foreign government subsidies. As a result, the world's steel producing nations are for the first time talking meaningfully about reducing unneeded capacity and eliminating subsidies.

I thank the President for upholding our trade laws, despite intense opposition from abroad. His decision was the correct one. Thank you, Mr. President, stay the course. Your plan is benefiting my district and the nation's steel industry.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BECERRA. Mr. Speaker, on Tuesday, March 4, 2003, I was unable to cast my floor vote on rollcall numbers 40, 41 and 42. The votes I missed include rollcall vote 40 on Suspending the Rules and Agreeing to H. Res. 106, Congratulating Lutheran Schools; rollcall vote 41 on Suspending the Rules and Agreeing to H. Con. Res. 54, Expressing support of National Visiting Nurse Association Week; and rollcall vote 42 on Suspending the Rules and Agreeing to H. Res. 111, Honoring the Legacy of Fred Rogers.

Had I been present for the votes, I would have voted "aye" on rollcall votes 40, 41 and 42.

TRIBUTE TO THE HONORABLE CORWIN M. NIXON ON HIS 90TH BIRTHDAY

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the outstanding achievements of the Honorable Corwin M. Nixon, a dear friend and distinguished constituent, who will celebrate his 90th birthday on March 9, 2003.

Corwin has served Warren County, Ohio, and the State of Ohio with great distinction. From 1948 to 1960, he served as a Warren County Commissioner. Shortly thereafter, Corwin was elected to the Ohio General Assembly as a State Representative, where he served for 30 years from 1962 to 1992. He had the distinction of being minority leader of the Ohio House of Representatives during his last 14 years in office.

Throughout his successful public service career, Corwin Nixon was always a true gentleman who worked well with his colleagues on both sides of the aisle. Corwin also cared deeply about his constituents. He has told me he "used to mail get-well cards to everyone who got sick." Corwin once was shown four get-well cards that were kept on a constituent's mantel, one for each time this person had been in the hospital. He has also told me of his habit of sending a congratulatory note with a $1 bill enclosed to newborns, and how to this day these lucky recipients of his thoughtfulness come up to him to thank him.

Corwin has been extremely active in a number of good causes and organizations locally, statewide, and nationally. He is President of the U.S. Trotting Association, where he has been a member for 16 years. For 34 years, he has been an original member of the American Horse Council. Corwin also serves on a number of boards, including the Grandview Hospital, Bethesda Hospital, and Big Brothers and Sisters. Among other activities, Corwin has managed the well-known Lebanon Raceway for 50 years.

Family has always been important to Corwin. He and his wife, Eleanor, were married for 45 years before she passed away. They have two children, Keith and Karen (twins), and three grandchildren, Melissa (Missy), Tina, and Keith Jr. They also have four great grandchildren, Corwin Keith III, Eleanor, Preston, and Austin.

Mr. Speaker, Corwin Nixon is a remarkable person who has touched so many lives and has given so much to our community, our state, and our nation over many years. I hope my colleagues will join me in recognizing his many accomplishments as he celebrates his 90th birthday on March 9, 2003.

PRESIDENT'S LEADERSHIP ON STEEL

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ADERHOLT. Mr. Speaker, on March 5 a year ago, President Bush boldly gave temporary trade relief to our domestic steel industry. I believe his plan is succeeding.

It is my understanding that since 1973, Alabama's steel industry had steadily lost 16,000 employees, or about half the labor force. We needed a bold plan.

I am proud to have supported the President and his initiative to stop the illegal dumping of foreign steel in the United States. His proposed Section 201 trade relief over three years was also intended to leverage negotiations to address the root cause of the world's surplus capacity, what the President called a "50-year legacy of foreign government intervention in the market and direct financial support of their steel industries."

Well, a year later, some of our steel companies, including those in Alabama, are actually rehiring workers as domestic steel prices have firmed up, although they are still below the level two years ago. Also, to the best of my understanding, the critics' predictions of hefty price increases in consumer goods proved mistaken. And I am pleased that international negotiations are underway, thanks to the leverage of the Section 201 tariffs.

The results of the President's leadership on steel look good so far. I urge him to finish his program on schedule.

IN SUPPORT OF THE LIFESPAN RESPITE CARE ACT OF 2003

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. LANGEVIN. Mr. Speaker, I rise in support of the Lifespan Respite Care Act, which I am reintroducing today with the support of a group of 51 original cosponsors from both parties.

Each year, over 26 million Americans care for an adult family member who is chronically ill or disabled. An estimated 18 million children have chronic physical, developmental, behavioral or emotional conditions that place significant demands on their parental caregivers. Nearly four million Americans of all ages who have mental retardation or another developmental disability live with their families. Providing voluntary care for these people is equivalent to nearly $200 billion annually, which is the estimated cost if the family caregivers' services were provided by paid caregivers. More importantly, this voluntary care allows seniors and others to continue living at home, which improves their spirits and often speeds up recovery time.

Family caregiving has some clear benefits—it contributes to family stability and it often spares families from more costly, out-of-home placements. While voluntary care is personally rewarding, it can result in substantial emotional, physical, and financial strain on the caregiver. Surveys of family caregivers consistently show an unmet need for respite care services. Respite care services relieve caregivers from daily caregiving tasks on a temporary or longer-term basis. This is often necessary for caregivers to address their own health issues or other crises a family may encounter—for example, in the areas of employment, housing or domestic violence. In too many situations, caregivers do not know how to find information about available respite care and access these services. In other cases, respite care is still unavailable to those who need it. Meanwhile, existing respite programs are finding it difficult to recruit and retain trained providers.

In response to this need, I have worked together with the National Respite Coalition to craft legislation that eases the burden of responsibility on the family caregivers who give so much. In many cases, this would allow them to continue to provide care for their loved ones. Many lifespan respite programs are already in place at the state and local levels, providing invaluable services to the families of people with chronic disease or disability. We are proposing to build upon these tremendously successful existing programs. The Lifespan Respite Care Act would authorize funds for development and coordination of state and local respite systems, training and recruitment of respite care workers, and creation of a National Resource Center on Lifespan Respite Care. By passing this legislation, we could take a proactive step toward providing quality at-home care for millions of Americans with special needs, preventing caregiver burnout, and safeguarding against the unsafe or inappropriate care that can result from the unmet need for respite care.

I thank you for the opportunity to bring this legislation to your attention and ask for the support of my colleagues to move this bill forward.

THAILAND, BURMA, LAOS AND VIETNAM TRIP REPORT

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PITTS. Mr. Speaker, I recently returned from a trip to Thailand, the Thai-Burma border, Laos and Vietnam with U.S.-based NGO Jubilee Campaign, and with Lord David Alton of the British House of Lords. We met with government officials, NGOs, and refugees, in Thailand, Laos and Vietnam to establish relationships and raise human rights concerns, particularly trafficking and religious freedom issues.

I would like to begin with commending the people of Thailand for their well-deserved reputation for hospitality. I flew to Thailand on Thai Airways and had a wonderful experience. During our visit throughout Thailand, we were met with warm hospitality. It is this tradition and culture of hospitality that has made Thailand a safe haven for the refugees fleeing death and destruction in Burma. I urge the current Thai Administration not to pursue policies that would damage that reputation of wonderful hospitality.

In Thailand, we met with organizations working with refugees along the Thai-Burma border and with the Internally Displaced People (IDPS) inside the jungles of Burma. The situation in Burma is dire, and I would not hesitate to call it, according to international legal definitions, genocide. In Article 2 of the

1948 Convention on the Prevention and Punishment of the Crime of Genocide, genocide is defined as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group." Reports make clear that the ironically-named State Peace and Development Council (SPDC) of Burma, the ruling military junta, has engaged in a deliberate policy to eliminate the ethnic minorities. A scorched earth policy, destroying entire villages along with food storage and production sources, systematic rape, the use of humans, including women and children, as landmine sweepers, forced labor, also known as slavery, the refusal to allow the duly elected leader of the country to take office, and many other abuses have turned the country of Burma into one large concentration camp. Sadly, the international community has turned a deaf ear to the cries of the ethnic minorities, the refugees, the IDPS, the democracy activists. Why is it that the international community fought with weapons to stop the genocide in former Yugoslavia in Europe but is ignoring the one occurring in Southeast Asia? There are a large number of organizations that carefully track the violations in Burma so there is no shortage of evidence of the human rights abuses the SPDC commits. The Karen Human Rights Group, the Shan Human Rights Foundation, the Shan Women's Action Network, the Committee for Internally Displaced Karen People, the Assistance Association for Political Prisoners, Christians Concerned for Burma, Partners Relief and Development, and many other Burma groups produce reports of current and past atrocities committed by the SPDC. We were given copies of over one dozen reports which provide detailed documentation of these brutal policies. I urge my colleagues to read these reports to gain further understanding of the situation in Burma.

My delegation visited refugee camps north of Mae Sot, Thailand and spoke with Karen refugees, Christians, Buddhists, and Muslims who all had fled the attacks of the SPDC on their communities. We saw landmine victims, orphans and school children, who all had suffered from the actions of the SPDC. The Thai government has been gracious in caring for these refugees, often with little help from the international community, yet there are many IDPs hiding in the jungles of Burma who need a safe place to go. I respectfully request that the Thai government allow the IDPs to enter the camps and be registered as refugees. In addition, I respectfully request that the Thai government allow the UNHCR to establish a permanent presence within the camps to help administer the needs of the refugees.

Mr. Speaker, our visit with the refugee orphans was both heart-wrenching and a delight. It was a delight to see these young children and to hear the songs they sang to us, but it was heart-wrenching to hear the amount of tragedy in these young lives. One group of four children, the oldest was 12, had lost their father; their mother could not take care of them so she brought them to the orphanage. An eight-year-old boy, who could not smile, had lost both parents, was then trafficked across the border to Thailand, somehow escaped from his "owners," and reached the safety of the refugee camps. It is heartbreaking to know that many of the young children, including the orphans, in the refugee camps had watched family or community members being killed by the SPDC, wounded or killed by landmine explosions, raped, or even burned alive.

The drug problem in Southeast Asia can largely be traced back to the SPDC regime in Burma. The military runs, controls and earns the profits off the drug trade of a reported 1 billion plus methamphetamine pills per year. These drugs have had a huge impact on the young people of the region, so it is vital that we work even more closely with the Thai government in fighting against the drug trade controlled by the Burmese military. There are reports of the SPDC forcing its soldiers to take drugs before attacking ethnic groups—captured SPDC military personnel sometimes have difficulty remembering what took place during an attack.

Mr. Speaker, it is vital that those responsible for the genocide of the ethnic groups in Burma be held to account. The reports of atrocities are reminiscent of the Nazis, their blatant disregard for human life and their policies of extermination. The ethnic cleansing of Burma is an international tragedy and I call on the international community to send monitors to Burma, to pursue prosecution of those responsible for these crimes against humanity, to press for the immediate end to deportation of democracy groups back to certain death in Burma, to press strongly for the recognition of the democratically elected government of Burma, and to send international peacekeepers to Burma. I call on the United States government to assist the refugees in Thailand, to increase pressure on the military regime in Burma and those nations that assist the junta, and to further assist the democracy and humanitarian organizations focusing on assistance to the people of Burma. One practical way we can assist the refugees is by offering scholarship opportunities for the refugee students to study abroad—the refugees currently have no legal means to continue their education past middle or high school.

While in Thailand, we also met with organizations assisting women and children, often ethnic minorities from Burma, Thailand, Laos and Vietnam, who are victims of trafficking. Many of these victims end up as such due to lack of educational and economic opportunities or lack of citizenship rights in their countries. Organizations, such as the New Life Center, provide counseling, health and medical advice and treatment, education and job skills opportunities—many of those at risk for being trafficked, after the assistance provided by NGOS, return to their communities to help educate women and children about trafficking, health, and other issues.

Our meetings with Thai officials in Bangkok with the National Security Council, the Foreign Ministry and Members of the Thai Parliament were helpful and I look forward to working with these officials to resolve some of the issues we discussed, particularly the current concerns about forced repatriation of democracy and humanitarian groups working on Burma issues and the certain death they would face if deported back to Burma.

Our delegation then traveled to Laos to meet with government officials and some church leaders regarding various human rights concerns and other issues. Laos is one of the poorest countries in the world and one of only four nations in the world (Laos, Cuba, North Korea and Serbia-Montenegro) that do not have Normal Trade Relations (NTR) status with the U.S. Religious freedom issues have been a major concern in Laos, but reports from various organizations and officials suggest that the problem is slowly being addressed and there has been progress. We met with officials from the Foreign Ministry, the National Assembly, the Lao Front for National Construction and, the Women's Union, and NGO representatives. The openness and frankness of our discussions with officials in Laos was greatly encouraging as was their desire to improve the development of their country. There is much poverty in Laos and after discussions with Laotian officials, U.S. government officials, and some NGOS, it was clear that it is important that the United States extend Normal Trade Relations (NTR) status to Laos. Countries, such as Saudi Arabia, with horrendous human rights records do have NTR; though there is more progress needed, the government of Laos allows people of faith to worship, is working to help end trafficking in persons, has cooperated on missing persons issues, and desires to work for the development of opportunities for women and the poor. I urge my colleagues to join me in supporting the extension of NTR to Laos.

The delegation traveled on to Vietnam to meet with government officials and representatives of a Buddhist organization and a Christian organization. In all meetings, the same issues were raised, and it was clear that the Central Party had a strong hold over the country. We had a very helpful meeting with the Ministry of Foreign Affairs and we look forward to interacting with them on a number of issues. In addition we met with the Government Board for Religious Affairs and the Ministry of Labor, Invalids and Social Affairs and plan to raise cases of religious persecution and trafficking with them. Prior to our visit, the Central Party had its Seventh Annual Plenum meeting, of which a major discussion point was religion. Unfortunately, a key directive from that meeting, referred to in a news report from the South China Morning Post, calls for religious people to be patriotic by "'volunteering' in the struggle to 'foil all attempts of hostile forces who abuse religious and ethnic minority issues to sabotage national unity and act against [the] political regime.'" This most likely means further attempts at control of religious groups in Vietnam. Recent reports by a number of reliable organizations reveal increasing harassment, persecution and imprisonment of religious believers. We hope that the relationships we formed with Vietnamese officials during our visit will help resolve some of the current religious cases.

In addition, during our visit to Hanoi we had the privilege of visiting the Hanoi Hilton, the notorious prison where members of our armed services were held during the Vietnam War and where Vietnamese citizens previously were imprisoned by the French military. The glass shards on the walls, the placards of personal stories, the stocks where prisoners were unable to move, the isolation cells and the torture devices were sobering reminders of the suffering of many people in Vietnam.

Mr. Speaker, I had an excellent visit to Southeast Asia and I hope to return soon. I would like to commend the US Embassy officials in Thailand, Laos and Vietnam for their extraordinary work and assistance on this visit; it would not have been as successful without them.

I urge my colleagues to join me in pressing for freedom for the people of Burma, continuing to strengthen our relationship with our close friends in Thailand, and furthering the relationship between our nation and the peoples of Laos and Vietnam.

RECOGNIZING BILLY D. COLE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Billy D. Cole on this, his 50th year in local banking.

Mr. Cole began his banking career on his 18th birthday, March 2, 1953. He found his first job at the former Empire Trust Company where he worked for Fairleigh Enright as a teller-trainee. Since then, he has served as an officer or director of over 40 banks and ten bank holding companies throughout Missouri and Kansas. Today, Mr. Cole serves as the vice-chairman of the board of Nodaway Valley Bank in Missouri.

Mr. Cole truly has worked hard during his years of service and ultimately has become one of the regions well-known and most respected bankers.

Mr. Speaker, today I proudly ask you to join me in commending Billy D. Cole for his accomplishments and dedication on the anniversary of his 50th year in banking.

ON THE RETIREMENT OF DISTRICT ATTORNEY PHILLIP ROLLINS

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. DELAHUNT. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to Phillip A. Rollins, who stepped down from office this year after serving for 32 years as a District Attorney in Massachusetts.

Since Phil is too modest to draw attention to his own accomplishments, I want to take this moment to share with you some highlights of his distinguished career in public service. Phil started in Cape Cod politics in the 1960s, serving in local government as a Selectman in the Town of Mashpee. He then ran and won a contested race against a longtime District Attorney, representing the Southern District of Massachusetts. From the start, Phil realized that the issues and problems facing the communities on Cape Cod and the Islands of Nantucket and Martha's Vineyard were so unique as to require special focus. The solution was both innovative and practical. The Cape and Islands region needed its own District Attorney, and Phil Rollins had the skill to fulfill that vision.

Over the years that followed, Phil Rollins racked up some impressive professional accomplishments. He was among the first in the Commonwealth to hire female prosecutors, he created a regional crime hotline and developed regional crime prevention strategies, and earned an outstanding reputation for innovation in child abuse and domestic violence. Respected and admired by his colleagues, he was twice selected to be the President of the Massachusetts District Attorneys Association.

As he leaves office, he can look back with enormous pride on all that he has done to professionalize the work of prosecutors, and to improve the quality of life on Cape Cod and the Islands. Most of his crime initiatives are still in place, and he leaves a highly trained office with over 20 lawyers, and a budget of over $2.5 million. Those who have left his office are considered to be among the best and brightest lawyers in the state.

So, I rise today as a former District Attorney myself, and as the Congressman of a very grateful Cape and Islands constituency to join with my colleagues in the US House of Representatives to recognize the important work of a fine public servant and longtime and very dear friend. Thank you, Phil.

STEEL TARIFFS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. EVANS. Mr. Speaker, I am here today to mark the one-year anniversary of the Section 201 temporary tariff relief for the domestic steel industry. This is an issue that, unfortunately, I have worked on of for too many years. However, the current section 201 remedies are working, and I urge the President to continue to support our domestic steel industry by continuing the relief program over the original three year plan.

As many of my colleagues are aware, from 1997 to 2002, 35 domestic steel companies were forced into bankruptcy through illegal dumping practices. One of these companies was Northwestern Steel & Wire Company, which was in Sterling, Illinois, in my district. Northwestern Steel and Wire was forced to close its doors and 1,400 employees lost their jobs. The Department of Labor determined that Northwestern Steel employees were eligible for Trade Adjustment Assistance because "various customers increased their reliance on imported steel and wire rod." This reliance came from a system of foreign steel being dumped into the U.S., thereby preventing American steel companies from fairly competing.

In March 2002, the President imposed 3 years of declining tariffs on various steel products and raw materials. This has allowed the domestic steel industry to deal with changes in the market in a way that does not simply bankrupt all producers or displace thousands of workers. By preventing illegal dumping, the Section 201 relief has allowed a new company to move into Sterling, Illinois. Sterling Steel is currently working with the community to use the Northwestern Steel facilities, and bring steel jobs back to the area. They have created 200 steel related jobs in an area that had lost all steel industry. The ability to open more efficient steel factories and creating jobs in a more stable steel market can only occur with a level playing field. Steel tariffs provide that.

The U.S. steel industry provides not only jobs for communities like Sterling, Illinois, but it also helps secure our national defense. Many vital products that protect and defend our nation's troops are made of steel. Not, just any steel, American steel. Without the opportunity and protection of the 201 relief, we could not guarantee the men and women of our armed services the protections of new ships and tanks. The domestic steel industry is necessary for our nation's vital infrastructure, making up parts of our roads, power plants, and pipelines. By reducing competition by allowing dumping to close down domestic steel producers, we make our nation and our economy more vulnerable.

I want to encourage the President to continue with his plan for three-year declining tariffs. This action will allow the domestic steel industry to stabilize and help communities like Sterling to adjust to the new market without massive layoffs. We must continue to support domestic industry in order to properly turn our economy around.

SUPPORT FOR THE VIOLENCE AGAINST WOMEN ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. HOLT. Mr. Speaker, I rise today in support of full funding of the Violence Against Women Act. This law fostered countless initiatives that have brought millions of dollars to shelters, increased resources for law enforcement, expanded the National Domestic Violence Hotline, and bolstered the prosecution of child abuse, sexual assault, and domestic violence cases.

These programs and services are invaluable. U.S. Department of Justice statistics indicate that domestic violence has decreased by 49 percent since VAWA went into effect. They also reaffirm that full funding for VAWA is well worth the investment. It is estimated that the $1.6 billion spent on VAWA programs during the first six years after its enactment saved government coffers $14.8 billion in medical, legal, workplace and other social costs, not to mention saving many lives.

Unfortunately, state budget crises and decreases in federal funding are threatening these vital programs and services. President Bush's budget request for FY 2004 would cut funding for VAWA programs and services by $141.6 million in FY 2004 from the previously authorized level of $692.5 million.

Our Nation must renew our commitment to ending all forms of domestic violence. I urge my colleagues to appropriate fall funding to fulfill the mission of the Violence Against Women Act.

SENATE—*Friday, March 7, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, omnipresent Lord of all life, we do not presume to invite You into this Chamber or into the deliberations of this day; You are already here. This is Your Nation; this historic Chamber is the sanctuary for the sacred work of government. All the Senators are here by Your choice, and all of us who work to support their leadership are here by Your providence.

The one place You will not enter without our invitation is our souls. You have ordained that we must ask You to take up residence in our inner being and to guide our thinking, desires, vision, and plans. The latch string is on the inside. You stand at the door of each of our souls, persistently knocking. We open the door and receive You as absolute Sovereign of our lives. Just as You reign as Sovereign of this Nation and our ultimate Leader to whom we relinquish our own wills, may Your very best for our beloved Nation be accomplished through what is debated and decided today. You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. WARNER. Mr. President, on behalf of the majority leader, I advise Members that the Senate will be in a period of morning business until the hour of 12:30 p.m. today, with time equally divided between the chairman of the Armed Services Committee and the Democratic leader or their designees. The Senate leadership—the majority and minority—recognizing that a number of Senators have desired to speak on the international situation, is making this period available for Senators to address the world scene relating to the war on terrorism, with emphasis on Iraq and North Korea.

As announced last night, there will be no rollcall votes during today's session. The next vote will occur at 6 p.m. on Monday. It will be on the nomination of Gregory Frost of Ohio to be United States District Judge for the Southern District of Ohio.

Also, a reminder: Under the consent agreement reached last night, the Senate will begin consideration of Calendar No. 19, S. 3, the partial-birth abortion bill, at 5 p.m. on Monday.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with time to be equally divided between the Senator from Virginia, Mr. WARNER, and the Democratic leader or their designees.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. WARNER. Mr. President, I yield such time as may be required to our distinguished colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

WAR ON TERRORISM

Mr. GREGG. Mr. President, I thank the Senator from Virginia.

Mr. President, I appreciate the Senator from Virginia organizing this opportunity to discuss what is obviously one of the most serious issues which we as a nation are facing and which the world is facing; that is, the question of how we address terrorism, and specifically how we address terrorist states such as Iraq.

The leadership of the Senator from Virginia on this point has been long and strong and continuous. I admire the fact that he has given us that leadership, and I appreciate the fact that his service in the Senate and his expertise are brought to bear on this type of a very difficult question.

When we begin to address this issue of terrorism, I think we should start with the source. Let us turn to the words of the man who has basically orchestrated the attacks on the United States, Osama bin Laden, and his intentions and the intentions of the people he directs, and unfortunately encourages. Osama bin Laden, on the issue of weapons of mass destruction, in an interview in 1999 from Time magazine, said the following:

> Acquiring weapons for the defense of Muslims is a religious duty. If I have indeed acquired these weapons—

Weapons of mass destruction—

> —then I thank God for enabling me to do so. And if I seek to acquire these weapons, I am carrying out a duty. It would be a sin for Muslims not to try to possess the weapons that would prevent the infidels from inflicting harm on Muslims.

In a religious order he states:

> We, with Allah's help, call on every Muslim who believes in Allah and who wishes to be rewarded to comply with Allah's order to kill Americans and plunder their money wherever and whenever they find it. The ruling to kill the Americans and their allies, civilians and military, is an individual duty for every Muslim who can do it in any country in which it is possible to do it.

These are the words of a fanatic who has a purpose. We have seen the execution of his purpose in the attacks on Americans, with thousands dying in New York and others here in Washington, military men and women in Yemen, and in our Foreign Service personnel in Africa.

The question becomes: From whom would he obtain these weapons of destruction? It is clear that one of the core sources of weapons of mass destruction is terrorist states which are producing those weapons of mass destruction—states which act outside the responsibility of the civilized world.

The state which has most flagrantly pursued that course of action is, of course, Iraq. They have weapons of mass destruction. That has been confirmed beyond question—biological and chemical—and they clearly are trying to develop nuclear. More importantly, Saddam Hussein has used those weapons not only against what he perceives as an enemy—the Iranians—but against his own people. He has killed thousands of his own people and tens of thousands of Iranians using weapons of mass destruction—chemical weapons.

We know there are literally tons of Vx gas and pounds of anthrax which are unaccounted for and which cannot be found—and which are in the possession of Saddam Hussein. Should they fall into the hands of Osama bin Laden, it is very clear from his own words that they would be used against us here in the United States, and the implications are staggering. If they were to be dispersed in any number of ways, tens of thousands of Americans might be harmed and possibly even die.

The United Nations has equally recognized that Saddam Hussein is a threat to the civilized world, and a number of resolutions have been passed by the United Nations calling for action to be taken by Saddam Hussein and his regime to comply with international law.

In April 1991, almost 12 years ago, the U.N. Security Council decided in Security Council Resolution 687 that Iraq shall unconditionally accept, under international supervision, the destruction, removal, or rendering harmless of its weapons of mass destruction, and ballistic missiles with a range over 150 kilometers. It further required Iraq to make a declaration within 15 days of the location, amounts, and types of such items.

Twelve years ago that resolution was passed. It is uncomplied with. It has been ignored. It has been intentionally obfuscated by Saddam Hussein.

In August 1991, Security Council Resolution 707 demanded that Iraq provide, without further delay, full, final, and complete disclosure of its proscribed weapons and programs as required by the previous resolution.

That resolution has been ignored, obfuscated, undercut, and actively avoided by Saddam Hussein's regime.

In June 1996, Security Council Resolution 1060 deplored the refusal of the Iraqi authorities to allow access to sites designated by the Special Commission, which constituted a clear violation of three previous resolutions.

That resolution has been ignored, obfuscated, and undercut by Saddam Hussein, and intentionally undermined.

In June 1997, Security Council Resolution 1115 condemned Iraq's actions and demanded Iraq allow UNSCOM's team immediate, unconditional, and unrestricted access to any sites for inspections, and officials for interviews by UNSCOM. Again, the resolution has been ignored, undermined, and actively obfuscated and circumvented by Saddam Hussein.

In October 1997, Security Council Resolution 1134 demanded that Iraq cooperate fully with the Special Commission and demanded also that Iraq, without delay, allow the inspection teams immediate, unconditional, and unrestricted access to any and all areas, facilities, equipment, records, as well as to persons whom the inspectors wish to interview.

The resolution has been ignored, undermined, and actively obfuscated by Saddam Hussein.

In November 1997, Security Council Resolution 1137 condemned the continued violations by Iraq, its tampering with monitoring cameras of the Special Commission, and demanded that Iraq cooperate fully, and immediately.

That was in 1997. And there has been no immediate cooperation. In fact, there have been active—active—attempts to interfere with and undermine that resolution.

In March 1998, Security Council Resolution 1154 stressed that Iraq must accord immediate, unconditional, and unrestricted access to the Special Commission, and that any violation would result in the severest consequences for Iraq.

Again, Iraq has ignored the resolution and actively worked to undermine it.

In November 1998, Security Council Resolution 1205 condemned the decision by Iraq to cease cooperation with the Special Commission as a flagrant violation of Resolution 687 and other resolutions.

In November 2002, Security Council Resolution 1441, which was unanimously approved, decided that Iraq has been and remains in material breach of its obligations under relevant resolutions and decided to afford Iraq, by this resolution, a final opportunity to comply with its disarmament obligations under the relevant resolutions.

Resolution 1441 has been ignored, obfuscated, and actively—actively—undermined by Saddam Hussein and his regime.

There can be no question—absolutely no question—but that Saddam Hussein and his regime in Iraq continued to possess weapons of mass destruction, continued to hide those weapons from the inspectors, continued to violate resolution after resolution of the world community, as presented by the United Nations, and represents a clear and present and immediate threat not only to its neighbors, but more specifically to us, the United States.

There are some in the world community, obviously—mostly in Europe—some of our allies, who, for whatever their personal reasons or whatever their national interests, have decided Saddam Hussein does not represent the threat we know he is. I might even recall the words of Washington when I think of that. Washington advised us, of course: Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice? There are interests there that are not ours. But in the end our purpose must be our national security and the security of our people.

It was not, of course, Berlin or France or Paris that was attacked. It was New York City that was attacked. As a result, it is America that is at risk.

Former President Clinton made it very clear he understood the threat of Saddam Hussein. He has described Iraq as a "rogue state with weapons of mass destruction ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us unnoticed." He went on to imagine: What if Saddam fails to comply with the U.N. resolutions and we fail to act, or we take some ambiguous third course, which gives him yet another opportunity to develop this program of weapons of mass destruction? Mr. Clinton answered his own question by saying:

> Well, [Saddam] will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And someday, some way, I guarantee you he'll use the arsenal. And I think every one of you who's worked on this for any length of time believes that, too.

That was President Clinton.

Last night, President Bush made it very clear that he understands his purpose as President, his responsibility as Commander in Chief, but more importantly, his responsibility as a leader of the free world, and the protector of the interests of the American people and the lives of Americans, must involve the disarmament of Iraq.

There can be no question about that. Iraq must be disarmed. We are engaged in a war. Some on the other side have said or implied there is no war and, therefore, we should not go to war. But when our buildings were attacked and our people died in New York, and when our people died in Washington, and when our sailors were killed in Yemen, and our Foreign Service people were killed in Africa, clearly, those were acts of war directed at us and at our people.

Were this the 19th century or well into the 20th century, when despots such as Saddam Hussein also existed—all through time there have been despots—then maybe we could take a more casual or leisurely approach to this, and maybe we could live by the code of some of our European allies: That we simply will do business with them and hope they go away. But those times no longer exist.

Today, when a rogue nation, led by a criminal individual, attains weapons of mass destruction, the death and destruction which they can level on people who they perceive as their enemies is overwhelming. The smoking gun is no longer a single bullet. The smoking gun may be a nuclear bomb or a biological weapon or a chemical attack which kills tens of thousands of Americans.

We cannot wait for the smoking gun. We know the weapons exist. We know the person who controls those weapons is fundamentally evil. And we know the people who want to attain those weapons have already killed thousands of Americans. We must take action.

So I congratulate and support our President as he moves forward to make it unquestionably clear we will not tolerate an Iraq that has weapons of mass destruction, and we will do what is necessary to protect our Nation and our people and the freedom which we enjoy.

Mr. President, I appreciate the Senator from Virginia granting me this time. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I very much appreciate the contribution of our distinguished colleague.

We have two speakers on our side ready to go forward, and we will rotate, as the case may be. But we now have the distinguished chairman of the Appropriations Committee, who is also the chairman of the Subcommittee on Defense within the larger committee, a man who has dedicated much of his lifetime to defense issues, beginning in World War II with his distinguished service in the Army Air Corps.

I would hope the chairman might make reference to the work that has been done in his committee with reference to the issues relating to international terrorism, Iraq, and North Korea, because there is some challenge to the Senate as an institution as to whether or not we are giving attention to these issues. Within the last day or so, I put into the RECORD a very long recitation of what the Committee on Armed Services of the Senate has been doing. I know the Committee on Appropriations, particularly the subcommittee, has been very active. We also are likely to hear from the chairman of the Foreign Relations Committee. His committee has also been doing a great deal of work.

We all recognize the value of debates in this historic Chamber, but there is much work going on within the committee structure by individual Senators in their town meetings. So, collectively, this institution has a good record of addressing the serious issues of our time.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Virginia is right. As a veteran of World War II and a child of the Depression, I harken back to the days before World War II when we had so much information coming our way concerning the scourge that was threatening and did threaten and almost destroyed Europe. We have tried to be vigilant in this country. We have had a series of debates not only on this occasion but at the time of the decision of the United States to fulfill the request of the United Nations to eject Saddam Hussein from Kuwait. We had similar divisions on the floor of the Senate then. I was sad to hear comments made before that action was initiated, but I was very proud of the Senate that after the decision was made to go to war against Iraq in order to eject them from Kuwait the Senate came together and supported President Bush in 1991 to achieve that objective.

Now we face a different circumstance. I like to harken back to the words that my good friend, the former Secretary of State, Henry Kissinger, said before the Senate Foreign Relations Committee last September. He said then:

> We must consider not only the result of action but the consequences of our inaction.

Secretary Kissinger presents the watchwords for this body to consider and think about, especially since this administration and I personally believe that Saddam Hussein represents a clear and present danger to the United States and to those who believe in freedom throughout the world.

As a consequence of the terrorist attacks on September 11, 2001, and the war on terrorism that ensued, Secretary Kissinger pointed out that a new geopolitical reality was born. The world must recognize that the potential connection between terrorists and weapons of mass destruction moved terrorism to a new level of threat. In fact, that nexus should be the overriding security issue of our Nation.

President Bush and his team of national advisers has determined that Saddam Hussein is in possession of weapons of mass destruction—chemical, biological, and possibly nuclear—which could be used by terrorists to threaten the world. There is a great deal of information collected by the United States in the past year concerning that fact.

In 2001, an Iraqi defector, Adnan Ihsan Saeed al-Haideri, said he had visited 20 secret facilities for chemical, biological, and nuclear weapons. Mr. Saeed, a civil engineer, supported his claims with Iraqi Government contracts complete with technical specifications. Mr. Saeed said Iraq used companies to purchase equipment with the blessing of the United Nations and then secretly used that equipment for their weapons programs.

Iraq admitted to producing biological agents and, after the 1995 defection of a senior Iraqi official, Iraq admitted to weaponization of thousands of liters of anthrax, botulinum toxin, and aflatoxin for use with Scud warheads, aerial bombs, and aircraft. Our Defense Department reported in 2001 that Iraq had continued to work its weapons programs, including converting an L–29 jet trainer aircraft for potential vehicles for delivery of chemical or biological weapons. Just think of that, weaponization of an airplane and using an airplane in a way entirely foreign to its original purpose. It reminds me of September 11.

This jet trainer is capable of delivering both of these systems, chemical and biological weapons. In fact, Iraq has not accounted for hundreds of tons of chemical precursors and tens of thousands of unfilled munitions, including Scud variant missile warheads. It has not accounted for at least 15,000 artillery rockets that in the past were its preferred vehicles for delivering nerve agents, nor has it accounted for almost 550 artillery shells filled with mustard agents.

Iraq is still purchasing chemical weapons agent precursors and applicable production equipment. It is making an effort to hide the activities at the Fallujah plant, which is one of Iraq's chemical weapons production facilities, which was one of those production facilities before the gulf war. At Fallujah and three other plants, Iraq has chlorine production capacity far higher than any civilian need for water treatment. Evidence indicates that some of its chlorine imports are being diverted for military purposes.

A report issued by the International Institute for Strategic Studies concluded that Saddam Hussein could build a nuclear bomb within months if he were able to obtain fissile material. In the last 14 months, Iraq has sought to buy thousands of specifically designed aluminum tubes which intelligence officials believe were intended as components for centrifuges to enrich uranium. Iraq has withheld documentation relative to its past nuclear program, including data about enrichment techniques, foreign procurement, weapons designs, experimental data, and technical documents.

Saddam Hussein has repeatedly met with his nuclear scientists over the past 2 years, signaling his continued interest in developing a nuclear program.

Iraq is believed to be developing ballistic missiles with a greater range than 150 kilometers, as prohibited by U.N. Security Council Resolution 687. Iraq continues to work on the al-Samoud liquid propellant short-range missile which can fly beyond the 150 kilometers barred by the agreements into which it has entered. The al-Samoud and the solid propellant Ababil-100 appeared in a military parade in Baghdad on December 31, 2000, suggesting that both were nearing operational deployment. The al-Rafah-North facility is Iraq's principal site for testing liquid propellant missile engines, and it has been building a new larger test stand there that is clearly intended for testing prohibited long-range missile engines.

Each of these actions point to the creation of an environment that will permit Saddam Hussein to go after his enemies, whether they are in Iraq or any other region in the world. And we have seen time and time again Saddam Hussein has no regard for the ideals of freedom, equality, and justice for others. He lives in an empty echo chamber of evil.

What we must face is that the United Nations resolutions were systematically and brutally ignored and violated for the past 12 years. It was the U.N. inspectors who found it impossible to do their job and had to leave their work unfinished. They returned, and they have been at it again, trying to find the evidence to prove what we all believe is true.

Clearly, the Senator from New Hampshire has just stated Iraq has ignored now 17 resolutions and blatantly violated the agreement it made after defeat in 1991.

What we face is existence of a rogue state with weapons of mass destruction. I wonder if anyone here denies that. They have the willingness to use these weapons and have demonstrated in the past, both against the Kurds and Iran, that they have a hatred for the civilized world. It is a terrorist state now, in my opinion. If we were to go to war with Iraq again, we will not be ignoring our war on terrorism but trying to stamp out the source of it. Americans must face this responsibility and the realization that we are the one country in the world that can both eradicate this man, bring him to justice, and bring the seeds of democracy to a new nation.

I hope we will finally hear soon that all of the nations we believed were our partners in seeking freedom will support the objectives of the U.N. resolutions that have already passed. I think if we would enforce those, we would achieve a safe and lasting peace for Iraq and remove Saddam Hussein from power. In fact, I remind the Senate and the President of section 6 of the Iraqi Liberation Act of 1998, which urged then-President Clinton to call upon the U.N. to establish an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials, including his sons Qusay and Uday, who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

Mr. President, I also awakened this morning to find the Washington Times. This story bothers me considerably. It is a story headlined "Iraq Strengthens Air Force with French Parts."

Mr. President, I ask unanimous consent that the full article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, this disturbs me greatly. For the last 20 years, 21 years, I have been privileged to attend the Paris Air Show, along with a substantial number of Americans and our American companies. I visited those companies in their chalets there. We tried to develop what was called a "two-way street." We would buy some materials from them and they would buy some from us.

There is no need for France to sell equipment to Saddam Hussein. It is international treason, Mr. President. It is in violation of a U.N. resolution, and there should be no question about French officials—they should come forward quickly to deal with this story. As a pilot and former war pilot, it disturbs me greatly that the French would allow, in any way, parts for the Mirage to be exported so the Iraqis could continue to use those planes. They are good planes, Mr. President. The French make very good aircraft parts. But they should not be finding their way to Saddam Hussein at this time.

I share the concern of the writer of that article about the position of the French government, in view of this information now disclosed by our intelligence officials. As Senator WARNER stated, as chairman of the Defense Appropriations Subcommittee, I intend to get to the bottom of that. We intend to make inquiries today and find out what more we know about what is disclosed in the article regarding the shipment of military parts from either France or Germany into Iraq. I believe the American people need to know more about this. We need to know why these two countries, among the best of our allies, are standing on the sidelines as we prepare to try to destroy this regime that threatens the world. In my judgment, it is something the Senate must take very seriously if either of those governments has allowed the export of war materials to go to Iraq at this time.

I thank my friend for allowing me this time.

EXHIBIT 1

[From the Washington Times, Mar. 7, 2003]

IRAQ STRENGTHENS AIR FORCE WITH FRENCH PARTS

(By Bill Gertz)

A French company has been selling spare parts to Iraq for its fighter jets and military helicopters during the past several months, according to U.S. intelligence officials.

The unidentified company sold the parts to a trading company in the United Arab Emirates, which then shipped the parts through a third country into Iraq by truck.

The spare parts included goods for Iraq's French-made Mirage F–1 jets and Gazelle attack helicopters.

An intelligence official said the illegal spare-parts pipeline was discovered in the past two weeks and that sensitive intelligence about the transfers indicates that the parts were smuggled to Iraq as recently as January.

Other intelligence reports indicate that Iraq had succeeded in acquiring French weaponry illegally for years, the official said.

The parts appear to be included in an effort by the Iraqi military to build up materiel for its air forces before any U.S. military action, which could occur before the end of the month.

The officials identified the purchaser of the parts as the Al Tamoor Trading Co., based in Dubai, United Arab Emirates. A spokesman for the company could not be reached for comment.

The French military parts were then sent by truck into Iraq from a neighboring country the officials declined to identify.

Iraq has more than 50 Mirage F–1 jets and an unknown number of Gazelle attack helicopters, according to the London-based International Institute for Strategic Studies.

An administration official said the French parts transfers to Iraq may be one reason France has so vehemently opposed U.S. plans for military action against Iraq. "No wonder the French are opposing us," this official said.

The official, however, said intelligence reports of the parts sale did not indicate that the activity was sanctioned by the French government or that Paris knows about the transfers.

The intelligence reports did not identify the French company involved in selling the aircraft parts or whether the parts were new or used.

The Mirage F–1 was made by France's Dassault Aviation. Gazelle helicopters were made by Aerospatiale, which later became a part of a consortium of European defense companies.

The importation of military goods by Iraq is banned under U.N. Security Council resolutions passed since the 1991 Persian Gulf war.

Nathalie Loiseau, press counselor at the French Embassy, said her government has no information about the spare-parts smuggling and has not been approached by the U.S. government about the matter.

"We fully comply with the U.N. sanctions, and there is no sale of any kind of military material or weapons to Iraq," she said.

A CIA spokesman had no comment.

A senior administration official declined to discuss Iraq's purchase of French warplane and helicopter parts. "It is well known that the Iraqis use front companies to try to obtain a number of prohibited items," the official said.

The disclosure comes amid heightened anti-French sentiment in the United States over Paris' opposition to U.S. plans for using force to disarm Iraq.

A senior defense official said France undermined U.S. efforts to disarm Iraq last year by watering down language of U.N. Security Council Resolution 1441 that last fall required Iraq to disarm all its chemical, biological and nuclear weapons programs.

France, along with Russia, Germany and China, said yesterday that they would block a joint U.S.-British U.N. resolution on the use of force against Iraq.

French Foreign Minister Dominique de Villepin told reporters in Paris on Wednesday that France "will not allow a resolution to pass that authorizes resorting to force."

"Russia and France, as permanent members of the Security Council, will assume their full responsibilities on this point," he stated.

France has been Iraq's best friend in the West. French arms sales to Baghdad were boosted in the 1970s under Premier Jacques Chirac, the current president. Mr. Chirac once called Saddam Hussein a "personal friend."

During the 1980s, when Paris backed Iraq in its war against Iran, France sold Mirage fighter bombers and Super Entendard aircraft to Baghdad, along with Exocet antiship missiles.

French-Iraqi ties soured after the Iraqi invasion of Kuwait that led to the 1991 Persian Gulf war.

France now has an estimated $4 billion in debts owed to it by Iraq as a result of arms sales and infrastructure construction projects. The debt is another reason U.S. officials believe France is opposing military force to oust Saddam.

Henry Sokolski, director of the private Nonproliferation Policy Education Center, said French transfers of military equipment to Iraq would have "an immediate and relevant military consequence, if this was done."

"The United States with its allies are going to suppress the Iraqi air force and air defense very early on in any conflict, and it's regrettable that the French have let a company complicate that mission," Mr. Sokolski said.

Secretary of State Collin L. Powell last month released intelligence information showing videotape of an Iraqi F-1 Mirage that had been modified to spray anthrax spores.

A CIA report to Congress made public in January stated that Iraq has aggressively sought advanced conventional arms. "A thriving gray-arms market and porous borders have allowed Baghdad to acquire smaller arms and components for larger arms, such as spare parts for aircraft, air defense systems, and armored vehicles," the CIA stated.

Iraq also has obtained some military goods through the U.N.-sponsored oil-for-food program.

A second CIA report in October on Iraq's weapons of mass destruction stated: "Iraq imports goods using planes, trains, trucks, and ships without any type of international inspections—in violation of UN Security Council resolutions."

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, it is always a great pleasure to listen to my distinguished colleague.

I wonder if I might just make reference to a point of history. Give or take a year or so, both of us lived through the World War II period. You were a distinguished aviator with the Air Corps. I was a mere sailor in the closing months. You got overseas and, fortunately, my generation didn't have to go because of the courage of Harry Truman.

Mr. STEVENS. I am always pleased to be with young men, Mr. President.

Mr. WARNER. I thank the Senator very much.

We have to use history as a rearview mirror to explain the complexity of the times. You will recall that period in 1937 when the war clouds were gathering in Europe, and Neville Chamberlain went over to see whether or not he could reconcile the situation involving Hitler and the extraordinary buildup of his forces. The world was apprehensive. Chamberlain emerged from the meeting and flew back to London with a piece of paper that said "peace in our times." And then we know the tragic events that unfolded after that, with the invasion of Poland in 1939, and then down through and into France in 1940, and the entrapment of the British forces at Dunkerque. The whole world came in on top of us because we failed to heed what was absolutely manifest—that Hitler was a despotic dictator, with the then-current generation of weapons of destruction, and he unleashed them on the whole world as we stood by.

Mr. President, I fear the same consequences now. That is why I commend our President for his steadfastness, tenaciousness, courage, and wisdom in addressing these issues and not flinching or blinking, but staying the course and trying, as he said last night, to make diplomacy work, but recognizing that if diplomacy fails, we have to step into the breach and lead.

The Senator mentioned the only nation is the United States, but I know he wishes to include Great Britain.

Mr. STEVENS. Will the Senator yield?

Mr. WARNER. Yes.

Mr. STEVENS. Yes, that is why I amended my comment. I certainly do admire greatly the position of Great Britain and its leaders right now.

Regarding the comment of the Senator about my memories of 1937, I was 14 then. I recall listening to people who tried to explain to me what was going on in Europe. It wasn't until much later, really, that I learned, as I entered college and started studying about world policies, just really the sadness of that trip Chamberlain made.

I join the Senator from Virginia, Mr. President, because I have just total admiration for our President and his fortitude.

Would there had been leaders in Europe at the time we are discussing who had the courage to stand up to Hitler and try to put together coalitions to stop him from expanding. Once on the floor I compared Saddam Hussein to Hitler, and I was criticized for that. In my mind, a tyrant is a tyrant and evil is evil. From the days of my youth, Hitler was the epitome of evil. In the time we are now living, I believe Saddam Hussein is the epitome of evil, and the President is correct to talk about evil in relationship to this man and his intentions.

Above all, I admire the President for his courage to stand up despite all the criticism, all the apparent division that is developing in this country, and saying: We, as a nation, have declared ourselves to be the agents for freedom in the world, and we are going to pursue our goal of changing that regime so it cannot threaten the world.

I am involved, as the Senator knows, with the problems of the development of oil in my State. I shudder every day to think that as the delivery of oil from Alaska to what we call the south 48 States has declined, our purchase of Iraqi oil has increased. I wonder how many Americans realize we are sending daily to Iraq moneys that Saddam Hussein uses to buy this equipment, uses to buy these Mirage parts.

The problem of today is we compartmentalize information to the extent of saying: Yes, we know that, but on the other hand, some people say, we should not be disturbed by those facts.

I am disturbed, and I wonder, as we do go to war with Iraq, about the future of this country and what happens to that oil and what happens to our Nation as we now import about 55 percent of the oil we consume daily. We used to be self-sufficient in oil and gas. We are not today. It is because we have been lured into thinking perhaps if we traded with tyrants such as Iraq, they would recognize the bond of business rather than the bond of commitment to principle.

I hope we will find the day when the Nation as a whole will join President Bush and his advisers—what a wonderful array of advisers he has with Secretary Powell, Condoleezza Rice, and Secretary Rumsfeld. I cannot think of a generation of individuals who are better trained to guide this country through a period of crisis than the ones with whom the President has surrounded himself, with the approval of the Senate.

I have every confidence in what the President is trying to do. I think it will be a swift and decisive war. It will involve casualties—casualties that could be avoided if other nations of the world would join with us and the people of Iraq understood the world was joined together to condemn this man and his cohorts.

Right know, I believe it is time for us to realize, those who support the President, that we may have to do what he says: We may have to go it alone almost. We will have a coalition. The coalition will actually be bigger than 1991 but not the same partners.

I agree with the President, we do not need partners on this one. We do not need them. I believe we have right on our side and we have might on our side and we should use that might for the best interest of the world and the future.

I thank the Senator for the privilege of being with him this morning.

Mr. WARNER. Mr. President, I thank my colleague. I wish to associate myself with his comment about the great team of advisers the President has. They have time and again gone into the forums of the world to indicate the necessity for strong action and strong leadership at this time. We certainly have it in this President and his administration. I thank my colleague.

I see, Mr. President, the distinguished chairman of the Foreign Relations Committee. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, with the distinguished chairman of the Appropriations Committee still in the Chamber and likewise my colleague, Senator WARNER, chairman of the Armed Services Committee, I wish to say what a privilege it is to work with these two great Senators.

Senator WARNER, mentioned, as did Senator STEVENS, the great team the President has assembled with Secretary Rumsfeld, Secretary Powell, and Condoleezza Rice. We are very pleased in the Senate with the leadership of BILL FRIST as our majority leader, and committee chairmen are working together vigorously.

I congratulate the Senator from Virginia for his construction this morning of a very important opportunity for us to think together about the events of the present and likewise our possibilities for the future.

My hope is that the United States of America will continue to lead in forming a global coalition that will combat terrorism in a very effective way.

Terrorists, when armed with weapons of mass destruction, are in a position to create what philosophers would call existential events for countries. By that I mean that weapons of mass destruction in the hands of relatively few people—a rogue state, a sub-national group, or maybe even a small terrorist cell—are capable of obliterating large cities, killing hundreds of thousands of people, and creating panic in entire countries. One terrorist attack with a weapon of mass destruction has the potential to create such dislocations in the economy of a country that recovery could take decades. This existential threat from terrorism is a new condition for the world that requires changes in our policy priorities. All nations do not understand this with the same precision that the United States and our leadership does. All nations have not been attacked in the same manner we have been.

For some members of our body politic, the September 11 attacks were a wake-up call, but it was a call that has been heard. When President Bush and his strategists put forward a response, it was supported by the vast majority of the American people. We knew that the hijackers were from the al-Qaida group. We knew there were al-Qaida terrorists in Afghanistan who had been in training camps. We knew that the Afghanistan Government, under the Taliban regime, had been hospitable to terrorists.

We asked the Taliban regime in Afghanistan to turn over the terrorists. They were unwilling to do so. As a result, our country led an international effort in Afghanistan to root out the terrorists. As President Bush has pointed out, we pursued this mission in the most careful and humane way with regard to innocent civilians in that country. We sought to find one by one the individuals who were perpetrating not only deeds in the United States of America, but a long string of terrorist atrocities over the previous decade.

The military action that occurred there had the support of our NATO allies.

It had the support of many countries that understood immediately the problems terrorism in the world presents. For example, President Putin of Russia and President Bush were on the phone both voicing mutual support. I mention that particular call because in the past 2 days the Senate has had extensive debate on the Moscow Treaty. This debate had significance for our global position and for an important relationship that has been changing for the better, and which must continue to improve.

One reason for discussing the Moscow Treaty at this particular point in the life of the Senate was because the Senate is deeply engaged in world affairs, in foreign policy, in defense policy, and deeply concerned about our relationship with Russia. The participation of Russia in the war against terrorism is vital. Even at this moment, President Bush and Secretary of State Powell are working with the Russians to come to a somber understanding of what our mutual obligations are with regard to weapons of mass destruction in Iraq and in North Korea and, for that matter, everywhere.

These are important conversations. The President of the United States in his news conference last night, talked about this vigorous diplomacy. Our President has been reaching out to world leaders on the phone. He has been active in attempting to make certain that all nations understand the gravity of danger to each one of us and how much the community of nations depend upon the actions of the Security Council and those who take leadership in the United Nations. These are extremely important days for diplomacy. They are critical days for the success of the Security Council and the United Nations.

In the Senate, we have understood this in our committees. Chairman WARNER pointed out already the extraordinary number of hearings in the Armed Services Committee and the specific ways in which the problems of Iraq have been addressed by his committee. I congratulate the chairman and his committee.

Likewise, Senator STEVENS has mentioned this morning the extraordinary amount of work that occurs in all of the subcommittees on appropriations, but especially those that are dealing with our national security. In the Foreign Relations Committee we have had hearings almost daily on Iraq, on North Korea, on Afghanistan.

Last week, the President of Afghanistan, President Karzai, was before our committee making a personal appeal for the kind of support that he hopes will be forthcoming from not only the United States, but also from the European countries and from nations in his neighborhood. Democracy must succeed in Afghanistan, as we hope that it will in Iraq, and as we hope that it will in all countries of the Middle East. Aspirations for freedom can be fulfilled if democratic institutions are built.

This is what the coalition against terrorism is about. Clearly, we are concerned with the threats from Iraq, but we also want the coalition to understand the role of expanding freedom. The future is a great one for people who have freedom, but at this particular moment terrorists would deny all of us the opportunity to have freedom.

Last evening President Bush indicated that Saddam Hussein has the ability and opportunity to surrender the weapons of mass destruction that were cataloged by the United Nations in 1998 and 1999 and are still in Iraq. Resolution 1441, adopted unanimously by the Security Council of the United Nations, said to Saddam Hussein: This is your last chance. Disarm or show evidence you have disarmed.

Each of the succeeding reports from the inspectors have indicated that Iraq has minimally cooperated in allowing inspectors to go to various sites, but the Iraqi regime obviously has been very reluctant to show evidence of disarmament or, in fact, to disarm. Even the Iraqi missiles possessing an illegal range, which are an undisputed and tangible violation, are being surrendered only gradually in the most resistant manner possible.

There are reports in the American press of destruction of a few of these, but in the Iraqi press, or at least among people in that country, there is no word of this. In part, it is supposed that Saddam would be embarrassed by the disclosure that he has been found out and is disarming at all.

I mention all of this because these are fateful days in bringing together a coalition, hopefully of the Security Council—absent that, a coalition of the willing—that knows the war against terrorism can only be won if weapons of mass destruction in the hands of aggressive dictators are destroyed. Our President has said as the bottom line, Saddam will be disarmed. In the aftermath of that event, we will have a great deal of work to do in this body.

There are expenses involved in disarming Saddam. I think every one of us, as committee chairmen, as Senators, have been up front with our people. We know this is costly and we know our Armed Forces are at risk. We know a lot of things are at risk. One thing that must not be at risk, however, is the movement to build a greater coalition in the war against terrorism.

I will now speak specifically about the fact that in the Foreign Relations Committee, starting March 25, we will be having hearings on ratification of the NATO treaty of enlargement. The occupant of the chair will recall that a fairly short time ago, seven nations were invited into NATO membership. They have been busy fulfilling the requirements that came with that invitation. They include the Baltic States, as well as Romania, Bulgaria, Slovenia and Slovakia. I will suggest that the hearings on NATO enlargement will, in fact, fulfill an even a greater purpose. We will have an opportunity to discuss the importance of each of the countries in NATO and the historical importance of America and Canada reaching across the Atlantic for over 50 years and working with European friends to guarantee peace on a continent which has known no peace in any 50-year period in the last millennium.

This is the reason that European countries have sought NATO membership. They have wanted to be in a Europe whole and free. They have talked freely about obligations out of area. They are eager to participate in the war against terrorism. They want to be strong friends of the United States of America and manifest that every day. That is something to celebrate. We will do so as we discuss NATO.

But as we discuss NATO, we will also discuss its future, which must be a very strong future. My prayer is that all of our NATO allies will be with us in the event Saddam Hussein does not disarm. I hope that in the event NATO allies are not with us on that particular day, they will get their soon. All of our friends are going to be needed as we think about the future of Iraq and work with the people of that country for the building of democratic institutions.

I hope we are all prepared for vigorous activity in Afghanistan to ensure the success of that state. I hope that we will sustain a partnership with Afghanistan that will inspire confidence throughout the world in our commitment to freedom.

I conclude simply by saying that the President is offering strong leadership and I support him. I am prepared to work with the President in pursuit of all the objectives he has in the days and months ahead. I know from the words of the President that he foresees a future that is filled with complexity, but one that also is filled with promise for our country and for others that share our vision.

Therefore, we should face this day with optimism because we have a plan for a future that looks brighter than the future did on September 11, 2001. On that date we discovered that the oceans did not guarantee our safety, that we were vulnerable, that Americans were dying, that our most cherished landmarks—including this Capitol—were at risk. And I suspect each of us prudently understands that this is still the case. But rather than going into a situation of panic, as resolute Americans, we found leadership with President Bush and new reservoirs of strength within ourselves. This is a place of resolute activity in each of our committees and on the floor of the Senate in discussing the most basic foreign policy and defense issues of our time, doing so with intelligence, with optimism, and likewise, with an ability to listen to each other.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am very grateful for the services of our distinguished colleague from Indiana and his long experience in the Senate and now having risen to new heights in his distinguished career as chairman of the Foreign Relations Committee.

I have also enjoyed a very warm and strong relationship with my colleague through the years. He is too modest to talk about it, but he served in the U.S. Navy in a position as adviser on foreign policy to the then-Chief of Naval Operations, Admiral Burke. He watched many of the key issues on the world scene unfold.

I made reference to the Chamberlain speech that we will have peace in our time. I addressed this colloquy to Senator STEVENS who, like me, lived through that era. I wonder if the Senator might have some comments on it. It is so appropriate that the world be reminded that there have been parallels in history where we have been faced with the rise of a dictator, and the dictator possessed vast arsenals of weapons and had a proven track record of having used the weapons against other people and other nations, and how this is the time for the strongest leadership, which I believe is being offered by our friend. It is being offered by the Prime Minister of Great Britain.

How severely we regret the leadership of France and Germany, certainly nations venerable in history, having lived through so many periods of turbulence on that continent, cannot recognize today the parallels of years past. I wonder if the Senator might have a viewpoint on that, particularly with reference to France.

Mr. LUGAR. I respond to the distinguished Senator from Virginia, who, likewise, distinguished himself as Secretary of the Navy at another time in his career. The Senator clearly has seen parallels at various times.

Historically the path for the United States, France, and Germany was not always easy during the Cold War period. The potential for hostilities with the old Soviet Union tested us many times. I can recall, as can the Senator, when Helmut Schmidt went to London in 1979, and came forward with a very bold statement. He said that if the Soviet Union did not withdraw medium-range missiles that were aimed at Europe, then NATO must put missiles on European soil to counteract them. The Russians perhaps predictably, moved their missiles forward and indicated in an intimidating way that they might be prepared to take action sooner, rather than later, against Europe.

There were rallies throughout Europe, with people saying, "better red than dead." All the major capitals had frequent marches with people claiming peace is what they wanted, but also with some admitting that they would be prepared to live under communism as opposed to having the proper military preparation to combat and deter communism.

In those days the stepping forward of Prime Minister Kohl was critical. Germany came forward and said you can put Pershing missiles on our soil, and so did the Italians.

I cite that event because it was an important and courageous step in a time of great uncertainty and fear. It led, ultimately, to President Bush, the father of our current President, committing America to German unification well before Great Britain, well before France. And Germans understand that. That was the basis upon which the unification of the country came.

Now, from time to time, the French have been extraordinarily helpful, and I think we need to remember that they have participated in many critical NATO policies and operations. They have asked us to step forward specifically in Bosnia where they believed they had a history, as did Germany, that they simply could not overcome.

I mention all these things off the top of the head because they are important, as ways in which we have worked together when there were urgent mutual problems. NATO has not been a hollow alliance. It has been central to the security of Europe and our nation.

On this floor we debated the INF Treaty which provided that all intermediate-range missiles come down, every one of them, on both sides. This happened only because of the strength of the alliance and our mutual action. That is what we ask of our friends now, that they remember that fairly recent history of our solidarity against tyranny. And they understand that terrorism could hit them. The war against terrorism is not just the United States versus al-Qaida. Terrorists could just as well level the Brandenburg Gate or the Eiffel Tower or symbols that are important quite apart from the human losses of those who got in harm's way.

Mr. WARNER. Mr. President, I thank my colleague. If I might bring another issue to the forefront on which he has a great deal of experience? As this debate is taking place in the Senate Chamber this morning, Hans Blix presumably is addressing the Security Council. I, frankly, think that the inspection process under his leadership—they have tried and tried hard. What the world fails to realize is that Saddam Hussein, having observed the first inspection process, has carefully made his infrastructure, which has gone on creating the weapons of mass destruction, be they biological, chemical, or indeed his vigorous efforts to acquire a nuclear capability. They have gone right on throughout this entire period of time. And they have been constructed in such a way that they are moveable. He did that recognizing that at some point in time another inspection regime could be imposed upon him by the United Nations, as was done with Resolution 1441.

I think the inspectors have tried. They have unearthed very little. They have not received the cooperation from Saddam Hussein that was the predicate on which Resolution 1441 was adopted. It simply said you are to cooperate, the inspectors to verify and destroy. But in reality the inspectors have been converted to a group trying to search out, given the failure of cooperation, where these weapons might be located.

I will discuss later this morning a letter I received yesterday from the Central Intelligence Agency, under the signature of George Tenet, responding to the cooperation that our country has given the inspection efforts of Hans Blix, by virtue of sharing the intelligence information we had with regard to the location of probable caches of these weapons.

In fact, it has not borne out to be very fruitful because of Saddam Hussein's skill of moving these caches, of moving the infrastructure of manufacturing in such a manner that they cannot be detected and discovered without his cooperation, which he has steadfastly refused to give. Our President addressed that issue last night.

I wonder if my colleague would comment a little bit on the inspection process. As we are speaking, Blix is giving his most recent report. As you know, there are statements to the effect, from other nations, that perhaps the period of time should be extended. The President last night, when confronted with those questions, simply said, as I think he should and very properly said: Time will tell.

I invite the Senator's observations.

Mr. LUGAR. I thank the Senator for his inquiry. The Senator is correct, times have changed with regard to inspection. Let me offer as an anecdote the Russian facility at Pokrov. This situation is not well known, but it is an agricultural chemical station. Pokrov is an example of the problems which confront Hans Blix and the inspectors.

As I and others went there at the invitation of Russians, we looked around at a rather desolate-looking place with run-down buildings. We were led to a room in which people were making shampoo. They were using stainless steel equipment. I would say, without two Russians at my side, I would have had no idea about the history of that room, quite apart from the facility. But they pointed out that just months before, anthrax was produced in the same machinery. This is dual use in a dramatic way. Equipment used for biological weapons had been easily converted to producing a commercial product. Likewise on this premise, but clearly not within view, were stores of anthrax. In fact, on the third floor of another building they had been making anthrax. In another building, they had been making dual-use materials for agricultural livestock. One was to produce antidotes so they could protect, they thought, the Russian livestock. The other use was to produce toxins, deadly toxins, out of 14 serums that were in vials in a room, in an icebox, that could kill all the livestock in the United States.

My point is that we would have been clueless without those who could give us a 25-year history of the activities at Pokrov. All of it could have been completely hidden. There was not a ghost of a chance an inspector would find anything there in years, quite apart from months.

These are old facilities. Saddam Hussein, and others, have gone to school on dual use. Therefore I simply say, as the chairman already knows, the production of chemical weapons is clearly enveloped in dual use. There is not a ghost of a chance you will find a scintilla of it unless Iraq wants you to find it.

Regarding the biological situation, as Secretary Powell already pointed out in his public address at the U.N., the Iraqis are able to break down all the equipment, put it in vans and cart it down the road 200 miles. Unless the inspector is clued in that this particular van out of all the vans in Iraq has a biological laboratory in it, there is not a chance, zero, of finding anything there.

This is the reason why the inspection business is at best a holding action. Those who argue in favor say: After all, with all those inspectors there, with all of the press following them out every day, surely Saddam Hussein cannot now be producing a whole lot.

But that doesn't solve the problem of what is there, detailed by the U.N., after all these years. Nor does it solve the problem of the intellectual inquiry of scientists who even as we speak are working on new formulations. They don't need huge factories and installations visible from the air. They need only the necessary scientific knowledge and, ultimately, fissile material from somewhere else to get the bomb. And each intelligence report that we have all seen—those now made public—say Iraq may be a year, 2 years, 3 years from making a nuclear weapon. But there is always the footnote: If they get the fissile material from somewhere else—it will take far less time.

That is the basis on which our President has to say the security of the American people is at stake. This is not a speculative business for we all know fissile material exists in the world, a lot of it in Russia. A lot of it is still not pinned down by the cooperative threat reduction program or anything else. That is a tremendous danger, and we all ought to recognize that. It is not going to go away with inspectors.

Mr. WARNER. I thank my distinguished colleague. I guess what both you and I find so perplexing is how responsible world leadership, most particularly France and Germany, which have seen the same facts, have access to basically the same intelligence, and cannot reach those logical conclusions which our President and the Prime Minister of Great Britain have reached.

Mr. LUGAR. We must continue to assist them in reaching those conclusions.

Mr. WARNER. I must say, if I could just ask the indulgence of my colleague, my father served in World War I as a doctor in the U.S. Army in the trenches in France. My most prized possession, I say to my good friend, is on the wall in my Senate office. For these 25 years that I have been here, on that wall hangs this Croix de Guerre awarded him by the French Government for his heroism in the trenches for administering healing to Americans, British, Frenchmen, and Germans. I sometimes thought myself, and when the French ambassador visited my office a few days ago, in a courteous way I pointed it out and I said, you know, I am thinking of taking it down, but perhaps better judgment will prevail in your leadership. And therefore for a while I am going to leave it up, in the hopes that reality can be brought to bear.

I thank my colleague for his time.

I recognize the order entered into at the direction of both the majority and minority leaders of the Senate was that the Senate would proceed this morning on the debate with regard to the worldwide situation on terrorism with an emphasis on Iraq, North Korea, and other areas, and the time under the control of the Senator from Virginia, the time having been equally divided, is rapidly approaching the 2-hour mark which is the halfway.

I see a colleague desiring recognition, but I remind that colleague, who courteously advised me that perhaps the subject matter was not that in the order, but I would have to say the time that he uses would have to be charged to the other side.

I have some maybe 15 minutes remaining under the control of the Senator from Virginia, which I will hold in reserve for such rebuttal as may be required on the issues specifically recited in the order before the Senate.

The PRESIDING OFFICER (Mrs. DOLE). The order before the Senate is for morning business. Those in control of time may choose to speak on any matter they so choose.

Mr. WARNER. I thank the Chair.

AIR POLLUTION AND GLOBAL WARMING

Mr. JEFFORDS. Mr. President, my subject is different but it is similar in that it talks about loss of lives and possible threats, the apparent and real threats to the people in this country from a different angle but a much more serious one and one that is going to result in many more deaths. I wish to speak on the subject of the threat to lives in the United States of a different and more insidious nature, and in the long run much more costly in human lives as well as health conditions—air pollution and the administration's failure to recognize this threat through adequate pollution controls.

I rise today to draw Senators' attention to the administration's flawed plans on air pollution and global warming. I am pleased to see that the administration has finally revived an interest in dangerous public health and environmental threats like acid rain and smog. They have even acknowledged that climate change could have severe and damaging consequences.

Unfortunately, the administration's solution seems to be little more than a public relations distraction from what is really going on: corporate regulatory relief.

What Americans really need now is relief from air pollution, and swift and serious action to avert global warming. They have a right to breathe air that isn't contaminated by greed. They have a right to full and vigorous implementation of the Clean Air Act. Sadly, the administration has lost sight of these rights.

The devastation caused by dirty air is staggering. As many as 60,000 premature deaths each year are linked to air pollution, according to an American Cancer Society study and researchers at the Harvard School of Public Health.

A study by the respected Abt Associates says that 30,000 of these deaths are due to power plant pollution alone. That is an enormous loss of human potential, and a huge cost to society. There is no good reason to allow such a tragedy to continue unfolding.

This chart illustrates the magnitude of this terrible situation. More people are dying from power plant pollution every year than die from homicides or drunk driving accidents.

With real reductions in air pollution, such as those in S. 366, the Clean Power Act of 2003, which I introduced almost 3 weeks ago with Senators COLLINS, LIEBERMAN and 17 others, we can save two-thirds of those lives.

This benefit is reflected on the right side of the chart.

The Abt Associates report also says that power plants are responsible for the following statistics each year: 20,000 hospitalizations; 600,000 asthma attacks; 19,000 cases of chronic bronchitis; and 5 million lost work days due to illness.

Fine particulate matter is a serious form of air pollution that poses an especially severe health threat. Fine particles result from the interaction of water vapor with sulfur dioxide and nitrogen oxide emissions.

Most of these pollutants come from power plants. These tiny particles reach easily into the deepest depths of the human lungs.

A host of scientific studies have linked particulate matter with a barrage of health problems.

I ask unanimous consent that a representative list of such studies be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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Mr. JEFFORDS. Mr. President, when these tiny particles get deep into the lungs, they can lead to premature death, as well as health problems like: heart and lung disease; aggravated asthma; acute respiratory symptoms; chronic bronchitis; decreased lung function; and even lung cancer.

There is even evidence that this pollution causes an increased incidence of low birth rate and infant mortality. Sensitive populations like children, asthmatics, and the elderly are at particular risk of health damage.

Power plant emissions of nitrogen oxides and emissions from mobile sources contribute to the formation of ground-level ozone as well. This is another serious threat that scientists increasingly believe to be a chronic health problem, not just one that poses acute risks.

Recently, respected scientists from the University of Southern California School of Medicine, and elsewhere published an important asthma study.

They found that children in communities with high average ozone levels who compete in three or more team sports have a three-to-four-times higher risk of developing asthma than nonathletic kids. They have three times the normal expectations of illness than nonathletic kids. This is because athletes get a higher dose of pollutants to the lung, and because they breathe rapidly and deeply.

We should listen to these and other scientific findings, and take to heart the suffering that many Americans experience due to air pollution. Power plants are a major culprit. It is our duty as lawmakers to do something now to curb these dangerous emissions and protect public health.

While the Clean Air Act has been successful in removing millions of tons of particulate-forming emissions from our air, it has not gone far enough, and these health problems remain. Plus, there are major signs that this administration is slowing down implementation and enforcement of the act. This delays its benefits and increases human health damage.

Air pollution causes significant harm to our natural environment as well. Sulfur dioxide and nitrogen oxides—emitted mainly from fossil fuel combustion—eventually fall to earth as acid.

Acid rain washes vital minerals out of the soil, weakens the health of trees, lowers the pH of water bodies, and leaches aluminum into lakes where fish slowly suffocate from the lack of oxygen. A stunning 41 percent of lakes in the Adirondacks are acidified.

A 1996 EPA report admitted that the Acid Rain Program of the present Clean Air Act could only slow the rate of ecosystem damage that, despite this program, more lakes would die. Acid rain scientist Dr. Gene Likens has said:

> We still have a very major problem with acid rain. That is scientific fact. In that regard, the 1990 Clean Air Act Amendments have not worked very well.

An important new study by researchers at the University of Vermont confirms that the acid rain problem is far worse than previously thought. Tightening sulfur emissions further—combined with strict, new controls in nitrogen emissions—would help restore our forests, lakes, and streams.

The Hubbard Brook Research Foundation knows what is required to ensure biological recovery from acid rain by mid-century in the northeastern U.S. They say we must reduce utility sulfur dioxide emissions by 80 percent beyond what is currently required in the year 2010. It is clearly time to act.

Current air pollution levels are also hindering visibility at our majestic National Parks. Chronic air pollution continues to envelop the Great Smoky Mountains, Acadia National Park, Shenandoah, and other sites in a blanket of haze.

This not only costs regions vital tourism dollars, but endangers the health of park visitors, plants, and wildlife.

Air emissions of mercury cause severe health effects as well. Mercury is a potent nervous system toxic. After being emitted into the air, it falls into lakes and streams. Mercury then bioaccumulates in fish and animal tissue, taking on a highly toxic form.

Eating contaminated fish can cause serious nervous system impairment, especially to a pregnant mother's developing fetus, or to a young child.

According to the Centers for Disease Control and Prevention, 1 in 12 women of childbearing age in the U.S. have mercury levels above those considered protective of newborns by the EPA. That means as many as 390,000 children are born each year at risk of developmental problems.

We have such a widespread mercury contamination problem in our country that 41 States currently post fish consumption warnings.

Power plants, especially coal-fired utilities, emit the bulk of uncontrolled mercury emissions in the U.S. Yet the technology exists today to save lives. As James Willis, Director of the UN Environment Programme 2003 Global Mercury Assessment, states:

> There are technologies available already which will reduce mercury emissions from power stations by about 80% . . . what we can do now is often cheap—and it can cut other pollutants as well.

I have highlighted some of the ways in which air emissions of sulfur dioxide, nitrogen oxides, and mercury—especially from power plants—threaten the health and safety of millions of

Americans and the natural environment. But I am afraid to say that Americans may face an even greater long-term threat from greenhouse gas pollution.

Carbon dioxide is the most significant greenhouse gas emitted as a result of human activities. The National Academy of Sciences faults fossil fuel combustion with causing most of the global warming problem. In fact, fossil fuel-burning power plants are responsible for 37 percent of all U.S. carbon dioxide emissions.

The U.S. made a commitment under the United Nations Framework Convention on Climate Change to adopt voluntary measures to reduce greenhouse gas emissions to 1990 levels. But despite this goal, emissions from the power sector have grown steadily and are now 20 percent above those levels.

Our world has already seen about one degree of warming in the last century. The NAS and the Intergovernmental Panel on Climate Change generally agree that the Earth will warm another 2.5 to 10 degrees Fahrenheit over the next 100 years. This could cause significant, abrupt climate changes, as well as threaten our public health, the economic infrastructure, and many ecosystems.

The President's own Climate Action Report says, "the best scientific information indicates that if greenhouse gas concentrations continue to increase, changes are likely to occur."

Global warming is expected to have wide-reaching and mostly negative impacts on human health. We are likely to see direct impacts like death and illness due to heat stress and extreme weather. We are also likely to see indirect impacts from worsened air pollution and allergens, and increases in the occurrence and transmission of diseases like malaria and, perhaps, West Nile Virus.

We have already seen a dramatic number of heat-related deaths since the 1980s. A 1980 heat wave in the U.S. resulted in 1,700 deaths, while those in 1983 and 1988 killed around 500 people each. Also, we all remember the deadly heat wave of 1995 that killed 765 people in Chicago alone. That is what we are looking towards if we continue to allow the carbon to accumulate.

These numbers are much too high, and they are only going to get higher if the climate models are right. Experts predict that in cities such as New York, Philadelphia, Cleveland, and Los Angeles, heat-related deaths could increase 100 percent.

According to EPA and others, sea-level rise from global warming will bring on another set of consequences. Sea level is predicted to rise by one foot in the next 20 to 50 years. In the next 100 years, a two-foot rise is most likely, and a four-foot rise is possible.

To put this in perspective, the EPA says that simply raising existing bulkheads and sea walls along the Manhattan shoreline alone to help protect it from a one to three-foot rise would cost up to $140 million.

According to the Pew Center on Global Climate Change, a 20-inch sea level rise could have significant cumulative impacts on coastal property in the U.S.

These impacts could range from about $20 billion to about $150 billion by the year 2100.

The environmental impacts of sea level rise would be devastating as well. Nationwide, a two-foot rise in sea level could inundate 17 to 43 percent of U.S. wetlands, and could eliminate a total of 10,000 square miles of wet and dry land in our country. I do not want to see that happen.

Because of global warming, our forests will see dramatic changes as well. A 3.6 degree Fahrenheit warming could shift many North American forest species 200 miles north.

Given the likely time frame for this warming, these tree species would have to migrate about two miles every year to stay viable.

This poses a grave threat to my State's maple syrup industry, since about half of the hardwood species like maple will disappear. I do not want to see this happen either.

A recent article in the journal Nature shows there is strong new evidence of global warming impacts on animal and plant worlds. Researchers say that as many as 677 species are already reacting to global warming by adjusting their range northward in search of cooler temperatures, or breeding earlier in the spring in response to warmer temperatures.

A recent study by the American Bird Conservancy and the National Wildlife Federation reports that some birds like the Baltimore Oriole may completely disappear from their home States. The Nation's 63 million birdwatchers will likely be frustrated by the coming changes in bird habitat.

Also, the EPA has predicted that even a modest warming would eliminate nearly 90 percent of Idaho habitat for the majestic grizzly bear, which will likely have impacts on Yellowstone tourism income.

Even the Iditarod Trail Sled Dog Race is running into problems because of global warming. Unseasonably warm temperatures have meant that the race will have to take detours for the first time in its history. Much of the snow has melted. The Alaskan route is now marred by bare ground and open rivers.

Alaska's global warming problems made the news last year as well. As you can see in this poster, a New York Times news story from June illustrated that in Alaska, climate change is a stark reality, not an abstraction. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 16, 2002]

ALASKA, NO LONGER SO FRIGID, STARTS TO CRACK, BURN AND SAG

(By Timothy Egan)

To live in Alaska when the average temperature has risen about seven degrees over the last 30 years means learning to cope with a landscape that can sink, catch fire or break apart in the turn of a season.

In the village of Shishmaref, on the Chukchi Sea just south of the Arctic Circle, it means high water eating away so many houses and buildings that people will vote next month on moving the entire village inland.

In the Barrow, the northernmost city of North America, it means coping with mosquitoes in a place where they once were nonexistent, and rescuing hunters trapped on breakaway ice at a time of year when such things once were unheard of.

From Fairbanks to the north, where wildfires have been burning off and on since mid-May, it means living with hydraulic jacks to keep houses from slouching and buckling on foundations that used to be frozen all year. Permafrost, they say, is no longer permanent.

Here on the Kenai Peninsula, a recreation wonderland a few hours' drive from Anchorage, it means living in a four-million-acre spruce forest that has been killed by beetles, the largest loss of trees to insects ever recorded in North America, federal officials say. Government scientists tied the event to rising temperatures, which allow the beetles to reproduce at twice their normal rate.

In Alaska, rising temperatures, whether caused by greenhouse gas emissions or nature in a prolonged mood swing, are not a topic of debate or an abstraction. Mean temperatures have risen by 5 degrees in summer and 10 degrees in winter since the 1970's, federal officials say.

While President Bush was dismissive of a report the government recently released on how global warming will affect the nation, the leading Republican in this state, Senator Ted Stevens, says that no place is experiencing more startling change from rising temperatures than Alaska.

Among the consequences, Senator Stevens says, are sagging roads, crumbling villages, dead forests, catastrophic fires and possible disruption of marine wildlife.

These problems will cost Alaska hundreds of millions of dollars, he said.

"Alaska is harder hit by global climate change than any place in the world," Senator Stevens said.

Scientists have been charting shrinking glaciers and warming seas in Alaska for some time. But only recently have experts started to focus on what the warming means to the people who live in Alaska.

The social costs of higher temperatures have been mostly negative, people here say. The Bush administration report, which was drafted by the Environmental Protection Agency, also found few positives to Alaska's thermal rise. But it said climate change would bring a longer growing season and open ice-free seas in the Arctic for shipping.

"There can no longer be any doubt that major changes in the climate have occurred in recent decades in the region, with visible and measurable consequences," the government concluded in the report to the United Nations last month.

It does not take much to find those consequences in a state with 40 percent of the nation's surface water and 63 percent of its wetlands.

Here on the Kenai Peninsula, a forest nearly twice the size of Yellowstone National

Park is in the last phases of a graphic death. Century-old spruce trees stand silvered and cinnamon-colored as they bleed sap.

A sign at Anchor River Recreation Area near this little town poses a question many tourists have been asking, "What's up with all the dead spruce trees on the Kenai Peninsula?" The population of spruce bark beetles, which have long fed on these evergreen trees, exploded as temperatures rose, foresters now say.

Throughout the Kenai, people are clearing some of the 38 million dead trees, answering the call from officials to create a "defensible space" around houses for fire protection. Last year, two major fires occurred on this peninsula, and this year, with temperatures in the 80's in mid-May, officials say fire is imminent. "It's just a matter of time before we have a very large, possibly catastrophic forest fire," said Ed Holsten, a scientist with the Forest Service.

Joe Perletti, who lives in Kasilof in the Kenai Peninsula, has rented a bulldozer to clear dead trees from the 10 acres where he lives.

"It's scary what's going on," Mr. Perletti said. "I never realized the extent of global warming, but we're living it now. I worry about how it will affect my children."

Mr. Perletti, an insurance agent, said some insurers no longer sold fire policies to Kenai Peninsula homeowners in some areas surrounded by dead spruce.

Another homeowner, Larry Rude, has cut down a few trees but has decided to take his chances at the house he owns near Anchor Point. Mr. Rude says he no longer recognizes Alaska weather.

"This year, we had a real quick melt of the snow, and it seemed like it was just one week between snowmobiling in the mountains and riding around in the boat in shirt-sleeve weather," Mr. Rude said.

Other forests, farther north, appear to be sinking or drowning as melting permafrost forces water up. Alaskans have taken to calling the phenomenon "drunken trees."

For villages that hug the shores of the Bering, Chukchi and Beaufort Seas, melting ice is the enemy. Sea ice off the Alaskan coast has retreated by 14 percent since 1978, and thinned by 40 percent since the mid-1960's, the federal report says. Climate models predict that Alaska temperatures will continue to rise over this century, by up to 18 degrees.

Kivalina, a town battered by sea storms that erode the ground beneath houses, will have to move soon, residents say. Senator Stevens said it would cost $102 million, or $250,000 for each of the 400 residents.

The communities of Shishmaref, Point Hope and Barrow face a similar fate. Scientists say the melting ice brings more wave action, which gnaws away at ground that used to be frozen for most of the year.

Shishmaref, on a barrier island near the Bering Strait, is fast losing the battle to rising seas and crumbling ground. As the July 19 vote on whether to move approaches, residents say they have no choice.

"I'm pretty sure the vote is going to be to move," Lucy Eningowuk of Shishmaref said. "There's hardly any land left here anymore."

Barrow, the biggest of the far northern native villages with 4,600 people, has not only had beach erosion, but early ice breakup. Hunters have been stranded at sea, and others have been forced to go far beyond the usual hunting grounds to find seals, walruses and other animals.

"To us living on the Arctic coastline, sea ice is our lifeline," Caleb Pungowigi testified recently before a Senate committee. "The long-term trend is very scary."

A 20-year resident of Barrow, Glenn Sheehan, says it seems to be on a fast-forward course of climate change.

"Mosquitoes, erosion, breakup of the sea ice, and our sewage and clean-water system, which is threatened by erosion as well," he said. "We could be going from a $28 million dollar sewage system that was considered an engineering model to honey buckets—your basic portable outhouses."

The people who manage the state's largest piece of infrastructure—the 800 mile-long Trans-Alaska Pipeline—have also had to adjust to rising temperatures. Engineers responsible for the pipeline, which carries about a million barrels of oil a day and generates 17 percent of the nation's oil production, have grown increasingly concerned that melting permafrost could make unstable the 400 or so miles of pipeline above ground. As a result, new supports have been put in, some moored more than 70-feet underground.

"We're not going to let global warming sneak up on us," said Curtis Thomas, a spokesman for the Alyeska Pipeline Service Company, which runs the pipeline. "If we see leaning and sagging, we move on it."

North of Fairbanks, roads have buckled, telephone poles have started to tilt, and homeowners have learned to live in houses that are more than a few bubbles off plumb. Everyone, it seems, has a story.

"We've had so many strange events, things are so different than they used to be, that I think most Alaskans now believe something profound is going on," said Dr. Glenn Juday, an authority on climate change at the University of Alaska at Fairbanks. "We're experiencing indisputable climate warming. The positive changes from this take a long time, but the negative changes are happening real fast."

Mr. JEFFORDS. Cities in Alaska are having to cope with mosquitoes where they once did not exist. Hunters are being trapped on break-away ice. Houses are sinking due to slouching and buckling permafrost.

Mean temperatures in Alaska have risen by five degrees since the 1970s. That is an extremely rapid rate of change, and I am afraid Alaska is somewhat of a testing ground for what is yet to come around the globe.

These are just some of the environmental and economic consequences of global warming that may affect our country and our people. My colleagues can imagine the potential harm that less developed economies will face.

I have spoken now in some detail about the ways in which our serious air pollution and global warming problems threaten public and environmental health, as well as economic prosperity.

I have shown how millions of people suffer the ill effects of particulate pollution and mercury contamination. I have explained how acid rain continues to strip our beautiful forests of vegetation, leach nutrients out of our once-rich soils, and suffocates many of our lakes and streams.

It is time now to take a look at what our administration is doing to relieve Americans from these costly burdens.

Over the last few months, I have joined my colleagues from both sides of the aisle to speak out in defense of a vital Clean Air Act program called New Source Review, or NSR. NSR plays a crucial role in ridding our air of some of industry's most harmful air emissions, and it results in hundreds of millions of dollars in health-related benefits.

However, the administration has chosen to ignore public health concerns and side with industry. These new NSR rules will make it much easier for polluters to send even more poison into our air.

The administration tells us not to worry about these so-called NSR "reforms"—that any holes left in clean air protections will be patched up by another proposal that was reintroduced in Congress last week, called Clear Skies. I am afraid Clear Skies will not provide such a safety net.

In fact, a look at the fine print shows that Clear Skies actually provides less protection—less protection—than existing law. More importantly, it will not do enough to address this country's already significant air pollution problem.

Unlike the new NSR changes, which affect all major sources of air pollution, Clear Skies only addresses some of the air pollution coming from one source—powerplants. So purging broad NSR protections while promoting a narrower proposal doesn't make any sense.

Plus, Clear Skies will eliminate important Clean Air Act programs that protect local air quality, not supplement them. For utilities, Clear Skies will strip the Clean Air Act of the Mercury Air Toxics Rule and the Regional Haze Rule.

And, while the administration's new NSR rule could allow 50 percent of all sources to avoid environmental review, Clear Skies will give powerplants even greater exemptions.

Clear Skies will also degrade the ability of States to pursue interstate air pollution problems, and will prevent evolution of tougher New Source Performance Standards.

As you can see from this chart beside me, the true result of Clear Skies will be less protection and more pollution than business as usual.

In the chart, blue, gray, and red bars represent the so-called Clear Skies reduction plan for sulfur, nitrogen, and mercury emissions, respectively. But take a look at the yellow bars. These yellow bars represent where we would already be headed with full and faithful implementation of the present, existing Clean Air Act. We are not even doing that under this administration.

In other words, the administration's plan allows more pollution. It is a serious weakening of current programs. In fact, Clear Skies will result in hundreds of thousands of tons more emissions than full implementation of these and other Clean Air Act programs.

According to EPA's own estimates, by the year 2010—Clear Skies would allow 125 percent more sulfur dioxide, 60 percent more nitrogen oxides, and 420 percent—420 percent—more mercury pollution than enforcement of current law. Total carbon dioxide emissions would continue to grow by leaps and bounds, despite the administration's goal of reduced emission intensity.

I ask my colleagues to be wary of the administration's proclamations about the benefits of Clear Skies. While they tout reductions of 70 percent for sulfur, nitrogen, and mercury emissions, they are actually using outdated information to arrive at these numbers. Real reductions in 2010 from the year 2000 would be only 60 percent for SO_X and NO_X, and 46 percent for mercury.

Clear Skies will also push compliance deadlines out further into the future than present law, by as much as 10 years. Compared to the Clean Air Act, emission reductions would occur 8 years later for nitrogen, 6 years later for sulfur, and 10 years later for mercury.

This delay would result in thousands of additional asthma attacks, hospitalizations, and deaths.

To be more specific, EPA's own data shows that full implementation of the Clean Air Act will result in approximately 200,000 avoided deaths from air pollution. The Administration's Clear Skies rollback, on the other hand, will allow 100,000 of those lives to end prematurely—100,000 lives prematurely.

Approaches such as the Jeffords-Collins-Lieberman Clean Power Act are what we need to save these lives.

Our bill would surpass the Clean Air Act in saving as many as 250,000 lives—150,000 more lives saved than the Bush Clear Skies plan.

Our bill will also result in benefits of $100 billion more per year in health and visibility improvements than the Clear Skies plan.

I ask unanimous consent that a table illustrating the differences between these three approaches be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARING THE CLEAN AIR ACT, CLEAN POWER ACT, AND "CLEAR SKIES"

	Clean Air Act[1]	Clean Power Act[2]	"Clear Skies"
SO_2:			
Total emissions (cap)	2 mil tons (2012)	2.2 mil tons (2009)	4.5 mil tons (2010)
Percent reduction from 2000	82%	81%	60%
NO_X:			
Total emissions (cap)	1.25 mil tons (2010)[3]	1.51 mil tons (2009)	2.1 mil tons (2008)
Percent reduction from 2000	76%	71%	60%
Hg:			
Total emissions (cap)	5 tons (2008)	5 tons (2008)	26 tons (2010)
Percent reduction from 1999	90%	90%	46%
CO_2:	Business as usual:		Business as usual:
Total emissions (cap)	3.5 bil tons (no cap)	2 bil tons (2009)	3.5 bil tons (no cap)
Percent change from 2000	46% increase in 2018	21% decrease	46% increase in 2018
Lives saved (from PM reductions):			
Total lives by 2020	190,000–238,000	210,000–250,000	74,000–102,000
Nonattainment areas:	prior to imp of new PM std:		
PM 2.5	2020: 100 (national)	2010: <23 (eastern)	2020: 46 (national)
Ozone (8-hour NAAQS)	2020: 41 (national)	2010: <28 (eastern)	2020: 33 (national)
Health and visibility benefits/yr:			
From SO_2 and NO_X cuts (incremental)	N/A	At least $184 billion/yr	$11–96 billion/yr
Costs/year (incremental)	N/A	$6–22 billion/yr	$4–6.5 billion/yr

[1] The Clean Air Act column assumes full implementation of current Clean Air Act programs, not including the Bush Administration's recent rulemakings.

[2] The Clean Power Act also assumes full implementation of current Clean Air Act programs, including vigorous enforcement of, and continued maintenance of, the New Source Review program, the NAAQS, Regional Haze Rule, Mercury Air Toxics Rule, and others. It would ensure achievement of reductions from those programs.

[3] Subject to stringent new rulemaking by the EPA.

Notes.—These are EPW Committee staff estimates, based on latest available data from EPA (2/12/2003).

NO_X and SO_2 2000 levels from 2000 EPA Air Trends report. See http://www.epa.gov/ttn/chief/trends/trends00/trends2000.

Mercury 1999 levels from EPA, "Emissions of Mercury by State (1999)." Data from coal-fired power plants only. See http://www.epa.gov/ttn/atw/combust/utiltox/stxstate2.pdf.

CO_2 2000 levels from EPA's "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2000," April, 2002. See http://yosemite.epa.gov/oar/globalwarming.nsf/content/ResourceCenterPublicationsGHGEmissions.html.

CAA caps: EPA, "Discussion of Multi-Pollutant Strategy," meeting with the Edison Electric Institute, September 18, 2001. EPA's analysis compares the "straw" proposal for power plant cleanup with the level of cleanup that would occur if existing Clean Air Act programs were fully implemented.

Lives for CAA, CPA, and CSI: EPA modeling runs, July, 2002.

Nonattainment for CAA: "Existing programs" on the Clear Skies website. See http://www.epa.gov/air/clearskies/benefits.html.

Nonattainment for CPA: Upper bound represents EPA's Straw proposal in 2020, which CPA would surpass in nonattainment benefits, in 2009. No national-level estimates exist for Straw or CPA nonattainment.

Nonattainment for CSI: Clear Skies website, http://www.epa.gov/air/clearskies/benefits.html. Clear Skies nonattainment includes some existing programs (e.g., Title IV, NO_X SIP Call, some state NO_X reductions).

Benefits and costs for CAA: Not available. No up-to-date and reliable analysis of the benefits and costs of current and planned Clean Air Act programs exists.

Benefits and costs for CPA: EPA data for Straw proposal, representing a lower bound for Clean Power Act benefits.

Benefits and costs for CSI: EPA's Clear Skies website, http://www.epa.gov/air/clearskies/benefits.html. (2 scenarios.)

(Mrs. DOLE assumed the chair.)

Mr. JEFFORDS. Madam President, the choice seems easy to me. While the Clean Power Act would safeguard and surpass Clean Air Act emissions reductions, Clear Skies would be a ticket to pollute.

If Clear Skies legislation becomes law, we will all pay the price in hazy parks, smoggy cities, increased acid rain, and more trips to the emergency room. These are costs we cannot afford.

I hope this message reaches the American public. The public should be very concerned about this administration's efforts to free polluters from environmental regulation. Clear Skies may sound like a good thing, but it is a smokescreen.

In addition, Clear Skies does nothing to address global warming—nothing. As you can see from this chart, Clear Skies ignores our commitment under the U.N. Framework Convention to return to 1990 levels of carbon dioxide.

At a time when we should be adopting real measures to reduce CO_2 levels to around two billion tons, the administration is promoting a "business as usual" approach. This approach will result in around 3.5 billion tons of CO_2. That is no way to protect the American economy or the world from climate change.

The administration says we shouldn't worry, we should trust that their voluntary greenhouse gas reduction plan will help prevent climate change. I am not convinced.

I am deeply concerned because I know that voluntary plans to date have not done enough to keep U.S. carbon dioxide emissions from rising. The administration's newly announced proposal—the inappropriately named "Climate Vision" plan—is part of the President's goal to reduce emissions intensity by 18 percent during the next decade.

Emissions intensity is a term to describe emissions per dollar of GDP. It may sound like a respectable goal to reduce intensity by 18 percent, however, the truth is, that this approach will not reduce actual emissions of greenhouse gases. Even if emissions decline per dollar, overall emissions will grow—grow—by 16 percent.

We must not base our national strategy to prevent global warming and its harmful and costly impacts on a 16-percent increase in greenhouse gas emissions. Again, I find it very unfortunate that the administration appears to be promoting policies based on fuzzy math.

I am confident the American public would rather see legislation such as the Clean Power Act passed. Our bipartisan bill would require reductions of CO_2 by 21 percent, a return to our 1990 levels.

The Business Council for Sustainable Energy supports our approach. The organization's president, Michael Marvin, says:

> These ideas will encourage the deployment of clean, efficient, economical and secure energy resources for our nation.

Our clean power approach will reduce the risks of climate change. The Administration's voluntary plan will not.

In fact, Jim Connaughton, Chairman of the Council on Environmental Quality, has admitted to this failure. In a July 2002 Commerce Committee hearing, he confessed:

> Greenhouse gas emissions will rise under our approach, no question about that.

Does this sound like an administration concerned about improving our air quality and protecting our global climate from irreparable harm? No.

Or could this be an administration that puts the interests of polluters first?

I urge my colleagues to look at the fine print in the President's proposal and ask questions. If you're very lucky, you might just get a helpful and honest response.

Frankly, I doubt you will get a response. As Chairman of the Environment and Public Works Committee in the last Congress, I asked this administration, namely the Environmental Protection Agency, the Council on Environmental Quality, and the Department of Energy, to respond to straightforward questions about their legislative proposals, their rulemaking proposals, and their testimony before our committee. These are hardly unusual inquiries.

In some instances, I have yet to receive a reply. When I have received a reply, it has been either incomplete or inadequate, and without fail, quite late.

Simply stated, the American public, through laws such as the Freedom of Information Act, and also through its elected officials, is entitled to know the basis of government decision-making. The Congress has a responsibility to oversee and understand the activities of the executive branch, particularly when it implements the laws we write.

It is apparent through my experience and that of other Members I have consulted, that the American public is being kept in the dark by this administration on important changes to vital environmental and public health policies. The Clear Skies proposal dims even further their hopes and right to expect a cleaner and brighter future.

I thank the Senate for allowing me this time. I want to point out we should not lose sight of the fact there are things that are costing thousands of lives in this country we could prevent that are not being looked at well enough to give us the security we need.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, we have, under the order that now is in effect, morning business until 12:30. I see four colleagues, at least I have been notified, two on this side, two on that side, who desire to continue the debate on matters of national security. I am wondering if I might suggest a framework and then see if we can have a mutual understanding.

Mr. DODD. Time is moving.

Mr. WARNER. Time is moving. On my side, the distinguished Senator from Utah and the distinguished Senator from Alabama desire 4 to 5 minutes each. They have been here for some period of time. If they were to take those periods, then the other side would allocate their time as they desire, and perhaps we would be willing to extend the time to accommodate such additional time as you might desire.

Mr. DODD. May I inquire, if my colleague will yield, how much time remains on both sides of this discussion?

The PRESIDING OFFICER. The majority side has 11 minutes and 30 seconds.

Mr. DODD. I am prepared to say, use your 11 minutes and then we will pick up our time here. We ought to not waste any more and get to it.

Mr. WARNER. I don't know that we are wasting any time. We are just trying to do our best. We have been here since 9:30. We have had the chairmen of the Appropriations and Foreign Relations Committees and this humble Senator.

Let us try the following. That would not leave the Senator from Virginia, who has control of this side of the debate, any time whatsoever to provide for some rebuttal.

Mr. DODD. If my colleague will yield, if you use your 11 minutes, Senator KENNEDY and I want to take some time. Others may come. Certainly we can engage in some discussion. I would say use the 11 minutes now.

Mr. WARNER. With that understanding, I thank my good friend from Connecticut and I thank my good friend from Massachusetts.

We will proceed to have the Senator from Utah, followed by the Senator from Alabama, for not to exceed 5 minutes each.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I rise to declare my support for the President and his administration as he prepares this country for the coming war with Iraq.

I do this sharing the President's reluctance to go to war. But I offer my support with admiration and respect for the President for facing this decision without reluctance or avoidance, for the forbearance he has demonstrated by pursuing all other reasonable options, for courage he has shown in making the decision, and for the honesty with which he has included the American public, and the world at large, in his administration's deliberations.

The President has not shirked from the problem of Iraq. Since coming to office his administration has recognized that the United States could not ignore a stale and festering policy that had devolved to inattention and a self-deluding hope. A war never concluded in 1991—for Saddam Hussein has never abided by the ceasefire terms of disarmament that the international community declared a condition of the end of the first Gulf War—had devolved to a collapsed inspections regime and a deteriorating sanctions regime. The international community could pass 16 resolutions declaring disarmament our goal and expectation—now 17—but the international community could not impose the inspectors to guarantee that disarmament, nor could it sustain the sanctions to force the regime to comply.

President Bush came to office recognizing the nature of Saddam Hussein's regime was not changing: Saddam was overtly intent to threaten the region, and he was covertly dedicated to amassing the terrible weapons necessary to achieving this goal. Years of inspections reports and defectors' stories confirmed, for all to see, that Saddam's behavior was not changing, and that, in fact, he was emboldened by over ten years of successfully deceiving and confronting the international community.

The administration could have looked the other way. They could have presented a rationale, heard from the streets protests today, that this was not a threat to the U.S., that Saddam was always brutal and dangerous, but that, after all, we'd never caught him plotting against us.

I wonder where the signs are saying: Saddam disarm; Saddam quit being the way you are.

I am amazed that those aren't the signs in the street demonstrations.

A previous administration looked the other way on another threat—the threat of Osama bin Laden. In 1996, I began warning that this man was a threat to the United States. Every time we acted against him, I applauded the President, but I urged us to do more. In 1998, after the attacks on our embassies in Africa, President Clinton responded by cruise missile attacks against Sudan and Afghanistan. A few people accused the President of "wagging the dog," using force to distract from his other problems. I told the President two things: One, good job, Mr. President. Two, but don't let this be the only strikes. Finish the job.

Osama bin Laden lived to launch the attacks of September 11, 2001, and today he remains at large. But last weekend's capture of Khalid Shaikh Mohammed demonstrates that our war on terrorism continues relentlessly, and that the cooperation we have with foreign nations and our intelligence and law enforcement professionals will disrupt, capture and liquidate al-Qaida.

Osama bin Laden and Shaikh Khalid Mohammed launched an attack that changed the way America sees the world, and I am grateful that the Bush administration has changed American foreign policy in response. We recognize, finally, that the concept of imminence is not an abstract idea as we contemplate the preemptive use of force. Preemption is not a new concept in international law, as many of the President's critics suggest. It is as old as Grotius, the founder of modern international law. And contrary to critics' misinformed assertions, the U.S. has never forsworn the use of preemption. Not since the U.N. Charter, and not under either Democratic or Republican administrations.

Preemption has always been conditioned on the idea of imminent threat. In the pre-nuclear era, we could see the armies amassing on a border. In the nuclear era, the idea of imminence grew murkier. Was it the fueling of the ICBM? Was it the glare on the rocket as it left the launch pad? Was it the warhead's return through the atmosphere? These were the reasons why the U.S. did not adopt a no first-use policy during the era of strategic competition with the Soviet Union.

Imminence becomes murkier in an era of terrorism and weapons of mass destruction. When did the threat of al-Qaida become imminent? I know when it became manifest: Not, by the way, on September 11. Osama bin Laden had struck many times before then. On September 11, the threat became catastrophic. It was well beyond imminent.

All Americans must be grateful to President Bush because he will never allow imminence to slip into catastrophic reality. None of us can read Saddam Hussein's intentions, Madam President. We don't know when, or if, he gives the command to pass his countless biological or chemical weapons to his numerous contacts in the international terrorist network.

We know, however, that Saddam has shown no intention of disarming.

And we know of Saddam's capabilities. As this administration has repeatedly stated to American and foreign audiences alike, there is a huge weapons gap in biological and chemical weapons. The evidence of this gap is not fabricated here; it has been meticulously collected, vetted and authenticated by the international community.

Our intelligence community, meanwhile, has asserted through the years that Saddam's Iraq is a safe harbor for international terrorism. This Congress has approved, through the last decade, these conclusions.

Association is not causation, every logic professor would say. And a cautious national security establishment would reiterate: Associating with terrorist groups, as we know Saddam Hussein has done, even training them, or giving them moral and financial support, is different than directing them. True enough. But the days of measuring imminent threat on this conservative notion are done. We will no longer confuse the reluctance to act with the self-deception that a threat is not there.

And I admire President Bush for plainly saying to the American people that the nexus of Saddam's regime of weapons of mass destruction and terrorist links is a threat we can no longer ignore. I admire the courage that says: American security cannot be held to a hope against reality but must eliminate a threat before it is too late.

I admire the President for pursuing all diplomatic options available to him. Last night he said he would submit another resolution before the Security Council, and I think that's a gutsy move. But the President has been clear, since he first took the case himself to the United Nations last September 12, that American national security would not be constrained by endless international resolutions without resolve. If the United Nations wishes to become a spineless debating society, that is its right. If it or anyone else believes that it can pervert international law to constrain the legitimate use of American force for the protection of our national security, then it will begin the 21st century on its self-imposed decline to irrelevance. I hope all members of the Security Council recognize this, as they recognize the diplomatic courage and honesty that the Bush Administration has demonstrated to that body.

Madam President, a war with Iraq will be the most serious exercise of American power in this century. We have reason to be optimistic: If we succeed militarily, and I believe without a doubt that we will, we will show the political commitment to ushering in a new era of stability and, I hope, democracy, for the people of Iraq.

At the beginning of the 20th century, colonial powers had their hand in shaping the Middle East. At the beginning of the 21st century, America is the lone superpower, but we are not a colonial power. The Administration has repeatedly stated that Iraq is for the Iraqi people, that their land, society, resources are for them to shape and mold. We will remove the oppression of Saddam and his Arab Stalinist Ba'athist dictatorship. And we in Congress, I hope, will provide the resources and support to sustain our commitment to a transition to a self-determining Iraqi society. We will work with the Iraqis, we will stay as long as we need, and we will not stay one day longer.

I admire President Bush for the candor he has shown the American people and the world. I admire him for facing difficult choices without reluctance, and I admire him for the courage he has shown in making the most difficult decisions a president can face. I join my prayers to those of countless other Americans as they pray for the success of our Armed Forces and for President Bush and his administration.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I, too, wish to join my distinguished colleague, Senator HATCH, in saluting President Bush for his courage and commitment to principle, his steadfastness, his integrity, and his moral approach to foreign policy. He believes the United States has a high calling in the world. We must meet high standards, and high standards mean that we try to work with our neighbors when possible, but we do not submit ourselves to requirements from other nations that keep us from doing what is the right thing. I am proud of what the President has done. I am proud of the way he has handled himself. I thought at his press conference last night, facing all the media in America and giving them his best shot, he handled it with great skill, dignity, integrity, and wisdom. So I am really proud of that.

We are now entering the final stages of diplomacy. There is still an opportunity for Saddam Hussein to take advantage of the days and hours he has been given by the President to change his ways, to totally disarm and abdicate his country in order to avoid a war. But the answer to what will happen is now in Saddam Hussein's hands.

This great Nation has committed itself to a course. This Senate has backed the President overwhelmingly. The House of Representatives has also done so. Last year, when this Senate was in the majority of the other party, we voted 77 to 23 to authorize this President to take action if need be. I have sensed no retreat from that support by any Member. In fact, if we voted today, the vote would probably be larger. I don't know precisely what Hans Blix will report today in the U.N., but I will tell you one thing he will not say. He will not say that Saddam Hussein is in compliance. He will not say that Saddam Hussein has taken advantage of the 15-to-0 vote on U.N. Resolution 1441 last fall to disarm his country. Had he done that, we would not be facing a military conflict today. He has not done it, and we should not, in my view, continue to give extra time to him and reward him for his failure.

If we have had any difficulty in this process, it is from nations that seem to be unwilling to send a clear message. Some people say: You are not respectful of the United Nations. I have spoken on this issue for quite a number of years in the Senate. I have expressed my concern that we are Gulliver on the world scene and that many nations seem to desire to tie us down with a thousand different strings so that our Nation is unable to act in our interest or the world's interest. We want to listen to other nations, but we cannot allow the American power to be tied down in that fashion.

We had an interesting hearing before the Armed Services Committee, and our distinguished chairman, JOHN WARNER, is here today. He is one of the wisest men on military affairs this country has ever produced. James Schlesinger, former Secretary of Defense and former Secretary of Energy, talked about the United Nations.

The problem with the U.N. is not that they are bad, not that we should not try to work with them; but they cannot be depended on. They are not capable of functioning rationally under stress. They are basically a dysfunctional organization when it comes to action. There are a lot of reasons for that. It is the way the U.N. is created. You have nations such as Russia and France permitted to veto any resolution. We have a resolution dependent now on countries that are not really engaged in the area: New Guinea, Angola, or Cameroon can cast key votes. They are not spending $3 billion a year, as we are, to keep Saddam Hussein in his box.

Secretary Schlesinger said this:

> . . . this is a test of whether the United Nations—in the face of perennial defiance by Saddam Hussein of its resolutions—indeed of his own resolutions . . .—will, like the League of Nations over half a century ago, turn out to be simply another institution given to talk.

He went on to say this:

> Will the United Nations prove as feckless as the League of Nations? Mr. Chairman, in 1935, Mussolini invaded Abyssinia. The League of Nations took note of this challenge to international order. Day after day, week after week, the League deliberated what to do. These sessions went on endlessly. After each session, there was a press conference. After some weeks, one of the reporters summarized the situation as follows: "On the surface, very little is happening—but beneath the surface, nothing is happening."

I think we are in a situation where the U.N. may be incapable of acting. This Nation must act if we are to maintain the integrity of the resolution of the U.N.

Mr. WARNER. Mr. President, I thank my colleague from Alabama. I welcome the opportunity now to listen, and perhaps engage in colloquy with my two good friends, the Senator from Connecticut and the Senator from Massachusetts. We have been at this debate 2 hours 10 minutes. We are delighted to have them join us.

The PRESIDING OFFICER. The Senator from Connecticut.

WAR WITH IRAQ

Mr. DODD. Madam President, first, I say to my friend from Virginia, this is an opportunity for us to spend a few minutes talking about the issue of war with Iraq. We all listened last evening to the comments of the President during his press conference. We all have great respect, obviously, for the Presidency of the United States. I would not call the President's press conference a Churchillian moment, but certainly the President expressed his views on what he believes ought to be done.

On October 11, 2002, I voted for H.J. Res. 114, a resolution providing the President with the authority to use force against Iraq if proved necessary. The vote on that resolution was 77 to 23. I voted for the entire resolution including language which requires the President to first determine that "reliance by the United States on further diplomatic or other peaceful means alone either will not adequately protect the national security of the United States against the continuing threat posed by Iraq or is not likely to lead to the enforcement of all relevant United Nations Security Resolutions." The particular requirement seems to have gotten lost in recent discussions about Iraq and deserves repeating in the context of our debate this morning.

My concern is that the Bush administration, at this juncture, has not made the case that we have reached the point that we can say that diplomacy has failed.

I do not know of anyone who disagrees with the notion that we would be far better off with Iraq disarmed. Every person I know supports that conclusion. The debate, if you will, is not over whether Iraq should be disarmed but whether there are means short of military conflict for doing so. Knowing all the hazards and dangers that will arise when we send American service men and women into combat to achieve that result, we must not take that decision precipitously, without first exhausting other options, particularly diplomatic options.

As I stated earlier, I voted for H.J. Res 114 last fall, and I would vote for it again because I believe force, coupled with diplomacy, are needed in this circumstance. Threats of force alone without diplomacy can too often lead us to unnecessary armed conflict and costly destruction and loss of life.

We fail sometimes to recognize and understand the value of diplomacy and how well it has worked for us in times past. We saw diplomacy at work during the Kennedy administration when President Kennedy diffused the Cuban missile crisis. We saw it at work as well in the Carter administration when Sadat and Begin came together at Camp David to end conflict between Israel and Egypt. We saw it at work in 1993 when, through the efforts of former-President Carter in North Korea, we were able to diffuse a situation that was getting very serious. Diplomacy has successfully resolved many disputes large and small. On each occasion it requires our President to put his credibility on the line and work diligently day in and day out to bring those warring parties together to avoid the conflict that would have ensued.

I think too often we fail to appreciate the value of what can be done through diplomacy. There are countless examples throughout our history.

My plea this morning, is not that we renounce the use of force multilateral or unilateral—in the case of Iraq or any other circumstance where US national security interests are at stake. I would never support a resolution that would deprive our Nation of the opportunity to protect and defend its security and its sovereignty, including by the unilateral use of force. My only concern is that we ought not rush unnecessarily to that conclusion when other options still remain. Do we really want to unnecessarily put at risk the lives of innocent Iraqi people or more importantly the lives of our own young men and women in uniform who have been deployed to the Middle East and await the orders of the Commander in Chief?

My plea today is that the President seriously consider giving the U.N. effort the diplomatic track a bit more time. Obviously, there is a threat in Iraq. We all know that. But it is a threat at this moment that is being effectively contained by the presence of international inspectors and the threat of force. Yes, Iraq is a threat, but there are graver and more immediate threats confronting the United States. I believe that North Korea poses a far greater and far more immediate danger to the United States and the region. U.S./Korean experts across the political spectrum share that view.

I am concerned that our impatience over Iraq is doing great harm to our relationships with our long standing friends and allies. U.N. Security Council Resolution 1441 did not contain an end date by which the inspectors were to conclude their mission. However, from the very beginning, the administration showed very little patience for the inspections process. Almost before it began, members of the Bush Administration were ridiculing the process, suggesting it would never work anyway; why are we bothering with it?

One might ask the basic question: If we never thought it was going to work, why did we support U.N. Security Resolution 1441 in the first place?

The problem of Iraq and Saddam Hussein is not weeks old, it is years old. We all know that. Nonetheless, we drafted, worked, suggested, and supported the resolution that called for an inspections process. There is no certainty that an inspections process will necessarily succeed, given the size of the country and the difficulties involved, but we voted to send inspectors to Iraq and we supported the terms of their mission as spelled out in the text of the resolution.

Yet as the inspection mission was getting underway, the administration seemed to already have lost patience with it. Perhaps that is why other members of the Security Council began to question whether the United States was ever genuinely committed to an inspections regime.

U.N. weapons inspector Hans Blix spoke before the United Nations this morning. Let me share with my colleagues some of his conclusions—very significant conclusions in my view. Mr. Blix said that the inspectors were in a better position to carry out their work than they had been in the 1990s because of the existence of international pressure. The President should claim victory that his policy is succeeding—the combination of diplomacy and the threat of force is bearing fruit.

We ought to be celebrating the fact that the inspectors have made progress in disarming Iraq. I do not think that a call for inspections without a threat of force would have produced positive results. The combination of the threat of force and the inspections process is, according to those we have asked to perform these duties, producing far better results than we ever could have imagined.

Mr. Blix went on to say that there is no air surveillance over the entire country, and that inspectors can move freely anywhere in Iraq. Even with enhanced Iraqi cooperation, Mr. Blix stated that the mission would need some additional months not years to complete its work.

I am not interested in seeing the inspections process prolonged indefinitely. I do not think that is in anyone's interest. We have men and women in uniform deployed abroad, waiting for orders. We cannot keep them there indefinitely without having the necessary rotations. That poses some problems. I hope we never reach the conclusion that simply because we have deployed our forces to the Middle East, we see that action as putting our credibility on the line if we don't then take military action, even though diplomacy may be working.

American service men and women certainly understand that when they are called to duty, there may be times they are asked to put their lives on the line. They also know there may be times when they are going to be asked to wait. Certainly, we need to understand the conduct of this particular delicate situation. Asking our men and women in uniform to be patient as we try to see if we cannot resolve this problem without putting them in harm's way is not an irresponsible way to proceed at all, given the fact we may get exactly what we are seeking as a result of the combined efforts of diplomacy and threat of force.

I believe this process is working and the President ought to claim victory, in a sense, because as a result of his efforts, we are getting the job done better than we might have imagined we could.

In a sense, I almost get the feeling we are trying to snatch defeat from the jaws of victory by moving away from a process that appears to be working despite all the difficulty surrounding it.

Obviously, if we want the multilateral support of our allies then we need to allow the U.N. effort some time. I can make a strong case that we probably do not need multilateral forces to win the military contest here. I am quite confident the United States military can more than adequately perform the challenges posed in Iraq militarily. But the problem becomes greater when you think of the aftermath, of how we manage that, how this event will affect other relationships we have where international cooperation is important.

I say this with a great deal of lament. Diplomacy has been suffering terribly here over the last few years. This is not just my conclusion. This is the conclusion of the responsible people who have watched, tragically over the last 24 months, where diplomacy has not been working as well as it could. I don't want to digress very much. I will keep focused on the discussion in front of us, but from the outset there was a notion that international cooperation was somehow a sign of weakness; that, in fact, the comments of our friend from Alabama suggesting a moment ago that international organizations and the United Nations could not perform duties when asked to act and asked to get a job done, I disagree with.

I have my difficulties with the performance of the U.N. from time to time, but I ask anyone to suggest what the world might look like if we did not have a U.N. system to respond all over the globe to every imaginable crisis that emerges. The idea of deriding and ridiculing and diminishing the role of the U.N. system is not in our interest, and I don't think it is in our interest to ridicule our allies in Europe and elsewhere. These are good friends. They have been and will continue to be. But we need to work at those relationships to keep them strong. Unfortunately, we have not been doing that. And, we are paying a price for that. That is why the American public and so many around the world are worried about unnecessarily taking unilateral action. Particularly a preemptive unilateral action.

Having said that, I applaud the President's decision last night to go to the U.N. and to put a resolution on the table. I feared he might abandon the U.N. effort without doing so because some of his advisors have recommended this course of action. I commend the President for still being willing to try and get that international support. I hope a resolution can be crafted which our allies and others will feel comfortable supporting, one that gives the inspections more time to see if they can succeed. If I didn't feel time might work for us here, or that there was an imminent threat to our nations, then I would stand with those who would say we have to go forward now and unilaterally respond to the threat. I don't believe that moment has arrived.

Last night the President said that the world has changed since September 11th. I agree with him. The administration's eyes obviously were opened to the fact we needed help and support from the nations in coping with the amorphous nature of the stateless and faceless terrorist organizations. We heard the great news in the last few days of the capture of some al-Qaida operatives. I would respectfully say that this would not have happened without international cooperation. So in this particular set of circumstances, we have seen the value of international cooperation.

While Bush administration officials have seen the wisdom of cooperating with our allies in combating terrorist organizations, key administration policymakers still hold—too many of them—the fundamental belief that as the world's only remaining superpower, the United States does not need to consult or build the support from other nations in the conduct of foreign policy. They believe that we can singlehandedly decide who are good guys and bad guys, the members of the axis of evil, in the Bush administration's lexicon. It is this tension that brings us where we are in Iraq and North Korea.

Now we have, of course, the paradox that the administration is in no particular hurry, it would appear, to resolve the North Korean problem which was precipitated in part, I argue, by our handling and engagement with Iraq. It has no patience in the case of Iraq to allow the inspections process to play out. I appreciate that the administration is trying to maintain the readiness of more than 200,000 American troops that are or will soon be in the region and that this cannot go on indefinitely without troop rotation. However, I strongly believe the American forces are carrying out an incredibly important mission, even if the order is never given to attack. Just being there has a tremendous value in terms of what we are trying to achieve in the Middle East.

Their presence signals a seriousness and resolve on the part of the United States that Iraq must disarm. Iraq is, in fact, beginning, as we see here, to respond—not as quickly as I would like, not in the ways some might prefer—but Hans Blix has reported progress. We should not yet draw the conclusion that in U.N. effort has failed.

I want to see Iraq disarm. Every American does. I believe as a way of doing this, at least a way worth trying to get this accomplished without resorting to force. The bellicose and public efforts by the administration to end the inspections process is going to have severe diplomatic costs in the months and years ahead. My hope is that we will be able to repair these relationships. The quick way we might do that is to allow this process to work a bit longer. If we do that, I think we can build the kind of support that is necessary to achieve not only the desired results in Iraq, but also to allow us to continue to build the relationships that are going to be critically important to deal with other pressing foreign policy concerns.

We live in a world that absolutely requires international cooperation, and the United States must be a leader in this effort. The great leaders in the post-World-War-II period understood this. The great people we revere and talk about often, people like Omar Bradley and George Marshall, the Dulles brothers and others, who understood the value and the importance of international organizations. They were the architects of these institutions. They were the ones who argued so vociferously to create a U.N. system, international courts of justice, to build a NATO system. They understood the importance of international cooperation. They understood that even a great power such as ours could not solve all the world's problems single-handedly.

Too often, as we engage in this debate, many Americans and many people across the globe have the impression that the United States no longer believes that international cooperation is important in the conduct of our foreign policy. I disagree with that profoundly.

That worries this Senator very deeply. I will not take a backseat to anybody in my concern about Saddam Hussein. I would support the resolution which I voted for in October again today if it were the pending business of this body. I don't believe that the resolution calls upon the President to abandon diplomacy.

For those reasons I would urge and encourage the President to continue his efforts with the framework of the U.N. Again, I want to compliment him for indicating he is going to go back to the U.N. in the coming days to see if we can get a resolution that will build the kind of international cooperation that is necessary. But I have this nagging fear that there are some in the President's inner circle who believe this is all a waste of time and effort, that it is not in our interests to do it, and the sooner we move away from seeking international cooperation the better off we are going to be.

That mentality seems to be gaining currency in the minds of far too many. That is a dangerous road to follow. It is one I hope and pray that the President does not take.

Mr. President, let me associate myself with what others have said in the course of this debate. If or when the President orders U.S. Service Members into combat, I and every other member of this body will support these brave men and women one hundred percent and we will pray that they return home to their families unharmed.

With those thoughts in mind, I thank my colleagues for the opportunity to express some views on this critical issue. I am certainly anxious to hear the thoughts of my colleagues as they express those during the remaining time of this debate.

Mr. WARNER. Mr. President, will the Senator allow me to have one or two questions, by way of a colloquy?

Mr. KENNEDY. Mr. President, I would like to do it. I understand the agreement goes to 12:30. I have not had an opportunity, and I have been here almost an hour. We extended the time shortly over on the other side.

I will be glad to yield if we can work that out, but I would like an opportunity.

Mr. WARNER. Why do we not just agree now to extend the time by 30 minutes, equally divided between the two of us? That will take us to the hour of 1 o'clock.

Mr. KENNEDY. That will be fine with me. I am glad if we agree the colloquy go maybe 5 or 6 minutes.

EXTENSION OF MORNING BUSINESS

Mr. WARNER. Certainly. The Senator from Massachusetts has been most patient.

I ask unanimous consent that morning business be extended to the hour of 1 o'clock, the time equally divided between myself and my colleagues on the other side.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. WARNER. With reference to two points that you make, Senator, first—I copied in my notes—you questioned was the United States ever genuinely engaged in the inspection process, some words to that effect.

Mr. DODD. Before you put words in my mouth, my concern has been that the administration has not been terribly supportive of the inspections process. Numerous Administration officials have been very dismissive of the inspections effort. My colleague from Virginia may have a different one. But my impression is that the administration has never embraced the inspections process, endorsed it, or supported it with the kind of rhetoric that I would have assumed would have been the case since we certainly supported the resolution that established the inspections initiative.

Mr. WARNER. Mr. President, we are entitled to an honest difference of opinion. My colleague and I debated last night in a public forum on this very issue. But I believe our Government has been very thoroughly engaged in the inspection process, trying to support it.

I provide today some tangible evidence in the sense that I have a letter from the Director of the Central Intelligence Agency, addressed to me with a copy to my distinguished colleagues, Senator LEVIN and Senator ROBERTS, in which they set out for the record exactly what we have done by way of giving the U.S. intelligence regarding likely sites where weapons of mass destruction could be in the process of being manufactured, stored, or otherwise. We have cooperated mightily in this effort.

I think that corroborates the assertion of the Senator from Virginia that our Government is engaged. I just read one paragraph here, Tenet stating we, the United States:

> . . . have now provided detailed information on all of the high value and moderate value sites to UNMOVIC and the IAEA.

That is in rebuttal to your comment about genuine engagement. I think that shows good faith.

Second, this rush headlong?

As the Senator well knows, 1441 was adopted on November 8. Immediately thereafter the United Nations began to put in place and formalize work that Blix had been doing for some period of time.

As you well know, the United Nations contemplated that there could be a second inspection regime, and Blix was put in office and began his work some months before. Had he undertaken to go into Iraq as quickly as I think feasible from a logistics standpoint, and having with him trained individuals, and he has been there basically since the latter part of November, early December—am I not correct in that?

The reason there has not been greater productivity by Blix—I think he has tried diligently—is the absolute lack of cooperation of Iraq, to which my colleague from Connecticut has agreed.

Here we are now. Our President and the Prime Minister and other nations of the coalition of the willing, having called up their reserves, called up their guard, transported the forces and put them in place. I was visiting there with Senator LEVIN, Senator ROBERTS, and Senator ROCKEFELLER 10 days ago. We have placed them there. As the Senator from Connecticut I think quite properly said, in fairness, their presence has, indeed, supported the diplomatic efforts undertaken by the President and others in the United Nations, which is still going on.

Our President said last night that we will wait and see what the Blix report comes forth with. He has come forth again today. With due respect to Blix, he tends to be somewhat contradictory.

In previous reports he quite actively deplored the fact that Iraq has not been more cooperative and that lack of cooperation has hindered his efforts. As the Senator well knows, the concept of this inspection was not that Blix and his team had to find the weapons; it was that Iraq was to cooperate and show where the weapons are so Blix could supervise their destruction.

This thing got totally, as we say as sailors, off course because of the need for Blix to do both the destruction, which he is now supervising, of a modest cache of missiles, and at the same time trying to search, using U.S. intelligence and intelligence from other nations, for the sites.

I say to the Senator, I see no basis for saying that this President, the Prime Minister of Great Britain, or others are rushing, as you said, headlong to try to utilize force as the final solution. We have been at this thing 12 years. Blix has been in business since November.

Mr. DODD. Let me respond to your rather long question.

Mr. WARNER. Yes.

Mr. DODD. I presume there is a question there.

Mr. WARNER. Yes.

Mr. DODD. My response is the inspection teams were not at full strength until about the end of January.

Obviously, we didn't think Saddam Hussein was a wonderfully truthful, reliable head of state last fall when the U.S. voted for U.N. Security Council Resolution 1441. We have known Saddam Hussein for a long time, and it therefore comes as no great surprise that it has taken international pressure to get results.

It has only been about a month since the inspections team has been fully operational in Iraq. That is a fact. To expect somehow that within a month's period of time, or a little more than a month, an inspections team was going to be able to complete the job was naive.

This morning U.N. Weapons Inspections chief, Mr. Blix—whom I think most people respect as being an honorable person and certainly one who has dedicated much of his career to eliminating weapons of mass destruction—reported that the inspections are making progress, that today inspectors are getting a lot more done than they did in the 1990s. We should listen to Mr. Blix and give his remarks serious consideration as we decide the next steps.

My only point in taking the floor today is not to suggest, as some may, that we ought to under no circumstances in dealing with Iraq ever contemplate the use of force. I would disagree with that. I think having a threat of force is absolutely critical to achieving a desired result. The only point is that we ought not do this alone. I don't think it is necessary, and I think we ought to at least give this process time to work. I think the cost of not doing that could be profoundly dangerous to our country. I hope I am wrong about that, but I am fearful I may be right. In waiting a few weeks to get this right, I don't think the dangers posed by Iraq are that imminent that a few weeks or a few months would necessarily cost us.

I would argue differently about North Korea. I don't think we have that much time. I think every day we lose in dealing with North Korea raises the risks to this country and the world profoundly. I don't disagree with my colleague from Virginia at all about this except to the extent that the impression is we really are not going to give this the kind of time to prove it can work and then have the kind of support that I think we ought to have internationally.

We only paid about 10 percent of the cost of the gulf war. The rest of the world which felt most threatened by Iraq contributed 90 percent of that cost.

As I shared with my colleagues last evening a conversation which I had with one of the major European Commissioners, a great ally of ours, the Commissioner said: We have been delighted to support the effort in Afghanistan. I think the European Community contributed about $1 billion. He said: I would not anticipate any financial support under the present circumstances in winning the peace in Iraq if this is a unilateral effort on the part of the United States.

That is a very troubling comment. This problem is a problem not just for us, it is a problem for the region, as my colleagues have said.

I believe Saddam Hussein poses a global threat, and that certainly needs to be addressed. But we need to understand that diplomacy has value. And I think there are those who today are in positions of making a difference who don't appreciate that enough. That is my concern as I take the floor today.

Mr. WARNER. Mr. President, I see the Senator from Massachusetts.

I ask unanimous consent that the time the Senator from Virginia consumed in this colloquy be charged to his allocation and the time consumed by the Senator from Connecticut be charged to the other side.

I thank my colleague. I hope to have more to say on this.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this morning we heard the most encouraging report so far on the recent developments in Iraq from the United Nations' chief weapons inspectors. Progress is clearly being made. Iraq is beginning to destroy its missiles. As a result of strong international pressure on Saddam, the inspectors are receiving greater cooperation from the Iraqi Government.

Hans Blix, the chief United Nations weapons inspector, reported this morning that the international pressure is working. He says the inspectors are encountering fewer difficulties than when inspections occurred there a decade ago. The inspectors have free access to the entire country, and they can now conduct air surveillance throughout Iraq. The question is, For how long? Hans Blix says it will not take years or weeks, but months. So we are not talking about an endless process. Saddam knows he is on the clock at the United Nations. The eyes of the world are on him, and he must disarm.

We all agree there is still much more to be done before full disarmament is achieved. But inspections are working and Saddam is being disarmed. Yet in its rush to war with Iraq, the Bush administration ignores this progress and rejects the wise words of caution from our allies.

President Bush deserves great credit for the progress so far—both in the war against al-Qaida terrorism, and in disarming Saddam. Al-Qaida is on the run, and Saddam is disarming.

But it is time for this President and this White House to pause before pushing aside the rest of the world and ordering an invasion of Iraq. Rash action will only place our troops in greater harm's way. As we unleash a firestorm of military might over Iraq, we could easily unleash a firestorm of hatred for America creating a far more dangerous world for Americans here at home and in many other countries.

We are squandering the immense good will and support for America following the tragedy of 9/11. We are shattering the coalition that is effectively fighting the war against terrorism, and that is pursuing Osama bin Laden at this very moment. War now will inflame the Arab and Muslim world against us as never before, and generate intense new support for anti-American terrorists who will stop at nothing to do us harm.

In recent days, Iraq has destroyed 34 of its 100 illegal missiles—a process which continues. Seven more scientists have been privately interviewed, and each day more come forward. The Iraqi government stepped up and revealed the location of previously destroyed biological weapons in order to enable the inspectors to verify their destruction.

Many of us wish that this cooperation had occurred earlier, and that Iraqi officials were more forthcoming. No one ever said it would be easy to disarm Iraq. Even South Africa, which agreed to unilaterally disarm its nuclear program, required two full years of inspections to confirm that its nuclear capability was destroyed.

Disarmament is a process—not a single simple event. Disarmament takes time. Progress comes step by step. But when progress does occur, it makes no sense to reject it out of hand. It makes no sense to start a war when we have a genuine chance to preserve the peace.

The wisest course for America is to give the inspectors more time and to maintain the pressure on Saddam by keeping our troops in the region. It is better to pay the price of keeping our troops there to pressure Saddam than to pay the far greater cost of going to war.

It is clear from the foreign ministers who spoke today at the Security Council that a majority of the world's governments still want to wait before pulling the trigger for war. Even the British are now asking for more time.

This is a delicate and dangerous situation. We need allies to help us meet our goals, and to provide for the security of the American people. But surely we can have effective relationships with other nations without adopting a chip-on-the-shoulder, my-way-or-the-highway policy that makes all our other goals in the world more difficult to achieve. We cannot be a bully in the world schoolyard and expect cooperation, friendship, and support from the rest of the world.

The threat of war may be tough talk that Saddam needs to hear. But continuing inspections is a tough-minded policy. It takes patience and perseverance. There is the chance that they will succeed in disarming Iraq. And inspections build international support if other steps are required.

The goal is the disarmament of Iraq by peaceful means—not to use every opportunity to justify a war, as the administration is doing.

All of us agree that Saddam is a despicable and deceitful dictator, but I am deeply concerned that such a war will make the world even more dangerous for Americans—not less dangerous. But as long as inspectors are on the ground and making progress, we must give peace a chance. War must always be a last resort.

The question now is whether the Bush Administration will view Iraqi cooperation as a glass half empty, or a glass half full.

At his press conference last night, President Bush still failed to offer adequate answers to the key questions on the minds of the American people about the issues at stake in this war and its aftermath. In his speech last week, he also painted a simplistic picture of the brightest possible future—with democracy flourishing in Iraq, peace emerging among all nations in the Middle East, and the terrorists with no place of support there. We have all heard of rosy scenarios, but that was ridiculous.

War with Iraq runs the very serious risk of inflaming the Middle East and provoking a massive new wave of anti-Americanism in other countries that may well strengthen the terrorists, especially if the Muslim world opposes us. What if al-Qaida were to time the next terrorist attack to the day we go to war?

A year ago, the Wall Street Journal quoted a dissident in Saudi Arabia who has turned his focus from his own government to the U.S. Government. He said the main enemy of the Muslims and the Arabs is America, and that they do not want us to impose on them. He said many Arabs would rather tolerate dictatorship in their own countries than import reforms from America.

The burning of the U.S. flag has become a common ritual in Arab capitals. Calling someone an American is now regarded as an insult in parts of the Arab world.

What a tragic change in the support we had in the world after 9/11, let alone from the time when America stood as a beacon of hope and a model for freedom and democracy throughout the world.

In a desperate effort to justify its focus on Iraq, the administration has long asserted there are ties between Osama and Saddam—a theory with no proof, and widely doubted by the intelligence experts.

Two weeks after 9/11, Secretary Rumsfeld claimed we had "bulletproof" evidence of the link. But a year later, CIA Director Tenet conceded in a letter to the Senate Intelligence Committee that the administration's understanding of the link was still "evolving" and was based on sources of "varying reliability."

In fact, the link is so widely doubted that intelligence experts have expressed their concern that intelligence is being politicized to support the rush to war.

The Bush administration was wrong to allow the anti-Iraq zealots in its ranks to exploit the 9/11 tragedy by using it to make war against Iraq a higher priority than the war against terrorism.

Al-Qaida—not Iraq—is the most imminent threat to our national security. Our citizens are asked to protect themselves from Osama with plastic sheeting and duct tape, while the administration prepares to send our Armed Forces to war against Iraq. Those priorities are wrong.

There is also much more we need to do at every level of government to strengthen our defenses at home against terrorist attack, especially if we go to war alone against Iraq and inflame the Arab world. America is already on constant alert. There is no time to shortchange our security at home. Yet across the country the Bush administration is leaving local governments high and dry in the face of continuing threats at home. Despite promises of funding from Washington, our cities are not receiving the urgent help they need.

If there is any lesson from September 11, it is that we cannot afford to fail to meet this threat. The cost in lives at home is too great. The war with al-Qaida is far from over, and war with Iraq may well make it worse.

And what about the aftermath of war? We know a stable government will be essential in a postwar Iraq. But the administration refuses to discuss, in any real detail, how it will be achieved and how long our troops will need to stay. President Bush assumes everything will go perfectly.

But war and its consequences hold enormous risks and uncertainties.

As Retired General Anthony Zinni has asked, will we do what we did in Afghanistan in the 1970s—drive the old Soviet Union out and let something arguably worse emerge in its place?

The administration has also tried to convince us the war will not be costly to the Treasury. If our national security were at stake, we would spare no expense to protect American lives. But the administration still owes the Nation a more honest discussion about the war costs we are about to face, especially if America has to remain in Iraq for many years, with little support from others.

The vast majority of the Iraqi people may well want the end of Saddam's rule, but they may not welcome the United States to create a government in its own image. Regardless of their own internal disagreements, the Iraqi people still feel a strong sense of national identity and could quickly reject an American occupation force that tramples on local cultures.

We must recognize that the day we occupy Iraq, we shoulder the responsibility to protect and care for its citizens. We are accountable under the Geneva Convention for public safety in neighborhoods, for schools, and for meeting the basic necessities of life for 23 million Iraqi civilians.

This daunting challenge has received little attention from the administration. As the dust settles, the repressed tribal and religious differences of the past may come to the fore—as they did in the brutal civil wars in the former Yugoslavia, in Rwanda, and other countries. As our troops bypass Basra and other Iraqi cities on our way to Baghdad, how will we prevent the revenge bloodletting that occurred after the last gulf war in which thousands of civilians lost their lives? What do we do if the Kurds in northern Iraq claim an independent Kurdistan or the Shia in southern Iraq move toward an alliance with Iran, from which they have long drawn their inspiration?

We have told the Government of Turkey that we will not support an independent Kurdistan, despite the fact the Kurdish people already have a high degree of U.S.-supported independence and have even completed work on their own constitution. Do we send troops again to keep Iraq united? This administration's record in postwar Afghanistan is not exactly the best precedent for building democracy in Iraq.

Sixteen months after the fall of the Taliban government in Afghanistan, President Hamid Karzai is still referred to as the "Mayor of Kabul" because of the weak and fragile hold of his government on the rest of the nation. Warlords are in control of much of the countryside. The Afghan-Pakistan border is an area of anarchy and ominous al-Qaida cells.

If we have not been able to get it right in Afghanistan, where we went in with strong international support and involvement, how do we expect to go it alone in Iraq? Everyone talked about a Marshall Plan for Afghanistan where there is a clear need to rebuild and get it right so the Taliban and al-Qaida cannot take over again.

President Karzai was here last week at the Senate Foreign Relations Committee, begging for the adequate support and resources his new government needs to take hold. To get it right in Iraq, we need the international community and a long-term commitment on the part of the United States. That is less likely to happen if we do not have the international community with us from the start.

Depending on our welcome, it could take as many as 200,000 American troops, as General Shinseki told the Armed Services Committee just over a week ago, or even more, to stabilize Iraq. We already have 37,000 troops in South Korea, 8,000 in Afghanistan, 5,000 in the Balkans, and another 1,000 in the Philippines and Colombia. We need to know whether our Armed Forces are being spread too thin. We need to know how long they can keep up this pace.

The large-scale mobilization of the National Guard and Reserves for Iraq is already having an effect on police, firefighters, and others who are needed on the front lines at home, especially if there are new terrorist attacks on the United States. We have called up 167,000 Guard and Reserve personnel for active duty. We know the effect on their families who are left behind. What is the effect on the economy in lost productivity as these jobs go unfilled?

Can we meet all these obligations now, let alone shoulder the long-term costs of war with Iraq? These may well total hundreds of billions of dollars in the years ahead.

One of the highest and worst costs of the war may be the humanitarian costs. Sixty percent of the Iraqi people rely on the United Nations Oil-for-Food Program for their daily survival. Food is distributed through 46,000 government distributors supplied by a network of food storage barns. A war with Iraq will disrupt this network. Many Iraqis, especially low-income families, have no other source of food. Women and children will be the most vulnerable victims of war. According to recent reports, 500,000 Iraqi children already suffer from malnutrition.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an excellent article in this morning's Washington Post by Ken Bacon and George Rupp.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I will quote from the article.

> . . . The U.N. High Commissioner for Refugees, the world's first responder when people flee their countries, lacks the resources to prepare for a flood of refugees. . . .
>
> Although the United States has spent $2.4 billion to send troops to the Persian Gulf region, it has spent less than $1 million to position relief agencies in the region. An official at the U.N. Office for the Coordination of Humanitarian Affairs recently told a conference that his biggest concern is the small number of private relief agencies ready to move quickly into Iraq.

We don't have the nongovernmental agencies that do humanitarian work in Iraq. We had them in Afghanistan. We have refused to permit them licenses to go in and set up some kind of system in the past months, although they have all desired to do so.

Listen to this:

> Lack of preparedness by the [United Nations] and private relief agencies means the U.S. military will have to do most of the relief work, and this in turn could mean the suffering of the Iraqi people will be greater than necessary. Administration officials have done little to match the skills of relief agencies—some are specialists in medical care, others in water and sanitation projects, for instance—with projected needs.

It is talking about the nongovernmental agencies. It continues:

> In modern warfare, precision bombs will limit civilian casualties during the conflict, so that most death and suffering occurs in the post-conflict period, when people are displaced, poorly fed or prone to disease because water sanitation and sewer systems have been disabled. This means that rapid humanitarian intervention is just as important to holding casualties and quick military victory.
>
> The United States may be ready for war, but it is not yet ready to help Iraq recover from war.

This is Ken Bacon and the spokesman for the nongovernmental agencies that have worked so well historically on humanitarian needs. The U.S. military is far from equipped to handle the challenge. Our Government must have a plan in place to care for the population. Despite the immense need for help from relief organizations, we have had too few discussions with key nongovernmental agencies to provide the food, tents, medicines, and other supplies that will be needed. All we have to do is look in the newspaper and we find out where the preposition of every one of these aircraft carriers are, where the armored divisions are. Yet when you ask the Defense Department where are the prepositions on food, the tents, and medicines, we can't disclose those because those are secret.

Are all these possible consequences acceptable to the American people? Are they manageable? Does the administration really have a plan that considers how we will reap—in the international community, in the Arab street, and in American families—what we sow in a war with Iraq.

Finally, the President must explain why war with Iraq won't distract us from the more immediate and graver danger posed by North Korea. Something is gravely wrong at 1600 Pennsylvania Avenue if we rush to war with a country that poses no nuclear threat, but won't even talk to one that brandishes its nuclear power right now. Any nuclear threat from Iraq is at least five years into the future. But the threat from North Korea exists now—today. CIA Director George Tenet recently informed the Senate Armed Services Committee, North Korean missiles can now reach American soil with a nuclear warhead.

Look at this article from the Washington Post of March 4:

> The United States and Asian countries have begun to accept the idea of a nuclear-armed North Korea.

I ask unanimous consent to print the article at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. Continuing from the article:

> "The administration has acquiesced in North Korea becoming a nuclear power," said a Senate source who was briefed last week on the administration's evolving policy.
>
> "Our major fear is that North Korea would pass on fissile materials or other nuclear technology" to "rogue states" or outlaw groups, Deputy Secretary of State Richard L. Armitage warned Congress last month. "I don't think, given the poverty in North Korea, that it would be too long" before such sales could take place, he said.

In other words, they are willing to accept North Korea as a nuclear power that has sold missiles to Iran, to Syria, to other countries that have supported terrorism and not give that the first priority when we are talking about the security of the United States.

This makes no sense.

> "The total red line is the sale of nuclear weapons material," said [a spokesman for the administration] who follows the North Korea issue closely. "Nuclear weapons transferred to the Iraqis would be tantamount to nuking Jerusalem."

You can have them, as long as you don't sell them, for a country that has already sold the technology of making nuclear weapons to Iran, to Syria, and other nations and has that capability itself.

Experts—including professionals within our own government—have been ringing alarm bells for months about North Korea's pursuit of nuclear weapons. The views of the experts are brushed aside, despite the continually growing list of dangerous behavior by that government.

This is a country that celebrated the inauguration day of South Korea's new president by test firing a missile into the nearby sea. Yet, last night, President Bush did not even mention North Korea in his statement.

North Korea has long had advanced missiles which it sells to other countries. It has restarted its plutonium—producing reactor, kicked out the international inspectors, pulled out of the Nuclear Non-Proliferation Treaty, and threatened to break the Armistice agreement that has brought 50 years of peace to the Korean peninsula.

Desperate and strapped for cash, North Korea is the greatest current nuclear danger to the United States, and it is clearly taking advantage of the situation in Iraq. It is the country most likely to sell nuclear material to terrorists, and has missiles that can strike our soil. How long can the Administration continue to ignore North Korea? How will a war with Iraq affect our ability to deal with this escalating danger?

Just the other day, two North Korean Mig fighter jets tailed an American plane near the Korean Peninsula, in a further attempt to get the attention of President Bush.

But in his zeal on Iraq, the President has refused to call the situation on the Korean peninsula what it is—a genuine crisis. He has refused to even talk directly to the North Koreans to try to end its nuclear program.

The Administration may even have tried to conceal information about North Korea. Intelligence analysts at the Lawrence Livermore National Laboratory in California concluded in November 2001 that North Korea had begun construction of a plant to enrich uranium to use in nuclear weapons. Yet, the Administration did not reveal this information until eleven months later, in October 2002—after Congress had voted on the legislation authorizing the use of force in Iraq.

Only the Administration knows if the timing of the release of the information on North Korea was by design or coincidence. But if the Administration did conceal its knowledge of North Korea's dangerous nuclear weapons program until after the Congressional vote on Iraq, it would represent a breach of faith by our government not seen since the Vietnam War.

The very real danger is that the Administration is making it more likely that North Korea will provide nuclear material or even nuclear weapons to terrorists or nations supporting terrorists. Is war with Iraq worth that risk—not taking more time with inspectors?

We are poised at a moment of truth in the stewardship of the President. If President Bush commits our men and women to war, then all of us will close ranks behind them, and pray for their safety and a swift end to the conflict.

But with inspectors on the ground and stiff international pressure still possible, this is an unnecessary war. History will judge how well we meet the challenges of this new era and this new century. We should move forward as the great and honorable nation we are—with patience and perseverance—as we carry on the difficult work of build a better and more peaceful world for all its people.

EXHIBIT 1

[From the Washington Post, Mar. 7, 2003]

UNREADY FOR THE AFTERMATH

(By Kenneth H. Bacon and George Rupp)

Despite months of planning by the Bush administration to respond to the humanitarian challenges that could follow an attack against Iraq, preparations for dealing with displacement, injury, illness and food shortages remain inadequate. If current problems continue, the suffering caused by war could be amplified by lack of aid resources and coordination.

The most urgent need could be food. The United States boasts that it has shipped 3 million humanitarian daily rations to the region to help feed Iraqis. But individual meal packets will feed only a tiny portion of Iraq's 24 million people, and for just a few days. A United Nations official recently called U.S. and U.N. preparations to feed the Iraqi people "grossly inadequate." The official said that "they need to be sending ships of wheat to the Persian Gulf, along with ships of soldiers."

More than a decade of U.N. sanctions has left approximately 16 million Iraqis dependent on government rations for their entire food supply under the U.N. Oil-for-Food program; most of the remaining 8 million Iraqis rely on government rations for a portion of their daily food basket. The U.N. Children's Fund estimates that more than 2 million Iraqi children will require therapeutic feeding in the event of a conflict.

A break in the U.N. food pipeline could cause "extremely grave" conditions, Ramiro Lopes da Silva, director of the U.N. World Food Program office in Baghdad, told The Post. He estimates that 10 million people could run out of food within six weeks of the start of a war. "After that we will have to feed 10 million people. Eventually, we'll have to feed the entire population," Lopes da Silva said. The World Food Program currently has enough food in the region to feed 900,000 people for 10 weeks.

Preparations to deal with refugees and displaced people also are behind schedule. The United Nations estimates that in the "medium impact scenario"—a two- to three-month conflict involving ground troops—1.45 million refugees and asylum seekers would try to reach neighboring countries, and 900,000 people would be newly displaced within Iraq. Yet Ruud Lubbers says that his agency, the U.N. High Commissioner for Refugees, the world's first responder when people flee their countries, lacks the resources to prepare for a flood of refugees.

So far the U.N. refugee office has raised less than $20 million of the $60 million it is seeking for tents, stoves, blankets and other materials for refugee camps. Most of that money came from the United States. As a result, the agency has positioned only about 20 percent of the equipment it needs in the region.

In a flurry of news conferences last week, administration officials admitted that the military may have to provide food and medical assistance during and immediately after a conflict, but they say humanitarian tasks would quickly be turned over to the United Nations and private relief agencies. Sadly, private relief agencies, most of which depend on government funding, aren't yet well prepared for the task.

Although the United States has spent $2.4 billion to send troops to the Persian Gulf region, it has spent less than $1 million to position relief agencies in the region. An official at the U.N. Office for the Coordination of Humanitarian Affairs recently told a conference that his biggest concern is the small number of private relief agencies ready to move quickly into Iraq.

Lack of preparedness by U.N. and private relief agencies means the U.S. military will have to do most of the relief work, and this in turn could mean that the suffering of the Iraqi people will be greater than necessary. Administration officials have done little to match the skills of relief agencies—some are specialists in medical care, others in water and sanitation projects, for instance—with projected needs. One urgent unanswered question is: Who will care for Iraqis exposed to weapons of mass destruction? Humanitarian organizations lack the skills and equipment to handle this challenge.

In modern warfare, precision bombs limit civilian casualties during the conflict, so that most death and suffering occurs in the post-conflict period, when people are displaced, poorly fed or prone to disease because water sanitation and sewage systems have been disabled. This means that rapid humanitarian intervention is just as important to holding casualties down as quick military victory.

The United States may be ready for war, but it is not yet ready to help Iraq recover from war.

EXHIBIT 2

[From the Washington Post, Mar. 5, 2003]

FOES GIVING IN TO N. KOREA'S NUCLEAR AIMS

(By Doug Struck and Glenn Kessler)

TOKYO, March 4.—The United States and Asian countries have begun to accept the idea of a nuclear-armed North Korea, according to officials and analysts here and in Washington. Increasingly, the Bush administration is turning its attention to preventing the Communist government in Pyongyang from selling nuclear material to the highest bidder.

Envoys for the new South Korean president, Roh Moo Hyun, shocked Bush advisers in Washington recently when they said they would rather have a nuclear North Korea than a chaotic collapse of the government there, according to sources in Seoul.

And in Japan, located within missile range of North Korea, officials feel their neighbor cannot be stopped from producing a bomb. "We need to be debating how to live with North Korea, with or without nuclear weapons," Taro Kono, a lawmaker from the ruling party, said in an interview.

Washington had issued repeated warnings to North Korea not to begin reprocessing materials that could become fuel for a nuclear bomb, but administration officials have become resigned to North Korea taking that step sometime within the next two to four weeks. "The administration has acquiesced in North Korea becoming a nuclear power," said a Senate source who was briefed last week on the administration's evolving policy.

U.S. officials have begun to contend that a decision by North Korea to begin reprocessing spent nuclear fuel rods into weapons-grade plutonium will represent a diplomatic opportunity to swing international opinion to its side in the impasse over North Korea's nuclear ambitions, administration and congressional officials said today.

The administration thinks the shock of a decision by Pyongyang to export nuclear materials would force Russia, China, South Korea and other nations to drop their reluctance to confront the Communist state. According to that view, they would go along with the United States in mounting a tough campaign to further isolate the North and possibly to try to interdict suspected shipments of nuclear materials.

Production of plutonium that could flow abroad in clandestine sales "fundamentally changes the equation," contends an administration official. "Literally every city on the planet would be threatened."

During the last crisis over North Korea's nuclear ambitions, in 1994, the Clinton administration warned Pyongyang that reprocessing materials for a nuclear bomb could prompt a military strike. Many officials in Asia believe that Washington will now set new "red lines" that it will not tolerate North Korea crossing. But Bush and his senior advisers have refused to do that, publicly at least, saying it would only encourage North Korea to charge past them.

North Korean already is a major source of missile technology, and an Iranian resistance group recently said that North Korean experts are assisting Iran in its pursuit of nuclear weapons. Now officials worry about a new kind of export.

Even the Administration says North Korea's nuclear weapons are dangerous. "Our major fear is that North Korea would pass on fissile material or other nuclear techology" to "rogue states" or outlaw groups, Deputy Secretary of State Richard L. Armitage warned Congress last month. "I don't think, given the poverty of North Korea, that it would be too long" before such sales took place, he said.

"The total red line is the sale of nuclear weapons material," said Rep. Mark S. Kirk (R–Ill.), who follows the North Korea issue closely. "Nuclear weapons transferred to the Iraqis would be tantamount to nuking Jerusalem." You can have them, as long as you don't sell them?

The Senate source said the administration was playing "a very dangerous game" in not acting to stop reprocessing before it starts, because the resulting materials could be hidden in the country's network of caves awaiting export.

But administration officials argue they have no good military options for eliminating North Korea's nuclear capability. A surgical strike might neutralize the plutonium plant, but the country's effort to enrich uranium is proceeding at another, unknown site.

President Bush told reporters this week that he was still seeking a diplomatic solution and that a "military option is our last choice." He also said that he would seek to "accelerate the development of an anti-ballistic missile system" to counter a potential threat from North Korean missiles.

U.S. officials quietly dropped the phrase that the United States has "no hostile intent" toward North Korea in their talking points about a month ago, an official said "It's clear North Korea has hostile intent to us," he said.

"I wouldn't rule out use of military coercion if North Korea crosses . . . red lines," said Michael A. McDevitt, a retired rear admiral and director of the Center for Strategic Studies in Washington. "The one I am most worried about is if they produce enough plutonium to start hawking it on the open market."

An administration official said Chinese officials have told North Korea that China would consider any attempt to produce nuclear weapons a "direct threat to Chinese national security." While the Chinese told U.S. officials that they made it clear to North Korea they would not accept such a step, the Chinese statement did not address reprocessing or foreign sales of the resulting materials.

Many strategists have long asserted that the United States, China and Russia would not allow a nuclear-armed North Korea because it could dramatically alter the power structure in northeastern Asia and lead to an arms race as both Seoul and Tokyo demanded nuclear weapons.

Increasingly, however, it appears that North Korea is determined to defy those wishes. "In a way we are wasting our time to talk about dialogue with North Korea," said Masashi Nishihara, president of Japan's National Defense Academy. "Only after they develop a nuclear program will they come to the table.

Mr. KENNEDY. I see my friend and colleague, the chairman of the Armed Services Committee. I would like to maybe ask him a question.

Mr. WARNER. Of course.

Mr. KENNEDY. If I could ask unanimous consent to ask him a question and retain the right to the floor.

I was interested in what our rules of engagement will be for our men and women in Iraq. I am concerned, as are many of the nongovernmental agencies, that if we go past Basra, if we let it alone for a period of 48 hours—this is a community that is largely Shia, ruled by the Sunnis—I have heard estimates of up to 10,000 people being slaughtered there in bloodletting unless there is an immediate kind of police action and force presence which would keep these parties apart.

I am wondering, in those circumstances, what will be the rules of engagement of American servicemen. Are they going to be called upon in terms of separating these blood feuds, which have been so much a part of these revolutions in Iraq? I want to know whether American servicemen are going to be instructed that they are to fire on the Iraqi people who are involved in these kinds of acts of violence. I am interested in what the rules of engagement will be for northern Iraq, if there should be a rush by the Kurds to go back to their old homes where, in many instances, families have lived for centuries and have been separated by Saddam Hussein. What are American troops going to be told to do when the Iraqi forces collapse and the Kurds make a rush to Kirkuk, for example, one of the great oil-producing areas? What are American service men and women going to be told to do? What will be the rules of engagement outside of just engaging with the Iraqi Army? What are going to be the rules of engagement in terms of maintaining civilian control?

Mr. WARNER. Mr. President, I welcome the question from my colleague. He is a very valued member of the Armed Services Committee.

We had briefings this week by the Department of Defense, and indeed a representative from the Department of State, on the plans now being formulated by the Bush administration, should force be necessary, as to exactly what we would do with respect to the questions raised by my colleague.

First and foremost, our forces, as they would move in, are responsible for the objective of trying to keep Iraq together and constituted as a nation, as it is today. It is the elimination of weapons of mass destruction and the consequent regime change that are the goals. Now, they are to provide first protection for the nongovernmental organizations which stand ready to assist our country. In other words, we will be making an effort to feed and care for the people of Iraq, as well as outsiders. That is the highest priority. So we are to provide a secure framework in which the people of Iraq can be cared for as best they can under wartime conditions.

With respect to factions in Iraq and their desire to fight among each other, we are going to do our best to contain that. Our goal is to have Iraq as a nation, with its present boundaries, remaining intact. We are bringing in experts to put out any fires Saddam Hussein may set at the oil wells. We are bringing in people to establish, as quickly as possible, a secure framework in which the people of Iraq can begin to select their own leadership and government in due course. So there has been a lot of planning.

As to the exact rules of engagement that commanders, as the Senator and I understand, will issue to their troops, at the moment I do not have those orders. But I assure the Senator that we are contemplating the challenge to maintain the integrity of Iraq as a nation. That could well involve stopping the civil strife between factions. But a lot of planning has been done.

I think the administration has been subjected to undue criticism because the planning as yet has not been fully made public. But it is there, I say to the Senator.

Mr. KENNEDY. I appreciate the Senator's response. This is enormously important because we have seen in Kosovo and other areas where servicemen did not protect local populations because they did not have what they call the "orders" and the appropriate rules of engagement to provide those protections.

We are on notice about what is going to happen now in northern Iraq, with the desire of Kurd families returning to many of their home communities. We are on notice about the southern part of Iraq, where many of the Shia who have been denied their cities and communities want to reclaim them. It seems to me we ought to have some understanding about what our servicemen are going to be asked to do during those periods. I don't understand, for the life of me, why we cannot know that information and cannot have that information.

One more word. Why can we not say, if we are going to have these circumstances, these are going to be the rules of engagement? At least we need to have some awareness and understanding that we are going to meet our responsibilities under the Geneva Convention. We have an international responsibility, obviously, in terms of protecting civilian populations. We have seen, in Kosovo and Serbia, where those populations were not protected in a number of instances because the rules of engagement were not proper.

I say to the chairman of the committee, I hope prior to the time we go to war, we will have at least some understanding about what these instructions are. There is no reason they need to be kept secure. If we are interested in avoiding large bloodletting in that region of the country, we ought to know exactly what we are expecting of our service men and women. They are the best in the world, and they are trained to overcome any military force.

Mr. WARNER. Mr. President, I assure my colleague that we are greatly concerned about the safety of our service personnel as they undertake this mission, if it has to be done. I visited with them, together with Senators LEVIN, ROCKEFELLER, and ROBERTS. They are ready.

The Senator raises, quite properly, the record we had first in Kosovo. I happen to have visited there during the early part of that securing of it by the United States and other forces. I assure the Senator that the rules of engagement were spelled out. I remember American servicemen guarding the Serbian churches from destruction. I remember instances where they would carefully respond to protect the Serbs, who were at that point in time in minority status, so to speak. So we performed that mission, and we did it admirably, together with a coalition of nations.

We will have other nations assisting us in this engagement. Then you bring about Afghanistan. That is a country, historically, that has been fought over by factions. We visited there a week or 10 days ago. There is relative quietude there. There is no severe amount of factional strife today; that is, outbursts of actual casualties and the like. Tensions are present. We are trying to reconstitute an armed forces under the Government of Afghanistan now. So we have a good track record on that.

Mr. KENNEDY. Does the Senator want to explain, on the reconstituting of the armed forces, how successful that has been?

Mr. WARNER. Yes. We met with President Karzai. I assume you saw him when he visited here. Incidentally, the French are very active in the training of those forces, and the Germans are taking an active role in the training of those forces. It is coming together, I say to the Senator.

Mr. KENNEDY. Well, my information is somewhat different from the Senator's, in terms of the recruitment and the ability to hold these individuals into any kind of a national army.

I want to finish with this point. We are facing a variety of security challenges in this country. My belief is the No. 1, which is continuing, is al-Qaida and the dangers of terrorism. We have to look at everything. We know Saddam Hussein is a despot. We know progress is being made. We also have on the scene the danger of North Korea and the imminent threat they present. We ought to be making a judgment about our national security interests, our overall security—the security of the American people within the construct of the dangers of al-Qaida, the threat that is posed in North Korea, and whatever the current situation is with the inspectors in Iraq.

On that kind of a situation, I draw the conclusion that we should give more time to the inspectors and work to try to galvanize the international community to support us in that effort.

Mr. WARNER. Mr. President, I would like to also—if I may, on my time—address points raised by my colleague from Massachusetts. Quite properly, the Senator raises the issue of North Korea. The President addressed that last night.

I ask unanimous consent to have printed in the RECORD his comments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The PRESIDENT. We, of course, are consulting with our allies at the United Nations. But I meant what I said, this is the last phase of diplomacy. A little bit more time? Saddam Hussein has had 12 years to disarm. He is deceiving people. This is what's important for our fellow citizens to realize; that if he really intended to disarm, like the world has asked him to do, we would know whether he was disarming. He's trying to buy time. I can understand why—he's been successful with these tactics for 12 years.
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> Saddam Hussein is a threat to our nation. September the 11th changed the strategic thinking, at least, as far as I was concerned, for how to protect our country. My job is to protect the American people. It used to be that we could think that you could contain a person like Saddam Hussein, that oceans would protect us from his type of terror. September 11th should say to the American people that we're now a battlefield, that weapons of mass destruction in the hands of a terrorist organization could be deployed here at home.
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> So, therefore, I think the threat is real. And so do a lot of other people in my government. And since I believe the threat is real, and since my most important job is to protect the security of the American people, that's precisely what we'll do.

Mr. WARNER. These are in strong rebuttal of my colleague's comments. I will read what the President said with reference to North Korea:

> Well, I think it is an issue. Obviously, I am concerned about North Korea developing nuclear weapons, not only for their own use, but perhaps choose to proliferate them, sell them.

The President is working in a national multilateral forum to try to address this problem because it is regional in that Russia, Japan, South Korea and, indeed, China have a heavy stake in seeing that the Korean peninsula does not become nuclearized.

It is clear as that, I say to my friend, and I think the President, in a very responsible way, the initial approach to this, a multilateral approach, the approach my colleague is urging on the President with regard to Iraq, is applying in the Korean peninsula situation. It does not preclude possibly bilateral discussions at some later date and time.

Second, on the issue of Iraq, the question is time, months. Time is not on our side. The President addressed this very explicitly last night in his remarks. He simply said that his concern—and I will put the text in the Record—his concern is, again, the question of proliferation.

No one in this Chamber thus far, in the weeks and the months we have debated this issue, has denied Saddam Hussein has enormous caches of weapons of mass destruction which he has failed to declare and which the inspectors have failed to destroy because of the inability to locate them through lack of cooperation from Iraq.

What is to prevent Saddam Hussein, if he has not already done it, from taking small amounts of these weapons and allowing an international terrorist organization, be it al-Qaida or others, to take this material and begin to carry it to places throughout the world, whether it be Europe or the United States, and dissemble it?

I bring back the tragic aftermath of the discovery of anthrax sent to Members of this body. Postal employees lost their lives. One of our Senate office buildings was shut down. We suffered a severe blow as a consequence of an unopened envelope which contained but a few ounces, if that, of this material. And Saddam Hussein, it is documented, has tons of it, undeclared, not found, and all of this could have been achieved if he had cooperated with the inspection regime which was initiated in November of last year.

Time is not on our side. The failure of the United States and the coalition of willing nations, principally Great Britain, not to act is not in our interest. The price of inaction is far greater than the price of action.

As I listened to my colleague from Massachusetts—and he has spoken very eloquently on these subjects over the past several days. I admire his courage to get out and lead in this debate. It is an important debate. It is taking place across the Nation. But I cannot find in my colleague's comments where he specifically has a program whereby to force Iraq to cooperate. Why is it that he has not emphasized the need for Iraq to cooperate and what steps should our country, Great Britain, or others do to force that cooperation, other than the steps we have taken thus far, which have not proved fruitful?

Yes, here and there Saddam Hussein steps up and does some little thing to buy time, but he would not have needed that time if he had cooperated and began that cooperation when the inspection regime began last November. Mr. President, wherein does the Senator lay out a program to compel Iraq to cooperate?

Mr. KENNEDY. Let me answer, if I may, in this way. First of all, the administration was strongly opposed to inspections. I heard the exchange with my friend and colleague from Connecticut. That is very clear. Secretary Rumsfeld said it. They never believed in inspections, No. 1.

Then they agreed to the inspection process at the United Nations. It is only today, evidently, when the CIA is giving the inspectors all the information we have.

The Senator from Virginia attended the Armed Services Committee hearings that I attended where our colleague and friend from Michigan, Senator Levin, pointed out time and again that the administration and the CIA had still not provided all of the material on intelligence to the inspectors. But all during this time, the administration was saying: Let's go to war; let's go to war; let's go to war; Saddam isn't complying.

Now the Senator—and I have not had a chance to look at the document—says the record is clear, and he put the document in the Record an hour ago, that finally we are giving everything to the inspectors. Today, we had the leader of the inspection team say he believes they can do the job not in weeks, not in years but in some months. The international community says: We will be with you if you can do that in a period of months.

My position is, it is better to work the international community to try and do it in weeks—if we cannot, do it in months. It is cheaper in terms of treasure and human life to keep the necessary military force there to make sure it is done.

That is my position, I say to the Senator. I know we differ on some aspects, but we do not differ on the willingness to give to the inspectors the intelligence information.

Mr. WARNER. Mr. President, I say to my good friend, a couple of letters are about to be handed to him. They are in the Record. He is mistaken in the facts. The letters cite what we have done over an extensive period of time—over the last 3 or 4 months. I personally, together with the former chairman, Senator Levin, now ranking member of the Armed Services Committee, have consulted with Director Tenet on this matter. We have been in a room with the actual person entrusted to convey on a daily basis to Hans Blix this information. It has been going on for months. It did not just start.

Let me read one paragraph, and then I will yield.

> Statement for the record: The American intelligence community has—

That is past tense—

> has provided extensive intelligence and other support to the United Nations on Iraq and WMD, and potential inspection sites for over 10 years. There is, therefore, a very strong common understanding of sites of potential interest to the inspectors, whether UNSCOM inspectors or UNMOVIC inspectors or IAEA inspectors. When the current round of inspections began, the Intelligence Community assembled several lists of suspect sites, which we combined into a common list in early January. This list consisted of high, moderate, and low value sites, depending on our assessment of recent activities suggesting ongoing WMD association or other intelligence information that the sites were worth inspecting.

We have now provided detailed information on all of the high value and moderate value sites to UNMOVIC and IAEA.

The letter continues to detail what has been done over a period of months, I say to the Senator. It just did not start yesterday.

Mr. KENNEDY. Will the Senator yield on this point? First of all, I will put in the Record—and the Senator was there—the exchange between Senator Levin and Secretary Rumsfeld. The Senator from Virginia was at the Armed Services Committee meeting. I remember this meeting—it was 2½ weeks ago—when Senator Levin said the briefing he had and the answers he had from the intelligence community were not consistent with Secretary Rumsfeld.

I am going to put that exchange in the Record, and that will stand in terms of 3 weeks ago.

I want to draw attention to this letter. "The American intelligence community has provided extensive intelligence"—extensive intelligence. It does not say "all" or "complete intelligence." It says "extensive intelligence." That is what my letter says.

Mr. WARNER. Go on to the second paragraph.

Mr. KENNEDY. I know, but why do they say—I will be glad to read this and go through it. Mr. President, but I want to stick with the facts I know about. The facts I know about are the testimony of the Secretary of Defense and the exchange that he had with Senator Levin in open session in the Armed Services Committee where Senator Levin had been told the evening before, and it was represented that a complete list of these sites had been provided, and he had the materials that demonstrated it had not been complete. Those are security matters, as the Senator well knows. That was 2½ weeks ago.

The point is, as to the intelligence given to the inspector, whatever has been given, is it the Senator's statement now as chairman of the Armed Services Committee that all of the information the intelligence agency has in terms of weapons has been given to the inspectors? Is that what the Senator is telling us?

Mr. WARNER. Mr. President, I think this letter answers Senator Kennedy's first statement: We have just begun to provide information.

Mr. KENNEDY. I did not say "just begun." No, the Senator is not correct. There was a provision, there was a filtering out of this material.

It was very slow in January. We are getting close to classified. I remember the briefing we had from the deputy of the CIA at that time. It was clear they were cooperating. It was also clear there were a limited number of inspectors and they were going to provide more, and it would be soon. I think the Senator would remember that briefing. I remember it clearly. This has been a process of filtering out.

The authority I have, I sat right next to Carl Levin, 2½ weeks ago, when he looked in the eyes of the Secretary of Defense and they reviewed documents, and the Secretary of Defense leaned over and shared various documents. At the end of that, he had to agree with the position Senator Levin had, that all of the information had not been provided. I will put that in the Record.

My point is, if we still, 2½ weeks ago, had a ways to go with intelligence information that would be advantageous to the inspectors, it strengthens those who believe we should make sure our inspectors have all of the relevant material that will help them do the job which we all agree should be done.

Mr. WARNER. Mr. President, in fairness, this letter is part of a very complex and long dialog between Senator Levin and various members of the administration. Were he here today, he would say he is still not satisfied with regard to this issue.

At one point I recognized that one member of the administration said to him, Senator, I gave you incorrect numbers at one time and I am now correcting them. I think a good-faith effort has been made by the administration to resolve such differences as Senator Levin has had.

Having been in most, if not all, of the discussions with Senator LEVIN at the time he raised these important questions, the preponderance of the facts shows unequivocally our Nation has cooperated fully on the matters of intelligence. I stand by that. I heard the National Security Adviser state that, the Director of Central Intelligence state that, and others. We have cooperated.

Have there been some disjoints of timing and perhaps numbers? I cannot say it is perfect, but there has been overall sincere cooperation.

We have had an excellent debate today. I thank my colleagues for joining me on the floor, both on my side of the aisle and the other side of the aisle. We have met the test of the Senate addressing this question.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. FRIST. Mr. President, on this day in the halls of the United Nations Security Council and in the distant lands of the Middle East, the United States is making a stand for the causes of freedom and democracy, for order and peace.

The President and the Congress have made clear that we will no longer tolerate Saddam Hussein's production or possession of weapons of mass destruction. Further, it is our solemn belief that the people of Iraq deserve to live in freedom. They have suffered long enough under the tyranny and the oppression of the day.

As is so often the case, challenging the status quo is not easy even if that status quo is a dictator pursuing and possessing weapons of mass destruction that are explicitly prohibited by the United Nations Security Council.

We are fast approaching that moment of reckoning with Saddam Hussein. If he were to voluntarily disarm, it would be welcomed. But he will not. If he flees his country, the chances for peace are much better. But he will never flee unless he is absolutely convinced that there are no other options for his survival.

If individuals within Saddam's regime rise up and overthrow him, there will be an opportunity for a new beginning in Iraq. But none will take this brave step if they doubt the fortitude of the United States and the international community.

Let there be no mistake about our Nation's purpose in confronting Iraq. Saddam Hussein's regime poses a clear threat to the security of the United States, its friends and its allies. And it is a threat that we must address, and we must address now.

Recall that in 1991 we were concerned Saddam would use weapons of mass destruction to further his expansionist desires in the Middle East. Now, a decade later, we live with the reality—the reality—that terrorists may acquire and use such weapons on our soil.

I have no doubts that terrorists seek such weapons to use against this Nation. I am equally certain that Saddam Hussein possesses such weapons and would provide them to terrorists, if he has not already. And it is this nexus of a tyrannical dictator, those weapons of mass destruction, and terrorists who seek to inflict harm—grievous harm—upon the American people that compels us to act now.

The Senate—this body—and the House of Representatives voted overwhelmingly last fall to authorize the President to use force, if necessary, against Iraq if Saddam Hussein did not disarm. In those votes, the Congress stated unambiguously that the United States will not tolerate the pursuit and possession of weapons of mass destruction by Saddam Hussein.

Nothing has fundamentally changed. I guess one could say the possible exception to that statement would be we have even further evidence, because of the passage of time, that Saddam Hussein will not voluntarily disarm.

Last fall, to reaffirm the broad international commitment to disarm Iraq, President Bush successfully pursued a United Nations resolution that offered Saddam Hussein a final chance to meet the demands of the world community or face the consequences. Saddam has missed his final chance.

Now we are told the United States must pursue a second resolution before Iraq can be disarmed. The United Nations Security Council, on 17 separate occasions, over a 12-year period, demanded the disarmament of Iraq. For the record, this will not be a second resolution, but this will be an 18th resolution over this 12-year period. Nothing in history has been made more meaningful by repeating it 18 different times.

In the end, it is not a multilateral approach our opponents seek—for the United States is already joined by a multitude of others who share our commitment to disarm Saddam. No, it is the false comfort of unanimity to which they aspire. When everyone is responsible, no one is accountable.

My friends, the hour has arrived for democratically elected leaders to stand up and be counted. Will the free world tolerate Saddam Hussein's continued brutality, his possession of weapons of mass destruction, and his continued defiance of the international community, or will we act to stop it now?

To those who would suggest we are acting in isolation to confront Saddam's evil, I remind you we are not alone in the conviction. In the past month, the leaders of 18 European countries have publicly endorsed the U.S. call for final action, including force, if necessary, to disarm Saddam Hussein.

Over two dozen countries are providing basing for our troops, access for our aircraft, and material support in preparation for a possible conflict with Iraq. And if it comes to that, with allies such as the United Kingdom, Australia, Spain, Italy, Denmark, as well as many of the new democracies of Eastern Europe all on our side, we will not carry this burden alone.

America is at its strongest when it is standing in common cause with our friends and allies. The inverse, of course, is that America's allies are at their strongest when they are standing with the United States.

To those leaders who have spoken out with us against the threat posed by Saddam Hussein, I commend your courage. As America has risen to challenge the threats posed and supported by Saddam Hussein, you chose to stand by her side. And such loyalty and such leadership will not soon be forgotten.

Some of our erstwhile allies would be well advised to recall their own freedom was regained by such courage and conviction. I remind them their own liberation in World War II was a less popular undertaking than a possible war in Iraq.

What about popular opinion at the time? If one goes back and looks at surveys and polls from the time, in October 1939, when asked whether the U.S. should enter the war in Europe, only 16.8 percent of Americans responded yes. And 17.2 percent said yes in December 1939. In July 1940, 26.9 percent said yes.

After winning reelection in 1940, President Roosevelt tried to move public opinion toward greater U.S. involvement, while offering significant material support to the allied war effort. Yet asked again in January of 1941 whether they would support a declaration of war, only 14 percent of the American people responded yes.

And as late as October 1941, President Roosevelt commented that 70 percent of Americans wanted us to stay out of the war in Europe.

Sadly, at that time, many around the world recoiled at the thought of confronting Nazi Germany head on. After all, it was Europe's war, not ours, and Hitler was killing foreign Jews, not Americans. Many leaders of the day demanded we look after America first.

They called for our country to stay within its borders, protected by the false security of two oceans. But then, as now—on December 7, 1941, and September 11, 2001—we were reminded that America is most vulnerable to attack when it is in retreat.

President Roosevelt demonstrated then, as President Bush does today, that the essential measure of a world leader is not in his ability to chase public opinion—no—but, rather, his courage to make the country safer by leading public opinion.

President Bush deserves much credit for confronting the grave and growing threat posed by the mad pursuit of a ruthless tyrant for the world's most deadly weapons. The President is right when he says that neither more time nor more inspections will stop Saddam.

The consequences of war with Iraq cannot be certain and those feelings of uncertainty we felt as the issues surrounding Iraq and the future have been discussed on the floor today. But our goals and our motives must be understood for what they are. We seek to defend our own people. We seek the liberation of the Iraqi people. We seek the foundation of a democratic government in Baghdad, and we seek the spread of peace in the Middle East. These are worthy goals of a great nation, and they are goals worth fighting for.

ADDITIONAL STATEMENTS

MR. HENRI LANDWIRTH

• Mr. NELSON of Florida. Mr. President, I rise today to acknowledge the accomplishments of Mr. Henri Landwirth, a great philanthropist from my home State of Florida. Mr. Landwirth, a Holocaust survivor born in Belgium in 1927, has beaten the odds to live the true American dream. In addition to his success in the hotel industry, Mr. Landwirth has founded several charitable organizations. His countless acts of charity continue to affect tens of thousands of lives. Mr. Landwirth has received numerous honors for his contributions to society, and today I rise to show my appreciation for all that he has done for the state of Florida and for people in need.

Henri Landwirth spend most of his teenage years during World War II in death camps and labor camps in Nazi Germany. He narrowly escaped with his life after a Nazi firing squad marched him into the woods to be shot and decided at the last minute to spare his life. After the war, Mr. Landwirth immigrated to the United States in 1950 with only $20 to his name. He was drafted into the United States Army within three years. After serving in the military and learning English, he enrolled in a course in hotel management and found entry-level employment in a New York hotel, quickly mastering his job and learning every job in the hotel.

Mr. Landwirth moved to Florida in 1954, and became Manager of the 100-room Starlite Motel in Cocoa Beach near Cape Canaveral, home of the National Aeronautics and Space Administration, NASA, Kennedy Space Center. The original seven astronauts, referred to as the "Mercury Seven"—M. Scott Carpenter, L. Gordon Cooper, Jr., John Glenn, Jr.; Virgil "Gus" Grissom; Walter Schirra, Jr.; Alan Shepard, Jr.; and Donald "Deke" Slayton—chose the Starlite Motel as their temporary residence. During this period, Mr. Landwirth developed strong friendships with these astronauts, which still bind them together.

Mr. Landwirth is now a partner in a successful Central Florida hotel company, with John Glenn and others, and he has spearheaded several initiatives to help those in need. He and the Mercury Seven astronauts founded the Mercury Seven Foundation, now known as the Astronaut Scholarship Foundation, which provides scholarships to young science students. In the 1970's, Mr. Landwirth founded an organization in honor of his mother, the Fanny Landwirth Foundation, through which he built a school and a center for senior citizens in Orlando, Florida. He also created a scholarship program, which allowed underprivileged Israeli students to come to the United States as visiting scholars.

In 1986, Mr. Landwirth founded Give Kids the World, a non-profit resort in Kissimmee, Florida, that provides terminally ill children and their families an all-expenses paid week-long vacation to central Florida and its popular attractions. Give Kids the World has served over 55,000 children throughout the United States and worldwide. The organization has grown from serving 329 children in its first year to a 51-acre resort that can accommodate 7,000 families a year.

In 1999, Mr. Landwirth founded Dignity U Wear, a Jacksonville-based foundation that provides new clothing to children and families who are homeless, abused, abandoned, or neglected. The operation donates new clothing, shoes and personal hygiene items to 98 shelters in 16 states, and is currently working to expand into 30 states across the nation.

In 2001, Mr. Landwirth founded Building for Life based in Jacksonville, which works in collaboration with other organizations, Operation Hope and FreshMinisters, an interfaith organization, of which Mr. Landwirth serves on the Board of Trustees. This most recent charitable organization aims to refurbish neglected homes while providing an opportunity for the homeless to learn new job skills.

I am proud to have Henri Landwirth as a citizen of the great state of Florida. On behalf of all Floridians, I offer him thanks and appreciation for all that he has done to help those in need.•

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 26, 2003 in Charlottesville, VA. Daisy Lundy was assaulted on the University of Virginia campus by an unknown man. Lundy, a 19 year-old of African American and Korean descent, left a friend's room just before 2 a.m. to retrieve a cell phone. When she got to her car, the assailant, described only as a "heavy-set" white man, attacked her, slamming her head into the steering wheel. The attacker referred to Lundy's candidacy for student council, and used a racial epithet during the assault.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING THE 2003 JCC MACCABI GAMES

• Mr. LAUTENBERG. Mr. President, this August the Jewish Community Center Maccabi Games will be held in Tenafly, NJ. Along with 300 local athletes, there will be 1,300 athletes from elsewhere in the United States, Canada, Israel, Europe, South America, Mexico, and Australia.

It is quite an honor to be the host for this event and quite a responsibility. The benefit of the Maccabi Games lies not only in the sporting events themselves, but because the Games bring together young Jewish people from all over the world.

Along with the athletic competitions, there will be social activities that bring together people from all over the world who nonetheless share the same history, values, and pride. The Games will also feature cultural programs and community service projects. When the Games conclude, these teenagers will take with them memories and friendships to last a lifetime.

I ask my colleagues to join me in honoring the participants of the 2003 JCC Maccabi Games. The Games are a great avenue for Jewish teenagers to meet other Jewish teens from around the world and make lifetime friendships and memories.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO MARY PAT ANGELINI, ALICE J. GUTTLER, THE HONORABLE SUSAN D. WIGENTON AND THERESA I. SEITZ

• Mr. LAUTENBERG. Mr. President, it is with great pride that I today pay special tribute to four incredible women from New Jersey. On March 13 the Monmouth Council of Girl Scouts will honor Mary Pat Angelini, Alice Guttler, Esq., Theresa Seitz, and Judge Susan Wigenton at its Annual Women of Distinction Dinner.

Mary Pat Angelini is receiving the Community Service Award and is currently the Executive Director of Prevention First, which works to provide leadership and develop leaders to prevent substance abuse. She has been with the organization since 1992 and has helped to increase its annual budget from $125,000 to multi-million dollar status.

Mary Pat Angelini has been involved with substance abuse prevention for many years. She is the immediate past president of the New Jersey Prevention Network and she was a member of the Leadership Council for the Community Anti Drug Coalitions of America.

Since 2000 she has served on the Governor's Council on Alcoholism and Drug Abuse. Ms. Angelini coordinated 38 local coalitions to prevent substance abuse with the Monmouth County's Division of Alcohol and Drug Abuse Services. She also sits on the Robert Wood Johnson Foundation's New Jersey Health Initiative Advisory Committee.

Alice J. Guttler, Esq., is receiving the Professionalism Excellence Award. She currently is corporate counsel with Centrastate Healthcare System. Centrastate runs a 241-bed acute care community hospital, a continuous care retirement community and a 120-bed skilled nursing home.

Previously she was a New Jersey Deputy Attorney General in the Department of Law & Public Safety. She served as counsel to the University of Medicine and Dentistry of New Jersey and conducted labor, employment, and commercial litigation.

Judge Susan Wigenton is also receiving the Professionalism Excellence Award. Currently, Judge Wigenton serves as a United States Magistrate Judge in U.S. District Court. She previously served as a part-time United States Magistrate Judge. Prior to that, Judge Wigenton practiced in Middletown, NJ with the law firm of Giordano, Halleran & Ciesla, P.C.

Judge Wigenton has also served as a Public Defender in Asbury Park, New Jersey. She was Chair, Monmouth County District Ethics Committee. She currently serves as the Chair of the Civil Justice Reform Act Committee for the Federal Courts in the District of New Jersey.

Theresa I. Seitz is also receiving the Community Service Award. Since 1961 she has served on the Recreation Commission of Freehold, New Jersey and has directed Christmas plays for the Parent Teacher Association or St. Rose of Lima School.

Since 1982 Ms. Seitz has been a member of the Board of Trustees for "180, Turning Lives Around." This organization offers services to all family members affected by domestic violence and sexual abuse. She currently runs 180's "Puttin' on the Ritz Resale Boutique," which is a non-profit clothing shop that benefits the organization.

I ask my colleagues to join me and the Monmouth Council of Girl Scouts in honoring Mary Pat Angelini, Alice J. Guttler, Esq., Theresa I. Seitz and Judge Susan Wigenton for their great service to the residents of New Jersey.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO THE "FOUR CHAPLAINS" OF WORLD WAR II

• Mr. LAUTENBERG. Mr. President, I pay tribute to the heroic "Four Chaplains" of World War II. In February, the Jewish War Veterans of Monmouth County and the Marlboro Jewish Center hosted the Monmouth County Interfaith Memorial Commemoration. These organizations honored four chaplains who bravely gave their life during World War II.

On February 3, 1943 the U.S. Troopship S.S. *Dorchester* was in the Atlantic Ocean when it was torpedoed by a German U-boat submarine 150 miles from Greenland. On board the ship were four chaplains. Protestant Ministers George L. Fox and Clark V. Poling, Roman Catholic Priest John P. Washington and Rabbi Alexander D. Goode. All went down with the *Dorchester*.

Two hundred and twenty-nine of the 902 Army GIs on board were rescued. Indications are that not as many would have made it safely to the rescue ships if not for the bravery of these four men. They helped soldiers to the rescue ships and when life vests ran out they gave up theirs so four soldiers could live. According to some eyewitnesses, the four men were last seen with their arms linked and their heads bowed in prayer.

I ask my colleagues to join me and the Jewish War Veterans of New Jersey in paying tribute to these four brave souls who died with dignity and gave their lives so others could live.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING EPHRAIM AND JOANNE ZAYAT, DR. PAUL AND ESTHER LERER, MICHAEL AND SHARON GLASS AND RABBI YA'AKOV NEUBURGER

• Mr. LAUTENBERG. Mr. President, it is with great pride that I honor a few outstanding residents of the State of New Jersey. In March the SINAI Special Needs Institute is honoring these New Jerseyans for their dedication to the community. The Institute works to meet the needs of learning disabled children throughout the State.

Ephraim and Joanne Zayat received the Pillars of SINAI award. Mr. Zayat is the executive chair and CEO of Heineken, Egypt and was named a Global Leader for Tomorrow by the World Economic Forum. He also serves on the Bush-Mubarak Presidents Council. Mr. Zayat is a member of the board of directors of the Academic Egyptian Arts & Sciences Foundation.

Mrs. Zayat is on the board of directors at Yavneh Academy and she was a board member of Congregation Bnai Yeshurun. She is also an active member of Amit and Emunah.

Dr. Paul and Esther Lerer were the Institute's guests of honor at this annual dinner. Dr. Lerer is a board member of Moriah School and a member of the religious services and tzedakah committees of Congregation Ahavath Torah.

Esther Lerer is on the board of trustees at Congregation Ahavath Torah where she was also president. She is also a member of the board at Ma'ayanot High School, Shaare Zedek Medical Center, and the UJA Federation of Bergen County and North Hudson. Dr. and Esther Lerer are involved in Bar Ilan University and they have been honored by Yeshivat Shalvim.

Michael and Sharon Glass were the Kesser Shem Tov awardees. Michael Glass is an original member of Dof Yomi. He also helps set up the Shalosh Seudos every Shabbat and is a member of the monthly shomer program. Michael Glass is the vice president of Global Scientific Affairs for the Adams division of Pfizer. In that capacity he works for kosher certification of Adams confectionary products.

Sharon Glass is director of the Jewish Center of Teaneck's Nursery School and used to be a teacher in the Leah Sokoloff Nursery School at Congregation Shomrei Torah. She is also the shul's co-vice president of sisterhood.

Rabbi Ya'akov Neuburger was the recipient of the Rabbinic Leadership award. Rabbi Neuburger is the spiritual leader for Congregation Beth Abraham. He was also one of the first rabbis to receive Yadin Yadin ordination from the Rabbi Isaac Eichanan Theological Seminary.

I ask my colleagues to join me and the SINAI Special Needs Institute in honoring these very dedicated residents of New Jersey who have contributed so much to their communities.•

ANOTHER UNPRECEDENTED STEP BY THE JUSTICE DEPARTMENT

● Mr. LEVIN. Mr. President, I raise an issue that has come to my attention regarding the Justice Department's reported attempt to restrict the use of the National Instant Criminal Background Check System by local law enforcement. According to the Brady Campaign to Prevent Gun Violence and the Associated Press, a Department of Justice attorney recently threatened to bring charges against a top firearm official in California. The charges stem from California's practice of conducting National Instant Criminal Background Check System or NICS background checks.

According to reports, the dispute involves the use of the NICS database by law enforcement to determine if guns seized in criminal investigations should be returned to their owners. California officials need access to the NICS database because it includes data from across the country and therefore more accurately determines whether a person is prohibited from possessing a firearm. Local law enforcement in California performs these checks thousands of times per year.

An example from the Brady Campaign to Prevent Gun Violence illustrates the problem. When responding to a domestic violence complaint, law enforcement in California ask if there are any firearms present in the home and take temporary custody of any guns they find. Before returning the guns, law enforcement asks the California Department of Justice to run a NICS background check to determine whether the gun owner is prohibited from purchasing or possessing a firearm. The U.S. Department of Justice is challenging this practice, claiming that it is a misuse of the NICS background check system. The U.S. Justice Department wants law enforcement to stop performing these checks and immediately return guns to their owner.

The Brady Law contains nine categories of individuals prohibited from purchasing and possessing a firearm including felons and illegal immigrants. I believe that law enforcement in all 50 states and the District of Columbia should do everything within the law to insure that these potentially dangerous individuals do not gain access to firearms. The State of California is carrying out a common sense application of the law. As the Los Angeles Times said in a recent editorial, the Justice Department's threatened actions are reckless, and are contrary to both public safety and sensible public policy.

I ask unanimous consent that a copy of the Los Angeles Times editorial be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Ashcroft's Russian Roulette

Last year, Atty. Gen. John Ashcroft tried but failed to get the U.S. Supreme Court to buy his theory that the 2nd Amendment allows pretty much anyone to buy pretty much any gun, a view the court has consistently if infrequently rejected.

Now Ashcroft has threatened California's top firearms control official with criminal charges if the state continues to use a federal databank to hunt down those making illegal gun purchases, as it has done for years. Ashcroft's latest decree is reckless and could emasculate this nation's gun laws, hamstring police and put the public at risk.

Since 1998, firearms dealers across the country have used the Department of Justice's National Instant Criminal Background Check System, or NICS, to check, supposedly within 30 seconds, whether a customer is prohibited from owning a gun because of, for example, a felony or a history of mental illness.

California also has used the system to check whether someone recently found by doctors to be mentally unstable—and therefore barred from purchasing a weapon—had earlier bought a firearm.

In addition, state law enforcement officials use this background check to determine whether police should return a weapon confiscated from an arrested person. The police are required to withhold a gun if, for example, they learn that the suspect had committed a crime in another state since he bought it.

These have been standard law enforcement practices in California for years.

Ashcroft wants to stop such practices, believing that a gun owner's right to privacy trumps public safety.

The federal Brady law, requiring the background check for handgun buyers, requires gun dealers to take one peek at an individual's criminal record. A buyer with a clean record takes the gun home. But if that same individual later commits a crime, is slapped with a restraining order or becomes mentally unstable, Ashcroft has decreed no one should know.

Ashcroft would force California law enforcement officials to play Russian roulette 7,000 times a year when they release a suspect for lack of evidence, spring a parolee from prison or discover that a judge has put a restraining order on a wife beater who has a firearm. Only, in this game, the bullets will be aimed at law-abiding citizens.

For the moment, California Atty. Gen. Bill Lockyer and his firearms division chief, Randy Rossi, are standing firm, as they should, vowing to continue using the NICS database to protect Californians despite Ashcroft's vague threats of prosecution. Pressure from Sen. Dianne Feinstein's (D-Calif.) office may have prompted staffers from Ashcroft's and Lockyer's offices to agree to talk Thursday by telephone in an effort to end this impasse.

A large part of Ashcroft's responsibility is protecting the public, not undercutting laws that would help him do that job.●

TRIBUTE TO GREENUP COUNTY HIGH SCHOOL VARSITY CHEERLEADING SQUAD

● Mr. BUNNING. Mr. President, I pay tribute to the Greenup County High School Varsity Cheerleading Squad. On February 9, the Greenup County High School Varsity Cheerleading Squad won the Universal Cheerleading Association's National Championship in Orlando, FL.

Greenup County High School has a long standing tradition of bringing home the national title. Over the years, Greenup County has been named National Champions 11 times, a feat that no other high school cheerleading program in the country has accomplished.

For the young women on this squad this is not just an trophy, it is an affirmation that with hard work and determination, anything is possible. To accomplish this goal the members not only have to juggle long practices and games, but they continue to achieve academic excellence. Not only are these young women excellent athletes and students but they pride themselves in giving back to their community for support they have received by doing community service, fundraising, and public relations for their school system. The citizens of Greenup County, KY are fortunate to have the 2003 National Champions living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I am very proud of the accomplishments these young women have made. I would like to congratulate the members of the Greenup County High School Varsity Cheerleading Squad for their success. But also, I want to congratulate their peers, coaches, teachers, administrators, and parents for their support and sacrifices they've made to help the Greenup County High School Varsity Cheerleading Squad make their dreams a reality.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1446. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal System, transmitting, pursuant to law, the report of a rule entitled "Equal Credit Opportunity: Regulation B (Doc. No. r–1008)" received on March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1447. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Implementation of the 2002 Wassenaar Arrangement List of Dual-Use Items: Revisions to Categories 2, 3, 4, 5, 6, 7, 8 and 9 of the Commerce Control List, General Software Note, and Reporting Requirements (0694–AC65)" received on March 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1448. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Final Designation and Nondesignations of Critical Habitat for 42 Plant Species From the Island of Molokai, Hawaii; Final Rule (RIN 1018–AH08)" received on March 3, 2003; to the Committee on Environment and Public Works.

EC-1449. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Textile Rules, 16 C.F.R. Part 303 (RIN 3084-0101)" received on March 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1450. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Aliens and Nationality; Homeland Security; Reorganization of Regulations (1125-AA42)" received on March 5, 2003; to the Committee on the Judiciary.

EC-1451. A communication from the Chief, Regulations Unit, Internal Revenue Unit, Department for the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Shelter Regulations (RIN 1545-AX81, 1545-BB49, 1545-BB50, 1545-48, 1545-BB53, 1545-BB51, 1545-BB52, 1545-AW26, 1545-AX79)" received on March 3, 2003; to the Committee on Finance.

EC-1452. A communication from the Chief, Regulations Unit, Internal Revenue Unit, Department for the Treasury, transmitting, pursuant to law, the report of a rule entitled "Transaction w/Significant Book-Tax Difference, Exceptions (RP-105734-03)" received on March 5, 2003; to the Committee on Finance.

EC-1453. A communication from the Chief, Regulations Unit, Internal Revenue Unit, Department for the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exceptions from Loss Transactions (Rp-105737-03) (Rev. Proc. 2003-24)" received on March 3, 2003; to the Committee on Finance.

EC-1454. A communication from the Assistant Secretary for Fish & Wildlife & Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Gulf Sturgeon (1018-AI23)" received on March 3, 2003; to the Committee on Environment and Public Works.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. CAMPBELL for the Committee on Indian Affairs.

*Ross Owen Swimmer, of Oklahoma, to be Special Trustee, Office of Special Trustee for American Indians, Department of the Interior.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE (for himself and Mrs. MURRAY):

S. 574. A bill to amend part A of title IV of the Social Security Act to toll the 5-year limit for assistance under the temporary assistance to needy families program for recipients who live in a State that is experiencing significant increases in unemployment; to the Committee on Finance.

By Mr. INOUYE:

S. 575. A bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes; to the Committee on Indian Affairs.

By Mr. CONRAD (for himself, Mr. NICKLES, Mr. BREAUX, Mr. HATCH, Mr. DORGAN, Mr. KYL, Mrs. LINCOLN, Mr. COCHRAN, Ms. STABENOW, Mr. FITZGERALD, Mrs. CLINTON, Mr. REID, and Mr. SUNUNU):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. KENNEDY, Mr. GREGG, and Mr. SUNUNU):

S. 577. A bill to establish the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself, Mr. CAMPBELL, Mr. AKAKA, and Ms. CANTWELL):

S. 578. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. ROCKEFELLER, and Mrs. HUTCHISON):

S. 579. A bill to reauthorize the National Transportation Safety Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

S. 4

At the request of Mr. GREGG, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 4, a bill to improve access to a quality education for all students.

S. 128

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 128, a bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes.

S. 270

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 270, a bill to provide for additional weeks of temporary extended unemployment compensation, to provide for a program of temporary enhanced unemployment benefits, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 480

At the request of Mr. HARKIN, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 486

At the request of Mr. DOMENICI, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. WYDEN), the Senator from North Dakota (Mr. DORGAN), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Delaware (Mr. BIDEN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Ms. STABENOW), the Senator from Montana (Mr. BAUCUS) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 486, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 488

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 488, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind.

S. 491

At the request of Mr. REID, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 539

At the request of Mr. DOMENICI, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 539, a bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes.

S. 560

At the request of Mr. CRAIG, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mrs. MURRAY):

S. 574. A bill to amend part A of title IV of the Social Security Act to toll the 5-year limit for assistance under the temporary assistance to needy families program for recipients who live in a State that is experiencing significant increases in unemployment; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to reintroduce legislation, the Unemployment Protection for Low-Income Families on TANF Act, or UPLIFT Act, that will protect low-income families who are transitioning from welfare to work from losing their welfare benefits during periods of high unemployment. I want to thank my colleague, Senator MURRAY, for joining me in cosponsoring this important legislation.

Forcing families off welfare during a recession because they cannot find a job lacks commonsense. In fact, during an economic downturn, which we are in right now, low-skilled workers and recently employed workers are more likely to lose their jobs, and unfortunately, only 30 to 40 percent of former welfare recipients who become unemployed qualify for Unemployment Insurance. Furthermore, there are 1.5 million fewer jobs today than there were a year ago, when the economic downturn began, making it increasingly difficult for these individuals to find employment, particularly full-time employment.

A single parent receiving welfare assistance while working 30 hours a week who loses her job during a recession should not be penalized. For families like this, welfare is the only unemployment insurance they have. But, under current law, federal welfare time limits and work requirements continue to apply during periods of high-unemployment.

The Unemployment Protection for Low-Income Families through TANF Act, or UPLIFT Act, would require states to disregard federal TANF assistance for all recipients when the national unemployment rate reaches or exceeds 6.5 percent or when a state unemployment rises by 1.5 percentage points over a three-month period.

Every percentage point increase in unemployment results in a welfare caseload increase of 5 percent. In addition to enacting a strong contingency fund for states experiencing high unemployment and increased caseloads, Congress must act to ensure that welfare recipients are not time-limited off of welfare when the economy is weak and jobs are in short supply. In addition to promoting self-sufficiency, TANF programs should be a safety net for low-income families who are unable to find work or meet their needs.

My legislation will help parents who are trying to transition from welfare to work, but are unable to find work during a weak economy, to provide for their families without the fear of losing cash assistance. The TANF program is not only about moving people from welfare to work, it is also about reducing poverty and helping families in need.

While welfare reform has succeeded at moving thousands of people into work, its success has come in strong economic times. As people reach their 5-year time limits, we can only hope they will be able to find jobs in what is now a more difficult economy. The reality is that many states are experiencing high unemployment right now, making it extremely difficult for welfare recipients to find good paying full-time jobs. We shouldn't penalize people who are trying to transition from welfare to work just because the economy is bad. We need to continue to help these families build their skills and find employment when times are tough.

As Congress acts to reauthorize the TANF program I ask my colleagues to support legislation that will protect families transitioning from welfare to work from losing their benefits during a recession.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Protection for Low-Income Families on TANF Act of 2003" or the "UPLIFT Act of 2003".

SEC. 2. DISREGARD OF MONTHS OF ASSISTANCE RECEIVED DURING PERIODS OF HIGH UNEMPLOYMENT.

(a) IN GENERAL.—Section 408(a)(7) of the Social Security Act (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(H) DISREGARD OF ASSISTANCE RECEIVED DURING PERIODS OF HIGH UNEMPLOYMENT.—

"(i) IN GENERAL.—In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month in which the State is determined to be a high unemployment State for that month.

"(ii) DEFINITION OF HIGH UNEMPLOYMENT STATE.—For purposes of clause (i), a State shall be considered to be a high unemployment State for a month if it satisfies either of the following criteria:

"(I) STATE RATE OF UNEMPLOYMENT.—The average—

"(aa) rate of total unemployment (seasonally adjusted) in the State for the period consisting of the most recent 3 months for which data are available has increased by the lesser of 1.5 percentage points or by 50 percent over the corresponding 3-month period in either of the 2 most recent preceding fiscal years; or

"(bb) insured unemployment rate (seasonally adjusted) in the State for the most recent 3 months for which data are available has increased by 1 percentage point over the corresponding 3-month period in either of the 2 most recent preceding fiscal years.

"(II) NATIONAL RATE OF UNEMPLOYMENT.—The average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent.

"(iii) DURATION.—A State that is considered to be a high unemployment State under clause (ii) for a month shall continue to be considered such a State until the rate that was used to meet the definition as a high unemployment State under that clause for the most recently concluded 3-month period for which data are available, falls below the level attained in the 3-month period in which the State first qualified as a high unemployment State under that clause.".

By Mr. INOUYE:

S. 575. A bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise today to introduce a bill to amend the Native American Languages Act to provide authorization for the establishment of Native American Language Survival Schools. I am pleased to be joined in the co-sponsorship of this measure by the Chairman of the Senate Committee on Indian Affairs, Senator BEN NIGHTHORSE CAMPBELL.

As part of the United States' forced assimilation policies towards Native Americans in the 1880s, the Federal Government initiated a system of off-reservation boarding schools. Native American Children were forcibly taken from their families and transported hundreds of miles to schools were they were subjected to efforts to eradicate all vestiges of their cultural background: their hair was cut notwithstanding the religious importance of hair length in most native cultures; their clothes were replaced with military-style uniforms; they were forbidden to practice their native religions; and they were punished for speaking their native languages. This effort to eradicate Indian culture was unsuccessful and the United States eventually abandoned this policy. However, the long-lasting impacts have separated generations of Native Americans from their native languages.

The Native American Languages Act of 1990 officially repudiated the policies of the past and declared that "it is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages." The Native American Languages Act Amendments of 1992 amended the Native American Programs Act of 1974 to establish a grant program to support Native American language projects which would be administered by the Administration for Native Americans, Department of Health and Human Services. This bill would bring the Nation one step closer to assuring the preservation and revitalization of Native American languages by supporting the development of Native American Language Survival Schools.

The purpose of this bill is to address the effects of past discrimination against Native American language speakers and to support revitalization of such languages through the development of Native American Language Survival Schools and Native American language Nests. In addition, the bill seeks to demonstrate the positive effects of Native American Language Survival Schools on the academic success of Native American students and their mastery of standard English. An important component in language revitalization is family involvement with the Native American Language Survival Schools, as well as educational exchanges among Native American Language Survival Schools. Furthermore, the bill provides support for Native American Language Survival School facilities and endowments, the development of local and national teaching models, and the creation of a university-level support center system for Native American Language Survival Schools.

By Mr. CONRAD (for himself, Mr. NICKLES, Mr. BREAUX, Mr. HATCH, Mr. DORGAN, Mr. KYL, Mrs. LINCOLN, Mr. COCHRAN, Ms. STABENOW, Mr. FITZGERALD, Mrs. CLINTON, Mr. REID, and Mr. SUNUNU):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements, to the Committee on Finance.

Mr. CONRAD. Mr. President, I rise today, joined again by my colleague Mr. NICKLES and many others, to introduce important legislation to provide a 10-year depreciation life for leasehold improvements. Leasehold improvements are the alterations to leased space made by a building owner as part of the lease agreement with a tenant.

This is a common sense move that will help bring economic development to cities and towns around the country that want to revitalize their business districts. It will allow owners of commercial property to remodel their buildings to better meet the business needs of their communities—whether for new computer ports and data lines for high-tech entrepreneurs, or better lighting and sales space for retailers.

In actual commercial use, leasehold improvements typically last as long as the lease—an average of 5 to 10 years. However, the Internal Revenue Code requires leasehold improvements to be depreciated over 39 years—the life of the building itself.

Economically, this makes no sense. The owner receives taxable income over the life of the lease, yet can only recover the costs of the improvements associated with that lease over 39 years—a rate nearly four times slower. This preposterous mismatch of income and expenses causes the owner to incur an artificially high tax cost on these improvements.

The bill we are introducing today will correct this irrational and uneconomic tax treatment by shortening the cost recovery period for certain leasehold improvements from 39 years to a more realistic 10 years. The proposal being offered today would apply to property placed in service after September 10, 2004, in order to provide a smooth transition from the temporary bonus depreciation system enacted as part of the Job Creation and Worker Assistance Act of 2002.

This legislation would more closely align the expenses incurred to construct improvements with the income they generate over the term of the lease. By reducing the cost recovery period, the expense of making these improvements could fall more into line with the economics of a commercial lease transaction, and more building owners would be able to adapt their buildings to fit the needs of today's business tenant.

It is good for the economy to keep existing buildings commercially viable. When older buildings can serve tenants who need modern, efficient commercial space, there is less pressure for developing greenfields in outlying areas. Americans are concerned about preserving open space, natural resources, and a sense of neighborhood. The current law 39-year cost recovery period for leasehold improvements is an impediment to reinvesting in existing properties and communities.

Shortening the recovery period will make renovation and revitalization of business properties more attractive. That will be good not just for property owners, but also for the economic development professionals who are working hard every day to attract new businesses to empty downtown storefronts or aging strip malls. And it will be good for the architects and contractors who carry out the renovations.

I urge all Senators to join us in supporting this legislation to provide rational depreciation treatment for leasehold improvements.

Mr. NICKLES. Mr. President, today I am joining my colleague from North Dakota, Mr. CONRAD, in introducing legislation to provide that leasehold improvements are depreciated over 10 years instead of the current-law 39 years. Leasehold improvements are modifications to the interior of rental space, either office or retail space, not residential real estate, made by a building owner as part of a lease agreement with a tenant. These improvements include electrical and communications outlets, data ports, floor coverings, fire and security systems, and internal walls.

Under the current depreciation system, leasehold improvements to rental property are depreciated over the same time period as the building itself—39 years. However, this 39 year depreciable life does not reflect the actual life of these improvements. Lease terms average 7 to 10 years for office space and 3 to 5 years for retail space. Building owners typically must remove any leasehold improvements they have made to a property at the end of the lease term. Or, in the case of a lease renewal, tenants frequently demand that owners make improvements to the property as a condition of renewing the lease. Requiring business owners to depreciate these improvements over 39 years leads to a mismatch of income and expenses, thereby increasing the tax consequence of making such improvements. The long depreciation period simply makes no economic sense.

I believe that our tax laws should be updated to treat leasehold improvements in a more rational manner. That is why my colleague and I are introducing legislation to reduce the depreciable life of these improvements from 39 years to 10 years. By reducing the time period over which leasehold improvements are depreciated, our bill will more accurately align income and expenses related to rental property, and will mitigate the tax disincentives to modernizing commercial buildings.

In last year's economic stimulus bill Congress provided some relief to owners of rental property by allowing a 30 percent depreciation bonus for qualified leasehold improvements. However, this relief is only partial and is temporary. I look forward to working with my colleagues to enact my legislation that will provide more rational tax-treatment of leasehold improvements on a permanent basis. By so doing, we will take an incremental step toward modernizing the tax code's outdated depreciation rules.

By Mr. KERRY (for himself, Mr. KENNEDY, Mr. GREGG, and Mr. SUNUNU):

S. 577. A bill to establish the Freedom's Way National Heritage Area in the States of Massachusetts and New Hampshire, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KERRY. Mr. President, I rise to introduce legislation to establish the Freedom's Way National Heritage Area in New Hampshire and Massachusetts. The bill is cosponsored by Senator KENNEDY, Senator GREGG and Senator SUNUNU.

The bill proposes to establish a national heritage area including 36 communities in Massachusetts and six communities in New Hampshire. The area has important cultural and natural legacies that are important to New England and the entire Nation. I want to highlight just a few of the reasons I believe this designation makes sense.

The Freedom's Way is an ideal candidate because it is rich in historic sties, trails, landscapes and views. The land and the area's resources are pieces of American history and culture. The entire region, and especially places like Lexington and Concord, is important to our country's founding and our political and philosophical principles. Within the 42 communities are truly special places. These include the Minuteman National Historic Park, more than 40 National Register Districts and National Historic Landmarks, the Great Meadows National Wildlife Refuge, Walden Pond State Reservation, Gardener State Park, Harvard Shaker Village and the Shirley Shaker Village.

In addition, there is strong grassroots support for this designation. The people of these communities organized themselves in this effort and have now turned to us for assistance. I hope we can provide it. Supporters include elected officials, people dedicated to preserving a small piece of American and New England history, and local business leaders. It is an honor to help their cause.

Finally, I am very pleased that Senators from both Massachusetts and New Hampshire have embraced this proposal. I thank Senators KENNEDY, GREGG, and SUNUNU.

By Mr. INOUYE (for himself, Mr. CAMPBELL, Mr. AKAKA, and Ms. CANTWELL):

S. 578. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Government Affairs.

Mr. INOUYE. Mr. President, I rise today to introduce a bill that would amend the Homeland Security Act of 2002 to include Indian tribal governments amongst the governmental entities that are consulted with respect to activities carried out by the Secretary of the Department of Homeland Security. This bill is entitled the "Tribal Government Amendments to the Homeland Security Act of 2002", and I am pleased to be joined in the sponsorship of this measure by the Chairman of the Senate Committee on Indian Affairs, Senator BEN NIGHTHORSE CAMPBELL, as well as our colleagues Senator DANIEL AKAKA, and Senator MARIA CANTWELL.

The amendments proposed in this measure were developed in consultation with the Senate Government Affairs Committee in the last session of the Congress but were not included in the final version of the Act because of the procedural posture of the bill as it came to the Senate from the House of Representatives.

There are 260 miles of tribal lands which form our northern and southern borders with Canada and Mexico, and along those border lands, tribal governments are the principal and frequently the only law enforcement presence with the capacity to protect those borders and to assure the safety of our homeland. In addition, there are hundreds of miles of tribal lands that border the waters surrounding the United States, and there too, tribal law enforcement is the first line of defense for purposes of homeland security.

In the Homeland Security Act of 2002, tribal governments are included in the definition of "local governments". As we all know, local governments are political subdivisions of the States. In contrast, tribal governments are recognized as separate sovereigns under the United States Constitution that do not derive their sovereign status from the States, and accordingly, we believe that Federal law should continue to reflect the legal distinction between local governments that are political subdivisions of the States and tribal governments.

Accordingly, these amendments would remove tribal governments from the definition of "local governments" as currently set forth in the Act, and insert tribal governments in the appropriate and relevant sections of the Act.

There can be no doubt that tribal governments have a critical role to play in our Nation's homeland security efforts and the protection of our land and water borders. Thus, this measure also makes clear that for purposes of homeland security, the United States recognizes the inherent authority of tribal governments to exercise jurisdiction currently with the Federal government to assure that applicable criminal, civil and regulatory laws are enforced on tribal lands.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. ROCKEFELLER, and Mrs. HUTCHISON).

S. 579. A bill to reauthorize the National Transportation Safety Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2003".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003-2006.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking "and"; and

(2) by striking "such sums to" and inserting the following: "$73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $83,011,000 for fiscal year 2005, and $87,539,000 for fiscal year 2006. Such sums shall".

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: "In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed $3,000,000.".

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

"(c) ACADEMY.—

"(1) AUTHORIZATION.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, $4,995,000 for fiscal year 2005, and $5,200,000 for fiscal year 2006. Such sums shall remain available until expended.

"(2) FEES.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.

"(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this paragraph—

"(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(C) shall remain available until expended.

"(4) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.".

(c) REPORT ON ACADEMY OPERATIONS.—The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy.

SEC. 3. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—Section 1136 of title 49, United States Code, is amended by adding at the end the following:

"(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

"(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

"(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.".

(b) REVISION OF MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

Section 1113(b) of title 49, United States Code, is amended—

(1) by striking "Statutes;" in paragraph (1)(B) and inserting "Statutes, and, for investigations conducted under section 1131, enter into such agreements or contracts without regard to any other provision of law requiring competition if necessary to expedite the investigation;"; and

(2) by adding at the end the following:

"(3) The Board, as a component of its annual report under section 1117, shall include an enumeration of each contract for $25,000 or more executed under this section during the preceding calendar year.".

AUTHORITY FOR COMMITTEES TO MEET

JOINT ECONOMIC COMMITTEE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Friday, March 7, 2003, from 9:30 a.m. to 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, pursuant to Executive Order 12131, appoints the following Members to the President's Export Council:

The Senator from Texas (Mr. CORNYN).
The Senator from Missouri (Mr. TALENT).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 50, 51, 57, 58, and 59.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF JUSTICE

Eugene James Corcoran, of New York, to be United States Marshal for the Eastern District of New York for the term of four years.

Humberto S. Garcia, of Puerto Rico, to be United States Attorney for the District of Puerto Rico for the term of four years.

DEPARTMENT OF DEFENSE

Stephen A. Cambone, of Virginia, to be Under Secretary of Defense for Intelligence.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John D.W. Corley, 9553

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and to be a Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., section 711:

To be lieutenant general

Maj. Gen. Walter L. Sharp, 4862

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR MONDAY, MARCH 10, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m., Monday, March 10. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume executive session for the consideration of the nomination of Miguel Estrada.

I further ask unanimous consent that when the Senate proceeds to the consideration of Calendar No. 19, S. 3, the partial-birth abortion bill, under the order entered into yesterday, the time from 5 to 6 p.m. be equally divided between Senator SANTORUM or his designee and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, on Monday, the Senate will once again resume consideration of the Estrada nomination. We will continue to pursue an agreement to allow for an up-or-down vote which is the end point for this nomination. At 5 o'clock on Monday, the Senate will begin consideration of S. 3, the partial-birth abortion bill. A number of Senators have indicated they will be available to make their opening statements on that bill during Monday's session. As a reminder, the first rollcall vote of Monday's session will occur at 6 p.m. on the nomination of Gregory Frost to be a U.S. District Judge for the Southern District of Ohio.

I thank all Members for their attention.

Mr. REID. Mr. Leader, Monday afternoon from 2 until 5 we will be on the Estrada nomination again. We have had a long, thorough debate on this matter. There has been some difficult dialog, but it has all been for the advocacy that should be present in the Senate. What this is leading up to is everything has gone so well at this point, we would hope—and I will be here virtually all the time that afternoon—that there would be no effort to try to sneak in a vote when somebody is not on the floor or anything like that. I think it would really take away from what has happened here. I continue to ask that question.

I am not sure that there will be people from the Judiciary Committee available all that afternoon. That means I will have to cover that. There are times when I am indisposed for various reasons.

Mr. FRIST. Mr. President, we can assure the other side that we will be engaged just in discussion on the Estrada nomination and have no intention to be voting during that period. We will be continuing the very important discussion on the nomination itself.

My goal in that discussion next week is to begin to talk, not to extend what has been a very good debate, but have a discussion on this nomination in terms of the constitutional significance of advice and consent. Monday, hopefully in the afternoon, some of that discussion will begin, and then also continue that through Tuesday.

I do thank the assistant minority leader and really the whole other side of the aisle. We have had a productive week. We made real progress to complete the treaty yesterday, a very important initiative. I look forward to next week being a productive week.

Mr. REID. Mr. President, if the Senator will yield, the other question I have is, I learned yesterday that there may be an effort on Tuesday morning from 11 to 12:30 to get back on Estrada, talking about some constitutional issues people think are there. That is fine. I was just wondering if that, in fact, is the case because the Judiciary Committee members want to plan their schedules if in fact that were the case.

Mr. FRIST. That is the time that has been set aside, similar to today. There had been a request from both sides of the aisle today to spend time talking about the issue that has been discussed; that is, Iraq and the events there. Similarly, people have asked, well, we have been on Estrada, but why don't we take a period of time to give focus to the big issues that affect the institution in terms of advice and consent and balance of power. In response to that, we have set aside this period between 11 o'clock and 12:30 on Tuesday. It is my hope that we have many Senators here to participate in that debate because I look forward to it. The whole purpose is to set that period aside. We will discuss the best way to construct that between both sides.

Mr. REID. Mr. President, through you to the leader, I extend my appreciation for his courtesy, as usual.

ADJOURNMENT UNTIL 2 P.M., MONDAY, MARCH 10, 2003

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:47 p.m., adjourned until Monday, March 10, 2003, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 7, 2003:

DEPARTMENT OF DEFENSE

STEPHEN A. CAMBONE, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

EUGENE JAMES CORCORAN, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

HUMBERTO S. GARCIA, OF PUERTO RICO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF PUERTO RICO FOR THE TERM OF FOUR YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN D.W. CORLEY

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711

To be lieutenant general

MAJ. GEN. WALTER L. SHARP

EXTENSIONS OF REMARKS

IDEA FUNDING

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Ms. HOOLEY of Oregon. Mr. Speaker, today I want to address an issue that is of great concern to my home state of Oregon, and to states around the country.

When Congress enacted the predecessor legislation to the Individuals with Disabilities in Education Act (IDEA) in 1975, we made a commitment to provide children with disabilities access to a quality public education. The assumption was that education for children with disabilities was, on average, twice as costly as education for nondisabled children. As a result, Congress authorized the federal government to pay up to 40 percent (sometimes termed the IDEA "full-funding" amount) of each state's excess cost of educating children with disabilities. Not once in the past 28 years has Congress lived up to its obligation and states have had to shoulder the brunt of this unfunded mandate.

The state and school districts are forced to pick up the additional costs, putting additional strain on our education funding. The FY 2003 appropriation for Part B of IDEA was $8.9 billion or 17.6 percent of the "excess cost," leaving states and local school districts with an unfunded federal mandate of over $10 billion. That is $10 billion that our states and school districts could be spending to alleviate state budget crises, reduce class sizes, build and modernize schools and implement technology into education.

States across the Nation are dealing with an economic crisis, facing large state budget deficits and making deep cuts to services. In my home state of Oregon, the latest round of budget cuts have hit essential services such as education, and Oregon school districts are facing many tough decisions including shutting down early.

Make no mistakes about what this legislation is about: it is about keeping the promise of funding the mandate the federal government has put on the states and relieving the school funding crises that states across the Nation are facing. In Oregon, this legislation would provide about $100 million that the federal government is obligated to fund for education, each and every year. With state's budget crisis, threats of a shortened school year and significant layoffs, this money is very important.

It is high time we renew our commitment to our Nation's children and pay the federal government's share of the cost of IDEA. That is why Congresswoman Nancy Johnson and I are introducing legislation that would appropriate money to bring the federal government's share of IDEA funding to the full 40 percent by FY 2008 and I urge my colleagues to join me in this effort.

THE PRESIDENT'S STEEL PROGRAM

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. NEY. Mr. Speaker, for years our jobs have been washing away in a flood of cheap, dumped foreign steel. Until the Bush Administration, these calls for help fell on deaf ears. On March 5, 2002, the President imposed tariff relief for a period of three years. One year later, the proof is irrefutable—the President's steel program is working. It is critical to the continuous success of the President's plan that tariff relief remain in effect for its full term.

U.S. steel companies, such as Wheeling-Pittsburgh Steel Corporation and Weirton Steel Corporation, have made tremendous efforts to remain competitive in the world market. Labor and management have worked together to make brutal decisions. Wages have been cut; the number of workers and managers has been reduced; new efficiencies and technologies have been pursued; bonds have been restructured to reduce interest expense and avoid bankruptcy. Despite these sacrifices and improvements, these steel companies were still suffering from illegally dumped foreign steel.

Since implementation of Section 201 tariff relief, the industry has made significant progress toward restructuring and consolidation, and these efforts will continue. The international talks on overcapacity and subsidies are making real progress. In addition, domestic producers have enjoyed improvements in revenues, operating income, and capacity utilization. A number of companies have returned to profitability, while others have shown significant improvement even though they have not yet become profitable.

There have however been significant surges of imports from certain excluded countries, and, to the extent there is any concern about the program, it is that too many imports could be undermining relief. In fact, imports of flat-rolled steel increased substantially after imposition of Section 201 measures in 2002, as compared to the same period in 2001. Therefore, the Section 201 tariff measures must be fully enforced if our industry is to arrive at a successful conclusion. While recovery will take time, the President's plan has allowed the industry to make a real start.

THE OLD GRANITE LADY

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ROTHMAN. Mr. Speaker, I rise today to discuss S. 168, the San Francisco Old Mint Commemorative Coin Act, introduced by Senator FEINSTEIN and Senator BOXER of California. The proposal would create commemorative coins to help pay for the restoration of the San Francisco Mint known widely as the "Old Granite Lady." I commend Senators FEINSTEIN and BOXER for undertaking this commendable effort.

The San Francisco Mint was in service from 1870 to 1937, survived the San Francisco earthquake of 1906, and was utilized until a few years ago as federal offices. Today, modern building codes require that it be reinforced before it can safely be used in an area that is still prone to earthquakes.

I recently read an article in the February 11, 2003 edition of the Numismatic News, which I ask to be placed in the CONGRESSIONAL RECORD following my remarks, written by Bergen County Freeholder and my hometown Fair Lawn, New Jersey Mayor David L. Ganz, proposing modifications to S. 168 to further stimulate interest on the issuance of this coin. His proposals are worthy of consideration. Specifically, Mayor Ganz proposes to have commemorative coinage re-issued using historic coin designs that were widely used in the 19th century, are associated with the San Francisco Mint, and which would offer to coin collectors the affordable opportunity to receive proof specimens—a means to boost sales, increase the surcharge that will be used to help restore the Mint, and provide an exciting collector's opportunity as well.

For example, coin collectors know the tale of the 1870 three dollar gold piece with the "S" for San Francisco Mint mark on the reverse. The coin is unique and was formerly in the Louis Eliasberg collection. It is valued in the millions. There are other proof or uncirculated three dollar gold pieces that are quoted in Numismedia, a coin pricing guide, that sell for thousands of dollars.

The 20-cent piece also has a long history associated with the San Francisco Mint, including the 1875–S coin produced more than a century ago. An uncirculated example of this coin would cost hundreds of dollars. The same is true for the Liberty head nickel and the Barber dime—where the 1894–S, one of only 24 specimens known, is a six-figure rarity and a regular design is hundreds of dollars in pristine, uncirculated condition.

Mr. Ganz calls for special collector coins not intended for circulation, but bearing original designs of a century ago utilizing a contemporary date. They would be produced in proof, as uncirculated pieces, and offered to collectors with a modest surcharge that could raise $123 million, if the coins sold out, to help restore the Old Granite Lady.

Mr. Ganz's comments merit consideration for many reasons, not the least of which is that he is a respected numismatist. A former member of the Citizens Commemorative Coin Advisory Committee, he is one of the people credited by former Mint director Philip Diehl as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

being the source and inspiration for America's state quarters—which have given $5 billion back to the American taxpayer. I have known Mayor Ganz for many years and believe that his ideas merit consideration, and I hope that they may be incorporated into this meritorious effort to restore the San Francisco Mint.

[From the Numismatic News, Feb. 11, 2003]

San Francisco $3 Would Sell Better Than $5

(By David L. Ganz)

True to her word, Sen. Dianne Feinstein, D-Calif., for herself and Sen. Barbara Boxer, D-Calif., introduced S. 168 on Jan. 15, a bill entitled the "San Francisco Old Mint Commemorative Coin Act," which is a traditional revenue-raising measure containing a silver dollar and a half eagle ($5) gold piece.

Like many dozens of other bills proposed over the course of the last decade that have been designed to raise funds for a noble purpose, it follows a template that has been approved by the Treasury, the Mint, Congress itself, and even the Citizens Commemorative Coin Advisory Committee.

That means that the coins are legal tender; have moderately low mintages of 100,000 for the gold coins and 500,000 for the silver—sales for which will never be achieved—and surcharges designed to raise in the aggregate $3.5 million if the gold coins sold out, and another $5 million if the silver dollar version hit it big, for a possible total of $8.5 million.

Unfortunately, it will do neither and will most likely have disappointing sales in the 25,000–50,000 coin range for gold and in the 100,000–250,000 range for the silver dollar, from which the Mint will take expenses, leaving the San Francisco Museum and Historical Society a giant goose egg to help pay for the restoration of the Old Granite Lady.

Mint accounting is not for knaves. Neither is it in accordance with what most would refer to as generally accepted accounting principles. The result is that an exorbitant amount of overhead is charged against commemorative coin production—it's a legitimate way to look at it, but on a per-coin basis adds absurd amounts to cost that would otherwise never be tolerated for purposes of analysis or compensation.

One need only look at several recent commemorative results and fork-overs to see just how difficult the present system is. That's problematical where, as here, the goal is to raise funds to help restore the San Francisco Mint to the grandeur of yesteryear, when it was the proudest building in the old financial district of the downtown.

Just by simple example, on the population Buffalo nickel silver dollar commemorative for the Smithsonian, budget documents submitted show an initial $3 million loss. Congress authorized 500,000 of those coins—and they sold out in two weeks—yet in the budget scoring of Jan. 25, 2001 (before sales began), the outflow was $3 million down. (There would eventually be $13.9 million in gross sales registered in the fourth quarter of 2001.)

The San Francisco "S" mintmark has had a special allure for more than 130 years. To those who were collecting coins earlier than 1955, when production was suspended, the "S" mintmarked coins traditionally had lower and hence scarcer mintages—and higher values.

The Old Granite Lady, which functioned from 1870 to 1937—and made it through the San Francisco earthquake of 1906 virtually unscathed—has a long history involving coinage, which the legislation that Sen. Feinstein introduced recites at least in part.

"The San Francisco Old Mint is famous for many rare, legendary issues, such as the 1870–S $3 coin, which is valued today at well over $1 million," the precatory portion of the bill begins—and then goes nowhere else.

Commemorative coinage should serve a purpose, none of which is essentially important for funding, all of which is integral to the integrity of the coinage process, the history of American money and telling the story of American numismatics in its larger sense.

There's nothing magical about the template that is being utilized right now to create commemorative coinage. In an earlier time in its 1980s, a different model was utilized—and I participated quite actively in seeing to it that that model was not only broken, but for purpose. Significantly, I suggested it should be done again.

In 1982, modern commemorative coin issues began anew with the introduction of a silver commemorative for the 250th anniversary of George Washington's birth. There was no surcharge; there was no beneficiary. The coin was produced, it was sold and there as great success: 2.2 million uncirculated pieces were manufactured and 4.8 million proofs.

The Olympic program came and went, but in 1984–1985, the Statute of Liberty centennial commission had its chance, and I had the opportunity to consult with them. Lee Iacocca, that colorful personality who was then the chairman of Chrysler corporation headed the commission. Dr. Stephen Brigandi was the executive director.

The mold in those days was a dollar coin or two, plus a gold piece. The Olympics used a $10 gold peace to disastrous results, in part because it contained nearly a half ounce of gold (resulting in too high an issue price) and also because when enough coins weren't sold, the Mint produced more, adding mintmarks as the distinguishing factor.

Two suggestions came from me: first, change the denomination of the gold coin to a $5 gold piece—to lower the price substantially—and second, introduce a copper-nickel half dollar that could be produced as a circulating commemorative coin with an uncirculated and proof counterpart sold at a very modest mark-up to collectors.

They didn't buy into the circulating commemorative concept—it took a dozen more years before the state quarter program that I similarly proposed became reality—but whether to go with a copper nickel low-value, low-cost coin came down to a question of how many might be sold, and what the proceeds would be from the surcharge. After all, the Statue of Liberty needed to be refurbished for its centennial.

I made a bet with Brigandi—$100 as I recall it, though that's a lot for a guy who usually bets a cent or a nickel—and I predicted that such a coin would sell into the millions and be a true partner and participant in a three-coin program.

Ultimately, it became the most successful non-circulating legal tender coin in history, with more than 900,000 struck in uncirculated and over 6.9 million as proofs. No other coin, before or since, has come close.

Here's why: it was a different coin, different denomination, unusual, modest in price and distinctive. Collectors were encouraged to buy into a concept that played right into what they do: collect.

Those of us who are even casual about our hobby know that we collect after a particular fashion. Some will try to obtain all silver dollars, others all issues. Still others go for a type set. But when it comes to new and unusual or even different, it affords a rare opportunity, which is something that I think S. 168 simply misses.

It's not too late to change it; the bill has merely been introduced and is months away from action in the Senate, no less the House of Representatives.

Here's what I would do to change the focus of the bill, and to simultaneously increase its chance for economic and commercial success—and at the same time, offer a boost to several different areas of the hobby.

Capitalize on the history of the Mint and the coins that have come from it.

One obvious way of doing that is to create a new $3 gold piece—a play on the 1870–S that is unique (formerly in the Eliasberg collection)—which was produced in the very year that the Old Granite Lady opened for business.

To buy any $3 gold piece today, be prepared to plunk down thousands of dollars for an uncirculated specimen, and multiples of that for a proof. For the Mint to begin a new commemorative series—or even a single one-year San Francisco Mint coin in that denomination—would be a boost to the secondary market, a promotion for $3 gold pieces of other dates and denominations, and produce the possibility of a sellout success at levels far above 100,000 pieces.

Where a half eagle or $5 gold piece contains .2420 troy ounces of gold, the $3 gold pieces of regulation weight is .1452 troy ounces. At $360 an ounce (more or less current prices), the hard cost changes from $87 in gold to $52.27.

Lower the gold content, lower the price. The surcharge doesn't have to change. What does change is the number of people making a purchase. That should go way up—just as it did for the Statute of Liberty half dollar. Net result: more surcharge for the Old Granite Lady's restoration.

On the same basis, I'd probably think about adding a minor coin—such as the nickel—or a subsidiary coin such as the dime to the mix. There's a long history there, too, for each. The first "S" mint on a nickel was 1912. The "S" dime could be the 1894–S Barber design—a powerbroker concept. But what is key is that it is different, unusual and likely to have high sales—even with a surcharge—if the price is simply not made obscene.

A third (or fourth) choice: a 20-cent piece (the 1875–S was struck there, of course)—and for all of the same reasoning. Add these and watch orders and dollars come flying in. Prediction if authorities follow my suggestions: a sellout.

Here's how to do it: substitute language for the existing bill in the Senate, or introduce a new one in the House, and go to town for the benefit of the Old Granite Lady—and give the San Francisco Mint a new historic life on the centennial of its survival of the San Francisco earthquake of 1906.

108th Congress, 1st Session

H.R.

To require the Secretary of the Treasury to mint coins in commemoration of the Old Granite Lady (the old Mint at San Francisco)

In the House of Representatives of the United States, . 2003. Mr. introduced the following bill: which was read twice and referred to the Committee on Financial Affairs.

A bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Granite Lady (the old Mint at San Francisco).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Old Mint at San Francisco Commemorative Coin Act."

SEC. 2. FINDINGS.

Congress finds that—

(1) the Old Granite Lady played an important role in the history of the Nation;

(2) the San Francisco Old Mint was established to convert miners' gold from the California Gold Rush into coins;

(3) the San Francisco Old Mint Building was designed by architect A.B. Mullett, who also designed the United States Treasury Building and the Old Executive Office Building;

(4) the solid construction of the Old Granite Lady enabled it to survive the 1906 San Francisco earthquake and fire, making it the only financial institution that was able to operate immediately after the earthquake and the treasury for disaster relief funds for the city of San Francisco;

(5) coins struck at the San Francisco Old Mint are distinguished by the "S" mintmark;

(6) the San Francisco Old Mint is famous for many rare, legendary issues, such as the 1870-S $3 coin, which is valued today at well over $1 million; and

(7) the San Francisco Old Mint Commemorative Coin will be the first commemorative coin to honor a mint.

SEC. 3. COIN SPECIFICATIONS.

(a) Denominations.—In commemoration of the San Francisco Old Mint, the Secretary of the Treasury (in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $3 gold coins—Not more than 500,000 $3 coins, each of which shall—

(A) weigh 5.015 grams;

(B) have a diameter of 20.5 mm; and

(C) contain 90 percent gold and 10 percent alloy.

(2) 20 cent piece—Not more than 3,500,000 twenty-cent pieces, each of which shall—

(A) weigh 5 grams;

(B) have a diameter of 22mm; and

(C) contain 90 percent silver and 10 percent alloy.

(3) 10 cent piece—Not more than 5,000,000 ten-cent pieces, each of which shall—

(A) weigh 2.5 grams;

(B) have a diameter of 17.9mm; and

(C) contain 90 percent silver and 10 percent alloy.

(4) 5 cent piece—Not more than 7,500,000 five-cent pieces, each of which shall—

(A) weigh 5 grams;

(B) have a diameter of 21.2mm; and

(C) contain .750 copper and .250 nickel alloy

(b) Legal Tender.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) Numismatic Items.—All coins minted under this Act shall be considered to be numismatic items for purposes of section 5134 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary may obtain gold and silver for minting coins under this Act from any available source.

SEC. 5. DESIGN OF COINS.

(a) Design Requirements.—

(1) In General.—(a) The reverse design of the coins minted under this Act shall be emblematic of the San Francisco Old Mint Building, its importance to California and the history of the United States, and its role in rebuilding San Francisco after the 1906 earthquake and fire.

(B) The obverse designs shall be as follows: (1) on the $3 gold piece, the "Princess" design utilized by the Mint in 1870; (2) on the 20 cent piece, the "Princess" design utilized by the Mint in 1870; (2) on the 20 cent piece, the Liberty Seated design in use by the Mint in 1875; (3) on the dime, the Barber head design utilized in 1894, and (4) on the nickel, the Barber head (Liberty head) design utilized in 1912.

Notwithstanding the foregoing, the Secretary may decide to use the same designs, obverse and reverse, as the specified designs, with an "S" mint-mark, as were heretofore utilized on the $3 gold piece, 20-, 10-, and 5-cent coins during the time period specified.

(2) Designation and inscriptions.—Each coin minted under this Act shall contain—

(A) a designation of the value of the coin;

(B) an inscription of the year "2006," and

(C) inscription of the words—

(i) "Liberty;"

(ii) "In God We Trust,"

(iii) "United States of America;" and

(iv) "E Pluribus Unum."

(b) Selection.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts and the Board of the San Francisco Museum and Historical Society;

(2) reviewed by the Citizens Commemorative Coin Advisory Committee; and

(3) reviewed by the Board of the San Francisco Museum and Historical Society.

SEC. 6. ISSUANCE OF COINS.

(a) Quality of Coins.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) Period for Issuance.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2006, and ending on December 31, 2006

(c) Mint Facility.—The coins authorized under this Section shall be struck at the San Francisco Mint to the greatest extent possible and shall all bear the "S" mintmark regardless of the mint of manufacture.

SEC. 7. SALE OF COINS.

(a) Sale Price.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) a surcharge in an amount equal to—

(A) $35 per coin for the $3 coin; and

(B) $9.80 per coin for the 20-cent coin; and

(C) $9.90. for the 10-cent coin

(D) $2.95 for each 5-cent coin.

(3) the per capita cost of designing and issuing the coins (including labor materials, dies use of machinery, over-head expenses, marketing, and shipping) for the gold coin, and the face value and surcharge for the 20-cent piece, 10-cent and 5-cent coin.

(b) Bulk Sales.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) Prepaid Orders—

(1) In General.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) Discount.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) In General.—Subject to Section 5134(f) of title 31, United States Code, all proceeds received by the Secretary from any surcharge imposed on the sale of coins issued under this Act shall be paid by the Secretary to the San Francisco Museum and Historical Society.

(b) Audits.—As a condition of receiving payments under subsection (a), the San Francisco Museum, and Historical Society shall be subject to the audit requirements of Section 5134(f)(2) of title 31, United States Code.

TRIBUTE TO ANDREW ESPINOZA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor the life of Andrew "Gato" Espinoza of San Luis, Colorado. Mr. Espinoza tragically died in a house fire after heroically rescuing his fifteen year-old son, Daniel. At this unique time in history, we have all become more aware of the heroes among us; people like Andrew Espinoza who display uncommon courage in the face of great danger.

Andrew's heroic act is a reflection of the selfless nature he has demonstrated throughout his life serving others. The fire, which started early in the morning, awoke Andrew who then quickly roused his son and sent him to safety. However, he was unable to escape the fire himself. Andrew displayed the true courageous acts of a hero, and as a father, when he gave his life in order to insure his son's survival.

In the community, he was dedicated to preserving the heritage and natural way of living in San Luis. He played an instrumental role in the struggle over the rights of locals to use the Mountain Tract. He helped to free the land for public use.

Andrew also was a loving father of two daughters and a son. According to his daughter, Andrea of Tierra Amarilla, NM, "He wanted to pass his love of the land on from generation to generation; it was his gift to us." Andrew's love of his children, and for life, was demonstrated in everything he did.

Mr. Speaker, it is with great respect that I stand today and pay tribute to the life of Andrew "Gato" Espinoza before this body of Congress and this great nation. Through his sacrifice and courage, Andrew displayed true heroism. His life will be remembered and missed by his many friends, family and colleagues.

TRIBUTE TO SEAN A. WOOD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Sean A. Wood, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 67, and in earning the most prestigious award of Eagle Scout.

Sean has been very active with his troop, participating in such scout activities as Camp Geiger. Over the five years he has been involved in scouting, he has held numerous leadership positions, serving as Assistant Senior Patrol Leader, Patrol Leader, Assistant Patrol Leader, Troop Guide, and Den Chief.

Sean also has been honored for his numerous scouting achievements with such awards as Warrior in the Tribe of Mic-O-Say, Brave in the Tribe of Mic-O-Say and Fire Builder in the Tribe of Mic-O-Say. Additionally, Sean has earned 31 Merit Badges.

For his Eagle Scout project, Sean removed an existing concrete sidewalk outside of the Gallatin Fire Station and replaced it with a concrete ramp, two handicap parking spaces, a steel ramp for the railing, a new door and two handicapped signs.

Mr. Speaker, I proudly ask you to join me in commending Sean A. Wood for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOLT. Mr. Speaker, on April 26, 2003, more than 1,200 students from across the country will compete in the national finals of the We the People: The Citizen and the Constitution program in Washington, DC. This program is the most extensive educational program in the country, developed specifically to educate young students about the Constitution and the Bill of Rights. The We the People program, administered by the Center for Civic Education, is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from East Brunswick High School will represent the state of New Jersey in the program's finals. These students have worked conscientiously to reach the national finals by participating at local and statewide competitions. In the past fifteen years, these young scholars have won the state competition fourteen times, an accomplishment that should not go unnoticed. Through their experience, they have gained a deep knowledge and understanding of fundamental principles and values of our constitutional democracy. It is a great honor that students from the 12th District in New Jersey have shown such dedication and interest in our nation's government.

The three-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of challenging questions by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle and high school levels. The curriculum not only enhances students' appreciation of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary to become active, responsible citizens.

The class from East Brunswick High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand the values and principles fundamental to our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the We the People national finals and continued success in their endeavors.

SOCIAL SECURITY PROTECTION ACT OF 2003

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PAUL. Mr. Speaker, I rise in reluctant opposition to H.R. 743, the Social Security Protection Act. While this bill contains many provisions worthy of support, it also removes the only means by which many widowed Texas public school teachers can receive the same spousal social security benefits as every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the nation, have their spousal social security reduced if they receive a government pension. The Government Pension Offset even applies if the public employee in question worked all the quarters necessary to qualify for full social security benefits either before or after working in the public school system!

The effect of the Government Pension Offset is to punish people for teaching in public schools! However, current law provides widowed Texas public school teachers a means of collecting the full social security spousal benefits. Unfortunately, this bill removes that option from Texas teachers. Since I believe the Congress should repeal the Government Pension Offset by passing H.R. 524, which repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full social security benefits, I must oppose this bill.

Instead of punishing public school teachers, Congress should be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (H.R. 613) which provides every teacher with a $1,000 tax credit, as well as my Professional Educators Tax Credit Act (H.R. 614), which provides a $1,000 tax credit to counselors, librarians, and all school personnel. Congress should also act to protect the integrity of the Social Security Trust Fund by passing my Social Security Preservation Act (H.R. 219), which ensures that Social Security monies are not spent on other programs. Congress should also pass my Social Security for American Citizens Only Act (H.R. 489), which ensures that noncitizens who have not worked the required number of quarters and illegal immigrants do not receive social security benefits.

FOR SYBIL CROOKHAM

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Sybil N. Crookham. Mrs. Crookham was born on an Indian reservation on November 12, 1911. She moved to Merced County and enrolled in Winton School. She graduated from Merced High School in 1930, and received her Bachelor of Arts in education from San Francisco State in 1934.

Mrs. Crookham received a teaching job upon returning to Winton, California in 1934. However, she had to leave her job after marrying Mr. Paul Crookham in 1937, as the school district had a policy against employing married teachers. Mrs. Crookham then went to work at the Bloss Hospital Sunshine School to teach children suffering from rheumatic fever.

In 1943, the Winton School Board revised its policy on married teachers, and reinstated Mrs. Crookham. Soon after, she began serving as a teacher-principal, and then as principal-superintendent. After receiving an administrative credential from Fresno State University, she served as the district's full-time superintendent until her retirement in 1974.

Even after her retirement in 1974, Mrs. Crookham stayed very active in the local community. She was elected to the Merced County Board of Education on which she served seven terms. Mrs. Crookham was instrumental in the Virginia Smith Scholarship Program, and was involved with well over fifty organizations in Merced County. When the Bloss House, a historical landmark in Atwater, California, was threatened, Mrs. Crookham helped to found the Atwater Historical Society to save and preserve the home. She remained on the Historical Society board until 2001.

In 1986, the first elementary school she attended was renamed "Sybil N. Crookham Elementary School." Mrs. Crookham's main priority was to ensure every student in Merced County receive a quality education. She played a vital role in locating the tenth University of California campus to be built in Merced. Her friends and coworkers described Mrs. Crookham as a tireless worker, and a champion of the youth.

Our community has been greatly strengthened by the efforts of Paul and Sybil Crookham. She never ceased to work on behalf of the children even after her retirement. Sybil was always called upon by community leaders for advice and counsel. Sybil set an example for others to follow. I am honored to have called Sybil Crookham my friend and am saddened for our community's loss. May God Bless Paul and the entire Crookham family.

TRIBUTE TO BUD GORDON—IRA D. CALVERT DISTINGUISHED SERVICE AWARD RECIPIENT

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication contributions to the community of Corona, California are exceptional. Corona, and surrounding communities, has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Bud Gordon is one of these individuals. On March 22, 2003, Bud will be honored at the annual YMCA Ira D. "Cal" Calvert Distinguished Service Awards Dinner.

For the past several years, Bud has volunteered and supported many of our most recognizable civic projects in Corona. He has served as the Executive Chairman of the Happy Hairston Youth Foundation and with late Happy Hairston, chaired the golf tournament for many years. Over the past seven years, Bud also has raised over one million dollars for local charities while serving as the Chairman for numerous golf tournaments that benefited local groups such as the Fender Museum Foundation, the Boy Scouts, the ARC Angel Foundation and the Happy Hairston Youth Foundation. He has also served as a committee member on several other charity golf tournaments such as the American Cancer Societies, The Boys and Girls Club of Temecula, and the Corona Regional Medical Center.

In addition to his service on established charitable organizations, Bud initiated a new program called "The Cool Down Corona Program". During the hot summer months, senior citizens without air conditioning were suffering needlessly. Bud decided to go down to the local hardware store and purchase 30 window air conditioners. He then contacted the Corona Police Department, the Corona Fire Department and the Corona Senior Center and obtained the names of seniors in our community that did not have air conditioners. Over the past few years the program has grown and every year more seniors are helped during the summer months with much needed relief.

Bud also co-founded the At Risk Children Foundation, or ARC Angel Foundation and has raised and given back to the community over half a million dollars in goods and services. One of the first activities organized by ARC Angel was to take 700 children from low†income families to an Anaheim Angels ballgame at Edison Field, many of whom had never been out outside the city of Corona. Bud personally funded the tickets, food, souvenirs, and a mobile disc jockey.

One of the defining moments in Bud's charitable record, was his involvement after September 11, 2001. On the weekend following the tragedy, Bud gave away United States flags to anyone who came into his car dealership requesting a flag. He also offered to donate $100 to the New York Relief Fund for each car that was sold in the name of that customer. On the week anniversary of September 11th, Bud closed the dealership at noon to have a brief program in remembrance of the victims. Local firefighters and police were honored and Bud announced he would match funds for anyone who would like to donate money to the relief efforts.

Bud has set a standard of excellence and commitment in his work with charity. His tireless passion for community service has contributed immensely to the betterment of the community of Corona, California. His involvement in the community makes me proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he receives the "Ira D. Calvert Distinguished Service Award".

HONORING KEN GOODWIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize Ken Goodwin for exemplary service on the occasion of his retirement from Otero Junior College. Ken served in the college's technology department for thirty-two years, taking over as Director of Computer Services in 1979. His leadership has kept OJC on the cutting edge of technology for over three decades.

Ken was born and raised in the Arkansas Valley. He graduated from Otero Junior College with an Associate's degree and completed his Bachelor's degree at Southern Colorado State College, now the University of Southern Colorado in Pueblo. He returned to OJC as a computer operator in 1971.

In his thirty-two years at OJC, Ken oversaw tremendous changes, watching his computers shrink from the size of a room to the size of his hand. Ken helped to connect OJC's computer network to the Colorado Community College System and expand the role played by technology in the daily life of the campus and its students. He also took the lead on technology issues on a region-wide basis. In 1998, the Colorado legislature established the Connect Colorado project to develop technology in rural Colorado by networking schools and nonprofit organizations. Originally serving as a representative of OJC to the larger project, Ken eventually agreed to take over as project manager himself.

Mr. Speaker, it is a great privilege to recognize Ken Goodwin for his service to Otero Junior College and southeastern Colorado. Ken's efforts have provided the foundation for the continuing expansion of technology to students and citizens in rural Colorado. I wish him well in his retirement.

TRIBUTE TO WASHINGTON REDSKINS CORNERBACK DARRELL GREEN

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HINOJOSA. Mr Speaker, it is with great pleasure that I rise today to honor Darrell Green. Mr. Green recently retired after 20 years, as a star cornerback, with the Washington Redskins. During that time he became one of the National Football League's all-time best, and most honored, players.

As a native of Houston, Texas, Darrell Green began his athletic career at Jones High School. From 1978–1983, he attended Texas A&I University, which is now Texas A&M Kingsville and is located in the 15th district. There he was an Associated Press Little All-America and American Football Coaches Association All-America first-team honoree. Mr. Green was on the All-Lone Star Conference first team as a junior and senior and was selected as the Lone Star Conference's most valuable player in 1982. He was selected to the Lone Star Conference Team of the Decade for the 1980s.

Much of Darrell Green's collegiate stardom came from his accomplishments not on the football field, but on the track, where his phenomenal speed as a sprinter made him one of the world's fastest runners. His mark in the 100-meter dash still stands as the all-time best in the Lone Star Conference. Mr. Green was named to the NCAA Division I All-America roster in 1981 and 1982, was on the NCAA Division II All-America team in five events in 1981 and 1982, was NAIA All-America in 1981 and 1982 in four events, and was named the most valuable track performer at the 1982 and 1983 Lone Star Conference Championships. He has been inducted into the Lone Star Conference Hall of Honor and the Javelina Hall of Fame.

In the spring of 1983, Darrell Green was a first-round draft choice of the Washington Redskins. During his first regular-season game with the Redskins, he electrified football fans everywhere when he crossed the field to chase down and tackle the legendary Dallas Cowboy running back, Tony Dorsett, preventing a sure touchdown. Similar exploits on the field that year earned him the title of NFL Rookie of the Year. Since then, he has been a seven-time All-Pro defensive back, four-time NFL Fastest Man honoree and two-time Super Bowl championship team member. Mr. Green holds a remarkable number of NFL and Redskins records, including first NFL player to make at least one interception in 19 consecutive seasons; first NFL player to return an interception for a touchdown at age 37; first NFL player to play cornerback at the age of 42; first Redskin to play 20 consecutive seasons, start in 254 games and play 279 games; first Redskin to have 54 interceptions; first Redskin to return a fumble 78 yards for a touchdown—the longest in Redskin history; and the first Redskin to return six interceptions for touchdowns in a season.

Darrell Green has also been a shining star off the field through his dedicated efforts to help at-risk youth. In 1988, he founded the

Darrell Green Youth Life Foundation, which opens doors of opportunity for neglected children living in unsafe environments. The mission was accomplished through community-based, value-driven learning centers operating in urban, suburban and rural neighborhoods throughout America. The first Darrell Green Youth Life Learning Center was established in 1993 and has grown to six operating centers in three states. For his extraordinary humanitarian endeavors, Green has received an honorary doctorate from Marymount University. He has also received honorary doctorate degrees from George Washington University and American University. Darrell currently serves on the board for the Baltimore-Washington 2012 Olympic Games bid, NFL/NFLPA Sept. 11 Relief Fund and the Loudon Education Foundation. He has received numerous awards and was recently inducted into the Texas Sports Hall of Fame in 2001.

Mr. Speaker, I call upon my colleagues to join me in honoring my fellow Texan, Darrel Green, for his extraordinary accomplishments both on and off the football field. His alma mater, Texas A&M Kingsville, and I are justifiably proud not only of his fabulous football career, but of his long-standing commitment to help at-risk children reach their fullest potential and achieve their dreams.

TRIBUTE TO MAJOR JOSE RAMON BACA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. BACA. Mr. Speaker, I would like to pay tribute to Major Jose Ramon Baca, who is a very special individual to me. He was truly appreciated and loved by all who were fortunate enough to know him.

Jose "Ray" Baca was born in Las Nutrias, New Mexico, to Alberto and Josefita Peralta Baca on March 19, 1940, and grew up in Albuquerque's South Broadway neighborhood. Ray graduated Albuquerque High School in 1958, and continued his education at the University of New Mexico. He graduated from the University in 1962 with a B.S. in chemical engineering and was a member of the Tau Beta Pi National Engineering Honor Society. After graduating, Ray married Victoria Morales in San Antonio, Texas on July 16, 1966. Together they raised their two sons, Rafael and Arthur.

Once joining the Air Force, Ray's ambition, brilliance, and passion poised him for success. During his 20-year career in the Air Force, he worked as a launch officer for the Atlas Missile Project in Roswell and in Turkey. He received a Masters of Science degree in 1968 in nuclear engineering from the Air Force Institute of Technology (AFIT) at Wright Patterson Air Force Base, Ohio. He also worked as a staff scientist at McClellan Air Force Base in California and later at the Air Force Missile Command in Washington, D.C.

His yearning for knowledge led him to return to the University of New Mexico. In 1987 he received a M.A. in History and Southwestern Studies and was a doctoral candidate in history. His dream was to continue to research and write about his native state.

Ray passed away on June 6, 2002 surrounded by his loving family. He was preceded in death by his father, Alberto Baca and sister, Viola Baca, and is survived by his wife of 35 years Victoria Baca; sons Rafael and Arthur; mother Josefita Baca; and sisters Dolores Padilla, Priscilla and Anna Mae Baca. His family, innumerable friends and community will miss him greatly.

He will be remembered as a loving and generous husband, father, son, brother, and friend. He valued his family above all things, and supported and encouraged them in all stages of their lives. He instilled in his children a strong sense of family, love, and respect, and he encouraged them to excel in their education. He was an exceptional, compassionate and motivating individual.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation.

THE MEDICAL MALPRACTICE INSURANCE AND LITIGATION REFORM ACT OF 2003

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CONYERS. Mr. Speaker, I am pleased to introduce the Medical Malpractice Insurance and Litigation Reform Act of 2003. This legislation responds to the real problems in the medical malpractice insurance market—namely, higher prices driven by lack of competition and investment losses by insurers leading to a boom bust cycle. To respond to these problems, Title I of the bill insures that the antitrust laws apply to medical malpractice insurers, price comparisons can be easily obtained, and procedural checks are in place to insure that premium increases are warranted and can be challenged by health care providers.

Above and beyond these requirements, the bill responds to concerns that medical malpractice is not available in parts of the country. As a result, Title II would create a Federal medical malpractice insurance association, housed within the Department of Health and Human Services, to provide medical malpractice insurance where it is not available at reasonable terms.

In addition, the bill responds to the complaint that medical malpractice insurance premiums are being driven higher as a result of frivolous complaints. Title III of the bill provides for a series of measures designed to insure that the lawsuit itself is not frivolous and that the pleadings filed in connection with the suit are accurate and meritorious. Title III also provides for alternative dispute resolution designed to encourage resolution of medical malpractice actions outside of court. The following is a more detailed description of the legislation.

SECTION-BY-SECTION ANALYSIS MEDICAL MALPRACTICE INSURANCE AND LITIGATION REFORM ACT

TITLE I—MEDICAL MALPRACTICE INSURANCE REFORM

This Title constitutes an effort to respond to some of the flaws apparent in the medical malpractice insurance marketplace and the regulation of that market. Among other things, the title insures that the antitrust laws apply to medical malpractice insurers, price comparisons can be easily obtained, and procedural checks are in place to insure that premium increases are warranted.

Section 101. Prohibition on Anticompetitive Activities by Medical Malpractice Insurers. Repeals McCarran-Ferguson to ensure that insurers don't engage in price fixing. The Act, enacted in 1945, exempts from the Federal antitrust laws all anticompetitive insurance industry practices except boycotts. Over the years, uneven oversight of the insurance industry by the States, coupled with no possibility of Federal antitrust enforcement, has created an environment that fosters a wide range of anticompetitive practices.

Section 102. Medical Malpractice Insurance Price Comparison. Creates an Internet site at which health care providers could obtain the price charged for the type of coverage the provider seeks from any malpractice insurer licensed in the doctor's state. This section specifies the availability of online forms and that all information will remain confidential.

Section 103. Procedural Requirements for Medical Malpractice Insurers' Proposed Rate Increases. Gives doctors standing in any state administrative proceeding to challenge proposed rate increases and requires insurance companies to provide justification for any rate increase prior to implementing such increase. Only a handful of states (Alabama, Arizona, Illinois, New York, Oklahoma, and possibly a few others) require that rates be filed and approved by the state insurance department before they can be used.

TITLE II—FEDERAL MEDICAL MALPRACTICE INSURANCE ASSOCIATION

There have been isolated reports that physicians are unable to obtain medical malpractice insurance at any rate and this title is designed to deal with that problem by providing a federal backstop. The title also provides for disclosure of information by private insurers so that more information can be obtained on the reasons for any problems in the malpractice insurance marketplace.

Section 201. Establishment; Purpose. Establishes an Association within the Department of Health and Human Services to provide medical malpractice insurance where it is not available at reasonable terms.

Section 202. Board of Directors. Creates a board of directors for the Association. The board has authority to run the Association and to act like a governing body of a private insurance carrier. This section sets out specifics as to the number of appointments, eligibility, and vacancies.

Section 203. Administration. An administrator is appointed to act as the Association's chief executive officer, in charge of day-to-day operations and management of the Association. The Association shall be fully operational no later than 180 days after the date of enactment of the Act.

Section 204. Rates. Gives the board authority to establish rates to be charged by the Association. The board will use an actuary to recommend rates, and rates shall be set at amounts sufficient, when invested, to carry all claims to maturity, meet reasonable expenses of conducting the business of the Association and maintain reasonable surplus. The insurance program shall be neither more nor less than self-supporting. The Association is authorized to purchase reinsurance.

Section 205. Investment Policy. Provides that the board of directors shall formulate and adopt an investment policy and supervise investment activities of the Association. Gives the Association the ability to retain independent investment counsel and requires the board to periodically review and appraise the investment strategy.

Section 206. Medical Malpractice Risk Management Program. Requires the administrator to develop a risk management program for all policyholders and to solicit input from the National Association of Insurance Commissioners in developing the program. Insurance may be refused or terminated if any insured disregards the plan and the administrator may consider compliance with the plan in determining premiums of the insured.

Section 207. Seed Money to be Funded by Treasury Department Loan. Provides for the funding of the Association by the Secretary of Treasury through one or more 5 year term loans in an amount not to exceed $100,000,000 for start-up funding.

Section 208. Disclosure of Data by Medical Malpractice Insurers. This section requires each insurance provider to file a copy of its annual statement with the Chairperson of the Association. The insurer shall also provide information regarding (1) closed claims; (2) verdicts, payment, and severity of injury in connection with verdicts; (3) rate changes; (4) premiums and losses by medical speciality; (5) premiums and losses by experience of the insured; (6) performance of the investments of the insurer.

Section 209. Annual Report by Chairperson. Requires the Chairperson to file an annual report with the President and Congress that includes: (1) a statement of the Association's accounts, funds, and securities; (2) copies of reports required by the National Association of Insurance Carriers; (3) any requests for additional loans; (4) an assessment of the medical malpractice insurance marketplace; (5) an assessment as to why health care providers have been unable to obtain insurance at reasonable prices; and (6) a report summarizing the information disclosed pursuant to Section 208 and attaching the disclosed information.

Section 210. Financial Matters. Requires the administrator to submit to the board an estimated budget of the expenses of administering the Association. If assets exceed liabilities, necessary reserves and reasonable surplus, the Association shall declare a cash dividend or allow a credit to any health care provider that has complied with the risk management program.

Section 211. Definitions.

TITLE III—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

The complaint is frequently heard that medical malpractice insurance premiums are being driven higher as a result of frivolous complaints. This title responds to that charge with a series of measures designed to insure that the lawsuit itself is not frivolous and the pleadings filed in connection with the suit are accurate and meritorious. The title also provides for alternative dispute resolution designed to encourage resolution of medical malpractice actions outside of court.

Section 301. Health Care Specialist Affidavit. This section requires an affidavit by a qualified specialist before any medical malpractice lawsuit may be filed. "Qualified specialist" is defined as a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice at issue in the case, and board certified in a speciality relating to the area of practice.

Section 302. Sanctions for Frivolous Actions and Pleadings. Sets out sanctions for filing improper pleadings in medical malpractice actions violations, such as those which are designed to harass, are frivolous, or are factually inaccurate. For first time violators, the court shall require the attorney to pay costs and attorneys fees and may also strike pleadings, dismiss the lawsuit, or administer other appropriate sanctions. For second time violators, the court shall also require the attorney to pay a monetary fine. For third time violators, the court shall also refer the attorney to the appropriate State bar association for disciplinary proceedings.

Section 303. Mandatory Mediation. This section establishes an alternative dispute resolution system for medical malpractice cases. Participation in mediation shall be in lieu of any other ADR method required by law or by contractual arrangements by the parties. A similar approach is recommended by the Committee for Economic Development, which suggests that defendants make and victims accept "early offers." The effect of the "early offer" program, according to the CED, is that defendants will reduce the likelihood of incurring costs of litigation and having to pay large and uncertain punitive and noneconomic damages, and victims would obtain fair compensation without delay, expense and trauma of litigation.

Section 304. Applicability. Specifies that the title applies to any medical malpractice liability action brought in state or federal court, except for claims arising from vaccine-related injuries.

Section 305. Definitions.

TRIBUTE TO CODY SCOTT BATTY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor a young hero, six-year-old Cody Scott Batty of Montrose, Colorado. Cody displayed quick thinking and uncommon courage when he saved his father, Scott, from a life threatening situation. I would like to commend Cody's actions and courage before this body of Congress and this nation.

On December 22, 2003, Cody and his parents were on their way to California to see family. As anyone who has made this trip knows, it is a long and arduous drive, so the family decided to take a little break from the trip in Mesquite, Nevada. Cody and his father were outside a bowling alley in Mesquite when his father collapsed as a result of a blood clot that had formed on his skull. Despite the situation, Cody remained calm. He called out for help, but no one came to their aid. Thinking quickly, Cody ran into the bowling alley, borrowed a phone and called 911. He then returned to his father's side and remained there until the paramedics arrived.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Cody Batty before this body of Congress and this nation. Cody has said that he would like to become a police officer or paramedic someday with the bravery that this young man has shown, he is well on his way. Cody's quick actions saved his father's life, and his courage should be an inspiration to us all. It is a great honor to represent such a fine young American in this Congress.

COMMENDING THE ACHIEVEMENTS OF THE WIND SYMPHONY AND JAZZ KNIGHTS AT SACRED HEART SENIOR HIGH SCHOOL

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MORAN of Kansas. Mr. Speaker, congratulations to the fifty-four students from Sacred Heart Senior High School in Salina, Kansas for their upcoming participation in "The Red Road Travel/Study Tour." This experience will include performances at a series of Native American reservation schools in South Dakota from March 16–19, 2003. I commend each of these students for their hard work and success: James Andrewson, David Arpin, Sarah Arpin, Matthew Bachofer, Shannon Bechard, Kyle Berens, Stephanie Bieker, Hillary Blue, Kelly Breckunitch, Matt Broberg, Danielle Budreau, Jennifer Budreau, Jason Bulliegh, Katey Clark, Jason Curran, Kyle Davis, Alan Deneault, Courtney Ducharme, Lauren Ducharme, Christina Fekas, Shandra Francis, Vanessa Greene, Carissa Helvey, Emily Henke, Jessica Herbic, Alex Hernandez, Adria Jerkovich, Anne Kelly, Jessica Kelly, Andy Kinard, Matt Kienda, Jeff Koetting, Abby Luetters, James McKee, Mary Kate McKee, J.J. Neubauer, Ashley O'Brien, Jessica Polich, Michael Ratcliff, Susan Riordan, Lindsey Sandquist, Raquel Santiago, Emily Schmidt, Alisha Schoel, Tine Schoel, Kristen St. John, Marisol Sternke, Janell Straub, Jennifer Suelter, Raul Vasquez, Sarah Vermillion, Tyler Vishnefske, Megan Wells, Lauren Zey.

"The Red Road Travel/Study Tour" is the latest event in a series which provides performance and educational opportunities for students. Paramount to this tour is the opportunity for these young people to experience a unique and different culture, while expressing good will through their musical talents.

I would also like to recognize their director, Milt Allen, for helping prepare these young musicians. Mr. Allen's commitment and dedication to nurture and encourage our youth shines through the accomplishments of his students. The First Congressional district is proud to be represented by Sacred Heart Senior High School in this meaningful program. I commend Mr. Allen for his excellent job promoting education and the arts among the youth of Kansas.

It is an honor to recognize such a meritorious group.

TRIBUTE TO DANIEL WILLIAM PIERCE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Daniel William Pierce, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 67, and in earning the most prestigious award of Eagle Scout.

Daniel has been very active with his troop. Over the five years, he has been involved in scouting, he has held numerous leadership positions, serving as patrol leader, assistant senior patrol leader, senior patrol leader, troop quartermaster, troop historian and troop guide. Daniel also has been honored for his numerous scouting achievements with such awards as the Tribe of Mic-O-Say Award. Additionally, Daniel has earned 39 merit badges.

For his Eagle Scout project, Daniel organized and designed a circle driveway through a park and also put wood posts around the drive and poured 3 concrete pads for picnic tables.

Mr. Speaker, I proudly ask you to join me in commending Daniel William Pierce for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

SUPPORT FOR THE VIOLENCE AGAINST WOMEN ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOLT. Mr. Speaker, I rise today in support of full funding of the Violence Against Women Act. This law has fostered countless initiatives that have brought millions of dollars to shelters, increased resources for law enforcement, expanded the National Domestic Violence Hotline, and bolstered the prosecution of child abuse, sexual assault, and domestic violence cases.

These programs and services are invaluable. U.S. Department of Justice statistics indicate that domestic violence has decreased by 49% since VAWA went into effect. They also reaffirm that full funding for VAWA is well worth the investment. It is estimated that the $1.6 billion spent on VAWA programs during the first six years after its enactment saved government coffers $14.8 billion in medical, legal, workplace and other social costs, not to mention saving many lives.

Unfortunately, state budget crises and decreases in federal funding are threatening these vital programs and services. President Bush's budget request for FY 2004 would cut funding for VAWA programs and services by $141.6 million in FY 2004 from the previously authorized level of $692.5 million.

Our nation must renew our commitment to ending all forms of domestic violence. I urge my colleagues to appropriate full funding to fulfill the mission of the Violence Against Women Act.

TRIBUTE TO NANCY REDING

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MCINNIS. Mr. Speaker, it is with great honor that I rise today to recognize Nancy Reding of Colorado City, Colorado. Nancy is one those great Americans who teaches our kids as a profession and it is my pleasure to represent her in this Congress. Recently, her colleagues at Pueblo Community College named Nancy the faculty member of the year and I could not miss this opportunity to acknowledge her dedication and commitment to education before this body of Congress.–

For the past 30 years, Nancy has given her life to teaching math to students in her Colorado community. We should all be humbled by this generous contribution to society and the sacrifice Nancy has made as an educator. Just think of the countless number of lives Nancy has touched. Nancy not only has lent her talents but her heart as well and, by so doing, she has given her students an awesome gift—the opportunity to succeed.

Mr. Speaker, I am proud to stand today and express my gratitude for Nancy Reding before this Congress and our nation. It is a chance for us to remind our fellow citizens that when you find a good teacher, thank him or her from the bottom of your heart for doing one of the toughest jobs in the country. Teaching is truly a noble calling and Nancy Reding has answered that call.

AMERICAN SERVICEMEMBER AND CIVILIAN PROTECTION ACT OF 2003

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. PAUL. Mr. Speaker, I rise today to introduce the "American Servicemember and Civilian Protection Act of 2003."

This bill prohibits funds made available by the United States Government from being used for the establishment or operation of the Court.

Perhaps the most significant part of the bill makes clear that any action taken by or on behalf of the Court against members of the United States Armed Forces shall be considered an act of aggression against the United States; and that any action taken by or on behalf of the Court against a United States citizen or national shall be considered an offense against the law of nations.

Mr. Speaker, on May 6, 2002, President George W. Bush took the commendable step of repudiating the signature of the United States on the Statute of the International Criminal Court, stating that the United States "can no longer be a party" to the International Criminal Court. He also requested that those states choosing membership in the Court respect the decision of the United States in this matter.

Mr. Speaker, the Court is an illegitimate body even by the United Nations' own standards. The Statute of the International Criminal Court was enacted by a Conference of Diplomats convened by the United Nations General Assembly, whereas according to the UN Charter, the authority to create such a body lies only in the UN Security Council.

The International Criminal Court was established contrary to the American Declaration of Independence and the Constitution of the United States. It puts United States citizens in jeopardy of unlawful and unconstitutional criminal prosecution.

The International Criminal Court does not provide many of the Constitutional protections guaranteed every American citizen, including the right to trial by jury, the right to face your accuser, and the presumption of innocence, and the protection against double jeopardy.

Members of the United States Armed Forces are particularly at risk for politically motivated arrests, prosecutions, fines, and imprisonment for acts engaged in for the protection of the United States. These are the same brave men and women who place their lives on the line to protect and defend our Constitution. Do they not deserve the full protections of that same Constitution?

Last year Congress passed the American Servicemembers' Protection Act within the Defense Authorization bill. Commendable as that effort was, the fact of the matter is that because of the numerous loopholes and exemptions in that legislation, our servicemembers are still not protected from the probing arms of the International Criminal Court. American citizens have absolutely no protection under last year's legislation. This is simply unacceptable. That is why I am introducing this legislation that makes the position of the United States clear: we will protect our servicemembers and citizens from this illegal court.

Mr. Speaker, I hope all members of this body will join me in opposing this illegitimate and illegal court by cosponsoring the "American Servicemember and Civilian Protection Act of 2003."

TRIBUTE TO RETIRED LT. COLONEL JOHN V. AZEVEDO

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to pay tribute to Retired Lt. Colonel John V. Azevedo for his service to our Nation and to his community.

John was born in Patterson, California to Joe and Maria Faustino Azevedo on December 21, 1919. He attended school in Patterson, then attended college in Modesto and Salinas. He then completed his education in Tokyo, Japan at Sophia University.

John joined the Army in May 1941, where he held the rank of Sergeant in the Infantry. In 1942, he was promoted to Second Lieutenant and served in England. John was in Normandy, France, crossing the beach 20 days after the first landings. While in France, John crossed Cherbourg, LeMans and Paris. He also served in Belgium as well as Holland. Following World War II, John was assigned to the Occupation Forces in Japan where he became Special Staff to General Douglas MacArthur.

During the Korean War, John served in both North and South Korea. Following his assignment in Korea, John served Stateside where he was stationed as an instructor at the Adjutant General's School in Indiana. When that assignment was up, John was sent once again to Japan for 3 years. He returned to the United States where his assignment landed him at the Pentagon with promotion to Major. When his assignment was complete at the Pentagon, John was sent back overseas where he was stationed in Heidelberg, Germany. John again returned to the United States and spent time in San Francisco where he served at the Reserve Forces Headquarters. John was promoted to the rank of Lieutenant Colonel and returned to the Pentagon where he served as Director of the Army and Air Force Postal Service.

John served his country admirably for 25 years. John retired as a Lieutenant Colonel from the Army in 1966 and returned to his roots once again in Patterson, California. Once back in Patterson, he was elected to serve on the Patterson City Council where he also served as Vice Mayor.

John has served his community well. He is one of the founding members of the Patterson Historical Society where he served as a volunteer curator for over 20 years. The Patterson Apricot Festival honored John in 1997 by naming him Grand Marshal to preside over the Festival that year. John organized the Patterson Beautification Committee.

John has not only been honored by his community, but by his state as well. John was introduced on the California State Assembly floor where he was presented with an Assembly Resolution recognizing his volunteer work for the City of Patterson as well as Stanislaus County.

It is my pleasure to join the Patterson community in recognizing John V. Azevedo for his commitment to his community. It is an honor to call John my friend and represent him in the 18th Congressional District.

TRIBUTE TO MARY HELEN YBARRA—IRA D. CALVERT DISTINGUISHED SERVICE AWARD RECIPIENT

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Corona are exceptional. Corona has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Mary Ybarra is one of these individuals. On March 22, 2003, Mary will be honored at the annual YMCA Ira D. "Cal" Calvert Distinguished Service Awards Dinner.

Mary was born in Yuma, Arizona but has resided in Corona for many years. She began service to the community at a very young age and as a teenager Mary was constantly busy organizing food drives for the needy in her local community. This drive and special gift of helping others would stay with her into adulthood. When her children began elementary school she quickly became involved in her local PTA. This involvement paved the way for her never-ending community interest and desire to serve. Many city events and organizations have greatly benefited from her presence.

Some of the organizations that Mary has worked with include: ARC Angels, El Protector, Relay for Life, Day of the Young Child, A Day for Nicole, Little League Baseball, and Corona High Football Boosters. Mary has also chaired or co-chaired the following city events: the Health and Safety Fair, the Community Red Ribbon Week Celebration, the Community Blood Drive, and the fundraiser for Corona Regional Medical Center, "An Evening to Remember". Mary has also served as a YMCA Board Member, a member of several school site councils and has been involved in various school district committees.

Throughout her years of involvement Mary has been instrumental in organizing numerous community events to help the needy and the underprivileged. Mary's crowing achievement was using her connections and undeniable powers of persuasion to organize two critical blood and marrow drives. Community participation in these events was overwhelming. Mary's experience, positive attitude, humor, wisdom, and determination led to the perfect bone marrow match for two wonderful and well deserving children of our community.

Mary's tireless passion for community service has contributed immensely to the betterment of the community of Corona, California. She has been the heart and soul of many community organizations and events and I am proud to call her a fellow community member, American and friend. I know that many community members are grateful for her service and salute her as she receives the "Ira D. Calvert Distinguished Service Award".

TRIBUTE TO CHUCK SHUPE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor Chuck Shupe of Riverside, Colorado for his dedication to the youth of his community. Chuck has selflessly given 28 years to the educational needs of children in the area, and as he celebrates 28 years of service, I would like to recognize his accomplishments before this body of Congress and this nation.

Chuck began his career as a teacher and a coach in a small rural Illinois school. Like so many other successful individuals, he decided to further his education. After graduating from the University of Illinois with a Master's degree in Education and Administration, Chuck was offered a job as the principal of a large inner-city school. At the age of twenty-five, Chuck became the youngest principal in Illinois. Yet, despite his age, he met the challenges and responsibilities he faced.

Needing a change, Chuck moved to Colorado where he worked both in Leadville and Basalt. Eventually, he became the principal of Riverside School. Chuck takes a hands-on approach and finds interaction with the students to be very important, and the highlight of his day. He pours his heart and soul into the lives of his students, even creating a student ambassador program called "Shupe's Troops," which allows students the opportunity to improve their school.

Mr. Speaker, I am honored to rise today before this body of Congress and this great nation to recognize the dedication of Chuck Shupe, a true public servant. His generous attitude and love of the job have inspired many and have truly made a difference in his community. We should all emulate the selfless example of Americans like Chuck.

HONORING MUJERES UNIDAS

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HINOJOSA. Mr. Speaker, I rise today to bring to the attention of my colleagues a remarkable organization in the 15th district of Texas that helps victims of domestic violence. In recognition of "Stop Domestic Violence Week", I would like to highlight the accomplishments of the organization "Mujeres Unidas"—Women Together.

Mujeres Unidas is a non-profit agency that is tirelessly dedicated to helping women overcome domestic violence. Through community education, housing assistance, legal advocacy, and other outreach programs, Mujeres Unidas is offering hope and an improved quality of life to women in South Texas who have suffered violence and abuse in their own homes. For many women, a program like Mujeres Unidas is the difference between a dangerous living environment that can result in serious injury or death, and a future filled with personal growth and independence.

I would like to commend this extraordinary organization and thank them for their strong commitment to helping victims of domestic violence and for their Superior service to my district.

TRIBUTE TO WILLIE BENSON GARRETT

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. BACA. Mr. Speaker, it is with deep affection that I pay tribute to the life of Willie Benson Garrett, longtime San Bernardino community and political leader and dear friend. Willie passed away in the comfort of his own home at the age of 75 on February 28, 2003.

Willie was born in San Augustine, Texas. He graduated from San Augustine Colored

High School and from H. M. Morgan Barber College. He later moved to San Francisco where he graduated from Marinella Beauty College. He then enlisted and served in the Merchant Marines for two years, after which he was honorably discharged.

In 1957, Willie moved to San Bernardino where he has resided for the past 46 years and where he began his lifelong commitment to public service. Garrett's Barbershop earned recognition as one of the most successful barber businesses in the area and was the catalyst for Willie's commitment to the betterment of his community. Garrett's Barbershop became the central point within the community where many local leaders discussed political, economic, social and other issues.

As a community and political activist, Willie was President of the NAACP, supported the League of Mothers, helped establish WAG, was a member of The Black Democratic Club, was the Best Yet Promotions Political Campaign Advisor, and managed the Westside Drop-In Center in the City of San Bernardino. For his many contributions, Willie received the "Man of the Year" award for San Bernardino, received the 2001 NAACP Community Activist Award and received the "Role Model of the Year" award by WAG.

Willie did not let his retirement stop him from making sure the well being of his community continued to be a priority. Willie was a member of the New Hope Baptist Church and more recently the impetus behind seminars and workshops on prostate cancer, diabetes, and other health issues relevant to women and men through support garnered from Kaiser, Community Hospital, The VA and Loma Linda Hospitals. He also provided leadership to the camping program of the local 4–H youth program for a number of years and helped pave the way for Native Americans to help teach to the 4Her's.

Willie credited his success to the grace of God and to the support of his loving wife, Constance Garrett, of over 20 years. His 2 daughters, Bertha Hilburn and Patricia Scott, 2 sons, Shelley Garrett and Craig Garrett Cramer, 7 grandchildren, 3 great-grandchildren, 3 sisters, Erma Jean Stafford, Ruth Stewart and Freddie Bivins and 2 brothers, Earnest and Leonard Garrett, also survive him.

Willie Benson Garrett has left behind a wonderful legacy of community and political activism. The many nieces, nephews, cousins, relatives and friends who loved him dearly will miss him. Willie touched us all with his kind deeds and leadership in our community. Barbara and I extend our deepest condolences to Willie's family. May God bestow his comfort upon them at this time.

INTRODUCTION OF THE HEALTH CARE IMPROVEMENT ACT OF 2003

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CONYERS. Mr. Speaker, I am pleased to introduce, along with Congressman BACHUS, the Health Care Improvement Act of 2003. This is the successor legislation to the Campbell/Conyers bill from 107th, which passed the House by an overwhelming 276–136 vote. The legislation responds to two alarming anti-consumer trends—the ever increasing level of concentration among health insurers and exclusionary contracting practices by health insurance companies. The last five years have seen a massive consolidation in the health insurance and managed care market as more than a dozen health insurance competitors have been eliminated through mergers and acquisitions.

The dangers posed by this ever increasing market concentration are exacerbated by the practice of health insurers engaging in heavy-handed negotiating tactics and requiring exclusionary contractual commitments from health care providers. Such restrictive contractual terms are frequently proffered on a "take it or leave it" basis to health care providers, under the threat of the loss of the provider's patients or exclusion from their access to other patients.

Our legislation responds to the problem by allowing physicians or other health care professional to collectively negotiate with a health plan over contractual terms or plan policies. Presently, joint negotiations with a health plan by physicians or other health care professionals who are not financially integrated are illegal per se under the federal antitrust laws if they involve fees or prices. Under this legislation, such activities would be subject to review based on a more liberal "rule of reason" analysis, which could take quality of health care into account.

I have taken a particular interest in this legislation because of the unfairness of the current market situation on African American doctors. I am aware of a number of incidents in Detroit and around the country of minority physicians being threatened that they will lose all of their business unless they enter into one-sided service contracts. This bill gives physicians the ability to respond to these abuses on a collective basis.

The legislation is strongly supported by a wide array of health care professional and trade organizations.

HONORING THE TELLURIDE ADAPTIVE SKI PROGRAM

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the Telluride Adaptive Ski Program for its creativity in expanding participation in winter sports. TASP organizes programs that give disabled people from all over the country the opportunity to experience skiing and snowboarding in Colorado's beautiful mountains.

TASP helps to make skiing accessible to diverse groups of people by using adaptive teaching techniques and equipment to accommodate new skiers with disabilities, both physical and mental. TASP also builds bridges between disabled and non-disabled participants with innovative partnering programs. TASP's programs build independence, confidence, and self-esteem by introducing disabled citizens to the freedom and fun that skiing can provide. More Coloradoans and Americans each year benefit from TASP's lessons, camps, and volunteer programs.

Mr. Speaker, it is a great privilege to recognize the Telluride Adaptive Ski Program for its outreach to the disabled community. On the slopes and off, TASP participants feel capable, empowered, independent, and healthy. Everyone deserves the opportunity to experience Colorado's natural beauty, and I am proud to salute a program that expands access to the best recreational opportunities Colorado has to offer.

TRIBUTE TO MR. MILTON LLOYD MORRISON OF SALINA, KANSAS

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise today to pay tribute to a man who affected the lives of many people in Kansas and across the country. This month we mourn the death of Mr. Milton Lloyd Morrison of Salina, Kansas. Milton Morrison was a quiet giant.

A life-long Kansan, Milton was always true to his roots. He lived a life guided by the morals and values we hold dear: abiding faith, faithful service and absolute integrity.

Milton's dedication to his community is renowned. Throughout his life, Milton took a lead role in making certain his community was progressive in pursuits of quality of life issues. His leadership and commitment to his church, college alma mater and professional trade associations were inspired by a favorite quote, "Service is the rent we pay for the space we occupy in this world."

Milton was by every account a successful businessman. With a disciplined approach he directed Morrison Ventures, a leading grain storage and farmland investment operation. His management style was always marked with trademark methodical thinking and a keen emphasis on patience and perseverance.

Most important to Milton was his family. Over the course of 65 years he and his wife Becky raised two sons, Roger and Richard, and devoted endless love and attention to six grandchildren and 12 great-grandchildren.

Milton Morrison made his community, state and nation a better place. I join his many friends and admirers in extending my deepest sympathies to Becky and her family during their time of loss.

TRIBUTE TO JACOB AUSTIN GARDNER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jacob Austin Gardner, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 67, and in earning the most prestigious award of Eagle Scout.

Jake has been very active with his troop, participating in such Scout activities as Camp Geiger. Over the 8 years he has been involved in Scouting, he has held numerous leadership positions, serving as Assistant Senior Patrol Leader, Patrol Leader, Senior Patrol Leader, Quartermaster, and Junior Scout Master. Jake also has been honored for his numerous Scouting achievements with such awards as Warrior in the Tribe of Mic-O-Say, Brave in the Tribe of Mic-O-Say and Fire Builder in the Tribe of Mic-O-Say. Additionally, Jake has earned 32 merit badges.

For his Eagle Scout project, Jake cleaned up and built a new fence around Mitchell Cemetery, which is one of the oldest cemeteries. The cemetery dates back to 1840 and contains the graves of slaves, Abraham Lincoln's aunt and more than 30 Civil War veterans, both Union and Confederate.

Mr. Speaker, I proudly ask you to join me in commending Jacob Austin Gardner for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

EAST BRUNSWICK HIGH SCHOOL

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOLT. Mr. Speaker, on April 26, 2003, more than 1200 students from across the country will compete in the national finals of the We the People: The Citizen and the Constitution program in Washington, D.C. This program is the most extensive educational program in the country, developed specifically to educate young students about the Constitution and the Bill of Rights. The We the People program, administered by the Center for Civic Education, is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from East Brunswick High School will represent the state of New Jersey in the program's finals. These students have worked conscientiously to reach the national finals by participating at local and statewide competitions. In the past fifteen years, these young scholars have won the state competition fourteen times, an accomplishment that should not go unnoticed. Through their experience, they have gained a deep knowledge and understanding of fundamental principles and values of our constitutional democracy. It is a great honor that students from the 12th District in New Jersey have shown such dedication and interest in our nation's government.

The three-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of challenging questions by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle and high school levels. The curriculum not only enhances students' appreciation of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary to become active, responsible citizens.

The class from East Brunswick High School is currently preparing for their participation in the national competition in Washington, D.C. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand the values and principles fundamental to our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young "constitutional experts" the best of luck at the We the People national finals and continued success in their endeavors.

HONORING THE NEIGHBOR-TO-NEIGHBOR FUND

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize an organization dedicated to providing quality healthcare to the citizens of San Miguel County. The Uncompahgre Medical Center in Norwood, Colorado has developed the Neighbor-to-Neighbor fund, an innovative approach to funding the unexpected medical needs of the surrounding communities.

While the Medical Center's sliding fee and indigent care programs already assist the forty-percent of patients who are not insured, the fund, consisting entirely of individual contributions, covers one-time, small-scale medical and emergency needs otherwise out of reach for patients. Operating with no administrative costs, one hundred percent of contributions to the Neighbor-to-Neighbor Fund go to help San Miguel County residents in medical need. Only doctors and physician's assistants write checks on the fund, ensuring that the money serves as an instant tool for filling gaps in medical care. The fund, while usually holding less than $1000, can cover numerous essentials, from a simple brace to fixing a serious dental problem.

Mr. Speaker, it is a great privilege to recognize the Uncompahgre Medical Center for its creativity in addressing difficult health care problems before this body of Congress and this nation. The Neighbor-to-Neighbor Fund is making a big difference in community health care with a small amount of money.

AMERICAN SOVEREIGNTY RESTORATION ACT OF 2003

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. PAUL. Mr. Speaker, I rise today to reintroduce the American Sovereignty Restoration Act. I submitted this bill, which would end United States membership in the United Nations, in the 107th Congress and the 106th Congress and since then conditions have made its relevance and importance more evident now than ever. The United Nations assault on the sovereignty of the United States proceeds apace; it shows no signs of slowing. Mr. Speaker, since I last introduced this measure, the United Nations has convened its International Criminal Court, which claims jurisdiction even over citizens of countries that have not elected to join the court. This means that Americans—both civilians and members of our armed services—are subject to a court that even its supporters admit does not offer all the protections guaranteed by the Constitution of the United States.

The United States continues to pay the lion's share of the U.N. budget, yet it is routinely kicked off committees like the Human Rights Committee by some of the most egregious of human rights abusing countries. This is absurd and we shouldn't have to pay for it.

As the United States faces another undeclared war for the United Nations—as is specified in the authorization for the use of force against Iraq (Public Law 107–243)—it is past time that we return to the principles of our founding fathers.

This legislation would represent a comprehensive and complete U.S. withdrawal from the United Nations. It repeals the United Nations Participation Act of 1945 and other related laws. It directs the President to terminate U.S. participation in the United Nations, including any organ, specialized agency, commission, or other affiliated body. It requires closure of the U.S. Mission to the U.N.

The legislation also prohibits the authorization of funds for the U.S. assessed or voluntary contribution to the U.N.; the authorization of funds for any U.S. contribution to any U.N. military operation; and the expenditure of funds to support the participation of U.S. armed forces as part of any U.N. military or peacekeeping operation. Finally, this legislation bars U.S. armed forces from serving under U.N. command.

The U.S. Congress, by passing H.R. 1146, and the U.S. president, by signing H.R. 1146, will heed the wise counsel of our first president, George Washington, when he advised his countrymen to "steer clear of permanent alliances with any portion of the foreign world," lest the nation's security and liberties be compromised by endless and overriding international commitments. I urge my colleagues to support this measure and I hope for its quick consideration.

In considering the recent United Nations meetings and the United States' relation to that organization and its affront to U.S. sovereignty, we would all do well to again read carefully Professor Herbert W. Titus' paper on the United Nations from which I have provided this excerpt:

It is commonly assumed that the Charter of the United Nations is a treaty. It is not. Instead, the Charter of the United Nations is a constitution. As such, it is illegitimate, having created a supranational government, deriving its powers not from the consent of the governed (the people of the United States of America and peoples of other member nations) but from the consent of the peoples' government officials who have no authority to bind either the American people nor any other nation's people to any terms of the Charter of the United Nations.

By definition, a treaty is a contract between or among independent and sovereign nations, obligatory on the signatories only when by competent governing authorities in accordance with the powers constitutionally conferred upon them. I Kent, Commentaries on American Law 163 (1826); Burdick, The Law of the American Constitution section 34 (1922) Even the United Nations Treaty Collection states that a treaty is (1) a binding instrument creating legal rights and duties (2) concluded by states or international organizations with treaty-making powers (3) governed by international law.

By contrast, a charter is a constitution creating a civil government for a unified nation or nations and establishing the authority of that government. Although the United Nations Treaty Collection defines a 'charter' as a 'constituent treaty,' leading international political authorities state that '[t]he use of the word 'Charter' [in reference to the founding document of the United Nations] . . . emphasizes the constitutional nature of this instrument.' Thus, the preamble to the Charter of the United Nations declares 'that the Peoples of the United Nations have resolved to combine their efforts to accomplish certain aims by certain means.' The Charter of the United Nations: A Commentary 46 (B. Simma, ed.) (Oxford Univ. Press, NY: 1995) (Hereinafter U.N. Charter Commentary). Consistent with this view, leading international legal authorities declare that the law of the Charter of the United Nations which governs the authority of the United Nations General Assembly and the United Nations Security Council is 'similar . . . to national constitutional law,' proclaiming that 'because of its status as a constitution for the world community,' the Charter of the United Nations must be construed broadly, making way for 'implied powers' to carry out the United Nations' 'comprehensive scope of duties, especially the maintenance of international peace and security and its orientation towards international public welfare.' Id. at 27.

The United Nations Treaty Collection confirms the appropriateness of this 'constitutional interpretive' approach to the Charter of the United Nations with its statement that the charter may be traced 'back to the Magna Carta (the Great Charter) of 1215,' a national constitutional document. As a constitutional document, the Magna Carta not only bound the original signatories, the English barons and the king, but all subsequent English rulers, including Parliament, conferring upon all Englishmen certain rights that five hundred years later were claimed and exercised by the English people who had colonized America.

A charter, then, is a covenant of the people and the civil rulers of a nation in perpetuity. Sources of Our Liberties 1–10 (R. Perry, ed.) (American Bar Foundation: 1978) As Article I of Magna Carta, puts it:

We have granted moreover to all free men of our kingdom for us and our heirs forever all liberties written below, to be had and holden by themselves and their heirs from us and our heirs.

In like manner, the Charter of the United Nations is considered to be a permanent 'constitution for the universal society,' and consequently, to be construed in accordance with its broad and unchanging ends but in such a way as to meet changing times and changing relations among the nations and peoples of the world. U.N. Charter Commentary at 28–44.

According to the American political and legal tradition and the universal principles of constitution making, a perpetual civil covenant or constitution, obligatory on the people and their rulers throughout the generations, must, first, be proposed in the name of the people and, thereafter, ratified by the people's representatives elected and assembled for the sole purpose of passing on the terms of a proposed covenant. See 4 The Founders' Constitution 647–58 (P. Kurland and R. Lerner, eds.) (Univ. Chicago. Press: 1985). Thus, the preamble of the Constitution of the United States of America begins with 'We the People of the United States' and Article VII provides for ratification by state conventions composed of representatives of the people elected solely for that purpose. Sources of Our Liberties 408, 416, 418–21 (R. Perry, ed.) (ABA Foundation, Chicago: 1978).

Taking advantage of the universal appeal of the American constitutional tradition, the preamble of the Charter of the United Nations opens with 'We the peoples of the United Nations.' But, unlike the Constitution of the United States of America, the Charter of the United Nations does not call for ratification by conventions of the elected representatives of the people of the signatory nations. Rather, Article 110 of the Charter of the United Nations provides for ratification 'by the signatory states in accordance with their respective constitutional processes.' Such a ratification process would have been politically and legally appropriate if the charter were a mere treaty. But the Charter of the United Nations is not a treaty; it is a constitution.

First of all, Charter of the United Nations, executed as an agreement in the name of the people, legally and politically displaced previously binding agreements upon the signatory nations. Article 103 provides that '[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.' Because the 1787 Constitution of the United States of America would displace the previously adopted Articles of Confederation under which the United States was being governed, the drafters recognized that only if the elected representatives of the people at a constitutional convention ratified the proposed constitution, could it be lawfully adopted as a constitution. Otherwise, the Constitution of the United States of America would be, legally and politically, a treaty which could be altered by any state's legislature as it saw fit. The Founders' Constitution, supra, at 648–52.

Second, an agreement made in the name of the people creates a perpetual union, subject to dissolution only upon proof of breach of covenant by the governing authorities whereupon the people are entitled to reconstitute a new government on such terms and for such duration as the people see fit. By contrast, an agreement made in the name of nations creates only a contractual obligation, subject to change when any signatory nation decides that the obligation is no longer advantageous or suitable. Thus, a treaty may be altered by valid statute enacted by a signatory nation, but a constitution may be altered only by a special amendatory process provided for in that document. Id. at 652.

Article V of the Constitution of the United States of America spells out that amendment process, providing two methods for adopting constitutional changes, neither of which requires unanimous consent of the states of the Union. Had the Constitution of the United States of America been a treaty, such unanimous consent would have been required. Similarly, the Charter of the United Nations may be amended without the unanimous consent of its member states. According to Article 108 of the Charter of the United Nations, amendments may be proposed by a vote of two-thirds of the United Nations General Assembly and may become effective upon ratification by a vote of two-thirds of the members of the United Nations, including all the permanent members of the United Nations Security Council. According to Article 109 of the Charter of the United Nations, a special conference of members of the United Nations may be called 'for the purpose of reviewing the present Charter' and any changes proposed by the conference may 'take effect when ratified by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.' Once an amendment to the Charter of the United Nations is adopted then that amendment 'shall come into force for all Members of the United Nations,' even those nations who did not ratify the amendment, just as an amendment to the Constitution of the United States of America is effective in all of the states, even though the legislature of a state or a convention of a state refused to ratify. Such an amendment process is totally foreign to a treaty. See Id., at 575–84.

Third, the authority to enter into an agreement made in the name of the people cannot be politically or legally limited by any preexisting constitution, treaty, alliance, or instructions. An agreement made in the name of a nation, however, may not contradict the authority granted to the governing powers and, thus, is so limited. For example, the people ratified the Constitution of the United States of America notwithstanding the fact that the constitutional proposal had been made in disregard to specific instructions to amend the Articles of Confederation, not to displace them. See Sources of Our Liberties 399–403 (R. Perry ed.) (American Bar Foundation: 1972). As George Mason observed at the Constitutional Convention in 1787, 'Legislatures have no power to ratify' a plan changing the form of government, only 'the people' have such power. 4 The Founders' Constitution, supra, at 651.

As a direct consequence of this original power of the people to constitute a new government, the Congress under the new constitution was authorized to admit new states to join the original 13 states without submitting the admission of each state to the 13 original states. In like manner, the Charter of the United Nations, forged in the name of the 'peoples' of those nations, established a new international government with independent powers to admit to membership whichever nations the United Nations governing authorities chose without submitting such admissions to each individual member nation for ratification. See Charter of the United Nations, Article 4, Section 2. No treaty could legitimately confer upon the United

Nations General Assembly such powers and remain within the legal and political definition of a treaty.

By invoking the name of the 'peoples of the United Nations,' then, the Charter of the United Nations envisioned a new constitution creating a new civil order capable of not only imposing obligations upon the subscribing nations, but also imposing obligations directly upon the peoples of those nations. In his special contribution to the United Nations Human Development Report 2000, United Nations Secretary-General Annan made this claim crystal clear:

Even though we are an organization of Member States, the rights and ideals the United Nations exists to protect are those of the peoples. No government has the right to hide behind national sovereignty in order to violate the human rights or fundamental freedoms of its peoples. Human Development Report 2000 31 (July 2000) [Emphasis added.]

While no previous United Nations' secretary general has been so bold, Annan's proclamation of universal jurisdiction over 'human rights and fundamental freedoms' simply reflects the preamble of the Charter of the United Nations which contemplated a future in which the United Nations operates in perpetuity 'to save succeeding generations from the scourge of war . . . to reaffirm faith in fundamental human rights . . . to establish conditions under which justice . . . can be maintained, and to promote social progress and between standards of life in larger freedom.' Such lofty goals and objectives are comparable to those found in the preamble to the Constitution of the United States of America: 'to . . . establish Justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the Blessings of liberty to ourselves and our posterity . . .'

There is, however, one difference that must not be overlooked. The Constitution of the United States of America is a legitimate constitution, having been submitted directly to the people for ratification by their representatives elected and assembled solely for the purpose of passing on the terms of that document. The Charter of the United Nations, on the other hand, is an illegitimate constitution, having only been submitted to the Untied States Senate for ratification as a treaty. Thus, the Charter of the United Nations, not being a treaty, cannot be made the supreme law of our land by compliance with Article II, Section 2 of Constitution of the United States of America. Therefore, the Charter of the United Nations is neither politically nor legally binding upon the United States of America or upon its people.

INTRODUCTION OF H.R. 906

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. QUINN. Mr. Speaker, on behalf of the gentleman from West Virginia, Mr. RAHALL, I would like to describe legislation we recently introduced, H.R. 906, the "Surface Transportation Safety Act of 2003."

Each year more than 42,000 people are killed and over three million people are injured on our nation's highways. Not only is the loss of human life tragic, but the $230 billion annual cost to our economy is staggering. Our bill expedites the use of proven solutions to reduce the likelihood of crashes, injuries, and fatalities on our roads and bridges.

H.R. 906 accomplishes these goals without requiring additional federal funding. It is designed to utilize funds already set aside for the Section 130 Rail-Highway Grade Crossing Program and the Section 152 Hazard Elimination Program. Since their inception, these programs have allocated money to the States to reduce accidents. This legislation is designed to reallocate precious tax dollars within the current programs to make them more effective. The bill clarifies and expands project eligibility and provides funding for improved State data collection, analysis and reporting.

In 1996, the U.S. Secretary of Transportation issued a report to Congress stating that the Section 130 Rail-Highway Grade Crossing Program prevented over 8,500 fatalities and close to 39,000 injuries since 1974. This report also stated that as a result of the Section 130 program, fatal accident rates have been reduced by 87 percent. Our legislation makes two major changes to existing law that will enhance the effectiveness of this program. It changes the funding for protective devices at rail-highway grade crossings to a fixed $150 million per year and it provides for the maintenance of protective devices at grade crossings.

H.R. 906 also makes several improvements to the Section 152 Hazard Elimination Program. First, it clarifies that these programmatic funds are to be used to produce real safety benefits by requiring that projects reduce the likelihood of crashes resulting from road departures, intersections, pedestrians, bicycles, older drivers, and construction work zones. In addition, our legislation makes fluorescent yellow-green signs in school zones, pedestrian walkways and bicycle paths eligible for funding as a safety improvement. Also added to the eligible funding list are police assistance for traffic and speed management in construction work zones and the installation of barriers between construction work zones and traffic lanes for the safety of motorists and workers.

Mr. Speaker, roadway construction, maintenance and repair are readily apparent on our highways and in our neighborhoods. Construction work zone crashes killed 1,079 people in 2001. This is a 20 percent increase since 1995, not to mention the thousands of injuries that occur each year. These deaths and injuries will continue to escalate if we do not address this problem now. In this regard, H.R. 906 directs the Secretary of Transportation to issue a rule requiring workers whose duties place them on or in close proximity to a Federal-aid highway to wear high visibility garments.

To judge the effectiveness of these two safety programs, our bill requires a new biennial report to Congress without creating an unfunded mandate. States can use these funds to fulfill all data compilation, analysis, and reporting requirements. Finally, this bill maintains the flexibility States currently have to transfer funds from the two safety set-aside programs to the Interstate Maintenance, Congestion Mitigation and Air Quality, National Highway System, Bridge Replacement and Rehabilitation and Recreational Trails programs.

I urge my colleagues to cosponsor and support this important safety legislation.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GALLEGLY. Mr. Speaker, on February 27, 2003, I was unable to vote on the Greenwood Substitute to H.R. 534, the Human Cloning Act of 2003 (rollcall 37). Had I been present I would have voted "no." Similarly, I was not present to vote on the motion to recommit H.R. 534 (rollcall 38) but I would have voted "no." On final passage of H.R. 534, I was not present, but would have voted "yea" (rollcall vote 39).

HONORING SONJA MARIA MONTANO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the achievements of Sonja Maria Montano, a resident of La Junta, Colorado, before this body of Congress and this nation.

Over the past year, Sonja has received wide acclaim and numerous awards from Poetry.com, which first published her work, as well as the International Society of Poetry and Symposiums. Sonja was one of only thirty poets in the world invited to present her work to the ISPS spring convention in 2002. Now, Sonja's work has earned one of thirty-five nominations for the society's grand prize, presented by Pulitzer Prize winning poet W.D. Snodgrass.

Sonja, a promising writer as a teenager, gave up opportunities in creative writing to stay close to home and eventually raise a family. She found her voice again at the age of thirty-one when she began writing poetry on a bet with her nine-year-old son. After years of apprehension and reservations about her writing, Sonja has decided to become a poet.

Mr. Speaker, it is a great privilege to recognize Sonja Maria Montano before this body of Congress and this nation for her courage and creativity in pursuing her dreams. I wish her every success in her new career.

DARIEN'S 2003 CITIZEN OF THE YEAR

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mrs. BIGGERT. Mr. Speaker, I rise today in honor of Father Gavin Quinn, the 2003 Citizen of the Year for Darien, Illinois.

The City of Darien lies within Illinois' 13th Congressional District. Because of residents like Father Quinn, Darien easily lives up to its motto—"a nice place to live."

If you happen to find yourself in Darien, there is a good chance that you will hear Father Quinn's name mentioned, not only by members of his church community, but also among the many other residents of Darien. He seeks out anyone who can use a helping hand or a friend. He is especially valued for his work with teenagers, single parents and the sick and dying. Regularly visiting hospitals, he works to lift the human spirit or offer a willing ear.

Father Gavin is best described by one of his fellow citizens, who said: "He is an extraordinary man who knows how to identify people in need and find a way of ministering to them. Father Gavin is a very compassionate man who reaches out to people of all faiths and in all walks of life. In short, I can think of no one who has made Darien a better place to live than Father Gavin Quinn."

I could not agree more. Father Quinn is the kind of person who transforms a city into a community. Congratulations to Father Gavin Quinn, Darien's 2003 Citizen of the Year.

RECOGNIZING NATIONAL PEACE CORPS DAY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. UDALL of Colorado. Mr. Speaker, last Friday, February 28th, we celebrated National Peace Corps Day, honoring the 168,000 Americans who have served as volunteers since the creation of the Peace Corps in 1961. These amazing men and women have served our nation in 136 countries. Peace Corps volunteers have made enormous contributions in the areas of agriculture, business development, education, health, and the environment, and in so doing have improved the lives of individuals and communities around the world. The Peace Corps has become an enduring symbol of out nation's commitment to encourage progress and create opportunity in the developing world.

My own background as an educator and director at Outward Bound for twenty years taught me about the importance of national and community service. But I also have strong connections to the Peace Corps through my great state of Colorado and through my family. Colorado has one of the highest levels of recruitment of Peace Corps volunteers nationwide, and returned Peace Corps Volunteers in the 2nd Congressional District alone number over 500. Of course, the most important Peace Corps connection for me is my mother, who served as a volunteer in Nepal decades ago.

Because of these connections I have a special interest in advancing the ability of the Peace Corps to play an important role in these new times. I believe we must work to continue to promote world peace and friendship through the people-to-people approach of the Peace Corps. That's why I worked with my colleague Rep. SAM FARR in the last Congress to introduce legislation known as the Peace Corps Charter for the 21st Century Act. We have reintroduced the bill again in this Congress as H.R. 250.

The "Peace Corps Charter" strengthens the Peace Corps in a number of ways. It restates and further promotes its goals—to provide technical assistance to those in need around the world, to promote better understanding of Americans on the part of the peoples served, and to bring the world home to America. It authorizes funding to allow for a Peace Corps expansion to 15,000 volunteers in five years. It reaffirms the independence of the Peace Corps. It authorizes a number of reports, such as one on host country security. It spells out a commitment to recruit and place Peace Corps volunteers in countries where they could help promote mutual understanding, particularly in areas with substantial Muslim populations. It establishes training programs for Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases, such as HIV/AIDS. It streamlines and empowers the Peace Corps Advisory Council, with an added focus of making use of the expertise of Returned Peace Corps Volunteers. Finally, the bill creates a grant program to enable Returned Peace Corps Volunteers to use their experience and expertise to continue to carry out the goals of the Peace Corps through specific projects.

The Peace Corps is one of the most admired and successful initiatives ever put in place. I'm proud that the following young people from the 2nd Congressional District are presently serving in countries all over the world: Vanessa Adams, Ben Armitage, Shaun Cosgrove, Amy Ellerman, Thomas Fleming, Megan Haldy, Rebecca Knerl, Lydia Labelle, Lynell Lacey, Benjamin Liu, Erica Manteuffel, Kelly Oberg, Stephanie Ogden, Kelly O'Rourke, Johanna Patrick, Matthew Rice, Kathleen Shannon, Mary Simonson, and Robert Sweetman.

A pebble tossed into a still pond creates ripples that begin small and grow larger. Peace Corps volunteers have had this same effect on the people they have touched. The Peace Corps experience exemplifies how individuals can make a tremendous difference in the lives and perceptions of people in developing countries as well as people right here at home.

National Peace Corps Day honors the volunteers, past and present, and reaffirms our country's commitment to helping people help themselves throughout the world. Today I honor all of the men and women who have selflessly and generously served our country in the Peace Corps.

TO CLARIFY THE TREATMENT FOR FOREIGN TAX CREDIT LIMITATION PURPOSES OF CERTAIN TRANSFER OF INTANGIBLE PROPERTY

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. SHAW. Mr. Speaker, along with my colleague, MARK FOLEY, I am introducing a bill that would eliminate a trap for the unwary that was inadvertently created with the Taxpayer Act of 1997. The bill would clarify the treatment for foreign tax credit limitation purposes of the income inclusions that arise upon a transfer of intangible property to a foreign corporation.

Section 367(d) of the Internal Revenue Code provides for income inclusions in the form of deemed royalties upon the transfer of intangible property by a U.S. person to a foreign corporation. Prior to the 1997 Act, these income inclusions under section 367(d) were deemed to be U.S.-source income and thus were not eligible for foreign tax credits. The international joint venture reforms included in the 1997 Act eliminated this special source rule and provided that deemed royalties under section 367(d) are treated as foreign source income for foreign tax credit purposes to the same extent as an actual royalty payment.

The amendments made by the 1997 Act were intended to eliminate the penalty that was provided by the prior-law deemed U.S. source rule and that had operated to discourage taxpayers from transferring intangible property in a transaction that would be covered by section 367(d). Prior to the 1997 Act, in order to avoid this penalty, taxpayers licensed intangible property to foreign corporations instead of transferring such property in a transaction that would be subject to section 367(d). The 1997 Act's elimination of the penalty source rule of section 367(d) was intended to allow taxpayers to transfer intangible property to a foreign corporation in a transaction that gives rise to deemed royalty payments under section 367(d) instead of having to structure the transaction with the foreign corporation as a license in exchange for actual royalty payments.

However, the intended goal of the 1997 Act provision is achieved only if the deemed royalty payments under section 367(d) not only are sourced for foreign tax credit purposes in the same manner as actual royalty payments, but also are characterized for foreign tax credit limitation purposes in the same manner as actual royalty payments. Without a clarification that deemed royalty payments are characterized for foreign tax credit limitation purposes in the same manner as an actual royalty payment, there is a risk in many cases that such deemed royalties would be characterized in a manner that leads to a foreign tax credit result that is equally as disadvantageous as the result that arose under the penalty source rule that was intended to be eliminated by the 1997 Act.

The bill I am introducing today provides the needed clarification that deemed royalties under section 367(d) are treated for foreign tax credit limitation purposes in the same manner as an actual royalty, ensuring that the penalty that was intended to be eliminated with the 1997 Act is in fact eliminated. Without this clarification, a taxpayer that transfers intangible property in reliance on the 1997 Act will find that its transfer is in fact effectively subject to the penalty that the taxpayer believed had been eliminated. Without the clarification, those taxpayers that have structured their transactions in reliance on the 1997 Act provision will be worse off than they would have been if the purported repeal of the penalty source rule had never occurred and they had continued to structure their transactions to avoid that penalty. This bill will achieve the intended goals of the 1997 Act and prevent a terrible trap for the unwary that has been inadvertently created.

HONORING MARY HAINING

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize a family truly dedicated to developing leadership skills in the young people of their community. Mary Haining, and her family, of Delta, Colorado have shown exemplary dedication to the 4–H program through three generations of their family.

The 4–H program promotes leadership, citizenship, and community involvement in America's youth, qualities that the Haining clan personifies. Mary Haining began working with 4–H as a girl in Grand Junction, exploring her interests in entomology and rabbits. As a mother, she has served as a 4–H volunteer leader for thirty-eight years. Each of the Haining children was involved in 4–H for at least ten years. Mary Haining's daughter Joyce and son Ron are still active parent leaders of 4–H in Delta. Three of Mrs. Haining's grandchildren are studying sheep, beef, entomology, poultry, gardening, and archery through 4–H programs.

Mr. Speaker, it is a great privilege to recognize the Haining family for their long-time dedication to the 4–H cause. The Hainings, and the 4–H program which they have served devotedly, represent American ideals and the family values that make our communities strong.

TO REVOKE THE FEDERAL CHARTER GRANTED TO TREA

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. KLECZKA. Mr. Speaker, today I am reintroducing a bill to revoke the federal charter that was granted to the Retired Enlisted Association (TREA) in 1992. TREA is an organization that has repeatedly targeted seniors with "notch" mailings that are deceptive, false, and designed to extort money from elderly persons, many of whom live on limited incomes.

The term "notch" refers to the difference in Social Security benefits paid to individuals born before 1917 versus those born between 1917 and 1921. This discrepancy arose because of a law enacted in 1972 providing automatic cost-of-living adjustments for Social Security recipients. However, the formula used to compute these annual increases was significantly flawed, causing benefits to rise faster than the rate of inflation.

In 1977, Congress corrected this defective formula (thereby reducing benefit levels) in order to prevent Social Security payments from skyrocketing. Had such revision not been made, many future beneficiaries would have received Social Security checks that were larger than their pre-retirement earnings. Moreover, the entire system would have become insolvent within 3 or 4 years.

The National Academy of Social Insurance, the General Accounting Office, the Social Security Administration, and the Congressionally-appointed Social Security Notch Commission have since concluded that the 1977 benefit changes were urgently needed and that Social Security beneficiaries born during the notch period are receiving correct benefit amounts. They also found that increasing benefits for "notch babies" would not only be unjustified, but would unnecessarily jeopardize the financial stability of the Social Security system.

Yet, despite these conclusive findings, TREA currently operates a multi-million dollar fundraising scheme based on the notch issue. This group tells seniors it is working hard to correct a notch "problem" that doesn't exist in an attempt to scam seniors out of their hard-earned money. Under the guise of advocating for legislative reform, TREA collected over $46 million from seniors over four years (1997 to 2000), and its moneymaking campaign continues.

In addition, the tactics used by TREA to solicit money from elderly individuals are deplorable. Included among TREA's numerous deceptive mailings are official-looking notch identification cards and registration forms that give the mistaken impression that this group has the authority to handle the distribution of Social Security benefits, TREA also sends solicitations containing replicas of Social Security checks, thereby reinforcing this image. Perhaps the most disturbing, the group's fundraising efforts have even included mailings that ask seniors to redraft their wills to make TREA a beneficiary.

In order to stop the exploitation of America's seniors, I am reintroducing a bill that would revoke the federal charter granted to TREA in 1992. While Congress rarely revisits a former charter decision, this group's persistent pattern of fleecing seniors clearly warrants such a step.

Federal charters are prestigious distinctions awarded to organizations with a patriotic, charitable, or educational purpose. Although intended as an honorific title, a federal charter implies government support for such organizations. Misleading America's seniors clearly violates the high standards held for chartered groups. Moreover, allowing TREA to maintain its charter would send a signal to the American public that Congress condones such behavior.

Six bipartisan members of the House Ways and Means Social Security Subcommittee have joined me today in support of this legislation-including Chairman SHAW and Ranking Member MATSUI. I urge my colleagues to cosponsor this measure.

PURSUE A MULTI NATIONAL STRATEGY TO DISARM IRAQ

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. BOUCHER. Mr. Speaker, I rise today to urge in the strongest terms that the administration pursue a multi national strategy as it takes the necessary steps to disarm Iraq.

I share the administration's view that Saddam Hussein's weapons of mass destruction must be removed. In his present armed condition, he poses a significant threat to our Nation and to all peace loving nations around the world. I have no doubt that he possesses highly dangerous weapons, and based upon his past conduct, I also harbor no doubt that he would use those weapons against us or against our allied nations whenever he believes that doing so serves his interests.

It is clear that Saddam Hussein must be disarmed.

However, it is essential that the disarmament take place in the proper manner. The best opportunity for obtaining the disarmament of Iraq without the necessity of armed conflict lies in the assemblage of a large group of nations who collectively will insist that the disarmament occur. If, under the auspices of the United Nations, most nations of the world are facing Saddam Hussein united in the determination to remove his arms peacefully if possible but by force if necessary, the best chance is achieved for a peaceful disarmament to occur.

Then, if conflict is necessary, a broad assemblage of nations will share responsibility for taking the necessary steps. Moreover, that same large assembly of nations with United Nations participation, can then share both the cost and the responsibility for the administration and reconstruction of post-war Iraq.

Ten years ago, under a United Nations resolution, Iraq was expelled from Kuwait. The diplomatic offices of this nation were put to good use in persuading our allies to participate with us in the exercise.

That same course must be followed again, and I urge the administration in the strongest possible terms to take the time which is necessary to assure that broad international support underlies our efforts to ensure our security and the security of other nations through the disarmament of Iraq.

TRIBUTE TO JACLYN SOBOCIENSKI

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. OBEY. Mr. Speaker, I would like to take this opportunity to recognize the outstanding efforts made by Ms. Jaclyn Sobocienski who is leaving the House Appropriations Committee this week.

Jaclyn is a native of New York. She is a Magna Cum Laude graduate of Siena College, possessing a Bachelor of Arts degree in political science and a Bachelor of Science degree in finance. That alone made her a natural for the Appropriations Committee. She served as an intern in the New York State Assembly, and also worked for the New York Mets during summers between school years. On those few occasions where we gave her some time off, Jaclyn was active in dance, Italian language study, and travel.

She has been an administrative aide to the minority staff of the House Appropriations Committee since October 5, 2001. Just after she joined the Committee, the anthrax incident in the Longworth House Office Building occurred. Jaclyn not only was instrumental in getting our temporary alternate office up and running for the period that our Longworth office was closed, but also she reacted to the stress in a very professional and helpful manner that allowed the Members and the staff to get on with conducting the nation's business.

Jaclyn put in many long evenings in behalf of the Members of the Appropriations Committee, with direct support to the Democratic professional staff of the Committee. She tirelessly served as the liaison between the Committee and all Democratic House offices, the press, and the public. She succeeded in every task she was given.

I want to take this opportunity to publicly thank her for her outstanding efforts to me and to the Committee, and to wish her well in her new career. We will miss her, and wish her nothing but success and happiness.

INTRODUCTION OF THE FAMILY TIME FLEXIBILITY ACT

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mrs. BIGGERT. Mr. Speaker, I rise today to introduce The Family Time Flexibility Act, which allows employers to offer American workers the option of voluntarily taking compensatory time off in lieu of receiving overtime pay. I am pleased that 67 of my colleagues have joined me as original cosponsors of this pro-family, pro-worker, pro-women legislation.

One would think that providing working men and women with more control over their work schedules is a "no brainer", but private sector employees and employers alike are bound by the Fair Labor Standards Act of FLSA, which does not permit such flexibility. I think it's fair to say that this law, enacted during the depression, was designed for a very different workforce with very different needs.

Over the past 60-plus years, the American workplace has undergone a dramatic change in composition, character, and demands. What once was a static, agriculture- and manufacturing-based economy with a primarily male workforce has evolved into a fast-paced working environment based on global services and high technology with nearly equal numbers of women and men in the workforce.

Workers today, more than ever before, face a difficult dilemma: how to balance the demands of a job while having adequate time for family, friends and outside commitments. This situation has become even more pronounced because many American families now rely on two incomes to survive. And while this conflict weighs most heavily on women, all workers—regardless of gender—experience conflict between work and family, between watching their child's baseball game or going through that stack of papers on their desk.

The Family Time Flexibility Act will help to ease these pressures by providing the flexibility that working parents need to spend quality time with their families. This legislation amends the FLSA to allow private sector employees to access something that their colleagues working in federal, state and local governments have had for many years—the option of choosing either cash wages or paid time off as compensation for working overtime hours.

Before I go any further, I want to stress that nothing in this legislation would require employees to take comp time instead of overtime pay. Nor could employers force employees to take comp time. Rather they now can be given the choice of compensatory time or overtime. This bill does not relieve employers of any obligation to pay overtime.

As a matter of fact, my bill contains explicit penalties if an employer "directly or indirectly intimidates, threatens or coerces" an employee into taking comp time in lieu of overtime, and the penalties are more severe than under current law. Employers who engage in such behavior will be liable for double damages plus attorney's fees and costs. In addition, the other remedies included under the FLSA—including civil and criminal penalties and injunctive relief—still will apply. The employee may respond through a private right of action, or the Labor Department may sue on behalf of the employee. I also want to stress that this bill in no way affects or changes the standard 40-hour workweek.

Here's how the bill works. If the employer and the employee agree—or in union shops, the union and the employer agree through their collective bargaining agreement—to allow the employee to start accruing overtime hours as compensatory or family time, the employee may bank overtime hours and use them at a later time as paid time off.

As is currently the case with overtime pay, comp time hours would accrue at a rate of one and one-half hours of comp time for each hour of overtime worked. Employees could accrue up to 160 hours of comp time within a 12-month period.

This legislation contains numerous safeguards to protect employees. Let me reiterate that employers are explicitly prohibited, under threat of civil and criminal penalties, from attempting to directly or indirectly intimidate, threaten, or coerce any employee to take comp-time instead of cash pay as pay for overtime.

In addition, employers must obtain prior written approval from each employee who chooses comp-time in lieu of cash pay for overtime. And employees can withdraw their request to receive comp-time and go back to receiving cash pay at any time.

The legislation requires an employer to annually pay cash wages for any unused comp time accrued by the employee. Employees may withdraw from a comp time agreement at any time and request a cash-out of any or all of his or her accrued, unused comp time. The employer has 30 days in which to comply with the request. The legislation also requires an employer to provide the employee with at least 30 days notice prior to cashing out any accrued time in excess of 80 hours or prior to discontinuing a policy of offering comp time.

Employees are able to use their accrued comp time at any time, so long as its use does not unduly disrupt the operations of the business—this is the same standard used in the public sector and under the Family and Medical Leave Act. Employers also would be prohibited from requiring employees to take accrued time solely at the convenience of the employer.

Again, I want to reiterate that this legislation has no effect on the traditional 40-hour workweek or the way in which overtime is calculated.

Mr. Speaker, comp time makes for good policy and it also has another benefit—it makes employees happy. There always will be working men and women who want and need the extra pay that comes from working overtime hours. But for many workers, having the additional time off is a far more attractive option, and that's an option they should have.

Comp time also is good for business because smart companies know how flexibility can help efforts to recruit and retain top-notch employees. Concerns over the well-being of the family often force parents to leave jobs that do not fit their family needs or forego jobs that would put stress on home lives.

In sum, Mr. Speaker, The Family Time Flexibility Act is good for workers, it is good for women, and it is especially good for families. The bill updates an outdated law designed for the 1930s workplace and makes it relevant for today's workforce.

Today's working men and women want increased flexibility and choices regarding scheduling and compensation, yet federal law prevents them from having such options. I trust my colleagues agree that employees and employers should not be prevented from making mutually agreeable arrangements that meet both personal and business needs.

I think the time and circumstances are right for us to pass this much-needed legislation. I urge my colleagues to join this effort to pass a strong "family time" bill that will be good for workers, businesses, the economy, and America's families.

In closing, let me take a moment to recognize Congressman CASS BALLENGER for his dedicated and untiring work on the comp time issue and to the Chairman of the House Subcommittee on Workforce Protections, Representative CHARLIE NORWOOD, for his strong commitment to this issue. Finally, let me thank the Chairman of the full Committee on Education and the Workforce, JOHN BOEHNER, for his support of America's working men and women.

I urge my colleagues to join us in cosponsoring the Family Time Flexibility Act.

COMMENDING MEMBERS OF UNITED STATES ARMED FORCES AND THEIR FAMILIES FOR SELFLESS SERVICE DURING GLOBAL WAR ON TERRORISM

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. J. Res 27. It is a privilege to take a few minutes to pay tribute to the men and women responsible for our national defense.

More than 1.4 million men and women make up America's active and reserve forces. I join my colleagues on both sides of the aisle in acknowledging the soldiers and sailors, airmen and marines in both the active and reserve components, who distinguish themselves daily in selfless service to this nation and bring great pride to us all.

Last month, I had an opportunity to recognize the accomplishments of nineteen members of our armed forces. In observance of African American history month, I chose to acknowledge African Americans who have served with distinction in the U.S. Armed Forces. Each day of the month, I distributed brief biographies to my colleagues, which honored the accomplishments of generals and privates, paratroopers, cooks, and nurses, who have contributed to our rich history. Many fought for freedoms they did not fully enjoy themselves.

It was interesting to learn that despite a diversity of ethnicity and culture, today's military men and women are not very different from the doughboys that fought in World War I, or the GIs who stormed the beaches in Normandy, or the troops who fought in Korea and Vietnam. From generation to generation, they continue to embody the qualities we respect in all walks of life and in all fields of endeavor; a commitment to excellence, a vision of a better future, and a dedication to selfless service.

It is both fitting and timely that we commend the members of the United States Armed Services today. However, I'd like to add two things to this tribute. First, I'd like to acknowledge our nation's military veterans. Their sacrifices have helped make America the world's best hope for freedom and lasting peace. And second, I'd like to acknowledge the families of those who serve our nation. It is a sacrifice to send your son or daughter, your husband or wife, into harms way. Your contribution to our nation's freedom is deeply appreciated.

TARIFF RELIEF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. KUCINICH. Mr. Speaker, on the one-year anniversary of the President's decision to impose temporary tariff relief on behalf of the domestic steel industry under Section 201 of the Trade Act, I speak in strong support of the tariffs and their continuation for the full three-year period ordered by the President.

Between 1997 and 2002, America's steel industry was under attack by foreign companies illegally dumping steel into the American economy, sending 35 steel companies into bankruptcy and costing 54,000 industry employees their jobs.

After a seven-month analysis, the International Trade Commission made a unanimous determination that the steel industry had suffered serious injury as a result of the surge of imports and voted to recommend a remedy.

One year later, this remedy is working and must be continued. Since the Section 201 relief was implemented, the industry is beginning to see signs of a recovery: domestic producers have experienced incremental improvements in revenues, operating income, and capacity utilization.

The tariffs have also caused a modest price recovery in the industry. Prices for hot rolled steel rose from historic lows of only $210 per ton in December 2001 to around $300 per ton today. But even so, prices for all major flat rolled products are still below 20-year historical averages.

Additionally, the industry has made significant progress toward restructuring and consolidation. The International Steel Group (ISG), which came into existence following its purchase of LTV, has agreed to acquire the assets of Bethlehem Steel. US Steel announced plans to purchase National Steel. Section 201 relief, if allowed to run its course, will result in a more competitive domestic industry.

The tariffs were a good start, and they must be allowed to continue. The United States has finally made clear that it is no longer willing to serve as the World's Steel Dumping Ground. The United States has also made clear that the national security of our country requires a strong and viable domestic steel supplier base. Only the continuation of the 201 tariffs will mitigate the harm of unfairly traded imports and assist the industry in a critical recovery. Keep the steel tariffs working!

HONORING THE 50TH ANNIVERSARY OF THE MYRTLE GROVE VOLUNTEER FIRE DEPARTMENT

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the 50th Anniversary of the Myrtle Grove Volunteer Fire Department. The Myrtle Grove Volunteer Fire Department, consisting of about two dozen men and women, made it first fire run on March 6, 1953.

The station was originally a single-bay building at the corner of 69th Avenue and Lillian Highway. The present building, at Lillian and 72nd Avenue, was completed in 1978. The community and volunteer firefighters raised the money together by knocking on doors.

Over 1,200 calls were taken last year by firefighters, both paid and volunteer, who work from the station to guard the Myrtle Grove area. This responsiveness has given the volunteer firefighters the credibility of professionals.

The Myrtle Grove company is a family-oriented group. Assistant Fire Chief Robert Jordan is the successor and grandson of the original fire chief John "Pap" Rolfs Sr. Carl Jordan, father of Robert, served as Assistant Chief for thirty years. Everyone, who serves in the station, is known to have close relationships with one another.

On behalf of the United States Congress and the people of Myrtle Grove, I would like to recognize this group of people for the standard of excellence and bravery that they have shown in their community. I offer my sincere thanks for all that they have done for Northwest Florida and this great Nation.

TRIBUTE TO JOHN PERNA AND SAGINAW HABITAT FOR HUMANITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the outgoing director of Saginaw Habitat for Humanity, John Perna. Mr. Perna is leaving his position as director of the organization after six years in that post. He will be honored at a dinner on March 8th in Saginaw, Michigan.

John Perna's background as a student of theology at the University of Notre Dame and his work in church music ministry helped him to expand the Saginaw Habitat for Humanity. He started working for Saginaw Habitat for Humanity in 1996. At that time he was the only paid staff person. Four houses were built that year by the organization. Today, the staff includes seven full time employees, one part time employee and three Americorps members. The group anticipates completing sixteen houses in the Saginaw community this year including the Blitz 2003 when eight houses will be built in two weeks.

Saginaw Habitat for Humanity holds the principles of being an ecumenical, Christian housing ministry foremost in all its endeavors. Committed to eliminating substandard shelter and homelessness from the area, Saginaw Habitat for Humanity has partnered with several area churches and organizations to make affordable, respectable housing available to all. Reflecting on the teachings of Jesus Christ, the members, volunteers and staff of Saginaw Habitat for Humanity have put their faith into action. A cornerstone of this action is the "economics of Jesus," or volunteers responding to those in need. Together the homeowners, the construction volunteers, partner organizations like the Home Builders Association, the Michigan Prison Build Program, the Michigan National Guard and area High School building trades students contributed the sweat equity that made the dream of a new home a reality for several families.

Mr. Speaker, I ask the House of Representatives to join me in congratulating John Perna and Saginaw Habitat for Humanity for the work they have accomplished thus far. I wish Mr. Perna the best as he starts a new phase of his life, and I wish the best for the incoming director, Paul Warriner, along with the entire Saginaw Habitat for Humanity organization. May they continue in their work until every person has a decent place to live.

DOMESTIC VIOLENCE WEEK

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. OSE. Mr. Speaker, I rise today to offer my strong support for this week's campaign, "Uniting Our Voices: Speaking Together to Speak Out," against domestic violence sponsored by Lifetime Television and the National

Coalition Against Domestic Violence in coordination with the Congressional Caucus on Women's Issues.

I would like to commend these organizations for their hard work and continued efforts to raise awareness of domestic violence issues.

Domestic violence is a serious problem in this country. Nearly one third of American women (31 percent) report being physically or sexually abused by a husband or boyfriend at some point in their lives.

In my home state of California, it is reported that almost 6 percent of California's women suffer physical injuries as a result of domestic violence every year. In 2001, there were more than 52,000 domestic violence arrests, and law enforcement received 198,000 domestic violence calls.

Although domestic violence has traditionally been considered a problem primarily afflicting women, it does not just affect women and is not just a "women's issue." It affects men, women and children; it affects American families and our communities.

Each year, an estimated 3.3 million children are exposed to violence in their homes, and statistics provided by the Department of Justice show that a child's exposure to domestic violence is one of the strongest factors in transmitting violent behavior from one generation to the next, increasing the likelihood of that that child will commit a violent act, continuing the cycle of violence.

Domestic violence is a problem that Americans must confront head-on in order to stop the cycle of violence occurring within our communities and throughout our country.

I support the Violence Against Women Act, it is an important bill whose effects have been far-reaching in all aspects of helping victims of domestic violence, but there is still much more to be done. We must continue to provide funding to domestic violence programs and work to close the loopholes in existing legislation.

VAWA and this week's campaign against domestic violence are just the first of many steps that must be taken in order to end domestic violence. I encourage my colleagues to work with me to further address issues of domestic violence so that we may work towards developing solutions, both locally and nationally, to end the cycle of violence in our communities and to put a stop to the problem of domestic violence.

ON THE OCCASION OF THE 100TH ANNIVERSARY OF THE ESTABLISHMENT OF THE NATIONAL WILDLIFE REFUGE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MORAN of Virginia. Mr. Speaker, one hundred years ago this month President Teddy Roosevelt set forth a vision and created a program to preserve unique and endangered species and the critical habitat they needed to survive. Pelican Island National Wildlife Refuge was the first of what are now 540 refuges and thousands of small prairie wetlands managed by the Fish and Wildlife Service. From that first refuge, there are now more than 95 million acres of protected habitat across the United States.

Looking back over the past 100 years, much has changed. The United States has transformed from an agrarian to a predominately urban, and now suburban society. Today, many of these refuges have become islands surrounded by human development and infrastructure. The wildlife they preserve, the species they protect have truly become refugees from an outside world, dominated by human interaction and presence.

Will they survive the next 100 years? I would like to think so. As we move forward, we are developing a stronger appreciation of what we have already lost and what more we must preserve. The Mason Neck National Wildlife Refuge, which was once in my congressional district, is relatively new. It was established in response to the near extinction of America's most prized symbol of freedom and independence, the American bald eagle. The return of the bald eagles and their subsequent recovery is a great success.

I am proud of my support for the National Wildlife Refuge system and particularly proud of the collaborative efforts I and my colleagues in Congress and at the local level made to protect more than 800 acres of environmentally sensitive land at Meadowood Farms that is adjacent to Mason Neck Refuge from development.

We are still at the early stages of learning how conservation and preservation must work over the long term to ensure a species survival. Conservation measures must be practiced not just on the refuges but outside the refuges as well. Biological corridors linking protected areas and critical habitat must be expanded; environmental hazards controlled; and a better understanding of how human interaction affects wildlife must be appreciated.

As time marches forward, I am optimistic that this same ethic that led to the creation of the first refuge multiplies with each new generation to ensure that the refuges of tomorrow and the year 2103 succeed at preserving what we hold dear today.

THE U.S. STEEL INDUSTRY

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. ENGLISH. Mr. Speaker, Yesterday marked the one year anniversary of President Bush's historic stand against unfair steel imports. The President's decision to implement safeguard relief for steel products exemplifies the perfect case in which this type of trade law remedy was created for. Implementing a safeguard action on steel products was necessary, appropriate and permissible under both domestic law and our obligations within the World Trade Organization context.

The American steel industry was seriously injured as a result of repeated surges of low-priced steel imports that suppressed domestic steel prices to unsustainable 20 year lows. The impact of these import surges includes 35 American steel companies entering bankruptcy and the elimination of over 50,000 American steelworker jobs.

And yet, the bold safeguard action taken by the Bush Administration alone can not rectify the underlying practices leading to the import surges which placed the American steel industry in such peril. Make no mistake, the domestic steel industry is still very much threatened by enormous global market distortions. Massive foreign steel overcapacity continues to disrupt the global steel trading system—foreign excess raw steelmaking capacity has averaged more than twice the level of average domestic steel consumption. Foreign governments and steel manufacturers have shown little interest in implementing meaningful capacity reduction programs. And the inefficient excess foreign steel capacity will continue to impose serious pricing pressures in the U.S. market as foreign producers attempt to unload their excess capacity whenever an opportunity presents itself.

This is precisely why I applaud President Bush for having the vision to implement such a broad and ambitious agenda for correcting the distortions in the steel marketplace which have made this threat as cyclical as the seasons themselves. Further, I applaud the Administration for actively implementing its three-part steel program and engaging all steel producing nations at the negotiating table. Specifically, the President's three-part plan will: seek the near-term elimination of inefficient excess capacity in the steel industry worldwide; eliminate the underlying market-distorting subsidies that led to the current conditions in the first place; and implementing the safeguard action for three years to allow for domestic steel industry restructuring and recovery.

All parts of the President's plan must be implemented in order to place our domestic steel producers on a level playing field. The domestic steel industry is a national asset and is inseparable from our nation's economic, political and military development. But while no one disagrees that the American steel industry is an integral component of our nation's economic base and critical to our national security, only a few voices speak loudly to decry the remedy as unfair to steel consumers. Mr. Speaker, I emphatically disagree.

The tariffs implemented under section 201 resulted from a thorough investigation of the facts. The U.S. International Trade Commission (ITC) conducted the most exhaustive investigation of its type in history. Foreign steel producers employed over thirty-four law firms and participated in more than three weeks of public hearings, submitting over 85 feet of legal briefs and arguments. Foreign and domestic interest groups., including domestic steel consumers, who were opposed to any form of relief for the domestic steel industry were given every possible opportunity to participate—and they did.

After this exhaustive investigation, the ITC unanimously found that the American steel industry had been seriously injured as a result of high levels of low-priced steel imports. Following the unanimous decision of injury by the ITC, the President reviewed the Commission's findings, considered if a safeguard action would have a greater positive effect on the economy than it would negative, and then imposed a reasonable set of tariff and tariff-rate-quota measures.

Mr. Speaker, up to this point I have detailed two separate mechanisms which facilitate the specific input of domestic steel consumers. It is evident that the facts in this case provide the merit for the President's safeguard action, that all interested parties had ample opportunity to participate in the investigation, and that, as part of a broader plan to reform trade distorting practices in this sector, the safeguard action is working without serious negative consequences to downstream industries.

Since the safeguard action was implemented one year ago, there has been a modest price recovery on steel products. Keep in mind, however, that the price of steel was at unsustainable levels prior to and had absolutely no where else to go but up. In fact, even after one year with the tariffs in place hot rolled steel prices are still below the twenty year average.

Steel supplies have also been robust since the safeguard action has been in place. Contrary to predictions, there is no evidence that the safeguard measure has unduly hampered import supply. Indeed, imports of flat-rolled steel increased substantially after the imposition of section 201 measures in 2002, as compared to the same period in 2001.

One goal of the safeguard statute is to achieve a period of breathing room from unfairly traded imports which allows the affected industry time to restructure. Since the safeguard action was implemented, domestic producers have enjoyed improvements in revenues, operating income, and capacity utilization. A number of companies have returned to profitability, while other companies have shown significant improvements even though they have not yet become profitable. The industry has made significant progress toward restructuring and consolidation. While recovery and restructuring will take time, the President's plan has allowed the industry to make a real start.

The crisis in steel is not yet over. It is not enough for Congress to look back on the actions already taken by the ITC and the President. Instead, Congress must continue to take an active roll, along with the President, and look toward completing the initiatives we have already begun. The safeguard action was put in place by President Bush for three years, declining each year it is in effect. The safeguard action must not be cut short and must run its full course. Further, great strides must be taken to facilitate a comprehensive and meaningful conclusion to the OECD high-level talks on steel.

Finally, the United States must also maintain and utilize strong trade laws which encourage free and fair trade. Over the long term, strong and full enforcement of U.S. antidumping and countervailing duty laws is the only means to encourage market behavior and deter the unfair trade practices that initially led to the steel crisis. These laws are critical to the long-term survival of the domestic steel industry. It is essential that our trade laws are fully enforced and that the Administration defend the integrity of this last line of defense against unfairly traded imports in negotiations for new international trade agreements.

THE U.S. STEEL INDUSTRY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. COSTELLO. Mr. Speaker, I rise today to recognize the one-year Anniversary of President Bush's decision to impose temporary tariff relief on behalf of the domestic steel industry.

Since 1998, our domestic steel industry has been in crisis, with the worst year coming in 2001. The fundamental cause of this crisis was massive foreign overcapacity, which had caused the United States to become the dumping ground for world excess steel products. As a result of this, 35 steel companies have filed for bankruptcy, and over 50,000 American steel workers have lost their jobs.

In my home state of Illinois, the crisis has resulted in four steel companies filing for bankruptcy, including Laclede Steel and the parent company for Granite City Steel, which are in the Congressional District I represent. Approximately 5,000 steel workers have lost their jobs in Illinois alone.

In 2000, I joined my colleagues on the Congressional Steel Caucus in urging the President to implement a Section 201 investigation by the International Trade Commission to determine if our domestic markets had been harmed by illegal dumping. I also testified before the ITC to express my concerns regarding the steel crisis. The ITC ruled unanimously that the steel industry had indeed been harmed.

While the ITC's decision was welcome, it didn't guarantee relief for the domestic steel industry. That decision was left to the President to determine what type of remedy should be afforded to the industry. I was pleased that the President decided to impose the tariffs, rather than quotas, which would not have been as helpful to the industry.

Mr. Speaker, we have seen the positive results of the President's decision to impose tariffs. The steel industry is beginning to show signs of recovery. Prices are stabilizing and steel companies are returning to profitability. The industry is restructuring and consolidating. All of this has happened without hampering the availability of competitively priced steel products. In fact, steel imports were higher in 2002 than they were in 2001.

However, for the industry to continue its recovery, it is imperative that as the Section 201 tariff measures are reviewed, they remain fully enforced for at least three years as ordered by the President, and that exemptions to the tariffs are limited.

I urge my colleagues to join me in supporting our domestic steel industry by supporting the existing tariffs on foreign steel. This support will allow for the continued recovery of this nation's domestic steel industry.

INTRODUCTION OF THE INSTALLMENT SALE PROTECTION ACT OF 2003

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HERGER. Mr. Speaker, I am today introducing legislation that would restore effective use of the installment method of accounting to long-term service business owners who sell their business interests.

The installment method of accounting allows a seller to pay tax on the gain from a sale as the seller receives the sale proceeds. This tax treatment matches the time for paying the tax to when the seller has the cash with which to pay that tax.

As many Members are aware, in the 106th Congress, we acted on a recommendation from the Clinton Administration to repeal the installment method of accounting for accrual basis taxpayers. Only after such change became law did we discover that we had effectively eliminated the installment method of accounting for many small business owners and, as a result, made it much more difficult for those business owners to sell their businesses. These business owners were forced to pay the entire federal income tax due on the sale of their business in the year of sale, even though the proceeds of the sale would be received over several years. This up-front demand by the government forced business owners to borrow to pay the tax or to accept lower sale prices in order to induce buyers to pay enough up-front to cover the seller's tax. To its credit, the Congress admitted its mistake and retroactively restored the installment method to accrual basis taxpayers in the Installment Tax Correction Act of 2000 (P.L. 106–573), which was enacted on December 28, 2000.

While restoring the installment method for accrual method taxpayers in 2000 was the right thing to do, it did not go far enough in remedying the installment sale problems of business owners. Despite the clear policy decision by Congress in 2000 to permit sellers of businesses to use the installment method, some long-term business owners continue to be required to pay a significant portion of total taxes upon entering into an installment sale of their business, even though they have not yet received any significant part of the sale proceeds.

An exception to the installment sale method of accounting requires taxpayers to pay all tax attributable to depreciation recapture in the year of a sale. This depreciation recapture rule was adopted in 1984 in order to prevent taxpayers from engaging in "churning" transactions, sale/leasebacks, and other tax shelter transactions involving real estate and equipment. However, the recapture provision was expanded well beyond its original purpose in 1993 in connection with legislation relating to the treatment of intangibles. Unfortunately, Congress may not have fully appreciated the consequences to sellers of business interests.

In 1993, the Congress adopted rules to clarify the amortization of acquired intangibles (e.g., goodwill, going concern value). The

1993 change required intangibles to be written off over a 15-year period, but specified that any gain on the sale of the intangibles attributable to previous amortization deductions would be treated as depreciation recapture. As a result, tax on this gain must be paid immediately in the year of sale. Because these new rules generally applied to intangibles acquired after August, 1993, business owners are now only just beginning to feel the effects of the recapture rule. This rule is having a particularly adverse effect on service businesses, because intangibles such as goodwill and going concern value represent a major portion of the value of those businesses.

For a simplified example, take the case of a business owner who purchased an interest in an architectural firm for $100 in 1993, substantially all of the value of which was attributable to going concern value. The owner, who has actively participated in the business, retires in 2009 and sells the business for $200, payable in ten equal annual installments. This sale would produce $100 of capital gain (at an assumed tax rate of 20%) and $100 of ordinary income (at an assumed tax rate of 33%), generating a total tax of $53. Because of the intangibles recapture rule, the seller will have to pay $35, or 66% of the total tax, in the first year, despite having received only 10% of the sale proceeds in that year. This result is clearly inequitable and defeats the purpose of allowing business owners to use the installment method of reporting gain from the sale of the business. Moreover, the result is especially harsh in cases where a business owner is retiring and selling the business.

My bill would allow a long-term active participant in a service business to report intangibles recapture gain on the installment basis along with other gain from the sale. The legislation would not change the character of any gain. As such, intangibles recapture gain would continue to be ordinary income to reflect the fact that it previously gave rise to an ordinary deduction. The bill is limited to long-term participants because they are the individuals who would otherwise be likely to suffer the greatest hardship under the recapture rule and who are most likely to be relying on installment sale payments to supplement their retirement income.

Specifically, my bill would allow an individual who has been an active participant for five of the prior seven years in a business in which capital is not a material income-producing factor (i.e., a service business) to report on the installment basis any intangibles recapture income resulting from the disposition of an interest in the business.

Because this proposal does not apply to depreciation recapture from tangible property, the proposal does not conflict with the original goals of Congress in adopting the depreciation recapture exception to the installment sale rules. Specifically, this is not a change that would permit tax sheltering through any sort of "churning" transactions,

While this proposal does not address all of the potential cases in which the installment sale method is unavailable upon the sale of a business, it does go a long way towards addressing one of the most egregious situations. I urge my colleagues to support this worthy legislation.

INTRODUCTION OF THE CLASS ACTION FAIRNESS ACT OF 2003

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce today, along with my good friends from Virginia, Mr. BOUCHER and Mr. MORAN, and the Chairman of the Judiciary Committee, Mr. SENSENBRENNER, the Class Action Fairness Act of 2003.

This much-needed bipartisan legislation corrects a serious flaw in our federal jurisdiction statutes. At present, those statutes forbid our federal courts from hearing most interstate class actions—the lawsuits that involve more money and touch more Americans than virtually any other type of litigation in our legal system.

The class action device is a necessary and important part of our legal system. It promotes efficiency by allowing plaintiffs with similar claims to adjudicate their cases in one proceeding. It also allows claims to be heard in cases where there are small harms to a large number of people, which would otherwise go unaddressed because the cost to the individuals suing could far exceed the benefit to the individual. However, class actions are increasingly being used in ways that do not promote the interests they were intended to serve.

In recent years, state courts have been flooded with class actions. As a result of the adoption of different class action certification standards in the various states, the same class might be certifiable in one state and not another, or certifiable in state court but not in federal court. This creates the potential for abuse of the class action device, particularly when the case involves parties from multiple states or requires the application of the laws of many states.

For example, some state courts routinely certify classes before the defendant is even served with a complaint and given a chance to defend itself. Other state courts employ very lax class certification criteria, rendering virtually any controversy subject to class action treatment. There are instances where a state court, in order to certify a class, has determined that the law of that state applies to all claims, including those of purported class members who live in other jurisdictions. This has the effect of making the law of that state applicable nationwide.

The existence of state courts that broadly apply class certification rules encourages plaintiffs to forum shop for the court that is most likely to certify a purported class. In addition to forum shopping, parties frequently exploit major loopholes in federal jurisdiction statutes to block the removal of class actions that belong in federal court. For example, plaintiffs' counsel may name parties that are not really relevant to the class claims in an effort to destroy diversity. In other cases, counsel may waive federal law claims or shave the amount of damages claimed to ensure that the action will remain in state court.

Another problem created by the ability of state courts to certify class actions which adjudicate the rights of citizens of many states is that often times more than one case involving the same class is certified at the same time. In the federal court system, those cases involving common questions of fact may be transferred to one district for coordinated or consolidated pretrial proceedings.

When these class actions are pending in state courts, however, there is no corresponding mechanism for consolidating the competing suits. Instead, a settlement or judgment in any of the cases makes the other class actions moot. This creates an incentive for each class counsel to obtain a quick settlement of the case, and an opportunity for the defendant to play the various class counsels against each other and drive the settlement value down. The loser in this system is the class member whose claim is extinguished by the settlement, at the expense of counsel seeking to be the one entitled to recovery of fees.

Our bill is designed to prevent these abuses by allowing large interstate class action cases to be heard in federal court. It would expand the statutory diversity jurisdiction of the federal courts to allow class action cases involving minimal diversity—that is, when any plaintiff and any defendant are citizens of different states—to be brought in or removed to federal court.

Article III of the Constitution empowers Congress to establish federal jurisdiction over diversity cases—cases "between citizens of different States." The grant of federal diversity jurisdiction was premised on concerns that state courts might discriminate against out of state defendants. In a class action, only the citizenship of the named plaintiffs is considered for determining diversity, which means that federal diversity jurisdiction will not exist if the named plaintiff is a citizen of the same state as the defendant, regardless of the citizenship of the rest of the class. Congress also imposes a monetary threshold—now $75,000—for federal diversity claims. However, the amount in controversy requirement is satisfied in a class action only if all of the class members are seeking damages in excess of the statutory minimum.

These jurisdictional statutes were originally enacted years ago, well before the modern class action arose, and they now lead to perverse results. For example, under current law, a citizen of one state may bring in federal court a simple $75,001 slip-and-fall claim against a party from another state. But if a class of 25 million product owners living in all 50 states brings claims collectively worth $15 billion against the manufacturer, the lawsuit usually must be heard in state court.

This result is certainly not what the framers had in mind when they established federal diversity jurisdiction. Our bill offers a solution by making it easier for plaintiff class members and defendants to remove class actions to federal court, where cases involving multiple state laws are more appropriately heard. Under our bill, if a removed class action is found not to meet the requirements for proceeding on a class basis, the federal court would dismiss the action without prejudice and the action could be refiled in state court.

In addition, the bill provides a number of new protections for plaintiff class members including a requirement that notices sent to class members be written in "plain English" and provide essential information that is easily understood. Furthermore, the bill provides judicial scrutiny for settlements that provide class members only coupons as relief for their injuries, and bars approval of settlements in which class members suffer a net loss. The bill also includes provisions that protect consumers from being disadvantaged by living far away from the courthouse. These additional consumer protections will ensure that class action lawsuits benefit the consumers they are intended to compensate.

This legislation does not limit the ability of anyone to file a class action lawsuit. It does not change anybody's rights to recovery. Our bill specifically provides that it will not alter the substantive law governing any claims as to which jurisdiction is conferred. Our legislation merely closes the loophole, allowing federal courts to hear big lawsuits involving truly interstate issues, while ensuring that purely local controversies remain in state courts. This is exactly what the framers of the Constitution had in mind when they established federal diversity jurisdiction.

I urge each of my colleagues to support this very important bipartisan legislation.

MEDICAL LIABILITY INSURANCE CRISIS RESPONSE ACT OF 2003

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. SANDLIN. Mr. Speaker, I am pleased today to introduce legislation that actually addresses the skyrocketing medical malpractice insurance premiums of such concern to physicians and other health care providers all across our Nation.

The "Medical Liability Insurance Crisis Response Act of 2003" takes significant steps directly to address the insurance premium crisis that plagues what is otherwise the finest health care system in the world.

First, the bill proposes a partial repeal of the McCarran-Ferguson Act to limit the antitrust exemption currently covering the medical malpractice insurance industry.

Second, the bill addresses the current economic strain faced by many health care providers by requiring the prompt payment of undisputed claims by health insurance carriers and penalizing those carriers who fail to comply.

Third, the bill authorizes the creation of a National Nurse Service Corps Scholarship Program to address our health care system's dire nursing shortage. It takes steps to improve recruitment, retention and education of our Nation's nurses.

Fourth, the bill proposes medical malpractice liability reform by requiring mandatory mediation of all malpractice claims before trial, by taking steps to prevent the filing of frivolous medical malpractice claims through the imposition of sanctions and other measures, and by requiring that plaintiffs in medical malpractice litigation to file an affidavit of merit prior to the commencement of any litigation.

Fifth, the bill directly addresses the medical malpractice insurance problems confronting our Nation's health care providers. It creates an Advisory Commission on Medical Malpractice to conduct an examination of current problems and, within one year, to provide to the Congress specific legislative and regulatory recommendations to solve the problem. It further freezes medical malpractice insurance rates during the period of the Commission's study. The bill provides significant disincentives to medical malpractice insurance carriers to address the current problems of industry exodus and renewability of coverage. It requires medical malpractice insurance carriers to offer coverage to any physician with no medical malpractice claims during the previous three years and imposes significant disclosure obligations on carriers to allow more informed monitoring of the industry with the goal of averting similar crises in the future. In addition, it limits the ability of carriers to raise malpractice insurance premiums without a clear demonstration of business necessity.

Sixth, the bill expresses the sense of Congress that states should consider additional and alternative methods to address medical malpractice insurance rates.

Finally, the bill provides tax incentives to physicians who practice in high-risk specialties or medically underserved areas to encourage them to maintain their current practices and provide improved access to our Nation's health care system.

THE COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM ACT OF 2003

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MICHAUD. Mr. Speaker, today, along with my good friend TOM ALLEN, I am introducing the Commercial Truck Highway Safety Demonstration Program Act of 2003. This bill would allow Maine to increase the weight limits for trucks on interstate highways, by granting a three-year waiver of federal rules. It mandates a study process that will help demonstrate the positive safety effects of these changes, and permit the waiver to be extended pending these safety determinations.

This bill is important both for public safety and economic reasons. The administration of the current 80,000 pound federal weight limit law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles, traveling into Maine from neighboring States and Canada, to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads. Permitting heavy commercial vehicles to travel on Interstate System highways in Maine would enhance public safety by reducing the number of heavy vehicles that use town and city streets, and as a result, the number of dangerous interactions between those heavy vehicles and other vehicles such as school buses and private cars.

It would also reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

Finally, this bill would ensure that Maine can remain competitive in the transportation and manufacturing sectors, and that our neighbors do not pass us by in development. This change is fair, and will promote parity in transportation throughout New England.

I urge my colleagues to support this bill, which will enhance safety, lower maintenance costs, and promote economic development.

HONORING RIDGEWOOD BAPTIST CHURCH IN JOLIET, ILLINOIS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. WELLER. Mr. Speaker, I rise today to honor the Ridgewood Baptist Church in Joliet, Illinois. The Ridgewood Baptist Church is celebrating its 100th anniversary. on March 9, 2003.

In 1888, Mr. William Rix, Mr. Hartwell, and Reverend J. W. Conley started Sunday School meetings that were held in various homes. In 1891, an unsightly building formerly used as a pest house was cleaned and renovated. This is where the first Sunday School session was held with George L. Vance acting as Superintendent. In 1895, property was purchased on the southeast corner of Brown and Leach Avenues at a cost of $400. A Chapel was built and dedicated in November 1896, at a total cost of slightly more than $2500 and at that time was nearly debt-free. On March 8, 1903, 32 people met in the chapel and organized themselves into what has since been known as the Ridgewood Baptist Church. During that March, a church covenant was adopted, a baptistry was built and the Plano Baptist Church donated their old church pews. Out of this humble beginning, Ridgewood Baptist Church emerged.

The Church has grown in many ways since its humble beginnings. Today, around 300 people attend services at Ridgewood Baptist Church. In 1974, the Church opened its doors to their new school, Ridgewood Baptist Academy. Reverend Albert Baker is the current pastor of the Church. Reverend Baker's vision for the church is to have more land for the sports programs at the school. He also desires spiritual growth for his people and a desire to share their worship with others.

Mr. Speaker, I urge this body to identify and recognize other groups in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

HONORING ROY T. YANASE, D.D.S.

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise today to recognize my friend and true legend, Dr. Roy Yanase, a nationally and internationally prominent prosthodontist. I have known Dr. Yanase for more than a decade and am honored to pay tribute to his professional accomplishments and his dynamic mentoring of hundreds of dental students throughout Southern California.

Dr. Yanase's energy is boundless, his smile matchless, and his compassion far-reaching. He graduated from the University of Southern California in 1969 and returned there for advanced training in a residency to obtain his Board Certification as a Prosthodontist in 1981. Dr. Yanase has been on the faculty of the University of Southern California School of Dentistry since 1969 and presently serves as a Clinical Professor of Continuing Education and Advanced Prosthodontic Education.

Over the past 25 years, Dr. Yanase has lectured internationally and throughout the United States. His writings on the specialty of prosthodonties have appeared in several publications as well as three major textbooks.

Dr. Yanase has held responsible positions in several national and regional organizations including serving as Founder, President and current Treasurer of the Osseointegration Study Club of Southern California; member of the Board of the American College of Prosthodontists and President of its California Section; Prosthodontic consultant for the California State Board of Dental Examiners; President of the Southern California Japanese-American Dental Society; and President of the Pacific Coast Society of Prosthodontists.

Dr. Yanase has been elected as a Fellow of the American College of Dentists, the International College of Dentists, the American College of Prosthodontists, the International College of Prosthodontists, the Pierre Fauchard Academy and the Academy of Dentistry International.

Besides his Fellowships, Dr. Yanase is an active member of the Pacific Coast Society of Prosthodontists, American Academy of Geriatric Dentistry, the Newport Harbor Academy of Dentistry, Omicron Kappa Upsilon and the Japanese American Dental Society.

Dr. Yanase and his wife Regina have been married for 33 years and live in Torrance.

Mr. Speaker, it is with tremendous pride that I recognize the exceptional life of Dr. Roy Yanase. I congratulate him for his many accomplishments and wish him and his family the best of luck in years to come.

JAPANESE AMERICANS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HONDA. Mr. Speaker, one of the most concise rebuttals that I have read to the notion that Japanese Americans were placed in the camps because they either posed a national security threat or for their own safety comes from a law professor from the University of North Carolina, Chapel Hill in a letter dated February 7, 2003. I would like to submit this letter at this point in the Record.

THE UNIVERSITY OF NORTH CAROLINA AT
CHAPEL HILL
Chapel Hill, North Carolina, February 7, 2003.
Hon. HOWARD COBLE,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE COBLE: I am a professor of law at the University of North Carolina School of Law in Chapel Hill. My areas of expertise include constitutional law and especially the story of the internment of Japanese Americans during World War II. My book on the subject, Free to Die for their Country: The Story of the Japanese American Draft Resisters in World War II (Univ. of Chicago Press, 2001), was named one of the Washington Post's Top Nonfiction Titles for 2001.

I have followed with interest and concern the story about your comments on the radio on Tuesday morning to the effect that you support the internment of Japanese Americans during World War II, and that the Roosevelt administration interned Japanese Americans to protect them.

I note that you were quoted in the High Point Enterprise as saying the following: "I still stand by what I said . . . that, in no small part, it (internment) was done to protect the Japanese-Americans themselves." The article further states that you said that if it were proven to you that protecting Japanese Americans was not one of FDR's motivations, you will apologize.

Here is the proof.

Just after the Pearl Harbor attack, FDR, asked Navy Secretary Frank Knox to investigate the possibility, that Fifth Column work by people of Japanese ancestry in Hawaii had contributed to the success of the Japanese sneak attack. Knox reported his conclusions to FDR by December 15, and on that day, said to reporters that he thought "the most effective Fifth Column work of the entire war was done in Hawaii with the possible exception of Norway." J. Edgar Hoover immediately registered his strong disagreement with Knox's conclusions, and it turns out that Knox was wrong and Hoover was right. But it was Knox's views that were made public, and they triggered hysteria on the West Coast.

Well before the war, FDR, anticipating a possible war with Japan, had commissioned his own secret intelligence investigation of Japanese aliens and their loyalties. Leading this effort were John Franklin Carter (an author and columnist) and Curtis Munson (a prominent Republican businessman). And the Office of Naval Intelligence ("ONI") and the FBI were for quite some time before Pearl Harbor, gathering names of Japanese aliens who might need to be apprehended in the event of war. ONI and the FBI actually compiled a list of such aliens which came to be called the "ABC" list—so named because the list presented three categories (Category A, Category B, and Category C) of potentially dangerous aliens. (In the days after Pearl Harbor, all of the aliens in these three categories were in fact arrested—a total of some 1500.)

Carter and Munson's investigations had led them to conclude that the overwhelming majority of Japanese aliens and an even greater percentage of American citizens of Japanese ancestry were in fact loyal to the United States, and that of those whose loyalty was even questionable, few could be expected even to consider actually doing something to support Japan or undermine the United States. Carter and Munson grew alarmed by Knox's report and the anti-Japanese outcry that followed it.

Carter and Munson quickly put together a plan for FDR's consideration that was designed to bolster the Japanese American communities of Hawaii and the West Coast. Their plan called for a number of things: FDR was urged to go on record as believing in the loyalty of American citizens of Japanese ancestry (the "Nisei"). The Nisei should be invited to volunteer (and then should be accepted) for patriotic service in the Red Cross and civilian defense. The Nisei should be encouraged to take control of their alien parents' property. Once investigated, the Nisei should be allowed to take jobs in defense plants. Carter and Munson also urged the government to work closely with the Japanese American Citizens League, which had indicated its willingness to serve as a loyal liaison with the Japanese American community.

The goals of the Carter-Munson plan were many, but they included the discouragement of vigilante violence against Japanese Americans and Japanese aliens. The hope was that if FDR came out quickly and loudly in support of people of Japanese ancestry, and involved them quickly in activities that would permit their loyalty and patriotism to shine through, others would not see them as a threat.

The Carter-Munson plan was submitted to Roosevelt before Christmas. By mid-January, it was completely forgotten—suspended by other pressures that I'll detail in a moment. And here's the important point: the Carter-Munson plan was the only plan for dealing with Japanese Americans that took their security into account in any way. It never got off the ground.

Why didn't it get off the ground? For four main reasons.

First, by late January 1942, General John DeWitt (the commanding officer of the West Coast Defense Command) and his advisor Karl Bendetsen had become persuaded that mass action to remove all people of Japanese ancestry from the West Coast was necessary for military reasons. Their viewpoint was fed largely by outrageous rumors of Japanese American subversion, none of which ever panned out.

Second, by mid-January, a rabidly racist press along the Coast had begun campaigning for the eviction of all "Japs" from the area—not for their protection, but because they could not be trusted.

Third, white farmers in California began lobbying ferociously for the removal of all people of Japanese ancestry—not to protect them, and not even really for national security reasons, but to drive the very successful Japanese farming industry out of business.

And fourth, their lobbying, and the voices of the editorialists, succeeded in pushing most of the congressional delegations of the West Coast states to demand mass exclusion.

As Professor Greg Robinson says in his authoritative treatment of the subject, "By Order of the President: FDR, and the Internment of Japanese Americans" (Harvard U. Press, 2001), "the binding factor among these disparate social, economic, and military forces was racial animosity toward Japanese Americans." (p.90)

Through late January and early February, Attorney General Francis Biddle, and his staff fought with the military to prevent mass action against Japanese Americans. But it was too late. On February 11, 1942, Secretary of War Henry Stimson sent FDR a memo asking whether he'd be willing to support "mov[ing] Japanese citizens as well as aliens from restricted areas." Getting no response, Stimson phoned FDR on February 15 to ask for a meeting on the memo. FDR said he was too busy for a meeting, but in "very vigourous" tones told Stimson that the military should do whatever they thought best. FDR predicted that "there would probably be some repercussions but it has got to be dictated by military necessity."

On February 19, 1942, FDR signed Executive Order 9066, which gave the military cart blanche to do what they wished with Japanese, aliens and American citizens of Japanese ancestry along the West Coast.

There is the proof. A concern for protecting Japanese Americans had nothing whatsoever to do with the decision to force Japanese Americans behind barbed wire. Nothing.

(My sources for this account include Greg Robinson's book, Peter Irons's Justice at War, and Personal Justice Denied, the report of Congress's Commission on the Wartime Internment and Relocation of Civilians. This, you'll recall, was the fact-finding Commission that Congress created in the early 1980s to investigate the internment. Their report, condemning the internment, led to the passage of the Civil Liberties Act of 1988, signed into law by President Reagan, which apologized to surviving internees for the internment, and authorized the payment to each of them of a token $20,000 redress payment. You will also recall that you spoke and voted against this bill.

I hope that you will take this opportunity to admit the mistake in your comments of Tuesday morning and apologize for them.

Thank you for considering this.

Sincerely,

ERIC L. MULLER,
Professor of Law.

INTRODUCTION OF THE AMERICA'S WILDERNESS PROTECTION ACT

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. OTTER. Mr. Speaker, I rise before the House today to introduce the America's Wilderness Protection Act—a bill to apply urgency and accountability to the process of evaluating potential wilderness by setting firm deadlines.

There are 666 wilderness study areas across the nation that were designated more than 10 years ago, totaling nearly 23 million acres in 18 states. In Idaho alone there are 86 wilderness study areas totaling about 3.1 million acres.

Sixty-three of the 67 Idaho parcels managed by the Bureau of Land Management have been locked up since the early 1980s—even though 40 of them have been found unsuitable for wilderness protection. The other four have been withdrawn from multiple-use since 1976. Most of the 19 Forest Service wilderness study areas have been in place since the mid-1980s and two have held that status since 1972.

That means Congress has dragged its feet and obstructionists have gladly accepted the do-nothing status quo on these lands through the administrations of seven presidents and during the entire lifetime of many working people in Idaho.

The problem stems from the failure of the Wilderness Act of 1964 and the Federal Land Policy and Management Act of 1976, which created the wilderness study area process, to provide for release of areas eventually deemed unsuitable for wilderness designation.

America's Wilderness Protection Act addresses that intractable situation by establishing a timetable for completion of wilderness studies. Lands designated as study areas would be released from that status on the earlier of: (1) 10 years after the legislation is enacted; (2) the date the area is designated wilderness by Congress, or (3) the date that the secretary of Interior or Agriculture determines the area is unsuitable for wilderness designation.

In the past, some have referred to acreage allowed to languish as wilderness study areas for decades as "de facto wilderness." This term is too kind. Designated wilderness has the advantage under law of being actively managed to retain its values. Wilderness study areas, on the other hand, are virtually untouchable. These lands are left to overgrowth, disease and infestation by noxious weeds and other invasive species. They become ripe for catastrophic wildfires that threaten not only the acreage being "studied" for preservation but nearby private and public land as well.

Critics contend this bill would eliminate any incentive for ranchers and other multiple-use advocates to become engaged in earnest discussions of possible wilderness designations. The argument goes that they would only have to wait out the process and protection ultimately would be denied any parcel they choose. That couldn't be further from the truth.

There are no more avid outdoors enthusiasts and conservationists than those who make their living from the land. They have a deep understanding of the cycles of life and the value of protecting and cherishing the natural world. They appreciate the importance of stewardship; it's a principle they embody every day.

While the land itself is timeless, the scenic, cultural, habitat and aesthetic values of any particular tract—if left to the ravages of time—are decidedly limited. Just as vulnerable are the economic futures of the many families whose livelihoods have been stripped away by the loss of access to so much of what now can only laughingly be called 'public' land in the West.

This legislation promotes resolution and collaboration. After a generation of paralyzing indecision and refusal to accept responsibility, the 108th Congress has an historic opportunity—if it can muster the wisdom and courage to embrace it.

CONGRATULATIONS TO CONGRESSMAN VERNON J. EHLERS

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOEKSTRA. Mr. Speaker, I rise today to congratulate my colleague, Congressman VERNON J. EHLERS of Grand Rapids, MI, on receiving the prestigious 2002 Philip Hauge Abelson Prize.

The Abelson Prize is awarded annually to honor a public servant for exceptional contributions to advancing science, or a scientist for a distinguished career of scientific achievement. It is granted by the American Association for the Advancement of Science (AAAS), the world's largest general scientific organization and publisher of the journal, "Science."

This award is much deserved. Congressman EHLERS received his Ph.D. in nuclear physics from the University of California at Berkeley in 1960. In 1966 he began teaching at Calvin College in Grand Rapids, MI and later became chairman of the college's physics department. Following a distinguished career in teaching, scientific research and community service, Congressman EHLERS joined this body in 1994, becoming the nation's first research physicist elected to Congress. He serves the 3rd Congressional District of Michigan, which directly borders the district I represent.

While serving, Congressman EHLERS has employed his scientific expertise to the benefit of our country. In 1997 the House Speaker selected him to review and restate the nation's science policy. The study, "Unlocking Our Future: Toward a New National Science Policy," was the first full policy statement on federal science and technology by the U.S. Congress. In addition, he currently serves as Chairman of the Subcommittee on Environment, Technology and Standards for the House Science Committee.

Mr. Speaker, Congressman EHLERS brings to this body both a unique scientific background and a strong commitment to use his knowledge and abilities for the public good. Please allow me to congratulate him once again on his most recent honor and thank him for his exemplary public service.

THE PRESIDENT STILL HAS NOT MADE THE CASE THAT WAR AGAINST IRAQ IS NECESSARY AT THIS TIME

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to express my grave concern over the Bush Administration's approach toward Iraq.

I believe that this Administration is now, and has always been, determined to go to war and that it has never taken all the steps available to avert a war while also achieving its goals toward that country.

This Administration's approach ill serves the American people and is dangerous for America's position in the world.

Iraqi leader Saddam Hussein should adhere to the demands of the United Nations Security Council to destroy any weapons of mass destruction, to refrain from further development of such weapons, and to cease and desist from hostilities towards his own people and his neighbors. He has not yet done so.

But the fact is that the United States has never given the United Nations process its full respect. The President's national security advisors have said they have intelligence to prove that Iraq is failing to comply with the United

Nations' resolutions and is deceiving the weapons inspectors, but it has not fully divulged that intelligence to the inspectors.

The President has said that the United Nations must vote to use force because the weapons inspections are not working. And yet he has never advocated for a robust weapons inspection regime. Even though chief weapons inspector Hans Blix is reporting that progress is being made, albeit slowly, the fact is that we could have made even more progress with a tripling of the inspections team and an early insistence on the use of U2 spy plane overflights.

The President has an obligation to take every step possible short of war before determining whether or not war is necessary. I do not believe that the conclusion today can be reached that war is necessary.

I believe that more time can safely be given to weapons inspections without risking a unilateral attack by Iraq against the United States or our allies.

I do not believe that the facts indicate that Iraq poses a threat to the security of the United States.

But perhaps just as important, I believe that the weapons inspection regime is keeping Saddam Hussein occupied and that an even more robust weapons inspection regime would cripple any offensive capability he might contemplate.

Mr. Speaker, America's standing in the world is jeopardized by the President's position on Iraq.

President Bush has stood by while North Korea becomes a nuclear nation, but he has badgered and bullied nearly every nation in the world to support his position against Iraq, whose military capabilities are far more limited than those of North Korea. The world community has rarely received such bellicose and belligerent treatment as they have from the United States on the issue of Iraq.

The President weakens the international alliance against terrorism and other world threats as he bullies nations to support his march to war.

These nations are not admirers of Saddam Hussein, but they are opponents of war when war has not yet been proven to be necessary.

And the American people are not admirers of Saddam Hussein. But they too strongly believe that war must be the last resort and only when absolutely necessary and only with international support. This Administration chose war as its first response and has not changed course since.

Mr. Speaker, I would hope that the Administration would strongly consider world opinion that advocates more time for weapons inspections. I would hope that this Administration would strongly consider the harm to America's standing in the world as it deals with the members of the United Nations. And I would hope that this Administration would remember that America is a peaceful nation, it is a just nation, and a strong nation. America is not, and should never become, a nation that is proud to go to war.

Should it be determined that war indeed is necessary, I have every confidence that the armed forces of this country will perform their responsibility with strength and character. I have always admired the men and women who choose to serve in the armed forces. I admire them for their hard work, their sense of duty to our country, and their sense of responsibility. But it is because of that very character and sense of duty to our nation that our government must exhaust every alternative to war before placing those men and women in harm's way.

The measure of the strength of a nation is its ability to show appropriate restraint just as much as it is its ability to protect itself and its allies. Mr. Speaker, millions of Americans and people throughout the world support allowing more time for weapons inspections. I believe they are right and I believe our nation will be well served to allow more time for a rigorous inspections program.

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE DAY

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOLDEN. Mr. Speaker, I rise today to speak out against domestic violence. Domestic violence is a harsh reality facing our country that we as a Congress must stand up and fight against.

In my seven years as a County Sheriff, I encountered hundreds of domestic violence cases. This is a societal problem that knows no income barriers, no racial barriers, and no geographic barriers.

Within our society, domestic violence causes irreparable damage to the family. Domestic violence is a main cause for child neglect and severely distorts a child's perspective on the relationship between mother and father.

The sight of a victimized mother is a sight no child in this country should ever see. Children who are raised in homes where domestic violence continues live in fear for their own lives, afraid to speak out so they won't become the victim.

Now more than ever, it is time to stand up against these domestic bullies. We must lead the way as a Congress to end this disgrace and provide a safer way of life for all of America's families.

SUPPORT FOR NATIONAL AQUATIC INVASIVE SPECIES ACT AND AQUATIC INVASIVE SPECIES RESEARCH ACT

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McHUGH. Mr. Speaker, I wish to express my support for the National Aquatic Invasive Species Act and the Aquatic Invasive Species Research Act that was reintroduced March 5, 2003. I want to first thank my colleagues, Mr. EHLERS and Mr. GILCHREST, for all of the hard work, initiative, and time that they and their staffs have invested in this much needed legislation.

My district in Upstate New York is impacted, environmentally, economically, and socially, by the health and future viability of the Great Lakes. I know that New York State is only one of many states that directly feel the negative effects of invasive species. Aquatic invasive species are destroying the environment of the Great Lakes, damaging the Great Lakes fisheries, and costing taxpayers an estimated $138 billion annually. It is important that we set interim standards for balanced water treatment systems so that we can control and see a significant decline in the increasing threat posed by aquatic invasive species to our aquatic ecosystems and natural resources.

These two pieces of comprehensive legislation would reduce the introduction of aquatic invasive species from ships and from other pathways through a variety of standards, research, and management programs. They complement one another in a variety of meaningful ways and I am hopeful that this body will be committed to moving these important pieces of legislation through the legislative process so that we, as a Congress, can properly address this problem.

Aquatic invasive species is one of many reasons I have long stood in opposition to the Great Lakes Navigation System Review study that was recently funded in the Fiscal Year 2003 Energy and Water Development Appropriations bill. If expansion and dredging of the St. Lawrence Seaway were to occur, we would inevitably see the introduction of and exponential increase of aquatic invasive species. The reasons I voice my support today of the National Aquatic Invasive Species Act and the Aquatic Invasive Species Research are consistent and unwavering with the stand I have taken long before today on this incredibly important issue. I am committed to the discovery of methods, and to fully funding those methods, that would work to decrease, and I hope, one day, eradicate, invasive species of all kinds in the waters of our region.

GLOBAL HIV/AIDS PANDEMIC

SPEECH OF

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. CUMMINGS. Mr. Speaker, I would like to revise and extend my remarks to include a letter I referenced during my special order statement yesterday on the issue of the President's Emergency Plan for AIDS Relief, announced during his State of the Union address this past January. This is the letter that I and other members of the CBC, AIDS activist groups and the faith-based community wrote to President Bush on December 18, 2002 asking him to announce a presidential initiative to address this vexing problem.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 18, 2002.

President GEORGE W. BUSH,
1600 Pennsylvania Avenue,
Washington, DC.

DEAR PRESIDENT BUSH: As members of the Congressional Black Caucus, we are writing to draw your attention to the growing spread of HIV/AIDS throughout the developing world. It would be impossible to overstate the devastation caused to date by the global AIDS pandemic, or the urgency of the need for a greater response from the United States and the global community. With 42 million people currently living with HIV/AIDS—29.4 million of them in Sub-Saharan Africa—14 million children already orphaned by the disease, and 70 million more people expected to die by 2020, we must do more now. We must respond on an appropriate scale to address the greatest plague in recorded history.

The United States, as the world's wealthiest nation, must take greater action by contributing its fair share, and in doing so we can help galvanize the global response that we so desperately need. As you prepare to travel to Africa in January, and as you prepare your budget for fiscal year 2004, you have a remarkable opportunity to demonstrate United States leadership against AIDS at a moment when the world will be watching. We urge you to launch a major new U.S. initiative to fight AIDS, as well as tuberculosis and malaria. TB is the leading killer of people with HIV, claiming 2 million lives each year despite the existence of an effective and inexpensive cure, while malaria kills nearly one million people each year, most of them young children in Africa.

An expanded U.S. Initiative to fight AIDS must:

Provide at least $2.5 billion for implementation of global AIDS programs in 2004, as well as additional funds to combat TB and malaria. At least 50 percent of this should go to the Global Fund to Fight AIDS, TB and Malaria.

Prioritize treatment, as well as prevention and care, for those affected—including an expanded mother-to-child transmission initiative that would detect and treat entire families, and including funding and personnel as needed to implement the WHO call to treat three million people with HIV by 2005.

Promote developing countries access to sustainable supplies of affordable medicines for AIDS and other diseases such as opportunistic infections in accordance with the Doha Ministerial Declaration on the TRIPS Agreement and Public Health and oppose any attempts to limit the scope of the Declaration.

Expand programs for children orphaned by AIDS.

Seek debt cancellation for impoverished countries, so they can invest in poverty reduction and AIDS programs.

Most importantly, a U.S. initiative should consist of new monies and policies that complement existing U.S.-supported programs and are additional to the Millennium Challenge Account (MCA). The MCA, however, also must help meet the Millennium Development Goal of halting and reversing the spread of these diseases.

We cannot win the war against AIDS without greater financial resources and a clear plan of action for the United States. Programs around the world are ready to scale up prevention, treatment, and care to save lies now, and to develop the systems needed to save tens of millions more in the future. Each day we delay in mounting a comprehensive—and compassionate—response to the global AIDS and TB pandemics, the cost in human, social, and economic terms grows. You will have our strong support and the support of the American people for a bold new initiative to save families and communities affected by the AIDS crisis, to extend the parent-child relationship, and to secure the future of young people.

Sincerely,

Barbara Lee, Donna Christian-Christensen, Edolphus Towns, Charles B. Rangel, Julia Carson, Juanita Millender-McDonald.

Maxine Waters, Danny K. Davis, Robert Scott, Elijah E. Cummings, William "Lacy" Clay, Stephanie Tubbs Jones.

Eddie Bernice Johnson, Bobby L. Rush, Carolyn C. Kilpatrick, Diane E. Watson, Gregory W. Meeks, Major R. Owens.

Harold Ford, Jr., John Conyers, Jr., Alcee L. Hastings, Sheila Jackson-Lee, Eleanor Holmes Norton, Donald M. Payne, Sanford D. Bishop, Jr., Bennie G. Thompson, Melvin L. Watt, Corrine Brown, Chaka Fattah, Jesse Jackson, Jr., James Clyburn, Albert R. Wynn.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. SMITH of New Jersey. Mr. Speaker, a decade ago we began witnesses to genocide in Europe. By stirring up nationalism, harassing opposition and intimidating the population as a whole to go along with his plans, the regime of Slobodan Milosevic led Serbia into a war of aggression against its neighbors within the former Yugoslavia. Millions were displaced, hundreds of thousands killed and tens of thousands raped or tortured, particularly in Bosnia-Herzegovina. In response, largely at the urging of the U.S. Congress, sanctions were put into place and, ultimately, military intervention was employed to stop Milosevic.

In 2000, the voters of Serbia removed Milosevic from power. In place of his regime, an opposition consisting of genuine reformers and true democrats along with a fair share of Serbian nationalists took control of government. Since that time, the ruling opposition fell into polarized camps, making recovery and reform difficult. This situation also created a challenge in U.S. foreign policy. On the one hand, the United States wants to encourage Belgrade and facilitate reform. On the other, the United States must ensure that the legacy of Slobodan Milosevic has been fully shed, a prerequisite for recovery throughout southeastern Europe.

The Miscellaneous Tariff Bill, H.R. 1047, considered yesterday contains a provision granting the President the authority to restore normalized trade relations for Serbia and Montenegro. I support this provision; normalized trade relations should be restored. Whatever problems might remain, the fact is that there has been progress since Milosevic was removed from power, and Serbia and Montenegro should not be placed on the same list of states not granted normalized trade relations as Cuba, North Korea or Laos. Other countries with far worse records, including Belarus and the Central Asian states, at least receive the benefits of normalized trade relations on a conditional basis which Serbia and Montenegro is denied.

By fixing this, I hope Belgrade recognizes that we want reforms to succeed and recovery and reform take place.

Belgrade also needs to know, Mr. Speaker, that restoring NTR does not mean satisfaction with Belgrade's performance to date. While there has been progress, that progress has been too slow, and some issues remain unresolved. Chief among these issues is Belgrade continued resistance to full cooperation with the International Criminal Tribunal for the Former Yugoslavia, located in The Hague. It is especially outrageous that persons responsible for the crimes committed at Vukovar and Srebrenica continue to be at large and perhaps even protected by Yugoslav or Serbian authorities.

While trade relations may not be conditioned on further progress, U.S. bilateral assistance to Serbia is. If there is not a major improvement in Belgrade's cooperation with The Hague by June 15, assistance to Serbia will stop. The Administration must certify progress before assistance continues past that date, and the State Department has made clear that a precondition for certification is the apprehension and transfer of Ratko Mladic, indicted for the massacre of thousands at Srebrenica, and Veselin Sljivancanin and Miroslav Radic, indicted for their role in the massacre of about 200 individuals taken from a hospital in Vukovar, Croatia.

As co-chairman of the Helsinki Commission, I urge Belgrade not only to meet their international obligations relating to ICTY not just to the point of obtaining certification for another year. Cooperation should be full. Only then can the conditionality on assistance be removed for good.

SMALL BUSINESS DEVELOPMENT CENTER

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. UDALL of New Mexico. Mr. Speaker, it gives me great pleasure to rise today to introduce legislation which amends the Small Business Act to authorize a Small Business Development Center in an eligible State to apply for an additional Small Business Administration grant to be used solely to provide specified services to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions that are owned by Indian tribe members, Alaska Natives, or Native Hawaiians.

I introduced this legislation during the 107th Congress where it passed the House and unfortunately was not considered in the Senate. I am pleased to reintroduce this legislation today and wish to thank Chairman MANZULLO and Ranking Member VELÁZQUEZ for their support of this legislation as well as Representatives GRAVES, FRANKS, RENZI, MATHESON, KILDEE, HAYWORTH, MARK UDALL, MILLENDER-MCDONALD, BALLANCE, CHRISTIAN-CHRISTENSEN, GONZALEZ, ACEVEDO-VILÁ, CASE, MICHAUD, TUBBS JONES, CARSON, FALEOMAVEGA, BORDALLO, NAPOLITANO, and DAVIS for their support.

This legislation requires a State receiving a small business development center program grant to request the advice of the governing bodies of Indian tribes, corporations organized pursuant to the Alaska Native Claims Settlement Act and other Alaska Native entities, and Native Hawaiian organizations, as appropriate, on how best to provide assistance to such members, Alaska Natives, and Native Hawaiians and where to locate satellite centers to provide such assistance.

Today we have demonstrated how important small business enterprise is to the health of our economy. But there are still places in this country where economic prosperity has often failed to reach. These areas deserve our attention and assistance.

Consider this, nowhere in America has poverty persisted longer than on and near Native American reservations, which suffer an average unemployment rate of 45 percent. However, the number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent from 1992 to 1997, and their gross receipts grew by 179 percent in that period. This is compared to all businesses, which grew by 7 percent, and their total gross receipts grew by 40 percent, in that period.

I would like to continue this growth and expansion of small enterprise with the passage of this legislation. My bill ensures that Native Americans, Native Alaskans and Native Hawaiians seeking to create, develop and expand small businesses, have full access to the counseling and technical assistance available through the SBA's SBDC program. The business development tools offered by the SBDCs can assist Native Americans with the information and opportunity to build sustainable businesses in their communities.

In an effort to ensure the quality and success of the program, the proposal requires SBA to include in the application, at a minimum, information requests regarding the applicant's goals and objectives, including the experience of the applicant in conducting programs or ongoing efforts designed to assist the business skills of small business owners and the capability of such applicant to provide training and services to a representative number of Native Americans, Native Alaskans and Native Hawaiians.

It is clear we can do more to aid Native American entrepreneurs. Not enough has been done to assist Native American's in building their businesses, which in turn helps benefit, their communities. I hope to change that with my proposal.

THANKING MRS. DIANN CONDREY FOR HER SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. NEY. Mr. Speaker, on the occasion of her retirement on March 15th, we rise to thank Mrs. Diann Condrey for her 26 years of outstanding service to the federal government, including 10 years service to the U.S. House of Representatives.

Over the years, Diann has provided outstanding customer support to Members, Committees, Leadership and Support Offices of the House. She began her service to the House on December 1, 1992, and served this great institution in numerous capacities, most notably with House Information Resources (HIR) under the office of the Chief Administrative Officer.

In 1992, she was hired as a Committee consultant to provide technical support to Committee offices. Diann remained in that position until 1995. Since 1995, she has worked as a Technical Support Representative servicing Members, Committees, and Leadership offices. Diann is highly skilled and very proficient in providing office automation and technical advice to House offices. Her efforts and work ethic are a true demonstration of excellence and dedication to providing passionate customer service. Her previous federal experience as a Contracting Officer and her breadth of knowledge of House office operations enabled Diann to effectively manage the House Systems Administrator contract for TechCare. This contract filled a need in many House offices for professional Systems Administration.

I know all of you join me in extending our thanks and appreciation to this invaluable member of the House family. We wish the very best to Diann and her husband Jim as they pursue the next phase of their life.

HONORING THE COLORADO ARMY NATIONAL GUARD, COMPANY C, 109TH MEDICAL BATTALION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to recognize the men and women of Company C of the Army National Guard's 109th Medical Battalion for their willingness to serve our country. The unit, based in Montrose, Colorado, has been deployed to support America's troops in Operation Enduring Freedom. They are preparing to protect our national security in a time of international crisis.

Company C has provided medical support for U.S. operations in Honduras, Belize, and Nicaragua. It provided airport security following the September 11th terrorist attacks and assisted firefighters during one of the worst wildfire seasons in Colorado history. This time, its final mission and destination are unknown.

The men and women of Company C are doctors and dentists, nurses and teachers, parents and newlyweds. They each leave family, friends and jobs for at least one year to serve our nation. The sacrifice and dedication of these volunteers are a credit to this country.

Mr. Speaker, it is a great privilege to recognize Company C for its exemplary service to the United States of America before this body of Congress and this nation. The courage of these American men and women is an inspiration to all.

ANDREW PITAS HONORED BY AIR TRAFFIC CONTROL ASSOCIATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. WOLF. Mr. Speaker, I want to share with our colleagues a recent article from The Loudoun Times-Mirror which honors my constituent Mr. Andrew Pitas of Lucketts upon his receipt of the Glenn Gilbert Award from the Air Traffic Control Association for his lifetime commitment and leadership in the field of aviation.

I am proud to call attention to the achievements of Mr. Pitas as he is honored with this prestigious award. On behalf of the people of Virginia's 10th Congressional district, I congratulate Mr. Andrew Pitas for his outstanding efforts in the field of air traffic control.

[From The Loudoun Times-Mirror, Feb. 12, 2003]

LUCKETTS MAN HONORED FOR AVIATION LEADERSHIP

(By Scott Cissel)

Lucketts resident Andrew Pitas first experienced air traffic control in 1941 when he enlisted in the U.S. Navy. One day a supervisor at the Anacostia Naval Air Station in Washington, D.C., asked the 17-year-old to work in the control tower.

"It looked warm up there," recalled Pitas, who had been working outside in the chilly air, inspecting airplane propellers for cracks.

Now more than 60 years later, the Air Traffic Control Association, an organization cofounded by Pitas in 1956 and based in Arlington, is honoring him with the Glenn Gilbert Award for his lifetime commitment and leadership in the field of aviation.

Only 15 people have received the award, including U.S. Secretary of Transportation Norman Mineta and Najeeb Halaby, father of Queen Noor of Jordan. Pitas' name will be added to the Glenn Gilbert trophy, which is kept on permanent display in the National Air and Space Museum in Washington, D.C.

"It's kind of humbling," Pitas said. "Air traffic controlling is a team effort. There are so many people you can get in trouble and who can get you in trouble. There are no cowboys in this business."

The 80-year-old, raised on a dairy farm in Rhode Island, learned air traffic control when it was a fledging technology. He was stationed in England during World War II as a controller.

After the war he worked at the Washington Tower in D.C., now Reagan National Airport. Returning to the farm, where as a boy he had watched planes fly overhead en route to Boston, wasn't an option.

"There were better ways to make a living," he said. "I had to milk cows morning and night."

Before radar became a standard practice after the war, some pilots refused to take radar readings from controllers, according to Pitas. Others liked it so much they played the radar position he broadcast to their passengers in the cabin.

And some pilots and crews had enough time to sing a greeting song to him as their planes neared landing. Controllers knew many of the pilots by name then.

"In the early days we knew a lot of them," said Pitas.

As air traffic increased, so did the stress on controllers, which prompted Pitas to develop a system that is now universally used—the automated terminal information system. The service sends a recording with continuously updated information on flight conditions to pilots. Before, pilots had to radio the tower for updates.

Pitas later brought his talent and expertise to the Federal Aviation Administration, where he rewrote the handbook used by air traffic controllers.

In 1956 he and some colleagues founded the Air Traffic Control Association, perhaps his most lasting contribution to the industry. Air traffic controllers did not have retirement benefits or adequate insurance and pay in the 1950s, recalled Pitas, and they could suffer the blame of plane collisions even if they had performed their jobs well.

"It was almost like you were on your own," he said. "The ATCA was instrumental in getting the government to beef up protection. After all, we were agents of the government."

Through lobbying efforts and representation in Congress, the ATCA gained better benefits for its members and has become a source of international recognition for controllers.

"It gives people all over the world an outlet for their views," he said.

Stanley L. Seltzer, chief controller at Washington Tower in the late 1940s, remembered Pitas not only for his technical innovations, but also for his leadership in the ATCA.

"He was the live wire and the real go-getter," said Seltzer, who now lives in Florida. "He was always saying that people didn't care enough about the controllers' point of view. . . . ATCA really made it possible for an exchange of thought on technical improvements, and put a voice there that was never heard before."

Aviation was viewed as a safer way to travel by the public, according to Seltzer, because of the early air traffic controllers' work in preventing midair collisions and improving communications.

"Had it not been for them I don't think that air transport would have been as widely accepted," he said.

After retiring from the FAA in 1983, Pitas has pursued his interest in the history of air traffic control, including research on the first women controllers.

He raised cattle on his farm in Lucketts before swelling it in 1990, and once stored a three-ton radio navigational device in one of his barns for the National Air and Space Museum.

Since 1986, Pitas has been assistant vice president of ATCA and has been active in securing funds for U.S. 15 road improvements between Leesburg and Point of Rocks, Md.

HOUSE OF REPRESENTATIVES—*Monday, March 10, 2003*

The House met at noon and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 10, 2003.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God Almighty, yesterday was the 38th anniversary of the historic march of civil rights activists in Selma, Alabama, March 7, 1965, became known as "Bloody Sunday." Here You awakened this Nation to injustice and the desire to live "in a beloved community of diversity." A number of women and men from Congress made the march this year across Edmund Pettus Bridge, accompanied by spouses and surrounded with young people not ready to forget the heroic sacrifices made by ordinary people to seek equal justice under the law for all citizens.

Today, O Lord, we pray for all those in powerful positions in government and in the courts, that the movement to assure the human rights of individuals and free assemblies never ceases.

Touch human hearts today that Your people may be shaken from all indifference and know that what happens to the least in our midst affects us all. Shape us into nonviolent instruments who can bring about changes in our world that will benefit all. May the religious motivation behind such a movement never be forgotten but always give You the glory and attribute to You the power now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 13. Concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

The message also announced that pursuant to Executive Order 12131, the Chair appoints the following Members to the President's Export Council:

The Senator from Texas (Mr. CORNYN).

The Senator from Missouri (Mr. TALENT).

PUBLICATION OF THE RULES OF THE COMMITTEE ON SCIENCE, 108th CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BOEHLERT) is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, we are submitting these Rules to the CONGRESSIONAL RECORD for publication in compliance with Rule XI, Clause 2(a)(2).

RULES GOVERNING PROCEDURE FOR THE COMMITTEE ON SCIENCE

RULE 1. GENERAL PROVISIONS

General Statement

(a) The Rules of the House of Representatives, as applicable, shall govern the Committee and its Subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable privileged motions in the Committee and its Subcommittees and shall be decided without debate. The rules of the Committee, as applicable, shall be the rules of its Subcommittees. The rules of germaneness shall be enforced by the Chairman. [XI 1(a)]

Membership

(b) A majority of the majority Members of the Committee shall determine an appropriate ratio of majority to minority Members of each Subcommittee and shall authorize the Chairman to negotiate that ratio with the minority party; Provided, however, that party representation on each Subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the Full Committee. Provided, further, that recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio for the Full Committee.

Power to Sit and Act; Subpoena Power

(c)(1) Notwithstanding subparagraph (2), a subpoena may be authorized and issued by the Committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents as deemed necessary, only when authorized by a majority of the members voting, a majority of the Committee being present. Authorized subpoenas shall be signed only by the Chairman, or by any member designated by the Chairman. [XI 2(m)]

(2) The Chairman of the Full Committee, with the concurrence of the Ranking Minority Member of the Full Committee, may authorize and issue such subpoenas as described in paragraph (1), during any period in which the House has adjourned for a period longer than 3 days. [XI 2(m)(3)(A)(i)]

(3) A subpoena duces tecum may specify terms of return other than at a meeting or a hearing of the Committee.

Sensitive or Confidential Information Received Pursuant to Subpoena

(d) Unless otherwise determined by the Committee or Subcommittee, certain information received by the Committee or Subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in Executive Session when the Chairman of the Full Committee, in his judgment and after consultation with the Ranking Minority Member, deems that in view of all the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

National Security Information

(e) All national security information bearing a classification of secret or higher which has been received by the Committee or a Subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chairman of the Full Committee may establish such regulations and procedures as in his judgment are necessary to safeguard classified information under the control of the Committee. Such procedures shall, however, ensure access to this information by any Member of the Committee, or any other Member of the House of Representatives who has requested the opportunity to review such material.

Oversight

(f) Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

(g) The Chairman of the Full Committee, or of any Subcommittee, shall not undertake

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

any investigation in the name of the Committee without formal approval by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee.

Order of Business

(h) The order of business and procedure of the Committee and the subjects of inquiries or investigations will be decided by the Chairman, subject always to an appeal to the Committee.

Suspended Proceedings

(i) During the consideration of any measure or matter, the Chairman of the Full Committee, or of any Subcommittee, or any Member acting as such, shall suspend further proceedings after a question has been put to the Committee at any time when there is a vote by electronic device occurring in the House of Representatives.

Other Procedures

(j) The Chairman of the Full Committee, after consultation with the Ranking Minority Member, may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee.

Use of Hearing Rooms

(k) In consultation with the Ranking Minority Member, the Chairman of the full Committee shall establish guidelines for use of Committee hearing rooms.

RULE 2. COMMITTEE MEETINGS [AND PROCEDURES]

Quorum [XI 2(h)]

(a)(1) One-third of the Members of the Committee shall constitute a quorum for all purposes except as provided in paragraphs (2) and (3) of this Rule.

(2) A majority of the Members of the Committee shall constitute a quorum in order to: (A) report or table any legislation, measure, or matter; (B) close Committee meetings or hearings pursuant to Rules 2(c) and 2(d); and, (C) authorize the issuance of subpoenas pursuant to Rule 1(c).

(3) Two Members of the Committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee, shall include at least one Member from each of the majority and minority parties.

Time and Place

(b)(1) Unless dispensed with by the Chairman, the meetings of the Committee shall be held on the 2nd and 4th Wednesday of each month the House is in session at 10:00 a.m. and at such other times and in such places as the Chairman may designate. [XI 2(b)]

(2) The Chairman of the Committee may convene as necessary additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business subject to such rules as the Committee may adopt. The Committee shall meet for such purpose under that call of the Chairman. [XI 2(c)]

(3) The Chairman shall make public announcement of the date, time, place and subject matter of any of its hearings, and to the extent practicable, a list of witnesses at least one week before the commencement of the hearing. If the Chairman, with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly made available by electronic form including the Committee website. [XI 2(g)(3)]

Open Meetings [XI 2(g)]

(c) Each meeting for the transaction of business, including the markup of legislation, of the Committee shall be open to the public, including to radio, television, and still photography coverage, except when the Committee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House. Persons other than Members of the Committee and such non-Committee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the Committee may authorize, may not be present at a business or markup session that is held in executive session. This Rule does not apply to open Committee hearings which are provided for by Rule 2(d).

(d)(1) Each hearing conducted by the Committee shall be open to the public including radio, television, and still photography coverage except when the Committee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, and Rule 2(q) a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony:

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information or would violate Rule XI 2(k)(5) of the Rules of the House of Representatives; or

(B) may vote to close the hearing, as provided in Rule XI 2(k)(5) of the Rules of the House of Representatives. No Member, Delegate, or Resident Commissioner may be excluded from non-participatory attendance at any hearing of any Committee or Subcommittee, unless the House of Representatives shall by majority vote authorize a particular Committee or Subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegate and the Resident Commissioner by the same procedures designated in this Rule for closing hearings to the public: Provided, however, that the Committee or Subcommittee may by the same procedure vote to close one subsequent day of the hearing.

Audio and Visual Coverage [XI, clause 4]

(e) (A)Whenever a hearing or meeting conducted by the Committee is open to the public, these proceedings shall be open to coverage by television, radio, and still photography, except as provided in Rule XI 4(f)(2) of the House of Representatives. The Chairman shall not be able to limit the number of television, or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations in which case pool coverage shall be authorized). (B)(1)Radio and television tapes, television film, and internet recordings of any Committee hearings or meetings that are open to the public may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(2) It is, further, the intent of this rule that the general conduct of each meeting or hearing covered under authority of this rule by audio or visual means, and the personal behavior of the Committee Members and staff, other government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the meeting or hearing, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to:

(i) distort the objects and purposes of the meeting or hearing or the activities of Committee Members in connection with that meeting or hearing or in connection with the general work of the Committee or of the House; or

(ii) cast discredit or dishonor on the House, the Committee, or a Member, Delegate, or Resident Commissioner or bring the House, the Committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(3) The coverage of Committee meetings and hearings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this rule.

(f) The following shall apply to coverage of Committee meetings or hearings by audio or visual means:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a Committee or Subcommittee Chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the Committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the Committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a Committee or Subcommittee Chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a Committee or Subcommittee Chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the Committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Special Meetings

(g) Rule XI 2(c) of the Rules of the House of Representatives is hereby incorporated by reference (Special Meetings).

Vice Chairman to Preside in Absence of Chairman

(h) Meetings and hearings of the Committee shall be called to order and presided over by the Chairman or, in the Chairman's absence, by the member designated by the Chairman as the Vice Chairman of the Committee, or by the ranking majority member of the Committee present as Acting Chairman. [XI 2(d)]

Opening Statements; 5-Minute Rule

(i) Insofar as is practicable, the Chairman, after consultation with the Ranking Minority Member, shall limit the total time of opening statements by Members to no more than 10 minutes, the time to be divided equally between the Chairman and Ranking Minority Member. The time any one Member may address the Committee on any bill, motion or other matter under consideration by the Committee or the time allowed for the questioning of a witness at hearings before the Committee will be limited to five minutes, and then only when the Member has been recognized by the Chairman, except that this time limit may be waived by the Chairman or acting. [XI 2(j)]

(j) Notwithstanding Rule 2(i), upon a motion the Chairman, in consultation with the Ranking Minority Member, may designate an equal number of members from each party to question a witness for a period not to exceed one hour in the aggregate or, upon a motion, may designate staff from each party to question a witness for equal specific periods that do not exceed one hour in the aggregate. [XI 2(j)]

Proxies

(k) No Member may authorize a vote by proxy with respect to any measure or matter before the Committee. [XI 2(f)]

Witnesses

(l)(1) Insofar as is practicable, each witness who is to appear before the Committee shall file no later than twenty-four (24) hours in advance of his or her appearance, a written statement of the proposed testimony and curriculum vitae. Each witness shall limit his or her presentation to a 5-minute summary, provided that additional time may be granted by the Chairman when appropriate. [XI 2(g)(4)]

(2) To the greatest extent practicable, each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) which is relevant to the subject of his or her testimony and was received during the current fiscal year or either of the 2 preceding fiscal years by the witness or by an entity represented by the witness. [XI 2(g)(4)]

(m) Whenever any hearing is conducted by the Committee on any measure or matter, the minority Members of the Committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon. [XI 2(j)(1)]

Hearing Procedures

(n) Rule XI 2(k) of the Rules of the House of Representatives is hereby incorporated by reference.

Bill and Subject Matter Consideration

(o) Bills and other substantive matters may be taken up for consideration only when called by the Chairman of the Committee or by a majority vote of a quorum of the Committee, except those matters which are the subject of special-call meetings outlined in Rule 2(g). [XI 2(c)]

Private Bills

(p) No private bill will be reported by the Committee if there are two or more dissenting votes. Private bills so rejected by the Committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the Committee.

Consideration of Measure or Matter

(q)(1) It shall not be in order for the Committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and to the maximum extent practicable, a written copy of the measure or matter to be considered, and to the maximum extent practicable the original text for purposes of markup of the measure to be considered have been available to each Member of the Committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays. To the maximum extent practicable, amendments to the measure or matter to be considered, shall be submitted in writing to the Clerk of the Committee at least 24 hours prior to the consideration of the measure or matter. [XIII 4(a)]

(2) Notwithstanding paragraph (1) of this rule, consideration of any legislative measure or matter by the Committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the Committee is present.

Requests for Written Motions

(r) Any legislative or non-procedural motion made at a regular or special meeting of the Committee and which is entertained by the Chairman shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

Requests for Record Votes at Full Committee

(s) A record vote of the Members may be had at the request of three or more Members or, in the apparent absence of a quorum, by any one Member.

Report Language on Use of Federal Resources

(t) No legislative report filed by the Committee on any measure or matter reported by the Committee shall contain language which has the effect of specifying the use of federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the Committee during a meeting or otherwise in writing by a majority of the Members.

Committee Records

(u)(1) The Committee shall keep a complete record of all Committee action which shall include a record of the votes on any question on which a record vote is demanded. The result of each record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting. [XI 2(e)]

(2) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee. [XI 2(e)(3)]

(3) To the maximum extent feasible, the Committee shall make its publications available in electronic form, including the Committee website. [XI 2(e)(4)]

(4)(A) Except as provided for in subdivision (B), all Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its Chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner, shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of the Committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of the Committee.

Publication of Committee Hearings and Markups

(v) The transcripts of those hearings conducted by the Committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Individuals, including Members of Congress, whose comments are to be published as part of a Committee document shall be given the opportunity to verify the accuracy of the transcription in advance of publication. Any requests by those Members, staff or witnesses to correct any errors other than errors in transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional Committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript. Transcripts of markups shall be recorded and published in the same manner as hearings before the Committee and shall be included as part of the legislative report unless waived by the Chairman.

RULE 3. SUBCOMMITTEES

Structure and Jurisdiction

(a) The Committee shall have the following standing Subcommittees with the jurisdiction indicated.

(1) Subcommittee on Energy

Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to energy research, development, and demonstration and projects therefor, and commercial application of energy technology including: Department of Energy research, development, and demonstration programs; Department of Energy laboratories; Department of Energy science activities; energy supply activities; nuclear, solar and renewable energy, and other advanced energy technologies; uranium supply and enrichment, and Department of Energy waste management and environment, safety, and health activities as appropriate; fossil energy research and development; clean coal technology; energy conservation research and development; energy aspects of climate change; pipeline research, development, and demonstration projects; energy standards; and energy conservation including building performance, alternate fuels for and improved efficiency of vehicles, distributed power systems, and industrial process improvements.

(2) Subcommittee on Environment, Technology, and Standards

Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to competitiveness, technology, and environmental research, development, and demonstration including: Technical standards and standardization of measurement; the Technology Administration of the Department of Commerce; the National Institute of Standards and Technology; the National Technical Information Service; competitiveness, including small business competitiveness; tax, antitrust, regulatory and other legal and governmental policies as they relate to technological development and commercialization; technology transfer including civilian use of defense technologies; patent and intellectual property policy; international technology trade; research, development, and demonstration activities of the Department of Transportation; surface and water transportation research, development, and demonstration programs; Environmental Protection Agency research and development programs; biotechnology policy; National Oceanic and Atmospheric Administration, including all activities related to weather, weather services, climate, and the atmosphere, and marine fisheries, and oceanic research; risk assessment activities; scientific issues related to environmental policy, including climate change; Small Business Innovation Research and Technology Transfer; and voting technologies and standards.

(3) Subcommittee on Research

Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to science policy including: Office of Science and Technology Policy; all scientific research, and scientific and engineering resources (including human resources), math, science and engineering education; intergovernmental mechanisms for research, development, and demonstration and cross-cutting programs; international scientific cooperation; National Science Foundation; university research policy, including infrastructure and overhead; university research partnerships, including those with industry; science scholarships; issues relating to computers, communications, and information technology; earthquake and fire research programs including those related to wildfire proliferation research and prevention; research and development relating to health, biomedical, and nutritional programs; to the extent appropriate, agricultural, geological, biological and life sciences research; and materials research, development, and demonstration and policy.

(4) Subcommittee on Space and Aeronautics

Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to astronautical and aeronautical research and development including: National space policy, including access to space; sub-orbital access and applications; National Aeronautics and Space Administration and its contractor and government-operated laboratories; space commercialization including the commercial space activities relating to the Department of Transportation and the Department of Commerce; exploration and use of outer space; international space cooperation; National Space Council; space applications, space communications and related matters; earth remote sensing policy; civil aviation research, development, and demonstration; and research, development, and demonstration programs of the Federal Aviation Administration; and space law.

Referral of Legislation

(b) The Chairman shall refer all legislation and other matters referred to the Committee to the Subcommittee or Subcommittees of appropriate jurisdiction within two weeks unless, the Chairman deems consideration is to be by the Full Committee. Subcommittee Chairmen may make requests for referral of specific matters to their Subcommittee within the two week period if they believe Subcommittee jurisdictions so warrant.

Ex-Officio Members

(c) The Chairman and Ranking Minority Member shall serve as ex-officio Members of all Subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the Subcommittee.

Procedures

(d) No Subcommittee shall meet for markup or approval when any other Subcommittee of the Committee or the Full Committee is meeting to consider any measure or matter for markup or approval.

(e) Each Subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee on all matters referred to it. For matters within its jurisdiction, each Subcommittee is authorized to conduct legislative, investigative, forecasting, and general oversight hearings; to conduct inquiries into the future; and to undertake budget impact studies. Subcommittee Chairmen shall set meeting dates after consultation with the Chairman and other Subcommittee Chairmen with a view toward avoiding simultaneous scheduling of Committee and Subcommittee meetings or hearings wherever possible.

(f) Any Member of the Committee may have the privilege of sitting with any Subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the Subcommittee shall vote on any matter before such Subcommittee, except as provided in Rule 3(c).

(g) During any Subcommittee proceeding for markup or approval, a record vote may be had at the request of one or more Members of that Subcommittee.

RULE 4. REPORTS

Substance of Legislative Reports

(a) The report of the Committee on a measure which has been approved by the Committee shall include the following, to be provided by the Committee:

(1) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified [XIII, 3(c)];

(2) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures as specified in [XIII, 3(c)(2)];

(3) With respect to reports on a bill or joint resolution of a public character, a "Constitutional Authority Statement" citing the specific powers granted to Congress by the Constitution pursuant to which the bill or joint resolution is proposed to be enacted.

(4) with respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the Committee report on the measure or matter;

(5) the estimate and comparison prepared by the Committee under Rule XIII, clause 3(d)(2) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the Director of the Congressional Budget Office prepared under subparagraph 2 of this Rule has been timely submitted prior to the filing of the report and included in the report [XIII, 3(d)(3)(D)];

(6) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended [Rule XIII, clause 3]; and

(7) a transcript of the markup of the measure or matter unless waived under Rule 2(v).

(8) a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding. [XIII, 3(c)]

(b) The report of the Committee on a measure which has been approved by the Committee shall further include the following, to be provided by sources other than the Committee:

(1) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the Committee [XIII, clauses 2–4];

(2) if the Committee has not received prior to the filing of the report the material required under paragraph (1) of this Rule, then it shall include a statement to that effect in the report on the measure.

Minority and Additional Views [XI 2(l)]

(c) If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than two subsequent calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the Committee. All such views so filed by one or more Members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee upon that measure or matter shall be printed in a single volume which shall include all supplemental, minority, or additional views, which have been submitted by the time of the filing of the report, and shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under Rule 4(b)(1)) are included as part of the report. However, this rule does not preclude (1) the immediate filing or printing of a Committee report unless timely requested for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule or (2) the filing by the Committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that Committee upon that measure or matter.

(d) The Chairman of the Committee or Subcommittee, as appropriate, shall advise Members of the day and hour when the time for submitting views relative to any given report elapses. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after the announced time has elapsed unless the Chairman of the Committee or Subcommittee, as appropriate, decides to extend the time for submission of views the 2 subsequent calendar days after the day of notice, in which case he shall communicate such fact to Members, including the revised day and hour for submissions to be received, without delay.

Consideration of Subcommittee Reports

(e) Reports and recommendations of a Subcommittee shall not be considered by the Full Committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and made available to full Committee membership and printed hearings thereon shall be made available, if feasible, to the Members, except that this rule may be waived at the discretion of the Chairman after consultation with the Ranking Minority Member.

Timing and Filing of Committee Reports [XIII]

(f) It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken the necessary steps to bring the matter to a vote. To the maximum extent practicable, the written report of the Committee on such measures shall be made available to the Committee membership for review at least 24 hours in advance of filing.

(g) The report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by the majority of the Members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman of the Committee notice of the filing of that request.

(h)(1) Any document published by the Committee as a House Report, other than a report of the Committee on a measure which has been approved by the Committee, shall be approved by the Committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 4(c).

(2) Subject to paragraphs (3) and (4), the Chairman may approve the publication of any document as a Committee print which in his discretion he determines to be useful for the information of the Committee.

(3) Any document to be published as a Committee print which purports to express the views, findings, conclusions, or recommendations of the Committee or any of its Subcommittees must be approved by the Full Committee or its Subcommittees, as applicable, in a meeting or otherwise in writing by a majority of the Members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(4) Any document to be published as a Committee print other than a document described in paragraph (3) of this Rule: (A) shall include on its cover the following statement: "This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;" and (B) shall not be published following the sine die adjournment of a Congress, unless approved by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee.

(i) A report of an investigation or study conducted jointly by this Committee and one or more other Committee(s) may be filed jointly, provided that each of the Committees complies independently with all requirements for approval and filing of the report.

(j) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report approved by the Committee may be filed with the Clerk at any time, provided that if a member gives notice at the time of approval of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than 7 calendar days in which to submit such views for inclusion with the report.

(k) After an adjournment sine die of the last regular session of a Congress, the Chairman may file the Committee's Activity Report for that Congress under clause 1(d)(1) of Rule XI of the Rules of the House with the Clerk of the House at anytime and without the approval of the Committee, provided that a copy of the report has been available to each member of the Committee for at least 7 calendar days and that the report includes any supplemental, minority, or additional views submitted by a member of the Committee. [XI 1(d), XI 1(d)(4)]

Oversight Reports

(l) A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day). [XI 1(b)(2)]

LEGISLATIVE AND OVERSIGHT JURISDICTION OF THE COMMITTEE ON SCIENCE

"Rule X. Organization of Committees.

"Committees and their legislative jurisdictions.

"1. There shall be in the House the following standing Committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing Committees listed in this clause shall be referred to those Committees, in accordance with clause 2 of rule XII, as follows:

* * * * *

"(n) Committee on Science.

"(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

"(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

"(3) Civil aviation research and development.

"(4) Environmental research and development.

"(5) Marine research.

"(6) Commercial application of energy technology.

"(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

"(8) National Aeronautics and Space Administration.

"(9) National Space Council.

"(10) National Science Foundation.

"(11) National Weather Service.

"(12) Outer space, including exploration and control thereof.

"(13) Science Scholarships.

"(14) Scientific research, development, and demonstration, and projects therefor.

* * * * *

"SPECIAL OVERSIGHT FUNCTIONS

"3.(j) The Committee on Science shall review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BOEHLERT, for 5 minutes, today.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 11, 2003, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1002. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Payment Limits (RIN: 0560-AG77) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1003. A letter from the Assistant General Counsel, Department of the Treasury, transmitting the Department's final rule — Terrorism Risk Insurance Program (RIN: 1505-AA96) received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1004. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934 [Release No. 34-47364; File No. S7-41-02] (RIN: 3235-AI19) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1005. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Custody of Investment Company Assets With a Securities Depository [Release No. IC-25934; File No. S7-22-01] (RIN: 3235-AG71) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1006. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Regulation Analyst Certification [Release Nos. 33-8193; 34-47384; File No. S7-30-02] (RIN: 3235-AI60) received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1007. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date [Docket No. 92N-0297] (RIN: 0905-AC81) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1008. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Human Cells, Tissues, and Cellular and Tissue-Based Products; Establishment Registration and Listing [Docket No. 97N-484R] received February 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1009. A letter from the Attorney Advisor, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Occupant Crash Protection [Docket No. NHTSA 02-14270] (RIN: 2127-AI71) received February 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1010. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1011. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Implementation of the 2002 Wassenaar Arrangement List of Dual-Use Items: Revisions to Categories 2, 3, 4, 5, 6, 7, 8, and 9 of the Commerce Control List, General Software Note, and Reporting Requirements [Docket No. 030127020-3020-01] (RIN: 0694-AC65) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1012. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1013. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1014. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1015. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1016. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1017. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Debarments and Suspensions of Health Care Providers From the Federal Employees Health Benefits Program (RIN: 3206-AD76) received February 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

1018. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf — Oil and Gas Drilling Operations (RIN: 1010-AC43) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1019. A letter from the Assistant Secretary, Land and Minerals Management, Department Of The Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf — Document Incorporated by Reference — American Petroleum Institute's Specification 2C for Offshore Cranes (RIN: 1010-AC82) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1020. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-03-010] (RIN: 2115-AA97) February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1021. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Fire-Suppression System and Voyage Planning for Towing Vessels [USCG-2000-6931] (RIN: 2115-AF53) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1022. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Joint Hurricane Testbed (JHT) Opportunities for Transfer of Research and Technology Into Tropical Cyclone Analysis and Forecast Operations [Docket No. 021114275-2275-01] received January 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1023. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Single Entry for Split Shipments [T.D. 03-09] (RIN: 1515-AC91) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1024. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Excise Tax Relating to Structured Settlement Factoring Transactions [TD 9042] (RIN: 1545-BB24) received February 21, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1025. A letter from the Social Security Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Administrative Review Process; Video Teleconferencing Appearances Before Administrative Law Judges of the Social Security Administration [Regulations Nos. 4 and 16] (RIN: 0960-AE97) received February 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1026. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Health Insurance Reform: Modifications to Electronic Data Transaction Standards and Code Sets [CMS-0003-F and CMS-0005-F] (RINS: 0938-AK64 and 0938-AK76) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

1027. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Health Insurance Reform: Security Standards [CMS-0049-F] (RIN: 0938-AI57) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Resolution 19. Resolution designating the room numbered H–236 in the House of Representatives wing of the Capitol as the "Richard K. Armey Room" (Rept. 108–29). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 145. A bill to designate the Federal building located at 290 Broadway in New York, New York, as the "Ted Weiss Federal Building"

(Rept. 108-30): Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RYAN of Ohio (for himself, Mr. Acevedo-Vilá, Mr. Brown of Ohio, Mr. Chabot, Mr. Etheridge, Mr. Farr, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Mr. Holden, Mr. Inslee, Mrs. Jones of Ohio, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Kildee, Mr. LaTourette, Mrs. McCarthy of New York, Mr. McGovern, Mrs. Maloney, Mr. George Miller of California, Mr. Owens, Mr. Reyes, Mr. Serrano, Mr. Simmons, and Mr. Smith of Washington):

H.R. 1168. A bill to amend the Higher Education Act of 1965 to provide deferments and interest payments for borrowers of student loans who are called to active duty; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself, Mr. Kennedy of Rhode Island, Mr. Simmons, Mr. Capuano, Mr. Delahunt, Mr. Frank of Massachusetts, Mr. Lynch, Mr. McGovern, Mr. Meehan, Mr. Neal of Massachusetts, Mr. Olver, and Mr. Tierney):

H. Con. Res. 85. Concurrent resolution expressing the sense of the Congress with regard to the need for improved fire safety in nonresidential buildings in the aftermath of the tragic fire on February 20, 2003, at a nightclub in West Warwick, Rhode Island; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponors were added to public bills and resolutions as follows:

H.R. 218: Mr. Hastings of Washington, Mr. Frelinghuysen, and Mr. Royce.

H.R. 293: Ms. Corrine Brown of Florida.

H.R. 294: Mr. Ney, Ms. Corrine Brown of Florida, and Mr. Foley.

H.R. 330: Mr. Otter.

H.R. 623: Mr. Clyburn.

H.R. 677: Mr. Costello and Ms. Loretta Sanchez of California.

H.R. 685: Mr. Kucinich, Mr. Allen, Mr. Sabo, Mr. Ackerman, Ms. Eshoo, Mr. Clyburn, and Mr. Evans.

H.R. 727: Ms. Schakowsky and Mr. McDermott.

H.R. 800: Mr. Lucas of Oklahoma and Mr. Souder.

H.R. 1068: Mr. Frank of Massachusetts, Mr. English, Mr. Schiff, Mr. Inslee, Mr. LoBiondo, Mr. Bonilla, Mr. Honda, Mr. Langevin, Mr. Foley, Mr. Waxman, and Mr. Kildee.

H.R. 1154: Mr. Manzullo.

H.J. Res. 4: Mr. Jones of North Carolina, Mr. Akin, Mr. Beauprez, Mr. Tancredo, Mr. Lucas of Oklahoma, Mr. Vitter, Mr. Skelton, Mr. Janklow, Mr. Blunt, Mr. Schrock, Mr. Culberson, Mr. Sullivan, and Mr. Boswell.

H. Con. Res. 80: Mr. Crowley.

SENATE—*Monday, March 10, 2003*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Trust in the Lord with all your heart, and lean not on your own understanding; in all your ways acknowledge Him, and He shall direct your paths" (Proverbs 3:5–6).

Let us pray: Gracious God, You only ask from us what You generously offer to give to us. You initiate this conversation we call prayer because You want to bless us with exactly what we will need to live faithful, confident, productive, joyous lives today. You are for us; not against us. Help us to live the hours of today knowing You are beside, are on our side, and offer us unlimited strength and courage besides. You will provide us insight and inspiration to confront and solve the problems we face. You will give us peace when our hearts are distressed by the turbulence of our times. You will comfort us when we are afraid and need Your peace. You make us overcomers when we feel overwhelmed. In response we relinquish our imagined control over people and circumstances. We thank You for the power of Your wisdom we feel surging into our minds and hearts. We trust in You, dear God, for You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will once again resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. Senator HATCH will be here to continue to discuss the merits of this well-qualified nominee and our hope is for an up-or-down vote.

Under the order of last week, at 5 p.m. the Senate will proceed to the consideration of calendar No. 19, S. 3, the partial-birth abortion ban bill, with the time until 6 p.m. equally divided for debate. I understand that Senator MURRAY will be here to offer an amendment to that legislation, and thus I encourage Members who would like to debate that amendment to remain after the scheduled 6 p.m. vote this evening.

The rollcall vote will be on the nomination of Gregory Frost to be a U.S. District Judge for the Southern District of Ohio.

For the remainder of the week, we will continue consideration of the partial-birth abortion bill and should complete action of that bill this week.

In addition, on Tuesday, tomorrow, from 11 a.m. to 12:30 we will consider the Estrada nomination for the purpose of discussion regarding the Senate's constitutional role of advise and consent. I encourage all Members to be present to participate in this institutional debate.

Rollcall votes will occur each day this week as we attempt to complete the items mentioned.

I thank all Members.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I want to direct a question through you to the majority leader. Tomorrow from 11 to 12:30, is that going to be equally divided?

Mr. FRIST. Mr. President, the intention is to be equally divided. I would like it to be back and forth, if we can do that.

Let me take this opportunity to say that the purpose is because we are all running around doing so many different things over the course of the day. I ask my Senate colleagues to pay attention to what I am about to say because the purpose is to bring as many people to the floor to listen and discuss and debate what the Constitution says and our interpretation of the Constitution at an elevated level. That is the purpose in setting aside that time from 11 to 12:30.

Time should be equally divided, and look for some outstanding discussion on what is a very important principle in our Constitution.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session and resume consideration of the executive calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, with respect to the Estrada nomination, this Senator has no reason to vote to confirm and everyone should understand up front that I have treated my responsibility with serious purpose, always giving the benefit of the doubt to the President. I was one of the two Democrats who voted for Robert Bork, and I am particularly proud that I did vote for him. Robert Bork was an outstanding jurist. He answered the questions.

So when these folks come up and apply for a job, they ought to treat the advise and consent responsibility that we have as Senators with respect. They should not go to the committee and give the rope-a-dope runaround and then come back later and have the White House calling Senators saying: Would you like to see the gentleman?

I have heard the whining cry again and again that this is all unconstitutional. I wish they would have been present when Justice Fortas, the Associate Justice for the Supreme Court, was nominated by President Lyndon Johnson to become the Chief Justice. My senior colleague at the time, the distinguished Senator Thurmond, led the filibuster. There was extended debate, and please note it in the RECORD that they had a cloture vote. They could not get cloture and—read it in the RECORD—they then withdrew the nomination.

The leadership in the Senate should get on with the important business of this Government at a time of war, at a time of dreadful deficit spending, at a time when they will not even pay for the war. I can say now that every President, every Congress, has paid for wars, and I am embarrassed to be a Senator at this particular time to go home to my state and report that we are not going to pay for this war. It was Abraham Lincoln, in order to pay for the Civil War, who put a tax on dividends. And now this President says the need of the hour is to take the tax off dividends.

During World War I we had a marginal income tax rate that went up to 77 percent. In World War II, it was 79 percent to 94 percent. In the Korean War, it was 91 percent, and the country sustained. The country did not break up. The country did not go poor. The country was stimulated by a sense of responsibility. This Mickey Mouse idea that dividends are going to stimulate the economy—come on. In the Vietnam War, we had a marginal tax rate up to 77 percent. But we have the unmitigated gall to now say we need to stimulate the economy with a dividend tax cut, with doing away with the marriage penalty, and with eliminating the estate tax.

It is quite obvious what is on course is tax reform. There is no sense of responsibility for this position. It helped when, with Senator Muskie, we passed in 1973 and it was finally signed in 1974 the Budget Committee process. I have served on that Budget Committee for the past 25, 26 years, including as Chairman. I am the author, along with Senator Gramm and Senator Rudman, of Gramm-Rudman-Hollings when President Reagan said we were not going to have to run deficits anymore. We had truth in budgeting.

On Saturday, we got the truth from the Congressional Budget Office. It projected the pending deficit for the fiscal year which we are in now, 2003, on page 21, at the back of the document would be $469 billion. The distinguished Presiding Officer knows this by heart because he has served on the Budget Committee on the House side. This is important because that is the actual debt increase, that is the actual deficit.

I ask unanimous consent to have printed in the RECORD the lead editorial from today's Washington Post, "Digging the Budget Hole."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 10, 2003]

DIGGING THE DEFICIT HOLE

The deficit numbers grow ever grimmer. The Congressional Budget Office on Friday put out a new estimate for this fiscal year in which the projected deficit is 24 percent higher than the CBO had anticipated two months ago, mostly owing to the faltering economy. Meanwhile, Congress this week will begin outlining a course for federal spending and tax cuts that would push the country further into a deficit hole. So it seems like an opportune moment to pause for a reminder of how we got into this mess, how bad it is and how bad it could be if President Bush's tax wishes come to pass.

First, what happened to the surplus? It was only two years ago that the CBO foresaw a surplus of $5.6 trillion through 2011. Back then, administration officials, insisting that Mr. Bush's $1.3 trillion tax cut was easily affordable, dismissed warnings that the surplus could be illusory. The forecasts could "just as easily be wrong on the low side as the high side," said White House budget director Mitchell E. Daniels Jr. Now, even without new tax cuts, the surplus has evaporated and the administration is airbrushing its previous statements. "We didn't squander a surplus. We never had it," Treasury Secretary John W. Snow told the House Budget Committee. "It wasn't real dollars in hand."

The biggest reason those dollars failed to materialize, particularly in the short term, is the faltering economy. But over 10 years, according to CBO projections, the major drag on the nation's fiscal health will be the cost of the 2001 tax cut and increased spending. A sobering report last week by the Committee for Economic Development (CED), a nonpartisan group of business leaders, spelled this out: "In short, while a substantial portion of the current fiscal deterioration can be blamed on the economy, responsibility for the fiscal set-back in later years lies squarely on the shoulders of policymakers."

Now build in the effect of Mr. Bush's $1.5 trillion in new tax proposals. The part that Congress will take up immediately, projected to cost $726 billion through 2013, includes the immediate implementation of the 2001 tax cuts, much of which was to have been phased in over time, and the elimination of the individual income tax on corporate dividends. But Mr. Bush also wants Congress to make his 2001 tax cuts permanent; currently they're scheduled to expire in 2010. In interest costs alone, the Bush proposals would impose an additional $530 billion. Overall, according to the new CBO figures, the administration's tax and spending proposals would cost $2.7 trillion. The bottom line, according to the CBO: cumulative deficits of $1.8 trillion through 2013 if Mr. Bush gets his way.

But the real fiscal picture is even worse. Remember the Social Security lockbox? It has been broken open. The deficit numbers above are cushioned by including $2.6 trillion from the Social Security trust fund. In other words, if that money were placed out of reach, the deficit would be $4.4 trillion through 2013. Moreover, those numbers don't reflect the cost of fixing the alternative minimum tax, which was designed to prevent the wealthy from wriggling out of taxes but is projected to apply to a third of all taxpayers by 2010. The administration has proposed a short-term fix; extending that fix through 2013 would cost $750 billion. Likewise, these figures don't take into account the likely increases in spending to cover an Iraq war and its aftermath, homeland security or a prescription drug benefit for seniors. Nor do they include the growing demands on Social Security and Medicare that will materialize when baby boomers start to reach retirement age just five years from now.

"The first step in climbing out of a hole is to stop digging," the CED report said. "We cannot afford economic policy decisions today that further raise deficits tomorrow." Congress ought to put down that shovel.

Mr. HOLLINGS. Everyone can read the entire article, but let me read the sentence: "The deficit numbers above are cushioned by including $2.6 trillion from the Social Security trust fund." I have to read that again: "The deficit numbers above are cushioned by including $2.6 trillion from the Social Security trust fund."

The following sentence: "In other words, if that money were placed out of reach, the deficit would be $4.4 trillion through 2013." Now, that is just the Social Security trust fund. The Social Security trust fund is not the only one being expended. There is the Medicare trust fund. They take the surpluses, and they are going to say we have to do something on Medicare, but they have been spending the moneys on anything and everything other than Medicare. The same can be said with the highway trust funds, the airport trust funds, and the military and public service retirees. We have all kinds of trust funds, and if they were all included, rather than the $4.4 trillion, it would be $5.7 trillion.

This Enron-like accounting operation is right in the President's budget book. If you look at page 1—and I hold within my hand the budget for the fiscal year 2004 that was just released last month—it says: "My administration firmly believes in controlling the deficit and reducing it as the economy strengthens and our national security interests are met. Compared to the overall Federal budget and the $10.5 trillion national economy, our budget cap is small by historical standards."

That is on page 1. Now, Kenny Boy Lay, when he put out his Enron corporate report to the stockholders, that is exactly the way he would start off. Make the stockholders feel good. Make the taxpayers feel good. Make the public servants feel responsible. But where is the truth? You will have to go all the way through to page 332.

I ask unanimous consent that page 332, by itself, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE S–14.—FEDERAL GOVERNMENT FINANCING AND DEBT—Continued

[In billions of dollars]

Function	2002 actual	Estimates					
		2003	2004	2005	2006	2007	2008
Debt outstanding, end of year:							
Gross Federal debt [7]:							
Debt issued by Treasury	6,171	6,725	7,294	7,811	8,327	8,832	9,363
Debt issued by other agencies	27	27	27	26	26	26	25
Total, gross Federal debt	6,198	6,752	7,321	7,837	8,353	8,858	9,388
Held by:							
Debt held by Government accounts	2,658	2,874	3,155	3,451	3,751	4,061	4,385
Debt issued by the public [8]	3,540	3,878	4,166	4,387	4,603	4,797	5,003

[7] Treasury securities held by the public and zero-coupon bonds held by Government accounts are almost all measured at sales price plus amortized discount or less amortized premium. Agency debt securities are almost all measured at face value. Treasury securities in the Government account series are measured at face value less unrealized discount (if any).

[8] At the end of 2002, the Federal Reserve Banks held $604.2 billion of federal securities and the rest of the public held $2,936.2 billion. Debt held by the Federal Reserve Banks is not estimated for future years.

Mr. HOLLINGS. Mr. President, you will see the total gross Federal debt whereby it goes from $6.198 trillion at the end of last fiscal year to, as projected at the end of this fiscal year, $6.752 trillion, for a deficit of $554 billion. And they are running around here, in this newspaper, continuing to say $300 billion deficits. We already are projecting, without the cost of Iraq—this does not include the cost of going to war in Iraq—a $554 billion deficit. And if you look at next year, the 2004 debt is increased from $6.752 trillion to $7.321 trillion, for a deficit of $569 billion for next year.

On Wednesday, at the Budget Committee, the fix will be in. We used to have some moderates on the Budget Committee, but the leadership took the moderates off, so it will be bam-bam.

On Wednesday the Committee will have a conference and then on Thursday we will have amendments. It will be the Democrats who will have amendments because the Republicans are a fixed jury. They are a fixed jury, and they are not going to go along with any amendments, and they are going along with the President's budget and the President's tax cut because that is the makeup of the Republicans when they got rid of the moderates.

Before that we at least had a chance to talk and discuss with each other, but now the budget process that we instituted back in 1974 is pure sham. Their goal is to get those reconciliation instructions that by majority vote they will have. Then by majority vote they can pass all these tax cuts and everything else that they have, under limited time. You can't have extended debate. So the fix is on—unfortunately for the country.

According to the Committee for Economic Development, "The first step in climbing out of a hole is to stop digging. We cannot afford economic policy decisions today that further raise deficits tomorrow."

Congress ought to put down that shovel. That is the most important thing we have going, even more important than war. I think we can win the war. I don't think we are going to win this. This is terrible.

I ask unanimous consent to have printed in the RECORD the "Hollings' Budget Realities" chart.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS' BUDGET REALITIES

Pres. and year	U.S. budget (outlays) (in billions)	Borrowed trust funds (billions)	Unified deficit with trust funds (billions)	Actual deficit without trust funds (billions)	National debt (billions)	Annual increases in spending for interest (billions)
Truman:						
1947	34.5	−9.9	4.0	+13.9	257.1	
1948	29.8	6.7	11.8	+5.1	252.0	
1949	38.8	1.2	0.6	−0.6	252.6	
1950	42.6	1.2	−3.1	−4.3	256.9	
1951	45.5	4.5	6.1	+1.6	255.3	
1952	67.7	2.3	−1.5	−3.8	259.1	
Eisenhower:						
1953	76.1	0.4	−6.5	−6.9	266.0	
1954	70.9	3.6	−1.2	−4.8	270.8	
1955	68.4	0.6	−3.0	−3.6	274.4	
1956	70.6	2.2	3.9	+1.7	272.7	
1957	76.6	3.0	3.4	+0.4	272.3	
1958	82.4	4.6	−2.8	−7.4	279.7	
1959	92.1	−5.0	−12.8	−7.8	287.5	
1960	92.2	3.3	0.3	−3.0	290.5	
Kennedy:						
1961	97.7	−1.2	−3.3	−2.1	292.6	
1962	106.8	3.2	−7.1	−10.3	302.9	9.1
Johnson:						
1963	111.3	2.6	−4.8	−7.4	310.3	9.9
1964	118.5	−0.1	−5.9	−5.8	316.1	10.7
1965	118.2	4.8	−1.4	−6.2	322.3	11.3
1966	134.5	2.5	−3.7	−6.2	328.5	12.0
1967	157.5	3.3	−8.6	−11.9	340.4	13.4
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
Nixon:						
1969	183.6	0.3	3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
Ford:						
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
Carter:						
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
Reagan:						
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.9	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.5	−212.3	−252.8	1,817.5	178.9
1986	990.5	81.9	−221.2	−303.1	2,120.6	190.3

HOLLINGS' BUDGET REALITIES—Continued

Pres. and year	U.S. budget (outlays) (in billions)	Borrowed trust funds (billions)	Unified deficit with trust funds (billions)	Actual deficit without trust funds (billions)	National debt (billions)	Annual increases in spending for interest (billions)
1987	1,004.1	75.7	−149.8	225.5	2,346.1	195.3
1988	1,064.5	100.0	−155.2	255.2	2,601.3	214.1
Bush:						
1989	1,143.7	114.2	−152.5	−266.7	2,868.3	240.9
1990	1,253.2	117.4	−221.2	−338.6	3,206.6	264.7
1991	1,324.4	122.5	−269.4	−391.9	3,598.5	285.5
1992	1,381.7	113.2	−290.4	−403.6	4,002.1	292.3
Clinton:						
1993	1,409.5	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,461.9	89.0	−203.3	−292.3	4,643.7	296.3
1995	1,515.8	113.3	−164.0	−277.3	4,921.0	332.4
1996	1,560.6	153.4	−107.5	−260.9	5,181.9	344.0
1997	1,601.3	165.8	−22.0	−187.8	5,369.7	355.8
1998	1,652.6	178.2	69.2	−109.0	5,478.7	363.8
1999	1,703.0	251.8	124.4	−127.4	5,606.1	353.5
2000	1,789.0	258.9	236.2	22.7	5,628.8	362.0
Bush:						
2001	1,863.9	268.2	127.1	141.1	5,769.9	359.5
2002	2,011.0	270.7	−157.8	−428.5	6,198.4	332.5
2003	2,120.7	222.3	−199.2	468.6	6,619.9	324.1

Note.—Historical Tables, Budget of the US Government: Beginning in 1962, CBO's The Budget and Economic Outlook: Fiscal Years 2004–2013, January 2003.

Mr. HOLLINGS. What will happen when we have the budget debate is they will have leadership amendments. They will have something on prescription drugs and they will have something on some other thing, whatever it is. Then the real important ones you submit for 2 minutes. You describe your amendment and everybody votes. Senators will not get the opportunity to see this, so I hope they will all get this out of the CONGRESSIONAL RECORD.

When you talk about digging that hole, let me show you the hole we are really in. If, we have a deficit of $554 billion for this year, and last year we had a $428 billion deficit, and next year they project a $569 billion deficit—that, added together, is $1.5 trillion. That is $1.5 trillion of stimulus. We don't need a little dividend cut, or a little marriage penalty elimination to stimulate the economy. What we need is money and certainly not tax cuts, certainly not digging the hole. You are in a dickens of a hole if you are already in $1.5 trillion in deficit without the cost of Iraq.

For my colleagues, let me try to put this in perspective. If you add up all the deficits from Harry Truman in 1945 to Gerald Ford in 1975—if you take the 30 years cumulative of all deficits, which include the cost of World War II, the cost of Korea, the cost of Vietnam—it adds up to $358 billion. We are already talking, not $300 some billion over 30 years, but we are talking about $554 billion this year without the cost of Iraq.

You are in real trouble when you have to estimate that and you see the interest cost now. Lyndon Johnson was the last President to balance the budget. In 1968–1969 he had a surplus. That is the last time. I was here.

In fact, we met over on the House side, the distinguished chair—George Mahon was chairman of the Appropriations Committee. We didn't have a Budget Committee. I am almost convinced that we ought to go back to that because there was a conscience. This whole budget process has now become a charade.

But George Mahon said, you know the President is very, very sensitive about this guns and butter. We have to do something else, a little bit more if we are really going to balance it. He said, Call over to Marvin Watson and ask the President if we can cut another $5 billion, and we cut another $5 billion. If I am not mistaken, the budget at that time for guns, butter, the war in Vietnam was $175 billion.

Now we have a budget of almost $2.1 trillion. We pay $324 billion in interest per year—it is estimated that when the interest rates go back up, it will be back up to a billion a day in interest.

The first thing the Government does every morning at 8 when the banks open is borrow another $1 billion, every morning except Sunday this year. They are going to go down every day, including Saturday, including holidays. They will go down and borrow and add it to the debt. That is why we are running this $554 billion deficit.

But these interest costs are just saddling us, when we are paying over $300-some billion in interest, as much as the defense budget, and all just waste just because we didn't pay our way. We used to pay our way. We used to pay for the war. Yes, tell my friend Robert Novak when he constantly says we are going to pay for the war by borrowing just like we did for guns and butter in Vietnam—no, no. President Lyndon Johnson paid and balanced the budget then.

You have seen exactly what the score is with respect to digging a hole. I want to get right into the point of this so-called tax cut because nobody was better at stopping digging the hole and recognizing it, of course, than Mr. David Stockman. I had just come off the chairmanship of the Budget Committee, and I went over with Mr. Alan Greenspan to the Blair House and briefed President Reagan in December of 1980. I will never forget, the President said:

> Whoops, I had promised to balance the budget in 1 year. From what you gentlemen are telling me it is going to take 3 years.

That is when we went from a 1-year budget to 3 years. In 1981, I opposed those tax cuts. Reaganomics, what George Bush senior called voodoo. I opposed voodoo I. I opposed the increase in spending at that time because we all had a sense of responsibility. In order to stick it out and be able to serve around here, you have to go with the flow like the traffic in downtown Hanoi.

Listen to this, from page 342 of "The Triumph of Politics":

> The President had no choice but to repeal or substantially dilute the tax cut that would have gone far toward restoring the stability of the strongest capitalist economy in the world. Ronald Reagan chose not to be a leader but a politician. His obstinacy was destined to keep America's economy hostage to the errors of his advisers for a long, long time.

So under President Reagan, we had an $85.7 billion deficit in 1981, and it went up to $142.5 billion in 1982. That is when he was cutting taxes.

The next thing you know it was up to $234 billion and he ended up with a $252 billion deficit by his eighth year in office.

Then President George Herbert Walker Bush came in and he ended up with a $403 billion deficit. We never had over $100 billion in deficit until voodoo I came along.

Let me talk about voodoo II. I watched that because I have been in the budget lead now for quite some time. I come from a State where in order to be elected governor you have to promise to pay the bill. But in that same State, in order to be elected to the Senate you have to promise not to pay the bill. I am against the government of let us cut taxes. So I know whereof I speak. I have experience in the budget.

What happened when Governor Bush in September of 2000 said on the campaign trail said he was going to cut taxes. I sort of shook my head and smiled. I said, Well, that is campaign talk. That is not going to happen for the simple reason that we can't afford to be cutting taxes. But I sort of sobered up on the Friday after the election—on Tuesday in November 2000. That is when Vice President-elect CHENEY said, Yes, that is what we are going to do. When Vice President-elect CHENEY said we were going to cut taxes, there was no recession yet.

Please listen. Harken all. Lend me your ears, for I can tell you what really started that recession in 2001. It was when Alan Greenspan, the chairman of the Federal Reserve, came on January 25, 2001 before the Budget Committee and he attested to the fact that we were paying down too much debt. He gave title and interest to the young President George W. Bush. He gave him the go-ahead with this $5.6 trillion debt.

Secretary of Treasury John Snow, former head of CSX and who used to head up the Business Roundtable, was always coming into my office because we were big admirers of CSX. He was always coming in worried about the budget and the deficits. When I talked to him on the phone before he became Secretary, I said, "John, I see you are giving up two things." He said, "What's that?" I said, "You are giving up your membership at Augusta National Golf Club, and you have given up any chance of balancing the budget and getting this Government out of the red. You are giving up on the deficit now, and you are going to head for deficits."

I ask unanimous consent to have this 2001 debt time line schedule printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

2001 DEBT TIMELINE

On January 25, 2001, we were $65 billion in the red.

On February 27, 2001, we were $53 billion in the red.

On April 15, 2001, we were $94 billion in the red.

On April 30, 2001, we were $13 billion in the black.

On May 1, 2001, we were $23 billion in the black.

On June 1, 2001, we were $4 billion in the black.

On June 7, 2001, the President signed the $1.7 trillion tax cut.

On June 15, 2001, we were $41 billion in the black.

On June 28, 2001, we were $52 billion in the red.

On September 10, 2001, we were $99 billion in the red.

On September 30, 2001, the end of the fiscal year, we were $141 billion in the red.

Mr. HOLLINGS. Mr. President, we have on January 25 the chairman of the Federal Reserve, Alan Greenspan, saying we are paying down too much debt.

On February 27, 2001, the President submitted his budget for the first time, and he said, in essence, I protect Social Security. I have $2.6 trillion to protect Social Security. I have $2 trillion for defense and domestic programs, and I have $1 trillion for unforeseen circumstances.

At the time Chairman Greenspan spoke, we were still in the red in deficits—$65 billion. When the distinguished President spoke on February 27 for the first time to Congress, we were $53 billion in the red. On April 15, the income tax time to make the returns, we were $94 billion in the red. But with all the tax payments coming in on April 15, by April 30 we were in the black by $13 billion. On May 1, we were $23 billion in the black. On June 1, we were $4 billion in the black. From the end of April to the first of June, we were in the black. But on June 7, the President signed the $1.7 billion tax cut, and by June 28, 20 days after he put his signature to the tax cut, we were $52 billion in the red. On September 10, we were $99 billion in the red.

They all said 9/11 caused this deficit. No. The day before 9/11, we were already, as a result of the tax cut, $99 billion in the red when the President was talking about $1 trillion for unforeseen circumstances. We have only authorized since 9/11 for the 2002 war on terrorism $20 billion. At the Congressional Budget Office they say 9/11 will only cost us $34 billion. Give them the double amount—some $60 billion that 9/11 may have cost. But it didn't cost any trillion dollars, and it didn't cause us to go back into the red. The tax cut is what we are suffering from. And thereby, as the Washington Post said, the first rule is to stop digging. But we will be meeting on Wednesday and Thursday with the Budget Committee, and there they will be determined to come in with shovels and dig as deep as they possibly can.

I happened to have fought with the French in World War II, and they are outstanding fighters. We are talking about NATO, how brave we are, how we are going into Iraq. I wish we had the courage to pay the bill. They say it is small by historical standards; that is, the deficit is 2.7 percent of the gross domestic product. But when you look at the actual debt, when they don't use Social Security, then the deficit as a percent of the gross domestic product is 5.7 percent.

The Greenspan Commission recommended that you are not to use Social Security trust funds, as the editorial points out, and that is exactly how they have lowered the deficit.

You see, when the editorial says, "The deficit numbers above are cushioned by including $2.6 trillion from the Social Security trust fund," that is against the law, Senator. That is against, section 13–301, which passed the Senate 98 to 2.

I wanted it to pass unanimously, but I could not get Senator Armstrong's vote. That is the one I missed, along with Senator Boschwitz's. I had the greatest—and still have the greatest—respect for both Senator Boschwitz and Senator Armstrong. I could not get their vote, but I got everyone else's. It went to President Bush senior on November 5, 1990, and he signed that into law.

So under law, you are not supposed to be spending Social Security moneys on anything other than Social Security.

For the Social Security trust funds, you can see that here we have spent $1.489 trillion. Everybody is running around saying: Save Social Security. We are going to have to reform Social Security. We are going to have to do this and do that. All they need to do is quit spending Social Security moneys on any and everything but Social Security. That is the whole problem.

Of course, you can see what they are spending for Medicare, military retirement to civilian retirement, the unemployment compensation fund, the highways, the airports, the railroad retirement, and others.

We are spending some $2.7 trillion already of all of these other trust funds. Yet we are going to do something on account of the baby boomers? I want to do something on account of the adults and get some conscience to this group up here and some awareness to the media and everybody to understand, let's have truth in budgeting.

The Secretary of the Treasury puts it out every day—the public debt, to the penny—and you can see how much the debt goes up. The debt clock is running every second in New York for the people to see. But we give them Enron accounting. It is small here, and we have another figure here, and everything else. So you can see we are spending a little over $40-some billion per month.

I think with that chart, and the distinguished Senator from Utah being here, I am sure I am using the Hatch rule on Estrada. Under the Hatch rule, you said, on another Hispanic nominee we had at one time, that you were worried she would be an activist and would legislate from the bench. That is exactly what I am worried about with Estrada.

I appreciate the time of the body. I would be glad if somebody wants to debate Mr. Estrada. Tell them I know very little about him except for the fact that when he was given the opportunity to come up to get my vote for confirmation, he elected to rudely not answer. I know the gimmick, and I know what they are doing. I voted for Robert Bork. David Boren of Oklahoma and myself were the two Democrats who voted for Robert Bork. I am delighted to vote for conservatives. My State is conservative. But don't send a fellow up and think he can engage in that kind of monkey business of not even answering the questions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand that we are on the Executive Calendar under the executive order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. And that we are considering the nomination of Miguel Estrada to the Tenth Circuit.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. I thank the Presiding Officer.

Mr. President, I listened to my colleague from South Carolina for a good number of minutes and have always been fascinated by his review of the budget and budget processes.

I am also always frustrated by the reality of a general fund budget, in a comprehensive budget policy under which we operate, and the fungibility of moneys, and the broad general system in which we take Social Security moneys, once appropriately registered in the trust funds of Social Security, and then it being moved into the general fund of our country; that, in fact, Social Security money is spent and bonds are taken out or loans are made against the trust funds and interest is bearing and money is replaced. So to suggest that trust fund moneys cannot be spent once they have been appropriately accounted for is a frustration.

But let me stop there because I came to the floor this afternoon to once again speak about Miguel Estrada and his nomination and, of course, where the Senate is at this moment in time, which is not only important for all of us but important for the judiciary of our country, that we are able to bring to the floor of the Senate highly qualified men and women who have been appropriately vetted by the administration—no matter what administration it is—and that the nominations of these people are reviewed by the Judiciary Committee and then brought to the floor for a vote.

What has gone on here for well over 4 weeks is the denial of that opportunity to vote. We did have a vote last week. It was a cloture vote. It is part of the inside ball game of the Senate that oftentimes those who are observers of what we do do not understand.

We got 55 votes, if you will, for Miguel Estrada. My goodness, that is 50 percent plus 5 of a 100-member body. Surely, that would confirm this fine judicial nominee.

Quite to the contrary, it was a cloture vote. Under a cloture vote, with a supermajority rule in the rules of the Senate, it simply says you have to get 60 before you have the right to get 50 plus 1 of those present and voting.

That has to be awfully confusing for anyone listening or observing. Clearly, the rules of the Senate are to make sure that our Constitution is upheld, or at least a prescription of our Constitution, that requires that all States enter in and are members of the United States under our Constitution and are equal in the Senate. Therefore, we have historically, and appropriately so, erred on the side of protecting the minority. And that, of course, is the cloture process: to make sure that a supermajority finally decides it is time to vote on an issue.

I hope that over the course of the next several weeks we can gain cloture and that we can get to the real vote, the honest vote, the fair vote, the appropriate vote of 50 plus 1 of those present and voting for the confirmation of Miguel Estrada under the advice and consent clause of our Constitution.

Let me recap, for a few moments, some of the arguments we have heard on the floor of the Senate over the last several weeks about this fine nominee: We are asked, if you will, to rubberstamp everyone the President sends up, and we should not inquire, we should not be probative, we should not look into the individual's background.

Well, that is an interesting argument, but it echoes in such a hollow way on the floor of the Senate when you look at the reality and the fact that Mr. Estrada has been before the Judiciary Committee for over 2 years and that we have had now a very extensive filibuster—or shall I say extended debate—that has talked about almost every aspect of Miguel Estrada's professional life—his career and his life in general; that he was thoroughly investigated by the FBI, and those records were brought to the Judiciary Committee for all of us to examine, and somehow we are no "rubberstamping," after literally hundreds and hundreds of pages of material, and the process of this investigation is now compiled in the Judiciary Committee on Mr. Estrada.

Rubberstamping? I think not. Rubberstamping is not when any Senator can vote how he or she wishes. We are not suggesting that everybody vote yes. We are suggesting that everybody vote—yes or no, up or down—and that Mr. Miguel Estrada be given his day, as should the President be given the right to have his or her nominees brought to the floor for an up-or-down vote.

I say to my colleagues on the other side, that ain't a rubberstamp; that is doing what you are asked to do when you are sworn in as a Member of the Senate—to vote up or down on the issue, face the tough votes, face the easy votes. I have one job here, as do 99 other Senators, and that is to come to the floor of the Senate and vote. That is what my State asks. That is the role I play for my State. That is all our President asks. I am quite sure that is what Miguel Estrada would like.

Our colleagues have complained that Mr. Estrada is a "blank slate;" that there is not enough information for Senators to be able to make a responsible judgment about his ability to serve.

You have heard my colleague from South Carolina say not all the questions have been answered. Well, Miguel Estrada has literally called every Senator's office and said, "I will come and visit with you and I will respond to your questions." But, no, that is not good enough. We don't want him in our office; we want him before the committee again responding to the questions that the committee would choose to ask and, of course, we would like more of the record that he compiled while serving in the Justice Department under both Democrat and Republican Presidents.

It is a very frustrating time we have here when, in fact, that which they argue has been answered not only once but twice or a hundred times over. When you, therefore, compile all of this and analyze the record, there has to be something more than just the background, just the information. I think it is, in fact, the politics of the issue today, and the effort on the part of the far left to cause the Democrat Party to try to deny Miguel Estrada his day on the floor of the Senate in an up-or-down vote with Members present and voting.

Let me talk a little bit about some of the questions asked. I am quoting from a phenomenally comprehensive letter which was sent to the Senate by the legal counsel at the White House. I have it here. It is 15 pages. Counsel to the President, Judge Gonzales, sent this up on February 12. It goes into great detail. I thought for a few moments I would, once again, for the record, talk of some of that detail and some of the answers that both Miguel Estrada has responded to and that Judge Gonzales, legal counsel to the White House, has responded to—only for those who are concerned about the CONGRESSIONAL RECORD that we compile here to clearly understand that the arguments placed by the other side are so hollow, they have hardly no echo today, because questions have been asked and answers have been given.

Miguel Estrada answered the committee's questions—and this is according to Judge Gonzales. I was not there at the time. I now serve on the Judiciary Committee, but these questions were leveled at Miguel Estrada in the 107th Congress. I was not a member of the committee at that time.

> Miguel Estrada answered the Committee's questions forthrightly and appropriately. Indeed, Miguel Estrada was more expansive than many judicial nominees traditionally have been in Senate hearings, and he was asked a far broader range of questions than many previous appeals court nominees were asked.

He goes on to catalog the questions and the answers in the area of rights, privacy and abortion, unenumerated rights.

> When asked by Senator Edwards about the Constitution's protection for rights not enumerated in the Constitution, Mr. Estrada replied: "I recognize that the Supreme Court has said [on] numerous occasions in the area of privacy and elsewhere that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are a number of unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the Fourteenth Amendment.

> When asked by Senator Feinstein whether the Constitution encompasses a right to privacy and abortion, Mr. Estrada responded, "The Supreme Court has so held, and I have no view of any nature whatsoever, whether it be legal, philosophical, moral, or any other type of view that would keep me from applying that case law faithfully." When asked whether Roe v. Wade was "settled law," Mr. Estrada replied, "I believe so."

That is a pretty straightforward answer. That is as clear as you can get on issues of privacy and abortion. I cannot understand why the other side cannot accept that as a responsible and clear answer.

> General approach to judging.

In other words, what is your philosophy? How do you react?

> When asked by Senator Edwards about judicial review, Mr. Estrada explained: "Courts take the laws that have been passed by you [meaning the Senate] and give you the benefit of understanding that you take the same oath that they do to uphold the Constitution, and therefore they take the laws with the presumption that they are constitutional. It is the affirmative burden of the plaintiff to show that you have gone beyond your oath. If they come into court, then it is appropriate for courts to undertake to listen to the legal arguments—why it is that the legislature went beyond [its] role as a legislature and invaded the Constitution."

> Mr. Estrada stated to Senator Edwards that there are 200 years of Supreme Court precedent and that it is not the case that "the appropriate conduct of the courts is to be guided solely by the bare text of the Constitution because that is not the legal system that we have.

In other words, he was talking to that precedent in relation to the strictness of the Constitution.

> When asked by Senator Edwards whether he was a strict constructionist, Mr. Estrada replied that he was "a fair constructionist," meaning that, "I don't think that it should be the goal of the courts to be strict or lax. The goal of the court is to be right. . . . It is not necessarily the case in my mind that, for example, all parts of the Constitution are suitable for the same type of interpretive analysis. . . . [T]he Constitution says, for example, that you must be 35 years old to be our chief executive. . . . There are areas of the Constitution that are more open-ended. And you adverted to one, like the substantive component of due process clauses, where there are other methods of interpretation that are not quite so obvious that the court has brought to bear to try to bring forth what the appropriate answer should be.

That is an understandable answer when the law is as specifically as 35 years; that is interpretive. When the Constitution gives you the opportunity for some interpretation, of due process, then of course that goes to the fairmindedness of the individual judge involved within the framework of precedent so ruled.

When Senator KOHL asked him about the environmental statutes, for example, Mr. Estrada explained that those statutes come to court with a "strong presumption of constitutionality." In other words, there is a presumption that those laws that the Congress of the United States passes are constitutional by their passage, only later to be tested in the courts to find out how constitutional or if they can withstand that test.

In response to Senator LEAHY, Mr. Estrada described the most important attributes of a judge:

> The most important quality for a judge, in my view, Senator LEAHY, is to have an appropriate process for decisionmaking. That entails having an open mind. It entails listening to the parties, reading the briefs, going back beyond those briefs and doing all of the legwork needed to ascertain who is right in his or her claims as to what the law says and what the facts [are]. In a court of appeals court, where judges sit in panels of three, it is important to engage in deliberation and give ear to the views of colleagues who may have come to different conclusions. And in sum, to be committed to judging as a process that is intended to give us the right answer, not to a result.

In other words, not to what had been planned or anticipated but the right answer in relation to the law and the Constitution.

> And I can give you my level best solemn assurance that I firmly think I do have those qualities or else I would not have accepted the nomination.

Here, of course, he is talking about his own character, his own makeup, the thinking processes that have allowed Miguel Estrada over the years to rise as far as he has and to be recognized by most as a very brilliant legal mind.

In response to Senator DURBIN, Miguel Estrada stated that:

> The Constitution, like other legal texts, should be construed reasonably and fairly, to give effect to all that its text contains.

Mr. Estrada indicated to Senator DURBIN that he admires the judges for whom he clerked: Justice Kennedy, Judge Kearse, as well as Justice Lewis Powell.

Miguel Estrada stated to Senator DURBIN:

> I can absolutely assure the committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced with subsequent decisions by the Supreme Court itself.

That is an interesting and a very important response to a question that many will argue he has not been asked or he has denied or refused to answer. Let me repeat that. When asked about how he will respond to certain cases brought before the court as it relates to decisions made by the Supreme Court, he said:

> I can absolutely assure the committee that I will follow binding Supreme Court precedent until and unless such precedent has been displaced by subsequent decisions of the Supreme Court itself.

In response to Senator GRASSLEY, Mr. Estrada stated:

> When facing a problem for which there is not a decisive precedent from a higher court, my cardinal rule would be to seize aid from any place where I can get it. Depending on the nature of the problem, that would include related case law in other areas that higher courts had dealt with that had some insight to teach with respect to the problem at hand. It could include the history of the enactment, including a statute's legislative history. It should include the custom and practice under any statute or document. It should include the views of the academicians to the extent they purport to analyze what the law is, instead of prescribing what it should be. And in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived.

There is a very open, probative, bright mind responding to that kind of question. You go to the resources at hand to ultimately compile the information from which to make a decision, to make judgment.

In response to Senator SESSIONS, Mr. Estrada said:

> I am firmly of the view that although we all have views on a number of subjects from A to Z, the first duty of a judge is to self-consciously put that aside and look at each case by starting withholding judgment with an open mind and an answer to the parties. So I think the job of a judge is to put all of that aside and, to the best of his human capacity, to give a judgment based solely on the arguments and the law.

Again, straightforward, very clear answers with which I think all should be satisfied.

In response to Senator SESSIONS, Mr. Estrada stated:

> I will follow binding case law in every case. I may have a personal, moral, philosophical view on the subject matter, but I undertake to you that I would put all that aside and decide in accordance with binding case law and even in accordance with the case law that is not binding but seems constructive on that area, without any influence whatsoever from my personal view I may have about the subject matter.

The letter goes on to deal with Miranda, with congressional authority, ethnicity, racial discrimination, right to counsel, congressional authority to regulate firearms—phenomenally complete responses to very critical questions that speak to the mind and the legal training of a tremendous talent whose nomination we now have before us.

Somehow that is not good enough. Somehow our colleagues on the other side, time and again, have said: No, no, we need to go back to the committee to ask the questions. We need now all of the legal drafts and the memos that are a part of Mr. Estrada's record at the Justice Department when he worked there for both Presidents Bush, Sr. and President Clinton and, of course, Democrats and Republicans alike have said those are simply off the record and we cannot go there, nor should we go there.

The question is: Why go there at this time when we now have such a very complete record that speaks to the mind, the temperament, the judgment, the talent of Miguel Estrada? I think the answer is quite simple: We should not.

There is a simpler answer, and it is one we seek and one we have asked our colleagues for, and that is the right for an up-or-down vote on the floor of the Senate. Under the advise and consent clause of our Constitution, I am one who firmly believes that is the responsibility of the Senate, to review, to analyze, to be probative, as we have, but ultimately to bring a President's nominee to the floor for the purpose of a vote, a 50-percent plus 1 vote of those present and voting. I firmly believe that.

We are going to continue to pursue the confirmation of Miguel Estrada, as we must. We can simply not allow a nominee to come to the floor and for those who are in opposition to simply filibuster until all are exhausted and we all retreat into the shadows because no one wants to vote up or down. That is quite the opposite in this case. We clearly do need a vote. We want a vote. Let us not hide behind the supermajority in this instance. That is not an excuse for the ultimate oath of office that we have taken and the responsibility that we have at hand as Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. MIKULSKI are printed in today's RECORD under "Morning Business.")

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JEFFORDS are found in today's RECORD under "Morning Business.")

Mr. JEFFORDS. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I inquire of the Presiding Officer, are we now automatically returned to the period of time allocated to the pending nomination for the circuit court of appeals?

The PRESIDING OFFICER. The Senate is now in executive session on the Estrada nomination. That is the pending order of business.

Mr. WARNER. I thank the distinguished Presiding Officer.

Mr. President, article II, section 2 of the Constitution provides that the President:

> Shall nominate by, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States. . . .

As I read that historic phrase, and reflect and study on the history behind it, I reach the conclusion that these are coequal powers as it relates to the Federal judiciary responsibilities. They are balanced powers and, as such, they give strength to that time-honored doctrine of checks and balances between the three separate but coequal branches of our Federal Government.

The debate before us today goes to the very heart of our Constitution and the doctrine of checks and balances. As such, we should examine the very roots of our Republic to determine these respective responsibilities of the three branches of our Government.

The magnificence of the "great experiment," a term used by the skeptics of the work of our Founding Fathers, is what has enabled our Republic to stand today, after over 200 years, as the longest surviving democratic form of government still in existence.

I remember one time I used that phrase in an audience of some very erudite individuals. One person jumped to their feet and said: Oh, no, Switzerland. And I reminded them that Napoleon crossed the Alps and severed the continuity of that wonderful government.

So there we are, these proud States, forming our Republic known as the United States. The survival of that great experiment is dependent upon the continuous fulfillment of the balanced, individual responsibilities of the three branches of our Government.

I reflect now on the history of that clause "advice and consent."

During the Constitutional Convention, the Framers labored extensively over this clause, deferring for several months a final decision on how to select Federal judges. Some of the Framers argued that the President should have absolute and total authority to choose members of the judiciary. Others thought both the House of Representatives and the Senate should be involved in providing advice and consent. Ultimately, a compromise plan put forth by that distinguished Virginian, James Madison, won the day where the President would nominate the judges, and only the Senate, only one branch of the Congress, would render advice and consent. Such a process is entirely consistent with the system of checks and balances, that inherent doctrine in the Constitution that the Framers carefully placed throughout many provisions of the Constitution.

Presidents select those who should serve on the judiciary, thereby providing a philosophical composition of that President and the times in which he is privileged to serve in that office. However, the Senate has a check on the President because it is the final arbiter with respect to a nominee. But I look at those responsibilities as coequal, a check and a balance, but neither branch of Government, executive nor the legislative, has a power greater. I think they are coequal in the exercise of joint responsibility to, in fact, create the third branch, the Federal judiciary, through this process.

Historically, judicial nominations have needed only a majority of votes in the Senate for confirmation. I think that long history is for good reason. It is to preserve the inherent checks and balances and the coequal responsibility between the two branches in creating the judiciary. Only once, in these 200-plus years, has a judicial nominee been rejected by the Senate due to a filibuster. That was Abe Fortas, a nominee for the Supreme Court.

Indeed, a simple majority of votes in support of the confirmation of a nominee is also consistent with the Constitution which specifically spells out instances where, for example, a supermajority of votes is needed. For example, under the Constitution, two-thirds of the Senate must vote to ratify a treaty. Two-thirds of the Senate must vote to convict on an article of impeachment. Two-thirds of a House of Congress must vote to expel a Member of that body. Two-thirds of each House of Congress must vote to override a President's veto, and two-thirds of each House must vote to propose an amendment to the Constitution.

So when the Framers wanted to change the power structure as it relates to the respective duties of the branches, it did so expressly by creating the two-thirds supermajority vote.

In this instance, we are talking about a Senate rule which requires 60 votes to stop a filibuster. It is not constitutional. It is a Senate rule. The Framers did not think a supermajority was needed. The Framers probably did not have in mind the possibility someday of a 60-vote filibuster.

So I come back that it is clear that the Constitution wanted to have a coequal responsibility and balance of power between the two branches as it related to their respective functions in forming and creating the Federal judiciary.

If the Framers intended judicial nominees to be subjected to a supermajority vote, they would have included such language in the Constitution. In my view, the reason they did not include a supermajority requirement in regard to judicial confirmations is that otherwise it might prove too difficult for certain judicial nominees to be confirmed. If the bar was set too high, then the Senate would have far more power in the judicial process than the President. The checks and balances concept of our Founding Fathers would cease.

Is this what the Framers intended, that that inherent balance of power should in any way be violated? Absolutely not. We do not want the checks and balances concept to cease in the case of judicial nominations.

I recognize the filibuster, a rule created by the Senate itself and not by the Constitution, obviously does require the Senate to have 60 votes in certain circumstances in order for it to proceed. But in the context of judicial nominations, use of the filibuster to defeat a nominee would thwart the carefully crafted system of checks and balances put into place in our Constitution by the infinite wisdom of the Framers of that Constitution.

Throughout the quarter of a century I have been privileged and had the honor of representing the Commonwealth of Virginia in the Senate, I have conscientiously in each of those years under all of the Presidents I have served with made the effort to work on judicial nominations in a fair and objective way, recognizing the doctrine of checks and balances and the coequal authority of the two branches.

Whether our President was President Carter, President Ronald Reagan, President George Bush, President Clinton, or President George W. Bush, I have been privileged to accord equal weight to the nominations of all Presidents, irrespective of party. I have done so because of my belief that if the concept of equal power sharing and the concept of checks and balances was lost in the judicial confirmation process, then we may ultimately discourage many highly qualified men and women nominees from offering to serve in our judiciary.

Certainly each Senator is entitled to vote for or against a particular nominee for any reason he or she deems important. And it is clear our Framers did not intend the Senate's role in the advice and consent process to be a rubberstamp. No one is suggesting that. Exercise your authority. Exercise your judgment. Do it fairly. Do it consistently with the doctrine of checks and balances inherent in the Constitution.

This much is evident from history. Soon after the Constitution was ratified, the Senate rejected a nomination put forward by our first President, our founding father, George Washington.

President Washington nominated John Rutledge to serve on the U.S. Supreme Court. Even though Mr. Rutledge had previously served as a delegate to the Constitutional Convention, the Senate rejected his nomination. It is interesting to note many of those Senators who voted against the Rutledge nomination were also delegates to the Constitutional Convention.

The key differences between the Rutledge nomination of over 200 years ago and the Estrada nomination of today is that Mr. Rutledge received an up-or-down vote. A simple majority controlled. The early Members of our Senate, some of whom participated in the Constitutional Convention, allowed an up-or-down vote on Mr. Rutledge even though they opposed him.

On the other hand, Mr. Estrada has not received a vote and he is being subjected to a filibuster-proof majority for confirmation.

Our Founding Fathers, I say to my colleagues, were not so prudent of the requirement for the 60 votes.

Mr. Estrada is being opposed simply because of his political ideology. In the view of this Senator we ought to accord equal weight to a President's nominees, irrespective of party. I have tried to abide by this principle throughout my 25 years in the U.S. Senate.

For example, in the 106th Congress and the 107th Congress, I was honored to support the nomination of Roger Gregory. Judge Gregory was originally nominated by President Clinton and he was supported by Virginia's former Democratic Governor Doug Wilder.

Regardless of political ideologies, and regardless of which President nominated him, Judge Gregory was highly qualified to sit on the bench. We are fortunate to have him on the United States Court of Appeals for the Fourth Circuit. Judge Gregory is now the first African American Judge to ever serve on the United States Court of Appeals for the Fourth Circuit, and he is serving with distinction.

Judge Gregory's qualifications were clear cut. Regardless of which President nominated him, he deserved the support of the United States Senate.

Like Judge Gregory, Miguel Estrada's nomination is also a clear-cut case.

Mr. Estrada has received a unanimous ranking of "well qualified" by the American Bar Association. In my view, his record indicates that he will serve as an excellent jurist.

Mr. Estrada's resume is an impressive one. Born in Honduras, Miguel Estrada came to the United States at the age of 17. At the time, he was able to speak only a little English. But, just 5 years after he came to the United States, he graduated from Columbia College with Phi Beta Kappa honors.

Three years after he graduated from Columbia, Mr. Estrada graduated from Harvard Law School where he was an editor of the Harvard Law Review.

Mr. Estrada then went onto serve as a law clerk to a Judge on the United States Court of Appeals for the 2nd Circuit and as a law clerk to Judge Kennedy on the United States Supreme Court.

After his clerkships, Mr. Estrada worked as an Assistant United States Attorney, as an assistant to the Solicitor General in the Department of Justice, and in private practice for two prestigious law firms.

Throughout his career, Mr. Estrada has prosecuted numerous cases before federal district courts and federal appeals courts. He has argued 15 cases before the U.S. Supreme Court.

Without a doubt, Mr. Estrada's legal credentials make him well qualified for the position to which he was nominated. I am thankful for his willingness to resume his public service, and I am confident that he would serve as an excellent jurist.

In closing, Mr. President, it is clear to me that the Senate's role in the confirmation process is more than just a mere rubber-stamp of a President's nomination; but it is the Senate's constitutional responsibility to render "advice and consent" after a fair process of evaluating a President's nominee. After that process is complete, nominees who emerge from the Judiciary Committee ought to be accorded up or down vote.

Should a Senate rule overrule the Constitutional responsibilities of checks and balances? I think it should not.

Thomas Jefferson once remarked on the independence of our three branches of government by stating, "The leading principle of our Constitution is the independence of the Legislature, Executive, and Judiciary of Each other."

I would add that each branch of government must perform its respective responsibilities in a fair and timely manner to ensure that the three branches remain independent.

In my view, we must ask ourselves:

Is the current filibuster of Miguel Estrada's consistent with our country's last 200 plus years since our Constitution was ratified?

Are we fulfilling our constitutional responsibilities to preserve the doctrine of checks and balances?

In my view, we don't want to set a precedent that alters the inherent responsibilities of checks and balances in the judicial confirmation process.

But, these questions are for each Senator to decide upon.

I for one, though, fear the precedent that would be set if the Senate does not support cloture for Miguel Estrada and I fear what it might mean for the future of our Judiciary, and the future of our Republic.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the scheduled vote this evening on the Frost nomination now occur at 5:45, provided that debate time from 5 p.m. to 5:45 p.m. be equally divided as under the earlier order.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, we are now on a piece of legislation known as the partial-birth abortion bill. It is a bill we have debated in the Senate in two previous Congresses on four different occasions. We debated it the first time and passed it. It was vetoed by the President, President Clinton at the time, back in 1996. Then we attempted to override the President's veto and fell just a few votes short.

We came back the next session, went through the same process, sent the bill to the President, he vetoed it again, and we came closer but we still failed in overriding the President's veto.

Subsequently, there were a whole series—actually, concurrent with that debate—of States, over half the States in the Union, that passed bans on this horrific partial-birth abortion procedure. That is the procedure where the baby is delivered—this is a baby at over 20 weeks gestation; in other words, halfway through the pregnancy. The gestational period is 40 weeks. This procedure is only performed on babies in utero after 20 weeks. So these are late-term abortions.

The process is as follows: A woman shows up and decides she wants to have an abortion after 20 weeks. A doctor decides to use this methodology. The woman is given a drug to dilate her cervix. She is sent home. Two days later she returns, and the baby is then delivered in a breech position. Under the definition of this act as currently constituted, the baby has to be alive when it is brought in through the birth canal, the baby has to be in a breech position, has to be outside the mother at least past the navel, and be alive. Then the baby is killed in a fashion that I will describe in more detail later.

That procedure, as I said, was banned by over 25 States. It was brought, obviously, to the courts by many in those States. There were a couple of circuit courts that found this to be constitutional, one that did not. The Supreme Court took one of those cases, the Nebraska case that was appealed to the circuit, and made a decision which I think was in error. It was a horrible decision, but a decision I think we need to contemplate here. It is a decision that said that an abortion past 20 weeks of a child that would otherwise be born alive is now encompassed by Roe v. Wade.

You hear a lot of comments about Roe v. Wade, that Roe v. Wade only allows legal abortions within the first trimester and under limited circumstances in the second trimester. These are babies in the second and third trimester, where the courts have basically said, as many of us who have been studying this issue for a long time have said, that there is no limitation on the right to abortion. Abortion is a right that is absolute in America. There are no limitations, as a result of court decisions, on the right to an abortion.

So they held, in this case, that the language of the statute was too vague and that—the description of the procedure was too vague, and that there needed to be a health exception to this procedure; in other words, to preserve the health of the mother.

We have responded to that with a bill we introduced last year, in the last session of Congress. In the last session of Congress, we introduced a piece of legislation in the House that was passed. STEVE CHABOT, at the time chairman of the Constitution Subcommittee on the Judiciary Committee, passed a piece of legislation in the House that banned this procedure. It is identical to the bill that is on the floor today. We asked for its consideration last year.

I came to the floor on a couple of occasions and asked for unanimous consent to bring this bill forward. I agreed to debate it on Fridays and Mondays, so as not to interrupt the rest of the Senate's schedule. I agreed to stay on the weekend if that was necessary so we could deal with amendments. Unfortunately, even though the bill passed in July of last year, it was not scheduled here on the Senate floor for debate and for passage—for action.

That is why I believe this is unfinished business from last year and one of the reasons I advocated for its early consideration this year. I thank our leader, Senator FRIST, for his willingness to bring this bill to the floor promptly, for us to be able to have this debate, to look at the issues involved with respect to this issue.

We believe the issues the Supreme Court brought up with respect to the infirmities in the Nebraska statute have been addressed by this legislation. First, we have gone into much greater detail in describing this procedure, and either later tonight or tomorrow I will read the text of the bill and I will provide graphic illustration as to how this procedure is conducted.

Second, we dealt with the issue of health. Roe v. Wade requires a health exception when the health of the mother is potentially in danger. We have included in this legislation a voluminous amount of material that shows clearly, without dispute, in my mind—without dispute, period, not just in my mind—without any medical dispute, that there are no reasons this procedure has to be available for the health of the mother because there are no instances in which this procedure is required for the health of the mother. There is no medical organization out there that believes that to be the case.

While some do not support the legislation or have a neutral position, nobody has come forward and said this is medically necessary to protect the health of the mother, much less, by the way, the life of the mother.

So, since there is no reason for a health exception because there are no instances where a health exception is needed, then Roe does not apply. So we have laid that out very clearly in this legislation. We believe as a result of that, Congress has the right—because we do a heck of a lot more exhaustive study, in our deliberations with hearings and other testimony, than the Supreme Court can. They have to rely on the record of the lower court and the arguments made to that lower court.

In the case of Nebraska, frankly, the arguments were not particularly well put and the evidence was not particularly robust for either side. It was a very weak record, and the court made a decision based on that record. They will have a different record before them in this case when it is brought up to the court, and I believe the record will be clear and dispositive that no health exception is necessary. We have dealt with the constitutional issues. Now we are back to the focus of this legislation. Do you want to allow a horrific procedure that is not medically necessary, never medically indicated, not taught in any medical school in this country, not recommended, and which, in fact, major health organizations of this country have said is bad medicine, contra-indicated, that is so brutal in the way it is administered to a baby that otherwise would be born alive?

Let me emphasize that it is a baby fetus—some will refer to it as the child in utero—that would otherwise be born alive. You don't want to allow this child to be brutally killed by thrusting a pair of scissors into the back of its skull and suctioning its brains out.

This goes on in America thousands of times a year. The number of partial-birth abortions has tripled, according to the abortion industry that doesn't keep very good records. They admit that. It has tripled, they say, to 2,200. Oddly enough, back in 1997 when we were debating this, the Bergen County Record took the bother of asking the local abortion clinic how many they did just in Bergen County. The partial-birth abortion national number at that time was 600. In Bergen County, they did 1,500. I guess they dismissed that.

The bottom line is that this goes on an enormous amount of times and they call it a rare procedure. If we had a procedure that killed 2,200 children in America every single year, we would not be saying it is a rare procedure in America. If we had a disease that affected 2,200 little babies every year, we wouldn't say this is a rare thing when we know, by the way, that the number is multiples of that. The people we have to rely on for that information are the people who want this to be legal and who don't tell us about the abortions they perform.

This is something that needs to be done. I am hopeful that we can deal with this issue in an expeditious fashion, get this over in the House of Representatives and have them pass it, and have the President sign it, because he will sign it.

I think there is broad bipartisan support for this legislation as there has been in the past. It is overwhelmingly supported by the American people. A very large majority support this legislation. Even those who do not consider themselves pro-life believe that at some point we have to draw the line on the brutal killing of a child literally inches from constitutional protection—inches from being born and being completely separated from the mother, being held in the birth canal and executed, having scissors thrust into the base of its skull and then to have a suction catheter inserted and the "cranial content" removed.

Just to describe it here sends chills down your back. Yet people will defend this procedure and say that a civilized nation such as America believes this is proper medicine. Medicine, healing? I, frankly, don't know who is healed in that situation. I do not know who is protected in that situation when every credible medical core organization says it is not medically necessary; in fact, it is "bad medicine," and it is harmful to the woman. I have just described how harmful it is to the little child.

I ask my colleagues to join me in passing this piece of legislation and ending this outrageous procedure.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. TALENT). The Senator from California.

Mrs. BOXER. Mr. President, could you advise me when I have used 9 minutes.

The PRESIDING OFFICER. The Chair will so advise.

Mrs. BOXER. I thank the Chair.

Mr. President, there have been so many misstatements made on this floor right now in just a few minutes that I don't know where to start.

Why don't I start with the whole point that we have made over and over again. We are Senators. We are not doctors. With all due respect to my friend from Pennsylvania, if my daughter were in trouble with pregnancy, I wouldn't go to him. I would go to her OB-GYN. And I would say, Tell us what do we have to do to make sure this birth goes well, and tell us what we have to do to make sure our daughter's life will not end and that her health will not be impaired forever. I would not go to the Senator from Pennsylvania in that circumstance.

There are many arguments that we will lay out. Today, we only have a few very short minutes. Senator MURRAY and I are going to share the time. We have a number of amendments that we are going to offer during this week to talk about what we think is very important for women's health, and, frankly, the health of their families and their children.

This bill, S. 3, is called the Partial-Birth Abortion Ban Act. It should be called the following: The "Criminalizing Medically Necessary Procedures Act," because the procedures that are banned are necessary to save the life and the health of a woman facing a medical emergency during a pregnancy.

My friend from Pennsylvania makes light of it. Oh, this doesn't hurt women. This is fine for women. Let me tell you who agrees with us and who disagrees with the Senator from Pennsylvania.

To start, I have a letter that I ask unanimous consent be printed in the RECORD from Physicians for Reproductive Choice and Health.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 10, 2003.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: We are writing to urge you to stand in defense of women's reproductive health and vote against S. 3, legislation regarding so-called "partial birth" abortion.

We are practicing obstetrician-gynecologists, and academics in obstetrics, gynecology and women's health. We believe it is imperative that those who perform terminations and manage the pre- and post-operative care of women receiving abortions are given a voice in a debate that has largely ignored the two groups whose lives would be most affected by this legislation: physicians and patients.

It is misguided and unprincipled for lawmakers to legislate medicine. We all want safe and effective medical procedures for women; on that there is no dispute. However, the business of medicine is not always palatable to those who do not practice it on a regular basis. The description of a number of procedures—from liposuction to cardiac surgery—may seem distasteful to some, and even repugnant to others. When physicians analyze and debate surgical techniques among themselves, it is always for the best interest of the patient. Abortion is proven to be one of the safest procedures in medicine, significantly safer than childbirth, and in fact has saved numerous women's lives.

While we can argue as to why this legislation is dangerous, deceptive and unconstitutional—and it is—the fact of the matter is that the text of the bill is so vague and misleading that there is a great need to correct the misconceptions around abortion safety and technique. It is wrong to assume that a specific procedure is never needed; what is required is the safest option for the patient, and that varies from case to case.

THE FACTS

(1) So-called "partial birth" abortion does not exist.

There is no mention of the term "partial birth" abortion in any medical literature. Physicians are never taught a technique called "partial birth" abortion and therefore are unable to medically define the procedure.

What is described in the legislation, however, could ban all abortions. "What this bill describes, albeit in non-medical terms, can be interpreted as any abortion," stated one of our physician members. "Medicine is an art as much as it is a science; although there is a standard of care, each procedure—and indeed each woman—is different. The wording here could apply to any patient." The bill's language is too vague to be useful; in fact, it is so vague as to be harmful. It is intentionally unclear and deceptive.

2) Physicians need to have all medical options available in order to provide the best medical care possible.

Tying the hands of physicians endangers the health of patients. It is unethical and dangerous for legislators to dictate specific surgical procedures. Until a surgeon examines the patient, she does not necessarily know which technique or procedure would be in the patient's best interest. Banning procedures puts women's health at risk.

3) Politicians should not legislate medicine.

To do so would violate the sanctity and legality of the physician-patient relationship. The right to have an abortion is constitutionally-protected. To falsify scientific evidence in an attempt to deny women that right is unconscionable and dangerous.

The American College of Obstetricians and Gynecology, representing 45,000 ob-gyns, agrees: "The intervention of legislative bodies into medical decisionmaking is inappropriate, ill advised, and dangerous."

The American Medical Women's Association, representing 10,000 female physicians, is opposed to an abortion ban because it "represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients."

THE SCIENCE

We know that there is no such technique as "partial birth" abortion, and we believe this legislation is a thinly-veiled attempt to outlaw all abortions. Those supporting this legislation seem to want to confuse both legislators and the public about which abortion procedures are actually used. Since the greatest confusion seems to center around techniques that are used in the second and third trimesters, we will address those: dilation and evacuation (D&E), dilation and extraction (D&X), instillation, hysterectomy and hysterotomy (commonly known as a c-section).

Dilation and evacuation (D&E) is the standard approach for second-trimester abortions. The only difference between a D&E and a more common, first-trimester vacuum aspiration is that the cervix must be further dilated. Morbidity and mortality studies indicate that this surgical method is preferable to labor induction methods (instillation), hysterotomy and hysterectomy.

From the years 1972-76, labor induction procedures carried a maternal mortality rate of 16.5 (note: all numbers listed are out of 100,000); corresponding rate for D&E was 10.4. From 1977-82, labor induction fell to 6.8, but D&E dropped to 3.3. From 1983-87, induction methods had a 3.5 mortality rate, while D&E fell to 2.9. Although the difference between the methods shrank by the mid-1980s, the use of D&E had already quickly outpaced induction, thus altering the size of the sample.

Morbidity trends indicate that dilation and evacuation is much safer than labor induction procedures, and for women with certain medical conditions, e.g., coronary artery disease or asthma, labor induction can pose serious risks. Rates of major complications from labor induction were more than twice as high as those from D&E. There are instances of women who, after having failed induction, acquired infections necessitating emergency D&Es, which ultimately saved her fertility and, in some instances, her life. Hysterotomy and hysterectomy, moreover, carry a mortality rate seven times that of induction techniques and ten times that of D&E.

There is a psychological component which makes D&E preferable to labor induction: undergoing difficult, expensive and painful labor for up to two days is extremely emotionally and psychologically draining, much more so than a surgical procedure that can be done in a few hours under general or local anesthesia. Furthermore, labor induction does not always work: Between 15 and 30 percent of cases require surgery to complete the procedure. There is no question that D&E is the safest method of second-trimester abortion.

There is also a technique known as dilation and extraction (D&X). D&X is merely a variant of D&E. There is a dearth of data on D&X as it is an uncommon procedure. However, it is sometimes a physician's preferred method of termination for a number of reasons: it offers a woman a chance to see the intact outcome of a desired pregnancy, thus speeding up the grieving process; it provides a greater chance of acquiring valuable information regarding hereditary illness or fetal anomaly; and there is a decreased risk of injury to the woman, as the procedure is quicker than induction and involves less use of sharp instruments in the uterus, providing a lesser chance of uterine perforations or tears and cervical lacerations.

It is important to note that these procedures are used at varying gestational ages. Neither a D&E nor a D&X is equivalent to a late-term abortion. D&E and D&X are used solely based on the size of the fetus, the health of the woman, and the physician's judgment, and the decision regarding which procedure to use is done on a case-by-case basis.

THE LEGISLATION

Because this legislation is so vague, it would outlaw D&E and D&X (and arguably techniques used in the first-trimester). Indeed, the Congressional findings—which go into detail, albeit in non-medical terms—do not remotely correlate with the language of the bill. This legislation is reckless. The outcome of its passage would undoubtedly be countless deaths and *irreversible damage* to thousands of women and families. We can safely assert that without D&E and D&X, that is, an enactment of S.3, we will be returning to the days when an unwanted pregnancy led women to death through illegal and unsafe procedures, self-inflicted abortions, uncontrollable infections and suicide.

The cadre of physicians who provide abortions should be honored, not vilified. They are heroes to millions of women, offering the opportunity of choice and freedom. We urge you to consider scientific data rather than partisan rhetoric when voting on such far-reaching public health legislation. We strongly oppose legislation intended to ban so-called "partial birth" abortion.

Sincerely,

NATALIE E. ROCHE, MD,
Assistant Professor of Obstetrics and Gynecology, New Jersey Medical College.
GERSON WEISS, MD,
Professor and Chair, Department of Obstetrics, Gynecology and Women's Health, New Jersey Medical College.

Mrs. BOXER. Mr. President, in fact, they say the so-called partial-birth abortion does not exist. There is no mention of the term "partial-birth abortion" in any medical literature.

Let me say once again for my colleagues that there is no mention of the term "partial-birth abortion" in any medical literature. Physicians are never taught a technique called partial-birth abortion and, therefore, are unable to medically define the procedure.

These physicians who are charged with protecting the life and health of women and babies—I might add that what is described in the legislation could ban all abortions. What this bill describes can be interpreted as any abortion.

We have a bill called the Partial-Birth Abortion Ban Act, and there is no such thing as partial-birth abortions. What this does is criminalize a medically necessary procedure. So let us get that on the table.

Why then would this be before us? I think the answer lies in this letter from OB-GYNs. It is an attempt to outlaw all abortions, to take away the rights of women to choose—not only to chip away at that right, but to take it away, and, by the way, criminalize abortions.

What follows from that? Women and doctors will be in jail. That is what follows from that. And if you read behind and between the lines here, when you hear my colleagues stand up, they have been fighting all their lives to outlaw abortion and to overturn Roe v. Wade. So let us get it on the table. That is what this is about.

There is a further quote in this letter that I think is worth mentioning.

> The American College of Obstetricians and Gynecology, representing 45,000 OB-GYNs, agrees: "The intervention of legislative bodies into medical decision-making is inappropriate, ill-advised and dangerous."

Let me repeat that. These are the doctors who birth our children.

I find it very interesting because a lot of men come out here and talk about this, and women who have had pregnancies, who understand the relationship that you develop with your doctor—your doctor is your friend. Your doctor advises you. Your doctor tells you what your risks are. Your doctor, more than anything, wants a healthy child to be the end result of a pregnancy. That is why they go into medicine. People here would put them in jail if they tried to save your life by using a procedure that they know is the safest one in an emergency.

So repeating:

> The American College of Obstetricians and Gynecology, representing 45,000 ob-gyn's, [says]: "The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous."

The American Medical Women's Association, women who go into healing—women who go into healing—what do they say, 10,000 female physicians? They are opposed to this ban because it "represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients."

So here we are, with everything else happening in the world, playing doctor—playing doctor—and putting women's lives at risk. It is very upsetting.

I go home every weekend. That is why I could not begin this debate on Saturday because I go home and I listen to my constituents. They come up to me—as I know my friend from Washington goes home every weekend—and they tug at my sleeve. Do you know what they are saying to me? Not ban medical procedures that doctors think might be necessary to save the life and health of a woman, no.

They are saying: Senator BOXER, we are worried. We have 250,000 troops ready to go to war. We are worried. Can we avoid war? We are worried. We are losing our retirement nest eggs. We are worried. We have lost our jobs.

I have a chart in the Chamber to just put this into context: that we are standing here debating a procedure that, if you take the definition of D&X, impacts one-tenth of 1 percent of all abortions. I do not happen to agree that is what the bill does, but let's take the advocates' point of view. They say it is this D&X, and that is one-tenth of 1 percent of all abortions, when these are the things people want us to work on:

In the last 2 years, 2.5 million private-sector jobs have disappeared. And I know some of those families. And 8.5 million people are unemployed in the United States of America; 1.1 million in California.

The PRESIDING OFFICER. Will the Senator suspend. The Chair advises the Senator she has used 9 minutes.

Mrs. BOXER. Thank you, Mr. President. I will continue. Will the Chair let me know when I have used 11 minutes, please?

The PRESIDING OFFICER. Will the Senator let us know, do you want us to let you know when you have used 11 more minutes or 2 more minutes?

Mrs. BOXER. Two additional minutes, and then I intend to yield back to my friend. And then Senator MURRAY will seek recognition.

The PRESIDING OFFICER. The Chair will advise the Senator when she has used 2 additional minutes.

The PRESIDING OFFICER. I thank the Chair.

Mrs. BOXER. Mr. President, people are unemployed. Mortgage foreclosures have reached a record high. Forty-one million Americans have no health insurance—no health insurance—whatsoever. Nine million children do not have health insurance coverage; 1.6 million children in California have no coverage.

Over 15 million Medicare beneficiaries have no prescription drug coverage. And 1.5 million violent crimes were reported in the U.S. in 2001. The crime rate is going up again, along with the unemployment rate.

We are talking about banning a medical procedure—or more than one, because the Supreme Court, by the way, in its ruling, claims the wording actually bans more than one procedure—we are doing that instead of this.

Mr. President, 13.5 million eligible children do not have child care assistance. And 280,000 children in California are on waiting lists to receive assistance.

There is a lot of passion about kids here. I share the passion. I share the love. I share the anxiety for those children. Let's do something to help them.

Mr. President, 15 million children have no access to afterschool programs, and the President cut the afterschool program by 40 percent.

One million children live within 1 mile of a toxic Superfund site, and the Superfund is in danger, and Superfund cleanups are now cut in half. Talk about how it affects children. Why don't we do our job instead of trying to be doctors? If we do our job, we will have healthy children, get the parents health insurance, and the rest.

Mr. President, 17 million Americans have asthma; 6 million are children. I will tell you, if you go to any school and ask the kids to raise their hand, a third of them will say they have had asthma.

And 11.6 million children are living in poverty.

Mr. President, I ask for 30 more seconds, and then I will stop.

Bottom line: We are here in a situation where we are making a decision that is going to harm women. And through this debate I will show you the real faces of the women who have had this procedure. Some are very religious Catholics. Some are very conservative Republicans. And they are fighting against this with all their heart.

So I do look forward to this debate because, frankly, if we can take this love we all share for children and put it to good use for all of these things I have talked about, maybe something good will come out of it.

I thank the Chair very much and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, the Senator from California suggested this procedure may be the safest one in the case of an emergency. I do not have a medical degree, but I do have common sense. I cannot imagine that any doctor, faced with an emergency such as preeclampsia, or any other kind of emergency to the health of the mother, would give a woman a pill and send her home for 2 days and say: Come back to me in 2 days so I can abort your child. And that is exactly what the Senator from California would suggest is necessary in the case of an emergency.

Now, again, I do not have a medical degree. I agree with that. There will be a physician who does have a medical degree who will be here during this debate who will give you his opinion. That is our leader. But there is no way this procedure would ever be used in the case of an emergency. It is a 3-day procedure.

You ask the doctors. I do not know whether the Senator from California did. Ask the doctor who designed this procedure. And it was asked, in hearing after hearing after hearing, and letters. The doctor said he did this for his convenience because it took him 45 minutes to do your average late-term abortion, but the partial-birth abortion only took 15 minutes—15 minutes after 2 days of the mother being home having her cervix dilated over time. So, please.

And, by the way, I have had this conversation many times on this floor, where I have laid out very clearly this will never be used in the case of an emergency. You will find nothing anybody with a medical degree has ever written that says this will ever be used in the case of an emergency. But it does not fail that someone will come up and say: Well, you have to have this just in case of an emergency. You will never use this in the case of an emergency to protect a woman's health, life, or anything else. So let's just, if we can, try to stipulate to some facts, No. 1.

No. 2, the Senator from California said this may be a medically necessary procedure to save the health of the mother. That is a statement I have heard numerous times. She was reading from some letter, which I am going to be anxious to read because I have not seen it. But for the past 7 years, for anybody who has questioned this procedure, I have asked one question: Give me a for instance. Give me one example where this procedure, which is not taught in medical schools, which is not done in hospitals—let me repeat this—not done in hospitals; it is done in abortion clinics, designed by abortionists—tell me, under what circumstances would this be a preferable medical procedure?

Never—I underscore never—have I gotten a response. Why? Because there isn't an answer, other than never.

Yet it doesn't dissuade anybody from coming here for years and repeating the same line. Oh, we may need this. This may be medically necessary. Give me a for instance—just one. Give me one. Never—not once, ever—has someone come here and given a for instance of when this was medically necessary to preserve health, life, or anything. So I ask the Senator from California, who has exited the floor, to give me an example. I have been asking for years. I am a patient man.

Finally, she talks about how we are not doctors and we should not be here regulating medical procedures. I ask the Senator from California if she was a sponsor of a bill in which Congress banned, in 1996, a procedure known as female genital mutilation. I believe the Senator supported that legislation, as did I. It banned a medical procedure. I don't think the Senator from California came here and said we should not ban this procedure because we are not doctors. But we did ban that procedure.

By the way, is the procedure in the medical literature known as female genital mutilation? Answer: No. That is what Congress called it. Does Congress have a right to label things what we want? Answer: Yes. It may be more descriptive and real in describing what goes on than the medical term, which is mumbo jumbo in some cases to us lay people. So the medical term for female genital mutilation is infibulation.

If we came here and said we were going to ban that, everybody would look at me like I am looking at that word—having no familiarity with it. So we put it into plain language. Why? Because our job is to describe what we are doing. We don't want to keep secrets. We do enough of that. We want to accurately describe what is going on.

The Senator from California voted to ban a medical procedure that was named in the legislation differently than the "technical name" used in medicine—the very argument she is making against this legislation. Not that we have to be consistent in the Senate, but I suggest if you are going to make arguments about what we are doing here, don't do it from a glasshouse. That is what the Senator from California is doing. I see a lot of broken glass on the floor.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Nine minutes.

Mrs. MURRAY. I yield myself 9 minutes.

Mr. President, I am dismayed and outraged that as we stand on the brink of war, as a quarter million of our finest soldiers gather in the Persian Gulf, the Senate is here this week discussing how to criminalize women's health choices. That is outrageous. I cannot believe the Senate leadership can find no more pressing national issue for the Senate to consider right now than abortion.

I cannot believe my colleagues are so out of touch with what is going on in America and the world that we should be debating this bill, S. 3. For anyone who hasn't had time to read a newspaper or talk to a constituent in the last week, I will read you some of the headlines. It will help demonstrate what else we are not doing right now.

This is from Friday's New York Times. Headline: "U.S. Payrolls Fall Sharply as Jobless Rate Rises to 5.8 Percent."

> Employers shed more jobs last month at any time since the immediate aftermath of the September 11 terrorist attacks, the Labor Department reported today.

Saturday's Washington Post is even more alarming.

> . . . [T]he report showed significant declines in a wide range of industries, including manufacturing, construction, retail trade, transportation, and some service.

How about this revelation: "Chronic Budget Deficits Forecast," says the Washington Post.

> The Federal Government . . . faces chronic deficits that only dramatic policy shifts can reverse. . . . Altogether, the CBO concluded, the President's policies would leave the Government with $2.7 trillion in debt through 2013, which the Government would not realize if Bush's proposals were rejected.

The Associated Press reported on Thursday that the Dow Jones fell to a 5-month low. If it drops 400 more points, it will hit a 5-year low.

On Wednesday, we learned that "75 million Americans had no health insurance in 2001–02."

Today, the New York Times reported, "More Students Line Up at Financial Aid Offices."

> As the economic slump wears on, universities are awash in financial aid requests that dwarf those of earlier years, often from students who never thought of asking for help before and now find themselves scrambling for ways to stay in school.

On Saturday, the AP reported:

> The Air Force Chief of Staff vowed to make the Air Force Academy safer for female cadets. The Air Force says it has investigated 54 reports of sexual assault since the academy began admitting women in 1976. Many of the alleged victims have said they were afraid to report the attacks because they feared they would be reprimanded.

Mr. President, this is a terrible situation. I commend Senators ALLARD and WARNER for their leadership in working to address that problem.

Unfortunately, the news overseas is no better than the news at home. The New York Times reported: "North Korean Fliers Said To Have Sought Hostages."

> The North Korean fighter jets that intercepted an unarmed American sky plane over the Sea of Japan last weekend were trying to force the aircraft to land in North Korea and seize its crew, a senior defense official said today.

Today's Washington Post reports that "Iran's Nuclear Program Speeds Ahead; Making 'Startling' Progress."

> U.S. officials . . . described Iran's progress last week as "startling" and "eye-opening," so much so that intelligence agencies are being forced to dramatically shorten estimates for when Iran may acquire nuclear weapons. But equally striking is the extent to which Iran's breakthrough caught the United States and others by surprise.

Mr. President, these are the issues that I hear about when I am home in my State at the grocery store on Saturday morning. My constituents are terribly concerned about the economy, their jobs, their health care—or their lack of a job or health care. They ask about the war in Iraq and the threat posed by North Korea. My constituents have a vested interest in resolving the North Korean crisis, as do the Senators from California, since they have read news reports that the Western United States is potentially within range of a North Korean missile.

We are living in very trying times. It is challenges like these that test the strength of a nation and its leaders. But for the good of the country, shouldn't we now, more than ever, put aside the wedge politics and get on with the real business of the American people? That is what they elected us to do. That is why each one of us is here today.

Instead, we find ourselves on the eve of war facing a stagnant economy and the Senate is here debating a woman's right to choose.

Someone just tuning into C–SPAN right now might think this debate is taking place on another planet because it is dangerously out of sync with the real threats that are facing our Nation. It shows that nothing—not war, not the stagnant economy—will stop hardliners in Congress from trying to appease their political base by pushing an unconstitutional, deceptive, extreme agenda on American women.

But do you know what? If the Senate leadership wants to debate abortion on the eve of war, fine, bring it on, because it is time the American people see that they are using deceptive examples and misleading information to impose extreme, unconstitutional restrictions on a woman's health decision.

Throughout this debate, I want to show that the Republican proposal is based on misinformation and is skewed to undermine a woman's legal, constitutionally protected rights.

I am going to go a step further and offer an amendment that would actually reduce the number of abortions in America and ensure that low-income, pregnant women have access to health care that will reduce complications in their pregnancies and ensure healthy outcomes.

Like any debate on a sensitive issue, the debate on this measure is complicated. But it really comes down to one simple question: Who decides what is right for a woman's health? The woman and her doctor, or Senators she has never met? Who decides whether or not a woman will ever be able to have children? The woman herself, or a Senator who knows nothing about her?

When you ask Americans who they believe should be making health care decisions, the answer is overwhelmingly clear: The patient should decide.

We all bristle at the idea that an insurance company or an HMO would stand in the way of a doctor or patient making a decision about a medical test. Yet on this, the most sensitive and private and difficult decision a woman may ever face, the Senate is about to insert itself between a patient, her doctor, her family, and her faith.

This measure would gag a doctor who is about to offer a woman a choice in a potentially life-threatening or health-impairing decision. It would substitute a woman's own judgment about her life and her family for the judgment of the Senate leadership.

With all due respect, the Senate leadership does not know what is best for that woman, and neither do I, nor any other elected official. The Government should not be making a woman's health decisions for her. She should make them for herself, in consultation with her family, her doctor, and her faith.

Mr. President, I will have much more to say about this and the amendment I intend to offer, but again, I have to say that I find it so amazing this Senate would be so out of sync with the fear and the anxiety in this country not because of some late-term abortion bill that is brought out for political reasons, but because our country is on the edge of a war that could change things for a long time to come. We are on the edge of a war where we have thousands of young people standing ready to do what this President asks. We are on the edge of a war where no one knows what the consequences will be, and at the same time, at home, we are facing an economy that is truly becoming one in which many people fear for their job, their health care, their ability to send their kids to school, and the future of this country.

Those are the issues we should be debating tonight, Mr. President, not this issue. But we are here. We will debate it, and we will make the case that it is deceptive, it is extreme, and it is unconstitutional.

I thank the Chair, and I yield the floor. I retain the remainder of our time.

Mr. SANTORUM. Mr. President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes 14 seconds. The Senator from California has 16 seconds.

Mr. SANTORUM. Mr. President, I ask the Senator from Washington if she would characterize something that has, in the most recent poll, 70 percent support among the American people as an extreme agenda item?

Mrs. MURRAY. Mr. President, I will make the case that this is deceptive, it is extreme, it is unconstitutional, and I will make that case over the following days.

Mr. SANTORUM. So the Senator believes something that has 70 percent support among the American people is extreme. OK, I am interested in hearing that.

Mrs. MURRAY. If the Senator asks me a question, I will be happy to respond.

Mr. SANTORUM. I think you did. You reiterated your position you believe this is an extreme piece of legislation even though 70 percent of the American people support it.

Mrs. MURRAY. Mr. President, I answer that I think most Americans do not know the reality of the language of the bill that is being presented to them, and I will make that case.

Mr. SANTORUM. This legislation has been around 7 years. This has been written about, described in detail in the national press, and I do not think we do the American public a great service by suggesting they cannot read and understand very clearly what this procedure is all about. I would argue probably the 30 percent who have not heard of it have not read in detail exactly what goes on. I make the other argument. But 70 percent is a pretty good start on our side.

Second, the Senator says the Government should not get involved in regulating the doctor-patient relationship when it comes to women's health. Did the Senator support the female genital mutilation bill which bans a medical procedure that interferes with the doctor-patient relationship between a woman and her doctor?

Mrs. MURRAY. That does not interfere with the doctor-patient relationship, I would argue with my colleague, and I am happy to have that debate. Senator REID from Nevada has been adamant about that issue, and I think it is totally separate from what we are discussing this evening.

Mr. SANTORUM. This is a banned medical procedure that affects the reproductive system of a woman. I argue that you can make the case and you will ban things you agree with, but you do not want to ban things you do not agree with. That does not mean the Congress does not have a right, when we find something to be abhorrent, that we believe is not in the best interest of the medical profession and women in this country and particularly, obviously, the child in the process of being born, to step forward and ban what we believe are harmful and destructive procedures. That is what we have done in this case.

The Senator from Washington spent 90 percent of the time talking about anything but this bill, which leads me to the old saw when I was a lawyer: If you cannot argue the facts, argue the law; if you cannot argue the law, pound the table. In this case, we are pounding the table.

The PRESIDING OFFICER. The Senator from California has 16 seconds.

Mrs. BOXER. Mr. President, we are talking about polls. I will give you a very late poll. This is an L.A. Times poll of the Nation: 45 percent think we ought to be working on strengthening the economy; 28 percent, fighting terrorism; 26 percent, dealing with health care costs; at that time, 25 percent dealing with Iraq; 18 percent, protecting Social Security; 7 percent dealing with tax cuts; and 7 percent dealing with late-term abortion.

The people are exactly where the Senator from Washington says, but we are willing to debate this and we are looking forward to a good debate.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF GREGORY L. FROST TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

The PRESIDING OFFICER. All time having expired, under the previous order, the Senate will go into executive session and proceed to the consideration of Executive Calendar No. 39, which the clerk will report.

The legislative clerk read the nomination of Gregory L. Frost, of Ohio, to be United States District Judge for the Southern District of Ohio.

The Senator from Ohio.

Mr. DEWINE. Mr. President, in a moment we will be voting on the nomination of Judge Gregory Frost to be a United States District Court Judge for the Southern District of Ohio. I have had the opportunity of knowing Judge Frost for many years. He is a man of great honor and integrity, and I ask my colleagues to vote for this very fine man. Judge Frost has been on the Licking County bench for 19 years, 7 as municipal court judge and 12 as common pleas court judge. Judge Frost will make an excellent district court judge.

I thank my colleagues.

Mr. LEAHY. Mr. President, tonight the Senate will vote to confirm Judge Gregory Lynn Frost to the United States District Court for the Southern District of Ohio. This will be the 105th confirmation of a lifetime Federal judicial appointment by President George W. Bush, the fifth so far this year. He is also the second District Court nominee confirmed for Ohio this year, following the confirmation of Judge Adams to the District Court for the Northern District last month, and the third within the last year. Last May, the Senate also confirmed Judge Thomas Rose to the vacancy on the U.S. District Court for the Southern District of Ohio. With the confirmations of Judge Frost, we will have filled all of the vacancies on the Federal trial courts in Ohio.

Federal judicial vacancies remain under the level—67—that Senator Hatch termed "full employment" in the Federal courts during the years before 2000 when President Clinton's nominees were being considered by the Republican majority in the Senate at a rate of 38 per year. Of course, last year the Democratic Senate majority proceeded to bring vacancies down by confirming 72 of President Bush's nominations, a rate almost double that maintained when the roles were reversed.

Judge Frost currently serves the people of Ohio as a Licking County Court Judge in Newark, Ohio. Judge Frost is a graduate of Wittenberg University (B.A. 1971) and Ohio Northern University Law School (J.D. 1974). He is strongly supported by Senator DEWINE, who shepherded this nomination through the Judiciary Committee and now to the Senate floor for prompt consideration.

After graduating from law school, Frost was appointed to be an Assistant Prosecuting Attorney for the Licking County Prosecuting Attorney's Office. In 1978, Frost joined the law firm of Schaller, Frost, Hostetter & Campbell in Newark, Ohio as a partner. He was appointed in 1979 by Mayor Chet Geller to be an Ohio Civil Service Commission clerk. In the early 1980's, he was elected a Licking Counting Municipal Court Judge. In 1990, Judge Frost was elected to a 6-year term on the Licking County Common Pleas Court and has been reelected twice, most recently in November 2002. According to this Senate Questionnaire, he has no experience in Federal court.

Judge Frost is a current or former member of numerous charitable, civic and social organizations. Judge Frost is also a current member of the Newark Elks Club, which currently bases membership on being "a citizen of the United States over the age of 21 who believes in God." Judge Frost states in his Senate Questionnaire that, for four years, he had been a member of the Newark Elks Club, along with the Newark Moose Lodge and Newark Maennerchor, however, he states that, "when it became apparent that those organizations discriminated against women in their membership practices, I resigned. In 2000, I was asked to reapply for membership in the Newark Elks Lodge. I advised that organization that I could not subscribe to their membership tenets as a result of their continued discrimination against women. In part, because of my position on this issue, I am proud to say that the Newark Elks Lodge has changed its practices and now permits women as full members." Judge Frost belongs to the Moundbuilders Country Club, a private golf club that does not discriminate in its membership.

The Committee received a letter of support for Judge Frost from the Ohio Employment Lawyers Association, a nonprofit organization that represents individual employees concerning employment and labor matters. The Ohio Employment Lawyers Association writes that Judge Frost "is an example of how a jurist should set aside personal and partisan political beliefs to provide justice." Supporters of Judge Frost's nomination to the District Court also include the Ohio Academy of Trial Lawyers and Peter W. Hahn, a Democrat who has practiced before Judge Frost, writes that "Judge Frost has the unique ability and temperament to adjudicate complex cases while maintaining civil and professional decorum both inside the courtroom and in chambers."

I congratulate Judge Frost and his wife on his confirmation.

Mr. DEWINE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Gregory L. Frost, of Ohio, to be United States District Judge for the Southern District of Ohio? The clerk will call the roll.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. McCONNELL), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 44 Ex.]

YEAS—91

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Sessions
Shelby
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—9

Biden
Corzine
Graham (FL)
Kerry
Lieberman
McConnell
Murkowski
Schumer
Smith

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

The Senator from Nevada.

Mr. REID. Mr. President, I know the Senator from Ohio is here to make a statement. The Senator from Illinois wishes to make a unanimous consent request prior to the Senator from Ohio speaking.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, returning to Illinois this weekend, as I am sure my colleagues did in their home States, it is clear that we are in dire economic straits in America. It should be our highest priority, next to national defense and security, to put this economy back on track. I believe this is the moment to start the debate for an economic stimulus package that would create jobs and give businesses a chance.

Mr. REID. Mr. President, will the Senator withhold?

Mr. President, what is the parliamentary status of the Senate at this time?

The PRESIDING OFFICER. The Senate is in executive session.

Mr. REID. I am wondering if the Chair is about to announce that we are going to go back to the legislative matter that was before the Senate before the vote.

The PRESIDING OFFICER. There is no order to return to legislative session.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I want to ask my friend how long he intends to speak tonight? I will not object.

Mr. DEWINE. I had not intended to speak very long. I have about 15 minutes, approximately.

Mrs. BOXER. That is fine. I just wanted to know if we were going to be here for an hour or two. Thank you.

Mr. DEWINE. It might depend on how long my colleague speaks.

Mrs. BOXER. I will speak just as long as my friend speaks.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent request?

Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 414

Mr. DURBIN. Mr. President, this last exchange shows that the Senate is alive and that a good samaritan never goes unpunished.

Having yielded for this exchange, I believe we are at a moment where I can make my unanimous consent request relevant to the economic stimulus.

I ask unanimous consent that the Senate begin consideration of Calendar No. 21, S. 414, a bill to provide for an economic stimulus package.

Mr. DEWINE. Objection.

The PRESIDING OFFICER. Is there objection? Objection is heard.

Mr. DURBIN. I thank the Chair.

PARTIAL-BIRTH ABORTION ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me return now to the debate in regard to the partial-birth abortion ban.

Let me thank my colleague from Pennsylvania, Senator SANTORUM, for his unending and unwavering and tireless efforts to put a permanent end to this horrific partial-birth abortion procedure. In the time we have served together in this body, he has never given up hope that Congress and this country would put an end to this barbaric procedure.

This Senate, this Congress, and this country must ban a procedure that is inhumane, that has absolutely no medical purpose, and that is, quite simply, morally reprehensible.

During the course of the debate on S. 3, the bill to ban partial-birth abortion, we will hear repeated descriptions of the barbaric nature of this procedure. I ask my colleagues, as difficult as it is, to listen to the description. There may be many arguments during this debate, but the description of what this procedure is will not be argued. There is no debate what it is. There is no debate about what takes place during a partial-birth abortion. I submit to my colleagues that the more you know about this procedure, the worse it is. The more you know about it, the easier it will be to vote to ban it.

We will hear repeated descriptions of this barbaric procedure. It is a procedure in which the abortionist pulls a living baby feet first out of the womb and into the birth canal except for the head which the abortionist purposely keeps lodged just inside the cervix. As Senator SANTORUM explained, the abortionist then punctures the base of the baby's skull with a long scissors-like surgical instrument and then inserts a tube into the wound removing the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now dead baby.

Mr. President and Members of the Senate, those are the essential facts. I can think of nothing more inhumane and indifferent to the human condition. Yet every year the tragic effect of this extreme indifference to human life becomes more and more apparent. It troubles me deeply that this is happening across this country and that it is happening in my home State of Ohio. In fact, it happens within 20 miles of my home.

I would like to take a few minutes now to talk about two particular partial-birth abortions that occurred in Ohio. They were two typical abortions—typical except for the way they turned out. These two tragedies that I am going to describe illustrate the gruesome facts and the evils of this procedure and show what can happen when it does not go according to the way the abortionist plans. Let me explain.

On April 6, 1999, in Dayton, OH, a woman entered the Dayton Medical Center to undergo a partial-birth abortion. This facility was and is operated by one Dr. Martin Haskell, one of the main providers of partial-birth abortion in the Nation. Usually the partial-birth abortion procedure takes place behind closed doors where it can be ignored—its morality left outside. In this particular case, the procedure was different. There was light shed upon it. This is what happened. This is why light was shown upon it.

This Dayton abortionist inserted a surgical instrument into the woman to dilate her cervix so the child could eventually be removed and then killed. This whole procedure usually takes 3 days.

The woman went home to Cincinnati expecting to return to Dayton for the completion of the procedure in 2 or 3 days. In this case, her cervix dilated too quickly, and as a result shortly after midnight she was admitted to Bethesda North Hospital in Cincinnati.

The child was born. A medical technician pointed out that the child was alive. But apparently the chances of survival were slim, and after 3 hours and 8 minutes the child died. The baby was named Hope.

Mr. President and Members of the Senate, on the death certificate, of course, is a space for cause of death—"Method of Death." There it was written in the case of Baby Hope, "Method of Death: Natural." That, of course, is simply not true. There is nothing natural about the events that led to the death of this tiny little child because Baby Hope did not die of natural causes.

Baby Hope was the victim of a barbaric procedure that is opposed by the vast majority of the American people. In fact, the Gallup poll conducted in January of this year shows that 70 percent of the American people want to see this procedure permanently banned because the American people know it is wrong. They feel strongly about it. And we, as a Senate, and as Members of Congress, I believe, should be listening to the American people.

The death of Baby Hope did not take place behind the closed doors of an abortion clinic. That death took place in public—in a hospital dedicated to saving lives, not taking them.

This episode reminds us of the brutal reality and tragedy of what partial-birth abortion really is. Because what it really is is the killing—the killing—of a baby, plain and simple. And almost to underscore the inhumanity of this procedure, 4 months later it happened again, again in Ohio, with the same abortionist. This time, though, something quite different occurred.

Once again, in Dayton, OH, this time on August 18, 1999, a woman who was 25 weeks pregnant went in to the same Dr. Haskell's office for a partial-birth abortion. As usual, the abortionist performed the preparatory steps for the barbaric procedure by dilating the mother's cervix. The next day, she went into labor, and was rushed to Good Samaritan Hospital—again, not what was expected. Again, the procedure normally takes 3 whole days. But she was rushed into labor.

But this time, however, despite the massive trauma to this baby's environment, a miracle occurred. And by the grace of God, this little baby survived. So she now is called "Baby Grace."

I am appalled by the fact that both of these heinous partial-birth abortion attempts occurred in this great country of ours, and occurred in my home State of Ohio.

When I think about the brutal death of Baby Hope and then ponder the miracle of Baby Grace, I am confronted with the question, Why can't we just allow these babies to live?

Opponents of the ban on this procedure argue that this procedure is necessary to protect the health of women. And yet, the American Medical Association has said this procedure is never medically necessary. In fact, many physicians have found the procedure itself can pose immediate and significant risk to a woman's health and future fertility. Clearly, the babies did not have to be killed in the Ohio cases I cited, no. The two babies I cited were both born alive. One was able to live and one tragically died.

Why, Mr. President, why, Members of the Senate, does the baby have to be killed? Why?

Opponents of this legislation say this procedure is only used in emergency situations—you will hear those words used time and time again: emergency situations—when women's lives are in danger. And yet it seems very strange that in an emergency, a 3-day procedure would be used and the mother would be sent home. If it was truly an emergency, why would the doctor pick a procedure that would take 3 days? Why would the woman consent to a 3-day procedure if it was truly an emergency? It is not an emergency. And the testimony we have heard, the testimony that has been taken in our committee in the past, has clearly indicated this procedure is never medically indicated—never medically indicated.

Nevertheless, even abortionists say the vast majority of partial-birth abortions are elective. Dr. Haskell, the Ohio abortionist, said this:

> And I'll be quite frank; most of my abortions are elective in that 20-24 week range.

This is Dr. Haskell. Let me quote him again:

> And I'll be quite frank; most of my abortions are elective in that 20-24 week range.

"Elective."

Opponents of this bill say this procedure is necessary when a fetus is abnormal. I do not believe the condition of a fetus ever warrants killing it. I do not believe that. But even abortionists and some opponents of this ban agree that most partial-birth abortions involve healthy fetuses. And that is what the statistics clearly show.

The inventor of this procedure himself, the late Dr. James McMahon, said:

> Gee, it's too bad that this child couldn't be adopted.

Opponents of this bill contend that the partial birth procedure is rare, yet a report released just this past January suggests the number of partial-birth abortions has, in fact, tripled, accounting for an estimated 2,200 abortions in the year 2000.

I have heard it stated on the floor that is just a small fraction of the number of abortions that are performed in this country every year. That may very well be true. Still, statistics would indicate, if we believe the previous statistics, that is a significant increase in the number of partial-birth abortions. And still, whatever the total number of abortions is in this country, that is still 2,200 abortions that occurred in this very barbaric manner in 1 year.

I would again call my colleagues' attention to the description of this procedure. And again, I remind my colleagues that no one—no one—will come to this floor and deny what a partial-birth abortion is. No one will come here and say what Senator SANTORUM has said, what I have said, what Senator BROWNBACK will say, what any of us are saying about what this procedure is really like, is a lie or is not true. It is what it is, and no one can deny it.

And so 2,200 of these children had to suffer that agony of a partial-birth abortion. That is what the facts are. And there are many people who believe it is underreported. But we know of at least that many.

Opponents say a ban on partial-birth abortion violates Roe v. Wade, and they conclude it must be unconstitutional. But, as anyone who has read that case knows, Roe declined to consider the constitutionality of the part of the Texas statute banning the killing of a child in the process of delivery. Moreover, the Supreme Court again declined to decide this issue in Planned Parenthood v. Casey.

Again, I ask, why does the baby have to be killed? Why?

Opponents say this bill is unconstitutional because it does not have a health exception. But the American Medical Association itself has stated:

> There is no health reason for this procedure.

"There is no health reason for this procedure."

> In fact, there is ample testimony to show that all of the health consequences are more severe for this procedure than any other procedure used.

The AMA has also said:

> The partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians.

I ask my colleagues who wish to continue to allow this heinous act, again, why does the baby have to be killed? Why?

Mr. President and Members of the Senate, why do babies, 3 inches away from their first breath, have to die?

Something is terribly wrong. With the advent of modern technology, we can sustain young life in ways we could not just a few short years ago. We sustain children much younger than the children who are being killed in partial-birth abortions, and they are in hospitals throughout this country. Most of us on the Senate floor have seen these children. And we have seen people, very gallantly, in hospitals fighting to save their lives every day.

Unfortunately, we have created more and more savage methods of killing our young at the same time we are creating wonderful ways to try to continue to keep children alive and save lives.

I think we are really destroying ourselves by not admitting as a society that partial-birth abortion is an evil against humanity. I believe there will be more and more horrible consequences for our Nation if we do not ban this cruel procedure.

As Frederick Douglass stated more than 100 years ago:

> Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted. . . .

Mr. President, we must stop and ask: To what depths has the American conscience sunk? When it comes to abortion, is there nothing to which we will say: Enough, enough, no, stop: we will not tolerate this. At this point, we will draw the line. At this point, we will go no further.

Partial-birth abortion is a very clear matter of right and wrong, good versus evil. It is my prayer that there will come a day when my colleagues, such as Senator SANTORUM and the rest of us who have fought this battle, won't have to come to the floor and talk about partial-birth abortion. Nobody wants to talk about this. But until that day comes, when this procedure has been outlawed in our country once and for all, we will have to continue to come to the floor and talk about it. Now is the time to ban this very evil procedure. It is the right thing to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, the question asked very eloquently by my friend is: How low have we sunk? I say pretty low, when we have a bill before us that doesn't even have an exception for the health of a woman. I get caught up in my throat when I think about it. Women like Viki Wilson, women who are religious, women who desperately want children, women who were told, as she was—and I will read her story—that if she didn't have a procedure outlawed in this bill, she could never have a child again, and worse. So I think we sink pretty low when we write a bill that doesn't even have an exception that has been the law of this land since 1973 in a Supreme Court case that is still upheld, which says, yes, we can act to limit abortion, but we always have to make an exception for the life and the health of a woman. That is my position.

I have said on this floor, along with many of my pro-choice colleagues who are Democrats and Republicans, we would ban all late-term abortions, except for the life and health of the woman. My view is anyone who comes to this floor to ban a medical procedure that could save the life and health of a woman and doesn't have that exception, is sinking very low. It shows a lack of respect for women, a lack of respect for their lives, their future ability to have children, to love children, and for their future as healthy women.

I will show you a list of problems that could develop in women if they don't have the procedures that are banned in this bill. Show me that list of what could happen. This comes from various physician letters, which I will ask to print in the RECORD later in the debate. This is what can happen to women if there is no health exception in the bill, which there is not. There are 15 pages of findings, but no health exceptions.

The Supreme Court already ruled on this very same bill—the Nebraska law—and sent it back and said you cannot come to us with a bill that doesn't make an exception for the health of a woman. Why? Because they see that a woman could hemorrhage and die: a woman's uterus could rupture and she could die; a woman could get a blood clot and she could die; she could have an embolism and she could die; she could have a stroke and she could die; she could have damage to nearby organs and, in some cases, she would have to live paralyzed.

How low have we sunk that we cannot make a exception for the health of a woman? Pretty low. Pretty low. When I started this debate, I made the point that there is no such thing as partial-birth abortion. It is a phrase that is used by the proponents of this bill in order to essentially make abortion illegal one procedure at a time. Every one of my friends who is on the floor time and time again, if you ask them, they will be honest and they will say they don't like Roe v. Wade; they don't think abortion should be legal; it ought to be criminalized. This is the way they are going—one procedure at a time.

By the way, if you read the Supreme Court case—put up the chart that shows what the Court said. We are talking about more than one procedure banned, although our friends will tell you it is one procedure. Look at what the case says.

First of all, there is no health exception. I will go to this chart. The Supreme Court said in the Nebraska case, a legally identical bill:

> Even if the statute's basic aim is to ban D and X, its language makes clear it also covers a much broader category of procedures.

So let there be no mistake, those voting for this bill are not just outlawing one procedure, but many procedures, which fits right into the agenda of my friends who are here tonight and who will be here in the next several days debating with us, because they want no abortion—even though, if you ask the American people, should a woman have a right to choose, should Government stay out of that private decision, a vast majority will say yes, because it is out of respect for women to make a decision with their physician and with their God. It is a decision that has a lot of components to it, one they discuss with their families. It is a tough decision. But I don't personally think any Senator ought to be put in the bedroom of any of our people making these decisions, or in a doctor's office.

If my daughter had a problem pregnancy and her health was threatened, just as Viki Wilson's was, I don't think that I would go to a U.S. Senator—not even the one who is a doctor, because he is a heart surgeon. If she had a heart problem, absolutely. I think it is important to see what the American Medical Association says about this. I say to my friends on the other side of the aisle that they are very holier than thou about this and they have every right to their opinions. They do not know more than doctors. It is not their job to protect the life and health of women. They don't even know what they are talking about. Listen to the AMA. The AMA, American Medical Association, has previously stated their opposition to this bill:

> We oppose legislation that would criminalize a medical practice or procedure. Since S. 3 includes a provision that would impose a criminal penalty on physicians performing intact dilation extraction, the AMA does not support this bill.

Even though they don't like the procedure, they would not support this bill. The letters I have had printed in the RECORD from practicing OB/GYNs—those are the doctors women go to. They don't go to "Dr. Santorum," they don't go to "Dr. DeWine," they don't go to "Dr. Boxer," they don't go to "Dr. Murray;" they go to their OB/GYN.

What do they say?

> We urge you to stand in defense of women's reproductive health and vote against S. 3, legislation regarding so-called partial-birth abortion.

There is no mention of the term "partial-birth abortion" in any medical literature. There is no such term, I say to my friends. Physicians are never taught a technique called "partial-birth abortion" so, therefore, they are unable to medically define it. What is described in the legislation, they say, could ban all abortions.

Why don't my colleagues just come out and say, "Let's ban all abortions"? Let's have that debate. You lose it, at least with the American people. I do not know how the votes line up here. We are going to have a chance to vote on whether to overturn Roe v. Wade. We are going to offer that up. We will have a debate about that. Let's see where people stand on that one. But to do it in this way, making up a term and doing it in a way that is so vague that the Supreme Court basically says it covers a much broader category of procedures, is absolutely a fraud on the people. I do not know what else to call it. The Supreme Court said in an identical bill it is far broader than just one procedure.

What did it say about the health of a woman? It also said:

> Our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion, imposed significant health risks.

In other words, there is no health exception in this bill. Senator SANTORUM added 15 pages of language, but the operative part of the bill makes no exception for health.

Let's be clear on what we are talking about. First of all, a partial-birth abortion, which there is none, is a vague term which could ban all abortions and many abortions. There is no health exception whatsoever in the bill. Without a health exception, if a doctor fears a hemorrhage or a uterine rupture, or a blood clot or an embolism or a stroke or damage to nearby organs or even paralysis, it is not enough for my friends on the other side. How low have we sunk—I want to talk about that. If your daughter is told if she does not get this particular procedure, she may be paralyzed for life and you will not make an exception, how far have we sunk? I think that is a fair question.

The debate we are having is not the real debate. The real debate is outlawing abortion completely and doing it one procedure at a time and making people think this particular procedure, A, is real, which there is no such thing as a partial-birth abortion—it is not in any dictionary; it is made up—and B, making them think you really are banning one procedure when the Supreme Court said, no, there are many procedures and maybe all abortions are banned.

So why not come here like a man—and I say "a man" because it is the men on the other side who brought this to us. Maybe we will have some women debating it tomorrow, but so far we have seen the same men come down here, and they are saying they are after this partial-birth abortion when we know every one of them wants to ban all abortions, does not believe in a woman's right to choose, wants to criminalize women who would have an abortion, criminalize doctors, and have a constitutional amendment to make it illegal.

I remember those days. Women died during those days. How low have we sunk? Women were made infertile in those days. All the points we see here—serious health consequences of banning safe procedures—all of that I remember in those days. Finally, the Supreme Court got enlightened in 1973 and said: Government, keep your nose out of this; it is a health issue; and if you legislate to clamp down on abortions in the late term—which, by the way, I agree with, but always have a life and health exception so we do not force women into a situation where they can lose their ability to function for their families.

Let's put Viki's picture up again. I will tell you her story. She says:

> I urge you to oppose S. 3. I understand this bill is very broad and would ban a wide range of abortion procedures. Mine is one example of the many families that could be harmed by legislation like this.
>
> In the spring of 1994, I was pregnant and expecting Abigail, my third child, on Mother's Day. The nursery was ready and our family was ecstatic. My husband, Bill, an emergency room physician, had delivered our other children and he would do it again this time. John, our older, would cut the cord. Katie, our younger, would be the first to hold the baby. Abigail had already become an important part of our family.
>
> At 36 weeks of pregnancy, however, all of our dreams and happy expectations came crashing down around us.

This is Viki. She says:

> My doctor ordered an ultrasound and detected what all of my previous prenatal testing had failed to detect. Two-thirds of my daughter's brain had formed outside her skull. What I thought were big healthy, strong movements were, in fact, seizures. My doctor sent me to several specialists. We were in a desperate attempt to find a way to save her.

"A desperate attempt to find a way to save her," and yet my colleagues come down here and make everyone believe that these women who have had this procedure were callous about it. "A desperate attempt to save her."

> Everyone agreed she would not survive outside my body. They also feared that as the pregnancy progressed before I went into labor, she would die from the increased compression in her brain. The doctors feared that my uterus might rupture in the birthing process, rendering me sterile. The doctor recommended against C section because they could not justify the risks to my health.

What were the risks to her health? Let's look at it again and again and again. What could have happened to Viki if she had to live under this cruel law that has no health exception? She could have hemorrhaged. Her uterus could have ruptured. She could have had blood clots, an embolism, or a stroke. She could have become paralyzed. Her organs nearby could have been damaged.

When people come down here and say "how low have we sunk." I agree: How low have we sunk to have a bill come before this body with a name that is not even a real procedure, that could outlaw a broad range of procedures, and that makes no exception for a woman's health and could consign her to live the rest of her life, if she survives it, in a horrific situation which could be so detrimental to her other children.

I see my colleague has come to the floor. I am not going to go on much longer because I have a lot more to say on this and a lot more cases to share with my colleagues tomorrow. We have pictures and pictures and pictures of women and their children, women who are deeply religious, women who tried every way to save their pregnancy, women who wanted to live to try to have another child.

Is that a crime? Is that being made a crime? Yes, it is being made a crime. I feel heavy in my heart that with all of the issues that face us, 250,000 troops—talk about killing. I have 5,000 National Guard on the border of Iraq, with another couple of thousand having been notified. I have young people over there, people who have left their families, who are going to face God knows what, and we are debating a procedure that would be banned, which does not even make an exception for the health of a woman such as Viki, and the many others I will bring to light.

It is so callous. We have children who are uninsured who cannot even get medicine. We are not talking about that. We have the most unemployed people we have seen in decades, the worst economy we have seen in 50 years. The stock market plunged again today, and people have to work another 5 or 10 years because their dreams are gone. And we are talking about banning a procedure without making a health exception. I am amazed.

Debate it we will, and we will offer amendments to try to bring health to women, to children, and to women who are pregnant. We hope our friends will be as eloquent in supporting those as they are eloquent tonight.

We will have the chance to speak out on Roe v. Wade and see how many of our colleagues really support a woman's right to choose, as the Supreme Court laid it out, in the early stages of a pregnancy. And, yes, in the later stages one may not have an abortion unless it is to save the life and health of a woman. That is the law.

This will set a dangerous precedent. It will send a message that the health of the mother does not matter. Every time I put up a picture, my friends will say, because they did it last time, oh, these women, they could have had it, there is no problem with them. Wrong. These women have come to us and told us they had the procedure that my colleagues want to ban, and had they not had it, they might not have lived to tell the tale or they would have had serious adverse health consequences.

So how low have we come? That is for the people of America to decide. As far as I am concerned, anyone who comes to this floor and puts forward a bill that is so callous as to say that if a woman's health is threatened and she could suffer one of these terrible consequences, she cannot even have a procedure that her OB/GYN says she needs to have—it is callous, and I am going to speak out against it. I hope we will finish this in due course, have a good debate and move on, but we will be heard on our side. We did not bring this up, but we will be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I see my colleague from Ohio is in the Chamber so I will not speak very long. I do want to very briefly respond to my friend and colleague from California, if I may. I know we will have ample time the remainder of the week to debate this issue. She is an excellent debater, and I look forward to the chance of continuing this dialogue and this debate as we go forward. I do want to respond very briefly to a couple of her comments.

Quite candidly, listening to my colleague from California, I almost get the impression that partial-birth abortion does not exist in this country or that no one could really define it or even know it when it exists. That is not true. The fact is that people know what it is. They know it takes place. It is counted, at least in one State. There are providers who say: I provide partial-birth abortion. So it is defined, and it is defined very specifically in this bill.

Senator SANTORUM has worked very hard to have a definition that is a precise definition, and I might say that it is a more precise definition, a better definition, a definition that conforms to what the Supreme Court has said, a better definition than the previous bill taken up on the Senate floor. It is taking into consideration what the Supreme Court has said. I will read a portion of that definition to my colleagues.

> As used in this section, 1, the term "partial-birth abortion" means an abortion in which, A, the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and, B, performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

Then it continues on and defines physician, et cetera. But that is the key part. That is a very precise definition. So I would reject the argument that this is vague. It is not vague. It is very well understood.

Turning to another point my colleague from California made, that has to do with the health of the mother, we had the opportunity to listen to a great deal of testimony in the past, and we have also had a lot of people who have talked about this issue. We will have the opportunity to debate this tomorrow and the days after. I am not going to quote a lot of people tonight because of the time, but the testimony has been very clear that this is not ever medically indicated. It is not something that is done in an emergency. One does not perform a procedure that takes 3 days in an emergency; something else is done. An emergency is not a 3-day procedure. Make no mistake about it, all the testimony has been that the partial-birth abortion takes 3 days. That is not an emergency procedure. It simply is not.

Let me quote former Surgeon General Dr. C. Everett Koop:

> Partial-birth abortion is never medically necessary to protect a mother's health or her fertility. On the contrary, this procedure can pose a significant threat to both.

Dr. Warren Hern, OB/GYN:

> I have very serious reservations about this procedure. You really cannot defend it. I would dispute any statement that this is the safest procedure to use.

The physicians Ad Hoc Coalition For Truth said the following:

> Given the many potential risks the procedure entails the mother, far from being medically indicated, partial-birth abortion is actually contra-indicated.

Dr. Pamela Smith, OB/GYN, said the following:

> Partial birth is, in fact, a public health hazard in regards to women. Medically, I would contend, of all the abortion techniques available to a woman, this is the worst one which could be recommended in the situation of a mother's health.

Dr. Dominic Casanova, OB/GYN:

> This procedure is totally unnecessary and dangerous. If it becomes necessary to evacuate a uterus beyond 20 weeks gestation, there is a recognized standard method taught in all OB/GYN training programs which involves another procedure.

It goes on and on. I will not take the Senate's time tonight. We will have an opportunity tomorrow to debate this. This is not medically indicated. The testimony has been abundantly clear. This is not a procedure that is ever used for the health of the mother.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I take a minute to rebut my friend before I listen to my colleague from Ohio. I find it very interesting that because a procedure could take 3 days, it is not an emergency. If my daughter is undergoing a procedure and on the third day she dies, because perhaps something went wrong, she was in an emergency, even though it took 3 days. If someone has cancer and rushes into the hospital and it may take some intensive work over a period of days to save their life, the procedures used there are used because this is an emergency. To say it is not an emergency because it took 3 days to try to save a woman's life is, on its face, counterintuitive.

I say again, my friend, with all due respect, absolutely knows this procedure he wants to ban without exception for health, he knows it is not the safest procedure.

Well, I don't know what medical school he went to. Listen to the physicians. They are writing to us. They are stating over and over again, don't tie our hands; we may be forced to use this procedure. Don't tie our hands; a woman can suffer irreparable harm.

I would love to believe in everything my friend——

Mr. DEWINE. Will the Senator yield?

Mrs. BOXER. I'm sorry?

Mr. DEWINE. Will the Senator yield?

Mrs. BOXER. I will.

Mr. DEWINE. Does the Senator from California dispute Dr. Haskell's statement that the vast majority of these abortions are elective?

Mrs. BOXER. I have not read what my friend is reading from. I wonder whether he has read what the obstetricians and gynecologists——

Mr. DEWINE. Can my colleague answer that question?

Mrs. BOXER. Send it over to me. I will be glad to. You are asking, do I agree with this doctor. I don't know who he is. I am telling you what I am agreeing with. I agree with the OB/GYN, the women physicians, the physicians who were dealing with these difficult pregnancies all the time.

But I am happy—the time is mine, if I might, I say to my friend.

Mr. DEWINE. You will not yield for another question. I understand.

Mrs. BOXER. I didn't say I would not yield for another question.

I asked you to send over the letter to which you are referring so I can answer the question with intelligence. I have not seen the letter. I am not asking my friend to comment on the OB/GYN because I don't know that he has seen it. I don't think that is right to do in an intelligent debate. I am happy to look at it and at that time I will be happy to answer the question.

We have a situation where we are being told by doctors over and over again, thousands of doctors, 45,000 doctors, that they may well have to use this procedure. All they want is a health exception. My friends are not interested in giving us a health exception. They will have a chance to vote it down because we will offer up an exception that talks about the terrible things that can happen to a woman. If they want to vote it down and say no, that is fine. They have to live with that. That is fine.

I don't want to have to face a Viki Wilson. I don't want to have to face the women who have told me this procedure that they want to ban saved them. I don't want to face them when they are sitting in a wheelchair and paralyzed or suffering from a stroke because my friends decided we were sinking so low that we would fight for an exception for health. Imagine. Just imagine.

I rise tonight, and I will do so at every turn, because the facts simply are not on the side of those who want to get this through the Senate and outlaw a set of procedures the court said—by the way, my friend argues that the bill took care of the problem; it is very specific.

I ask unanimous consent to have printed in the RECORD a legal analysis by the Center for Reproductive Rights which says very clearly that this bill is legally identical to the one that the court found unconstitutional.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTER FOR REPRODUCTIVE RIGHTS,
Washington, DC, March 6, 2003.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On June 29, 2000, in Stenberg v. Carhart, 530 U.S. 914 (2000), the U.S. Supreme Court held that Nebraska's sweeping ban on abortion—misleadingly labeled a ban on so-called "partial-birth abortion"—was unconstitutional. I was one of the attorneys who represented LeRoy Carhart, M.D., the Nebraska physician who challenged the ban in that case.

In Carhart, the Court held that Nebraska's abortion ban was unconstitutional for two reasons. First, the Court held that the ban did not prohibit only one type of abortion procedure, but instead outlawed several methods, including the safest and "most commonly used method for performing previability second trimester abortions," Carhart, 530 U.S. at 945, and therefore constituted an undue burden on women's right to choose. Second, the Court held that the Nebraska ban was unconstitutional because it failed to include an exception for women's health. The Court noted that "a State may promote but not endanger a woman's health when it regulates the methods of abortion" and that "the absence of a health exception will place women at an unnecessary risk of tragic health consequences." Carhart, 530 U.S. at 931, 937.

The new federal bill (H.R. 760, S. 3) contains the same two flaws. Like the Nebraska law, the federal bill fails to limit the stage of pregnancy to which the bill's provisions apply, so the ban could criminalize abortions throughout pregnancy (nor just post-viability or "late term" abortions, as the bill's sponsors often claim), and the definition of "partial birth abortion" in the bill is broad enough to criminalize numerous safe abortion procedures, including the safest and most commonly used method for performing abortions early in the second trimester, the D&E method (not just one abortion procedure, as the bill's sponsors misleadingly imply). Moreover, the federal bill fails to limit its prohibitions to abortions involving an "intact" fetus, fails to explicitly exclude the D & E technique or the suction curettage abortion method from the law's prohibitions, and fails to include definitions of key terms such as "living" or "completion of delivery." Like the Nebraska law, the federal bill also fails to include the constitutionally mandated health exception. Therefore, the federal bill is unconstitutional for the same reasons as the Nebraska law struck down in Carhart.

Because the U.S. Supreme Court has already struck down legislation containing the same constitutional flaws contained in the new federal bills, these bills can only be seen as a direct attack on the Supreme Court's decision, on the safest and most common abortion procedures in the second trimester, and on the protection for women's health that have been consistently reaffirmed throughout three decades of abortion jurisprudence.

Please feel free to contact me with any further inquiries.

Sincerely,

PRISCILLA SMITH,
Director.

Mrs. BOXER. My friend did say, and I appreciate that, that he heard a lot of witnesses come forward to talk about this. That was a couple of years ago. For some reason, they have the time to do this but they did not have the time to send this bill to the Judiciary Committee where they could have looked at this issue.

This is an amazing situation. We had a Supreme Court that argues that the Stenberg case, the legally identical bill to this, is unconstitutional on its face on two grounds—no health exception and a very vague definition. Here it is. Unconstitutional. This is what the Supreme Court said in a legally identical bill, and I have just placed in the RECORD a letter from the attorney who argued that case. She read the Santorum bill and says it is legally identical to the case that was declared unconstitutional. This is what the Court said. Unconstitutional because it put an undue burden on women because the definition is vague. Undue burden—very important words. You cannot put an undue burden on a woman because abortion under Roe is legal and in the late stages it is not legal if the State says it isn't, except for life and health. But it puts an undue burden because we don't know at what stage the woman is going to get this abortion and whether this procedure applies to it or not.

No exception to protect a woman's health, that is the one that breaks my heart. After all of this, the Court sending it back, please make an exception for women's health, my friends do not even have it in their heart to make an exception for a woman's health. I find it difficult. So S. 3, the bill before us, and Stenberg are legally identical according to the lawyers who won the case.

I argue the life exception is very narrow. It does not just say you can use it if a woman's life is threatened. It says the woman has to have this preexisting condition. I argue that.

But clearly my purpose tonight is to say to my friends on the other side, as we offer these amendments on women's health, be with us; as we offer these amendments on children's health, be with us; as we offer these amendments on prenatal care, be with us. Because you care about children, that is why you are here. So be with us. Be with us on these.

I say be with us on Roe v. Wade. Roe v. Wade is a modest decision that said to government, take your nose outside of privacy. You cannot make a decision in an early stage of a pregnancy. Be with us on that. Be with us if we suggest that the Judiciary Committee ought to take a look at this in light of the Stenberg case. We offer our hand to you. Be with us when Senator DURBIN offers a health exception. If you care about women and their families, be with us when we say make an exception if a woman is told she could be paralyzed if she does not have this or be prepared to face the consequences if this does become the law of the land and the Supreme Court does change. It is bringing pain and suffering to a lot of our families in America.

We will give you the chance to offer up these amendments. We look forward to joining with you. We hope we will win a couple here. We have a few people already on your side of the aisle who are pro-choice who are going to be with us on some of these amendments. We hope we can expand that. We hope we can have a good vote on the health exception. I think we are getting close to winning that one. That would be a good day for women.

Just remember the most important thing of all: This is about real people, real women like Viki. She is just one. These are religious women, caring women, loving women, who wanted these babies more than anyone could say but who knew if they didn't have the procedure that you want to ban, they could well die, be made infertile, have a blood clot, be paralyzed. We can't do this to women. We should not do this. We should respect women.

We should act as Senators, not OB/GYNs. I think it is important.

In closing, I want to say my friend, Senator SANTORUM, when I was out of the Chamber, said: Well, Senator BOXER said we should not ban procedures, but she voted to ban a medical procedure that would have allowed women's genitals to be mutilated.

I just want to set the record straight. You are darned right I did. That is not a medical procedure; that is torture. That is torture. We are talking here about a medical procedure which doctors say is necessary to save the life and health of a woman in certain abortions. That's quite different. So I wanted to set the record straight.

This debate is emotional. This debate is difficult. There is no doubt about it. But I am so proud to stand tonight, to call on my friends to be honest about what their true goal is. If it is to ban one procedure, then name it in the bill. They do not do that. It is vague. Therefore, according to the Court, it could ban all abortion. That is what the Supreme Court said.

If that is what they are about, then be man enough to come over here and say they believe abortion should be banned, and then let's have at it and talk about the right of families, of women, to make a decision like this—with their doctor, with their God, with their conscience, with their family. But I say: Not with their Senator. I don't think I have that right. I have more humility than that.

I try hard to be a good Senator. I try hard. I come here, I try to fight for the American dream for people. I fight for children, fight for families, fight for jobs. God knows we have trouble in this land. We have troubles in this land. Retirements are up in smoke. People are being forced to work longer and harder. I mean, there are a lot of issues that adversely impact on children and their families. But we will stand here and we will have a point/counterpoint as long as they want to do that.

I thank you and yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me just briefly respond on my own time now and maybe lay a little foundation.

The PRESIDING OFFICER. There is no time. The Senator from Ohio has the floor.

Mr. DEWINE. Let me lay a little foundation for my previous question that I asked my colleague from California. I will send over to her the quote from Dr. Haskell. But to explain to her who Dr. Haskell is, Dr. Haskell is probably the foremost—I would say notorious—partial-birth abortion provider in this country. He operates in my home State, near my hometown. He operates in Dayton, OH. He performs many partial-birth abortions.

The quote I have is as follows. I will read the quote that I have. Dr. Martin Haskell indicates he:

> . . . routinely does this procedure on all patients, 20 to 24 weeks pregnant, except on women—

He gives some exceptions.

He further states:

> And I'll be quite frank. Most of my abortions are elective in that 20 to 24-week range.

My only point to my colleague was that most partial-birth abortions are elective. I think that has been, frankly, the testimony of most of the witnesses we had. I don't think it is really a disputed issue. That was the only point of my question.

I want to return briefly to the issue of medical necessity. I would like to maybe quote a couple more experts who have testified in front of Congress in the past.

Dr. Pamela Smith, Medical Education Director of Mount Sinai Medical Center in Chicago, has testified in front of Congress. Here is what she has said.

> So, for someone to choose a procedure that takes 3 days, if they are really interested in the life of the mother, that puts the mother's life in further jeopardy.

Members of the Senate, those are not my words. Those are the words of Dr. Pamela Smith.

Dr. Nancy Romer, Chairman of OB/GYN and professor at Wright State University Medical School in Ohio, had this to say:

> There is simply no data anywhere in medical literature in regard to the safety of this procedure.

Again she was talking about the partial-birth abortion. I continue to quote Dr. Romer.

> There is no peer review or accountability of this procedure. There is no medical evidence that a partial-birth abortion procedure is safer, or necessary to provide comprehensive health care to women.

Finally, Dr. Donna Harrison, a Fellow of the American College of Obstetricians and Gynecologists, put it most simply:

> This is medical nonsense. It is a hideous travesty of medical care and should be rightly banned in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act. I am grateful to the Senator from Pennsylvania, and my colleague from Ohio, the senior Senator from Ohio, for their courageous fight to stop this barbaric procedure. Any of us who have listened to them cannot help but be moved by their eloquence in regard to the importance of banning this procedure.

This tie that I have on is one that was given to me last week. It says, "Stop Violence Against Women."

I wish those of us who are opposed to this procedure would have had ties made saying, "Stop Violence Against Babies."

It is even difficult to talk about because it is a gruesome procedure, but we need to remind Members of the Senate that this is a procedure that is not done on an emergency basis. It is a little bit difficult for me to talk about it because last week my daughter delivered our fifth grandchild, a little baby girl, Emily Elizabeth.

The way the procedure goes is that a woman goes through 2 days of doctor visits to get dilated; 2 days to get dilated. On the third day, the baby is positioned for delivery in the birth canal. The doctor then pulls the living baby feet first out of the womb and into the birth canal, except for the head which the abortionist purposely keeps lodged just inside of the womb. The doctor punctures the base of the baby's skull with a surgical instrument such as long surgical scissors or a pointed hollow metal tube called a trochar.

He then inserts a catheter into the wound and removals the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the doctor completes the delivery of the now dead baby.

I can't understand how anyone can support this ghastly procedure or cannot support it being illegal.

There are some who say it is hard to believe we are even talking about the question on the floor of the Senate. In an editorial today, the Washington Post called our debate in the Senate on this subject "pointless." I have also heard my colleagues take the floor and state, Have we no other priorities that take precedence over this? What priority is more important than human life? It is hard for me to believe anyone would say we should not even discuss this procedure that kills a human being. It should have been banned years ago. I am glad we are moving early in the 108th Congress to go forward with something that should have been done many years ago.

The subject of partial-birth abortion is not a new one for me. Eight years ago in 1995, Ohio was the first State to pass a partial-birth abortion ban. The bill prohibited doctors from performing abortions after the 24th week of pregnancy and banned completely the dilation and extraction procedure we call the partial-birth procedure in this bill, the one I just described.

The bill allows late-term abortions to save the life of the mother. The women seeking abortions after the 21st week of pregnancy were required to undergo tests to determine the viability of the fetus, and if the fetus was deemed to be viable, the abortion would be illegal.

I am glad the Senator from Ohio pointed out the language in this bill has been carefully drafted. It is not ambiguous. I have heard the Senator from California say this should have gone to the Judiciary Committee. The fact is this has been discussed on the floor of the Senate since 1994.

While I was Governor, I watched the partial-birth abortion ban make its way through the 104th and 105th Congresses, only to be vetoed by President Clinton. It has been around a long time.

After I arrived in the Senate in the 106th Congress, I gave a speech in support of banning partial-birth abortion and, quite frankly, lobbied some of my colleagues to support it. The bill passed both Chambers of the Senate and the House. It made it to conference but never came out of conference.

I have listened to my colleagues quote statistics and spout off facts about medical necessity and the health of the mother. We can all quote different statistics, but the bottom line is there is no need for this procedure. My colleague from Ohio has spoken to that very clearly. Most of these partial-birth abortions are elective. They take 3 days to complete. If a mother really needs an abortion, she has alternatives available to her that are not as tortuous as partial-birth abortion.

It is interesting to note that in January 2003 the Alan Guttmacher Institute, which is affiliated with Planned Parenthood, published a survey of abortion providers, showing that the number of partial-birth abortions more than tripled between 1996 and 2000. Why is the occurrence of such a procedure that is never medically necessary increasing? One of the main reasons we do not need these late-term abortions is thanks to the technology available today. It is better than it has ever been before. We can identify problems very early in the pregnancy so abortions can take place earlier. Women today are being encouraged to come in early in the first trimester for the various tests they need so that if an abortion is acceptable to them, they can have an early abortion while the baby is still not viable outside the womb. In fact, to date, the technology is so sophisticated that if they find there is something wrong with a baby, they can go in through surgery and correct it in the womb.

I want to make it clear to those who believe in abortion and who face that tremendous decision in terms of whether they are going to deliver the baby, that there are other procedures available. The victims of the partial-birth abortions are human beings. I find it interesting that they are sometimes called "living fetuses." They are living human beings. Whether they are called "babies" or "fetuses," no one seems to dispute the fact that they are living. In fact, they are human babies and they can feel pain. When partial-birth abortions are performed, these babies are just 3 inches away from life and, for that matter, seconds away from life.

I urge all of my colleagues in the Senate to stand up against what I refer to as "human infanticide." This is not Roe v. Wade. I suspect that when the vote is taken on the floor of the Senate, there are going to be many people who will support partial-birth abortion who label themselves as pro-choice and pro-abortion. When this legislation passed in Ohio back in 1995, it passed overwhelmingly in both houses, and there were pro-life and pro-choice and pro-abortion people who supported this legislation. This is not an issue of Roe v. Wade. This is an issue of banning a procedure that is gruesome and is not medically necessary.

In the State of the Union address this year, President Bush again pledged to support the legislation and said, "We must not overlook the weakest among us. I ask you to protect infants at the very hour of their birth and end the practice of partial-birth abortion."

I urge my colleagues to vote to ban partial-birth abortions in the United States of America and end this national tragedy.

The PRESIDING OFFICER. Does the Senator from Ohio yield the floor?

Mr. VOINOVICH. Yes. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, my friend talked about the joy of childbirth. He is so right. I have a magnificent grandchild. I have two beautiful children, a boy and girl. They were both premature. It was very scary, and they made it. It was wonderful. I absolutely can say there is no greater joy in my life. As I stand here today, it is because I am pro-children. I am pro-family. I am for healthy families. I am for women not having to face a situation where they could be paralyzed for life if a certain procedure is banned.

My friend says it is not about Roe v. Wade. Nothing could be further from the truth. None other than the Supreme Court said on an identical bill in Nebraska that, in fact, it was against Roe v. Wade—that because there was no exception for the health of the mother in which you have the same situation here. You have salutary language in findings. But the operative language makes no exception for health. That is against Roe v. Wade. Roe v. Wade was a very carefully crafted bill that has withstood time since 1973. Even this Supreme Court, which is new, as we well know, and to the right, has supported Roe very recently.

It says to me, if you look at the case that just came down, you have two problems with this bill that goes against Roe: No health exception. Everyone agrees there is no health exception. The fact is that the terminology used is very vague. Therefore, it puts an undue burden on a woman because it could ban all abortion procedures.

Having said that, it seems to me puzzling why this bill didn't go back to the Judiciary Committee. I will tell you why. It is not as if nothing has changed since we looked at this the last time. Everything changed. The Supreme Court said the partial-birth abortion ban, as the Senator calls it, was unconstitutional in Nebraska because they had no health exception and it put an undue burden on women because the definition is vague. That has not been cured here.

This is going to go right back to the Supreme Court. I am sure the President will sign this bill because he definitely said he is looking forward to doing that. And it will go to the Court, and I believe it will be struck down because it hasn't met the problems the Court found.

It is puzzling to me why we wouldn't send it back to the Judiciary Committee to discuss the problems the

Court found with a legally identical bill. I have had printed in the RECORD a letter from attorneys who say, in fact, this is a legally identical bill.

I want to close tonight for my part and talk about another case because my friend was very eloquent, and I appreciate his eloquence about children and families.

Mr. VOINOVICH. Will the Senator from California yield for a question?

Mrs. BOXER. I certainly will.

Mr. VOINOVICH. Do you agree this issue has been debated on the floor of the Senate for a long period of time?

Mrs. BOXER. Absolutely, it has been, but not since the Supreme Court case which struck down a legally identical bill. That is why I believe it should go back to Judiciary.

Mr. VOINOVICH. Is my colleague from California aware of the fact that those of us who want to ban this procedure believe the language in this bill is not vague and that it will sustain a test in the Supreme Court of the United States?

Mrs. BOXER. With all due respect to my friend, we have a Judiciary Committee that is supposed to make those judgments. So I am sure you think it is fine. You thought the other one was fine, the Stenberg case. You thought the Nebraska case met the Roe v. Wade requirements as well. You were wrong and you were faulty.

So I believe if there is sincerity here—this isn't about politics or whatever—it is really about meeting the constitutional requirements of Roe, it should have gone back.

But I agree with my friend, sure, it has been debated quite a bit, but not since this latest case.

Mr. VOINOVICH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from California yield for a question?

Mr. VOINOVICH. Will the Senator yield the floor back so I can make a——

Mrs. BOXER. I am not going to yield the floor back to you, but I am happy to yield for a question.

Mr. VOINOVICH. The question I would ask, again, is that those of us who have had a concern about this for many, many years have studied the language quite carefully. I particularly have because of the fact that we had two partial-birth abortion statutes that passed in Ohio, and we were looking at what the Supreme Court was going to do with the Nebraska case.

I must say to you we have looked at it as carefully as we can. We believe the language that is in the bill is not vague. We believe it will stand up to a test in the Supreme Court, and that to go back to the Judiciary Committee, quite frankly, would just delay the real issue: that is, whether we have enough votes on the floor of the Senate to ban partial-birth abortions.

Mrs. BOXER. Was that a question?

Mr. VOINOVICH. I think that was a statement.

Mrs. BOXER. Let me say to my friend, I appreciate his sincerity. I do not question it for one minute. But I also have studied this. I also have cared about this, because I care about women who I am going to be talking about here tonight, and many of whom have come to see me in California and here. They are begging me to fight this because it does not have a health exception. Even though my friend thinks you have written it in a way to have a health exception, it isn't in the bill.

Here is another story about Claudia Crown Ades, who, in 1992, was in the 26th week of a desperately wanted pregnancy. Claudia and her husband, Richard, were told, after an ultrasound, that their son had a genetic condition called trisomy 13. His anomalies included extensive brain damage due to a fluid-filled nonfunctional brain and a malformed heart with a large hole between the chambers. He also had developed liver, kidney, and intestinal malformations. He did not have normal blood flow.

They were told his condition was incompatible with life. She was told if she did not have this procedure she could suffer a number of problems, which I have talked about before, that we have been told by doctors can occur if the procedure is not available.

Her loving family got together, and they decided to have this procedure. It saved her. She did not have to suffer the potential of having a hemorrhage, a blood clot, an embolism, stroke, or paralysis.

So I know my friend worked hard on this bill. I am just saying, it would not take that much effort to get the Judiciary Committee to take a look at it since the stakes are so high for the women of this country to outlaw a procedure, to not have a health exception, and to have such a vaguely drawn phrase about a procedure that is a nonexistent medical procedure. It was given to a procedure that I have already put in the RECORD.

Maybe my friend did not hear me, but several physicians, representing 45,000 OB/GYNs, say there is no such thing as this, and that these procedures could be far more than one.

So I am going to close my statement here tonight.

Does my friend have a question?

Mr. VOINOVICH. I do have a question.

Mrs. BOXER. I am glad to yield for a question.

Mr. VOINOVICH. What is puzzling to me—the question is, you have pointed out some unusual cases that——

The PRESIDING OFFICER. Senators are reminded that they will address questions through the Chair and not address each other in the first person.

Mr. VOINOVICH. Would the Senator from California agree that the technology today, in terms of the delivery of babies, in the ascertaining of a problem that a baby or a delivering mother would have, has improved substantially over what it was in 1994 when we first started the debate on this legislation?

Mrs. BOXER. Thank God, we have had so many advances. In my own family we had a circumstance where we were very fearful we were going to lose a pregnancy of one of my children. And because of these incredible advances, she held on, and long enough to have a healthy baby.

What a miracle that is. That is the reason why I support banning all late-term abortions across the board. I think that is consistent with Roe. But for the life and health of a woman, which always must be, it seems to me, considered in a civilized country, we need to make sure women are not facing these kinds of serious problems.

So yes, I say to my friend, I could not be more excited about the incredible progress we have made.

Does my friend have another question?

Mr. VOINOVICH. I do.

Mrs. BOXER. I am happy to yield.

Mr. VOINOVICH. If you agree that the medical technology today is better than it was in 1994, can you explain to me why the Alan Guttmacher Institute, which is an affiliate of Planned Parenthood, published a survey of abortion providers, showing that the number of partial-birth abortions more than tripled between 1996 and 2000? Wouldn't you think there would be less partial-birth abortions because of the technology that we have, less cases like the ones you have presented here before my colleagues in the Senate?

Mrs. BOXER. Let me say to my friend, he keeps referring to partial-birth abortions: "There would be less partial-birth abortions." I would defy my friend to show me where there is a list of so-called partial-birth abortions. Because there are none. This is a made-up term. I will read to you again—because having a debate about partial-birth abortion. I do not know that you take care of these women on a daily basis, as do physicians, but I want to answer my friend.

Mr. VOINOVICH. Will the Senator yield for a question?

Mrs. BOXER. I would like to answer my friend's question. He is asking me a question, whether I disagree with the premise. The premise is, there is a procedure called partial-birth abortion. Physicians are telling me—and I believe them, I hate to tell you, over you, because this is their life's work. These are OB/GYNs. They are saying, there is no such technique as partial-birth abortion.

Reclaiming my time, I am going to conclude in this way: I have shown you a couple of cases. My friends say: Oh, they are a couple of anomalies. There are many more I am going to share—many, many more—many more photographs, many more stories, compelling stories of loving, religious, caring families that made a decision based on the facts as they were laid out, so that a woman could live and be a mother to her other children, so she could go on with her life, where she could have been in a circumstance where she could have absolutely been in peril for her whole family for the rest of her life.

I think we have a lot of power here in the Senate. That is why I am so proud the people of California sent me here. And my friend feels so proud the people of Ohio sent him here, as my friend, who is sitting in the Chair, feels so proud the people of Nevada sent him here.

We work hard to get here. And I do not shrink from responsibility. I am very happy to take on whatever responsibility that I have.

I do not see it in the Constitution that I should outlaw a medical procedure that doctors are saying to me is necessary to save the life and health of a woman.

I think that harms families. If my friends would like to offer a health exception, we would have a lot of support. DICK DURBIN will do that. I hope a lot of you will join us.

I will conclude my remarks because this is what I really think about this. I don't think this about my friends who are on the floor, but I think if you look around for the past 2 years, you see what has happened to women who want to exercise their right to choose, their right to family planning, and you see what has happened to women in this country. So I am going to conclude with the chart that will go through what has happened to women's rights in this country in terms of a right to choose, which is so important, it seems to me.

First, we have a situation where the administration says pregnant women won't be eligible for health benefits; their fetus will—not them. Keep in mind what we have here. This is a circumstance where we have a bill that will outlaw a procedure that doctors tell us they need to save the life and health of a woman. Put that into perspective with what has been happening lately to women's rights. So a woman is ignored by this administration. They are going to give the prenatal care to the fetus, not to the woman. What does that say about women, by the way? We are not entities: we are just here to exist. People can look right by us. That is not right. That in and of itself is an insult, a lack of respect, it seems to me, for women.

Pushing legislation recognizing an embryo as a person with rights separate and apart from the woman's: Again, what does that say about women?

Moving legislation forcing some young women to make reproductive health choices alone, and criminalizing caring adults who help them: That will hit us soon in this debate.

Attempts to block women's access to RU486, a drug proven safe and effective by the FDA, which will avoid abortion procedures: We have trouble with that. By the way, women all over the world have this, and we have fought hard to get our women to have nonsurgical abortion, which is safer. It has been a fight. So far we have won it. It is under attack.

Attempts to block access to emergency contraception: We are going to have a chance to vote on that during the course of this debate.

Denial of Roe v. Wade's protections to Federal employees; low-income women who rely on the Federal Government for their health care; poor women who live in the District of Columbia—in other words, women, including U.S. servicewomen, who pay out of their own pocket for a procedure cannot even use a Federal facility, with our women abroad, in difficult places all over the world—again, a lack of respect.

Why am I bringing this up now? Because I see what we are doing here as a continuation of what I would call a basic assault on a woman's right to choose, which I consider to be a fundamental right that has been articulated in Roe v. Wade and stands for respect of a woman.

We have seen starving funding for family planning programs, and international family planning is basically impounded by this administration, $34 million. That money can save, by the way, tens of thousands in abortions. If a woman has family planning, she will hopefully plan her family and not be in a circumstance where she might seek an abortion. Tell me how that makes any sense. I don't really see it.

Attempts to channel taxpayer funds to deceptive crisis pregnancy centers that intimidate and withhold information from women; pushing legislation to gag doctors from providing abortion referrals; placing a gag rule on international family planning providers; push for youth programs that censor discussion of contraception benefits; censorship, then revision of medical information on Government Web sites about condoms, and the unproven "link" between abortion and breast cancer; attempt to fund Federal research on the unproven link between abortion and breast cancer; key Cabinet appointments who oppose the constitutionally protected right to choose; campaign to pack courts with judges hostile to women's rights; refusal to hold perpetrators of violence, intimidation, and harassment at reproductive health clinics responsible for their illegal acts; refusal to act on international women's rights treaty. I am involved in that, the convention to eliminate all forms of discrimination against women. We are standing with countries such as Angola because somebody says that may mean we support a woman's right to choose. Heaven forbid. So we cannot even sign onto a treaty. It is stunning to me; enactment of 335 antichoice State measures into law since 1995.

So what I am suggesting to you is there is an agenda here—and this is part of it—to ill-define a procedure so it could, in fact, relate to more than one. The court says it could effectively ban all abortion, without really saying they are doing that and not having a health exception, so that women could face all kinds of horrible problems. It is just part of this campaign, if you will, this assault that I see happening, that I feel is very sad for the women in this country.

This is the 21st century. We should allow women to make very private, very difficult choices, as long as these decisions are in accord with the guidelines sent down in 1973.

I will close by saying that Roe v. Wade is a very logical, moderate position. It says in the very beginning of a pregnancy that a woman has a right to choose to have an abortion, without the interference in that decision by government. Then it says after that time, government cannot come in and put in restrictions—but always an exception for the life and health of the mother. I think that is a balance.

The problem with this bill, it bans procedures—and maybe all procedures—many procedures, except some that are very dangerous to a woman, and procedures that could be used at any stage of abortion. That is what the court said, and it makes no exception for her health. I argue the life exception is very narrowly drawn, but we don't have time to go into that tonight.

Thank you very much. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I reiterate the fact that this is not an issue that gets to the basis of the Supreme Court decision in Roe v. Wade. I predict that just as in the past on the floor of the Senate, there are going to be people supporting the outlaw of this gruesome procedure, which is not necessary, who are very much pro-choice, pro-abortion, and who will probably have amendments on the floor of the Senate, a sense of the Senate, in terms of Roe v. Wade and many of the people who will vote to sustain Roe v. Wade will be some of the same people who will vote against this procedure because they understand how gruesome it is.

I point out one other fact. You just cannot give the back of the hand statistics from the Alan Guttmacher Institute, which is a very respected institute, which is an affiliate of Planned Parenthood, that published a survey of abortion providers showing—these are abortion providers, OK—showing that the number of partial-birth abortions more than tripled between 1996 and 2000.

So this procedure is not one that is being practiced in some of the examples that my colleague from California has presented on the floor of the Senate but, rather, has become a regular procedure in the offices of many OB/GYN doctors in this country—a procedure that is not necessary.

Mr. KYL. Mr. President, I am proud to be a cosponsor of this much-needed and long-overdue measure. There is no place in a decent nation for the barbaric practice known as partial-birth abortion. Senator SANTORUM's measure is the only one the Senate is considering that will put an end to it once and for all.

Every abortion ends the life of a tiny boy or girl, but only partial-birth abortion involves the destruction of life at the moment when a child is being brought out of the womb—and he or she is just inches from under the full protection of our laws. Partial-birth abortion blurs the line and does so in such a way as to further erode the sanctity of life.

The legislation Senator SANTORUM has proposed should avoid the constitutional problems that five Supreme Court Justices found in Nebraska's statute in the Stenberg v. Carhart case. Specifically, it addresses the concern that the partial-birth abortion procedure might be necessary to protect the health of the mother by incorporating as findings the view of the American Medical Association and the overwhelming majority of physicians that there is no circumstance where the health of the mother demands this procedure. It also contains a more specific definition of the partial-birth abortion procedure, in response to the Stenberg decision.

This revised definition ensures that, once we pass this bill, it will no longer be permissible in America to—and here I quote the language of the bill itself—"deliberately and intentionally vaginally deliver a living fetus until, the entire fetal head is outside the body of the mother and then kill the baby as happens in a typical partial-birth abortion."

There is no doubt, in contrast, that the substitute measures that the Senate is considering will permit the continued use of this unconscionable procedure. To secure the approval of the radical, pro-abortion lobby, the authors of such measures inevitably draft their so-called "bans" in such a way as to permit "health of the mother" exceptions that effectively negate the restrictions. Again, the testimony of the mainstream medical community makes it clear that "health of the mother" is a red herring in the partial-birth abortion context, and I trust that any measure containing such an "exception" will be soundly defeated.

It is simply not possible to seek cover politically while substantively protecting the most unscrupulous abortionists. The American people overwhelmingly favor enactment of a real partial-birth abortion ban. Despite the predictable efforts to obscure what is really a very clear issue—how we wish to treat the most vulnerable members of our human family—they will soon have it.

MORNING BUSINESS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROSPECT OF WAR AGAINST IRAQ AND SUPPORTING OUR ARMED FORCES

Ms. MIKULSKI. Mr. President, I come to the Senate floor today to speak about some of the most crucial issues facing our Nation: No. 1, the prospect of war against Iraq, and, No. 2—though it will never be in second place—support for our U.S. military.

It has been my longstanding position to support a multinational response to the Iraqi threat. That means building international support to defang Saddam Hussein. We all know he is a duplicitous character, but I believe if the goals of America and the world are to be successful, we need to work in a multilateral way, working through the United Nations, to build international legitimacy, and also to get the world to support us, to share the burden of war, if war is necessary, during the war in terms of the danger, and to share the burden of what would come after the war in terms of the economic cost of rebuilding Iraq.

The risks and consequences of acting alone are much greater than they would be for multinational action. The risks to our troops are greater. If allied forces do not join the mission, our troops will be bearing that burden all by themselves. The challenge in post-conflict Iraq will be greater if other nations do not share this responsibility or this burden. Also, I believe the consequences for the war on terrorism will be greater if we lose the essential cooperation of other nations.

There is a lot of disagreement about going to war: whether we should go to war now; whether we should go to war at all; whether we should go to war alone or whether we should continue to work through the United Nations. I have stated my own positions. But I believe there is something all Americans agree on; that is, we must support our troops. We must stand up for those who are standing up for us. We must protect our defenders, the brave men and women of our military, and we must support them not only with words but with deeds. That means ensuring that our troops have the best and smartest weapons, that they have the training and the equipment they need.

But while we are standing up for our military, we must also stand up for their families. Our troops will face grave danger. They should not have to face fear for their families, and particularly they should not have to worry about their families' finances.

Although America is on the brink of war, American military families must never be on the brink of bankruptcy. That is why we, in the Senate, must take immediate steps to support military families.

There is legislation pending. Let's provide tax relief to military families. Let's pass legislation to help the families of the National Guard and the Reserves who have been called up for longer periods than at any time in the past 40 years.

Each and every member of our military is part of the American family. Their service is a tremendous sacrifice and great risk. These are ordinary men and women called upon to act in an extraordinary way. Whatever their nation asks them to do, I know they will do it with bravery, fortitude, and gallantry. All Americans owe them a debt of gratitude.

Members of the military, though, do not just need our gratitude through words; they need our gratitude through deeds. That is why I support two immediate steps and call upon the Senate to join with me and other like-minded colleagues to advance these steps.

I believe the Senate must quickly pass legislation to ease the tax burden on our American military. Our troops should not have to worry about tax deadlines and paperwork when they are preparing to defend our Nation.

I urge the Senate to pass, this week, the Armed Forces Tax Fairness Act, without loading it down with any special interest giveaways. While some are preoccupied with tax cuts for "Joe Millionaire," we should be preoccupied with GI Joe and GI Jane.

At the same time, we need to look at the financial burden many of the families are facing. Let's talk about the National Guard and the Reserves. The Senate also has to help the Guard and Reserves. They have been called up in record numbers. Right this minute, 168,000 Guard and Reservists are serving alongside our active-duty military.

Since September 11, over 230,000 of our National Guardsmen and Reservists have been mobilized. In my own home State of Maryland, that number is at least 4,000. And not only have they been called up, but many have been called up more than once over the past year and a half.

The Guard and Reserves are ready to serve. They are our citizen soldiers. They are called up in times of national emergency. Yet they are being asked to serve for longer periods of time. Many have been called up three or four times since September 11. This places a tremendous burden on their families. There are financial burdens of losing pay and losing businesses. Let me give you some examples from my own home State of Maryland.

The 115th Military Police Battalion of the Maryland Army National Guard has been deployed repeatedly since September 12, after the attack on the United States of America. That is when they were called up to stand guard at the Pentagon. When I went over to the Pentagon after the attack, I saw Maryland responding: I saw on the perimeters our own National Guard protecting the Pentagon, and Maryland first responders doing the rescue and recovery. When they were called up, they wanted to be there. Then they had a two-week breather. But then they were called up to guard the prisoners at Guantanamo Bay, and now they are deployed in Afghanistan.

The long periods of mobilization are hard not only on them but on their families. Let me give you some examples of what the families are facing.

I will talk about a reservist in Columbia, MD. He is a wonderful guy, and he owns a small home improvement business. After the terrible snows, this business would be booming, but he is not there to fix gutters or sidings, or help seniors repair those leaky basements. He has been called up most of the year. He has already been called up three times, and now he has been called up once again. He has been called up so often that he has had to shut down his home improvement business, where he was the sole employee. His family is now forced to borrow against their home to make ends meet. They have already gone through their savings, and they have already gone through their children's tuition money for college. We have to think about this man and his family.

In a family in Centreville, the husband has been activated four times over the past year and a half. He is the main breadwinner. The family has already lost half of their income this year. They are having a difficult time making payments on their home and, in fact, the wife and children are now considering moving in with her parents.

Then there is the National Guardsman in St. Mary's County, who has been deployed 9 months out of the last 18 months. In February, he was deployed again. His wife is now working two jobs to make ends meet.

We have to face this challenge. For years we have faced the challenge of how we had been shortchanging our military. We have increased pay for full-time duty and we have improved benefits. We needed to do that and that was the right thing to do.

Now we are facing a unique challenge, looking at the Guard and the Reserves who are ready to do their duty, but they are now being deployed as frequently as if they were on active duty and their families are facing hardship.

As part of this response, I will be joining Senator DICK DURBIN to introduce legislation called the Reservists Pay Security Act of 2003. It would ensure that Federal employees who take leave to serve in our military reserves receive the same pay as if no interruption in their employment occurred. Why start with Federal employees? Well, many large companies and local governments continue to pay the full salary of their employees when they are activated. I applaud those excellent corporate citizens and those local governments. Some of the largest employers in my own State are also meeting that responsibility. The Federal Government should be a model employer and set the example for large businesses. This should be a first step.

I believe we should move quickly to pass this bill because many members of the Guard and Reserves do work for the Federal Government in highly specialized areas. But the Federal Government needs to do more than that. We need to take a look at those who work for small business and those who are self-employed. A call for duty will be responded to, but a call for duty time and time again in a single-year period places the responsibility on the family. American families should never subsidize our war effort. We should be looking out for those families.

Supporting our troops should be more than speeches, it should be more than parades. Sure, when the war begins—if it does begin—I believe there will be an outpouring of great American sympathy. But we need to put it into action to help the men and women defending our Nation; and for the full-time active duty, continue raising pay and improving benefits; and for our Reserves and our Guardsmen, to close the gap between the income they are leaving behind and the country they are working to defend.

Please, let's pass that Tax Fairness Act. Our military should not even be paying taxes when they are at war in Iraq. There should be shared sacrifice in the United States of America, and that means not only shared sacrifice in terms of those who are willing to go and fight, but we need to fight for those who are fighting for us.

I urge my colleagues to join me in putting the men and women of our military at the top of our agenda, whether as we look at the issues facing the economy or facing taxes, because, remember, as our budget is strained, theirs is near the breaking point.

I conclude by saying God bless our troops and God bless America.

A DIPLOMATIC LOSS

Mr. JEFFORDS. Mr. President, I wish to call attention to a piece that appeared on the editorial pages of the Washington Post on Sunday. It was a letter of resignation from John Brady Kiesling, a career State Department diplomat who offered some very compelling thoughts about the state of our international relations.

After two decades with the State Department, Mr. Kiesling left his job on March 7 because he no longer believed the President's policies reflected the interests of the American people.

Mr. Kiesling wrote that in our pursuit of war with Iraq, the U.S. had squandered the legitimacy:

> that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson.
>
> We have begun to dismantle the largest and most effective web of international relationships the world has ever known.

Mr. Kiesling wrote:

> Our current course will bring instability and danger, not security.

But it was this thought that I found most compelling:

> When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security and justice for the planet?

This central question raised by Mr. Kiesling resonates with many Americans who feel frustrated and confused by the way the Bush administration is performing on the international stage:

> Why have we failed to persuade more of the world that a war with Iraq is necessary?

I ask unanimous consent that Mr. Kiesling's full letter of resignation, as it appears in yesterday's Washington Post, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DIPLOMAT'S GOODBYE

FEBRUARY 27, 2003

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart.

The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has oderint dum metuant [Ed. note: Latin for "Let them hate so long as they fear," thought to be a favorite saying of Caligula] really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

IRAQ

Mr. STEVENS. Mr. President, I ask unanimous consent that the Sunday, March 9, 2003 Washington Post editorial entitled "Moment of Decision" be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. I believe this editorial accurately describes the current impasse at the U.N. Security Council over whether to enforce Security Council Resolution 1441.

That resolution gave Saddam Hussein a final opportunity to disarm and provided for "serious consequences" should he fail to comply. It is now clear that Saddam Hussein is in violation of Resolution 1441, yet some member states on the Security Council are using this forum to press an unrelated agenda that is hostile to the interests of the United States.

By pursuing this course of action, these member states are contributing to the global threat that Saddam Hussein poses and undermining the very purpose of the United Nations—to ensure the peace and security of the international community.

We know that Saddam Hussein possesses weapons of mass destruction. We know that Saddam Hussein will use those weapons against those who oppose his tyranny. We know that Saddam Hussein has failed to disarm in violation of Security Council Resolution 1441.

Yet, rather than holding Saddam Hussein accountable for his defiance, these member states have reduced the Security Council to a debating society, hardly relevant to the tough decisions the United States and its allies face in the war against terrorism.

Only by standing together will the United Nations finally fulfill its commitment of ensuring global peace and security.

EXHIBIT 1

[From the Washington Post, Mar. 9, 2003]

MOMENT OF DECISION

The Debate on Iraq at the United Nations Security Council no longer concerns whether Iraq has agreed to disarm; in fact, it hardly concerns Iraq at all. At Friday's meeting, once again, neither chief U.N. inspector Hans Blix nor any member of the council contended that Saddam Hussein has complied with the terms of Resolution 1441, which offered him a "final opportunity" to give up weapons of mass destruction. But most members chose not to discuss the "serious consequences" the council unanimously agreed to in the event of such non-compliance. Some, such as Mexico and Chile, essentially argued that Iraqi disarmament was less important than avoiding a split of the Security Council. Others, such as Russia and France, sought to change the subject from Iraq to the United States' global role. They argued for using Iraq to establish that international crises should be managed solely by the Security Council—and not through military action that necessarily must be led by the United States.

It's painful to imagine Saddam Hussein's satisfaction in observing the council once again descend into internal quarrels rather than hold him accountable for his defiance of its resolutions. But it's not hard to understand much of the diversionary argument. Few countries outside of the Middle East feel directly threatened by Iraq, other than the United States. Many have an understandable aversion to war when their own citizens' lives don't appear to be at risk. Some, notably Russia and France, have been unsuccessfully seeking for a decade to check American influence and create a "multipolar world"; the Iraq crisis offers a fresh platform for an agenda more important to them than the menace of a Middle Eastern dictator. The Security Council's action on Iraq "implies the international community's ability to resolve current or future crises . . . a vision of the world, a concept of the role of the United Nations," said French Foreign Minister Dominique de Villepin. "There may be some who believe that these problems can be resolved by force, thereby creating a new order. But this is not what France believes." To oppose the use of force in Iraq, in other words, is to oppose the exercise of the United States' unrivaled power in the world.

We share the concern of those on the council who spoke of the damage of an enduring rift over Iraq—damage for which the Bush administration's clumsy and often high-handed diplomacy will be partly responsible. Yet we would argue that the only way to preserve international cohesion is for the council to face up to the tough question that it has been avoiding for weeks—not world order or U.S. power but Saddam Hussein's defiance of an unambiguous Security Council disarmament order. In their bid for global opinion, the French and Russians now invoke principles they would never agree to if they were applied to Chechnya or Francophone Africa. As President Bush pointed out in his news conference Thursday, Iraq's continued stockpiling of banned weapons is a direct threat to the United States, and the country has a right under the U.N. Charter to defend itself against that threat.

By taking its case to the United Nations, the Bush administration tested whether the Security Council—which only rarely in the past 50 years has been able to respond to the world's crises—could serve as a place where such threats could be addressed. Yet after six months of intensive effort, France, Russia, Germany and others refuse to accept the consequences of the process they claim to favor. They would rather the Security Council abandon its own resolutions, or split apart, than endorse a U.S. use of force against an outlaw tyrant. If their goal is really to preserve the U.N. security system, they should join in supporting the enforcement of U.N. resolutions; if it is merely to contain the United States, they should not be allowed to succeed. The United States, for its part, must remain open to reasonable compromise. If a few more weeks of diplomacy will serve to assuage the legitimate concerns of undecided council members, the effort—even at this late date—would be worth making.

SOCIAL SECURITY REFORM

Mr. BUNNING. Mr. President, in the upcoming days of the 108th Congress, this legislative body may be called upon to tackle the very important and very difficult issue of Social Security reform. As it currently stands, the Social Security System needs strengthening for the sake of our children and grandchildren. I recently read an article, written by Mises Institute Scholar John Attarian, which takes us back to December 1981, when President Ronald Reagan, alone with House Speaker Tip O'Neill and Senate Majority Leader Howard Baker, created a bipartisan commission to study Social Security and recommend reforms. Alan Greenspan was picked by President Reagan to head-up this commission. This article will provide my fellow colleagues with insightful information regarding past experience with Social Security reform. If we refuse to learn from our previous mistakes and mishaps, we are doomed to travel down the same erroneous and errant path. We can't just kick the can down the road. Raising taxes on benefits and reducing benefits are not an option for Social Security reform.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANOTHER GREENSPAN SOCIAL SECURITY REFORM?

(By John Attarian)

On Thursday, February 27, Federal Reserve Chairman Alan Greenspan told the Senate's Special Committee on Aging that we should tackle Social Security sooner rather than later, so as to avoid "abrupt and painful" revisions of the program when the baby boomers start retiring. Congress should, he said, consider things like raising the retirement age and changing the annual benefit Cost of Living Adjustment (COLA), before raising the payroll tax, because a payroll tax hike discourages hiring.

"Early initiatives to address the economic effects of baby-boom retirements could smooth the transition to a new balance between workers and retirees. If we delay, the adjustments could be abrupt and painful," Greenspan said. He added that Congress should consider switching to a lower inflation rate for the annual COLA, which could save billions in benefit outlays.

Greenspan's words should set off alarm bells in well-informed minds. Almost exactly ten years ago, a National Commission on Social Security Reform headed by Greenspan proposed a package of benefit cuts and tax increases, which Congress enacted with little change, and which turned out to be one of the most oppressive—and underhanded—things Congress ever did to younger Americans over Social Security. It also failed to solve Social Security's long-term problems.

BACKGROUND TO THE GREENSPAN COMMISSION

The 1972 amendments to the Social Security Act not only greatly increased benefits, and created the annual COLA to increase benefits to compensate for inflation, but included an overly generous formula for the COLA which in effect adjusted benefits twice. This plus the inflationary stagnation of the 1970s created Social Security's first funding crisis. To cure it, Congress passed in December 1977, and President Jimmy Carter signed into law, amendments which both undid the overadjustment of benefits and mandated the largest tax increase in American history up till them. Supposedly this would solve the problem permanently.

It didn't. The long-term actuarial deficit fell from a frightening −8.20 percent of taxable payroll to a still-troubling −1.46 percent. Moreover, thanks to inflationary recession, the short-term outlook was calamitous; in 1980, Social Security's Board of Trustees reported a deficit of almost $2 billion in 1979, that by 1982 at the latest, Old-Age and Survivors Insurance (OASI) would be unable to pay benefits on time, and that by calendar 1985 Social Security's trust fund would be exhausted.

So in May 1981, Ronald Reagan's Secretary of Health and Human Services, Richard Schweiker, sent Congress Reagan's proposals for restoring Social Security's solvency.

Instead of another tax hike, Reagan proposed benefit cuts—most importantly, cutting early retirement benefits from 80 percent of the full benefit to 55 percent, and increasing the dollar "bend points" in the Average Indexed Monthly Wage formula, which break up income into intervals upon which benefit calculations are based), by 50 percent of the average annual wage increase, not 100 percent.

Reagan walked into a buzz saw. Congressional Democrats, seniors' groups, Social Security architects such as Wilbur Cohen, unions, and others blasted him for "breaking the social contract," and he suffered his first defeat in Congress. In December 1981, he recommended creation of a bipartisan commission to study Social Security and recommend reforms. Reagan picked five members, including economist Greenspan as chairman; House Speaker Thomas "Tip" O'Neill picked five; and Senate Majority Leader Howard Baker picked five more. The Greenspan Commission quarrelled bitterly over what to do, missing its December 1982 deadline, and did not issue its report until January 15, 1983.

THE 1983 SOCIAL SECURITY RESCUE

It was just in time. Exhaustion of the Old-Age and Survivors Insurance trust fund was now projected for July 1983, meaning benefit checks wouldn't go out on time. Reagan and Congress moved fast. The Commission's proposals were introduced on January 26; both houses of Congress passed the final version of the rescue legislation on March 25; and Reagan signed it into law on April 20, 1983.

Supposedly, the Greenspan Commission gave politicians a political cover enabling them to bite the bullet on Social Security and even do the unthinkable: cut benefits. Supposedly, the Greenspan Commission's reforms were a compromise between the Republicans, who wanted to cut benefits, and the Democrats, who wanted to raise taxes instead. Supposedly, they therefore spread the pain widely, cutting current benefits, raising current and future taxes, cutting future benefits, and dragging previously exempted persons into Social Security's revenue pool.

Superficially considered, they did. Current beneficiaries had their July 1983 COLA delayed six months, until January 1984, and all beneficiaries would have COLAs paid in January thereafter. For the first time, Social Security benefits were subject to taxation. Beginning in 1984, up to 50 percent of Social Security benefits would be included in taxable income for persons whose sum of adjusted gross income plus taxable interest income plus one-half of Social Security benefits exceeded $25,000 for single beneficiaries and $32,000 for married beneficiaries.

The future tax increases mandated in 1977 were accelerated; the payroll tax rate increase scheduled for 1985 kicked in in 1984 instead, and part of the 1990 increase went into effect in 1988. In addition, the self-employment tax rate, which the 1977 law would have increased to 75 percent of the sum of the employer and employee shares of the Federal Insurance Contributions Act (FICA) tax, was raised to 100 percent of this sum.

Many additional categories of employees were brought under Social Security, including the President, members of Congress, federal judges, federal employees newly hired on or after January 1, 1984, and present and future employees of tax-exempt nonprofit organizations. State and local government employees, who previously were able to opt out of Social Security, no longer could as of April 20, 1983.

The retirement age (the age at which one could qualify for full Social Security benefits) was gradually raised, to reach sixty-six in 2009 and sixty-seven in 2027. One could still retire early and start collecting early retirement benefits at age sixty-two, but the early retirement benefit would be trimmed from 80 percent of the full benefit in 1983, to 75 percent in 2009 and 70 percent in 2027.

THE 1983 RESCUE UNMASKED

But although the pain was indeed spread widely, it was certainly not spread evenly. The distribution of sacrifice was incredibly lopsided, falling least heavily on current beneficiaries and most heavily on current taxpayers, future taxpayers, and future beneficiaries. In other words, the elderly of 1983 were spared any real hardship, and the bulk of the burden was put on those who were young in 1983 and of Americans yet unborn.

In the short-run period of 1983–1989, the majority of the pain was borne by taxpayers, not current beneficiaries. Using its intermediate actuarial assumptions, the Office of the Actuary estimated that the amendments would raise an additional $39.4 billion in this period from the higher FICA tax rates, $18.5 billion from the higher self-employment tax rate, and $21.8 billion form extending Social Security coverage to those not then in the system. Total estimated additional revenues from current and newly-created taxpayers: $79.7 billion.

The new benefit taxation, which would affect only a minority of the current beneficiaries—only the richest ten percent, according to Phillip Longman's 1987 book Born to Pay: The New Politics of Aging in America—would bring in another $26.6 billion. The only major hit taken by all the current beneficiaries, the delay in COLAs, would cut benefits by $39.4 billion over this six-year period, for total current beneficiary losses of $66.0 billion.

The inequity was even worse in the long run. In 1983, Social Security's actuaries put the long-range actuarial deficit at −2.09 percent of taxable payroll under intermediate assumptions. Raising the retirement age made the largest single contribution to eliminating this deficit, wiping out about a third of it, 0.71 percent of taxable payroll; and this fell entirely upon future beneficiaries.

Benefit taxation increased the long-term income rate by 0.61 percent of taxable payroll—the second-largest contribution to erasing the deficit; it fell somewhat on the (richest) current beneficiaries, but mostly on future ones. These two measures accounted for 1.32 percent of taxable payroll, or almost two-thirds of the long-term actuarial deficit. Most of the rest was eliminated by brining new people (who would initially participate as taxpayers) under Social Security (0.38 percent of taxable payroll), and accelerating the phasing-in of the 1977 tax increase and increasing the self-employment tax rate (0.22 percent).

It turns out, then, that the allegedly broad sharing of sacrifice was in fact engineered to injure, and provoke, the politically powerful current beneficiaries, who with their allies had routed the Reagan Administration in 1981, the least, and put the lion's share of the hurt on the young, including those not even born yet.

Moreover, when we examine how the sacrifice broke down between benefit cuts and tax increases, we see that the broad-based rescue was, in reality, disproportionately based on tax increases. The measures to increase revenues—benefit taxation, accelerated tax increases, the higher self-employment tax rate, and augmenting the revenue base with new participants—reduced the long-term acturial deficit by 1.21 percent of taxable payroll, or almost 58 percent of the total.

Not only that, the Greesnpan Commission's reforms were shot through with serpentine underhandedness. For one thing, the graudal ramping up of the retirement age and cutting of the early retirement benefit were scheduled so as to bite worst in 2027, 44 years after enactment—in other words long after the politicians who had enacted them had left Congress and were safe from retaliation by angry baby boomers on Election Day.

For another, the benefit taxation will hit future generations far harder than it hit the current beneficiaries of the 1980s, because the income thresholds which trigger the taxation, $25,000 and $32,000, were not adjusted for inflation (and still aren't). This means that over time, thanks to inflation, more and more beneficiaries will hit these tax tripwires, just as inflation shoved Americans into higher tax brackets before income tax indexing was enacted in 1981.

Phillip Longman maintained that of all the features of the 1981 rescue, benefit taxation "most reduces the benefits promised to baby boomers and their children." While benefit taxation hit only the richest beneficiaries when enacted, Longman noted, even with the modest rates of inflation which the Social Security actuaries' intermediate analysis assumed, a $25,000 income in 2030 would have less purchasing power than an income of $4,000 in the mid-1980s! "So by the time the baby boomers qualify for Social Security pensions, the program will be effectively means tested, if it survives at all. Under current law, i.e., including the 1983 amendments, only the poorest baby boomers are even promised a fair return on their contributions to the system."

How's that for a piece of Byzantine cunning?

Yet for all its heavy burdens, which it imposed with such inequity and insidiousness, the 1983 rescue of Social Security turned out to be only temporarily effective. The 1983 Annual Report of Social Security's Board of Trustees projected long-term actuarial balance for Social Security.

Just five years later, the long-term balance was in deficit again, −0.58 percent of taxable payroll. In 1993, ten years after the great rescue legislation, the long-term actuarial deficit was −1.46 percent. In 1994, thanks to various changes in actuarial assumptions, the Board of Trustees reported a deficit of −2.13 percent—worse than the deficit which the 1983 rescue had erased. The long-term actuarial deficit continued to grow, hitting −2.23 percent of taxable payroll in the 1997 Annual Report.

An improved economic outlook due to the late-1990s prosperity and productivity growth led to optimistic revision of various economic assumptions, and the long-term actuarial deficit began dropping as a result, to −1.87 percent of taxable payroll in the 2002 Annual Report. Nevertheless, the trustees continue to point out that Social Security is not in long-term close actuarial balance and that corrective action is necessary.

To sum up, the 1983 rescue legislation embodying the recommendations of Greenspan's Commission substantially injured the baby boomers and their younger siblings on the sly—and it didn't help.

ANOTHER STEALTH "RESCUE"?

The lurking menace in Greenspan's recent remarks is that he may be floating a trial balloon for another stealth "rescue" of Social Security which pushes the bulk of the pain into the future and doesn't really accomplish much. It is almost certain that any trimming of benefits by the measures Greenspan advocates—raising the retirement age or shifting to a lower inflation rate for the COLA—would scrupulously avoid arousing the politically formidable current elderly, who are not only organized into pressure groups such as the American Association of Retired Persons and the Seniors Coalition, but, as is well known, participate in voting much more heavily than do the young.

Notice that Greenspan wants "[e]lderly initiatives to address the economic effects of baby-boom retirements." What's significant here is that he says nothing about cutting current costs, which have exploded to extremely high levels. Benefit outlays were $141 billion ($386 million a day) in calendar 1981 and $268.2 billion ($735 million a day) in calendar 1991, almost double the 1981 figure. In calendar 2001, Social Security paid $431.9 billion in benefits ($1.18 billion a day), over three times the 1981 cost.

Moreover, this mushroom growth will continue even before the baby boomers swamp Social Security. Under intermediate actuarial assumptions, benefit outlays are projected at $546.7 billion ($1.5 billion a day) for calendar 2006, before any baby boomers retire, and $746.7 billion ($2.05 billion a day), an increase of 72.9 percent over 2001's figure, for calendar 2011, when boomer retirements have just begun.

Then, too, just as the Greenspan Commission's 1983 benefit taxation with trigger income levels unadjusted for inflation is a stealth means test, tinkering with the price index for the COLA is itself an intrinsically insidious way to cut benefits. Rather than cut them directly, it finagles the arithmetic on which their adjustment for inflation is based.

Finally, fiddling with the inflation rate for the COLA may in fact not make all that much difference. Buried toward the end of the February 28 Washington Post piece on Greenspan's remarks was the interesting news that whereas a 1996 commission found that the Consumer Price Index overstated inflation by 1.1 percentage points a year, another study done in 2000 found that improvements in the index made by the Bureau of Labor Statistics had whittled the overstatement down to 0.6 percentage points a year, an improvement of almost 50 percent.

Now, the Social Security actuaries have already factored in the improvements in the Consumer Price Index. Both the improvement in the long term actuarial deficit in recent years and the projected explosion in outlays by 2011 already take the more-accurate index into account. Which leads one to wonder just how much we'd really gain by tinkering with the CPI some more.

So while Greenspan's recent testimony seems like a courageous and tough-minded warning about Social Security, under close scrutiny it looks like the makings of another serpentine but ineffectual attempt to fend off disaster.

ALZHEIMER'S RESEARCH, PREVENTION AND CARE ACT

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senators MIKULSKI, BOND, BREAUX, DODD, LINCOLN, LANDRIEU and COCHRAN in introducing this important bipartisan legislation. The Alzheimer's Research, Prevention and Care Act will expand federal efforts to find new ways of treating and preventing Alzheimer's Disease and to provide better care for the 4 million Americans suffering from this devastating illness.

Alzheimer's disease is the most serious threat to the health and well-being of America's seniors. It has a devastating impact on individuals, families, the health care system, and society as a whole. Today, four million Americans have Alzheimer's disease, and that number is expected to grow to 14 million as baby boomers age. Currently, one in 10 people over the age of 65 have Alzheimer's disease, and nearly half of those over 85 suffer from it. This figure is particularly alarming, since the over-85 age group is the fastest growing segment of our population.

The annual cost of formal care for Alzheimer's disease is immense—$100 billion, and the value of the care provided by family caregivers is an additional $196 billion. As the baby boomer generation continues to age, the costs will rise to at least $375 billion a year.

which presents a serious challenge to Medicare, Medicaid and our entire health care system.

We can avoid this crisis. Researchers have been working hard to find a cure. Scientists have come close to discovering the scientific causes of Alzheimer's disease. Newly released studies have begun to reveal information on what aging Americans can do to reduce the risk of developing this devastating disease. One study found that those who consumed the most saturated fat had double the risk of those who consumed the lowest amount. Another study has found that blood pressure played an important role in the risk of developing Alzheimer's disease in those 75 or older. These and other research studies are helping to create a better understanding of why brain cells shrink and die.

Hopefully, we are on the verge of a breakthrough, and scientists deserve greater support in order to make the goal of cure a reality. That is why we must do more to accelerate the research critical to finding a cure. The Act we propose will advance our country toward the goal of doubling the future investment in Alzheimer's disease research at NIH. It authorizes $1.5 billion for the National Institute on Aging by the year 2008, which is the lead NIH institute for this research.

The research funding authorized by the Act will add new speed in the race to prevent this illness that touches the lives of so many Americans. These funds will support the Alzheimer's Disease Prevention Initiative authorized by the act. Prevention is our best opportunity to halt the growth of Alzheimer's disease. Observational studies in large populations suggest that drugs already in wide use in middle-aged and older people may have a protective effect against the disease. Those results must now be validated in large-scale, controlled clinical trials. Among prevention initiatives, the Act authorizes trials to determine whether compounds such as estrogen, vitamin E, ginko biloba and aspirin can prevent the onset of the disease.

The act also authorizes cooperative clinical research at the National Institute on Aging. Clinical trials can cost millions of dollars and involve thousands of participants and years of work. This legislation will enhance these needed trials, develop new ways to design these trials, and make it easier for patients to enroll in key studies. Cooperative research is essential to launching these clinical trials and supporting productive research.

The act also supports research and programs to help millions of family caregivers who provide loved ones with care at home. Seventy percent of those with the disease live at home in which families provide at least 77 percent of their care. It is vitally important to find better ways to help families who are the backbone of our long-term care system. The support they provide is extraordinary, and often jeopardizes their own health. It is unacceptable that one in eight Alzheimer's caregivers becomes ill or injured as a direct result of caregiving. Family caregivers provide the support which prevents these patients from having to enter institutions. This issue is especially important, given the nationwide health workforce shortage in nursing homes.

The act also reauthorizes the Alzheimer's Demonstration Program in the Administration on Aging and increases funding to expand it. This program has been highly successful in pioneering new ways to fill gaps in existing state delivery systems, so that local and community-based programs can do more for underserved populations with Alzheimer's disease. In Massachusetts, the Multicultural Alzheimer's Services Project in Springfield will receive funding through this program to provide information and supportive services to those with Alzheimer's and their caregivers.

We have no time to waste in the battle against Alzheimer's disease. We must act now to accelerate scientific efforts to find a cure and halt the continuing epidemic of the disease. We can improve the lives of millions of Americans by demonstrating our commitment to enhance research, and to support programs that help patients and their families. I urge my colleagues to support this very important legislation.

THE LIFESPAN RESPITE CARE ACT OF 2003

Mr. KENNEDY. Mr. President, it is a privilege to join colleagues Senator CLINTON, WARNER, SNOWE, MIKULSKI, JEFFORDS, MURRAY, BREAUX, COLLINS and SMITH in introducing the Lifespan respite Care Act. The act will authorize grants to promote a coordinated system of accessible respite care services for 26 million Americans who care for a family member or friend who is chronically ill or disabled.

Caregivers today work tirelessly to support their loved ones and help them to maintain their quality of life as effectively as possible. Without this important care, many seniors and people with disabilities would be forced to live in institutions, reducing their quality-of-life and resulting in more costly care.

Services provided by family caregivers are estimated to be worth nearly $200 billion annually. Even if we tried to replace these family caregivers with paid workers, we would face workforce shortages, a serious problem that will only worsen as the baby boom generation reaches retirement age.

By 2010, more than 780,000 additional caregivers must be found to fill long-term staff positions, an increase of 39 percent over the year 2000. We now rely, and we will have to continue to rely, on unpaid caregivers in order to meet the growing need and enable those who receive the care to continue to live in the least restrictive environment possible.

Many family caregivers are themselves suffering from the stress and physical strain of their work. Often, they live the caregiver life, which is frequently called the 36-hour day. They deserve more support in order to do their essential work. Sometimes, the relief they need may be a "timeout" for just an hour or two a week to do the grocery shopping or have time to go to the doctor. Other family caregivers may need far more relief. Our bill will provide essential respite care services and ensure that respite care providers are trained appropriately, so caregivers will feel at ease when they leave their loved one with respite providers.

I urge the Senate to support this important legislation that will provide long needed support for the elderly and disabled and that will mean so much to the family caregivers of our Nation.

PROBLEMS WITH THE DEATH PENALTY

Mr. LAUTENBERG. Mr. President, I believe that the death penalty is ineffective, cruel, and unjust. Killing people convicted of criminal offenses under the color of State law is wrong; and the disproportionate execution of a certain class or race of people is utterly unconscionable.

In the United States, although African Americans make up only 12 percent of the overall population, 42 percent of the people currently on death row are Black. African Americans are also overrepresented in the number of people on death row who are later found to be innocent: 38 percent of death row inmates freed since 1973 because of new evidence were African Americans, and 35 percent of those executed and later found to be innocent were Black.

Despite these startling statistics, the State of Texas, President Bush's home State, is determined to execute Americans as fast as possible, even in light of potentially exculpatory evidence.

In today's New York Times, columnist Bob Herbert writes about an American-African man who, in about 48 hours, may become the 300th person executed by the State of Texas since the resumption of capital punishment in 1982.

As Mr. Herbert notes, this case is particularly disturbing because there is strong evidence that the accused, Mr. Delma Banks, Jr., did not commit the capital offense. But, in a blatant disregard for truth and the equitable administration of justice, Texas intends to proceed regardless.

This senseless State-sanctioned killing must stop!

I ask unanimous consent that Mr. Herbert's column in the New York Times dated March 10. 2003, be printed into the RECORD following my remarks.

Thank you. Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The New York Times, Mar. 10, 2003]

COUNTDOWN TO EXECUTION NO. 300

(By Bob Herbert)

The war trumps all other issues, so insufficient attention will be paid to the planned demise of Delma Banks, Jr., a 43-year-old man who is scheduled in about 48 hours to become the 300th person executed in Texas since the resumption of capital punishment in 1982.

Mr. Banks, a man with no prior criminal record, is most likely innocent of the charge that put him on death row. Fearing a tragic miscarriage of justice, three former federal judges (including William Sessions, a former director of the F.B.I.) have urged the U.S. Supreme Court to block Wednesday's execution.

So far, no one seems to be listening.

"The prosecutors in this case concealed important impeachment material from the defense," said Mr. Sessions and the other former judges, John J. Gibbons and Timothy K. Lewis, in an extraordinary friend-of-the court brief.

They said the questions raised by the Banks case "directly implicate the integrity of the administration of the death penalty in this country."

Most reasonable people would be highly disturbed to have the execution of a possibly innocent man on their conscience or their record. But this is Texas we're talking about, a state that prefers to shoot first and ask no questions at all. Fairness and justice have never found a comfortable niche in the Texas criminal justice system, and the fact that the accused might be innocent is not considered sufficient reason to call off his execution.

(One of the most demoralizing developments of the past couple of years is the fact that George W. Bush has been striving so hard to make all of the United States more like Texas.)

Delma Banks was convicted and sentenced to death for the murder of 16-year-old Richard Whitehead, who was shot to death in 1980 in a town called Nash, not far from Texarkana. There was little chance that this would have been a capital case if both the accused and the victim had been of the same race. Or if the accused had been white and the victim black.

But Mr. Banks is black and Mr. Whitehead was white, and that's the jackpot combination when it comes to the death penalty. Blacks convicted of killing whites are the ones most likely to end up in the execution chamber. In Texas this principle has been reinforced for years by the ruthless exclusion of jurors who are black.

Just two weeks ago the Supreme Court handed down a ruling that criticized courts in Texas for ignoring evidence of racial bias in a death penalty case. Lawyers in the case noted that up until the mid-1970's prosecutors in Dallas actually had a manual that said, "Do not take Jews, Negroes, Dagos, Mexicans or a member of any minority race on a jury, no matter how rich or well-educated."

The significant evidence against Mr. Banks was the testimony of two hard-core drug addicts. One was a paid informant. The other was a career felon facing a long prison term who was told that a pending arson charge would be dismissed if he performed "well" while testifying against Mr. Banks.

The prosecution deliberately suppressed information about its arrangements with these witnesses—information that it was obliged by law to turn over to the defense.

And prosecutors made sure that all the jurors at Mr. Banks's trial were white. That was routine. Lawyers handling Mr. Banks's appeal have shown that from 1975 through 1980 prosecutors in Bowie County, where Mr. Banks was tried, accepted more than 80 percent of qualified white jurors in felony cases, while peremptorily removing more than 90 percent of qualified black jurors.

The strongest evidence pointing to Mr. Banks's innocence was physical. He was in Dallas, more than three hours away from Texarkana, when Mr. Whitehead was killed, according to the best estimates of the time of death, based on the autopsy results.

Prosecutorial misconduct. Racial bias. Drug-addicted informants. "This is one-stop shopping for what's wrong with the administration of the death penalty," said George Kendall, a lawyer with the NAACP Legal Defense and Educational Fund who is handling Mr. Banks's appeal.

If, despite all that is known about this case, the authorities walk Mr. Banks into the execution chamber on Wednesday, and strap him to a gurney, and inject the lethal poison into his veins, we will be taking another Texas-sized step away from a reasonably fair and just society, and back toward the state-sanctioned barbarism we should be trying to flee.

RELEASE OF VIETNAM NUCLEAR WEAPONS REPORT

Mrs. FEINSTEIN. Mr. President, in the mid-1960s, during the height of the Vietnam War, the Department of Defense commissioned a study to determine the feasibility and advisability of the use of tactical nuclear weapons in that conflict. A copy of that 1967 study, "Tactical Nuclear Weapons in Southeast Asia", has just been declassified, and lays out in terrifying detail what might have happened if the United States had used tactical nuclear weapons during the Vietnam war.

The bottom line of the study is that the use of nuclear weapons in Vietnam—to block the Ho Chi Minh trail, kill large numbers of enemy soldiers, or destroy North Vietnamese air bases and seaports—would have offered no decisive military advantages to the United States but would have had grave repercussions for US soldiers in the field and US interests around the world.

The study was prepared by four physicists associated with the Jason Division of the Institute of Defense Analyses, a group of scientists who met frequently to provide classified advice to defense officials. The study's conclusions were presented to then-Secretary of Defense Robert McNamara.

"The political effects of US first use of TNW (tactical nuclear weapons) in Vietnam would be uniformly bad and could be catastrophic," the scientists wrote.

They warned that US first-use of tactical nuclear weapons could lead China or the Soviet Union to provide similar weapons to the Viet Cong and North Vietnam, raising the possibility that US forces in Vietnam "would be essentially annihilated" in retaliatory raids by nuclear-armed guerrilla forces.

If that happened, they wrote, "insurgent groups everywhere in the world would take note and would try by all available means to acquire TNW for themselves." First-use of nuclear weapons in Southeast Asia, the scientists warned, was "likely to result in greatly increased long-term risk of nuclear guerrilla operations in other parts of the world," including attacks on the Panama Canal, oil pipelines and storage facilities in Venezuela and the Israeli capital of Tel Aviv.

"US security would be gravely endangered if the use of TNW by guerrilla forces should become widespread," they concluded.

Thirty-six years later some American officials are, according to press reports, once again contemplating the use of nuclear weapons, and seeking to repeal US prohibitions on the developments of smaller nuclear weapons, including so-called "low-yield" bombs and deep-penetration "bunker-busters."

Writing recently in the Los Angeles Times, military analyst William Arkin disclosed the US Strategic Command in Omaha and the Joint Chiefs of Staff are secretly drawing up nuclear target lists for Iraq. "Target lists are being scrutinized, options are being pondered and procedures are being tested to give nuclear armaments a role in the new U.S. doctrine of 'preemption,'" Arkin reported.

There have also been reports that tactical nuclear weapons, particularly "bunker busters," have been considered by Pentagon planners in the context of the escalating nuclear crisis with North Korea. Moreover, many US analysts believe there is a great danger that North Korea, if its survival was at stake, would be willing to sell its nuclear arsenal to the highest bidder.

North Korea itself apparently believes the United States may be planning nuclear strikes of its own, and on March 1 warned that a war on the Korean peninsula would quickly "escalate into a nuclear war."

I sincerely believe that any first use of nuclear weapons by the United States cannot and should not be sanctioned. As the Jason scientists argued in the 1960s. U.S. nuclear planning could serve as a pretext for other countries and, worse, terrorist groups such as al-Qaida, to build or acquire their own bombs. If we are not careful, our own nuclear posture could provoke the very nuclear-proliferation activities we are seeking to prevent.

This study, "Tactical Nuclear Weapons in Southeast Asia", was released this past weekend by the Nautilus Institute of Berkeley, CA, and I would urge those with an interest in reading it in full to contact them directly.

The conclusions of the Jason report are as valid, realistic and frightening today as they were in 1967. As we contemplate the future course of our nation's national security policy, I believe that it is important to look at past events, to learn from them, and to benefit from the counsel of history.

TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Mr. President, today commemorates the forty-fourth anniversary of the 1959 "Lhasa Uprising."

I offer my comments today in the sincere hope that it will promote a constructive dialogue between Chinese and Tibetan leaders, and with the goal of ending the bitter divisiveness now plaguing relations between China and Tibet.

When, following the Chinese invasion in 1949–1950, Tibet was established as an autonomous region in the People's Republic of China, the Tibetan people were granted the right of autonomy in determining the shape of their religious, cultural and social institutions. China's leadership is on record as agreeing to this principle.

Unfortunately, between 1951 and 1959 the government of the People's Republic of China did not uphold these guarantees of autonomy, leading to the 1959 Lhasa Uprising and the flight of the Dalai Lama from Tibet. During the past 44 years, tens of thousands of Tibetans have been forced to flee their homeland in the face of continued Chinese repression and violation of their right to religious and cultural autonomy. I find this a tragedy.

Nonetheless, the Dalai Lama, in seeking to engage with China's leadership to discuss the future of the Tibetan people, has specifically cited that he is not seeking independence for Tibet, that he is willing to confine his discussions to achieving cultural and religious autonomy for his people, and that he is willing to negotiate within the framework enunciated by Deng Xiaoping in 1979.

Indeed, in his statement today on the "44th Anniversary of the Tibetan National Uprising," the Dalai Lama stated that "As far back as the early seventies in consultation with senior Tibetan officials I made a decision to seek a solution to the Tibetan problem through a "Middle Way Approach." This framework does not call for independence and separation of Tibet. At the same time it provides genuine autonomy for the six million men and women who consider themselves Tibetans to preserve their distinctive identity, to promote their religious and cultural heritage that is based on a centuries-old philosophy which is on benefit even in the 21st century, and to protect the delicate environment of the Tibetan plateau. This approach will contribute to the overall stability and unity of the People's Republic of China."

Over the past 12 years I have made every effort to encourage rapprochement between China and Tibet, including helping to pass messages from His Holiness, the Dalai Lama to China. I believe the Dalai Lama is absolutely sincere in his desire to negotiate a peaceful solution to what has been a great tragedy for the Tibetan people.

This past September the Chinese government made it possible for two envoys of the Dalai Lama to visit Beijing to re-establish direct contact with the Chinese leadership, and to visit Tibet to meet with local Tibetan officials. This trip was, in my view, very significant, very encouraging, and very meaningful.

Nonetheless, much remains to be done if the people of Tibet are to achieve freedom and autonomy in determining the shape of their society. It is my sincere hope that China's new leadership will extend the hand of cooperation in resolving differences with Tibet.

INTERNATIONAL WOMEN'S DAY

Mrs. FEINSTEIN. Mr. President, no one can deny the contributions women and children have made to this country and the world. In government, business, education, medicine, the arts, and athletics, women have met and exceeded the great challenges placed before them. It is altogether fitting, then, that we set aside one day every year to pay tribute and acknowledge these accomplishments: March 8, 2003 is International Women's Day.

On this day, we celebrate the progress women and girls have made over the years, but we also renew our commitment to create a better world and bestow a better future to women and girls in every country. We must not rest on our laurels until all women and girls enjoy basic human rights and have the opportunity to fulfill their life dreams.

Rarely does a day go by when we do not hear the news of a woman fighting for those rights and those dreams, whether it be a girl struggling to get an education in Afghanistan, a mother desperately seeking to provide for her children in sub-Saharan Africa, or a woman expressing her views in the streets of Venezuela. We who enjoy the blessings of liberty and democracy have an obligation to raise our voice on behalf of these women and girls to let them know that they are not alone and we are fighting for them.

All over the world, women and girls are looking to the United States for leadership and I would like to take this time to address several critical issues that I believe are vital to their lives: international family planning assistance, the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW, rape as an instrument of war, and the plight of women in Afghanistan.

Honest differences of opinion exist on this issue, but I believe that those of us in Congress who support a robust package of U.S. assistance to international family planning organizations must not back down. I was dismayed when on July 22, 2002 Secretary of State Colin Powell decided to withhold the $34 million U.S. contribution to the United Nations Population Fund, UNFPA—an amount allocated to it by law and after months of negotiation and with bipartisan support—because he determined that UNFPA participated in coercive family planning programs in China. The administration's decision to withhold the funds and withhold $25 million for Fiscal Year 2003 runs counter to common sense and counter to the findings of its own investigative team.

Just over a month earlier a three member State Department team investigated UNFPA programs in China and concluded quite clearly that there was no evidence that UNFPA supported or participated in coercive family planning programs and recommended that it receive the full U.S. $34 million contribution. Nevertheless, the Administration chose to ignore these findings and, in doing so, struck a terrible blow to U.S. leadership in combating overpopulation.

One can not underestimate the importance of family planning assistance, especially for the poor. The United Nations estimates that the world's population will double to 12 billion by the year 2050. Most of this growth will occur in countries least able to sustain it and educational and medical services will suffer greatly as a result. In the age of global terrorism where groups such al-Qaida find new recruits among the poor, the sick, and the uneducated, this is especially troubling.

No woman should be prevented from receiving the assistance she deserves to plan and care for healthy families. When we help them, we reduce poverty, improve health, and raise living standards.

Each and every dollar the United States spend on international family planning assistance—none of which, I might add, is spent on international abortion—is one less dollar we will have to spend on costlier interventions in the future.

So many of my colleagues share my view and together we must work harder to ensure that the United States reclaims its leadership role on international family planning and reproductive issues. On International Women's Day, I urge my colleagues to support full funding for the UNFPA and other international family planning programs.

Sadly, another year has gone by and the United States still has not yet ratified the Convention to Eliminate All Forms of Discrimination Against Women. As Americans, we can no longer afford to ignore this important document and put in jeopardy our status as a leader in advancing human rights for women and girls.

Given that it has been over 20 years since President Carter signed the Convention, one might think that the delay in ratification is due to the fact we are dealing with a treaty that requires years of study and consideration. Yet the Convention simply requires that participating states take all appropriate steps to eliminate discrimination against women in political and public life, law, education, employment, health care, commercial transactions, and domestic relations.

We are alone among the leading democracies in our failure to ratify. In fact, our partners outside the Convention include Iran, North Korea, and Sudan. Are these the countries with whom we share our values of democracy, freedom, and respect for human rights? Are these the countries we can count on in the international arena?

Women and girls around the world who turn to the United States for leadership in advancing their rights are mystified that we do not take the simple step of ratifying the Convention. When we do, the sky will not fall, the sun will rise in the morning, and the Constitution will still be the law of the land.

By ratifying the Convention, the United States will reclaim its leadership status as a champion of the rights of women and girls and send a strong signal of warning to those states who abuse those rights.

On International Women's Day, I call on my colleagues in the Senate to move forward and ratify the Convention.

The use of rape as an instrument of war is a gross violation of the basic human rights of women and girls and I have worked hard over the years to raise awareness about this issue. The United States must work closely with our friends and allies in the international community to eliminate this practice once and for all.

We have seen far too often in recent years how soldiers have used rape in an organized, systematic, and sustained manner to intimidate, spread fear, and ethnically cleanse entire communities. In Bosnia, Rwanda, and East Timor, women were kidnaped, interned in camps and houses, forced to do labor and subjected to frequent rape and sexual assault.

Those who committed these crimes did not believe that anyone was watching. They were wrong.

On February 22, 2001, the international tribunal in the Hague sentenced three Bosnian Serbs to prison for rape during the Bosnian war. Judge Florence Mumba of Zambia stated, "Lawless opportunists should expect no mercy, no matter how low their position in the chain of command."

Last year, in response to a report coauthored by the Shan Women's Action Network and the Shan Human Rights Foundation, I and 31 other Senators wrote to UN Secretary General Kofi Annan to urge him to investigate rape cases by Burmese soldiers between 1996 and 2001 involving 625 women and girls.

The report was based on interviews with refugees on the Thai-Burmese border. It found that the rapes were committed mostly by officers in front of their troops and that 61 percent were gang rapes and 25 percent ended in the murder of the victims. The victims included girls as young as 5 years old.

The Burmese junta did not make a serious effort to investigate the cases. It called the report "totally false and unjust" and sought to discredit the authors.

Those who committed these heinous crimes in Burma must be brought to justice. The United States and the international community must continue to put pressure on the Burmese regime to come clean and take substantive action to punish those responsible.

I commend the victims who overcame their fears to report what happened in Burma. I am hopeful more women and girls who have suffered the same crime will come forward and speak up. On International Women's Day, I urge the administration and our friends and allies to join me in continuing the fight to end the practice of rape as an instrument of war.

The situation for most women and girls in Afghanistan has improved since the fall of the Taliban. Nevertheless, there is still a great deal of work to be done and I am concerned that the administration is not paying enough attention to the reconstruction of Afghanistan in general and the condition of women and girls in particular.

The United States Congress made a strong statement in support of the women and girls of Afghanistan by passing the "Afghan Women and Children Relief Act of 2001" and the "Afghan Freedom Support Act of 2002". Now we must follow up with sufficient funding. I was proud to co-sponsor an amendment to the Fiscal Year 2003 Omnibus appropriations bill that directed $8 million of the money appropriated for humanitarian aid to Afghanistan towards programs that support women's development: $5 million to the Ministry of Women's Affairs, $1.5 million to the Human Rights Commission, and the rest to USAID.

The future for women and girls in Afghanistan is by no means assured. There are credible reports that in Herat, the local governor Ismail Khan has censored women's groups, intimidated women leaders, and removed women from his administration. In all parts of Afghanistan, women still fear abuse from authorities, avoid attending school, and face undue harsh restrictions.

I am particularly concerned to learn of reports that police in Herat are detaining women and girls caught with unrelated men and forcing them to undergo medical examinations to determine if they recently had sexual intercourse. I and my colleague from California, Senator BOXER, wrote to Secretary of Defense Donald Rumsfeld and Secretary of State Colin Powell urging them to put pressure on Ismail Khan to stop these practices and do more to protect the rights of women and girls.

Our victory in Afghanistan will be lost if women and girls are not afforded basic human rights. On International Women's Day, let us reaffirm our commitment to them for a better future and let us let them know that we will not turn our backs on them again.

We must debate and ratify the Convention on the Elimination of All Forms of Discrimination Against Women. We must rededicate ourselves and our resources to international family planning programs. We must not ignore the use of rape as an instrument of war. We must help the women and girls of Afghanistan realize their hopes and dreams.

We cannot afford to remain silent. We cannot afford to place women's rights on a second tier of concern of U.S. foreign policy. On International Women's Day, the United States and the international community must take a strong stand and issue a clear warning to those who attempt to rob women of basic rights that the world's governments will no longer ignore these abuses, or allow them to continue without repercussion.

TRIBUTE TO BRUCE GWINN

Mr. DODD. Mr. President, I rise today to pay tribute to a special friend and outstanding public servant, Bruce Gwinn, who passed away on January 29, 2003, following a year-long battle with cancer.

I share the grief of many here in Washington who came to know and love Bruce Gwinn in the course of his 30 years working on Capitol Hill. And, of course, my most heartfelt sympathies go out to Bruce's wife, May, his three children, Dylan, Maria and Byron, and his entire extended family.

Bruce was born and raised in Charleston, SC, and graduated from Duke University in 1971. After serving in the Army, Bruce moved to Washington to begin a career in public service. Following my election to the House of Representatives in 1974, Bruce came to work for me as my first Legislative Director, and he served with me right up until I was elected to the Senate in 1980.

Bruce was far more than a superb advisor—he was a valued and trusted friend.

From 1981 to 1990, Bruce worked as a professional staffer on the House Energy and Commerce Subcommittee on Consumer Protection, where he served under three chairmen. He then served as a senior policy advisor for the House Government Reform and Oversight Committee, where he was responsible for all regulatory issues.

In 1997, Bruce returned to work on the Energy and Commerce Committee, where he served as Congressman JOHN DINGELL's top advisor on international trade policy. True to form, he worked full-time right up until days before he passed away.

Bruce Gwinn was of a rare and special breed. He was known by everyone with whom he came in contact as a supreme optimist. Although he had his share of challenges in life, Bruce was always thankful for what he had, and always thought the best of others. People were naturally drawn to Bruce because of his contagious smile and enormous heart. And he had the most uncanny ability to diffuse any tense situation with his endearing sense of humor.

Although Bruce was a very soft-spoken man, when he spoke, you knew you could take his words to the bank. He was as knowledgeable as anyone on Capitol Hill, on a whole variety of issues.

At any point in the past 20 years, Bruce could have taken his expertise on trade, commerce, consumer protection, and other important matters, and left the Hill for more lucrative employment.

Bruce chose to stay in government. This surprised nobody. Bruce chose to stay in government because that's where he felt he could best serve the interests of hard-working Americans and their families. He chose to stay in government because he wanted to dedicate himself to improving the lives of others. Bruce Gwinn was, above all, an extraordinarily dedicated public servant.

Edmund Burke once said, "There is no greater glory than to work for the public's good."

Bruce lived by those words every day, and our nation owes him a debt of gratitude.

Mr. President, Bruce Gwinn's life was cut short—he was only 53 years old, and in the prime of his life. And he will be terribly missed.

But I came to the Floor of the Senate today not simply to mourn a loss—I came to the Floor to celebrate a life. The life of Bruce Gwinn was truly a life well-lived. He touched so many, and everyone of us he touched is a better person because of it. I am proud to have worked with Bruce, and lucky to have had him as a friend.

I thank the President.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 28, 2001 in Falls Church, VA. A man of Middle-Eastern descent had to flee in his car from another driver, who repeatedly rammed and chased him in his vehicle. Police said that the assailant, a white male 50- to 60-years-old, yelled racial slurs at the victim while attacking him with his car. The victim was able to escape without serious injuries.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

SALUTE TO DOTTIE ASHLEY

• Mr. HOLLINGS. Mr. President, I wish to congratulate Dottie Ashley for receiving the prestigious Elizabeth O'Neill Verner Award from the South Carolina Arts Commission. As a longtime arts writer for my hometown newspaper, the Post and Courier, Dottie has done as much to promote cultural life in Charleston for the last decade as anyone in our city.

This is an honor well deserved. I ask to print in the RECORD an excerpt of a recent Post and Courier article, so that all my colleagues can see the accomplishments of this wonderful southern lady.

The article follows:

[From the Post and Courier, February 27, 2003]

LOCAL ARTIST, ARTS WRITER, CULTURAL AFFAIRS OFFICE AMONG VERNER WINNERS

(By Dave Munday)

Dottie Ashley has been at the Post and Courier since 1991, following 15 years at The State newspaper. She has covered the Spoleto Festival since it started, the commissioners said. They also noted that she: Won a fellowship to the Eugene O'Neill Theater Center in Connecticut to review new plays; won a dance critics' fellowship to Russia to observe the classic Vaganova method of teaching ballet; won the American Dance Festival Critics' Award to Duke University; was chosen by the Partners of the Americas to represent the state in South America in 1982 and 1984.

The Columbia Record won a Verner Award in 1981 when Ashley was arts editor, and The Post and Courier won the award in 1994 when she was chief arts writer.

"Her reviews and weekly Arts in her Charleston column offer comprehensive, sensitive coverage of the Charleston area's arts and cultural life, and her in-depth reviews of New York theater have expanded audiences for theater by all readers," the commissioners said in a statement.•

TRIBUTE TO DUFFY SUTTON

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Kentucky Vehicle Enforcement Officer Duffy Sutton for receiving the Jason Cammack Officer of the Year Award. Officer Sutton's commitment, dedication, and devotion to service have earned him this award. The award is named after Jason Cammack who was a good friend of Duffy Sutton. Jason died during 2000 while in pursuit of a vehicle in Midway, KY.

As a Kentucky Vehicle Enforcement Officer, Sutton has, throughout the past 4 years, written 1,203 citations, issued 242 warnings, conducted 508 safety inspections, opened 29 cases, secured six DUI's and totaled 60 arrests. For 3 consecutive years, he has won the Buckle Up Kentucky Enforcement Award. Officer Sutton began his career in 1988 as a weigh-station inspector where he has progressed to becoming a vehicle enforcement officer serving 7 southeastern Kentucky counties.

Officer Sutton has also contributed to fighting the war on drugs. To his credit, one of the largest drug busts in Kentucky history took place in 1997 after pulling over a tractor-trailer carrying 839 pounds of marijuana. In a later arrest, Officer Sutton was responsible for seizing 51 pounds of marijuana.

The example set by Officer Sutton should be recognized by law enforcement officers throughout Kentucky. Fighting the war on drugs, securing our homeland, and ensuring that Kentucky roads and highways are as safe as possible depend on law enforcement officers with the caliber of Duffy Sutton. His demonstration of public service on and off duty provide a model example for citizens throughout Kentucky and across America.•

WILLIAM C. CHANDLER, "MR. YMCA"

• Mr. SESSIONS. Mr. President, today I pay tribute to an outstanding citizen of the great state of Alabama, William C. Chandler.

For over 50 years, Mr. Chandler's mission has been to help the youth and community around him. His work and endeavors have improved the lives of so many disadvantaged children and greatly enriched the Montgomery community. The foundation of good will he has laid will undoubtedly continue to help countless more as he settles into retirement.

His career began in 1945 when he received his Naval ROTC Officer commission and served 16 months in the Pacific theater. Upon returning, he finished two degrees, taught mathematics and became assistant director at the Young Men's Christian Association, YMCA, in Athens, GA. Two years later, in 1956, he moved to Alabama where he spent the next 54 years working hard to help the children and families of Montgomery, starting as the Boy's Work Secretary and as a Junior Lion's Camp Director. When he got to Montgomery, the YMCA program was very small and in need of financial support. Though the program was small and not well supported, Mr. Chandler had a larger and more significant vision for the Montgomery YMCA. He spearheaded their Capital Campaign and raised over $1 million, a truly impressive amount considering it was the 1950s. With this money, two more local YMCA facilities were introduced, with even more being built in the 1960s and 70s. Today these facilities serve over 65,000 people each year in seven local counties.

Though Mr. "YMCA," as he is popularly called, centered most of his time and efforts around the YMCA, he also founded many other types of programs to help young women and local families. Included in these are the Alabama Youth in Legislature Program, which gives high school students a hands-on experience with the government. He also started the Hi-Y and Tri-Y programs, which are social and service organizations for high school aged men and women. He also began the Moral Education Program for young men and women; created the Jimmy Hitchcock Award, honoring outstanding high school Christian youth; launched the Montgomery Lions International Youth Camp; and, started the Youth to Europe Program. He also established the After School Child Care Program, currently serving more than 3,000 children, began the "Success by Six" Program, which teaches young children how to lead good lives by the time they're six, as well as the "Gift of Life" Program, helping mothers and their children in need of help.

In addition, to the great many programs he established, Mr. Chandler served in several significant and distinguished roles throughout his career. Beginning in 1953, he became General Director of the Montgomery YMCA, which he served in until May, 2002. In the 1960s, he served as the Chairman of the Helen Keller Memorial Project of the Montgomery Lions Club and then became their chapter president 1965. He also held a large leadership role in the YMCA Youth Conference on National Affairs, and became Lions Club International President in 1980, during which he visited 42 countries meeting with many dignitaries, including Pope John Paul II.

For his great work, Bill has been awarded many honors, including 18 International President's Awards, the Melvin Jones Extension Award, the Key Member Award and the District Governor's Extension Award. He is a Melvin Jones Fellow, and a recipient of the Ambassador of Goodwill Award, the highest honor a Lion can receive from the association. He is also the recipient of three very prestigious awards, including the Montgomery Advertiser's "Citizen of the Year" award, the Alabama Journal's "Citizen of the Year" award in 1991, and he was named Montgomery's "Man of the Year" in 2001.

Mr. Chandler's many good deeds can never be counted because his charitable pursuits were countless and often done anonymously. He is an example of a great statesman and leader. He has helped so many people, particularly those in need, and has served as a great role model for the young lives he has so generously helped.

I am very proud of his great work. I have seen him lead for good in a host of areas. For a time, I served on his YMCA board. It was easy to see the love and respect those outstanding city leaders had for Bill. It was a respect fairly earned and came as a product of a long and productive life of able service to those less fortunate. I have had the great opportunity in my life of over one half a century to meet and know many great and selfless Americans. As the leader the YMCA and of Alabama's Lions Club, of which I am one, I have seen his unsurpassed, and remarkable leadership for good. I know Bill will continue to help those around him, even in retirement. I applaud his tireless efforts on behalf of all Alabamians and would like to take this opportunity to thank him for all that he has contributed to Montgomery, the State of Alabama, and our Nation.

I ask my colleagues to join me today in recognizing Mr. William Chandler for his outstanding achievements and wish him well in his retirement.●

MESSAGE FROM THE HOUSE

At 3:26 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 13. An act to reauthorize the Museum and Library Services Act, and for other purposes.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 13. An act to reauthorize the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1455. A communication from the Director, Office of the Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Debarments and Suspensions of Health Care Providers from the Federal Employees Health Benefits Program" received on March 3, 2003; to the Committee on Governmental Affairs.

EC–1456. A communication from the Director, Office of Personnel Management, Office of the Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Part 576, title 5, code of Federal Regulations, Voluntary Separations Incentive Payments (3206–AJ76)" received on March 3, 2003; to the Committee on Governmental Affairs.

EC–1457. A communication from the Acting Deputy Chief, Regulations & Procurement Division, Alcohol and Tobacco Tax Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Claims and Other Health-Related Statements in the Labeling and Advertising of Alcohol Beverages (RIN1512–AB97)" received on March 6, 2003; to the Committee on Finance.

EC–1458. A communication from the L.M. BYNUM, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE Program: Double Coverage: Third-Party Recoveries (0720–AA52)" received on March 3, 2003; to the Committee on Armed Services.

EC–1459. A communication from the Director, Defense Advanced Research Projects Agency, Department of Defense, transmitting, pursuant to law, the report relative to the Defense Advanced Research Projects Agency (DARPA) developing a strategic plan, received on March 3, 2003; to the Committee on Armed Services.

EC–1460. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aluminum tris (O-ethylphosphonate); Pesticide Tolerance (FRL 7292–6)" received on March 5, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1461. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule "Animal Health Protection Act, Revision to Authority Citations (Doc. No. 02–076–1)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1462. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule "Exotic Newcastle Disease Addition to Quarantined Area (Doc. No. 02–117–4)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1463. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule "Remove Texas from Lists of States Approved to Receive Stallions and Mares from CEM-Affected Regions (Doc. No. 03–004–1)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1464. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule "Swim Health Protection (Doc. No. 03–008–1)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1465. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule "Witchweed, Regulated Areas (Doc. No. 02–042–1)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1466. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Boll Weevil Eradication Loan Program (0560–AG69)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1467. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Implementation of the United States Warehouse Act (0560–AG45)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1468. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment (0560–AG51)" received on March 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1469. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "1,3 Benzene Dicarboxylic Acid, 5-Sulfo-,1,3-Dimethyl Ester, Sodium Salt, Polymer with 1,3-Benzene Dicarboxylic Acid, 1,4-Benzene Dicarboxylic Acid, Dimethyl 1,4-Benzene Dicarboxylate and 1,2-Ethanediol; Tolerance Exemption (FRL 7290–9)" received on March 6, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1470. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyriproxyfen; Pesticide Tolerance (FRL 7289–6)" received on March 6, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1471. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Immigrants Under the Immigration and Nationality Act, as Amended—Issuance of New or Replacement Visas (RIN 1400-AB39)" received on March 4, 2003; to the Committee on the Judiciary.

EC–1472. A communication from the Deputy Associate Attorney General and White House Liaison, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Commissioner, received on March 3, 2003; to the Committee on the Judiciary.

EC–1473. A communication from the Deputy Associate Attorney General and White House Liaison, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Attorney General, received on March 3, 2003; to the Committee on the Judiciary.

EC–1474. A communication from the Deputy Associate Attorney General and White House Liaison, United States Parole Commission, Department of Justice, transmitting, pursuant to law, the report of a nomination and a nomination withdrawn for the position of United States Parole Commissioner, received on March 3, 2003; to the Committee on the Judiciary.

EC–1475. A communication from the Deputy Associate Attorney General and White House Liaison, United States Parole Commission, Department of Justice, transmitting, pursuant to law, the report of a nomination and a nomination withdrawn for the position of United States Parole Commissioner, received on March 3, 2003; to the Committee on the Judiciary.

EC–1476. A communication from the Deputy Associate Attorney General and White House Liaison, Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the report of a nomination and a nomination withdrawn for the position of Member, Foreign Claims Settlement Commissioner, received on March 3, 2003; to the Committee on the Judiciary.

EC–1477. A communication from the Deputy Associate Attorney General and White House Liaison, Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the report of a nomination and a nomination withdrawn for the position of Member, Foreign Claims Settlement Commission, received on March 3, 2003; to the Committee on the Judiciary.

EC–1478. A communication from the Deputy Associate Attorney General and White House Liaison, Office of The Associate Attorney General, Department of Justice, transmitting, pursuant to law, the report of a vacancy for the position of Associate Attorney General, received on March 3, 2003; to the Committee on the Judiciary.

EC–1479. A communication from the Deputy Associate Attorney General and White House Liaison, Bureau of Justice Statistics, Department of Justice, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, received on March 3, 2003; to the Committee on the Judiciary.

EC–1480. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Automated Inspection Service-Extension of Enrollment Period (RIN 1115–AG94)" received on March 5, 2003; to the Committee on the Judiciary.

EC–1481. A communication from the Secretary of Energy, Department of Energy, transmitting, pursuant to law, the Department of Energy Fleet Alternative Fuel Vehicle Acquisition Report for Fiscal Year 2001; to the Committee on Energy and Natural Resources.

EC–1482. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-632 "Initiative Measure No. 62 Applicability and Fiscal Impact Temporary Amendment Act of 2003" received in March 5, 2003; to the Committee on Governmental Affairs.

EC–1483. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–630 "Crispus Attucks Development Corporation Real Property Tax Exemption and Equitable Real Tax Relief Temporary Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1484. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–631 "Housing Production Trust Fund Continuing Basis Definition Temporary Amendment Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1485. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–633 "Fiscal Year 2003 Use of the Budgeted Reserve Funds During the Continuing Resolution Temporary Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1486. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–629 "Master Business Registration Delay Temporary Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1487. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–628 "Establishment of the Capitol Hill Business Improvement District Temporary Amendment Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1488. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–21 "Draft Master Plan for Public Reservation 13 Temporary Amendment Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1489. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–20 "Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1490. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–19 "Interim Disability Assistance Temporary Amendment Act of 2003" received on March 5, 2003; to the Committee on Governmental Affairs.

EC–1491. A communication from the Executive Officer, National Science Board, transmitting, pursuant to law, the National Science Board's annual report to Congress; to the Committee on Governmental Affairs.

EC–1492. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report relative to surplus Federal real property disposed of to educational institutions; to the Committee on Governmental Affairs.

EC–1493. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Performance and Accountability Report for Fiscal Year 2002, received on March 3, 2003; to the Committee on Governmental Affairs.

EC–1494. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the Department of Transportation; to the Committee on Governmental Affairs.

EC-1495. A communication from the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report of the Fiscal Year 2003 and Fiscal Year 2004 (FINAL) Performance Plan; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. 162. A bill to provide for the use of distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes (Rept. No. 108–17).

S. 222. A bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes (Rept. No. 108–18).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 580. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. HATCH):

S. 581. A bill to establish a Citizens Health Care Working Group to facilitate public debate about how to improve the health care system for Americans and to provide for a vote by Congress on the recommendations that are derived from this debate; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BUNNING:

S. 582. A bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 583. A bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 584. A bill to direct the Consumer Product Safety Commission to promulgate a rule that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida (for himself, Mr. LIEBERMAN, Mrs. MURRAY, Mr. REID, Mr. DAYTON, Mr. ROCKEFELLER, and Mr. COLEMAN):

S. 585. A bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 50

At the request of Mr. JOHNSON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 287

At the request of Mr. BENNETT, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 321

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 321, a bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes.

S. 324

At the request of Mr. LEVIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 324, a bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 338

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 457

At the request of Mr. LEAHY, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 501

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 501, a bill to provide a grant program for gifted and talented students, and for other purposes.

S. 509

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 509, a bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes.

S. 512

At the request of Mr. VOINOVICH, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 512, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid on behalf of Federal employees under Federal student loan repayment programs.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 546

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 546, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 558

At the request of Mr. MCCAIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 558, a bill to elevate the position of the Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S.J. RES. 6

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S.J. Res. 6, a joint resolution expressing the sense of Congress with respect to planning the reconstruction of Iraq.

S.J. RES. 7

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month."

S. RES. 74

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 74, a resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation.

S. RES. 78

At the request of Mr. SPECTER, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Virginia (Mr. ALLEN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 78, a resolution designating March 25, 2003, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 580. A bill to authorize the extension of nondiscriminatory treatment (normal trad relations treatment) to the products of Russia; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to offer legislation to repeal the Jackson-Vanik amendment to Title IV of the 1974 Trade Act as it relates to Russia and to authorize the President to grant permanent normal trade relations to Russia.

Congress passed the 1974 Jackson-Vanik amendment to deny permanent normal trade relations to communist countries that restricted emigration rights. Over the years, it has been an effective tool to promote free emigration, but its continuing applicability to Russia no longer makes sense in the context of the many changes that have occurred since the fall of the Soviet Union.

Since 1994, successive Administrations have found Russia in full compliance with the requirements of freedom of emigration. Because Russia continues to be subject to Jackson-Vanik, the Administration must submit a semi-annual report to the Congress on Russia's continued compliance with freedom of emigration requirements. Since 1991, Congress has authorized the removal of Jackson-Vanik restrictions from Estonia, Latvia, Lithuania, the Czech Republic, the Slovak Republic, Hungary, Bulgaria, Romania, Kyrgyzstan, Albania, and Georgia. The conditions that have warranted these countries' removal from Title IV reporting apply equally to Russia.

For more than 8 years, Russia has satisfied the requirements of the Jackson-Vanik legislation. It has supported free emigration and it has signed a bilateral trade agreement with the United States allowing the application of normal trade relations status. Last year, the United States declared that Russia would no longer be considered a nonmarket economy for the purposes of trade remedies laws. Russia has made tremendous strides in the last decade. While Russia currently receives normal trade relations treatment with respect to its exports to the U.S., repealing Jackson-Vanik will remove the requirement of semi-annual reports that have been an irritant in U.S.-Russia relations. Granting permanent normal trade relations also will provide certainty that will improve the investment climate and promote enhanced economic relations between the U.S. and Russia. I urge my colleagues to support this legislation.

By Mr. BUNNING:

S. 582. A bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity; to the Committee on Finance.

Mr. BUNNING. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Coal Energy Research Development and Demonstration Act of 2003".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I.—ACCELERATED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM FOR ADVANCED CLEAN COAL TECHNOLOGY

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Sec. 102. Cost and performance goals.
Sec. 103. Study.
Sec. 104. Technology research and development program.
Sec. 105. Authorization of appropriations.

TITLE II—CLEAN COAL POWER INITIATIVE

Sec. 201. Authorization of appropriations.
Sec. 202. Clean coal power initiative criteria.
Sec. 203. Report.
Sec. 204. Clean coal centers of excellence.

TITLE III—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 301. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 302. Credit for investment in qualifying advanced clean coal technology.

Sec. 303. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of persons Not Able To Use Entire Credit

Sec. 304. Treatment of persons not able to use entire credit.

TITLE I—ACCELERATED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM FOR ADVANCED CLEAN COAL TECHNOLOGY

SEC. 101. DEFINITIONS.

In this title:

(a) Cost and Performance Goals.—The term "cost and performance goals" means the cost and performance goals established under section 102.

(b) Secretary.—The term "Secretary" means the Secretary of Energy.

SEC. 102. COST AND PERFORMANCE GOALS.

(a) In General.—The Secretary shall perform an assessment that identifies cost and performance goals of technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015 and the years after 2020.

(b) Consultation.—In establishing the cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken to date by industry in cooperation with the Department of Energy in support of such assessment; and

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers.

(c) Timing.—The Secretary shall—

(1) Not later than 120 days after the date of enactment of this Act, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of enactment of this Act, after taking into consideration any public comments received, submit to Congress the final cost and performance goals.

SEC. 103. STUDY.

(a) In General.—Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate federal agencies, shall conduct a study to—

(1) identify technologies that, by themselves or in combination with other technologies, may be capable of achieving the cost and performance goals;

(2) assess the costs that would be incurred by, and the period of time that would be required for, the development and demonstration of technologies that, by themselves or in combination with other technologies, contribute to the achievement of the cost and performance goals;

(3) develop recommendations for technology development programs, which the Department of Energy could carry out in cooperation with industry, to develop and demonstrate technologies that, by themselves or in combination with other technologies, achieves the cost and performance goals; and

(4) develop recommendations for additional authorities required to achieve the cost and performance goals, and review and recommend changes, if any, to those cost and performance goals if the Secretary determines that such changes are necessary as a result of ongoing research, development and demonstration of technologies.

(b) Cooperation—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 102(b)(2).

SEC. 104. TECHNOLOGY RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) In General.—The Secretary shall carry out a technology research, development and demonstration program to facilitate production and generation of coal-based power through methods and equipment under—

(1) this Title;

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and

(4) title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.).

(b) Conditions.—The program described in subsection (a) shall be designed to achieve the cost and performance goals required by Section 102.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to the Secretary $200,000,000 for fiscal year 2004, $210,000,000 for fiscal year 2005, and $220,500,000 for fiscal year 2006, to remain available until expended, for coal and related technologies research and development programs, which shall include—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and

(8) advanced coal-related research.

(b) Limit on Use of Funds.—

(1) Prior to the use of funds authorized by this section, the Secretary shall transmit to the Congress a report describing the proposed use of funds and containing a plan that includes—

(a) a detailed description of how proposals, if any, will be solicited and evaluated, including a list of all activities expected to be undertaken;

(b) a detailed list of technical milestones for each coal and related technology that will be pursued;

(c) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under the Clean Coal Power Initiative authorized under Title II.

(2) Thirty days shall elapse from receipt of the report required by this subsection after which the Secretary may then use the authorization of appropriations provided by this section.

TITLE II—CLEAN COAL POWER INITIATIVE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) Clean Coal Power Initiative.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the activities authorized by this title $200,000,000 for each of the fiscal years 2003 through 2011, to remain available until expended.

(b) Limit on Use of Funds.—

(1) Notwithstanding subsection (a), the Secretary is authorized to obligate the use of funds prior to the date authorized herein, subject to appropriations.

(2) The Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report, with respect to subsection (a), containing—

(A) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(B) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(C) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(D) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(3) Thirty days elapse from receipt of the report required by this subsection after which the Secretary may then use the authorization of appropriations provided by this section.

(c) Applicability.—Subsection (b) shall not apply to any project begun before September 30, 2003.

SEC. 202. CLEAN COAL POWER INITIATIVE CRITERIA.

(a) In General.—The Secretary shall not provide funding under this title for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) Technical Criteria for Clean Coal Power Initiative.—

(1) Gasification.—

(A) In allocating the funds made available under section 201(a), the Secretary shall ensure that not less than 55 percent, but not more than 80 percent, of the funds are used for coal-based gasification technologies, coal based projects that includes the separation and capture of carbon dioxide, or coal based projects that include gasification combined cycle, gasification fuel cells, gasification coproduction, or hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NO_X per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

(II) 59 percent for coal of 7,000 to 9,000 Btu; and

(III) 57 percent for coal of less than 7,000 Btu.

(2) Other projects.—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones hall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal 7,000 to 9,000 Btu; and

(iii) 42 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7.000 Btu.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent. The Federal share may repaid over a reasonable period of time as agreed upon with the Secretary.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SEC. 203. REPORT.

(a) Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report describing—

(1) the technical milestones set forth in section 202 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 202; and

SEC. 204. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 201, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

TITLE III—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 301. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

“SEC. 451. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

“(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

“(1) the applicable amount of clean technology production credit, multiplied by

“(2) the applicable percentage of the kilowatt hours of electricity produced and the equivalent heat value of other fuels or chemicals produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034 per kilowatt-hour of electricity produced and the equivalent heat value of other fuels or chemicals produced from not more than 300,000 kilowatts of nameplate capacity at the same qualifying clean coal technology unit.

“(2) INFLATION ADJUSTMENT.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term “qualifying clean coal technology unit” means a clean coal technology unit of the taxpayer which—

“(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit;

“(B) has a nameplate capacity rating of not more than 300,000 kilowatts as of the date of enactment of this section;

“(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology, which nameplate capacity may then be greater than 300,000 kilowatts, during the 10-year period beginning on the date of the enactment of this section;

“(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy; and

“(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e), which shall not exceed 300,000 kilowatts.

“(2) CLEAN COAL TECHNOLOGY UNIT.—The term “clean coal technology unit” means a unit which—

“(A) uses clean coal technology, including advanced pulverized coal or atmosphere fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity;

“(B) uses at least 75 percent coal to produce 50 percent or more of its thermal output as electricity;

“(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A);

“(D) has a maximum design net heat rate of not more than 9,500; and

“(E) meets the pollution control requirements of paragraph (3).

“(3) POLLUTION CONTROL REQUIREMENTS.—

“(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

“(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

“(I) subparagraph (B), or

“(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

“(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) is effect at the time of the retrofitting, repowering, or replacement.

“(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

“(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

“(ii) in the case of nitrogen oxide emissions—

“(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

“(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

“(ii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) Design net heat rate.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [1-{((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent, and

"(D) shall be adjusted (or credit given) for any qualifying unit that installs carbon capture controls that remove not less than 50 percent of the unit's carbon dioxide emissions up to the design heat rate level that would have resulted without installation of carbon capture controls.

"(5) HHV.—The term "HHV" means higher heating value.

"(6) Application of certain rules.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(7) Inflation adjustment factor.—

"(A) In general.— The term "inflation adjustment factor" means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

"(B) GDP Implicit price deflator.—The term "GDP implicit price deflator" means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

"(8) Noncompliance with pollution laws.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) National Limitation on the Aggregate Capability of Qualifying Clean Coal Technology Units.—

"(1) In general.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3) provided, however, that such allocation shall not exceed 300,000 kilowatts per qualifying clean coal technology unit.

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage the units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and superior environmental performance compared to other proposals, be placed in service as soon as possible,

"(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) Credit Treated as Business Credit.—Section 38(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the qualifying clean coal technology production credit determined under section 45I(a).".

(c) Transitional Rule.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(16) No carryback of section 45I credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45I. Credit for production from a qualifying clean coal technology unit.".

(e) Effective Date.—The amendments made by this section shall apply to production after the date of the enactment of this act, in taxable years ending after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 302. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) Allowance of Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) Amount of Qualifying Advanced Clean Coal Technology Unit Credit.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) Qualifying Advanced Clean Coal Technology Unit.—

"(1) In general.—For purposes of subsection (a), the term "qualifying advanced clean coal technology unit" means an advanced clean coal technology unit of the taxpayer—

"(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

"(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(ii) which is acquired through purchase (as defined by section 179(d)(2)),

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) Special rule for sale-leasebacks.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years, such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such as election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term "advanced clean coal technology unit" means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term "eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit" means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2015, and

"(B) has a design net heat of not more than 8,500 (8,900 in the case of units placed in service before 2011).

"(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term "eligible pressurized fluidized bed combustion technology unit" means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2019, and

"(B) has a design net heat of not more than 7,720 (8,900 in the case of units placed in service before 2011, and 8,500 in the case of units placed in service after 2010 and before 2015).

"(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term "eligible integrated gasification combined cycle technology unit" means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2019.

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2011, and 8,500 in the case of units placed in service after 2010 and before 2015), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2011, and 40.2 percent in the case of units placed in service after 2010 and before 2015).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term "eligible other technology unit" means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2019.

"(6) CARBON EMISSION RATE REQUIREMENTS—

"A) IN GENERAL—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting "0.51" and "0.459" for "0.60" and "0.54", respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2011),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2011),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts, or not more than one project with a design net heat rate greater than 8900 Btu per kilowatt hour, whichever is less, in the case of units placed in service before 2011), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2011).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45J,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts.

"(C) to provide a certification process described in section 45I(e)(3)(C)(i)–(ii),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government,

"(C) shall include criteria for the selection of a unit(s) that achieves a thermal efficiency of lower than 8,900 Btu per kilowatt hour in that instance where two or more projects are otherwise eligible for the credit provided by this section, and have applied to the Secretary for selection at or near the same period in time, and

"(D) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term "qualified investment" means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term "progress expenditure property" means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term "qualified progress expenditures" means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term "qualified progress expenditures" means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term "self-constructed property" means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(B) NONSELF-CONSTRUCTED PROPERTY.—The term “nonself-constructed property” means property which is not self-constructed property.

“(C) CONSTRUCTION, ETC.—The term “construction” includes reconstruction and erection, and the term “constructed” includes reconstructed and erected.

“(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

“(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

“(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.”.

(c) RECAPTURE.—Section 50(a) of the Internal Revenue Code of 1986 (relating to other special rules) is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

“(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

“(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.”.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of section 48A.”.

(e) TECHNICAL AMENDMENTS—

(1) Section 49(a)(1)(C) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).”.

(2) Section 50(a)(4) of the Internal Revenue Code of 1986 is amended by striking “and (2)” and inserting “(2), and (6)”.

(3) Section 50(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.”.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48 the following new item:

“Sec. 48A. Qualifying advanced clean coal technology unit credit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2212. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

“(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

“(1) the applicable amount of advanced clean coal technology production credit, multiplied by

“(2) the applicable percentage (as determined under section 48A(e)) of the sum of—

“(A) the kilowatt hours of electricity, plus

“(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

“(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

“(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

“(A) In the case of a unit originally placed in service before 2011, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

“(B) In the case of a unit originally placed in service after 2010 and before 2015, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,350	$.0075	$.0055

“(C) In the case of a unit originally placed in service after 2014 and before 2019, if—

“The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

“(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

“(A) In the case of a unit originally placed in service before 2011, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0060	$.0038
Less than 40.6 but not less than 40 percent	$.0025	$.0010
Less than 40 but not less than 38.4 percent	$.0010	$.0010.

“(B) In the case of a nit originally placed in service after 2010 and before 2015, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For the 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent	$.0105	$.0090
Less than 43.6 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

“(C) In the case of a unit originally placed in service after 2014 and before 2019, if—

“The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent	$.0120	$.0090.

“(c) A qualifying clean coal technology facility originally placed in service before 2009 that has a design heat rate that meets a lower heat rate test in paragraphs (1)(A)(B) and (C) and (2) (A)(B) and (C) above or a qualifying clean coal technology facility originally placed in service before 2013 that has a design heat rate that meets a lower heat rate test in paragraphs (1)(C), or (2)(C) above shall receive the highest applicable amount with respect to a production tax credit for which it qualifies.

“(d) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) IN GENERAL.—Any term used in this section which is also used in section 451 or 48A of the Internal Revenue Code of 1986 shall have the meaning given such term in such section.

“(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) of the Internal Revenue Code of 1986 shall apply.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (2) and inserting “, plus”, and by adding at the end the following new paragraph:

“(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).”.

(c) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of section 45J.”.

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following paragraph:

“(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new item.

“Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new subsection:

“(f) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT—

“(1) ALLOWANCE OF CREDITS—

“(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

“(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

“(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

“(ii) an organization described in section 1381(a)(2)(C),

“(iii) a public utility (as defined in section 136(c)(2)(B)),

“(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

“(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or “(vi) the Tennessee Valley Authority.

“(2) TRANSFER OF CREDIT—

“(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

“(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

“(3) USE BY TVA.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(e)) as an annual return on the appropriations investment and an annual repayment sum.

“(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

“(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

“(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

“(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.”.

“(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

By Mrs. HUTCHISON:

S. 583. A bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I am pleased to be joined by Senators VOINOVICH, DEWINE, MIKULSKI and WARNER to offer health legislation that will bring great benefits to many of our Nation's families.

Bacterial meningitis affects 3,000 people across the United States each year. Approximately 10 percent of patients with bacterial meningitis die despite receiving antibiotics early in the course of the disease. Meningitis occurs most frequently in infants and young adults living in dormitory settings. The disease can result in permanent brain damage, hearing loss, learning disability, limb amputation, kidney failure or death.

In 2001, Lydia Evans entered her sophomore year at North Texas University as a healthy 20-year-old. Now she's lost both of her legs, parts of seven fingers and endured 15 surgeries and intensive physical therapy. She is a victim of a terrible, yet little-known disease called meningococcal meningitis.

Carolyn Waghorne of Dallas contacted me after the tragic death of her son, Carter, who contracted meningitis at boarding school in 1998. Mrs. Waghorne has led the battle in our State to create awareness about the dangers of the illness. After hearing her story, I knew we needed to help educate all Americans about this devastating—yet preventable—disease.

My bill would require the Secretary of Health and Human Services, in consultation with the Director of the Centers of Disease Control, CDC, to develop and make information available about bacterial meningitis. In addition, it would provide information about the availability and effectiveness of bacterial meningitis vaccinations for children and adults.

The information would be distributed at institutions, including child care centers, schools, universities, boarding schools, summer camps, detention facilities, and other entities that provide housing in a dorm-like setting.

Meningitis is spread through close contact such as coughing or sneezing and direct contact with persons infected with meningitis. The bacteria cannot live outside the body for very long, so the disease is not as easily transmitted as a cold virus. Many healthy people carry the bacteria, but if a person has a suppressed immune system they may contract the disease. A spinal tap procedure enables doctors to diagnose meningitis, and if the disease is discovered, it is treated with antibiotics.

The disease can result in permanent brain damage, hearing loss, learning disability, limb amputation, kidney failure or death.

The CDC reports that two-thirds of cases on college campuses could have been prevented with a vaccine. In fact, the Advisory Commission on Immunization Practices, part of the CDC, recommends what this bill provides.

I commend the Senators for their support and hope other Senators will join us in this effort to prevent the tragedies that befell Lydia Evans and Carolyn Waghorne as well as thousands of families every year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Meningitis Immunization Awareness Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Approximately 3,000 cases of meningococcal disease occur each year in the United States. Approximately 10 to 13 percent of patients with such disease die despite receiving antibiotics early in the disease. Of those individuals who survive, an additional 10 percent have severe after-effects of the disease, including mental retardation, hearing loss, and loss of limbs.

(2) There is a vaccine that protects individuals against some types of bacterium Neisseria meningitidis (also known as meningococcus), an important cause of bacterial meningitis and sepsis in children and young adults. A single dose of the vaccine is recommended, and vaccination will decrease the risk of the disease caused by Neisseria meningitidis.

(3) Currently, the only group of individuals that is vaccinated against bacterial meningitis is the members of the armed forces. The only other group of individuals that have been encouraged to get the vaccine are those individuals attending college.

SEC. 3. PROVISION OF INFORMATION.

(a) DEVELOPMENT OF INFORMATION.—The Secretary of Health and Human Services, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in subsection (b) information concerning bacterial meningitis and the availability and effectiveness of vaccinations for individuals 2 years of age or older with respect to such disease.

(b) ENTITIES.—An entity is described in this subsection if the entity—

(1) is—

(A) a child care center or provider that is licensed or certified under an appropriate State law;

(B) an elementary or secondary school (as such terms are defined in the Elementary and Secondary School Act of 1965 (20 U.S.C. 6301 et seq.);

(C) a college or university;

(D) a boarding school or summer camp;

(E) a prison or other detention facility; or

(F) any other entity that provides for the housing of individuals in a dorm-like setting; and

(2) any other entity determined appropriate by the Secretary of Health and Human Services.

By Ms. LANDRIEU:

S. 584. A bill to direct the Consumer Product Safety Commission to promulgate a rule that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I am happy to join my colleagues in the House of Representatives, Congressman MORAN and Congressman MCGOVERN, in re-introducing the Product Safety Notification and Recall Effectiveness Act. As my colleagues may recall, this legislation makes it easier for parents to learn when a product they bought may harm their children, so that they might take steps to return the item or have it repaired.

On January 6 of this year, the National Highway Traffic Safety Administration released a study that contained a lot of good news for parents. In its study, NHTSA found that its child safety seat registration program has been incredibly successful. NHTSA implemented this program in March of 1993, and the information that is starting to come in shows that nine times more child safety seats are now registered than before the program was launched. In fact, in 1993 only 3 percent of seats were registered; now 27 percent are. And this is significant, because this has directly led to more effective recalls of defective child seats—the recall repair rate has increased by more than half since 1993, from 13.8 percent to 21.5 percent.

The reason I mention this study to my colleagues is because NHTSA's program is very much like the one that this bill would establish. This legislation would require the Consumer Product Safety Commission to issue a rule requiring manufacturers to establish and maintain a system for notifying consumers of the recall of certain products that may cause harm to children. The database could be assembled through the use of shortened product registration cards, Internet registration, or other alternate means of encouraging consumers to provide vital contact information.

There is a very clear reason why such a database is necessary. As we all know, these products come with registration cards. The intent of these cards should be that customers will fill them out and send them in, which gives the companies a way to contact purchasers. Unfortunately, many times consumers do not return these cards, and there is a good reason behind this. These cards sometimes contain 40 to 50, or even more, different questions or boxes to fill out. They ask about marital status, salary information, and about what kind of products a person buys. Either a person does not wish to reveal that much personal information, or they simply do not have time to fill out the card. In fact, the intent seems to be more to get personal marketing information from consumers than anything else. That is why its such a good idea to shorten the card and just ask for the basic information, like a customer's name, address, phone number, and e-mail address. Not only have studies done by companies like Mattel and BrandStamp shown that these methods increase the number of consumers who respond, NHTSA—working on almost ten years of real data—has clearly proven a dramatic increase in registration and, as a result, in the number of products successfully recalled.

But a card is not the only way to compile this information. For instance, many companies are now using online registration, where customers can log on to their website and quickly enter the information. For Americans with Internet connections, this is often much less of a hassle than filling out a card, attaching a stamp, and mailing it in. It's quick and easy. And this legislation allows for the use of alternate methods such as this in compiling this database.

I am sure that some of my colleagues might be concerned about the cost of setting up such a program. I say to my colleagues that I also have no desire to pass along more costs to the companies that make these products and, ultimately, to the consumer. However, let me again point to the NHTSA study. The indirect cost of consumers for the car seat program is 43 cents per seat sold. Forty-three cents. I do not know of a single parent who would not pay an extra forty-three cents to ensure the safety of their child. But I would say to my colleagues, don't take my word for it—ask the thousands of parents who have returned recalled car seats since 1993. I'm sure they would tell you that was the best 43 cents they had ever spent.

The need for this legislation is only highlighted by the CPSC's refusal to consider such a rule last Friday, despite intense efforts by consumer groups like the Consumer Federation of America and SAFE to highlight the importance of this change to the way recalls work. I world urge my colleagues to join me in sponsoring this important bill, and I hope that we can pass this legislation into law as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Safety Notification and Recall Effectiveness Act of 2003".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Consumer Product Safety Commission conducts approximately 300 recalls of hazardous, dangerous, and defective consumer products each year.

(2) In developing comprehensive corrective action plans with recalling companies, the Consumer Product Safety Commission staff greatly relies upon the media and retailers to alert consumers to the dangers of unsafe consumer products, because the manufacturers do not generally possess contact information regarding the purchasing consumers. Based upon information received from companies maintaining customer registration lists, such contact information is known for generally less than 7 percent of the total consumer products produced and distributed.

(3) The Consumer Product Safety Commission staff has found that most consumers do not return purchaser identification cards because of requests for marketing and personal information on the cards, and the likelihood of receiving unsolicited marketing materials.

(4) The Consumer Product Safety Commission staff has conducted research demonstrating that direct consumer contact is one of the most effective ways of motivating consumer response to a consumer product recall.

(5) Companies that maintain consumer product purchase data, such as product registration cards, warranty cards, and rebate cards, are able to effectively notify consumers of a consumer product recall.

(6) The Consumer Product Safety Commission staff has found that a consumer product safety owner card, without marketing questions or requests for personal information, that accompanied products such as small household appliances and juvenile products would increase consumer participation and information necessary for direct notification in consumer product recalls.

(7) The National Highway Traffic Safety Administration has, since March 1993, required similar simplified, marketing-free product registration cards on child safety seats used in motor vehicles. The National Highway Traffic Safety Administration has found this requirement has increased recall compliance rates.

(b) PURPOSE.—The purpose of this Act is to reduce the number of deaths and injuries from defective and hazardous consumer products through improved recall effectiveness, by—

(1) requiring the Consumer Product Safety Commission to promulgate a rule to require manufacturers of juvenile products, small household appliances, and certain other consumer products, to include a simplified product safety owner card with those consumer products at the time of original purchase by consumers, or develop effective electronic registration of the first purchasers of such products, to develop a customer database for the purpose of notifying consumers about recalls of those products; and

(2) encouraging manufacturers, private labelers, retailers, and others to use creativity and innovation to create and maintain effective methods of notifying consumers in the event of a consumer product recall.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) TERMS DEFINED IN CONSUMER PRODUCT SAFETY ACT.—The definitions set forth in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this Act.

(2) COVERED CONSUMER PRODUCT.—The term "covered consumer product" means—

(A) a juvenile product;

(B) a small household appliance; and

(C) such other consumer product as the Commission considers appropriate for achieving the purpose of this Act.

(3) JUVENILE PRODUCT.—The term "juvenile product"—

(A) means a consumer product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(B) includes, among other items—

(i) full-size cribs and nonfull-size cribs;

(ii) toddler beds;

(iii) high chairs, booster chairs, and hook-on chairs;

(iv) bath seats;

(v) gates and other enclosures for confining a child;

(vi) playpens;

(vii) stationary activity centers;

(viii) strollers;

(ix) walkers;

(x) swings;

(xi) child carriers;

(xii) bassinets and cradles; and

(xiii) children's toys.

(4) PRODUCT SAFETY OWNER CARD.—The term "product safety owner card" means a standardized product identification card supplied with a consumer product by the manufacturer of the product, at the time of original purchase by the first purchaser of such product for purposes other than resale, that only requests that the consumer of such product provide to the manufacturer a minimal level of personal information needed to enable the manufacturer to contact the consumer in the event of a recall of the product.

(5) SMALL HOUSEHOLD APPLIANCE.—The term "small household appliance" means a consumer product that is a toaster, toaster oven, blender, food processor, coffee maker, or other similar small appliance as provided for in the rule promulgated by the Consumer Product Safety Commission.

SEC. 4. RULE REQUIRING SYSTEM TO PROVIDE NOTICE OF RECALLS OF CERTAIN CONSUMER PRODUCTS.

(a) IN GENERAL.—The Commission shall promulgate a rule under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)) that requires that the manufacturer of a covered consumer product shall establish and maintain a system for providing notification of recalls of such product to consumers of such product.

(b) REQUIREMENT TO CREATE DATABASE.—

(1) IN GENERAL.—The rule shall require that the system include use of product safety owner cards, Internet registration, or an alternative method, to create a database of information regarding consumers of covered consumer products, for the sole purpose of notifying such consumers of recalls of such products.

(2) USE OF TECHNOLOGY.—Alternative methods specified in the rule may include use of on-line product registration and consumer notification, consumer information data bases, electronic tagging and bar codes, embedded computer chips in consumer products, or other electronic and design strategies to notify consumers about product recalls, that the Commission determines will increase the effectiveness of recalls of covered consumer products.

(c) USE OF COMMISSION STAFF PROPOSAL.—In promulgating the rule, the Commission shall consider the staff draft for an Advanced Notice of Proposed Rulemaking entitled "Purchaser Owner Card Program", dated June 19, 2001.

(d) EXCLUSION OF LOW-PRICE ITEMS.—The Commission shall have the authority to exclude certain low-cost items from the rule for good cause.

(e) DEADLINES.—

(1) IN GENERAL.—The Commission—

(A) shall issue a proposed rule under this section by not later than 90 days after the date of enactment of this Act; and

(B) shall promulgate a final rule under this section by not later than 270 days after the date of enactment of this Act.

(2) EXTENSION.—The Commission may extend the deadline described in paragraph (1) if the Commission provides timely notice to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

By Mr. NELSON of Florida (for himself, Mr. LIEBERMAN, Mrs. MURRAY, Mr. REID, Mr. DAYTON, Mr. ROCKEFELLER, and Mr. COLEMAN):

S. 585. A bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation; to the Committee on Armed Services.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Retiree Survivors Relief Act of 2003".

SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Section 1451(c) of title 10, United States Code, is amended by striking paragraph (2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date specified in subsection (c) by reason of the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, March 11, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to consider the Committee's Views and Estimates on the President's FY 2004 Budget Request for Indian Programs.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources. The purpose of this hearing is to conduct oversight on National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails. In addition, the Subcommittee will receive testimony on S. 324, a bill to amend the National Trail System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.

The hearing will take place on March 25, 2003 at 2:30 PM in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact: Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Monday, March 10, 2003 from 2:00 p.m.—5:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Mark Carlson, a fellow in Senator HATCH's office, be given the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g., as amended, appoints the Senator from Idaho (Mr. CRAPO) as Chairman of the Senate Delegation to the Canada to the Canada-U.S. Interparliamentary Group conference during the 108th Congress.

The Chair, on behalf of the Vice President, in accordance with 22 U.S. 1928a-1928d, as amended, appoints the Senator from Delaware (Mr. BINDEN) as Vice Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 108th Congress.

ORDERS FOR TUESDAY, MARCH 11, 2003

Mr. VOINOVICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, March 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 19, S. 3, the partial-birth abortion bill; that at 11 a.m., the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit, and that the time until 12:30 p.m. be equally divided between the two leaders or their designees; that at 12:30 p.m., the Senate recess until the hour of 2:15 p.m. for the weekly party caucuses; and that upon reconvening at 2:15 p.m., the Senate return to legislative session and resume consideration of S. 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. VOINOVICH. Mr. President, for the information of all Senators, tomorrow the Senate will resume the consideration of S. 3, the partial-birth abortion bill. It is my understanding that Senator MURRAY will be prepared to offer an amendment first thing tomorrow morning. The leader has indicated it is his intention to finish this important legislation by the end of the week. Therefore, I encourage any Senators who wish to offer an amendment to the bill to work with the bill managers so they can arrange time for amendment consideration.

At 11 a.m., the Senate will return to the Estrada nomination and begin a critical debate on the judicial nominations process and the long-term implications the current filibuster will hold for this body. Members are encouraged to come to the Chamber and engage in this vital discussion.

Following the recess, the Senate will return to consideration of the partial-birth abortion bill. Additional amendments are expected, and therefore Members should anticipate votes during tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. VOINOVICH. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned until Tuesday, March 11, 2003, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 10, 2003:

THE JUDICIARY

GREGORY L. FROST, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO.

EXTENSIONS OF REMARKS

A TRIBUTE TO MARY ANN BENTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in support of Mary Ann Benton in recognition for her dedication to her community and her commitment to improving the lives of our senior citizens.

Mary Ann is a native New Yorker. She was born in Queens, New York and raised by her maternal grandparents, the late Enrico and Victoria Guigliano. After graduating from John Adams High School in Queens, she attended St. John's College majoring in Accounting, and later transferred to St. Joseph's College where she studied Human Resources Management.

Traveling from Queens to Manhattan to work for more than eight years led Mary Ann to find employment closer to home and a job that she truly loves. In early 1980, Mary Ann joined the Wartburg Lutheran Home for the Aging as a receptionist. At Wartburg, Mary Ann approaches her work with compassion and enthusiasm. In 1982, she was transferred to the Fiscal Department as a Bookkeeper and later that year was promoted to Fiscal Coordinator. Continuing to grow within the Wartburg ministry, in 1987, she became the Assistant to the Chief Operating Officer. Next, she became the Human Resources Assistant, and in 1993, Mary Ann was promoted to the Director of Human Resources where she continues to excel.

Mary Ann is active with the Society for Human Resources Management, the Council for Human Resources Management, and the Association for Healthcare Human Resources Administrators. Her colleagues and peers in her profession recognize her hard work and dedication.

She believes that working with the elderly is a calling from God. She feels blessed to be working in a field and in an organization where she can serve the elderly, support her colleagues, and promote hospitality to the community. She stands as an example of Wartburg's mission and ministry of healing, hospitality, and community through partnership in caring.

Mary Ann enjoys reading, bowling, dancing, and meeting new people. She also continues to worship at the Nativity of the Blessed Virgin Mary Church where she volunteers her time and talents.

Mr. Speaker, Mary Ann Benton has devoted her life to serving her community. As such, she is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

RECOGNIZING THE 50TH ANNIVERSARY OF THE OZARKS' FIRST TELEVISION STATION, KOLR, CHANNEL 10

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. BLUNT. Mr. Speaker, I rise today to honor the first television station to serve Southwest Missouri. When Channel 10 signed on the air on March 14, 1953, it was KTTS–TV. In the early 1970s, the station adopted the name KOLR, and today it is known by viewers as "COLOR Ten."

Owner Harry Cooper, Sr. located the studios of KTTS–TV at the corner of Jefferson and Walnut Streets in Springfield, Missouri, in a large white house that was also home to the radio station that he owned. It was soon apparent that the TV station needed more room, so in 1959 the TV station moved into expanded facilities on its transmitter site in east Springfield. The growing CBS affiliate has served the Ozarks from 2650 East Division Street ever since. Years later, a new 2,000 foot tower and transmitter facility were built in Fordland, Missouri.

KOLR was the first television station in the Ozarks to broadcast "in living color" and was first in the Ozarks to add stereo broadcasting in 1986. In 1999, KOLR 10 began sharing services with FOX affiliate Channel 27. In its record of pioneering breakthroughs, KOLR 10 introduced the area's first full time "Weather Lab" in 2000 with the region's first Live Doppler Radar staffed by a team of three meteorologists.

In the golden age of television, KOLR was the venue for another generation to see Elvis and the Beatles on the "Ed Sullivan Show," the weekly comedy of Red Skelton, Jackie Gleason and Jack Benny, and the dramas of "Gunsmoke" and "Perry Mason."

Channel 10 has been number one in primetime for many years and is currently home to such Ozarks favorites as "Survivor," "60-Minutes" and "C.S.I." and many other programs. The CBS Television Network has recognized KOLR 10 as one of the highest rated CBS-affiliated TV stations in the nation.

KOLR has also been a source of information and news on the region and the world. KOLR has brought Ed Murrow, Walter Cronkite and Dan Rather into the homes and businesses of the 33 Missouri and Arkansas counties it serves.

Because of KOLR's commitment to local news, it has been the recipient of a number of awards for reporting and public service excellence. KOLR has given its viewers a window into the growth and development of the Ozarks demonstrating that the region is a good place to work, raise a family and enjoy countless leisure opportunities.

The television viewers in Southwest Missouri and I express our gratitude to KOLR 10 for its 50 years of service and dedication to the Ozarks.

IN SUPPORT OF "STOP VIOLENCE WEEK"

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. WYNN. Mr. Speaker, I rise today in support of "Stop Violence Week." Domestic violence is a serious issue that plagues American families and continues to affect our society as a whole. According to statistics nearly one-third of American women, 31 percent, at some point in their lives, are physically or sexually abused by a husband or boyfriend. The National Institute of Justice estimates that, annually in the United States, nearly half-a-million women are stalked by an intimate partner. In my own state of Maryland a total of 20,688 domestic violence crimes were reported by law enforcement agencies during the 2001 calendar year. Often times domestic violence and battery lead to more serious incidents. In one particularly infamous case in Maryland, a husband shot and killed both of his young children after his wife had filed for an order of protection against him.

Mr. Speaker, I would urge my colleagues throughout this week to use this opportunity to highlight the deplorable problem of domestic violence by speaking out, attending events, and wearing the symbolic tie or scarf to show your solidarity.

Last year, Congress did the right thing by nearly fully funding the Violence Against Women Act programs better known as VAWA, but there is still much work to be done. VAWA programs are vital in assisting millions of women who suffer from spousal or partner abuse. We must not ignore this pressing problem. I commend the national and local organizations that continue to be advocates for victims of domestic abuse, and encourage them to keep up the good work.

A TRIBUTE TO LYNN HENDERSON-HORNES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in support of Lynn Henderson-Hornes in recognition for her tireless energy and passionate commitment to her community.

Lynn has been improving the lives of Fort Greene families for nearly twenty years. As

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Program Director for Project Teen Aid Family Services, she has helped hundreds of pregnant teens and teen parents raise healthy children and continue their own education. Her deep religious beliefs, passed on to her from her grandparents and parents, permeate every aspect of her life, and have helped provide the energy and commitment needed for this challenging task.

She is an active member of the House of David Church, serving as a Sunday school teacher, church clerk, choir member, and president of the Pastor's Aide Auxiliary. She also serves as Treasurer for the church's Center for Community Empowerment. Her service, however, is never limited to her own congregation but is extended to people of all beliefs.

A second aspect of Lynn's life involves her love of learning. Throughout her adult life, she has sought out specific training that would help her professionally. She is certified as an Adolescent Counselor and a Human Sexuality and Family Development Trainer. As an advocate for young, low-income families, Lynn realized as soon as she came to Fort Greene that it was important to know the community. She became involved in the Brooklyn Perinatal Network and was a member of the board from 1987 until 2000, serving as Chairperson for the organization's Finance Committee for four years. Additionally, she was appointed by Brooklyn Borough President Howard Golden to the Cumberland Diagnostic and Treatment Advisory Board where she has served as Chairperson since 1999. Lynn was also recently elected chairperson of the New York City Health and Hospitals City-Wide Council of Community Advisory Boards.

However, the most important recipients of Lynn's gifts and generosity are her three sons: Michael, Jason and Jonathon and her precious granddaughter Arieanna.

Mr. Speaker, Lynn Henderson-Hornes has tireless energy, and sincere concern for the well-being of the community and its residents. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

ENCOURAGING THE PEOPLE OF THE UNITED STATES TO HONOR AND CELEBRATE THE 140TH ANNIVERSARY OF THE EMANCIPATION PROCLAMATION AND COMMENDING ABRAHAM LINCOLN'S EFFORTS TO END SLAVERY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Con. Res. 36, a resolution to honor and celebrate the 140th anniversary of the Emancipation Proclamation and commending Abraham Lincoln's efforts to end slavery.

On September 22, 1862, President Abraham Lincoln, the sixteenth President of the United States, signed a proclamation stating that as of January 1, 1863, all persons held as slaves within any State or designated part of a State shall be forever free.

As the great grandson of a former slave, I am proud to be able to stand before this body, in this capacity, and state my appreciation for one of the most pivotal acts of government.

To the decedents of slaves the Emancipation Proclamation and the thirteenth amendment allow us to realize and seize our dreams. To each person living within America's borders these doctrines laid the framework for America's diversity and opportunities. This remarkable demonstration of political courage by President Lincoln, although slow, ignited a fire that blazed a trail for equally pivotal acts of government such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

140 years since the Emancipation Proclamation and 138 years since the abolishment of slavery, America is still realizing President Lincoln's dream and the dream of the numerous civil rights activists that followed him. For this, Mr. Speaker, I am grateful.

Mr. Speaker, I urge my colleagues to support H. Con. Res. 36 and to continue to work to preserve this nation's legacy of justice and equality for all.

RECOGNITION OF ACHIEVEMENTS OF IDAHO ARTISTS

HON. C. L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. OTTER. Mr. Speaker, I rise today to recognize the achievements of five Idaho artists who were selected to exhibit this week in Boise at the "Women's History Month Juried Art Exhibition". Katie Rosenberg, Diane Ronayne, Tobiann Grindstaff, and Katie Cepek, all of Boise; and Sheila Martz, of Payette, are showing their works as part of an event to showcase and promote female artists.

The exhibition features 33 diverse pieces produced by nineteen women throughout nine states. Having five Idaho artists selected for the exhibit reflects exceptionally well on our state. It is especially important to showcase women artists in order to fully reflect the times we're living in. Whether or not the art deals with women's issues specifically, each of these women has a purpose and an individual interpretation of the world she's living in. They are history-makers.

The "Women's History Month Juried Exhibition" opened Friday, March 7, 2003 at the Boise State University Hemingway Center Gallery. I encourage my constituents to avail themselves of this opportunity and I congratulate Katie, Diane, Tobiann, Katie, and Sheila on their successes.

A TRIBUTE TO CYNTHIA Y. GASKIN-JOHNSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Cynthia Y. Gaskin-Johnson in recognition of her contribution to her family and her community.

Cynthia is the youngest of four children born to the late Mr. and Mrs. Ethan Law Gaskin in Colon, Republic of Panama. She graduated with honors as a seamstress from Colegio Abel Bravo and was offered the position of Personal Seamstress for the Director's wife. However, she was unable to accept the job since she immigrated to the United States six months after graduation.

Upon arriving in the United States, she was immediately employed by the Bezozi Baby Bonnet Company and remained there for approximately five years. In 1966 she married Rupert (Doc) Johnson, a well-known, and talented musician. Their marriage brought forth a daughter, Deborah, lovingly called Debbie, who has blessed Cynthia with two granddaughters: Natasha and Gabrielle. Cynthia also has two loving children from her husband's previous marriage.

In February 1969, Cynthia obtained a job with The Bank of New York where she was employed for 31 years. She began as a Customer Service Telephone Representative and was promoted to Mutual Funds Legal Administrator. Later, she became the Supervisor for the Mutual Funds Redemption area. During her career at the Bank of New York, Cynthia attended the American Institute of Banking (AIB), receiving a certificate in banking. Eventually, Cynthia became a Mutual Funds Account Administrator until her retirement on March 31, 2000. Her retirement was short-lived as she was rehired less than a year later to work part-time for The Bank of New York as a Consultant for the Mutual Funds Custody Department.

Cynthia has a deep and personal relationship with God that flourished at the age of 16 when she accepted Jesus Christ as her savior. She is a member of the Mt. Zion Tabernacle Christian Mission of Panama. She serves on the Executive Board as the Executive Recording, Secretary and on the Usher Board as the Treasurer of the Missionary Department. On a monthly basis, the Missionary Department provides food and clothing for homeless people in the Brooklyn community. Cynthia is also an active member of the Sunday School Department and a member of the Church Choir. She enjoys performing in the yearly Easter Drama Cantata.

Mr. Speaker, Cynthia Y. Gaskin-Johnson is devoted to serving her community. She enjoys helping those in need and assisting anyone seeking a helping hand. As such, she is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

HONORING THE LIFE OF JOHN DELAWARE OTTER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. FARR. Mr. Speaker, I rise today to honor the life of John Delaware Otter. He passed away on November 20, 2002, at the age of 85, surrounded with family at his home in the Carmel Highlands. He is survived by his wife of 60 years, Jeanette Weld Otter; daughters Marjorie Sue Bruneau, Nancy Clark Otter, Alice Rebecca Fontes; and sons Lee Worth Otter, John Delaware Otter Jr., and Robert Weld Otter.

John was born on November 11, 1917, in Fresno, California. Upon graduating from the School of Forestry at the University of California at Berkeley, he later completed civil engineer training, and eventually served as Captain in the 97th Engineers, U.S. Army Corps of Engineers.

During WWII, John was sent to work on the Alaska Highway. With the Japanese occupying parts of the Aleutian Islands, the Army commissioned a road to be built connecting the lower 48 to Alaska so supplies could be transported to Alaska. In 1942, John, the company commander, worked through winter temperatures so low that the oil in the trucks froze in order to complete the ALCAN Highway, now known as the Alaska Highway. He continued his service in the South Pacific as an engineer.

A registered civil engineer and licensed land surveyor, John dedicated the remainder of his life to the environment of the Central Coast. He worked for the California Department of Forestry and was a board member of the California Oak Foundation, the American Society of Civil Engineers, the American Congress on Surveying and Mapping, the Society of American Military Engineers, the American Society of Arboriculture, and the Carmel Highlands Fire District, where he was also the chairman. He is credited with devising Monterey County's first slope density formula, for determining allowable development density in the original Carmel Valley Master Plan.

While many of his accomplishments involved the forests and state parks, John loved the Pacific Ocean enough to call it his favorite "fishing hole." He appreciated the marine life tremendously and that appreciation evolved into a need to protect the marine environment. Carmel Bay State Ecological Reserve existed thanks to the efforts of John, and was the forerunner to the National Marine Sanctuary.

An honest person with a great sense of humor, John wouldn't talk about himself because he was humble to the core. Once, he pulled his car over to make a phone call from a public telephone and found a dime in the change slot. He used that dime to make his call, and before leaving the booth, he reached into his pocket and replaced that dime with one of his own. He was that kind of guy, and he made people around him feel like they could be anything they wanted because he treated them with an equal amount of respect, instilling a sense of pride in the individual. Treating everyone with honor made him honorable.

On behalf of this House, I wish to celebrate the extraordinary life of "Jack" Otter, a man whose honesty and ingenuity made for better lands and better people.

RECOGNIZING MARY LOU HOLT FOR HER OUTSTANDING SERVICE TO THE PEOPLE OF YOUNTVILLE, CALIFORNIA AT THE TIME OF HER RETIREMENT AS TOWN MAYOR

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the mayor of Yountville, California, Mary Lou Holt, whose outstanding leadership and commitment to community service has significantly benefited the people of Yountville.

Prior to being elected as the mayor of Yountville in 1994, Mary Lou served as an elected member of the Yountville town council. As a member of the town council and as mayor, Mary Lou has been dedicated to improving the Yountville community. She founded the Christmas in April program, is a board member of the Hands Across the Valley program and chairs the Napa County Committee on Child Youth & Families.

Impressively, Mary Lou's community outreach has extended past Yountville and beyond our nation's boarders. By actively supporting programs like "Roots of Peace," a program that aids Afghan farmers by providing them with free grape seeds in exchange for the destruction of land mines on their farmland, she has impacted people both at home and abroad.

Mr. Speaker, in Yountville, Mayor Holt is well known for her many accomplishments. While the community may know that she was honored as the Kiwanian of the year and that the Napa County Hispanic Network and many other service organizations have also honored her, it is most significant that the citizens of Yountville see and recognize that all accolades aside, their mayor is a person of character.

Mr. Speaker, far too often, people doubt their politicians. Cynicism and division have often replaced idealism and unity as building blocks for building societies. Fortunately, in her community, Mayor Holt has shattered that stereotype through her leadership and commitment to those she represents.

For nearly 10 years, Mary Lou Holt has been the matriarch of Yountville. And in that time, she has led and loved her fellow citizens. It was Mary Lou who helped create the "If Given A Chance" program that has awarded hundreds of scholarships to Yountville's underprivileged youth. It was Mary Lou who mourned with Yountville after the horrific events of September 11, 2001 and recounted her own experience of being in Washington D.C. and hearing the plane that crashed into the Pentagon fly over her head. And it has been Mary Lou, who has never been too busy being mayor to forget to be someone's friend.

Mr. Speaker, because of the many contributions she has made to the town of Yountville and for the special way that as mayor and friend Mary Lou Holt has impacted the lives of her fellow citizens, it is proper for us to honor her today as she retires from the office of mayor.

A TRIBUTE TO PRISCILLA INCORVAIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2003

Mr. TOWNS. Mr. Speaker, I rise in support of Priscilla Incorvaia in recognition for her tireless energy and dedication to her community.

Priscilla grew up on Long Island and attended C.W. Post College where she studied Elementary Education and Training Development. After an internship at Republic National Bank, she was offered a job in their management-training program. During the next fifteen years, Priscilla rapidly moved up the ranks and presently is the Branch Manager of the Starrett City Office in Brooklyn.

As far back as Priscilla can remember, she has been involved in various community organizations. She feels that it is important to be involved in organizations at the grass roots level, especially those related to children. She is a firm believer in getting involved in the community where she works and is well known in the various boroughs, especially Brooklyn.

Priscilla sits on many advisory boards, including Junior Achievement, the YWCA, the Queens Botanical Gardens, and The Noel Pointer Foundation, a non-profit organization that provides music lessons for gifted underprivileged children where she served as treasurer. She has been awarded the Bronze Leadership Award for Leadership and Support and the Above and Beyond Service Award for her work in Junior Achievement.

Priscilla attributes her team spirit to her husband Angelo, a former New York Giants lineman.

Mr. Speaker, Priscilla Incorvaia is devoted to serving her community. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable woman.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 11, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 12

9:30 a.m.

Appropriations
District of Columbia Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the District of Columbia Courts, Court Services, and the Offender Supervision Agency.
SD–138

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

Armed Services
Strategic Forces Subcommittee
To hold hearings to examine national security space programs and management in review of the Defense Authorization Request for fiscal year 2004.
SR–222

10 a.m.

Appropriations
Defense Subcommittee
To hold closed hearings to examine proposed budget estimates for fiscal year 2004 for defense programs, focusing on worldwide threats to the United States.
S–407 Capitol

Finance
To hold hearings to examine welfare reform.
SD–215

Judiciary
Immigration Subcommittee
Technology, Terrorism, and Government Information Subcommittee
To hold joint hearings to examine border technology, focusing on keeping terrorist out of the United States.
SD–226

Indian Affairs
To hold hearings to examine Indian health legislation.
SR–485

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine a legislative presentation of the Veterans of Foreign Wars.
345, Cannon Building

11:30 a.m.

Foreign Relations
Business meeting to consider the Convention Between the Government of the United States Of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an Exchange of Notes, as amended by the Protocol signed at Washington on July 19, 2002 (the "Convention") (Treaty Doc.107–19), Protocol Amending the Convention Between the Government of the United States Of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (the "Protocol") (Treaty Doc.107–20), and the Second Additional Protocol that Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002 (Treaty Doc.108–03).
SD–419

2 p.m.

Judiciary
To hold hearings to examine the nominations of James V. Selna, to be United States District Judge for the Central District of California, Philip P. Simon, to be United States District Judge for the Northern District of Indiana, Theresa Lazar Springmann, to be United States District Judge for the Northern District of Indiana, Mary Ellen Coster Williams, of Maryland, and Victor J. Wolski, of Virginia, both to be a Judge of the United States Court of Federal Claims, Ricardo H. Hinojosa, of Texas, and Michael E. Horowitz, of Maryland, both to be a Member of the United States Sentencing Commission, and Cormac J. Carney, to be United States District Judge for the Central District of California.
SD–226

2:15 p.m.

Budget
Business meeting to markup a proposed concurrent resolution setting forth the fiscal year 2004 budget for the Federal Government.
SD–608

2:30 p.m.

Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Energy Office of Energy and Efficiency and Renewable Energy, Office of Science, and the Office of Nuclear Energy Science and Technology.
SD–124

Foreign Relations
To hold hearings to examine regional implications of the changing nuclear equation on the Korean Peninsula.
SH–216

Commerce, Science, and Transportation
Oceans, Atmosphere, and Fisheries Subcommittee
To hold hearings to examine the President's proposed budget request for fiscal year 2004 for the Coast Guard and the National Oceanic and Atmospheric Administration.
SR–253

3 p.m.

Armed Services
Airland Subcommittee
To hold hearings to examine Army transformation in review of the Defense Authorization Request for fiscal year 2004 and the Future Years Defense Program.
SR–232A

MARCH 13

9:30 a.m.

Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold oversight hearings to examine the implementation of the Congestion Mitigation and Air Quality Improvement Program, and Conformity programs.
SD–406

Armed Services
To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2004 and the Future Years Defense Program.
SH–216

Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Judiciary
To hold hearings to examine the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.
SD–226

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine causes of the medical liability insurance crisis.
SD–192

10 a.m.

Banking, Housing, and Urban Affairs
To hold hearings to examine the Administration's proposed Fiscal Year 2004 Budget for the Federal Transit Administration.
SD–538

Budget
Business meeting to markup a proposed concurrent resolution setting forth the fiscal year 2004 budget for the Federal Government.
SD–608

Energy and Natural Resources
To hold hearings to examine the impact of fires in 2002 and then look forward to the potential 2003 fire season.
SD–366

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Veterans Affairs.
SD–138

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of the Retired Enlisted Association, Gold Star Wives of America, the Fleet Reseve Association, and the Air Force Seargents Association.
345, Cannon Building

2 p.m.

Foreign Relations
To hold a closed briefing to examine Iraq's political future.
S–407 Capitol

Armed Services
Readiness and Management Support Subcommittee
To hold hearings to examine proposed legislation authorizing funds for the Department of Defense, focusing on the impacts of environmental laws on readiness and the related Administration legislative proposal.
SH–216

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold oversight hearings to examine the designation and management of National Heritage Areas, including criteria and procedures for designating heritage areas, the potential impact of heritage areas on private lands and communities, federal and non-federal costs of managing heritage areas, and methods of monitoring and measuring the success of heritage areas.

SD–366

Intelligence

To hold closed hearings to examine intelligence matters.

SH–219

MARCH 14

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the posture of U.S. Joint Forces Command and the role of joint experimentation in force transformation, in review of the Defense Authorization Request for Fiscal Year 2004.

SR–22

MARCH 18

9:30 a.m.

Foreign Relations

To hold hearings to examine the war on terrorism, focusing on diplomacy issues.

SD–419

10 a.m.

Energy and Natural Resources

To hold oversight hearings to examine water supply issues in the Western United States.

SD–366

Health, Education, Labor, and Pensions

To hold hearings to examine the Mammography Quality Standards Act.

SD–430

MARCH 19

9:30 a.m.

Judiciary

To hold hearings to examine ethical regenerative medicine research and human reproductive cloning.

SD–226

Rules and Administration

To hold oversight hearings to examine the operations of the Secretary of the Senate and the Architect of the Capitol.

SR–301

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Indian Affairs

Business meeting to consider pending calendar business; to be followed by hearings on Indian energy legislation.

SR–485

MARCH 20

9:30 a.m.

Armed Services

To hold hearings to examine atomic energy defense activities of the Department of Energy, in review of the Defense Authorization Request for Fiscal Year 2004.

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the Washington Teacher's Union.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs.

345 Cannon Building

MARCH 25

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold oversight hearings to examine National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails, and S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.

SD–366

MARCH 26

9:30 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.

SR–485

MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine terrorism, focusing on public health response.

SD–430

APRIL 2

10 a.m.

Indian Affairs

Business meeting to consider pending calendar business; to be followed by hearings on Indian Health Care Reauthorization Act legislation.

SR–485

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